



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending February 27, 2015

**ZONING ADMINISTRATOR ACTIONS
FEBRUARY 26, 2015**

- Item 1: Byers Residence Parking Modification No. MD2014-013 (PA2014-219)
224 Coral Avenue
Action: Approved by Resolution No. ZA2015-006 Council District 5
- Item 2: Shiloh LLC Lot Merger No. LM2014-006 (PA2014-223)
4607 and 4615 Brighton Road
Action: Approved by Resolution No. ZA2015-007 Council District 6
- Item 3: Edson Residence Modification No. MD2014-008 (PA2014-138)
2140 East Ocean Boulevard
Action: Approved by Resolution No. ZA2015-008 Council District 1

APPEAL PERIOD: An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2015-006

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2014-013 TO ALLOW A 21-PERCENT ADDITION TO AN EXISTING NONCONFORMING SINGLE-FAMILY RESIDENCE LOCATED AT 224 CORAL AVENUE (PA2014-219)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John Morgan, Architect, on behalf of the property owner with respect to property located at 224 Coral Avenue and legally described as the Westerly 47 feet of Lot 23 and all of Lot 22, Block 7, Section 2 of the Balboa Island Tract, requesting approval of a modification permit.
2. The applicant proposes a modification permit to allow a 21-percent addition (684.35 square feet) to an existing nonconforming single-family residence where the code limits additions up to 10 percent of the existing gross floor area when the required parking dimensions are not provided. The garage currently provides a 17-foot 9-inch width and a 19-foot ½-inch depth where 20 feet is required for both dimensions.
3. The subject property is located within the R-BI (Residential Balboa Island) Zoning District and the General Plan Land Use Element category is RT (Two-Unit Residential).
4. The subject property is located within the coastal zone and is designated as RT-E (Two-Unit Residential – (30.0 – 39.9 DU/AC)) by the Coastal Land Use Plan of the Local Coastal Program.
5. A public hearing was held on February 26, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities) of the Guidelines for CEQA.
2. This exemption includes additions up to 10,000 square feet where public services and utilities are available and the area is not considered environmentally sensitive. The proposed project is a 684.35-square-foot addition to and remodel of an existing single-family residence in a developed neighborhood and is not within an environmentally sensitive area.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050(E) (Required Findings, Modification Permits) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of the findings for a modification permit are set forth:

Finding:

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

Facts in Support of Finding:

1. The neighborhood is comprised of a development pattern of one- and two-story single-unit dwellings. The Modification Permit will allow an addition to a single-unit residence within the subdivision, but will result in a home that is similar in bulk and scale to others in the neighborhood.
2. The applicant is proposing a 21-percent addition to the existing structure on the lot. The proposed addition will comply with all of the development standards, including floor area limitation, height, and setbacks.
3. The resulting residence will consist of approximately 3,970 square feet (3,601 square feet plus a 369-square-foot garage). Pursuant to Table 3-10: Off-Street Parking Requirements of the Zoning Code, it will not require the addition of a third garage parking space since the livable floor area (not including the garage) is less than 4,000 square feet.
4. The existing development on the property is a single-family residence. As such, there is no change to the density or intensity under the proposed remodel and addition.

Finding:

- B. *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 residences in this area were constructed with garages that were in compliance with the Zoning Code at the time of construction. The current Zoning Code requires minimum interior garage dimensions of 20 feet wide by 20 feet deep. The lot was permitted to be developed with a single-family residence and attached garage in 1990 as it exists currently. Therefore, the structure is considered legal nonconforming.
2. Although the existing garage does not provide the minimum clear interior dimensions required by the Zoning Code, it does provide two useable garage spaces and,

therefore, meets the intent of the Zoning Code by providing adequate parking on the site. Approval of the Modification Permit allows the applicant to continue the use of the existing two-car garage, which has not proven detrimental to the occupants or neighbors.

3. The existing garage provides clear interior dimensions of 17 feet 9 inches in width by 19 feet ½ inch in depth. Given the design of the existing residence bringing the garage into conformance would require a significant expansion in the scope of work and would eliminate an additional parking area abutting the garage in the side yard.
4. The existing and proposed development will comply with the height limit, floor area limitation, and residential design criteria as shown on the proposed plans.

