

Attachment B

Resolution No. 2025-72

RESOLUTION NO. 2025- 72

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A MAJOR SITE DEVELOPMENT REVIEW, CONDITIONAL USE PERMIT, AND MODIFICATION PERMIT TO AUTHORIZE THE CONSTRUCTION AND OPERATION OF THE SURF PARK WITH ANCILLARY USES AND TYPES 47 (ON-SALE GENERAL EATING PLACE), 58 (CATERER) AND 68 (PORTABLE BAR) ALCOHOLIC BEVERAGE CONTROL LICENSES FOR THE PROPERTY LOCATED AT 3100 IRVINE AVENUE (PA2024-0069)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the City Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, an application was filed by CAA Planning, on behalf of Back Bay Barrels, LLC ("Applicant"), concerning property located at 3100 Irvine Avenue, and legally described in Exhibit "A," which is attached hereto and incorporated herein by reference ("Property");

WHEREAS, the Applicant is requesting to redevelop the central 15.38-acre parcel of the privately owned Newport Beach Golf Course by removing the existing driving range and putting green, pro-shop, restaurant and bar, and three holes of golf and replacing it with a new surf-focused outdoor commercial recreation use ("Project");

WHEREAS, the Project's site improvements include approximately five acres of surfing lagoons surrounded by viewing platforms, seating, pools, spa, restrooms, landscaping, clubhouse with amenities, athlete accommodation building with 20 overnight rooms, and two parking lots with 351 parking spaces;

WHEREAS, the Project will be constructed on approximately 79,533 square feet of area; however, 19,761 square feet will be excluded from the total development limit of the Property as incidental building areas which is consistent with Table LU1 (Land Use Plan Categories) of the City's General Plan ("General Plan") for properties categorized as Parks and Recreation;

WHEREAS, the following approvals are requested or required to implement the Project as proposed:

- General Plan Amendment (“GPA”): To increase the development limit from 20,000 square feet to 59,772 square feet for Anomaly Number 58, as identified in Table LU 2 of the Land Use Element of the General Plan;
- Major Site Development Review (“SDR”): To construct a nonresidential building larger than 20,000 square feet in area;
- Conditional Use Permit (“CUP”): To allow the operation of an outdoor commercial recreation use including a restaurant with alcohol sales, establish the appropriate parking rate, and allow the construction of buildings taller than 18 feet;
- Modification Permit: To allow for the construction of retaining walls taller than eight feet in height from finish grade; and
- Environmental Impact Report (“EIR”): To address reasonably foreseeable environmental impacts resulting from the legislative and project specific discretionary approvals;

WHEREAS, the Property is categorized as Parks and Recreation (PR) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan/Open Space and Recreation (SP-7/OSR) Zoning District;

WHEREAS, the Property is not located within the Coastal Zone; therefore, a coastal development permit is not required;

WHEREAS, California Public Utilities Code (“CPUC”) Section 21676(b) requires the City to refer the Project to the Orange County Airport Land Use Commission (“ALUC”) to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan (“AELUP”);

WHEREAS, the ALUC determined the Project to be inconsistent with the AELUP on August 7, 2025;

WHEREAS, a public hearing was held by the Planning Commission on September 4, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”), and Chapter 20.62 (Public Hearings) of the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2025-018 by a unanimous vote (6 ayes, 1 recusal) recommending the City Council approve the Project;

WHEREAS, after the Planning Commission's decision and pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on September 9, 2025, and adopted Resolution No. 2025-60 (6 ayes, 1 absent) to notify ALUC and the State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding; and

WHEREAS, a public hearing was held by the City Council on October 28, 2025, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the Project. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings) of the NBMCA, City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council has considered the recommendation of the Planning Commission and determined that modifications to the Project made by the City Council, if any, are not major changes that require referral back to the Planning Commission for consideration and recommendation.

Section 2: The City Council hereby approves the Major Site Development Review, Conditional Use Permit, and Modification Permit, collectively filed as PA2024-0069, subject to the conditions of approval set forth in Exhibit "B," based on the required findings and facts to support said findings, as set forth in Exhibit "C." Both Exhibits are attached hereto and incorporated herein by this reference. Additionally, the City Council hereby approves the Reduced Amenities Alternative analyzed in Appendix F of the EIR as a Project alternative that may be implemented at the Applicant's election in that it substantially conforms with the Major Site Development Review.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: An EIR (State Clearinghouse No. 2024110238) was prepared for the Project in compliance with the California Environmental Quality Act ("CEQA") as set forth in Public Resources Code Sections 21000 *et seq.*, Section 15000 *et seq.* as set forth in Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act) to ensure that the Project will not result in significant environmental impacts. Based on the entire environmental review record, the City Council having final approval authority over the Project, finds that the Project, with mitigation measures, will have a less than significant impact on the environment and there are no known substantial adverse effects on human beings. By Resolution No. 2025-73, the City Council adopted and certified the Final EIR as complete and adequate and adopted the Mitigation Monitoring and Reporting Program including all findings contained therein, which is hereby incorporated by this reference.

Section 6: The City Council finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

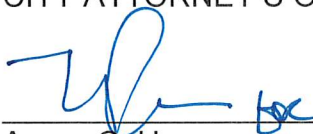
ADOPTED this 28th day of October, 2025.

Joe Stapleton
Mayor

ATTEST:

Lena Shumway
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment(s): Exhibit A – Legal Description
 Exhibit B – Conditions of Approval
 Exhibit C – Findings and Facts in Support of Findings

EXHIBIT "A"

LEGAL DESCRIPTION

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

PARCEL NO. 1 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE NO. 94-2, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, RECORDED MAY 9, 1994 AS [INSTRUMENT NO. 94-318607 OF OFFICIAL RECORDS](#).

EXCEPTING THEREFROM, THAT PORTION OF SAID LAND DESCRIBED IN THE DEED TO THE COUNTY OF ORANGE, RECORDED SEPTEMBER 4, 1997 AS [INSTRUMENT NO. 97-428866 OF OFFICIAL RECORDS](#), IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THOSE PORTIONS THEREOF CONVEYED IN FEE TO THE COUNTY OF ORANGE BY DEED RECORDED OCTOBER 21, 2014 AS [INSTRUMENT NO. 2014-427814 OF OFFICIAL RECORDS](#).

