



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending October 13, 2017.

**ZONING ADMINISTRATOR ACTIONS
OCTOBER 12, 2017**

- Item 1: Bengston Residence Coastal Development Permit No. CD2017-024 (PA2017-058)
Site Address: 111 8th Street
Action: Removed from Calendar Council District 1
- Item 2: 416 Marguerite Avenue Tentative Parcel Map No. NP2017-019 (PA2017-170)
Site Address: 416 Marguerite Avenue
Action: Approved by Resolution No. ZA2017-079 Council District 6
- Item 3: Rooney Residence Coastal Development Permit No. CD2017-012 (PA2017-029)
Site Address: 2451 and 2455 Marino Drive
Action: Approved by Resolution No. ZA2017-080 Council District 3
- Item 4: Hallock Residence Coastal Development Permit No. CD2017-071 (PA2017-172)
Site Address: 117 29th Street
Action: Approved by Resolution No. ZA2017-081 Council District 1

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS
(Non-Hearing Items)**

- Item 1: Allowed Uses in the Visitor Serving Commercial (CV) Zoning District - Director's Determination No. DD2017-002 (PA2017-207)
Site Address: 475 32nd Street
Action: Approved Council District 1

APPEAL PERIOD: An appeal or call for review 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. ZA2017-079

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2017-019 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 416 MARGUERITE AVENUE (PA2017-170)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Justin Henderson, Mastercraft Residential (Applicant), on behalf of HB 300 Partners, LLC, A California Limited Liability Company (Property Owner), with respect to property located at 416 Marguerite Avenue, and legally described as Lot 10, Block 439 of the Corona del Mar Subdivision, requesting approval of a tentative parcel map.
2. The Applicant proposes a tentative parcel map application for two-unit condominium purposes. No waiver of Title 19 (Subdivisions) development standards are proposed with this application. A single-family residence was demolished and a new duplex is currently being constructed. The Tentative Parcel Map would allow each unit to be sold individually as condominiums.
3. The subject property is designated 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 subject property is not located within the coastal zone; therefore, no coastal development permit is required.
5. A public hearing was held on October 12, 2017, 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 hearing 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 hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four 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 parcels are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC) and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps):

Finding:

- A. *That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. A single-family dwelling, originally constructed in 1945, was demolished and is being replaced with a new duplex. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The proposed project site is not located within any specific plan area.

Finding:

- B. *That the site is physically suitable for the type and density of development.*

Facts in Support of Finding:

1. The lot is physically suitable for two-unit development because it is rectangular in shape and topographically flat, which is typical of lots in this area.
2. A residential use has existed on this site since at least 1945. The proposed project will replace the previously existing single-family residence with a new duplex that is compliant with all current code requirements.
3. The subject property has street frontage on Marguerite Avenue and is also accessible from the alley at the rear. It is adequately served by existing utilities.

Finding:

- C. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. See Fact in Support of Finding B2.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 15 (Minor Land Divisions).

Finding:

- D. *That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Fact in Support of Finding:

The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- E. *That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to*

the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.

Fact in Support of Finding:

The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements located on the property.

Finding:

F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site is developed for residential use and is within the R-2 Zoning District, which permits residential uses.

Finding:

G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.

1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code because the existing subdivision does not contain fifty (50) or more parcels.
2. The project is not located within a specific plan area.

Finding:

H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.

