

Attachment No. PC 1

Draft Resolution

INTENTIONALLY BLANK PAGE

RESOLUTION NO. PC2023-037

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, UPHOLDING THE ZONING ADMINISTRATOR'S APPROVAL AUTHORIZING A COASTAL DEVELOPMENT PERMIT, MODIFICATION PERMIT, AND STAFF APPROVAL FOR AN ADDITION AND ALTERATIONS TO AN EXISTING 5,781-SQUARE-FOOT, NON-CONFORMING SINGLE-UNIT RESIDENCE LOCATED AT 2741 OCEAN BOULEVARD (PA2022-0315)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Blues 1905 LLC ("Applicant"), concerning property located at 2741 Ocean Boulevard, and legally described as Parcel B of Resubdivision No. 082 together with the abandoned portion of Ocean Boulevard vacated under City Council Resolution No. 98-66 ("Property"), requesting approval of a coastal development permit, modification permit, and staff approval.
2. On June 1, 1961, Variance No. 653 was approved to allow a reduction of the front yard setback from ten feet to zero feet along Ocean Boulevard. During this time, the lot was 4,971 square feet in area, as a large portion of land between the residence and Ocean Boulevard was within the public right-of-way.
3. On November 6, 1986, the Planning Commission approved Variance No. VA1137 allowing an addition to encroach into the front setback along Ocean Boulevard, to exceed the allowable floor area limit of 4,087 square feet and 24-foot flat-roof height limit.
4. Subsequently on December 8, 1988, the Planning Commission approved an amendment to Variance No. VA1137 to allow an open exterior stairway that exceeded the height limit of 24 feet to allow a height of 29 feet, and encroached nine feet six inches into the required 10-foot front setback along Ocean Boulevard. Variance No. VA1137 also allowed a mechanical storage room that further increased the gross floor area of the dwelling beyond the maximum floor area limits. Subsequent to Variance No. VA1137's approval, the setback along Way Lane increased from 2.5 feet to 10 feet, making the existing garage and portions of the residence nonconforming due to its encroachment into the setback.
5. On October 12, 1998, Resolution No. 98-66 was adopted by City Council to abandon a portion of the previously mentioned Ocean Boulevard right-of-way adjacent to the Property. The abandoned right-of-way comprising 5,556 square feet was added to the lot area of the Property to 10,360 square feet. Consequently,

the buildable area increased to 6,692 square feet and maximum allowable floor area was expanded to 10,038 square feet.

6. Although the Planning Commission approved Variance No. VA2015-005 on April 6, 2017, for the demolition of the existing residence and the construction of a new single-unit residence, the project was not implemented within the required time limits and VA2015-005 expired.
7. In the current application, the Applicant proposes to remodel and add to the existing 5-story residence. The proposed addition is 2,511 square feet that creates a total of 8,292 gross square feet, which is below the maximum square footage allowed on the site.
8. In the current application, the Applicant proposes to remodel and add 2,511 square feet to an existing, non-conforming single-unit residence, which results in a total of 8,292 square feet of gross floor area. The addition includes a new entryway, office bathroom, and pantry on the fifth floor, closets and a bathroom on the fourth floor, a gym, wine cabinet, bedroom, bathrooms, and laundry room on the third floor, and pool storage on the second floor. The addition is located between the existing building and Ocean Boulevard below applicable height limits. The scope of work includes grading, landscape and hardscape, drainage, a swimming pool, and various accessory structures. Additionally, the Applicant requests a modification permit for retaining walls and associated guardrails located within the front yard setback along Ocean Boulevard which exceeds the maximum 42-inch height limit and Ocean Boulevard curb height elevation ("Project").
9. In order to implement the Project, the Applicant requests the following land use approvals:
 - Coastal Development Permit ("CDP"): A coastal development permit is required for the 2,511 square feet addition within the Coastal Zone.
 - Modification Permit: A modification permit is required to allow for retaining walls and associated guardrails within the front setback along Ocean Boulevard that exceed the maximum height of 42 inches to allow a retaining wall and associated guard rail of approximately eight feet tall and exceeds the Ocean Boulevard curb height elevation.
 - Staff Approval: A staff approval is required for determination of substantial conformance with the previously approved Variance No. VA1137 that authorized deviations to height, floor area, and setbacks for the existing building.
10. 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.
11. The Property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached – (6.0 – 9.9 DU/AC) (RSD-B) and it is located within the Single-Unit Residential (R-1) Coastal Zoning District.

