



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 December 13, 2024.

ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS DECEMBER 12, 2024

- Item 1: Lido Bottle Works Minor Use Permit (PA2024-0145)
Site Address: 3408 Via Oporto, Suite 102 & 103
Action: Approved by Resolution No. ZA2024-064 Council District 1
- Item 2: Tang Residence Modification Permit (PA2024-0187)
Site Address: 1935 Port Cardiff Place
Action: Approved by Resolution No. ZA2024-065 Council District 5
- Item 3: Dexter River, LLC Residence Coastal Development Permit (PA2024-0095)
Site Address: 3910 and 3910 ½ River Avenue
Action: Approved by Resolution No. ZA2024-066 Council District 1
- Item 4: 122 Via Lido Nord, LLC Residence Coastal Development Permit (PA2024-0144)
Site Address: 122 Via Lido Nord
Action: Approved by Resolution No. ZA2024-067 Council District 1

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period 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. ZA2024-064

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A MINOR USE PERMIT TO UPGRADE AN EXISTING TYPE 41 (ON-SALE BEER AND WINE – EATING PLACE) ALCOHOL BEVERAGE CONTROL (ABC) LICENSE WITH A TYPE 47 (ON-SALE GENERAL – EATING PLACE) ABC LICENSE AT AN EXISTING EATING AND DRINKING ESTABLISHMENT WITH AN OUTDOOR DINING PATIO LOCATED AT 3408 VIA OPORTO, SUITES 102 AND 103

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Rand Kruse (Applicant) concerning the property located at 3408 Via Oporto, Suites 102 and 103, and legally described as Parcel 1 of Parcel Map No. 59-17 (Resubdivision No. 416), consisting of Lots 16 through 21 in Tract 907, as shown on a map recorded in Book 47 Pages 39, of Miscellaneous Maps, records of Orange County, California (Property). The Applicant requests approval of a minor use permit (MUP).
2. The Applicant requests a MUP to upgrade an existing Type 41 (On Sale Beer and Wine) Alcohol Beverage Control (ABC) license to a Type 47 (On-Sale General - Eating Place) ABC license at an existing eating and drinking establishment known as Lido Bottle Works (Restaurant). In conjunction with this request, the daily hours of operation are proposed to be reduced from between 10:00 a.m. and 12:30 a.m. to between 10:00 a.m. and 11:00 p.m., thereby eliminating late hour operations after 11:00 p.m. The Restaurant will continue to utilize a Type 20 (Off-Sale Beer & Wine) ABC license for accessory off-sale beer and wine operations from 10:00 a.m. to 10:00 p.m., daily. There are no physical alterations or changes to floor area or seating of the restaurant. If approved, this minor use permit will supersede Conditional Use Permit (CUP) No. UP2016-027 (Project).
3. The Property is located within the Mixed-Use Water (MU-W2) Zoning District and categorized as Mixed-Use Water 2 (MU-W2) by the General Plan Land Use Element. The MU-W2 zone is intended to apply to waterfront locations in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors.
4. The Property is located within the coastal zone, within the Mixed-Use Water (MU-W2) Coastal Zoning District and the Mixed-Use Water Related (MU-W) Coastal Land Use category. The MU-W2 Coastal Zoning District applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors. The Project does not result in an increase in parking intensity of the existing use; therefore, a coastal development permit (CDP) is not required for the Project.

5. On September 1, 2016, the Planning Commission adopted Resolution No. 2023 (PA2016-102) approving CUP No. UP2016-027 for the Restaurant to operate with late hours (past 11:00 p.m.) and with a Type 41 (On-Sale Beer & Wine – Eating Place) ABC license. The Restaurant also has a Type 20 (Off-Sale Beer & Wine) ABC license for accessory off sale of beer and wine which is allowed by right. Table 2-9 (Mixed – Use Zoning District Permit Requirements) of Section 20.22.020 (Mixed-Use Zoning Districts) the Newport Beach Municipal Code (NBMC) allows restaurants with alcohol sales and no late hour operations through approval of a MUP and accessory off-sale of alcohol as permitted by right within the MU-W2 (Mixed-Use Water) Zoning District. Although the Applicant is requesting to upgrade the existing Type 41 ABC license to a Type 47 ABC license, the Applicant has also proposed to eliminate late hour operations (after 11:00 p.m.); therefore, the Project is eligible for consideration by the Zoning Administrator through approval of a MUP and consideration by the Planning Commission for a CUP amendment is not required.
6. A public hearing was held on December 12, 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) under Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption authorizes minor alterations of existing structures involving negligible or no expansion of use. The Project is to upgrade an existing Type 41 ABC license to a Type 47 license for an existing restaurant and does not involve any physical alterations to tenant space. Therefore, the Class 1 exemption is applicable.

SECTION 3. REQUIRED FINDINGS.

Alcohol Sales

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

Finding:

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

Facts in Support of Findings:

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

i. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.