Fact in Support of Finding:

The Tentative Parcel Map and any future improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

- I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Fact in Support of Finding:

The proposed duplex is consistent with the R-2 Zoning District, which allows two (2) residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

- J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Fact in Support of Finding:

The new duplex has been designed and will be constructed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Facts in Support of Finding:

1. The subject property is not located within the Coastal Zone.
2. The project is not located between the nearest public road and the sea or shoreline of any body of water located within the Coastal Zone; therefore, the public access and recreation policies of Chapter 3 of the Coastal Act are not applicable.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

PASSED, APPROVED, AND ADOPTED THIS 12TH DAY OF OCTOBER, 2017.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Prior to recordation of the Parcel Map, the Applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." **The development will not be condominiums until this permit is finalized.** The building permit for the new construction shall not be finalized until after recordation of the Parcel Map.
3. Prior to recordation of the Parcel Map, the Applicant shall pay an in-lieu park dedication fee for an increase of one dwelling unit. The fee shall be charged consistent with that in effect at the time of payment.
4. This approval 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 NBMC Title 19.
5. 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 416 Marguerite Avenue Tentative Parcel Map including, but not limited to, NP2017-019 (PA2017-170). 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.
6. A Final Parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**

7. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
8. All improvements shall be constructed as required by Ordinance and the Public Works Department.
9. The Applicant shall reconstruct all damaged concrete sidewalk panels, curb and gutter along the Marguerite Avenue property frontage and any damaged concrete alley panels along the alley property frontage as determined by the Public Works Department.
10. All existing overhead utilities shall be undergrounded.
11. All above ground improvements shall stay a minimum 5-foot clear of the alley setback.
12. All existing private, non-standard improvements, including but not limited to concrete carriage walks and fences, within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
13. The Applicant shall install new sod or low groundcovers of the type approved by the City throughout the Marguerite Avenue parkway fronting the development site.
14. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
15. An encroachment permit is required for all work activities within the public right-of-way.
16. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
17. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

RESOLUTION NO. ZA2017-080

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-012 FOR A NEW SINGLE UNIT RESIDENCE LOCATED AT 2451 AND 2455 MARINO DRIVE (PA2017-029)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Peter and Mary Rooney, with respect to property located at 2451 and 2455 Marino Drive, requesting approval of a Coastal Development Permit.
2. The lot at 2451 Marino Drive is legally described as Lot 73 of Tract 1140. The lot at 2455 is legally described as Lot 74 of Tract 1140. The two lots were approved to be merged by the Zoning Administrator on July 28, 2016, under Lot Merger No. LM2016-006.
3. The applicant proposes the demolition of two existing single-family residences with attached garages and the construction of a new 7,764-square-foot single-family residence with an 838-square-foot attached garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
4. 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).
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached – (6.0 - 9.9 DU/AC) (RSD-B) and the Coastal Zoning District is Single-Unit Residential (R-1).
6. A public hearing was held on October 12, 2017, 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 hearing 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 hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is 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 (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-1 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 14,900 square feet and the proposed floor area is 8,602 square feet.
 - b. The proposed development complies with the required setbacks, which are 10 feet along the property line abutting Marino Drive and Crestview Drive, 4 feet along the side property line abutting 2461 Marino Drive, and 10 feet along the rear property line abutting the alley.
 - c. The highest guardrail/parapet is less than 24 feet from established grade and the highest ridge is less than 29 feet from established grade. The proposed development complies with all height requirements.
 - d. The proposed development provides a three-car garage, meeting the three-car minimum garage requirement for residences that exceed 4,000 square feet of livable floor area.
 - e. The proposed development exceeds the minimum 9.0 (NAVD88) top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two and three-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The development is set back approximately 260 feet from coastal waters. Due to the large distance from coastal waters, a Construction Pollution Prevention Plan (CPPP) is not required. However, due to the project being a new development that creates more than 10,000 square feet of impervious surface, a Water Quality Management Plan (WQMP) is required. A WQMP prepared by Toal Engineering, Inc., dated August 22, 2017 has been reviewed and approved by the City's Engineer Geologist. A post-construction drainage system will be installed that includes drainage and percolation

features designed to retain dry weather and minor rain run-off on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.

4. The property is located in an area known for the potential of seismic activity and liquefaction. 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 prior to 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 prior to building permit issuance.
5. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought tolerant and prohibits invasive species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not proposed.

