



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 July 12, 2019.

ZONING ADMINISTRATOR ACTIONS JULY 11, 2019

Item 1: Uptown Newport Tentative Parcel Map No. NP2019-003 (PA2019-067)
Site Address: 4311 Uptown Newport Drive

Action: Approved by Resolution No. ZA2019-045 Council District 3

Item 2: Sheehy Residence Coastal Development Permit CD2017-076 (PA2017-179)
Site Address: 2495 Ocean Boulevard

Action: Approved by Resolution No. ZA2019-0046 Council District 6

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. ZA2019-046

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING TENTATIVE PARCEL MAP NO. NP2019-003 CREATING TWO PARCELS AT 4311 UPTOWN NEWPORT DRIVE (PA2019-067)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by TSG-Parcel 1, LLC (“Applicant”), with respect to property located at 4311 Uptown Newport Drive, and legally described as Lot 1 of Tract No. 17763, in the City of Newport Beach, County of Orange, State of California, as shown on a map recorded in Book 937, Pages 17 to 23, inclusive of miscellaneous maps in the records of said County, requesting approval of a tentative parcel map.
2. The applicant proposes to subdivide an existing 2.58-acre parcel into two parcels for conveyance purposes. No exceptions to Title 19 (Subdivision Code) development standards are proposed with this application.
3. The project site is currently a vacant undeveloped lot. No development or improvements are proposed as part of this application. The site is located within Phase 1 of the Uptown Newport mixed-use residential development for conveyance purposes only. Future development of the project site will be in compliance with the allowed uses and development standards of the previously approved Planned Community (PC58 Uptown Newport).
4. The subject property is located within the Airport Business Area and has a General Plan designation of Mixed-Use District Horizontal-2 (MU-H2). The Uptown Newport Planned Community Development Plan (Uptown Newport PC) has been adopted to regulate development within the subject property.
5. The subject property is not located within the Coastal Zone.
6. A public hearing was held on July 11, 2019 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. All significant environmental concerns for the proposed project have been addressed in the previously certified Environmental Impact Report No. ER2012-001 (SCH No. 2010051094), and the City of Newport Beach intends to use said document for the above noted project. Furthermore, there are no additional reasonable alternative or mitigation measures that should be considered in conjunction with said project. 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.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of NBMC Title 20 (Planning and Zoning) and is approved based on the following findings per NBMC 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 Property has a General Plan designation of Mixed-Use District Horizontal-2 (MU-H2), and the Property is located within the Airport Business Area. The Uptown Newport PC has been adopted to regulate development within the subject property.
2. No development or improvements are proposed with the proposed tentative parcel map. Any improvements are required to comply with past or future approvals. Prior to development of the site pursuant to the Uptown Newport PC, subsequent final maps to implement the proposed parcels and improvements shown on Tentative Tract Map No. 17763 will be submitted to the City for review and approval.

Finding:

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

Fact in Support of Finding:

1. No development or improvements are proposed in conjunction with the proposed tentative parcel map. All improvements are required to comply with past approvals and the Uptown Newport PC.

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.*

Fact in Support of Finding:

1. This project has been reviewed and is deemed consistent with the previously certified Environmental Impact Report No. ER2012-001 (SCH No. 2010051094) for the Uptown Newport project.

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:

1. No development or improvements are proposed with the proposed tentative parcel map. Any improvements are required to comply with past approvals and the Uptown Newport PC. All future development or construction will require future applications and approvals and will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. 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.*

Facts in Support of Finding:

1. The design of the development will not conflict with any existing 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.
2. A Declaration of Easements is proposed to be recorded concurrent with the recordation of this tentative parcel map for ingress, egress, reciprocal parking and traffic circulation, and utilities. The Declaration of Easements provides for access, circulation, parking, and utility services to serve each of the proposed parcels.

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.*

Fact 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.

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.*

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a "land project" as previously defined in Section 11000.5 of the California Business and Professions Code because the project site does not contain 50 or more parcels of land.
2. The project is a vacant lot located within the Uptown Newport PC and no development or improvements are proposed in conjunction with the proposed tentative parcel map. Any improvements require compliance with existing approvals or as required per the Uptown Newport PC.

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:

1. The proposed parcel map and 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:

1. The tentative parcel map proposes the subdivision of one lot into two lots. No development or improvements are proposed. Any improvements require compliance with existing approvals and the Uptown Newport PC which include construction of housing. Therefore, the proposed tentative parcel map 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:

1. No development or improvements are proposed. Existing wastewater discharge into the existing sewer system are designed to comply 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.*

Fact in Support of Finding:

1. The project is not located within the Coastal Zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2019-003, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective ten days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 11th DAY OF JULY, 2019.



