



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER, AND PLANNING COMMISSION

FROM: Seimone Jurjis, Assistant City Manager/Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator for the week ending February 16, 2024.

ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS FEBRUARY 16, 2024

- Item 1: Hohberg Residential Condominiums Tentative Parcel Map and Coastal Development Permit (PA2023-0117)
Site Address: 407 and 407 ½ Heliotrope Avenue
- | | | |
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| Action: Approved by Resolution No. ZA2024-006 | Council District | 6 |
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- Item 2: Mendocino Farms Minor Use Permit (PA2023-0196)
Site Address: 849 Newport Center Drive
- | | | |
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| Action: Approved by Resolution No. ZA2024-007 | Council District | 5 |
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- Item 3: Annual Review of Uptown Newport Development Agreement (PA2023-0186)
Site Address: 4311-4321 Jamboree Road
- | | | |
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| Action: The Zoning Administrator found that Uptown Newport is in good faith compliance with the terms of the Development Agreement. | Council District | 3 |
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- Item 4: Starbucks Minor Use Permit (PA2023-0193)
Site Address: 2523 Eastbluff Drive
- | | | |
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| Action: Approved by Resolution No. ZA2024-008 | Council District | 4 |
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- Item 5: Mobil Service Station Comprehensive Sign Program and Modification Permit (PA2023-0183)
Site Address: 2201 East Coast Highway
- | | | |
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| Action: Approved by Resolution No. ZA2024-009 | Council District | 6 |
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- Item 6: Merz Residence Modification Permit (PA2023-0245)
Site Address: 263 Walnut Street
- | | | |
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| Action: Approved by Resolution No. ZA2024-010 | Council District | 1 |
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**COMMUNITY DEVELOPMENT DIRECTOR
OR ZONING ADMINISTRATOR ACTIONS**
(Non-Hearing Items)

Item 1: Engstrom Residential Condominiums Tentative Parcel Map (PA2023-0113)
Site Address: 704 Orchid Avenue

Action: Approved by Resolution No. ZA2024-011

Council District 6

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 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. ZA2024-006

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A TENTATIVE PARCEL MAP AND COASTAL DEVELOPMENT PERMIT FOR A TWO-UNIT RESIDENTIAL CONDOMINIUM MAP FOR THE PROPERTY LOCATED AT 407 AND 407 ½ HELIOTROPE AVENUE (PA2023-0117)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Sheila Wright of Toal Engineering ("Applicant"), concerning property located at 407 and 407 ½ Heliotrope Avenue, which is legally described in Exhibit "A," which is attached hereto and incorporated herein by reference ("Property").
2. The Applicant proposes a tentative parcel map for condominium purposes. The property owner proposes to demolish an existing residential duplex and construct a new two-unit residential condominium building with a footprint consistent with the proposed map.
3. The Property is designated Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Two Unit Residential (20.0-29.9 DU/AC) (RT-D) and it is located within the Two-Unit Residential (R-2) Coastal Zone District.
5. A public hearing was held on February 15, 2024, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is categorically 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, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20%. The Project is for a two-unit condominium subdivision and will conform to all development standards, and therefore, is consistent with and eligible for the Class 15 Exemption.

SECTION 3. REQUIRED FINDINGS.

Tentative Parcel Map

In accordance with Section 19.12.070 (Required Findings for Action on Tentative Maps) of the Newport Beach Municipal Code (NBMC), the following findings, and facts in support of such findings, are set forth:

Finding:

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

Facts in Support of Finding:

1. The tentative parcel map is for two-unit condominium purposes. The Property is currently developed with a residential duplex on one lot. The property owner proposes to demolish an existing residential duplex and construct a new two-unit residential condominium building. The condominium map will allow for the separate sale of each unit in the future. The proposed subdivision and improvements are consistent with density of the R-2 Zoning District and the Two Unit Residential (RT) General Plan Land Use designation.
2. The Property is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The Property is physically suitable for attached residential dwellings, as it is regular in shape and size with access to both Heliotrope Avenue and the alley in the rear. The Property is currently developed with a residential duplex which the owner proposes to demolish and redevelop with an attached, two-unit residential condominium.
2. The Property is accessible by pedestrians from Heliotrope Avenue at the front property line and the alley abutting the rear property line. Vehicular access is available from the alley only.
3. The Property is adequately served by existing utilities, including electrical, water, and sewer. Per Conditions No. 16 and 18, separate utility connections shall be required for each condominium unit in the future, including fire sprinkler lines.

4. There is no proposed change in density. The Property is currently developed with two residential units and will have the ability to be redeveloped with two residential units, resulting in no net loss of residential dwelling units.

Finding:

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

Facts in Support of Finding:

1. The Property is located within a developed residential neighborhood that does not contain any sensitive vegetation or habitat on-site.
2. 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.

Finding:

- D. *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 Applicant 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. The Project shall comply with all ordinances of the City and all Conditions of Approval.
2. The Project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Heliotrope Avenue frontage and alley, as needed. Existing private improvements (brick pavers) within the Heliotrope Avenue right-of-way must be removed and new landscaping installed. The existing street tree in the Heliotrope Avenue public right-of-way is to be protected in place. The utilities will be undergrounded, consistent with Title 19 (Subdivisions) of the Newport Beach Municipal Code.

Finding:

- E. *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 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 the 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.*

Facts in Support of Finding:

1. The Public Works Department has reviewed the proposed tentative parcel map and determined that the design of the development will not conflict with easements acquired by the public at large, for access through, or use of Property within the proposed development because no public easements are located on the Property.
2. Public improvements, including but not limited to utilities, sidewalks, and landscaping, will be required to be completed by the Applicant or property owner per the Municipal Code and the Subdivision Map Act.

Finding:

- F. *The 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 Property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The Property is developed for residential use and lies in the R-2 Zoning District, which permits residential uses.

Finding:

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

Finding:

- H. 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 which requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

- I. 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 residential condominium project is consistent with the R-2 Zoning District, which allows up to two (2) residential units on the Property. Therefore, the tentative parcel map for residential condominium purposes will not affect the City in meeting its regional housing needs.

Finding:

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

Fact in Support of Finding:

1. The Project wastewater is designed to discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- K. *For subdivisions lying partly or wholly within the coastal zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three (3) of the Coastal Act.*

Fact in Support of Finding:

1. The Property is located within the coastal zone and a CDP is therefore requested in conjunction with the proposed tentative parcel map. The project complies with the certified Local Coastal Program (LCP) and public access and recreation policies of Chapter 3 of the Coastal Act. The Facts in Support of Findings L and M for the coastal development permit (below) are hereby incorporated by reference.

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

1. The Project is for a tentative parcel map for two-unit residential condominium purposes. The proposed subdivision and improvements are consistent with the density of the R-2 Coastal Zoning District.
2. The neighborhood is predominantly developed with two- and three-story, single- and two-unit residences. The proposed subdivision, which will allow for a two-unit residential condominium, is consistent with the existing neighborhood pattern of development.
3. The Property is 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 before 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 before building permit issuance.
4. The Property is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoints are along the shoreline adjacent to the harbor entrance and are not visible from the site. The site is located near Bayside Park, which is accessible to the public and provides access to a viewpoint to the bay at Begonia Park to the west. As currently developed, the Property and other residences along the 400-block of Heliotrope Avenue are not located within the

view shed of the park. However, the proposed residential condominium complies with all applicable Local Coastal Program (LCP) development standards and maintains a development potential consistent with the existing neighborhood pattern. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

Finding:

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

Facts in Support of Finding:

1. The project site is not 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 proposes a two-unit residential condominium map on a property currently developed with a residential duplex. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, future site development shall be required to comply with applicable development standards sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. The Property is over 1,400 feet away from the nearest shoreline. Approval of the proposed tentative parcel map will not affect public recreation, access, or views as future development shall be located within the boundaries of the existing lot.

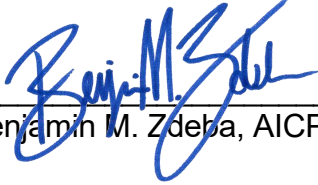
SECTION 4. DECISION.

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 under Section 15315 under Class 15 (Minor Land Divisions) 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 the Tentative Parcel Map and Coastal Development Permit (PA2023-0117), subject to the conditions outlined in Exhibit "B," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date the Resolution is adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 (Local Coastal Program [LCP] Implementation Plan) of the Newport Beach Municipal Code. The project

site is not located within the appeal area of the coastal zone; therefore, final action by the City may not be appealed to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF FEBRUARY, 2024.



