



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

TO: CITY COUNCIL, CITY MANAGER, AND PLANNING COMMISSION  
FROM: Seimone Jurjis, Assistant City Manager/Community Development Director  
SUBJECT: Report of actions taken by the Zoning Administrator for the week ending October 25, 2024.

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**ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS  
OCTOBER 24, 2024**

Item 1: MDXL LLC Residence Coastal Development Permit (PA2024-0142)  
Site Address: 1540 East Ocean Front

Action: Approved by Resolution No. ZA2024-058	Council District	1
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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 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. ZA2024-058

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-UNIT DWELLING AND CONSTRUCT A NEW THREE-STORY SINGLE-UNIT DWELLING, ATTACHED GARAGES, AND ATTACHED ADU LOCATED AT 1540 EAST OCEAN FRONT (PA2024-0142)

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 of William Guidero Design (“Applicant”), concerning property located at 1540 East Ocean Front and legally described as Lots 10, 11, 12, and a portion of Lot 9 in Block B of Tract No. 518 (“Property”), requesting approval of a coastal development permit.
2. The Applicant requests a coastal development permit (CDP) to allow the demolition of an existing single-unit dwelling and construction of a new 10,190-square-foot, three-story single-unit dwelling with 2,172 square feet of attached garages. Additionally, a 659-square-foot attached accessory dwelling unit (ADU) is proposed. The project also includes landscaping, hardscaping, and site walls. The project complies with all applicable development standards and no deviations are requested. All improvements authorized by this CDP will be located on private property.
3. The Property is designated Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-C) (10.0 – 19.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zoning District.
5. A public hearing was held on October 24, 2024, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the Newport Beach Municipal Code (NBMC). 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, Division 6, 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, construction, or conversion of up to three single-family residences in urbanized areas. The proposed project consists of the demolition of an existing single-unit dwelling and construction of a new 10,190-square-foot single-unit dwelling with 2,172 square feet of attached garages and an attached 659-square-foot attached accessory dwelling unit.
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.

By Section 21.52.015(F) (Coastal Development Permits - Findings and Decision) of the Newport Beach Municipal Code (NMBC), the following findings, and facts in support of such findings are set forth:

#### Finding:

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

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 19,664 square feet and the proposed floor area is 13,021 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line abutting the East Ocean Front, 4 feet along each side property line, and 0 feet along the rear property line abutting the East Ocean Front alley.
  - c. The highest guardrail is less than 24 feet from the established grade (13.2 feet NAVD88) and the highest ridge is no more than 29 feet from the established grade, which complies with the maximum height requirements.
  - d. The project includes garage parking for a total of four vehicles, complying with the minimum three-car garage parking requirement for single-unit dwellings with more than 4,000 square feet of habitable floor area and a one-car parking requirement for an attached ADU.
2. The neighborhood is predominantly developed with two and three story, single-unit dwellings. Although the existing property is larger than typical lots in the neighborhood,

the existing single-family residence has been in place since 1948. The proposed single-family residence, garages, and attached ADU would be consistent with the historical pattern of development on the subject property.

3. The existing single-unit dwelling predates the Subdivision Map Act and was built over the underlying three and a half legal lots. Because the development predates the Subdivision Map Act, new construction can also be built over the underlying lot lines if a certificate of compliance is recorded. The Certificate of Compliance was recorded on October 17, 2024, to formally recognize the Property as a single building site.
4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by Skelly Engineering on June 14, 2024. The project site is separated from the water by a wide sandy beach and the site is approximately 320 feet from the mean high tide line. The report concludes that the highest high tide elevation (currently 7.7 feet North American Vertical Datum of 1988 [NAVD 88]) will not exceed 10.9 feet (NAVD 88) using the low-risk aversion projected sea level rise (3.2-foot increase) over the 75-year design life of the structure based on estimates for sea level rise provided by the State of California, Sea-Level Rise Guidance: 2018 Update. The report states that the estimated sea level rise over the next 75 years, using the Medium-High Risk Aversion, is potentially 6.7 feet (14.4 feet NAVD 88). Additionally, the site has not historically been subject to any wave overtopping, nor is overtopping waters over the next 75 years expected to reach the subject site, even under extreme conditions. Based on the data provided, the study does not provide any recommendations for shoreline protection devices and concludes that coastal hazards will not impact the property over the next 75 years.
5. The finished floor elevation of the proposed single-unit dwelling is 14.9 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard.
6. The property is 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 before 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 before building permit issuance.
7. The property is adjacent to the beach and approximately 320 feet from the mean high tide line. Under Section 21.35.030 (Construction Pollution Prevention Plan) 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 from construction chemicals and materials. A CPPP has been provided and construction plans and activities will be required to adhere to the CPPP.
8. Proposed landscaping complies with Implementation Plan Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

