



**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 18, 2022.

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

Item 1: Salene Accessory Dwelling Unit Coastal Development Permit (PA2022-131)
Site Address: 2036 Galaxy Drive

Action: Approved

Council District 3

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 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.



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
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ZONING ADMINISTRATOR ACTION LETTER

Subject: Salene Accessory Dwelling Unit (PA2022-131)
▪ Coastal Development Permit

Site Location 2036 Galaxy Drive

Applicant David Salene

Legal Description Lot 9, Tract 4224

On **November 17, 2022**, the Zoning Administrator approved the Coastal Development Permit filed as PA2022-131 in accordance with Section 21.52.015 (Coastal Development Permits, Findings, and Decision) of the Newport Beach Municipal Code (NBMC) authorizing the construction of a new 343-square-foot, detached accessory dwelling unit.

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** RS-D (Single Unit Residential Detached)
- **Zoning District:** R-1-6000 (Single Unit Residential)
- **Coastal Land Use Plan Category:** RSD-A (Single Unit Residential Detached) – (0.0 – 5.9 DU/AC)
- **Coastal Zoning District:** R-1-6000 (Single Unit Residential)

SUMMARY

A Coastal Development Permit (CDP) to construct one single-story, approximately 343-square-foot detached accessory dwelling unit (ADU) on an existing single-family residential property. The ADU would be detached from the primary single-family structure and located at the front of the property along Galaxy Drive. The property is not located within one-half-mile of an existing public transit stop; therefore, one additional parking space for the ADU is required and is provided in the existing three (3)-car garage. No changes are proposed to the existing three (3)-car garage and single-family structure. The project complies with all applicable development standards, including height, setbacks, and floor area, and no deviations are requested.

In accordance with NBMC Section 21.48.200(D)(2) (Accessory Dwelling Units), no local public hearing shall be held; however, public notice was provided to surrounding property owners and residential occupants within 300 feet of the project. No comments were received on the project.

This approval is based on the following findings and standards and is subject to the following conditions.

FINDINGS

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 850 square feet for a studio/one-bedroom unit. The proposed ADU is 343 square feet.
 - b. The proposed development provides the minimum required setbacks which are 20 feet along the front of the property line abutting the bluff, four feet along each side property line, and four feet along the rear property line abutting Galaxy Drive.
 - c. The maximum allowed height for the highest roof element is 16 feet from the established grade and the proposed height of the highest roof element is 12 feet, six inches from the established grade.
 - d. The proposed development does not qualify for a parking exemption as is it more than one-half a mile from a public transit stop. Therefore, the project shall provide one, code-compliant, onsite parking space. The project provides one parking space within the existing three (3)-car garages.
2. The property is adjacent to a coastal bluff. 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 from 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 runoff onsite. Any water not retained onsite is directed to the City's storm drain system.
3. The development is located on a bluff property in a developed area that is setback over 100 feet from the Back Bay. The project site is separated from the waterline of the Back Bay (the nearest body of water) by over 500 feet of open space and wetlands. The main residence also provides a buffer between the accessory dwelling unit and the Back Bay. The finished floor elevation of the first floor of the proposed structure is approximately 89 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. The identified distances from the coastal hazard areas

coupled with the minimum 9.00-foot (NAVD88) finish floor elevation will help to ensure the project is reasonably safe for the economic life of the structure.

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 adjacent to and immediately south of a Back Bay hiking trailhead, which is a designated public viewpoint in the Coastal Land Use Plan and offers public views of Upper Newport Bay. Site evaluation revealed that the proposed one-story ADU design is consistent with the existing neighborhood pattern of development regarding height and setbacks and will not affect the existing views afforded from the Back Bay trailhead due to its design and location. Specifically, the proposed ADU is located along Galaxy Drive at the front of the property, over 100 feet from the bluff edge. Due to the proposed location of the ADU, the public viewpoint will not be impacted because the main residence obstructs views of the new accessory dwelling unit from the public viewpoint. Further, the project will comply with all Local Coastal Program (LCP) development standards, including the Bluff Overlay standards that require an increased 25-foot setback from the bluff edge. Lastly, the project does not contain any unique features that could degrade the visual quality of the coastal zone and the project does not have the potential to result in significant adverse impacts on public views.
2. 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 creates one new accessory dwelling unit in conjunction with an existing single-family residence, developed on a standard R-1-6000 lot. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for 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.
3. Vertical access to the Back Bay is available adjacent to the rear of the site along Constellation Drive, which leads to the public Back Bay trails. Lateral access is available via the Back Bay hiking trails to the north and east. The project does not include any features that would obstruct access along these routes.

CONDITIONS

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, the accessory dwelling units (ADUs) shall require a deed restriction that prohibits the sale of the ADUs separately and prohibits rental or leasing of the ADU for 30 days or less.*
3. This approval does not authorize any new or existing improvements (including landscaping) on California Coastal Permit Jurisdiction, State tidelands, public beaches, or the public right-of-way. Any improvements located on tidelands, submerged lands, and/or lands that may be subject to the public trust shall require a coastal development permit (CDP) approved by the California Coastal Commission (Coastal Commission).
4. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or results in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands, or their buffers. No demolition or construction materials shall be stored on public property.
5. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). 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.
6. 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 Erosion Control Plan.