Benjamin M. Zdeba, AICP, Zoning Administrator

EXHIBIT “A”

LEGAL DESCRIPTION

APN: 459-172-14

Real property in the City of Newport Beach, County of Orange, State of California, described as follows:

THE SOUTHWESTERLY 12 FEET OF LOT 9 AND THE NORTHEASTERLY 28 FEET OF LOT 7, BLOCK 334 OF CORONA DEL MAR AS SHOWN ON A MAP RECORDED IN BOOK 3, PAGES 41 AND 42 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, THIS LEGAL DESCRIPTION IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 10, 2014 AS INSTRUMENT NO. 14-534110 OF OFFICIAL RECORDS.

EXHIBIT “B”**CONDITIONS OF APPROVAL****Planning Division**

1. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
2. Prior to recordation of the final parcel map, the existing residential duplex shall be demolished to avoid conflict between the footprint of the existing building and the parcel map property lines.
3. Approval of this project does not constitute approval or implied approval for any future property development permits, including but not limited to demolition permits, coastal development permits, grading permits, or building permits.
4. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this approval.
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 19 Subdivisions and Title 21 of the NBMC.
6. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 **Hohberg Residential Condominiums including, but not limited to Tentative Parcel Map and Coastal Development Permit (PA2023-0117)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's 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 the City's costs, attorneys' fees, and damages, which the City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

7. Prior to the final inspection of the building permit for new construction, 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.

8. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set on each lot corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
9. After the recordation of the Parcel Map and prior to the building permit final, 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 description change permit is final.
10. All improvements shall be constructed as required by Ordinance and the Public Works Department.
11. An encroachment permit is required for all work activities within the public right-of-way.
12. All damaged sidewalk panels, curb, gutter, sidewalk, and street along the Heliotrope Avenue frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department.
13. Prior to the recordation of the parcel map, all existing overhead utilities shall be undergrounded.
14. Existing brick pavers within the parkway on Heliotrope Avenue shall be removed and replaced with landscaping.
15. The existing street tree within the parkway of Heliotrope Avenue shall be protected-in-place.
16. Each unit shall be served by its individual water service/meter and sewer lateral/cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
17. 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 Division

18. Prior to the recordation of the parcel map, separate utilities shall be provided for each unit, including fire sprinklers.

Fire Department

19. NFPA 13D fire sprinkler system shall be required for this Project.
20. Each unit shall have their own dedicated water meter for the fire sprinkler system.

RESOLUTION NO. ZA2024-007

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A MINOR USE PERMIT TO ALLOW A TYPE 41 (ON-SALE BEER AND WINE – EATING PLACE) ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE FOR A FOOD SERVICE, EATING, AND DRINKING ESTABLISHMENT LOCATED AT 849 NEWPORT CENTER DRIVE (PA2023-0196)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Noelia Santiago of Valerio, Inc., (“Applicant”), concerning property located at 849 Newport Center Drive, and legally described as Lot 2 of Lot Line Adjustment No. LA 2009-001 (“Property”), requesting approval of a minor use permit.
2. The Applicant has requested a minor use permit to allow the sale and service of alcoholic beverages with a Type 41 (On-Sale Beer and Wine – Eating Place) Alcoholic Beverage Control (ABC) License at a proposed food service, eating, and drinking establishment (restaurant) project. The restaurant would operate within a 2,397 square foot tenant space and adjoining 286 square foot outdoor dining area. The tenant space would have 34 interior seats and 16 seats in the outdoor dining area.
3. The Property is categorized as Regional Commercial (CR) by the General Plan Land Use Element and is located within the Fashion Island Sub-Area of the North Newport Center Planned Community (PC-56) Zoning District.
4. The Property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on February 15, 2024, online via Zoom. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* (Ralph M. Brown Act) and Chapters 20.62 (Public Hearings) of the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) 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 Class 1 (Existing Facilities) exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures,

facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The Project is to allow the sale of alcohol in a restaurant, which is being constructed in a portion of a tenant space that was previously occupied by a larger restaurant with alcohol sales. Inasmuch as the new use will be a smaller version of the previous use of the tenant space, there is no intensification in use.

SECTION 3. REQUIRED FINDINGS.

Alcohol Sales

In accordance with Section 20.48.030(C)(3) (Alcohol Sales-Required Findings) of the NBMC, the findings and facts in support of such findings are set forth as follows:

Finding:

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

Facts in Support of Finding:

In finding that the Project is consistent with Section 20.40.030 (Alcohol Sales) of the NBMC, 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.*
- a) The Property is in Reporting District 39 ("RD 39"). RD 39 exceeds the Citywide average and is considered a higher crime area as compared to other reporting districts. The Crime Count in RD 39 is 425, which is 260% over the Citywide crime count average of 118. Since this area has 20% or greater reported crimes than the average number of reported crimes as determined from all crime reporting districts within the City, the area is found to have undue concentration. However, it is important to note that RD 39 contains the Fashion Island Shopping Center, a regional center with various retail, office, restaurant, and entertainment business. The highest volume of crime in this area is theft while the highest volume of arrests in the area are drug related offenses. While alcohol related crimes make up 16% of the arrests in this reporting district, they make up a smaller percentage of overall crime than in neighboring reporting districts. In comparison, the alcohol related arrests for the neighboring districts are RD 43 is 18%, RD 47 is 21% and RD 38 is 40%. While the reporting district does have a high crime rate, the majority of these crimes are theft, which is a result and nature of the operation of a regional shopping center.
 - b) The Newport Beach Police Department ("NBPD") has reviewed the proposed use. Based on the location, operational characteristics, and closing hours, the NBPD has no objection to the proposed Type 41 ABC License, subject to appropriate conditions of approval, which have all been included in Exhibit "A" attached to this Resolution.

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- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
- a) Due to the higher concentration of crimes related to the operation of a regional shopping center, RD 39 is reported to ABC as a high crime area as compared to other reporting districts in the City. The highest volume of crime in this area is theft and the highest volume of arrest in the area is drug-related offenses. Driving under the influence, public intoxication, and liquor law violations make up 16% of arrests in this reporting district. In comparison, the alcohol related arrests for the neighboring districts are as follows: RD 43 is 18%, RD 47 is 21% and RD 38 is 40%.
- 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.*
- a) The proposed location of the alcohol establishment is within the Fashion Island Shopping Center, which is a regional mall. It is not within close proximity 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.
- b) The nearest residential area is located approximately 1,250 feet to the southwest of the restaurant, across San Joaquin Hills Road. The nearest religious facility is St. Mark Presbyterian Church, which is approximately 2,700 feet to the east of the restaurant. The nearest school is Lincoln Elementary, which is approximately 4,800 feet to the southeast of the restaurant.
- c) The proposed alcohol sales are not anticipated to be detrimental to the community because of the proximity to any sensitive land uses, especially with the allowed operation narrowed by the Conditions of Approval.
- iv. *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
- a) The restaurant is located within a regional shopping center that also has several other establishments active ABC Licenses, most of which are bona fide eating and drinking establishments and are not defined as bars, lounges or nightclubs by Title 20 (Planning and Zoning) of the NBMC. In addition to the other eating establishments, a Whole Foods grocery store is located within the shopping center, which provides alcohol sales for off-site consumption.
- b) The Project's proximity to other establishments selling alcohol does not raise a concern due to characteristics of the use, which primary business is the sale of food. The proposed hours of operation are 11:00 a.m. to 9:00 p.m., Monday through Friday; 11:00 a.m. to 7:00 p.m., Saturday; and 11:00 a.m. to 6:00 p.m., Sunday. Conditions of approval will further prevent the establishment from operating as a bar, lounge, or nightclub.

- v. *Whether or not the proposed amendment will resolve any current objectionable conditions.*
- a) No objectionable conditions are presently occurring at the Property. The Property has historically been used as a regional shopping center that is well maintained and provides sufficient security to address issues. There is no evidence that suggests the Project will create objectionable conditions.
 - b) The Project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the NBMC is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the establishment. Operational conditions of approval recommended relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize any alcohol related impacts.
 - c) As conditioned, the owners, managers, and employees selling alcohol are required to undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol.
 - d) The Project does not propose late hours (after 11:00 p.m.), live music, or dancing. Condition of Approval No. 3 limits the hours of operation and Conditions of Approval Nos. 33 and 35 prohibit live entertainment and dancing, respectively.

