



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, and/or Community Development Director for the week ending May 30, 2025.

ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS MAY 29, 2025

Item 1: Zak Residence Modification Permit (PA2025-0051)
Site Address: 34 Castaways North

Action: Removed from Calendar	Council District	3
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Item 2: Evans Residence Modification Permit (PA2024-0222)
Site Address: 1801 Port Taggart Place

Action: Approved by Resolution No. ZA2025-029	Council District	5
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Item 3: Eleve Longevity Lounge Minor Use Permit (PA2025-0022)
Site Address: 2901 West Coast Highway, Suite 100

Action: Approved by Resolution No. ZA2025-030	Council District	2
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Item 4: Nardolillo Residence Coastal Development Permit (PA2024-0204)
Site Address: 5109 Seashore Drive

Action: Approved by Resolution No. ZA2025-031	Council District	1
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COMMUNITY DEVELOPMENT DIRECTOR OR ZONING ADMINISTRATOR ACTIONS (Non-Hearing Items)

Item 1: Pavilions Temporary Refrigerated Trailers Limited Term Permit (PA2025-0082)
Site Address: 3100 Balboa Boulevard

Action: Approved	Council District	1
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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period 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. ZA2025-029

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING A MODIFICATION PERMIT FOR AN ADDITION GREATER THAN 10% TO A SINGLE-UNIT DWELLING WITH A LEGAL NONCONFORMING GARAGE LOCATED AT 1801 PORT TAGGART PLACE (PA2024-0222)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Foubister Architects (Applicant), with respect to the property located at 1801 Port Taggart Place and legally described as Lot 25 of Tract No. 6938 requesting approval of a modification permit.
2. The Applicant requests a modification permit to allow an addition to an existing 2,930-square-foot single-unit dwelling that is greater than 10% of the existing square footage. The existing single-unit dwelling is nonconforming due to the dimensions of the existing garage. 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 total addition includes 409 square feet, which is a 14% addition. The addition otherwise complies with all applicable development standards and no other deviations are requested.
3. The subject property is designated RS-D (Single Unit Residential Detached) by the General Plan Land Use Element and is located within the PC3 (Harbor View Hills Planned Community) Zoning District.
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on May 29, 2025, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. This exemption includes additions to existing structures provided that the addition does not result in an increase of more than 50% of the floor area of the structure before the

addition, or 2,500 square feet, whichever is less. The proposed project includes the remodel of an existing single-unit dwelling with nonconforming parking and the construction of a 409 square foot addition to an existing single-unit dwelling.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The existing development is a 2,930 square-foot, single-unit dwelling with an attached two car garage. The neighborhood is comprised of one-story and two-story single-unit dwellings. The modification permit will allow an expansion of the existing two-story single-unit dwelling, which is compatible with other properties in the neighborhood.
2. The addition would provide more living area for the residents by increasing the size of the dwelling unit by 409 square feet. The addition is two stories and is consistent with the design and height of other properties in the neighborhood.
3. There is no change to the density or the use as a result of the proposed remodel and addition.

Finding:

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

Facts in Support of Finding:

1. The existing structure was built in the early 1970s and complied with development standards, including parking requirements, at the time of construction. Subsequent amendments to the standards have rendered the interior clear dimensions of the existing two-car garage to be substandard in size.
2. NBMC Subsection 20.38.030(C) (Determination of Nonconformity – Nonconforming Structure) defines a “legal nonconforming structure” as any structure that was lawfully erected but does not conform with the current development standards for the zoning district in which it is located by reason of adoption or amendment of the Zoning Code. The existing structure is considered legal nonconforming as it was legally permitted but is now nonconforming due to the substandard interior garage dimensions.

3. The proposed project does not require modification to the garage. Modifying the garage walls to conform to the minimum interior garage dimensions, which are not within the area of the proposed construction, would require substantial foundation and framing work due to the structural significance of the wall. Rebuilding the garage wall would significantly increase the scope and cost of the project.
4. The granting of the modification permit is necessary to allow a reasonable addition to an existing dwelling that was constructed in compliance with garage standards in effect at the time of original construction, and that are adequate in width for the parking of two vehicles.

Finding:

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

Facts in Support of Finding:

1. The existing garage is nonconforming because it is located 22 feet, 9 inches from the front property line where 32-foot feet is required for the front yard setback. Therefore, the existing garage is nonconforming to the front setback. If the existing garage wall were moved approximately one inch forward (towards the street) to achieve the required 20-foot clear interior depth, this would place the garage further into the required 32-foot front yard setback, which would not be more consistent with the Zoning Code.
2. The rear wall of the garage has been identified by the project architect and Building Division as a critical load bearing wall that supports the structure both vertically and laterally. In addition, the rear wall of the garage has a footing beneath it that provides lateral shear support. Adjusting the wall location to increase the depth by one inch would cause substantial foundation and framing work and would add significant scope and cost to the project.

Finding:

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

Facts in Support of Finding:

1. Bringing the garage into compliance with current Zoning Code requirements would provide a negligible benefit but it would unreasonably require significant alterations to the structure well beyond the scope of the planned addition.
2. The intent of the project is to provide an expanded living room and entryway on the first floor and an expanded bedroom along with a new bathroom on the second-floor

additional living area, including a new laundry room, a larger kitchen, and a new family room. A redesign to reduce the size of the addition to 293 square feet will significantly impact the objectives of the project and would not provide similar benefits to the Applicants.

3. Facts in support of Finding C are hereby incorporated by reference.

Finding:

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

Facts in Support of Finding:

1. The proposed remodel and construction will comply with all applicable development standards, including height, setbacks, lot coverage and will provide adequate protection for light, air, and privacy. The addition will not preclude access to the dwelling and will be consistent in scale with other dwellings in the neighborhood.
2. The proposed project maintains more than the minimum five-foot side yard for fire access in accordance with Zoning Code Section 20.30.110 (Setbacks Regulations and Exceptions), Subsection A(1)(c).
3. The approval of this modification permit is conditioned such that the Applicants are required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.
4. In addition to the two-car garage, the property includes a driveway adequate in size to accommodate parking for two additional vehicles on-site, minimizing demand for on-street parking.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Modification Permit filed as PA2024-0222, 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 29TH DAY OF MAY, 2025.



