



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 February 15, 2019.

ZONING ADMINISTRATOR ACTIONS FEBRUARY 14, 2019

- Item 1: Newport Beach Country Club - Golf Club Site - Annual Development Agreement Review No. DA2010-005 (PA2016-094)
Site Address: 1 Clubhouse Drive (formerly 1600 East Coast Highway)
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| Action: The Zoning Administrator found that Newport Beach Country Club - Golf Club Site Annual Review was in good faith compliance with the terms of the Development Agreement. | Council District | 5 |
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- Item 2: McLain Residence Coastal Development Permit No. CD2018-091 (PA2018-219)
Site Address: 2168 East Ocean Front
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| Action: Approved by Resolution No. ZA2019-014 | Council District | 1 |
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- Item 3: 3505 Seashore Drive, LLC Residence Coastal Development Permit No. CD2018-116 (PA2018-270)
Site Address: 3505 Seashore Drive, Units A and B
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| Action: Approved by Resolution No. ZA2019-015 | Council District | 1 |
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- Item 4: 3805 Seashore Drive, LLC Residence Coastal Development Permit No. CD2018-115 (PA2018-271)
Site Address: 3805 and 3805 ½ Seashore Drive
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| Action: Approved by Resolution No. ZA2019-016 | Council District | 1 |
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- Item 5: Simpson Residence Coastal Development Permit No. CD2018-108 (PA2018-253)
Site Address: 511 and 511 ½ 36th Street
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| Action: Approved by Resolution No. ZA2019-017 | Council District | 1 |
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- Item 6: 3506 West Ocean Front, LLC Residence Coastal Development Permit No. CD2018-114 (PA2018-272)
Site Address: 3506 West Ocean Front
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| Action: Approved by Resolution No. ZA2019-018 | Council District | 1 |
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- Item 7: VanDaele Residence Modification Permit and Coastal Development Permit No. CD2018-113 (PA2018-276)
Site Address: 3004 West Ocean Front

Action: Approved by Resolution No. ZA2019-019	Council District	1
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**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS**
(Non-Hearing Items)

- Item 1: Hershey's Market Staff Approval No. SA2018-007 (PA2018-095)
Site Address: 200 and 202 Marine Avenue

Action: Approved	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. ZA2019-014

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-091 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO-STORY, SINGLE-FAMILY RESIDENCE AND ATTACHED TWO-CAR GARAGE AT 2168 EAST OCEAN FRONT (PA2018-219)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Graham Architecture ("Applicant"), on behalf of Helle Skov McLain ("Owner"), with respect to property located at 2168 East Ocean Front, requesting approval of a coastal development permit.
2. The property is legally described as Lot 18, Block E, of Tract 518 in Newport Beach.
3. The applicant proposed a coastal development permit for the demolition of an existing single-family dwelling and the construction of a new, 3,735-square-foot, two-story single-family dwelling with a 447-square-foot, two-car garage. The development also includes hardscape, drainage, accessory structures, and landscaping. The proposed development complies with all applicable development standards including height, setbacks and floor area limits. No deviations are requested.
4. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single-Unit Residential Detached – 10.0-19.9 DU/AC) and the property is located within the R-1 (Single-Unit Residential) Coastal Zone District.
6. A public hearing was held on February 14, 2019, 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 residential duplex in a residential zone. The proposed project consists of the demolition of a single-family residence and the construction of a new two-story, 3,735-square-foot, single-family residence with an attached 447-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 6,108 square feet and the proposed gross floor area is 4,182 square feet.
 - b. The proposed development will provide the minimum required setbacks, which are ten feet along the front property line abutting the beach, four feet along each side property line, and zero feet along the rear property line abutting the alley.
 - c. The highest flat roof is no more than 24 feet, measured from the established grade level of 14.14 feet North American Vertical Datum of 1988 (NAVD88) 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 parking requirement for single-family residences with less than 4,000 square feet of livable floor area.
2. The neighborhood is predominantly developed with two- and three-story single-family residences. The proposed design, bulk, and scale of the development will be consistent with the existing neighborhood pattern of development and expected future development.
3. 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.

4. The finished floor elevation of the first floor of the proposed structure is 14.0 feet (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures. A project-specific Coastal Hazards Report and Sea Level Rise Analysis was prepared by GeoSoils, Inc., dated June 26, 2018. The report concludes that the highest high tide elevation (currently 7.5 feet NAVD88) will not exceed the proposed finished floor elevation of 14.0 feet NAVD88 using the low-rise aversion projected sea level rise (2.9-foot increase) over the 75-year design life of the structure based on estimates for sea level rise provided by the State of California Sea-Level Rise Guidance 2018.
5. 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 Toal Engineering, Inc. dated December 13, 2018. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for Best Management Practices (BMPs), use of a low-impact development design approach to retain the storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
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 the CBC prior to building permit issuance.
7. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain runoff on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
8. The project design addresses water quality with a construction erosion control plan that outlines temporary BMPs to be implemented during construction to minimize erosion and sedimentation, and to minimize pollution of runoff derived by construction chemicals and materials. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property. .
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 coastal view roads and is located near West Jetty View Park, a public viewpoint. Views from this viewpoint are generally toward the Newport Harbor entrance and ocean; therefore, the project 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. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities.
2. The project is designed and sited so as not to block or impede existing public access opportunities and development will occur within the confines of private property. 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 beach and water and at West Jetty View Park, approximately 50 feet east of the subject property.
3. The project site is not located adjacent to a coastal view road. However, it is located approximately 50 feet west of West Jetty View Park, a public viewpoint as identified in the Coastal Land Use Plan. The project site is also located adjacent to a public beach. The views from West Jetty View Park are primarily toward the Newport Harbor entrance and the ocean and are not toward the project site. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (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. CD2018-091, 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 14TH DAY OF FEBRUARY, 2019.



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. CD2018-091 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted
4. Prior to the issuance of a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
5. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
6. The 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.

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9. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
 10. This Coastal Development Permit does not authorize any development seaward of the private property.
 11. 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.
 12. 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.
 13. 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.
 14. 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.
 15. Prior to 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.
 16. 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.
 17. Prior to issuance of building permits, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
 18. 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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19. 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.
 20. 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.
 21. 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.
 22. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
 23. 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.
 24. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of McLain Residence including, but not limited to, Coastal Development Permit

No. CD2018-091 (PA2018-219). 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. ZA2019-015

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-116 TO DEMOLISH AN EXISTING DUPLEX AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 2-CAR GARAGE LOCATED AT 3505 SEASHORE DRIVE, UNITS A AND B (PA2018-270)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brion Jeannette Architecture (“Applicant”), on behalf of 3505 Seashore Drive LLC (“Owner”), with respect to property located at 3505 Seashore Drive, requesting approval of a coastal development permit.
2. The lot at 3505 Seashore Drive is legally described as Lot 3, Block 35, Newport Beach Tract.
3. The applicant proposes a coastal development permit to demolish an existing duplex and the construction of a new three-story, 2,946-square-foot, single-family residence and an attached 374-square-foot, two-car garage. The proposed development includes landscape, hardscape, and subsurface drainage facilities.
4. The subject property is designated RT (Two-Unit Residential Detached) 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 Two-Unit Residential Detached – (30.0-39.9 DU/AC) (RT-E) and it is located within the Two-Unit Residential (R-2).
6. A public hearing was held on February 14, 2019, 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).
2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of an existing duplex and the construction of a new single-family residence and attached two-car garage.

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

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code (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 3,320 square feet and the total proposed floor area is 3,320 square feet.
 - b. The proposed development provides the minimum required setbacks, which are zero feet along the front property line abutting Seashore Drive, three feet along each side property line and 5 feet along West Ocean Front.
 - c. The highest guardrail is less than 24 feet from established grade (11.63 feet North American Vertical Datum of 1988) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
 - d. The project includes garage parking for a total of two vehicles, complying with the minimum two-car garage parking requirement for single-family residences with 4,000 square feet or less of habitable floor area.
2. The neighborhood is predominantly developed with two- and three-story, single- and two-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The development fronts the public beach known as West Ocean Front and is separated by the Pacific Ocean by a wide sandy beach. The property is currently located within Flood Zone X per the current Flood Insurance Rate Map (FIRM) as published by the Federal Emergency Management Agency (FEMA), indicating the property is not in a special flood hazard area and not subject to special building design measures. However, effective March 21, 2019, a portion of the lot will be located within the FEMA VE Zone

designation as illustrated on the preliminary flood insurance rate map (PFIRM). The VE Zone designation, indicates that a portion of the property may be subject to flood hazards associated with high velocity wave action from storms or seismic sources. Although currently not effective, to further evaluate this potential hazard, a Coastal Hazard Report and Wave Runup Study was prepared by GeoSoils, Inc., dated January 25, 2019. The study provides detailed site-specific analysis of the potential coastal hazards with the proposed development, including wave action. The likely range of sea level rise projection for year 2100 (exceeding 75 year life of structure) is projected between 1.3 and 3.2 feet, resulting in a future water elevation of between 9.0 feet and 10.9 feet based on the North American Vertical Datum of 1988 (NAVD88). The finish floor elevation of the proposed dwelling is 12.06 feet NAVD88, which exceeds the minimum 9.0-foot (NAVD88) elevation standard for new structures and is approximately 1-foot above the 10.9-foot future sea level rise projection. Furthermore, the site is greater than 350 feet from the shoreline. Using a conservative analysis of shoreline erosion, the shoreline would retreat 150 feet over the 75-year life of the development, resulting in a distance of approximately 200 feet between the site and the shoreline. This is recognized as a safe distance to protect the site from extreme events. Applying a more conservative 5.1-foot sea level rise projection, wave bore would travel approximately 130 feet from the shoreline before it dissipates; therefore, the overtopping of waves over the next 75 years most likely will not reach the subject site, even under extreme conditions.

4. Although, the site is concluded to be safe from coastal hazards over the design life of the development, in the unlikely event the shoreline is eroded back near the site, and wave overtopping reaches the site, a 3-foot, 6-inches-high privacy wall along the seaward property line would afford wave flooding from reaching the site. Furthermore, the project incorporates building materials (concrete and other waterproof materials) that are resilient to temporary flooding and can be adapted for additional waterproofing in future if needed. Future adaption could include new waterproof composite materials (plastic/fiberglass) siding to the entire building, or available flood dam systems to exclude water from entering the site.
5. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
6. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.

7. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
8. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
9. The property fronts a public boardwalk and public beach, with views oriented towards the Pacific Ocean. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project will replace an existing duplex with a new single-family home that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Fact in Support of Finding:

1. The project site is located in West Newport between the nearest public road and the sea. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing duplex with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. Vertical access to the public boardwalk and beach is available approximately 50 feet south of the subject property at 35th Street end and 100 feet north at 36th Street end. Lateral access and views of the ocean are available along an existing 6-foot-wide public sidewalk (Ocean Front Boardwalk) in front of the project site. Additional lateral access is provided by Seashore Drive.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-116, 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 14TH DAY OF FEBRUARY 2019.



Patrick J. Alford, Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to the issuance of a certificate of occupancy, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
3. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
4. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
5. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
6. This Coastal Development Permit does not authorize any development seaward of the private property.
7. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity.
8. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

9. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. 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.
10. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
11. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
13. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
14. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
15. Prior to the issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
16. Prior to the issuance of a building permit, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
17. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
18. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
19. Prior to the issuance of 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.

20. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
21. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
22. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
23. This Coastal Development Permit No. CD2018-116 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
24. 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.
25. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless the 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 related (directly or indirectly) to the City's approval of 3505 Seashore Drive LLC Residence including, but not limited to, Coastal Development Permit No. CD2018-116 (PA2018-270). 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 the applicant, the City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City's costs, attorneys' fees, and damages, which the 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. ZA2019-016

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-115 TO DEMOLISH AN EXISTING DUPLEX AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 2-CAR GARAGE LOCATED AT 3805 and 3805 ½ SEASHORE DRIVE (PA2018-271)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brion Jeannette Architecture (“Applicant”), on behalf of 3805 Seashore Drive LLC (“Owner”), with respect to property located at 3805 Seashore Drive, requesting approval of a coastal development permit.
2. The lot at 3805 Seashore Drive is legally described as Lot 3, Block 38, 3RD Addition Newport Beach Tract .
3. The applicant proposes a coastal development permit to demolish an existing duplex and the construction of a new three-story, 2,409 square-foot, single-family residence and an attached 367-square-foot, two-car garage. The development also includes an allowed 10-foot patio encroachment pursuant to Title 21. The proposed development includes landscape, hardscape, and subsurface drainage facilities.
4. The subject property is designated RT (Two-Unit Residential Detached) 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 Two-Unit Residential Detached – (30.0-39.9 DU/AC) (RT-E) and it is located within the Two-Unit Residential (R-2).
6. A public hearing was held on February 14, 2019, 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).

2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of an existing duplex and the construction of a new 2,776 square-foot, single-family residence and attached two-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code (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 2,776 square feet and the total proposed floor area is 2,776 square feet.
 - b. The proposed development provides the minimum required setbacks, which are zero feet along the front property line abutting Seashore Drive, three feet along each side property line and 5 feet along West Ocean Front.
 - c. The highest guardrail is less than 24 feet from established grade (12.24 feet North American Vertical Datum of 1988) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
 - d. The project includes garage parking for a total of two vehicles, complying with the minimum two-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two- and three-story, single- and two-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.

3. The development fronts the public beach known as West Ocean Front and is separated by the Pacific Ocean by a wide sandy beach. The property is currently located within Flood Zone X per the current Flood Insurance Rate Map (FIRM) as published by the Federal Emergency Management Agency (FEMA), indicating the property is not in a special flood hazard area and not subject to special building design measures. However, effective March 21, 2019, a portion of the lot will be located within the FEMA VE Zone designation as illustrated on the preliminary flood insurance rate map (PFIRM). The VE Zone designation, indicates that a portion of the property may be subject to flood hazards associated with high velocity wave action from storms or seismic sources. Although currently not effective, to further evaluate this potential hazard, a Coastal Hazard Report and Wave Runup Study was prepared by GeoSoils, Inc., dated January 25, 2019. The study provides detailed site-specific analysis of the potential coastal hazards with the proposed development, including wave action. The likely range of sea level rise projection for year 2100 (exceeding 75 year life of structure) is projected between 1.3 and 3.2 feet, resulting in a future water elevation of between 9.0 feet and 10.9 feet based on the North American Vertical Datum of 1988 (NAVD88). The finish floor elevation of the proposed dwelling is 12.33 feet NAVD88, which exceeds the minimum 9.0-foot (NAVD88) elevation standard for new structures and is approximately 1.4 feet above the 10.9-foot future sea level rise projection. Furthermore, the site is greater than 375 feet from the shoreline. Using a conservative analysis of shoreline erosion, the shoreline would retreat 150 feet over the 75-year life of the development, resulting in a distance of approximately 225 feet between the site and the shoreline. This is recognized as a safe distance to protect the site from extreme events. Applying a more conservative 5.1-foot sea level rise projection, wave bore would travel approximately 130 feet from the shoreline before it dissipates; therefore, the overtopping of waves over the next 75 years most likely will not reach the subject site, even under extreme conditions.
4. Although, the site is concluded to be safe from coastal hazards over the design life of the development, in the unlikely event the shoreline is eroded back near the site, and wave overtopping reaches the site, a 3-foot, 6-inches-high privacy wall along the seaward permitted encroachment area would afford wave flooding from reaching the site. Furthermore, the project incorporates building materials (concrete and other waterproof materials) that are resilient to temporary flooding and can be adapted for additional waterproofing in future if needed. Future adaption could include new waterproof composite materials (plastic/fiberglass) siding to the entire building, or available flood dam systems to exclude water from entering the site.
5. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.

6. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
7. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
8. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
9. The public beach is directly in front of the subject property, with views oriented towards the Pacific Ocean. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project will replace an existing duplex with a new single-family home that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Fact in Support of Finding:

1. The project site is located in West Newport between the nearest public road and the sea. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing duplex with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.

2. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. Vertical access to the beach is available approximately 60 feet south of the subject property at 38th Street end and 150 feet north at 39th Street end. Lateral access is provided by Seashore Drive.
3. The 10-foot encroachment of the patio is allowed pursuant to Title 21 Appendix C Oceanfront Encroachment Policy Guidelines and is conditioned to require an encroachment permit from Public Works. The subject lot is one of the only few lots left that does not have this encroachment and it will not affect public views or access to the public beach.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-115, 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 14TH DAY OF FEBRUARY 2019.



Patrick J. Alford, Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to the issuance of a certificate of occupancy, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
3. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
4. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
5. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
6. This Coastal Development Permit does not authorize any development seaward of the private property.
7. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity.
8. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

9. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. 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.
10. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
11. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
13. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
14. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
15. Prior to the issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
16. Prior to the issuance of a building permit, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
17. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
18. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
19. Prior to the issuance of 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.

20. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
21. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
22. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
23. An encroachment permit shall be obtained from the Public Works Department for the 10-foot patio encroachment, pursuant to Title 21, Appendix C (Oceanfront Encroachment Policy Guidelines).
24. Should the Coastal Commission determine that any portion of the patio encroachment is located within its permit jurisdiction, authorization from the Coastal Commission shall be required.
25. This Coastal Development Permit No. CD2018-115 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.
26. 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.

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27. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless the 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 related (directly or indirectly) to the City's approval of 3805 Seashore Drive, LLC Residence including, but not limited to, Coastal Development Permit No. CD2018-115 (PA2018-271). 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 the applicant, the City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City's costs, attorneys' fees, and damages, which the 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. ZA2019-017

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-108 FOR A NEW SINGLE-FAMILY RESIDENCE LOCATED AT 511 and 511 ½ 36TH STREET (PA2018-253)

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., with respect to property located at 511 and 511 ½ 36th Street, and legally described as Lot 6 and the southwesterly 15 feet of Lot 7 of Block 536, requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing duplex and the construction of a new 3,639-square-foot single-family residence with a 690-square-foot attached garage. The project includes reinforcing and raising the height of the existing bulkhead. No work will be conducted bayward of the existing property. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential Detached (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-D) and the Coastal Zoning District is Two-Unit Residential (R-2).
5. A public hearing was held on February 14, 2019, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-2 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 4,808 square feet and the proposed floor area is 4,329 square feet.
 - b. The proposed development complies with the required setbacks, which are 5 feet along the property line abutting 36th Street, 30 feet abutting the Rialto, and 4 feet along each side property line.
 - c. The highest guardrail/parapet is 24 feet from established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
 - d. The proposed development provides a three-car garage, meeting the minimum garage requirement for a single-family residence exceeding 4,000 square feet of habitable floor area.
 - e. The proposed development exceeds the minimum 9.0 feet (NAVD88) top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two- and three-story single-family residences and duplexes. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The project site is protected by an existing cast-in-place concrete bulkhead. The applicant is proposing to cast new concrete coping and construct a new concrete stem wall with the top of the bulkhead elevation at 10.05 feet (NAVD88). A Bulkhead Conditions Report was prepared by PMA Consulting, Inc. on November 12, 2018, and concluded that the existing concrete bulkhead was in good condition. The existing bulkhead is proposed to be reinforced to support a concrete deck. Specifically, the applicant is proposing to cast a new concrete deadman and install new tiebacks. The Bulkhead Conditions Report concluded that the reinforced bulkhead will protect the proposed development.

4. The finish floor elevation of the proposed dwelling is 9.00 feet NAVD 88, which complies with the minimum 9.0 feet NAVD88 elevation standard. A new concrete stem wall is proposed to be constructed around the perimeter of the dwelling that would protect against flooding up to an elevation of 10.05 feet (NAVD88). Flood shields (sandbags and other methods) can be deployed across the openings to prevent flooding to the structure. A Coastal Hazard Report prepared by PMA Consulting, Inc. on November 12, 2018, concludes that the highest high tide elevation (currently 7.20 feet NAVD88) will not exceed the proposed exterior curb of 10.05 feet NAVD88 using the low-risk aversion projected sea level rise (2.85-foot increase) over the 75-year design life of the structure based on estimates for sea level rise provided by the State of California Sea-Level Rise Guidance 2018.
5. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 2,500 square feet of impervious surface area, a Water Quality Management Plan (WQMP) is required. A WQMP prepared by Forkert Engineering & Surveying, Inc., dated December 20, 2018, has been submitted and will be reviewed by the City's Engineer Geologist. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
5. The project 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. The project will replace an existing duplex with a new single-family home that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Fact in Support of Finding:

1. The project site is located in West Newport between the nearest public road and the sea. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing duplex with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. Vertical access to the canal is available near the site on Finley Avenue and Short Street. Lateral access to the canal is available near the site on 36th Street.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-108, 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 14TH DAY OF FEBRUARY, 2019.

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. CD2018-108 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. Prior to the issuance of a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
5. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. This Coastal Development Permit does not authorize any development seaward of the private property. Should the bulkhead require more extensive repair or replacement with construction equipment bayward of the private property, an additional Coastal Development Permit shall be obtained for the bulkhead from the Coastal Commission.

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9. 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.
 10. 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.
 11. 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.
 12. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the WQHP/WQMP and any changes could require separate review and approval by the Building Division.
 13. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
 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. 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.

17. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
18. 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.
19. 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.
20. 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.
21. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
22. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
23. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
24. 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.
25. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 21 Planning and Zoning of the Newport Beach

Municipal Code.

