



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjjs, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending May 31, 2019.

**ZONING ADMINISTRATOR ACTIONS
MAY 30, 2019**

- Item 1: Pedicini Residence Coastal Development Permit No. CD2019-009 (PA2019-024)
Site Address: 1520 East Ocean Front
Action: Approved by Resolution No. ZA2019-034 Council District 1
- Item 2: Stack Residence Coastal Development Permit No. CD2018-110 (PA2018-284)
Site Address: 101 Shorecliff Road
Action: Approved by Resolution No. ZA2019-036 Council District 6
- Item 3: The Milan Panic Family Trust Residence Coastal Development Permit No. CD2019-013 (PA2019-033)
Site Address: 2104 East Balboa Boulevard
Action: Approved by Resolution No. ZA2019-038 Council District 1
- Item 4: Martin Residence Coastal Development Permit No. CD2019-008 (PA2019-039)
Site Address: 18 Balboa Coves
Action: Approved by Resolution No. ZA2019-040 Council District 6
- Item 5: Annual Review of Pacific View Memorial Park Development Agreement No. 7 (PA2009-024)
Site Address: 3500 Pacific View Drive
Action: The Zoning Administrator found that the applicant has demonstrated good faith compliance with the terms of the Annual Review for Pacific View Memorial Park Development Agreement. Council Districts 6 and 7
- Item 6: Argent LLC Lot Merger No. LM2018-006 (PA2018-261)
Site Address: 1601 East Bay Avenue (APN 048 231 40 and 048 231 41)
Action: Approved by Resolution No. ZA2019-041 Council District 1

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS**

(Non-Hearing Items)

Item 1: Pavilions Temporary Trailers Limited Term Permit No. XP2019-004 (PA2019-088)
Site Address: 3100 West Balboa Boulevard

Action: Approved

Council District 1

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. ZA2019-034

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-009 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE LOCATED AT 1520 EAST OCEAN FRONT (PA2019-024)

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, with respect to property located at 1520 East Ocean Front, and legally described as Lot 6, Block B, Tract 518 requesting approval of a coastal development permit.
2. The applicant proposes to demolish an existing single-family residence and construct a new 2,449-square-foot, single-family residence with an attached 759-square-foot, three-car garage.
3. The subject property is located within the R-1 (Single-Unit Residential) Zoning District and the General Plan Land Use Element category is RS-D (Single-Unit Residential Detached).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single Unit Residential Detached) (10.0 - 19.9 DU/AC) and the Coastal Zone District is R1 (Single-Unit Residential).
5. A public hearing was held on May 30, 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 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.
2. Class 3 includes the construction of a single-family residence in a residential zone. The proposed project includes the demolition of an existing single-family residence and construction of a new 2,449-square-foot, single-family residence with an attached 759-square-foot, three-car garage.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed structure conforms to all applicable development standards including, but not limited to, floor area limitation, setbacks, height, and parking:
 - a. The maximum floor area limitation is 5,398 square feet and the proposed gross floor area is 3,208 square feet.
 - b. The proposed development will provide the required setbacks, which are ten feet-11-inches along the front property line abutting the beach, three feet along the side property lines, 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 two-space parking requirement for single-family residences with less than 4,000 square feet of livable floor area.
2. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development consistent with applicable development standards as the neighborhood is predominantly developed with two-story, single-family residences.
3. A Coastal Hazards and Wave Runup Study was prepared by GeoSoils, Inc., dated February 4, 2019 for the project. The report concludes that the long-term shoreline erosion rate is small, if any long-term erosion occurs at all. Assuming a conservative future erosion rate of 40 feet for every one-foot of sea level rise (SLR), the shoreline will move approximately 128 feet over the life of the development and experience 3.2 feet of SLR. A beach width of approximately 272 feet would remain, and 200 feet of beach width is recognized by coastal engineers as sufficiently wide to protect landward development. The GeoSoils study therefore also concludes that coastal hazards will not impact the property over the next 75 years and there is no anticipated need for a shore protection device over the life of the proposed development.
4. Pursuant to Newport Beach Municipal Code (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 finished floor elevation of the first floor of the proposed structure is 15.75 North American Vertical Datum of 1988 (NAVD88), which exceeds the minimum 9.0 (NAVD88) elevation standard for new structures and exceeds the minimum requirements for sea level rise (10.1 feet NAVD88).
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 proposed 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 includes the replacement of an existing two-story, single-family residence with a new two-story, single-family residence. 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 occurs within the confines of private property. Existing coastal access conditions will not be affected by the proposed development. Coastal access is currently provided and will continue to be provided by street ends throughout the neighborhood with access to the beach and water.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2019-009, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 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 30TH DAY OF MAY, 2019.

Patrick J. Alford, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. Coastal Development Permit No. CD2019-009 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
5. Prior to the issuance of building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
6. Prior to the issuance of a building permit, the property owner shall sign 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, judgements, 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.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this coastal development permit.

9. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
10. 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.
11. 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.
12. 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.
13. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
14. This Coastal Development Permit does not authorize any development seaward of the private property.
15. Construction staging, storage and/or access is not allowed to occur on or from the adjacent sandy beach.
16. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the coastal development permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this coastal development permit.
17. Prior to issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
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 a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

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20. 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 as far away from storm drain systems or receiving waters as possible. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
 21. 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 Pedicini Residence including, but not limited to, Coastal Development Permit No. CD2019-009 (PA2019-024). 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.
 22. At such time as directed by the City or the California Coastal Commission, the applicant shall agree to and cooperate with the removal of any development not in compliance with and authorized by Appendix C (Oceanfront Encroachment Policy Guidelines) of the certified Local Coastal Program seaward of the rear property line within a prolongation of the side property lines of the subject property.

