



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 November 23, 2018.

ZONING ADMINISTRATOR ACTIONS NOVEMBER 20, 2018

- Item 1: Manly Residence Coastal Development Permit No. CD2018-074 (PA2018-182)
Site Address: 2612 Mesa Drive
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| Action: Approved by Resolution No. ZA2018-129 | Council District | 3 |
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- Item 2: Newport Beach Country Club-Tennis Club Site Coastal Development Permit No. CD2017-039 (PA2017-091)
Site Address: 1602 East Coast Highway
- | | | |
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| Action: Approved by Resolution No. ZA2018-130 | Council District | 5 |
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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. ZA2018-129

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-074 TO DEMOLISH A PORTION OF AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW 1,851-SQUARE-FOOT ADDITION AND AN ATTACHED 1,158-SQUARE-FOOT, 4-CAR GARAGE LOCATED AT 2612 MESA DRIVE (PA2018-182)

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 2612 Mesa Drive, requesting approval of a coastal development permit.
2. The lot at 2612 Mesa Drive is described as APN 439-051-06 and 439-051-10.
3. The applicant proposes a coastal development permit (CDP) to allow the demolition of a portion of an existing single-family residence and construction of a 1,851-square-foot addition and an attached 1,158-square-foot, 4-car garage. The total resulting living and garage floor area would be 5,384 square feet. The design includes minor accessory structures such as hardscape, walls, landscaping, and drainage facilities. The project complies with all development standards and no deviations are requested.
4. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the SP-7 Santa Heights Specific Plan (Residential Equestrian – Minimum Building Site (2 Acres)) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-A Single Unit Residential Detached – (0.0 – 5.9 DU/AC) and it is located within the SP-7 Santa Ana Heights Specific Plan Coastal Zone District.
6. A public hearing was held on November 20, 2018, 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 15303, 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 demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of a portion of an existing single-family residence and the construction of a new 1,851-square-foot addition and attached 1,158-square-foot, 4-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, 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 proposed total floor area after the addition is 5,384 square feet, where the Specific Plan (SP-7) identifies no floor area or site coverage limits (only setbacks and height).
 - b. The proposed development provides the minimum required setbacks, which are 20 feet along the front property line abutting Mesa Drive, 5 feet along each side property line and 25 feet along the rear property line facing the Back Bay.
 - c. The highest ridge is approximately 24 feet from established grade (61 feet NAVD88), which complies with the maximum 35-foot height requirement.
 - d. The project includes garage parking for a total of four vehicles, complying with the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with one-story and scattered two-story, single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.

3. The finished floor elevation of the first floor of the proposed structure is 63.5 feet based on the North American Vertical Datum of 1988 (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures. Due to the project site's elevation, there would be no concerns regarding future sea level rise.
4. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
5. 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.
6. The property is located on a hill more than 480 feet from coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
7. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared for the project by Thomas M. Ruiz. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.

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. 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. In this case, the project removes a portion of an existing single-family residence and constructs an addition of interior living area and a garage located on a lot zoned for single-family use. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. Vertical and lateral access to the Back Bay is available via trails adjacent to the site to the south and east. The proposed site work is located away from the trails and the project does not include any features that would obstruct access along these routes.
3. The project site is located adjacent to Bayview Park and the Back Bay, which are designated public viewpoints in the Coastal Land Use Plan and offer public views of the Upper Newport Bay. Site evaluation revealed that the proposed one-story residential addition, and two-story design of the garage/loft structure, is consistent with the existing neighborhood pattern of development and will not affect the existing views afforded from Bayview Park and the Back Bay. The project will demolish a portion of an existing single-family home and garage and replace it with a new single-family addition and 4-car garage that complies with all applicable development standards. Bayview Park is approximately 600 feet in width and improved with public benches, a play structure, and landscaping that orients and frames views toward the bay and not over the subject site. Views across the project site are currently impacted due to landscaping and trees, as well as the general orientation of the site. Furthermore, the Zoning Code requires a front setback of 20 feet, where the proposed structure is setback approximately 50 feet from the front property line adjacent to Mesa Drive. The substantial setback provides additional visual relief. The proposed covered patio also creates visual relief between the existing structures to the remain and the proposed addition. The architectural design of the structure also appears rural, with the garage and loft designed to resemble a barn, reflective of the neighborhood's equestrian history.
4. Portions of the project site are visible from the Back Bay Trails below. However, the proposed addition is located at the top of the large slope that exists between the trail and residence. Additionally, the maximum height of the structure is 24 feet where the zoning code allows up to a maximum of 35 feet. The project also provides substantial setbacks, where only 5 feet on the sides and 25 feet in the rear are required. Thus, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-074, 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 20TH DAY OF NOVEMBER, 2018.



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 a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
3. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify 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 development.
4. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
5. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
6. This Coastal Development Permit does not authorize any development seaward of the private property.
7. The applicant is responsible for compliance with the Migratory Bird Treaty Act. In compliance with the (MBTA), grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer

active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.

B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.

8. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
9. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
10. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
11. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
12. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
13. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
14. 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.
15. 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.
16. 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.

17. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
18. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
19. Prior to issuance of a building permit, 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.
20. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
21. 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.
22. 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.
23. 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.
24. 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 the current property owner or agent.
25. This Coastal Development Permit No. CD2018-074 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.
26. 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 Manly Residence including, but not limited to, Coastal Development Permit No. CD2018-074 (PA2018-182). 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. ZA2018-130

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-039 TO ALLOW DEMOLITION OF EXISTING STRUCTURES ON-SITE, REDEVELOPMENT OF THE TENNIS CLUB SITE, AND ASSOCIATED SUBDIVISIONS LOCATED AT 1602 E. COAST HIGHWAY (PA2017-091)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Golf Realty Fund, with respect to property located at 1602 E. Coast Highway, legally described as Parcels 1 and 2 of Parcel Map 94-102, requesting approval of a coastal development permit.
2. The lot at 1602 E. Coast Highway is legally described as Parcels 1 and 2 of Parcel Map 94-102.
3. The applicant proposes a Coastal Development Permit (CDP) for the following:
 - a. Redevelopment of the Tennis Club Site including the demolition of an existing 3,725 square foot tennis clubhouse, a 125-space surface parking lot, and 18 out of 24 tennis courts;
 - b. Construction of a new 3,725 square foot tennis clubhouse with 38 parking spaces, a stadium-style tennis court, five single-family residential units (from 2,200 to 6,385 square feet in size) with a minimum of two enclosed parking spaces for each unit, 27 hotel units (from 570 to 2,426 square feet in size) with 50 parking spaces, a 2,200-square-foot concierge and guest center, a 7,490 square foot spa/fitness center, and a swimming pool; and
 - c. Subdivisions consisting of Vesting Tentative Tract Map No. NT2005-003 (TTM15347), subdividing the combined parcels into 11 lots for the proposed development, and Tentative Parcel Map No. NP2016-013 (PA2016-124) for the consolidation of the 11 lots (Lots 1 through 7 and Lots A through D) into four parcels for conveyance purposes.
4. The subject property is designated MU-H3/PR (Mixed-Use Horizontal/Parks and Recreation) by the General Plan Land Use Element and is located within the PC-47 (Newport Beach Country Club) Zoning District.
5. The subject properties are located within the coastal zone. The Coastal Land Use Plan category is MU-H/PR (Mixed-Use Horizontal/Parks and Recreation) and it is located within the PC-47 (Newport Beach Country Club Planned Community) Coastal zoning district.
6. A public hearing was held on November 20, 2018, 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.

All significant environmental concerns for the proposed project have been addressed in the adopted [Mitigated Negative Declaration No. ND2010-008 \(PA2005-140\)](#), [State Clearinghouse No. 20100091052](#), per [City Council Resolution No. 2012-9](#) (MND). Since the adoption of the MND in 2012, no substantial changes have occurred with respect to the circumstances under which the MND was adopted and no substantial changes to the environmental setting of the project or the project itself have occurred. No new information of substantial importance has become available with regard to environmental effects since no new information relating to significant effects or mitigation measures have become available. Thus, the project does not require additional environmental review pursuant to California Environmental Quality Act (CEQA). Copies of the previously prepared environmental document are available for public review and inspection at the Planning Division or at the City of Newport Beach website at www.newportbeachca.gov/ceqadocuments.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section [21.52.015 \(Coastal Development Permits, Findings and Decision\)](#) 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 Coastal Land Use Plan designates the Tennis Club site as Mixed-Use Horizontal/Parks and Recreation (MU-H/PR). Policy 2.1.8-1 of the Coastal Land Use Plan allows the horizontal intermixing of short-term rental bungalows and single-family homes with the expanded tennis club facilities on this site (formerly known/referenced as the Balboa Bay Tennis Club). Permitted uses include those permitted by the MU-H and PR land use designations. A complete consistency analysis of each of the applicable Coastal Land Use Plan policies is included in Table 11 of the Land Use and Planning Section of the previously adopted Mitigated Negative Declaration (MND), pages 82 through 87. In summary, the proposed project is consistent with the Coastal Land Use Plan.
2. The MU-H/PR coastal land use designation identifies a maximum density/intensity limit of 1.5 floor area ratio (FAR), with a minimum FAR of 0.25 and a maximum FAR of 0.5 for retail uses and a maximum of 1.0 for residential. The project proposes 37,990 square feet of nonresidential floor area (0.26 FAR) for the bungalow hotel units, concierge & guest center, and spa, and five residential dwelling units totaling 19,367 square feet (0.13 FAR). The proposed density/intensity of the hotel and single-family units comply with the FAR limitations identified in the Coastal Land Use Plan.

