



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 April 12, 2024.

ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS APRIL 11, 2024

- Item 1: Shahbazi Residence Coastal Development Permit (PA2023-0195)
Site Address: 51 Linda Isle
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| Action: Approved by Resolution No. ZA2024-020 | Council District | 5 |
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- Item 2: Boultinghouse Residential Condominiums Tentative Parcel Map and Coastal Development Permit (PA2023-0239)
Site Address: 1207 West Bay Avenue
- | | | |
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| Action: Approved by Resolution No. ZA2024-021 | Council District | 1 |
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- Item 3: Hollins Residence Modification Permit (PA2024-0030)
Site Address: 125 Via Jucar
- | | | |
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| Action: Approved by Resolution No. ZA2024-022 | Council District | 1 |
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- Item 4: Residences at 1300 Bristol Street Affordable Housing Implementation Plan Amendment (PA2024-0039)
Site Address: 1300 North Bristol Street
- | | | |
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| Action: Approved by Resolution No. ZA2024-023 | Council District | 3 |
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**COMMUNITY DEVELOPMENT DIRECTOR
OR ZONING ADMINISTRATOR ACTIONS**

(Non-Hearing Items)

Item 1: Huang Residential Condominiums Tentative Parcel Map (PA2024-0042)

Site Address: 715 Poinsettia Avenue

Action: Approved by Resolution No. ZA2024-024

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. ZA2024-020

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-UNIT RESIDENCE AND CONSTRUCT A NEW THREE-STORY SINGLE-UNIT RESIDENCE AND ATTACHED THREE-CAR GARAGE LOCATED AT 51 LINDA ISLE (PA2023-0195)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by David Bailey, concerning property located at 51 Linda Isle, requesting approval of a coastal development permit.
2. The lot at 51 Linda Isle is legally described as Lot 51 in Tract 4003.
3. The applicant requests a coastal development permit (CDP) to allow the demolition of an existing single-unit dwelling and construction of a new 4,724 square-foot two-story single-unit dwelling and an attached 678 square-foot three-car garage. The project includes raising the height of the existing bulkhead. The project also includes landscaping, hardscaping, and site walls. The project complies with all applicable development standards and no deviations are requested.
4. The subject property is designated Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-B) (6.0 – 9.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zoning District.
6. A public hearing was held on April 11, 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 pursuant to Title 14 of the California Code of Regulations Section 15303, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition, construction, or conversion of up to three single-family residences in urbanized areas. The proposed project consists of the demolition of an

existing single-unit dwelling and construction of a new 4,724 square-foot two-story single-unit dwelling and an attached 678 square-foot three-car garage. The project also includes raising the existing bulkhead. Therefore, the project qualifies within this exemption. There are no known exceptions listed in CEQA Guidelines Section 15300.2 that would invalidate the use of this exemption. 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 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.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 6,770 square feet and the proposed floor area is 5,402 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line abutting Newport Bay, 4 feet along each side property line, and 25 feet along the front property line abutting the street.
 - c. The highest guardrail is less than 24 feet from the established grade (9.67 feet NAVD88) and the highest ridge is no more than 29 feet from the established grade, which complies with the maximum height requirements.
 - d. The project includes garage parking for a total of three vehicles, complying with the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.

2. The neighborhood is predominantly developed with two-story, single-family residences. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.
3. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by Geo Soils, Inc. dated September 25, 2023, for the project. The maximum bay water elevation is 7.7 feet NAVD 88 (North American Vertical Datum of 1988 (NAVD 88)) and may exceed the current top of bulkhead elevation of 9 feet (NAVD 88) during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 3.2-foot increase in the maximum water level over the next 75 years (i.e., the life of the structure). Therefore, the sea level is estimated to reach approximately 10.9 feet NAVD 88 (the likely range for sea level rise over the 75- year design life of the structure based on low-risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update).
4. On March 23, 2021, the City Council approved updated Waterfront Project Design Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities. The guidelines require that any structure permitted within the years 2021 through 2025 must have a minimum bulkhead elevation of 10.9 feet (NAVD 88) with a design for adaptability elevation of 14.4 feet (NAVD 88). The project has been conditioned to raise the bulkhead to an elevation of 10.9 feet (NAVD 88). Geo soils, Inc. has confirmed the bulkhead can be raised up to 14.4 feet NAVD88 if needed and in compliance with the updated guidelines.
5. Once the existing seawall/bulkhead is raised per the report's recommendations, flooding, wave run-up, and erosion will not significantly impact this property over the proposed 75-year economic life of the development. Flood shields (sandbags and other barriers) can be deployed across the openings to protect and prevent flooding to the structure. The report concludes that the proposed project will be safe from flooding hazards for the next 75 years with the raised bulkhead. Therefore, the project has been conditioned to raise/cap the bulkhead structure up to 10.9 feet (NAVD 88).
6. The finished floor elevation of the proposed single-family residence is 10.6 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard. The Coastal Hazard Report concludes that the bay water elevation (currently 7.7 feet NAVD 88) will not exceed the proposed bulkhead at the single-family residence at 10.9 feet (NAVD 88) for the anticipated 75-year life of the structure.
7. Under NBMC Section 21.30.030(C)(3)(i)(iv) (Natural Landform and Shoreline Protection – Development Standards), the property owner will be required to agree with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). This requirement is included as a condition of approval that will need to be satisfied before the final building permit inspection, respectively.
8. The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority,

consistent with NBMC Section 21.30.015(D)(3)(c) (General Site Planning and Development Standards – Waterfront Development). This requirement is included as a condition of approval that will need to be satisfied before the issuance of building permits, respectively.

9. 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.
10. The property is located adjacent to coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
11. Under Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75% of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared for the project by Toal Engineering Inc. dated, July 13, 2023. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, the use of a LID approach to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs.
12. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
13. The project site is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The closest designated Public Viewpoint is located approximately 1,100 feet to the east of the property near the intersection of Bayside Drive and Harbor Island Drive. Additionally, the proposed residence is located to the south of Coast Highway and to the west of Bayside Drive, which are both Coastal View Roads as designated in the Coastal Land Use Plan. Due to the distance of the proposed development from the Public Viewpoint and Coastal View Roads as well as the intervening development between, the project will not be visible from the aforementioned locations and will not result in impacts to coastal views.
14. As a bayfront property, the north elevation of the new development will be visible from the water. The design complies with all required setbacks which minimizes the appearance of building bulk, and the design uses architectural treatments which will

enhance views from the water. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on public views.