APN: 119-200-38 & 119-200-41

EXHIBIT "B"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

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 Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for the revocation of this approval.
4. *The Applicant shall comply with all project design features, mitigation measures, and standard conditions contained within the approved Mitigation Monitoring Reporting Program (MMRP) of EIR SCH No. 2024110238.*
5. *The Major Site Development Review, Conditional Use Permit Use Permit, and Modification Permit filed as PA2024-0069 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC unless an extension is otherwise granted.*
6. *The maximum height of the amenity clubhouse building shall be limited to 50 feet above the existing grade established pursuant to 20.30.050 (Grade Establishment) of the NBMC.*
7. *The maximum height of the visitor accommodation building shall be limited to 40 feet above the existing grade established pursuant to 20.30.050 (Grade Establishment) of the NBMC. Guests of the athlete accommodations shall also be guests of the surf park to ensure the accommodations remain ancillary to the principal use and do not operate as a separate and distinct use.*
8. *The storage areas exempt from development intensity limits, as identified on the plans, shall not be converted to useable space without an additional General Plan Amendment to Anomaly No. 58.*
9. *Hours of operation are limited to 6 a.m. to 11 p.m., daily.*

10. *A total of 324 parking spaces shall be made permanently available for use, including 229 for guests and employees of the surf park and 95 for Golf Course guests.*
11. *If actual parking demand exceeds anticipated parking demand, the Applicant will be required to work with public works staff to implement parking solutions.*
12. *Employees arriving by car shall park on site.*
13. *Prior to final of building permits, a nighttime lighting inspection shall be conducted to confirm lighting will not cause a nuisance to nearby residential properties.*
14. *Illumination shall not exceed 1-foot candle beyond the property line.*
15. *Illumination of the surfing lagoon shall be subject to a thirty (30) day review period, during which time the Community Development Director may determine that a reduction in illumination or turning off of illumination is necessary due to negative impacts on surrounding property or the community in general. In addition, and at any time, the Director may order the dimming or turning off of any illumination found to be excessively bright.*
16. *The Major Site Development Review, Conditional Use Permit Use Permit, and Modification Permit filed as PA2024-0069 may be modified or revoked by the City Council should they determine 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 to constitute a public nuisance.*
17. *Prior to Certificate of Occupancy, the Applicant shall pay Development Impact Fees.*
18. *Prior to the issuance of a building permit, the Applicant shall pay San Joaquin Transportation Corridor Association fees in accordance with the fee schedule at time of building permit issuance.*
19. *Prior to the issuance of a building permit, the Applicant shall pay any applicable Traffic Fair Share fees at time of building permit issuance.*
20. *Changes in operational characteristics, expansion in the area, or other modification to the approved plans, shall require subsequent review by the Planning Division. Significant changes may require an amendment to this approval or the processing of a new approval.*

21. Prior to the issuance of a building permit, a copy of the Resolution, including the conditions of approval of Exhibit "B" shall be incorporated into the Building Division and field sets of plans before issuance of the building permits.
22. Prior to the issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the PA2024-0069 file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by PA2024-0069 and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
23. Prior to the issuance of a building permit, the Applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought-tolerant plants and water-efficient irrigation practices, and the plans shall be approved by the Planning Division.
24. Prior to final building permit inspection, an inspection shall be performed by Planning staff to confirm landscaping is installed per plan.
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. All proposed signs shall be in conformance with Chapter 20.42 (Signs) of the NBMC.
27. 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.
28. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control), under Sections 10.26.025 (Exterior Noise Standards) and 10.26.030 (Interior Noise Standards), and other applicable noise control requirements of the NBMC.
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 either the current business owner, property owner or leasing agent.

30. 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 a.m. and 6:30 p.m., Monday through Friday, and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays, or Holidays.
31. *Operation of outdoor speakers shall cease by 10 p.m.*
32. 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.
33. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
34. The exterior of the business shall be always maintained free of litter and graffiti. 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.
35. 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).
36. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10 p.m. and 7 a.m. on weekdays and Saturdays and between the hours of 10 p.m. and 9:00 a.m. on Sundays and Federal holidays unless otherwise approved by the Director of Community Development and may require an amendment to this Use Permit.
37. Storage outside of the building in the front or at the rear of the property shall be prohibited, except for the required trash container enclosure.
38. 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 **Snug**

Harbor Surf Park including, but not limited to, PA2024-0069. 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 the such proceeding. The Applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages that which City incurs in enforcing the indemnification provisions outlined in this condition. The Applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

Fire Department

39. *Fire department access shall comply with the 2022 California Fire Code ("CFC"), NBMC, and NBFD Guidelines C.01, C.02, C.03, and C.04.*
40. *Fire access lanes shall clearly be identified` on the plans. Fire access lanes cannot be impeded by loading zones or other obstructions that would delay service response times.*
41. *The number and placement of fire hydrants shall comply with the CFC and Newport Beach Fire Department ("NBFD") Guideline B.01.*
42. *Structures shall be protected with an automatic fire sprinkler designed to the National Fire Protection Association ("NFPA") 13 standard.*
43. *The amenity clubhouse and any structures where the highest story floor level is located greater than 30 feet above the lowest level of fire department vehicles access shall have standpipes installed and designed to the NFPA 14 standard.*
44. *Fire alarm systems and smoke alarms shall be installed in R-1 occupancies. An automatic smoke detection system that activates the occupant notification system shall be installed throughout all interior corridors serving sleeping units.*
45. *Single- and multiple station smoke alarms shall be installed in accordance with Section 907.2.11 of the CFC*
46. *Emergency response communication system shall be installed throughout in accordance with the CFC and NBFD Guideline D.05.*
47. *Building shall be addressed in accordance with the NBMC.*
48. *At least one elevator shall be gurney sized and meet the requirements of the California Building Code ("CBC") 3002.4a.*

49. *Standby power shall be provided for elevators and platform life as required by Sections 604.3, 1009.4.1, and 1009.5 of the CBC.*
50. *Emergency power outlets shall be provided and installed according to NBMC 9.04.330.*
51. *A Type 1 hood shall be provided for the kitchen.*
52. *A fixed suppression system shall be installed and designed to NFPA 17A for cooking operations.*
53. *C02 beverage dispensing exceeding 100 lbs. shall meet the requirements of the 2022 California Fire Code section 5307.3 for ventilation or gas detection.*
54. *A chemical inventory with storage locations shall be provided to the NBFD during plan check. The maximum allowable quantities of chemicals and the amount in use and storage will dictate the design of the chemical storage area, fire protections systems, and other fire and life safety requirements.*
55. *Knox boxes shall be provided and identified on the plans at all locations that would require fire department access.*
56. *Gates shall be provided with a knox gate switch and either an Opticom or Click2Enter system.*
57. *Occupant load and egress analysis for all assembly spaces shall be required during plan check.*

Building Division

58. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the approval of rough inspection.
59. The Applicant shall employ the following best available control measures to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave, apply dust control measures, or apply water four times daily to all unpaved parking or staging areas.

- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt, or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off-road equipment.
- Limit allowable idling to 5 minutes for trucks and heavy equipment.

Off-Site Impacts

- Encourage carpooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10% soil moisture content in the top 6-inch surface layer, subject to review/discretion of the geotechnical engineer.