RESOLUTION NO. ZA2019-036

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-110 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED 3-CAR GARAGE LOCATED AT 101 SHORECLIFF ROAD (PA2018-284)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Maisons The Art Of Design, with respect to property located at 101 Shorecliff Road, requesting approval of a coastal development permit.
2. The lot at 101 Shorecliff Road is legally described as Lot 121, Tract 1116.
3. The applicant proposes a coastal development permit to demolish an existing single-family residence and construct a new 3-story, 12,882-square-foot, single-family residence, including an attached 762-square-foot three-car garage. The project includes hardscape, drainage, landscaping improvements, and accessory structures. The proposed residence complies with all applicable development standards including the height, setbacks, and lot coverage 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-1-6000 (Single-Unit Residential) Bluff (B) Overlay Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-A (Single-Unit Residential Detached – 0.0-5.9 DU/AC) and it is located within the R-1-6000 (Single-Unit Residential) Bluff (B) Overlay Coastal Zone District.
6. A public hearing was held on May 30, 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 Constructure or Conversion of Small Structures) because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one single-family residence and the construction of a new 12,882-square-foot single-family residence and attached 762-square-foot 3-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum lot coverage is 18,314 square feet and the proposed lot coverage is 6,402 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 25 feet along the front property line abutting Shorecliff Road, 6 feet along each side property line and 6 feet along the rear property line.
 - c. The proposed development provides the minimum required setbacks established by the Bluff Overlay District, including a 25-foot bluff edge setback for primary structures (Development Area A), a 10-foot bluff edge setback for accessory structures (Development Area B) and no development seaward of Development Area B.
 - d. The highest ridge is no more than 29 feet from established grade, which complies with the maximum height requirements.
 - e. The project includes garage parking for a total of three vehicles, complying with the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.

2. The neighborhood is predominantly developed with two- and three-story, single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
3. The development is located on a bluff fronting a sandy beach and the Pacific Ocean. The project site is not protected by a bulkhead. A Geotechnical and Geologic Investigation report was prepared by Coast Geotechnical, Inc. on October 18, 2018 examined coastal hazards including slope stability, wave action, long-term bluff retreat and flooding and erosion and concluded that the development will be reasonably safe from coastal hazards over the course of its design life and that no additional seawall, revetment, jetty, groin, retaining wall or other shoreline protective device will be needed to protect the development. The finished floor elevation of the first floor of the proposed structure is 54.5 feet based on the North American Vertical Datum of 1988 (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures.
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 final building inspection, and prior to the issuance of building permits, respectively.
5. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
6. The project design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features designed to retain dry weather 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.
7. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared for the project by Toal Engineering, Inc. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for Best Management Practices (BMPs), use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
8. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance

of building permits, the final landscape plans will be reviewed to verify invasive species are not planted

9. The project site is located approximately 1,300 feet southeast of Inspiration Point, which is a designated public viewpoint in the Coastal Land Use Plan and offers public views of the Pacific Ocean and shoreline. Site evaluation revealed that the proposed design is consistent with the existing neighborhood pattern of development and will not affect the existing views afforded from Inspiration Point. The project will replace an existing single-family residence with a new single-family residence that complies with all applicable development standards, including the Bluff Overlay standards that requires an increased 10-foot setback from the bluff edge for accessory structures and 25-foot setback from bluff edge for primary structures. Inspiration Point is improved with public benches and landscaping that orients and frames views toward the ocean and not toward the subject site. 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.
10. The rear of the proposed residence, which is visible from Little Corona Beach, contains substantial architectural treatment and visual interest, consistent with the design guidelines of the Zoning Code. The new structure would comply with required setbacks of the R-1-6000 Coastal Zoning District and the Bluff Overlay Zone. The design includes modulation of volume throughout the structure and low walls that prevent the appearance of the site being walled off from the beach. The development complies with a primary structure stringline, required by the Shorecliffs Community, which further protects views up the Buck Gully Canyon from Little Corona Beach. 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.
11. The rear and side of the proposed residence are visible from Glen Drive, which provides pedestrian access to Little Corona Beach. The elevations of the development contain substantial architectural treatment and visual interest, consistent with the design guidelines of the Zoning Code. The new structure would comply with the required setbacks of the R-1-6000 Coastal Zoning District and the Bluff Overlay Zone. Additionally, the development complies with a primary structure stringline, required by the Shorecliffs Community, which ensures that the development is consistent with the neighboring developments and protects public views of the shoreline and bluff as viewed from Glen Drive.

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. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact, and be proportional to the impact. In this case, the project replaces an existing single-family

residence located on a standard R-1-6000 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 and ocean is available via Glen Drive, across Buck Gully from the subject property. Lateral access is available along the beach to the south of the property. Vertical access to the beach is also available to members of the Shorecliff community through a private pedestrian gate and footpath which crosses the subject property. The project does not include any features that would obstruct access along these existing routes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-110, 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 30TH DAY OF MAY, 2019.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to 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. This 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 public property.
5. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
6. This Coastal Development Permit does not authorize any development seaward of the private property.
7. 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 the 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.

8. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
9. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
10. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
11. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
12. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
13. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
14. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
15. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

16. Prior to 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.
17. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
18. 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.
19. 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.
20. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved WQHP/WQMP and any changes could require separate review and approval by the Building Division.
21. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
22. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
23. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
24. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
25. This Coastal Development Permit No. CD2018-110 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. Swimming pools shall be of double wall construction with subdrains between the walls and leak detection devices or an equivalent method.
 27. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Stack Residence including, but not limited to, Coastal Development Permit No. CD2018-110 (PA2018-284). 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. ZA2019-038

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-013 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE-STORY, SINGLE-FAMILY RESIDENCE INCLUDING A BASEMENT AND ATTACHED GARAGE LOCATED AT 2104 EAST BALBOA BOULEVARD (PA2019-033)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Hudgins Design Group, Inc., with respect to property located at 2104 East Balboa Boulevard, requesting approval of a coastal development permit.
2. The lot at 2104 East Balboa Boulevard is legally described as Parcel 2 of Page 47 in Parcel Book 13.
3. The applicant requests a coastal development permit to demolish an existing single-family residence and construct a new three-story, 14,273-square-foot, single-family residence with an 897-square-foot garage and 8,559-square-foot subterranean basement. The project includes hardscape, drainage, landscaping improvements, and accessory structures including a swimming pool. The project also includes a reinforced bulkhead and height extension for coastal hazards protection. The proposed residence complies with all applicable development standards including height, setbacks, and floor area limits. No deviations are requested.
4. The subject property is bisected by the coastal permit jurisdiction boundary resulting in a portion of the property within the California Coastal Commission's permit jurisdiction. This Coastal Development Permit is intended to cover portions of the project within the City's permit authority as designated in the certified Local Coastal Program (LCP) (Title 21 of the Newport Beach Municipal Code).
5. 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.
6. 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 it is located within the R-1 (Single-Unit Residential) Coastal Zone District.
7. A public hearing was held on May 30, 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 demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one single-family residence and the construction of a new 15,170-square-foot single-family residence and 8,559-square-foot subterranean basement.
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 19,408 square feet and the proposed floor area is 15,170 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 0 feet along the front property line abutting Balboa Boulevard, 4 feet along each side property line and 30 feet along the front property line on the waterfront.
 - c. The highest guardrail is less than 24 feet from established grade (11.42 feet North American Vertical Datum of 1988 [NAVD 88]) 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 three vehicles, complying with the minimum two-/three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two- and three-story, single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
3. The property fronts the Newport Bay and is a private waterfront parcel. The project site is protected by an existing seawall with the top of the bulkhead at elevation 8.55 feet (NAVD 88). The existing bulkhead does not have noticeable signs of distress, however it is required to be repaired and raised. The site is also vulnerable to flooding from the adjacent street ends and other low-lying properties that will need to be protected in the future. The project proposes to reinforce the existing wall and add a cap that will bring the height to 10.6 feet (NAVD 88). No development is proposed bayward of the existing seawall.
4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by PMA Consulting, Inc. dated March 27, 2019, for the project. The current maximum bay water elevation is 7.2 feet (NAVD 88) and may exceed the existing 7.7 feet (NAVD 88) top of bulkhead elevation during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 2.9-foot increase in the maximum water level over the next 75 years (i.e. the life of the structure). Therefore, the sea level is estimated to reach approximately 10.6 feet (NAVD 88) (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). Once the existing seawall/bulkhead is reinforced and raised per the report's recommendations, flooding, wave run-up, and erosion will not significantly impact this property over the proposed 75-year economic life of the development. The report concludes that the proposed project will be safe from flooding hazards for the next 75 years with the reinforced/capped bulkhead. Therefore, the project has been conditioned to raise or cap the bulkhead up to at least 10.6 feet (NAVD 88).
5. The finished floor elevation of the proposed single-family residence/condominiums is 11.0 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard. The Coastal Hazard Report concludes that the bay water elevation (currently 7.7 feet NAVD 88) will not exceed the proposed seawall protecting the single-family residence at elevation 10.6 feet (NAVD 88) for the anticipated 75-year life of the structure.
6. 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 final building inspection, and prior to the issuance of building permits, respectively.

7. 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.
8. 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.
9. The project design includes 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.
10. The property fronts the Newport Bay. Pursuant to NBMC [Section 21.35.030 \(Construction Pollution Prevention Plan\)](#), a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. A CPPP has been prepared and included in the plan sets for review and approval prior to the issuance of construction permits. Construction plans and activities will be required to adhere to the approved CPPP.
11. Pursuant to NBMC [Section 21.35.050 \(Water Quality and Hydrology Plan\)](#), because of the site's proximity to the water and because the development contains more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP/WQMP) was prepared by John Dinh Tran of JT Consulting Engineers, dated May 8, 2018. The final WQHP/WQMP will be required to be reviewed and approved by the City's Engineer Geologist prior to building permit issuance. The WQHP/WQMP includes a polluted runoff and hydrologic site characterization, treatment control BMPs, use of a low-impact development approach and bioretention system to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be required to comply with the approved WQHP/WQMP prior to the issuance of building permits.
12. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
13. The project site is not located adjacent to a coastal view road, public access way, or coastal viewpoint as identified in the Coastal Land Use Plan. The nearest coastal

viewpoint is West Jetty View Park and is not visible from the site. The proposed single-family residence complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