Finding:

B. 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 project site is located between the nearest public road and the sea or shoreline in the private community of Bayshores. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. The project involves the demolition of two existing single-family residences on separate lots, and the construction of one single-family residence on a lot to be merged. Therefore, there is no change in land use and the proposed floor area, height, and bulk will not result in any significant adverse impacts to public recreation, access or views or otherwise diminish the public's use of the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, beaches, coastal parks, trails, or coastal bluffs.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-012, 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 following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local

Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 12TH DAY OF OCTOBER, 2017.



Patrick J. Alford, 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. Prior to the issuance of building permits, recordation of the Lot Merger No. LM2016-006 documents with the County Recorder shall be required.
3. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
4. Coastal Development Permit No. CD2017-012 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
5. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
6. 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 Coastal Development Permit.
7. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
8. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
9. 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 Coastal Development 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 Coastal Development Permit.
10. Prior to the issuance of building permits, the approved WQMP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved WQMP and any changes could require separate review and approval by the Building Division.

11. Prior to the issuance of building permits, 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 approved by the Planning Division.
12. All landscape materials and irrigation systems shall be maintained in accordance with 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.
13. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
14. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
15. 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.
16. This approval 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 Title 21 Planning and Zoning of the Newport Beach Municipal Code.
17. 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 Rooney Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2017-012 (PA2017-029). 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. ZA2017-081

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-071 FOR A NEW DUPLEX LOCATED AT 117 29TH STREET (PA2017-172)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by William Guidero, with respect to property located at 117 29th Street, and legally described as Lot 27 of Block 29, requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing duplex with attached garage and the construction of a new 2,852-square-foot duplex with a 374-square-foot attached garage and two covered carports. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential – (30.0 - 39.9 DU/AC) (RT-E) and the Coastal Zoning District is Two-Unit Residential (R-2).
5. A public hearing was held on October 12, 2017, 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 hearing 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 hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is 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 (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new duplex located in the R-2 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 3,228 square feet and the proposed floor area is 3,226 square feet.
 - b. The proposed development complies with the required setbacks, which are 5 feet along the property line abutting 29th Street, 3 feet along each side property line, and 5 feet along the rear property line.
 - c. The highest guardrail/parapet is 24 feet from established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
 - d. The proposed development provides a two-car garage and a two-car carport, meeting the minimum garage requirement for duplexes.
 - e. The proposed development exceeds the minimum 9.0 (NAVD88) top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two- and three-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The development is set back approximately 290 feet from the mean high water line. Due to the large distance from coastal waters, a Water Quality Management Plan (WQMP) and a Construction Pollution Prevention Plan (CPPP) are not required. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain run-off on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
4. The property is located in an area known for the potential of seismic activity and liquefaction. 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 prior to 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 prior to building permit issuance.

Finding:

B. 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 project site is not located between the nearest public road and the sea or shoreline and the proposed project will not affect public recreation, access or views.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-071, 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 following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 12TH DAY OF OCTOBER, 2017.



Patrick J. Alford, 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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2017-071 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. 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 Coastal Development Permit.
6. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
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 Coastal Development 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 Coastal Development Permit.
9. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
10. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

11. 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.
12. This approval 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 Title 21 Planning and Zoning of the Newport Beach Municipal Code.
13. 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 Hallock Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2017-071 (PA2017-172). 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.



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

100 Civic Center Drive
Newport Beach, California 92660

949 644-3200
newportbeachca.gov/communitydevelopment

Director's Determination

To: Dave Webb, Public Works Director
From: Seimone Jurjis, Community Development Director
Date: October 13, 2017
Re: Allowed Uses in the Visitor Serving Commercial (CV) Zoning District
Fire Station No. 2 (Director's Determination No. DD2017-002/PA2017-207)

The City is performing due diligence related to the purchase and potential development of a new fire station at 2708 Newport Boulevard. The fire station would replace the existing Fire Station No. 2 located at 475 32nd Street.

