CITY OF NEWPORT BEACH
PLANNING DEPARTMENT ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: David Lepo, Planning Director

SUBJECT: Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending February 12, 2010.

ACTIONS TAKEN AT FEBRUARY 11, 2010 ZONING ADMINISTRATOR HEARING

Item 1: Lot Line Adjustment No. LA2009-010 (PA2009-163)
745 and 747 Dover Drive, 1501 E. 16th Street

A lot line adjustment for the purpose of adjusting the interior lot lines between three existing parcels and dissolving a fourth parcel, giving a portion to each of the three parcels. The total number of parcels would change from four to three.

This item was approved. Council District 3

Item 2: Modification Permit No. MD2009-027 (PA2009-147)
1000 Newport Center Drive

A modification permit application to allow a 25-foot tall flag pole to encroach into the front yard setbacks adjacent to Newport Center Drive and the southerly property line along Granville Drive. The flagpole would be located 22 feet from the property line abutting Newport Center Drive and 6 feet from the southerly property line.

This item was approved. Council District 5

Item 3: Modification Permit No. MD2009-030 (PA2009-149)
2949 Cliff Drive

The Zoning Administrator denied the subject modification permit application. The applicant requested the following encroachments into required side yard and required rear yard setbacks: a minimum of 10 inches to a maximum 1 foot with the posts of a 10-foot 10-inch-tall patio structure into the 4-foot side yard setback, a minimum of 4 feet 1 inch to a maximum of 5 feet 4 inches with the posts of an 11-foot 3-inch-tall patio structure into the 10-foot rear yard setback, and 5 feet 4 inches with a 14-foot 3-inch-tall exterior fireplace into the 10-foot rear yard setback. The structures were built without the benefit of permits.

This item was denied. Council District 2

Item 4: Modification Permit No. MD2010-001 (PA2009-157)
307 Montero Avenue

A modification permit to allow an alteration up to 50 percent of the structural elements of, and a 553-square-foot addition to, a nonconforming residential structure.

This item was approved. Council District 1

On behalf of David Lepo, Planning Director:

Ruby Garcia-May for Patrick Alford

Patrick J. Alford, Planning Manager

APPEAL: Modification Permit applications do not become effective until 14 days after the date of approval, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

c: City Council *(e-mail)*
Planning Commission *(e-mail)*
City Manager *(e-mail)*
David Lepo, Planning Director *(e-mail)*
Sharon Wood, Assistant City Manager *(e-mail)*
David Keely, Public Works Senior Civil Engineer *(e-mail)*
Code Enforcement Division *(e-mail)*

LOT LINE ADJUSTMENT ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application No.	**Lot Line Adjustment No. LA2009-010 (PA2009-163)**
Applicant	**William R. Dorman & Associates**
Site Address	**745 and 747 Dover Drive, 1501 E. 16th Street Dover Medical LLA**
Legal Description	**LOT 148 POR OF LOT (P. M. 160-03 PAR 1 & 2),TR 1218 ; LOT 3 TRIANG POR IN LOT -INC POR ABAN ST ADJ- , TR 1125; and PARCEL MAP 160-03 PAR 3 POR OF PAR AND POR LOT 148, TRACT NO 1218**

On **February 11, 2010**, the Zoning Administrator approved the following: A lot line adjustment for the purpose of adjusting the interior lot lines between three existing parcels and dissolving a fourth parcel, giving a portion to each of the three parcels. The total number of parcels would change from four to three. The property is located in the APF (Administrative, Professional, Financial) District. The Zoning Administrator's approval is based on the following findings and procedural requirements.

FINDINGS

1. That the proposed lot line adjustment, as approved, is consistent with the legislative intent of Title 19 and Title 20 of the Newport Beach Municipal Code; that the establishment, maintenance or operation of the use of the property or building 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 for the following reasons:

   - The General Plan designation of the subject site, CO-G, allows for general commercial office with limited accessory retail uses. The proposed lot line adjustment is consistent with this designation because the lots are developed with a convalescent hospital, general commercial and office uses, a parking lot connected to one of the commercial buildings, and a vacant lot that may be developed with medical or general office use.