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. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact, and be proportional to the impact. In this case, the project replaces an existing single-family residence located on an R-1 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 bay and beach is available at street ends throughout the Balboa Peninsula, including K Street approximately 650 west of the subject property. Lateral access is available on the beach on the south side of the Balboa Peninsula. The project does not include any features that would obstruct access along these routes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2019-013, 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 30TH DAY OF MAY, 2019.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Prior to finalization of building permits for the new residence, the existing bulkhead or similar flood protection improvement shall be raised or replaced to provide a minimum elevation of 10.6 feet (NAVD 88). All improvements shall occur landward of the existing bulkhead.*
3. 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.
4. 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. This letter shall be scanned into the plan set prior to building permit issuance.
5. 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 public property.
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 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.
18. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
19. Prior to the 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.
20. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
21. Prior to the issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
22. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
23. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
24. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
25. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
26. This Coastal Development Permit No. CD2019-013 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.

27. Prior to the issuance of building permits, the applicant shall obtain a coastal development permit or other authorization of improvement for areas within the California Coastal Commission's permit jurisdiction, as determined by the California Coastal Commission.

28. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of The Milan Panic Family Trust Residence including, but not limited to, Coastal Development Permit No. CD2019-013 (PA2019-033). 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. ZA2019-040

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-008 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE WITH THREE-CAR GARAGE PARKING LOCATED AT 18 BALBOA COVES (PA2019-039)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bradford C. Smith Architect, with respect to property located at 18 Balboa Coves, requesting approval of a coastal development permit.
2. The lot at 18 Balboa Coves is legally described as Lot 18 of Tract 1011.
3. The applicant proposes a coastal development permit to allow the demolition of an existing single-family residence and the construction of a new three-story, 5,373-square-foot, single-family residence, including three-car garage parking. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping. No work will be conducted bayward of the existing bulkhead. The design complies with all applicable development standards and 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 (RSD-A) (0.0 – 5.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zone District.
6. A public hearing was held on May 30, 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 demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one single-family residence and the construction of a new 5,373-square-foot single-family residence. The proposed project is a new single-family residence located in the R-1 Coastal 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, 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 7,558 square feet and the proposed floor area is 5,373 square feet.
 - b. The proposed development provides or exceeds the minimum required setbacks, which are 15 feet along the front property line abutting Newport Bay, 4 feet along each side property line and 5 feet along the second frontage abutting Balboa Coves.
 - c. The highest guardrail is 24 feet from established grade (11.47 feet North American Vertical Datum of 1988) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
 - d. The project includes garage parking for a total of three vehicles, complying with the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two-story, single-family residences; however, scattered one- and three-story residences also exist in the area. The proposed

design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.

3. The development is a private parcel that fronts a cove adjacent to a small channel in the northwest corner of Newport Bay. The project site is protected by an existing concrete bulkhead with the top of the bulkhead elevation of 11.42 feet North American Vertical Datum of 1988 (NAVD88). A Coastal Hazards and Bulkhead Condition Report were prepared by GeoSoils, Inc., dated May 3, 2019, for the project. The report concludes that the current shoreline will remain at the shore protection and shoreline erosion will not impact the proposed development over the life of the development. The report also concludes that the project will be reasonably safe from future sea level rise. The estimates assume an approximate 2.9-foot increase from sea level rise over the next 75 years (i.e. the life of the structure). The maximum water elevation is 7.7 feet NAVD88, therefore the future sea level is estimated to reach approximately 10.6 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 12.0 feet NAVD88, which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures and exceeds the minimum requirements for future sea level rise (10.6 feet NAVD88). The GeoSoils study identifies that the condition of the existing bulkhead is adequate to protect the proposed development from any existing or anticipated future coastal hazards for the next 75 years or more. The study additionally concludes the proposed development is reasonably safe from coastal hazards for the next 75 years, including shoreline movement, waves and wave run-up, and flooding with future sea level rise.
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 coastal waters. 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.

7. Pursuant to Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a preliminary Water Quality and Hydrology Plan (WQHP) has been provided and will undergo a final review during building permit plan check. The WQHP was prepared for the project by Forkert Engineering & Surveying, Inc. on April 18, 2019. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID (Low Impact Development) approach to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
8. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
9. The property is not located near designated public viewpoints or coastal view roads. The nearest public viewpoints are located at Channel Place Park and Sunset View Park, approximately 500 and 600 feet away from the subject site, respectively. Due to the distance of the proposed development from the public viewpoints and the project's compliance with height and setbacks, the project will not impact coastal views. The proposed single-family residence complies with all applicable Local Coastal Program (LCP) development standards and maintains front setback areas consistent with the existing neighborhood pattern of development. The project does not contain any unique features that could degrade the visual quality of the coastal zone.

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, but the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. The project is sited within the existing gated community of Balboa Coves that does not provide public coastal access opportunities. The proposed replacement of the existing single-family residence with a new single-family residence does not include any features that would provide or inhibit coastal public access opportunities. .
2. Vertical access to the bay front is available approximately 500 feet west of the site at Channel Place Park where there is a small public beach with access to the water.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2019-008, 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 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 30TH DAY OF MAY, 2019.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to 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 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.
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. Should the bulkhead require repair or replacement with construction equipment bayward of the private property, an additional coastal development permit shall be obtained for the bulkhead from the California Coastal Commission.
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. 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.

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 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.
15. 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.
16. 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.
17. 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 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.
18. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.