26. 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 Simpson Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2018-108 (PA2018-253). 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. ZA2019-018

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-114 FOR A NEW SINGLE-FAMILY RESIDENCE LOCATED AT 3506 WEST OCEAN FRONT (PA2018-272)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brion Jeannette, with respect to property located at 3506 West Ocean Front, and legally described as Lot 4 of Block 35, requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing single-family residence and the construction of a new 2,909-square-foot single-family residence with a 375-square-foot attached garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential Detached (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-E) and the Coastal Zoning District is Two-Unit Residential (R-2).
5. A public hearing was held on February 14, 2019, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-2 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 3,284 square feet and the proposed floor area is 3,284 square feet.
 - b. The proposed development complies with the required setbacks, which are five feet along the property line abutting West Ocean Front, and three feet along each side property line. There is no required setback along the property line abutting Seashore Drive.
 - c. The highest guardrail/parapet is 24 feet from established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
 - d. The proposed development provides a two-car garage, meeting the minimum garage requirement for a single-family residence exceeding 4,000 square feet of habitable area.
 - e. The proposed development exceeds the minimum 9.0 feet (NAVD88) top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two- and three-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The development fronts the public boardwalk along West Ocean Front and is separated by the Pacific Ocean by a wide sandy beach. The property is currently located within Flood Zone X per the current Flood Insurance Rate Map (FIRM) as published by the Federal Emergency Management Agency (FEMA), indicating the property is not in a special flood hazard area and not subject to special building design measures. However, effective March 21, 2019, a portion of the lot will be located within the FEMA VE Zone designation as illustrated on the preliminary flood insurance rate map (PFIRM). The VE Zone designation indicates that a portion of the property may be subject to flood hazards associated with high velocity wave action from storms or seismic sources. Although currently not effective, to further evaluate this potential hazard, a Coastal Hazard Report and Wave Runup Study was prepared by GeoSoils, Inc., dated January 25, 2019. The

study provides detailed site-specific analysis of the potential coastal hazards with the proposed development, including wave action. The likely range of sea level rise projection for year 2100 (exceeding 75 year life of structure) is projected between 1.3 and 3.2 feet, resulting in a future water elevation of between 9.0 feet and 10.9 feet based on the North American Vertical Datum of 1988 (NAVD88). The finish floor elevation of the proposed dwelling is 12.08 feet NAVD88, which exceeds the minimum 9.0-foot (NAVD88) elevation standard for new structures and is 1.18 feet above the 10.9-foot future sea level rise projection. Furthermore, the site is approximately 390 feet from the shoreline. Using a conservative analysis of shoreline erosion, the shoreline would retreat 150 feet over the 75-year life of the development, resulting in a distance of approximately 240 feet between the site and the shoreline. This is recognized as a safe distance to protect the site from extreme events. Applying a more conservative 5.1-foot sea level rise projection, wave bore would travel approximately 130 feet from the shoreline before it dissipates; therefore, the overtopping of waves over the next 75 years most likely will not reach the subject site, even under extreme conditions.

4. Although the site is concluded to be safe from coastal hazards over the design life of the development, in the unlikely event the shoreline is eroded back near the site, and wave overtopping reaches the site, a three-foot-six-inch-high privacy wall along the seaward property line would afford wave flooding from reaching the site. Furthermore, the project incorporates building materials (concrete and other waterproof materials) that are resilient to temporary flooding and can be adapted for additional waterproofing in future if needed. Future adaption could include new waterproof composite materials (plastic/fiberglass) siding to the entire building, or available flood dam systems to exclude water from entering the site.
5. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
6. Due to the large distance from coastal waters, a Water Quality Management Plan (WQMP) and a Construction Pollution Prevention Plan (CPPP) are not required. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain runoff on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
7. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

8. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
9. The property fronts a public boardwalk and public beach, with views oriented towards the Pacific Ocean. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project will replace an existing single-family home with a new single-family home that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Fact in Support of Finding:

1. The project site is located in West Newport between the nearest public road and the sea. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on an inland lot with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. Vertical access to the beach is available near the site on 35th Street and 36th Street where there is a public beach with access to the water. Lateral access and views of the ocean are also available along an existing six foot-wide public sidewalk (Ocean Front Boardwalk) in front of the project site.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-114, 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 14TH DAY OF FEBRUARY, 2019.



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. CD2018-114 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 Certificate of Occupancy, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
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. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. This Coastal Development Permit does not authorize any development seaward of the private property.

9. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity.
10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. 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.
12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
13. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
14. 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.
15. 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.
16. 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.
17. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
18. All existing encroachments into the West Ocean Front right-of-way shall be removed.
19. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.

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20. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
 21. 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.
 22. 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.
 23. 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.
 24. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
 25. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
 26. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 21 Planning and Zoning of the Newport Beach Municipal Code.

27. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Moy Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2018-114 (PA2018-272). 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. ZA2019-019

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-113 AND MODIFICATION PERMIT NO. MD2018-009 TO ALLOW THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE WITH AN ATTACHED TWO-CAR GARAGE WHICH DEVIATES FROM THE MINIMUM GARAGE WIDTH STANDARDS LOCATED AT 3004 WEST OCEAN FRONT (PA2018-276)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by William Guidero, with respect to property located at 3004 West Ocean Front, and legally described as Parcel 1 of Block 30, requesting approval of a Coastal Development Permit and a Modification Permit.
2. The applicant proposes a coastal development permit for the demolition of an existing single-family residence and the construction of a new 2,944-square-foot single-family residence with a 442-square-foot attached garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping. A modification permit is also requested to allow the two-car garage to be constructed with an 18-foot interior clear width, where a width of 18 feet 6 inches is required by the Zoning Code. The proposed residence complies with all other applicable development standards including height, setbacks, and floor area limits.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-E) and the Coastal Zoning District is Two-Unit Residential (R-2).
5. A public hearing was held on February 14, 2019, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or

Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-2 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 4,038 square feet and the proposed floor area is 3,386 square feet.
 - b. The proposed development complies with the required setbacks, which are 5 feet along the property line abutting West Ocean Front, 3 feet along each side property line, and 5 feet along the rear property line abutting West Ocean Front Alley.
 - c. The highest guardrail/parapet is less than 24 feet from established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
 - d. The proposed development provides a two-car garage, meeting the minimum garage requirement for a single-family residence.
 - e. The proposed development exceeds the minimum 9.0-foot (NAVD88) top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two- and three-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The development fronts the public beach known as West Ocean Front and is separated by the Pacific Ocean by a wide sandy beach. The property is currently located within Flood Zone X per the current Flood Insurance Rate Map (FIRM) as published by the Federal Emergency Management Agency (FEMA), indicating the property is not in a special flood hazard area and not subject to special building design measures. However, effective March 21, 2019, a portion of the lot will be located within the FEMA VE Zone

designation as illustrated on the preliminary flood insurance rate map (PFIRM). The VE Zone designation, indicates that a portion of the property may be subject to flood hazards associated with high velocity wave action from storms or seismic sources. Although currently not effective, to further evaluate this potential hazard, a Coastal Hazard Report and Wave Runup Study was prepared by GeoSoils, Inc., dated January 24, 2019. The study provides detailed site-specific analysis of the potential coastal hazards with the proposed development, including wave action. The likely range of sea level rise projection for year 2100 (exceeding 75 year life of structure) is projected between 1.3 and 3.2 feet, resulting in a future water elevation of between 9.0 feet and 10.9 feet based on the North American Vertical Datum of 1988 (NAVD88). The finish floor elevation of the proposed dwelling is 14.0 feet NAVD88, which exceeds the minimum 9.0-foot (NAVD88) elevation standard for new structures and is 3.1 feet above the 10.9-foot future sea level rise projection. Furthermore, the site is currently more than 400 feet from the shoreline. Using a conservative analysis of shoreline erosion, the shoreline would retreat 150 feet over the 75-year life of the development, resulting in a distance of approximately 250 feet between the site and the shoreline. This is recognized as a safe distance to protect the site from extreme events. Applying a more conservative 5.1-foot sea level rise projection, wave bore would travel approximately 130 feet from the shoreline before it dissipates; therefore, the overtopping of waves over the next 75 years most likely will not reach the subject site, even under extreme conditions.

4. Although the site is concluded to be safe from coastal hazards over the design life of the development, in the unlikely event the shoreline is eroded back near the site, and wave overtopping reaches the site, a 3-foot-high privacy wall along the seaward property line would afford wave flooding from reaching the site. Furthermore, the project incorporates building materials (concrete and other waterproof materials) that are resilient to temporary flooding and can be adapted for additional waterproofing in the future if needed. Future adaption could include new waterproof composite materials (plastic/fiberglass) siding to the entire building, or available flood dam systems to exclude water from entering the site.
5. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
6. Due to the large distance from coastal waters, a Water Quality Management Plan (WQMP) and a Construction Pollution Prevention Plan (CPPP) are not required. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain run-off on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.

7. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
8. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
9. The property fronts a public boardwalk and public beach, with views oriented towards the Pacific Ocean. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project will replace an existing single-family home with a new single-family home that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Fact in Support of Finding:

1. The project site is located in West Newport between the nearest public road and the sea. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on an inland lot with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. Vertical access to the beach is available near the site on 30th Street and 31st Street, where there is a public beach with access to the water. Lateral access and views of the ocean are also available along an existing 6-foot-wide public sidewalk (Ocean Front Boardwalk) in front of the project site.

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:

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

Facts in Support of Finding:

1. The neighborhood is predominantly comprised of two-story and three-story single-family residences and duplexes located on 25-foot-wide lots. The Modification Permit will allow a new single-family residence with an attached two-car garage which is substandard in width. Although the Zoning Code requires a garage that is 18 feet 6 inches wide for lots 35-feet in width, the proposed 18-foot wide garage is wide enough to accommodate two vehicles and exceeds the minimum garage width of 17 feet 6 inches required for 25-foot-wide lots common in the neighborhood.
2. The proposed single-family residence is 3,386 square feet (including the 442-square-foot garage), where the maximum floor area limit is 4,038 square feet. Also, the proposed residence is two stories, where the Zoning Code allows for three stories. The proposed residence is equal or less than the bulk and scale of the other single-unit and two-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 new single-family residence.

Finding:

- D. *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. 3004 West Ocean Front was previously described as Lot 3 of Block 30, and had lot dimensions of 25 feet wide by 90 feet deep. A lot line adjustment was approved in 1996 (Lot Line Adjustment No. 96-1) which combined Lot 3 with the northwesterly 10 feet of the southwesterly 58 feet of Lot 2, Block 30. This created a uniquely shaped lot where the southwesterly 58 feet of the lot has a lot width of 35 feet, while the northwesterly 32 feet of the lot has a lot width of 25 feet.
2. The Zoning Code defines lot width as the horizontal distance between the side lot lines, measured at right angles to the line that defines the lot depth at a point midway between the front and rear lot lines. Per the Zoning Code's definition, the lot width of the subject property is 35 feet, which requires a two-car garage to be 18 feet 6 inches in clear interior width despite the narrower lot width where the garage would logically be sited.
3. The subject lot is located on West Ocean Front, and abuts a boardwalk along the beach. Due to its location, a garage can only be constructed on the narrower northwesterly rear of the property that abuts the alley. As previously mentioned, the northwesterly 32 feet

of the lot that abuts the alley has a lot width of 25 feet, which limits the width of a structure on that portion of the lot.

4. A 25-foot wide lot requires a two-car garage that is 17 feet 6 inches wide (interior clear). The proposed garage, which is located on the 25-foot wide portion of the lot, is 18 feet wide (interior clear). The garage is proposed to be constructed at the maximum possible width while still maintaining the required 3-foot side yard setbacks on each side. The garage proposes a depth of 21 feet 3 inches, where the Zoning Code requires 19 feet.

Finding:

- E. *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 strict application of the Zoning Code to construct a compliant garage will result in an excessive setback for the garage. The Zoning Code requires a 3-foot side yard setback on both sides resulting in a maximum garage width of 19 feet (including exterior finishes) that can be constructed. A Code-compliant garage exceeds that width and therefore cannot be constructed in the northwesterly 25-foot-wide portion of the lot. A Code-compliant garage can only be constructed on the portion of the lot where the lot width increases to 35 feet, which would result in an excessive setback of 32 feet for the garage from the rear property line, where the Zoning Code only requires a 5-foot rear setback.
2. The strict application of the Zoning Code will result in a smaller buildable area due to the need for the garage to be located inside the center of the 35-foot wide portion of the lot. Since the Zoning Code requires access to the garage directly from the adjoining alley, a large portion of the lot's buildable area would be required to be dedicated as a driveway for the Code-compliant garage. This would significantly impact the applicant's ability to construct a residence that is in parity with the surrounding development in terms of footprint and floor area.

Finding:

- F. *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.*

Fact in Support of Finding:

1. The 25-foot lot width at the northwesterly portion of the lot, combined with the required 3-foot side yard setbacks, results in a situation where it is impossible to construct a Code-compliant garage without setting back the garage a minimum of 32 feet. This alternative does not provide similar benefits to the applicant, who is requesting to

construct an 18-foot wide garage (interior clear), where the Zoning Code requires 18 feet 6 inches. The existing garage provides two usable garage spaces only slightly less than the required width and fulfills the intent of the Zoning Code by providing adequate parking on-site.

Finding:

- G. *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 garage on the existing development encroaches into both side yard setbacks and has not been proven to be detrimental to the occupants of the property or the neighborhood. The proposed garage would maintain all required setbacks and will provide adequate protection for light, air, and privacy. The new single-family residence, including the garage, will be consistent with the scale with other dwellings in the neighborhood.
2. The proposed garage is located on the 25-foot wide portion of the uniquely-shaped lot. A typical 25-foot wide lot requires an interior garage width of 17 feet 6 inches. The proposed garage exceeds that requirement and provides 18 feet of interior garage width. The proposed garage is adequate in width to park two vehicles and minimizes impacts to on-street parking 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 new single-family residence.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-113 and Modification Permit MD2018-009, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 (Zoning Code) and Title 21 (Local Coastal Program 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 14TH DAY OF FEBRUARY, 2019.



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. CD2018-113 and Modification Permit No. MD2018-009 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. Prior to the issuance of a Certificate of Occupancy, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
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. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. This Coastal Development Permit does not authorize any development seaward of the private property.

9. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity.
10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
13. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
14. 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.
15. 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.
16. Prior to issuance of 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.
17. Prior to the issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
18. All existing encroachments into the West Ocean Front right-of-way shall be removed.
19. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.

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20. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
 21. 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.
 22. 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.
 23. Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior dimensions (18 feet wide by 21 feet 3 inches deep) shall be kept clear of obstructions including cabinets, laundry facilities, shelving, or similar that may impact the ability to adequately park two (2) vehicles.
 24. 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 laws 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.
 25. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
 26. 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.

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27. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 21 Planning and Zoning of the Newport Beach Municipal Code.
28. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the City's approval of VanDaele Residence Coastal Development Permit and Modification Permit including, but not limited to, Coastal Development Permit No. CD2018-113 and Modification Permit No. MD2018-009 (PA2018-276). 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.



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

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COMMUNITY DEVELOPMENT DIRECTOR **ACTION LETTER**

Application No. **Hershey's Market Staff Approval**
 Staff Approval No. SA2018-007 (PA2018-095)

Applicant **Manouch Moshayedi**

Site Location **200 and 202 Marine Avenue**

Legal Description **Lots 1 and 2 , Block 11, Section 4, Balboa Island Tract**

On **February 15, 2019**, the Community Development Director approved Staff Approval No. SA2018-007. This approval is based on the following findings and subject to the following conditions.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** MU-W2 (Mixed-Use Water Related)
- **General Plan:** MU-W2 (Mixed-Use Water Related)
- **Coastal Land Use Plan:** MU-W (Mixed-Use Water Related)
- **Coastal Zoning:** MU-W2 (Mixed-Use Water Related)

I. BACKGROUND

The subject property was constructed in 1924 as a market that offered groceries, a pharmacy, and a single gas pump. The market building was later torn down and reconstructed in 1938. The grocery's name was changed to Hershey's Market in 1948.

The subject property appears on the City's Historic Resources Inventory and is listed as a Class 4 (Structure of Historic Interest). This Class refers to a building, structure, object, site, or natural feature that has been altered to the extent that the historic/architectural integrity has been substantially compromised, but is still worthy of recognition. Class 4 facilities are listed for recognition purposes only and are not identified as eligible to use the State Historic Building Code. General Plan Policy HR 1.1 recommends providing photo documentation of inventoried structures prior to demolition or alteration. Refer to Attachment No. CD 3 for more history, background, and photos documenting the existing building as suggested by this General Plan policy.

On January 10, 2013, the Zoning Administrator approved Use Permit No. UP2012-020 (PA2012-125) authorizing the establishment of an accessory food service use with 200

square feet of net public area and a maximum of 12 seats within the existing Hershey's Market.

II. PROPOSED CHANGES

The applicant proposes to remodel Hershey's Market by dividing the existing 4,200-gross-square-foot building into two retail tenant suites of 2,054 square feet each. A 92-square-foot portion of the entry would be demolished to allow for proper access and door swings into each suite.

The proposed project would retain the existing Hershey's Market and accessory dining in one tenant suite and add a new retail tenant in the adjacent suite. The newly created suite will be used for retail commercial use; however, a specific tenant has not been designated at this time. The existing Hershey's Market minor use permit allows for 200 square feet of food service area and 12 seats within the market. There is no proposed increase in the interior net public area or number of seats. All of the operational characteristics including the hours of operation are not changing.

The project also proposes exterior modifications including new bi-fold windows & fabric awnings for both units, and the addition of an architectural feature up to the 26-foot height limit at the corner of Marine Avenue and Park Avenue.

The proposed building modification does not result in a change or intensification of the existing/historical retail use that would require a Coastal Development Permit. There is no increase in the parking rate, building floor area, and less than 10 percent increase in overall building height.

III. FINDINGS

Pursuant to [Section 20.54.070 \(Changes to an Approved Project\)](#), the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use without a public hearing, and waive the requirement for a new use permit application. In this case, the Community Development Director has determined that the proposed changes to the accessory food service are not an expansion of the use and they are in substantial conformance with the Use Permit No. UP2012-020 (PA2012-125).

Finding:

A. *Are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. Food service uses are a permitted use in the MU-W2 (Mixed-Use Water-Related) Zoning District, subject to the approval of a use permit. The proposed changes are

consistent with the operational characteristics approved by Use Permit No. UP2012-020 (PA2012-125).

2. The proposed floor plan changes remain consistent with the operational characteristics of the previously approved dining area.
3. The parking is non-conforming as the site does not provide any off-street parking. The accessory food service use does not change or increase the parking requirement. Since no changes to the net public area are proposed, no additional parking is required.

Finding:

- B. Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Facts in Support of Finding:

1. The proposed changes to the existing accessory food service will not compromise the original Class 1 (Existing Facilities) exemption under the California Environmental Quality Act (CEQA) Guidelines since the request involves minor alterations to the floor plan and operational characteristics that will not exceed 50 percent of the existing floor area or 2,500 square feet.

Finding:

- C. Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

1. The proposed reconfiguration of the interior were not specific features that were addressed or conditioned by Use Permit No. UP2012-020 (PA2012-125).
2. The operational characteristics, seating (12 seats), size of interior dining area (200 square feet of net public area), and hours of operation remain unchanged.

Finding:

- D. Do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The division of the existing building into two tenant suites and repositioning of the accessory food service area within the existing grocery store are minor in nature and

does not represent a substantial change in the operational characteristics of the accessory food service that was previously authorized.

2. The proposed changes do not result in additional employees. The hours of operation will remain unchanged as conditioned by Use Permit No. UP2012-020 (PA2012-125), 7:30 a.m. to 8:00 p.m., daily.

IV. DETERMINATION

This staff approval has been reviewed and the determination has been made that the proposed changes to the existing accessory food service are in substantial conformance with the original approval actions.

CONDITIONS

1. All applicable conditions of approval for Use Permit No. UP2012-020 (PA2012-125) shall remain in effect (Attachment No. CD 3).
2. The revised floor plans shall remain in substantial conformance with the approved revised floor plan found in Attachment No. CD 4.
3. *Exterior door swings shall not project into the public right-of-way.*
4. *Each tenant unit shall be served by separate water and sewer service. Each service shall be installed per City Standard. A new sewer cleanout shall be installed on the existing sewer lateral per City Standard STD-406.*
5. *Prior to the issuance of building permits, the plans shall be revised to reflect awnings that project no more than 18inches into the public right-of-way and shall provide a minimum 10-foot clearance height from the adjacent sidewalk grade.*
6. *Awnings and canopies shall be provided with an approved covering that meets the fire propagation performance criteria of Test Method 1 or Test Method 2, as appropriate, of NFPA 701 or has a flame spread index not greater than 25 when tested in accordance with ASTM E84 or UL 723 per California Building Code Section 3105.4.*
7. *The exterior bi-fold doors shall not project into the public right-of-way.*
8. *Prior to the issuance of building permits, the exiting design shall be modified to the satisfaction of the Building Division. A second exit may be required based on the proposed dining area.*
9. *Prior to the issuance of building permits, proof of construction materials shall be required since the building may be constructed from unreinforced masonry.*

10. *Prior to the issuance of building permits, Health Department Approval shall be required.*
11. The applicant is required to obtain all applicable permits from the City Building Division and Fire Department. Prior to the issuance of any building, mechanical, and/or electrical permits, architectural drawings and structural design plans shall be submitted to the City of Newport Beach for review and approval by the applicable departments. A copy of these conditions of approval shall be incorporated into the drawings approved for the issuance of permits.
12. The Community Development Director may add to or modify conditions to this staff approval, or revoke this staff approval upon determination that the operations, which is the subject of this staff approval, causes injury, or is detrimental to the public health, safety, peace, or general welfare of the community or if the property is operated or maintained so as to constitute a public nuisance.
13. This staff approval shall expire unless exercised within twenty-four (24) months from the end of the appeal period, in accordance with [Section 20.54.060 \(Time Limits and Extensions\)](#) of the Newport Beach Municipal Code.
14. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Hershey's Market Staff Approval including, but not limited to, the SA2018-007 (PA2018-095). 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.

