

Attachment No. PC 1

Draft Resolution with Findings and Conditions

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RESOLUTION NO. PC2026-021

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING DUPLEX AND CONSTRUCTION OF A NEW SINGLE-UNIT DWELLING WITH A JUNIOR ACCESSORY DWELLING UNIT AND ATTACHED TWO-CAR GARAGE AND A VARIANCE FOR SETBACK ENCROACHMENTS FOR THE PROPERTY LOCATED AT 2516 AND 2518 BAYSIDE DRIVE (PA2022-0148)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Gianclaudio Infranca of Horst Architects (“Applicant”), on behalf of the property owner, CDM Investors LLC (“Owner”), concerning property located at 2516 and 2518 Bayside Drive and legally described as Lot 1, Block 331, of Corona del Mar, in the City of Newport Beach, State of California (“Property”).
2. The Applicant requests a coastal development permit (“CDP”) to demolish an existing duplex and construct a new, three-story, 3,037-square-foot single-unit dwelling with a 285-square-foot Junior Accessory Dwelling Unit (“JADU”) and an attached 479-square-foot two-car garage (“Project”). The Project also includes the installation of retaining walls and the removal of landscaping within the adjacent city-owned Bayside Park. Additionally, the Applicant requests a variance from Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to allow the second-floor balcony of the Project to encroach two feet and six inches into the required five-foot rear alley setback and the installation of planters, walls, and a 10-foot-tall retaining wall on the ground floor within the 5-foot rear setback.
3. The Property is categorized as Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
4. The Property is located within the Coastal Zone. The Coastal Land Use Plan (“CLUP”) category is Two Unit Residential – (20.0 - 29.9 DU/AC) (RT-D) and is located within the Two-Unit Residential (R-2) Coastal Zoning District.
5. The Property is located within the boundaries of the Categorical Exclusion Order (“CEO”), as amended in 2018 (CE-5-NPB-16-1-A1) by the California Coastal Commission. The CEO allows for the development of a single dwelling unit with a JADU that conforms to all applicable development standards to be categorically excluded from obtaining a CDP. As the Project does not conform to all development standards within Title 21 (Local Coastal Program Implementation Plan) of the NBMC, a CDP is required.
6. A public hearing was held on July 9, 2026, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. 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 and 21.62 (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.

1. This Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the California Code of Regulations, Title 14, Division 6, Chapter 3 (“CEQA Guidelines”) because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition of up to three single-unit dwellings and additions of up to 10,000 square feet to existing structures. The Project includes the demolition of one existing two-unit dwelling and construction of a new single-unit dwelling with a JADU located within the Two-Unit Residential (R-2) Zoning District and the Two-Unit Residential (R-2) Coastal Zoning District.
3. The exceptions to this categorical exemption under Section 15300.2 of the CEQA Guidelines are not applicable. The Project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Variance

In accordance with Section 20.52.090(F) (Variances – Findings and Decision) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

- A. *There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.*

Facts in Support of Finding:

1. The Property is located within the Corona del Mar subdivision, where typical residential properties measure 30 feet wide by 118 feet deep. The Property is adjacent to Bayside Park, a linear park, which separates the Property from Bayside Drive. An approximately 20-foot-tall hedge covers roughly half the width of Bayside Park and runs along the full length of the Property’s frontage on Bayside Park.