   - The resulting lot areas and designs meet Title 20 area and Title 19 design standards.

- This project is categorically exempt under Section 15305 of the California Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations) which consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density. This class includes an exemption for minor lot line adjustments not resulting in the creation of any new parcels. The proposed lot line adjustment is a minor adjustment which would move a portion of the property line between 3 adjacent parcels and would dissolve Parcel 2 of PM 80-706. The dissolved parcel is used for parking for the lot it is being added to. The proposed lot line adjustment would eliminate the off-site parking arrangement and does not create any zoning or building nonconformities. The adjustments would not result in any change in land use or density or the creation of any new parcels, and the average slope of the subject lots is less than 20 percent.

2. The resultant project site described in the proposed lot line adjustment consists of legal building sites. Any land taken from one parcel would be added to the adjacent parcel and no additional parcels would result from the lot line adjustment.

    - The proposed lot line adjustment would move the interior lot lines between three legal parcels and would dissolve a fourth parcel adding the area to the three legal parcels.

3. The parcels proposed to be created by the lot line adjustment would more closely comply with the applicable zoning regulations and there would be no change in the land use, density, or intensity on the property.

    - The lot line between proposed Lots 1 and 3 would move to the top of the slope to prevent cross lot drainage and would bring the parcels into conformance with Subdivision Code Section 19.24.050(H) Lot Design. The line between proposed Lots 1 and 2 would put the existing retaining wall that supports improvements located on Lot 1 entirely within Lot 1. The proposed adjustment of the northerly portion of the line between proposed Lots 1 and 2 would put the water utilities serving Lot 1 entirely within Lot 1. The proposed adjustment would add the area along Dover Drive from proposed Lot 2 to Lot 3 to simplify cross-lot vehicular and utility access for future development of Lot 3.

    - Dissolving Parcel 2 of PM 80-706 is a way to improve the block for future development. Parcel 2 does not meet minimum lot size requirements, could not be used for future development on its own, and restricts development of the other three parcels because it lies in between them. The proposed lot line adjustment eliminates a nonconforming parcel.

4. The lot line adjustment, in and of itself, will not result in the need for additional improvements and/or facilities.

    - Public improvements and infrastructure currently exist within the subject area, and the lot line adjustment, in and of itself, would not result in the need for additional improvements and/or facilities.

PROCEDURAL REQUIREMENTS

1. All applicable Public Works Department plan check fees shall be paid prior to review of the lot line adjustment and grant deeds.

2. The applicant shall revise exhibits to match bearing and distance table upon final submittal of the lot line adjustment to the City Surveyor.

3. Prior to recordation of the lot line adjustment, grant deeds indicating any changes in title of ownership should be submitted to the Public Works Department for review and approval.

4. The lot line adjustment and grant deeds reviewed and approved by the Public Works Department should be filed concurrently with the County Recorder and County Assessor's Offices.

5. No building permits may be issued until the appeal period has expired, unless otherwise approved by the Planning Department.

This approval shall expire unless exercised within 24 months from the date of approval

CONDITIONS

1. Verify owner's information and revise map as needed prior to submittal to the City Surveyor.

2. Per OR 6269 869, Easement 7 was vacated. Verify and revise easement information on Exhibit B sheet 6 of 6.

3. Correct spelling of "sometimes" in language for Easement 1 on Exhibit B sheet 6 of 6.

4. Dimension proposed distance from existing building to new southerly property line of Lot 1 on Exhibit C sheet 1 of 2. A minimum of 10 feet is required by the Building Department.