Finding:

- C. *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 property is situated on a corner and is “L” shaped with two street frontages on Balboa Avenue and Coral Avenue. The narrower width towards the rear alley of the property is 30 feet for an expanse of 38 feet prior to widening to 60 feet for an expanse of 47 feet towards the front of the lot. The existing nonconforming garage is built facing the alley within the 30-foot-wide portion and is compliant with the required garage dimensions for that width (17 feet 6 inches wide by 19 feet deep). Expanding the garage to meet the 20 feet wide by 20 feet deep clear interior dimension requirement would remove usable areas in the side yards including a partially covered parking space afforded under the current configuration.
2. The clear interior dimensions of the existing two-car garage were in compliance with the Zoning Code at the time of original construction. However, as a result of amendments to the Zoning Code, the two-car garage is now substandard in size, and is therefore legal nonconforming.
3. Bringing the existing two-car garage into conformance with the clear interior dimensions required by the current Zoning Code would result in a significant increase in the scope of the project. Since the existing garage provides two useable spaces, the intent of the code is achieved.

Finding:

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

Facts in Support of Finding:

1. The alternatives would require that the applicant bring the existing two-car garage into conformance by expanding or relocating the existing garage. The existing garage is not proposed to be altered.
2. The granting of the Modification Permit would not constitute a special privilege inconsistent with the limitations upon other R-BI zoned properties as it allows the property owner to maintain equity with other homes on Balboa Island, where similar additions have occurred. The proposed project is consistent with historic development in the neighborhood.
3. Strict compliance with the 10-percent addition of the existing gross floor area pursuant to Section 20.38.060(2)(a) (Nonconforming Parking) of the Zoning Code limits the ability of the property owner to construct additions to the home thereby depriving a substantial property right afforded by other R-BI zoned lots.

Finding

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

Fact in Support of Finding

1. Although the proposed minimum clear interior dimensions will be less than the minimum required by the Zoning Code, it provides sufficient area for use as a two-car garage. The size of the spaces has not been detrimental to the occupants of the property, nearby properties, neighborhood, or City.
2. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes. The applicant/owner is required to obtain a building permit. The construction will then be inspected prior to building permits being finalized.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2014-013, subject to the conditions set forth in Exhibit "A", which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days after the adoption of this Resolution unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 26TH DAY OF FEBRUARY, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Modification Permit No. MD2014-013 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 Newport Beach Municipal Code, unless an extension is otherwise granted.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
5. The Zoning Administrator may add to or modify the conditions of approval to this Modification Permit or revoke this Modification Permit upon a determination that the operation, which is the subject of this Modification Permit, causes injury, or is detrimental to the health, safety, peace, comfort, or general welfare of the community.
6. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
7. Prior to issuance of building permits, the applicant shall obtain approval of a certificate of compliance or lot merger to formally combine the lot and portion into a single parcel and building site.
8. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Modification Permit 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 this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and

expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Byers Residence Parking Modification including, but not limited to, the Modification Permit No. MD2014-013 (PA2014-219). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

10. 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.

RESOLUTION NO. ZA2015-007

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2014-006, WAIVING THE PARCEL MAP REQUIREMENT, AND COMBINING TWO LOTS INTO A SINGLE PARCEL FOR PROPERTY LOCATED AT 4607 AND 4615 BRIGHTON ROAD (PA2014-223)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Shiloh LLC with respect to property located at 4607 and 4615 Brighton Road, legally described as Lots 147 and 148, of Tract 3357, requesting a lot merger.
2. The applicant proposes a lot merger and a request to waive the parcel map requirement to combine two (2) lots into a single parcel under common ownership located within Cameo Shores.
3. The subject properties are located within the Single-Unit Residential (R-1-6000) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject properties are located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-A).
5. A public hearing was held on February 26, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 15 (Minor Land Divisions).
2. The Class 15 exemption includes the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcel to local standards are available, the parcel was not involved in a division of a larger parcel

within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above. The lots are subject to a Bluff Overlay, which restricts development of principal and accessory structures to the bluff top that consists of a gradual slope averaging less than 20 percent.

SECTION 3. REQUIRED FINDINGS.

Merger of Continuous Lots

In accordance with Section 19.12.070.A (Required Findings for Approval) of the City of Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of Title 19.*

Facts in Support of Finding:

1. One of the existing dwelling units will be demolished and an addition to the existing remaining dwelling unit will be constructed on the merged parcel. The merged parcel will have a net area of 46,005 square feet and has a gradual slope which provides a building pad physically suitable for development of a single-unit dwelling.
2. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions). The proposed merger will protect land owners and surrounding residents, and will preserve the public health, safety, and general welfare of the City.
3. Building alterations and improvements are required to comply with applicable Municipal Code regulations and City policies.