Benjamin M. Zueba, AICP, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicants shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Modification Permit.
4. This Modification Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
5. Any change to the approved plans shall require review by the Planning Division. An amendment to or the processing of a new modification permit may be required.
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. *Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior clear dimensions (20 feet wide by minimum 19 feet, 11 inches deep) shall be kept clear of obstructions including cabinets, shelving, or similar that may impact the ability to adequately park two vehicles.*
8. Prior to the issuance of a building permit, the Applicants shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
9. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
10. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday

through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays, or Holidays.

11. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the NBMC.
12. To the fullest extent permitted by law, Applicants 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 **Evans Residence including, but not limited to Modification Permit filed as PA2024-0222**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicants, City, and/or the parties initiating or bringing such proceeding. The Applicants shall indemnify the City for all of the City's costs, attorneys' fees, and damages which the City incurs in enforcing the indemnification provisions set forth in this condition. The Applicants shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition

Fire Prevention Division

13. The Project shall be designed to incorporate a fire sprinkler system in accordance with 2022 CFC 903 and 2022 NFPA13D.
14. The Property shall maintain an open passage/walkway of 36 inches (wide) along one side yard from the front to rear of property for emergency access.

Public Works Department

15. Prior to the building permit final, a new sewer clean out shall be installed on the existing sewer lateral per City Standard 406.
16. Prior to the building permit final, the Applicant shall reconstruct the existing damaged driveway per City Standard 162.
17. The Applicant shall obtain an encroachment permit and encroachment agreement for the existing decorative walkway within the Port Taggart Place public right of way.

RESOLUTION NO. ZA2025-030

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A MINOR USE PERMIT FOR PERSONAL SERVICES, RESTRICTED LAND USE LOCATED AT 2901 WEST COAST HIGHWAY, SUITE 100 (PA2025-0022)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jennifer Karsting (Applicant) concerning the property located at 2901 West Coast Highway, Suite 100 and legally described as Parcel 1 of Page 39 of Book 199 of Miscellaneous Maps as recorded in the Office of the County Recorder of Orange County (Property) requesting approval of a minor use permit.
2. The Applicant proposes to operate a health and wellness lounge within a 3,726 square-foot tenant space within an existing office building. The Applicant will improve the space to provide a waiting area, eight therapy rooms, an office, a changing room, and two restrooms. The health and wellness lounge will offer services such as red light beds, saunas, cryotherapy, salt rooms, and intravenous therapy. The requested hours of operation are 6:00 a.m. to 9:00 p.m. Monday to Friday, and 7:00 a.m. to 7:00 p.m. Saturday and Sunday. Late hour operations (i.e., after 11:00 p.m.) are not proposed (Project).
3. The Property is categorized as Mixed-Use Water 1 (MU-W1) by the Land Use Element of the General Plan and is located within the Mixed-Use Water (MU-W1) Zoning District.
4. The Property is located within the Coastal Zone. The Coastal Land Use Plan category is Mixed-Use Water Related (MU-W) and is located within the Mixed-Use Water (MU-W1) Coastal Zoning District. The proposed service use does not increase the parking requirement for the Property and is not considered an intensification of use, therefore, a coastal development permit is not required.
5. A public hearing was held on May 29, 2025, 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. The exceptions to this categorical exemption under Section 15300.2 are not applicable.

2. The Class 1 exemption authorizes minor alterations of existing structures involving negligible or no expansion of use. The Project will improve a vacant suite within an existing office building to operate as a health and wellness lounge with no increase in floor area and no intensification of use. Therefore, the Class 1 exemption is applicable.

Minor Use Permit

In accordance with Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits - Findings and Decision) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The Land Use Element of the General Plan categorizes the Property as Mixed-Use Water 1 (MU-W1). Table LU1 (Land Use Plan Categories) of the Land Use Element specifies that the MU-W1 designation applies to waterfront locations along the Mariners' Mile Corridor in which marine-related, visitor-serving, commercial and residential uses are intermixed with buildings that provide residential uses above the ground floor. The Project is consistent with the MU-W1, as it provides a personal service use that complements the other uses within the Mariners' Mile Corridor and will provide an additional amenity for visitors, the surrounding commercial and office uses, and the community at large.
2. Land Use Policy LU2.1 (Resident-Serving Land Uses) of the Land Use Element of the General Plan encourages uses that support the needs of Newport Beach's residents including housing, retail, services, employment, recreation, education, culture, entertainment, civic engagement, and social and spiritual activity that are in balance with community natural resources and open spaces. The Project diversifies the allowed uses within the building and helps to provide an additional service to nearby residents and visitors to the City, in an otherwise vacant tenant space, and is therefore consistent with Land Use Policy LU2.1.
3. The Property is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The Property is located within the Mixed-Use Water (MU-W1) Zoning District. Similar to the Land Use categorization of Mixed-Use Water 1 (MU-W1), the WU-W1 Zoning District

is also intended to apply to waterfront properties along the Mariners' Mile Corridor in which non-residential uses and residential dwelling units are intermixed. The Project is service use and is therefore consistent with the intent of the MU-W1 Zoning District.

2. Section 20.70 (Definitions) of the NBMC defines personal services, restricted land use as a personal service use that may have a blighting and/or deteriorating effect on surrounding areas and that may need to be dispersed from other similar uses to minimize adverse impacts. The NBMC provides specific examples of personal services, restricted land uses including day spas, healing arts, tanning salons, and body piercing studios. The NBMC does not have a health or wellness land use, nor does it provide a definition for one. The Project offers red light beds, saunas, cryotherapy, a salt room, and intravenous therapy. The Project will operate like a day spa, where a variety of personal services are offered, and would therefore be categorized as personal services, restricted land use.
3. Pursuant to Table 2-9 (Mixed Use Zoning Districts Permit Requirements) of Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements) of the NBMC, a personal services, restricted use is permitted within the MU-W1 Zoning District, subject to approval of a minor use permit (MUP).
4. Table 3-10 (Off-Street Parking Requirements) of Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC requires an off-street parking rate of one space per 250-square-foot of gross-floor area for personal services. The tenant space is 3,726 square feet which results in a parking requirement of 15 spaces. Pursuant to Section 20.38.060 (Nonconforming Parking) of the NBMC, a use with nonconforming parking may be changed to a new use allowed in that zoning district without providing additional parking, provided there is no intensification or enlargement (e.g., increase in floor area, or lot area), and the new use requires a parking rate of no more than one space per 250 square feet of gross floor area. The Project requires a parking rate of one space per 250 square feet of gross floor area and does not increase the gross floor area of the tenant space; therefore, no additional parking is required.