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on a standard R-1 lot with a new single-family residence. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. Lido Isle is a private, 107-lot, single-unit residential community created in the 1960's and the existing home on-site was developed in 1973. The community predates the California Coastal Act and does not provide public access to the bay or shore. A gated bridge connects the island to the mainland at Bayside Drive. While Bayside Drive is the first public road paralleling the sea and the project site is located between Bayside Drive and the Harbor, the project will not affect the public's ability to gain access to use and/or view the coast and nearby recreational facilities.
3. Access to Linda Isle is provided via the Aloha Drive bridge that connects the island to Bayside Drive and is not accessible to the public. The island has a recreational tennis court, clubhouse, and sandy beach area in the northwestern portion of the island on Linda Isle for residents of the community. Although not a public access way, the project does not include any features that would obstruct access along this route.

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 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.

2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit (PA2023-0195) subject to the conditions outlined 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 by the provisions of Title 21 Local Coastal Program (LCP) Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 11TH DAY OF APRIL, 2024.



Benjamin M. Zdeba, AICP, Zoning Administrator

EXHIBIT “A”

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Before the final building permits, the existing seawall shall be reinforced and capped to 10.90 feet (NAVD 88) and capable to be raised up to 14.4 feet (NAVD 88), in compliance with the City of Newport Beach Waterfront Project Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities.
3. *The existing seawall shall be reinforced in compliance with the recommendations provided in the Coastal Hazards Report and Sea Level Rise Analysis prepared by GeoSoils, Inc. dated September 25, 2023.*
4. Before the final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
5. Before the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 development. This letter shall be scanned into the plan set before building permit issuance.
6. Before the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
7. Before the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.
8. Before issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans.

9. Before the issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.
10. Before issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
11. This approval does not authorize any new or existing improvements (including landscaping) on California Coastal Permit Jurisdiction, State tidelands, public beaches, or the public right-of-way. Any improvements located on tidelands, submerged lands, and/or lands that may be subject to the public trust shall require a coastal development permit (CDP) approved by the California Coastal Commission (Coastal Commission). Before the issuance of building permits, the applicant shall provide a copy of said coastal development permit or CDP waiver or documentation from the Coastal Commission that subject improvements are not subject to the permit requirements of the Coastal Act and/or not located within the permit jurisdiction of the Coastal Commission.
12. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
13. This Coastal Development Permit does not authorize any development seaward of the private property.
14. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds under MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.

15. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
16. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
17. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
18. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
19. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
20. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
21. 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 caused by the revocation of this Coastal Development Permit.
22. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, and welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
23. All landscape materials and irrigation systems shall be maintained by the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
24. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) 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. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.

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25. Before the issuance of the building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
 26. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
 27. This Coastal Development Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
 28. 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 Shahbazi Residence CDP including but not limited to, Coastal Development Permit (PA2023-0195). 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 the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages, which the City incurs in enforcing the indemnification provisions outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2024-021

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A TENTATIVE PARCEL MAP AND COASTAL DEVELOPMENT PERMIT FOR TWO-UNIT RESIDENTIAL CONDOMINIUM PURPOSES LOCATED AT 1207 WEST BAY AVENUE (PA2023-0239)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Amber Miedema (Applicant) on behalf of Brian and Morgan Boultinghouse (Owners) with respect to property located at 1207 West Bay Avenue and legally described as Lot 11 of Block 8 of Tract 626 (Property), requesting approval of a tentative parcel map, and associated coastal development permit (CDP) for condominium purposes.
2. The Applicant requests a tentative parcel map and coastal development permit for a two-unit condominium. A single-unit residence has been demolished, and a new duplex is currently under construction. The tentative parcel map will allow each unit to be sold individually. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed. A CDP is required because the property is located in the coastal zone (Project).
3. The Property is designated 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 located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-D – 20.0-29.9 DU/AC) and it is located within the Two-Unit Residential (R-2) Coastal Zoning District.
5. A public hearing was held on April 11, 2024, online via Zoom. A notice of the time, place, and purpose of the hearing was given in accordance with the 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 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 tentative parcel map is for a two-unit condominium subdivision and will conform to all development standards. Therefore, the Project is eligible for the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

Tentative Parcel Map

The Zoning Administrator determined in this case that the tentative parcel map is consistent with the legislative intent of the NBMC Title 19 (Subdivisions) and is approved based on the following findings per NBMC Section 19.12.070 (Required Findings for Action on Tentative Maps).

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 residential condominium purposes. The RT and R-2 designations apply to a range of two-family residential dwelling units such as duplexes and townhomes. The project site was previously developed as a single-unit residence, which has been demolished. A new duplex is currently under construction. The proposed subdivision and improvements will continue to be consistent with the density of the RT and R-2 designations.
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 single-unit residence has been demolished and a new duplex is currently under construction, which complies with all requirements of the NBMC Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan).
2. The Property is accessible from West Bay Avenue and the alley in the rear. Vehicular access is taken from the alley.

3. The Property is adequately served by all existing utilities to accommodate the two new dwelling units being constructed. The proposed subdivision does not alter the anticipated utility demand generated from the site.

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 an existing residential neighborhood that does not contain any sensitive vegetation or habit 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. *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 Project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the West Bay Avenue frontage and alley, as needed. Existing private, non-standard improvements within the West Bay Avenue right-of-way must be removed. The utilities will be undergrounded, consistent with Title 19 (Subdivisions) of the Newport Beach Municipal Code (NBMC).
2. The tentative parcel map is for two-unit condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- E. *That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision-making body may approve a map if it finds that alternate easements, for access or 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 the Property within the proposed development because no public easements are located on the Property.

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a "land project" as previously

defined in Section 11000.5 of the California Business and Professions Code because the project site does not contain 50 or more parcels of land.

2. The Project is not located within a specific plan area.

Finding:

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

Fact in Support of Finding:

1. The tentative parcel map and any future improvements are subject to Title 24 of the California Building Code, which requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The City's Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

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

Fact in Support of Finding:

1. The proposed two-unit condominiums will replace an existing single-unit residence, which is consistent with the R-2 Zoning District and is an increase in residential density. Therefore, the tentative parcel map for condominium purposes will not negatively affect the City in meeting its regional housing need.