60. Prior to the issuance of a grading permit, a Storm Water Pollution Prevention Plan ("SWPPP") and Notice of Intent ("NOI") to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project Applicant will provide the city with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.
61. Prior to the issuance of a grading permit, the Applicant shall prepare and submit a Water Quality Management Plan ("WQMP") for the Project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices ("BMPs") to ensure that no violations of water quality standards or waste discharge requirements occur.
62. A list of "good housekeeping" practices will be incorporated into the long-term post-construction operation of the Property to minimize the likelihood that pollutants will be used, stored, or spilled on the Property that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or

spills, limited use of harmful fertilizers or pesticides, and the diversion of stormwater away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

63. *Allowable building area, height, and story shall comply with Chapter 5 of CBC.*
64. *Orange County Health approval is required. The required number of shower and plumbing fixtures shall also comply with OC Health requirements.*
65. *Egress balcony shall comply with 1021 of CBC.*
66. *Exit access stairways shall comply with 1019 of CBC.*
67. *Exits shall comply with accessible means of egress per 1009 of CBC.*
68. *Emergency Escape Rescue for sleeping rooms shall comply with 1031 of CBC.*
69. *Assembly area shall comply with 1030 of CBC.*
70. *Occupancy load for spaces with 1 exit limited to 49. Spaces with one exit shall comply with Table 1006.2.1, Table 1006.3.4(1) & Table 1006.3.4(2) of CBC.*
71. *Required number of plumbing fixtures shall comply California Plumbing Code ("CPC) Table 422.1*
72. *Accessible path of travel is required from parking areas and public right of way. An accessible route to each pool and surf lagoon is required.*
73. *Exterior wall and opening protection between building and to property line shall comply with 705 of CBC.*
74. *Fire and sound separation at each sleeping room shall comply with 420.2 of CBC.*
75. *Circulation path shall be physically separated to the vehicular way. Show required detectable warning on plans 11B-250.1*
76. *A minimum of 5% or at least one of each type of seating area shall be accessible.*
77. *Required number of accessible restrooms for multiusers shall comply with 11B-213.2 of CBC.*
78. *Transient lodging shall comply with 11B-224 of CBC.*

79. *An accessible route to the second story of the visitor accommodations building is required. 11B-206.2.3 Exception 1.2 may apply if Applicant demonstrates during plan check that rooms on second level provide same experience as first level.*
80. *Design foundation for liquefaction mitigation pursuant to policy: <https://www.newportbeachca.gov/home/showpublisheddocument/2929/635682493202100000>*
81. *Bicycle parking shall comply with 5.106.4 of Cal Green.*
82. *EV Capable, EVSE and EV accessible parking shall comply with table 5.106.5.3.1 of Cal Green and Table 11B-228.3.2.1 of the CBC. Note that regular accessible parking shall be separated from EV accessible parking.*
83. *Top of adjacent slope and setback shall comply with 1808.7.3 of the CBC.*
84. *Property is located within a flood zone. If any building is proposed within the flood map, it shall comply with flood zone A finish floor requirements.*

Public Works Department

85. *Prior to the issuance of a building permit, a final Construction Management Plan shall be reviewed and approved by the Community Development Director and City Traffic Engineer.*
86. *Prior to the issuance of a building permit, a final hydrology report and storm drain plan shall be reviewed and approved by the City.*
87. *The Applicant shall reconstruct curb, gutter, and sidewalk per City standard along the Irvine Avenue and Mesa Drive frontages. The extent of reconstruction shall be determined by the Public Works inspector.*
88. *The proposed driveway along Mesa Drive shall be a right-turn in and right-turn out driveway. Final design of the driveway will be reviewed and approved as part of the plan check process.*
89. *The driveway along the Irvine Avenue frontage shall be a right-turn in, left-turn in, and right-turn out only driveway. Final design of the driveway will be reviewed and approved as part of the plan check process.*
90. *The Applicant shall install a new minimum 12-inch water main (final size of main to be determined during building plan check) connecting to the existing 24-inch water main within the Irvine Avenue right of way. Final design of the new water main and associated water services shall be reviewed and approved as part of the*

plan check process. Construction of the new water main and services shall be completed by a City approved contractor.

91. *The existing 6-inch water line shall be abandoned as part of the project.*
92. *Sewer service for the project site is provided by Costa Mesa Sanitary District ("CMSD"). Final CMSD approved sewer plans shall be included in the building plan check set.*
93. *A final parking management plan ("PMP") shall be reviewed and approved by the City prior to building permit issuance. The final PMP shall include planned valet operation and gate operation. The gated entry shall be accompanied by a dedicated turn around area prior to the gates. The Applicant shall prohibit vehicles from stacking within the public right of way.*
94. *The parking layout shall comply with City Standard 805. All dead-end drive aisles shall be accompanied by a designated turn around area and 5-foot minimum drive aisle extensions to accommodate vehicle turn around.*
95. *The driveways along Irvine Avenue and Mesa Drive shall be constructed per City Standard 161.*
96. *A minimum 4-foot-wide easement for sidewalk and pedestrian purposes shall be provided across the driveway.*
97. *Final design for any modifications to the Irvine Avenue driveway shall be reviewed and approved during Building plan check.*
98. *Driveways shall be designed to provide adequate sight distance per City Standard 105. Walls within the limited use area shall be limited to 30" in height and landscaping shall have a maximum growth characteristic of 24" in height.*
99. *Vehicles entering and exiting the project site driveways at the Mesa Drive and Irvine Avenue shall be prohibited from queuing into the public right-of-way and impacting the adjacent public sidewalk and streets.*
100. *All loading areas and service turnaround areas shall be located outside the required widths of the adjacent drive aisles.*
101. *The average number of vehicles for the project shall comply with the estimates from the approved Trip Generation Assessment and Parking Demand Assessment reports*
102. *Prior to the issuance of a building permit, County Sanitation District fees shall be paid.*

103. *Internal source separation must be considered for the facility, specifically for the restaurant/bar area and athlete accommodations. External three-container system are required and containers must fit within enclosure requirements listed in NBMC 20.30.120 (Solid Waste and Recyclable Materials).*
104. *Nineteen (19) offsite Brisbane box trees shall be planted at 30-foot on center spacing consistent with the proposed landscape plan and direction from Public Works Municipal Operations staff.*
105. *An air gap shall be included in the design. Air-gap separation” or “AG” means a physical vertical separation of at least 2 times the effective pipe diameter between the free-flowing discharge end of a potable water supply pipeline and the flood level of an open or non-pressurized receiving vessel, and in no case less than 1 inch.*

Police Department

106. *The Applicant shall comply with all federal, state, and local laws, and all conditions of the Type 47 (On-Sale General) Alcoholic Beverage License and any additional licenses. 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.*
107. *Alcohol service shall end no later than 11 p.m., daily unless approved under separate permit by the City of Newport Beach.*
108. *Food service must be available at all times that alcoholic beverages are being served or consumed on the premises.*
109. *There shall be no reduced priced alcoholic beverage promotions after 9 p.m.*
110. *No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.*
111. *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.*
112. *The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined in Chapter 10.26 (Community Noise Control) of the NBMC, and other applicable noise control requirements, are not exceeded.*