1. The Property is in Reporting District 15 (RD 15). The Newport Beach Police Department (NBPD) is required to report offenses of Part One Crimes combined with all arrests for other crimes, both felonies and misdemeanors (except traffic citations) to the ABC. Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report – criminal homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson. The crime rate average in RD 15 is higher than adjacent RD 13, RD 16 and the City-wide Reporting District Average. Adjacent RD 13 and RD 16 are predominantly residential properties compared to the subject RD 15 which includes many commercial and mixed-use areas including the Lido Marina Village, Cannery Village, the Landing shopping center and McFadden Square which are all highly traveled and visited areas by residents and tourists. RD 15 is found to have undue concentration, as it has more than 20% over the citywide average crime count. While the area does have a high concentration of alcohol licenses, the Lido Marina Village was designed to accommodate restaurants within a smaller walkable area concentrated with other commercial uses.
2. The NBPD reviewed the Project and has no objections and has provided recommended operational conditions of approval. Operational conditions of approval recommended by the Police Department include the requirement to not allow the Restaurant to operate as a bar, tavern, cocktail lounge, or night club and a closing hour of 11:00 p.m. as to ensure compatibility with the surrounding uses and minimize alcohol-related impacts.

ii. The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.

1. RD 15 has the highest number of total arrests throughout the City, 41% of which were alcohol related. RD 15 includes most of the commercial and mixed-use properties on the peninsula, which are highly traveled and visited areas by residents and tourists for accessing the coastal destinations of water-front restaurants, boating and marine activities. The NBPD memo indicates that RD 15 is the highest crime area in the City.
2. In 2023, there two dispatch events coded to the Restaurant, but none of the calls appear to be directly related to alcohol and no arrests were made.

iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.

1. The Restaurant is within Lido Marina Village and is consistent with the Mixed-Use Water Related (MU-W) coastal land use category. The Lido Marina Village an area with a significant variety of land uses including restaurants, retail, offices, and marine-related resources. The Property's location within the Lido Marina Village is a greater distance from sensitive land uses than other commercial areas. The nearest residential property is approximately 400 feet to the north of the Property along Via Lido; however, there are many intervening mixed-use structures in between. Other residential properties are located approximately 1,100 feet to the west of the Property across the Newport Harbor on Lido Isle. The draft resolution includes conditions of approval including a reduction in hours of operation to 11:00 p.m. to further minimize negative impacts to surrounding land uses and ensure that the use remains compatible with the surrounding community.
2. Eating and drinking establishments with incidental alcohol service are common in the Lido Marina Village and the proposed change in alcohol license type in conjunction with an earlier closing hour is not anticipated to alter the operational characteristics of the use such that it becomes detrimental to the area.

iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.

1. The Lido Marina Village was designed to accommodate multiple restaurants. The Restaurant is in close proximity to other food service establishments. This includes Nobu, a restaurant with late hours, outdoor dining, and a Type 47 (On-Sale General - Eating Place) ABC license located at 3450 Via Oporto; Circle Hook, a restaurant with outdoor dining, a Type 47 (On-Sale General - Eating Place) ABC license and no late hours located at 3432 Via Oporto; and Malibu Farm Lido, a restaurant with outdoor dining, no late hours and a Type 47 (On-Sale General - Eating Place) ABC license located at 3420 Via Oporto. The RD 15 statistics indicate an overconcentration of ABC licenses within this reporting district.
2. The per capita ratio of 1 license for every 76 residents is higher than the average ratio for Orange County. This is due to the higher concentration of commercial land uses, ABC licenses attributed to adjacent marina operations, lower number of residential properties, and high number of restaurants in Lido Marina Village, Cannery Village, the Landing shopping center and McFadden Square. While the license-to-resident ratio is higher than average, and the Restaurant is located in close proximity to other establishments, the location in Lido Marina Village (an established commercial area), together with the proposed operational characteristics of the Project would make the proposed Type 47 ABC license upgrade acceptable. The NBPD does not anticipate any increase in crime or alcohol-related incidents with the approval of this application subject to the proposed conditions of approval.

v. Whether or not the proposed amendment will resolve any current objectionable conditions.

1. No objectionable conditions are presently occurring at the Restaurant or retail site. The Restaurant has operated at the Property since 2016 with a Type 41 and Type 20 ABC license without operating issues or complaints related to alcohol.
2. The Project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the NBMC is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the establishment. Operational conditions of approval recommended by the NBPD relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
3. The Applicant requests an upgrade to a Type 47 ABC license and proposes a reduction in hours of operation of the Restaurant to have a closing time of 11:00 p.m. which will ensure the use does not become a late-night bar, tavern, or nightclub and appropriately mitigates the potential for further alcohol related impacts.
4. The resolution includes conditions of approval to limit objectionable conditions related to noise and trash from the establishment. All employees serving alcohol will be required to complete a certified training program in responsible methods and skills for selling alcoholic beverages, as required by the State of California.

Minor Use Permit

Pursuant to Section 20.22.020 (Mixed-Use Zoning Districts, Land Uses and Permit Requirements) of the Newport Beach Municipal Code, eating and drinking establishments classified as Food Service, No Late Hours, require the approval of a minor use permit within the MU-W2 (Mixed-Use Water Related) Zoning District.

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

Finding:

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

Facts in Support of Finding:

1. The Mixed-Use Water Related (MU-W2) General Plan and Coastal Land Use Plan (CLUP) land use categories apply to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors. Although the Property and surrounding development do not include residential uses, the Restaurant with the proposed Type 47 ABC license is consistent with the visitor-serving land uses intended for the MU-W2 land use categories of the General Plan and CLUP.

