Attachment C

Planning Commission Resolution No. PC2026-008

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RESOLUTION NO. PC2026-008

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DENYING A REQUEST TO PERMIT EMPLOYEE AND DELIVERY VEHICLE USE OF AN EMERGENCY ACCESS DRIVEWAY AT AN EXISTING PROFESSIONAL OFFICE BUILDING LOCATED AT 2350 BRISTOL STREET (PA2025-0112)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Mira Patel of Newmeyer Dillon Law Firm, ("Applicant") concerning property located at 2350 Bristol Street, and legally described as Lots 4, 5, and 23 of Tract 1499 ("Property").

2. The Property was originally within the jurisdiction of the County of Orange before being annexed into the City in September of 2002.

3. The Property is developed with a three-story, 18,136-square-foot office building and an adjoining 65-space surface parking lot. The development was approved by the County of Orange Planning Commission on June 17, 1986, pursuant to Use Permit No. UP86-21P and Site Development Permit No. SP86-52P.

4. UP86-21P and SP86-52P have two approved site plans, Option A and Option B. Both site plans include a driveway at the rear of the Property, connecting the Property to Zenith Avenue ("Zenith Driveway"). Both Option A and Option B show movable bollards with language denoting the bollards are for emergency access.

5. A revised plan stamped and dated July 23, 1987, shows the bollards removed. However, there is a large "X" drawn through the revised design for the Zenith Driveway and a handwritten notation that an unrestricted driveway configuration was not approved, to see the original approval, and to see a subsequent controlled emergency access plan approved by the Orange County Fire Prevention Bureau.

6. The Controlled Emergency Access plan, stamped and dated July 18, 1990, depicts the Zenith Driveway to be constructed with a heavy-duty chain and a lock, keyed for Fire Department access.

7. In December 2024, the City's Code Enforcement Division began receiving complaints regarding use of the Zenith Driveway by employees and issued a Notice of Violation on December 18, 2024 for violation of Section 10.50.020H (Nuisance - Violation of Permit) of the Newport Beach Municipal Code Section ("NBMC").

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8. In response, the Applicant is requesting a staff approval consistent with Section 20.54.070 (Changes to an Approved Project) of the NBMC to allow the Zenith Driveway to be used by employees and delivery drivers ("Project").

9. While Section 20.54.070 allows the Community Development Director ("Director") to authorize minor changes to an approved plan, the Director referred the Project to the Planning Commission for review, consistent with Section 20.12.020(A) (Rules of Interpretation) of the NBMC.

10. The Property is designated General Commercial Office (CO-G) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan (SP-7) Zoning District within the Professional and Administrative Office District (PA) subarea.

11. The Property is not located within the coastal zone; therefore, a coastal development permit is not required.

12. A public hearing was held by the Planning Commission on March 19, 2026, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California 92660. A notice of the 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 NBMC. Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

In accordance with Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

Pursuant to Section 20.54.070 (Changes to an Approved Project) of the NBMC the Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use without a public hearing and waive the requirement for a new use permit application. However, in this case, the Director has referred the request for Staff Approval to the Planning Commission consistent with Section 20.12.020 (Rules of Interpretation) of the NBMC. The Planning Commission may approve this Staff Approval for substantial conformance with Use Permit No. UP86-21P and Site Development Permit No. SP86-52P only after making all four required findings set forth in Section 20.54.070. In this case, the Planning Commission was unable to substantiate the four required findings based upon the following:

<u>Findings Required to Authorize Changes to an Approved Project</u>:

A. The changes are consistent with all applicable provisions of this Zoning Code;

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B. The changes do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project;

C. The changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval; and

D. [the changes do not result in an expansion or change in operational characteristics of the use.

Facts Not in Support of Finding:

1. Pursuant to Section 20.90.130(F) (Professional and Administrative Office District: SP-7) of the NBMC, professional and administrative offices in the PA subarea of the SP-7 Zoning District are an allowed land use, subject to the approval of a minor use permit. The existing office building at the Property is permitted under Use Permit No. UP86-21P and Site Development Permit No. SP86-52P, which restricts the Zenith Driveway to emergency access only. Requested operational changes to the Property include the use of the Zenith Driveway for delivery and employee vehicles. Condition of Approval No. 18 of UP86-21P requires that construction details for the controlled emergency access driveway be approved by the Fire Chief, and shall include width, clear height, and means of emergency vehicle override. The plans originally submitted for the Project identify the driveway as emergency access and subsequent associated plans approved by the Fire Chief in accordance with UP86-21P and SP 86-52P include a heavy-duty chain blocking vehicle access with a lock accessible only by a Fire Department access key. Since the current request includes non-emergency use of this driveway, the proposed operational changes would therefore involve and conflict with a feature of the original project that was specifically addressed or was a condition of approval and would constitute a substantial change from the existing approval.

2. The Project conflicts with Section 20.90.190(B) (Public Improvements – Circulation Plan) of the NBMC. Section 20.90.190 acknowledges that Santa Ana Heights has been heavily impacted by nonresidential traffic attempting to avoid congested conditions on surrounding arterials. A primary consideration of the circulation plan was the reduction of traffic within residential areas. With the development of business park uses within areas adjacent to residential uses, another consideration was the separation of business park and residential traffic including street improvements to mitigate business park uses' traffic impacts to residential neighborhoods. Street Improvement Feature 3, which is approximately 500' from the Project, required construction of a cul-de-sac and improvement of Cypress Street south of South Bristol Street. Adding nonresidential traffic into the residential neighborhood is inconsistent with Section 20.90.190(B).

3. The requested operation of the emergency and controlled access driveway for employee and delivery use would impact the operational characteristics of the use. Code Enforcement has received several complaints involving employee vehicles using this emergency access driveway as well as complaints regarding employees parking on

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adjacent residential streets. Permitting employee use of the emergency access driveway is negatively impactful to the adjacent residential neighborhood.

4. The Project was reviewed by the City's Public Works Department, which expressed concerns with allowing unrestricted use of the Zenith Driveway as proposed. The Zenith Driveway provides a depth of approximately 16 feet from the property line to the exiting gate. Public Works issued comments noting that, for unrestricted use of the Zenith Driveway, the gated entry would need to be set back so that vehicles using that driveway do not impact the public right-of-way, including the sidewalk. The existing condition does not support vehicles queuing while waiting to enter the Property. It should also be noted that, regardless of location, vehicle queueing is not permitted within the public right-of-way, pursuant to Section 20.40.030(B) (Requirements for Off-Street Parking - Permanent Availability Required) of the NBMC, which is in this case, the residential street of Zenith Avenue.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies the Applicant's request for the Staff Approval filed as PA2025-0112.

2. This action shall become final and effective 14 days following the date this Resolution is adopted, unless within such time an appeal or call for review is filed with the City Clerk in accordance with the provisions of Chapter 20.64 (Appeals) of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 19TH DAY OF MARCH, 2026.

AYES: Harris, Reed, Salene, Gazzano and Rosene

NOES: None

ABSTAIN: None

ABSENT: Ellmore and Langford

BY: Tristan Harris
Tristan Harris, Chair

BY: Jaime Murillo
Jaime Murillo, Ex-Officio Secretary