Finding:

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

Facts in Support of Finding:

1. The Property is located within a multi-tenant office building within the Mariners' Mile Corridor. Mariners' Mile is a mixed-use corridor that is developed with variety of uses including marine related uses, professional and medical offices, service uses, retail uses, and restaurants. The Project provides a personal service that is compatible with the uses of the surrounding area.

2. The Project is not anticipated to generate public inconveniences or nuisances such as noise, light, or odors. Approximately five clients and three staff members are expected to be on site at any given time.
3. Condition of Approval No. 12 limits hours of operations between 6:00 a.m. and 9:00 p.m. Monday to Friday, and 7:00 a.m. and 7:00 p.m. on Saturday and Sunday. These hours of operation would allow for the provision of before and after work services to employees of the Mariners' Mile Corridor and surrounding area. There are no sensitive uses that are directly abutting the Property that would be affected by the morning or evening operation of the Project. The hours are also generally consistent with the other uses on the Property and surrounding uses in the area.
4. The Property abuts the Newport Harbor and is not immediately adjacent to any residential neighborhoods. The nearest residential development is a multi-family building, approximately 250 feet west of the Property. The nearest residential neighborhood is approximately 700 feet northeast of the Property across Coast Highway. No impacts to any residential uses are expected due to the distance, intervening uses and proposed operations of the Project.

Finding:

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

Facts in Support of Finding:

1. The Property is flat, rectangular in shape, and measures approximately 21,666 square feet in area. It is developed with multi-tenant office building and a total of 239 parking spaces within the surface parking lot, subterranean parking lot, and offsite parking lot. The Project is located within a 3,726 square foot vacant tenant space within a three-story office building.
2. The Property is located within a developed, commercial, area and is adequately served by existing public services and utilities.
3. Existing vehicular and pedestrian access points to the Property from West Coast Highway will be maintained, providing adequate public and emergency vehicle access.
4. The Property has several trash dumpsters located on the first floor parking area. The project is not anticipated to generate an abnormal amount of trash and is similar to that of professional office uses. The lounge will be cleaned daily, and trash will be disposed in the onsite dumpsters and any hazardous material (e.g. IV needles) will be disposed offsite.

5. The Project is not anticipated to generate an abnormal amount of trash and is similar to that of professional office use. The tenant space will be cleaned daily, and all trash will be disposed of offsite.
6. The Building Division and Fire Department have reviewed the Project and have provided Conditions of Approvals. Condition of Approval No. 24 which requires the Applicant to obtain all applicable permits from the City's Building Division and Fire Department which ensures the proposed equipment and tenant layout complies with Building and Fire Codes. The applicant is also required to apply for a building permit for a change in use and/or change of occupancy.

Finding:

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

Facts in Support of Finding:

1. The Project adds a personal service use to an existing office building where professional offices exist. The Project diversifies the allowed uses within the building and helps the property owner lease the currently vacant space. The Project is not anticipated to endanger, jeopardize, or otherwise constitute a hazard to the public.
2. The Project is not authorized to provide accessory massage services. Condition of Approval No. 6 requires an amendment to this Minor Use Permit should the Applicant propose to add massage services at a later time.
3. The Project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. Condition of Approval No. 13 requires the business operator take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the Property and adjacent properties 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 should 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 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.

2. The Zoning Administrator of the City of Newport Beach hereby approves the Minor Use Permit filed as PA2025-0022 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 is filed with the Community Development Director in accordance with the provisions of Chapter 20.64 (Appeals) of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 29TH DAY OF MAY, 2025.



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 floor plans stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The Project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may cause 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 Minor Use Permit may be required.
6. *Massage services are prohibited under this Minor Use Permit. Any provision of massage services, whether incidental or primary to the approved use, shall require subsequent review by the Planning Division and an amendment to this Minor Use Permit.*
7. 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 Section 20.54.060 (Time Limits and Extensions) of the NBMC.
8. Prior to the issuance of a building permit, a copy of this Resolution including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans.
9. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

10. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m. Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturdays. Noise-generating construction activities are not allowed on Sundays or Holidays.
11. 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.
12. *The hours of operation shall be limited to between 6:00 a.m. and 9:00 p.m. Monday to Friday and 7:00 a.m. and 7:00 p.m. on Saturday and Sunday.*
13. The business operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the Property and adjacent properties during business hours, if directly related to the patrons of the establishment.
14. 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 NBMC to require such permits.
15. All proposed signs shall be in conformance with the provisions of Chapter 20.42 (Sign Standards) of the NBMC.
16. All lighting shall conform to the standards of Section 20.30.070 (Outdoor Lighting) of the NBMC. The Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
17. 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.
18. 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 the 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.
19. 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).

20. Trash receptacles for patrons shall be conveniently located inside of the establishment.
21. 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.
22. 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.
23. 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 **Eleve Longevity Lounge** including, but not limited to, **the Minor Use Permit filed as PA2025-0022**. 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 the City's costs, attorneys' fees, and damages which the City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

24. *The Applicant shall obtain all applicable permits from the City's Building Division and Fire Department, including a building permit for a change in use and/or change of occupancy. The construction plans must comply with the most recent, City-adopted version of the California Building Code.*
25. *The Applicant shall provide 5% or at least 1 of each service to be accessible.*
26. *The Applicant shall provide 5% or at least one changing room to be accessible.*
27. *Drape system at doorway is not permitted in an accessible path of travel unless the drape system can be operated in the same manner as doors per California Building Code Section 11B-206.4 and 11B-206.5.*
28. *An accessible path of travel from parking and public right-of-way to the subject tenant space shall be required.*

Fire Department

29. *Cryotherapy systems shall comply with Section 608 of the 2022 California Fire Code.*
30. *An annual fire operational permit shall be required prior to final inspection.*
31. *Alterations to the existing floor plan may require fire sprinkler alterations.*
32. *All saunas shall require a high temperature fire sprinkler to be installed.*

RESOLUTION NO. ZA2025-031

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, THREE-STORY, SINGLE-UNIT RESIDENCE WITH AN ATTACHED TWO-CAR GARAGE LOCATED AT 5109 SEASHORE DRIVE (PA2024-0204)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jason Richart, of Richart Design, (Applicant) on behalf of Anthony Nardo (Owner), with respect to property located at 5109 Seashore Drive, and legally described as Lot 5 of Block 51 of the Ocean Front Tract (Property), requesting approval of a coastal development permit (CDP).
2. The Applicant proposes to demolish an existing 1,152-square-foot single-unit dwelling and to construct a new three-story, 1,973-square-foot, single-unit dwelling with an attached 433-square-foot, two-car, garage. The design also includes appurtenances such as site walls, drainage devices, and hardscape (Project). The Project complies with all development standards and no deviations from the Newport Beach Municipal Code (NBMC) are requested. All improvements authorized by this CDP will be located on private property.
3. The Property is categorized as Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached – 20.0 - 29.9 DU/AC (RSD-D), and it is located within the Single-Unit Residential (R-1) Coastal Zoning District
5. A public hearing was held on May 29, 2025, online via Zoom. A notice of time, place, and purpose of the hearing was given in accordance with the NBMC. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is 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 of up to three single-unit residences and additions of up to 10,000 square feet to existing structures. The Project is to demolish an existing single

unit dwelling and construct a new single-unit dwelling in the R-1 Coastal Zoning District within a developed neighborhood. Therefore, the Class 3 exemption is applicable.