Minor Use Permit

In accordance with Section 20.52.020(F) (Findings and Decision) of the NBMC, the following findings and facts in support of such findings 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 General Plan Land Use Designation for the property is Regional Commercial, which is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The regional shopping center provides various types of uses and serves the local population, and invites people from throughout the region. The proposed restaurant supports patrons who visit Fashion Island for shopping and dining.
2. The Project is consistent with the following General Plan Land Use policies, applicable to the Project:
 - a. ***Land Use Element Policy LU 1.5 (Economic Health).*** *Encourage a local economy that provides adequate commercial, office, industrial, and marine-*

oriented opportunities that provide employment and revenue to support high-quality community services.

The Project provides an additional dining option in the Fashion Island area to those who live, work, or visit the community. The Project will also provide employment opportunities for restaurant employees.

- b. ***Land Use Policy LU 2.1 (Resident-Serving Land Uses).*** *Accommodate uses that support the needs of Newport Beach's residents including housing, retail, services, employment, recreation, education, culture, entertainment, civic engagement, and social and spiritual activity that are in balance with community natural resources and open spaces; and*

The Project provides an additional dining option in Fashion Island area to those who live, work, or visit the community.

3. The 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 Property is zoned North Newport Center (PC-56), within the Fashion Island Sub-Area. This Sub-Area of the Planned Community allows for a variety of uses, including restaurants, which are allowed to operate as a permitted use. However, the inclusion of alcohol sales requires the applicant to obtain a Minor Use Permit (MUP).
2. The previous use of the tenant space was a larger restaurant. The proposed new restaurant reduces the size of the eating establishment and would not intensify the use. Accordingly, there would be no impact on the existing parking demand or management.

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. Commercial uses, including restaurants, are common along Fashion Island and serve visitors and residents. Conditions of approval are included to ensure that the Project is compatible with the land uses permitted within the surrounding neighborhood.

2. The Project is located within an existing regional shopping center and will complement the existing mix of retail, service, and restaurant uses in the immediate area. The tenant space was previously a restaurant use.
3. There are no late hours of operation proposed with the Project. As conditioned, the restaurant will operate between 11:00 a.m. to 9:00 p.m., Monday through Friday; 11:00 a.m. to 7:00 p.m., Saturday; and 11:00 a.m. to 6:00 p.m, on Sunday. The closing hours will help ensure there is no detriment to the adjacent uses.
4. The NBPd has reviewed the Project and has no objections. The operational conditions of approval recommended by the NBPd related to the sale of alcoholic beverages will help ensure compatibility with the surrounding uses and minimize alcohol-related impacts. The Project has been conditioned to ensure the welfare of the surrounding community.

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 Project is located will utilize a portion of a tenant space that was previously used by another restaurant within a regional shopping center. The use will not expand the floor area of the building and will not increase parking demand of the shopping center.
2. The previous tenant space was divided into multiple tenant spaces, of which the proposed restaurant will utilize one. The Applicant is required to obtain Orange County Health Department approval prior to opening for business and comply with the Building Code to ensure the safety and welfare of customers and employees within the .
3. Adequate public and emergency vehicle access, public services, and utilities are provided for the Property. Any additional utilities upgrades required for the change in occupancy will be required at plan check for the building permit.
4. Permits for the tenant improvement have been issued, which have been reviewed to comply with all Building, Public Works, and Fire Codes. All City ordinances and all conditions of approval will be complied with. The inspections that will be conducted as part of the construction will verify that applicable codes are being met.

Finding:

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

Facts in Support of Finding:

1. There are no late hours of operation proposed with the Project. As conditioned, the Restaurant will operate between 11:00 a.m. to 9:00 p.m., Monday through Friday; 11:00 a.m. to 7:00 p.m., Saturday; and 11:00 a.m. to 6:00 p.m. on Sunday. The closing hours will help ensure there is no detriment to the adjacent uses.
2. The Type 41 (Beer and Wine) ABC License will provide dining services as a public convenience to the surrounding businesses as well as to visitors. The service of alcohol will complement the principal use of the facility as a restaurant and provide an economic opportunity for the Applicant to maintain a successful business in a way that best serves the community.
3. The restaurant is located within the interior portion of the Fashion Island shopping center and is surrounded by other retail uses and parking structures. As a result, noise generated by the Project would be hindered such that it would not impact surrounding uses.
4. As conditioned, the owners, managers, and employees selling alcohol are required to undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol.

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 pursuant to Section 15301 under Class 1 (Existing Facilities) 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 the minor use permit (PA2023-0196), 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 20 Planning and Zoning, of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF FEBRUARY 2024.

Benjamin M. Zdeba, AICP, Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL**

Project Specific Conditions are Italicized.

Planning Division

1. The development shall be in substantial conformance with the approved site plan and floor plans stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Any change in operational characteristics, expansion in area, or other modification to the approved plans, may require an amendment to this Use Permit or the processing of a new Use Permit.
3. *The hours of operation for the restaurant shall be limited to 9:00 a.m. to 11:00 p.m., daily.*
4. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
5. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
6. A copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans before issuance of the building permits
7. This Use Permit may be modified or revoked by the Zoning Administrator should they determine that the proposed uses or conditions under which the use is being operated or maintained are 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.
8. Before 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.
9. 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 periods unless the ambient noise level is higher:

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

	Between the hours of 7:00 AM and 10:00 PM		Between the hours of 10:00 PM and 7:00 AM	
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

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 outside paging system shall be utilized in conjunction with this establishment.
12. *Trash receptacles for patrons shall be conveniently located both inside and within the outdoor patio.*
13. *Storage outside of the building shall be prohibited, with the exception of the required trash containers.*
14. A Special Events Permit is required for any event or promotional activity outside the normal.
15. 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 Saturdays, Sundays, or Holidays.
16. Operating 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.
17. 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.
18. 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 **Mendocino Farms including, but not limited to, the Minor Use Permit filed under PA2023-0196**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's 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, attorney's 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.

Building Division

19. Prior to the commencement of any construction, the Applicant shall obtain the required permits.
20. At least 5% of the seating spaces and standing spaces at the dining surfaces shall comply with Section 11B-902 of the 2022 California Building Code.
21. The occupant load for the patio shall not exceed 49 persons unless additional exiting is provided per the 2022 California Building Code.
22. Provide clear space of 12" past strike edge of the door on the opposite side to which the door swings if the door is equipped with both a latch and a closer. (Figure 11B-404.2.4.1(c))
23. Where provided, at least one of each type of sales counter and service counter shall comply with Section 11B-904.4.

Fire Department

24. Any modifications of the structure that affect the design of the fire sprinkler system shall require a fire sprinkler permit from NBFD.

Police Department

25. The Alcoholic Beverage Control License shall be limited to a Type 41 (On-Sale Beer and Wine). Any substantial change in the ABC license type shall require subsequent review and potential amendment of the Use Permit.
26. 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 or conditions in connection with the use is a violation and may be cause for revocation of the use permit.
27. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner'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.
28. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.

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29. 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 Police Department on demand.
 30. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
 31. Alcohol service and alcohol consumption must occur in the ABC licensed areas only.
 32. Food service shall be made available to patrons during alcohol service.
 33. There shall be no live entertainment allowed on the premises.
 34. There shall be no amplification of live music (d.j., band, soloist, etc.) allowed on the premises. This condition of approval shall not be interpreted to prohibit the playing of prerecorded background music.
 35. There shall be no dancing allowed on the premises.
 36. 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.
 37. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.
 38. "VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order of the sale of drinks is prohibited (excluding charges for prix fixe meals).
 39. Strict adherence to maximum occupancy limits shall be required.
 40. 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.

RESOLUTION NO. ZA2024-008

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A MINOR USE PERMIT TO ALLOW A TAKE-OUT SERVICE - FAST CASUAL EATING AND DRINKING ESTABLISHMENT WITH LATE HOURS LOCATED AT 2523 EASTBLUFF DRIVE (PA2023-0193)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Kevin Stracner of Greenberg Farrow (Applicant) , with respect to property located at 2523 Eastbluff, and legally described as Parcels 1 and 2 of Lot Line Adjustment No. 98-14, (Property) in the City of Newport Beach, requesting approval of a minor use permit.
2. The applicant requests a Minor Use Permit (MUP) To operate a "Take Out Service, Fast Casual" eating and drinking establishment (Starbucks Coffee Shop), within an existing shopping center. The Applicant proposes a minor tenant improvement to an existing 1,601 square foot suite and will expand Starbucks outdoor seating into what is currently a common seating area for a maximum of 20 total seats. The proposed hours of operation are from 4:30 a.m. to 12:00 a.m. midnight, daily, and no alcohol service is proposed. An MUP is required as the project proposes late hours and is within 500 feet of residential uses. If approved and implemented, Use Permit No. UP3651 would be superseded (Project).
3. The subject property is located within the Commercial Neighborhood (CN) Zoning District and the General Plan Land Use Element category is Neighborhood Commercial (CN).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on February 15, 2024, online via Zoom. A notice of the time, place, and purpose of the hearing was given in accordance with Chapter 20.62 (Public Hearings) of the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) 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 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.

3. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed project involves operating a coffee shop within an existing commercial space and repurposing an existing outdoor seating area. These changes of operational characteristics are well within the thresholds identified in CEQA Guidelines Section 15301.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings, and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The General Plan categorizes the site as CN (Neighborhood Commercial). This category is intended to provide areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area.
2. The proposed coffee shop is a commercial use within an existing shopping center, and is intended to serve nearby residents, the surrounding community, and visitors to the City of Newport Beach. Therefore, it is consistent with the CN designation.
3. The Project aligns with General Plan Land Use Policy LU3.2, "Growth and Change", by allowing for infill and reducing commuting distance between homes and jobs.
4. The Project aligns with General Plan Land Use Policy LU1.5, "Economic Health" as the project will bring a successful commercial tenant into a space that has been vacant for over three years.
5. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The property is located in the Commercial Neighborhood (CN) Zoning District. The CN Zoning District is intended to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area.
2. The Project site is located approximately 250 feet from a residential neighborhood and will likely serve the adjacent residential uses.
3. While the Take-Out Service, Fast Casual land use can be permitted by right within the CN zoning district, an MUP is required pursuant to Table 2-4, Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements) due to the late hours of operation and proximity to residential uses.
4. Table 3-10 (Off-Street Parking Requirements) of the NBMC section 20.40.040 (Off-Street Parking Spaces Required) establishes the parking requirement for a Take-Out Service, Fast Casual at one space per 250 square feet of gross floor area. The Staff Approval filed as PA2023-0124 and approved on December 1, 2023 allowed a 20% reduction in the required off-street parking for the entire Eastbluff Village Center. This approval assumed that a Take-Out Service, Fast Casual land use would occupy the vacant space that the coffee shop now proposes to occupy under this same land use category. The 20% parking waiver allows for the 29 spaces required by the proposed Starbucks Coffee to be allocated from the existing 343 spaces, and notes that a 108 parking space surplus was observed during peak times of parking demand.
5. The proposed establishment complies with NBMC 20.20.030 (Commercial Zoning Districts General Development Standards) for eating and drinking establishments, including those specific to the Take-Out Service, Fast Casual land use classification. Condition of Approval No. 8 addresses the maximum of 20 seats allowed by the use classification and there is no alcohol service proposed. Condition of Approval No. 21 prohibits alcohol being sold, served, or given away at the site. Condition of Approval No. 4 requires that a new use permit be obtained should the operational characteristics of the use change. Alcohol being incorporated into the use would constitute such a change and thus a new use permit would then be required.
6. A trash enclosure is provided onsite and is located behind the tenant space, in the rear parking lot. The size of the trash enclosure is adequate to accommodate the proposed use and it is conveniently located where materials can be deposited and collected. The enclosure does not block or impede access to the parking spaces. The existing trash enclosure is adequately screened pursuant to NBMC 20.30.120 (Solid Waste and Recyclable Materials Storage), however it lacks a solid roof. Condition of Approval No. 15 requires the trash enclosure be upgraded to provide a solid roof.

Finding:

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

Facts in Support of Finding:

1. The Newport Beach Tennis Club is located 120 feet north of the subject property, along Eastbluff Drive. The Eastbluff Park and Boys and Girls Club is located 100 feet to the west, across Vista Del Oro. Corona del Mar High School is located approximately 1,500 feet south of the Eastbluff Shopping Center, along Eastbluff Drive. Our Lady Queen of Angels Church is located approximately 2,800 feet south of the shopping center, also along Eastbluff Drive. The nearest residential and recreational uses are buffered from the shopping center by support buildings, Eastbluff Drive, and Vista del Sol.
2. Eating and drinking establishments with incidental alcohol service have existed at the subject location since the original construction of the shopping center in 1966. The proposed removal of the Type 47 Alcoholic Beverage Control (ABC) license associated with Use Permit 3651, which authorized the sale of beer, wine, and distilled spirits on the premises in conjunction with substantial sales of meals, will not negatively alter the operational characteristics of the use.
3. As conditioned, the allowed hours of operation will be 4:30 a.m. to 12 a.m., daily, which 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. Conditions of Approval No.11 prohibits excessive noise and Condition of Approval No. 17 ensures maintenance to control odors caused by the proposed use. Condition of Approval No. 14 prohibits deliveries and refuse collection between the hours of 10:00 p.m. and 8:00 a.m., daily which will prevent conflicts with adjacent uses.
4. The proposed hours of operation are not anticipated to cause a conflict with the allowed uses in the vicinity, as there will be no elevated noise levels and no increased trash and recycling collection activities. Increased pedestrian and vehicular traffic activity during late night and early morning hours would be supported by the existing facilities, namely lighting and parking.
5. The Project is not an intensification of use because this suite operated formerly as an eating and drinking establishment. The Project will extend the hours of operation but will not increase the number of seats, as the new land use classification requires a maximum of 20 seats and the previous use authorized 21 seats.

Finding:

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

Facts in Support of Finding:

1. The project site is accessible from the Eastbluff Shopping Center parking lot, which provides convenient access to motorists, pedestrians, and bicyclists.
2. Parking in the shopping center is provided by a shared 343-space surface lot. The existing parking lot provides adequate circulation for patrons.
3. The site has been reviewed by the Fire Department to ensure adequate public and emergency vehicle access is provided.
4. Any proposed site and tenant improvements will comply with the development standards of the NBMC and all Building, Public Works, and Fire Codes.
5. The Project is proposed within an existing shopping center and has demonstrated, via previous and similar land uses, that it is physically suitable in terms of design, location, shape, and size to support the use and hours of operation.

Finding:

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

Facts in Support of Finding:

1. Eating and drinking establishments have historically operated within the Eastbluff Village Center without detrimental impacts. The site previously supported, an eating and drinking establishment with a Type 41 ABC License and late hours, an eating and drinking establishment with live entertainment and patio dining, and a specialty food service with outdoor dining.
2. The proposed late hours should not constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing in or working in the neighborhood of the proposed use. The Conditions of Approval address noise, odors, cleaning, and maintenance of the facility. While late hours are proposed, there will be no live entertainment or alcohol.
3. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent

possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.


4. The proposed Project will help revitalize the project site, provide an economic opportunity for the property owner to update the tenant space, and provide additional services to residents and visitors.
5. 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

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 pursuant to Section 15301 under Class 1 (Existing Facilities) 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 the Minor Use Permit filed as PA2023-0193, 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 is filed with the Community Development Director in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.
4. This resolution supersedes Use Permit No. 3651, which upon vesting of the rights authorized by this minor use permit, shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF FEBRUARY, 2024.



Benjamin M. Zdeba, AICP, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The 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 Minor Use Permit.
3. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
4. Any change in operational characteristics, expansion in area, or other modification to the approved plans, will require review by the Planning Division and may require an amendment to this Minor Use Permit or the processing of a new use permit.
5. *Hours of operation shall be limited to between 4:30 a.m. and 12:00 a.m., daily.*
6. *The use of the rear door shall be limited to deliveries and employee use only, use by customers as an entry shall be prohibited.*
7. *The use of the rear door is prohibited between 10:00 p.m. and 8:00 a.m., daily, except by employees exiting the facility or depositing trash after the closing of the restaurant.*
8. *Maximum seating and/or stand-up counter space for no more than twenty seats shall be maintained. At no time shall there be more than twenty total seats including both inside the subject eating and drinking establishment and the outdoor patio area.*
9. All employees shall park on-site.
10. *Prior to the issuance of a building permit, one rideshare stall shall be provided and maintained within the center.*
11. No amplified sound, other than background music, is allowed. Any background music shall not be audible from outside of the building.
12. Physical elements associated with the outdoor patio area (e.g., awnings, covers, furniture, umbrellas, etc.) that are visible from public rights-of-way shall be compatible with one another and with the overall character and design of the principal structure.