Finding:

- B. *The lots to be merged are under common fee ownership at the time of the merger.*

Facts in Support of Finding:

1. Lots 147 and 148 of Tract 3357 are under common fee ownership by Shiloh, LLC.

Finding:

- C. *The lots, as merged, will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. The merged lot will retain the Single-Unit Residential (R-1-6000) zoning designation, consistent with the surrounding area. The R-1-6000 Zoning District is intended to provide for areas appropriate for a detached single-family residential dwelling unit located on a single lot.
2. Both of the lots to be combined comply with Zoning Code required Residential Development Regulations (20.18.030) relating to lot area and minimum lot width.
3. The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units. The Coastal Land Use Plan designates this site as Single-Unit Residential Detached (RSD-A) which provides for density ranges from 0.0-5.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.

Finding:

- D. *Neither the lots, as merged, nor adjoining parcels, will be deprived of legal access as a result of the merger.*

Facts in Support of Finding:

1. Neither of the merged parcels, nor the adjoining parcels, will be deprived of legal access as a result of the merger. Legal access is provided from the front of the property along Brighton Road and will remain unchanged.

Finding:

- E. *The lots, as merged, will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots.*

Facts in Support of Finding:

1. The orientation and access to the parcel would remain from Brighton Road and there would be no change in lot depth.

2. Properties along the bluff side of Brighton Road consist of lots of varying shapes and sizes. Although the proposed lot merger will create a larger lot width, it will not create an excessively large lot in comparison to many of the existing lots.

Waiver of Parcel Map

In accordance with Section 19.08.030.A.3 (Waiver of Parcel Map Requirement) of the City of Newport Beach Municipal Code, the Zoning Administrator may approve a waiver of the parcel map requirement in cases where no more than three (3) parcels are eliminated. The following finding and facts in support of such finding are set forth:

Finding:

- F. That the proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of Title 19, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. Future improvements on the site will be required to comply with the development standards of the Municipal Code, General Plan, and Coastal Land Use Plan.
2. The proposed lot merger combines the properties into a single parcel of land and does not result in the elimination of more than one (1) lot.
3. Approval of the proposed lot merger would remove the existing interior lot line, and allow the property to be used as a single site. The lot merger in and of itself would not change the land use, density, and intensity. The proposed merged parcel would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, General Plan, and Coastal Land Use Plan.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2014-006 (PA2014-223), subject to the conditions set forth in "Exhibit 'A'", which is attached hereto and incorporated by reference.
2. This action shall become final and effective ten (10) days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 26TH DAY OF FEBRUARY, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
3. Prior to recordation of the lot merger, one (1) existing dwelling unit shall be demolished.
4. Prior to the issuance of final building permits for construction to cross the existing interior lot line between the two (2) lots proposed to be merged, recordation of the lot merger documents with the County Recorder shall be required.
5. Lot Merger No. LM2014-006 shall expire unless exercised within twenty-four (24) months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
6. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Shiloh LLC Lot Merger including, but not limited to, Lot Merger No. LM2014-006 (PA2014-223). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition

RESOLUTION NO. ZA2015-008

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2014-008 TO ALLOW FOR A 43-PERCENT ADDITION TO AN EXISTING NONCONFORMING SINGLE-UNIT RESIDENCE LOCATED AT 2140 OCEAN BOULEVARD (PA2014-138)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bruce Manzer, with respect to property located at 2140 Ocean Boulevard, and legally described as portions of Lot 10 and 11, Block F of Tract 518 requesting approval of a modification permit.
2. The applicant proposes a modification permit to allow an approximately 43-percent addition to an existing nonconforming single-unit residence where the code limits additions up to 10 percent of the existing gross floor area when the required parking dimensions are not provided. The garage currently provides a 17-foot 6-inch width and a 19-foot depth, where a minimum 20-foot by 20-foot interior dimension is required. As proposed, the garage will be modified to provide a 17-foot 6-inch width and a compliant depth of 20 feet. The dwelling is also nonconforming because it encroaches 1 foot 6 inches into the required 4-foot side setback area.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-C).
5. A public hearing was held on February 26, 2015 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities) of the Guidelines for CEQA.

