

Attachment No. PC 4

August 10, 2023 Zoning Administrator
Staff Report (No Attachments)

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CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

August 10, 2023
Agenda Item No. 7

SUBJECT: Dawson Residence (PA2022-0315)
▪ Coastal Development Permit
▪ Modification Permit
▪ Staff Approval

SITE LOCATION: 2741 Ocean Boulevard

APPLICANT: Blues 1905 LLC

OWNER: Blues 1905 LLC

PLANNER: David Lee, Senior Planner
949-644-3225, dlee@newportbeachca.gov

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** Single Unit Residential Detached (RS-D)
- **Zoning District:** Single-Unit Residential (R-1)
- **Coastal Land Use Plan Category:** Single Unit Residential Detached – (6.0 – 9.9 DU/AC) (RSD-B)
- **Coastal Zoning District:** Single-Unit Residential (R-1)

PROJECT SUMMARY

The applicant proposes to remodel and add 2,511 square feet to an existing, non-conforming 5,781-square-foot single-unit residence, which results in a total of 8,292 square feet of gross floor area. The following discretionary approvals are requested to implement the project:

- **Coastal Development Permit:** Required to authorize the remodel and addition of an existing non-conforming residence located on a bluff in the Coastal Zone. The scope of work includes grading and excavation, landscape and hardscape, drainage, a swimming pool, and various accessory structures;
- **Modification Permit:** Required to authorize retaining walls and associate guardrails located within the front yard setback along Ocean Boulevard which exceeds the maximum 42-inch height limit and Ocean Boulevard curb height elevation; and
- **Staff Approval:** Required for determination of substantial conformance with a previously approved variance which authorized deviations to height, floor area, and setbacks.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment; and
- 3) Adopt Draft Zoning Administrator Resolution No. _ approving a coastal development permit, modification permit, and staff approval under PA2022-0315 (Attachment No. ZA 1).

BACKGROUND

On June 1, 1961, Variance No. 653 was approved to allow a reduction of the front yard setback from 10 to 0 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 considered public right-of-way. The original residence and detached two-car garage were constructed in 1962.

On November 6, 1986, the Planning Commission approved Variance No. 1137 (Attachment No. ZA 3), allowing an addition to encroach into the front setback along Ocean Boulevard, to exceed the allowable floor area limit, and to exceed the height limit. During this time, the Zoning Code required a two (2)-foot-six (6)-inch rear setback along Way Lane.

Subsequently on December 8, 1988, the Planning Commission approved an amendment to VA1137 (Attachment No. ZA 4), which permitted an as-built open exterior stairway which exceeds the height limit and allowed it to encroach nine (9) feet six (6) inches into the required ten (10)-foot front setback. The approval also allowed an as-built mechanical storage room which further increased the gross floor area of the dwelling beyond the maximum floor area limits. Since these improvements went beyond the previous allowances of VA1137, the amendment was required.

In 1989, the addition and a four (4)-car garage on Way Lane was completed, creating a 5,564-square-foot residence, which was 2.04 times the buildable area of the site at the time.

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 subject property. The abandoned right-of-way (5,556 square feet) was added to the subject property (see Figure 1, below), which expanded the lot area to 10,360 square feet and

consequently increased the buildable area (6,692 square feet) and floor area limit (10,038 square feet).

On April 6, 2017, the Planning Commission approved Variance No. VA2015-005 for the demolition of the existing residence and the construction of a new single-unit residence which exceeded the required height limits and encroached into required setback on Way Lane. Since the project was not implemented within the time limits outlined in the Newport Beach Municipal Code (NBMC), the approval expired and was never constructed.

