



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

July 9, 2026
Agenda Item No. 4

SUBJECT: CDM Investors LLC Residence (PA2022-0148)
▪ Variance
▪ Coastal Development Permit

SITE LOCATION: 2516 and 2518 Bayside Drive

APPLICANT: Gianclaudio Infranca, Horst Architects

OWNER: CDM Investors

PLANNER: Daniel Kopshever, Assistant Planner
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PROJECT SUMMARY

Due to unique topographic conditions at the site, the Applicant requests a variance from Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) to allow a second-floor balcony to encroach 2 feet, 6 inches into the required 5-foot rear setback abutting an unimproved alley and to allow the construction of walls and planters on the ground level within the 5-foot rear setback, including a 10-foot-tall retaining wall.

Although the property is located within the boundaries of the Categorical Exclusion Order (CEO), as amended in 2018 by the California Coastal Commission (CCC), the requested setback and development standard waivers require a Coastal Development Permit (CDP). Therefore, the project includes a CDP to demolish an existing two-unit dwelling with an attached garage and construct a new, three-story, 3,037 square-foot, single-unit dwelling with an attached 479 square-foot, two-car garage and a 285-square-foot junior accessory dwelling unit (JADU).

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to 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; and
- 3) Adopt Resolution No. PC2026-021 approving the Coastal Development Permit and Variance filed as PA2022-0148 (Attachment No. PC 1).

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VICINITY MAP



GENERAL PLAN



ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Two Unit Residential (RT)	Two-Unit Residential (R-2)	Two-unit dwelling
NORTH, EAST	Two Unit Residential (RT)	Two-Unit Residential (R-2)	Single-unit dwellings
WEST, SOUTH	N/A	N/A	Bayside Park

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INTRODUCTION

Project Setting and Background

The subject property is located within Corona del Mar (CdM) between Carnation Avenue and Dahlia Avenue, and is addressed as 2516 and 2518 Bayside Drive (Project Site).

The Project Site is zoned R-2 (Two-Unit Residential) and is developed with an existing two-unit residence, constructed in 1972. The lot is rectangular and measures 30 feet wide by 118 feet deep, consistent with the typical pattern of development for lots on the “Flower Streets” in CdM. The surrounding neighborhood is predominantly developed with two- and three-story, single-unit and two-unit dwellings.

The Project Site is adjacent to Bayside Park to the south, which separates it from Bayside Drive. As shown in Figure 1 below, there is an overgrown hedge within the park that creates the appearance of a private outdoor living area for the residence. Although the area appears to be private and restricts public access to the park, it is located within public property.



Figure 1, Google Maps street view image of Bayside Park

Existing Conditions and Vehicular Access

The Project Site is at the base of a severe slope where Dahlia Avenue descends approximately 35 feet to Bayside Drive, as shown by Figure 2 below. Dahlia Avenue terminates approximately 50 feet to the north at an elevation that is approximately 20 feet higher than the Project Site. Due to this significant elevation change, Dahlia Avenue

cannot be extended to connect to the portion of Bayside Drive which is in front of the Project Site.

