



**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 15, 2019.

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**ZONING ADMINISTRATOR ACTIONS  
MARCH 14, 2019**

Item 1: Lido Sands Recreation Area Coastal Development Permit No. CD2018-106 (PA2018-247)  
Site Address: 4700 Lido Sands Drive

Action: Approved by Resolution No. ZA2019-028 Council District 1

Item 2: CopleyWest Minor Use Permit No. UP2018-024 (PA2018-282)  
Site Address: 1620 Monrovia Avenue

Action: Approved by Resolution No. ZA2019-029 Council District 2

**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. ZA2019-028

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-106 TO DEMOLISH AN EXISTING CLUBHOUSE AND CONSTRUCT A NEW SINGLE-STORY CLUBHOUSE TO SERVE THE LIDO SANDS COMMUNITY AT 4700 LIDO SANDS DRIVE (PA2018-247)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Fulsang Architecture, Inc. ("Applicant"), on behalf of Lido Sands Community Association ("Owner"), with respect to property located at 4700 Lido Sands Drive, requesting approval of a coastal development permit.
2. The property is legally described as Lot 83 of Tract 3162 in Newport Beach.
3. The applicant proposed a coastal development permit for the demolition of an existing 311-square-foot clubhouse, the construction of a new, 1,150-square-foot, single-story clubhouse and the modification of an existing swimming pool to serve the Lido Sands Community Association. The development also includes hardscape, drainage, accessory structures, and landscaping. The proposed development complies with all applicable development standards including height, setbacks and floor area limits. No deviations are requested.
4. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-B (Single-Unit Residential Detached – 6.0-9.9 DU/AC) and the property is located within the R-1 (Single-Unit Residential) Coastal Zone District.
6. A public hearing was held on March 14, 2019, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to and considered by the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or

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

2. Class 3 exempts the construction and location of limited numbers of new, small facilities or structures including accessory structures to serve residential dwellings in a residential zone. The proposed project consists of the demolition of an existing 311-square-foot clubhouse, the construction of a new, 1,150-square-foot, single-story clubhouse and the modification of an existing swimming pool to serve the Lido Sands Community Association.

### 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 36,296 square feet and the proposed gross floor area is 1,150 square feet.
  - b. The proposed development will provide the minimum required setbacks, which are 20 feet along the front property line abutting River Avenue, four feet along each side property line, and 10 feet along the rear property line.
  - c. The highest flat roof is no more than 24 feet, measured from the established grade level of 9.01 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 accessory structures only to serve the nearby Lido Sands Community and does not require off-street parking.
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. The finished floor elevation of the first floor of the proposed structure is 9.0 feet (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures.
4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and the CBC prior to building permit issuance.
5. 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.
6. The project design addresses water quality with a construction erosion control plan that outlines temporary Best Management Practices (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.
7. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant plants 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.

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 recreation area 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 recreation area with a new recreation area. 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.
3. The project site is not located adjacent to a coastal view road or public viewpoint as identified in the Coastal Land Use Plan. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing recreation area with a new recreation area that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing and anticipated neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

#### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-106, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 14<sup>TH</sup> DAY OF MARCH, 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. CD2018-106 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this coastal development permit.
6. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. 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.
9. Prior to issuance of building permits, a copy of the Resolution, including Conditions of Approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans.
10. 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.

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11. 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.
  12. 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.
  13. 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.
  14. 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.
  15. 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.
  16. 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.
  17. 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.
  18. 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.
  19. 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.
  20. 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

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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.
21. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the City's approval of Lido Sands Recreation Area Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2018-106 (PA2018-247). 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. ZA2019-029

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2018-024 FOR VEHICLE SALES AND STORAGE LOCATED AT 1620 MONROVIA AVENUE (PA2018-282)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by CopleyWest Corporation (“Applicant”), with respect to property located at 1620 Monrovia Avenue, legally described as the north 60.00 feet of the west 250.00 feet of Lot 912 of the Newport Mesa Tract, in the City of Newport Beach, County of Orange, State of California, Recorded in Book 5, Page 1 of the Miscellaneous Maps, in the Office of the County Recorder of said County, requesting approval of a minor use permit.
2. The applicant proposes to operate a vehicle sales and storage facility within an existing commercial office building. No vehicle repair or maintenance will occur at the site.
3. The subject property is designated Industrial (IG) by the General Plan Land Use Element and is located within the Industrial (IG) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on March 14, 2019, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. This Section exempts the construction and location of limited numbers of new, small facilities or structures (up to 10,000 square feet in area) and the conversion of existing small structures from one use to another where only minor modifications are made to the interior or exterior of the structure. The project involves the conversion of an existing commercial office tenant space (7,200 square feet) to a vehicle sales and storage operation. The scope of work thus complies with the thresholds identified under the Class 3 exemption.