19. Prior to the issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
20. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance
21. 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.
22. 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.
23. 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.
24. This Coastal Development Permit No. CD2019-008 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.
25. 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 Martin Residence including, but not limited to, Coastal Development Permit No. CD2019-008 (PA2019-039). 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. ZA2019-041

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2018-006 AND A WAIVER OF THE PARCEL MAP REQUIREMENT, FOR A LOT MERGER LOCATED AT 1601 EAST BAY AVENUE (PA2018-261)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Swift Slip & Dock with respect to property located at 1601 East Bay Avenue and described as APN 048 231 40 and 048 231 41 requesting approval of a Lot Merger.
2. The applicant proposes to merge three underlying legal lots including Parcel 1 of LLA 2004-003, the abandoned right-of-way of Bay Avenue, and Lot 1 and Lot 2 of Block P. The applicant requests to waive the parcel map requirements for properties under common ownership.
3. 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.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached – (6.0 – 9.9 DU/AC) (RSD-B) and it is located within the Single Unit Residential (R-1) Coastal Zoning District. The lot merger would not result in a change in intensity or density of the project site, because the underlying legal Lots 1 and 2 of Block P cannot be developed separately with any dwelling units. Additionally, the potential building size would not be altered with the approval of the lot merger, since the setbacks and associated buildable area would remain the same. Therefore, a coastal development permit is not required.
5. A public hearing was held on May 30, 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 15315 under Class 15 (Minor Land Divisions) 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. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning; no variances or exceptions are required; all services and access to the proposed parcels are available; the parcel was not involved in a division of a larger parcel within the previous two (2) years; and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.68.030 of the Newport Beach Municipal Code (Title 19 Subdivisions), the following findings and facts in support of such findings are set forth:

Finding:

- A. *Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title.*

Facts in Support of Finding:

1. The requested lot merger is proposed to clean up the underlying legal lot configuration under one ownership to mirror similar properties in the area and allow future construction over underlying legal lot lines. Lot 1 and Lot 2 of Block P do not currently allow for independent residential development and the functionality of these lots would not change with the merger. All of these lots have historically been utilized as a single building site.
2. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions).
3. Any future development on the proposed parcel will be subject to the Zoning Code development standards, which are intended to promote orderly development, protect neighborhood character, and preserve public health, safety, and general welfare of the City.

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

1. The merged parcels will retain the Single-Unit Residential (R-1) zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide areas appropriate for a detached single-family residence located on a single lot.
2. The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units. The Coastal Land Use Plan designates this site as Single-Unit Residential Detached (RSD-B), which provides for density ranges from 6.0-9.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.
3. The subject property is not located within a Specific Plan area.
4. Section 20.18.030 of the Zoning Code establishes minimum lot area and width requirements. The proposed merger would result in an approximately 11,457-square-foot parcel that is in conformance with the minimum 6,000-square-foot corner lot area standard of the Zoning Code. Additionally, the proposed merger would maintain a width of 60 feet, meeting the minimum 60-foot corner lot width standard of the Zoning Code.
5. The existing Lots 1 and 2 of Block P do not meet the minimum width or lot area requirements of the Zoning Code, as the lots are approximately 30-feet-wide and contain approximately 1,620 square feet (not including any portion of the abandoned right-of-way). Although not formally a lot, the abandoned right-of-way consists of approximately 1,832 square feet (sf). Merging the three lots and abandoned right-of-way would create one parcel that meets the minimum requirements of the Zoning Code (and Local Coastal Program Implementation Plan) for lot width and area.

Finding:

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

Facts in Support of Finding:

1. Legal access to the site is provided from East Bay Avenue, and will remain unchanged. The site does not currently provide access to any other properties. Currently, Lots 1 and 2 of Block P are not independently accessible from the street. The merger would formally

allow all of the lots to be recognized as one. Thus, no adjoining parcels will be deprived of legal access as a result of the merger.

Finding:

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

Facts in Support of Finding:

1. Existing property widths along East Bay Avenue primarily consist of 30-, 45-, and 60-foot-wide lots. All of the nearby waterfront properties have similar lot depths as the proposed project, with approximately 191-foot lot depths. The subject site is the only waterfront property in the vicinity that does not have this configuration where the lots from Block P and the abandoned right-of-way appear as one single lot. The lot merger would allow the removal of underlying legal lots to create a single parcel that is consistent with the existing development pattern in the area.
2. The proposed lot width of 60 feet would not change the configuration of the property as currently utilized. Lots 1 and 2 of Block P would be brought into conformance, as they are currently 30 feet wide and do not comply with the required width of 60 feet for corner lots and 50 feet for interior lots. There are existing lots in the surrounding development similar to the proposed lot width.
3. Merging underlying Lots 1 and 2 of Block P with Parcel 1 of LLA2004-003 would not change the development potential or size of structure that could be constructed on-site. Regardless of the lot merger, no single-family residences could be constructed on the underlying Lots 1 and 2 of Block P because of the size and location of the lots. Furthermore, the front setback and associated buildable area will continue to be measured from the abandoned right-of-way line regardless of the proposed lot merger. The lot merger would both formally change the configuration of lots on record, and allow accessory structures such as pools, fences, and bulkheads to be constructed across underlying legal lot lines.
4. Although the proposed lot merger will result in a larger lot, it will not create a lot that is inconsistent with the surrounding neighborhood. There are existing lots in the surrounding development that are similar to the proposed lot area such as 1513 East

Bay Avenue (8,592 sf), 1813 East Bay Avenue (14,481 sf) and 1507 East Bay Avenue (8,592 sf), among others.

