



## 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 October 11, 2019.

---

### ZONING ADMINISTRATOR ACTIONS OCTOBER 10, 2019

Item 1: Sessions Alcohol Sales Minor Use Permit No. UP2019-040 (PA2019-141)  
Site Address: 101 Newport Center Drive

Action: Approved by Resolution No. ZA2019-065 Council District 5

### COMMUNITY DEVELOPMENT DIRECTOR OR PLANNING DIVISION STAFF ACTIONS (Non-Hearing Items)

Item 1: Gondola Adventures Extension of Time – Coastal Development Permit No. CD2018-085 and Limited Term Permit (More Than 90 Days) No. XP2018-008 (PA2018-204)  
Site Address: 200 Bayside Drive

Action: Approved Council District 5

Item 2: Staff Approval No. SA2019-006 (PA2019-137)  
Site Address: 317 A, 317 B, and 317 C Coronado Street

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.

cc

Wendy Joe, Civilian Investigator, NBPD  
Sgt. Brad Miller, NBPD

## RESOLUTION NO. ZA2019-065

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2019-040 TO ALLOW THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES WITH A TYPE 41 (ON-SALE BEER AND WINE) ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE LOCATED AT 101 NEWPORT CENTER DRIVE (PA2019-141)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Sessions Holdings Two, LLC (Applicant), with respect to property located at 101 Newport Center Drive and legally described as Lot Q of Tract No. 6015.
2. The Applicant requests approval of a minor use permit to allow a Type 41 (On-Sale Beer and Wine) Alcoholic Beverage Control (ABC) license for a food service, eating and drinking establishment (restaurant) located within the Fashion Island Shopping Center. The proposed hours of operation are from 7:00 a.m. to 9:00 p.m., daily. No late hours (after 11 p.m.) are proposed as part of this application.
3. The subject property is located within the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District and the General Plan Land Use Element category is CR (Regional Commercial).
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on October 10, 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 has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).
2. The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use. The proposed project involves the addition of alcoholic

beverages at a proposed restaurant within an existing commercial tenant space currently operated as a restaurant and planned for such use.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Newport Beach Municipal Code (NBMC) Section 20.48.030 (Alcohol Sales), the following findings and facts in support of such findings for a use permit are set forth:

#### Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code.*

#### Facts in Support of Finding

In finding that the proposed use is consistent with NBMC Section 20.48.030, the following criteria must be considered:

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
1. The proposed establishment is located within Reporting District (RD) No. 39, wherein the number of crimes is higher than adjacent Reporting Districts and the City overall; however, this may be attributable to a higher concentration of commercial land uses within a regional commercial shopping center, which has a minimal amount of residential uses. RD 44 is smaller in land area when compared to RD 39 yet it maintains a comparable number of crimes as it contains the entire commercial corridor along East Coast Highway within Corona del Mar. RD 43 and 47 have a significantly lower number of crime as they are primarily residential with few commercial uses.
  2. The highest volume crime in RD 39 is shoplifting and the highest volume arrests are drug-related offenses.
  3. The Newport Beach Police Department (NBPD) has reviewed the application and has provided operational conditions of approval to help minimize any potential detrimental impacts.
- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
1. Due to the high concentration of commercial land uses, the calls for service and number of arrests are greater than adjacent RDs 43 and 47, which are primarily residential, but are comparable to those of RD 44. The NBPD has reviewed the application and has provided operational conditions of approval to help minimize any potential impacts, which are incorporated in Exhibit "A."