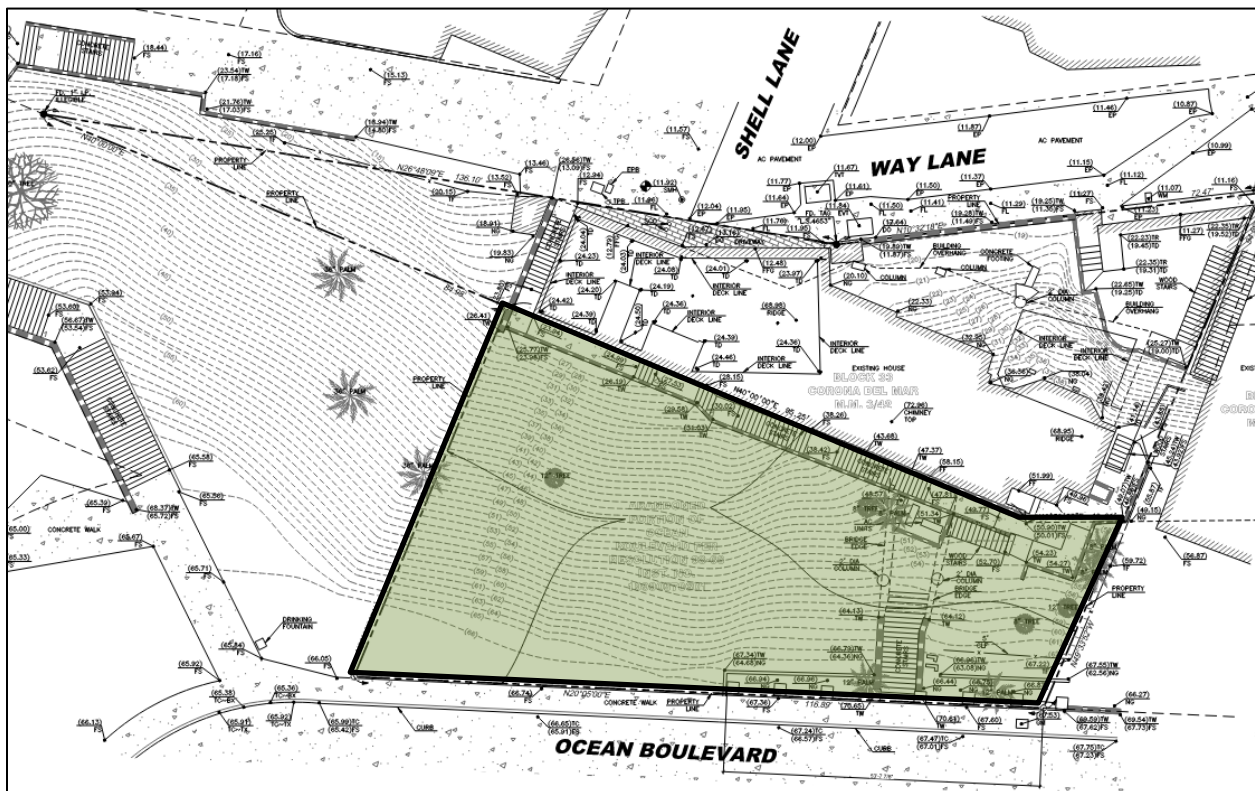


Figure 1: Abandoned Right-of-Way Added to Property (Highlighted in Green)

PROJECT DESCRIPTION

The applicant proposes to remodel and add to the existing residence. The existing residence has been calculated to be 5,781 square feet¹, which includes all livable area and garages. The proposed addition is 2,511 square feet, which creates a total of 8,292 square feet.

Since the existing residence does not have interior access between all floors and requires the residents to use exterior stairs to access different floors, a primary design

¹ Although Condition of Approval No. 2 of VA1137 (Amended) limited the maximum floor area to 5,564 square feet, a careful review of the construction plans confirms that the actual existing floor area that was constructed is 5,781 square feet.

consideration for the project is to include an interior staircase that allows interior access between the fifth floor (first floor when accessing from Ocean Boulevard) through to the second floor (as seen from Way Lane). Access to the garage is proposed to be available through exterior stairs as well as a new interior elevator that requires additional excavation and is recessed towards the interior of the lot. Other portions of addition include 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. An outdoor swimming pool on the second floor above the garage level is also proposed. The areas of addition include a Spanish tile roof, where the existing roof will be remodeled with a flat, grey-colored roof for architectural variety (see Figure 2, below). All additions are on the Ocean Boulevard side of the property and are less visible from Way Lane.



Figure 2: Rendering of Addition, as seen from Ocean Boulevard

The proposed remodel removes massing from the existing residence, as seen from Way Lane. The remodel does not result in any additional massing or encroachment on the Way Lane side of the property (see Figure 3, below).

