



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 26, 2020.

ZONING ADMINISTRATOR ACTIONS JUNE 25, 2020

- Item 1: 712 Iris LLC Condominiums Tentative Parcel Map No. NP2020-004 (PA2020-059)
Site Address: 712 and 712 1/2 Iris Avenue
- | | | |
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| Action: Approved by Resolution No. ZA2020-051 | Council District | 6 |
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- 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
- | | | |
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| Action: Removed from Calendar | Council District | 6 |
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- Item 3: Faerber Residence Coastal Development Permit No. CD2020-013 (PA2020-029)
Site Address: 405 Cortes Circle
- | | | |
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| Action: Approved by Resolution No. ZA2020-052 | Council District | 6 |
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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2020-051

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP NO. NP2020-004 FOR TWO (2)-UNIT CONDOMINIUM PURPOSES LOCATED AT 712 AND 712 ½ IRIS AVENUE (PA2020-059)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by 712 Iris LLC (Applicant), with respect to property located at 712 and 712 ½ Iris Avenue, and legally described as Lot 14, Block 736 Corona del Mar Tract, requesting approval of a tentative parcel map for condominium purposes.
2. The applicant requests a tentative parcel map for two (2)-unit condominium purposes. A duplex will be demolished and a new duplex is currently in the building permit review process. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed. The tentative parcel map would allow each unit to be sold individually.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two Unit Residential (RT).
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A telephonic public hearing was held on June 25, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the 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 15315 under Class 15 (Minor Land Divisions) 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 Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map is for

condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

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 Tentative Parcel Map is for two (2)-unit residential condominium purposes. A duplex will be demolished and a new duplex is currently in the building permit review process. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Iris Avenue frontage and any damaged concrete alley panels consistent with NBMC Title 19.

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for two (2)-unit residential development because it is regular in shape. An existing duplex will be demolished and a new duplex is currently in the building permit review process.
2. The subject property is accessible from the alley and is adequately served by all existing utilities.

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.

Facts in Support of Finding:

1. A duplex will be demolished and a new duplex is currently in the building permit review process..
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3) of the CEQA Guidelines – Class 15 (Minor Land Alterations).

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. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local Agencies to Regulate and Control Design of Subdivisions) of the Subdivision Map Act. 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 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. The existing sewer easement will be maintained and widened per Public Works regulations and conditioned to allow no structural encroachments within the limits of the widened easement.

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.

Facts 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.
2. The property was previously developed with a residential use and is located in a Zoning District that permits residential uses.

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 not located within a specific plan area.

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 Tentative Parcel Map and any future improvements are subject to Title 24 of the California Code of Regulations (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 two (2)-unit dwelling that is proposed for construction is consistent with the intended uses of the R-2 Zoning District, which allows two (2) residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes 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. The new two (2)-unit dwelling will be designed so that wastewater discharge into the existing sewer system complies 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 subject property is not within the Coastal Zone.

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 15315 under Class 15 (Minor Land Divisions) 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 Tentative Parcel Map No. NP2020-004, subject to the conditions set forth in Exhibit "A," which is attached here to and incorporated by reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of NBMC Title 19 Subdivisions.

PASSED, APPROVED, AND ADOPTED THIS 25th DAY OF JUNE, 2020.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****Planning Division**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Prior to the recordation of the Parcel Map, the existing duplex shall be demolished.
3. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this permit is final.
4. The building permit for the new construction shall not be final until after recordation of the parcel map.
5. 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 19 (Subdivisions) 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 712 Iris, LLC Condominiums including, but not limited to, Tentative Parcel Map No. NP2020-004 (PA2020-059). 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.

Public Works Department

6. 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 Sections 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.