5. Although the current configuration contains multiple parcels and an abandoned right-of-way, the property is used as a single parcel with one single-family residence. APN 048 231 40 contains the residence, and APN 048 231 41 contains the front yard and a portion of Newport Bay. As a result, the proposed merger will not result in a visible change in character to the neighborhood and will continue to allow the property to be used for single-family purposes.
6. Orientation and access to the parcel would remain from East Bay Avenue. Thus, the resulting lot configuration will not change the existing pattern of development in the area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves LM2018-006 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 30TH DAY OF MAY, 2019.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

PLANNING

1. The development shall be in substantial conformance with the approved exhibits, stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws.
4. *Prior to recordation, the map shall be submitted to the Public Works Department for final map review and approval. All applicable fees shall be paid.*
5. *Prior to the issuance of building permits for construction across the existing interior lot lines, recordation of the lot merger documents with the County Recorder shall be required. A copy of the recorded document shall be provided to the City.*
6. 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.
7. 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.
8. 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 Argent LLC Lot Merger including, but not limited to, Lot Merger No. LM2018-006 (PA2018-261). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

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

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ZONING ADMINISTRATOR ACTION LETTER

Application No.	Limited Term Permit No. XP2019-004 (PA2019-088)
Applicant	Pavilions Grocery Store
Site Address	3100 West Balboa Boulevard Pavilions Temporary Trailers
Legal Description	Parcel 1 of Parcel Map No. 2009-135, as per map filed in Book 371, Pages 4 through 6 of Parcel Maps, in the office of the County Recorder in the County of Orange, California

On **May 30, 2019**, the Zoning Administrator approved a limited term permit to allow one 26-foot electric produce refrigeration trailer within the loading dock and one 40-foot electric ice trailer adjacent to the loading dock for a nine-day duration at the rear of the Pavilions Grocery Store within The Landing Shopping Center. The trailers' refrigeration units will operate only between the hours of 7:00 a.m. through 9:00 p.m., daily, to store ice and produce for the Independence Day holiday period (June 28, 2019 through July 6, 2019). The applicant will incorporate a noise reduction plan that includes sound barrier blankets on the backside of both trailers. The property is located in the CN (Commercial Neighborhood) Zoning District. The approval is based on the following findings and subject to the following conditions:

FINDINGS

Finding:

- A. *This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 11 (Accessory Structures)*

Facts in Support of Finding:

1. Class 11 exempts the placement of seasonal or temporary use of items such as lifeguard towers, mobile food units, portable restrooms, or similar items. The proposed temporary trailers will be placed within the rear of the shopping center for a temporary time period and will be ancillary to an existing commercial development.

Finding:

- B. *The operation of the limited duration use at the location proposed and within the time period specified 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 requested limited duration use;*

Facts in Support of Finding:

1. The limited term permit will allow two temporary electric refrigeration trailers to store ice and produce on-site for the Independence Day holiday as conditioned.
2. The operation of the electric refrigeration units are limited to the hours of 7:00 a.m. to 9:00 p.m. The trailers are limited from June 28, 2019 through July 6, 2019, to reduce the impact of noise to surrounding residents.
3. Electric refrigeration trailers have been used at the subject property on holiday weekends during similar hours in the past and the use has not proven detrimental.
4. Conditions of approval require the location of the trailer within and adjacent to the loading dock area, which is approximately 100 feet from the nearest residence and will be partially screened by existing trees and landscaping along 30th Street. The generators will be oriented to face away from nearby residents. Sound blankets are also required to reduce noise impacts.

Finding:

- C. *The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot;*

Facts in Support of Finding:

1. The subject lot is approximately 3.75 acres in size. Based upon the site plan, there is adequate area to accommodate the proposed trailers and existing uses without impacting vehicle circulation. The ice trailer will be located adjacent to the loading dock and will occupy two required parking spaces for a limited duration (nine days).
2. The lot is bound by Balboa Boulevard to the west, Newport Boulevard to the east, 32nd Street to the north, and 30th Street to the south. The adjacent right-of-way (30th Street) separates the lot from nearby residential properties within the R-2 (Two-Unit Residential) Zoning District. A public parking lot is located directly across 30th Street, adjacent to where the trailer will be parked.

Finding:

- D. *The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate;*

Facts in Support of Finding:

1. The subject lot has four direct driveway approaches taken from Newport Boulevard, 32nd Street, Balboa Boulevard, and 30th Street. The 40-foot ice trailer's location above the loading dock will not impede access or truck access to the loading dock at the rear of the grocery store. The ice trailer will occupy two required parking stalls for a limited period of time (nine days). The 26-foot produce trailer's location within the loading dock will still allow for deliveries within the other half of the loading dock during the nine-day period and will not impede any parking spaces. No traffic or site circulation issues are anticipated.
2. The produce trailer will be located within the loading dock and will not generate additional traffic or impede access.
3. The limited duration use is for two temporary electric refrigeration trailers for the grocery store to store ice and produce during the holiday weekends when significant demand is anticipated.

Finding:

- E. *Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator; and*

Fact in Support of Finding:

1. The proposed limited duration use will not create additional parking demand since they will be utilized to store ice and produce for the grocery store. The two parking spaces that the ice trailer will occupy will not have a detrimental effect on parking demand within the shopping center since these spaces are typically underutilized due to their location at the rear loading dock area. The public will not have direct access to the temporary electric refrigeration trailers.

