



## 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 December 14, 2018.

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### ZONING ADMINISTRATOR ACTIONS DECEMBER 13, 2018

- Item 1: Finley Tract Resident Parking Permit Program Coastal Development Permit No. CD2018-108 (PA2017-132)  
Site Address: Finley Tract streets: Finley Avenue, Clubhouse Avenue, Short Street, and the 500 – 600 blocks of 34th, 35th, and 36th Streets  
Action: Approved by Resolution No. ZA2018-136 Council District 1
- Item 2: Casabonne Residence Modification Permit No. MD2018-007 (PA2018-217)  
Site Address: 20262 Orchid Street  
Action: Approved by Resolution No. ZA2018-137 Council District 3
- Item 3: Price Residence Modification Permit No. MD2018-005 (PA2018-160)  
Site Address: 3117 Clay Street  
Action: Approved by Resolution No. ZA2018-138 Council District 2
- Item 4: Jones Residence Lot Merger No. LM2018-005 and Coastal Development Permit No. CD2018-089 (PA2018-234)  
Site Address: 215 and 219 Evening Star Lane  
Action: Approved by Resolution No. ZA2018-139 Council District 3
- Item 5: OC Luxury Development Condominiums Tentative Parcel Map No. NP2018-015 and Coastal Development Permit No. CD2018-049 (PA2018-110)  
Site Address: 211 32nd Street, Units A and B  
Action: Approved by Resolution No. ZA2018-140 Council District 1
- Item 6: Sloan Residence Coastal Development Permit No. CD2018-065 (PA2018-149)  
Site Address: 1134 East Balboa Boulevard  
Action: Approved by Resolution No. ZA2018-141 Council District 1

Item 7: Grimm Residence Coastal Development Permit No. CD2018-080 (PA2018-218)  
Site Address: 1610 South Bay Front

Action: Approved by Resolution No. ZA2018-142	Council District	5
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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. ZA2018-136

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH COASTAL DEVELOPMENT PERMIT NO. CD2018-102 FOR THE FINLEY TRACT RESIDENT PARKING PERMIT PROGRAM (PA2017-132)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was prepared by the City of Newport Beach for a resident parking permit program (RP3) pursuant to Newport Beach Municipal Code (NBMC) Chapter 12.68 for the Finley Tract.
2. The Finley Tract is a residential area consisting of approximately 118 lots located between portions of Newport Bay and Newport Boulevard, west of the intersection of Finley Avenue and Newport Boulevard.
3. Streets within the Finley Tract are within the Coastal Zone and within the City's permit jurisdiction based upon the Post-Certification Permit and Appeal Jurisdiction map approved by the California Coastal Commission. Most of the affected area is within the appeal area as shown on the map where approval of Coastal Development Permits can be appealed to the California Coastal Commission by aggrieved persons.
4. Portions of the Finley Tract are located between the first public road and the shoreline of Newport Harbor within the coastal zone.
5. Properties within the Finley Tract are designated RT (Two-Unit Residential) and are within the R-2 (Two-Unit Residential) Coastal Zone District. The proposed RP3 does not affect or authorize development on private property within the Finley Tract.
6. During the preparation of this program, the City conducted three noticed community meetings for residents and property owners from the study area. The program was discussed at each meeting, and feedback was received. The meetings were held on June 29, 2017, March 26, 2018, and October 1, 2018, and were well-attended. The City also mailed a survey to residents and property owners to gauge support during the summer of 2018, where 60 percent of the 268 total survey ballots were returned and 79 percent of the participants indicated support.
7. A public hearing was held on December 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 Local Coastal Program. 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 Class 3 (Existing Facilities).
2. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use.
  - a. The project involves implementing and enforcing parking restrictions within existing residential streets within the public right-of-way.
  - b. No construction would occur.
  - c. The project would include the alteration of existing infrastructure (i.e. parkways, sign posts, streetlights, etc.) to add two to three dozen small parking regulatory signs on existing vertical infrastructure or to add new sign posts where none exist in parkways where deemed necessary by the City’s Traffic Engineer and Public Works Department.

## SECTION 3. FINDINGS.

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

### Finding:

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

### Facts in Support of Finding:

1. *LCP Coastal Land Use Plan Policy 3.1.6-1 prohibits the establishment of new preferential parking districts in the coastal zone except where such restrictions would not have a direct impact to coastal access, including the ability to use public parking.*

The Finley Tract is relatively isolated and not located in proximity to beaches, parks, or recreational uses. Ocean beaches are approximately 0.3 of a mile away via the shortest pedestrian route. This distance makes it inconvenient for beach visitors to park in Finley. Public testimony during the hearing supports the fact that coastal visitors do not park in the area. There are four public parking lots (Newport Blvd./32<sup>nd</sup> Street, Newport Beach Lots 1-3) and long term street parking (six-hour limit) along 32<sup>nd</sup> Street available in closer proximity to the beach than the Finley Tract. Non-resident visitor parking in the area varies and was observed to be no more than 20 vehicles at different times throughout the day, and they were primarily employees or patrons from nearby businesses. Public testimony during the hearing supports this observation. The permit program will push these visitors to park in nearby commercial parking lots or the public parking lot located at the intersection of Newport Boulevard and 32<sup>nd</sup> Street. Restricting non-resident visitors from the Finley Tract will free up spaces for residents and their visitors from needing to park in nearby commercial areas or public parking lots.

The Finley Tract shoreline is on the Newport Harbor channels known as Rialto and Rivo Alto. The shoreline consists of vertical bulkheads with no intervening beach (sandy or otherwise) between the bulkhead and the water. Both sides of these channels are fully developed, primarily with single and two-unit dwellings. These channels connect with the Newport Harbor Turning Basin and Main Channel via a channel under the Newport Boulevard Bridge.

Eight street ends provide coastal access to these channels in the form of viewing opportunities and access to shore moorings. No changes to these access points are authorized. No structures or barriers would be constructed in these street ends. Condition No. 4 preserves one short-term parking space (i.e. 1-hour to 3-hour parking limit) for the public without a resident permit at six of the eight street ends with either a shore mooring or open area for standing or sitting provided the street end accommodates parking.