7. 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 (1-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.
8. All improvements shall be constructed as required by Ordinance and the Public Works Department.
9. All damaged curb, gutter and sidewalk along the Iris Avenue frontage and all damaged alley panels along the alley frontage shall be reconstructed per City Standard.
10. The existing street tree along the Iris Avenue frontage shall be protected in place.
11. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
12. The existing 4-foot sewer easement shall be maintained and widened to 10 feet utilizing the existing centerline of the easement. No structural encroachments, including but not limited to stairs, foundations, walls, caissons are permitted within the limits of the easement.
13. All existing overhead utilities shall be undergrounded.
14. No above ground improvements are permitted within the 5-foot rear alley setback area.
15. New sod or low groundcovers of the type approved by the City shall be installed throughout the Iris Avenue parkway fronting the development site.
16. An encroachment permit is required for all work activities within the public right-of-way.
17. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
18. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

Building Division

19. Independent utility services shall be provided for each unit.

20. Independent fire risers shall be required for each unit.
21. Construction shall comply with the California Code of Regulations.

RESOLUTION NO. ZA2020-052

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-013 FOR MINOR ADDITIONS TO AN EXISTING SINGLE-FAMILY RESIDENCE AND GRANTING RELIEF FROM THE DEVELOPMENT STANDARDS OF THE LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN AT 405 CORTES CIRCLE (PA2020-029)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Architectural Design Solutions (“Applicant”), with respect to adding 340 square feet of habitable area to the existing residential property located at 405 Cortes Circle, and legally described as Lot 66, Tract 1237 requesting approval of a coastal development permit.
2. The Applicant proposes to enclose two (2) existing 65-square-foot covered decks on the main and lower floor levels to enlarge two (2) existing adjacent bedrooms, and to construct a 210-square-foot upper level addition, thereby adding 340 square feet of habitable area to the existing residence. No change is proposed to the footprint of the existing structure.
3. The existing legal nonconforming development predates the City's Local Coastal Program and adopted Canyon Overlay District, and the existing decks extend beyond the currently applicable Canyon Stringline. Pursuant to Newport Beach Municipal Code (NBMC) Section 21.38.040(C), nonconforming structural elements of a primary structure (excepting foundation) may be modified provided the degree of nonconformity is not increased. The proposed project will occur within the confines of the existing structural footprint and will not increase the existing degree of nonconformity.
4. The subject property is located within the R-1-6000 (Single-Unit Residential) Zoning District and the General Plan Land Use Element category is RS-D (Single-Unit Residential Detached).
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-A (Single Unit Residential Detached) (0.0 - 5.9 DU/AC) and the Coastal Zoning District is R-1-6000 (Single-Unit Residential).
6. A public hearing was held on June 25, 2020, in the Corona del Mar Conference Room, Bay 1E located at 100 Civic Center Drive, Newport Beach, California, observing restrictions due to the Declaration of a State of Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the 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 from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 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. Class 1 exempts additions of up to 10,000 square feet where public services and utilities are available and the area is not considered environmentally sensitive. The proposed project is limited to enclosing two (2) existing 65-square-foot covered decks on the main and lower floor levels to enlarge two (2) existing adjacent bedrooms, and to construct a 210-square-foot upper level addition, thereby adding 340 square feet of habitable area to the existing residence. The proposed area of work is not within an environmentally sensitive area.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits) of the NBMC, 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 structure conforms to all applicable development standards including, but not limited to, site coverage limitation, setbacks, height, and parking:
 - a. The maximum floor area limitation is 10,370 square feet and the proposed gross floor area is 4,486 square feet.
 - b. The proposed development will provide the required setbacks, which are 5 feet along the front property line, 6 feet along the side property lines, and 6 feet along the rear property line. The existing dwelling is currently nonconforming due to the applicable canyon stringline. With exception of the requested Variance to the canyon stringline, the proposed development complies with all applicable development standards. All proposed work will occur within the confines of the existing structural footprint above the ground level and will not increase the existing degree of nonconformity beyond the canyon stringline.
 - c. The project complies with the maximum height limitation. The highest flat roof or parapet of the upper level addition is approximately 4 feet below the maximum height limit of 24 feet, measured from established grade at every point as required by Implementation Plan Section 21.30.050(B)(3).