APPEAL PERIOD Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

By: _____
James W. Campbell, Zoning Administrator

JWC/ msw

Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None

VICINITY MAP

Lot Line Adjustment No. LA2009-010
PA2009-163

745 and 747 Dover Drive, 1501 E. 16th Street

MODIFICATION PERMIT ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application No.	**Modification Permit No. MD2009-027 (PA2009-147)**
Applicant	**McMonigle Group**
Site Address	**1000 Newport Center Drive McMonigle Flagpole**
Legal Description	**N TR 14839 LOT 10**

On **February 11, 2010**, the Zoning Administrator approved the following: A modification permit application to allow a 25-foot tall flag pole to encroach into the front yard setbacks adjacent to Newport Center Drive and the southerly property line along Granville Drive. The flagpole would be located 22 feet from the property line abutting Newport Center Drive and 6 feet from the southerly property line. The property is located in the APF (Administrative, Professional, Financial) Zoning District. The Zoning Administrator's approval is based on the following findings and subject to the following condition(s).

FINDINGS

1. The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "General Commercial Office" use. The existing commercial building is consistent with this designation.

2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines under Section 15303, Class 3 (New Construction or Conversion of Small Structures). The proposed flag pole is classified as an accessory structure which is exempt under Section 15303.

3. The granting of the application is necessary due to the 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:

   - The topographic characteristics of the parcel limit the visibility of the flag pole if it were to be placed within the buildable area. The location of the buildable area has a lower grade than the adjacent streets. In order to allow the enjoyment of the flag pole's visibility similar to other nearby parcels, the flag pole may

encroach into the front yard setback so that the flag pole is constructed on a grade comparable to that of the adjacent streets.

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

Facts in Support of Finding:

- The proposed flag pole is a permitted accessory structure in the neighborhood and shall conform to the standards for height as stated in the Zoning Code. The proposed flag pole will not obstruct the views of the surrounding development. Also, there is a flag pole situated on a nearby parcel commonly referred to as 150 Newport Center Drive.

5. The granting of such an application will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not be detrimental to the general welfare or injurious to property or improvements in the neighborhood.

Facts in Support of Finding:

- The flag pole will not obstruct any views of surrounding development nor sight distances for vehicular traffic.

CONDITIONS

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.

2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.

3. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.

4. The flag pole shall encroach a maximum of 3 feet into the front setback adjacent to Newport Center Drive and 29 feet into the front setback adjacent to the southerly property line.

5. Prior to issuance of building permits, the applicant shall submit to the Planning Department 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.

6. A building permit shall be obtained prior to commencement of the construction.

7. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.

8. If any of the existing public improvements surrounding the site is damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.

9. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.

10. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

APPEAL PERIOD:

Modification Permit applications do not become effective until 14 days after the date of approval, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