Condition No. 5 limits the Finley Tract RP3 to 18 months from implementation, making it a pilot program that requires monitoring. Condition No. 6 requires adjustments to the program to mitigate impacts, and it requires the termination of the program if adverse impacts to coastal access cannot be mitigated. The Finley Tract RP3 will not impact coastal access or the ability to use public parking with the incorporation of the conditions of approval, and as a result, the Finley Tract RP3 is consistent with Policy 3.1.6-1.

2. *LCP Coastal Land Use Plan Policy 3.1.6-2. requires a coastal development permit to establish new, or modify existing, preferential parking districts.*

The subject Coastal Development Permit application satisfies this requirement.

3. *LCP Coastal Land Use Plan Policy 3.1.6-3. requires the use of preferential parking permit fees to fund programs to mitigate impacts to coastal access.*

The program as conditioned will avoid or mitigate impacts to coastal access. Permit fees support municipal functions allowing monitoring of parking in the area. Condition No. 5 requires monitoring and if impacts to coastal access occur, Condition No. 6 requires adjustments to the program to mitigate impacts.

4. *LCP Coastal Land Use Plan Policy 3.1.6-4. provides, where appropriate, the establishment of a graduated preferential parking permit fee schedule where progressively higher fees are required for each permit for households with multiple permits.*

The City Council has established a \$17 fee for each preferential parking permit as it is the cost of issuing permits. If adverse impacts to public access occur, it may be appropriate to establish a progressively higher permit fee schedule for households with multiple permits to reduce the number of permits issued. Condition No. 7 requires the Zoning Administrator to consider such an option if adverse impacts to public access occur. Adopting such a progressive fee schedule would require City Council authorization.

5. *LCP Coastal Land Use Plan Policy 3.1.6-5. limits the number of preferential parking permits issued per household to reduce potential adverse impacts to public access.*

NBMC Chapter 12.68 limits the maximum number of permits per household to three for residents and their guests. Condition No. 7 also limits the maximum number to three permits per household. In addition, Condition No. 7 requires the Zoning Administrator to consider reducing the number of permits issued to each household if adverse impacts to public access occur.

6. *LCP Implementation Plan (NBMC) Section 21.30A.030(C) requires new development to provide new public access under certain circumstances.*

The Finley Tract currently provides vertical public access to waters of Newport Harbor within eight street ends (public rights-of-way). Through these access points, adequate access to the waterfront is currently provided in the form of viewing opportunities and access to shore moorings. The program does not increase or decrease the intensity of the use of land and would not result in increased demand for coastal access. As a result, no additional access would be required on this basis due to a lack of a nexus.

7. *LCP Implementation Plan (NBMC) Section 21.30A.050(E) requires the protection of public parking that supports public access.*

Although Section 21.30A.050(E)(2) prohibits the public parking restrictions, it must be applied in light of LCP Coastal Land Use Plan Policies 3.1.6-1 through 3.1.6-5 that allow resident preferential parking districts where impacts to coastal access are avoided and mitigated. Section 21.30A.050(E)(3) requires the protection of existing public parking. The facts in support of Finding A above are incorporated herein by reference and with the incorporation of the Conditions of Approval. These conditions reserve public parking for public access at each of Finley Tract street ends. Therefore, the Finley Tract RP3 is consistent with Section 21.30A.050(E).

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. Adequate access to the shoreline is currently provided by eight existing public street ends that will not be modified by this permit. The Finley Tract RP3 does not impact public access to the shoreline with the implementation of the Conditions of Approval attached as Exhibit A based upon the facts in support of Finding A above. All facts in support of finding A are incorporated herein by reference.
2. The Finley Tract is developed with residential uses and no public recreational uses are developed or provided with the exception of limited improvements within the eight public street ends. The proposed project does not include any construction or barrier to public use of these street ends. Public parking will be retained in six of the eight street ends where parking is allowed without a resident permit and that have improvements (i.e. areas to stand or sit outside the street or shore boat moorings) where the public can safely access the shoreline.

Finding:

C. *The following alternatives were considered prior to considering the Finley Tract RP3.*

Facts in Support of Finding:

1. Both Lido Marina Village and the Lido House Hotel implemented parking management plans to avoid and minimize parking conflicts. The City has worked extensively with the operators of Lido Marina Village and the Lido House Hotel to discourage employees and patrons from parking in the Finley Tract prior to considering the resident parking permit program.

Lido Marina Village modified the management of its parking structure to more efficiently use valet parking, and they reduced the cost of employee parking in the structure. They did this at the suggestion of the City. Additionally, they began operating a shuttle service taking employees to and from an off-site parking structure on Superior Avenue. While employees have not embraced the shuttle, the reduction of the fees and better valet service helped reduce non-resident parking in the Finley Tract. The City is also considering longer term parking on Via Oporto south of Via Lido as a pilot program to better accommodate longer parking stays typical of employees. After the initial start-up of the Lido House Hotel created some parking conflicts, the hotel operator and valet operator implemented several operational adjustments effectively eliminating hotel-related parking in the Finley Tract.

However, these alternative efforts, while partially successful, have not completely eliminated the non-resident parking in the Finley Tract.

2. Modifying the program to provide short-term parking limits rather than no parking without a resident permit was an alternative considered. Such a program would allow short-term parking but might not address long-term employee or visitor parking in the area. Those seeking a longer stay would be forced to move their vehicle, thus increasing traffic on the residential streets. This alternative was rejected for these reasons.
3. Installing meters or pay stations in the area was another alternative considered. Parking fees can be an effective way to influence parking behavior. The issue with this alternative is resident opposition, and the ability for anyone, including non-residents, with a master parking permit to park a vehicle in the area without restrictions. This alternative was rejected for these reasons.
4. One alternative is to launch a dedicated outreach effort to promote that residents park in their own garage. The City has requested that residents use their garages at all times to free up more street parking. The effectiveness of this request cannot be measured. This technique also does not address guest parking needs as they typically do not park in garages. Resident guests are also visitors to the coast. One phenomenon is where residents move their car from the garage to the street to save a space for a visitor. Limiting non-resident parking in the area should reduce this observed practice.
5. Another alternative considered is to limit the program to certain hours. The parking conflict is largely attributable to nearby commercial uses so the program could be limited to typical commercial hours including evening hours due to the presence of nearby restaurants. Despite the fact that this option could be employed, regulating overnight hours is necessary because non-resident vehicles are left overnight from time-to-time. Restricting overnight hours will

ensure the maximum number of spaces are available for residents when coastal visitors are not in the area.