2. The requested reduction in hours of the outdoor dining patio is compatible with the goals established for Lido Marina Village. Goal LU 6.9 (Lido Village) of the General Plan Land Use Element emphasizes the need for “a pedestrian-oriented village environment that reflects its waterfront location, providing a mix of uses that serve visitors and local residents.” The Restaurant and its outdoor dining patio will continue to be an additional amenity for visitors to enjoy the bay frontage.
3. Land Use Element Policy LU 5.2.2 (Buffering Residential Areas) requires that commercial uses adjoining residential neighborhoods should be designed to be compatible and minimize impacts to these uses. The reduction of the interior and outdoor patio hours of operation to 11:00 p.m., daily, will ensure that noise impacts to residents across Newport Harbor are minimized.
4. Circulation Element Policy CE 8.1.9 (Shared Parking Facilities) encourages the City to allow sharing parking facilities in mixed use and pedestrian oriented areas throughout the City. On December 21, 2023, the Planning Commission adopted Resolution No. PC2023-046 approving a parking management plan for the Lido Marina Village which demonstrates that an adequate supply of parking is provided for all uses based upon the shared use of parking structure within the Lido Marina Village. The Project does not result in an increase in parking intensity; therefore, parking is satisfied.
5. The Property is not located within a Specific Plan area.

Finding:

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

Facts in Support of Finding:

1. The Mixed-Use Water Related (MU-W2) zoning district applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors. Table 2-9 (Mixed – Use Zoning District Permit Requirements) of the NBMC allows restaurants with alcohol sales and no late hour operations through approval of a MUP within the MU-W2 (Mixed-Use Water) Zoning District. As conditioned, the Project will comply with all applicable NBMC standards for eating and drinking establishments.
2. Section 20.48.090 (A) (1) (Standards – All Eating and Drinking Establishments) of the NBMC states that all activities shall be conducted entirely within an enclosed structure, with the exception of checking patron’s identification, valet parking activities, and outdoor dining. The Restaurant will continue to comply with these provisions based on the existing Restaurant plans and conditions of approval.
3. Section 20.48.090(F)(3)(b) (Eating and Drinking Establishments, Outdoor Dining) of the NBMC requires that the review authority consider the relationship of outdoor dining to

sensitive noise receptors. The outdoor dining patio will close at 11:00 p.m., daily to minimize noise impacts to residents located across Newport Harbor and along Via Lido.

4. The Restaurant will continue to be consistent with the Lido Marina Village Design Guidelines as there are no proposed physical alterations to the Restaurant.
5. The existing development is nonconforming to the maximum 0.5 Floor Area Ratio (FAR) for nonresidential uses, as required by the Zoning Code. The Project does not include physical alterations to the Restaurant; therefore, the nonconformity will remain unchanged.
6. Fact 4 in Support of Finding C is hereby incorporated by reference.

Finding:

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

Facts in Support of Finding:

1. Eating and drinking establishments have operated in these suites since 1977 and 1979. The Restaurant has operated on the Property since 2016 with a Type 41 and Type 20 ABC license. The Project is compatible with other commercial uses in the area and serves as a supporting use within the Lido Marina Village retail commercial area. The Restaurant also serves as an important visitor-serving use that benefits the area, which is in furtherance of the City's Coastal Land Use Plan and the Coastal Act.
2. The Property is located in a relatively dense commercial village area with multiple uses within a short distance of each other. Lido Marina Village is conducive to a significant number of walk-in patrons. No on-site parking is available for the Property but adequate parking is provided in the Lido Marina Village parking structure and adjacent streets (Central Avenue and Via Oporto) as authorized under the approved Parking Management Program for Lido Marina Village (Planning Commission Resolution No. PC2023-046).
3. The recommended operational conditions of approval will promote compatibility with the surrounding uses. The floor plan provides tables and counter areas to accommodate 40 interior seats and 24 outdoor dining patio seats. The Restaurant proposes to reduce the closing hour from 12:30 a.m. to 11:00 p.m., daily, which is earlier than other uses on the Peninsula and reduces demand for police services in the area. The Applicant is required to maintain substantial conformance with the approved floor plan in conjunction with a Type 47 ABC license so that the Restaurant's primary use is an eating and drinking establishment and not a bar, cocktail lounge, or night club.
4. The business operation does not include live entertainment or dancing.

5. The Project will not necessitate high levels of lighting or illumination, and all outdoor lighting must conform to Section 20.30.070 (Outdoor Lighting) of the NBMC.

Finding:

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

Facts in Support of Finding:

1. The Property is located within an existing commercial building and the tenant space is designed and developed for an eating and drinking establishment. The design, size, location, and operating characteristics of the use are compatible with the surrounding Lido Marina Village development. The existing tenant space on the Property has historically been occupied by an eating and drinking establishment and the Restaurant has occupied the tenant space since 2016.
2. The outdoor dining area will not inhibit the width of the boardwalk area and pedestrian easement adjacent to the harbor. The proposed outdoor dining patio provides an additional amenity for coastal visitors to enjoy the bay frontage.
3. Adequate public and emergency vehicle access, public services, and utilities exist for the existing development. Access is provided by Via Oporto and Central Avenue from Via Lido. All utilities presently exist in the vicinity.

Finding:

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

Facts in Support of Finding:

1. The Restaurant will continue serve both residents and visitors of the City. The requested Type 47 ABC license will allow the Applicant to provide additional menu options for its patrons.
2. The Project includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. Turning the music off at 10:00 p.m. on the outdoor patio will ensure the Restaurant will remain in compliance with Chapter 10.26 (Community Noise Control) of the Newport Beach Municipal Code.
3. The Restaurant does not include live entertainment or dancing.