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, the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter 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 Three 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 Newport Beach Municipal Code, 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. A single-unit residence has been demolished and a new duplex is under construction. The duplex conforms to all applicable development standards, including floor area limit, setbacks, height, and off-street parking. The proposed subdivision and improvements are consistent with the density of the R-2 Coastal Zoning District.
2. The Property is not located adjacent to a coastal view road, or public viewpoint as identified in the Coastal Land Use Plan (CLUP). The Project does not have the potential to degrade the visual quality of the Coastal Zone or to result insignificant adverse impacts to public view. The Property is located approximately 1,300 feet from the Veterans Memorial Park which is identified by the CLUP as a public viewpoint.
3. The Property is located in an area known for the potential for seismic activity. All projects are required to comply with the California Building Code and Building Division standards and policies, which includes all required mitigation for seismic hazards.
4. The Project is located approximately 160 feet from the harbor and is not near any natural landforms or environmentally sensitive areas.

Finding:

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

Facts in Support of Finding:


1. The Property is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the Project is a tentative parcel map for two-unit condominium purposes within the R-2 Coastal Zoning District. The Project does not involve a change in land use, planned density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the Project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. The Property is approximately 450 feet from the beach where lateral and vertical coastal access are provided. Approval of the parcel map will not affect public recreation, access, or views.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Sections 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 filed as PA2023-0239, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code (NBMC). Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 11TH DAY OF APRIL 2024.



Benjamin M. Zieba, 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 building permit final inspection, 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 the revocation of this tentative parcel map.
4. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 (Subdivisions) and Title 21 of the Newport Beach Municipal Code.
5. Prior to the recordation of the parcel map, an In-Lieu Park Dedication Fee for one additional residential unit shall be paid in accordance with the fee effective at the time of payment.
6. Prior to final inspection of the building permit, a Fair Share Fee for one additional residential unit shall be paid in accordance with the fee effective at the time of payment.
7. Prior to the approval of the final map, a “Purpose Statement” shall be added to the map to clarify that the map is for two residential condominium units and how common areas will be owned.
8. 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 **Boultinghouse Residence Condominium Parcel Map, but not limited to, Tentative Parcel Map and Coastal Development Permit (PA2023-0239)**. 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 the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City’s

costs, attorney's fees, and damages that which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

9. Prior to building permit final inspection, 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.
10. 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 the construction project.
11. All improvements shall be constructed as required by Ordinance and the Public Works Department.
12. An encroachment permit shall be required for all work activities within the public right-of-way.
13. Existing broken and/or otherwise damaged concrete curb, gutter and sidewalk panels along the West Bay Avenue frontage and any damaged concrete panels along the alley frontage shall be reconstructed.
14. All existing overhead utilities shall be undergrounded.
15. 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.
16. Each unit shall be served by its individual water service/meter and sewer lateral/cleanout.
17. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.

18. 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.

Fire Department

19. Prior to the recordation of the parcel map, a NFPA 13D fire sprinkler system shall be provided for each unit.
20. Separate meters and fire risers are required for each unit.
21. Three feet of access shall be provided along the side of the structure for laddering opportunities and Fire Department access.

Building Division

22. Prior to the recordation of the parcel map, separate utility services are required for each unit.

RESOLUTION NO. ZA2024-022

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A MODIFICATION PERMIT FOR AN ADDITION GREATER THAN 10 PERCENT TO A SINGLE-UNIT RESIDENCE WITH A LEGAL NONCONFORMING GARAGE LOCATED AT 125 VIA JUCAR (PA2024-0030)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John Morgan (Applicant), with respect to property located at 125 Via Jucar, and legally described as Lot 708 and the southeasterly ½ lot of 709 of Tract 907 (Property) requesting approval of a modification permit.
2. The Applicant requests a modification permit to allow an 832 square-foot, 46% addition to an existing 1,390 square-foot single-unit residence with a 394-square-foot attached two-car garage that is considered legal nonconforming due to its interior dimensions. The existing interior clear garage dimensions are 17 feet, 4 inches wide by 18 feet, 2.5 inches deep where the Zoning Code requires a minimum width and depth of 20 feet. The existing interior clear garage dimensions will be increased to 19 feet, 5 inches wide by 19 feet, 4 inches deep by removing an existing obstruction; however, these dimensions are still considered nonconforming. A modification permit is required pursuant to Newport Beach Municipal Code (NBMC) section 20.38.060 (Nonconforming Parking) as the Applicant proposes an addition of more than 10% of the existing square footage of the residence without altering the existing nonconforming garage for compliance (Project).
3. The Property is designated Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
4. The Property is located within the coastal zone; however, a coastal development permit is not required because minimum interior garage dimensions are not a development standard required by the Local Coastal Program Implementation Plan (Title 21). Additionally, the proposed addition does not require a coastal development permit since the project is located in the Categorical Exclusion Area of the coastal zone and qualifies for a categorical exclusion order.
5. A public hearing was held on April 11, 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 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 3 exempts the demolition of up to three single-unit dwellings and additions of up to 10,000 square feet to existing structures. The Project is an 832-square-foot addition to an existing single-unit residence within a developed neighborhood; therefore, the Class 3 exemption is applicable.
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.

Modification Permit

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 1,390-square-foot, single-story, single-unit residence with an 394-square-foot attached two-car garage. The neighborhood is comprised of single- and two-story, single-unit residences. The modification permit will allow the expansion of the existing single-unit residence by 832 square-feet, which will remain compatible with other properties in the neighborhood.
2. The proposed residential addition would increase the living area by 832 square feet, which is a 46% increase. The addition of floor area is proposed on a new second-story. The Project will remain consistent with the design and height of other two-story residences in the neighborhood.
3. The Project will continue to maintain a garage that is 19 feet, 4 inches wide by 19 feet, 5 inches deep which is adequate in size for the parking of two vehicles. The Property

will continue to provide the same amount of parking as other residences in the neighborhood.