13. A covered wash-out area for refuse containers and kitchen equipment shall be provided and the area shall drain directly into the sewer system, unless otherwise approved by the Building Division and Public Works Department in conjunction with the approval of an alternative drainage plan. This covered washout area can be located either inside or outside of the facility but must be fully enclosed, when in use, to prevent rainwater from entering the sewer system.
14. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
15. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
16. 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.
17. 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).
18. 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.
19. 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.
20. No outside paging system shall be utilized in conjunction with this establishment.
21. No alcohol shall be served, sold, or given away on the premises.
22. 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.
23. Future owners or assignees shall be notified of the conditions of this approval by the current business owner, property owner or the leasing company, in the event this business is sold or otherwise comes under different ownership.

24. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner related (directly or indirectly) to the City's approval of the Starbucks Minor Use Permit including, but not limited to Minor Use Permit No. PA2023-0193. 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, the City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City's costs, attorneys' fees, and damages which the City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

BUILDING

25. The Applicant is required to obtain all applicable permits from the City's Building Division. 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.
26. Prior to the Issuance of a building permit, approval from the Orange County Health Department is required.

FIRE

27. Modification to the sprinkler system shall require a permit and plans to be submitted to NBFD.

RESOLUTION NO. ZA2024-009

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COMPREHENSIVE SIGN PROGRAM AND MODIFICATION PERMIT FOR A SERVICE STATION LOCATED AT 2201 EAST COAST HIGHWAY (PA2023-0183)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Donco & Sons, Inc. ("Applicant"), with respect to property located at 2201 East Coast Highway, and legally described as Lots 1, 2, and 3 of Tract 682 ("Property"), requesting approval of a comprehensive sign program and modification permit.
2. The Applicant is requesting approval of a comprehensive sign program and modification permit to authorize signage for a service station (Mobil). The applicant is seeking the following deviations from Chapter 20.42 (Sign Standards) of the Zoning Code:

Comprehensive Sign Program

- a) The installation of two wall mounted signs on the primary frontage, where the Zoning Code only allows one wall sign;
- b) Allow for two wall mounted signs on the primary frontage that are not located within the middle 50% of the building or tenant frontage;
- c) Allow for signage on the service station canopy to include text, where the Zoning Code only allows logo signs on service station canopies;
- d) The installation of a double-faced pylon sign 3 feet from a street and 7 feet 3 inches from the edge of the driveway, where the Zoning Code requires a minimum of 5 feet from a street and 10 feet from the edge of a driveway;

Modification Permit

- e) Allow for a 20-foot high free standing double-faced pylon sign, where the Zoning Code allows for a maximum 4-foot high ground sign at service stations; and
- f) Allow for two 11.5 square foot canopy signs, where the Zoning Code only allows logo signs with a maximum of 6 square feet.

3. The Property is located within the Commercial Corridor (CC) Zoning District and the General Plan Land Use Element category is Corridor Commercial (CC).
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Corridor Commercial (CC-B) (0.0 – 0.75 FAR) and it is located within the Commercial Corridor (CC) Coastal Zoning District.
5. The signs included in this comprehensive sign program are exempt from a coastal development permit pursuant to the City's certified Local Coastal Program, NBMC Section 21.52.035(C)(2). The approval allows the placement of attached accessory signage to the fascias of an existing service station and an additional one double-faced pylon sign, and does not involve a risk of adverse environmental effect, affect public access or views, or involve a change in use contrary to the Coastal Act.
6. A public hearing was held on February 15, 2024, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15311 under Class 11 (Accessory 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 11 includes construction or replacement of minor structures such as on-premise signs accessory to (or appurtenant to) existing commercial facilities. The proposed signage is incidental and accessory to the principal commercial office use of the property and will not intensify or alter the use.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Comprehensive Sign Program

Pursuant to Section 20.42.120 (Comprehensive Sign Program), the comprehensive sign program allows for an increase in sign height by 20% above that allowed and an increase in sign area by 30% above that allowed. The sign program shall comply with the standards of the Zoning Code, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs. In accordance with Section 20.42.120(E) (Comprehensive

Sign Program - Standards) of the Newport Beach Municipal Code, the following standards and facts in support of such standards are set forth:

Standard:

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

Facts in Support of Standard:

1. The purpose of a comprehensive sign program is to integrate all of a project's signs. A comprehensive sign program provides a means for the flexible application of sign regulations for projects that require multiple signs in order to provide incentive and latitude in the design and display of signs, and to achieve, not circumvent, the purpose of Chapter 20.42.
2. The Project complies with the purpose and intent of Newport Beach Municipal Code Chapter 20.42 (Sign Standards) because it provides the service station with adequate identification while guarding against an excessive sign proliferation. Wall signs will be limited to internally illuminated channel letters proportional to the building façade in the general location depicted on the project plans.
3. The comprehensive sign program is consistent with the Citywide Sign Design Guidelines because the proposed signs are designed to be compatible with the building design in terms of scale, size, and materials. The proposed signs are designed to effectively communicate a commercial message without creating sign clutter through the use of legible text that contrasts with the background. The width of the primary façade is 65 feet. As proposed, the placement and size of the signs do not dominate, but rather are consistent with the proportions of the façade on which they are located.

Standard:

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

Facts in Support of Standard:

1. The number and location of signs will not contribute to an overabundance of signage that will have a detrimental effect on the neighborhood. There are existing service stations along Coast Highway in Corona Del Mar with similar sized freestanding signs and wall mounted signs. The addition of the double-faced pylon sign identifying the service station along East Coast Highway and Avocado Avenue is necessary given the existing layout of the property. It will provide motorists with the proper identification

from both East Coast Highway and Avocado Avenue. The wall signs and double-faced pylon sign will promote identification of the Service Station without overconcentrating the Property with signage.

2. All proposed signage will be in harmony with the character and architectural style of the building. The wall signs, which are designed with a white color, will contrast the color of the building. The placement and size of the wall signs are complementary to the building's large fascia and will comply with the limitations.
3. The wall sign on the primary frontage façade of the Property (identified as Sign Type D in Exhibit "B") is limited to 2 feet in height and 8.5 feet in area. The building wall sign identified as sign E, which is also located on the primary frontage is limited to a height of 1-foot and area of 9.5 square feet. These standards are permitted by the Zoning Code.

Standard:

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

Facts in Support of Standard:

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

Standard:

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

Facts in Support of Standard:

1. The comprehensive sign program has been developed to be effective for the service station use and allows flexibility for future changes in tenant. The types of signs that are being proposed include building mounted signs, double-faced pylon sign, and a canopy sign for increased visibility which is typical for service stations.
2. It is not anticipated that future revisions to the comprehensive sign program will be necessary to accommodate changes in tenants or uses. However, the Community Development Director may approve minor revisions to the comprehensive sign program if the intent of the original approval is not affected (NBMC section 20.42.120.F (Comprehensive Sign Program – Revisions to Comprehensive Sign Programs)).

Standard:

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

Facts in Support of Standard:

1. The comprehensive sign program allows for deviations with regards to the type, number, and location of wall signs. The approval conforms to the intent of Chapter 20.42, and enhances the overall development by integrating the project's signage to be appropriately located and scaled to the building's fascia and building frontage.
2. The comprehensive sign program is consistent with Chapter 20.42 and is being processed concurrently with a Modification Permit consistent with Zoning Code Section 20.52.050 (Modification Permits) to allow the increased height and area for the double-faced pylon sign and increased area for the canopy sign area.
3. The deviation from the standard that signs shall be located within the middle 50% of the building or tenant frontage is appropriate due to the proposed number of signs on a building frontage. The standard requirement would force the signs too close in proximity to each other, creating cluttered signage that would be detrimental to the overall development.
4. The double-faced pylon sign is set back 7 feet 3 inches from the edge of the driveway, where a minimum 10-foot setback from the driveway is required by the NBMC. Additionally, the double-faced pylon sign is setback 3 feet from the front property line, where a minimum 5-foot setback from the street is required by the NBMC. Relocating the sign farther away from the driveway to the northwest is not feasible due to proximity of the existing landscape planter area to the property line. The double-faced pylon sign is located on the northern corner of the Property where 2 existing drive aisles are in close proximity to the proposed double-faced pylon sign location. Relocating the double-faced pylon sign further away from each driveway in either direction would result in a double-faced pylon sign location that is closer than the allowed 5-foot setback from the property line pursuant to Chapter 20.42 of the NBMC. Relocating it closer to the driveway would result in a double-faced pylon sign location that would be closer than the required 10-foot setback to driveways and may limit maneuverability for the drive aisles. The proposed location is appropriate given the constraints experienced by the existing drive aisles.