6. The last alternative considered was to potentially limit the program seasonally similar to the pre-Coastal Act program in place in Newport Island that only restricts parking during the Summer months. This option was rejected because the area is not subject to seasonal fluctuations in non-resident parking and the area's remoteness to beaches or other areas that experience high visitor activity.

#### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach finds this project exempt from the environmental review 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 Class 3 (Existing Facilities).
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-102, subject to the findings contained in this resolution and the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. 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 \(Appeal to the Coastal Commission\)](#) 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 13<sup>TH</sup> DAY OF DECEMBER, 2018.**



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Patrick J. Alford, Zoning Administrator

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

1. The project is subject to the Local Coastal Program and all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. The applicant shall comply with all federal, state, and local laws with regard to the implementation of enforcement of the Finley Tract RP3. Material violation of any of those laws in connection with the program may be cause for revocation of this Coastal Development Permit.
3. Enforcement of this program shall not be commenced until after an ordinance amendment establishing a resident preferential parking zone is adopted by the City Council pursuant to NBMC Chapter 12.68 and all necessary regulatory signs are installed.
4. The City shall provide one short-term parking space (i.e. 1-hour to 3-hour parking limit) without a resident permit at each street end with either a shore mooring or open area for standing or sitting, provided the street end accommodates any parking whatsoever. All street ends within the Finley Tract, with the exception of Finley Avenue and Clubhouse north, meet this criteria. The short-term duration would not apply between 10 p.m. and 8 a.m.
5. The Finley Tract RP3 shall be authorized for 18 months from implementation to allow for monitoring of any impacts to public access. The City shall periodically monitor the effects of the program and present its findings at a Zoning Administrator meeting at approximately six month intervals from the implementation of the program. Implementation is the earliest date after permits are issued and regulatory signs are installed when enforcement can legally begin.
6. The City shall modify the Finley Tract RP3 within 60 days if it is found to adversely impact public access or if there are significant unanticipated spillover effects to nearby neighborhoods. Modifications to the program may include the use or reallocation of program revenue to mitigate impacts. The City shall discontinue the Finley Tract RP3 and remove all RP3-related parking regulatory signs if the modifications to the program fail to alleviate the adverse impacts to public access or unanticipated spillover effects. The City shall provide notice to area residents and permit holders prior to modifying or discontinuing the program.
7. The City shall limit the number of permits to three per household to reduce potential adverse impacts to public access. If adverse impacts to public access occur, the Zoning Administrator shall consider reducing the number of permits per household or recommend City Council adoption of a progressively higher fee schedule for households with multiple permits.
8. All parking regulatory signs installed pursuant to this CDP shall be removed after 18 months or at an earlier date if the RP3 program is terminated for any reason.

## RESOLUTION NO. ZA2018-137

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2018-007 FOR AN ADDITION GREATER THAN 10 PERCENT WITH A NON-CONFORMING GARAGE LOCATED AT 20262 ORCHID (PA2018-217)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Mike Chen, with respect to property located at 20262 Orchid Street, and legally described as Lot 31 of Tract No. 1500, requesting approval of a modification permit.
2. The applicant requests a modification permit to allow an approximately 32 percent addition to an existing single-family residence with nonconforming parking dimensions. Zoning Code limits additions to 10 percent of the existing gross floor area when the required parking dimensions are not provided. The nonconforming garage provides an interior width of 19 feet 6 inches and a depth of 21 feet 3 inches where a minimum 20-foot by 20-foot interior dimension is required.
3. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the SP-7 Santa Ana Heights Specific Plan (Residential Single-Family) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on December 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 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 exemption includes additions up to 10,000 square feet where public services and utilities are available and the area is not considered environmentally sensitive. The proposed project is a 448 square foot addition to an existing single-family residence in a developed neighborhood and is not within an environmentally sensitive area.
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 20.52.050.E (Modification Permits – Required Findings) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

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

#### Facts in Support of Finding:

1. The addition would increase the dwelling by 489 square feet for a new master bedroom and bathroom. The proposed addition will comply with all applicable development standards, including height and setbacks. The proposed addition will not intensify the nonconforming parking.
2. Development along Orchid Street consists of single-story and two-story single-family residences. The existing 1,528-square-foot single-family residence consists of a single-story and was constructed in 1952. The proposed 489-square-foot master bedroom addition is single-story. The areas of addition will not exceed the height of the existing roof and is consistent with the design and height of other properties in the neighborhood.
3. The existing development on the property is a single-family residence. Therefore, there is no change to the density as a result of the proposed remodel and addition.

#### Finding:

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

#### Facts in Support of Finding:

1. The interior dimensions of the existing two-car garage were compliant with the County of Orange standards at the time of construction. The area was annexed in 2003 and, at the time of annexation, the existing garage was compliant with the Newport Beach Zoning Code. As a result of the amendments to the Zoning Code in 2010, the two-car garage is now substandard in size, and is therefore legal nonconforming.
2. Modifying the garage walls, which are not within the area of the proposed construction, would be costly and significantly increase the scope of the project in order to gain 6 inches of garage width of garage depth.

3. The granting of the Modification Permit is necessary to allow a reasonable addition to an existing dwelling that was constructed in compliance with garage standards in effect at the time of original construction, and that are adequate in width for the parking of two (2) vehicles. Additionally, the driveway in front of the garage allows for up to two (2) open parking spaces on-site.

Finding:

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

Facts in Support of Finding:

1. The proposed addition is to accommodate the construction of a new master bedroom and bathroom located at the rear of the residence and does not result in the need to modify the garage located at the front of the residence. Increasing the width and depth of the garage to satisfy current parking requirements would require major structural alterations and result in a significant increase in the scope of work. Increasing the width of the garage six inches into the side setback of five feet is not feasible without review and approval of a variance.
2. The existing garage provides two useable garage spaces that are 6 inches less than the required width, therefore fulfilling the intent of the Zoning Code by providing adequate parking onsite. Approval of the Modification Permit allows the applicant to continue using the existing two-car garage, which has not proven detrimental to the occupants or neighbors of the dwelling.