- d. The project includes existing garage parking for two (2) vehicles, which complies with the minimum two (2)-space parking requirement for single-family residences with less than 4,000 square feet of livable floor area. The existing living area is 3,606-square-feet and the proposed living area is 3,946-square-feet.
2. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood's pattern of development and expected future development consistent with applicable development standards. The upper level addition complies with the stringline setback and maintains the appearance of two (2) stories from the street.
3. The property is not located within an area identified as hazardous due to erosion factors or coastal hazards. The project will be required to comply with the California Building Code (CBC) and Building Division standards and policies.
4. As conditioned, 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 Section 21.30.015(D)(3)(c) of the NBMC prior to the issuance of building permits for construction.
5. The property is not located near coastal view roads and is not located near any identified public viewpoints; therefore, the project will not negatively impact public coastal views.

Finding:

- B. Conforms to 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.*

Facts in Support of Finding:

1. The project site is located north of East Coast Highway, approximately one-half mile from the coast. The site is not located between the nearest public road and the sea or shoreline, and the project will not affect the public's ability to gain access to use and/or view the coast and nearby recreational facilities.
2. Section 21.30A.040 (Determination of Public Access/Recreation Impacts) of the NBMC 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 involves minor additions within the structural envelope of an existing single-family residence located on a lot in the Coastal Zone. The project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project site is located north of East Coast Highway, approximately one-half mile from the coast. Therefore, coastal access conditions will not be affected by the project. Coastal access is currently provided and will continue to be provided by street ends throughout the neighborhoods located south of East Coast Highway with access to the coast.

3. The project site is not located adjacent to a coastal view road or coastal viewpoint identified by Local Coastal Program maps. The project site may be located within the viewshed of distant public viewing areas; however, the project is limited to enclosing two (2) small decks within the established structural footprint and building envelope and complies with all applicable Local Coastal Program (LCP) development standards. 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:

C. The Zoning Administrator has considered the following:

- i. Whether or not the development is consistent with the certified Local Coastal Program to the maximum extent feasible; and*
- ii. Whether or not there are feasible alternatives that would provide greater consistency with the certified Local Coastal Program and/or that are more protective of coastal resources.*

Facts in Support of Finding:

1. With exception of the variance to the canyon stringline, the proposed development complies with and is consistent with the certified LCP. Fact in Support of Findings A and B above.
2. The subject property located on a coastal canyon and is presently developed with a single-family residence and accessory structures. All proposed work will occur within the confines of the existing structural footprint above the ground level and will not increase the existing degree of nonconformity beyond the canyon stringline. Therefore, the project will have no detrimental effect on coastal resources that the stringline is intended to protect, with or without the project.

Finding:

- D. The granting of the variance is necessary due to special circumstances applicable to the property, including location, shape, size, surroundings, topography, and/or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same coastal zoning district.*

Facts in Support of Finding:

1. The existing residence was constructed approximately 20 years ago, prior to the LCP and Canyon Overlay District, which became effective in 2017. Nearly one-half of the existing structure extends beyond the subsequently adopted canyon stringline, creating special circumstances in renovating the existing structure.

2. The strict application of the canyon stringline results in physical hardships inconsistent with the intent and purpose of the LCP. The enclosing of existing covered decks above the ground level and within the existing structural envelope has no detrimental effect on environmental or visual resources that the canyon stringline is intended to protect. Section 21.52.090(B)(1) of the NBMC specifically allows modification or waiver of development standards through approval of a coastal development for projects that will not have an adverse effect on coastal resources.
3. Typical properties subject to the canyon stringline on the west side of the canyon located along Hazel Drive experience a straight-line of development along a straight roadway where the canyon stringline methodology more appropriately maintains the existing line of development. Conversely, properties on the east side of canyon are situated around more curvilinear streets, including three cul-de-sacs, where the typical canyon stringline methodology does not work, does not represent the predominate line of development, and nearly bisects the existing development.
4. Furthermore, given the project's location at the end of the cul-de-sac, the property naturally extends further into the canyon than the neighboring properties, which wrap around Cortes Circle. As such, the development area is more impacted than the immediately adjoining parcels.