Standard:

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

Facts in Support of Standard:

1. The comprehensive sign program does not authorize the use of prohibited signs.

Standard:

- G. *Review and approval of a comprehensive sign program shall not consider the signs' proposed message content.*

Facts in Support of Standard:

1. The content of the proposed signage was not considered and the comprehensive sign program does not contain any regulations regarding sign message content.

Modification Permit

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

Finding:

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

Facts in Support of Finding:

1. The Property is located in the CC Zoning District, which is intended to provide for areas appropriate for a range of neighborhood service retail and service uses along street frontages that are located and designed to foster pedestrian activity. The comprehensive sign program is intended to provide identification to a service station which is an allowed use in the CC zoning district.
2. The increase in height and sign area for the double-faced pylon sign and sign area for canopy sign is compatible with the existing development in the neighborhood. There are other existing service stations located along East Coast Highway, such as Chevron service station located at 2546 East Coast Highway and 76 service station located at 3400 East Coast Highway. These stations employ the use of similar signage on the station canopy and retail component for identification purposes.

Finding:

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

Facts in Support of Finding:

1. The Property is located near the entrance of Corona Del Mar, which is a high traffic area for both residents and visitors entering and exiting the neighborhood. The maximum 4-foot ground sign that is permitted by the NBMC would not provide for adequate identification, given the traffic flow along East Coast Highway. The proposed larger sign would increase the visibility and identification of the service station.
2. The proposed double-faced pylon sign with increased height and sign area provides identification of the service station along Coast Highway and Avocado Avenue and is necessary given the existing layout of the Property. The sign will provide motorists with the proper identification from both streets. In addition, the double-faced pylon sign which provides an opening of approximately 6 feet in height from the base of the sign will provide clear visibility of pedestrians from motorists looking to make a right turn onto East Coast Highway. The double-faced pylon sign will promote identification of the service station without overconcentrating the Property with signage.
3. The proposed canopy sign with increased sign area provides identification of the service station along Coast Highway and Avocado Avenue and is necessary due to the existing layout of the property. The sign is intended to provide legible signage to motorist from both streets. In addition, the proposed increase in the canopy sign area will be appropriately scaled to the service station canopy given the width of and size of the service station canopy.

Finding:

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

Facts in Support of Finding:

1. The proposed increase in the maximum height and sign area for the double-faced pylon sign does not interfere with the purpose and intent of the Zoning Code as it provides for adequate identification of the site while guarding against the excessive and confusing proliferation of signs. The proposed increase addresses the practical difficulty of reduced visibility for motorists traveling in heavy vehicular traffic on East Coast Highway and to identify the dealership location.
2. The purpose and intent of the sign regulations is to provide users adequate identification while preserving and enhancing the community's appearance. The regulation of sign area and letter/logo height is to ensure that signage does not overwhelm a building façade and create clutter. The proposed increase in the canopy sign area will be appropriately scaled to the service station canopy given the width of and size of the service station canopy.

Finding:

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

Facts in Support of Finding:

1. The requested increase in height and area is in scale and similarly placed as other double-faced pylon signs in the surrounding area and will not be detrimental to surrounding owners and occupants, the neighborhood, or the general public.
2. Due to the physical characteristic of the property, the increased height and area for the double-faced pylon sign and increased area for canopy signs are necessary to provide identification for the property. The strict application of the Zoning Code would result in smaller signage that is out of scale with the service station and would provide inadequate signage that would not be easily visible to motorists on East Coast Highway.

Finding:

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

Facts in Support of Finding:

1. This approval will allow for an increase in the height and area of the double-faced pylon sign and increased area of the canopy signs but will not result in a change in intensity or density of the service station. The double-faced pylon signs are typically permitted to a height of 20 feet in the Commercial Corridor zoning district, however, the specific standards for service stations allows for a maximum of 4-feet, which would be inadequate for this specific location. The increased height of the double-faced pylon sign from the allowed 4 feet height limit for ground signs for service stations will allow for greater visibility in a heavy traffic area.
2. The size of the signs is within scale of the signs in the surrounding area and will not adversely affect or be detrimental to persons, property, or improvements in the surrounding neighborhood.
3. Compliance with the Newport Beach Municipal Code and the attached conditions of approval is required and will further ensure that the proposed use will not be detrimental.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project exempt from the California Environmental Quality Act pursuant to Section 15311 under Class 11 (Accessory Structures) of the CEQA Guidelines, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment. The exceptions identified in Section 15300.2 do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves Comprehensive Sign Program and Modification Permit PA2023-0183, subject to the conditions set forth in Exhibit A and parameters denoted in Exhibit B, 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 20, Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF FEBURARY, 2024.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT “A”

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, building elevations, and sign details stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Signs shall comply with the limitations specified in Exhibit “B” of this Resolution.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Comprehensive Sign Program and Modification Permit.
5. A building permit shall be obtained prior to commencement of installation of the signs.
6. The signs shall be illuminated in accordance with the provisions of Section 20.42.060.H of the Newport Beach Municipal Code.
7. This Comprehensive Sign Program and Modification Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
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. 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.
10. 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.
11. 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 Mobil Service Station Signs including, but not limited to, a comprehensive sign program and modification permit (PA2023-0183). 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.

Exhibit "B"

2201 E. Coast Highway SIGN PROGRAM MATRIX

Freestanding Double-Faced Pylon Sign

Sign Type A:

Maximum number: One

Maximum Vertical Dimension: 20 feet

Maximum Area: 72 square feet

Canopy Signs

Sign Type B:

Maximum number: Two Maximum Vertical Dimension: 24 inches

Area: 12 square feet

Additional Standard: Text allowed

Wall Signs

Sign Type D:

Maximum number: One

Maximum Vertical Dimension: 24 inches

Area: 8.5 square feet

Sign Type E:

Maximum number: One

Maximum Vertical Dimension, Letter or Logo: 12 inches

Area: 9.5 square feet

NOTES/REQUIREMENTS

- a) Requirements for all signs per Municipal Code Chapter 20.42, except as provided in this sign matrix
- b) Sign area is the area measured by two perpendicular sets of parallel lines that surround the proposed logo and sign copy. All signs shall substantially conform to the approved attached sign matrix.
- c) Pursuant to Section 20.42.120.F of the Zoning Code, the Community Development Director may approve minor revisions to this approval if the intent of the original approval is not affected.
- d) All sign locations shall be in substantial conformance with approved plans (Attachment No. ZA 4 of PA2023-0183).

RESOLUTION NO. ZA2024-010

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A MODIFICATION PERMIT FOR A REDUCTION TO THE REQUIRED INTERIOR CLEAR DIMENSION OF A GARAGE OF A SINGLE-UNIT DWELLING AT 263 WALNUT STREET (PA2023-0245)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Elain Merz ("Applicant"), with respect to property located at 263 Walnut Street, and legally described as Lot A of Block 5 of Tract 772 ("Property"), requesting approval of a modification permit.
2. A request for a modification permit to provide relief from the minimum required 20-foot garage depth to allow a depth of 19 feet, 8 inches in order to accommodate the remodel to an existing single-unit residence for the purpose of adding an emergency escape and rescue opening in an existing bedroom. The bedroom remodel will not result in a net increase in floor area for the dwelling unit. No additional deviations of the Newport Beach Municipal Code (NMBC) are requested ("Project").
3. The Property is designated RS-D (Single-Unit Residential) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Coastal Zoning District.
4. The Property is located within the R-1 (Single-Unit Residential) Coastal Zoning District. The Coastal Land Use Plan category is RSD-C (Single Unit Residential Detached – 10.0-19.9 DU/AC). A coastal development permit is not required because residential parking dimensions are not specified as development standards in the Local Coastal Program Implementation Plan.
5. A public hearing was held on February 15, 2024, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, which identifies classes of projects which have been determined not to have a significant effect on the environment.
2. The Class 1 (Existing Facilities) exemption includes interior alterations involving interior partitions. The proposed project includes the remodel of an existing single-unit residence

which consists of constructing an emergency escape and rescue opening that involve interior partitions of walls of the existing house and its attached garage.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050(E) (Modification Permits – Required Findings) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The existing development is a 2,564 square-foot, single-story, single-unit residence with an attached two-car garage. The neighborhood is comprised of one-story and two-story single-unit dwellings with two-car garages that are accessed through the alley. The modification permit would allow the reduction of the garage depth to accommodate a window to serve as an emergency escape and rescue opening which bring an existing bedroom into compliance with the Building Code. The proposed alterations to accommodate the emergency escape and rescue opening are located within the interior of the building footprint and do not result in an increase in gross floor area. Exterior changes to the structure include a window to the bedroom along the north side of the dwelling. There are no changes to the height or floor area of the dwelling unit, therefore is consistent with the design and height of other properties in the neighborhood. The project continues to be compatible with the existing development in the neighborhood.
2. There is no change in the density or the use as a result of the proposed development.