- iii. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
1. Fashion Island does not abut sensitive land uses and is separated from other uses by parking lots, roadways and other commercial uses. Residential uses are permitted in the northern sections of the PC-56 (North Newport Center Planned Community) Zoning District within Blocks 500, 600, 800, and San Joaquin Plaza. The proposed use is not located in close proximity to these residential districts.
- iv. *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
1. There are several other restaurants within the Fashion Island Shopping Center. These include tenants such as Fleming's Steak House, True Food Kitchen, Whole Foods, Cheesecake Factory, and P.F. Chang's. These restaurants have Type 41 (On-Sale Beer and Wine) or Type 47 (On-Sale General) Alcoholic Beverage Control (ABC) licenses and there is no evidence suggesting these uses have been detrimental to the neighborhood. These establishments are not proximate to the proposed use. Additionally, there is no evidence to suggest that the conditional approval of this new alcohol sales license would create new objectionable conditions.
2. The proposed hours of operation do not include late hours after 11 p.m. According to the NBPD, an adequate security plan is currently in place for Fashion Island. Conditions of approval are included to adequately manage alcohol service, which will occur only within the indoor dining area.
- v. *Whether or not the proposed amendment will resolve any current objectionable conditions.*
1. The proposed restaurant is located within an existing commercial tenant space and is designed as a restaurant that includes on-site service and consumption of alcoholic beverages. There are no current objectionable conditions.
2. The NBPD has reviewed the application and has provided operational conditions of approval to help minimize any potential detrimental impacts, which are included in Exhibit "A."

#### *Minor Use Permit*

In accordance with NBMC Section 20.52.020.F (Findings and Decision), the following findings and facts in support of such findings for a use permit are set forth:

#### Finding

- B. *The use is consistent with the General Plan and any applicable specific plan:*

---

Facts in Support of Finding

1. The Land Use Element of the General Plan designates the project site as Regional Commercial (CR), which is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The proposed restaurant with alcoholic beverage sales will serve local and regional residents and is consistent with land uses in the CR land use designation.
2. The subject property is not a part of a specific plan area.

Finding

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

Facts in Support of Finding

1. The project is located in the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District. Fashion Island is intended to be a regional retail and entertainment center that is a destination with a wide variety of uses that will serve visitors, residents, and employees of the area. The eating and drinking establishment with alcoholic beverage sales is a commercial use that serves visitors, residents, and employees in the area and, therefore, is consistent with the purposes of the North Newport Center Planned Community District.
2. Eating and drinking establishments are permitted uses within the Fashion Island Sub-Area of the North Newport Center Planned Community Zoning District. Pursuant to the Planned Community Text, the on-site sale of alcohol in conjunction with an eating and drinking establishment requires a minor use permit.

Finding

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

Facts in Support of Finding

1. The Fashion Island Sub-Area permits a range of retail, dining, and commercial entertainment. The proposed use is compatible with surrounding permitted commercial uses in the vicinity and there are no sensitive land uses located nearby.
2. The on-site consumption of alcoholic beverages will be incidental to the eating and drinking establishment. The quarterly gross sales of alcoholic beverages will not exceed the gross sales of food during the same period, per the conditions of approval. Alcoholic beverage service and consumption will be under the supervision of employees who have completed a certified training program pursuant to Condition of Approval No. 15. Alcohol service will occur only within the interior of the establishment. No outdoor patio service is proposed.

3. The restaurant will not operate with late hours after 11 p.m., which will help ensure that it does not operate as a bar, lounge, or nightclub. Pursuant to Condition of Approval No. 3, the restaurant's hours are limited to between 7 a.m. and 9 p.m.
4. The conditions of approval reflected in Exhibit "A" of this resolution ensure that potential conflicts with surrounding land uses are eliminated or minimized to the greatest extent possible.

#### Finding

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

#### Facts in Support of Finding

1. The Fashion Island shopping center provides adequate required parking within the on-site surface parking lots and parking structures. The proposed restaurant with alcohol service will be replacing an existing restaurant, such that there should be no noticeable change in parking demand on-site as a result of this project.
2. This site has been reviewed by the Fire Department to ensure adequate public and emergency vehicle access is provided. Utilities are provided with all applicable requirements.
3. The tenant space is designed and currently developed for a restaurant use.
4. Any improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

#### Finding

*F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use:*

#### Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to help ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible.
2. The restaurant with alcohol service will serve visitors and the surrounding business community. The proposed establishment will provide alcohol service as a public convenience to visitors and workers within the surrounding area.