2. The Corona del Mar tract map depicts a 14-foot alley to the rear of the Property; however, the alley was never constructed due to topographical constraints. The alley terminates at 409 Dahlia Avenue, approximately 90 feet north of the Property and approximately 25 feet higher in elevation than the Property. Similarly, the difference in elevation precludes Dahlia Avenue from connecting to Bayside Drive in front of the Property. Dahlia Avenue terminates approximately 50 feet north of the Property and at approximately 20 feet higher elevation. With no direct street frontage and no functioning rear alley, the Property takes vehicular access from Bayside Drive, through a shared driveway that passes through Bayside Park. The shared driveway serves both the Property and the residence located at 2600 Bayside Drive.
3. The Property is one of two residences in the immediate vicinity which have a standard rectangular lot shape and orientation, abut an unimproved alley, and have no alley access. This condition is unique to the Property and the property at 2600 Bayside Drive.
4. Table 2-3 (Development Standards for Two-Unit and Multi-Unit Residential Zoning Districts) of Section 20.18.030 (Residential Zoning Districts General Development Standards) of the NBMC establishes setback requirements for properties zoned Two-Unit Residential (R-2), unless otherwise modified by a setback map. The Property is modified by Setback Map S-10A – Corona del Mar and is required to provide a 15-foot front setback from the shared driveway, 3-foot side setbacks, and a 5-foot rear setback from the unimproved alley. If the Property did not abut an alley, a 10-foot rear setback would be required; however, accessory structures such as retaining walls would be allowed within the setback. The 5-foot rear alley setback constrains both the development of the rear portion of the lot and the ability to use it as outdoor living area, without providing the benefit of vehicle maneuverability, as intended with a rear alley setback.
5. Within the Corona del Mar subdivision, rear alley access is the typical condition for vehicular access. The rear alley which would serve the Property is unimproved and the significant elevation change likely prevents the alley from future development, as grading the alley into a paved, drivable public alley would risk destabilizing the hillside and would result in unsafe vehicle grades for standard vehicles. Furthermore, Bayside Park prevents any alternative access from the Property's side property lines. Due to these constraints, the shared driveway at the front of the Property represents the only feasible location for vehicular access. This configuration requires orienting the garage toward the front property line, thereby eliminating the ability to use the front setback area as outdoor living space.
6. Surrounding properties along Bayside Drive exhibit diverse topography, reoriented lot configurations, and nonstandard vehicle access. However, the surrounding properties are less constrained than the Property, as they do not have the restrictive rear alley setback condition. For example, 403 and 401 Fernleaf Avenue are square in shape, oriented toward Bayside Drive, have a smaller 5-foot front yard setback, and have vehicular access from Fernleaf Avenue or an alley. The square-shaped properties at 2720 and 2740 Bayside Drive are oriented toward Bayside Drive, have a 4-foot front yard setback, and have vehicle access through Bayside Park. Lastly, the properties at

2700, 2706, and 2710 Bayside Drive are oriented toward Bayside Drive, have a 4-foot front yard setback, and are accessed through Bayside Park. As all of the aforementioned properties have been reoriented towards Bayside Drive pursuant to Setback Map S-10A, they do not abut an alley and instead abut residential properties. As such, they are not subject to the more restrictive rear alley setback requirements and are able to enjoy a functional outdoor living area without obtaining a variance.

7. The steep topography of the Property and its immediate surroundings results in substantial elevation differentials along the rear alley area and the northern side property line, requiring the use of retaining walls and permanent shoring for structural stability, erosion control, and safe site development. The proposed retaining walls are integral to the physical support of the site and are directly necessitated by the topographic conditions affecting the Property. The severe slope conditions and resulting structural requirements uniquely constrain the placement of improvements and vehicular access on this Property in a manner not shared by surrounding residential parcels within the same zoning classification.

Finding:

- B. Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.*

Facts in Support of Finding:

1. Properties zoned Single-Unit Residential (R-1) and Two-Unit Residential (R-2) that are located adjacent to 14-foot-wide alleys are required to provide 5-foot rear alley setbacks, which must be clear of any obstructions, including fences and decks, to allow for adequate vehicular maneuverability.
2. Given that this alley is unimproved and unlikely to be improved due to the severe elevation change between it and the buildable area of the site, the Property is deprived of the privilege of using the setback area as outdoor living space. Enforcing the rear alley setback constrains development without providing the intended benefit of vehicle maneuverability in the alley.
3. The Property cannot be developed without retaining walls and permanent shoring. Prohibiting the placement of retaining walls and shoring within the rear setback and instead requiring placement within the buildable area of the lot deprives the Property of the ability to utilize its buildable area fully.
4. The Property is deprived of a functional front yard and outdoor living opportunities due to the existing topography and surroundings, which cause the required garage and vehicular access to be sited at the front of the lot.
5. The Property is deprived of development flexibility enjoyed by neighboring properties that are not similarly constrained by setbacks, elevation transitions, retaining conditions,

and lot orientation. Since the site is constrained to a floor plan where the garage is oriented toward the front yard setback, and the rear of the property is limited in its access to natural light at the ground floor, outdoor living space sited partially within the rear setback on the second floor as a balcony is proposed, as this will allow the Owner a similar amount of outdoor living space enjoyed by neighboring properties.

6. Strict application of the Zoning Code would prevent the Property from achieving comparable residential development with outdoor living areas commonly enjoyed by similarly zoned residential properties within the surrounding neighborhood.