Finding:

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

Facts in Support of Finding:

1. The existing structure was built in the early 1960s and complied with development standards, including parking requirements, at the time of construction. Subsequent amendments to the residential parking development standards have rendered the interior clear dimensions of the existing two-car garage to be substandard in size. The current required garage dimensions are 20 feet wide by 20 feet deep and the existing garage dimensions are 22 feet, 6 inches wide and 19 feet, 11 inches deep.
2. An existing bedroom is abutting the garage and another bedroom. By allowing the bedroom to encroach into the garage depth, the Applicant avoids demolishing any

interior walls of the adjacent bedroom which would significantly increase the cost and feasibility of the Project.

3. The granting of the modification permit is necessary to allow a reasonable alteration to an existing dwelling to bring an existing bedroom into compliance with the Building Code. The resulting garage is adequate in width and depth for the parking of two vehicles.

Finding:

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

Facts in Support of Finding:

1. The Property is located in Newport Shores where the majority of lots measure between 30 and 35 feet in width. NBMC subsection 20.40.090 (Parking Standards for Residential Uses) requires properties between 30.1 and 39.99 feet in width to have garages that measure 18 feet, 6 inches in depth and 19 feet in depth. The subject property is the only property on Walnut Street that is 50 feet wide. NBMC subsection 20.40.090 requires lots over 40 feet wide to have a garage dimension of 20 feet wide by 20 feet deep. The strict application of the Zoning Code would not allow the bedroom extension to connect to a window to serve as an emergency escape and rescue opening because it would reduce the existing garage depth to 19 feet 8 inches.
2. The proposed parking configuration will continue to accommodate the parking of two vehicles within the garage and fulfills the intent of the Zoning Code. Demand for on-street parking in the neighborhood is not anticipated to increase as a result of the project because the majority of other lots on Walnut Street maintain a 18 feet, 6 inch in wide and 19 feet deep garage. The proposed garage will meet the minimum requirement of other lots in this neighborhood.

Finding:

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

Facts in Support of Finding:

1. Bringing the garage into compliance with current Zoning Code requirements would provide a negligible benefit and would unreasonably require significant alterations to the structure of the garage well beyond the scope of the planned interior alteration. The resulting garage dimensions of 22 feet, 6 inches wide and 19 feet, 8 inches deep remain adequate for the parking of two vehicles.

2. The intent of the Project is to bring an existing bedroom into compliance with the Building Code. Without the authorization of a modification permit, the bedroom would not be permitted to expand into the required dimensions of the garage depth. Instead, interior walls would need to be demolished to bring the bedroom into compliance, significantly increasing the cost and feasibility of the Project.
3. A redesign of the Project to reduce the number of bedrooms will significantly impact the Property as the bedroom is an essential component to the existing residence. Even with an encroachment into the existing garage, the Property would provide a two-car garage with interior dimensions exceeding those found on neighboring properties.
4. The exterior wall of the garage is located directly along the required 5-foot rear alley setback. The current development standards would require the garage wall be moved 4 inches towards the alley to achieve the Code-required 20-foot depth. This would cause the garage wall to encroach 4 inches into the required 5-foot rear alley setback, which is not permitted by the Zoning Code.

Finding:

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

Facts in Support of Finding:

1. Other than the proposed interior dimensions of the garage, the Project conforms to all applicable development standards, including floor area limit, setbacks, and height. The construction will not preclude access to the dwelling and will be consistent in scale with other dwellings in the neighborhood.
2. The Project includes the construction of a bedroom extension to accommodate a window which will not result in a change in density or intensity of the Property. The existing use will remain as a single-unit residence within the R-1 Coastal Zoning District.
3. The approval of this Project is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.

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 pursuant to Section 15301 under Class 1 (Existing Facilities) 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 the Modification Permit filed as PA2023-0245, 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 20 Planning and Zoning of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF FEBRUARY, 2024.



Benjamin M. Zueba, AICP, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved floor plans 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 Modification Permit.
4. The Applicant shall obtain all necessary building permits in accordance with the Building Code and other applicable Codes.
5. This Modification Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
6. Any change to the approved plans, shall require review by the Planning Division. An amendment to or the processing of a new modification permit may be required.
7. A copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
8. Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior clear dimensions shall be a minimum 20 feet wide by 19 feet, 8 inches deep, unless otherwise approved by the Planning Division. These dimensions shall be kept clear of obstructions including cabinets, shelving, or similar obstructions that may impact the ability to adequately park two vehicles.
9. 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.
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, property owner or the leasing agent.

11. Construction activities shall comply with Section 10.28.040 (Loud and Unreasonable Noise - Construction Activity – Noise Regulations) of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday, and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
12. 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 NBMC.
13. 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 **Merz Residence Modification including, but not limited to Modification Permit No. PA2023-0245**. 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 Applicants, City, and/or the parties initiating or bringing such proceeding. The Applicants 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 Applicants shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

14. Garages beneath habitable rooms shall be separated by no less than 5/8" Type X gypsum board applied to the underside of floor framing. Provide minimum 1/2" gypsum board on the garage side elsewhere.

RESOLUTION NO. ZA2024-011

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A TENTATIVE PARCEL MAP FOR TWO-UNIT RESIDENTIAL CONDOMINIUM PURPOSES LOCATED AT 704 ORCHID AVENUE (PA2023-0113)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Andrew Goetz ("Applicant"), with respect to property located at 704 Orchid Avenue, and legally described as Lot 6 of Block 742 in the Corona del Mar Tract ("Property"), requesting approval of a tentative parcel map for condominium purposes.
2. The Applicant requests a tentative parcel map for two-unit residential condominium purposes. An existing duplex has been demolished, and a new duplex is under construction. The tentative parcel map would allow each unit to be sold individually. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed ("Project").
3. The Property is categorized as Two Unit Residential (RT) by the General Plan Land Use Plan and is located within the Two-Unit Residential (R-2) Zoning District.
4. The Property is not located within the Coastal Zone; therefore, a coastal development permit (CDP) is not required.
5. On February 15, 2024, the Zoning Administrator reviewed a tentative parcel map filed as PA2023-0113. A notice of purpose of the review was given in accordance with the Newport Beach Municipal Code (NBMC). Written evidence was presented to and considered by the Zoning Administrator.

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, Division 6, 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 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%. The Project is for a two-unit

condominium subdivision and meets all identified criteria; therefore, it is eligible for the Class 15 Exemption.

SECTION 3. REQUIRED FINDINGS.

Tentative Parcel Map

The Zoning Administrator determined the tentative parcel map is consistent with the legislative intent of Title 20 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):

Finding:

- A. *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 Project includes a tentative parcel map for two-unit residential condominium purposes. The two-unit dwellings will comply with current condominium standards. The Property was previously developed with a duplex which has been demolished, and a new duplex is under construction. The proposed subdivision and improvements are consistent with the density of the RT General Plan Land Use category and R-2 Zoning District.
2. The Property is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The Property is physically suitable for a duplex because it is regular in shape and size. An existing duplex has been demolished, and a new duplex is under construction.
2. The Property is accessible from both Orchid Avenue and the alley in the rear. Vehicular access is taken from the alley.
3. The Property is adequately served by existing utilities.

Finding:

- C. *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. The Property is located within an existing residential neighborhood that does not contain any sensitive vegetation or habitat on-site.
2. 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. Section 2 of this Resolution is hereby incorporated by reference.

Finding:

- D. 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 Project 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 applicant 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.
2. The Project has been conditioned to require public improvements, including all damaged sidewalk panels, curb, gutter, and street along the Orchid Avenue frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department. All existing private improvements within the Orchid Avenue right-of-way must be removed and new sod and groundcovers installed. A new 36-inch box City street tree is to be installed on the Orchid Avenue public right-of-way. The utilities will be undergrounded, consistent with Title 19 (Subdivisions) of the Newport Beach Municipal Code.

Finding:

- E. 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 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 the judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.

Fact in Support of Finding:

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

Finding:

- F. The 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 Property is developed for residential use and lies in the R-2 Zoning District, which permits residential uses.