3. Fashion Island management has historically provided efficient on-site security and cooperates with the NBPD.
4. The Applicant is required to obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.
5. The facts in support of Findings A through F above are incorporated by reference.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2019-040 (PA2019-141), subject to the conditions set forth in Exhibit "A" which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 10<sup>TH</sup> DAY OF OCTOBER, 2019.**



---

James Campbell, 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. Alcohol service shall be limited to a Type 41 (On-Sale Beer and Wine) Alcoholic Beverage Control (ABC) License.
3. The regular business hours for the restaurant shall be restricted from 7 a.m. to 9 p.m., daily. The closing hour for all business operations shall be limited to 11:00 p.m. Any change to a later closing time shall require approval by the NBPD and an amendment to this Minor Use Permit.
4. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the NBMC, unless the Zoning Administrator first approves an amended minor use permit. This Minor Use Permit shall be terminated if the operation is no longer maintained as a "bona fide public eating place" as defined by the California Department of Alcoholic Beverage Control.
5. Food service from the regular menu shall be made available to patrons until closing.
6. Alcohol may be served within the interior of the establishment. Alcoholic beverages served by the establishment shall only be consumed on the licensed premises and shall not be consumed on any adjacent property.
7. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
8. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
9. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the NBPD on demand.
10. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.



11. There shall be no live entertainment or dancing on the premises.
12. No games or contests requiring or involving the consumption of Alcoholic beverages shall be allowed.
13. Strict adherence to maximum occupancy limits is required.
14. Any changes in operational characteristics, hours of operation, expansion in area, or modification to the floor plan, shall require an amendment to this Minor Use Permit, unless otherwise approved by the Planning Division. Any changes in the business operation will require the preparation of an individual security plan subject to the review and approval of the NBPD.
15. All persons, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each person's, manager's, and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
16. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of this business that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the NBMC to require such permits.
17. The operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the alcoholic beverage outlet and adjacent properties, if directly related to the patrons of the subject alcoholic beverage outlet.
18. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 and other applicable noise control requirements.
19. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
20. The operator shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.

- 
21. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring uses and properties.
  22. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of NBMC Title 14, including all future amendments (including Water Quality related requirements).
  23. Storage outside of the building shall be prohibited.
  24. All proposed signs shall be in conformance with the provisions of the PC-56 (North Newport Center Planned Community), NBMC Chapter 20.42 (Sign Standards), or an approved Comprehensive Sign Program for the project site.
  25. The Applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws in connection with the use may be cause for revocation of this permit.
  26. The Zoning Administrator may add to or modify conditions of approval to this Minor Use Permit, upon a determination that the operation which is the subject of this Minor Use Permit causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
  27. Should the business, subject to the Minor Use Permit conditioned herein, be sold or otherwise come under different ownership or a change in operators, any future owners, operators, or tenants shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
  28. This Minor Use Permit shall expire unless exercised within twenty-four (24) months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code.
  29. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
  30. 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 Sessions Fashion Island Alcohol Sales including, but not limited to, Minor Use Permit No. UP2019-040 (PA2019-141). 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  
949-644-3200  
[www.newportbeachca.gov](http://www.newportbeachca.gov)

## **ZONING ADMINISTRATOR ACTION LETTER**

**Subject:** Gondola Adventures Extension of Time (PA2018-204)  
▪ Coastal Development Permit No. CD2018-085  
▪ Limited Term Permit (More Than 90 Days) No. XP2018-008

**Site Location** 200 Bayside Drive

**Applicant** Gondola Adventures, Inc.

**Legal Description** A Portion of Parcel 3 of Parcel Map No. 93-111

On **October 11, 2019**, the Zoning Administrator approved a 12-month extension of time of a coastal development permit and limited term permit for the construction of a temporary modular office for gondola boat tours at 200 Bayside Drive. The limited term permit and coastal development permit were originally approved on October 25, 2018 by the Zoning Administrator (Attachment No. ZA 2) and are set to expire on December 11, 2019 (12 months from date of final building occupancy). The extension will allow the limited term permit and coastal development permit to concurrently expire on **December 11, 2020**. There have been no changes to the conditions or circumstances of the project from the time of the original approval. The gondola boat tours have been operating without any issues or complaints from the public.