By: JWCampbell
James W. Campbell, Zoning Administrator

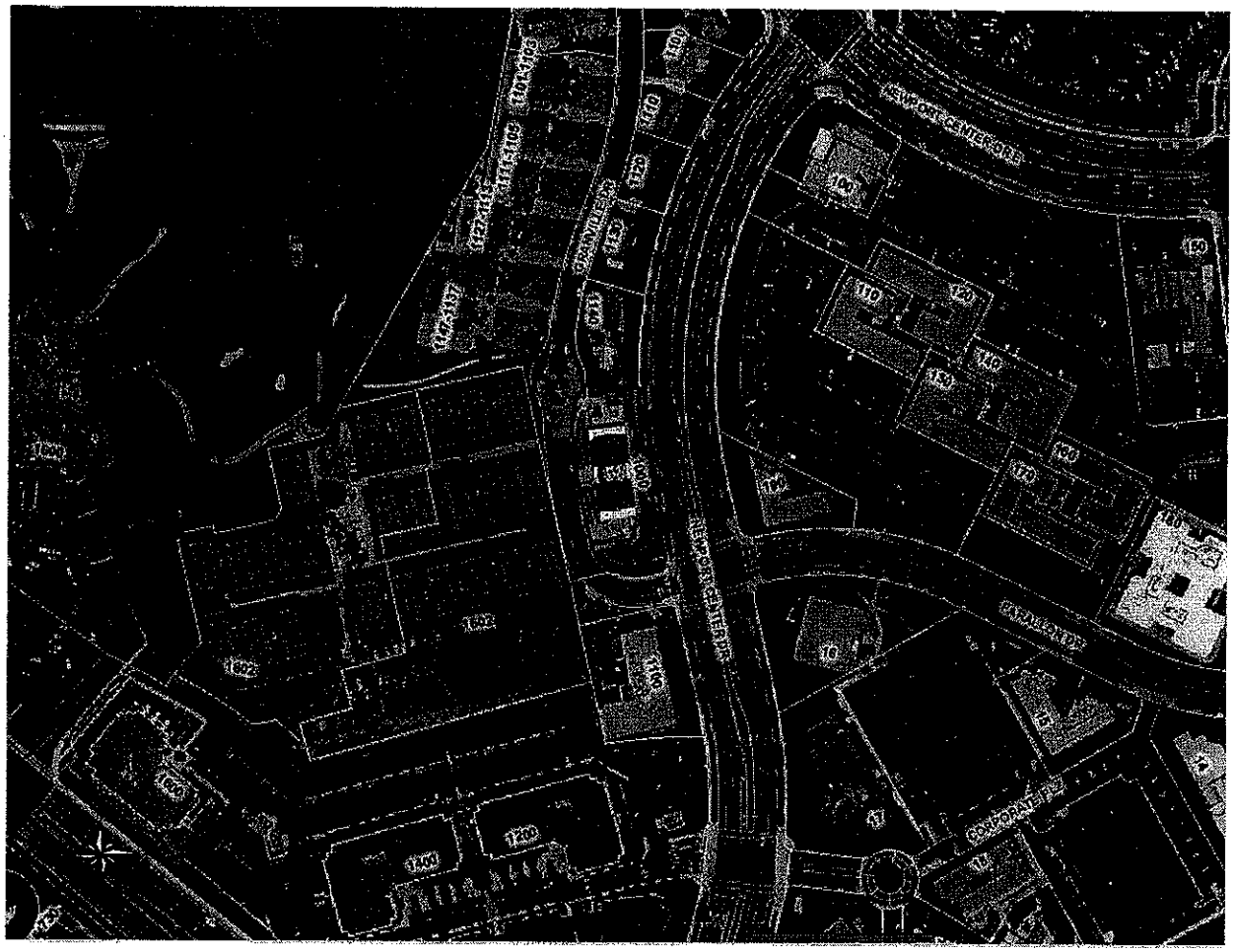
JWC/cms

Attachments: Vicinity Map
Project Plans

Appeared in Opposition: None

Appeared in Support: None

VICINITY MAP



Modification Permit No. MD2009-027
PA2009-147

1000 Newport Center Drive

MODIFICATION PERMIT ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application No.	**Modification Permit No. MD2009-030 (PA2009-149)**
Applicant	**Antonio Cagnolo**
Site Address	**2949 Cliff Drive**
Legal Description	**FIRST ADD TO NEWPORT HEIGHTS LOT 3 BLK B POR OF LOT**

On **February 11, 2010**, the Zoning Administrator denied the subject modification permit application. The applicant requested the following encroachments into required side yard and required rear yard setbacks: a minimum of 10 inches to a maximum 1 foot with the posts of a 10-foot 10-inch-tall patio structure into the 4-foot side yard setback, a minimum of 4 feet 1 inch to a maximum of 5 feet 4 inches with the posts of an 11-foot 3-inch-tall patio structure into the 10-foot rear yard setback, and 5 feet 4 inches with a 14-foot 3-inch-tall exterior fireplace into the 10-foot rear yard setback. The structures were built without the benefit of permits. The property is located in the R-1 (Single-Family Residential) District. The Zoning Administrator's denial is based on the following findings.

FINDINGS

1. The subject property is located in the R-1 Zoning District and has a required 10-foot rear yard setback and required 4-foot side yard setbacks. The Zoning Code allows certain structures up to a height of 6 feet within required rear and side yard setbacks.