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. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

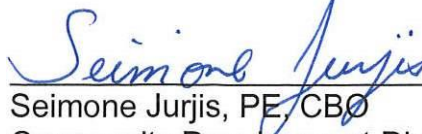
Prepared by:



Makana Nova
Associate Planner

GR/mkn

Approved by:



Seimone Jurjis, PE, CBO
Community Development Director

Attachments: CD 1 Vicinity Map
 CD 2 History, Background, and Photo Documentation
 of Existing Building
 CD 3 UP2012-020 (PA2012-125)
 CD 4 Project Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2018-007
(PA2018-095)

200 and 202 Marine Avenue

Attachment No. CD 2

History, Background, and Photo Documentation
of Existing Building

History of the Hershey's Market Building

200 Marine Avenue, Balboa Island, California

The building was originally opened in 1924-26, owned by Walt Kaufman, and called **Wallie's Cash Market**. The market offered groceries, pharmacy, and a single gas pump.



In 1932, Anthony Hirschi, Phil Carroll, and Walt Kaufman co-own Wallie's Market

In 1933 a liquor store was added to the market.

In 1937 The name of the building is changed to **Market Spot**.



In 1938 the original building is torn down and a new building is erected.ⁱ



The Signage and facade were changed in the 1940's



In 1948 the building name was changed to **Hershey's Market**.



Between 1969 and 1978 there were electrical, plumbing, and interior changes, including partitioning off the meat department per Health Department code.ⁱⁱ

In 1978, new owners acquire the building and the exterior façade was changed.ⁱⁱⁱ



In 2012 the front entrance was replaced with new “mall entrance.”^{iv}



The Interior of the building has also undergone numerous changes over the years.



According to Brittany Webb, Director of The Balboa Island Museum and Historical Society, “the original building located at 200 Marine Avenue, may have been a house, but this cannot be confirmed by photos or written document.”^v With three name changes, complete remodel in 1938, and numerous exterior and interior alterations over the years, the Hershey’s Market building at 200 Marine Avenue has changed with the times, with new ownership, and in keeping with the demands of the surrounding community.

Thank you to Brittany Webb and the Balboa Island Museum and Historical Society for their assistance in compiling this report.

ⁱ “The Hershey’s – One of Balboa Island’s Pioneer and Prominent Families”, Balboa Island Museum and Historical Society, 2018.

ⁱⁱ City of Newport Beach Building Department Permits, <https://www.newportbeachca.gov/government/open-transparent/online-services/permit-plan-check-information/permit-search-by-address>, 2018.

ⁱⁱⁱ City of Newport Beach Building Department Permits, <https://www.newportbeachca.gov/government/open-transparent/online-services/permit-plan-check-information/permit-search-by-address>, 2018.

^{iv} City of Newport Beach Building Department Permits, <https://www.newportbeachca.gov/government/open-transparent/online-services/permit-plan-check-information/permit-search-by-address>, 2018.

^v Brittany Webb, Director, Balboa Island Museum and Historical Society, 2018.

Attachment No. CD 3

UP2012-020 (PA2012-125)

RESOLUTION NO. ZA2013-001

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2012-020 FOR ACCESSORY FOOD SERVICE WITHIN AN EXISTING GROCERY STORE LOCATED AT 200 MARINE AVENUE (PA2012-125)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by BB&C LLC., DBA Hershey's Market, with respect to property located at 200 Marine Avenue, and legally described as Lots 1 and 2, Block 11, Balboa Island Section 4, requesting approval of a Minor Use Permit.
2. The applicant proposes accessory food service use within the existing grocery store and delicatessen, which will include six (6) tables and 12 chairs.
3. The subject property is located within the Mixed-Use Water Related (MU-W2) Zoning District and the General Plan Land Use Element category is Mixed-Use Water Related (MU-W2).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Water Related (MU-W).
5. A public hearing was held on January 10, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act ("CEQA") under Class 1 (Existing Facilities).
2. Class 1 exempts minor alterations to existing facilities involving negligible expansion of use. The addition of tables for an accessory food service use is a negligible expansion of the existing retail grocery store use.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The project site is designated as Mixed-Use Water Related (MU-W2) by the Land Use Element of the General Plan, which is intended to provide for commercial development near the bay while integrating residential development on the upper floors. The existing grocery store and delicatessen use and the proposed accessory food service use are consistent with the MU-W2 designation.
2. Retail sales and eating and drinking establishment uses are prevalent in the vicinity along Marine Avenue and are frequented by both visitors and residents. The establishment is compatible with the land uses allowed within the surrounding neighborhood.
3. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. Pursuant to Section 20.70.020 (Definitions of Specialized Terms and Phrases), a grocery store is classified as a retail sales land use. An accessory food service use is a typical use within grocery stores and does not change the principal use.
2. The subject property is located in the MU-W2 Zoning District. A retail sales use is allowed by right within the MU-W2 Zoning District pursuant to Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements) of the Zoning Code. Subject to the approval of a Minor Use Permit by the Zoning Administrator, the accessory use is allowed within the MU-W2 Zoning District.
3. Pursuant to Zoning Code Section 20.40.040 (Off-Street Parking Spaces Required), retail sales uses require one parking space per 250 square feet of gross floor area. The parking is nonconforming as the site does not provide any off-street parking; however, the addition of an accessory use does not change or increase the parking requirement.

Finding:

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

Facts in Support of Finding:

1. The proposed project is located within a nonresidential zoning district with residential uses nearby. The operational characteristics are that of retail sales establishment, and not of a restaurant, bar, or nightclub.
2. The gross floor area of the building is approximately 4,300 square feet. The proposed seating area is approximately 120 square feet in area.
3. The hours of operation are from 7:30 a.m. to 8:00 p.m. daily.
4. On-sale alcoholic beverage service is not proposed. The approval includes conditions prohibiting dancing or live entertainment on the premise.
5. The surrounding area along Marine Avenue contains various commercial uses including restaurants and retail sales. The proposed establishment is compatible with the existing and allowed uses within the neighborhood.

Finding:

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

Facts in Support of Finding:

1. The subject lot is 60 feet by 75 feet (4,500 square feet in area) and is developed with an approximately 4,300-square-foot building.
2. The subject lot is located at the intersection of two public streets and also has alley access. The existing building has functioned effectively with the current configuration.

Finding:

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

Facts in Support of Finding:

1. The restrictions on seating area and number of chairs will prevent adverse traffic impacts for the surrounding residential and commercial uses. Patrons who are nearby residents or visitors to the area will likely walk or ride a bicycle to the subject site.
2. The hours of operation are from 7:30 a.m. to 8:00 p.m., daily, which will eliminate any late-night noise impacts on the neighboring residential uses.

3. The proposed accessory food service use will provide an economic opportunity for the property owner and provide additional services for the residents and visitors in the surrounding area who patronize the grocery store.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-020, 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 fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 10TH DAY OF JANUARY, 2013.

BY:



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

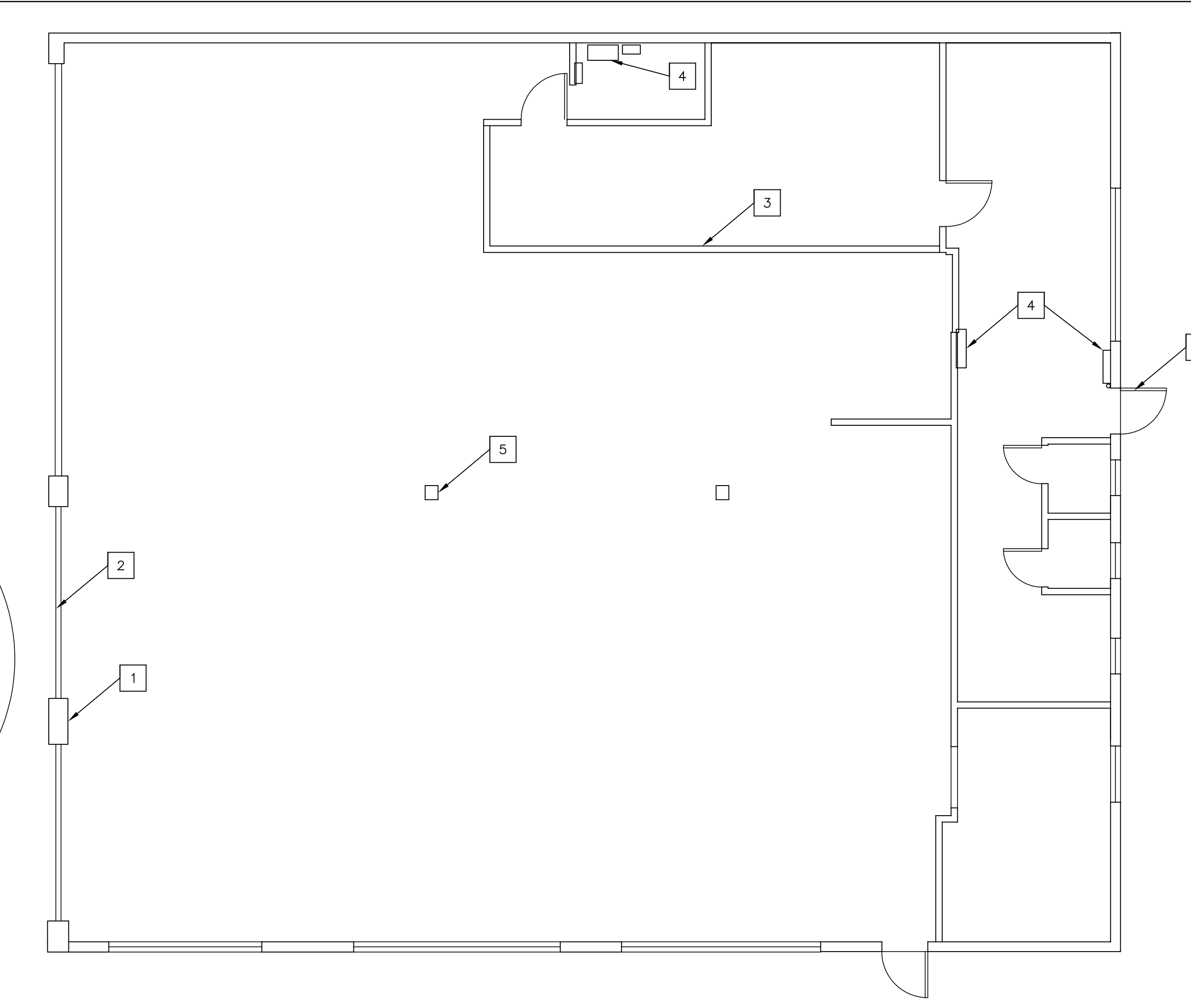
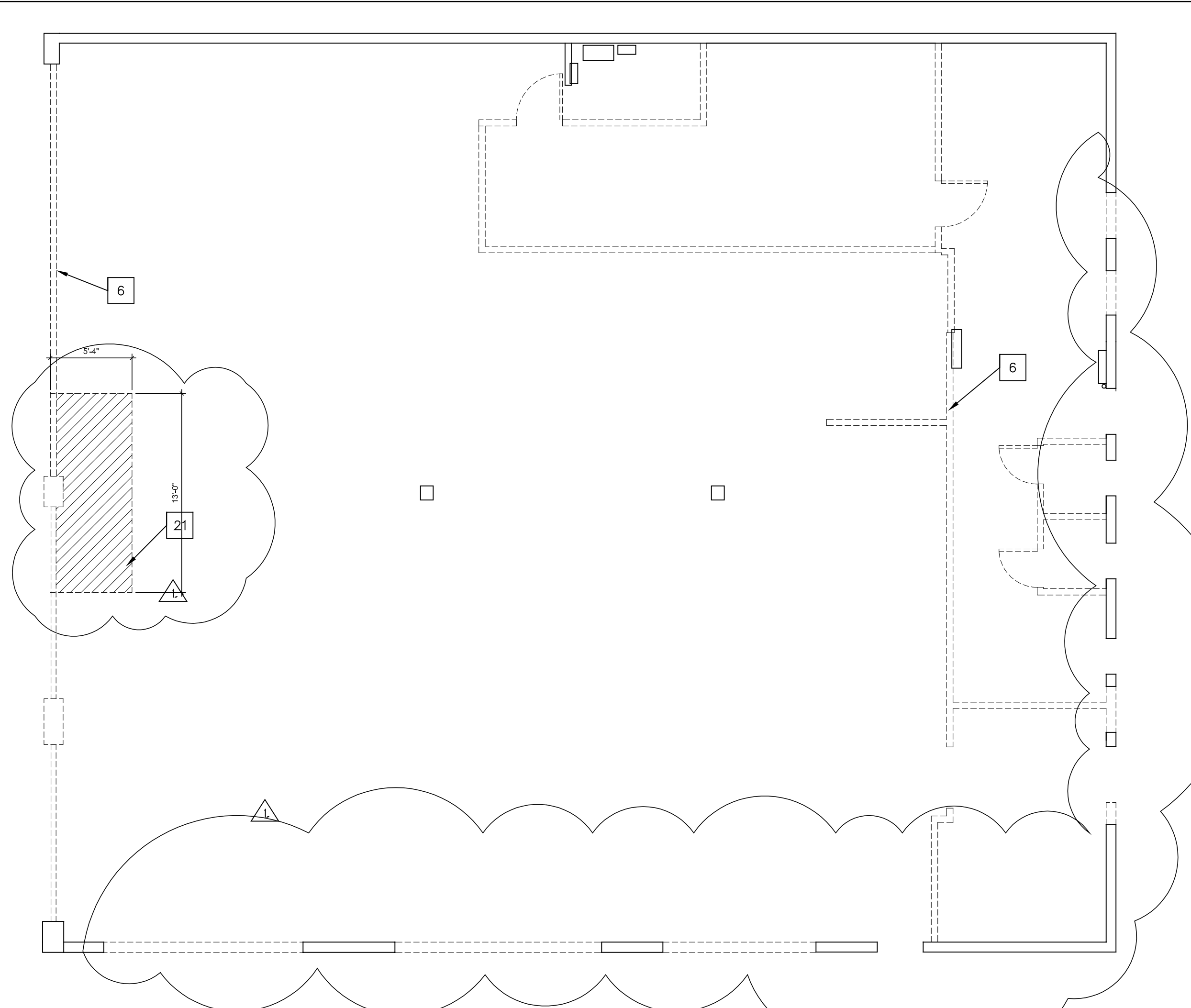
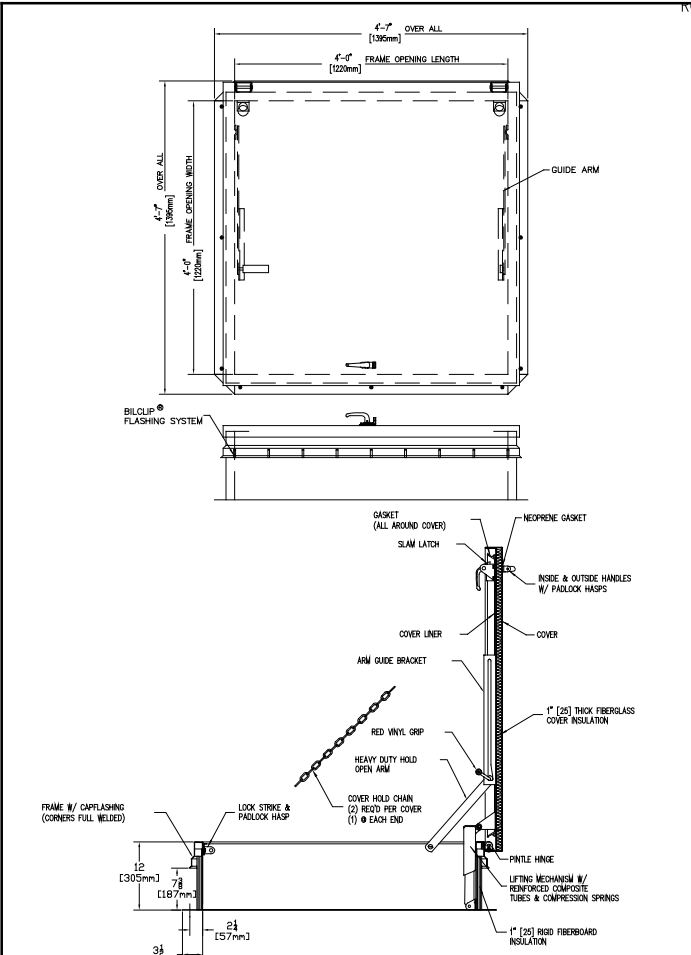
CONDITIONS OF APPROVAL

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 hours of operation shall be limited to 7:30 a.m. to 8:00 p.m., daily.
3. The seating area shall be limited to 200 square feet in area.
4. DELETED.
5. Approval is required from the Orange County Health Department.
6. The project shall comply with accessibility requirements as required by the Building Division.
7. The project may necessitate additional plumbing fixtures as required by the Building Division.
8. The addition of the tables and chairs shall be reviewed and approved by the Fire Department and the door and exiting requirements may change based on the occupant load.
9. Dancing and live entertainment are prohibited unless an amendment to this Minor Use Permit is first approved.
10. This Minor Use Permit may be modified or revoked by the Zoning Administrator should he/she determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
11. Any change in operational characteristics, expansion in area, or other modification to the approved plans, may require an amendment to this Minor Use Permit or the processing of a new Minor Use Permit.
12. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
13. No outside paging system shall be utilized in conjunction with this establishment.
14. Trash receptacles for patrons shall be conveniently located inside the establishment.

