



## **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 March 1, 2019.

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### **ZONING ADMINISTRATOR ACTIONS FEBRUARY 28, 2019**

- Item 1: Newport Beach Country Club – Tennis Club Site - Annual Development Agreement Review  
No. DA2008-001 (PA2016-196)  
Site Address: 1602 East Coast Highway
- |   |                  |   |
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| Action: The Zoning Administrator found that Newport Beach Country Club – Tennis 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: Anderson Residence Coastal Development Permit No. CD2018-117 (PA2018-252)  
Site Address: 6710 West Ocean Front
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| Action: Approved by Resolution No. ZA2019-020 | Council District | 1 |
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- Item 3: Bassaly Residence Coastal Development Permit No. CD2018-055 (PA2018-131)  
Site Address: 1350 East Ocean Front
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| Action: Approved by Resolution No. ZA2019-021 | Council District | 1 |
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- Item 4: Orchid St One, LLC Residential Condominiums Tentative Parcel Map No. NP2018-037 (PA2018-264)  
Site Address: 414 and 414 ½ Orchid Avenue
- |   |                  |   |
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| Action: Approved by Resolution No. ZA2019-022 | Council District | 6 |
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- Item 5: ADG Investments, LP Residential Condominiums Tentative Parcel Map No. NP 2018-039 (PA2018-259)  
Site Address: 423 and 423 ½ Poinsettia Avenue
- |   |                  |   |
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| Action: Approved by Resolution No. ZA2019-023 | Council District | 6 |
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- Item 6: 516 Narcissus, LLC Residential Condominiums Tentative Parcel Map No. NP 2018-038 (PA2018-260)  
Site Address: 516 and 516 ½ Narcissus Avenue
- |   |                  |   |
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| Action: Approved by Resolution No. ZA2019-024 | Council District | 6 |
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Item 7:	Calacci Residential Demolition Coastal Development Permit No. CD2018-073 (PA2018-170) Site Address: 400 South Bay Front, Units 1, 2, 3, 4 and 5		
	Action: Approved by Resolution No. ZA2019-025	Council District	5
Item 8:	Ataii Residence Coastal Development Permit No. CD2018-104 (PA2018-248) Site Address: 914 East Ocean Front, Units A, B and C		
	Action: Approved by Resolution No. ZA2019-026	Council District	1
Item 9:	Baywood Apartments Signage Comprehensive Sign Program No. CS2018-007 and Modification Permit No. MD2018-008 (PA2018-244) Site Address: 1 Baywood Drive		
	Action: Approved by Resolution No. ZA2019-027	Council District	5

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

## **RESOLUTION NO. ZA2019-020**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-117 TO DEMOLISH AN EXISTING SINGLE-FAMILY DWELLING AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED TWO-CAR GARAGE LOCATED AT 6710 WEST OCEAN FRONT (PA2018-252)**

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 (“Applicant”), on behalf of Mr. and Mrs. Anderson (“Owner”), with respect to property located at 6710 West Ocean Front, requesting approval of a coastal development permit.
2. The lot at 6710 West Ocean Front is legally described as Lot 6, Block G, Quitclaim Deed, Newport Beach Tract .
3. The applicant proposes a coastal development permit to allow the demolition of an existing single-family dwelling and the construction of a new three-story, 2,606-square-foot, single-family residence and an attached 450-square-foot, two-car garage. The proposed development includes landscape, hardscape, and subsurface drainage facilities. The design complies with all applicable development standards and no deviations are requested.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential – (30.0-39.9 DU/AC) (RT-E) and it is located within the Two-Unit Residential (R-2) Coastal Zoning District.
6. A public hearing was held on February 28, 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 single-family residence and the construction of a new 3,056 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 3,106 square feet and the total proposed floor area is 3,056 square feet.
  - b. The proposed development provides the minimum required setbacks, which are five feet along the front property line on West Ocean Front, three feet along each side property line and five feet along West Ocean Front Alley.
  - c. The highest guardrail is less than 24 feet from established grade (13.33 feet North American Vertical Datum of 1988 [NAVD88]) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
  - d. The project includes garage parking for a total of two vehicles, complying with the minimum two-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two- and three-story, single- 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. Vehicular access to the project site is currently from Orange Street and will continue under the proposed development. Staff investigated the feasibility of relocating vehicular access to the abutting alley; however, the City Traffic Engineer determined this to be infeasible because the existing development on the opposite side of the alley causes a substandard back-up area. Allowing the continued use of the curb cut on Orange Street would not result in the loss of existing on-street parking spaces, which is consistent with certified LCP Implementation Plan Section 21.40.070.B. subsection 1(a)..
4. The development fronts the public beach known as West Ocean Front and is separated by the Pacific Ocean by a wide sandy beach. The finished floor elevation of the proposed dwelling is 13.88 feet (NAVD88), which complies with the minimum 9.00-foot (NAVD88) elevation standard. A Coastal Hazard Report and Wave Runup Study prepared by PMA Consulting, Inc., dated February 14, 2019, indicates a maximum sea level rise of 2.90 feet over the next 75 years resulting in a future sea level elevation of 10.62 feet (NAVD88). The report concludes it is very unlikely that any type of wave will reach the site even considering a 2.90-foot sea level rise and that the proposed project is reasonably safe from shoreline erosion due to the lack of wave or wakes that can erode sand from the beach. Overall, the analysis concludes that the proposed project will be safe from flooding hazards for the next 75 years. Furthermore, the report concluded that due to the distance of the property from the current mean high tide line (approximately 450 feet), it is unlikely that the mean high tide line will reach the property within the next 75 years.
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 NBMC 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. Additional access and views are provided adjacent to the property at the terminus of Orange Street and the West Ocean Front. Along this area in the public right-of-way are City planters and walls that were permitted pursuant to the Title 21 Appendix C Oceanfront Encroachment Policy Guidelines. This area is maintained by the City and the planting heights are limited by this policy.
10. 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 dwelling 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.*

Facts in Support of Finding:

1. The project site is located in West Newport between the nearest public road and the sea. NBMC 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 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 public beach is available adjacent to the project site at the terminus of Orange Street and West Ocean Front public beach. Additional vertical access is provided approximately 150 feet south of the subject at the terminus of Colton Street and West Ocean Front public beach. Lateral access to these public beaches is provided behind the subject property on Seashore Drive.
3. West Ocean Front Park is approximately 100 feet north of the project site along Seashore Drive. The replacement of the existing single-family dwelling with a new single-family residence that complies with all of the applicable development standards does not impact access or use of the Park.