4. The Project will not result in a change to the density or the use of the Property.

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. NBMC Subsection 20.38.060 (Nonconforming Parking) specifies that residential developments are considered to have nonconforming parking if the developments do not have the required type of covered or enclosed parking spaces or because amendments to this Zoning Code have changed the dimensions of required parking spaces subsequent to the original construction. The existing structure was built in 1941 in conformance with the development standards, including parking requirements, at the time of construction. Due to subsequent amendments to development standards, a 20-foot width and 20-foot depth is required for a two-car garage's interior clearance on a lot that is greater than 40 feet in width. Therefore, the interior clear dimensions of the existing two-car garage are considered to be substandard in size and legal nonconforming.
2. Modifying the garage walls, which are not within the area of the proposed addition, would require the relocation of the rear garage footing and the left side garage wall footing, moving the garage slab and reframing the garage. Altering the garage would significantly increase the scope and cost of the Project while providing negligible benefits for the Applicant.
3. The granting of the modification permit is necessary to allow an addition of 46% to an existing single-unit residence that was constructed in compliance with garage standards in effect at the time of original construction. Although the existing garage dimensions are not in compliance with the latest development standards, it is adequate in size 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. Relocating the left garage wall 7 inches and rear garage wall 8 inches to achieve the 20-foot width and depth would require the widening the garage slab, reframing of the garage walls, demolition of an existing free-standing wall adjacent to the garage, and

removal of existing landscaping, which would add significant scope and cost to the Project. Increasing the depth of the garage would reduce the size of the existing master bedroom, which is in contrary with the intent of this Project which is to provide additional living space for the family.

2. The existing garage is constructed to the edge of the required front and right-side setback lines. The current development standards would require the garage depth to be increased by 8 inches and the garage width to be increased by 7 inches to achieve the Code required 20-foot garage depth and width dimensions. Expanding the garage towards the front and side property lines would place the front garage wall outside of private property lines and the left garage wall within the required 4-foot side yard setback. This is an alternative to remodeling the livable area to accommodate additional garage area; however, it is not allowed by the Zoning Code.
3. The purpose and intent of the Zoning Code is for residences under 4,000 square feet of livable area to provide a garage that fits two vehicles. Although the existing garage has substandard width and depth, it will continue to provide dimensions that are suitable for the parking of two vehicles.

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 beyond the scope of the planned addition. If the garage is brought into compliance with the Zoning Code standards, the number of parking spaces would remain unchanged.
2. The intent of the Project is to provide additional living area, including two additional bedrooms, a bathroom and family room on a new second floor. A redesign to reduce the size of the addition from 832 to 178-square-feet (10% of the existing floor area) will significantly impact the objectives of the Project and would not provide practical benefits to the Applicant.

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. The proposed addition conforms to all applicable development standards, including floor area limits, setbacks, height, and will maintain adequate light, air, and privacy between neighboring residences. The addition will not preclude access to the residence and will be consistent with the scale of other residences in the neighborhood.
2. The approval of this modification permit is conditioned such that the Applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.
3. The approval of this modification permit is conditioned such that the Applicant is required to maintain the garage to be permanently available for parking purposes with its existing interior dimensions to remain unobstructed.

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 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Modification Permit filed as PA2024-0030, 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 11TH DAY OF APRIL 2024.

Benjamin M. Zueba, AICP, Zoning Administrator

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

1. The Project shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Modification Permit.
4. 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 to constitute a public nuisance.
5. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the NBMC.
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 (19 feet, 5 inches wide by 19 feet, 4 inches deep) shall be kept clear of obstructions including cabinets, shelving, or similar 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 business owner, 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. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.
12. 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 **Hollins Residence Addition including, but not limited to Modification Permit No. PA2024-0030**. 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.

Building Division

13. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.

Public Works Department

14. The Applicant is required to obtain an encroachment permit and encroachment agreement for all existing walls within the Strada Ithaca right-of-way. The existing wall shall comply with Council Policy L-6.
15. The Applicant shall stall a new sewer clean out on the existing sewer lateral and shall comply with City Standard 406.

RESOLUTION NO. ZA2024-023

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING AN AMENDMENT TO AFFORDABLE HOUSING IMPLEMENTATION PLAN NO. AH2022-001 FOR THE RESIDENCES AT 1300 BRISTOL STREET PROJECT LOCATED AT 1300 NORTH BRISTOL STREET (PA2024-0039)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by The Picerne Group (Applicant), concerning property located at 1300 North Bristol Street, and legally described as Parcel 2, in Book 49, Page 18 of Parcel Maps, requesting an amendment of Affordable Housing Implementation Plan No. AH2022-001 (AHIP) that was approved as a part of the Residences at 1300 Bristol Street Project.
2. On March 22, 2022, the City Council approved Residences at 1300 Bristol Project (Approved Project) consisting of a 193-unit apartment building atop of 346-space parking structure. The land use entitlements for Approved Project consisted of Site Development Review No. SD2021-003, Traffic Study No. TS2022-001, Transfer of Development Rights No. TD2022-001, Affordable Housing Implementation Plan No. AH2022-001, and CEQA Addendum No. 5 (ER2022-001).
3. The Approved Project consists of 77 base density units allotted to the property, based on the conversion of existing 33,292 square feet of office use, a 50% or 39-unit increase of the base units in density, allowed by Chapter 20.32 (Density Bonus) of Newport Beach Municipal Code and Government Code Section 65915 (Density Bonus Law), and a transfer of development rights of 77 units from the nearby Uptown Newport development at 4311 Jamboree Road, for a total of 193 residential units.
4. The existing AHIP specified how the Approved Project would meet the City's affordable housing requirements of the PC-11 Residential Overlay and meet the eligibility requirements for a 50% density bonus (39 density bonus units). In addition to a density bonus, the project was eligible and received two development concessions related to the mix of affordable units and park in-lieu fee payment, and six development standard waivers related to park land dedication, building setbacks, building height, private open space for the studio-size rental units, common open space, and overall residential project density.
5. The existing AHIP was prepared in compliance with the then PC-11 requirement that a minimum of 30% of the units within a residential development utilizing the Residential Overlay to be affordable to lower-income households and subject to a minimum 30-year affordability covenant. Since 77 units were transferred from Uptown Newport development, where affordable housing obligation have already been met, the Residential Overlay's 30% inclusionary housing requirement only applied to the project's remaining 77 base units. Of the 24 affordable units provided, 12 were restricted to very

low-income households for a minimum term of 55 years and were the basis for the project's eligibility for a 50% density bonus and development concessions and waivers. The remaining 12 affordable housing units were needed to comply with the PC-11 Residential Overlay and restricted to low-income households and restricted for a minimum term of 30 years. The approved unit mix for the affordable units would be 10 studio units, 12 one-bedroom units, and two two-bedroom units. The affordable units would consist of the same size and amenities as the market-rate units and distributed throughout the project.