12. A public hearing was held by the Zoning Administrator on August 10, 2023, 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. During the public hearing, Jim Mosher spoke and stated concerns with the abandoned right-of-way along Ocean Boulevard and the potential effect on coastal views from Ocean Boulevard. Another member of the public, Catherine Callender, spoke and stated her concerns regarding the upkeep of the charm of China cove and the potential access issues for delivery trucks on Way Lane. The Zoning Administrator approved the Project with an additional condition of approval requiring a construction management plan prior to building permit issuance.
13. On August 24, 2023, Jim Mosher, Ron Yeo, Daniel Herman, Walt Howald, and Bill and Jinx Hansen filed an appeal of the Zoning Administrator's decision, objecting to the facts in support of the findings in the approved resolution including the protection of public views, minimizing the alteration of the bluff, and the predominant line of existing development.
14. A public hearing was held by the Planning Commission on November 9, 2023, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with California Government Code Section 65950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to and considered by, the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. As a part of the 1986 approval of VA1137, the City prepared a Mitigated Negative Declaration (MND) for the existing residence under the provisions of the California Environmental Quality Act (CEQA). The Project does not create additional impacts to what was originally analyzed in the MND. Additionally, the Project is consistent with the required mitigation measures of the MND, which require grading plans to ensure proper drainage, erosion control, and concentrated run-off, as well as a geologic investigation which analyze slope stability. The Project includes grading plans, erosion control plans, and a geotechnical report which have been reviewed by City staff.
2. Additionally, 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 Guidelines") under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment.
3. Class 3 exempts the demolition of up to three single-unit residences and additions of up to 10,000 square feet to existing structures. The Project fits within the

parameters of Section 15303 because the Project consists of a remodeling and 2,511-square-foot addition to an existing single-unit residence. Therefore, the Project is also categorically exempt under Section 15303.

4. 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.

Modification Permit

Pursuant to Newport Beach Municipal Code (NBMC) Subsection 20.52.050(B)(3)(g), the Applicant requests a modification permit to allow for retaining walls and associated guardrails to exceed the maximum allowable height of 42 inches within the front yard setback and exceed the Ocean Boulevard curb elevation by three to 3.5 feet. In accordance with NBMC Subsection 20.52.050(E) (Modification Permits – Required Findings), 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 Property is located on a unique block of single-unit residences which slope steeply downward from Ocean Boulevard towards Way Lane. The steep slope from Ocean Boulevard towards the interior of the lot requires retaining walls to support an entry stair for access into the residences and to provide a guardrail for fall protection.
2. The proposed retaining walls and associated guardrails range from approximately seven to eight feet tall from existing grade. All proposed guardrails located within the front setback area are approximately 3.5 feet above the retaining wall below. At the worst-case slope area, the highest part of the retaining wall and associated guardrail is 8.13 feet above existing grade (69.61 feet North American Vertical Datum of 1988 (NAVD 88) top of rail elevation above 61.48 feet NAVD 88 existing grade).
3. Currently, the existing entry system includes guardrails approximately 55 feet in width and include eight pilasters that all exceed the Ocean Boulevard curb height by approximately three feet. The proposed entry system, which replaces the

existing, is smaller measuring approximately 33 lineal feet in width and includes only three pilasters ranging in height from three to 3.5 feet in height above the curb height. At the worst-case area, the top of railing is only three feet above the curb elevation. The entry gate and proposed rails are necessary for the safety of pedestrians on Ocean Boulevard to prevent fall hazards onto the slope and into the steps and landing of the Property's entryway.

4. Overall, the reduced width of the proposed railing system is an improvement compared to the existing conditions because although it would be the same height as the existing guardrail, it is much narrower than the existing guardrails. Additionally, the proposed railings are an open, wrought-iron design, which maintains view opportunities to the ocean. Although the railings exceed the curb height, they are not comprised of a solid material and are not tall enough to significantly alter the public view of the ocean.
5. The existing property and nearby properties along Ocean Boulevard have small accessory structures, walls, and landscaping hedges located along the top of slope adjacent to Ocean Boulevard. The proposed retaining walls are consistent with the pattern of existing development amongst similar residences located on the Ocean Boulevard bluff.

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 Property has topography which slopes from Ocean Boulevard down towards Way Lane. Within the 10-foot front yard setback, there is an approximate eight-foot slope from Ocean Boulevard towards the interior of the lot.
2. The steep decline creates difficulty in constructing an entry stair access way without higher retaining walls to support the path of travel from Ocean Boulevard to the front entry of the Project. Due to the approximate eight-foot change in grade within the front setback area, retaining walls with required protective guard rails are proposed to exceed the 42-inch height limit and be constructed 8.13 feet above existing grade at worst-case. As seen from street level, the required protective guardrails would also exceed the Ocean Boulevard curb elevation by approximately three feet at worst case.

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 Property has a number of characteristics that are unique when compared to other properties. For example, the Property does not maintain a rectangular configure typical to most lots. Additionally, the Property is fronted by Ocean Boulevard and Way Lane which both curve, thus, creating variations in the width and depth of the Property. The Project includes an addition on the Ocean Boulevard bluff side of the Property, which relocates the entryway of the existing residence closer to Ocean Boulevard due to the additional floor area. Due to this relocation, the existing staircase requires reconfiguration and must comply with the Building Code for access into the residence. Without the proposed reconfiguration, Building Code compliant access into the residence's front entry from Ocean Boulevard is not possible.
2. Due to the steep slope, there is a physical hardship associated with constructing a functional stairway which provides access to the front entry of the residence from Ocean Boulevard. Therefore, since the addition reduces the amount of space for a straight staircase similar to the existing condition, the proposed staircase features an L-shape design with two portions of steps and two landings, which is supported by higher retaining walls and protective guard rails above.