Rosalinh Ung
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. A 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.**
2. 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.
3. The existing cul-de-sac configuration of Capitan Court shall be maintained until such time as the Phase 2 roadway configuration is complete.
4. The approval of Tentative Parcel Map No. NP2019-003 shall be for conveyance purposes only.
5. This parcel map shall expire if the map has not been recorded within 24 months of the date of approval, unless an extension is granted by the Director of Community Development in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.
6. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Uptown Newport Parcel Map including, but not limited to, Tentative Parcel Map No. NP2019-003 (PA2019-067). 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. ZA2019-047

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-076 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED THREE-CAR GARAGE LOCATED AT 2495 OCEAN BOULEVARD (PA2017-179)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects, with respect to property located at 2495 Ocean Boulevard, and legally described as Parcel 2, Block C, of Resub 274 requesting approval of a coastal development permit.
2. The applicant proposes to demolish an existing single-family residence and construct a new 6,672-square foot, single-family residence with an attached 656-square-foot, three-car garage.
3. The subject property is located within the R-1 (Single-Unit Residential) Zoning District and the General Plan Land Use Element is RS-D (Single-Unit Residential Detached).
4. 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 the Coastal Zone District is R-1 (Single-Unit Residential).
5. A public hearing was held on July 11, 2019, 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 from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines.
2. Class 3 includes the construction of a single-family residence in a residential zone. The proposed project consists of the demolition of an existing single-family residence and construction of a new 6,672-square-foot, single-family residence and attached 656-square-foot, three-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) 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 conforms to all applicable development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 20,554 square feet and the proposed floor area is 7,328 square feet.
 - b. The proposed development provides the required setbacks, which are 10 feet along the front property line abutting Ocean Boulevard, 4 feet along each side property line and 10 feet along the rear property line abutting the bay.
 - c. The highest guardrail or flat roof is no more than 24 feet, measured from established grade as established by an approved grade determination (SA2014-022) for the project site and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height limitation. Additionally, no structure exceeds the curb height elevation along Ocean Boulevard.
 - d. The project includes enclosed garage parking for three vehicles, which complies with the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
 - e. Pursuant to the Bluff Overlay Map B-5 (Carnation), the property is located on a bluff subject to marine erosion and development shall not extend farther onto the bluff face beyond existing development. Consistent with the Bluff Overlay standards, the proposed principal dwelling and major accessory structures (including swimming pool) are located within Development Area A as illustrated on Map B-5. No accessory structures are proposed within Development Area C.
 - f. The Project includes a pool and spa. These structures will incorporate double wall construction with subdrains between the walls and leak detection devices. Drainage for the pool will be tied into a proposed bioretention planter and discharged to an onsite stormwater pump.

2. The neighborhood is developed with a mix of single- and multi-family residences of varying height and mass. There are two adjacent multi-family developments constructed on the bluff immediately north and south of the project site. To the south is the multi-story, 48-unit Channel Reef condominium development. To the north is the multi-story, 8-unit Aerie condominium development. The property immediately above the project site is developed with an existing single-family residence. Based upon existing development in the vicinity and current development standards, the proposed design, bulk, and scale of the project is consistent with both the established and expected neighborhood development pattern.
3. A Coastal Hazards Analysis was prepared for the project by GeoSoils, Inc., dated August 14, 2015 and updated on March 6, 2017 and September 13, 2018. The lowest habitable floor elevation of the proposed residence is 28.42 MSL (NAVD 88), which exceeds the minimum 9.00 MSL (NAVD88) elevation standard. The report concludes that the proposed development is reasonably safe from coastal hazards, including shoreline movement, waves and wave runup, and flooding with future sea level rise. The proposed development will neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area. Furthermore, no protective devices will be necessary to protect the proposed development from any existing or anticipated future coastal hazards for the next 75 years or more. A retaining wall at the lower portion of the site adjacent to the bay was constructed prior to the 1972 Coastal Act and provides walkway access to an existing boat dock. The wall is documented in 1972 Coastal Photographic Records. It is not designed to prevent erosion of the shoreline and the proposed residence does not rely on the wall for protection. The foundation of the wall is above the mean high tide line and has been inspected and deemed to be in good condition. No changes to the existing wall or dock are proposed.
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. A Geotechnical Investigation, dated August 24, 2016, and a supplemental analysis, dated March 17, 2017, were prepared by G3 Soilworks. It was concluded that the proposed grading and construction will not adversely affect geologic stability of the existing bluff or adjoining properties or structures, provided construction is performed in accordance with report recommendations. The development exposures along the bluff face will be generally similar to those of the existing development, and when incorporating the recommended drainage considerations, should likely improve overall site stability. The foundation setback were found to be adequate for structural support and provide an adequate buffer to allow for long-term bluff retreat, although not considered to be a factor during the project life. The sandstone bedrock composition of the bluff appears highly resistant to erosion. No special issues or concerns relative to California Coastal Commission or City guidelines

were noted, other than the need for pool protection measures to mitigate pool leakage and/or seismic seiche effects.