---

James Campbell, Zoning Administrator

Attachments: ZA 1 Vicinity Map  
ZA 2 Resolution ZA2018-113  
ZA 3 Request for Time Extension

# **Attachment No. ZA 1**

Vicinity Map

# VICINITY MAP



Extension of Time  
Coastal Development Permit No. CD2018-085  
Limited Term Permit No. XP2018-008  
PA2018-204

**200 Bayside Drive**

# **Attachment No. ZA 2**

Resolution ZA2018-113

## RESOLUTION NO. ZA2018-113

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING CD2018-085 AND XP2018-008 FOR A TEMPORARY MODULAR UNIT TO BE USED AS AN OFFICE FOR GONDOLA TOURS LOCATED AT 200 BAYSIDE DRIVE (PA2018-204)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Newport Gondola Adventures, Inc., with respect to property located at 200 Bayside Drive, and legally described as a portion of Parcel 3 of Parcel Map No. 93-111 requesting approval of a Coastal Development Permit and Limited Term Permit (More than 90 days).
2. The applicant proposes to construct a temporary modular office for gondola boat tours. The gondola boats will be docked within existing marina slips accessible from the property. The office will be used for general office operations, storage, and setup area for gondola tours. The office will include an attached restroom to serve employees and customers.
3. The subject property is designated Mixed Use Water Related (MU-W2) by the General Plan Land Use Element and is located within the Back Bay Landing (PC9) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed Use Water Related (MU-W) and it is located within the Back Bay Landing (PC9) Coastal Zone District.
5. A public hearing was held on October 25, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

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

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the construction of a store, motel, office, restaurant or similar structure not involving the use of hazardous substances, and not exceeding 2,500 square feet in floor area. The proposed 720-square-foot temporary modular office will be used as an office space.



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.

#### *Limited Term Permit*

In accordance with Section 20.52.040 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *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 one temporary modular office. The office will be used for general office operations, storage, and setup area for gondola cruises. The office will also include a restroom for employees and customers.
2. The subject property contains a variety of marine-related uses, including marina parking, outside storage for recreational vehicles and trailered boats, kayak and paddle board rentals and launch area, a floating fish market, and additional marine-related material storage. The proposed temporary modular office will be used as an office to support the gondola boat tours, which is a coastal-dependent use that is compatible with the other uses within the subject property.
3. The modular office is located within the Back Bay Landing Planned Community Development Plan (PC9) zoning and coastal zoning districts. The purpose of PC9 is to provide a vision for the land uses, set the development standards and design guidelines for the future review and approval of an integrated, mixed-use waterfront development. The proposed modular office is located within the future bayfront promenade identified in PC9 for the future mixed-use development; however, the modular office is temporary in use and is not part of the future development. As conditioned, if the future development is implemented prior to the expiration of the Limited Term Permit, the modular office shall be removed. The modular office does not interfere with nearby uses.

Finding:

- B. *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 modular building would be located within Planning Area 1 (Mixed-Use Area) of PC-9, which is approximately 5 acres in size. Based upon the site plan, there is adequate area to accommodate the proposed modular office and existing uses without impacting vehicle circulation. The modular office will be located in the rear of the lot, adjacent to the bay and marina access walkway.
2. The placement of the temporary modular office has been conditioned to ensure that it will not negatively impact on-site circulation.
3. The lot is bounded by the Back Bay to the north and west, the Bayside Village mobile home park to the east, and East Coast Highway to the south. The temporary modular office will not affect any of the surrounding uses.
4. The temporary modular office will be placed on private property.

Finding:

- C. *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 a direct driveway approach taken from Bayside Drive. The temporary modular office is located in the rear of the lot will not impede access to the existing lot. There are no traffic issues anticipated.