4. The Project includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The reduced hours of operation to 11:00 p.m., daily reduces impacts to surrounding land uses and sufficient parking is available in the parking structure to accommodate the eating and drinking establishment. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance within the facility, adjacent properties, or surrounding public areas, sidewalks, or parking lots of the Restaurant, during business hours, if directly related to the patrons of the establishment. Based on the NBMC requirements and the proposed conditions of approval, the Project will not result in a detriment to the surrounding community.

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 15301 under Class 1 (New Construction and 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 Minor Use Permit filed as PA2024-0145 subject to the conditions outlined in Exhibit A, which is attached hereto and incorporated by reference.
3. This resolution supersedes Planning Commission Resolution No. 2023, which upon vesting of the rights authorized by this Minor Use Permit, shall become null and void.
4. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 12TH DAY OF DECEMBER, 2024.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

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. A material violation of any of those laws in connection with the use may be caused the revocation of this Minor Use Permit.
4. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, welfare, or materially injurious to the Property or improvements in the vicinity or if the Property is operated or maintained to constitute a public nuisance.
5. Any change in operational characteristics, expansion in the area, or other modification to the approved plans shall require review by the Planning Division. An amendment to this Minor Use Permit or the processing of a new Minor or Conditional Use Permit may be required.
6. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
7. This Resolution supersedes Planning Commission Resolution No. 2023 (PA2016-102), which upon vesting of the rights authorized by this Minor Use Permit, shall become null and void.
8. 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.
9. All lighting shall conform to the standards of Section 20.30.070 (Outdoor Lighting). The Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

10. 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.
11. 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, and 8:00 a.m. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.
12. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC. Pre-recorded music may be played in the tenant space, provided exterior noise levels complies with Chapter 10.26 (Community Noise Control) of the NBMC.
13. *The hours of operation for the interior and outdoor patio of the Restaurant shall be limited from 10:00 a.m. through 11:00 p.m., daily. The doors shall be closed to new customers one half hour prior to the closing hour.*
14. *That the “net public area” of the Restaurant shall not exceed 644 square feet for the interior of the Restaurant facility.*
15. *The accessory outdoor dining shall be used only in conjunction with the related adjacent establishment. The outdoor dining patio shall be limited to 324 square feet in area.*
16. *The Restaurant and patio seats shall be configured in a dining room setting. The dining tables and chairs are not permitted to be moved to create standing areas for food and beverage service to patrons.*
17. *A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.*
18. *The Restaurant and patio areas may be used for private parties provided that said use is not a promotional activity and/or does not require a City issued Special Event Permit.*
19. *Fences, walls, or similar barriers shall serve only to define the outdoor dining area and not constitute a permanent all-weather enclosure.*
20. *There shall be no live entertainment or dancing allowed on the premises.*
21. *The installation of roof coverings shall not have the effect of creating a permanent enclosure. The use of umbrellas for shade purposes shall be permitted. The use of any*

other type of overhead covering shall be subject to review and approval by the Community Development Director and may require an amendment to this use permit.

22. All proposed signs shall be in conformance with any approved Comprehensive Sign Program for the Property and provisions of Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code.
23. Temporary “sandwich” signs shall not be permitted, either on-site or off-site, to advertise the restaurant facility. Temporary signs shall be prohibited in the public right-of-way unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
24. All lighting shall conform to the standards of Section 20.30.070 (Outdoor Lighting). The Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
25. *An outdoor sound system shall be permitted within the outdoor dining areas for music played at a background level. Music on the outdoor dining patios shall be turned off at 10:00 p.m. daily. Sound shall adhere to Chapter 10.26 of the Newport Beach Municipal Code.*
26. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
27. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
28. All trash shall be stored within the building, except when placed for pick-up by refuse collection agencies. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
29. Trash receptacles for patrons shall be conveniently located inside of the establishment. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
30. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the trash container on pick-up days.

31. 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 leasing agent.
32. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Lido Bottle Works MUP** including, but not limited to, **Minor Use Permit No. PA2024-0145** 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.

Police Department

33. *The Restaurant shall close at 11:00 p.m. daily, including the interior and outdoor dining area.*
34. *The Restaurant shall not operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.*
35. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
36. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
37. Food service from the regular menu shall be available to patrons up to 30 minutes before the scheduled closing time.
38. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
39. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the

premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.

40. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
41. "VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order of the sale of drinks is prohibited (excluding charges for prix fixe meals).
42. Management shall maintain an operational log of daily activities related to the sale and service of alcoholic beverages, as well as any additional security actions. Management shall make this log available to the Police Department upon request.
43. *There shall be no exterior signs advertising off-sales of alcohol.*
44. *There shall be no off-sales of alcohol permitted after 10:00 p.m., daily.*
45. *Off-sale retail alcohol sales shall consist of bottles only. Retail sales of growlers or kegs (64 oz. or more) shall not be permitted.*
46. *The walk-in/reach-in cooler area shall be limited to 50 square feet in area.*
47. *All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.*
48. The applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use is a violation and may be cause for revocation of the use permit.
49. *The Alcoholic Beverage Control License shall be limited to a Type 47 (On-Sale General). Any substantial change in the ABC license type shall require subsequent review and potential amendment of the Use Permit.*

Building Division

50. *Strict adherence to maximum occupancy limits is required.*

51. *Public sanitation facilities shall be available to the general public (patrons) during regular business hours of the operation, unless otherwise approved by the Building Division.*
52. *A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be provided, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Director and Public Works Director in conjunction with the approval of an alternate drainage plan.*
53. *The restaurant shall provide accessible access/seating to all functional areas.*
54. *Portable propane heaters shall be prohibited on the outdoor patio. Natural gas or electric heaters are allowed if installed per their listing and the California Electrical or Plumbing Code.*

Code Enforcement

55. Shall comply with Section 6.06 (State Mandated Municipal Solid Waste Diversion Programs) of the NBMC. Contact the Code Enforcement Division to schedule an inspection within 30 days of commencing business activities.