Finding:

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

Facts in Support of Finding:

1. The requested retaining wall system, which supports the entry stairway, spans an approximate 33-foot width, which is relatively small compared to the approximately 120-foot wide lot. The staircase occupies approximately 250 square feet of the 10-foot front yard setback area, which is approximately 1,200 square feet in area. The retaining walls and protective guardrails, which provide support to the stair system, are relatively small in scale and will not be detrimental to the neighborhood or general public.
2. The proposed retaining walls are not placed directly on the property line abutting Ocean Boulevard, but instead support a landing and staircase that is set back from

the property line in the front setback area. The proposed retaining walls do not interfere with the views of the ocean and are necessary for access and safety for the residents to enter from Ocean Boulevard.

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. Facts 3, 4, and 5 in Support of Finding A are hereby incorporated by reference.
2. Fact 1 in Support of Finding D is hereby incorporated by reference.
3. The granting of the modification results in retaining walls on a steeply sloping lot which is necessary to support access stairs. As a result, the stairs comply with the Building Code and provide safety to the residents.

Modification Permit Coastal Findings

Pursuant to Section 21.52.090 (Relief from Implementation Plan Development Standards), the Planning Commission may approve or conditionally approve a modification to a development standard of the Implementation Plan only after making the following findings:

Finding:

- F. The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Implementation Plan results in physical hardships.*

Fact in Support of Finding:

1. Facts 1 and 2 in Support of Finding B are hereby incorporated by reference.

Finding:

- G. The modification complies with the findings required to approve a coastal development permit in Section 21.52.015(F) (Findings and Decision).*

Facts in Support of Finding:

1. Facts in Support of Finding L are hereby incorporated by reference.
2. The proposed retaining walls do not affect coastal access to or views of the ocean. The existing residence includes an approximately 55-foot long lower guardrail located on the property line abutting Ocean Boulevard. The Project removes the property line railing and replaces it with an approximately 22-foot-wide retaining wall and guardrail that is set back approximately two feet from the property line. Additionally, there is an approximately 10-foot-wide entry pilaster and gate proposed to be constructed along the property line abutting Ocean Boulevard. Overall, the visual impact is being reduced with the removal of a long stretch of guardrails on Ocean Boulevard, which improves the visibility to the ocean.

Finding:

- H. The modification or 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.*

Fact in Support of Finding:

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

Finding:

- I. The modification 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. Facts in Support of Finding L.4(b) and L.5(d) is hereby incorporated by reference.

Finding:

- J. The modification 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 Property is currently zoned for and developed with a single-unit residence, and includes accessory structures and landscaping. The Project includes a 2,511-square-foot net addition to the existing residence towards the existing bluff on Ocean Boulevard. All construction is to be completed in compliance with applicable

Building Code requirements related to grading and excavation, vegetation removal and erosion control. The Project has been reviewed by applicable City departments such as Building, Geotechnical, Fire, and Public Works.

2. The Project will not have an adverse effect, either individually or cumulatively, on coastal resources as there are no wetlands, sensitive habitat, vegetation, or wildlife species on the Property.
3. The Property is not located in the designated Bluff or Canyon Overlay Districts. The Property includes large areas of bluff that will remain undisturbed adjacent to the City bluff area located between the Property and the adjacent to the Lookout Point public walkway that provides access from Ocean Bouvard to Way Lane. Preserving these areas of bluff maintains the scenic and visual qualities of the City bluff, public walkway, and Lookout Point. The Property is not located in an environmentally sensitive habitat area.

Finding:

- K. The granting of the modification 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. Facts in support of Finding L are hereby incorporated by reference.
2. Fact in support of Finding G.2 are hereby incorporated by reference.
3. Per Section 21.52.090(B)(1)(d), modifications shall be allowed for an increase in the allowed height of retaining walls up to a maximum height of 10 feet. The proposed retaining walls and associated guardrails above range from approximately seven to eight feet tall from existing grade. All proposed guardrails located within the front setback area are approximately 3.5 feet above the retaining wall below. At the worst-case slope area, the highest part of the retaining wall and associated guardrail is 8.13 feet above existing grade.