6. On July 25, 2023, the City Council approved an amendment to Newport Place Planned Community (PC-11) (PC-11 Amendment), to reduce the minimum affordable housing inclusionary requirement to be affordable to lower income households from 30% to 15% of the base units in a residential project. Lower income category includes low and very-low-income households. The reduction was necessary to reduce a potential impediment to housing development within the Residential Overlay as it was the only area in the Airport Area that required the inclusionary housing and with the highest percentage. Additionally, the reduction was necessary to affirmatively further fair housing consistent with policies and policy actions of the certified Sixth Cycle Housing Element in order to meet the City's Regional Housing Needs Assessment (RHNA) for lower-income households. The amendment was also supported by the February 17, 2022, [Inclusionary Housing: Financial Evaluation](#), prepared by Keyser Marston Associates for the City of Newport Beach. The study concluded that inclusionary housing percentages higher than 15% would likely be too high rendering most residential projects financially infeasible.
7. The Applicant requests an amendment to AHIP (AHIP Amendment) to reduce the Approved Project's percentage of affordable units commensurate with the number of inclusionary units currently required under the PC-11 Amendment. Specifically, the applicant proposes to reduce the total number of residential units set aside for affordable housing from 24 units (30%) to 12 units (15%). All 12 affordable housing units would be set aside for very low-income households for a minimum term of 55 years. No other changes are proposed.
8. Table 5-1 in Section 20.50.030(B) (Multiple Permit Application – Concurrent Processing) of Newport Beach Municipal Code provides the Zoning Administrator is the review authority for those AHIPs, including any amendment to AHIPs, that do not include development standard waiver and/or incentives/concession requests. Given that the density bonus was based on the 12 units restricted to very low-income household that will continue to be provided, the project remains eligible for the previously approved density bonus, development concession and waivers. For the Zoning Administrator's consideration is only the request to reduce the number of units set aside for affordable housing from 30% to 15%.
9. A public hearing was held on April 11, 2024, online via Zoom. A notice of the 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. All significant environmental concerns for the proposed AHIP Amendment have been addressed in a previously approved CEQA Addendum No. 5 (ER2022-001) that the City of Newport Beach intends to use said document for the above-noted AHIP Amendment. Furthermore, there are no additional reasonable alternatives or mitigation measures that should be considered in conjunction with said AHIP Amendment as there would be no physical that would trigger any further environmental analyses. Copies of the previously prepared environmental document are available for public review and inspection at the Planning Division or the City of Newport Beach website at www.newportbeachca.gov/ceqa.
2. The Zoning Administrator finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time-consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages that may be awarded to a successful challenger.

SECTION 3. REQUIRED FINDINGS.

In accordance with Government Code Section 65915 *et seq.* (State Density Bonus Law), Chapter 20.32 (Density Bonus) of the NBMC, and PC-11 Amendment, the following findings in support of AHIP Amendment are as follows:

1. The AHIP Amendment is consistent with requirement that a minimum of 15% of the base units within a residential development utilizing the PC-11 Residential Overlay be affordable to lower-income households and subject to a minimum 30-year affordability covenant. The project would restrict 12 units (15% of the 77 base units) to very low-income households for a minimum term of 55 years, exceeding the 30-year requirement for lower income households per PC-11 Residential Overlay. Furthermore, the AHIP Amendment remains eligibility for a 50% density bonus and the development concessions and waivers as previously approved.
2. The affordable unit mix, approved as part of the development concessions, for the very low-income units would remain at five studio units, six one-bedroom units, and one two-bedroom units, consisting of the same size and amenities as the market-rate units, and distributed throughout the project, consistent with AHIP No. AH2022-001 and AHIP Amendment.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds all significant environmental concerns for the AHIP Amendment have been addressed in a previously

adopted CEQA Addendum No. 5 (ER2022-001) to the 2006 General Plan Update Program Environmental Impact Report and the 2008-2014 City of Newport Beach Housing Element Update Initial Study/Negative Declaration for the Residences at 1300 Bristol Street Project.

2. The Zoning Administrator of the City of Newport Beach hereby approves AHIP Amendment (PA2024-0039), an amendment to Affordable Housing Implementation Plan No. AH2022-001, subject to the conditions outlined in Exhibit A, which is attached hereto and incorporated by reference. The existing Site Development Review No. SD2021-003, Traffic Study No. TS2022-001, and Transfer of Development Rights No. TD2022-001 shall remain in full force and effect.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or a call for review is filed with the Community Development Director by the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 11TH DAY OF APRIL, 2024.



Benjamin M. Zueba, AICP, Zoning Administrator

Attachments: Exhibit A: Conditions of Approval
 Exhibit B: Residences at 1300 Bristol AHIP Amendment

EXHIBIT “A”**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Division

1. *A minimum of 12 apartment units shall be made affordable to very low-income households, consistent with AHIP Amendment (PA2024-0039) dated March 6, 2024. This condition shall supersede Condition No. 6 of City Council Resolution No. 2022-20.*
2. *The very low-income unit mix shall be five studio units, six one-bedroom units, and one two-bedroom units. These units shall consist of the same size and amenities as the market-rate units and shall be distributed throughout the project, consistent with AHIP Amendment (PA2024-0039) dated March 6, 2024.*
3. *AHIP Amendment (PA2024-0039) shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code unless an extension is otherwise granted.*
4. 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.
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 *Residences at 1300 Bristol Street Project Affordable Housing Implementation Plan Amendment (PA2024-0039)*. 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 the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all the City’s costs, attorneys’ fees, and damages that which City incurs in enforcing the indemnification provisions outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

EXHIBIT "B"

RESIDENCES AT 1300 BRISTOL STREET

***AMENDMENT TO AFFORDABLE HOUSING IMPLEMENTATION PLAN AND DENSITY BONUS
APPLICATION***

February 28, 2024

Prepared by

Springbrook 
Realty Advisors, Inc.

**RESIDENCES AT 1300 BRISTOL STREET
AMENDED AFFORDABLE HOUSING IMPLEMENTATION PLAN AND DENSITY BONUS
APPLICATION**

Project Description & Affordability Level

The Picerne Group (“Picerne”) is developing the Residences at 1300 Bristol Street Project (“Project”), consisting of 193 apartment units, on a 1.97-acre site located in the Newport Place Planned Community. The site is generally bounded by Bristol Street North on the South and Spruce Street on the West, with an auto storage yard on the North and East sides. The Newport Beach General Plan designates the project site as Mixed-Use Horizontal 2 (MU-H2) and the zoning is Newport Place Planned Community (PC 11).

