



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 25, 2019.

ZONING ADMINISTRATOR ACTIONS OCTOBER 24, 2019

- Item 1: Jackson Residence Coastal Development Permit No. CD2019-012 (PA2019-037)
Site Address: 808 West Bay Avenue
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| Action: Approved by Resolution No. ZA2019-066 | Council District | 1 |
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- Item 2: Engstrom Condominiums Coastal Development Permit No. CD2019-037 and Tentative Parcel Map No. NP2019-011 (PA2019-144)
Site Address: 2324 Pacific Drive
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| Action: Approved by Resolution No. ZA2019-067 | Council District | 6 |
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- Item 3: Annual Review of North Newport Center Development Agreement (PA2009-023)
Site Address: Fashion Island; Block 100, Block 400, Block 500, Block 600, and Block 800 of Newport Center Drive; and San Joaquin Plaza
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| Action: The Zoning Administrator found that North Newport Center Annual Review was in good faith compliance with the terms of the Development Agreement. | Council District | 5 |
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- Item 4: Campbell Residence Coastal Development Permit No. CD2019-035 (PA2019-142)
Site Address: 605 Via Lido Soud
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| Action: Approved by Resolution No. ZA2019-068 | Council District | 1 |
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- Item 5: Bentley Residence Coastal Development Permit No. CD2019-045 (PA2019-172)
Site Address: 119 Shorecliff Road
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| Action: Approved by Resolution No. ZA2019-069 | Council District | 6 |
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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2019-066

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-012 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED 3-CAR GARAGE LOCATED AT 808 WEST BAY AVENUE (PA2019-037)

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 808 West Bay Avenue, requesting approval of a coastal development permit. The lot at 808 West Bay Avenue is legally described as Lot 35, Tract 0084.
2. The applicant proposes the demolition of an existing single-family residence and the construction of a new 5,740-square-foot, single-family residence including a 948-square-foot, attached 4-car garage. The project includes reinforcing and raising the height of the existing bulkhead. No work will be conducted bayward of the existing property. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
3. The subject property is designated R-1 (Single-Unit Residential) by the General Plan Land Use Element and is located within the RS-D (Single-Unit Residential Detached) 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 R-1 (Single-Unit Residential) Coastal Zone District.
5. A public hearing was held on October 24, 2019, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-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 7,107 square feet and the proposed floor area is 5,740 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 20 feet along the front property line abutting the harbor, 3 feet along each side property line and 4 feet along the front property line abutting West Bay Avenue.
 - c. The highest guardrail is less than 24 feet from established grade (9.00 feet NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
 - d. The project includes garage parking for a total of 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 and two-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
3. A project site is protected by an existing cast-in-place concrete bulkhead. The applicant is proposing to augment the existing bulkhead with a new concrete stem wall with the top of the bulkhead elevation at 10.6 feet North American Vertical Datum of 1988

(NAVD88). A Bulkhead Conditions Report was prepared by Geosoils, Inc. on April 12, 2019, and concluded that the existing concrete bulkhead was in good condition and is not in need of repair or maintenance; however, the tieback condition should be verified prior to constructing new residence. Specifically, the applicant is proposing to augment the existing bulkhead to add a new concrete stem wall to a minimum height of 10.6 NAVD88. The improvements do not require the use of mechanized equipment on the bay or beach, and the City may authorize these improvements pursuant to the Implementation Plan with the approval of a coastal development permit. As shown on the Post-LCP Certification Permit and Appeal Jurisdiction Map (July 11, 2018), the line of the California Coastal Commission's jurisdiction is coterminous with the bulkhead line, thereby authorizing the City to permit improvements to the bulkhead that do not result in bayward encroachment or a replacement bulkhead. Lastly, the improvements would not impact public trust areas, submerged lands, or tidelands.

4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by GeoSoils, Inc. dated April 12, 2019, for the project. The current maximum bay water elevation is 7.7 NAVD88 (North American Vertical Datum of 1988 (NAVD88)). According to the report, the estimated sea level rise at the site appears to be between 1.3 and 5.4 feet over the next 75 years utilizing different probabilistic scenarios, accounting for bay water levels rising in the range of 9 feet to 13.1 feet NAVD88. The Newport Beach City Council approved the use of the high estimate of the "low risk aversion" scenario, which is 3.2 feet by the year 2100, or 2.9 feet by 2094. Therefore, the sea level is estimated to likely reach approximately 10.6 feet NAVD88 over the next 75 years (i.e. the life of the structure). Once the existing seawall/bulkhead is raised per the report's recommendations, flooding, wave runup, and erosion will not significantly impact this property over the proposed 75-year economic life of the development. As conditioned, a waterproofing curb is required to be constructed around the perimeter of the dwelling that would protect against flooding up to an elevation of 10.6 feet (NAVD88). Flood shields (sand bags and other barriers) can be deployed across the openings to protect and prevent flooding to the structure. The report concludes that the proposed project will be safe from flooding hazards for the next 75 years with the reinforced/capped bulkhead and a flood protection curb. The report also identifies that there is a 0.5 percent chance (medium-high risk aversion scenario) that SLR would be greater than 2.9 feet around the year 2070 and could as high as 13.1 feet NAVD88 by the year 2100. If future SLR is greater than the likely estimate of the "low risk aversion" scenario by 2094 (10.6 feet NAVD88), then the bulkhead can be raised without further bayward encroachment.
5. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to final building inspection, and prior to the issuance of building permits, respectively.

6. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
7. The applicant provided an Erosion Control Plan to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution runoff and coastal waters derived by construction chemicals and materials. The Erosion Control Plan will be reviewed by the City's Engineer Geologist. Construction plans and activities will be required to adhere to the approved Erosion Control Plan.
8. 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) is required. A WQMP prepared by Forkert engineering and Surveying, Inc., dated February 12, 2019, has been submitted and will be reviewed by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
9. 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
10. 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 site is located approximately 430-feet from a public beach along the harbor, which is accessible to the public and provides opportunities to access and view the harbor. As currently developed, the existing property and other residences along the 800 block of West Bay Avenue are not located within the view shed of the park. Furthermore, 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. The front setback along the harbor is 20 feet and only allows improvements with a maximum height of 42 inches. 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.*

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 standard 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 and lateral access to the harbor is available approximately 75 feet away at the terminus of 8th Street, approximately 275 feet away at the terminus of 9th Street, and approximately 430-feet from the public beach on the harbor to the west. The project does not include any features that would obstruct access along these routes.
3. The existing development is provided vehicular access from West Bay Avenue. The proposed development will maintain the same vehicular access from West Bay Avenue.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2019-012, 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 24TH DAY OF OCTOBER, 2019.



Jim 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. Prior to final inspection of building permits for the new residence, the existing seawall shall be augmented and capped to 10.6 feet (NAVD88) minimum in accordance with the recommendations provided in the report prepared by GeoSoils Inc. on April 12, 2019 and as identified in the approved plans. The plans shall also demonstrate that the wall can be augmented to a greater height if the future SLR is greater than the likely estimate of the "low risk aversion" scenario by 2094 (10.6 feet NAVD88). All improvements to the bulkhead shall be without further bayward encroachment and not require the use of mechanized equipment on the bay or beach.
3. All improvements at the property shall occur landward of the existing bulkhead.
4. A waterproofing curb (or similar features that provide adequate level of protection) shall be constructed around the proposed residence as an adaptive flood protection device up to 10.6 feet (NAVD88). Flood shields (sand bags and other barriers) can be deployed across the openings to protect and prevent flooding to the structure as necessary.
5. Third floor covered patios areas shall remain open as depicted on approved plans. The openings shall not be covered in any way including windows, shades, or any type of covering.
6. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
7. Coastal Development Permit No. CD2019-012 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.
8. Prior to the issuance of a Certificate of Occupancy, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices 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.
9. 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.

10. 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.
11. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
12. This Coastal Development Permit does not authorize any development seaward of the private property. Should the bulkhead require more extensive repair or replacement with construction equipment bayward of the private property, an additional Coastal Development Permit shall be obtained for the bulkhead from the Coastal Commission.
13. 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.
14. 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.
15. 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.
16. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the WQHP/WQMP and any changes could require separate review and approval by the Building Division.
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 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.

19. 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.
20. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
21. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
22. 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.
23. 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.
24. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
25. 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.

26. 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.
27. 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.
28. 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. 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 Jackson Residence including, but not limited to, Coastal Development Permit No. CD2019-012 (PA2019-037). 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. ZA2019-067

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2019-011 AND COASTAL DEVELOPMENT PERMIT NO. CD2019-037 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 2324 PACIFIC DRIVE (PA2019-144)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Engstrom Real Estate Group, with respect to property located at 2324 Pacific Drive, and legally described as Lot 2, Block 329 of Tract 186, requesting approval of a tentative parcel map and a coastal development permit for condominium purposes.
2. The applicant proposes a coastal development permit and tentative parcel map for two-unit condominium purposes. A two-unit dwelling has been demolished and a new duplex is currently under construction. No waivers of Title 19 (Subdivisions) are proposed. The tentative parcel map would allow each unit to be sold individually. The tentative parcel map also requires the approval of a coastal development permit pursuant to Title 21 (Local Coastal Program Implementation Plan) in the Newport Beach Municipal Code.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan designation is Two-Unit Residential (RT-D) and a Coastal Zoning District of Two-Unit Residential (R-2).
5. A public hearing was held on October 24, 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 years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code and approves the coastal development permit based on the following findings per Newport Beach Municipal Code (NBMC) Section 21.52.015.F:

Finding:

A. That the proposed map conforms to all applicable sections of the certified Local Coastal Program.

Facts in Support of Finding:

1. The tentative parcel map is for condominium purposes and meets all of the requirements of the Local Coastal Program, including NBMC Section 21.30.025 (Coastal Subdivisions).
2. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies.
3. The tentative parcel map is for a property within a developed neighborhood. The subject property is approximately 350 away from the Newport Harbor Channel within the Categorical Exclusion Area. The development of the duplex was approved pursuant to the Categorical Exclusion Order.