3. The PR category applies to land used or proposed for active public or private recreational use. Permitted uses include parks (both active and passive), golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation, and similar facilities. The PR designation on this site is applicable to the existing and proposed private tennis club and tennis courts. The density/intensity limitations include incidental buildings, such as maintenance equipment sheds, supply storage, and restrooms, not included in determining intensity limits. The proposed tennis club and ancillary uses are consistent with this land use designation.
4. The property is part of the 145-acre [PC-47 \(Newport Beach Country Club Planned Community\)](#) Coastal zoning district, which has been adopted to regulate development within the subject property and the Golf Club Site, and is in conformance with the Coastal Land Use Plan designation pursuant to [Section 21.26.055 \(S\)\(2\)](#) of the Local Coastal Program.
5. The proposed project and minor accessory structures as identified on the project plans conform to all applicable development standards in the Planned Community text.
6. The property is not located in an area known for the potential of seismic activity or 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 a building permit. 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.
7. Elevations on the project site range from 104 feet up to 120 feet North American Vertical Datum of 1988 (NAVD88) above mean sea level. These site elevations are well above projected sea level rise in Newport Bay for the next 75 years and the site is not subjected to other coastal hazards.
8. The proposed project is required to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) since the proposed project involves clearing, grading, and ground disturbance of more than one acre. Pursuant to [Section 21.35.030 \(Construction Pollution Prevention Plan\)](#) of the Municipal Code, when a SWPPP is required, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. A CPPP has been prepared and will be reviewed by the City's Engineer Geologist prior to issuance of grading/building permits for site grading. Construction plans and activities will be required to adhere to the approved CPPP/SWPPP.
9. A Water Quality and Hydrology Plan (WQHP) is required Pursuant to [Section 21.35.050 \(Water Quality and Hydrology Plan\)](#) of the Newport Beach Municipal Code since the project is considered a development of water quality concern and includes the development of five dwelling units, more than 10,000 square feet of impervious surface area, and a parking area in excess of 5,000 square feet. The WQHP/WQMP will be reviewed and approved by the City's Engineer Geologist prior to the issuance of building permits for site grading. The WQHP/WQMP includes a polluted runoff and hydrologic site characterization, a

description of site design BMP's, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP/WQMP prior to building permit issuance.

10. An Analysis of the Fiscal and Economic Impacts was prepared on November 8, 2018, by CBRE Hotels to analyze the construction of new visitor accommodations in the coastal zone in accordance with the requirements of [Section 21.48.025 \(Visitor Accommodations\)](#) of the Local Coastal Program. The report provides a feasibility analysis stating that the anticipated average daily room rate for all 27 rooms is approximately \$900 and the statewide average daily room rate is \$161.80. Therefore, the proposed accommodations are not considered lower cost accommodations. The report considers the specific location of the property as an inappropriate location for low cost accommodations. The site does not currently provide accommodations of any kind and implementation of the project would not impact low cost accommodations. The report further includes an impact analysis and concludes while the project does not include any lower cost rooms, and the Local Coastal Program defines it as an impact, there is no impact on the provision of lower-cost visitor accommodations in the Coastal Zone. Because there is no nexus to an impact, no mitigation is required.

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. The project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. Vertical access to Newport Bay is available via existing public access at 1601 Bayside Drive, which is located approximately 1,600 feet southwest of the subject property.
2. [Coastal Land Use Plan, Policy 4.4.1-6](#) and [Figure 4-3 \(Coastal Views\)](#) identify the closest public view road as Newport Center Drive, located approximately 170 feet east of the project site and the closest public view point as Irvine Terrace Park, located 525 feet south of the project site. Coastal views from these view corridors and viewpoints are directed toward the Newport Bay and the Pacific Ocean. Since the proposed project is located to the north of Irvine Terrace Park, the proposed project will not affect coastal views due to its orientation. From Newport Center Drive, there is a 0 to 40-foot grade difference to the project area below. The maximum height allowed under the Planned Community Development Plan is 39 feet for the five single-family villas and 30 feet for the Tennis Club, and 31 feet for the 27 bungalows. Therefore, the majority of the project would sit below the existing grade elevations along Newport Center Drive, minimizing the visibility of the project site and would not obstruct public coastal views. During construction, construction equipment would be obscured by vegetation and the grade differential so it would not obstruct coastal views from motorists traveling along Newport Center Drive. The project will not impact coastal 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. CD2017-039, 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. The project site is not located within the appeal area of the coastal zone; therefore, final action by the City may not be appealed to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 20TH DAY OF NOVEMBER, 2018.



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. *The applicant shall comply with all project design features, mitigation measures, and standard conditions contained within the approved mitigation monitoring reporting program (MMRP) of MND SCH No. 20100091052 for the project.*
3. *The applicant shall comply with all project design features and conditions of approval contained within City Council Resolution No. 2012-10.*
4. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
5. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
6. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
7. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sides, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
8. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
9. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
10. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
11. 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.
12. 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.

13. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
14. Prior to issuance of a building permit, the approved CPPP and WQHP/WQMP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
15. 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.
16. 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.
17. 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 the current property owner or agent.
18. This Coastal Development Permit No. CD2017-039 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.
19. 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 Newport Beach Country Club-Tennis Club Site including, but not limited to, Coastal Development Permit No. CD2017-039 (PA2017-091). 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.