Finding:

- C. *Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.*

Facts in Support of Finding:

1. Facts 1 through 6 in Support of Finding B are hereby incorporated by reference.
2. The proposed outdoor living space on the second-floor balcony encroaches into the rear setback. Relocating the outdoor living area to be on grade, at the lower level, would not provide the same benefit as the balcony condition because the living area would be sited at the base of a steep hill and would be restricted in terms of natural light and air circulation, resulting in an uncomfortable living experience.
3. A Modification Permit No. MD2006-044 (PA2006-089) was approved in 2006 for similar retaining walls at the Property. Modification Permit No. MD2006-044 established that retaining walls are needed to retain and reinforce the slope behind and to increase stability, ensuring that the residence above the Property does not fall or slide down the slope. Without the ability to install retaining walls within the setback, the Property cannot be safely developed, thereby depriving the Owner of the right to construct a residence on the Property.

Finding:

- D. *Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.*

Facts in Support of Finding:

1. The Project will not result in more buildable area, floor area, or building height than what is already permissible. Therefore, the Project does not exceed the development standards applicable to identically zoned surrounding properties.
2. The neighboring properties within the Corona del Mar subdivision typically include outdoor living spaces within front setback areas. Approval of the Variance will allow the Project to be constructed with outdoor living space similar in size to that of adjacent

properties. This does not constitute a special privilege, as the Project provides 872 square feet of Open Volume, as defined under Section 20.48.180(A)(3) (Residential Development Standards and Design Criteria) of the NBMC where only 353 square feet required. The proposed outdoor living space on the second floor is 214 square feet, which is equal to or less than the outdoor living area typically found at surrounding properties.

Finding:

- E. *Granting of the variance will 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; and*

Facts in Support of Finding:

1. The Project will not affect traffic maneuverability or create a hazard, as the encroachments are limited to the rear setback areas adjacent to an unimproved alley. The Public Works Department has confirmed that the encroachments will not negatively affect traffic safety visibility or sight distances for the Property or neighboring properties.
2. The second-floor deck will extend 2 feet, 6 inches beyond the setback line. This 2-foot, 6 inch encroachment is consistent with the standard allowance granted to eaves and roof overhangs pursuant to Section 20.30.110(D)(3) (Setback Regulations and Exceptions) of the NBMC. A glass guardrail is proposed along the deck, thereby avoiding excessive building mass near the property line. Further, the existing hedge along the rear of the Property will screen views of the deck from the public right-of-way. Therefore, the proposed deck will cause no harm or inconvenience to persons residing or working in the neighborhood.
3. The proposed retaining walls are required to stabilize the existing steep slope conditions along the rear alley and northern property line and will improve the structural integrity and safety of the site. Therefore, granting the Variance will not endanger public health, safety, or welfare, but will instead facilitate orderly and safe residential development consistent with the surrounding neighborhood.
4. The Building Division, Public Works Department, and Fire Department have reviewed the Project and confirmed that adequate public and emergency vehicle access is provided.

Finding:

- F. *Granting of the variance will not be in conflict with the intent and purpose of this section, this Zoning Code, the General Plan, or any applicable specific plan.*

Facts in Support of Finding:

1. Granting of the Variance will not increase the density beyond what is planned for the area and is not expected to result in additional traffic, parking, or demand for other services.
2. The Project will comply with all other applicable development standards of the NBMC.
3. The Property is not located within a specific plan area.

Coastal Development Permit

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

Finding:

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

Findings:

1. The Property is located within the Coastal Zone. The CLUP category is Two Unit Residential – (20.0 – 29.9 DU/AC) (RT-D) and the Coastal Zoning District is Two-Unit Residential (R-2). The Project allows for the demolition of the existing duplex and the construction of a new single-unit dwelling and JADU.
2. The Property consists of one legal lot. It is rectangular in shape, 30 feet wide by 118 feet deep, and is 3,540 square feet in area.
3. The Property is located within an area predominantly developed with one- and two-story, single-unit dwellings and the occasional three-story dwelling. The Project will result in development that is compatible with the design, bulk, and scale of the existing and future neighborhood pattern of development.
4. The Project is consistent with Section 21.52.090 (Relief from Implementation Plan Development Standards) of the NBMC, which allows for a waiver or modification of certain standards of Title 21 (Local Coastal Program Implementation Plan) of the NBMC due to special circumstances, including a property's location, shape, size, surroundings, topography, or other physical features. The requested setback encroachments allow the Project to be consistent with the surrounding development on Bayside Drive and the 400 block of Dahlia Avenue. While the Project could be constructed with a building footprint that terminates at the required 5-foot setback, this would deprive the Owner of the privileges enjoyed by owners of neighboring properties. Additionally, the Project would not be structurally feasible without the proposed retaining walls.
5. The Project includes the demolition of an existing two-unit dwelling and the construction of a single-unit dwelling and JADU. Thus, the Project complies with the Housing Crisis Act of 2019 and Senate Bill 8 (Skinner) because it does not result in the loss of residential density. The State Department of Housing and Community Development