Finding:

B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is 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 not located between the nearest public road and the sea or shoreline. The residential lot does not currently provide nor inhibit public coastal access. Newport Beach Municipal Code 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 is a tentative parcel map for condominium purposes. Thus, 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.

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

Finding:

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

Facts in Support of Finding:

1. The tentative parcel map is for two-unit residential condominium purposes. A two-unit dwelling has been demolished and a new duplex is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Pacific Drive frontage and alley panels along the alley frontage consistent with Title 19 of the Newport Beach Municipal Code (Subdivision Code).

Finding:

D. That the site is physically suitable for the type and density of development.

Facts in Support of Finding:

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

Finding:

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

Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements located on the property.

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The new two-unit dwelling will be designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Fact in Support of Finding:

1. The subject property is within the Coastal Zone. The facts in support of findings A and B above are hereby incorporated by reference.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2019-011 and Coastal Development Permit No. CD2019-037, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 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 24th DAY OF OCTOBER, 2019.



Jim Campbell, Zoning Administrator

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

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this permit is final.
3. The building permit for the new construction shall not be final until after recordation of the parcel map.
4. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code.
5. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Engstrom Residential Condominiums including, but not limited to, Tentative Parcel Map No. NP2019-011 and Coastal Development Permit No. CD2019-037 (PA2019-144). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

PUBLIC WORKS

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

7. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
8. All improvements shall be constructed as required by Ordinance and the Public Works Department.
9. All damaged street, sidewalk panels and curb/gutter along the Pacific Drive property frontage and alley panels within the alley frontage shall be reconstructed as determined by the Public Works Department.
10. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed per City standard with a traffic-grade box and cover. Each water meter and sewer clean out shall be located within the public right of way.
11. An encroachment permit is required for all work activities within the public right-of-way.
12. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
13. All unpermitted private encroachments shall be removed within the Pacific Drive public right-of-way, including but not limited to walls and carriage walk.
14. There shall be no above ground encroachments within the alley setback area.
15. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

BUILDING

16. Independent utility services shall be provided for each unit.
17. Independent fire risers shall be required for each unit.
18. Construction shall comply with the California Code of Regulations

RESOLUTION NO. ZA2019-068

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-035 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE LOCATED AT 605 VIA LIDO SOUD (PA2019-142)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by South Coast Architects, with respect to property located at 605 Via Lido Soud, and legally described as Lot 2, Tract 907 requesting approval of a coastal development permit.
2. The applicant proposes to demolish an existing single-family residence and construct a new 3,015-square-foot, single-family residence with an attached 500-square-foot, two-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 Zoning District is R1 (Single-Unit Residential).
5. A public hearing was held on October 24, 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, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
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 3,015-square-foot, single-family residence with an attached 500-square-foot, three-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) 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 3,600 square feet and the proposed gross floor area is 3,515 square feet.
 - b. The proposed development will provide the required setbacks, which are 4 feet along the front property line abutting the street, 10 feet along the bay front property line, and 3 feet along the side property lines.
 - c. The highest guardrail or flat roof is no more than 24 feet, measured from established grade at every point as required by Zoning Code Section 20.30.050(B)(3) and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height limitation.
 - d. The project includes enclosed garage parking for two vehicles, which complies with the minimum two-space parking requirement for single-family residences having 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's pattern of development and expected future development consistent with applicable development standards as the neighborhood is predominantly developed with two-story, single-family residences. The project does not include the construction of a new bulkhead that would include the backfilling of the property to create new usable land area consistent with NBMC Section 21.30.030.C.3.b. The existing seawall is not moving further bayward and the proposed patio is in alignment with the existing patios on either side of the subject property. The proposed patio structure will not extend beyond the property over land or waters of Newport Harbor and is consistent with NBMC Section 21.30C.050.G.5.
3. A Coastal Hazards and Sea Level Rise (SLR) Report was prepared for the project by GeoSoils, Inc., dated June 6, 2019. The current maximum bay water elevation is 7.72 feet NAVD88 (North American Vertical Datum of 1988). The report analyzes future sea level rise scenarios assuming a 1.3 to 3.2-foot increase in the maximum water level over the next 75 years (i.e. the economic life of the structure) accounting for water levels in the bay rising to between 9.02 feet and 10.92 feet NAVD88 (based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). The project site is currently protected by an existing bulkhead that will be

raised in height from 12.29 feet NAVD88 to approximately 12.85 feet NAVD88. The report also identifies that there is a 0.5 percent chance (medium-high risk aversion scenario) that SLR could be greater than 5.86 feet around the year 2094, raising the sea level to 13.56 feet NAVD88. Condition 1b requires the project demonstrate that it is adaptable to the medium-high risk aversion scenario for the economic life of the building.