RESOLUTION NO. ZA2024-065

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A MODIFICATION PERMIT FOR A 45% ADDITION TO AN EXISTING SINGLE-UNIT RESIDENCE WITH A NON-CONFORMING GARAGE LOCATED AT 1935 PORT CARDIFF PLACE (PA2024-0187)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Dana Kwon (Applicant), with respect to property located at 1935 Port Cardiff Place, and legally described as Lot 39 of Tract 6623 (Property), requesting approval of a modification permit.
2. The Applicant requests a modification permit to allow a 1,140-square-foot addition to an existing 2,508-square-foot single-unit residence with nonconforming parking. Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC) limits additions to a maximum of 10% of the existing gross floor area when a residence has nonconforming parking. The existing garage is considered nonconforming due to depth, as the garage only provides an interior clear dimension of 19 feet, 9 inches, when 20 feet is required. The addition otherwise complies with all applicable development standards and no other deviations are requested (Project).
3. The Property is categorized as Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Harbor View Hills Planned Community (PC 3), in the Low/Medium Density Residential Area (Area 2).
4. The Property is not located within the coastal zone.
5. A public hearing was held on December 12, 2024, online via Zoom. A notice of the time, place, and purpose of the hearing was given in accordance with Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. This exemption includes additions up to 10,000 square feet where public services and utilities are available, and the area is not considered environmentally sensitive. The proposed project is a 1,140-square-foot addition to an existing single-unit residence in a developed neighborhood and is not within an environmentally sensitive area.

3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 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 Property was originally developed in 1969 with a 2,508-square-foot, two-story, single-unit residence with an attached 476-square-foot, two-car garage.
2. Development along Port Cardiff Place predominantly consists of two-story, single-unit, residences with some one- and three-story, single-unit residences. There is a Metropolitan Water District facility located approximately 320 feet east of the Property, at the corner of Port Cardiff Place and East Newport Hills Drive.
3. The Project would increase the floor area of the dwelling by 1,140 square feet and add a new bedroom, living room, pantry, and bathroom on the first floor and a new balcony, laundry room, and two bathrooms on the second floor.
4. The areas of addition will not exceed the maximum height allowed by PC 3 and are consistent with the size of other properties in the neighborhood. The proposed addition will comply with all other applicable development standards including lot coverage and setbacks.
5. Although the existing garage depth is nonconforming at 19-feet, 9 inches, the existing garage spaces are adequate to park two vehicles. The substandard depth of the parking spaces would be permissible on a lot 30 feet wide or less, pursuant to Section 20.40.090 (Parking Standards for Residential Uses) of the NBMC, as the minimum depth for a single car space on a lot 30 feet wide or less is 19 feet. Therefore, the existing nonconforming parking spaces are functional for parking purposes and the proposed addition would not create a demand for street parking in the area.
6. The driveway in front of the garage allows for additional onsite parking. Although the driveway parking spaces do not count toward the parking requirement for single-unit dwellings, Section 20.40.090 (Parking Standards for Residential Uses) of the NBMC allows parking of vehicles on driveways within front setback areas that are in front of garages set back a minimum of 20 feet from the front property line. The driveway

measures approximately 20 feet wide by 20 feet, 4 inches, deep, which complies with the minimum dimensions of the NBMC. A larger vehicle can use the driveway, which offsets the shorter parking spaces inside the garage.

Finding:

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

Facts in Support of Finding:

1. The interior dimensions of the garage were compliant with the zoning standards in place at the time of construction. As the result of subsequent amendments to the Zoning Code, the garage is now substandard in size and is considered legal nonconforming.
2. Section 20.38.060 (Nonconforming Parking) of the NBMC limits additions to residential structures with nonconforming parking to a maximum of 10% of the existing floor area within a 10-year period. Subsection (2)(b) however allows for larger additions, subject to the approval of a modification permit.
3. A modification permit is necessary to allow the addition, as expanding the garage is overly difficult and onerous due to the physical characteristics of the existing structure. The proposed addition is located primarily at the front of the Property but does not include any changes to the attached garage. Expanding the garage south towards the front property line or north into the habitable space on the first floor would require new framing and foundations. To reframe the garage and pour additional footings are significant structural alterations which would increase the cost and scope of work of the project while providing negligible benefit.

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. PC 3 requires that each single-unit residence provide two parking spaces, in a garage, however it does not provide standards related to the dimensions of the parking spaces. PC 3 defers to the development standards provided within the NBMC, when not otherwise specified. Section 20.40.090 (Parking Standards for Residential Uses) of the NBMC requires the garage provide minimum interior clear dimensions of 20 feet wide by 20 feet deep.
2. The garage provides two useable parking spaces that are only three inches less than the required depth. The existing condition fulfills the intent of the NBMC by providing adequate parking onsite. The Applicant will continue to use the existing two-car garage and park onsite.