Coastal Development Permit Coastal Findings

In accordance with NBMC Section 21.52.015 (Coastal Development Permits, Findings, and Decision), the following findings, and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The Property is located within the coastal zone. The Property is categorized as Single Unit Residential Detached – (6.0 – 9.9 DU/AC) (RSD-B) by the Coastal Land Use Plan (CLUP), and is located within the Single-Unit Residential (R-1) Coastal Zoning District. The Project consists of an existing single-unit residence with a proposed addition and remodel and will not change the residential density of the single-unit residence.
2. The Property is located within a row of uniquely oriented single-unit residences which are constructed between Ocean Boulevard and Way Lane, which has a steep slope descending towards Way Lane. This row of residences, located between Shell Street and Fernleaf Avenue, is predominantly developed with single-unit residences. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.
3. The proposed additions and alterations to the existing home comply with all applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, parking, and non-conforming structure regulations as supported by the facts below. Although portions of the existing residence exceed the maximum allowed height, those existing elements are either nonconforming or granted a deviation through Variance No. VA1137. The Project is in substantial conformance with VA1137, as discussed in Findings P through S.
 - a. The Property has a buildable area of 6,813 square feet. The corresponding floor area limit (FAL) is 10,219.5 square feet ($6,813 \times 1.5 = 10,219.5$). Therefore, the proposed 8,292-square-foot residence is 1,927 square feet less than maximum FAL.
 - b. The additional floor area associated with the Project provides the minimum required front and left side setbacks, which are 10-feet along the front property line along Ocean Boulevard, four feet along the left side property line. The existing dwelling is nonconforming in that portions of the dwelling and garage encroach into the rear 10-foot setback adjacent to Way Lane and portions of the garage also encroach into the northerly four-foot side setback. Variance No. VA1137 also permitted additions and alterations to the dwelling and garage to encroach the rear ten-foot setback adjacent to Way Lane and to exceed the allowable height limit.
 - c. All areas of addition comply with the height limits of the R-1 zoning district, which are 24 feet for a flat roof and 29 feet for a sloping roof and comply with the additional Ocean Boulevard curb height elevation limitation. The existing top of roof elevations which exceed the height limit are not proposed to be modified. Additionally, all three existing chimneys which exceed the maximum height limit and Ocean Boulevard curb height elevation are proposed to be removed.
 - d. The Project includes compliant garage parking spaces for a total of three vehicles, which complies with the minimum three-car garage parking

requirement for single-family residences with greater than 4,000 square feet of habitable floor area. Two additional garage spaces slightly smaller than the code minimum yet large enough to reasonably accommodate most vehicles are also provided as part of the existing residence.

4. The Project is consistent with the following policies of the CLUP:

- a. **Policy 2.2.5-1 (Nonconforming Structures and Uses):** *Legal nonconforming structures shall be brought into conformity in an equitable, reasonable, and timely manner as rebuilding occurs. Limited renovations that improve the physical quality and character of the buildings may be allowed. Rebuilding after catastrophic damage or destruction due to a natural event, an act of public enemy, or accident may be allowed in limited circumstances that do not conflict with other policies and of the Coastal Land Use Plan.*

The Project is consistent with CLUP Policy 2.2.5-1 and Section 21.38.040(G) (Nonconforming Structures, Additions) of the Implementation Plan, which states that a nonconforming structure can be expanded up to 50 percent of the gross floor area of the existing structure, if the nonconforming structure is consistent with the following: 1) does not impede public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs; 2) does not block or impair public views to and along the sea or shoreline or to coastal bluffs and other scenic coastal areas; 3) conforms to coastal resource protection development regulations of NBMC Sections 21.28.040 (Bluff Overlay District), 21.28.050 (Canyon Overlay District), 21.30.030 (Natural Landform and Shoreline Protection), 21.30A (Public Access and Recreation), or Chapter 21.30B (Habitat Protection). The existing residence was authorized by Variance No. 1137 and includes portions of the roof which exceed the Ocean Boulevard curb height. However, there is an expansive view of the harbor and ocean for motorists and pedestrians on Ocean Boulevard, and the existing residence does not block the view nor significantly impair it. Furthermore, the Project is proposing to improve the public view of the harbor and ocean, as viewed from Ocean Boulevard, through the removal of existing chimneys and maintenance of landscaping below the highest point of the residence. The Property is not located in the designated Bluff or Canyon Overlay Districts. However, the Project includes grading of the Property including approximately 1,400 cubic yards of cut and exporting to accommodate the addition and remodel. The preliminary grading plan has been reviewed by all applicable City departments such as Building, Public Works, and Geotechnical and has been conceptually approved. The Property is not located in an environmentally sensitive habitat area (ESHA).

The Project expands the residence to 8,292 square feet, which is a 2,511-square-foot addition and less than the 2,890.5 square feet (50 percent) allowed for expansion of a nonconforming structure. Therefore, the

proposed addition to the existing home complies with the 50 percent addition limit in Section 21.38.040(G) of the Implementation Plan.

Furthermore, Section 21.38.040(H) of the Implementation Plan implements CLUP Policy 2.2.5-1 by requiring structures that are nonconforming due to a coastal resource protection development regulation of Section 21.28.040 (Bluff(B) Overlay District), Section 21.28.050 (Canyon (C) Overlay District), Section 21.30.030 (Natural Landform and Shoreline Protection), Chapter 21.30A (Public Access and Recreation), or Chapter 21.30B (Habitat Protection) to be brought into conformance with all current development regulations and all applicable policies of the certified Local Coastal Program when proposed development would involve demolition or replacement of more than 50 percent of the exterior walls, or foundation of an existing structure. In this case, the existing structure is not nonconforming due to the aforementioned coastal resource protection development regulations. The Project site is not located within the Bluff or Canyon Overlay Districts, does not affect habitat area, and is consistent with all objective standards of Section 21.30.030 and Chapter 21.30A. Therefore, the existing structure's nonconforming elements, including setback encroachments and height, may be retained and expansions permitted to the structure pursuant to Section 21.38.040(G) of the Implementation Plan.