Finding:

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

Facts in Support of Finding:

1. Bringing the garage into compliance with current Zoning Code requirements would provide a negligible benefit, but it would unreasonably require significant alterations to the structure well beyond the scope of the planned small addition. Expanding the garage width six inches would require significant alterations to the structure well beyond the scope of the planned addition. Expanding the width of the garage into the side setback is not feasible without review and approval of a variance.
2. An additional alternative is to reduce the size of the addition to not more than 10 percent of the existing floor area of the structure as authorized under [Section 20.38.060 \(Nonconforming Parking\), Subsection A](#). . Given the intent of the project is to provide a new master bedroom and bathroom to a two-bedroom residence, a redesign to reduce the size of the addition to 152 square feet will significantly impact the objectives of the project and would not provide similar benefits to the applicant.

Finding:

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

Facts in Support of Finding:

1. The proposed one-story addition would maintain all required setbacks and will provide adequate protection for light, air, and privacy. The addition will not preclude access to the dwelling and will be consistent in scale with other dwellings in the neighborhood.
2. The proposed addition will result in a total floor area that is less than the maximum allowed by Zoning Code, as the proposed structure (including garage) is only 2,017 square feet where SP-7 identifies no maximum square footage.
3. The proposed project maintains more than the minimum 3-foot side yard for fire access in accordance with [Zoning Code Section 20.30.110 \(Setbacks Regulations and Exceptions\), Subsection A\(1\)\(c\)](#).
4. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes. The Building Division has reviewed the proposed project and added conditions of approval for demonstration of project compliance with Building Codes.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves MD2018-007, 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 13TH DAY OF DECEMBER, 2018.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

**PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior clear dimensions (19 feet, 6 inches wide by minimum 20 feet deep) shall be kept clear of obstructions including cabinets, shelving, or similar that may impact the ability to adequately park two vehicles.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Modification Permit.
5. Demolition beyond the approved scope of work requires Planning Division approval prior to commencement of work. Approval of revisions to project plans are not guaranteed. Any changes in the current scope of work may require the garage structure to be demolished and redeveloped in conformance with the current Zoning Code Development Standards.
6. 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.
7. 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.
8. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Casabonne Residence including, but not limited to, MD2018-007 (PA2018-217). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection

with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**Building Division Conditions**

10. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.

**Public Works Conditions**

11. The existing driveway shall be reconstructed per City Standard STD-164-L.
12. The damaged curb and gutter along the Orchid Street frontage shall be reconstructed. Provide rolled curb to match existing.

## RESOLUTION NO. ZA2018-138

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2018-005 FOR AN ADDITION GREATER THAN 10 PERCENT WITH A NON-CONFORMING GARAGE LOCATED AT 3117 CLAY STREET (PA2018-160)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Cory Price, with respect to property located at 3117 Clay Street, and described as Assessor's Parcel Number 425-091-14 requesting approval of a modification permit.
2. The applicant requests a modification permit to allow an approximately 23 percent addition to an existing single-family residence with nonconforming parking dimensions. The Zoning Code limits additions to 10 percent of the existing gross floor area within a 10-year period when the required parking dimensions are not provided. The nonconforming garage provides an interior width of 17 feet 6 inches and a depth of 20 feet 3 inches where a minimum 20-foot by 20-foot interior dimension is required.
3. 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.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on December 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 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 exemption includes additions up to 10,000 square feet where public services and utilities are available and the area is not considered environmentally sensitive. The proposed project is a 300 square foot addition to an existing single-family residence in a developed neighborhood and is not within an environmentally sensitive area.
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 20.52.050.E (Modification Permits – Required Findings) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

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

#### Facts in Support of Finding:

1. The proposed parking configuration will accommodate two vehicles on-site within an existing two-car garage. No construction or alterations are proposed for the garage and the garage will remain open and available. Therefore, demand for on-street parking in the neighborhood will not increase.
2. The neighborhood is comprised of predominately one-story and two-story single-family dwellings. The Modification Permit will allow a 300 square-foot addition to the existing 2,007-square-foot, single-family residence, resulting in a total floor area of approximately 2,307 square foot (including a 387-square-foot garage). The resulting size of the residence is equal or less than the bulk and scale of other single-unit dwellings within the neighborhood.
3. The existing development on the property is a single-family residence. Therefore, there is no change to the density as a result of the proposed remodel and addition.

#### Finding:

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

#### Facts in Support of Finding:

1. The proposed addition will not alter the two existing nonconforming parking spaces.
2. The interior dimensions of the existing two-car garage were compliant with the Newport Beach Zoning Code at the time of construction in 1937. As a result of amendments to the Zoning Code in 2010 where the required clear interior garage width was modified from 17 feet 6 inches to 20 feet, the two-car garage is now substandard in size and is considered legal nonconforming. The two-car garage complies with the minimum 20-foot depth.
3. The granting of the Modification Permit is necessary to allow a reasonable addition to an existing dwelling that was constructed in compliance with garage standards in effect at the time of original construction, and that are adequate in width for the parking of two vehicles.

Finding:

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

Facts in Support of Finding:

1. The addition will accommodate the construction of a new bedroom and bathroom and result in the expansion of the residence towards Clay Street, compliant with all applicable developments standards, including height, setbacks, and floor area. However, increasing the width of the existing detached garage 2.5-feet into the rear (interior) 10-foot setback on one side of the garage is not feasible without review and approval of a variance. Relocating the garage wall adjacent to the existing house would result in substantial structural improvements and significant upgrades to meet building code separation requirements for increased fire protection because there is less than six feet between structures (garage and main house).
2. The existing garage is two feet and six inches less than the currently required width; however, the garage still provides two useable parking spaces fulfilling the intent of the Zoning Code by providing adequate onsite parking. Approval of the Modification Permit allows the applicant to continue using the existing two-car garage, which has not proven detrimental to the occupants or neighbors of the dwelling.

Finding:

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

Facts in Support of Finding:

1. Bringing the garage into compliance with current Zoning Code requirements would provide a negligible benefit, but it would unreasonably require significant alterations to the structure well beyond the scope of the planned addition. Expanding the width of the garage into the rear setback is not feasible without review and approval of a variance.
2. An additional alternative is to reduce the size of the addition to not more than 10 percent of the existing floor area of the structure as authorized under [Section 20.38.060 \(Nonconforming Parking\), Subsection A](#). Due to a previous 130-square-foot addition to the residence approved in 2015 (7 percent increase), the remainder of the 10 percent addition allowance (for the 10-year period) would result in an addition of less than 56 square feet (3 percent). This limitation would preclude the project and not meet the objectives of the applicant.