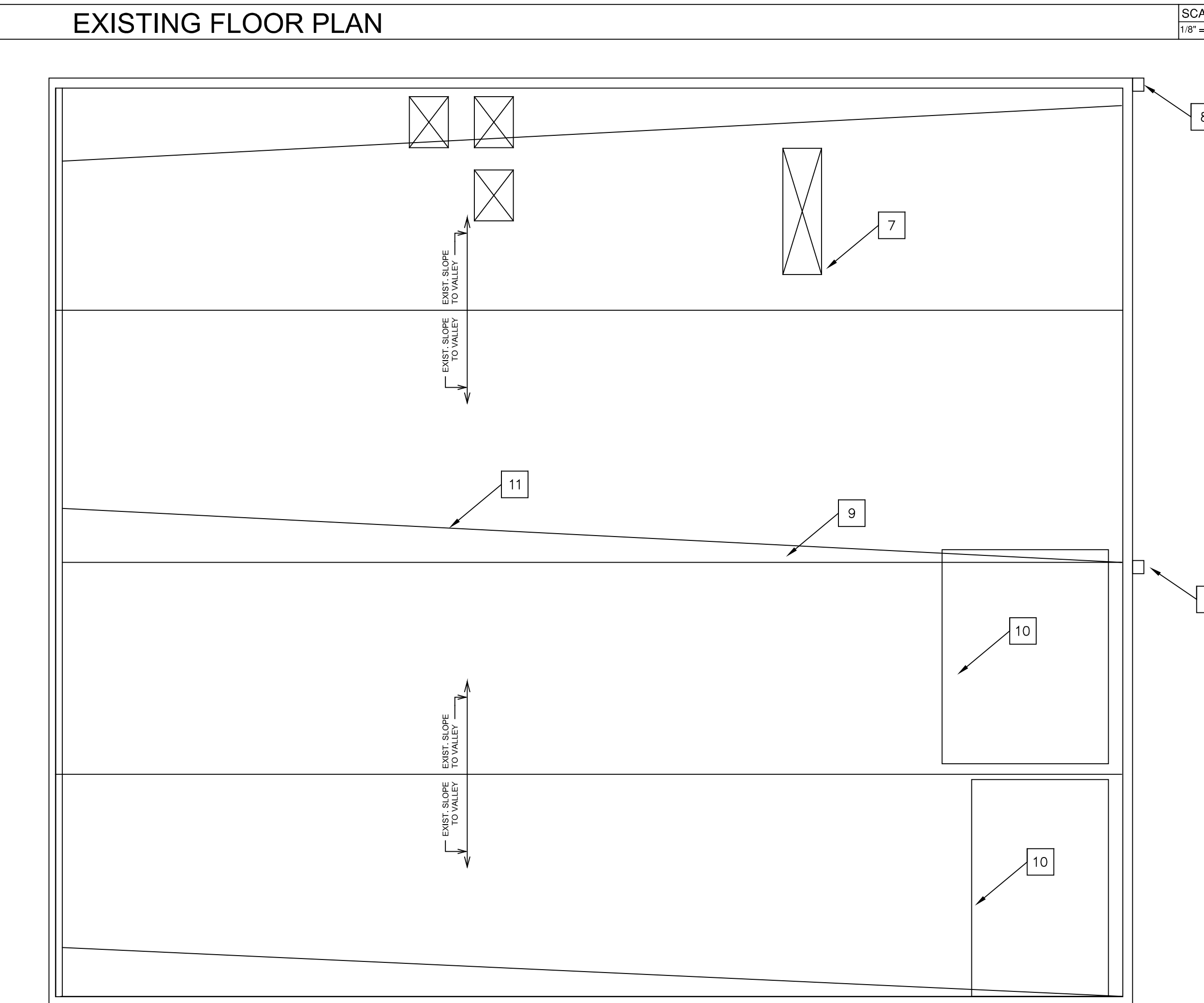
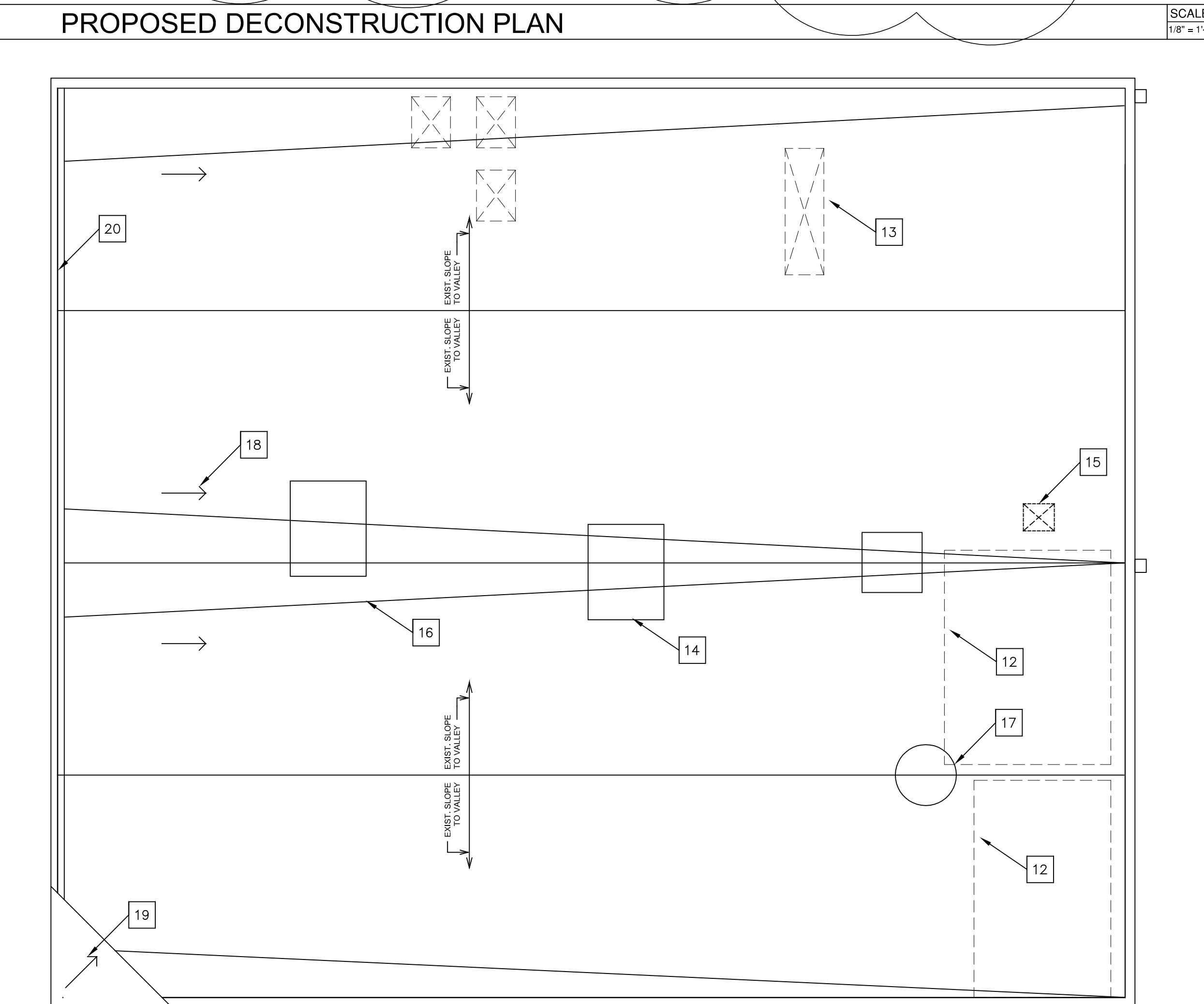
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15. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
 16. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
 17. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
 18. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this Minor Use Permit.
 19. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages for on-site consumption, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
 20. Minor Use Permit No. UP2012-020 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
 21. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Hershey's Market including, but not limited to, the Minor Use Permit No. UP2012-020. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Attachment No. CD 4

Project Plans



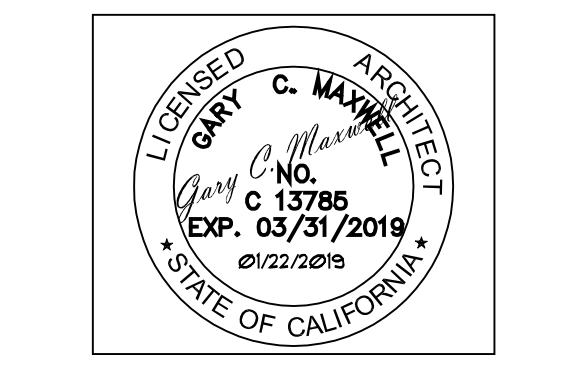
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- EXISTING EXTERIOR WALLS
 - EXISTING DOORS OR WINDOWS
 - EXISTING INTERIOR WALLS
 - EXISTING ELEC PANEL- SEE ELEC PLANS
 - EXISTING INTERIOR COLUMN
 - EXISTING WALLS DOORS AND WINDOWS TO BE DECONSTRUCTED (SOME ENLARGING EXIST.)
 - EXISTING ROOF OR SKYLITES
 - EXISTING DOWNSPOUT AND SCUPPER
 - EXISTING RIDGE
 - EXISTING FLAT ROOF PORTIONS
 - EXISTING CRICKET
 - RECONSTRUCT ROOF AREAS AFTER REMOVAL OF EXISTING PLATFORMS. PATCH ROOFING AND PROVIDE DRAINAGE
 - REMOVE EXISTING SKYLITES AND RESTORE FRAMING PER STRUCTURAL PLANS
 - ROOFTOP MECHANICAL EQUIPMENT - SEE MECH PLANS AND STRUCTURAL
 - ROOFTOP ACCESS HATCH- SEE STRUCTURAL AND DETAIL 1/A-2
 - PATCH ROOF TO REPAIR CRICKET TO DIRECT ROOF WATER TO EXISTING DRAINS
 - ROOF EXHAUST- SEE MECH
 - EXISTING ROOF SLOPE
 - NEW BUILT UP ROOF WITH MIN 2" PER FT. SLOPE SEE DETAIL 3/A-2
 - PROVIDE PARAPET FLASHING PER DETAIL 2/A-2
 - EXISTING 92 SQ. FT. PORTION OF BUILDING TO BE DECONSTRUCTED AND REMOVED TO CREATE EXTERIOR LANDING



M/a
Maxwell and
associates
architecture & planning

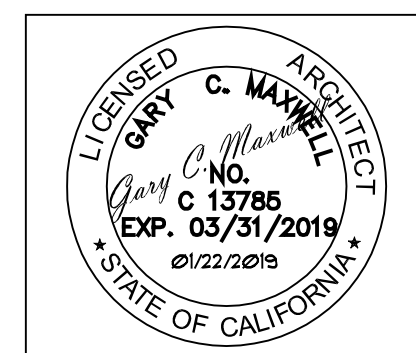
DBA AND LICENSE MAIN OFFICE
8841 Atlanta Avenue Suite 365
Huntington Beach, CA 92646
949 632 6018 tel / 949 625-7613 fax
gary@maxwellarc.com
registration: c13785 ca

MARINE AVENUE RETAIL BUILDING
TENANT IMPROVEMENT
200 AND 202 MARINE AVENUE
NEWPORT BEACH, CA



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DRAWN BY	GCM
REVISIONS	
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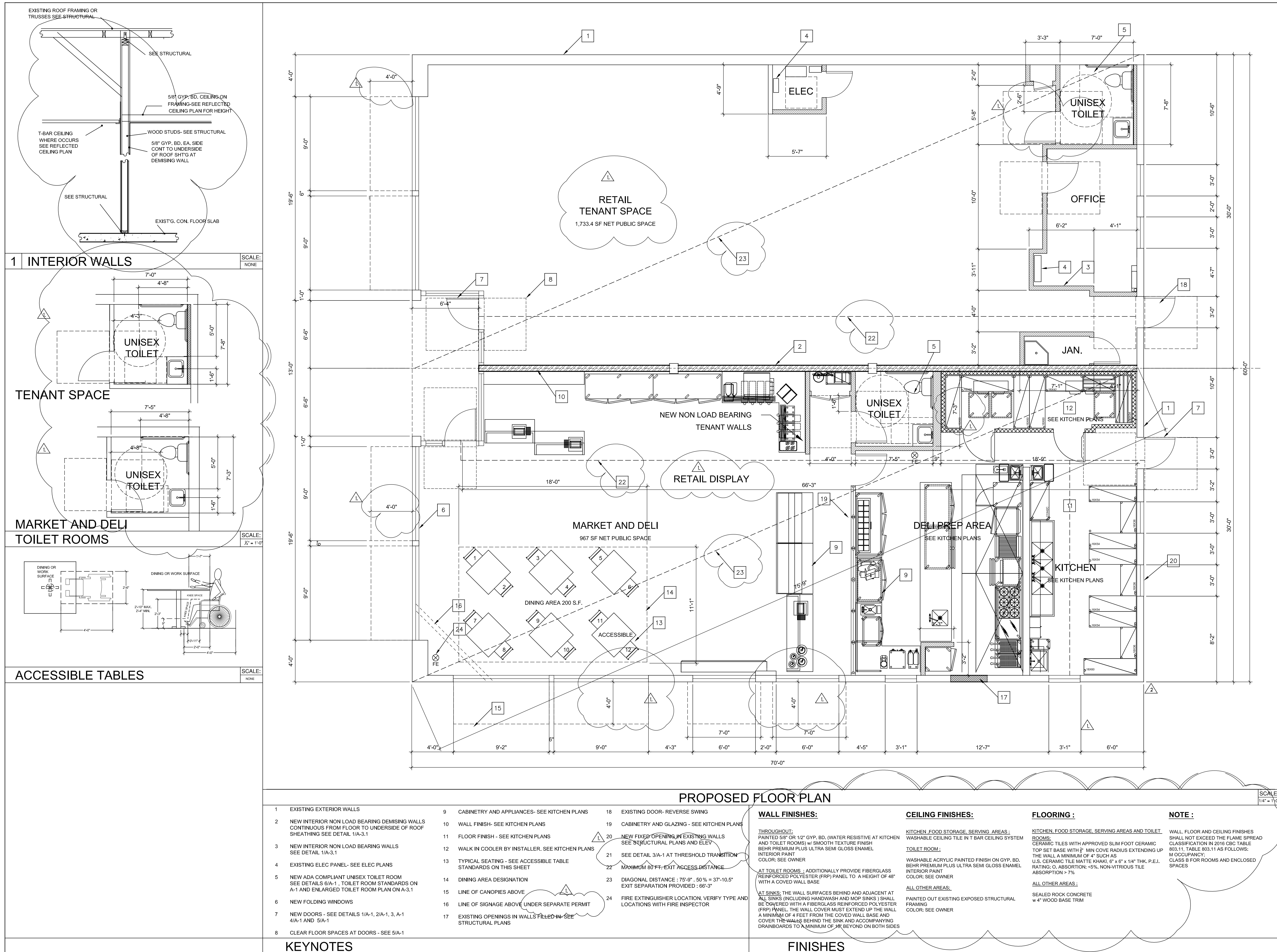
MARINE AVENUE RETAIL BUILDING
TENANT IMPROVEMENT
200 AND 202 MARINE AVENUE
NEWPORT BEACH, CA



PROJECT NO	18082
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DRAWN BY	GCM

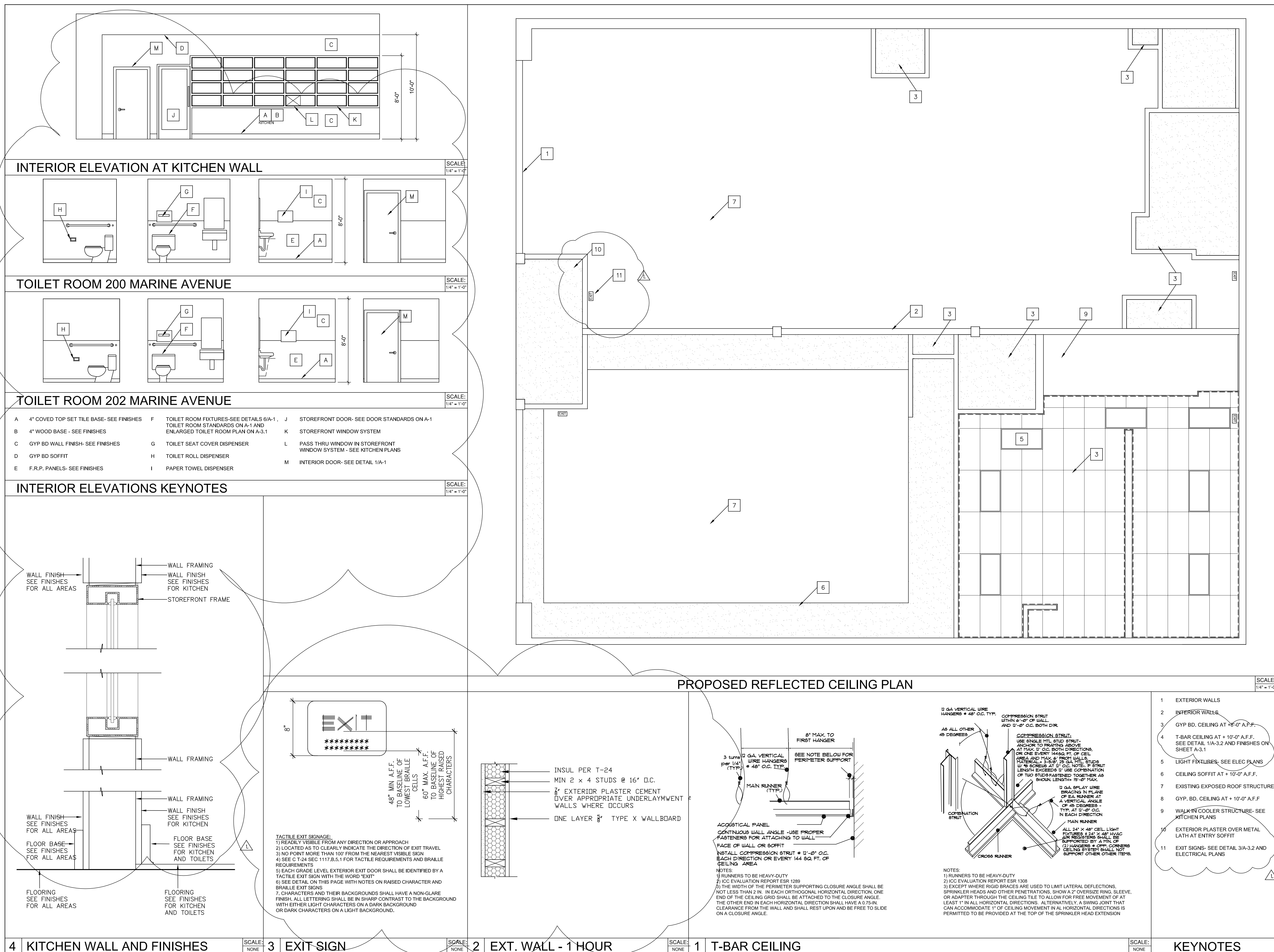
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A-3.1



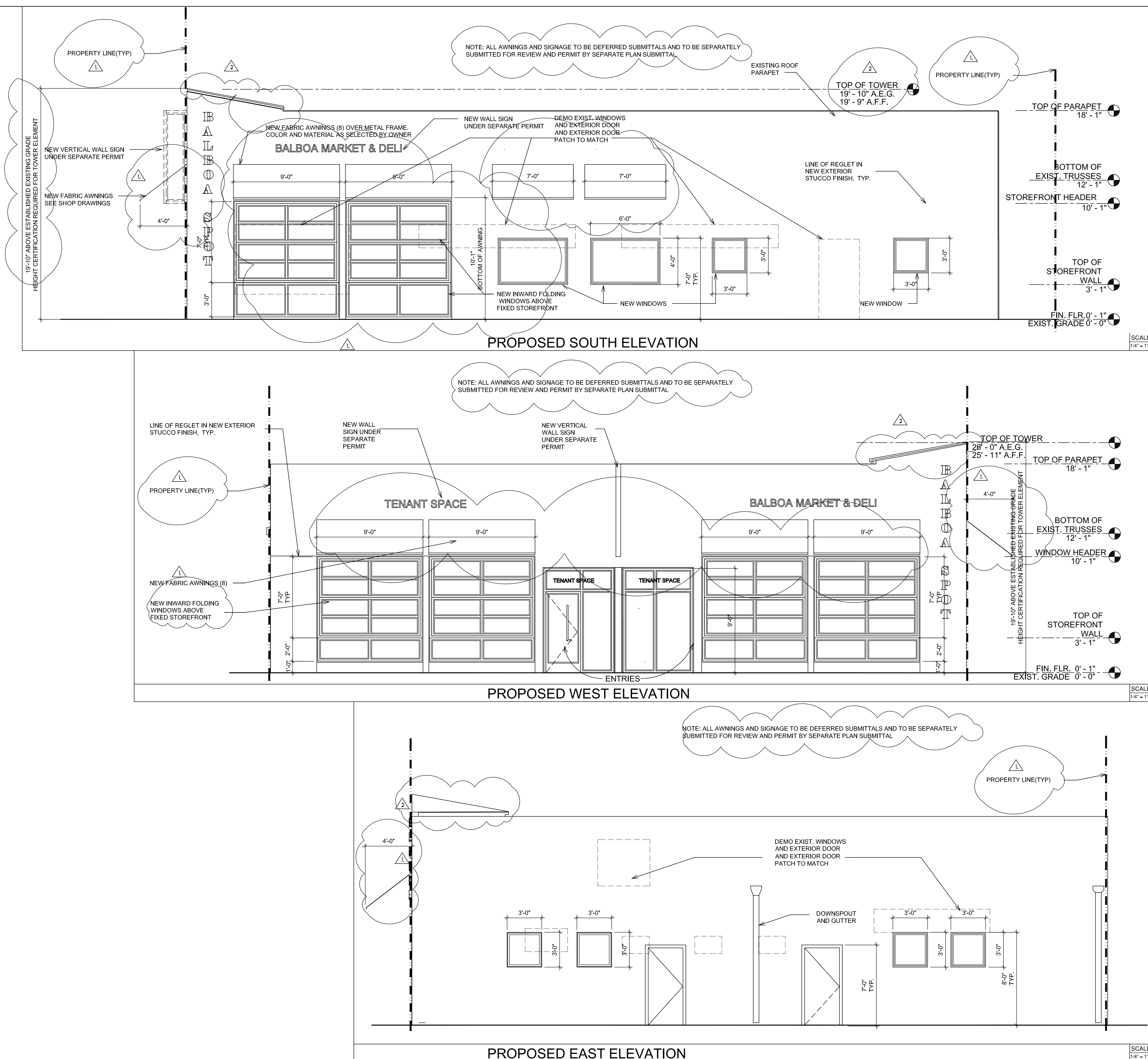
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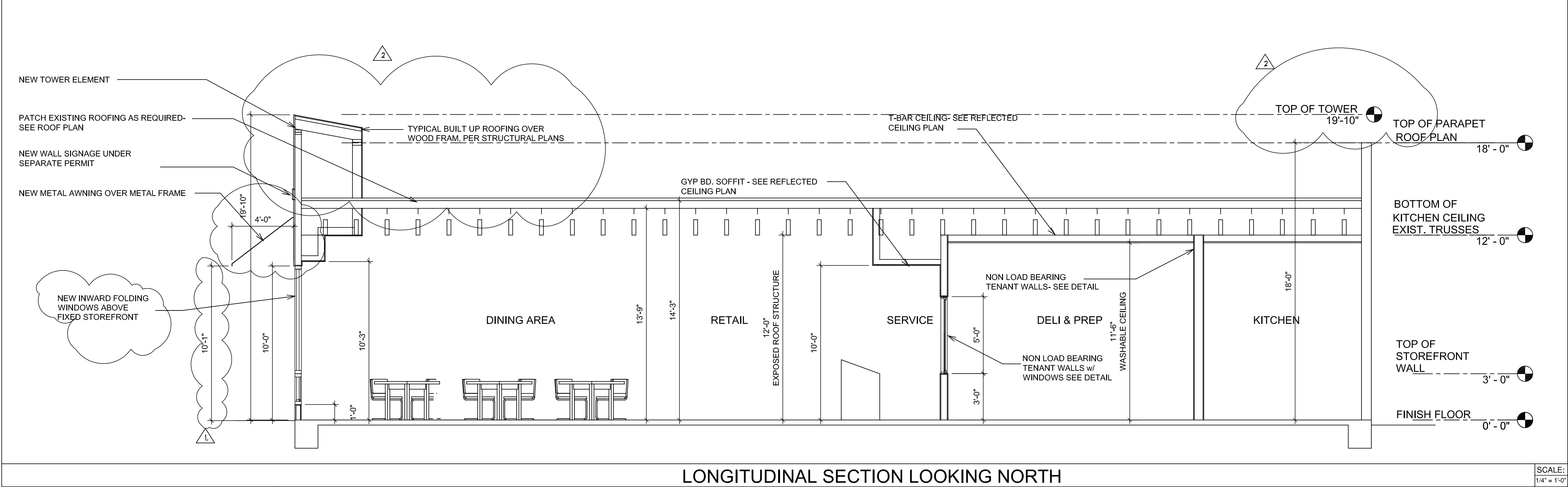
A-3.2



A circular professional engineer seal for the State of California. The outer ring contains the text "LICENSED ARCHITECT" at the top and "STATE OF CALIFORNIA" at the bottom, separated by two stars. The center of the seal contains the following information: "GARY C. MAXWELL" in a bold, sans-serif font; "No. C 13785" in a smaller font; "EXP. 03/31/2019" in a smaller font; and a handwritten signature "Gary C. Maxwell" in cursive script over the license number.