4. The existing 15-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 be maintained consistently. The existing patio does 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. CD2018-117, 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 28<sup>TH</sup> DAY OF FEBRUARY 2019.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT “A”****CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to the issuance of a 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, including the East Ocean Front Encroachment Area.
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.

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20. Landscape materials and landscape areas on the subject property adjacent to Orange Street shall be maintained to a maximum height of four feet.
  21. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
  22. Existing patio improvements within the East Ocean Front Encroachment Area shall be maintained consistent with Encroachment Permit EP-6710 and Title 21, Appendix C (Oceanfront Encroachment Policy Guidelines). Any new development shall require a coastal development permit or otherwise authorized by the California Coastal Commission, unless the development is exempt from coastal development permit requirements pursuant to certified LCP Implementation Plan Section 21.52.035 and the Coastal Act.
  23. Any new development seaward of the existing 10-foot deep encroachment area authorized by Encroachment Permit EP-6710 shall require a new encroachment permit issued by the Public Works Department and a coastal development permit or other authorization by California Coastal Commission, unless the development is exempt from coastal development permit requirements pursuant to certified LCP Implementation Plan Section 21.52.035 and the Coastal Act.
  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 the current property owner or agent.
  25. An encroachment permit shall be maintained as required from the Public Works Department for the existing 15-foot patio encroachment, pursuant to Title 21, Appendix C (Oceanfront Encroachment Policy Guidelines).
  26. If future changes to the patio encroachment are determined by the Coastal Commission to be located within its permit jurisdiction, authorization from the Coastal Commission shall be required.
  27. This Coastal Development Permit No. CD2018-117 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
  28. 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.

29. 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 the Anderson Residence including, but not limited to, Coastal Development Permit No. CD2018-117 (PA2018-252). 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. ZA2019-021**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-055 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE-STORY, SINGLE-FAMILY RESIDENCE AND ATTACHED THREE-CAR GARAGE AT 1350 EAST OCEAN FRONT (PA2018-131)**

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

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Otis Architecture ("Applicant"), on behalf of Bassaly, LLC ("Owner"), with respect to property located at 1350 East Ocean Front, requesting approval of a coastal development permit.
2. The property is legally described as Lot 4 of Tract No. 6466 in Newport Beach.
3. The applicant requests a coastal development permit to allow the demolition of an existing single-family residence and the construction of a new, 5,579-square-foot, three-story single-family residence with a 575-square-foot, three-car garage. Also included is 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 Single-Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached – 10.0-19.9 DU/AC (RSD-C) and the property is located within the Single-Unit Residential (R-1) Coastal Zone District.
6. A public hearing was held on February 28, 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 single-family dwelling in a residential zone. The proposed project consists of the demolition of an existing single-family residence and the construction of a new 5,579-square-foot, three-story single-family residence with a 575-square-foot, three-car garage in the R-1 Zoning District.
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 6,349 square feet and the proposed gross floor area is 6,153 square feet.
  - b. The proposed development will provide the minimum required setbacks, which are ten feet along the front property line abutting the beach, zero feet along the side property line fronting F Street, three feet along the interior 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 10.92 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 three vehicles, which complies with the minimum parking requirement for single-family residences with 4,000 square feet of livable floor area or more.

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 11.5 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 February 5, 2019. The report concludes that the highest high tide elevation (currently 7.5 feet NAVD88) will not exceed the proposed finished floor elevation of 11.5 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) will undergo a final review during building permit plan check. 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 (Landscaping). 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 not located near any identified public viewpoints; 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. As conditioned, F Street will remain free and clear of any obstructions during construction.
3. The project site is not located adjacent to a coastal view road nor is it located near any public viewpoint as identified in the Coastal Land Use Plan. The nearest designated viewpoints are the West Jetty View Park, which is about 3,000 feet to the east and Peninsula Park, which is about 2,000 feet to the west. 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. It will also maintain 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.

4. While the existing structure maintains a larger setback along F Street than the proposed structure, the voluntary setback area is landscaped with taller plantings, the wall plane has minimal articulation, and there is a chimney for a fireplace projecting nearest to the East Ocean Front frontage. The proposed structure will have an enhanced mixture of architectural treatments such as smooth stucco, wood-like tiles, and glass, with staggered garages at the alley and a recessed side entryway covered by a second-story balcony above. The updated structure may help to enhance the view of the coast afforded through the F Street end.

#### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-055, 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 28<sup>TH</sup> DAY OF FEBRUARY, 2019.**



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Patrick J. Alford, Zoning Administrator



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

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations, stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. Coastal Development Permit No. CD2018-055 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. During construction and after the project is completed, there shall be no obstruction of the F Street right-of-way.
  12. Construction staging, storage and/or access is not allowed to occur on or from the adjacent sandy beach.
  13. 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.
  14. 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.
  15. 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.
  16. 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.
  17. 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.
  18. 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.
  19. 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.