Visitor Serving Commercial (CV) Zoning District

Both Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) designate the property as being located in the Commercial Visitor-Serving (CV) Zoning District. Both NBMC Chapters do not list fire station in the Allowed Use table and both contain the following provision:

Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 20.12.020/21.12.020 (Rules of Interpretation).

Both Chapters allow the Community Development Director to make an interpretation that an unlisted use is allowed subject to making certain findings.

Planning and Zoning Section 20.12.020E - Unlisted Uses of Land

Pursuant to NBMC Section 20.12.020E, the Director may determine that a proposed land use that is not listed in Part 2 of this title (Zoning Districts, Allowable Land Uses, and Zoning District Standards) may be allowed if the following findings can be made:

Finding:

- A. *The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the zoning district as*

allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the zoning district;

Facts in Support of finding:

1. A fire station would be allowed a maximum 0.5 floor area ratio consistent with CV standards. Parking would be provided and required for Fire Department vehicles and employee parking.
2. Fire Station No. 2 operations include about 8-9 on-duty firefighters. Shift changes typically occur every 48 hours; therefore, 16-18 firefighters would be on-site for approximately 30 minutes.
3. Average calls for service is approximately 30 per day resulting in an estimated 60 average daily trips (ADT). Occasional deliveries and non-service calls would add few trips. Shift changes would result in 16-18 ADT on days where shift changes occur. By comparison the previous fast food restaurant use was estimated to generate 813 ADT.
4. On-site noise would be consistent with other non-residential uses. The use of an outdoor PA system at fire stations is typically limited to daytime hours. The anticipated route for emergency vehicles would be Balboa Boulevard, which is similar to current routes used by emergency vehicles en route to calls on the Balboa Peninsula. Fire Department personnel are required to adhere to protocol that limits use of sirens when required by vehicle code and on a as needed basis only. Typical practice of using sirens is to alert other vehicles present or when crossing an intersection. Additionally, the Opticom system automatically activates traffic signals when the vehicle's transmission is in drive and emergency lights turned on.

Finding:

B. The proposed use will meet the purpose/intent of the zoning district that is applied to the location of the use;

Facts in Support of finding:

1. The CV Zoning District is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors of the City. Fire stations and personnel are integral in providing life safety and protection services to both visitors and the public.
2. The Balboa Peninsula is a year round tourist destination. An estimated 20,000-100,000 tourists and visitors enter the City daily during the summer months, many of them coming to the public beaches, bay, piers and visitor serving restaurants and retail shops located in the vicinity of the subject property. Fire personnel stationed in the CV Zoning District will ensure both visitor and residents are adequately served in the event of medical and other emergencies.

Finding:

C. The proposed use will be consistent with the goals, objectives, and policies of the General Plan, or any applicable specific plan

Facts in Support of finding:

1. The CV General Plan land use designation is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors of the City. Fire stations and personnel are integral in providing life safety and protection services to both visitors and the public.
2. Fire stations are historically located in and near a variety of land uses including, residential, industrial, commercial, and tourist areas. Location and siting depends on localized need based upon assessments by life safety professionals. In this case, a fire station in the CV land uses designation would provide life safety services in an area of the City heavily used by visitors and tourists in addition to residents.

Finding:

D. The proposed use is not listed as allowable in another zoning district;

Fact in Support of finding:

1. A fire station is recognized as an allowed use in the CV-LV zoning district. The zoning district was created to allow the construction of the Lido House Hotel on the former City Hall site and to recognize the existing fire station. The policy decision at that time determined that a fire station in the CV zoning district is acceptable and consistent with the CV zoning designation.