6. Pursuant to Section 21.35.030 of the Municipal Code, 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 by construction chemicals and materials. A CPPP prepared by Toal Engineering on September 25, 2015, and updated on March 29, 2018, has been reviewed and approved by the City's Engineer Geologist.
7. Pursuant to Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), 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 Water Quality Management Report (WQMP) prepared for the project by Toal Engineering on September 25, 2015, has been reviewed and approved by the City's Engineer Geologist. 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. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
8. The project design addresses water quality with a construction erosion control plan and 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.
9. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant, and prohibits invasive species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
10. A visual impact analysis prepared for the project evaluated existing and proposed views towards the bay from Ocean Boulevard, and also from public viewpoints on Peninsula Point across the harbor channel towards the project site. The project site is located on Ocean Boulevard, which is designated as a Coastal View Road by the Coastal Land Use Plan and includes a designated Coastal View Point at the intersection of Ocean Boulevard and Carnation Avenue. Public views of Newport Bay at this location are currently impacted by the existing over-height garage on the project site. The proposed project will open and enhance the public view by removing the existing garage and reconstructing new rooflines below the curb elevation of Ocean Boulevard. Proposed landscaping behind the sidewalk and within the public view will consist of low-growing plant materials with a mature height of less than 3'-0" to ensure the public view is maintained.
11. Given the project site's location near the mouth of the Newport Harbor, the site is highly visible from the level of the harbor and from the West Jetty View Park, another designated Coastal View Point, across the harbor channel. The project will replace an existing single-family residence with a new single-family residence that complies with all

applicable development standards, including the Bluff Overlay standards, does not extend beyond the footprint of the existing development, thereby preserving the existing remaining visible areas of bluff and rocky coastline. Site evaluation revealed that the proposed design is consistent with the existing neighborhood pattern of development and will not affect the existing views afforded from the harbor or the West Jetty View Park. In conclusion, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

- 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; however, the project will not affect the public's ability to gain access to use and/or view the coast and nearby recreational facilities. The existing residential development neither provides nor inhibits public coastal access. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) 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 replaces an existing single-family residence with a new single-family residence. 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.
2. The project is designed and sited so as not block or impede existing public access opportunities and occurs within the confines of private property. Vertical access to the bay front and a small public beach is available south of the project site at China Cove via the China Cove Ramp located 300 feet east of the project driveway.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-076, 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 11TH DAY OF JULY, 2019.



Rosalinh Ung
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

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. This Coastal Development Permit No. CD2017-076 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. Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
5. 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.
6. 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.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. This Coastal Development Permit does not authorize any development seaward of the private property.
9. 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.
10. 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 Pollution Prevention Plan (CPPP).
 11. 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.
 12. 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.
 13. 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.
 14. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
 15. 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.
 16. 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.

17. Prior to the issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
18. Prior to the issuance of a building permit, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
19. Prior to the 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 permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this coastal development permit.
20. Prior to the 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 may 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. *Private landscape improvements behind the sidewalk and within the public view corridor shall not exceed 3 feet in height.*
23. 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.
24. *The swimming pool shall incorporate double wall construction with subdrains between the walls and leak detection devices or an equivalent method.*
25. Prior to the issuance of building permits, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
26. 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.

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27. Prior to the building permit final, 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 shoreline 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.
28. *All project landscaping contained in planters along proposed driveway shall not exceed a height of 3 feet at maturity and shall be maintained at a height of 3 feet or lower (including raised planters).*
29. *Prior to the issuance of a building permit, a construction management plan shall be submitted for review and approved by the Community Development Department, Fire Department, and Public Works. The construction management plans shall address construction staging, employee parking, and construction material deliveries.*
30. *Prior to the complete building framing approval, the general contractor shall submit roof height certification to the Building Division Inspector verifying compliance with the approved building heights.*
31. 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 Sheehy Residence including, but not limited to, Coastal Development Permit No. CD2017-076 (PA2017-179). 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. 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.)