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20. 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.
  21. 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.
  22. 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.
  23. 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.
  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 the current property owner or agent.
  25. 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.
  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 Bassaly LLC Residence including, but not limited to, Coastal Development Permit No. CD2018-055 (PA2018-131). 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. ZA2019-022**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2018-037 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 414 AND 414 ½ ORCHID AVENUE (PA2018-264)**

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

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Orchid St One, LLC, with respect to property located at 414 and 414 ½ Orchid Avenue, and legally described as Lot 8, Block 442 of the Corona Del Mar Tract requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map for condominium purposes. No waivers of development standards are requested. A single-family residence has been demolished and a new duplex is currently under construction. No waivers of Title 19 (Subdivisions) are proposed. The Tentative Parcel Map would allow each unit to be sold individually.
3. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on February 28, 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 15 (Minor Land Divisions), because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when: the division is in conformance with the General Plan and zoning; no variances or exceptions are required; all services and access to the proposed parcels are available; the parcel was not involved in a division of a larger parcel within the previous two years; and the parcel does not have an average slope greater than 20 percent. The proposed parcels are consistent with the land use and zoning designations, do not have a slope greater than 20 percent, and were not involved in the division of a larger parcel within two years. Therefore, the proposed parcel map is eligible for the Class 15 exemption.

### SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. A single-family residence has been demolished and new two-unit dwelling is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation (Two-Unit Residential).
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Orchid Avenue frontage, as needed, as well as the undergrounding of utilities, consistent with the Subdivision Code (Title 19).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a two-unit development because it is regular in shape.
2. The subject property is accessible from the alley at the rear and is adequately served by existing utilities.

Finding:

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

*considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. A single-family residence has been demolished and a new two-unit dwelling is currently under construction.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat on-site.
3. The project is categorically exempt under Section and 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 15 (Minor Land Divisions).

Finding:

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

Fact in Support of Finding:

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

Finding:

*E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Fact in Support of Finding:

1. The Public Works department has reviewed the proposed parcel map and determined that the design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development because no public easements are located on the property.

Finding:

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

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in a zoning district that permits residential uses.

Finding:

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

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a "land project" as previously defined in Section 11000.5 of the California Business and Professions Code because the project site does not contain 50 or more parcels of land.
2. The project is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

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



Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The future residential building will be designed to have wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Fact in Support of Finding:

1. The subject property is not located within the coastal zone.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2018-037, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of

Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 28<sup>TH</sup> DAY OF FEBRUARY, 2019.**



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Patrick Alford, Zoning Administrator

## **EXHIBIT “A”**

### **CONDITIONS OF APPROVAL**

#### **PLANNING**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from “duplex” to “condominium.” The development will not be considered condominiums until this permit is final. The building permit for the new construction shall not be final until after recordation of the parcel map.
3. 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 Tentative Parcel Map.
4. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 Subdivisions of the Newport Beach Municipal Code.
5. Prior to recordation of the Parcel Map, a park fee shall be assessed for one additional dwelling unit.
6. 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 Orchid St One, LLC Residential Condominiums including, but not limited to, Tentative Parcel Map NP2018-037 (PA2018-264). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys’ fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City’s costs, attorneys’ fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

#### **PUBLIC WORKS**

7. A parcel map shall be recorded. The Map shall be prepared on the California Coordinate System (North American Datum of 1983). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Sections 7-

9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**

8. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the Map shall tie the boundary of the Map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one-inch iron pipe with tag) shall be set on each lot corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
9. All improvements shall be constructed as required by Ordinance and the Public Works Department.
10. All damaged sidewalk panels, curb, gutter and street along the Orchid Avenue property frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department.
11. All existing overhead utilities shall be undergrounded.
12. No above-ground improvements shall be located within the rear alley setback.
13. All existing private improvements, including carriage walks, within the public right-of-way fronting the development site shall be removed.
14. New sod or low groundcovers of the type approved by the City shall be installed throughout the Orchid Avenue parkway fronting the development site.
15. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
16. An encroachment permit is required for all work activities within the public right-of-way.
17. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
18. The existing street tree shall be protected in place.
19. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

**BUILDING**

20. Plans must reflect all required fire-rated construction separation between units and between garages and carports with all fire-rated construction penetration requirements.
21. Separate water meters are required and fire sprinklers must be on separate risers from each meter.

## **RESOLUTION NO. ZA2019-023**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2018-039 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 423 AND 423 1/2 POINSETTIA AVENUE (PA2018-259)**

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

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Aha Development, with respect to property located at 423 and 423 ½ Poinsettia Avenue, and legally described as Lot 17, Block 442 of the Corona Del Mar Tract requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map for condominium purposes. No waivers of development standards are requested. A duplex has been demolished and a new duplex is currently under construction. No waivers of Title 19 (Subdivisions) are proposed. The Tentative Parcel Map would allow each unit to be sold individually.
3. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on February 28, 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 15 (Minor Land Divisions), because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The proposed parcels are consistent with the land use and zoning designations, do not have a slope greater than 20 percent, and were not involved in the division of a larger parcel within two years. Therefore, the proposed parcel map is eligible for the Class 15 exemption.

### SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. A duplex has been demolished and new two-unit dwelling is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation (Two-Unit Residential).
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Poinsettia Avenue frontage, as needed, as well as the undergrounding of utilities, consistent with the Subdivision Code (Title 19).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a two-unit development because it is regular in shape.
2. The subject property is accessible from Poinsettia Avenue and the alley in the rear, and is adequately served by existing utilities.

Finding:

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

*considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. A duplex has been demolished and a new two-unit dwelling is currently under construction.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat on-site.
3. The project is categorically exempt under Section and 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 15 (Minor Land Divisions).

Finding:

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

Fact in Support of Finding:

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

Finding:

*E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Fact in Support of Finding:

1. The Public Works department has reviewed the proposed parcel map and determined that the design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development because no public easements are located on the property.



Finding:

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

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in a zoning district that permits residential uses.

Finding:

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

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this Project site is not considered a “land project” as previously defined in Section 11000.5 of the California Business and Professions Code because the Project site does not contain 50 or more parcels of land.
2. The project is not located within a specific plan area.