- b. **Policy 4.4.1-1 (Coastal Views):** *Protect and, where feasible, enhance the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas; and*

Policy 4.4.1-2 (Coastal Views): *Design and site new development, including landscaping, so as to minimize impacts to public coastal views.*

The Project is consistent with CLUP Policies 4.4.1-1 and 4.4.1-2, and NBMC Section 21.30.100 (Scenic and Visual Quality Protection) of the Implementation Plan, as the Project has been sited and designed to protect and enhance the scenic and visual qualities of the coastal zone, including public views to and along the ocean and coastal bluffs. Ocean Boulevard is designated as a coastal view road by the CLUP. The existing three chimneys, which exceed the height limit and partially impede public views of the ocean, are proposed to be removed from the Project. There are existing guardrails located on the property line along Ocean Boulevard that are approximately 55 feet wide, which are proposed to be replaced by new guardrails that are approximately 33 feet wide. The shorter segment of railings will enhance the existing public view of the ocean while providing the necessary fall protection for pedestrians on Ocean Boulevard. Additionally, as required by Condition of Approval No. 16, all landscaping located on private property, including trees, are to be maintained to be below the highest point of the residence, which will further improve public views of the ocean as seen from Ocean

Boulevard. The proposed addition to the residence at the front of the building does not exceed maximum heights or the Ocean Boulevard curb height, protecting and enhancing existing views to the ocean.

The Property is located adjacent to and immediately north of Lookout Point, which is a designated public viewpoint in the CLUP and offers public views of the Pacific Ocean. The Project is an addition to an existing residence which will maintain a design consistent with the existing neighborhood pattern of development for the row of residences between Ocean Boulevard and Way Lane and will not affect the existing views afforded from Lookout Point, as it is not between the viewpoint and the ocean. An additional designated public viewpoint, West Jetty View Park, is located approximately 1,700 feet across the Harbor entrance. The Project does not disturb the public view of the bluff areas, as the areas of addition are behind the existing residence and are not visible from West Jetty View Park. Additionally, the height of the existing residence is not proposed to change. Therefore, the Project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on public views.

The Project includes rehabilitated landscaping areas. Condition of Approval No. 5 of VA1137 allowed for trees and shrubs located on the Ocean Boulevard slope to be maintained above the top of curb, up to the height of the existing railings. For the Project, the species of trees have been reviewed and Condition of Approval No. 16 specifies that all landscaping located on private property, including trees, shall be maintained to be below the highest point of the residence, which is an improvement for public views compared to the existing requirement.

- c. **Policy 4.4.1-3 (Coastal Views):** *Design and site new development to minimize alterations to significant natural landforms, including bluffs, cliffs and canyons; and*

Policy 4.4.3-8 (Other Landforms): *Prohibit development on bluff faces, except private development on coastal bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Drive in Corona del Mar determined to be consistent with the predominant line of existing development or public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize alteration of the bluff face, to not contribute to further erosion of the bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.*

The Project is consistent with Coastal Land Use Plan (CLUP) Policy 4.4.1-3 and Section 21.30.030 (Natural Landform and Shoreline Protection) of the Implementation Plan, as the Project has been sited to minimize adverse

impacts on bluffs to the maximum feasible extent. The areas which contain buildable area on the Property are all similarly sloped so that there are no flat areas for development. Although the Project includes an excavation of approximately 1,400 cubic yards from the private bluff area, it is a necessary component of the addition as the intention is to provide interior access to all residential levels through a new interior staircase and elevator which begins on the garage level. The proposed excavation is not visible from the Way Lane side of the Property, which is where the views of the bluff are most prominent. The excavation will also not be noticeable from the Ocean Boulevard side of the Property, as the residence is located below the curb height and the bluff is below the view plane of visitors on Ocean Boulevard. Overall, the Project minimizes the alteration of the site's natural topography where possible, including the approximately 85-foot wide triangular section of bluff on the southwestern part of the lot directly below a public bluff part of Lookout Point park. This triangular area is proposed to remain and appear as an extension of the public bluff area. Furthermore, the expansion of the building footprint is concentrated between the existing dwelling and Ocean Boulevard, thereby preserving significant portions of bluff area adjacent to the public bluff area between the Property and the public walkway adjacent to Lookout Point.

Additionally, the Project is consistent with Policy 4.4.3-8 of the CLUP, which prohibits development on bluff faces, except private development on certain coastal bluff faces including Ocean Boulevard when consistent with the predominant line of development. Section 21.28.040 (Bluff Overlay District) of the NBMC, implements said policy by establishing special development standards on identified bluff areas, consistent with the predominant line of development. In this case, the Property is not located in the Bluff Overlay District due to the extensive existing development along the block. Neighboring properties, such as 2735, 2727, 2723, 2711, and 2701 Ocean Boulevard have all developed the entire bluff face from Ocean Boulevard to Way Lane that include the principal residences and accessory structures such as stairs, walkways, parking spaces, driveways, and ornamental landscaping. Furthermore, consistent with the intent of this policy, the Project preserves significant areas of undisturbed bluff. There is an existing bluff area on the southwestern part of the lot directly below a public bluff part of Lookout Point park proposed to be preserved. Additionally, a bluff area located at the southeastern portion between the Property and the public walkway is proposed to be preserved.