On March 22, 2022, the City Council approved land use entitlements for the Project, including environmental clearances, a Site Development Review, an Affordable Housing Implementation Plan (“AHIP”), a Traffic Study, and a Transfer of Development Rights of 77 residential units from Uptown Newport Planned Community (collectively “Entitlement Approvals”) (PA2021-161). The approved AHIP was prepared in compliance with the then existing inclusionary housing requirement of the PC-11, which required that 30% of the base units in the project be affordable to Lower Income households. The approved AHIP includes a total of 24 lower income units, including 12 units affordable to Very-Low-Income households and 12 units affordable to Low-Income Households in order to meet the PC-11 requirement.

On July 25, 2023, the City Council approved an amendment to PC-11 (PC-11 Amendment), to reduce the minimum affordable housing inclusionary requirement to be affordable to lower income households from 30% of the base units in a project to 15%.

Picerne is requesting that the inclusionary housing requirement for the Project be revised to conform to the requirement of PC-11 Amendment as approved by the City Council on July 25, 2023. This change would reduce the inclusionary requirement from 30% to 15% lower income units.

The affordable housing requirement for this Project, as would be required by PC-11 Amendment, is 12 units (15% of 77 Base units) to be provided as lower income units. Picerne is exceeding this requirement by providing 12 Very-Low-Income units (instead of Low-Income units) for a 55-year term (instead of the 30-year term required by PC-11 Amendment). The proposed amendment to AHIP does not request any other changes in the Entitlement Approvals.

Lower Income households, including both Very Low and Low-Income categories, as defined in California Health and Safety Code Section 50079.5, are defined as households earning between 50 percent to 80 percent or less of area (Orange County) median income, adjusted for family size.

The proposed amendment will bring the Project in alignment with the affordability requirements of PC-11 Amendment and will help to offset the significant increase in interest rates and construction costs since the Project was approved. The increases in interest rates and construction costs have significantly impacted the feasibility of the Project.

Density Bonus Computation and Term of Affordability

The 12 Very-Low-Income units qualify the Project for a 50% density bonus. The density bonus computation for the Project per Government Code Section 65915 was approved as part of the Entitlement Approvals and is shown below:

Table 1
Density Bonus Computation

Base Units	77
Density Bonus	39
Transfer of Development Rights	77
Total Units	193

Picerne intends to operate the apartment project as a rental community. The 12 Very-Low-Income units will remain rent restricted for a minimum of 55 years, per Government Code Section 65915(c)(1), more than the 30-year affordability term set forth in the PC-11 Amendment.

Reduction in Parking

As provided for in Government Code Sec. 65915(p) and Section 20.32.030 of the City's Zoning Code, the Project is eligible for a reduction in parking requirements. Pursuant to the developer's request, the Entitlement Approvals included a reduction in the parking requirements for the Project, as summarized in Table 2 below:

Table 2
Parking Requirements

Unit Type	Number of Units	Stalls/Unit Per Gov. Code 65915	Total Stalls Per Gov. Code 65915
Studio	25	1	25
1 BR	89	1	89
2 BR	79	1.5	119
TOTAL PARKING STALLS REQUIRED	193		233
TOTAL PARKING STALL PROVIDED			346
PARKING PROVIDED IN EXCESS OF MINIMUM REQUIREMENT			113

As shown above, the Project will provide 346 onsite parking spaces for its residential units, which is 113 spaces more than the requirements of Sec. 65915 (p).

Development Incentives Request

Pursuant to Government Code Section 65915(d)(1) and Section 20.32 of the City’s Zoning Code, Picerne is entitled to three concessions or incentives due to providing at least fifteen percent (15%) of the units as affordable for Very-Low-Income households. The AHIP approved by the City Council included two development incentives including an incentive that the mix of lower income units provided not be reflective of the total project unit mix. This amended AHIP does not propose any change to the affordable unit mix for the Very-Low-Income units as previously approved or to the second incentive approved by the City Council as shown below:

**Table 3
Unit Mix**

Unit Type	Total Units	Very Low Income Units
Studio	25	5
1 Bedroom	89	6
2 Bedroom	79	1
Total	193	12

As the second incentive, the City Council approved a waiver of the park in lieu fee referenced in General Plan Policy LU 6-15.13 and in Section 19.52 of the City’s Subdivision Code in the amount of \$1,837,500.

These incentives will result in cost reductions which will provide for the affordable rents to be set in accordance with Government Code Sec. 65915(c).

Development Standards Waiver Request

Government Code Sec. 65915(e)(1) provides that a city or county may not apply any development standard (including height limits) that will have the effect of physically precluding the construction of a density bonus project at the density permitted under the density bonus statute. For the Project, the Entitlement Approvals included the following development waivers consistent with Government Code Sec. 65915(e)(1); no change is proposed for these waivers:

- (1) Waiver of General Plan Policy LU 16-15.13 public park dedication requirement
- (2) Waiver of Planned Community Text No. PC 11 (Newport Place) 30’ street setback requirement as well as the corresponding Covenant and Agreement Regarding Maintenance of Yards for an Oversized Building in Favor of the City of Newport Beach Recorded May 16, 1977 in Book 12196, Page 750, O.R.
- (3) Waiver of Planned Community Text No. PC 11 (Newport Place) 55’ height limit
- (4) Waiver of Newport Beach Municipal Code Section 20.18.030 (Table 2-3) private open space requirement
- (5) Waiver of General Plan Land Use Policy 6.15.7 maximum density requirement
- (6) Waiver of Newport Beach Municipal Code minimum sidewalk width requirement
- (7) Waiver of Newport Beach Municipal Code Section 20.18.030 (Table 2-3) minimum common open space requirement

Waiver of these requirements is necessary to accommodate the additional units permitted by the density bonus.