Finding:

- F. *The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the Municipal Code, and other City regulations.*

Facts in Support of Finding:

1. The General Plan land use designation for this site is Neighborhood Commercial (CN). The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed use is accessory to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation.
2. The site is located in the Commercial Neighborhood (CN) Zoning District. The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed use is ancillary to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation. The CN zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The site is not located within a specific plan area.

CONDITIONS

(Project-specific conditions are in italics)

1. The development shall be in substantial conformance with the approved site plan except as noted in the following conditions.
2. Anything not specifically approved by this limited term permit is prohibited and must be addressed by a separate and subsequent review.
3. *The temporary electric refrigeration trailers shall be located within the rear loading dock and adjacent to the rear loading dock area as shown on the site plan (Attachment No. ZA 2). The generator on the ice trailer shall face away from the nearby residences and shall be oriented southeast toward 3011 Newport Boulevard.*
4. *The temporary electric refrigeration trailers shall be limited to the storage of ice and produce for the grocery store. Alcohol and other store merchandise shall not be stored within the temporary trailer.*
5. *The 40-foot temporary electric refrigeration trailer for ice is permitted on-site for a nine-day duration from June 28, 2019, through July 6, 2019. Storage of a trailer or trailers on-site other than the dates specified is prohibited.*
6. *The 26-foot temporary electric refrigeration trailer for produce is permitted on-site for a nine-day duration from June 28, 2019, through July 6, 2019. Storage of a trailer or trailers on-site other than the dates specified is prohibited.*

7. *Operation of the refrigeration units within the temporary trailers shall be limited to the hours of 7:00 a.m. to 9:00 p.m., daily. If the hours of operation are not adhered to, the applicant shall be subject to fines in accordance with Chapter 1.05.020 (Authority and Administrative Citation Fines). Fines may reflect the maximum amount, as authorized by the City Manager or his designee.*
8. *The refrigeration trailers shall comply with the noise standards of Chapter [10.26 \(Community Noise Control\)](#) of the City of Newport Beach Municipal Code. The maximum noise generated by the proposed use shall not exceed a noise level equal to the value of the noise standard plus 20 DBA for any period of time, as measured using A-weighted slow response. Sound barrier materials (blankets) shall be installed at all times to inhibit the noise. The Code Enforcement Officer may require additional sound testing and attenuation at his/her discretion to comply with the noise standards of the Municipal Code.*
9. *The applicant shall provide a 24-hour contact number for emergencies, complaints, or concerns to Code Enforcement and interested parties upon request during the time period the trailers are authorized.*
10. *The applicant shall identify an individual whose job it is to shut down the generator on or before 9:00 p.m. each evening. This person's name shall be provided to the City of Newport Beach Police Department Watch Commander via email each day that the generator is in operation.*
11. *The generators on each temporary electric refrigeration trailer shall be set back 20 feet from the rear property line along 30th Street and 5 feet from any adjacent structures.*
12. *The temporary trailers shall not restrict vehicle circulation, truck access to the loading dock, or the public right-of-way at the rear of the grocery store.*
13. *Access for emergency vehicles must be maintained around the temporary trailer within the parking area. A minimum clearance of 14 feet is required adjacent to the trailer. Twenty feet of clearance is required in all other areas of the required fire access roadway around Pavilions Grocery Store.*
14. *The trailers shall not block any firefighting equipment such as fire hydrants, standpipe connections, or fire department connections.*
15. *The refrigeration trailers must be registered by the Department of Motor Vehicles (DMV) to be exempt from requirements for building permits.*
16. *An electrical permit and proper grounding and bonding shall be required if power is used elsewhere than the generator on the trailers.*

17. The Limited Term Permit is for the operation of two temporary electric refrigeration trailers on-site for the hours and dates specified and does not authorize the use or operation of additional storage trailers on-site.
18. Should the temporary refrigeration trailers become a detriment to the public health, comfort, convenience, safety, and general welfare of the peace and quiet of the neighboring properties and their inhabitants, this permit may be revoked.
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 the **Pavilions Temporary Trailers** including, but not limited to, **Limited Term Permit No. XP2019-004 (PA2019-088)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.