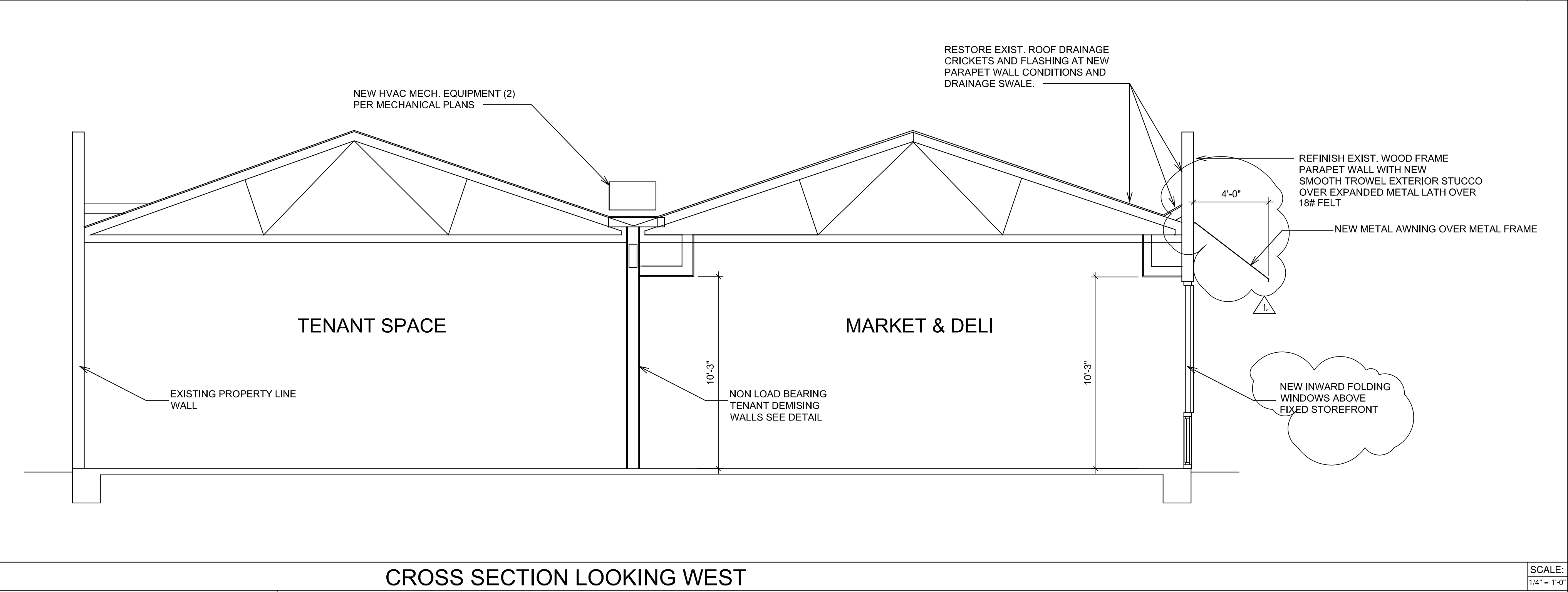
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DATE	11/21/2018
DRAWN BY	GCM
REVISIONS	
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2	02/08/2019 revise tower height
3	
4	
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LONGITUDINAL SECTION LOOKING NORTH

SCALE:
1/4" = 1'-0"



CROSS SECTION LOOKING WEST

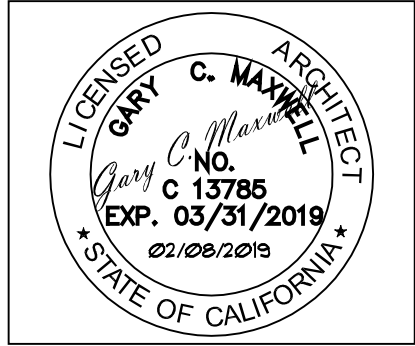
SCALE:
1/4" = 1'-0"



CROSS SECTION LOOKING EAST

SCALE:
1/4" = 1'-0"

MARINE AVENUE RETAIL BUILDING
TENANT IMPROVEMENT
200 AND 202 MARINE AVENUE
NEWPORT BEACH, CA



PROJECT NO	18062
DATE	11/21/2018
DRAWN BY	GCM

REVISIONS	
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2	02/08/2019 revise tower height
3	
4	
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2016 CALIFORNIA GREEN BUILDING STANDARDS CODE

NONRESIDENTIAL MANDATORY MEASURES, SHEET 1 (INCLUDING JANUARY 1, 2017 ERRATA)

INSPECTOR SIGNOFF

CHAPTER 3
GREEN BUILDING
SECTION 301 GENERAL

301.1 SCOPE. Buildings shall be designed to include the green building measures specified as mandatory in the application checklists contained in this code. Voluntary green building measures are also included in the application checklists and may be included in the design and construction of structures covered by this code, but are not required unless adopted by a city, county, or city and county as specified in Section 101.7.

301.3 NONRESIDENTIAL ADDITIONS AND ALTERATIONS. [BSC] The provisions of individual sections of Chapter 5 apply to newly constructed buildings, building additions of 1,000 square feet or greater, and/or building alterations with a permit valuation of \$200,000 or above (for occupancies within the authority of California Building Standards Commission). Code sections relevant to additions and alterations shall only apply to the portions of the building being added or altered within the scope of the permitted work.

A code section will be designated by a banner to indicate where the code section only applies to newly constructed building [N] or to additions and alterations [A]. When the code section applies to both, no banner will be used.

301.3.1 Nonresidential additions and alterations that cause updates to plumbing fixtures only:

Note: On and after January 1, 2014, certain commercial real property, as defined in Civil Code Section 1101.3, shall have its noncompliant plumbing fixtures replaced with appropriate water-conserving plumbing fixtures under specific circumstances. See Civil Code Section 1101.1 et seq. for definitions, types of commercial real property affected, effective dates, circumstances necessitating replacement of noncompliant plumbing fixtures, and duties and responsibilities for ensuring compliance.

301.3.2 Waste Diversion. The requirements of Section 5.408 shall be required for additions and alterations whenever a permit is required for work.

301.4 PUBLIC SCHOOLS AND COMMUNITY COLLEGES. (see GBSC)
301.5 HEALTH FACILITIES. (see GBSC)

SECTION 302 MIXED OCCUPANCY BUILDINGS
302.1 MIXED OCCUPANCY BUILDINGS. In mixed occupancy buildings, each portion of a building shall comply with the specific green building measures applicable to each specific occupancy.

SECTION 303 PHASED PROJECTS
303.1 Phased projects. For shell buildings and others constructed for future tenant improvements, only those code measures relevant to the building components and systems considered to be new construction (or newly constructed) shall apply.

303.1.1 Tenant improvements. The provisions of this code shall apply only to the initial tenant or occupant improvements to a project. Subsequent tenant improvements shall comply with the scoping provisions in Section 301.3 non-residential additions and alterations.

ABBREVIATION DEFINITIONS:
HCD Department of Housing and Community Development
BSC California Building Standards Commission
DSA-SS Division of the State Architect, Structural Safety
OSHPD Office of Statewide Health Planning and Development
LR Low Rise
HR High Rise
AA Additions and Alterations
N New

CHAPTER 5
NONRESIDENTIAL MANDATORY MEASURES

DIVISION 5.1 PLANNING AND DESIGN

SECTION 5.101 GENERAL
5.101.1 Scope
The provisions of this chapter outline planning, design and development methods that include environmentally responsible site selection, building design, building siting and development to protect, restore and enhance the environmental quality of the site and respect the integrity of adjacent properties.

SECTION 5.102 DEFINITIONS
5.102.1 DEFINITIONS
The following terms are defined in Chapter 2 (and are included here for reference)

CUTOFF LUMINAIRES. Luminaires whose light distribution is such that the candela per 1000 lamp lumens does not numerically exceed 25 (2.5 percent) at an angle of 90 degrees above nadir, and 100 (10 percent) at a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

LOW-EMITTING AND FUEL EFFICIENT VEHICLES.
Eligible vehicles are limited to the following:

1. Zero emission vehicle (ZEV), including neighborhood electric vehicles (NEV), partial zero emission vehicle (PZEV), advanced technology PZEV (AT ZEV) or CNG fueled (original equipment manufacturer only) regulated under Health and Safety Code section 43800 and CCR, Title 13, Sections 1961 and 1962.
2. High-efficiency vehicles, regulated by U.S. EPA, bearing High-Occupancy Vehicle (HOV) car pool lane stickers issued by the Department of Motor Vehicles.

NEIGHBORHOOD ELECTRIC VEHICLE (NEV). A motor vehicle that meets the definition of "low-speed vehicle" either in Section 385.5 of the Vehicle Code or in 49CFR571.500 (as it existed on July 1, 2000), and is certified to zero-emission vehicle standards.

TENANT-OCCUPANTS. Building occupants who inhabit a building during its normal hours of operation as permanent occupants, such as employees, as distinguished from customers and other transient visitors.

VANPOOL VEHICLE. Eligible vehicles are limited to any motor vehicle, other than a motortruck or truck tractor, designed for carrying more than 10 but not more than 15 persons including the driver, which is maintained and used primarily for the nonprofit work-related transportation of adults for the purpose of ridesharing.

Note: Source: Vehicle Code, Division 1, Section 668

ZEV. Any vehicle certified to zero-emission standards.

SECTION 5.106 SITE DEVELOPMENT
5.106.1 STORM WATER POLLUTION PREVENTION. Newly constructed projects and additions which disturb less than one acre of land shall prevent the pollution of storm water runoff from the construction activities through one or more of the following measures:

5.106.1.1 Local ordinance. Comply with a lawfully enacted storm water management and/or erosion control ordinance.

5.106.1.2 Best Management Practices (BMP). Prevent the loss of soil through wind or water erosion by implementing an effective combination of erosion and sediment control and good housekeeping BMP.

1. Soil loss BMP that should be considered for each project include, but are not limited to, the following:

a. Scheduling construction activity.
b. Preservation of natural features, vegetation and soil.
c. Drainage swales or lined ditches to control stormwater flow.
d. Mulching or hydrosseeding to stabilize disturbed soils.
e. Erosion control to protect slopes.
f. Protection of storm drain inlets (gravel bags or catch basin inserts).
g. Perimeter sediment control (perimeter silt fence, fiber rolls).
h. Sediment trap or sediment basin to retain sediment on site.
i. Stabilized construction exits.
j. Wind erosion control.
k. Other soil loss BMP acceptable to the enforcing agency.

2. Good housekeeping BMP to manage construction equipment, materials and wastes that should be considered for implementation as appropriate for each project include, but are not limited to, the following:

a. Material handling and waste management.
b. Building materials stockpile management.
c. Management of washout areas (concrete, paints, stucco, etc.).
d. Control of vehicle/equipment fueling to contractor's staging area.
e. Vehicle and equipment cleaning performed off site.
f. Spill prevention and control.
g. Other housekeeping BMP acceptable to the enforcing agency.

INSPECTOR SIGNOFF

5.106.4 BICYCLE PARKING. For buildings within the authority of California Building Standards Commission as specified in Section 103, comply with Section 5.106.4.1. For buildings within the authority of the Division of the State Architect pursuant to Section 105, comply with Section 5.106.4.2

5.106.4.1 Bicycle parking. [BSC-CG] Comply with Sections 5.106.4.1.1 and 5.106.4.1.2; or meet the applicable local ordinance, whichever is stricter.

5.106.4.1.1 Short-term bicycle parking. If the project or an addition or alteration is anticipated to generate visitor traffic, provide permanently anchored bicycle racks within 200 feet of the visitors' entrance, readily visible to passers-by, for 5% of new visitor motorized vehicle parking spaces being added, with a minimum of one two-bike capacity rack.
Exception: Additions or alterations which add nine or less visitor vehicular parking spaces.

5.106.4.1.2 Long-term bicycle parking. For new buildings with 10 or more tenant-occupants or for additions or alterations that add 10 or more tenant-occupants or for additions or alterations that add 10 or more tenant vehicular parking spaces, provide secure bicycle parking for 5 percent of the tenant vehicle parking spaces being added, with a minimum of one space. Acceptable parking facilities shall be convenient from the street and shall meet one of the following:

1. Covered, lockable enclosures with permanently anchored racks for bicycles;
2. Lockable bicycle rooms with permanently anchored racks; or
3. Lockable, permanently anchored bicycle lockers.

Note: Additional information on recommended bicycle accommodations may be obtained from Sacramento Area Bicycle Advocates.

5.106.4.2 Bicycle parking. [DSA-SS] For public schools and community colleges, comply with Sections 5.106.4.2.1 and 5.106.4.2.2

5.106.4.2.1 Student bicycle parking. Provide permanently anchored bicycle racks conveniently accessed with a minimum of four two-bike capacity racks per new building.
5.106.4.2.2 Staff bicycle parking. Provide permanent, secure bicycle parking conveniently accessed with a minimum of two staff bicycle parking spaces per new building. Acceptable bicycle parking facilities shall be convenient from the street or staff parking area and shall meet one of the following:

1. Covered, lockable enclosures with permanently anchored racks for bicycles;
2. Lockable bicycle rooms with permanently anchored racks; or
3. Lockable, permanently anchored bicycle lockers.

5.106.5.2 DESIGNATED PARKING FOR CLEAN AIR VEHICLES. In new projects or additions or alterations that add 10 or more vehicular parking spaces, provide designated parking for any combination of low-emitting, fuel-efficient and carpool/van pool vehicles as follows:

TABLE 5.106.5.2 - PARKING

TOTAL NUMBER OF PARKING SPACES	NUMBER OF REQUIRED SPACES
0-9	0
10-25	1
25-50	3
51-75	6
76-100	8
101-150	11
151-200	16
201 AND OVER	AT LEAST 8% OF TOTAL

5.106.5.2.1 - Parking stall marking. Paint, in the paint used for stall striping, the following characters such that the lower edge of the last word aligns with the end of the stall striping and is visible beneath a parked vehicle: CLEAN AIR / VAN POOL / EV

Note: Vehicles bearing Clean Air Vehicle stickers from expired HOV lane programs may be considered eligible for designated parking spaces.

5.106.5.3 Electric vehicle (EV) charging. [N] Construction shall comply with Section 5.106.5.3.1 or Section 5.106.5.3.2 to facilitate future installation of electric vehicle supply equipment (EVSE). When EVSE(s) is/are installed, it shall be in accordance with the California Building Code, the California Energy Commission (CEC) and as follows:

5.106.5.3.1 Single charging space requirements. [N] When only a single charging space is required per Table 5.106.5.3.3, a raceway is required to be installed at the time of construction and shall be installed in accordance with the California Electrical Code. Construction plans and specifications shall include, but are not limited to, the following:

1. The type and location of the EVSE.
2. A listed raceway capable of accommodating a 208/240 -volt dedicated branch circuit.
3. The raceway shall not be less than trade size 1."
4. The raceway shall originate at a service panel or a subpanel serving the area, and shall terminate in close proximity to the proposed location of the charging equipment and listed suitable cabinet, box, enclosure or equivalent.
5. The service panel or subpanel shall have sufficient capacity to accommodate a minimum 40-ampere dedicated branch circuit for the future installation of the EVSE.

5.106.5.3.2 Multiple charging space requirements. [N] When multiple charging spaces are required per Table 5.106.5.3.3 raceway(s) is/are required to be installed at the time of construction and shall be installed in accordance with the California Electrical Code. Construction plans and specifications shall include, but are not limited to, the following:

1. The type and location of the EVSE.
2. The raceway(s) shall originate at a service panel or a subpanel(s) serving the area, and shall terminate in close proximity to the proposed location of the charging equipment and into listed suitable cabinet(s), box(es), enclosure(s) or equivalent.
3. Plan design shall be based upon 40-ampere minimum branch circuits.
4. Electrical calculations shall substantiate the design of the electrical system, to include the rating of equipment and any on-site distribution transformers and have sufficient capacity to simultaneously charge all required EVs at its full rated amperage.
5. The service panel or subpanel(s) shall have sufficient capacity to accommodate the required number of dedicated branch circuit(s) for the future installation of the EVSE.

5.106.5.3.3 EV charging space calculations. [N] Table 5.106.5.3.3 shall be used to determine if single or multiple charging space requirements apply for the future installation of EVSE.

Exceptions: On a case-by-case basis where the local enforcing agency has determined EV charging and infrastructure is not feasible based upon one or more of the following conditions:

1. Where there is insufficient electrical supply.
2. Where there is evidence suitable to the local enforcing agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 5.106.5.3, may adversely impact the construction cost of the project.

INSPECTOR SIGNOFF

TABLE 5.106.5.3.3

TOTAL NUMBER OF PARKING SPACES	NUMBER OF REQUIRED SPACES
0-9	0
10-25	1
26-50	2
51-75	4
76-100	5
101-200	7
201 AND OVER	6% of total ¹

1. Calculation for spaces shall be rounded up to the nearest whole number.

5.106.5.3.4 [N] Identification. The service panel or subpanel(s) circuit directory shall identify the reserved overcurrent protective device space(s) for future EV charging as "EV CAPABLE". The raceway termination location shall be permanently and visibly marked as "EV CAPABLE".

5.106.5.3.5 [N] Future charging spaces qualify as designated parking as described in Section 5.106.5.2 Designated parking for clean air vehicles.
Notes:

1. The California Department of Transportation adopts and publishes the California Manual on Uniform Traffic Control Devices (California MUTCD) to provide uniform standards and specifications for all official traffic control devices in California. Zero Emission Vehicle Signs and Pavement Markings can be found in the New Policies & Directives number 13-01. www.dot.ca.gov/hq/traffops/policy/13-01.pdf.
2. See Vehicle Code Section 22511 for EV charging spaces signage in off-street parking facilities and for use of EV charging spaces.
3. The Governor's Office of Planning and Research published a Zero-Emission Vehicle Community Readiness Guidebook which provides helpful information for local governments, residents and businesses. www.opr.ca.gov/docs/ZEV_Guidebook.pdf.

5.106.8 LIGHT POLLUTION REDUCTION. [N] Outdoor lighting systems shall be designed and installed to comply with the following:

1. The minimum requirements in the California Energy Code for Lighting Zones 1-4 as defined in Chapter 10 of the California Administrative Code; and
2. Backlight, Uplight and Glare (BUG) ratings as defined in IES TM-15-11; and
3. Allowable BUG ratings not exceeding those shown in Table 5.106.8, or Comply with a local ordinance lawfully enacted pursuant to Section 101.7, whichever is more stringent.

Exceptions: [N]

1. Luminaires that qualify as exceptions in Section 140.7 of the California Energy Code.
2. Emergency lighting.
3. Building facade meeting the requirements in Table 140.7-B of the California Energy Code, Part 6.
4. Custom lighting features as allowed by the local enforcing agency, as permitted by Section 101.8 Alternate materials, designs and methods of construction.

Note: [N] See also California Building Code, Chapter 12, Section 1205.6 for college campus lighting requirements for parking facilities and walkways.

5.106.10 GRADING AND PAVING. Construction plans shall indicate how site grading or a drainage system will manage all surface water flows to keep water from entering buildings. Examples of methods to manage surface water include, but are not limited to, the following:

1. Swales.
2. Water collection and disposal systems.
3. French drains.
4. Water retention gardens.
5. Other water measures which keep surface water away from buildings and aid in groundwater recharge.

Exception: Additions and alterations not altering the drainage path.