Finding:

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

Facts in Support of Finding:

1. The proposed one-story addition would maintain all required setbacks and will provide adequate protection for light, air, and privacy. The addition will not preclude access to the dwelling and will be consistent in scale with other dwellings in the neighborhood.
2. The proposed addition will result in a total floor area that is less than the maximum allowed by Zoning Code, as the proposed structure is only one-story and the subject lot may build up to two times the buildable area.
3. The proposed project maintains more than the minimum 3-foot side yard for fire access in accordance with [Zoning Code Section 20.30.110 \(Setbacks Regulations and Exceptions\), Subsection A\(1\)\(c\)](#).
4. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes. The Building Division has reviewed the proposed project and added conditions of approval for demonstration of project compliance with Building Codes.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves MD2018-005, 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 13TH DAY OF DECEMBER, 2018.**



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Patrick J. Alford, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior clear dimensions (17 feet, 6 inches wide by minimum 20 feet deep) shall be kept clear of obstructions including cabinets, shelving, or similar that may impact the ability to adequately park two vehicles.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
5. Demolition beyond the approved scope of work requires planning division approval prior to commencement of work. Approval of revisions to project plans are not guaranteed. Any changes in the current scope of work may require the entire garage structure to be demolished and redeveloped in conformance with the current Zoning Code Development Standards.
6. 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.
7. 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.
8. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Price Residence including, but not limited to, MD2018-005 (PA2018-160). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such

claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

### **Building Division Conditions**

10. Roof geometry of the proposed project shall be approved by the Building Division. Revisions to the existing roof design may be required.
11. The applicant shall comply with all sections of the California Building Code. If the value of the work exceeds thresholds identified by the Building Division, the project may be considered a substantial improvement and significant upgrades may be required.
12. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.

### **Public Works Conditions**

13. The applicant shall install a new sewer clean out on the existing sewer lateral per City Standard STD-406-L.
14. The applicant shall apply for and obtain an encroachment permit and encroachment agreement for the decorative driveway and carriage walk.

## RESOLUTION NO. ZA2018-139

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2018-005, A WAIVER OF THE PARCEL MAP REQUIREMENT, AND COASTAL DEVELOPMENT PERMIT NO. CD2018-089 FOR PROPERTY LOCATED AT 215 AND 219 EVENING STAR LANE (PA2018-234)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Clifton Jones with respect to property located at 215 and 219 Evening Star Lane requesting approval of a Lot Merger and Coastal Development Permit. The lot at 215 Evening Star Lane is legally described as Lot 138 of Tract No. 4224. The lot at 219 Evening Star Lane is legally described as Lot 139 of Tract No. 4224.
2. A covenant agreement (Official Records No. 85-212091) was recorded on June 11, 1985, restricting the owner to hold Lots 138 and 139 as a single building site due to existing residential building encroachments from Lot 139 onto Lot 138. Subsequently, a lot line adjustment (LM2004-006) was approved by the Modifications Committee on July 28, 2004 to combine Lots 138 and 139. However, the approval expired due to not being exercised within the conditioned time period.
3. The applicant proposes a lot merger and requests to waive the parcel map requirements for properties under common ownership. The applicant also requests an associated coastal development permit for the lot merger.
4. The subject property is designated Single-Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1-6000) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached – 6.0 - 9.9 DU/AC (RSD-B) and it is located within the Single-Unit Residential (R-1-6000) Coastal Zone District.
6. A public hearing was held on December 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.

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## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning; no variances or exceptions are required; all services and access to the proposed parcels are available; the parcel was not involved in a division of a larger parcel within the previous two (2) years; and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.

## SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.68.030 and 19.08.030 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

### Finding:

- A. *Approval of the merger will not, under the circumstances of this 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 merger is consistent with the legislative intent of this title.*

### Facts in Support of Finding:

1. The proposed lot merger to combine two complete lots by removing the interior lot lines between them will not result in the creation of additional parcels.
2. The project is in an area with an average slope of less than 20 percent.
3. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions).
4. Any future development on the proposed parcel will be subject to the Zoning Code development standards, which are intended to promote orderly development, protect neighborhood character, and preserve public health, safety, and general welfare of the City.

### Finding:

- B. *The lots to be merged are under common fee ownership at the time of the merger.*

Fact in Support of Finding:

1. The two lots to be merged are under common fee ownership.

Finding:

- C. *The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. The merged parcels will retain the Single-Unit Residential (R-1) zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide areas appropriate for a detached single-family residence located on a single lot.
2. The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units. The Coastal Land Use Plan designates this site as Single-Unit Residential Detached (RSD-B), which provides for density ranges from 6.0 – 9.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.
3. The subject property is not located within a Specific Plan area.
4. Section 20.18.030 of the Zoning Code and Section 20.18.030 of the LCP Implementation Plan establish minimum lot area and width requirements. The proposed merger would result in a 12,000-square-foot parcel that is in conformance to the minimum 6,000-square-foot interior lot area standard of the Zoning Code. Additionally, the proposed merger would create one approximately 120-foot-wide parcel, exceeding the minimum 60-foot interior lot width standard of the Zoning Code.

Finding:

- D. *Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger.*

Facts in Support of Finding:

1. Legal access is provided from Evening Star Lane, and will remain unchanged. The site does not currently provide access to any other properties. Thus, no adjoining parcels will be deprived of legal access as a result of the merger.