113. *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.*
114. *No alcoholic beverages shall be consumed on any property adjacent to the licensed premises and under the control of the licensee.*
115. *Petitioner(s) 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.*
116. *Any event or activity staged by an outside promoter or entity where the Applicant, operator, owner, his employees, or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.*
117. *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. This training program must be updated every three years regardless of certificate expiration date. 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. 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.*
118. *No person under the age of 21 shall sell or deliver alcoholic beverages, except as allowed by the Department of Alcoholic Beverage Control.*
119. *The sale of alcoholic beverages for consumption off the premises is prohibited.*
120. *Unsold alcoholic beverages in the park shall not be served or delivered to customers by individual ambulatory vendors, more commonly known as "hawkers".*
121. *No alcoholic beverages shall be permitted to be brought onto the licensed area by the public, nor shall any alcoholic beverages be permitted to be removed from the licensed area by the public.*
122. *All alcoholic beverages that will be sold or consumed within the lagoon and pool areas shall be served in containers which are distinctive in design and color, easily*

distinguishable from any other containers used in the service of beverages. All containers shall be non-glass, shatterproof containers.

123. *Alcoholic beverages shall be dispensed, sold and served in containers no larger than sixteen (16) ounces.*
124. *Petitioner(s) shall furnish keys, pass cards, or entry frequencies to the Newport Beach Police Department.*
125. *The Applicant shall maintain a security recording system with a 30-day retention and make those recordings available to police upon request.*
126. *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.*

Special Events

127. *Special Event Level Defined.* Level 1, 2, and 3 special events shall be defined as follows:

"Level 1 Special Event" shall mean any event:

- a. With a duration of no more than one (1) day;*
- b. With an attendance of less than one thousand (1,000) persons;*
- c. Involves no public road or travel lane closures or detours;*
- d. Requires no traffic control, as determined by the City Traffic Engineer or the Police Department; and*
- e. Does not require the presence of City personnel, as determined by the Code Enforcement Supervisor or the Police Department.*

"Level 2 Special Event" shall mean any event:

- a. With a duration of up to four (4) consecutive days, including setup and breakdown; or*
- b. With an attendance of one thousand (1,000) to five thousand (5,000) persons over the course of the special event; or*
- c. Involves no public road or travel lane closures or detours;*
- d. Requires no traffic control, as determined by the City Traffic Engineer or the Police Department; and*
- e. Does not require the presence of City personnel, as determined by the Code Enforcement Supervisor or the Police Department.*
- f. If more than 2,500 people are anticipated on any one day, an off-site parking agreement shall be supplied to the City at least ten (10) days prior to the event. The off-site parking agreement shall include the following information:*
 - i. Anticipated daily parking demand*
 - ii. Location of off-site parking*

- iii. Number of off-site parking spaces available for special event use
- iv. Plan to convey attendees to site (e.g., shuttle bus or walking path).

"Level 3 Special Event" shall mean any event:

- a. any event lasting longer than, or with greater attendance than that defined above; or
- b. any event requiring public road, travel lane closures or detours, or traffic control; or
- c. any event requiring the presence of City personnel

- 128. The Project shall be allowed to conduct twelve permitted special events each year:
- 129. No Permit Required for Level 1 Special Events. Level 1 special events authorized by, and in compliance with the conditions of, this Conditional Use Permit shall be exempt from the permit requirements of Chapter 11.03 of the NBMC, or any successor statute.
- 130. A Special Event Permit shall be required for Level 2 and 3 events.
- 131. Advance Notice of Level 2 and Level 3 Special Events Requiring Off-Site Parking. The applicant shall notify the Community Development Department of all Level 2 and Level 3 special events authorized a minimum of 14 days prior to the special event. The off-site parking agreement shall be provided to the City Traffic Engineer for review and approval.
- 132. Quarterly Special Event Monitoring Report. The applicant shall submit a quarterly report of all Level 1 and 2 special events conducted on the project site to the Community Development Department to monitor the number of special events and verify compliance with the conditions of this permit. The report shall be submitted on or before the 15th day of the quarter in a form approved by the Community Development Department, which shall include the following information:
 - a. The special event title;
 - b. A general description of the special event;
 - c. The date, start time and duration of the special event.
 - d. The estimated daily attendance; and
 - e. A description of any sound amplification equipment outside of daily operations.
- 133. Hours of Operation for Level 1 Special Events. The use of amplified sound beyond typical operational characteristics shall not begin before 7:00 a.m. on weekdays or before 8:00 a.m. on weekends and federal holidays. The use of amplified sound beyond typical operational characteristics shall cease at the following times:

Dates	Latest Amplified Sound End Time*	Latest Special Event End Time*
<i>Sunday through Thursday, except on NMUSD holidays and during NMUSD recesses**</i>	10p.m.	
<i>Weekdays and Weekends on NMUSD holidays and during NMUSD recesses**</i>	10 p.m.	
<i>Independence Day (July 4)</i>	11 p.m.	12:00 a.m.
<i>New Year's Eve (December 31)</i>	12:30 a.m. on New Year's Day	1:15 a.m. on New Year's Day

** The special event end time shall mean the time when the special event activities have ceased, and all attendees have exited the site. The special event end time does not include post-event clean-up and breakdown.*

*** Newport Mesa Unified School District (NMUSD) holidays and recesses shall be determined by the current official calendar approved by the NMUSD Board of Education.*

134. *Any special event involving the use of amplified sound outside of time limits prescribed above shall require a Special Event Permit in accordance with Chapter 11.03 (Special Events) of the NBMC.*
135. *Sound Level Monitoring and Mitigation. The use of amplified sound shall comply with the Environmental Impact Report (SCH No. 2024110238), hereby incorporated by reference, to ensure that sound generated by the project site does not exceed the noise standards of Chapter 10.26 (Community Noise Control) of the NBMC.*
136. *City Monitoring. A City sound monitor shall be required at all special events involving amplified sound beyond typical operational characteristics, unless waived by the Community Development Director.*
137. *Professional Sound Monitoring and Reporting Services. The applicant shall enter into an agreement with City to reimburse the City for costs and expenses of providing professional sound monitoring and reporting services for special events involving the use of amplified sound beyond typical operational characteristics, if City Monitoring is deemed necessary. The form of the agreement shall be determined by the City Attorney's office.*
138. *Insurance. The applicant shall provide general liability insurance at the minimum amount required by City policy naming the City of Newport Beach as additionally insured.*
139. *Licenses. The applicant shall complete the Special Events Temporary Business License Application and collect the apportioned business license from each*

vendor, exhibitor or other service provider and remit the payments to the City prior to the special event date.