### SECTION 3. REQUIRED FINDINGS.

In accordance with [NBMC Subsection 20.52.020.F \(Use Permit, Required Findings\)](#), the following findings and facts in support of such findings are set forth:

#### Finding:

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

#### Facts in Support of Finding:

1. The General Plan Land Use Designation for this site is Industrial (IG). This IG designation is generally found for properties located within the West Newport Mesa Area, east of Banning Ranch. A variety of industrial manufacturing and supporting retail uses are located within this area. The proposed vehicle sales and storage operation does not include on-site maintenance or repair facilities. In addition, the size and design of project is similar to a retail land use, consistent with the IG Zoning District and IG Land Use designations.
2. The proposed project application will not result in an increase in floor area and the project is consistent with the Land Use Element development limitations. The existing commercial office building is 7,200 square feet and the subject property is 15,000 square feet resulting in a floor area ratio (FAR) of 0.48, which is consistent with the 0.75 FAR maximum for the site
3. The subject property is not part of a specific plan area.

#### Finding:

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

#### Facts in Support of Finding:

1. The property is located in the Industrial (IG) Zoning District. This district intends to provide for areas appropriate for a wide range of moderate- to low-intensity industrial uses (such as light manufacturing and research and development) and limited accessory and commercial office uses. The proposed vehicle sales and storage use, which does not include vehicle repair or maintenance, is a permitted use, subject to the approval of a minor use permit pursuant to [NBMC Chapter 20.24 \(Industrial Zoning District \(IG\)\)](#).
2. The existing building is nonconforming due to a zero side setback adjacent to the north property line where the Zoning Code requires a minimum 10-foot side setback adjacent to nonindustrial zoning districts. The project scope does not include any physical improvements to the building that would result in increased floor area, height, or permanent structures onsite. The proposed vehicle sales and storage use

complies with all applicable parking and development standards, including landscaping, building height, floor area ratio, and front and rear setbacks.

3. The proposed use would conform to the parking standards specified in [NBMC Section 20.40.040 \(Off-Street Parking Spaces Required\)](#). The minimum parking requirement for Vehicles Sales (General) is one space per 1,000 square feet of lot area. The property measures approximately 15,000 square feet in area. The project includes an aggregate of 19 parking spaces, inclusive of one handicapped space. As conditioned, employees at the site will park on-site and vehicles displayed outside the interior automotive collection display area will not inhibit customer parking availability.

Finding:

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

Facts in Support of Finding:

1. The location of the proposed use is appropriate given that the establishment will be accessible from Monrovia Avenue, which provides convenient access for customers visiting the site from the City and greater region.
2. A variety of industrial and commercial uses are located along Monrovia Avenue, such as warehousing, fitness facilities, offices, retail, and vehicle-related uses. The proposed use would be complementary to the surrounding automotive businesses and other commercial uses. To help ensure the use remains compatible with those in the vicinity, including the congregate care facility to the north, the proposed project includes conditions of approval to prohibit the more intense operations associated with vehicle sales and storage, such as maintenance, repair, and installation of related equipment and parts.
3. The existing commercial building on-site is 7,200 square feet in area. The proposed floor plan includes a showroom, office/lounge area, supplies closet, and restroom. The use would be a small-scale vehicle sales and storage facility that would be compatible with other allowed uses in the vicinity.
4. As conditioned, the allowed hours of operation for the proposed project shall be limited between 8 a.m. to 8 p.m. daily, which will minimize any disturbance to properties in the vicinity.
5. The project has been conditioned to rehabilitate the planter area within the front setback with new landscaping designed and maintained to screen cars from the street's view.

Finding:

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

Facts in Support of Finding:

1. The vehicle sales and storage use with a showroom and office/lounge space is similar to retail and office uses. The design, size, location, and operating characteristics of the use are compatible with the surrounding industrial and commercial land uses.
2. Adequate public and emergency vehicle access, public services, and utilities are provided to the subject property. Any additional utility upgrades or safety requirements specific to the display of motor vehicles will be required at plan check. The site is sufficient to accommodate vehicle loading on-site.
3. The proposed project is conditioned to prohibit the more intense operations associated with vehicle sales and storage and is therefore suitable to occupy the existing commercial tenant space.
4. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. The project will comply with all ordinances of the City and all conditions of approval.