9. The project site is not located adjacent to a coastal view road, public viewpoint, public park, or public accessway, as identified in the Coastal Land Use Plan. The project site is located adjacent to a public beach and is visible from the beach. The project may be located within the viewshed of other distant public viewing areas. The project will replace an existing single-unit dwelling with a new single-unit dwelling and ADU that complies with all applicable LCP development standards and maintains a building envelope consistent with the historical development pattern of the property. As previously discussed, the property spans three and a half existing lots. One single family dwelling would be constructed across all of the underlying lots, where three individual dwellings could otherwise be constructed. The bulk and scale of the proposed residence would be similar to that of three individual dwelling units. Additionally, the project incorporates open railings and other see through elements such as windows on the second floor and open covered decks on the third floor. The design also concentrates the proposed floor area on the third floor to the west side of the site. Lastly, the project design includes modulation of volume throughout the structure and low walls that prevent the appearance of the site from being walled off from the alley or beach. These design features are all intended to help reduce the appearance of bulk and scale. Therefore, 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 on the Balboa Peninsula between the nearest public road and the sea. 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-unit dwelling with a new single-unit dwelling and attached accessory dwelling unit. 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. While the project includes an additional unit in the form of an ADU, it is accessory in nature and 659 square feet in size, in addition parking is provided in a one car attached garage. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. The project site is located between G Street and I Street, which are identified by the Coastal Land Use Plan as vertical access locations. The project does not interfere with the existing nearby access to the beach.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under 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.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit (PA2024-0142), subject to the conditions outlined in Exhibit "A," which is attached hereto and incorporated by reference.
3. 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 by the provisions of Title 21 Local Coastal Program (LCP) 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 (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.

**PASSED, APPROVED, AND ADOPTED THIS 24<sup>TH</sup> DAY OF OCTOBER 2024.**



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Benjamin M. Zueba, AICP, Zoning Administrator

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

Planning Division

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 final inspection of building permits, 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.*
3. *Prior to issuance of building permits, 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 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 development. This letter shall be scanned into the plan set before building permit issuance.*
4. *Prior to issuance of building permits, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney, prohibiting the use of the accessory dwelling unit for short-term rentals (i.e., less than 30 days) and prohibiting the sale of the ADU separate from the principal dwelling. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.*
5. 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). Before the issuance of building permits, the Applicant shall provide a copy of said coastal development permit or CDP waiver or documentation from the Coastal Commission that subject improvements are not subject to the permit requirements of the Coastal Act and/or not located within the permit jurisdiction of the Coastal Commission.

6. 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 result 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.
7. This Coastal Development Permit does not authorize any development seaward of the private property.
8. 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 under 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.
9. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
10. 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.
11. 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.
12. 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.



13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
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. A material violation of any of those laws in connection with the use may be caused by the 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 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.
17. *Prior to 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.*
18. *Prior to issuance of building permits, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
19. *Prior to issuance of building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
20. *Prior to 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.*
21. All landscape materials and irrigation systems shall be maintained by 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.
22. 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 that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
23. 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.

24. Before 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.
25. 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.
26. This Coastal Development Permit 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.
27. 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 **MDXL LLC Residence including but not limited to, Coastal Development Permit (PA2024-0142)**. 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 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 under the indemnification requirements prescribed in this condition.

#### Public Works Department

28. No encroachments are permitted within the East Ocean Front Alley and East Ocean Front right of way.
29. The Applicant shall cap all unused sewer laterals at the property line and remove any sewer clean outs located in the alley adjacent to the property.
30. The Applicant shall abandon all unused water meters and services at the water main.
31. The Applicant shall relocate the electrical vents to accommodate the proposed driveway and garage.