2. The natural grade of the property slopes downward in the southwest corner of the rear yard; however, it does not restrict the use of the large rear yard area of the 10,737-square-foot lot. The applicant states that a previous modification, which allowed the addition of an elevated concrete rear yard deck, created the ability to use the sloping rear yard area and that the proposed encroachments are requested to take advantage of the limited side yard area. However, the existing deck allows for use of a large rear yard area providing sufficient space for patio structures and an exterior fireplace without encroachments into the required rear and side yard setbacks, meeting requirements of the Code for this particular property. Staff finds no practical difficulties or physical hardships associated with the property to allow for the encroachments.

3. The request would not be compatible with existing development in the neighborhood as similar encroachments do not exist. The rear yard encroachment is adjacent a vacant lot however, it could create incompatibility with future development of

adjacent a vacant lot however, it could create incompatibility with future development of the vacant lot as a single family dwelling which is intended to abut other single family properties with 10-foot rear yard setbacks.

APPEAL PERIOD Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

By: J W Campbell
James W. Campbell, Zoning Administrator

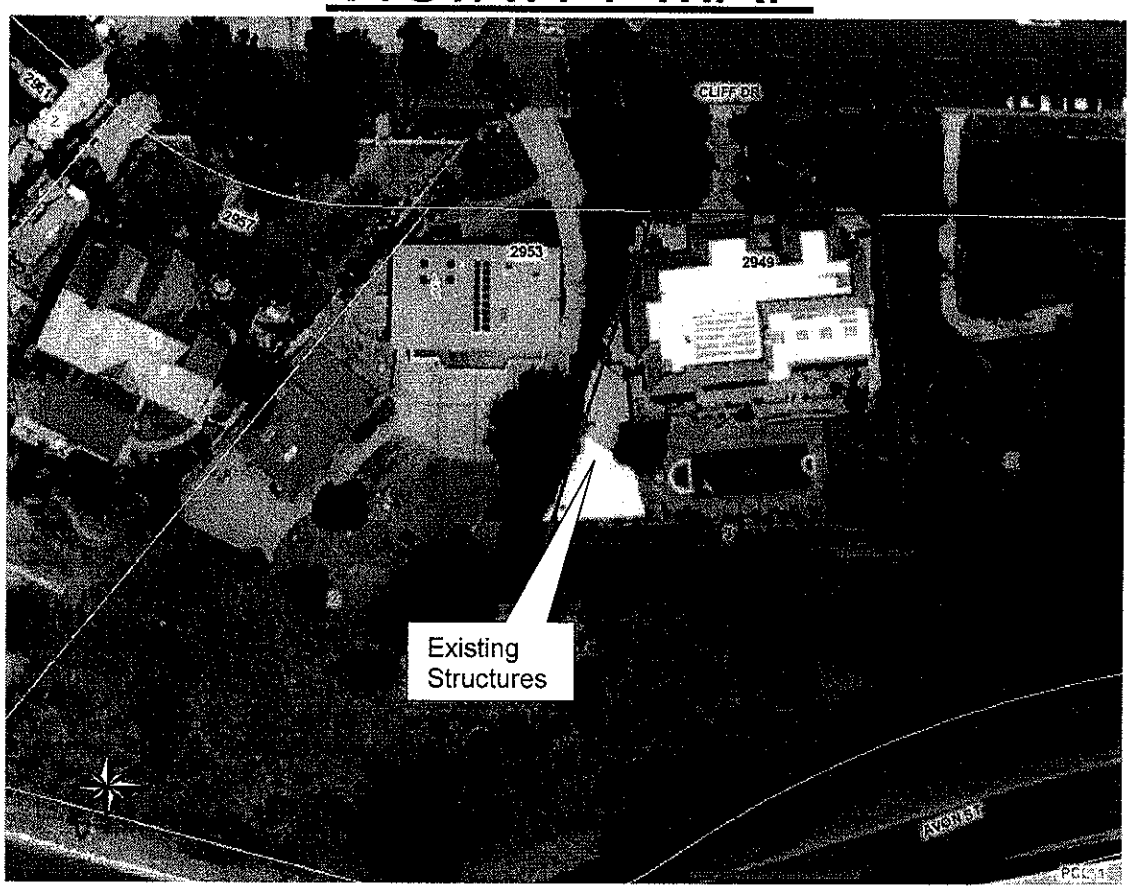
JWC/msw

Attachments: Vicinity Map

Appeared in Opposition:

Appeared in Support:

VICINITY MAP



Modification Permit No. MD2009-030
PA2009-149

2949 Cliff Drive

MODIFICATION PERMIT ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application No.	**Modification Permit No. MD2010-001 (PA2009-157)**
Applicant	**Teale Architecture**
Site Address	**307 Montero Avenue (Project Name)**
Legal Description	**Lot 22 , East Newport Block A**

On **February 11, 2010**, the Zoning Administrator approved the following: A modification permit to allow an alteration up to 50 percent of the structural elements of, and a 553-square-foot addtion to, a nonconforming residential structure. The property is located in the R-2 (Two-Family Residential) Zoning District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

FINDINGS AND CONDITIONS:

Required Findings for Action and Facts in Support of Findings

The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Two-Unit Residential" use. The existing single-unit residential structure is consistent with this designation.

This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines under Section 15303 Class 3 (New Construction or Conversion of Small Structures).

The Zoning Administrator determined in this case that the proposed Modification Permit is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 20.93.030:

1. **Finding:** The granting of the application is necessary due to the practical difficulties associate 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:

- The practical difficulties associated with the existing residential structure on the property are in the form of nonconformities, whereby strict application of the Zoning Code results in physical hardship. The nonconformities include the following:
    - The existing residential structure encroaches into the three-foot side setbacks required per Section 20.10.030 of the Zoning Code by one foot three inches on the south side and one foot four inches on the north side.
    - The existing residential structure does not contain either of the two required parking spaces per Section 20.66.030 of the Zoning Code.
- The proposed remodel and addition is a reasonable design solution given the development constraints of the existing residential structure on the property, which will be less nonconforming once the project is complete. The design solutions include the following:
    - The area of the remodel and addition complies with both three-foot side setbacks required per Section 20.10.030 of the Zoning Code.
    - The area of the remodel and addition includes the two parking spaces required per Section 20.66.030 of the Zoning Code.
- The location and configuration of the existing residential structure is difficult to bring into conformance with the Zoning Code unless the entire residential structure is demolished. In this case, the cost of the proposed remodel and addition is less than 50 percent of the replacement cost if the residential structure were to be demolished and rebuilt.

2. **Finding:** The requested modification will be compatible with existing development in the neighborhood.

Facts in Support of Finding:

- The proposed height and square footage of the residential structure are less than the maximum allowed by the Zoning Code for the subject property and the residential land use is consistent with the surrounding neighborhood.

3. **Finding:** The granting of such an application will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not be detrimental to the general welfare or injurious to property or improvements in the neighborhood.

Facts in Support of Finding:

- As conditioned, the application of the California Building Code regulations to the construction of the project will ensure the safety and welfare of the surrounding community.

- The proposed second-story addition complies with the three-foot side setback requirement on both sides, which is intended to allow for sufficient light and air into the adjacent properties.

- The project will comply with all of the provisions of the R-2 Zoning District, with the exception of the front portion of the existing residential structure, which encroaches into both side setbacks.

Conditions

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.

2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.

3. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.

4. Prior to issuance of building permits, the applicant shall submit to the Planning Department 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.

5. A building permit shall be obtained prior to commencement of the construction.

6. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.

7. If any of the existing public improvements surrounding the site is damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.

8. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.

9. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

APPEAL PERIOD Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

By: _____
James W. Campbell, Zoning Administrator

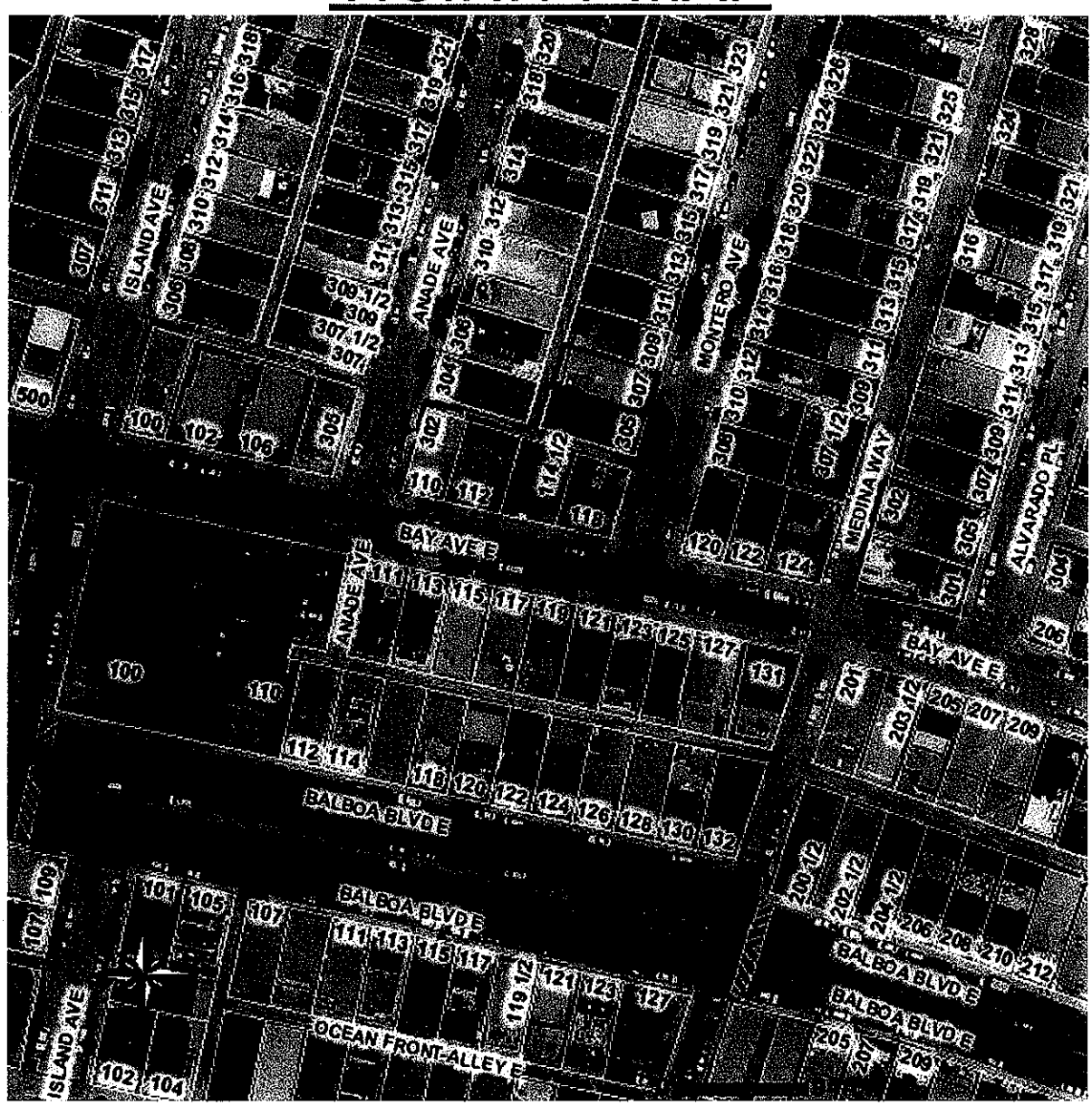
JWC/rwb

Attachments: Vicinity Map
Project Plans

Appeared in Opposition:

Appeared in Support:

VICINITY MAP



Use Permit No. UP2009-039
PA2009-157

307 Montero Avenue