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The residential building under construction has been designed to have wastewater discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Fact in Support of Finding:

1. The subject property is not located within the coastal zone.

## SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2018-039, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of

Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 28th DAY OF FEBRUARY, 2019.**



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Patrick Alford, Zoning Administrator

**EXHIBIT “A”****CONDITIONS OF APPROVAL**Planning

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from “duplex” to “condominium”. The development will not be condominiums until this permit is final. The building permit for the new construction shall not be final until after recordation of the parcel map.
3. 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 Tentative Parcel Map.
4. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 Subdivisions of the Newport Beach Municipal Code.
5. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney’s fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City’s approval of ADG Investments, LP Residential Condominiums including, but not limited to, Tentative Parcel Map NP2018-039 (PA2018-259). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys’ fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City’s costs, attorneys’ fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works

6. A Parcel Map shall be recorded. The map shall be prepared on the California coordinate system (North American Datum of 1983, NAD83). Prior to recordation of the map, the surveyor/engineer preparing the map shall submit to the County Surveyor and the City of Newport Beach, a digital-graphic file of said map in a manner described in Section -9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivisions Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City’s CADD Standards. Scanned images will not be accepted.**

7. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual Subarticle 18. Monuments (one inch iron pipe with tag) shall be set **on each lot corner** unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
8. All improvements shall be constructed as required by Ordinance and the Public Works Department.
9. All damaged sidewalk panels, curb, gutter, and street along the Poinsettia Avenue property frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department.
10. All existing overhead utilities shall be undergrounded.
11. No above ground improvements shall be permitted within the 5-foot rear alley setback.
12. New sod or low groundcovers of the type approved by the City, shall be installed throughout the Poinsettia Avenue parkway fronting the development site.
13. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
14. An encroachment permit is required for all work activities within the public right-of-way.
15. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
16. A new 36-inch box street tree shall be installed along the Poinsettia Avenue frontage. Tree species shall be per City Council Policy G-6.
17. In case of damage done to public improvements surrounding the development site by private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

## **RESOLUTION NO. ZA2019-024**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2018-038 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 516 AND 516 1/2 NARCISSUS AVENUE (PA2018-260)**

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

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Patterson Custom Homes, with respect to property located at 516 and 516 ½ Narcissus Avenue, and legally described as Lot 18, Block 541 of the Corona Del Mar Tract requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map for condominium purposes. No waivers of development standards are requested. A duplex has been demolished and a new duplex is currently under construction. No waivers of Title 19 (Subdivisions) are proposed. The Tentative Parcel Map would allow each unit to be sold individually.
3. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on February 28, 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 15 (Minor Land Divisions), because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The proposed parcels are consistent with the land use and zoning designations, do not have a slope greater than 20 percent, and were not involved in the division of a larger parcel within two years. Therefore, the proposed parcel map is eligible for the Class 15 exemption.

### SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. A duplex has been demolished and new two-unit dwelling is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation (Two-Unit Residential).
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Narcissus Avenue frontage, as needed, as well as the undergrounding of utilities, consistent with the Subdivision Code (Title 19).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a two-unit development because it is regular in shape.
2. The subject property is accessible from Narcissus Avenue and the alley in the rear, and is adequately served by existing utilities.

Finding:

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

*considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. A duplex has been demolished and a new two-unit dwelling is currently under construction.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat on-site.
3. The project is categorically exempt under Section and 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 15 (Minor Land Divisions).

Finding:

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

Fact in Support of Finding:

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

Finding:

*E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Fact in Support of Finding:

1. The Public Works department has reviewed the proposed parcel map and determined that the design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development because no public easements are located on the property.



Finding:

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

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in a zoning district that permits residential uses.

Finding:

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

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this Project site is not considered a “land project” as previously defined in Section 11000.5 of the California Business and Professions Code because the Project site does not contain 50 or more parcels of land.
2. The project is not located within a specific plan area.

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The residential building under construction has been designed to have wastewater discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Fact in Support of Finding:

1. The subject property is not located within the coastal zone.

**SECTION 4. DECISION.**

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2018-038, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of

Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 28th DAY OF FEBRUARY, 2019.**



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Patrick Alford, Zoning Administrator

## EXHIBIT "A"

### CONDITIONS OF APPROVAL

#### Planning

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium". The development will not be condominiums until this permit is final. The building permit for the new construction shall not be final until after recordation of the parcel map.
3. 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 Tentative Parcel Map.
4. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 Subdivisions of the Newport Beach Municipal Code.
5. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of 516 Narcissus, LLC Residential Condominiums including, but not limited to, Tentative Parcel Map NP2018-038 (PA2018-260). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

#### Public Works

6. A Parcel Map shall be recorded. The map shall be prepared on the California coordinate system (North American Datum of 1983, NAD83). Prior to recordation of the map, the surveyor/engineer preparing the map shall submit to the County Surveyor and the City of Newport Beach, a digital-graphic file of said map in a manner described in Section -9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivisions Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**

7. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual Subarticle 18. Monuments (one inch iron pipe with tag) shall be set **on each lot corner** unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
8. All improvements shall be constructed as required by Ordinance and the Public Works Department.
9. All damaged sidewalk panels, curb, gutter, and street along the Narcissus Avenue property frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department.
10. All existing overhead utilities shall be undergrounded.
11. No above ground improvements shall be permitted within the 5-foot rear alley setback.
12. New sod or low groundcovers of the type approved by the City, shall be installed throughout the Narcissus Avenue parkway fronting the development site.
13. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
14. An encroachment permit is required for all work activities within the public right-of-way.
15. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
16. A new 36-inch box street tree shall be installed along the Narcissus Avenue frontage. Tree species shall be per City Council Policy G-6.
17. In case of damage done to public improvements surrounding the development site by private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

## **RESOLUTION NO. ZA2019-025**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. COASTAL DEVELOPMENT PERMIT NO. CD2018-073 TO DEMOLISH TWO MULTI-FAMILY STRUCTURES CONTAINING FIVE UNITS LOCATED AT 400 SOUTH BAY FRONT, UNITS 1, 2, 3, 4 AND 5 (PA2018-170)**