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

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The Project 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 2,472 square feet and the proposed floor area is 2,406 square feet.
 - b. The proposed development complies with the required setbacks, which are 5 feet from West Ocean Front, 0 feet from Seashore Drive, and 3 feet along each side property line.
 - c. The highest guardrail/parapet measured 23 feet, 3 inches feet from the established grade and the highest ridge measures 28 feet, 7.5 inches from the established grade. The Project complies with all height requirements.
 - d. The Project provides a two-car garage, complying with the minimum garage requirement for a single-unit residence under 4,000 square feet of habitable area.
 - e. The Project proposed a minimum top slab elevation of 13.97 feet based on the North American Vertical Datum of 1988 (NAVD 88) which complies with the minimum 9.0-foot NAVD 88 top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two-story, single- and two-unit dwellings and some three-story dwellings. The proposed three-story residence's design, bulk, and scale is consistent with the existing neighborhood pattern of development and expected future development.

3. The existing patio that encroaches into West Ocean Front was authorized by the Public Works Department pursuant to Appendix C (Oceanfront Encroachment Policy Guidelines) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC and will remain unchanged. The Coastal Commission retains permit jurisdiction oceanward of the subject property. Condition of Approval No. 12 specifies that any future improvements to this patio may require approval of an Approval in Concept (AIC) by the City and subsequent approval of a CDP by the Coastal Commission. Condition of Approval No. 32 requires the owner to obtain a new Oceanfront Encroachment Permit from the Public Works Department for the existing patio to remain.
4. The Property fronts the Pacific Ocean but is separated from the shoreline by a wide sandy beach and may be subject to coastal hazards such as flooding, runoff, and erosion. A Coastal Hazards Report and Sea Level Rise Analysis was prepared for the project by Skelly Engineering, dated September 21, 2024. The report concludes that the project is reasonably safe from shoreline erosion due to the lack of waves or wakes that can erode sand from the beach. The report also concludes that the project will be reasonably safe from future sea level rise, assuming an increase up to 10.5 feet based on the North American Vertical Datum of 1988 (NAVD 88) (the likely range for sea level rise over the 75-year design life of the structure based on low-risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). The finished floor elevation for the first floor of the proposed structure is 13.97 NAVD 88, which complies with the minimum 9.0-foot NAVD 88 elevation standard for new structures and exceeds the minimum requirements for sea level rise (10.5 feet NAVD 88). Based on the data provided, the study concludes that coastal hazards will not impact the Property over the next 75 years and there is no anticipated need for a shore protection device over the life of the proposed development.
5. Pursuant to NBMC Section 21.30.030(C)(3)(i) (Natural Landform and Shoreline Protection) of the NBMC, the 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 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). These requirements are included as Condition of Approval Nos. 8 and 9 that will need to be satisfied prior to final building inspection, and prior to the issuance of building permits, respectively.
6. The Property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and the CBC prior to building permit issuance.
7. Pursuant to Section 21.35.050 (Water Quality and Hydrology Plan), of the NBMC, due to the proximity of the development to the shoreline and the development containing

more than 75% of impervious surface area, a Water Quality Management Plan (WQMP) is required. A preliminary WQMP was prepared by Forkert Engineering & Surveying, Inc, dated October 22, 2024, and was reviewed by the City's Geologist Engineer. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. A final WQMP shall be reviewed and approved prior to the issuance of a building permit.

8. The property is located adjacent to a sandy beach and coastal waters. Pursuant to Section 21.35.030 (Construction Pollution Prevention Plan) of the NBMC, a Construction Erosion Control Plan (CPPP) is required. The CPPP will implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and minimize pollution of runoff and coastal waters derived from construction chemicals and materials. A CPPP has been provided, and construction plans and activities will be required to adhere to the CPPP.
9. The property is not located adjacent to a coastal view road or public viewpoint, as identified in the Coastal Land Use Plan (CLUP). The Project is located approximately 1,500 feet southwest of Sunset Ridge Park, which is identified as the nearest Public Viewpoint by the CLUP. The Project is approximately 1,300 feet from Superior Avenue which is designated as a Coastal View Road by the CLUP. Additionally, the Project may be located within the viewshed of other distant public viewing areas. Site evaluation revealed that the proposed three-story design is consistent with the existing neighborhood pattern of development and will not affect the existing views afforded from the surrounding streets. The Project replaces an aging beachfront dwelling with a new, three-story, single unit dwelling that complies with all applicable Title 21 (Local Coastal Program Implementation Plan) development standards and maintains a building envelope consistent with the existing pattern of development and expected future development. The new dwelling is designed with balconies and decks that face the beach and ocean. The use of glass guardrails and windows allows the view of the Project's façade from the beach to be softened. Therefore, the Project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on public views.

Finding:

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

Facts in Support of Finding:

1. The Property is located between the nearest public road and the sea. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the Project's impact and be proportional to the impact. In this case, the Project replaces an existing single-unit dwelling with a new single-unit dwelling. Therefore, the Project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities.

2. The Property is located adjacent to an approximately 350-foot-wide public beach. Lateral access to the beach is available on Seashore Drive. The Property is located between 51st and 52nd Street, which are identified by the Coastal Land Use Plan as public beach access locations. The Project is located entirely within private property and does not include any features that would obstruct access or interfere with the existing nearby public beach access locations.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit filed as PA2024-0204, 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 by the provisions of Title 21 (Local Coastal Program Implementation Plan), of the NBMC. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 29TH DAY OF MAY, 2025.