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 living area is 13.0 feet NAVD88, which exceeds the minimum 9.0 NAVD88 elevation standard for new structures.
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 best management practices (BMPs) to be implemented during construction to minimize erosion and sedimentation, and to minimize pollution of runoff derived by construction chemicals and materials. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property.
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 to 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 single-family residence with a new 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 finds 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, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2019-035, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. 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 24th 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).
 - a. Final construction plans shall demonstrate that the project can be modified to protect the principal structure to the "medium-high risk" aversion scenario by 2094 (13.56 feet NAVD88) should future sea level rise be greater than the likely estimate of the "low risk aversion" scenario by 2094 (10.6 feet NAVD88). All improvements associated with the proposed project shall be accomplished without the use of mechanized equipment on the bay or beach beyond the property.
 - b. Prior to the issuance of a certificate of occupancy, the existing stairs and platform that encroach beyond the property shall be removed.
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. CD2019-035 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. 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.

17. 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.
18. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the coastal development 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.
19. 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.
20. 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.
21. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
22. 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.
23. 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.
24. 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.
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 the **Campbell Residence including, but not limited to Coastal Development Permit No. CD2019-035 (PA2019-142)**. 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. ZA2019-069

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-045 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE LOCATED AT 119 SHORECLIFF ROAD (PA2019-172)

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 119 Shorecliff Road, and legally described as Lot 116, Tract 1116 requesting approval of a coastal development permit.
2. The applicant proposes to demolish an existing one-story single-family residence and construct a new two-story 6,055-square-foot, single-family residence with an attached 848-square-foot, four-car garage.
3. The subject property is located within the R-1-6,000 (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-A (Single Unit Residential Detached) (0.0 - 5.9 DU/AC) and the Coastal Zoning District is R-1-6,000 (Single-Unit Residential).
5. A public hearing was held on October 24, 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, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
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 6,055-square-foot, single-family residence with an attached 848-square-foot, four-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) 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, site coverage limitation, setbacks, height, and parking:
 - a. The maximum allowable site coverage is 60% of the buildable area of the lot or 7,756 square-feet. The proposed site coverage is 36.7% or 4,752 square-feet.
 - b. The proposed development will provide the required setbacks, which are 20 feet along the front property line, 6 feet along the side property lines, and 6 feet along the rear property line.
 - c. The highest guardrail or flat roof is no more than 24 feet, measured from established grade at every point as required by Zoning Code Section 20.30.050(B)(3) and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height limitation.
 - d. The project includes enclosed garage parking for four vehicles, which exceeds the minimum three-space parking requirement for single-family residences having more 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's pattern of development and expected future development consistent with applicable development standards as the neighborhood is predominantly developed with one- and two-story, single-family residences.
3. The project is located on a relatively level building pad elevation of approximately 70 feet (NAVD88) on a lot that does not have coastal frontage. A Geotechnical Investigation, dated August 12, 2019, was prepared by Coast Geotechnical, Inc., for the project and found that the proposed grading and construction will not adversely affect geologic stability of the project site or adjoining properties or structures, provided construction is performed in accordance with report recommendations. The site is not mapped as being susceptible to earthquake-induced liquefaction or landslide.
4. The project will be 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 a building

permit. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.

5. As conditioned, 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) prior to the issuance of building permits for construction.
6. The project design addresses water quality during construction with a construction erosion control plan. All new construction resulting from the project will tie into an existing post-construction drainage system that includes 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. 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.
8. 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 to 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 single-family residence with a new 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 to not 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 project, including a publicly accessible walkway located immediately behind the subject property, leading to a coastal viewing platform located below and west of the property.
3. The project site is not located adjacent to a coastal view road or coastal viewpoint identified by Local Coastal Program maps. The project site may be located within the

viewshed of distant public viewing areas; however, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) development standards. It will also maintain a building envelope consistent with the existing and anticipated neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds 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, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2019-045, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. 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 24th 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. 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. CD2019-045 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 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.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
8. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined 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.
9. 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.

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10. 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.
 11. 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.
 12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
 13. The 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.
 14. 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.
 15. 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.
 16. 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.
 17. 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.

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.
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.
21. 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.
22. 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 *Bentley Residence including, but not limited to Coastal Development Permit No. CD2019-045 (PA2019-172)*. 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.