



**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 June 12, 2020.

**ZONING ADMINISTRATOR ACTIONS
JUNE 11, 2020**

- Item 1: English Residence Addition Modification Permit No. MD2020-002 (PA2020-015)
Site Address: 1731 Centella Place
Action: Approved by Resolution No. ZA2020-050 Council District 3
- Item 2: AT&T Small Cell SLC4735 Minor Use Permit No. UP2019-027 (PA2019-108)
Site Address: Public right-of-way, City streetlight number SLC4735, center median of Avocado Avenue at the intersection of Kewamee Drive and Avocado Avenue
Action: Continued to June 25, 2020, ZA meeting Council District 6

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

- Item 1: Pavilions Temporary Trailers Limited Term Permit No. XP2020-004 (PA2020-074)
Site Address: 3100 Balboa Boulevard
Action: Approved Council District 1

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2020-050

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING MODIFICATION PERMIT NO. MD2020-002 FOR AN ADDITION GREATER THAN 10 PERCENT TO A SINGLE-FAMILY DWELLING WITH A LEGAL NONCONFORMING GARAGE LOCATED AT 1731 CENTELLA PLACE (PA2020-015)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jeff and Haley English (“Applicants”), with respect to property located at 1731 Centella Place, and legally described as Lot 5 of Tract No. 3176 requesting approval of a modification permit.
2. The Applicants propose the remodel of an existing single-family residence with a garage that is considered legal nonconforming due to its interior dimensions and the construction of a 690-square-foot addition. The existing garage provides the minimum required depth of 20 feet; however, the existing width is substandard at 17 feet, whereas the requirement is 20 feet. The Modification Permit is necessary because the Applicants propose to add more than 10 percent of the existing square footage without altering the garage for compliance. The proposed addition is 690 square feet and results in a total of 2,699 square feet for the residence (including the garage).
3. The subject property is designated RS-D (Single Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1-10000 (Single-Unit Residential) Zoning District.
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on June 11, 2020, in the Council Chambers 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 (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 exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 1 (Existing Facilities) 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. This exemption includes additions to existing structures up to 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. The proposed project is a 690 square foot addition to an existing single-family residence within a developed neighborhood and is not within an environmentally sensitive area.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050(E) (Modification Permits – Required Findings) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The requested modification will be compatible with existing development in the neighborhood.*

Facts in Support of Finding:

1. The existing development is a 2,009 square-foot, single-family residence with attached garage. The residence is located on a cul-de-sac and is abutted primarily by single family residences.
2. The addition would provide more living area for the family by increasing the size of the dwelling unit by 690 square feet. The addition is single story and is consistent with the design and height of other properties in the neighborhood.
3. There is no change to the density or the use as a result of the proposed remodel and addition.

Finding:

- B. *The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

Facts in Support of Finding:

1. The existing structure was built in the late 1950s and complied with the standards at the time of construction. Subsequent amendments to the standards have rendered the interior clear dimensions of the existing two (2)-car garage to be substandard in size.
2. NBMC Subsection 20.38.030(C) defines a “legal nonconforming structure” as any structure that was lawfully erected but does not conform with the current development standards for the zoning district in which it is located by reason of adoption or amendment of the Zoning Code.
3. The garage is covered by a gabled roof that extends from the main ridge beam of the house. Modifying the garage walls, which are not within the area of the proposed

construction, would require reframing the entire garage. Reframing the garage would significantly increase the scope of the project and the cost.

Finding:

C. The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.

Facts in Support of Finding:

1. The exterior wall of the garage is located within the required side setback area and the current development standards do not allow for the exterior wall to be relocated there in order to provide the Code-required width.
2. Relocating the interior garage wall 3 feet south into the dwelling space, to achieve the 20-foot clear dimension for width, would result in reduction of living space which is contrary to the purpose of the proposed addition.

Finding:

D. There are no alternatives to the modification permit that could provide similar benefits to the applicants with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.