INSPECTOR SIGNOFF

TABLE 5.106.8 [N] MAXIMUM ALLOWABLE BACKLIGHT, UPLIGHT AND GLARE (BUG) RATINGS ^{1,2}

ALLOWABLE RATING	LIGHTING ZONE 1	LIGHTING ZONE 2	LIGHTING ZONE 3	LIGHTING ZONE 4
MAXIMUM ALLOWABLE BACKLIGHT RATING ³				
Luminaire greater than 2 mounting heights (MH) from property line	No Limit	No Limit	No Limit	No Limit
Luminaire back hemisphere is 1-2 MH from property line	B2	B3	B4	B4
Luminaire back hemisphere is 0.5-1 MH from property line	B1	B2	B3	B3
Luminaire back hemisphere is less than 0.5 MH from property line	B0	B0	B1	B2
MAXIMUM ALLOWABLE UPLIGHT RATING				
For area lighting ⁴	U0	U0	U0	U0
For all other outdoor lighting, including decorative luminaires	U1	U2	U3	U4
MAXIMUM ALLOWABLE GLARE RATING ⁵				
Luminaire greater than 2 MH from property line	G1	G2	G3	G4
Luminaire front hemisphere is 1-2 MH from property line	G0	G1	G1	G2
Luminaire front hemisphere is 0.5-1 MH from property line	G0	G0	G1	G1
Luminaire back hemisphere is less than 0.5 MH from property line	G0	G0	G0	G1

1. IESNA Lighting Zones 0 and 5 are not applicable; refer to Lighting Zones as defined in the California Energy Code and Chapter 10 of the California Administrative Code.
2. For property lines that abut public walkways, bikeways, plazas and parking lots, the property line may be considered to be 5 feet beyond the actual property line for purpose of determining compliance with this section. For property lines that abut public roadways and public transit corridors, the property line may be considered to be the centerline of the public roadway or public transit corridor for the purpose of determining compliance with this section.
3. If the nearest property line is less than or equal to two mounting heights from the back hemisphere of the luminaire distribution, the applicable reduced Backlight rating shall be met.
4. General lighting luminaires in areas such as outdoor parking, sales or storage lots shall meet these reduced ratings. Decorative luminaires located in these areas shall meet U-value limits for "all other outdoor lighting".
5. If the nearest property line is less than or equal to two mounting heights from the front hemisphere of the luminaire distribution, the applicable reduced Glare rating shall be met.

2016 CALIFORNIA GREEN BUILDING STANDARDS CODE

NONRESIDENTIAL MANDATORY MEASURES, SHEET 2 (INCLUDING JANUARY 1, 2017 ERRATA)

<div><div>INSPECTOR SIGNOFF</div><div><p>SECTION 5.304 OUTDOOR WATER USE</p><p>5.304.1 SCOPE. The provisions of Section 5.304, Outdoor Water Use reference the mandatory Model Water Efficiency Landscape Ordinance (MWELO) contained within Chapter 2.7, Division 2, Title 23, California Code of Regulations.</p><p>5.304.2 OUTDOOR WATER USE IN LANDSCAPE AREAS EQUAL TO OR GREATER THAN 500 SQUARE FEET. When water is used for outdoor irrigation for new construction projects with an aggregate landscape area equal to or greater than 500 square feet requiring a building or landscape permit, plan check or design review, one of the following shall apply:</p><ol style="list-style-type: none">1. A local water efficient landscape ordinance that is, based on evidence in the record, at least as effective in conserving water as the updated model ordinance adopted by the Department of Water Resources (DWR) per Government Code Section 65595(c).2. The California Department of Water Resources Model Water Efficient Landscape Ordinance (MWELO) commencing with Section 490 of Chapter 2.7, Division 2, Title 23, California Code of Regulations.<p>5.304.3 OUTDOOR WATER USE IN REHABILITATED LANDSCAPE PROJECTS EQUAL TO OR GREATER THAN 2,500 SQUARE FEET. Rehabilitated landscape project with an aggregate landscape area equal to or greater than 2,500 square feet requiring a building or landscape permit, plan check, or design review shall comply with Section 5.304.2, Item 1 or 2.</p><p>5.304.4 OUTDOOR WATER USE IN LANDSCAPE AREAS OF 2,500 SQUARE FEET OR LESS. Any project with an aggregate area of 2,500 square feet or less may comply with the performance requirements of MWELO or conform to the prescriptive compliance measures contained in MWELO's Appendix D.</p><p>5.304.5 GRAYWATER OR RAINWATER USE IN LANDSCAPE AREAS. For projects using treated or untreated graywater or rainwater captured on site, any lot or parcel within the project that has less than 2,500 square feet of landscape and meets the lot or parcel's landscape water requirement (Estimate Total Water Use) entirely with treated or untreated graywater or through stored rainwater captured on site is subject only to Appendix D Section (5).</p><p>Notes:</p><ol style="list-style-type: none">1. DWR's Model Water Efficient Landscape Ordinance, definitions and supporting documents are available at the following link: http://water.ca.gov/wateruseefficiency/landscapeordnance/2. A water budget calculator is available at the following link: http://water.ca.gov/wateruseefficiency/landscapeordnance/3. The MWELO prescriptive compliance measure Appendix D may be found at the following link: http://water.ca.gov/wateruseefficiency/landscapeordnance/<p>In addition, a copy of MWELO Appendix D may be found in Chapter 8 of this code.</p><p>5.304.6 OUTDOOR POTABLE WATER USE IN LANDSCAPE AREAS [DSA-SS]. For public schools and community colleges, landscape projects as described in Sections 5.304.2.1 and 5.304.2.2 shall comply with the California Department of Water Resources Model Water Efficient Landscape Ordinance (MWELO) commencing with Section 490 of Chapter 2.7, Division 2, Title 23, California Code of Regulations, except that the evapotranspiration adjustment factor (ETAF) shall be 0.65 with an additional water allowance for special landscape areas (SLA) of 0.35.</p><p>Exception: Any project with an aggregate landscape area of 2,500 square feet or less may comply with the prescriptive measures contained in Appendix D of MWELO.</p><p>5.304.6.1 Newly constructed landscapes. [DSA-SS] New construction projects with an aggregate landscape area equal to or greater than 500 square feet.</p><p>5.304.6.2 Rehabilitated landscapes. [DSA-SS] Rehabilitated landscape projects with an aggregate landscape area equal to or greater than 1,200 square feet.</p><p>5.304.3 IRRIGATION DESIGN. In new nonresidential construction with at least 1,000 but not more than 2,500 square feet of cumulative landscaped area (the level at which the MWELO applies), install irrigation controllers and sensors which include the following criteria, and meet manufacturer's recommendations.</p><p>5.304.3.1 Irrigation controllers. Automatic irrigation system controllers installed at the time of final inspection shall comply with the following:</p><ol style="list-style-type: none">1. Controllers shall be weather- or soil moisture-based controllers that automatically adjust irrigation in response to changes in plants' needs as weather conditions change.2. Weather-based controllers without integral rain sensors or communication systems that account for local rainfall shall have a separate wired or wireless rain sensor which connects or communicates with the controller(s). Soil moisture-based controllers are not required to have rain sensor input.<p>Note: More information regarding irrigation controller function and specifications is available from the Irrigation Association.</p><p>DIVISION 5.4 MATERIAL CONSERVATION AND RESOURCE EFFICIENCY</p><p>SECTION 5.401 GENERAL</p><p>5.401.1 SCOPE. The provisions of this chapter shall outline means of achieving material conservation and resource efficiency through protection of buildings from exterior moisture, construction waste diversion, employment of techniques to reduce pollution through recycling of materials, and building commissioning or testing and adjusting.</p><p>SECTION 5.402 DEFINITIONS</p><p>5.402.1 DEFINITIONS. The following terms are defined in Chapter 2 (<i>and are included here for reference</i>)</p><p>ADJUST. To regulate fluid flow rate and air patterns at the terminal equipment, such as to reduce fan speed or adjust a damper.</p><p>BALANCE. To proportion flows within the distribution system, including sub-mains, branches and terminals, according to design quantities.</p><p>BUILDING COMMISSIONING. A systematic quality assurance process that spans the entire design and construction process, including verifying and documenting that building systems and components are planned, designed, installed, tested, operated and maintained to meet the owner's project requirements.</p><p>ORGANIC WASTE. Food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food soiled paper waste that is mixed in with food waste.</p><p>TEST. A procedure to determine quantitative performance of a system or equipment</p><p>SECTION 5.407 WATER RESISTANCE AND MOISTURE MANAGEMENT</p><p>5.407.1 WEATHER PROTECTION. Provide a weather-resistant exterior wall and foundation envelope as required by California Building Code Section 1403.2 (Weather Protection) and California Energy Code Section 150. (Weather Features and Devices), manufacturer's installation instructions or local ordinance, whichever is more stringent.</p><p>5.407.2 MOISTURE CONTROL. Employ moisture control measures by the following methods.</p><p>5.407.2.1 Sprinklers. Design and maintain landscape irrigation systems to prevent spray on structures.</p><p>5.407.2.2 Entries and openings. Design exterior entries and/or openings subject to foot traffic or wind-driven rain to prevent water intrusion into buildings as follows:</p><p>5.407.2.2.1 Exterior door protection. Primary exterior entries shall be covered to prevent water intrusion by using nonabsorbent floor and wall finishes within at least 2 feet around and perpendicular to such openings plus at least one of the following:</p><ol style="list-style-type: none">1. An installed awning at least 4 feet in depth.2. The door is protected by a roof overhang at least 4 feet in depth.3. The door is recessed at least 4 feet.4. Other methods which provide equivalent protection.<p>5.407.2.2.2 Flashing. Install flashings integrated with a drainage plane.</p></div></div>	<div><div>INSPECTOR SIGNOFF</div><div><p>SECTION 5.408 CONSTRUCTION WASTE REDUCTION, DISPOSAL AND RECYCLING</p><p>5.408.1 CONSTRUCTION WASTE MANAGEMENT. Recycle and/or salvage for reuse a minimum of 65% of the non-hazardous construction and demolition waste in accordance with Section 5.408.1.1, 5.408.1.2 or 5.408.1.3; or meet a local construction and demolition waste management ordinance, whichever is more stringent.</p><p>5.408.1.1 Construction waste management plan. Where a local jurisdiction does not have a construction and demolition waste management ordinance, submit a construction waste management plan that:</p><ol style="list-style-type: none">1. Identifies the construction and demolition waste materials to be diverted from disposal by efficient usage, recycling, reuse on the project or salvage for future use or sale.2. Determines if construction and demolition waste materials will be sorted on-site (source-separated) or bulk mixed (single stream).3. Identifies diversion facilities where construction and demolition waste material collected will be taken.4. Specifies that the amount of construction and demolition waste materials diverted shall be calculated by weight or volume, but not by both.<p>5.408.1.2 Waste Management Company. Utilize a waste management company that can provide verifiable documentation that the percentage of construction and demolition waste material diverted from the landfill complies with this section.</p><p>Note: The owner or contractor shall make the determination if the construction and demolition waste material will be diverted by a waste management company.</p><p>Exceptions to Sections 5.408.1.1 and 5.408.1.2:</p><ol style="list-style-type: none">1. Excavated soil and land-clearing debris.2. Alternate waste reduction methods developed by working with local agencies if diversion or recycle facilities capable of compliance with this item do not exist.3. Demolition waste meeting local ordinance or calculated in consideration of local recycling facilities and markets.<p>5.408.1.3 Waste stream reduction alternative. The combined weight of new construction disposal that does not exceed two pounds per square foot of building area may be deemed to meet the 65% minimum requirement as approved by the enforcing agency.</p><p>5.408.1.4 Documentation. Documentation shall be provided to the enforcing agency which demonstrates compliance with Sections 5.408.1.1, through 5.408.1.3. The waste management plan shall be updated as necessary and shall be accessible during construction for examination by the enforcing agency.</p><p>Notes:</p><ol style="list-style-type: none">1. Sample forms found in "A Guide to the California Green Building Standards Code (Nonresidential)" located at www.bsc.ca.gov/Home/CALGreen.aspx may be used to assist in documenting compliance with the waste management plan.2. Mixed construction and demolition debris processors can be located at the California Department of Resources Recycling and Recovery (CalRecycle).<p>5.408.2 UNIVERSAL WASTE. [A] Additions and alterations to a building or tenant space that meet the scoping provisions in Section 301.3 for nonresidential additions and alterations, shall require verification that Universal Waste items such as fluorescent lamps and ballast and mercury containing thermostats as well as other California prohibited Universal Waste materials are disposed of properly and are diverted from landfills. A list of prohibited Universal Waste materials shall be included in the construction documents.</p><p>Note: Refer to the Universal Waste Rule link at: http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/OEAR-A_REGS_UWR_FinalText.pdf</p><p>5.408.3 EXCAVATED SOIL AND LAND CLEARING DEBRIS. 100 percent of trees, stumps, rocks and associated vegetation and soils resulting primarily from land clearing shall be reused or recycled. For a phased project, such material may be stockpiled on site until the storage site is developed.</p><p>Exception: Reuse, either on or off-site, of vegetation or soil contaminated by disease or pest infestation.</p><p>Notes:</p><ol style="list-style-type: none">1. If contamination by disease or pest infestation is suspected, contact the County Agricultural Commissioner and follow its direction for recycling or disposal of the material.2. For a map of known pest and/or disease quarantine zones, consult with the California Department of Food and Agriculture. (www.cdffa.ca.gov)<p>SECTION 5.410 BUILDING MAINTENANCE AND OPERATIONS</p><p>5.410.1 RECYCLING BY OCCUPANTS. Provide readily accessible areas that serve the entire building and are identified for the depositing, storage and collection of non-hazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, organic waste, and metals or meet a lawfully enacted local recycling ordinance, if more restrictive.</p><p>Exception: Rural jurisdictions that meet and apply for the exemption in Public Resources Code 42649.82 (a)(2)(A) et seq. shall also be exempt from the organic waste portion of this section.</p><p>5.410.1.1 Additions. All additions conducted within a 12-month period under single or multiple permits, resulting in an increase of 30% or more in floor area, shall provide recycling areas on site.</p><p>Exception: Additions within a tenant space resulting in less than a 30% increase in the tenant space floor area.</p><p>5.410.1.2 Sample ordinance. Space allocation for recycling areas shall comply with Chapter 18, Part 3, Division 30 of the Public Resources Code; Chapter 18 is known as the California Solid Waste Reuse and Recycling Access Act of 1991 (Act).</p><p>Note: A sample ordinance for use by local agencies may be found in Appendix A of the document at the CalRecycle's web site.</p><p>5.410.2 COMMISSIONING. [N] For new buildings 10,000 square feet and over, building commissioning shall be included in the design and construction processes of the building project to verify that the building systems and components meet the owner's or owner representative's project requirements. Commissioning shall be performed in accordance with this section by trained personnel with experience on projects of comparable size and complexity. All occupancies other than I-occupancies and L-occupancies shall comply with the California Energy Code as prescribed in California Energy Code Section 120.8. For I-occupancies that are not regulated by OSHPD or for I-occupancies and L-occupancies that are not regulated by the California Energy Code Section 100.0 Scope, all requirements in Sections 5.410.2 through 5.410.2.6 shall apply.</p><p>Commissioning requirements shall include:</p><ol style="list-style-type: none">1. Owner's or Owner representative's project requirements.2. Basis of design.3. Commissioning measures shown in the construction documents.4. Commissioning plan.5. Functional performance testing.6. Documentation and training.7. Commissioning report.<p>Exceptions:</p><ol style="list-style-type: none">1. Unconditioned warehouses of any size.2. Areas less than 10,000 square feet used for offices or other conditioned accessory spaces within unconditioned warehouses.3. Tenant improvements less than 10,000 square feet as described in Section 303.1.1.4. Open parking garages of any size, or open parking garage areas, of any size, within a structure.<p>Note: For the purposes of this section, unconditioned shall mean a building, area, or room which does not provide heating and/or air conditioning.</p><p>Informational Notes:</p><ol style="list-style-type: none">1. IAS AC 476 is an accreditation criteria for organizations providing training and/or certification of commissioning personnel. AC 476 is available to the Authority Having Jurisdiction as a reference for qualifications of commissioning personnel. AC 476 does not certify individuals to conduct functional performance tests or to adjust and balance systems.2. Functional performance testing for heating, ventilation, air conditioning systems and lighting controls must be performed in compliance with the <i>California Energy Code</i>.</div></div>	<div><div>INSPECTOR SIGNOFF</div><div><p>5.410.2.1 Owner's or Owner Representative's Project Requirements (OPR). [N] The expectations and requirements of the building appropriate to its phase shall be documented before the design phase of the project begins. This documentation shall include the following:</p><ol style="list-style-type: none">1. Environmental and sustainability goals.2. Energy efficiency goals.3. Indoor environmental quality requirements.4. Project program, including facility functions and hours of operation, and need for after hours operation.5. Equipment and systems expectations.6. Building occupant and operation and maintenance (O&M) personnel expectations.<p>5.410.2.2 Basis of Design (BOD). [N] A written explanation of how the design of the building systems meets the OPR shall be completed at the design phase of the building project. The Basis of Design document shall cover the following systems:</p><ol style="list-style-type: none">1. Heating, ventilation, air conditioning (HVAC) systems and controls.2. Indoor lighting system and controls.3. Water heating system.4. Renewable energy systems.5. Water reuse systems.<p>5.410.2.3 Commissioning plan. [N] Prior to permit issuance a commissioning plan shall be completed to document how the project will be commissioned. The commissioning plan shall include the following:</p><ol style="list-style-type: none">1. General project information.2. Commissioning goals.3. Systems to be commissioned. Plans to test systems and components shall include:<ol style="list-style-type: none">a. An explanation of the original design intent.b. Equipment and systems to be tested, including the extent of tests.c. Functions to be tested.d. Conditions under which the test shall be performed.e. Measurable criteria for acceptable performance.4. Commissioning team information.5. Commissioning process activities, schedules and responsibilities. Plans for the completion of commissioning shall be included.<p>5.410.2.4 Functional performance testing. [N] Functional performance tests shall demonstrate the correct installation and operation of each component, system and system-to-system interface in accordance with the approved plans and specifications. Functional performance testing reports shall contain information addressing each of the building components tested, the testing methods utilized, and include any readings and adjustments made.</p><p>5.410.2.5 Documentation and training. [N] A Systems Manual and Systems Operations Training are required, including Occupational Safety and Health Act (OSHA) requirements in <i>California Code of Regulations</i> (CCR), Title 8, Section 5142, and other related regulations.</p><p>5.410.2.5.1 Systems manual. [N] Documentation of the operational aspects of the building shall be completed within the systems manual and delivered to the building owner or representative. The systems manual shall include the following:</p><ol style="list-style-type: none">1. Site information, including facility description, history and current requirements.2. Site contact information.3. Basic operations and maintenance, including general site operating procedures, basic troubleshooting, recommended maintenance requirements, site events log.4. Major systems.5. Site equipment inventory and maintenance notes.6. A copy of verifications required by the enforcing agency or this code.7. Other resources and documentation, if applicable.<p>5.410.2.5.2 Systems operations training. [N] A program for training of the appropriate maintenance staff for each equipment type and/or system shall be developed and documented in the commissioning report and shall include the following:</p><ol style="list-style-type: none">1. System/equipment overview (what it is, what it does and with what other systems and/or equipment it interfaces).2. Review and demonstration of servicing/preventive maintenance.3. Review of the information in the Systems Manual.4. Review of the record drawings on the system/equipment.<p>5.410.2.6 Commissioning report. [N] A report of commissioning process activities undertaken through the design and construction phases of the building project shall be completed and provided to the owner or representative.</p><p>5.410.4 TESTING AND ADJUSTING. Testing and adjusting of systems shall be required for buildings less than 10,000 square feet or new systems to serve an addition or alteration subject to Section 303.1.</p><p>5.410.4.2 Systems. Develop a written plan of procedures for testing and adjusting systems. Systems to be included for testing and adjusting shall include at a minimum, as applicable to the project:</p><ol style="list-style-type: none">1. HVAC systems and controls.2. Indoor and outdoor lighting and controls.3. Water heating systems.4. Renewable energy systems.5. Landscape irrigation systems.6. Water reuse systems.<p>5.410.4.3 Procedures. Perform testing and adjusting procedures in accordance with manufacturer's specifications and applicable standards on each system.</p><p>5.410.4.3.1 HVAC balancing. In addition to testing and adjusting, before a new space-conditioning system serving a building or space is operated for normal use, the system shall be balanced in accordance with the procedures defined by the Testing Adjusting and Balancing Bureau National Standards; the National Environmental Balancing Bureau Procedural Standards; Associated Air Balance Council National Standards or as approved by the enforcing agency.</p><p>5.410.4.4 Reporting. After completion of testing, adjusting and balancing, provide a final report of testing signed by the individual responsible for performing these services.</p><p>5.410.4.5 Operation and maintenance (O & M) manual. Provide the building owner or representative with detailed operating and maintenance instructions and copies of warranties/warranties for each system, O & M instructions shall be consistent with OSHA requirements in CCR, Title 8, Section 5142, and other related regulations.</p><p>5.410.4.5.1 Inspections and reports. Include a copy of all inspection verifications and reports required by the enforcing agency.</p></div></div>	<div><div>INSPECTOR SIGNOFF</div><div><p>DIVISION 5.5 ENVIRONMENTAL QUALITY</p><p>SECTION 5.501 GENERAL</p><p>5.501.1 SCOPE. The provisions of this chapter shall outline means of reducing the quantity of air contaminants that are odorous, irritating, and/or harmful to the comfort and well-being of a building's installers, occupants and neighbors.</p><p>SECTION 5.502 DEFINITIONS</p><p>5.502.1 DEFINITIONS. The following terms are defined in Chapter 2 (<i>and are included here for reference</i>)</p><p>ARTERIAL HIGHWAY. A general term denoting a highway primarily for through traffic usually on a continuous route.</p><p>A-WEIGHTED SOUND LEVEL (dBA). The sound pressure level in decibels as measured on a sound level meter using the internationally standardized A-weighting filter or as computed from sound spectral data to which A-weighting adjustments have been made.</p><p>1 BTU/HOUR. British thermal units per hour, also referred to as Btu. The amount of heat required to raise one pound of water one degree Fahrenheit per hour, a common measure of heat transfer rate. A ton of refrigeration is 12,000 Btu, the amount of heat required to melt a ton (2,000 pounds) of ice at 32° Fahrenheit.</p><p>COMMUNITY NOISE EQUIVALENT LEVEL (CNEL). A metric similar to the day-night average sound level (Ldn), except that a 5 decibel adjustment is added to the equivalent continuous sound exposure level for evening hours (7pm to 10pm) in addition to the 10 dB nighttime adjustment used in the Ldn.</p><p>COMPOSITE WOOD PRODUCTS. Composite wood products include hardwood plywood, particleboard and medium density fiberboard. "Composite wood products" does not include hardboard, structural plywood, structural panels, structural composite lumber, oriented strand board, glued laminated timber, timber, prefabricated wood joists or finger-jointed lumber, all as specified in California Code of Regulations (CCR), Title 17, Section 93120.1(a).</p><p>Note: See CCR, Title 17, Section 93120.1.</p><p>DAY-NIGHT AVERAGE SOUND LEVEL (Ldn). The A-weighted equivalent continuous sound exposure level for a 24-hour period with a 10 dB adjustment added to sound levels occurring during nighttime hours (10p.m. to 7 a.m.).</p><p>DECIBEL (db). A measure on a logarithmic scale of the magnitude of a particular quantity (such as sound pressure, sound power, sound intensity) with respect to a reference quantity.</p><p>ELECTRIC VEHICLE (EV). An automotive-type vehicle for on-road use, such as passenger automobiles, buses, trucks, vans, neighborhood electric vehicles, electric motorcycles, and the like, primarily powered by an electric motor that draws current from a rechargeable storage battery, fuel cell, photovoltaic array, or other source of electric current. Plug-in hybrid electric vehicles (PHEV) are considered electric vehicles. For purposes of the <i>California Electrical Code</i>, off-road, self-propelled electric vehicles, such as industrial trucks, hoists, lifts, transports, golf carts, airline ground support equipment, tractors, boats, and the like, are not included.</p><p>ELECTRIC VEHICLE CHARGING STATION(S) (EVCS). One or more spaces intended for charging electric vehicles.</p><p>ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE). The conductors, including the ungrounded, grounded, and equipment grounding conductors, electrical connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.</p><p>ENERGY EQUIVALENT (NOISE) LEVEL (Leq). The level of a steady noise which would have the same energy as the fluctuating noise level integrated over the time of period of interest.</p><p>EXPRESSWAY. An arterial highway for through traffic which may have partial control of access, but which may or may not be divided or have grade separations at intersections.</p><p>FREEWAY. A divided arterial highway with full control of access and with grade separations at intersections.</p><p>GLOBAL WARMING POTENTIAL (GWP). The radiative forcing impact of one mass-based unit of a given greenhouse gas relative to an equivalent unit of carbon dioxide over a given period of time. Carbon dioxide is the reference compound with a GWP of one.</p><p>GLOBAL WARMING POTENTIAL VALUE (GWP VALUE). A 100-year GWP value published by the Intergovernmental Panel on Climate Change (IPCC) in either its Second Assessment Report (SAR) (IPCC, 1995); or its Fourth Assessment A-3 Report (AR4) (IPCC, 2007). The SAR GWP values are found in column "SAR (100-yr)" of Table 2.14.; the AR4 GWP values are found in column "100 yr" of Table 2.14.</p><p>HIGH-GWP REFRIGERANT. A compound used as a heat transfer fluid or gas that is: (a) a chlorofluorocarbon, a hydrochlorofluorocarbon, a hydrofluorocarbon, a perfluorocarbon, or any compound or blend of compounds, with a GWP value equal to or greater than 150, or (B) any ozone depleting substance as defined in Title 40 of the Code of Federal Regulations, Part 82, sec.82.3 (as amended March 10, 2009).</p><p>LONG RADIUS ELBOW. Pipe fitting installed between two lengths of pipe or tubing to allow a change of direction, with a radius 1.5 times the pipe diameter.</p><p>LOW-GWP REFRIGERANT. A compound used as a heat transfer fluid or gas that: (A) has a GWP value less than 150, and (B) is not an ozone depleting substance as defined in Title 40 of the Code of Federal Regulations, Part 82, sec.82.3 (as amended March 10, 2009).</p><p>MERV. Filter minimum efficiency reporting value, based on ASHRAE 52.2-1999.</p><p>MAXIMUM INCREMENTAL REACTIVITY (MIR). The maximum change in weight of ozone formed by adding a compound to the "Base Reactive Organic Gas (ROG) Mixture" per weight of compound added, expressed to hundredths of a gram (g O₃/g ROG).</p><p>PRODUCT-WEIGHTED MIR (PWMIR). The sum of all weighted-MIR for all ingredients in a product subject to this article. The PWMIR is the total product reactivity expressed to hundredths of a gram of ozone formed per gram of product (excluding container and packaging).</p><p>PSIG. Pounds per square inch, gauge.</p><p>REACTIVE ORGANIC COMPOUND (ROC). Any compound that has the potential, once emitted, to contribute to ozone formation in the troposphere.</p><p>SCHRADER ACCESS VALVES. Access fittings with a valve core installed.</p><p>SHORT RADIUS ELBOW. Pipe fitting installed between two lengths of pipe or tubing to allow a change of direction, with a radius 1.0 times the pipe diameter.</p><p>SUPERMARKET. For the purposes of Section 5.508.2, a supermarket is any retail food facility with 8,000 square feet or more conditioned area, and that utilizes either refrigerated display cases, or walk-in coolers or freezers connected to remote compressor units or condensing units.</p><p>VOC. A volatile organic compound broadly defined as a chemical compound based on carbon chains or rings with vapor pressures greater than 0.1 millimeters of mercury at room temperature. These compounds typically contain hydrogen and may contain oxygen, nitrogen and other elements. See CCR Title 17, Section 94508(a)</p><p>Note: Where specific regulations are cited from different agencies such as SCAQMD, ARB, etc., the VOC definition included in that specific regulation is the one that prevails for the specific measure in question.</p><p>SECTION 5.503 FIREPLACES</p><p>5.503.1 FIREPLACES. Install only a direct-vent sealed-combustion gas or sealed wood-burning fireplace, or a sealed woodstove or pellet stove, and refer to residential requirements in the California Energy Code, Title 24, Part 6, Subchapter 7, Section 150. Woodstoves, pellet stoves and fireplaces shall comply with applicable local ordinances.</p><p>5.503.1.1 Woodstoves. Woodstoves and pellet stoves shall comply with U.S. EPA New Source Performance Standards (NSPS) emission limits as applicable, and shall have a permanent label indicating they are certified to meet the emission limits.</p><p>SECTION 5.504 POLLUTANT CONTROL</p><p>5.504.1 TEMPORARY VENTILATION. The permanent HVAC system shall only be used during construction if necessary to condition the building or areas of addition or alteration within the required temperature range for material and equipment installation. If the HVAC system is used during construction, use return air filters with a Minimum Efficiency Reporting Value (MERV) of 8, based on ASHRAE 52.2-1999, or an average efficiency of 30% based on ASHRAE 52.1-1992. Replace all filters immediately prior to occupancy, or, if the building is occupied during alteration, at the conclusion of construction.</p><p>5.504.3 Covering of duct openings and protection of mechanical equipment during construction. At the time of rough installation, or during storage on the construction site and until final startup of the heating, cooling and ventilating equipment, all duct and other related air distribution component openings shall be covered with tape, plastic, sheet metal or other methods acceptable to the enforcing agency to reduce the amount of dust, water and debris which may collect in the system.</p></div></div>
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2016 CALIFORNIA GREEN BUILDING STANDARDS CODE