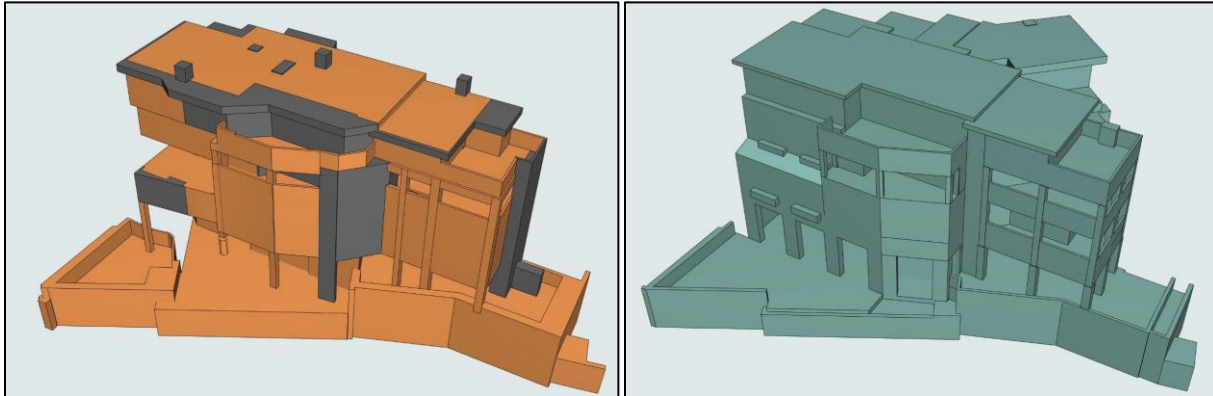


Figure 3: Existing structure with massing removed (highlighted in grey) (left). Proposed massing after remodel (right).

As previously discussed, the existing residence was granted a variance to exceed the height limit. Other than the removal of the existing chimneys which is an improvement for public views, the height of the existing roof is not proposed to change. The areas of addition are located on the higher portion of the slope, resulting in a lower overall building height. At the highest point, the addition is approximately 20 feet high above the sloped existing grade below. The addition does not exceed the curb height of Ocean Boulevard and complies with the current height standards of the Zoning Code. All applicable development standards are addressed in Table 1 on Page 6.

Finally, the project includes a new modified exterior access stair from Ocean Boulevard. While the existing stair features a long runway to the existing entry, the addition of floor area relocates the entry way closer to Ocean Boulevard on a steep slope. This requires the reconfiguration of the existing staircase from a straight to L-shaped design, which requires retaining walls and associated guardrails above that exceed the height limit within the front setback. The proposed stairway requires a modification permit for deviation of height of an accessory structure, and is further discussed below.

DISCUSSION

Coastal Development Permit

Land Use and Development Standards

- The subject property is in the R-1 Coastal Zoning District, which provides for single-unit residential development. Other than the existing nonconformities and previously authorized building height and encroachments into the rear setback along Way Lane, the proposed project is consistent with the City's Coastal Land Use Plan, General Plan, and Zoning Code. A coastal development permit is required, and the property is not eligible for a waiver for de minimis development because the property is in the Coastal Commission Appeal Area.

- The property is located within a row of uniquely oriented single-unit residences which are constructed between Ocean Boulevard and Way Lane. These lots have a steep slope that descend towards Way Lane. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.
- As previously discussed, the existing residence has several pre-existing nonconformities and was authorized by previous variances to allow for additional height and encroachment into the rear setback. Other than the requested deviation through a modification permit for new front setback retaining walls and associated guardrail to exceed the maximum height in a front setback and exceed the Ocean Boulevard curb elevation, the proposed remodel and addition to the existing residence conforms to all applicable development standards, including floor area limit, setbacks, height, and off-street parking as evidenced by the project plans and illustrated in Table 1 below.