Facts in Support of Finding:

1. Bringing the garage into compliance with current Zoning Code requirements would provide a negligible benefit but it would unreasonably require significant alterations to the structure well beyond the scope of the planned addition.
2. The intent of the project is to provide a new laundry room, additional bathroom, and larger kitchen space. A redesign to reduce the size of the addition to 200 square feet will significantly impact the objectives of the project and would not provide similar benefits to the Applicants.

Finding:

E. The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.

Facts in Support of Finding:

1. The proposed construction conforms to all applicable development standards, including floor area limit, setbacks, height, and will provide adequate protection for light, air, and privacy. The addition will not preclude access to the dwelling and will be consistent in scale with other dwellings in the neighborhood.
2. The proposed addition will increase the total square footage of the residence (including garage) to 2,699 square feet. While the R-1-10000 zoning designation does not identify a limitation on square footage, it does limit development with a maximum lot area coverage of 60 percent. The project will increase the total lot coverage from 21.5 percent to 32.9 percent.
3. The proposed project maintains more than the minimum 3-foot side yard for fire access in accordance with Zoning Code Section 20.30.110 (Setbacks Regulations and Exceptions), Subsection A(1)(c).
4. The approval of this Modification Permit is conditioned such that the Applicants are required to obtain all necessary permits in accordance with the Building Code and other applicable Codes. The Building Division has reviewed the proposed project and added conditions of approval for demonstration of project compliance with Building Codes.
5. In addition to the 2-car garage, the property includes a driveway adequate in size to accommodate parking for two additional vehicles on-site, minimizing demand for on-street parking.

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 pursuant to Section 15303 under Class 1 (Existing Facilities) 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 Modification Permit No. MD2020-002, subject to the conditions set forth 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 in accordance with the provisions of Title 20 Planning and Zoning of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 11TH DAY OF JUNE, 2020.



Jaime Murillo
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. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicants 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 Modification Permit.
4. This Modification 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.
5. Any change to the approved plans, shall require review by the Planning Division. An amendment to or the processing of a new modification permit may be required.
6. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
7. Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior clear dimensions (17 feet wide by minimum 20 feet deep) shall be kept clear of obstructions including cabinets, shelving, or similar that may impact the ability to adequately park two vehicles.
8. Prior to the issuance of a building permit, the Applicants shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Modification 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 Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
9. Prior to the issuance of a building permit, the Applicants shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

10. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
11. Construction activities shall comply with Section 10.28.040 of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday, and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
12. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the NBMC.
13. To the fullest extent permitted by law, Applicants 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 English Residence Addition including, but not limited to Modification Permit No. MD2020-002 (PA2020-015). 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 Applicants, City, and/or the parties initiating or bringing such proceeding. The Applicants 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 Applicants shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

14. The Applicants are required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
15. Fire sprinklers will be required when the cost of the proposed addition/alteration/reconstruction exceeds 50% of the replacement value of the existing building.

Public Works Department

16. No improvements shall be installed within the limits of the 6-foot-wide utility easement in the rear of the property.



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

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ZONING ADMINISTRATOR ACTION LETTER

Subject	Pavilions Temporary Trailers (PA2020-074) <ul style="list-style-type: none">Limited Term Permit No. XP2020-004
Applicant	Pavilions Grocery Store
Site Address	3100 Balboa Boulevard
Legal Description	Parcel 1 of Parcel Map No. 2009-135, as per map filed in Book 371, Pages 4 through 6 of Parcel Maps, in the office of the County Recorder in the County of Orange, California

On **June 12, 2020**, the Zoning Administrator approved a limited term permit to allow one 26-foot electric produce refrigeration trailer within the loading dock and one 40-foot electric ice trailer adjacent to the loading dock for an eight-day duration at the rear of the Pavilions Grocery Store within The Landing Shopping Center. The trailers' refrigeration units will operate only between the hours of 7:00 a.m. through 9:00 p.m., daily, to store ice and produce for the Independence Day holiday period (July 1, 2020 through July 8, 2020). The applicant will incorporate a noise reduction plan that includes sound barrier blankets on the backside of both trailers. The property is located in the CN (Commercial Neighborhood) Zoning District. The approval is based on the following findings and subject to the following conditions:

FINDINGS

Finding:

- A. *This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 11 (Accessory Structures);*

Fact in Support of Finding:

- Class 11 exempts the placement of seasonal or temporary use of items such as lifeguard towers, mobile food units, portable restrooms, or similar items. The proposed temporary trailers will be placed within the rear of the shopping center for a limited time period and will be ancillary to an existing commercial development.