Finding:

- E. The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making this findings, the review authority may consider the following:*
- a. Whether the development of the merged lots could significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.*
  - b. Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
  - c. Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the zoning district.*

Facts in Support of Finding:

1. The lots along Evening Star Lane are generally uniform in terms of shape, width and area. The proposed lot merger would create a 12,000 square-foot lot, which is significantly larger other lots on Evening Star Lane. This lot would be nearly twice as large as most lots, and nearly 27 percent larger than the largest lot on Evening Star Lane. However, this lot would not be excessively larger than those existing lots immediately adjacent, including 200 Evening Star Lane (9,486 square feet), 201 Evening Star Lane (9,041 square feet), 205 Evening Star Lane (8,589 square feet), and among others.
2. The proposed lot width is approximately 120 feet, which is more than twice the width of the majority of lots on Evening Star Lane. The lots along the cul-de-sac have greater lot widths, including 200 Evening Star Lane (approximately 97 feet), 201 Evening Star Lane (approximately 81 feet), and 205 Evening Star Lane (approximately 87 feet). However, a lot width is measured from a point midway between the front and rear lot lines, which is considerably wider than the width of the lot at the street. Therefore, the proposed lot width at the street would be significantly wider than all of the other lots on Evening Star Lane.
3. The lot merger would not change the lot depth, which is comparable to the other lots on Evening Star Lane.
4. Merging the two lots would create one parcel that continues to meets the minimum requirements of the Zoning Code and LCP Implementation Plan for lot width and area.
5. Orientation and access to the parcel would remain from the Evening Star Lane. Thus, resulting lot configuration will not change the existing pattern of development in the area.
6. The current configuration contains multiple parcels, the property is used as a single parcel with one single-family residence, which was constructed in 1962. Any inconsistency with the pattern of nearby development occurred when the covenant agreement was recorded in 1985 and the subject parcels were authorized to be a single

development site. The lot merger will not increase any inconsistency or incompatibility that may have resulted from this action. As a result, the proposed merger will not result in a visible change in character to the neighborhood and will continue to allow the property to be used for single-family purposes.

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:

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

Facts in Support of Finding:

1. The proposed lot merger is for construction purposes and meets all of the requirements of the Local Coastal Program including Section 21.30.025 Coastal Subdivisions.
2. The lot merger is for a property within a developed neighborhood. The lots are currently utilized as one building site, and do not provide public access or views of the sea or shoreline.
3. The subject site fronts the Newport Bay and is located between the nearest public road and the sea or shoreline. The site does not currently provide vertical or lateral access to the waterfront, nor would it provide access under proposed conditions. Vertical access to the bay is available approximately 500 feet northeast of the site at the end of North Star Lane where there is a public beach area with access to the water. Thus, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.

Finding:

*G. 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 lots are currently utilized as one building site, and do not provide public access or views of the sea or shoreline.
2. The closest public view point is located near Westcliff Park, approximately 1,100 feet from the property. The proposed residence is not located near coastal view roads, as designated in the Coastal Land Use Plan. Due to the distance of the proposed development from the public view point, the project will not impact coastal views.

### Waiver of Parcel Map

In accordance with Section 19.08.30.A.3 (Waiver of Parcel Map Requirement) of the Newport Beach Municipal Code, the Zoning Administrator may approve a waiver of the parcel map requirement in cases where no more than three (3) parcels are eliminated. The following finding and facts in support of such finding are set forth:

#### Finding:

*F. The proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of this title, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.*

#### Facts in Support of Finding:

1. Approval of the proposed lot merger would remove the existing interior lot lines and allow the property to be utilized as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, and General Plan.
2. The subject property is not subject to a Specific Plan. The property complies with the requirements of Title 21 LCP Implementation Plan.
3. The proposed lot merger combines the properties into a single parcel of land and does not result in the elimination of more than three (3) parcels.
4. The subject property is accessible from Evening Star Lane. The site is served by all of the necessary public utilities.

### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves LM2018-005 and CD2018-089 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, and Title 19 Subdivisions, 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 13<sup>TH</sup> DAY OF DECEMBER, 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. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws.
4. The map shall be submitted to the Public Works Department for final map review and approval. All applicable fees shall be paid.
5. Prior to the issuance of building permits for construction across the existing interior lot lines, recordation of the lot merger documents with the County Recorder shall be required.
6. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
7. 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.
8. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan).
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Jones Residence including, but not limited to, Lot Merger No. LM2018-005 and Coastal Development Permit No. 2018-089 (PA2018-234). 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. ZA2018-140

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-049 AND TENTATIVE PARCEL MAP NO. NP2018-015 TO DEMOLISH AN EXISTING DUPLEX AND CONSTRUCT A NEW THREE-STORY, TWO-UNIT CONDOMINIUM WITH TWO ATTACHED GARAGES AND TWO CARPORTS AT 211 32<sup>ND</sup> STREET (PA2018-110)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. Applications were filed by OC Luxury Development LLC, with respect to property located at 211 32<sup>nd</sup> Street, requesting approval of a coastal development permit for a new two-unit residential development and a tentative parcel map for condominium purposes.
2. The property is legally described as Lot 18 and a portion of Lot 19, Block 132, of Tract 418.
3. The Applicant proposes to demolish an existing duplex and to construct a new three-story, 4,629-square-foot, two-unit condominium, including two attached garages and two carports. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping. The design complies with all applicable development standards and no deviations are requested. The Tentative Parcel Map will allow each unit to be sold individually.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two-Unit Residential, 30.0 – 39.9 DU/AC) and it is located within the R-2 (Two-Unit Residential) Coastal Zone District.
6. A public hearing was held on December 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 Sections 15303 and 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New

Construction or Conversion of Small Structures) and Class 15 (Minor Land Divisions), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the construction and location of limited numbers of new, small facilities or structures including a duplex or similar multi-family residential structures totaling no more than four dwelling units in a residential zone. The proposed project consists of the demolition of an existing duplex and construction of a new three-story, 4,629-square-foot, two-unit condominium, including two attached garages and two carports in the R-2 Zoning District.
3. Class 15 allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

### SECTION 3. REQUIRED FINDINGS.

#### *Coastal Development Permit*

The Zoning Administrator determined in this case that the proposed project is consistent with the legislative intent of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) and approves the CDP based on the following findings per NBMC Section 21.52.015 (Coastal Development Permits, Findings and Decision):

#### Finding:

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

#### Facts in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes, on an existing inland lot within a developed neighborhood, located approximately 830 feet from the mean high water line of the ocean. The proposed development meets all of the requirements of the Local Coastal Program, including NBMC Section 21.30.025 (Coastal Subdivisions), as discussed in the subsequent facts.
2. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The total proposed floor area, including the residences and enclosed parking, is 4,629 square feet, which complies with the maximum allowable floor area limit of 5,440 square feet.