140. Permits and Inspections.

- a. The applicant shall obtain any applicable City permits and inspections for the installation of temporary structures, stands, platforms, stages and stage lighting rigs over thirty (30) inches in height from grade, all tents and temporary membrane structures having an area in excess of four hundred (400) square feet, and the use and storage of portable liquefied petroleum gas containers.
- b. The applicant shall provide plans, details and specifications with calculations, to the Building Division for plan review and approval, at least thirty (30) days prior to the special event. Such plans shall be stamped and signed by a licensed engineer in the State of California. The following note shall be provided on the plans: "Engineer shall perform site observations during the construction and shall provide a letter to the City building inspector stating the temporary buildings, stands, platforms, stages and stage lighting rigs are installed per code and satisfactory to be used for their intended purpose."
- c. The applicant shall allow City officials access for inspections in order to determine compliance with City codes, any approved permit and/or any conditions of approval.
- d. The applicant shall comply with all lawful orders and requirements of the principal building inspector.

141. Outside Agencies.

- a. Any food service to comply with Orange County Health Department requirements.
- b. Any alcoholic beverage service shall comply with Alcoholic Beverage Control requirements.

142. Special events shall comply with Chapter 6.06 (State Mandated Municipal Solid Waste Diversion) of the NBMC.

143. Permittee shall submit a plan to reduce waste, consistent with State law, to the Municipal Operations Department at least two weeks prior to the start of a permitted special event. The plan should address all types of waste materials generated.

EXHIBIT "C"

FINDINGS AND FACTS IN SUPPORT OF FINDINGS

Major Site Development Review

In accordance with Section 20.52.080(F) (Site Development Reviews – Findings and Decisions) of the NBMC, the findings and facts in support of such findings are set forth as follows:

Finding:

A. *The proposed development is allowed within the subject Zoning District.*

Facts in Support of Finding:

1. The Property is located within the Santa Ana Heights Specific Plan (SP-7), Open Space and Recreation (OSR) District. The SP-7/OSR District allows for local and buffer greenbelts by right, public and private utility buildings and structures subject to the approval of a minor use permit, and golf courses and commercial recreation subject to the approval of a CUP.
2. The purpose and intent of the SP-7/OSR District is to ensure the long-term use and viability of the Golf Course. The Project is not designed to replace the entirety of the Golf Course's operations, rather it includes components that will continue to support golf operations on the northern and southern portions. It will further introduce additional revenue generating activities and ancillary uses helping to ensure the future viability of the Golf Course.

Finding:

- B. *The proposed development is in compliance with all of the following applicable criteria:*
- i. *Compliance with this section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;*
 - ii. *The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design;*
 - iii. *The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*

- iv. *The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
- v. *The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
- vi. *The protection of significant views from public right(s)-of-way and compliance with NBMC Section 20.30.100 (Public View Protection).*

Facts in Support of Finding:

1. All Facts in Support of Finding A are hereby incorporated by reference.
2. The Property is categorized as Parks and Recreation (PR) by the Land Use Element of the General Plan. The proposed commercial recreational use is consistent with uses contemplated by the PR category, including private recreation.
3. The Project requires a GPA to increase the maximum development limit identified in Table LU2 as Anomaly Number 58; however, the underlying land use category of PR will remain. The Project is consistent with the General Plan as proposed to be amended.
4. The Project is in furtherance of several General Plan Goals and consistent with many General Plan Policies, as detailed in Resolution No. 2025-72, Exhibit "C", which is hereby incorporated by reference.
5. The Property is located within the Santa Ana Heights Specific Plan (SP-7), Open Space and Recreation (OSR) District. The SP-7/OSR District allows for local and buffer greenbelts by right, public and private utility buildings and structures subject to the approval of a minor use permit, and golf courses and commercial recreation subject to the approval of a CUP.
6. Subsection 20.90.050(E) (Site Development Standards) of the NBMC establishes minimum development standards for the Property, including setbacks and height. The SP-7/OSR District requires a minimum building setback of 20 feet from all property lines and establishes a maximum building height of 18 feet, unless otherwise provided for by use permit. The Project complies with the required building setback and is proposing a maximum building height of 50 feet above the existing grade for the amenity clubhouse and 40 feet above the existing grade for the visitor accommodations building.
7. The Project includes the removal of existing improvements on the Property and developing a surf park. The surfing lagoon would be divided into two, 5.1-million-gallon basins that would be hydrologically separated by wave making equipment, forming a

heart-shape lagoon up to 13 feet deep. The lagoon would be heated and surrounded by viewing platforms, seating, three warming pools and one spa ranging in size from 640 to 1,600 square feet, nine outdoor showers, restrooms, and lighting. The surf lagoon will be lighted for evening use by 71-foot-high light poles that would be located adjacent to the lagoon with lights focused down onto the surf lagoon. Additional mechanical equipment, such as the lagoon heating equipment, would have a height of approximately 15 feet and would be located northeast of the surf lagoon.

8. Ancillary uses include a three-story, 50-foot-tall, 50,341-square-foot amenity clubhouse building and a two-story, 40-foot-tall, 9,432-square-foot athlete accommodation building with 20 overnight rooms. The basement level of the clubhouse would provide staff areas, mechanical equipment, golf cart storage, surfboard storage, and storage space. The first floor of the clubhouse would contain a reception area as well as a surf academy area, changing rooms, storage lockers, and a surf themed retail store. There would also be a sit-down restaurant with a full-service bar in addition to a quick food service coffee bar/snack shack. The second floor would have a fitness facility, locker room, spa, and yoga room. The third floor would contain administrative offices, an operations center, and day use cabanas. Both the second and third floors would have a deck along the entire eastern frontage of the building, providing views of the surf lagoon. The athlete accommodation building would provide 20 overnight units, 10 on each floor.
9. To support the amenities, the Project includes freestanding restroom buildings throughout the Property.
10. The Project will have alcohol service within the amenity clubhouse and throughout the grounds of the surfing lagoon through a Type 47 (On-Sale General - Eating Place) Alcohol Beverage Control license ("ABC License"), a Type 58 (Caterer) ABC License, and a Type 68 (Portable Bar) ABC License.
11. The Project is proposed to be served by 351 parking spaces within two surface lots that are partially covered by 14-foot- to 18-foot-high solar canopies. These canopies, in conjunction with solar panels atop the surf park buildings, will provide onsite renewable energy to help offset the energy required to power its operations. The Project proposes 143,844 square feet of drought tolerant ornamental landscaping and would provide 235,650 square feet of open space.
12. Table 3-10 (Off-Street Parking Requirements) of Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC provides that the number of parking spaces required for a commercial recreation use shall be established by use permit. The July 14, 2025, Gibson Transportation Consulting, Inc. Parking Demand Analysis ("Parking Analysis") analyzed the Project and projected a maximum parking demand of 324 spaces. The estimated demand includes spaces to accommodate the golfing operations to be retained. The Parking Analysis has been reviewed and accepted by the City Traffic Engineer and supports the finding that 351 total spaces are adequate

to support the surf park and remaining golf course operations. While not relied upon in the Parking Analysis to establish parking demand, long-term bicycle parking will be provided onsite to support any guests arriving via the bike lanes on Irvine Avenue. Condition of Approval no. 10 requires a minimum of 324 spaces be permanently available and Condition of Approval no. 81 ensures bicycle parking is provided.