Patrick J. Alford, Zoning Administrator

JM/dl

Attachments: ZA 1 Vicinity Map
 ZA 2 Site Plan

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



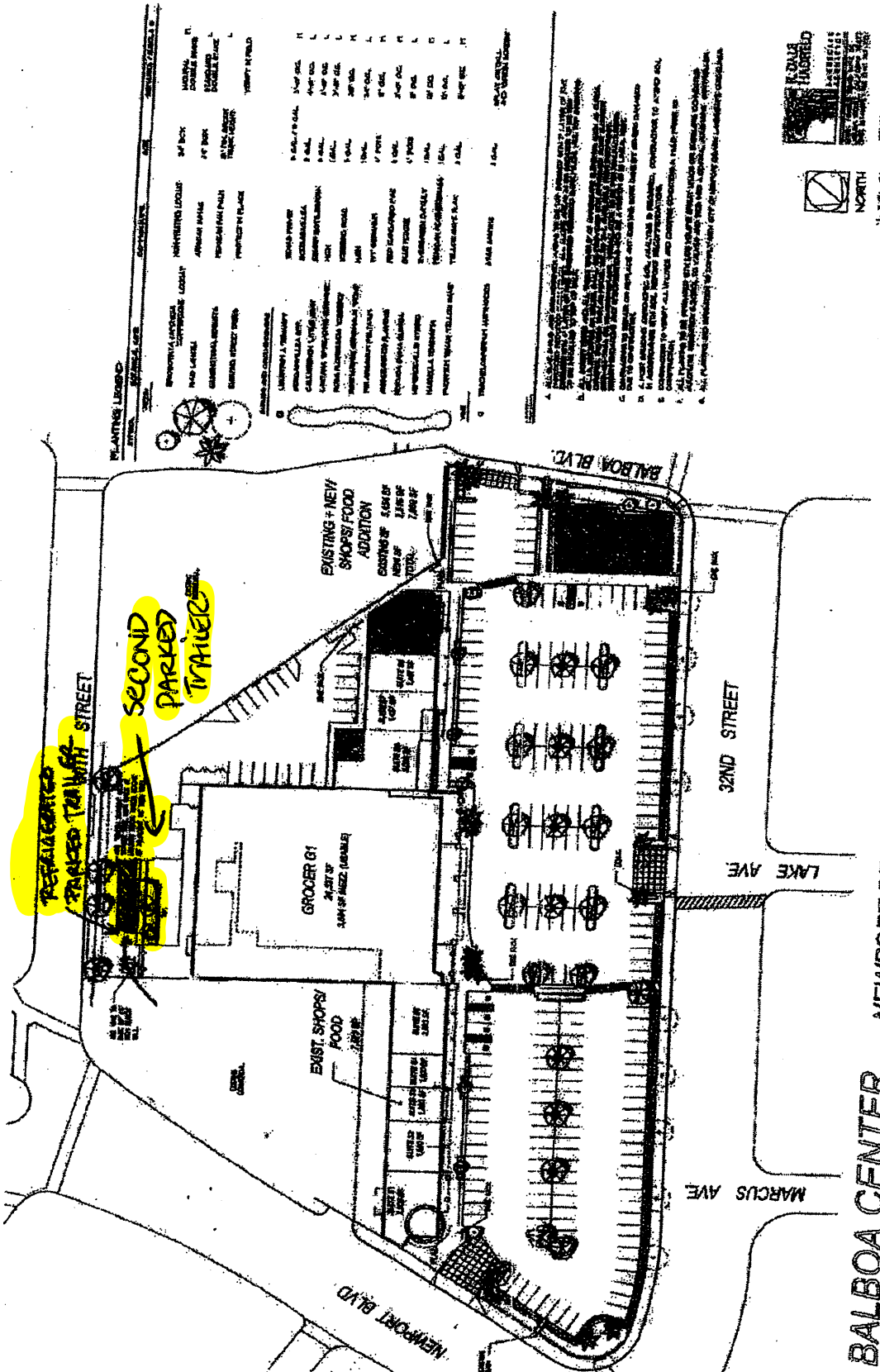
Limited Term Permit No. XP2019-004
(PA2019-088)

3100 West Balboa Boulevard

Attachment No. ZA 2

Site Plan

PA2015-107



PLANTING LEGEND	SYMBOLS	DESCRIPTION	QUANTITY
1	[Symbol]	PLANTING LEGEND	
2	[Symbol]		
3	[Symbol]		
4	[Symbol]		
5	[Symbol]		
6	[Symbol]		
7	[Symbol]		
8	[Symbol]		
9	[Symbol]		
10	[Symbol]		
11	[Symbol]		
12	[Symbol]		
13	[Symbol]		
14	[Symbol]		
15	[Symbol]		
16	[Symbol]		
17	[Symbol]		
18	[Symbol]		
19	[Symbol]		
20	[Symbol]		

1. ALL SHIPMENTS SHALL BE MADE TO THE PROJECT SITE BY TRUCK OR TRAILER. NO TRUCKS OR TRAILERS SHALL BE PERMITTED TO STOP OR LOAD OR UNLOAD AT ANY OTHER LOCATION. ALL TRUCKS AND TRAILERS SHALL BE REQUIRED TO USE THE DESIGNATED TRUCK AND TRAILER AREAS. ALL TRUCKS AND TRAILERS SHALL BE REQUIRED TO BE CLEAN AND WELL MAINTAINED. ALL TRUCKS AND TRAILERS SHALL BE REQUIRED TO BE OPERATED IN A SAFE AND RESPONSIBLE MANNER. ALL TRUCKS AND TRAILERS SHALL BE REQUIRED TO BE OPERATED IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS AND ORDINANCES. ALL TRUCKS AND TRAILERS SHALL BE REQUIRED TO BE OPERATED IN ACCORDANCE WITH THE PROJECT SCHEDULE AND ALL APPLICABLE REGULATIONS AND ORDINANCES. ALL TRUCKS AND TRAILERS SHALL BE REQUIRED TO BE OPERATED IN ACCORDANCE WITH THE PROJECT SCHEDULE AND ALL APPLICABLE REGULATIONS AND ORDINANCES.



PRELIMINARY PLANTING PLAN
ARCHITECTS ORANGE
 144 NORTH ORANGE ST., ORANGE, CALIFORNIA 92665 (714) 879-7480

BALBOA CENTER NEWPORT BEACH, CA
CATELLUS
 A PROLOGIS COMPANY

PA2014-082 for XP2014-002
 3100 Balboa Boulevard
 Pavilions Grocery Store

PA2018-122 for XP2018-003
 3100 West Balboa Boulevard
 Pavilions Grocery Store