Finding:

E. The variance complies with the findings required to approve a coastal development permit in Section 21.52.015(F).

Facts in Support of Finding:

1. The project conforms to applicable sections of the LCP in that the proposed work will occur within the confines of the existing structural footprint above the ground level and will not increase the existing degree of nonconformity. No grading or further encroachment beyond the applicable stringline will occur. Therefore, the project will have no detrimental effect on coastal resources that the stringline is intended to protect.
2. The project site is not located between the nearest public road and the sea or shoreline. The project site is located north of East Coast Highway, approximately one-half mile from the coast.
3. All Facts in Support of Findings A and B above are hereby incorporated by reference.

Finding:

F. The variance will not result in development that blocks or significantly impedes public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs.

Facts in Support of Finding:

1. Public coastal access conditions will not be affected by the project. The property is located north of East Coast Highway, approximately one-half mile from the coast. Coastal access is currently provided and will continue to be provided by street ends throughout neighborhoods located south of East Coast Highway with access to the coast. There are no public trails located on the project site.
2. Facts in Support of Finding B.1 and B.2 are hereby incorporated by reference.

Finding:

G. The variance will not result in development that blocks or significantly impairs public views to and along the sea or shoreline or to coastal bluffs and other scenic coastal areas.

Fact in Support of Finding:

1. Fact in Support of Finding B.3 is hereby incorporated by reference.

Finding:

H. The variance will not result in development that has an adverse effect, either individually or cumulatively, on coastal resources, including wetlands, sensitive habitat, vegetation, or wildlife species.

Facts in Support of Finding:

1. The covered decks to be enclosed are located within the already developed area of the property and within the existing structural envelope. No new development or grading is proposed outside of the existing structural footprint and the project will not impact any coastal resources, which the stringline setback is intended to protect.
2. Site-specific conditions, including the location of the property at the end of the Cortes Circle cul-de-sac and the location of existing improvements that establishes the canyon stringline for the project site, are unique to this property and, therefore, do not establish a precedent for approval of other requests that would contribute to cumulative adverse effects on coastal resources.

Finding:

I. The granting of the variance will not be contrary to, or in conflict with, the purpose of this Implementation Plan, nor to the applicable policies of the certified Local Coastal Program.

Facts in Support of Finding:

1. Approval of the coastal development permit will not be contrary to the applicable policies of the City's Coastal Land Use Plan intended to protect coastal resources. Policy 2.2.5-1 specifically allows limited renovations to existing nonconforming structures that improve the

physical quality and character of a structure provided such renovations do not involve demolition or replacement of 50 percent or more of the nonconforming exterior walls and do not increase the degree of the structure's nonconformity. The project involves enclosing existing covered decks within the existing structural envelope above the ground level, with no grading or further encroachment beyond the applicable stringline.

2. The granting of the coastal development permit to allow the enclosing of two (2) existing covered decks within the existing building envelope is consistent with NBMC Section 21.52.090, which provides for relief from development standards for projects that will have no detrimental effect on environmental or visual coastal resources.

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 CEQA pursuant to Section 15301 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 Coastal Development Permit No. CD2020-013, 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 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 25th DAY OF JUNE, 2020.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval). There shall be no further encroachment that extends beyond the current structural footprint of the residence.
2. Prior to final inspection of the building permit, the as-built gazebo structure located on the roof level deck shall be removed.
3. Revisions to the approved plans shall require separate review by the Planning Division and may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
4. Prior to the issuance of a building permit, the property owner shall provide 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, judgements, 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. The letter shall be scanned into the plan set prior to building permit issuance.
5. 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. No demolition or construction materials shall be stored on public property.
6. 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 (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
7. 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.
 8. 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.
 9. 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.
 10. 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.
 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. 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 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.
 14. 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.
 15. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only

and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.

16. Prior to the issuance of building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
17. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
18. Coastal Development Permit No. CD2020-013 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
19. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Faerber Residence including, but not limited to Coastal Development Permit No. CD2020-013 (PA2020-029). 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.