Finding:

- D. *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*

Facts in Support of Finding:

1. The gondola boats will be docked within the existing marina slips for which parking is provided for within the existing parking lot. Although the operation of the boat tours is expected to increase parking demands at the site, the site provides approximately 141 marked and unmarked parking spaces that are significantly underutilized. The proposed

location of the modular office will result in the temporary loss of 7 parking spaces, reducing the total on-site parking supply to approximately 134 spaces. According to the on-site project manager for the future Back Bay Landing project, approximately 20 vehicles are parked in the main parking area during daytime weekdays. Weekend parking increases to approximately 30 vehicles. There are no significant parking increases at the marina during summer months, except during the Fourth of July special event fireworks display at the nearby Newport Dunes. This underutilization of the parking areas has been verified by staff visits on numerous occasions and review of historical aerial photographs of the site. Therefore, the proposed gondola operation and modular office are not anticipated to negatively impact parking availability of the site.

Finding:

- E. 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 temporary modular office is conditioned to comply with all applicable provisions of the General Plan, Municipal Code, and other City regulations.
2. The site is not located within a specific plan area.

*Coastal Development Permit*

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

Finding:

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

Facts in Support of Finding:

1. The proposed temporary modular office is 720 square feet and includes a restroom.
2. The Mixed Use Water Related Coastal Land Use is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses and visitor-serving uses. The proposed boat tour use is a coastal-dependent use that requires close proximity to the bay.
3. The subject property contains a variety of uses including marina parking, outdoor storage for recreational vehicles and trailered boats, kayak and paddle board rentals and launch area, a floating fish market, and additional marine-related material storage. The proposed boat tour use and temporary modular office is compatible with other marine-related uses.

The development to the east is a mobile home park. The bulk and scale of the temporary modular office is compatible with the surrounding development.

4. As conditioned, all outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties, and not flood light toward the shoreline, coastal waters and coastal bluffs and to not produce glare onto adjacent properties, roadways, the shoreline, coastal waters or coastal bluffs. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures.
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. Landscaping is not proposed as a part of this project.

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; the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. An initial evaluation was conducted by staff to determine if the proposed modular office has the potential to impact the public view of the bay. A visual impact analysis was conducted from multiple public view vantage points facing the bay. Views of the bay are visible from East Coast Highway along the western portion of the subject property. The subject property is lower in topography than East Coast Highway, and the proposed modular office is a single-story structure approximately 10 feet in height. The portion of East Coast Highway abutting the eastern portion of the subject lot, as well as Bayside Drive, do not provide existing views of the bay.
3. The modular office has been sited to minimize impacts to public views of the bay, as it is located a northern corner of the lot that is outside of the viewshed of the bay as seen from East Coast Highway. The development does not include landscaping or fencing that would block views and access to the harbor.
4. The proposed boat tour use will provide additional recreation options to residents and visitors and encourage access to and usage of the bay.

5. The proposed modular office is located within a future pedestrian easement, which is a feature of a future project on the subject property. The modular building has been conditioned to be removed upon recordation of the pedestrian easement. Also as conditioned, if the future development is implemented prior to the expiration of the Limited Term Permit, the modular office shall be removed.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves CD2018-085 and XP2018-008, 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 25<sup>TH</sup> DAY OF OCTOBER, 2018.**



---

Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. *Coastal Development Permit No. CD2018-085 and Limited Term Permit No. XP2018-008 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
5. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
6. This Coastal Development Permit and Limited Term Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Coastal Development Permit and Limited Term Permit or the processing of a new Coastal Development Permit and Limited Term Permit.
8. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
9. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development Permit and Limited Term 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 and Limited Term Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