- d. **Policy 4.4.1-4 (Coastal Views):** *Where appropriate, require new development to provide view easements or corridors designed to protect public coastal views or to restore public coastal views in developed areas;*

Policy 4.4.1-5 (Coastal Views): *Where feasible, require new development to restore and enhance the visual quality in visually degraded areas;*

Policy 4.4.1-6 (Coastal Views): *Protect public coastal views from the Ocean Boulevard roadway segment; and*

Policy 4.4.1-7 (Coastal Views): *Design and site new development, including landscaping, on the edges of public coastal view corridors, including those down public streets, to frame and accent public coastal views.*

The Project is consistent with the above policies regarding coastal views. The existing development was authorized by Variance No. 1137 which established the current height limitations of the upper floor. The required height limitation of Section 21.30.060(B)(4) (Structures on Ocean Boulevard) of the NBMC does not permit any structures to exceed the Ocean Boulevard curb height. Furthermore, the Project is consistent with the policy as it restores the public coastal views through the removal of three existing chimneys, limits the height of landscaping, and reduces the number of guardrails on Ocean Boulevard.

The Property is not located in a visually degraded area. The area of the Project provides a vast and expansive view of the harbor and ocean and includes nearby viewpoints such as Lookout Point and Inspiration Point. The Property is also located near the Corona del Mar State Beach ramps, which provides direct access to the beach and additional views of the ocean. The proposed remodel and addition seek to visually enhance the existing residence, which has been left vacant for some time and requires interior and exterior enhancements.

Other than the proposed guardrails along the property line, the areas of addition are all proposed to be under the Ocean Boulevard curb height, which will protect existing views. The Project is also enhancing public views by removing existing chimneys, reducing guardrails, and limiting landscape height.

The Project has been designed so public views from Lookout Point will not be altered. The Project ultimately improves the public view from Ocean Boulevard with the removal of the existing chimneys, reduction of guardrails along Ocean Boulevard, and limitation of landscape height. The Project preserves two large bluff areas where there will be no new construction. Leaving these areas as natural bluff provides a transition from the residential zone on Ocean Boulevard and Way Lane to the public view point of Lookout Point and the Corona del Mar State Beach.

- e. **Policy 4.4.3-9 (Other Landforms):** *Where principal structures exist on coastal bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Drive in Corona del Mar, require all new development to be sited in*

accordance with the predominant line of existing development in order to protect public coastal views. Establish a predominant line of development for both principle structures and accessory improvements. The setback shall be increased where necessary to ensure safety and stability of the development.

Policy 4.4.3-9 is implemented by Section 21.30.030 (Natural Landform and Shoreline Protection) of the NBMC, which establishes development standards on coastal bluffs. Since the subject property is not located within a bluff or canyon overlay, nor is it in a planned community, Section 21.30.030 defaults the setback requirements for the property as required by the development standards for that coastal zoning district. In this case, the property is located in the R-1 coastal zoning district, which requires a 10-foot front setback pursuant to Setback Map S-10B. Therefore, the property is subject to the development standards of the R-1 coastal zoning district and not the Bluff Overlay district, as it was specifically excluded from the overlay. As previously mentioned, the majority of the bluff adjacent to the subject property has been altered and redeveloped with landscaping, walls, driveways, parking spaces, and walkways. The proposed addition between the existing residence and Ocean Boulevard complies with the required setbacks and is consistent with the existing line of development in the neighborhood that generally includes extensive development between Ocean Boulevard down to Way Lane.

5. A Preliminary Geotechnical Study has been prepared by Stoney Millar Consultants, Inc., dated December 6, 2022. The Project has been designed consistent with the recommendations in the studies. Additionally, the structural engineers and contractors have developed a constructability plan that details the approach to demolition, excavation, and monitoring to minimize and eliminate potential impacts.
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 located approximately 150 feet from coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. The Project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.

8. Under Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality Management Plan (WQMP) is required. A preliminary WQMP has been prepared for the Project by Toal Engineering dated, December 15, 2022. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, the use of a LID approach to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs. The Project includes a vastly upgraded drainage system and is particularly important given the proximity to China Cove, and improves the existing drainage system

Finding:

- M. *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 Property is located between the first public road and the sea and does not currently provide nor inhibit public coastal access. Public access to Lookout Point is adjacent to the Property. Additionally, pedestrian public access is provided by stairs from Lookout Point to Way Lane and China Cove are located adjacent to the Property. Ocean Boulevard includes multiple access points to the public beach, including the Corona del Mar main beach ramp and a walkway located at Inspiration Point. The Project does not include any features that would obstruct access along these routes.