Table 1 – Development Standards		
Development Standard	Standard	Proposed
Setbacks (min.)		
Front	10 feet	10 feet
Left Side	4 feet	4 feet
Right Side	4 feet	None (Existing condition)*
Rear	10 feet	None (Existing condition)*
Allowable Floor Area (max.)	10,219 square feet	8,292 square feet
Open Space (min.)	1,003 square feet	3,220 square feet
Parking (min.)	3-car garage	3-car garage
Height (max.)	24-foot flat roof	54 feet (existing flat roof)* 20 feet (new flat roof)

**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 4-foot right-side setback. The existing height exceeds the maximum height standards. These deviations were permitted by Variance No. VA1137. However, all areas of addition comply with the required setback and height standards. There is no new addition in the rear of the property abutting Way Lane.*

- Pursuant to NBMC Section 21.38.040(G), (Nonconforming Structures) a nonconforming structure can be expanded up to fifty (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 project does not impede public access or views to the sea. The subject 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 is consistent with Coastal Land Use Plan (CLUP) Policy 4.4.1-3 and NBMC Section 21.30.030 (Natural Landform and Shoreline Protection), 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 southeastern bluff area adjacent to the public bluff area between the subject property and the public walkway adjacent to Lookout Point (see Figure 4, below).

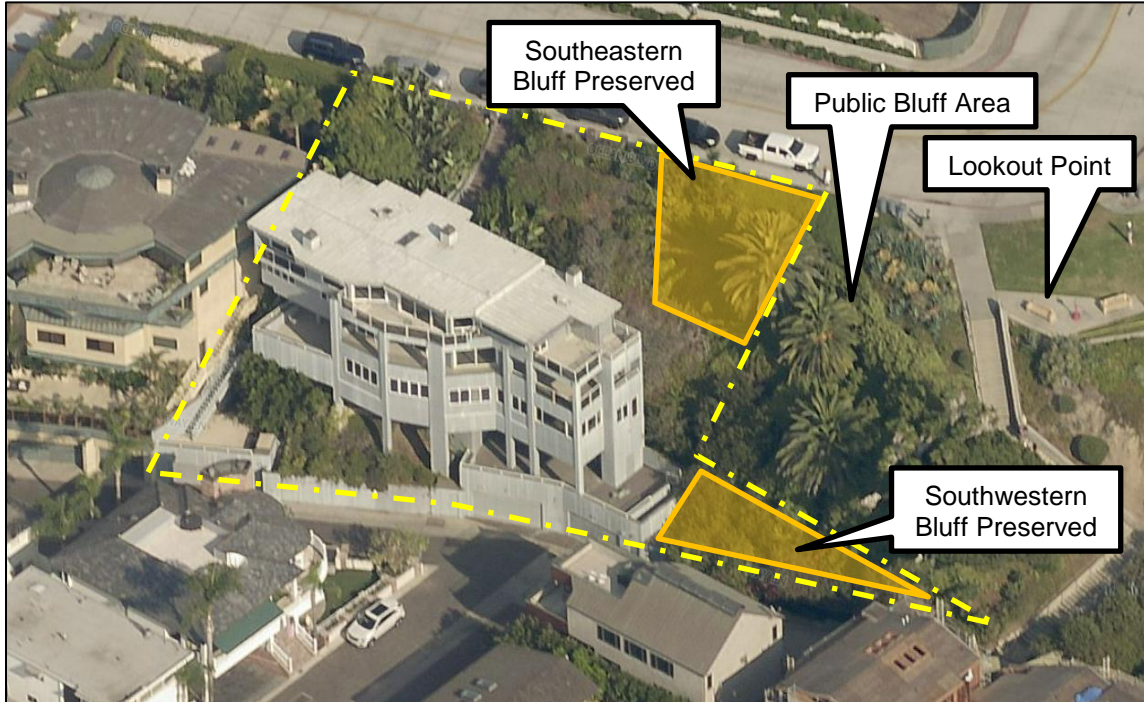


Figure 4: Existing Bluff Areas (Approximate property lines in yellow)

- Proposed landscaping complies with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Hazards

- 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 a building permit. 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.
- 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.

Water Quality

- 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.
- 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 proposed modeling project includes a vastly upgraded drainage system and is particularly important given the proximity to China Cove, and improves the existing drainage system.

Public Access and Views

- 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.
- The project is consistent with CLUP Policy 4.4.1-1 and NBMC Section 21.30.100 (Scenic and Visual Quality Protection), as it 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 subject 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 (see Figure 5, below). The height of the existing residence is not proposed to change.