3. Fact 3 in support of Finding B hereby incorporated by reference.

Finding:

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

Facts in Support of Finding:

1. An alternative to granting the modification permit is to require the garage be brought into compliance with current NBMC standards. While bringing the garage into compliance with current NBMC requirements would provide a negligible benefit, it would require significant alterations to the structure well beyond the scope of the addition. Furthermore, relocating the interior garage wall three inches into the existing habitable space would eliminate habitable space, which is contrary to the purpose of the Project.
2. Given the intent of the Project is to provide a bedroom, living room, pantry, and bathroom on the first floor and a new balcony, laundry room, and two bathrooms on the second floor, reducing the size of the addition to no more than 10% of the existing floor area of the structure as authorized under Section 20.38.060(A) (Nonconforming Parking - Residential) of the NBMC will significantly impact the objectives of the Project and would not provide similar benefits to the Applicant.
3. The Project, as proposed, is not anticipated to cause any detrimental effects to the neighborhood.

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. Although the depth of the parking spaces does not meet the minimum dimensions of the NBMC, the existing garage has sufficient depth to accommodate a typical vehicle and not generate a demand for on-street parking.
2. The proposed two-story addition would maintain all required setbacks and will provide adequate protection for light, air, and privacy. The addition will not preclude access to the residence and will be consistent in scale with other two-story residences in the neighborhood.
3. PC 3 allows for a maximum lot coverage of 60%, which in this case is 3,367 square feet. The proposed lot coverage after the addition is 3,043 square feet or only 48% of the lot area.

4. The proposed addition maintains more than the minimum 3-foot side yard for fire access in accordance with Section 20.30.110(A)(1)(c) (Setbacks Regulations and Exceptions) of the NBMC.
5. Fact 6 in support of Finding A hereby incorporated by reference.
6. 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. The Building Division has reviewed the proposed project and added conditions of approval for demonstration of project compliance with Building Codes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act 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. The exceptions to this categorical exemption under Section 15300.2 of the CEQA Guidelines are not applicable.
2. The Zoning Administrator of the City of Newport Beach hereby approves PA2024-0187, 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 12TH DAY OF DECEMBER, 2024.



Benjamin M. Zieba, AICP, Zoning Administrator

EXHIBIT “A”

CONDITIONS OF APPROVAL
(Project-specific conditions are in italics)

PLANNING

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. *Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior clear dimensions (20 feet, 10 inches wide by 19 feet, 9 inches deep) shall be kept clear of obstructions including cabinets, shelving, or similar objects that may impact the ability to adequately park two vehicles, except as provided in Section 20.40.090(A)(4) (Parking Standards for Residential Uses) of the NBMC.*
3. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Modification Permit.
5. Demolition beyond the approved scope of work requires Planning Division approval prior to commencement of work. Approval of revisions to project plans are not guaranteed and may require the garage to be redeveloped in conformance with the current NBMC development standards.
6. 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.
7. 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.
8. This approval shall expire and become void unless exercised within 24 months from the actual date of review by authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the NBMC.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney’s fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City’s approval of the **Tang Residence including, but not limited to, the Modification Permit filed as PA2024-0187**. 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 Conditions

10. *Prior to permit issuance, plans shall be updated to provide an emergency escape and rescue opening in the master bedroom sufficient to satisfy applicable California Building Code requirements.*

Fire Department Conditions

11. *Prior to permit issuance, plans shall be updated to show a residential fire sprinkler system throughout the residence and garage sufficient to satisfy applicable California Fire Code requirements.*

Public Works Department Conditions

12. *Prior to permit issuance, plans shall be updated to demonstrate compliance with the following:*
 - a) *The installation a new sewer cleanout on the existing sewer lateral pursuant to City Standard 406. The sewer clean out shall be installed within the sidewalk area in the public right of way;*
 - b) *The reconstruction of the damaged driveway pursuant to City Standard 162; and*
 - c) *The removal of the existing basketball hoop structure from the public right of way.*

RESOLUTION NO. ZA2024-066

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING DUPLEX AND CONSTRUCT A NEW THREE-STORY SINGLE-UNIT RESIDENCE WITH A JUNIOR ACCESSORY DWELLING UNIT AND ATTACHED TWO-CAR GARAGE LOCATED AT 3910 AND 3910 ½ RIVER AVENUE (PA2024-0095)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects (Applicant), concerning property located at 3910 and 3910 ½ River Avenue and legally described as Lot 6 of Tract Canal Section (Property), requesting approval of a coastal development permit (CDP).
2. The Applicant proposes to demolish an existing duplex and construct a new 2,524-square-foot, three-story, single-unit residence with a 284-square-foot junior accessory dwelling unit (JADU), and an attached 500-square-foot, two-car garage. The Project includes hardscape, landscape, drainage, and majority of the site walls within the confines of the Property (Project). The existing deck area and bulkhead, including a portion of site walls, are located within the permit jurisdiction of the California Coastal Commission (CCC). Since the Applicant proposes to raise the existing deck, as well as raise and reinforce the existing bulkhead for coastal hazards protection, a separate Approval In Concept (AIC) from the City and separate authorization from the CCC is required.
3. The Property is categorized as Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
4. The Property is located within the coastal zone. The Property is categorized as Two Unit Residential – 30.0 - 39.9 DU/AC (RT-E) by the Coastal Land Use Plan and is located within the Two-Unit Residential (R-2) Coastal Zone District.
5. A public hearing was held on December 12, 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-unit residences in urbanized areas. The Project consists of the demolition of an existing duplex and construction of a new 2,524 square-foot, three-story, single-unit residence with a 284-square-foot JADU, and an attached 500-square-foot, two-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The Project 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 3,430 square feet and the proposed floor area is 3,308 square feet.
 - b. The Project provides the minimum required setbacks, which are 4 feet along the property line along River Avenue, 3 feet along each side property line, and 20 feet along the property line abutting the water. Portions of the existing residence such as the existing deck, portions of site walls, and existing bulkhead are within the CCC's permitting jurisdiction and are subject to a separate review. Therefore, those items will not be reviewed or determined by this application.
 - c. The highest guardrail is 24 feet from the established grade of 9.00 feet North American Vertical Datum of 1988 (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 a 2-car garage, complying with the minimum 2-car garage parking requirement for single-unit residences with less than 4,000 square feet of habitable floor area.