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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
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 Coastal Development Permit.
5. 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, welfare or materially injurious to property or improvements in the vicinity or if the Property is operated or maintained so as to constitute a public nuisance.
6. Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans.
7. Coastal Development Permit No. PA2024-0204 shall expire and become void unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
8. *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 to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.*
9. *Prior to the issuance of a building permit, the Owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its*

boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.

10. This Coastal Development Permit does not authorize any development seaward of the private property.
11. This Coastal Development Permit does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
12. Any future improvements to the existing patio may require approval of a Approval in Concept by the City and subsequent approval of a Coastal Development Permit by the Coastal Commission.
13. Pursuant to Section 5.95.015 (Residential Properties Eligible for Short Term Lodging Permits) of the NBMC, the voluntary demolition of the existing structure will remove the existing nonconforming rights to the issuance of a short-term lodging permit (STLP).
14. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
15. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
16. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
17. Debris from demolition shall be removed from work areas each day and removed from the Property within 24 hours of the completion of the Project. Stock-piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
18. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
19. Prior to the issuance of building permits, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-

invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.

20. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
21. The Applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, 1 or 2 short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
22. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the NBMC, 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.
23. All noise generated by the proposed use shall comply with Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC.
24. Prior to the issuance of building permits, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
25. 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.

26. 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 **Nardolillo Residence including, but not limited to, Coastal Development Permit filed as PA2024-0204**. 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 the City's costs, attorneys' fees, and damages which the City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

27. 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.
28. 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.
29. Prior to the issuance of building permits, the Applicant shall submit a soils report which include recommendations for construction on liquefiable soils. Additionally, the building foundation shall comply with the minimum requirements of the City of Newport Beach Building Code Policy CBC 1803.5.11-12.

Fire Department

30. *NFPA 13D fire sprinklers shall be installed.*

Public Works Department

31. *The Applicant shall install a new sewer cleanout on the existing sewer lateral per City standard 406.*
32. *The Owner shall obtain a new Ocean Front Encroachment Permit.*



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

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

Subject: Pavilions Temporary Refrigerated Trailers (PA2025-0082)
▪ Limited Term Permit

Site Location: 3100 Balboa Boulevard

Applicant: Pavilions Grocery Store

Legal Description: Parcel 1, Block 371, Page 4

On **May 30, 2025**, the Zoning Administrator approved a Limited Term Permit (Less than 90 days) to allow the temporary placement of one 25-foot-long electric refrigerator trailer within the loading dock and one 40-foot-long electric ice trailer adjacent to the loading dock at the rear of the Pavilions Grocery Store in The Landing Shopping Center. The trailers' refrigeration units will operate between 7 a.m. and 9 p.m., daily, to store ice and produce for a nine-day period (June 30, 2025, through July 8, 2025). The applicant will implement a noise reduction plan that includes sound barrier blankets on the backside of both trailers. This approval is based on the following analysis and findings and is subject to all conditions of approval listed thereafter.

I. LAND USE AND ZONING

- **General Plan Land Use Plan Category:** CN (Neighborhood Commercial)
- **Zoning District:** CN (Commercial Neighborhood)
- **Coastal Land Use Plan Category:** CN (Neighborhood Commercial – 0.0 to 0.30 FAR)
- **Coastal Zoning District:** CN (Commercial Neighborhood)

II. FINDINGS

Finding:

- A. *This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15311 under Class 11 (Accessory Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3;*

Fact in Support of Finding:

1. Class 11 exempts the placement of seasonal or temporary use of items such as lifeguard towers, mobile food units, portable restrooms, or similar items. The

proposed temporary trailers will be placed within the rear of the shopping center for a limited time and will be ancillary to an existing commercial development. Furthermore, there are no permanent improvements proposed or authorized as part of this project.

Finding:

- B. The operation of the limited duration use at the location proposed and within the time period specified would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the requested limited duration use;*

Facts in Support of Finding:

1. The Limited Term Permit will allow two temporary electric refrigeration trailers to store ice and produce on-site for nine days during the Independence Day holiday weekend, beginning on June 30, 2025.
2. Condition of Approval No. 3 requires the location of the trailer within and adjacent to the loading dock area, which is approximately 100 feet from the nearest residence and will be partially screened by existing trees and landscaping along 30th Street. The generators will be oriented to face away from nearby residents.
3. Condition of Approval No. 7 limits operation of the electric refrigeration units to between the hours of 7 a.m. and 9 p.m., daily. Condition of Approval No. 8 requires sound blankets to be applied to the trailers to help reduce the noise of electric refrigeration units. These operational conditions will help to reduce the possibility of excess noise to surrounding residents.
4. Electric refrigeration trailers have been used at the subject property on holiday weekends during similar hours in the past and the use has not proven detrimental.
5. The City's Code Enforcement Division has reviewed the project and did not identify any patterns of complaints related to the same limited duration use in previous years.
6. The City's Building Division, Public Works Department, and Fire Marshal have all reviewed the proposed placement and did not identify any issues.

Finding:

- C. The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot;*

Facts in Support of Finding:

1. The subject parcel is approximately 3.75 acres in size. Based upon the site plan and the past temporary placement of trailers, there is adequate area without impacting vehicle circulation. The ice trailer will be located adjacent to the loading dock and will occupy two required parking spaces for a limited, nine-day duration.
2. The parcel is bounded by Balboa Boulevard to the west, Newport Boulevard to the east, 32nd Street to the north, and 30th Street to the south. The adjacent right-of-way (30th Street) separates it from nearby residential properties within the R-2 (Two-Unit Residential) Zoning District. A public parking lot is located directly across 30th Street, adjacent to where the trailers will be parked.

Finding:

- D. The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate;*

Facts in Support of Finding:

1. The subject parcel has four direct driveway approaches along Newport Boulevard, 32nd Street, Balboa Boulevard, and 30th Street. The 40-foot-long ice trailer that is adjacent to the loading dock will not impede access to and around the loading dock at the rear of the grocery store. The ice trailer will occupy two required parking stalls for a limited, nine-day duration. The 25-foot-long produce trailer's location within the loading dock will still allow for deliveries within the other half of the loading dock during the nine-day duration and will not impede any parking spaces. No traffic or site circulation issues are anticipated.
2. The produce trailer will be located within the loading dock and will not generate additional traffic or impede access.
3. The limited duration use is for two temporary electric refrigeration trailers for the grocery store to store ice and produce during the holiday weekends when significant demand is anticipated.
4. The City's Public Works Department has reviewed the proposed placement and did not identify any issues.