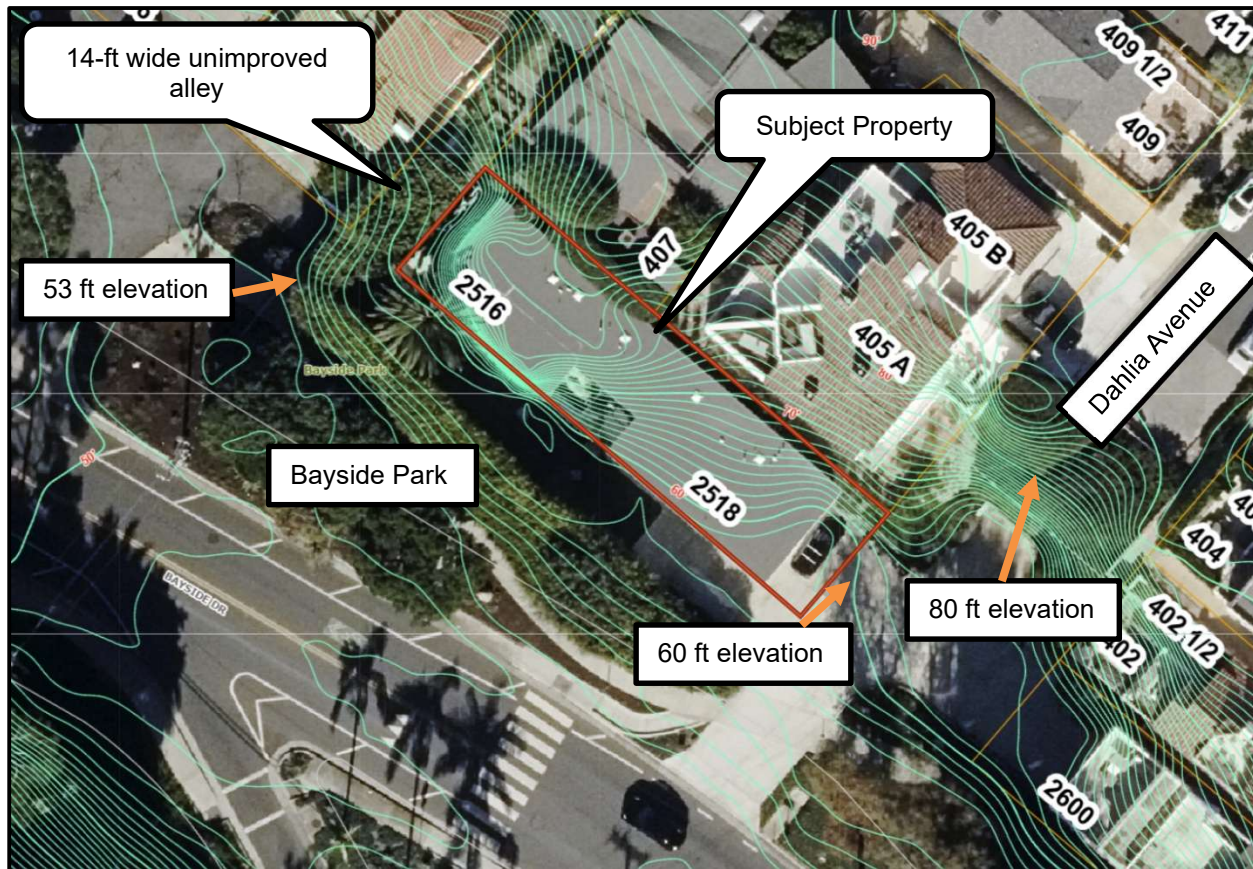


Figure 2, Aerial image of the subject property (outlined in red), the terminus of Dahlia Avenue, the alley, and approximate 1-foot contour lines demonstrating changes in elevation

The construction of an alley along the rear of the property was contemplated in the original Tract Map for Corona del Mar from 1904. However, the 14-foot-wide alley remains undeveloped and does not function as vehicular access. The alley terminates at 409 Dahlia Avenue, approximately 90 feet north of the Project Site at an elevation approximately 25 feet higher than the alley (i.e., 28% slope). Due to the significant elevation change, the alley is unlikely to be developed in the future, as grading the public alley into a paved, drivable surface would result in unsafe vehicle grades for standard vehicles. With no direct access to Bayside Drive and no functioning rear alley, the property currently takes indirect vehicular access from Bayside Drive, through a shared driveway that passes through Bayside Park. The shared driveway serves both the Project Site and the residence located at 2600 Bayside Drive. The front setback for the Project Site is developed with a private driveway to accommodate an uncovered parking space.

Prior Approval

A modification permit (MD2006-044) was approved in 2006 for the Project Site which allowed the construction of a new retaining wall to encroach 3 feet into the required 3-foot northern side setback and 5 feet into the required 5-foot alley setback. The retaining wall created a usable rear yard area. The wall also provided a minimum 36-inch-tall guardrail along the side yard and alley setback for safety purposes. Measured from existing grade, the retaining wall is currently approximately 10 feet high and the guardrail on top of the retaining wall results in an overall height of approximately 13 feet. Historically, the rear alley setback area has served as a typical “front yard” for the property since the existing garage and driveway are located adjacent to the front yard setback, unlike most dwellings in CdM that have garages along the alley and useable front yard setbacks.