13. While the Project does not rely on valet parking to establish or satisfy parking requirements, Condition of Approval No. 93 requires a final parking management plan be reviewed and approved by the City to ensure voluntary valet operations and internal gate operations can be fully accommodated onsite and in accordance with city standards.
14. The portions of the golf course to the north of Irvine Avenue (holes 10-18) and south of Mesa Drive (holes 3-8) will remain. The existing golf cart path of travel between holes 3-8 and holes 10-18 will also remain. The Project will provide parking for the golf course, a starter shack for the golf course, and golf cart storage in the basement level of the amenity clubhouse.
15. The Project has been designed and sited efficiently with structures arranged on the Property to promote a harmonious relationship with onsite structures and to other adjacent developments. Curved buildings mirror the geometry of the surfing lagoon, reinforcing a unified and organic site layout. The amenity clubhouse is sited to shield noise and light from reaching the apartment complex located across Irvine Avenue.
16. A consistent architectural language across all structures, through shared materials, forms, and scale, ensures a cohesive identity.
17. The existing visual character of the area surrounding the properties are a mix of uses with no consistent architectural or visual theme. With implementation of the Project, the Property would change to provide a more urban and developed character compared to the existing condition. However, the bulk, scale, and aesthetic treatment are compatible with the adjacent commercial developments and public areas.
18. The Project is designed with adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces. The proposed driveway along Mesa Drive shall be a right-turn in and right-turn out driveway with the driveway along the Irvine Avenue frontage which shall be a right-turn in, left-turn in, and right-turn out only driveway. Queuing into the public right-of-way, which would impact the adjacent public sidewalk and streets, is prohibited.
19. The Project is designed with adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials.
20. The Project is designed to protect significant views from public rights-of-way and compliance with Section 20.30.100 (Public View Protection) of the NBMC. All

development within the Property would be set back from adjacent streets and would not encroach on existing public views along the roadway corridors adjacent to the site. The closest designated public viewpoint is approximately 0.3-mile southwest of the Property, along Irvine Avenue and south of University Drive. The viewpoint provides views of the Upper Newport Bay Preserve. Bayview Park, adjacent to Upper Newport Bay Preserve, is also designated as a public viewpoint. The Site is located northwest of these points not within the coastal scenic viewshed from either of these viewpoints. Therefore, the Project does not have the potential to obstruct public viewpoints or corridors, as identified on General Plan Figure NR 3 (Coastal Views).

Finding:

- C. *Not detrimental to the harmonious and orderly growth of the City, nor will it endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of person residing or working in the neighborhood of the proposed development.*

Facts in Support of Finding:

1. The Project will provide a new recreational opportunity, consistent with the General Plan and the Santa Ana Heights Specific Plan, in an area developed with existing recreation, commercial, office, and residential uses. The Project will reduce the number of holes, and the driving range will be removed; however, the Project will support the remaining golf course holes to the north and south of the Property by providing a starter shack, golf course parking, and golf cart storage.
2. The Project has been reviewed by all relevant City Divisions and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator of the Project is required to 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.
3. The Project has been reviewed by the Newport Beach Police Department ("NBPD"). The NBPD does not object to the Project, subject to appropriate conditions of approval which have all been incorporated into Exhibit "B," which is attached hereto and incorporated herein by reference. Additionally, the Facts in Support of Finding I for Alcohol Sales below are hereby incorporated by reference.
4. To minimize disruptions to persons residing or working in the neighborhood, Condition of Approval No. 85 requires a final Construction Management Plan ("CMP") be reviewed and approved by the Community Development Director and City Traffic Engineer prior to building permit issuance.

5. The Project will incorporate green building measures, such as water efficiency, Low Impact Development (“LID”), and renewable energy sources to reduce energy demands and GHG emissions.
6. The Property is located approximately 0.4 miles from John Wayne Airport (“SNA”) and within the SNA Airport Environs Land Use Plan (“AELUP”). The Property is trisected by Zones 2 (Inner Approach/Departure), Zone 4 (Outer Approach/Departure), and Zone 6 (Traffic Pattern Zone). The Project will comply with AELUP aviation, safety, aircraft noise, airspace protection and overflight criteria. The Project complies with the people per acre intensity limits of uses allowed within the AELUP and Caltrans Handbook Safety Zones 2, 4 and 6. The clubhouse and athlete accommodation buildings will have a maximum height of 50 feet (“92 feet AMSL”) and 43 feet (“83 feet AMSL”) and will not exceed the 14 CFR Part 77 construction notification imaginary surfaces over the Property.

Conditional Use Permit

In accordance with Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits) and Section 20.40.110 (Adjustments to Off-Street Parking Requirements) of the NBMC, the following findings and facts in support of the findings are set forth:

Finding:

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

Fact in Support of Finding:

1. Facts 2 through 4 in Support of Finding B are hereby incorporated by reference.

Finding:

E. *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. All Facts in Support of Finding A are hereby incorporated by reference.
2. Facts 5 through 13 in Support of Finding B are hereby incorporated by reference.
3. Section 20.90.050(E)(2) of the NBMC establishes a maximum building height limit of 18 feet, unless otherwise permitted through an approved use permit. The Project proposes a 50-foot-tall amenity clubhouse and a 40-foot-tall athlete accommodation building. All other freestanding structures will comply with the 18-foot height limit. Potential impacts from the increased building heights are mitigated by the significant

distance between the proposed buildings and the adjacent public rights-of-way. On the west side of the Property, the Project is separated from Irvine Avenue by the Delhi Channel, which creates a visual buffer and reduces any perceived scale difference between the buildings and the public right-of-way. Although the southern edge of the Property along Mesa Drive does not benefit from this buffer, the tallest building, the 50-foot-tall amenity clubhouse, is set back at least 100 feet from the Mesa Drive public right-of-way. These generous setbacks create large open areas and help reduce any perceived height of the structures from public viewpoints. While the 40-foot-tall athlete accommodation building is not set back as far as the clubhouse, it is still set back 30 feet from Mesa Drive, exceeding the minimum setback required by code.