In accordance with NBMC Section 21.52.090 (Relief from Implementation Plan Development Standard), the Planning Commission may approve a modification to a development standard of the Implementation Plan only after making all of the following findings:

Finding:

- N. *Whether or not the development is consistent with the certified Local Coastal Program to the maximum extent feasible.*

Facts in Support of Finding:

1. Facts in support of Finding L is hereby incorporated by reference.
2. Fact in support of Finding M is hereby incorporated by reference.

3. The modification for the front entry retaining walls and associated protective guardrails to exceed the 42-inch height limit within the front setback area and Ocean Boulevard curb elevation is necessary to provide access to the residence's front entry. The guardrails are constructed of decorative wrought iron and are of a visibility-open nature. The modification does not disrupt public access to the beach nor public views from Ocean Boulevard, as views of the ocean are predominately south-facing towards and beyond Lookout Point. The guardrails are low enough in height to maintain views above for pedestrians walking along Ocean Boulevard.

Finding:

- O. *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. The slope from Ocean Boulevard down towards the interior of the lot is severe and creates practical design difficulties to provide access to the residence. The existing stairway has a longer distance, which creates the ability to mitigate the slope of the stairs before reaching the existing entrance, which is located near the center of the Property.
2. Since there is significant buildable area and undeveloped potential floor area available for development, the Applicant is proposing an addition on the Ocean Boulevard bluff side, resulting in a shorter distance between the Ocean Boulevard right-of-way and proposed entryway. To mitigate the severe slope and comply with the requirements of the Building Code, the stairs have been designed in an L-shape instead of a straight path from Ocean Boulevard into the entryway. There is not another feasible design for the stairs as there is minimal space left in the front of the property with the proposed addition.

Staff Approval

In accordance with NBMC Section 20.54.070 (Changes to an Approved Project), the Planning Commission may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, where the Planning Commission finds that the changes are consistent with the following findings:

Finding:

P. Are consistent with all applicable provisions of this Zoning Code.

Facts in Support of Finding:

1. The Project, which includes an addition and remodel to an existing single-unit residence, is consistent with development standards of the R-1 Zoning District such as setbacks, maximum floor area, and off-street parking.
2. The existing height of the residence, which was constructed to be approximately 54 feet high from existing grade at the southwest and northwest property corners, was authorized by the Planning Commission on November 6, 1986 to exceed the height limit through Variance No. VA1137. Although the Project does not propose to modify the existing approved roof height, it includes an addition towards the Ocean Boulevard bluff side which is approximately 20 feet high from existing grade where there is a more severe slope. The areas of addition do not exceed the Ocean Boulevard curb height and comply with the current height standards of the Zoning Code.
3. Variance No. VA1137 also authorized the dwelling to exceed the maximum allowable floor area and included Condition of Approval No. 3, which states that the gross floor area of the structure shall not exceed 5,264 square feet (1.93 times the buildable area). The subsequent amendment approved for VA1137 allowed an additional 300 square feet of as-built structures, totaling a maximum allowed floor area of 5,564 square feet (2.04 times the buildable area). At the time of the approval of VA1137, the lot area was 4,971 square feet and the buildable area was 2,725 square feet. The area between the existing dwelling and Ocean Boulevard was considered public right-of-way. However, in October of 1999, the City Council adopted Resolution No. 98-66 which vacated and abandoned a 5,556-square-foot portion of the Ocean Boulevard right-of-way and added it to the Property. This resulted in an increased lot area of 10,360 square feet and increased buildable area to 6,692 square feet. Condition of Approval No. 3, which intended to minimize the size of the residence in relation to the lot area at the time, is no longer applicable since the buildable area is now larger. The applicant is proposing to add to the existing residence, resulting in an 8,292-square-foot residence, where the maximum floor area is now 10,038 square feet ($6,692 \times 1.5 = 10,038$).

Finding:

Q. Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.

Facts in Support of Finding:

1. As a part of the approval for VA1137, the City prepared a Negative Declaration under the provisions of the California Environmental Quality Act (CEQA) which stated that the residence would not have a significant effect on the environment, and incorporated six mitigation measures as Conditions of Approval No. 9 through 14 in VA1137 for the Project related to grading and drainage.
2. Preliminary grading plans, erosion control plans, and Water Quality Management Plan (WQMP) have been conceptually reviewed by applicable City departments, including Planning, Building, Geotechnical, and Public Works. If approved by the Planning Commission, the Project will be required to obtain building permits through plan check review, where additional review and approval of these plans are required. The required plans and process satisfy the mitigation measures and conditions of the original Negative Declaration as part of VA1137.