- b. The proposed development will provide the minimum required setbacks, which are ten feet along the front property line abutting 32<sup>nd</sup> Street, five feet along the rear property line abutting the alley, and three feet along each side property line.
  - c. The highest guardrail is less than 24 feet from the established grade of 9.00 feet North American Vertical Datum of 1988 (NAVD88) and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height limitation.
  - d. The project includes one enclosed garage parking space and one covered carport for each unit, in compliance with the minimum parking requirement for two-unit residential development.
3. The property consists of one legal lot containing an existing duplex. The neighborhood is predominantly developed with one- and two-story residences, some of which are condominiums. The proposed design, bulk, and scale of the development will be consistent with the anticipated neighborhood development pattern.
  4. The project site is located approximately 830 feet from the mean high water line of the beach and is separated from the water by other developed residential lots and Balboa Boulevard. The finished first floor elevation of the proposed development is 9.00 feet (NAVD88), which meets the minimum required 9.00-foot (NAVD88) elevation standard.
  5. The property is not located on the shoreline nor is it located within 200 feet of coastal waters. The project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
  6. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). Condition of Approval No. 11 is included to require drought-tolerant, and prohibits invasive, species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
  7. The property is not located near designated public viewpoints or coastal view roads and will not impact public coastal views.

Finding:

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

Fact in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline, and the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.

2. The residential lot does not currently provide nor does it inhibit public coastal access. The nearest public beach access point is located at the intersection of 32<sup>nd</sup> Street and West Ocean Front, across Balboa Boulevard and approximately 575 feet south of the project site.
3. The project site is not located adjacent to a coastal view road, public viewpoint, public park or beach, or public accessway, as identified in the Coastal Land Use Plan. Furthermore, an investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project is located on a coastal lot and will replace an existing duplex with a new two-unit condominium that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

#### *Tentative Parcel Map*

The Zoning Administrator determined in this case that the proposed project is consistent with the legislative intent of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC) and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps):

#### Finding:

- C. *That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

#### Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. An existing duplex will be demolished and is being replaced with a new two-unit condominium. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The proposed project site is not located within any specific plan area.

#### Finding:

- D. *That the site is physically suitable for the type and density of development.*

#### Facts in Support of Finding:

1. The lot is physically suitable for two-unit development because it is generally rectangular and topographically flat, which is typical of lots in this area.

2. The proposed project will replace the existing duplex with a new two-unit condominium that is compliant with all current code requirements.
3. The subject property is accessible from the alley at the rear and is adequately served by existing utilities.

Finding:

- E. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat. All proposed improvements are located within the confines of private property.
2. The project is categorically exempt under Sections 15303 and 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 3 (New Construction or Conversion of Small Structures) and Class 15 (Minor Land Divisions).

Finding:

- F. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Fact in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- G. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a*

*map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Fact in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements located on the property.

Finding:

- H. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site is developed for residential use and is within the R-2 Zoning District, which permits residential uses.

Finding:

- 1. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code because the existing subdivision does not contain 50 or more parcels.
2. The project is not located within a specific plan area.

Finding:

- J. *That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Fact in Support of Finding:

1. The Tentative Parcel Map and any future improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

- K. *That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Fact in Support of Finding:

1. The proposed two-unit condominium is consistent with the R-2 Zoning District, which allows two residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

- L. *That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Fact in Support of Finding:

1. The new development has been designed and will be constructed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- M. *For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Fact in Support of Finding:

1. The subject property is located within the Coastal Zone and a Coastal Development Permit, including applicable findings of conformance and conditions of approval, is required for the proposed development. See all Facts in Support of Findings A and B.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-049 and Tentative Parcel Map No. NP2018-015, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 13<sup>TH</sup> DAY OF DECEMBER, 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. 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 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
6. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
8. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
9. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
10. Prior to issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.

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11. Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species, and water efficient irrigation design. The plans shall be approved by the Planning Division.
  12. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
  13. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
  14. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
  15. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
  16. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
  17. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
  18. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
  19. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of OC Luxury Development Condominiums including, but not limited to, Coastal Development Permit No. CD2018-049 and Tentative Parcel Map No. NP2018-015

(PA2018-110). 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.

### Public Works Department

24. A parcel map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
25. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
26. All improvements shall be constructed as required by Ordinance and the Public Works Department.
27. All damaged sidewalk panels, curb, gutter and street along the 32nd Street property frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department.
28. All existing overhead utilities shall be undergrounded.
29. All above ground improvements shall be prohibited within the 5-foot rear alley setback.
30. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
31. An encroachment permit is required for all work activities within the public right-of-way.
32. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.

33. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

## RESOLUTION NO. ZA2018-141

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-065 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE-STORY, SINGLE-FAMILY RESIDENCE AND ATTACHED TWO-CAR GARAGE AT 1134 EAST BALBOA BOULEVARD (PA2018-149)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects, Inc. ("Applicant"), on behalf of Stephan and Vanessa Sloan ("Owner"), with respect to property located at 1134 East Balboa Boulevard, requesting approval of a coastal development permit.
2. The property is legally described as Lot 18 of the East Side Balboa Tract of Newport Beach.
3. The applicant proposed the demolition of a single-family dwelling and the construction of a new, three-story, 2,797-square-foot single-family residence including an attached 520-square-foot two-car garage. The proposed development includes landscape, hardscape, accessory structures, and subsurface drainage facilities all within the confines of private property. The site is protected by an existing bulkhead that is not proposed to be modified as a part of this permit. Work includes maintenance and repair of an existing cantilevered deck. The design complies with all applicable development standards and no deviations are requested.
4. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-B (Single-Unit Residential - 6.0 - 9.9 DU/AC) and the property is located within the R-1 (Single-Unit Residential) Coastal Zone District.
6. A public hearing was held on December 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 three-story, 2,797-square-foot, single-family residence and attached 520-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 3,360 square feet and the proposed gross floor area is 3,317 square feet.
  - b. The proposed development will provide the minimum required setbacks, which are six (6) feet for the main building and two (2) feet six (6) inches along the front property line abutting East Balboa Boulevard, three (3) feet along each side property line, and zero (0) feet along the abandoned right of way abutting the waterway.
  - c. The highest guardrail is no more than 24 feet, measured from the established grade level of 9.00 feet (NAVD 88) and the highest roof ridge is no more than 29 feet, measured from the established grade, which complies with the maximum height limitation.
  - d. The project includes enclosed garage parking for two vehicles, which complies with the minimum two-car garage parking requirement.
2. The neighborhood is predominantly developed with two- and three-story, single-family and two-family residences. The proposed design, bulk, and scale of the development

will be consistent with the existing neighborhood pattern of development and expected future development.