(“HCD”) has verified with the City in an email dated March 23, 2022, that a JADU is considered a housing unit under Government Code Section 66300 provisions to replace existing units. The Property Owner has certified that the units are not “protected” units under Section 66330 Subdivision (d)(2). The Project is consistent with the General Plan, Local Coastal Program, and Zoning designations that allow the single-unit dwellings and accessory dwelling unit land uses. Under Coastal Land Use Plan Table 2.1.1-1, the Two Unit Residential (RT-D) category is intended to provide primarily for two-family residential development such as duplexes or townhomes. Section 21.18. 020 (Residential Coastal Zoning Districts Land Uses) of the NBMC shows “Single-Unit Dwellings – Detached” and “Accessory Dwelling Units” as allowed uses in the R-2 Coastal Zoning District. Therefore, the Project of a single-unit dwelling residence and a JADU to replace the existing two-unit dwelling is consistent with the R-2 zoning and land use designations and does not result in a loss of residential density.

6. With the granting of the Variance, the Project will comply with applicable residential development standards including, but not limited to, floor area limitation, height, open volume, and parking.
 - a. The maximum floor area limitation is 3,525 square feet and the floor area of the Project’s single-unit dwelling is 3,231 square feet, including the two-car garage. The floor area of the Project’s JADU is 285 square feet. The total square footage of the Project is 3,516 square feet.
 - b. The ADU is classified as a JADU. The maximum size for JADU is 500 square feet. The Project proposes a 285-square-foot JADU and complies with the size limitations provided in Section 20.48.200(F)(4)(d) (Accessory Dwelling Units – Unit Size) of the NBMC.
 - c. As approved by this Variance, the Project’s second-floor balcony will encroach 2 feet, 6 inches into the required 5-foot rear setback along the alley. The Project will comply with the required 15-foot front setback and the 3-foot side setbacks.
 - d. The Project proposes a finished floor elevation of 59.63 feet based on the North American Vertical Datum of 1988 (“NAVD 88”), which complies with the minimum 9.0-foot NAVD 88 requirement for new structures.
 - e. The highest guardrail/ parapet is below 24 feet from the established grade, and the highest ridge is 29 feet from the established grade. Therefore, the Project complies with the maximum height requirements.
 - f. A minimum of 353 square feet of open volume is required and the Project provides 872 square feet of open volume area.
 - g. The Project will provide a two-car garage which complies with the minimum parking requirements for a single-unit dwelling with less than 4,000 square feet in floor area.

- h. Pursuant to Section 21.48.200(G)(8)(d)(ii) (Accessory Dwelling Units - Parking) of the NBMC, parking for a JADU is not required. Therefore, an additional onsite parking space for the JADU is not required.
7. The Property is approximately 700 feet northeast of the Newport Harbor and is separated from the water by a row of residences and Bayside Drive. Therefore, a Coastal Hazards Report is not required for this Project.
 8. The Property is in an area known for the potential of seismic activity. All projects are required to comply with the California Building Code (“CBC”) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved before the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC before building permit issuance.
 9. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (“BMPs”) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. The Project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City’s storm drain system.
 10. Landscaping is proposed for the Project and has been reviewed and approved by the Public Works and Recreation and Senior Services Departments. Condition of Approval No. 9 is included, to ensure that the proposed landscaping complies with Section 21.30.075 (Landscaping) of the NBMC. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted and to verify compliance with the Newport Beach Water Efficient Landscape Ordinance (“WELO”).
 11. The Property is not located adjacent to a coastal view road, public access way, or coastal viewpoint as identified in the CLUP. The nearest coastal viewpoint is Begonia Park and is approximately 250 feet west of the Property. Although the Property may fall within the general coastal viewshed from Begonia Park, the Property is not directly visible due to intervening development. The Project complies with all applicable Local Coastal Program (“LCP”) development standards, with the exception of the requested setback encroachments, and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the Project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Fact in Support of Finding:

1. The Property is not located between the first public road and the sea. As such, it is not necessary to assess the consistency with the public access and public recreation policies of Chapter 3 of the Coastal Act. However, the nearest vertical and lateral access to the harbor is available to the public via China Cove, approximately 1,250 feet southwest of the Property. The Project does not include any features that would obstruct access along these routes.