Project Description

The Project involves the demolition of the existing duplex on the Project Site and the construction of a new single-unit dwelling with a Junior Accessory Dwelling Unit (JADU). To implement the Project, a variance from Title 20 and Title 21 of the NBMC is requested to allow a second-floor balcony to encroach 2 feet and 6 inches into the required 5-foot rear alley setback. The variance also includes encroachments to allow walls and planters, including an over-height, 10-foot-tall retaining wall, to encroach into the 5-foot alley setback. The NBMC prohibits above ground encroachments within an alley setback, therefore a variance is required for any encroachment into a rear setback area abutting an alley. Figure 3 on the following page shows the proposed encroachments into the rear alley setback.

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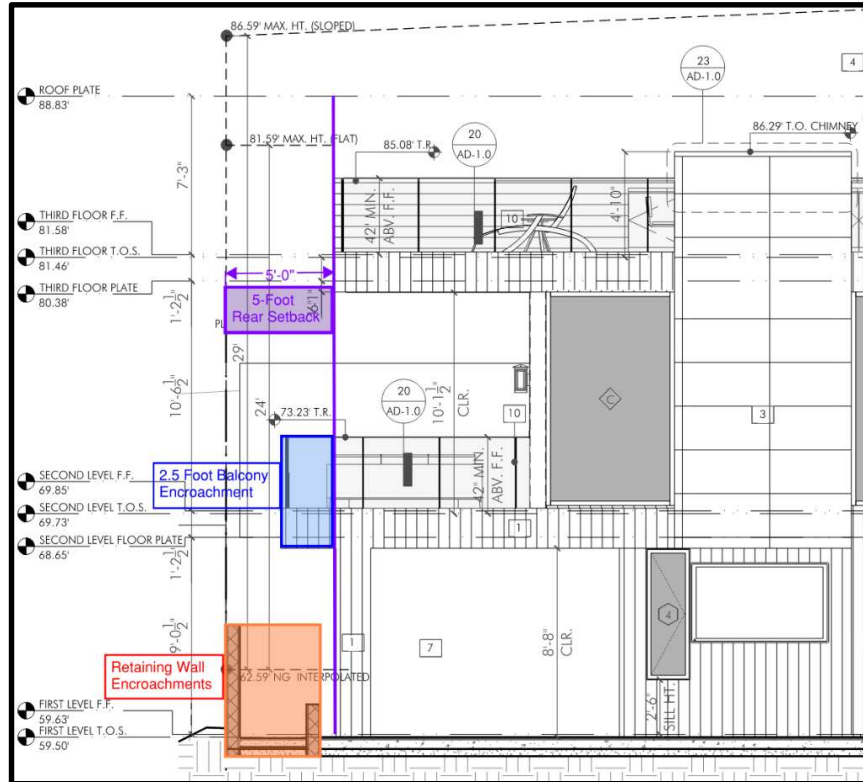


Figure 3, Elevation view highlighting rear setback encroachments

As previously stated, due to the variance request, a CDP is required to demolish the existing two-unit dwelling and construct a new, three-story, 3,037-square-foot single-unit dwelling. The residence will include an attached 479-square-foot two-car garage and a 285-square-foot JADU. The project also includes improving the adjacent Bayside Park by removing an existing hedge, installing small retaining walls, and adding new landscaping.

The principal dwelling unit will provide a total of three bedrooms and three bathrooms across two floors, with a covered rooftop deck on the third floor. The first floor includes two bedrooms, two bathrooms, a mechanical room, laundry room, garage, and JADU. The JADU consists of one bedroom, one bathroom, and a kitchenette with a stovetop and refrigerator. The JADU provides an internal connection to the main unit and has independent access from the side yard along the southern perimeter of the property. The second floor of the principal dwelling unit includes one bedroom, one bathroom, a kitchen, dining room, and a living room. A covered rooftop deck is located on the third floor. Full architectural plans are included as Attachment No. PC 5.

Collectively, these improvements and requests are described as the “Project”.