10. This Limited Term Permit shall expire twelve (12) months from the issued date of building occupancy, unless an extension of up to one (1) additional period of 12 months is granted by the Zoning Administrator in compliance with Section 20.54.060 (Time Limits and Extensions) of the Zoning Code. A letter requesting the extension shall be submitted to the Planning Division no later than thirty (30) days prior to the expiration date of this permit.
11. Upon recordation of a future pedestrian easement in compliance with PC-9, the temporary trailer shall be removed.
12. The hours of operation for the modular office and the gondola boat tours shall be limited to 10:00 a.m. through 10:00 p.m., daily, except that the gondola boat tours shall be permitted to operate to later hours with the prior approval of the Planning Division for up to six (6) special occasions per calendar year. Examples of special occasions include New Years, Valentine's Day, Mother's Day, etc.
13. A Marine Activities Permit (MAP) shall be obtained prior to the operation of boat tours.
14. In the event that the future Back Bay Landing mixed-use development is implemented prior to the expiration of this Limited Term Permit, the modular building shall be removed.
15. Prior to the issuance of a building permit, approval shall be obtained from the Building Division for the use of a pump out and holding station instead of connecting to a sewer system.
16. Prior to the issuance of building permits, all requirements from the Fire Department shall be completed to the satisfaction of the Fire Chief.
17. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
18. All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties, and not flood light toward the shoreline, coastal waters and coastal bluffs and to not produce glare onto adjacent properties, roadways, the shoreline, coastal waters or coastal bluffs. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures.
19. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

20. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

21. 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.
22. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
23. No outside paging system shall be utilized in conjunction with this establishment.
24. All trash shall be stored within the building or within dumpsters stored in the on-site trash enclosures or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
25. The applicant is required to obtain all applicable permits from the City’s Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
26. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
27. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
28. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance



with the provisions of Title 14, including all future amendments (including Water Quality related requirements).

29. The applicant shall ensure that the pump-out restroom is regularly serviced and maintained to control odors.
30. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
31. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
32. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
33. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
34. 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 Gondola Adventures including, but not limited to, CD2018-085 and XP2018-008 (PA2018-204). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

# **Attachment No. CD 3**

Request for Extension of Time



## GONDOLA ADVENTURES®, INC.

200 Bayside Drive  
Newport Beach, CA 92660  
Tel. 949-646-2067 • 855-GONDOLA  
Fax 949-642-4760  
[www.gondola.com](http://www.gondola.com)

September 25, 2019

Attn: City of Newport Beach  
Planning Division

Gondola Adventures, Inc. is seeking an extension of time on the Limited Term Permit for our modular office at 200 Bayside Drive, Newport Beach, 92660. We originally applied for the Limited Term Permit after our existing office and dock location (3101 West Coast Highway) closed for complete building and dock refurbishment. The 200 Bayside Drive modular office provides working space for us to operate gondola cruises from the adjacent marina at 300 East Coast Highway.

The gondolas have operated at this location successfully for over 9 months with, to our knowledge, no issues or concerns from nearby residents or businesses.

After the first extension of the Limited Term Permit expires (December 2020), unless there is another permit option for us to continue operating from this location, we intend to have a Conditional Use Permit in place. We expect to begin working on the Conditional Use Permit in November 2019 so we can continue to operate from the modular office until such time as the 200 Bayside Drive property undergoes development and construction that would require us to vacate the location.

Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Elisa M. Mohr", written in a cursive style.

Elisa M. Mohr  
Vice President



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

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

(949) 644-3200

[www.newportbeachca.gov](http://www.newportbeachca.gov)

## **COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER**

**APPLICATION:** Staff Approval No. SA2019-006 (PA2019-137)

**APPLICANT:** Jason Blackmore

**LOCATION:** 317 A, 317 B, and 317 C Coronado Street

**LEGAL DESCRIPTION** Lot 41 of Block C Newport Bay Tract

On **October 10, 2019**, the Community Development Director approved Staff Approval No. SA2019-006 authorizing the demolition of a three-unit residential structure in compliance with Zoning Code Chapter 20.34 and Local Coastal Program Implementation Plan Chapter 21.34 (Conversion or Demolition of Affordable Housing).