Income Limits and Examples of Eligible Tenants for Affordable Homes

Table 4 below shows the maximum income limits as determined by the U.S. Department of Housing and Urban Development and the California Department of Housing and Community Development for Very-Low-Income households with household sizes appropriate for the Project:

Table 4 Maximum Income Limits

Household Size	Very Low Income Units Maximum Annual Income - 2023/2024
1 Person	\$50,250
2 Person	57,400
3 Person	64,600
4 Person	71,750
5 Person	77,500

The 12 affordable homes that Picerne will provide will be rented to eligible Very-Low-Income Households. As shown in Table 4, Very-Low-Income Households includes incomes ranging from \$50,250 per year for a one-person household to \$77,500 per year for a five-person household, consistent with the income limits set for Orange County, issued by the Department of Housing and Community Development on June 6, 2023. These income limits are updated annually.

Higher income limits apply to larger families; those families however are not considered to be a target market for the Project, where the unit mix consists of studios, one-bedroom, and two-bedroom apartment homes.

As such these could include City employees, school district employees, health care professionals, restaurant and other retail workers, and other occupations which provide needed services to our community. While household size, overtime pay, summer jobs, or second jobs may affect eligibility, the income limits above are reflective of pay to many public or health care sector workers, as shown in Table 5 on the following page:

Table 5
Examples of Qualifying Salaries

<u>Position</u>	<u>Pay Range</u>	<u>Information</u>	<u>Comments</u>
		<u>Source</u>	
Equipment Mechanic I	\$52,356-\$77,268	City	Will qualify for Very Low Income units
Police Dispatcher	\$63,372-\$93,648	City	May qualify for Very Low Income units depending on household size
Utilities Specialist	\$55,332-\$81,756	City	May qualify for Very Low Income units depending on household size
Clinical Support Tech I - Irvine OR	\$39,686-\$60,985	Hoag	Will qualify for Very Low Income units
Licensed Vocational Nurse (LVN) - HHH Home Health	\$53,144-\$81,681	Hoag	May qualify for Very Low Income units depending on household size
Newport-Mesa Unified School District ("NMUSD") Teacher	\$67,116-\$75,497	NMUSD	Credentialed teacher with no advanced education and up to 4 years experience will qualify for Very Low Income units.
Campus Safety Facilitator #39-24	\$47,831-\$58,139	NMUSD	Will qualify for Very Low Income units
Information Technology Technician #35-24	\$56,867-\$69,120	NMUSD	Will qualify for Very Low Income units

The pay ranges shown above are as of 2023 and are subject to update. Retired persons, couples, or young business professionals starting their careers may also qualify to rent the affordable homes at the Project. In order to provide opportunities for workers to live in one of the affordable homes, the City could provide guidelines providing for acceptance of applications on a priority basis from classes of individuals who qualify under the income limits in effect. The guidelines could provide for priority treatment for City residents, City employees, employees of the local school district, and employees of major health care institutions or other categories identified by the City for priority treatment.

Rental Rate Limits for Affordable Homes

The 12 Very-Low-Income Units shall be rented at an affordable rent calculated in accordance with the provisions of Section 50053 of the Health and Safety Code. Government Code Section 65915(c)(1)(B)(i) requires that rents for units qualifying a project for a density bonus be set in accordance with Section 50053 of the Health and Safety Code. Per Health and Safety Code Section 50053, the gross rental payment for a Very-Low-Income unit is calculated based on 50% of Median Income which results in lower rents than those set using the applicable income limits in areas qualifying for the high-cost area adjustment. Additionally, Section 50053 limits affordable rent to 30% of total income for a Very-Low-Income household, as calculated in Table 6 on the following page. That section also requires that the rent calculation for a studio unit assumes a one-person household, a one-bedroom unit assumes a two-person household, and a two-bedroom unit assumes a three-person household.

The calculated rents are then adjusted by a utility allowance as determined annually by the County of Orange Housing & Community Services Department. As of October 1, 2023, the reduction for the utility allowance is \$149 per month for a studio unit, \$163 per month for a one-bedroom unit, and \$215 per month for a two-bedroom unit. The utility allowance assumes gas cooking, gas space

heating, gas water heating, water, sewer, and trash fees to be paid by the tenant.

Table 6
Maximum Rents by Bedroom Count

Bedrooms	Maximum Annual Rent	Maximum Monthly Rent	Utility Allowance	Affordable Rent
Studio	\$13,418	\$1,118	\$149	\$969
1 Bedroom	15,338	1,278	163	1,115
2 Bedroom	17,250	1,438	215	1,223

Picerne will enter into an affordable housing agreement, in recordable form, with the City prior to obtaining the first building permit for any residential unit. That agreement will ensure that the maximum rents for the affordable apartment homes will be calculated using the methodologies as utilized in Table 6. The rental rates shown will be updated prior to the commencement of rental activities and on an ongoing basis to reflect then-current income limits, utility allowances, and any changes in applicable regulations and statutes.

Unit Mix, Design, and Location of Affordable Homes

While the exact location of each of the affordable homes within the Project site has not yet been determined, the affordable homes will be spread throughout the development to avoid concentration of affordable homes in any area. The affordable homes shall be comparable in the quality of construction and exterior design to the market rate homes. As provided for in the PC-11, all affordable homes will have access to the facilities and amenities offered by the development.

RESOLUTION NO. ZA2024-024

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A TENTATIVE PARCEL MAP FOR TWO-UNIT RESIDENTIAL CONDOMINIUM PURPOSES LOCATED AT 715 POINSETTIA AVENUE (PA2024-0042)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Matthew Watson (Applicant), on behalf of Charles Huang (Owner) with respect to property located at 715 Poinsettia Avenue, and legally described as Lot 15 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 will be demolished, and a new duplex will be constructed. 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 April 11, 2024, the Zoning Administrator reviewed a tentative parcel map filed as PA2024-0042. 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 NBMC 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 is currently developed with a duplex which will be demolished, and a new duplex will be constructed. 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 is proposed to be demolished to construct a new duplex.
2. The Property is accessible from both Poinsettia 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 NBMC 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 Poinsettia Avenue frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department. The Project is also conditioned to install turf or drought tolerant landscaping, as approved by the City, throughout the entire Poinsettia Avenue parkway fronting the Property. The existing street tree along Poinsettia Ave shall be protected in place. The utilities will be undergrounded, consistent with Title 19 (Subdivisions) of the NBMC.

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 is located 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 PA2024-0042, 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).