2. The neighborhood is predominantly developed with two-story and three-story, single-unit residences and two-unit 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 PMA Consulting, Inc. dated May 27, 2024, for the Project. The current maximum bay water elevation is 7.7 feet NAVD 88 and may exceed the existing 6.9-foot NAVD88 top of bulkhead elevation during high tide or storm events. The report analyzes future sea level rise scenarios assuming an approximate 3-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 10.85 feet NAVD88 (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 bulkhead 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). Additionally, the provided Coastal Hazards Report prepared by PMA Consulting, Inc. confirms that the bulkhead design can be raised up to 14.4 feet (NAVD 88) if needed to comply with the updated guidelines.
5. Once the existing bulkhead is reinforced and raised per the Coastal Hazard Report's recommendations, flooding, wave runup, 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 Project will be safe from flooding hazards for the next 75 years with the reinforced bulkhead. Therefore, the Project has been conditioned to raise the bulkhead up to 10.9 feet (NAVD88).
6. The finished floor elevation of the proposed single-unit residence is 9.13 feet (NAVD88), which complies with the minimum 9.00 foot (NAVD88) elevation standard.
7. Under NBMC Section 21.30.030(C)(3)(i)(iv) (Natural Landform and Shoreline Protection), 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). The Waiver of Future Protection is included as a condition of approval that will need to be satisfied before the final building inspection.

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). The Acknowledgement of Coastal Hazards is included as a condition of approval that will need to be satisfied before the issuance of building permits.
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 of 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 William D. Rolph dated, September 17, 2024. 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 is not located adjacent to a coastal view road, public access way, but is located near a designated Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is Newport Island Park, which is accessible to the public and provides opportunities to view the water. The Project is not located between the park and the bay and would not obscure views from this public area. The third story of the proposed structure may be visible from the park. However, the Project complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. The Project complies with all third-floor standards of the NBMC which limit the size and location of the third floor. Additionally, the Project does not contain any unique features that could degrade the visual quality of the coastal zone.

Finding:

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

Facts in Support of Finding:

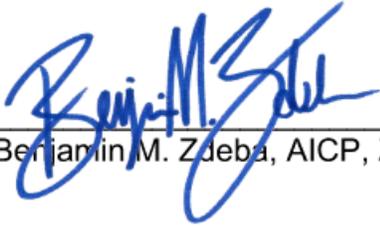
1. The Project is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the Project's impact and be proportional to the impact. In this case, the Project replaces an existing duplex located on a standard R-2 lot with a new single-unit residence and JADU. 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. Vertical access to the bay is available near the Property at the end of 40th Street and 39th Street. Lateral access is available at the Channel Place Park, which is a public park and beach approximately 780 feet northwest of the Property. The Project does not include any features that would obstruct access along these routes.
3. The Property provides vehicular access from River Avenue which is not proposed to change with the Project.

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 (PA2024-0095), 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 12TH DAY OF DECEMBER, 2024.



Benjamin M. Zieba, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**
(specific project conditions are italicized)

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Prior to final building permit inspection, 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 by the recommendations provided in the Coastal Hazards Report and Sea Level Rise Analysis prepared by PMA Consulting, Inc. dated May 27, 2024 .*
4. *Accessory structures located in the required front or side setback area are subject to compliance with Title 20 of NBMC Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls.)*
5. *A separate Approval In Concept (AIC) from the City and separate authorization from the California Coastal Commission (CCC) is required for areas within the CCC's permit jurisdiction. This authorization is required prior to the issuance of a building permit.*
6. *Prior to 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.*
7. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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.*
8. *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). Prior to 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.

9. 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.
10. This Coastal Development Permit does not authorize any development seaward of the private property.
11. 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.
12. 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.
13. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

14. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. 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.
15. 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.
16. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
17. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
18. 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.
19. 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.
20. *Prior to 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.*
21. *Prior to 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.*
22. *Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
23. *Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.*
24. *Prior to the 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.*
25. 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.

26. 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.
27. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the Newport Beach Municipal Code.
28. *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.*
29. 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.
30. This Coastal Development Permit (PA2024-0095) 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.
31. 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 **Dexter River, LLC Residence, including but not limited to, Coastal Development Permit No. PA2024-0095**. 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. ZA2024-067