4. Architectural and structural elements on the amenity clubhouse and athlete accommodations building are thoughtfully designed for compatibility and visual interest, using natural materials, varied rooflines, recessed walls, and layered façades, while ensuring that building heights do not exceed surrounding tall elements like existing 80-foot net poles.
5. None of the proposed improvements will be taller than the existing poles at the driving range. The existing driving range is surrounded by approximately 40 net poles that range in height from 25 to 80 feet, depending on location. The poles and netting separating the driving range from the buildings to the east are approximately 80 feet tall while the poles and netting separating the driving range from the golf course on the west are approximately 50 feet tall and the poles and netting separating the driving range from Mesa Drive to the south are between 62 and 65 feet tall. Some of the poles are wood (telephone pole-like) while others are pipes.
6. Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC requires a Traffic Impact Analysis ("TIA") be prepared if a project generates greater than 300 new average daily trips ("ADT"). Due to the unique nature of the Project, a trip generation analysis was prepared by Gibson Transportation Consulting, Inc ("Gibson"), dated March 4, 2025. Gibson based the trip generation rate for the Project on the projected attendance and associated vehicular demand projections for a high season weekday scenario. Furthermore, the new net trip generation estimates reflect both the reduction of trips associated with the significant portions of existing golf facility being replaced and the addition of trips associated with the portions of the golf course to be retained. The Project is anticipated to generate 186 new ADT with a net reduction of 73 AM peak hour trips and a net reduction of 10 PM peak hour trips. The total number of new trips is below the 300-ADT threshold; therefore, the Project does not require a TIA.

Finding:

- F. *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 currently developed with a 38-bay, partially covered, synthetic turf driving range, 1,050-square-foot putting green, and one-story 8,975-square-foot clubhouse building. The existing clubhouse includes a pro shop and restaurant that seats 233 people, a surface parking lot with 280 parking spaces, and three holes of the existing Golf Course (holes 1, 2, and 9).
2. The proposed hours of operation for the surf lagoon are from 6 a.m. to 11 p.m., 7 days a week. The Project hours are extended slightly beyond the current allowable hours of operation for the existing golf course, which are from 7 a.m. to 10 p.m., daily, pursuant to UP1594. However, the proposed hours are not considered late hours pursuant to Chapter 20.70 (Definitions), which defines late hours as facilities that provide service after 11 p.m., any day of the week. By not proposing late hours, the Project is compatible with the allowed uses within the vicinity
3. Condition of Approval No. 31 requires the outdoor speakers to cease operation by 10 p.m.
4. The surfing lagoon would operate on a reservation basis with the maximum number of participants at one time limited to 72 people. The average number of hourly users is expected at 35-45 people.
5. The Project would employ approximately 70 full-time and part-time employees with an average of approximately 35 employees onsite at any given time. All employees will be required to park onsite.
6. The facility is anticipated to host approximately 12 surf events/competitions per year. The special events would be ticketed events, similar in scale to other local sporting events. Conditions of Approval Nos. 127 through 143 are included to regulate the number of events, number of attendees, and hours of events.
7. The Project is compatible with the surrounding land uses, which include a mix of commercial, recreational, civic, and residential developments. Beginning to the north of the Property and moving clockwise, adjacent uses include "The Jetty" commercial center, holes 10–18 of the golf course, multi-tenant office buildings, Newport Beach Fire Station No. 7, holes 3–8 of the golf course, "The Ranch" retail shopping center, and multi-family residential housing. Additionally, the Santa Ana–Delhi Channel runs from the northwest to the southwest between the Property and Irvine Avenue, providing a natural buffer and visual separation from adjacent uses.
8. The Project has been designed to be harmonious with persons residing or working in the neighborhood by designing the clubhouse in a location that will shield noise from the multifamily residential located across Irvine Avenue, extensive landscaping onsite

and at the perimeter of the Property, providing sufficient parking and circulation, and roadway improvements.

Finding:

- G. *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. Subsection E of 20.90.050 (Open Space and Recreation District) of the NBMC establishes minimum site development standards. It provides a one-acre minimum building site area, a maximum building height of 18 feet unless otherwise provided for by an approved use permit, a 20-foot minimum building setback from all property lines, and requires lighting be designed and located so that direct light rays are confined to the premises. It further states that parking shall comply with Chapter 20.40 (Off-Street Parking) of the NBMC. As designed and proposed, the Project is consistent with the development standards with exception of the requested modification for retaining wall height, discussed under the "Modification Permit" section below.
2. The Property is approximately 15 acres in area and exceeds the one-acre site minimum. The Project meets the minimum 20-foot setback from all property lines.
3. The Property will provide public and emergency vehicle access from a 26-foot-wide driveway along Irvine Avenue in the general location of the existing driveway. The Irvine Avenue access will allow turning in from both directions and only right-turn out. A second 26-foot-wide driveway will be located along Mesa Drive. The Mesa Drive access will only allow right-turn in and right-turn out.
4. The Project would upgrade the existing onsite 6-inch domestic water line to a 12-inch water line. Installation would occur within the Property and the public right-of-way, to connect to the existing 24-inch water line in Irvine Avenue. In addition, the Project would upgrade the existing onsite 6-inch sewer lateral that extends approximately 42.5 feet offsite to a 12-inch and connects to the sewer line in Mesa Drive.
5. A Water Demand Report dated December 2024, was prepared for the Project by Fuscoe Engineering. The Water Demand Report determined that the existing water infrastructure and fire flow is adequate to serve the Project and no new water facilities would be required. The Water Demand Report was reviewed and accepted by the Utilities Department Director.
6. A Sewer Analysis Report dated January 2025 was prepared for the Project by Fuscoe Engineering. The Sewer Analysis Report determined that under operational conditions, the flows from the Project would be within the capacity of the existing sewer

system. The Sewer Analysis Report was reviewed and accepted by the Utilities Department Director.

7. In addition to typical daily operational wastewater generating conditions, each of the basins would be drained every two years into the sewer system. Each year one of the basins would be drained; the timing of which would be coordinated with Costa Mesa Sanitary District ("CMSD") and approved by CMSD permitting.
8. The Property will be served by the Newport Beach Fire Department and the Newport Beach Police Department ("NBPD"). The Project would not significantly increase the need for public services in the Project area, in the cities surrounding the Property, or within the region, as fully demonstrated in the Public Services section of the DEIR.

Finding:

- H. *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 architectural style of the Project is a contemporary interpretation of Southern California's surf and beach culture, expressed through low-profile forms and natural materials. The material palette includes horizontal wood siding, exposed mass timber, architectural concrete, dark bronze metal accents, and glass. The proposed color palette includes earth tones; driftwood browns, soft greys, sandy beige, and weathered whites. They are designed to blend into the environment and soften the built form against the natural backdrop.
2. All Facts in Support of Finding C are hereby incorporate by reference.