7. 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.
8. 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 sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
9. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
10. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
11. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
12. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
13. 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 are detrimental to the public health, and welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
14. *Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
15. *Prior to the issuance of building permits, the applicant shall submit a final drainage plan. The plan shall be subject to review and approval by the Building Division.*
16. *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.*
17. Construction activities shall comply with Section 10.28.040 (Construction Activity—Noise Regulations) of the Newport Beach Municipal Code, which restricts

hours of noise-generating construction activities to between 7:00 a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Federal Holidays.

18. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified periods unless the ambient noise level is higher:

Location	Between the hours of 7:00 AM and 10:00 PM		Between the hours of 10:00 PM and 7:00 AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

19. Prior to the issuance of the building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
20. 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.
21. *This Coastal Development Permit filed under PA2022-131 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 NBMC unless an extension is otherwise granted.*
22. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 Salene Trust Accessory Dwelling Unit including, but not limited to, the Coastal Development Permit filed under PA2022-131. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing the such proceeding. The applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages, which the City incurs in enforcing the indemnification provisions outlined 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.

ENVIRONMENTAL REVIEW

This project is 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, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.

Class 3 exempts the demolition and construction of up to three single-family residences in urbanized areas. The proposed project consists of the addition of a new detached 343square-foot accessory dwelling unit in conjunction with an existing single-family structure and therefore qualifies within this exemption. There are no known exceptions listed in CEQA Guidelines Section 15300.2 that would invalidate the use of this exemption. 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.

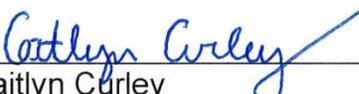
PUBLIC NOTICE

Notice of this decision was published in the Daily Pilot, mailed to all owners and residential occupants of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways), including the applicant, and posted on the subject property at least 10 days before the scheduled decision, consistent with the provisions of the Municipal Code.

APPEAL PERIOD:

This action shall become final and effective 14 days following the date of the Action Letter 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 Program [LCP] Implementation Plan) of the NBMC. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:


Caitlyn Curley
Planning Technician

Approved by:

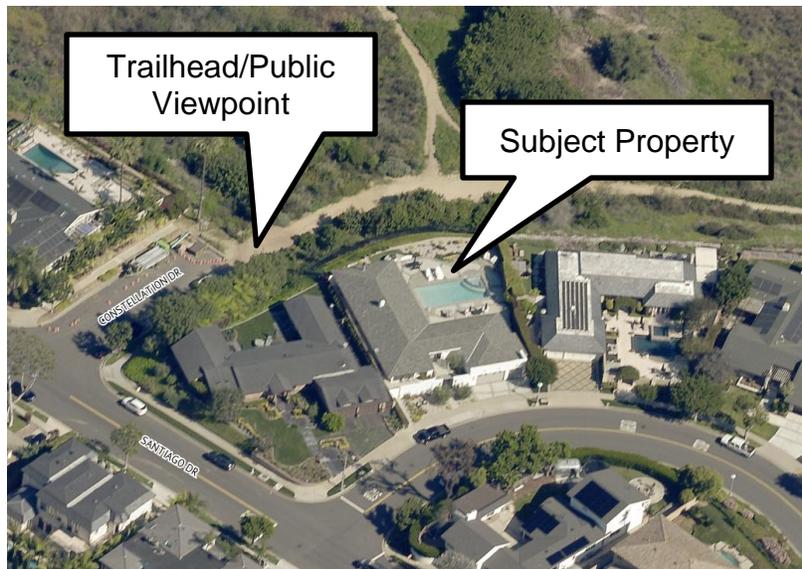

Jaime Murillo
Zoning Administrator

Attachments: ZA No. 1 Vicinity Map
ZA No. 2 Applicant's Project Description
ZA No. 3 Project Plans

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Coastal Development Permit
PA2022-131
(2036 Galaxy Drive)

Attachment No. ZA 2

Applicant's Project Description

CDP Permit No PA2022-131

Salene Residence
2036 Galaxy Dr

Project Description:

The proposed project is a 343 sf detached Accessory Dwelling Unit. The single story ADU will consist of one bedroom, one bathroom, closet, and a small kitchen area. The height of the structure is 10'6" with a small parapet that rises to 12'6". A yard wall will be removed and the area will be cleared to accommodate the new structure - no grading is proposed. Parking for the ADU will be in the current 3 car garage and access to the garage is available thru a side door in the courtyard common to the ADU and main structure. The proposed ADU is consistent with all City standards regarding setbacks, heights, design, etc.

Project Justification:

A CDP is required for this ADU project because the overall building lot sits in the Bluff Development Area of the Overlay Coastal Zone District. Pursuant to Section 21.28.040 (D)(8)(b) the proposed ADU is in Development Area A, which allows for principal and accessory structures. It is also important to note that the proposed the ADU is situated along Galaxy Drive and is therefore NOT on the bluff area (over 100 ft away), is NOT visible from the Upper Newport Bay Marine Park and will therefore have NO impact to public enjoyment of the Bay.

Specifically addressing the required findings;

1. The proposed project conforms to all applicable section of the LCP with respect to development standards (parking, setbacks, building height, etc.), impacts to public views, natural resources, etc. and:
2. The project conforms with the public access and recreation policies of Chapter 3 of the Coastal Act in that access to the Upper Newport Bay will not be affected by the approval of this project. Nearest public access to the Bay is provided via Constellation Drive which is located below the subject property. Impacts to parking will also be avoided by dedicating a garage space in the current 3 car garage for the ADU. The dimension of the garage is 29'6" x 20'11" and has a side entry door off the courtyard for access.

Attachment No. ZA 3

Project Plans