Finding:

- E. Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator;*

Facts in Support of Finding:

1. The proposed limited duration use will not create additional parking demand since the two trailers will be used to store ice and produce for the grocery store. The two parking spaces that the ice trailer will occupy will not have a detrimental effect on parking demand within the shopping center since these spaces are typically underused due to their location at the rear loading dock area. The public will not have direct access to the temporary electric refrigeration trailers.
2. Fact 4 in Support of Finding D is hereby incorporated by reference.

Finding:

- F. The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the Municipal Code, and other City regulations.*

Facts in Support of Finding:

1. The General Plan land use for this site is identified as Neighborhood Commercial (CN). The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs and maintain compatibility with residential uses in the immediate area. The proposed use is accessory to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation.
2. The site is in the Commercial Neighborhood (CN) Zoning District. The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed trailers are ancillary to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation. The CN zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The site is located in the Neighborhood Commercial (CN) land use category of the Coastal Land Use Plan and is within the Neighborhood Commercial (CN) Coastal Zoning District. The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs and maintain compatibility with residential uses in the immediate area. Table 21.20-1 of the Newport Beach Municipal Code (NBMC) indicates that temporary uses and accessory structures are allowed within the CN Coastal Zoning District. As the project is the temporary placement of one 25-foot-long electric produce refrigeration trailer within the loading dock and one 40-foot-long electric ice trailer adjacent to the loading dock, it is exempt from obtaining a coastal development permit consistent with Section 21.52.035 (Projects Exempt from Coastal Development Permit Requirements) of the NBMC. The project's operation is not within a sensitive area

and is not expected to be detrimental to any coastal resources, including access and views.

4. The site is not located within a specific plan area.

III. CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan except as noted in the following conditions.
2. Anything not specifically approved by this limited term permit is prohibited and must be addressed by a separate and subsequent review.
3. The temporary electric refrigeration trailers shall be located within the rear loading dock and adjacent to the rear loading dock area as shown on the site plan (Attachment No. ZA 4). The generator on the ice trailer shall face away from the nearby residences and shall be oriented southeast toward 3011 Newport Boulevard.
4. The temporary electric refrigeration trailers shall be limited to the storage of ice and produce for the grocery store. Alcohol and other store merchandise shall not be stored within the temporary trailer.
5. The 40-foot temporary electric refrigeration trailer for ice is permitted on-site for a nine-day duration from June 30, 2025 through July 8, 2025. Storage of a trailer or trailers on-site other than the dates specified is prohibited.
6. The 25-foot temporary electric refrigeration trailer for produce is permitted on-site for a nine-day duration from June 30, 2025 through July 8, 2025. Storage of a trailer or trailers on-site other than the dates specified is prohibited.
7. Operation of the refrigeration units within the temporary trailers shall be limited to the hours of 7 a.m. to 9 p.m., daily. If the hours of operation are not adhered to, the applicant shall be subject to fines in accordance with Newport Beach Municipal Code (NBMC) Chapter 1.05.020 (Authority and Administrative Citation Fines). Fines may reflect the maximum amount, as authorized by the City Manager or his/her designee.
8. The applicant shall implement the Noise Reduction Plan included as Attachment No. ZA 3. The refrigeration trailers shall comply with the noise standards of Chapter 10.26 (Community Noise Control) of the NBMC. The maximum noise generated by the proposed use shall not exceed a noise level equal to the value of the noise standard plus 20 dBA for any period of time, as measured using A-weighted slow response. Sound barrier materials (blankets) shall be installed at all times to inhibit the noise. The Code Enforcement Officer may require additional sound testing and attenuation at his/her discretion to comply with the noise standards of the NBMC.

9. The applicant shall provide a 24-hour contact number for emergencies, complaints, or concerns to Code Enforcement and interested parties upon request during the time period the trailers are authorized.
10. The applicant shall identify an individual whose job it is to shut down the generator on or before 9 p.m. each evening. This person's name shall be provided to the City of Newport Beach Police Department Watch Commander via email each day that the generator is in operation.
11. The generators on each temporary electric refrigeration trailer shall be set back 20 feet from the rear property line along 30th Street and 5 feet from any adjacent structures.
12. The temporary trailers shall not restrict vehicle circulation, truck access to the loading dock, or the public right-of-way at the rear of the grocery store.
13. Access for emergency vehicles must be maintained around the temporary trailer within the parking area. A minimum clearance of 14 feet is required adjacent to the trailer. Twenty feet of clearance is required in all other areas of the required fire access roadway around Pavilions Grocery Store.
14. The trailers shall not block any firefighting equipment such as fire hydrants, standpipe connections, or fire department connections.
15. The refrigeration trailers must be registered by the Department of Motor Vehicles (DMV) to be exempt from requirements for building permits.
16. An electrical permit and proper grounding and bonding shall be required if power is used elsewhere than the generator on the trailers.
17. The Limited Term Permit is for the operation of two temporary electric refrigeration trailers on-site for the hours and dates specified and does not authorize the use or operation of additional storage trailers on-site.
18. Should the temporary refrigeration trailers become a detriment to the public health, comfort, convenience, safety, and general welfare of the peace and quiet of the neighboring properties and their inhabitants, this permit may be revoked.
19. 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 **Pavilions Temporary Refrigerated Trailers including, but not limited to, the Limited Term Permit filed as PA2025-0082**. 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.

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. For additional information on filing an appeal, contact the Planning Division at 949-644-3204.