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-UNIT DWELLING AND CONSTRUCT A NEW TWO-STORY SINGLE-UNIT DWELLING AND ATTACHED TWO-CAR GARAGE LOCATED AT 122 VIA LIDO NORD (PA2024-0144)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Olson Architects, concerning property located at 122 Via Lido Nord, requesting approval of a coastal development permit.
2. The lot at 122 Via Lido Nord is legally described as Lot 864 of Tract No. 907.
3. The applicant requests a Coastal Development Permit (CDP) to allow the demolition of an existing single-unit dwelling and construction of a 2,577 square foot, two-story, single-unit dwelling with an attached 423 square foot two-car garage. The project includes property line fence/walls, raised pedestal decking, accessory structures, and subsurface drainage facilities all within the confines of private property. The project also includes reinforcing and raising the existing bulkhead. The project complies with all development standards and no deviations from the municipal code 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-C) – (10.0 – 19.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zoning District.
6. A public hearing was held on December 12, 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-unit dwellings in urbanized areas. The proposed project consists of the demolition of an existing single-unit dwelling and construction of a new 2,577 square foot, single-unit dwelling, and attached 423 square foot, two-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 3,648 square feet and the proposed floor area is 3,001 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line abutting Newport Bay, 3 feet along each side property line, and 4 feet along the second front property line abutting the Via Lido Nord.
 - c. The highest guardrail is less than 24 feet from the established grade (11.52 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 two vehicles, complying with the minimum two-car garage parking requirement for single-unit dwellings with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two-story, single-unit dwellings. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.

3. A Coastal Hazards and Bulkhead Conditions Report was prepared by PMA Consulting, Inc. dated April 15, 2024, for the project. The current maximum bay water elevation is 7.70 NAVD88 (North American Vertical Datum of 1988 (NAVD88)) and may exceed the existing 7.90 feet NAVD88 top of bulkhead elevation during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 3.15-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 10.85 feet NAVD88 (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). The report concluded that the bulkhead should be repaired and reinforced through the installation of new tiebacks and new deadmen. The installation of the tiebacks and deadmen will occur after the demolition of the existing home is complete and prior to the construction of the new home. Once the bulkhead is reinforced in accordance with the enclosed drawings, no repair or replacement of the bulkhead is anticipated within the next 75 years
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 bulkhead 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 raising the bulkhead to an elevation of 11.36 feet (NAVD 88), which exceeds the City's minimum standard of 10.9 feet NAVD88. PMA Consulting, Inc. has confirmed that the bulkhead can be raised up to 14.4 feet (NAVD 88) if needed in the future.
5. Once the existing seawall/bulkhead is repaired/reinforced/raised per the report's recommendations, flooding, wave runup, and erosion will not significantly impact this property over the proposed 75-year economic life of the development. If needed, 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 reinforced/capped bulkhead. Therefore, the project has been conditioned to raise the bulkhead up to 10.9 feet (NAVD88).
6. The finished floor elevation of the proposed single-unit dwelling is 11.29 feet (NAVD88), which complies with the minimum 9.00 feet (NAVD88) elevation standard.
7. As conditioned pursuant to Newport Beach Municipal Code (NBMC) Section 21.30.030(C)(3)(i)(iv) - (Bulkheads for nonresidential and residential waterfront development), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c) - (Waterfront Development, Development Standards). Both

requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.

8. 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.
9. 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.
10. Pursuant to NBMC 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 Core Civil Engineering, Inc. dated, July 10, 2024. 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.
11. 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.
12. The closest public viewpoint is located at the bridge to Lido Island approximately 650 feet to the west. The proposed dwelling is not located near any coastal view roads as designated in the Coastal Land Use Plan. Due to the distance of the proposed development from the public viewpoint, intervening development, and the project's compliance with height and setbacks, the project will not impact coastal views. The project is within the viewshed of the bay. However, the proposed single-unit dwelling complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.
13. The front of the proposed residence, which is visible from Via Lido Nord, includes substantial architectural treatment and visual interest, in-keeping with the design guidelines of the Zoning Code. The new structure would comply with required setbacks,

build approximately 641 square feet less than the maximum floor area allowed by the NBMC, and reach a maximum height of 24 feet where a maximum of 29 feet is allowed by the NBMC. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on 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. Vertical and lateral access to the bay is available at the terminus of Via Antibes along Via Lido Nord where there is a small sandy beach and grass area. The project is approximately 70 feet away from this public beach area and does not include any features that would obstruct access along these routes.

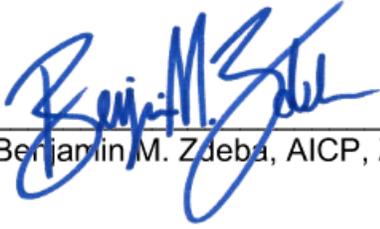
SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby 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 filed as PA2024-0144, 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 12TH DAY OF DECEMBER, 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. *Prior to the final building permit inspection, the existing seawall shall be reinforced and raised/capped to at least 10.9 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 by the recommendations provided in the Coastal Hazards Report and Sea Level Rise Analysis prepared by PMA Consulting, Inc. dated April 15, 2024.*
4. *Prior to 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. *Prior to 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. This approval does not authorize any new or existing improvements (including landscaping and dock improvements) 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).
7. 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.

8. This Coastal Development Permit does not authorize any development seaward of the private property.
9. 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:
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 - 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.
10. 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.
11. 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.
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13. 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.
14. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.

15. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
16. 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.
17. 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.
18. *Prior to issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
19. *Prior to issuance of a building permit, the applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
20. *Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
21. *Prior to 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.*
22. *Prior to issuance of a building permit, 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.*
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 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.
25. All noise generated by the proposed use shall comply with the provisions of Chapter

10.26 (Community Noise Control) and other applicable noise control requirements of the Newport Beach Municipal Code.

26. Prior to 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.
27. 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.
28. 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.
29. 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 the City's approval of **122 Via Lido Nord, LLC Residence including but not limited to, Coastal Development Permit (PA2024-0144)**. 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.