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

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Caitlin Smith of Brandon Architects, with respect to property located at 400 South Bay Front, Units 1, 2, 3, 4 and 5, requesting approval of a coastal development permit.
2. The lot at 400 South Bay Front is legally described as Parcel 1 of Parcel Map No. 83-710.
3. The applicant requests a coastal development permit to demolish two existing multi-unit structures containing a total of five units.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-BI (Balboa Island) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two Unit Residential - 30-39.9 DU/AC) and it is located within the R-BI (Balboa Island) Coastal Zone District.
6. On February 8, 2019, the Community Development Director approved Staff Approval No. SA2019-001 (PA2018-170) finding the demolition of five units within two structures is in compliance with the Zoning Code Chapter 20.34 and Local Coastal Program Implementation Plan Chapter 21.34 (Conversion or Demolition of Affordable Housing). The staff approval concluded that there will be no conversion of residential to nonresidential uses, and none of the units are and/or were occupied by low-and moderate-income families or persons.
7. A public hearing was held on February 28, 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 15301, Article 19 of Chapter 3, Guidelines for Implementation of the

California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities), because it has no potential to have a significant effect on the environment.

2. Class 1 (Existing Facilities) exempts the demolition of up to six dwelling units, where the project includes the demolition of five units within two structures.

### SECTION 3. REQUIRED FINDINGS.

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

#### Finding:

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

#### Facts in Support of Finding:

1. The subject property currently contains two structures with a total of five units. No new construction is currently proposed.
2. The coastal development permit is for a property located within a developed neighborhood on the shoreline of Newport Bay. The project design addresses water quality with a demolition plan that includes erosion control measures designed to retain dry weather run-off and minor rain event run-off on-site. Any water not retained on site is directed to the City's storm drain system.
3. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies.
4. This coastal development permit does not include the construction of any new structures. Subsequent construction of new residential structures will require the approval of a separate coastal development permit. In the future, the applicant may also apply for a parcel map to revert the parcel into two lots, consistent with the original subdivision design of Balboa Island. This coastal development permit does not include the approval of a parcel map, and any future parcel map would require approval of a separate coastal development permit.

#### Finding:

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

#### Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. NBMC 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 involves demolition of five units within two residential structures and is considered legal non-conforming because the density exceeds the maximum allowed in this zone. Future construction would be required to comply with the maximum density of the zone, resulting in fewer units on the property. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. All demolition activities would occur within the project site, and conditions are included to ensure demolition materials are stored onsite. Thus, public access along the boardwalk and Pearl Avenue would not be impacted by the project.
3. The existing building encroaches into the rear and side setbacks, whereas any future structures would be required to comply with the minimum setbacks. This could produce potential opportunities for enhanced views from adjacent public streets. Therefore, the proposed demolition project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views.

#### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-073, 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 28<sup>TH</sup> DAY OF FEBRUARY, 2019.**



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Patrick J. Alford, Zoning Administrator



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

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. 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.
3. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
4. This Coastal Development Permit does not authorize any development.
5. 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.
6. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Demolition Plan.
7. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

8. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sides, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
9. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
10. Revisions to the approved plans may require an amendment to this coastal development permit or the processing of a new coastal development permit.
11. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
12. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
13. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
14. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
15. Prior to 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.
16. 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.
17. 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.
18. This Coastal Development Permit No. CD2018-073 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.
19. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of

action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Calacci Residential Demolition including, but not limited to, Coastal Development Permit No. CD2018-073 (PA2018-170). 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. ZA2019-026**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-104 TO DEMOLISH AN EXISTING RESIDENTIAL TRIPLEX AND CONSTRUCT A NEW THREE-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED TWO-CAR GARAGE LOCATED AT 914 EAST OCEAN FRONT, UNITS A, B AND C (PA2018-248)**

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

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by R.A. Jeheber Residential Design, Inc., with respect to property located at 914 East Ocean Front, Units A, B and C, requesting approval of a coastal development permit.
2. The lot at 914 East Ocean Front is legally described as Lot 22 in Block 14 of Balboa Tract (excepting alley dedication).
3. The applicant proposes to demolish an existing residential triplex and construct a new three-story single-family residence with attached two-car garage totaling 3,102 square feet. The design includes hardscape, walls, and drainage facilities. The project complies with all development standards and no deviations are requested.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-D (Two-Unit Residential – 20.0-29.9 DU/AC) and it is located within the R-2 (Two-Unit Residential) Coastal Zoning District.
6. On February 8, 2019, the Community Development Director approved Staff Approval No. SA2019-002 (PA2019-018) finding the demolition of three residential units is in compliance with the Zoning Code Chapter 20.34 and Local Coastal Program Implementation Plan Chapter 21.34 (Conversion or Demolition of Affordable Housing). The staff approval concluded that there will be no conversion of residential to nonresidential uses, and none of the units are and/or were occupied by low- and moderate-income families or persons.
7. A public hearing was held on February 28, 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 13503, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of residential triplex and the construction of a new 2,618-square-foot single-family residence and attached 484-square-foot 2-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015(F) (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 3,338 square feet and the proposed floor area is 3,102 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 6 feet along the front property line abutting East Ocean Front, 3 feet along each side property line and 0 feet along the rear property line abutting the alley. Portions of the existing residence that currently encroach approximately 13 feet into the alley dedication area at the rear will be demolished and the structure will be modified for conformance with the current property lines.
  - c. The highest guardrail is less than 24 feet from established grade (12.25 feet North American Vertical Datum of 1988 [NAVD88]) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.

- d. The project includes garage parking for a total of two vehicles, complying with the minimum two-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two story, single-family and two-unit residences. There are scattered three-story residences as well. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
3. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by GeoSoils, Inc., dated February 14, 2019 for the project. The report concludes that the proposed project is reasonably safe from the shoreline erosion due to lack of wave or wakes that can erode sand from the beach. The report also concludes that the project will be reasonably safe from future sea level rise assuming an increase up to 10.1 feet NAVD88 (the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). The finished floor elevation of the first floor of the proposed structure is 12.5 feet (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures and exceeds the minimum requirements for sea level rise (10.1 feet NAVD88).
4. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
5. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
6. The property is located adjacent to Peninsula Park and the beach. The subject site is approximately 560 feet from the ocean. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.