Finding:

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

Facts in Support of Finding:

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

Finding:

- H. 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 which requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

- I. 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 duplex is consistent with the R-2 Zoning District, which allows up to two residential units on the property. Therefore, the tentative parcel map for residential condominium purposes will not affect the City in meeting its regional housing needs.

Finding:

- J. 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 Project wastewater is designed to discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Fact in Support of Finding:

1. The Property is not located within the Coastal Zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15315 under Class 15 (Minor Land Divisions) 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 the tentative parcel map filed as PA2023-0113, subject to the conditions set forth in Exhibit "A" and in substantial conformance with Exhibit "B," which are both attached hereto and incorporated by reference.
3. This action shall become final and effective 10 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of NBMC Title 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan).

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF FEBRUARY, 2024.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT “A”

CONDITIONS OF APPROVAL

Planning Division

1. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
2. After the recordation of the Parcel Map and prior to a building permit final, 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 description change permit is final.
3. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this approval.
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 of the NBMC.
5. To the fullest extent permitted by law, the Applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 **Engstrom Residential Condominiums** including, but not limited to **Tentative Parcel Map (PA2023-0113)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney’s 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 the City’s costs, attorneys’ fees, and damages, which the City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

6. Prior to building permit final, 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 (1-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 the construction project.
8. All improvements shall be constructed as required by Ordinance and the Public Works Department.
9. An encroachment permit shall be required for all work activities within the public right-of-way.
10. All damaged sidewalk panels, curb, gutter, and street along the Orchid Avenue frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department.
11. All existing overhead utilities shall be undergrounded.
12. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
13. Each unit shall be served by its individual water service/meter and sewer lateral/cleanout.
14. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
15. New turf or drought tolerant landscaping shall be installed throughout the entire Orchid Avenue parkway.
16. New 36-inch box City street tree shall be installed along the Orchid Avenue frontage.
17. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way shall be required at the discretion of the Public Works Inspector.

Building Division

18. Independent utility services shall be provided for each unit, including fire sprinklers.

Fire Department

19. NFPA 13D fire sprinkler system shall be required for this Project.
20. Each unit shall be installed with separate water meters.

EXHIBIT “B”

Tentative Parcel Map

PRELIMINARY PARCEL MAP NO. 2023-162

PREPARED BY:

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SAM A. SOUVEN DATE:

DRAWN/SUBDIVIDER:

ANDREW GOETZ, ARCHITECT
2855 E. COAST HIGHWAY, SUITE 234
CORONA DEL MAR, CA 92625
949.637.8221

PROJECT ADDRESS:

704 ORCHID AVENUE
CORONA DEL MAR, CA 92625
APN: 459-073-09

LEGAL DESCRIPTION:

REAL PROPERTY IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOT 6 AND THE NORTHEASTERLY 15 FEET OF LOT 4 IN BLOCK 742, CORONA DEL MAR TRACT, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 3, PAGES 41 AND 42 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

BASIS OF BEARINGS:

THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARING BETWEEN O.C.S. HORIZONTAL CONTROL STATION GPS NO. 6200R1 AND STATION GPS NO. 6292 BEING N 40° 35' 00" E PER RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR.

DATE OF PREPARATION:

MAY 30, 2023

BASIS OF ELEVATIONS:

BENCHMARK DESIGNATION: 3K-29-68

DESCRIBED BY DCS 2002- FOUND 3 3/4" OCS ALUMINUM BENCHMARK DISK STAMPED "3K-29-68", SET IN THE NORTHERLY CORNER OF A 4 FT. BY 7 FT. CONCRETE CATCH BASIN. MONUMENT IS LOCATED IN THE SOUTHERLY CORNER OF THE "T" INTERSECTION OF PACIFIC COAST HIGHWAY AND IRIS AVENUE, 45 FT. SOUTHERLY OF THE CENTERLINE OF IRIS TO THE WEST AND 36 FT. SOUTHWESTERLY OF THE CENTERLINE OF PCH. MONUMENT IS SET LEVEL WITH THE SIDEWALK.

ELEVATION 84.166 FEET (NAVD 1988), YEAR LEVELLED 2011

NOTES:

1. EASEMENTS, DEDICATIONS, IF ANY, NOT PLOTTED
2. NO TITLE REPORT WAS PROVIDED FOR THIS SURVEY

LEGEND:

AD	AREA DRAIN		DIRECTION OF FLOW
C/L	CENTERLINE		
CONC	CONCRETE		
EB	ELECTRIC PULL BOX		
EL	ELEVATION		
FFE	FINISHED FLOOR ELEVATION		
OFFE	GARAGE FINISHED FLOOR ELEVATION		
FS	FINISHED SURFACE		
FC	FINISHED GRADE		
FL	FLOW LINE		
GM	GAS METER		
HP	HIGH POINT		
INV	PIPE INVERT ELEVATION		
MB	MAP BOOK		
NG	NATURAL GRADE		
PP	POWER POLE		
RET	RETAINING		
SMH	SEWER MANHOLE		
SCD	SEWER CLEAN OUT		
SS	STREET SIGN		
TC	TOP OF CURB		
TG	TOP OF GRADE		
TW	TOP OF WALL		
WM	WATER METER		
(N)	NEW		
(E)	EXISTING		

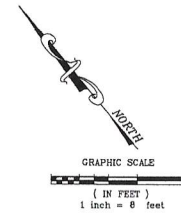
NOTES:

1. GROSS LAND AREA=5,311.41 S.F. (0.121 ACRES)
2. (NO PROPOSED STREET DEDICATION AND NO EXISTING AND PROPOSED EASEMENTS)
3. PROPOSED NO. OF LOTS= 1
4. EXISTING ZONE DESIGNATION= TWO UNIT RESIDENTIAL (R2)
5. PROPOSED ZONE DESIGNATION= TWO UNIT RESIDENTIAL (R2)
6. PROPOSED USE: 2 UNIT CONDOMINIUM
7. PROPOSED NO. OF PARKING SPACES= 4 (2 SPACES FOR EACH UNIT)
8. SEWAGE DISPOSAL FOR EACH UNIT IS BY UNDERGROUND SEWER SYSTEM WHICH CONNECTS TO SEWER MAIN LINE ON ALLEY
9. SURFACE & CONTRIBUTORY DRAINAGE TO BE CONVEYED TO STREET
10. NO OAK, WESTERN SYCAMORE, CALIFORNIA BAY OR SOUTHERN CALIFORNIA BLACK WALNUT TREES ON PROPERTY
11. SITE IS LEVEL
12. EXISTING USE: SINGLE FAMILY RESIDENTIAL
13. THERE ARE NO PUBLIC AREAS PROPOSED

LEGEND (CONTINUATION)

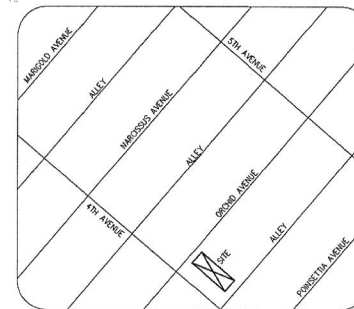
1. (N) LANDSCAPE WITH SWALE
2. (N) PLANTER AREA
3. (N) 3" DIA. NOS. ATRUM #75
4. (N) 4" DIA. NOS.1212 BRASS
5. (N) 3" THRU CURB DRAIN
6. (N) PERCOLATION PIPE
7. (N) 4" PVC SCH.40 1% MINIMUM SLOPE
8. (N) TRENCH DRAIN
9. (N) ROOF OR DECK DRAIN RE-IN
10. (N) CATCH BASIN
11. (N) THRU CURB DRAIN
12. (N) CONCRETE WALK WITH BROOM FINISH
13. (N) LAWN AREA
14. (N) LOW RETAINING WALL
15. (N) RETAINING WALL SUBDRAIN
16. (N) SEWER LATERAL AND CLEAN OUT
17. (N) 1" WATER METER (WITH TRAFFIC GRATE)
18. (N) STREET TREE (36" BOX MAGNOLIA LITTLE GEM)
19. (N) CONCRETE CURB AND GUTTER
20. (N) CONCRETE SIDEWALK
21. (N) CONCRETE CARRIAGE WALK
22. (N) LANDSCAPE WITH PAVERS

N 49° 26' 02" W 150.01'
C/L FOURTH AVENUE



MONUMENT NOTES:

- SET L&T "LS 8269" AT 1.00' ELY ON P/L PROD
- SET L&T "LS 8269" AT 2.00' WLY ON P/L PROD



VICINITY MAP
N.T.S.