2. This exemption includes additions up to 10,000 square feet where public services and utilities are available and the area is not considered environmentally sensitive. The proposed project is a 754.5-square-foot addition to an existing single-unit residence in a developed neighborhood and is not within an environmentally sensitive area.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The neighborhood is comprised of a development pattern of one and two-story single-unit dwellings. The Modification Permit will allow a second-story addition to a single-unit dwelling, which is compatible with abutting properties in the community.
2. The addition would consist of an 87-square-foot garage and storage area expansion on the first level and a 667.50-square-foot conversion of attic area to living area on the second level. The proposed alterations will comply with all applicable development standards, including floor area, height, and setbacks, and will not intensify or alter the existing nonconformities.
3. The proposed addition will result in a total floor area of 2,504 square feet, which is substantially less than the maximum allowable floor area of 4,612 square feet for the property.
4. The existing development on the property is a single-family dwelling. As such, there is no change to the density or intensity as a result of the proposed remodel and addition.

Finding:

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

Facts in Support of Finding:

1. The interior dimensions of the existing two-car garage were in compliance with the Zoning Code at the time of reconstruction in 1987. However, as a result of amendments to the Zoning Code, the two-car garage is now substandard in size, and is therefore legal nonconforming.

2. The garage is currently setback 4 feet 7 inches from the easterly property line, which exceeds the minimum 4-foot setback; however, relocating the easterly garage wall to the minimum setback line would result in significant structural alterations to the existing structure and would only increase the garage width a nominal amount to 18 feet 1 inch. The easterly wall of the garage is a load bearing wall that separates the garage from living space. Bringing the existing two-car garage into conformance with the clear 20-foot width required by the current Zoning Code would result in a significant increase in the scope of the project.
3. The granting of the Modification Permit is necessary to allow a reasonable addition to an existing dwelling that was constructed in compliance with garage standards in effect at the time of original construction, and that are adequate in width for the parking of two (2) vehicles.

Finding:

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

Facts in Support of Finding:

1. The scope of work consists of a minor addition on the first level to provide a 46.5-square-foot storage room and to expand the garage 40.5 square feet to provide a conforming 20-foot depth. The second level as-built addition consists of the conversion of existing attic space to livable floor area within the existing building envelope. No changes to the roof are proposed with the exception of a new dormer. Given the scope of work, increasing the width of the garage to twenty (20) feet would result in a practical difficulty by requiring significant structural alterations to the structure and a significant expansion in the scope of work.
2. The existing garage provides two (2) useable garage spaces, therefore fulfilling the intent of the Zoning Code by providing adequate parking on site. Approval of the Modification Permit allows the applicant to continue the use of the existing two-car garage, which has not proven detrimental to the occupants or neighbors of the dwelling.

Finding:

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

Facts in Support of Finding:

1. The alternative would require that the applicant bring the existing two-car garage into conformance by expanding the garage width. Expanding the garage towards the

interior of the property would require significant alterations to the structure and stairwell to the upper level of the dwelling. Expanding the width of the garage into the 4-foot side setback required by the Zoning Code is not feasible without a variance.

2. The other alternative is to reduce the size of the addition to not more than ten (10) percent of the existing floor area of the structure and comply with the requirements of the Zoning Code. Given the primary purpose of the proposal is to legalize the as-built conversion of attic space to living area, a redesign to reduce the size of the addition will significantly impact the intent of the project and not meet the objectives of the applicant.

Finding:

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

Facts in Support of Finding:

1. The proposed garage and storage area addition would occur on the first level at the rear of the dwelling, will maintain a minimum distance of 4 feet from neighboring properties, and will provide adequate protection for light, air, and privacy. The conversion of attic space to living space on the second level would occur within the existing building envelope and would result in no change in the height or scale of the existing structure, with the exception of a new dormer on the easterly side of the structure.
2. The existing nonconforming garage has not proven to be detrimental to the occupants of the property, nearby properties, neighborhood, or City and is adequate in width to park two (2) vehicles.
3. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits, including for the as-built improvements, in accordance with the Building Code and other applicable Codes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2014-008, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community

Development Director in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 26TH DAY OF FEBRUARY, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior dimensions (17 feet 6 inches wide by 20 feet deep) shall be kept clear of obstructions including cabinets, shelving, or similar that may impact the ability to adequately park two (2) vehicles.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
5. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department, including for the existing improvements that were constructed without the benefit of building permits. 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.
6. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
7. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
8. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly

or indirectly) to City's approval of the Edson Residence Modification including, but not limited to, MD2014-008 (PA2014-138). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.