7. Proposed landscaping complies with NBMC 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. In 2015, the subject property dedicated 15 feet of their property to the City for the purpose of constructing an alley at the rear of the site. Several other properties along this stretch have also provided dedications to allow a complete alley between A and B Streets to be constructed in the future. Specifically, the adjacent property between the subject site and the existing improved alley (912 East Ocean Front) provided an alley dedication in 2013. However, the subject site is still inaccessible from the alley due to the existing structure in the alley dedication area. Nonetheless, in anticipation of planned alley access in the future, the project's garage has been designed and sited to comply with the expected alley design. The Public Works Department has reviewed the preliminary garage design and found it acceptable.

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. NBMC 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 legal non-conforming triplex located on a standard R-2 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 (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. Vertical access to the beach is available near the site along A and B streets. Lateral access is available on the beach and the boardwalk adjacent to the site on East Ocean Front.
3. During construction, any construction personnel will be required to utilize private property for staging and no materials can be stored off-site in the public right-of-way (including the boardwalk). The project does not include any features that would obstruct access along these routes. To ensure there are no impacts to public access, the project has been conditioned to require the submission of a construction management plan, reviewed and approved by the Public Works Department, demonstrating the applicant will have sufficient and guaranteed access to the site through private property. Said plan shall also include any areas necessary for storage of construction equipment and materials.

4. The project site is located adjacent to and immediately south of Peninsula Park, which is a designated public viewpoint in the Coastal Land Use Plan and offers public views of the beach and the ocean.
5. Site evaluation (per Section 21.30.100 of the NBMC) revealed that the proposed three-story design is consistent with the existing neighborhood pattern of development for one- and two-unit dwellings, and will not affect the existing views afforded from Peninsula Park. The project will replace an existing nonconforming triplex with a new single-family home that complies with all applicable development standards, including the third floor design requirements that restrict square footage on the third floor in terms of size and location. There are no views currently through the project site, as it is developed with an existing two-story triplex. The public viewpoint is intended to provide views of the ocean and beach.
6. Opportunities to enhance the visual quality of the coastal zone were also reviewed. The front of the proposed residence, which is visible from the boardwalk and Peninsula Park, will contain substantial architectural treatment and visual interest, in keeping with the design guidelines of the Zoning Code. The new structure would comply with required setbacks, and provide an additional setback along the front of the property beyond what is required by code. The design includes modulation of volume throughout the structure and low walls that prevent the appearance of the site being walled off from the park and streets. Lastly, the project would not utilize the maximum square footage allowed for the Zoning District. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views.

#### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-104, 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 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 28<sup>TH</sup> DAY OF FEBRUARY, 2019.**





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Patrick J. Alford, Zoning Administrator

**EXHIBIT “A”****CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to final building permit inspection, 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. The letter shall be scanned into the plan set prior to building permit issuance.
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. No demolition or construction materials shall be stored on the boardwalk area or other public property.
5. Prior to the issuance of a building permit, the applicant shall submit a construction management plan, reviewed and approved by the Public Works Department, demonstrating the applicant will have sufficient and guaranteed access to the site through private property and will not impact public access. Said plan shall also indicate areas for the storage of construction equipment and materials.
6. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
7. This Coastal Development Permit does not authorize any development seaward of the private property.
8. The applicant is responsible for compliance with the Migratory Bird Treaty Act. In compliance with the (MBTA), grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31,

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

- A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
- 9. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
  - 10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
  - 11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
  - 12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
  - 13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
  - 14. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
  - 15. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
  - 16. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being

operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

17. Prior to the issuance of 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.
18. 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.
19. Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
20. Prior to the issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
21. Prior to 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.
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. 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.
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 the current property owner or agent.
25. This Coastal Development Permit No. CD2018-104 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.

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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 Ataii Residence including, but not limited to, Coastal Development Permit No. CD2018-104 (PA2018-248). 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. ZA2019-027

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COMPREHENSIVE SIGN PROGRAM NO. CS2018-007 AND MODIFICATION PERMIT NO. MD2018-008 FOR AN INCREASE IN SIGN NUMBER AND SIZE OF MONUMENT SIGNS LOCATED AT 1 BAYWOOD DRIVE (PA2018-244)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Irvine Company Apartment Redevelopment and Reinvestment with respect to property located at 1 Baywood Drive and legally described as Parcel 1 and Parcel 2 of Parcel Map No. 84-705 requesting approval of a comprehensive sign program and a modification permit.
2. The applicant proposes a comprehensive sign program and a modification permit to authorize signage for the Baywood Apartments. The applicant is seeking the following deviations from PC-3 (Harbor View Hills) Planned Community Text and from Chapter 20.42 (Sign Standards) of the Zoning Code (as applicable):

#### *Comprehensive Sign Program*

- a) Allow two monument signs per frontage, where one is allowed per frontage;
- b) Allow more than three signs on one site;
- c) Allow for varied signage types such as leasing directional signs (Sign Type 4);

#### *Modification Permit*

- d) Allow a height increase for monument signs up to seven feet maximum, where four feet is allowed (75% increase); and
  - e) Allow an increase in area greater than 30% for two monument signs (65% and 74% area increase per sign, respectively)
3. The subject property is designated Multiple-Unit Residential (RM) by the General Plan Land Use Element and is located within the Harbor View Hills Planned Community (PC-3) Zoning District.
  4. A public hearing was held on February 28, 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 exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15311 under Class 11 (Accessory Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. Class 11 consists of construction or placement of minor structures accessory to existing commercial, industrial, or institutional facilities including on-premise signs.
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.*****Comprehensive Sign Program***

The Comprehensive Sign Program shall comply with the standards of the Zoning Code, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs. The proposed Comprehensive Sign Program is required based on the size, type, and number of signs proposed onsite. In accordance with Section 20.42.120 (Comprehensive Sign Program Standards) of the Newport Beach Municipal Code (NBMC), the following standards and facts in support of such standards are set forth:

**Standard:**

- A. *The proposed sign program shall comply with the purpose and intent of this Chapter [Chapter 20.42], any adopted sign design guidelines and the overall purpose and intent of this Section [Section 20.42.120].*

**Facts in Support of Standard:**

1. The purpose of a comprehensive sign program is to integrate all of a project's signs. A comprehensive sign program provides a means for the flexible application of sign regulations for projects that require multiple signs in order to provide incentive and latitude in the design and display of signs, and to achieve, not circumvent, the purpose of NBMC Chapter 20.42 and the PC-3 Planned Community Text.
2. The proposed Comprehensive Sign Program complies with the purpose and intent of NBMC Chapter 20.42 (Sign Standards) because it provides Baywood Apartments with adequate identification while guarding against excessive sign proliferation. The apartment is a large property with 30-year-old monument signs, which necessitates

replacement and larger signage at the property entrance on San Miguel Drive and the backside of the property along San Joaquin Hills Road. The signage is proportionate to the size of the 388-unit apartment complex and the large roadways adjacent to the site.

3. The Comprehensive Sign Program is consistent with the Citywide Sign Design Guidelines because the proposed signs are designed to be compatible with the building design in terms of scale, size, and materials. The proposed signs are designed to effectively identify the apartment property without creating sign clutter through the use of legible text that contrasts with the background. The entry to the apartments, the corner of San Miguel and San Joaquin Hills Road, and on San Joaquin Hills Road where the larger monument signs are proposed provides identification along San Miguel Drive, which is the intent of the Zoning Code for residential communities. The placement and size of the signs do not dominate, but rather are consistent with the proportions of the street frontages on which they are located. The proposed signage is adequately spaced so as to prevent large clusters of signage and appear less obtrusive to neighboring motorists and pedestrians.

Standard:

- B. *The proposed signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign Program, to the structures and/or developments they identify, and to surrounding development when applicable.*

Facts in Support of Standard:

1. The number and location of signs will not contribute to an overabundance of signage that will have a detrimental effect on the neighborhood. The monument signs provide entry and location identification from San Joaquin Hills Road and San Miguel Drive but are not overly visible from the surrounding commercial and residential areas, as well as Harbor View Nature Park. The proposed leasing directional sign along MacArthur will be tall and slim, in keeping with the existing landscaped trees along this frontage.
2. Considering the combined frontage length of over 4,000 feet, the combined 178 square feet of monument signage will not create a negative impact on pedestrians or motorists in the vicinity.
3. The subject site is substantial, occupying approximately 28 acres, larger than most of the apartment complexes in the City. The site also has three frontages, with the primary frontage along San Joaquin Hills Road (Major Road – Six Lane Divided) and a secondary frontage along San Miguel Drive (Primary Road – Four Lane Divided). The project also fronts MacArthur Boulevard (Major Road – Six Lane Divided). All of these roadways are large and experience a high volume of vehicles traveling at high speeds. The signs would be proportionate and relate to the structures onsite and the development as a whole.



4. The three monument signs are similar in design scheme, thereby promoting continuity and consistency in signage onsite. The number and location of signs will not contribute to an overabundance of signage that will have a detrimental effect on the neighborhood.
5. All proposed signage will integrate well with the character and architectural style of the building by maintaining consistency in location, sign height, and materials across the street frontages.

Standard:

- C. *The sign program shall address all signs, including permanent, temporary, and exempt signs.*

Fact in Support of Standard:

1. The sign program includes all project signage. Temporary and exempt signs not specifically addressed in the program shall be regulated by the provisions of NBMC Chapter 20.42.

Standard:

- D. *The sign program shall accommodate future revisions that may be required because of changes in use or tenants.*

Facts in Support of Standard:

1. The Comprehensive Sign Program establishes allowed type, number, location, and area of signage with flexibility to accommodate future design-related remodels or new occupants.
2. It is not anticipated that future revisions to the Comprehensive Sign Program will be necessary to accommodate changes in occupants or owners. However, the Community Development Director may approve minor revisions to the Comprehensive Sign Program if the intent of the original approval is not affected.

Standard:

- E. *The program shall comply with the standards of this Chapter, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter.*

Facts in Support of Standard:

1. The approval conforms to the intent of NBMC Chapter 20.42, and enhances the overall development by integrating the signage in appropriate locations and scale to the long street frontages (an approximately 1,450-foot frontage on MacArthur Blvd, an approximately 1,000-foot frontage on San Joaquin Hills Road, and an approximately 1,600-foot frontage on San Miguel Drive).
2. The proposed Comprehensive Sign Program is consistent with Chapter 20.42, and is being processed concurrently with a modification permit consistent with Zoning Code Section 20.52.050 to allow the sign area and length of the monument signs to be larger than the standard Zoning Code limitations in order to increase the visibility of the signs and allow signage that is proportionately scaled to the site and large roadways near the site.
3. A modification permit is required to allow additional height and area for the identification monument sign on San Joaquin Hills Road and the identification monument sign on San Miguel Drive at the corner of San Joaquin Hills Road. The modification permit findings are addressed in the modification permit section below. The monument sign on San Miguel Drive at the Baywood entrance does not require a modification permit, but does require approval of a sign program because it is the second monument sign on a single frontage (San Miguel Drive).
4. The approval also enhances the overall development by integrating all of the project's signs with the overall site and structure design into a unified architectural statement. The Comprehensive Sign Program establishes signage for the entire apartment complex including identifying the community without an overabundance of signage that could impact the surrounding area or create hazards. The site is large and the leasing office is located towards the rear of the property. Therefore, additional requested signage within the interior of the site is necessary to guide visitors to the leasing office.
6. The Comprehensive Sign Program allows for the provision of additional signs on site. The apartment complex contains 388 units, which creates challenges in locating specific buildings and apartment units. The additional addressing signage will assist visitors, delivery services, and emergency personnel in locating specific units.