In accordance with Section 21.52.090 (Relief from Implementation Plan Development Standards) of the NBMC, the Planning Commission may approve a waiver to a development standard of the Implementation Plan only after making all of the following findings:

Finding:

- I. *The Planning Commission has considered the following:*
 - i. *Whether or not the development is consistent with the certified Local Coastal Program to the maximum extent feasible; and*
 - ii. *Whether or not there are feasible alternatives that would provide greater consistency with the certified Local Coastal Program and/or that are more protective of coastal resources*

Facts in Support of Finding:

1. Property development standards identified in Title 21 (Local Coastal Program Implementation Plan) replicate much of Title 20 (Planning and Zoning) of the NBMC. The proposed development has been designed and sited in a manner that maintains consistency with Title 21 to the maximum extent feasible, as the improvements are confined to an already developed residential parcel and do not obstruct public coastal viewpoints, coastal view roads, or coastal access points. The Project does not introduce any new barriers to coastal access. Additionally, the Project is consistent with the established residential character of the surrounding neighborhood and will not result in any measurable impact to coastal views from designated public view points, as no view corridors designated for public enjoyment are affected by the Project design or massing.
2. An alternative to this Project would be to construct the structure with a compliant 5-foot rear setback along the undeveloped alley. However, without the requested encroachment into the setback area, the Owner would be deprived of development privileges similar to those granted to the immediately adjacent property through a previously approved variance authorizing comparable setback encroachments under similar site constraints.
3. The Property is not located near a coastal viewpoint as discussed in detail in Finding G; thus, the Project is not expected to impact views of the coast. Additionally, there are

substantial hedges surrounding the location of the proposed balcony, obscuring it from view. Therefore, requiring the Property to abide by the required 5-foot rear setback would not improve views within this area.

4. The existing residence at the Property was constructed in 1972 and predates the Coastal Act. The Property has been continuously developed for residential use, and as described above, the Project would not negatively impact coastal resources.
5. The existing hedge located within Bayside Park and adjacent to the Property's side property line will be removed as part of the Project and replaced with City-approved landscaping improvements. The hedge removal will enhance the overall visual quality of the coastal environment and allow full community access to the park by eliminating the perception that, due to the overgrown hedge, the park is an extension of the Property. The hedge along the rear property line will remain in its current condition.

Finding:

- J. *The granting of the variance is necessary due to special circumstances applicable to the property, including location, shape, size, surroundings, topography, and/or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same coastal zoning district.*

Fact in Support of Finding:

1. The Facts in Support of Findings A and B are hereby incorporated by reference.

Finding:

- K. *The variance complies with the findings required to approve a coastal development permit in NBMC Section 21.52.015(F).*

Fact in Support of Finding:

1. The Facts in Support of Finding G and H are hereby incorporated by reference.

Finding:

- L. *The variance will not result in development that blocks or significantly impedes public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs.*

Facts in Support of Finding:

1. The Property does not currently provide, nor is it required to provide, public access to coastal parks, trails, or coastal bluffs. The Project will not alter any existing public access routes and will restore public access to Bayside Park.

2. Facts in Support of Finding H are hereby incorporated by reference.

Finding:

M. *The variance will not result in development that blocks or significantly impairs public views to and along the sea or shoreline or to coastal bluffs and other scenic coastal areas.*

Fact in Support of Finding:

1. Fact 10 in Support of Finding G and the Facts in Support of Finding H are hereby incorporated by reference.

Finding:

N. *The variance will not result in development that has an adverse effect, either individually or cumulatively, on coastal resources, including wetlands, sensitive habitat, vegetation, or wildlife species.*

Fact in Support of Finding:

The Project is consistent with Chapter 4 (Coastal Resources) of the CLUP:

- a. **4.1.2 (Marine Resource):** The Coastal Act requires that marine resources be maintained, enhanced, and, where feasible, restored. The Property is located inland in a developed area where marine resources would not be affected by the Project. The preliminary Water Quality Management Plan (“WQHP”) was prepared by CivilScapes Engineering, on March 17, 2026, and reviewed by the Building Division, verified that the proposed drainage system will not pose a geological or geotechnical hazard to the Project or neighboring properties.
- b. **4.1.3 (Environmental Study Areas):** The City has several undeveloped areas that contain natural habitats and may be capable of supporting sensitive biological resources. These areas are identified as environmental study areas (“ESAs”). The Property is not identified as an ESA as shown on Map 4-1 of the CLUP. Additionally, pursuant to Section 21.30B.030 (Environmentally Sensitive Habitat Areas) of the NBMC, an Environmentally Sensitive Habitat Area (“ESHA”) is defined as any area in which plant or animal life, or their habitats are either rare or are especially valuable because of their special nature or role in an ecosystem that could easily be disturbed or degraded by human activities and developments. Given that the Project is located in a developed neighborhood area, and is not considered an ESA or an ESHA, the Project does not have the potential to affect sensitive habitats.
- c. **4.4.1 (Coastal Views):** When feasible, visual and scenic qualities of coastal areas shall be considered and protected as a resource of public importance. The Property is not a waterfront property nor adjacent to coastal viewpoints. The Project includes landscaping improvements adjacent to Bayside Park, including the replacement of

an existing tall hedge with lower and more visually cohesive landscaping that will enhance the aesthetic character and visual quality of the surrounding coastal environment without adversely affecting any protected public view roads or coastal viewing areas identified by the LCP.

- d. **4.5.2 (Historical Resources):** The Property is not considered to be a historical landmark that is representative of the history of the community.

Finding:

- O. *The granting of the variance will not be contrary to, or in conflict with, the purpose of this Implementation Plan, nor to the applicable policies of the Local Coastal Program.*

Fact in Support of Finding:

1. The Facts in Support of Finding G and H above are hereby incorporated by reference.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. Planning Commission of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Planning Commission of the City of Newport Beach hereby approves the coastal development permit and variance filed as PA2022-0148, subject to the conditions outlined in Exhibit A, which is attached hereto and incorporated herein by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director by the provisions of Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 9th DAY OF JULY 2026.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Tristan Harris, Chair

BY: _____
Jonathan Langford, Secretary

EXHIBIT “A”

CONDITIONS OF APPROVAL
(Project-specific conditions are in italics) 1

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 cause the revocation of this Variance and Coastal Development Permit.
4. *In the event that the alley is improved in the future, or if the City decides to utilize the alley right-of-way for any reason for which the City in its sole and absolute discretion determines that the deck and guardrail should be removed, the property owner is required, at their own expense, to remove any encroachments within the rear 5-foot alley setback which impede development of the alley. Should the property owner fail to remove the encroachments in a timely manner, the City may remove the encroachments and recover the costs of removal from the property owner. The property owner shall not be entitled to any compensation from the City for the removed encroachments.*
5. *Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans.*
6. *Prior to the issuance of a building permit, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
7. *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.*
8. *Prior to the issuance of a building permit, the final WQHP/WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.*
9. *Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be subject*

to review and approval by the Planning Division, Public Works Department, and Recreation and Senior Services Department.

10. The Applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds under MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
11. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
12. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
13. Revisions to the approved plans may require an amendment to this Coastal Development Permit and Variance or the processing of a new coastal development permit.
14. 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) of the NBMC, as well as applicable noise control requirements of the NBMC.
15. 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. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.

16. 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.
17. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
18. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
19. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
20. 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.
21. This Variance and Coastal Development Permit may be modified or revoked by the Commission 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.
22. This Variance and Coastal Development Permit shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of specified in Section 21.54.060 (Time Limits and Extensions) of the NBMC.
23. 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 **CDM Investors Residence, including, but not limited to a Variance and Coastal Development Permit filed as PA2022-0148**. 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

- 24. A residential fire sprinkler system complying with 2025 National Fire Protection Agency (NFPA) 13D shall be required for both the main unit and JADU.
- 25. One unobstructed minimum 36-inch passageway from the front to the rear of the property shall be required for emergency access.

Public Works Department

- 26. A new sewer clean out shall be installed on the existing sewer lateral within the Bayside Drive right-of-way. The sewer cleanout shall be accessible at all times.
- 27. The hedge in the alley shall be maintained to not exceed 20' in height.
- 28. An encroachment agreement shall be obtained with an L-6 Waiver for the walls and hedges within the public right-of-way.
- 29. The existing wall shall be reviewed for safety and structural integrity.

Building Division

- 30. Drainage shall comply with Section 15.10.120 (Drainage and Terracing) of the NBMC. New pipes for subdrain are shown under the building on revise grading plan.
- 31. Applicant shall apply for an Alternate Means/Modification request to have subdrain pipes constructed under the building.
- 32. Applicant acknowledged need for alternate means/modification request for emergency egress subject to the Building Official's review.