Prepared by:

Approved by:



James Midlat, Planning Technician



Benjamin M. Zieba, AICP, Zoning Administrator

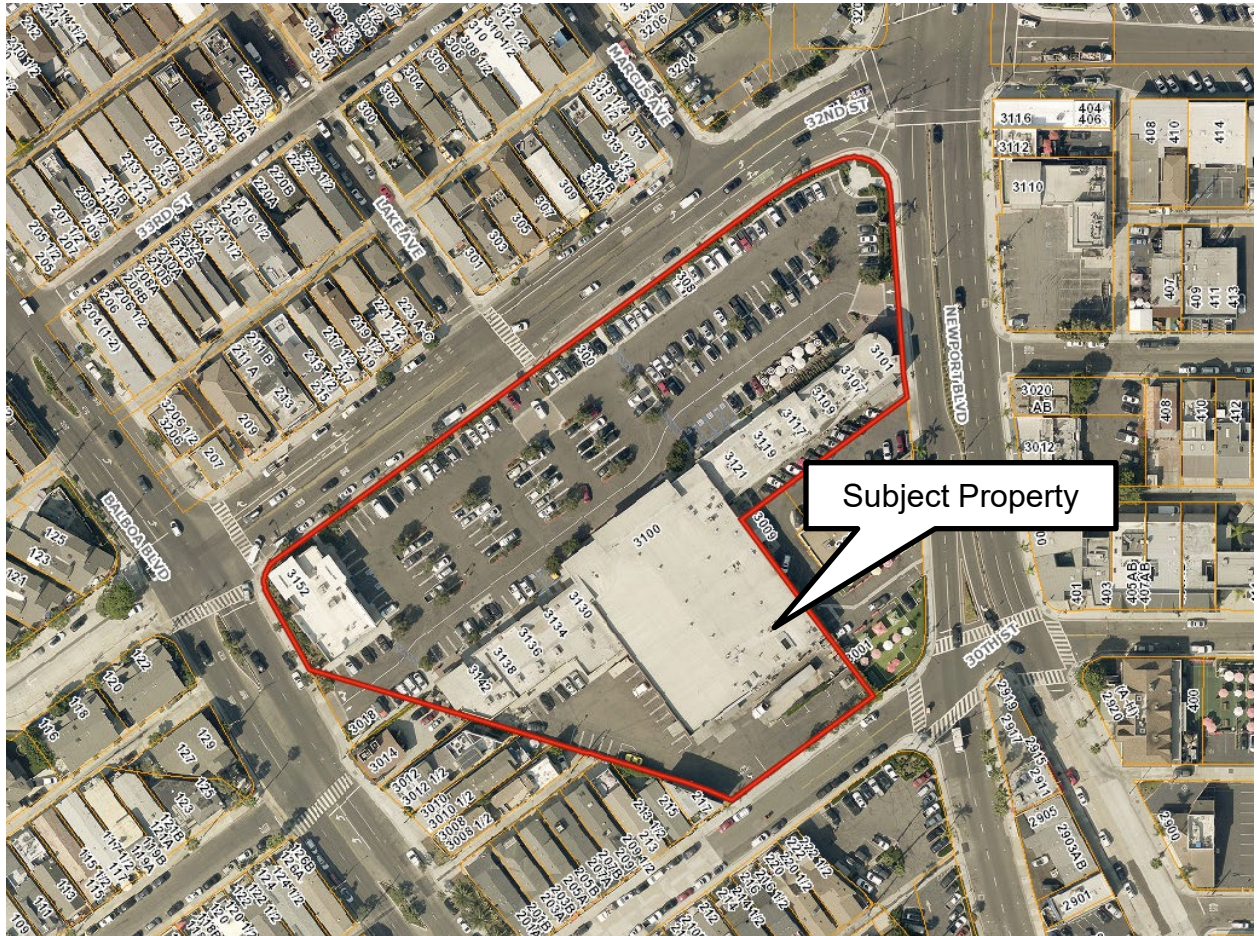
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Attachments: ZA 1 Vicinity Map
ZA 2 Project Description Letter
ZA 3 Noise Reduction Plan
ZA 4 Site Plan

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Limited Term Permit
(PA2025-0082)

3100 West Balboa Boulevard

Attachment No. ZA 2

Project Description Letter

3.

To allow a 40ft trailer to store ice for a 9-day period, from June 30-July 8, adjacent to the loading dock at the rear of the Pavilions grocery store located at the Landing Shopping Center. The trailer is needed to facilitate the additional sales of the ice that accompanies the Independence Day holiday period. The refrigeration space inside the store is not sufficient for ice needed to fulfill the customer needs. The second trailer will be in the back dock area to store needed produce, fruits, vegetables, guacamole, and fresh made products to maintain proper food safety temperatures on products for customers. I am arranging this year for a noise reduction plan (cover for the back side of trailers) on both trailers when they arrive, to reduce noise while trailers are running between 7am and 9pm, to comply with curfew restrictions. The placement of the trailers can be seen on the attached documents.

Attachment No. ZA 3

Noise Reduction Plan

Pavilions Noise Reduction Plan

3100 W Balboa Newport Beach, Ca

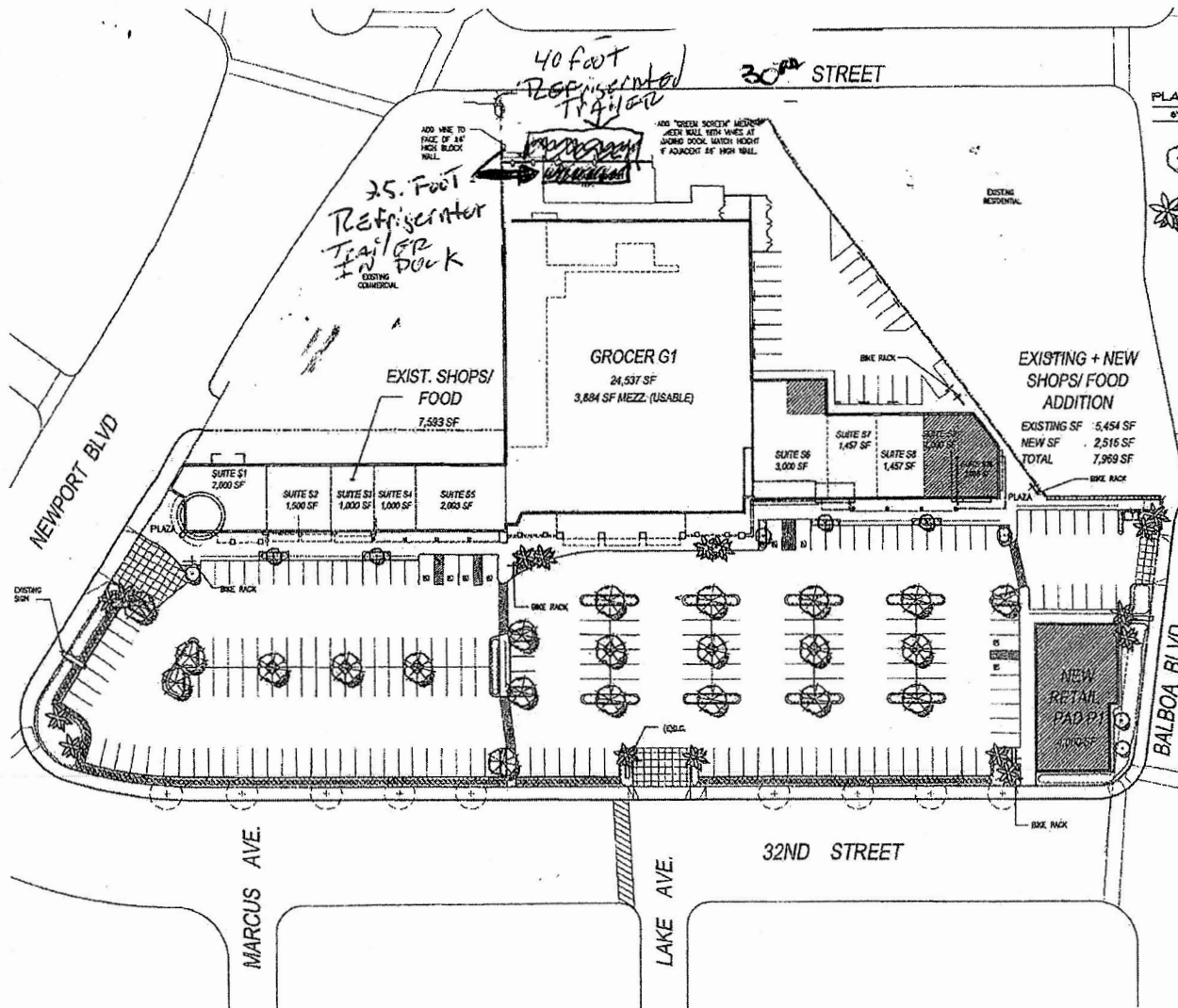
To reduce noise, our maintenance team will build a temporary sound proofing box around the refrigerator unit. Wood and sound reducing blankets, maintenance is aware of what is needed. Dates are from June 30th through July 8th. With the sound reduction being built around the refrigerator unit on June 30th when the two trailers are set up.