Finding:

- B. *The operation of the limited duration use at the location proposed and within the time period specified would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the requested limited duration use;*

Facts in Support of Finding:

1. The limited term permit will allow two temporary electric refrigeration trailers to store ice and produce on-site for the Independence Day holiday as conditioned.
2. The operation of the electric refrigeration units are limited to the hours of 7:00 a.m. to 9:00 p.m. The trailers are limited from July 1, 2020 through July 8, 2020, to reduce the impact of noise to surrounding residents.
3. Electric refrigeration trailers have been used at the subject property on holiday weekends during similar hours in the past and the use has not proven detrimental. Sound blankets are required to reduce noise impacts.
4. Conditions of approval require the location of the trailer within and adjacent to the loading dock area, which is approximately 100 feet from the nearest residence and will be partially screened by existing trees and landscaping along 30th Street. The generators will be oriented to face away from nearby residents.

Finding:

- C. *The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot;*

Facts in Support of Finding:

1. The subject lot is approximately 3.75 acres in size. Based upon the site plan, there is adequate area to accommodate the proposed trailers and existing uses without impacting vehicle circulation. The ice trailer will be located adjacent to the loading dock and will occupy two required parking spaces for a limited duration (eight days).
2. The lot is bounded by Balboa Boulevard to the west, Newport Boulevard to the east, 32nd Street to the north, and 30th Street to the south. The adjacent right-of-way (30th Street) separates the lot from nearby residential properties within the R-2 (Two-Unit Residential) Zoning District. A public parking lot is located directly across 30th Street, adjacent to where the trailer will be parked.

Finding:

- D. *The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate;*

Facts in Support of Finding:

1. The subject lot has four direct driveway approaches taken from Newport Boulevard, 32nd Street, Balboa Boulevard, and 30th Street. The 40-foot ice trailer's location above the loading dock will not impede access or truck access to the loading dock at the rear of the grocery store. The ice trailer will occupy two required parking stalls for a limited period of time (eight days). The 26-foot produce trailer's location within the loading dock will still allow for deliveries within the other half of the loading dock during the eight-day period and will not impede any parking spaces. No traffic or site circulation issues are anticipated.
2. The produce trailer will be located within the loading dock and will not generate additional traffic or impede access.
3. The limited duration use is for two temporary electric refrigeration trailers for the grocery store to store ice and produce during the holiday weekends when significant demand is anticipated.

Finding:

- E. *Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator; and*

Fact in Support of Finding:

1. The proposed limited duration use will not create additional parking demand since they will be utilized to store ice and produce for the grocery store. The two parking spaces that the ice trailer will occupy will not have a detrimental effect on parking demand within the shopping center since these spaces are typically underutilized due to their location at the rear loading dock area. The public will not have direct access to the temporary electric refrigeration trailers.

Finding:

- F. *The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the Municipal Code, and other City regulations.*

Facts in Support of Finding:

1. The General Plan land use designation for this site is Neighborhood Commercial (CN). The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed use is accessory to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation.
2. The site is located in the Commercial Neighborhood (CN) Zoning District. The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed trailers are ancillary to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation. The CN zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The site is not located within a specific plan area.