Finding:

- R. *Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

1. The Project's additional floor area and alterations comply with all applicable development standards. There is no additional height beyond the existing height, which was authorized by VA1137. The new floor area complies with all required height limits. The remodel of the existing structure removes massing on multiple levels, as well as removes three (3) existing chimneys which exceeded the height limit and interfered with public views of the ocean.
2. Other than the requested modification permit for retaining walls, associated guardrails, and pilasters which exceed the height limits in the front yard setback, all new construction is below the top of curb height of Ocean Boulevard. At the time of the approval of VA1137, the existing railings, which are approximately 55 feet wide along the Ocean Boulevard property line, were located within the public right-of-way and it was recognized that the railings would remain in place. This was prior to the City's abandonment of the right-of-way and dedication of the land to the Property. The Project includes the replacement of the existing railings with a shorter, 33-foot wide segment of railings. While the proposed railings are designed to be open wrought-iron and improve the public views compared to the existing condition, it continues to provide fall protection for pedestrians traveling on the Ocean Boulevard right-of-way.
3. Fact in support of Finding P.3 is hereby incorporated as reference.

4. The Project includes rehabilitated landscaping areas. Condition of Approval No. 5 of VA1137 allowed for trees and shrubs located on the Ocean Boulevard slope to be maintained above the top of curb, up to the height of the existing railings. For the Project, the species of trees have been reviewed and Condition of Approval No. 16 specifies that all landscaping located on private property, including trees, shall be maintained to be below the highest point of the residence, which is an improvement for public views compared to the existing requirement.

Finding:

- S. *Do not result in an expansion or change in operational characteristics of the use.*

Fact in Support of Finding:

1. The Property is currently a single-unit residence. Although the Project includes an addition of floor area, it does not include additional density and will remain a single-unit residence. The addition is appropriate as it complies with the Property's maximum floor area limit. Therefore, there is not an expansion or change in operational characteristics of the use.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby finds this Project consistent with the Mitigated Negative Declaration approved with VA1137, and finds this Project 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 Planning Commission of the City of Newport Beach hereby adopts Resolution No. PC2023-037, upholding the action of the Zoning Administrator and approving a coastal development permit, modification permit, and staff approval under PA2022-0315, 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 9TH DAY OF NOVEMBER, 2023.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Curtis Ellmore, Chair

BY: _____
Tristan Harris, Secretary

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

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. 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.
3. Demolition beyond the approved scope of work requires Planning Division approval before the commencement of work. Approval of revisions to project plans is not guaranteed. Any changes in the current scope of work may require the entire structure to be demolished and redeveloped in conformance with the current Zoning Code Development Standards.
4. 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.
5. 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.

6. 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.
7. 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.
8. 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.
9. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
10. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
11. 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.
12. This Coastal Development Permit may be modified or revoked by the Planning Commission 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.
13. Before 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.
14. Before the issuance of a building permit, 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.
15. *The Project shall comply with and implement all mitigation measures of the Mitigated Negative Declaration approved with Variance No. VA1137.*

16. All landscaping located on private property, including trees, shall be maintained to be below the highest point of the residence.
17. 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.
18. 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, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
19. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified periods unless the ambient noise level is higher:

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

20. Prior to the final building permit inspection, the three existing chimneys located above the curb height shall be removed.
21. The guardrails along Ocean Boulevard shall be constructed of open wrought-iron material and be at least 40 percent open from the top of the railing to the bottom.
22. Before the commencement of demolition and grading of the project, the applicant shall submit a construction management and delivery plan to be reviewed and approved by the Planning Division and Public Works Department. The plan shall include a discussion of project phasing; parking arrangements for both sites during construction; anticipated haul routes and construction mitigation. Upon approval of the plan, the applicant shall be responsible for implementing and complying with the stipulations outlined in the approved plan.
23. 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.

24. 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.
25. This coastal development permit, modification permit, and staff approval shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) and Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
26. 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 **Dawson Residence including but not limited to, a coastal development permit, modification permit, and staff approval under PA2022-0315**. 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.

Building

27. Emergency escape and rescue openings shall be required from non-habitable basement areas with more than 200 square feet of floor area.
28. Building shall comply with fire and life safety provisions according to the 2022 California Residential Code.
29. Emergency escape and rescue openings that open on to decks or roofs shall require that a Request for Alternate Method of Construction be submitted for review during Building Division plan check.
30. Side yard terraces serving emergency escape and rescue openings shall include ladders to facilitate egress to public way required per code.

31. Advanced 30-day notice shall be provided to adjacent neighbors prior to start of excavation for slope work or required shoring where the depth of the excavation is greater than the distance from the property line to the edge of the excavation.
32. Before the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
33. Before the 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.
34. Before issuance of building permits, the final WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved CPPP and WQMP and any changes could require separate review and approval by the Building Division.

Public Works

35. An encroachment permit and encroachment agreement shall be obtained for the existing wall that encroaches into the Way Lane public right-of-way.
36. A sewer clean out shall be installed on the existing sewer lateral per City Standard 406.
37. Landscaping shall comply with the Restrictive Covenant and Agreement.
38. Existing drainage discharge pipes along Way Lane that discharge into the right-of-way above the roadway surface shall be modified so that the discharge will sheet flow into the right-of-way.

Fire

39. Emergency Escape and Rescue windows shall be provided where required by the California Fire Code, California Building Code, and California Residential Code.

INTENTIONALLY BLANK PAGE