See pictures attached for layout of sound reduction.



Attachment No. ZA 4

Site Plan



PLANTING LEGEND

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	REMARKS / QUANTITY
TREES				
	ERIODICTYON CALIFORNICUM	LOQUIAT	24" DIA	NATURAL DOUBLE STAKE
	RHUS GLABRA	AFRICAN SUMAC	24" DIA	STANDARD DOUBLE STAKE
	WASHINGTONIA ROBUSTA	MEXICAN FAN PALM	18" DIA	STANDARD DOUBLE STAKE
	EXISTING STREET TREES	PROTECT IN PLACE		VERIFY IN FIELD
SHRUBS AND GROUNDCOVERS				
	LIGUSTRUM JAPONICUM	TEXAS PRIVET	5 GAL / 8 GAL	3'-0" O.C.
	DORYMYRTELLA spp.	DONQUAYELLA	5 GAL	4'-0" O.C.
	CALLISTEMON LITTORALIS	DRIFT BOTTLEBRUSH	5 GAL	3'-0" O.C.
	LANTANA CAMARA	SPREADING BURNING	1 GAL	3'-0" O.C.
	ROSA FLORIBUNDA	ICEBERG ROSE	5 GAL	3'-0" O.C.
	ROPHAEA OFFICINALIS	ROSE	1 GAL	24" O.C.
	PELARGONIUM PELTATUM	IVY GERANIUM	4" POTS	12" O.C.
	ANDROPOGON FLAVUS	RED KANGAROO PAW	5 GAL	3'-0" O.C.
	PETUNIA OVATA	BLUE PETUNIA	4" POTS	8" O.C.
	MONARDA DIDYMA	EVERGREEN DAYLILY	1 GAL	18" O.C.
	HAEMELIA PATENS	FLORIDIAN FEATHERGRASS	1 GAL	12" O.C.
	PHORADENDRON FLAVESCENS	YELLOW BAY PLUM	5 GAL	3'-0" O.C.
VERBENA				
	TRACHELIUM SPHAEROCEPHALUM	STAR JASMINE	5 GAL	12" O.C.

NOTES

- ALL PLANT, SHRUB AND GROUNDCOVER AREAS TO BE TOP DRESSED WITH 2" LAYER OF FINE SHREDED REDWOOD BARK MULCH. ALL BLOW AREAS 21" OR GREATER TO BE TOP DRESSED WITH 4" LAYER OF FINE SHREDED REDWOOD BARK MULCH. ALL TOP DRESSINGS TO BE INSTALLED TO TOP OF BULK.
- ALL STREET TREES AND ALL TREES WITHIN 5' OF HARDSCAPE ELEMENTS, SUCH AS CURBS, WALLS, BUILDINGS OR WALLS, SHALL BE PROVIDED WITH APPROVED ROOT BARRIER CONTROL. DEVICES SUCH AS FIBER GLASS OR PLASTIC SHALL BE AVAILABLE FROM SUPPLIER. AND-48-18-88 OR MANUFACTURER'S RECOMMENDATIONS AND SPECIFICATIONS AND BE A MINIMUM OF 18" LAYER FEET.
- CONTRACTOR TO REPAIR OR REPLACE ANY EXISTING WORK DONE BY OTHERS DURING CONSTRUCTION.
- A POST GRADING GEOTECHNICAL SOIL ANALYSIS IS REQUIRED. CONTRACTOR TO ATEND SOIL IN ACCORDANCE WITH SOIL REPORT RECOMMENDATIONS.
- CONTRACTOR TO VERIFY ALL UTILITIES AND EXISTING CONDITIONS IN FIELD PRIOR TO CONSTRUCTION.
- ALL PLANTING TO BE IRRIGATED WITH LOW VOLUME SPRAY HEADS OR BUBBLERS CONNECTED AUTOMATIC IRRIGATION CONTROL TO VALVES AND TIED INTO A CENTRAL AUTOMATIC CONTROLLER.
- ALL PLANTING AND IRRIGATION TO COMPLY WITH CITY OF NEWPORT BEACH LANDSCAPE GUIDELINES.

BALBOA CENTER NEWPORT BEACH, CA

PRELIMINARY PLANTING PLAN



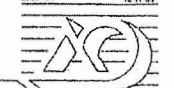
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ARCHITECTS ORANGE
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JANUARY, CALIFORNIA 92617
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2008-136 12-17-09



PA2014-082 for XP2014-002
3100 Balboa Boulevard
Pavilions Grocery Store

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This plan is a preliminary plan.
It is not to be used for construction.
It is not to be used for any other purpose.
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