Finding:

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

Facts in Support of Finding:

1. The proposed use would be limited to the sale and storage of vehicles only, with no maintenance or repair of vehicles on-site
2. Conditions of approval are incorporated to regulate deliveries, the prohibition of vehicle repair and maintenance, trash receptacle requirements, excessive signage, among others, to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the customers of the establishment.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves UP2018-024, 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 14 DAY OF MARCH, 2019.**



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Patrick J. Alford, Zoning Administrator

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

*(Project-specific conditions are in italics)*

**PLANNING DIVISION CONDITIONS**

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. *All proposed signs shall be in conformance provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.*
3. *Delivery, including unloading and loading of vehicles, must be done on-site. No deliveries shall occur in the public right-of-way.*
4. *The use of banners, pennants, balloons, windshield signs, moving signs, or flashing or animated electrical signs is prohibited*
5. *Use of the building shall be limited to motor vehicle sales and storage only. No motor vehicle repair or service is permitted on-site.*
6. *The hours of operation for the site shall be limited to 8 a.m. through 8 p.m., daily.*
7. *Discharge of waste material or paint products into the storm drain system shall be prohibited. Used oil, lubricants, and other hazardous or toxic materials shall be properly stored and collected within the vehicle service buildings. Provisions shall be made for the appropriate collection, storage, and disposal of used oil, lubricants and other hazardous or toxic materials in applicable law.*
8. *Employees shall park on-site and vehicles displayed outside the interior automotive collection display area shall not inhibit customer parking availability. All vehicles parked on-site shall be operable; no wrecked vehicles are permitted.*
9. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
10. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
11. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property

or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

12. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new use permit.
13. 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.
14. *The existing over-height, unpermitted gate and fence in the front setback area shall be removed.*
15. *The applicant shall rehabilitate the area in the front setback with landscaping designed and maintained to screen cars from the street's view. Screening materials may include a combination of plant materials, earth berms, raised planters, and low walls maintained at approximately thirty-six (36) inches in height. This landscape shall incorporate drought-tolerant plantings and water-efficient irrigation practices, and the plans shall be approved by the Planning Division.*
16. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
17. Lighting shall be in compliance with applicable standards of the Zoning Code. Exterior on-site lighting shall be shielded and confined within site boundaries. No direct rays or glare are permitted to create a public nuisance or shine onto public streets, adjacent sites and residences above. "Walpak" type fixtures are not permitted.
18. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources, the Director may order the dimming of light sources or other remediation.
19. 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.
20. All noise generated by the proposed use shall comply with the provisions of [Chapter 10.26 \(Community Noise Control\)](#) and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

21. *Minor Use Permit No. UP2018-024 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
22. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
23. Construction activities shall comply with [NBMC Section 10.28.040 \(Loud and Unreasonable Noise\)](#), which restricts hours of noise-generating construction activities to between the hours of 7:00 a.m. and 6:30 p.m. Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
24. No outside paging system shall be utilized in conjunction with this establishment.
25. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
26. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
27. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
28. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including water quality-related requirements).



29. *Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.*
30. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure and display vehicles.
31. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
32. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the City's approval of CopleyWest Minor Use Permit including, but not limited to, UP2018-024 (PA2018-282). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

### **FIRE DEPARTMENT CONDITIONS**

33. Liquid or gas-fueled vehicles, boats, or other motor craft shall not be located indoors except as follows:
  - a. Batteries are disconnected;
  - b. Fuel in fuel tanks does not exceed one-quarter tank or 5 gallons, whichever is least;
  - c. Fuel tanks and fill openings are closed and sealed to prevent tampering; and
  - d. Vehicles, boats or other motor craft equipment shall not be fueled or defueled within the building.

**BUILDING DIVISION CONDITIONS**

- 34. Building occupancies must be indicated with required fire rated separations.
- 35. Plans must indicate occupant load, number of required exits and exit travel distance. Roll-up doors are not acceptable exits.
- 36. Mechanical plans are required for positive pressure to lounge area and associated rooms from the enclosed parking garage (EPG). EPG may require a separate mechanical system for the lounge areas.

**PUBLIC WORKS CONDITIONS**

- 37. Parking layout shall comply with City Standards STD-805-L-A and STD-805-L-B for standard stalls.
- 38. A dedicated turn-around space and a 5-foot minimum drive aisle extension shall be provided.
- 39. *A minimum 20 feet of clearance shall be maintained between the front property line adjacent to Monrovia Avenue and any future gate or barrier.*