PASSED, APPROVED, AND ADOPTED THIS 11TH DAY OF APRIL 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 inspection, 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 20 of the NBMC.
5. Prior to the approval of the final map, a “Purpose Statement” shall be added to the map to clarify that the map is for two residential condominium units and how common areas will be owned.
6. 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 **Huang Residential Condominiums** including, but not limited to **Tentative Parcel Map (PA2024-0042)**. 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 building permit final inspection, 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 (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.
9. All improvements shall be constructed as required by Ordinance and the Public Works Department.
10. An encroachment permit shall be required for all work activities within the public right-of-way.
11. All damaged sidewalk panels, curb, gutter, and street along the Poinsettia Avenue frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department.
12. All existing overhead utilities shall be undergrounded.
13. 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.
14. Each unit shall be served by its individual water service/meter and sewer lateral/cleanout.
15. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
16. New turf or drought tolerant landscaping approved by the City shall be installed throughout the entire Poinsettia Avenue parkway fronting the Property.
17. The existing street tree along Poinsettia Ave shall be protected in place.

18. 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

19. Prior to recordation of the parcel map, independent utility services shall be provided for each unit, including water, electrical and gas.

Fire Department

20. Prior to the recordation of the parcel map, a NFPA 13D fire sprinkler system shall be required for the project.
21. Independent fire sprinkler systems shall be installed for each unit and separately connect to the water meter that serves each unit.

EXHIBIT “B”

Tentative Parcel Map
County Parcel Map No. 2022-185

TENTATIVE PARCEL MAP NO. 2022-185

SEPTEMBER 2023

SITE ADDRESS

715 POINSETTIA AVE
CORONA DEL MAR, CA 92625
(APN: 459-073-17)

LOT 15

BLOCK 742

CORONA DEL MAR

M.M. 3/41-42

THE LAND REFERRED TO HEREIN BELOW IS
SITUATED IN THE COUNTY OF ORANGE, STATE
OF CALIFORNIA, AND DESCRIBED AS
FOLLOWS:

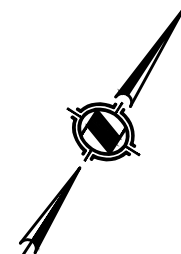
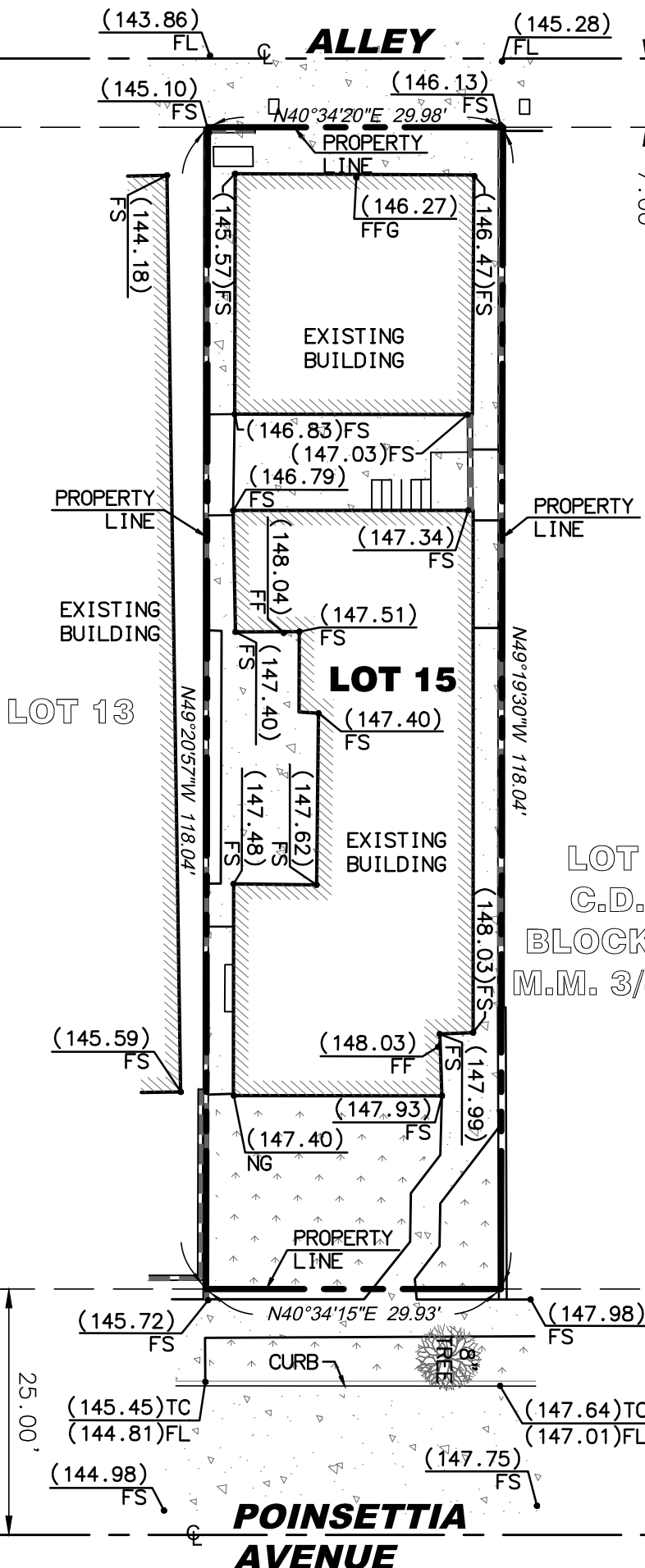
LOT 15 OF BLOCK 742 OF CORONA DEL MAR, IN
THE CITY OF NEWPORT BEACH, COUNTY OF
ORANGE, STATE OF CALIFORNIA AS PER MAP
RECORDED IN BOOK 3, PAGES 41 AND 42, OF
MISCELLANEOUS MAPS IN THE OFFICE OF THE
COUNTY RECORDER OF SAID COUNTY.

OWNER/DEVELOPER:

**DEXTER 715 POINSETTIA LLC, A CALIFORNIA
LIMITED LIABILITY COMPANY**

LOT 17
C.D.M.
BLOCK 742
M.M. 3/41-42

LOT 13



SCALE = 1" = 16'

PREPARED BY: A. R. H.



9/21/2023

PAUL D. CRAFT, P.L.S. 8516
LICENSE EXPIRES 12/31/24
JN: 22128

DATE

**APEX LAND SURVEYING
INC.**

HUNTINGTON BEACH, CALIFORNIA 92646
PHONE: (714) 488-5006 FAX: (714) 333-4440
APEXLSINC@GMAIL.COM