### **LAND USE AND ZONING**

- **General Plan:** Single-Unit Residential Detached (RS-D)
- **Zoning District:** Single-Unit Residential (R-1)
- **Coastal Land Use Category:** Single-Unit Residential Detached – (20.0 - 29.9 DU/AC) (RSD-D)
- **Coastal Zoning District:** Single-Unit Residential (R-1)

### **SUMMARY**

A staff approval for determination of compliance with Zoning Code Chapter 20.34, Local Coastal Program Implementation Plan Chapter 21.34, and the Mello Act (Government Code Section 65590). The property owner proposes to demolish an existing nonconforming, three-unit residential structure to accommodate the future redevelopment of the property into a single family residence.

### **ANALYSIS**

Pursuant to Zoning Code Section 20.34.020 (Review Authority), the Director shall make a determination as to the applicability of this chapter when a residential structure of three or more units is to be converted or demolished. If it is determined that any of the units are occupied by low- or moderate-income tenants, provisions for their replacement shall be provided, if feasible. If applicable and based on the documentation provided in compliance with Section 20.34.060 (Determining Requirements for Replacement Units), the Director shall make determinations as to:

1. *How many units were occupied by low- and moderate-income persons or families;*
2. *Whether the conversion or demolition proposes to go from residential to nonresidential and if so whether the proposed new use is coastal dependent;*
3. *Whether a feasibility analysis is required to be prepared;*
4. *The feasible number of affordable units required to be replaced, if any; and*
5. *Whether the required replacement affordable units are to be located on site or off site.*

In this particular case, the property owner has provided documentation to demonstrate the units were not occupied by low- and moderate-income families or persons. The documentation shows that while the three units have all been vacated within the past year, all tenant household incomes exceeded the low- and moderate-income limitations defined by the County of Orange. There is no conversion of residential to nonresidential and none of the units are and/or were occupied by low- and moderate-income families or persons; therefore, no further analysis is required.

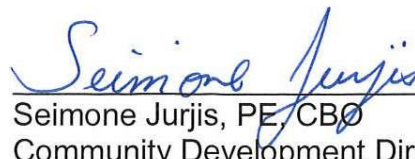
**APPEAL PERIOD:** An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:

Approved by:



\_\_\_\_\_  
Joselyn Perez  
Planning Technician



\_\_\_\_\_  
Seimone Jurjis, PE, CBO  
Community Development Director

Attachments: CD 1 Vicinity Map  
CD 2 Unit Occupancy Table  
CD 3 County of Orange Income Limits

# **Attachment No. CD 1**

Vicinity Map

# VICINITY MAP



Staff Approval No. SA2019-006  
PA2019-137

**317 A, 317 B, and 317 C Coronado Street**

# **Attachment No. CD 2**

Unit Occupancy Table



**317 A, 317 B, and 317 C Coronado St.  
Unit Occupancy & Income Table**

Unit No.	Bedroom Count	Occupant(s)	Income	County of Orange Income Limits 2019	
				Low	Moderate
A	1	Two-Person Household (2016 – 7/7/2019)	\$159,000 (yr 2019)	\$76,000	\$94,000
B	1	One-Person Household (2004 – 6/10/2019)	\$234,000 (yr 2004)	\$66,500	\$82,259
C	1	One-Person Household (2014 – 6/7/2019)	\$82,300 (yr 2019)	\$66,500	\$82,259

# **Attachment No. CD 3**

County of Orange Income Limits

# County of Orange Income Limits FY 2019

**Section 6932. 2019 Income Limits**

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									
Orange County  Area Median Income: <b>\$97,900</b>	Extremely Low	24950	28500	32050	35600	38450	41300	44150	47000
	Very Low Income	41550	47500	53450	59350	64100	68850	73600	78350
	Low Income	66500	76000	85500	94950	102550	110150	117750	125350
	<b>Median Income</b>	68550	78300	88100	<b>97900</b>	105750	113550	121400	129250
	Moderate Income	82250	94000	105750	117500	126900	136300	145700	155100