NONRESIDENTIAL MANDATORY MEASURES, SHEET 3 (INCLUDING JANUARY 1, 2017 ERRATA)

<div>INSPECTOR SIGNOFF</div>	<p>5.504.4 FINISH MATERIAL POLLUTANT CONTROL. Finish materials shall comply with Sections 5.504.4.1 through 5.504.4.6.</p> <p>5.504.4.1 Adhesives, sealants and caulks. Adhesives, sealants, and caulks used on the project shall meet the requirements of the following standards:</p> <p>1. Adhesives, adhesive bonding primers adhesive primers, sealants, sealant primers and caulks shall comply with local or regional air pollution control or air quality management district rules where applicable, or SCAQMD Rule 1168 VOC limits, as shown in Tables 5.504.4.1 and 5.504.4.2. Such products also shall comply with the Rule 1168 prohibition on the use of certain toxic compounds (chloroform, ethylene dichloride, methylene chloride, perchloroethylene and trichloroethylene), except for aerosol products as specified in subsection 2, below.</p> <p>2. Aerosol adhesives, and smaller unit sizes of adhesives, and sealant or caulking compounds (in units of product, less packaging, which do not weigh more than one pound and do not consist of more than 16 fluid ounces) shall comply with statewide VOC standards and other requirements, including prohibitions on use of certain toxic compounds, of <i>California Code of Regulations</i>, Title 17, commencing with Section 94507.</p> <table><tr><th colspan="2">TABLE 5.504.4.1 - ADHESIVE VOC LIMIT^{1,2}</th></tr><tr><th colspan="2">Less Water and Less Exempt Compounds in Grams per Liter</th></tr><tr><th>ARCHITECTURAL APPLICATIONS</th><th>CURRENT VOC LIMIT</th></tr><tr><td>INDOOR CARPET ADHESIVES</td><td>50</td></tr><tr><td>CARPET PAD ADHESIVES</td><td>50</td></tr><tr><td>OUTDOOR CARPET ADHESIVES</td><td>150</td></tr><tr><td>WOOD FLOORING ADHESIVES</td><td>100</td></tr><tr><td>RUBBER FLOOR ADHESIVES</td><td>60</td></tr><tr><td>SUBFLOOR ADHESIVES</td><td>50</td></tr><tr><td>CERAMIC TILE ADHESIVES</td><td>65</td></tr><tr><td>VCT & ASPHALT TILE ADHESIVES</td><td>50</td></tr><tr><td>DRYWALL & PANEL ADHESIVES</td><td>50</td></tr><tr><td>COVE BASE ADHESIVES</td><td>50</td></tr><tr><td>MULTIPURPOSE CONSTRUCTION ADHESIVES</td><td>70</td></tr><tr><td>STRUCTURAL GLAZING ADHESIVES</td><td>100</td></tr><tr><td>SINGLE-PLY ROOF MEMBRANE ADHESIVES</td><td>250</td></tr><tr><td>OTHER ADHESIVES NOT SPECIFICALLY LISTED</td><td>50</td></tr><tr><td>SPECIALTY APPLICATIONS</td><td></td></tr><tr><td>PVC WELDING</td><td>510</td></tr><tr><td>CPVC WELDING</td><td>490</td></tr><tr><td>ABS WELDING</td><td>325</td></tr><tr><td>PLASTIC CEMENT WELDING</td><td>250</td></tr><tr><td>ADHESIVE PRIMER FOR PLASTIC</td><td>550</td></tr><tr><td>CONTACT ADHESIVE</td><td>80</td></tr><tr><td>SPECIAL PURPOSE CONTACT ADHESIVE</td><td>250</td></tr><tr><td>STRUCTURAL WOOD MEMBER ADHESIVE</td><td>140</td></tr><tr><td>TOP & TRIM ADHESIVE</td><td>250</td></tr><tr><td>SUBSTRATE SPECIFIC APPLICATIONS</td><td></td></tr><tr><td>METAL TO METAL</td><td>30</td></tr><tr><td>PLASTIC FOAMS</td><td>50</td></tr><tr><td>POROUS MATERIAL (EXCEPT WOOD)</td><td>50</td></tr><tr><td>WOOD</td><td>30</td></tr><tr><td>FIBERGLASS</td><td>80</td></tr></table> <p>1. IF AN ADHESIVE IS USED TO BOND DISSIMILAR SUBSTRATES TOGETHER, THE ADHESIVE WITH THE HIGHEST VOC CONTENT SHALL BE ALLOWED.</p> <p>2. FOR ADDITIONAL INFORMATION REGARDING METHODS TO MEASURE THE VOC CONTENT SPECIFIED IN THIS TABLE, SEE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT RULE 1168, www.arb.ca.gov/DRDB/SC/CURHTMLR1168.PDF</p> <table><tr><th colspan="2">TABLE 5.504.4.2 - SEALANT VOC LIMIT</th></tr><tr><th colspan="2">Less Water and Less Exempt Compounds in Grams per Liter</th></tr><tr><th>SEALANTS</th><th>CURRENT VOC LIMIT</th></tr><tr><td>ARCHITECTURAL</td><td>250</td></tr><tr><td>MARINE DECK</td><td>760</td></tr><tr><td>NONMEMBRANE ROOF</td><td>300</td></tr><tr><td>ROADWAY</td><td>250</td></tr><tr><td>SINGLE-PLY ROOF MEMBRANE</td><td>450</td></tr><tr><td>OTHER</td><td>420</td></tr><tr><td>SEALANT PRIMERS</td><td></td></tr><tr><td>ARCHITECTURAL</td><td></td></tr><tr><td>NONPOROUS</td><td>250</td></tr><tr><td>POROUS</td><td>775</td></tr><tr><td>MODIFIED BITUMINOUS</td><td>500</td></tr><tr><td>MARINE DECK</td><td>760</td></tr><tr><td>OTHER</td><td>750</td></tr></table> <p>NOTE: FOR ADDITIONAL INFORMATION REGARDING METHODS TO MEASURE THE VOC CONTENT SPECIFIED IN THESE TABLES, SEE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT RULE 1168.</p> <p>5.504.4.3 Paints and coatings. Architectural paints and coatings shall comply with VOC limits in Table 1 of the ARB Architectural Coatings Suggested Control Measure, as shown in Table 5.504.4.3, unless more stringent local limits apply. The VOC content limit for coatings that do not meet the definitions for the specialty coatings categories listed in Table 5.504.4.3 shall be determined by classifying the coating as a Flat, Nonflat or Nonflat-High Gloss coating, based on its gloss, as defined in Subsections 4.21, 4.36 and 4.37 of the 2007 California Air Resources Board Suggested Control Measure, and the corresponding Flat, Nonflat or Nonflat-High Gloss VOC limit in Table 5.504.4.3 shall apply.</p> <p>5.504.4.3.1 Aerosol Paints and coatings. Aerosol paints and coatings shall meet the PWMIR Limits for ROC in Section 94522(a)(3) and other requirements, including prohibitions on use of certain toxic compounds and ozone depleting substances, in Sections 94522(c)(2) and (d)(2) of <i>California Code of Regulations</i>, Title 17, commencing with Section 94520; and in areas under the jurisdiction of the Bay Area Air Quality Management District additionally comply with the percent VOC by weight of product limits of Regulation 8 Rule 49.</p>	TABLE 5.504.4.1 - ADHESIVE VOC LIMIT ^{1,2}		Less Water and Less Exempt Compounds in Grams per Liter		ARCHITECTURAL APPLICATIONS	CURRENT VOC LIMIT	INDOOR CARPET ADHESIVES	50	CARPET PAD ADHESIVES	50	OUTDOOR CARPET ADHESIVES	150	WOOD FLOORING ADHESIVES	100	RUBBER FLOOR ADHESIVES	60	SUBFLOOR ADHESIVES	50	CERAMIC TILE ADHESIVES	65	VCT & ASPHALT TILE ADHESIVES	50	DRYWALL & PANEL ADHESIVES	50	COVE BASE ADHESIVES	50	MULTIPURPOSE CONSTRUCTION ADHESIVES	70	STRUCTURAL GLAZING ADHESIVES	100	SINGLE-PLY ROOF MEMBRANE ADHESIVES	250	OTHER ADHESIVES NOT SPECIFICALLY LISTED	50	SPECIALTY APPLICATIONS		PVC WELDING	510	CPVC WELDING	490	ABS WELDING	325	PLASTIC CEMENT WELDING	250	ADHESIVE PRIMER FOR PLASTIC	550	CONTACT ADHESIVE	80	SPECIAL PURPOSE CONTACT ADHESIVE	250	STRUCTURAL WOOD MEMBER ADHESIVE	140	TOP & TRIM ADHESIVE	250	SUBSTRATE SPECIFIC APPLICATIONS		METAL TO METAL	30	PLASTIC FOAMS	50	POROUS MATERIAL (EXCEPT WOOD)	50	WOOD	30	FIBERGLASS	80	TABLE 5.504.4.2 - SEALANT VOC LIMIT		Less Water and Less Exempt Compounds in Grams per Liter		SEALANTS	CURRENT VOC LIMIT	ARCHITECTURAL	250	MARINE DECK	760	NONMEMBRANE ROOF	300	ROADWAY	250	SINGLE-PLY ROOF MEMBRANE	450	OTHER	420	SEALANT PRIMERS		ARCHITECTURAL		NONPOROUS	250	POROUS	775	MODIFIED BITUMINOUS	500	MARINE DECK	760	OTHER	750	<table><tr><th colspan="2">TABLE 5.504.4.3 - VOC CONTENT LIMITS FOR ARCHITECTURAL COATINGS^{2,3}</th></tr><tr><th colspan="2">GRAMS OF VOC PER LITER OF COATING, LESS WATER & LESS EXEMPT COMPOUNDS</th></tr><tr><th>COATING CATEGORY</th><th>CURRENT VOC LIMIT</th></tr><tr><td>FLAT COATINGS</td><td>50</td></tr><tr><td>NONFLAT COATINGS</td><td>100</td></tr><tr><td>NONFLAT HIGH GLOSS COATINGS</td><td>150</td></tr><tr><td>SPECIALTY COATINGS</td><td></td></tr><tr><td>ALUMINUM ROOF COATINGS</td><td>400</td></tr><tr><td>BASEMENT SPECIALTY COATINGS</td><td>400</td></tr><tr><td>BITUMINOUS ROOF COATINGS</td><td>50</td></tr><tr><td>BITUMINOUS ROOF PRIMERS</td><td>350</td></tr><tr><td>BOND BREAKERS</td><td>350</td></tr><tr><td>CONCRETE CURING COMPOUNDS</td><td>350</td></tr><tr><td>CONCRETE/MASONRY SEALERS</td><td>100</td></tr><tr><td>DRIVEWAY SEALERS</td><td>50</td></tr><tr><td>DRY FOG COATINGS</td><td>150</td></tr><tr><td>FAUX FINISHING COATINGS</td><td>350</td></tr><tr><td>FIRE RESISTIVE COATINGS</td><td>350</td></tr><tr><td>FLOOR COATINGS</td><td>100</td></tr><tr><td>FORM-RELEASE COMPOUNDS</td><td>250</td></tr><tr><td>GRAPHIC ARTS COATINGS (SIGN PAINTS)</td><td>500</td></tr><tr><td>HIGH-TEMPERATURE COATINGS</td><td>420</td></tr><tr><td>INDUSTRIAL MAINTENANCE COATINGS</td><td>250</td></tr><tr><td>LOW SOLIDS COATINGS</td><td>120</td></tr><tr><td>MAGNESITE CEMENT COATINGS</td><td>450</td></tr><tr><td>MASTIC TEXTURE COATINGS</td><td>100</td></tr><tr><td>METALLIC PIGMENTED COATINGS</td><td>500</td></tr><tr><td>MULTICOLOR COATINGS</td><td>250</td></tr><tr><td>PRETREATMENT WASH PRIMERS</td><td>420</td></tr><tr><td>PRIMERS, SEALERS, & UNDERCOATERS</td><td>100</td></tr><tr><td>REACTIVE PENETRATING SEALERS</td><td>350</td></tr><tr><td>RECYCLED COATINGS</td><td>250</td></tr><tr><td>ROOF COATINGS</td><td>50</td></tr><tr><td>RUST PREVENTATIVE COATINGS</td><td>250</td></tr><tr><td>SHELLACS:</td><td></td></tr><tr><td>CLEAR</td><td>730</td></tr><tr><td>OPAQUE</td><td>550</td></tr><tr><td>SPECIALTY PRIMERS, SEALERS & UNDERCOATERS</td><td>100</td></tr><tr><td>STAINS</td><td>250</td></tr><tr><td>STONE CONSOLIDANTS</td><td>450</td></tr><tr><td>SWIMMING POOL COATINGS</td><td>340</td></tr><tr><td>TRAFFIC MARKING COATINGS</td><td>100</td></tr><tr><td>TUB & TILE REFINISH COATINGS</td><td>420</td></tr><tr><td>WATERPROOFING MEMBRANES</td><td>250</td></tr><tr><td>WOOD COATINGS</td><td>275</td></tr><tr><td>WOOD PRESERVATIVES</td><td>350</td></tr><tr><td>ZINC-RICH PRIMERS</td><td>340</td></tr></table> <p>1. GRAMS OF VOC PER LITER OF COATING, INCLUDING WATER & EXEMPT COMPOUNDS 2. THE SPECIFIED LIMITS REMAIN IN EFFECT UNLESS REVISED LIMITS ARE LISTED IN SUBSEQUENT COLUMNS IN THE TABLE. 3. VALUES IN THIS TABLE ARE DERIVED FROM THOSE SPECIFIED BY THE CALIFORNIA AIR RESOURCES BOARD, ARCHITECTURAL COATINGS SUGGESTED CONTROL MEASURE, FEB. 1, 2008. MORE INFORMATION IS AVAILABLE FROM THE AIR RESOURCES BOARD.</p> <p>5.504.4.3.2 Verification. Verification of compliance with this section shall be provided at the request of the enforcing agency. Documentation may include, but is not limited to, the following:</p> <p>1. Manufacturer's product specification 2. Field verification of on-site product containers</p> <p>5.504.4.4 Carpet Systems. All carpet installed in the building interior shall meet at least one of the testing and product requirements:</p> <p>1. Carpet and Rug Institute's Green Label Plus Program. 2. Compliant with the VOC-emission limits and testing requirements specified in the California Department of Public Health Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions from Indoor Sources Using Environmental Chambers, Version 1.1, February 2010 (also known as CDPH Standard Method V1.1 or Specification 01350). 3. NSF/ANSI 140 at the Gold level or higher; 4. Scientific Certifications Systems Sustainable Choice; or 5. Compliant with the Collaborative for High Performance Schools California (CA-CHPS) Criteria Interpretation for EQ 7.0 and EQ 7.1 (formerly EQ 2.2) dated July 2012 and listed in the CHPS High Performance Product Database.</p> <p>5.504.4.4.1 Carpet cushion. All carpet cushion installed in the building interior shall meet the requirements of the Carpet and Rug Institute Green Label program.</p> <p>5.504.4.4.2 Carpet adhesive. All carpet adhesive shall meet the requirements of Table 5.504.4.1.</p> <p>5.504.4.5 Composite wood products. Hardwood plywood, particleboard and medium density fiberboard composite wood products used on the interior or exterior of the buildings shall meet the requirements for formaldehyde as specified in ARB's Air Toxics Control Measure for Composite Wood (17 CCR 93120 et seq.). Those materials not exempted under the ATCM must meet the specified emission limits, as shown in Table 5.504.4.5.</p> <p>5.504.4.5.3 Documentation. Verification of compliance with this section shall be provided as requested by the enforcing agency. Documentation shall include at least one of the following:</p> <p>1. Product certifications and specifications. 2. Chain of custody certifications. 3. Product labeled and invoiced as meeting the Composite Wood Products regulation (see CCR, Title 17, Section 93120, et seq.). 4. Exterior grade products marked as meeting the PS-1 or PS-2 standards of the Engineered Wood Association, the Australian AS/NZS 2269 or European 636 3S standards. 5. Other methods acceptable to the enforcing agency.</p>	TABLE 5.504.4.3 - VOC CONTENT LIMITS FOR ARCHITECTURAL COATINGS ^{2,3}		GRAMS OF VOC PER LITER OF COATING, LESS WATER & LESS EXEMPT COMPOUNDS		COATING CATEGORY	CURRENT VOC LIMIT	FLAT COATINGS	50	NONFLAT COATINGS	100	NONFLAT HIGH GLOSS COATINGS	150	SPECIALTY COATINGS		ALUMINUM ROOF COATINGS	400	BASEMENT SPECIALTY COATINGS	400	BITUMINOUS ROOF COATINGS	50	BITUMINOUS ROOF PRIMERS	350	BOND BREAKERS	350	CONCRETE CURING COMPOUNDS	350	CONCRETE/MASONRY SEALERS	100	DRIVEWAY SEALERS	50	DRY FOG COATINGS	150	FAUX FINISHING COATINGS	350	FIRE RESISTIVE COATINGS	350	FLOOR COATINGS	100	FORM-RELEASE COMPOUNDS	250	GRAPHIC ARTS COATINGS (SIGN PAINTS)	500	HIGH-TEMPERATURE COATINGS	420	INDUSTRIAL MAINTENANCE COATINGS	250	LOW SOLIDS COATINGS	120	MAGNESITE CEMENT COATINGS	450	MASTIC TEXTURE COATINGS	100	METALLIC PIGMENTED COATINGS	500	MULTICOLOR COATINGS	250	PRETREATMENT WASH PRIMERS	420	PRIMERS, SEALERS, & UNDERCOATERS	100	REACTIVE PENETRATING SEALERS	350	RECYCLED COATINGS	250	ROOF COATINGS	50	RUST PREVENTATIVE COATINGS	250	SHELLACS:		CLEAR	730	OPAQUE	550	SPECIALTY PRIMERS, SEALERS & UNDERCOATERS	100	STAINS	250	STONE CONSOLIDANTS	450	SWIMMING POOL COATINGS	340	TRAFFIC MARKING COATINGS	100	TUB & TILE REFINISH COATINGS	420	WATERPROOFING MEMBRANES	250	WOOD COATINGS	275	WOOD PRESERVATIVES	350	ZINC-RICH PRIMERS	340	<table><tr><th colspan="2">TABLE 5.504.4.5 - FORMALDEHYDE LIMITS:</th></tr><tr><th colspan="2">MAXIMUM FORMALDEHYDE EMISSIONS IN PARTS PER MILLION</th></tr><tr><th>PRODUCT</th><th>CURRENT LIMIT</th></tr><tr><td>HARDWOOD PLYWOOD VENEER CORE</td><td>0.05</td></tr><tr><td>HARDWOOD PLYWOOD COMPOSITE CORE</td><td>0.05</td></tr><tr><td>PARTICLE BOARD</td><td>0.09</td></tr><tr><td>MEDIUM DENSITY FIBERBOARD</td><td>0.11</td></tr><tr><td>THIN MEDIUM DENSITY FIBERBOARD²</td><td>0.13</td></tr></table> <p>1. VALUES IN THIS TABLE ARE DERIVED FROM THOSE SPECIFIED BY THE CALIFORNIA AIR RESOURCES BOARD, AIR TOXICS CONTROL MEASURE FOR COMPOSITE WOOD AS TESTED IN ACCORDANCE WITH ASTM E 1333. FOR ADDITIONAL INFORMATION, SEE CALIFORNIA CODE OF REGULATIONS, TITLE 17, SECTIONS 93120 THROUGH 93120.12. 2. THIN MEDIUM DENSITY FIBERBOARD HAS A MAXIMUM THICKNESS OF 5/16 INCHES (8 MM).</p> <p>5.504.4.6 Resilient flooring systems. For 80 percent of floor area receiving resilient flooring, installed resilient flooring shall meet at least one of the following:</p> <p>1. Certified under the Resilient Floor Covering Institute (RFCI) FloorScore program; 2. Compliant with the VOC-emission limits and testing requirements specified in the California Department of Public Health's 2010 Standard Method for the Testing and Evaluation Chambers, Version 1.1, February 2010; 3. Compliant with the Collaborative for High Performance Schools California (CA-CHPS) Criteria Interpretation for EQ 7.1, and EQ 7.1 (formerly EQ 2.2) dated July 2012 and listed in the CHPS High Performance Product DataBase; or 4. Products certified under UL GREENGUARD Gold (formerly the Greenguard Children's & Schools Program).