Standard:

- F. *The Approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter [Chapter 20.42].*

Facts in Support of Standard:

1. The Comprehensive Sign Program does not authorize the use of prohibited signs.

Standard:

- G. *Review and approval of a Comprehensive Sign Program shall not consider the signs' proposed message content.*

Facts in Support of Standard:

1. The content of the signs was not considered and the proposed Comprehensive Sign Program does not contain any regulations regarding sign message content.

***Modification Permit***

Pursuant to Section 20.42.110 of the Newport Beach Municipal Code, deviations in sign height greater than 20 percent and sign area greater than 30 percent are subject to the approval of a modification permit. In accordance with Section 20.52.050 (Modification Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The subject property is located in PC-3 (Harbor View Hills). The increase in the areas and heights of the monument signs along San Joaquin Hills Road and San Miguel Drive are compatible with the existing development in the neighborhood because the larger monument signs are consistent with the scale of the property and do not create noticeable impacts due to the long frontage along both of these roads. The location of these monuments at the corner of San Joaquin Hills Road and the corner of San Miguel Drive and San Joaquin Hills Road maintains the integrity of the residential property.
2. The increase in area and height for the monument signs on San Joaquin Hills Road and the corner of San Joaquin Hills Road and San Miguel Drive allows for a more visible design compatible with their locations. The proposed monument signs are adequately spaced, thereby preventing sign clutter along the frontages. The property has an approximately 1,450-foot frontage on MacArthur Blvd. an approximately 1,000-foot frontage on San Joaquin Hills Road, and an approximately 1,600-foot frontage on San Miguel Drive. The increase in area and length allows for increased visibility while still meeting the intent of residential community signage.
3. An identification monument of similar size (6 feet high by 12 feet wide) is located on the opposite corner (San Joaquin Hills Road and San Miguel) at the Harbor View Shopping Center. Additionally, there is a large monument sign at the corner of MacArthur Boulevard and San Joaquin Hills Road that provides directional signage for the Fashion Island area. The associated sign program allows for

signage up to 15 feet high and 15 feet wide. Therefore, the two proposed seven-foot high (and up to 12 feet wide) signs requiring modification permits would not look out of character with other monument signs in the vicinity.

Finding:

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

Facts in Support of Finding:

1. The monument signs on San Joaquin Hills Road and San Miguel Drive provide clear identification of the entrance and the apartment complex from San Miguel Drive.
2. The proposed monument signs are necessary to increase the visibility of the entrance and the location of the apartments from San Joaquin Hills Road and San Miguel Drive. The existing locations of the monument signs near the entrances of the property meet the intent of PC-3 and the Zoning Code for residential communities, which is to maintain the integrity of the residential community without an over-concentration of signage or commercial type signage. The intent is to provide signage near entrances and ample internal signage for navigation once on the property.

Finding:

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

Facts in Support of Finding:

1. The purpose and intent of the sign regulations is to provide users adequate identification while preserving and enhancing the community's appearance. The regulation of sign size is to ensure that signage does not overwhelm a property and create clutter. The proposed increase in the maximum area and height will be appropriately scaled to the entrance and size of the property along San Joaquin Hills Road and San Miguel Drive. The regulation of the area and height of monument signs is also to prevent the freestanding signs from overtaking a frontage and impacting visibility. The Planned Community (PC-3) limits signage to 4 feet high and 35 square feet in area, which is small considering the size of the frontages and 388-unit, 28-acre apartment complex. The proposed increase in the area and height of the monument signs will not inhibit visibility and is still proportioned to the street frontages they are located on.
2. The proposed increase in the maximum area and height of the monuments does not interfere with the purpose and intent of the Zoning Code as it provides for

adequate identification of the site while guarding against the excessive and confusing proliferation of signs. The increase in size addresses the practical difficulty of reduced visibility for motorists that are trying to find the apartment complex from San Joaquin Hills Road and San Miguel Drive.

Finding:

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

Facts in Support of Finding:

1. The requested increase in the size of the monument signs is in scale and similarly placed as other signs in the surrounding area and will not be detrimental to surrounding owners and occupants, the neighborhood, or the general public.
2. Due to the layout of the apartment property, the size of the monument signs is necessary to provide identification for the subject property while providing signage that meets the intent of the Zoning Code for residential communities. Maintaining the existing number of monument signs along San Joaquin Hills Road and San Miguel Drive and allowing the existing monuments to increase in size preserves the residential community while increasing visibility of access to the apartment complex. The strict application of the Zoning Code would result in smaller signage that is out of scale with the long street frontages and massive site.

Finding:

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

Facts in Support of Finding:

1. This approval will allow for an increase in the size of the existing monument signs, but will not result in a change in intensity or density of the existing apartments.
2. The size of the signs is within the scale and proportionate to the large property. The subject property fronts large roadways and the signs are primarily oriented to be visible to the nearby commercial areas and streets. The signs will not be overly visible from any of the residential neighborhoods in the area and will not adversely affect or be detrimental to persons, property, or improvements in the surrounding neighborhood.
3. Compliance with the Municipal Code and the attached conditions of approval is required and will further ensure that the proposed use will not be detrimental.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Comprehensive Sign Program No. CS2018-007 and Modification Permit No. MD2018-008 subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 28<sup>TH</sup> DAY OF FEBRUARY, 2019.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT “A”****CONDITIONS OF APPROVAL****PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Comprehensive Sign Program and Modification Permit.
4. A building permit shall be obtained prior to commencement of installation of the signs.
5. All illuminated signs shall be illuminated in accordance with the provisions of Section 20.42.060.H of the Newport Beach Municipal Code.
6. This Comprehensive Sign Program and Modification Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. A copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
8. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
9. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
10. 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 Baywood Apartments Signage including, but not limited to, Comprehensive Sign Program No. CS2018-007 and Modification Permit No. MD2018-008 (PA2018-244). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**PUBLIC WORKS**

11. All signage shall be installed outside the limited use area on private property pursuant to City Standard STD-110-L.
12. Leasing directional signs and pole, including foundations, shall be located entirely on private property.