Finding:

E. The proposed use is not a prohibited or illegal use.

Fact in Support of finding:

1. Fire stations are neither prohibited or illegal. Fire Department personnel are integral in providing a variety of services to residents and visitors and providing for the protection of life, property and the environment

Planning and Zoning Section 21.12.020E - Unlisted Uses of Land

Pursuant to NBMC Section 21.12.020E, the Director may determine that a proposed land use that is not listed in Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards) may be allowed if the following findings can be made:

Finding:

A. *The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the coastal zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the coastal zoning district;*

Facts in Support of finding:

1. A fire station would be allowed a maximum 0.5 floor area ratio consistent with CV standards. Parking would be provided and required for Fire Department vehicles and employee parking.
2. Fire Station No. 2 operations include about 8-9 on-duty firefighters. Shift changes typically occur every 48 hours; therefore, 16-18 firefighters would be on-site for approximately 30 minutes.
3. Average calls for service is approximately 30 per day resulting in an estimated 60 average daily trips (ADT). Occasional deliveries and non-service calls would add few trips. Shift changes would result in 16-18 ADT on days where shift changes occur. By comparison the previous fast food restaurant use was estimated to generate 813 ADT.
4. On-site noise would be consistent with other non-residential uses. The use of an outdoor PA system at fire stations is typically limited to daytime hours. The anticipated route for emergency vehicles would be Balboa Boulevard, which is similar to current routes used by emergency vehicles en route to calls on the Balboa Peninsula. Fire Department personnel are required to adhere to protocol that limits use of sirens when required by vehicle code and on a as needed basis only. Typical practice of using sirens is to alert other vehicles present or when crossing an intersection. Additionally, the Opticom system automatically activates traffic signals when the vehicle's transmission is in drive and emergency lights turned on.

Finding:

B. *The proposed use will meet the purpose/intent of the coastal zoning district that is applied to the location of the use;*

Facts in Support of finding:

1. The CV Zoning District is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors of the City. Fire stations and personnel are integral in providing life safety and protection services to both visitors and the public.
2. The Balboa Peninsula is a year round tourist destination. An estimated 20,000-100,000 tourists and visitors enter the City daily during the summer

months, many of them coming to the public beaches, bay, piers and visitor serving restaurants and retail shops located in the vicinity of the subject property. Fire personnel stationed in the CV Zoning District will ensure both visitor and residents are adequately served in the event of medical and other emergencies.

Finding:

C. The proposed use will be consistent with the goals, objectives, and policies of the Coastal Land Use Plan;

Facts in Support of finding:

1. The CV land use designation is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors of the City. Fire stations and personnel are integral in providing life safety and protection services to both visitors and the public.
2. Fire stations are historically located in and near a variety of land uses including, residential, industrial, commercial, and tourist areas. Location and siting depends on localized need based upon assessments by life safety professionals. In this case, a fire station in the CV land uses designation would provide life safety services in an area of the City heavily used by visitors and tourists in addition to residents.
3. Any development would be required to adhere to all LCP goals and policies including those related to public access and resource protection.

Finding:

D. The proposed use is not listed as allowable in another coastal zoning district;

Fact in Support of finding:

1. A fire station is recognized as an allowed use in the CV-LV zoning district. The zoning district was created to allow the construction of the Lido House Hotel on the former City Hall site and to recognize the existing fire station. The policy decision at that time determined that a fire station in the CV zoning district is acceptable and consistent with the CV zoning designation.

Finding:

E. The proposed use is not a prohibited or illegal use.

Fact in Support of finding:

1. Fire stations are neither prohibited or illegal. Fire Department personnel are integral in providing a variety of services to residents and visitors and providing for the protection of life, property and the environment

Directors Determination

In this particular case, findings can be made to allow a Fire Station as an Allowed Use in the Title 20 CV Zoning District and Title 21 CV Coastal Zoning District. Since a parking rate for a fire station does not exist, the required parking will be determined by the Community Development Director and will be based on the size, operational characteristics and number of employees at the proposed fire station. Development of a fire station use in the CV District is required to adhere to all applicable development standards of Title 20 and Title 21, including any discretionary approval requirements.

Please note that a call for review or appeal may be filed within 14 days following the date of this determination. For more information please contact me at 949-644-3232.