</p> <p>5.504.4.6.1 Verification of compliance. Documentation shall be provided verifying that resilient flooring materials meet the pollutant emission limits.</p> <p>5.504.5.3 Filters. In mechanically ventilated buildings, provide regularly occupied areas of the building with air filtration media for outside and return air that provides at least a Minimum Efficiency Reporting Value (MERV) of 8. MERV 8 filters shall be installed prior to occupancy, and recommendations for maintenance with filters of the same value shall be included in the operation and maintenance manual.</p> <p>Exceptions:</p> <p>1. An ASHRAE 10% to 15% efficiency filter shall be permitted for an HVAC unit meeting the 2013 California Energy Code having 60,000 Btu/h or less capacity per fan coil, if the energy use of the air delivery system is 0.4 W/cfm or less at design air flow. 2. Existing mechanical equipment.</p> <p>5.504.7 ENVIRONMENTAL TOBACCO SMOKE (ETS) CONTROL. Where outdoor areas are provided for smoking, prohibit smoking within 25 feet of building entries, outdoor air intakes and operable windows and within the building as already prohibited by other laws or regulations; or as enforced by ordinances, regulations or policies of any city, county, city and county, California Community College, campus of the California State University, or campus of the University of California, whichever are more stringent. When ordinances, regulations or policies are not in place, post signage to inform building occupants of the prohibitions.</p> <p>SECTION 5.505 INDOOR MOISTURE CONTROL 5.505.1 INDOOR MOISTURE CONTROL. Buildings shall meet or exceed the provisions of <i>California Building Code</i>, CCR, Title 24, Part 2, Sections 1203 (Ventilation) and Chapter 14 (Exterior Walls). For additional measures not applicable to low-rise residential occupancies, see Section 5.407.2 of this code.</p> <p>SECTION 5.506 INDOOR AIR QUALITY 5.506.1 OUTSIDE AIR DELIVERY. For mechanically or naturally ventilated spaces in buildings, meet the minimum requirements of Section 120.1 (Requirements For Ventilation) of the <i>California Energy Code</i>, or the applicable local code, whichever is more stringent, and Division 1, Chapter 4 of CCR, Title 8. 5.506.2 CARBON DIOXIDE (CO₂) MONITORING. For buildings or additions equipped with demand control ventilation, CO₂ sensors and ventilation controls shall be specified and installed in accordance with the requirements of the California Energy Code, Section 120(c)(4).</p> <p>SECTION 5.507 ENVIRONMENTAL COMFORT 5.507.4 ACOUSTICAL CONTROL. Employ building assemblies and components with Sound Transmission Class (STC) values determined in accordance with ASTM E 90 and ASTM E 413, or Outdoor-Indoor Sound Transmission Class (OITC) determined in accordance with ASTM E 1332, using either the prescriptive or performance method in Section 5.507.4.1 or 5.507.4.2.</p> <p>Exception: Buildings with few or no occupants or where occupants are not likely to be affected by exterior noise, as determined by the enforcement authority, such as factories, stadiums, storage, enclosed parking structures and utility buildings.</p> <p>Exception: [DSA-SS] For public schools and community colleges, the requirements of this section and all subsections apply only to new construction.</p> <p>5.507.4.1 Exterior noise transmission, prescriptive method. Wall and roof-ceiling assemblies exposed to the noise source making up the building or addition envelope or altered envelope shall meet a composite STC rating of at least 50 or a composite OITC rating of no less than 40, with exterior windows of a minimum STC of 40 or OITC of 30 in the following locations:</p> <p>1. Within the 65 CNEL noise contour of an airport.</p> <p>Exceptions:</p> <p>a. L_{eq} or CNEL for military airports shall be determined by the facility Air Installation Compatible Land Use Zone (AICUZ) plan. b. L_{eq} or CNEL for other airports and heliports for which a land use plan has not been developed shall be determined by the local general plan noise element.</p> <p>2. Within the 65 CNEL or L_{eq} noise contour of a freeway or expressway, railroad, industrial source or fixed-guideway source as determined by the Noise Element of the General Plan.</p> <p>5.507.4.1.1. Noise exposure where noise contours are not readily available. Buildings exposed to a noise level of 65 dB L_{eq}-1hr during any hour of operation shall have building, addition or alteration exterior wall and roof-ceiling assemblies exposed to the noise source meeting a composite STC rating of at least 45 (or OITC 35), with exterior windows of a minimum STC of 40 (or OITC 30).</p> <p>5.507.4.2 Performance Method. For buildings located as defined in Section 5.507.4.1 or 5.507.4.1.1, wall and roof-ceiling assemblies exposed to the noise source making up the building or addition envelope or altered envelope shall be constructed to provide an interior noise environment attributable to exterior sources that does not exceed an hourly equivalent noise level (Leq-1Hr) of 50 dBA in occupied areas during any hour of operation.</p> <p>5.507.4.2.1 Site Features. Exterior features such as sound walls or earth berms may be utilized as appropriate to the building, addition or alteration project to mitigate sound migration to the interior.</p> <p>5.507.4.2.2 Documentation of Compliance. An acoustical analysis documenting complying interior soundlevels shall be prepared by personnel approved by the architect or engineer of record.</p> <p>5.507.4.3 Interior sound transmission. Wall and floor-ceiling assemblies separating tenant spaces and tenant spaces and public places shall have an STC of at least 40.</p> <p>Note: Examples of assemblies and their various STC ratings may be found at the California Office of Noise Control, www.toobase.org/PDF/CaseStudies/stc_ccc_ratings.pdf.</p> <p>SECTION 5.508 OUTDOOR AIR QUALITY 5.508.1 Ozone depletion and greenhouse gas reductions. Installations of HVAC, refrigeration and fire suppression equipment shall comply with Sections 5.508.1.1 and 5.508.1.2.</p> <p>5.508.1.1 Chlorofluorocarbons (CFCs). Install HVAC, refrigeration and fire suppression equipment that do not contain CFCs.</p> <p>5.508.1.2 Halons. Install HVAC, refrigeration and fire suppression equipment that do not contain Halons.</p> <p>5.508.2 Supermarket refrigerant leak reduction. New commercial refrigeration systems shall comply with the provisions of this section when installed in retail food stores, 8,000 square feet or more conditioned area, and that utilize either refrigerated display cases, or walk-in coolers or freezers connected to remote compressor units or condensing units. The leak reduction measures apply to refrigeration systems containing high-global-warming potential (high-GWP) refrigerants with a GWP of 150 or greater. New refrigeration systems include both new facilities and the replacement of existing refrigeration systems in existing facilities.</p>	TABLE 5.504.4.5 - FORMALDEHYDE LIMITS:		MAXIMUM FORMALDEHYDE EMISSIONS IN PARTS PER MILLION		PRODUCT	CURRENT LIMIT	HARDWOOD PLYWOOD VENEER CORE	0.05	HARDWOOD PLYWOOD COMPOSITE CORE	0.05	PARTICLE BOARD	0.09	MEDIUM DENSITY FIBERBOARD	0.11	THIN MEDIUM DENSITY FIBERBOARD ²	0.13	<p>Exception: Refrigeration systems containing low-global warming potential (low-GWP) refrigerant with a GWP value less than 150 are not subject to this section. Low-GWP refrigerants are nonozone-depleting refrigerants that include ammonia, carbon dioxide (CO₂), and potentially other refrigerants.</p> <p>5.508.2.1 Refrigerant piping. Piping compliant with the California Mechanical Code shall be installed to be accessible for leak protection and repairs. Piping runs using threaded pipe, copper tubing with an outside diameter (OD) less than 1/4 inch, flared tubing connections and short radius elbows shall not be used in refrigerant systems except as noted below.</p> <p>5.508.2.1.1 Threaded pipe. Threaded connections are permitted at the compressor rack.</p> <p>5.508.2.1.2 Copper pipe. Copper tubing with an OD less than 1/4 inch may be used in systems with a refrigerant charge of 5 pounds or less.</p> <p>5.508.2.1.2.1 Anchorage. One-fourth-inch OD tubing shall be securely clamped to a rigid base to keep vibration levels below 8 mils.</p> <p>5.508.2.1.3 Flared tubing connections. Double-flared tubing connections may be used for pressure controls, valve pilot lines and oil.</p> <p>Exception: Single-flared tubing connections may be used with a multiring seal coated with industrial sealant suitable for use with refrigerants and tightened in accordance with manufacturer's recommendations.</p> <p>5.508.2.1.4 Elbows. Short radius elbows are only permitted where space limitations prohibit use of long radius elbows.</p> <p>5.508.2.2 Valves. Valves and fittings shall comply with the <i>California Mechanical Code</i> and as follows.</p> <p>5.508.2.2.1 Pressure relief valves. For vessels containing high-GWP refrigerant, a rupture disc shall be installed between the outlet of the vessel and the inlet of the pressure relief valve.</p> <p>5.508.2.2.1.1 Pressure detection. A pressure gauge, pressure transducer or other device shall be installed in the space between the rupture disc and the relief valve inlet to indicate a disc rupture or discharge of the relief valve.</p> <p>5.508.2.2.2 Access valves. Only Schrader access valves with a brass or steel body are permitted for use.</p> <p>5.508.2.2.2.1 Valve caps. For systems with a refrigerant charge of 5 pounds or more, valve caps shall be brass or steel and not plastic.</p> <p>5.508.2.2.2.2 Seal caps. If designed for it, the cap shall have a neoprene O-ring in place.</p> <p>5.508.2.2.2.2.1 Chain tethers. Chain tethers to fit over the stem are required for valves designed to have seal caps.</p> <p>Exception: Valves with seal caps that are not removed from the valve during stem operation.</p> <p>5.508.2.3 Refrigerated service cases. Refrigerated service cases holding food products containing vinegar and salt shall have evaporator coils of corrosion-resistant material, such as stainless steel, or be coated to prevent corrosion from these substances.</p> <p>5.508.2.3.1 Coil coating. Consideration shall be given to the heat transfer efficiency of coil coating to maximize energy efficiency.</p> <p>5.508.2.4 Refrigerant receivers. Refrigerant receivers with capacities greater than 200 pounds shall be fitted with a device that indicates the level of refrigerant in the receiver.</p> <p>5.508.2.5 Pressure testing. The system shall be pressure tested during installation prior to evacuation and charging.</p> <p>5.508.2.5.1 Minimum pressure. The system shall be charged with regulated dry nitrogen and appropriate tracer gas to bring system pressure up to 300 psig minimum.</p> <p>5.508.2.5.2 Leaks. Check the system for leaks, repair any leaks, and retest for pressure using the same gauge.</p> <p>5.508.2.5.3 Allowable pressure change. The system shall stand, unaltered, for 24 hours with no more than a +/- one pound pressure change from 300 psig, measured with the same gauge.</p> <p>5.508.2.6 Evacuation. The system shall be evacuated after pressure testing and prior to charging.</p> <p>5.508.2.6.1 First vacuum. Pull a system vacuum down to at least 1000 microns (+/- 50 microns), and hold for 30 minutes.</p> <p>5.508.2.6.2 Second vacuum. Pull a second system vacuum to a minimum of 500 microns and hold for 30 minutes.</p> <p>5.508.2.6.3 Third vacuum. Pull a third vacuum down to a minimum of 300 microns, and hold for 24 hours with a maximum drift of 100 microns over a 24-hour period.</p> <h2>CHAPTER 7 INSTALLER & SPECIAL INSPECTOR QUALIFICATIONS</h2> <h3>702 QUALIFICATIONS</h3> <p>702.1 INSTALLER TRAINING. HVAC system installers shall be trained and certified in the proper installation of HVAC systems including ducts and equipment by a nationally or regionally recognized training or certification program. Uncertified persons may perform HVAC installations when under the direct supervision and responsibility of a person trained and certified to install HVAC systems or contractor licensed to install HVAC systems. Examples of acceptable HVAC training and certification programs include but are not limited to the following:</p> <p>1. State certified apprenticeship programs. 2. Public utility training programs. 3. Training programs sponsored by trade, labor or statewide energy consulting or verification organizations 4. Programs sponsored by manufacturing organizations. 5. Other programs acceptable to the enforcing agency.</p> <p>702.2 SPECIAL INSPECTION [HCD]. When required by the enforcing agency, the owner or the responsible entity acting as the owner's agent shall employ one or more special inspectors to provide inspection or other duties necessary to substantiate compliance with this code. Special inspectors shall demonstrate competence to the satisfaction of the enforcing agency for the particular type of inspection or task to be performed. In addition to other certifications or qualifications acceptable to the enforcing agency, the following certifications or education may be considered by the enforcing agency when evaluating the qualifications of a special inspector:</p> <p>1. Certification by a national or regional green building program or standard publisher. 2. Certification by a statewide energy consulting or verification organization, such as HERS raters, building performance contractors, and home energy auditors. 3. Successful completion of a third party apprenticeship training program in the appropriate trade. 4. Other programs acceptable to the enforcing agency.</p> <p>Notes:</p> <p>1. Special inspectors shall be independent entities with no financial interest in the materials or the project they are inspecting for compliance with this code. 2. HERS raters are special inspectors certified by the California Energy Commission (CEC) to rate homes in California according to the Home Energy Rating System (HERS).</p> <p>[BSC-CG] When required by the enforcing agency, the owner or the responsible entity acting as the owner's agent shall employ one or more special inspectors to provide inspection or other duties necessary to substantiate compliance with this code. Special inspectors shall demonstrate competence to the satisfaction of the enforcing agency for the particular type of inspection or task to be performed. In addition, the special inspector shall have a certification from a recognized state, national or international association, as determined by the local agency. The area of certification shall be closely related to the primary job function, as determined by the local agency.</p> <p>Note: Special inspectors shall be independent entities with no financial interest in the materials or the project they are inspecting for compliance with this code.</p> <h3>703 VERIFICATIONS</h3> <p>703.1 DOCUMENTATION. Documentation used to show compliance with this code shall include but is not limited to, construction documents, plans, specifications, builder or installer certification, inspection reports, or other methods acceptable to the enforcing agency which demonstrate substantial conformance. When specific documentation or special inspection is necessary to verify compliance, that method of compliance will be specified in the appropriate section or identified applicable checklist.</p>
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