3. The existing development includes a private seawall/bulkhead along the waterway. A Bulkhead Condition Report prepared by PMA Consulting, Inc., dated June 9, 2018, concludes that the wall is in good condition. There are no repairs or alterations proposed. It is not anticipated that the wall will need 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 June 9, 2018. The bay water elevation (currently maximum 7.20 NAVD88) may exceed the current 8.45 feet NAVD88 top of bulkhead elevation during high tide or storm events. The proposed finished floor of the residence is 9.00 feet NAVD88 and a six-inch waterproofing curb is proposed to be constructed around the perimeter of the dwelling that would protect against flooding up to an elevation of 9.50 feet NAVD88. The report concludes that flooding, wave run up and erosion will not significantly impact this property over the expected life of the proposed development.
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 June 7, 2018. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for Best Management Practices (BMPs), and use of a low-impact development approach to retain the design storm runoff volume on site. 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. 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. 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. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
10. The property is not located near designated public viewpoints or coastal view roads and will not negatively 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 in the R-1 zoning district. 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. The cantilevered deck will be repaired and maintained in place.
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 street ends throughout the Balboa Peninsula with access to the water, including at the D Street end adjacent to the site.
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 residence that complies with all applicable Local Coastal Program (LCP) 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. CD2018-065, 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 13<sup>TH</sup> DAY OF DECEMBER, 2018.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. If repair and maintenance of the cantilevered deck involves any work that is not considered exempt pursuant to Implementation Plan Section 21.52.035D, approval of a Coastal Development Permit from the Coastal Commission is required prior to permit issuance.
4. Coastal Development Permit No. CD2018-065 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
5. 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.
6. 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.
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 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. 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. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
  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 (MBTA). 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 Sloan Residence including, but not limited to, Coastal Development Permit No.

CD2018-065 (PA2018-149). 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. ZA2018-142

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-080 TO CONSTRUCT A NEW TWO-STORY, SINGLE-FAMILY RESIDENCE AND ATTACHED THREE-CAR GARAGE AT 1610 SOUTH BAY FRONT (PA2018-218)**

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. ("Applicant"), on behalf of Barbara Grimm ("Owner"), with respect to property located at 1610 South Bay Front, requesting approval of a coastal development permit.
2. The property is legally described as Parcel 2 of Lot Line Adjustment No. LA2018-001.
3. The applicant proposed the construction of a two-story, 1,685-square-foot, single-family residence with an attached 796-square-foot, three-car garage. The project includes landscape, hardscape, accessory structures and subsurface drainage facilities. The site is protected by an existing public bulkhead. The design complies with all applicable development standards and no deviations are requested.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-BI (Balboa Island) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two-Unit Residential - 30.0 - 39.9 DU/AC) and the property is located within the R-BI (Balboa Island) Coastal Zone District.
6. A public hearing was held on December 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 construction of a new two-story, 1,685-square-foot, single-family residence with an attached 796-square-foot, three-car garage in the R-BI Zoning District.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code (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 5,240 square feet and the proposed gross floor area is 2,481 square feet.
  - b. The proposed development will exceed the minimum required setbacks, which are zero (0) feet along the front property line abutting the public boardwalk, four (4) feet along each side property line, and five (5) feet along the rear property line abutting the alley.
  - c. The highest guardrail is no more than 24 feet, measured from the established grade level of 9 feet North American Vertical Datum of 1988 (NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height limitation.
  - d. The project includes enclosed garage parking for three vehicles, which complies with the minimum two-car garage parking requirement.
2. The neighborhood is predominantly developed with two- and three-story single-family and two-unit residences. The proposed design, bulk, and scale of the development will be consistent with the existing neighborhood pattern of development and expected future development.
3. The development fronts the Newport Bay, but is separated from the shoreline by a public sidewalk and bulkhead. The public bulkhead is at a height of 7.75 feet (NAVD88). The finished floor elevation of the interior living area of the proposed residence is 9 feet (NAVD88), which complies with the minimum required 9-foot (NAVD88) elevation standard.
4. The property owner will 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). This requirement is included as a condition 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 William Simpson and Associates, Inc., dated November 5, 2015. The report concludes that flooding, wave run up, and erosion will not significantly impact this property over the expected life of the proposed development.
6. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
7. The project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
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. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
9. Public coastal views from the public sidewalk and beach located between the project site and the bay will not be negatively affected by the proposed development.

Finding:

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

Facts in Support of Finding:

1. The project site is located on Balboa Island 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 residential development demolished in 2012 neither provided nor inhibited 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 a previously existing single-family residence with a new single-family residence. Therefore, the project does not involve a change in allowed 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 replacement of a single-family residence, demolished in 2012, with a new single-family residence. Development will occur within the confines of private property, and existing coastal access conditions will not be affected. Lateral coastal access is provided by the bay front public sidewalk and public beach, located between the project site and the bay. Vertical access to the public bay front area is provided at various street-ends throughout Balboa Island, with the nearest vertical access point at the Crystal Avenue street-end adjacent to the project site.
3. Public coastal views from the bay front public sidewalk and beach located between the project site and the bay will not be affected by the proposed development. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace a previously existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) 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. CD2018-080, 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 13<sup>TH</sup> DAY OF DECEMBER, 2018.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. Coastal Development Permit No. CD2018-080 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, Lot Line Adjustment No. LA2018-001 (PA2018-026) shall be recorded.
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 project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this coastal development permit.
8. 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.
9. 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.

10. 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.
11. 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.
12. 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.
13. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
14. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
15. Prior to the issuance of building permits, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
16. 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.
17. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
18. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.

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19. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
  20. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
  21. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). 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:
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    - 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.
  22. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Grimm Residence including, but not limited to, Coastal Development Permit No. CD2018-080 (PA2018-218). 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.