CONDITIONS

(Project-specific conditions are in italics)

1. The development shall be in substantial conformance with the approved site plan except as noted in the following conditions.
2. Anything not specifically approved by this limited term permit is prohibited and must be addressed by a separate and subsequent review.
3. *The temporary electric refrigeration trailers shall be located within the rear loading dock and adjacent to the rear loading dock area as shown on the site plan (Attachment No. ZA 2). The generator on the ice trailer shall face away from the nearby residences and shall be oriented southeast toward 3011 Newport Boulevard.*
4. *The temporary electric refrigeration trailers shall be limited to the storage of ice and produce for the grocery store. Alcohol and other store merchandise shall not be stored within the temporary trailer.*
5. *The 40-foot temporary electric refrigeration trailer for ice is permitted on-site for an eight-day duration from July 1, 2020 through July 8, 2020. Storage of a trailer or trailers on-site other than the dates specified is prohibited.*
6. *The 26-foot temporary electric refrigeration trailer for produce is permitted on-site for an eight-day duration from July 1, 2020 through July 8, 2020. Storage of a trailer or trailers on-site other than the dates specified is prohibited.*

7. *Operation of the refrigeration units within the temporary trailers shall be limited to the hours of 7:00 a.m. to 9:00 p.m., daily. If the hours of operation are not adhered to, the applicant shall be subject to fines in accordance with Newport Beach Municipal Code (NBMC) Chapter 1.05.020 (Authority and Administrative Citation Fines). Fines may reflect the maximum amount, as authorized by the City Manager or his/her designee.*
8. *The refrigeration trailers shall comply with the noise standards of Chapter [10.26 \(Community Noise Control\)](#) of the City of Newport Beach Municipal Code. The maximum noise generated by the proposed use shall not exceed a noise level equal to the value of the noise standard plus 20 DBA for any period of time, as measured using A-weighted slow response. Sound barrier materials (blankets) shall be installed at all times to inhibit the noise. The Code Enforcement Officer may require additional sound testing and attenuation at his/her discretion to comply with the noise standards of the Municipal Code.*
9. *The applicant shall provide a 24-hour contact number for emergencies, complaints, or concerns to Code Enforcement and interested parties upon request during the time period the trailers are authorized.*
10. *The applicant shall identify an individual whose job it is to shut down the generator on or before 9:00 p.m. each evening. This person's name shall be provided to the City of Newport Beach Police Department Watch Commander via email each day that the generator is in operation.*
11. *The generators on each temporary electric refrigeration trailer shall be set back 20 feet from the rear property line along 30th Street and 5 feet from any adjacent structures.*
12. *The temporary trailers shall not restrict vehicle circulation, truck access to the loading dock, or the public right-of-way at the rear of the grocery store.*
13. *Access for emergency vehicles must be maintained around the temporary trailer within the parking area. A minimum clearance of 14 feet is required adjacent to the trailer. Twenty feet of clearance is required in all other areas of the required fire access roadway around Pavilions Grocery Store.*
14. *The trailers shall not block any firefighting equipment such as fire hydrants, standpipe connections, or fire department connections.*
15. *The refrigeration trailers must be registered by the Department of Motor Vehicles (DMV) to be exempt from requirements for building permits.*
16. *An electrical permit and proper grounding and bonding shall be required if power is used elsewhere than the generator on the trailers.*

17. The Limited Term Permit is for the operation of two temporary electric refrigeration trailers on-site for the hours and dates specified and does not authorize the use or operation of additional storage trailers on-site.
18. Should the temporary refrigeration trailers become a detriment to the public health, comfort, convenience, safety, and general welfare of the peace and quiet of the neighboring properties and their inhabitants, this permit may be revoked.
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 the **Pavilions Temporary Trailers** including, but not limited to, **Limited Term Permit No. XP2020-004 (PA2020-074)**. 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.

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development, 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. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.



Jaime Murillo
Zoning Administrator
MKN/dl

Attachments: ZA 1 Vicinity Map
 ZA 2 Site Plan

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Limited Term Permit No. XP2020-004
(PA2020-074)

3100 Balboa Boulevard

Attachment No. ZA 2

Site Plan