Alcohol Sales

In accordance with Section 20.48.030 (Alcohol Sales) of the NBMC, the Planning Commission shall consider the following findings prior to the approval of a new or amended alcohol sales establishment:

Finding

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

In finding that the Project is consistent with Section 20.48.030 (Alcohol Sales) of the NBMC, the following criteria must be considered:

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

- a. The Property is in an area the NBPD designates as Reporting District ("RD") 33. RD 33 is irregularly shaped and encompasses the Santa Ana Heights neighborhood, portions of Upper Newport Bay, and extends north to the 73 freeway. RD 33 is abutted to the west by RD 31, to the south by RD 32, to the east by RD 36, and to the north by RD 34. RD 32 primarily encompasses the Upper Newport Bay and is not included in the comparison of crime rates.
- b. The 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 California Department of Alcoholic Beverage Control ("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. RD 33 is not considered or reported to ABC as a higher crime area, as compared to other RDs within the city. The RD 33 crime count for 2024 is 110, which is 2% under the citywide average of 112 crimes per RD. The highest volume crime in RD 33 is theft/larceny.
- c. The NBPD has reviewed the Project and has no objection to the Project, subject to appropriate conditions of approval which have all been incorporated into Exhibit "B" of this Resolution. These conditions include provisions such as the requirement that all owners, managers, and employees selling alcoholic beverages shall undergo and complete a certified training program in responsible methods and skills for selling alcoholic beverages, all alcoholic beverages that will be sold or consumed in the lagoon and pool areas shall be served in containers which are distinctive in design and color, easily distinguishable from any other containers used in the service of beverages, and a prohibition of games or contests requiring or involving the consumption of alcoholic beverages.

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

- a. In 2024, RD 33 had a higher percentage of alcohol-related crimes than RD 31 and RD 36 but a lower percentage than RD 34. The higher number of alcohol-related crimes compared to RD 31 and RD 36 is expected, given that the crime figure includes driving under the influence, public intoxication, and liquor law violations. These alcohol-related crimes are typically associated with commercial establishments. RD 31 and RD 36 are primarily residential and are unlikely to have similar crime incidents. The difference in crime rate was not substantial enough to warrant objection from the NBPD.

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

- a. There is an apartment complex less than 200 feet from the Property, across Irvine Avenue, two Montessori schools within a mile of the Property, and the nearest park, Mesa Birch Park, is approximately 670 feet east of the Property. The nearest church, OC Spiritual Center, is .7 miles to the north of the Property.

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

- a. There are two active On-Sale ABC Licenses within the general vicinity of the Property: a Type 41 (On-Sale Beer and Wine - Eating Place) at Sgt. Pepperoni's Pizza and a Type 47 (On-Sale General - Eating Place) at Original Pizza. Sgt. Pepperoni's Pizza is located approximately 2,500 feet away from the Property. Original Pizza is located on the Property and will be removed as part of the Project.

- b. There are three active Off-Sale ABC Licenses within the general vicinity of the Property: two Type 20 (Off-Sale - Beer and Wine) and one Type 21 (Off-Sale - General).

License Type	Address	Distance from the Property
Type 20 (Off-Sale Beer and Wine)	2121 Bristol St.	1,300 feet
Type 20 (Off-Sale Beer and Wine)	2100 Bristol St.	1,550 feet
Type 21 (Off-Sale General)	3530 Irvine Ave.	1,200 feet

- c. This location does not meet the legal criteria for undue concentration pertaining to crime (Business and Professions code section §23958.4) with a clear nexus to alcohol

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

- a. There were 18 police dispatch events to the Property in 2024. None of the events resulted in arrests and there were no alcohol-related citations.

- b. There are no objectionable conditions presently occurring at the Property.

Modification Permit

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

Finding:

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

Facts in Support of Finding:

1. The Project includes multiple retaining walls to the south, west, and north of the surfing lagoon. The retaining walls range in height from 5.5 feet above finish grade to a maximum of 16.4 feet above finish grade. All retaining walls will have a 6-foot security fence above.
2. The general area surrounding the Property features undulating hills and pronounced changes in grade. Irvine Avenue slopes from a higher elevation north of the Property downward to the intersection of Irvine Avenue and Mesa Drive. Mesa Drive slopes downwards, toward Irvine Avenue. The intersection of Irvine Avenue and Mesa Drive is the low point in the area. There are existing retaining walls along portions of the perimeter of the Property, along Mesa Drive.
3. The Ranch commercial center, at the southwest corner of Irvine Avenue and Mesa Drive, is on an elevated building pad, approximately 17 feet higher than the sidewalk below. The apartment complex across Irvine Avenue is also constructed on an elevated building pad. The grade differential between the sidewalk and the building pad for the complex is substantial enough to require a staircase for accessing the Property.

Finding:

- K. *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 high point of the Property occurs within the driving range, behind Fire Station No. 7. The Property slopes downward, toward the Santa Ana-Delhi Channel and Irvine Avenue beyond. There is an approximately 33-foot grade differential between the high point of the Property and the centerline of Irvine Avenue. The southern side of the Property is higher than the northern side.
2. The existing slope differential creates a physical hardship for maintaining adequate separation from the Santa Ana-Delhi channel and the Project. The height of the retaining wall extends for approximately 662 feet along Irvine Avenue and 70 feet along Mesa Drive. While that exceeds the maximum height, the remaining approximately 284 feet of the retaining wall along Irvine Avenue will not exceed the maximum height.

Finding:

- L. *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 civil plans prepared for the Project are designed consistent with the recommendations of the Geotechnical Report prepared by Carl Kim Geotechnical, Inc., dated July 2024, including the proposed heights of the retaining walls.
2. The intent of the NBMC to limit the height of retaining walls when measured from finish grade is to prevent tall walls that are visible from public rights-of-way and neighboring properties. The tallest retaining wall near Irvine Avenue is located behind the Santa Ana-Delhi Channel, setback 17 feet from the property line and over 140 feet from the center line of Irvine Avenue.
3. Visible portions of retaining walls would be screened with landscaping, which would shield the mass and soften the view.

Finding:

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

Facts in Support of Finding:

1. The surfing lagoon elevation and the finish floor of the buildings were designed with a goal of balancing the Property, avoiding the extra use of trucks for disposal or importing of soil, and maintaining access to the adjacent public streets.
2. The terracing of retaining consistent with Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the NBMC walls has been incorporated into the design where feasible. For example, at the high end of the property, two terraced walls with a maximum exposed height of 8-feet each are designed along the southeasterly property line.
3. Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the NBMC requires a minimum horizontal separation equal to the height of the tallest retaining wall be provided between retaining walls, except that the required separation shall not be more than 6 feet. Terracing for all retaining walls is not feasible as terraced retaining walls along the southern and western boundaries of the surfing lagoon would restrict the space available for the Project and would result in a reduced Project.

Finding:

- N. *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 Property slopes toward the Delhi Channel. The retaining walls allow for back filling and leveling of an irregular site with varying topography, resulting in a level pad and sufficient depth for the surfing lagoon.
2. The Building Division has reviewed the Project and conditions of approval are included to ensure the Applicant is required to obtain all necessary permits and to demonstrate compliance with the California Building Code and other applicable codes.
3. Approval of any City permits, including this modification permit, does not relieve the Applicant of the legal requirement to observe, covenants, conditions, and restrictions that may be recorded against the property or to obtain community association approvals.