Figure 5: Existing view (top) and proposed view (bottom) from West Jetty View Park

- 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. A portion of the existing wrought-iron guardrails located on the property line along Ocean Boulevard are also proposed to be removed, which will enhance the public views from Ocean Boulevard (see Figure 6, below). As a part of the Project Plans (Attachment No. ZA 5), the applicant has provided view simulations from Ocean Boulevard and West Jetty View Park (Sheets A024 and A025). 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.



Figure 6: Existing view (top) and proposed view (bottom) from Ocean Boulevard

Modification Permit

- As previously discussed, the subject property has a sloping topography which slopes from Ocean Boulevard down towards Way Lane. Within the ten (10)-foot front yard setback, there is an approximate eight (8)-foot change in grade from Ocean Boulevard towards the interior of the lot. The steep decline creates a difficulty in constructing an entry staircase without higher retaining walls to support

the path of travel from Ocean Boulevard to the front entry of the Project. Due to the steep slope, retaining walls with required protective guard rails are needed and proposed to exceed the 42-inch height limit (approximately eight (8) feet above existing grade at worst case).

- 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 (see Figure 7, below).

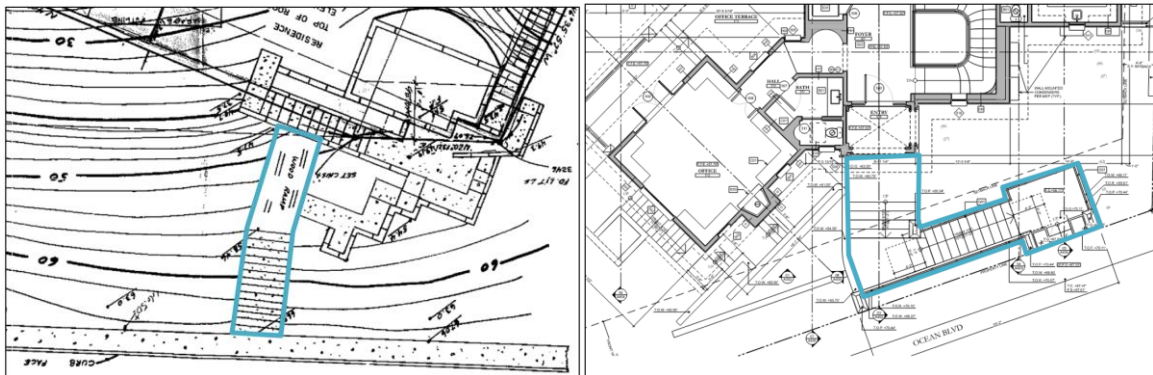


Figure 7: Existing Stairs (top) and Proposed Stairs (bottom) highlighted in blue

- The requested retaining wall system, which supports the entry stairway, spans an approximate 33 feet in width, which is relatively small compared to the approximately 120-foot wide lot. The staircase occupies approximately 250 square feet of the ten (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.
- The proposed retaining walls and associated guardrails range from approximately seven (7) to eight (8) 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). Detailed plans outlining the heights of all accessory structures are included on Sheet A021 on the Project Plans (Attachment No. ZA 5).
- Currently, the existing entry system includes guardrails approximately 55 feet in width and include eight (8) pilasters that all exceed the Ocean Boulevard curb height by approximately three (3) feet. The proposed entry system, which replaces the existing, is smaller measuring approximately 33 lineal feet in width and includes only three (3) pilasters ranging in height from three (3) to 3.5 feet in height above

the curb height. At the worst-case area, the top of railing is only 3 feet above the curb elevation.

- Overall, the reduced width of the proposed railing system is an improvement compared to the existing conditions. 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.

Staff Approval

- 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.
- 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 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 ($6,692 \times 1.5 = 10,038$).
- 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 Nos. 9 through 14 for the project.

- 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 Zoning Administrator, 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.
- 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 existing chimneys which exceeded the height limit and interfered with public views of the ocean.
- 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.
- 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.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act (CEQA) 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.

Class 3 exempts the demolition of up to three (3) single-unit residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the remodel and 2,511-square-foot addition to an existing single-unit residence.

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.

PUBLIC NOTICE

Notice of this public hearing was published in the Daily Pilot, mailed to all owners and residential occupants of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways), including the applicant, and posted on the subject property at least 10 days before the scheduled hearing, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

APPEAL PERIOD:

This action shall become final and effective 14 days following the date the Resolution is 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. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:


David Lee, Senior Planner

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