DISCUSSION

Analysis

General Plan and Coastal Land Use Plan Consistency

The Project Site is categorized as Two-Unit Residential (RT) by the Land Use Element of the General Plan and Two-Unit Residential (20.0 – 29.9 DU/AC) (RT-D) by the Coastal Land Use Plan (CLUP). Both RT and RT-D are intended to allow up to two primary dwelling units; therefore, the proposed single-unit dwelling with a JADU is consistent with the intent of these land use categories.

As discussed in greater detail in the attached resolution (Attachment No. PC 1), the Project complies with CLUP Policies 3.1.1-1 (Protect Public Access), 4.1.2 (Marine Resource), 4.1.3 (Environmental Study Areas), and 4.4.1 (Coastal Views) because it improves public access by removing the existing hedge within Bayside Park that currently restricts public access; is located in a developed area approximately 700 feet from the water, with no marine or sensitive habitat resources; includes drainage improvements to protect water quality, which have been reviewed by the Building Division to prevent geological or geotechnical hazards; and enhances Bayside Park’s landscaping without affecting any protected coastal views.

A full General Plan and CLUP consistency analysis is provided in the draft resolution (Attachment No. PC 1).

Title 20 Zoning Code Consistency

The Project Site is zoned R-2. Apart from the requested Variance, the Project complies with all R-2 residential development standards and JADU development standards, as detailed in Table 1.

Table 1 – Development Standards – Principal Dwelling Unit		
Development Standard	Standard	Proposed
Setbacks (min.)		
Front (Driveway)	15 feet	15 feet
Rear (Alley)	5 feet	0 feet (Retaining wall) 2.5 feet (Balcony/accessory structures) 5 feet (Principal dwelling)
Sides	3 feet	3 feet
Allowable Floor Area (max.)	3,525 square feet	3,523 square feet (includes JADU)
Allowable 3rd Floor Area (max.)	470 square feet	110 square feet

Allowable 3rd Floor Area & Covered (max.)	1,175 square feet	516 square feet
3rd Floor Stepbacks¹	15 feet (front and rear) 2 feet (sides)	25 feet (rear) 30 feet (front) 2 feet (sides)
Open Space (min.)	353 square feet	872 square feet
Parking (min.)²	2-car garage	2-car garage
Height (max.)	24-foot flat roof 29-foot sloped roof	24-foot flat roof 29-foot sloped roof
JADU Size (max.)	500 square feet (max)	285 square feet
1. Third floor “stepbacks” are in addition to the standard setbacks and include both floor area and covered deck area. 2. Parking for a JADU is not required.		

Variance Request

A variance is a request to waive or modify certain standards when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district. A variance should be granted when it maintains parity between the variance site and nearby properties in the same zoning district and avoids the granting of special privileges to one property. In this case, the Applicant is requesting a variance to allow the following deviations:

- a. A second-floor balcony to encroach 2 feet, 6 inches into the required 5-foot rear alley setback;
- b. Several planters and walls, including retaining walls, to encroach into the required 5-foot rear alley setback; and
- c. A 10-foot-tall retaining wall where the maximum height limit for retaining walls is 8 feet.

While an over-height retaining wall would typically be permitted through the approval of a modification permit, a variance achieves the same outcome and consolidates the Project into a single entitlement.

Section 20.52.090(F) (Variances - Findings and Decision) of the NBMC requires the Planning Commission to make the following findings before approving a variance:

- A. *There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification;*

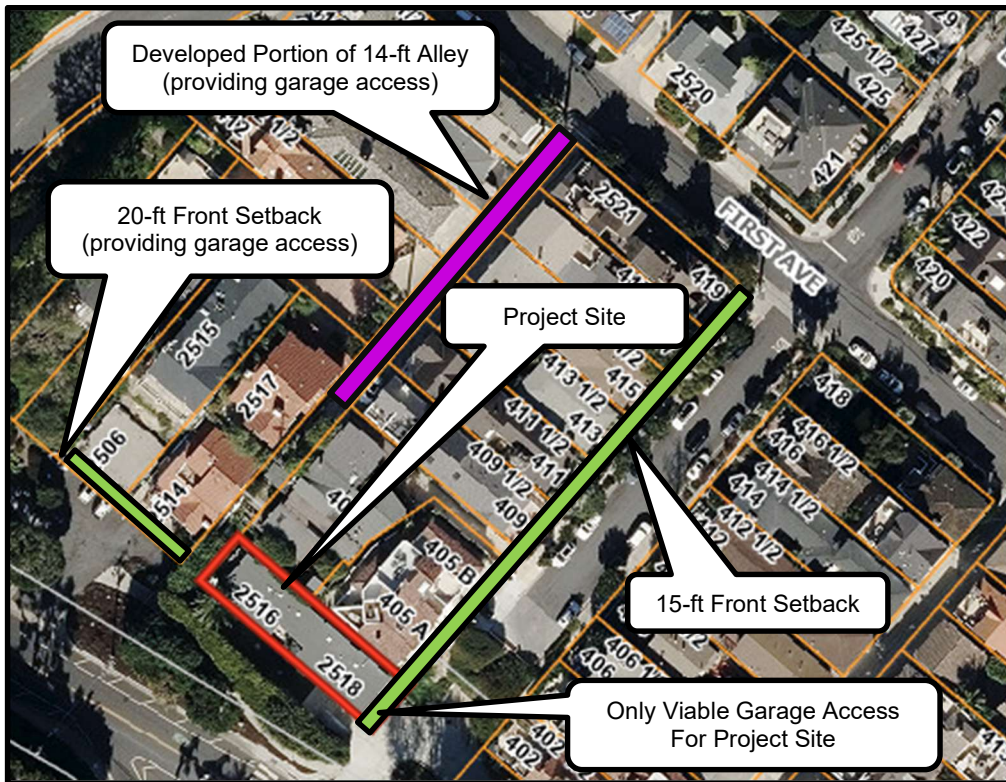
- B. Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification;*
- C. Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the Applicant;*
- D. Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district;*
- E. Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and*
- F. Granting of the variance will not be in conflict with the intent and purpose of this section, this Zoning Code, the General Plan, or any applicable specific plan*

Staff believes there are sufficient facts to support the required findings for each of the deviations, as outlined under each sub header below. As described, granting the Variance will not endanger public health, safety, or welfare, but instead will facilitate an orderly and safe residential development consistent with the surrounding neighborhood.

Retaining Walls and Ground Level Encroachments

Substantial elevation changes along the rear alley area and the northern side property line require the use of retaining walls for structural stability and erosion control. These retaining walls are integral to the development of the site and are directly necessitated by the unique topographic conditions affecting the Project Site. As shown in Figure 4 on the following page, the severe slope conditions and resulting structural requirements constrain the placement of improvements and vehicular access opportunities in a manner not typical of surrounding residential parcels within the same zoning classification. The only viable option for garage access at the Project Site is via the front setback. Reconstructing the driveway in its current location would not be allowed, as the existing driveway is within Bayside Park.

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setback area is proposed to serve as a front yard for the Project, it is important to note that similar encroachments (excluding the 10-foot retaining wall) into a front setback area would be allowed without a variance, pursuant to Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the NBMC.

2nd Floor Balcony Encroachment

As the Project Site is constrained to a floor plan where the garage is oriented towards the front setback, and the rear is limited in its access to natural light at the ground floor, the Applicant proposes an outdoor living space (i.e., balcony) to be sited partially within the rear setback on the second floor, as this will allow the owner a similar amount of outdoor living space enjoyed by neighboring properties.

The proposed second-floor balcony, which encroaches into the rear setback, would not provide the same benefit if located on the lower level because it would be sited at the base of a steep hill and restricted in terms of natural light and air circulation, resulting in an uncomfortable living experience.

The second-floor deck will extend halfway, or 2 feet and 6 inches, into the required 5-foot rear alley setback. This proposed encroachment matches the allowed encroachment for eaves and overhangs pursuant to Section 20.30.110 (Setback Regulations and Exceptions) of the NBMC. Therefore, the balcony would not extend further than an eave or overhang is permitted. Additionally, a glass guardrail is proposed along the deck, thereby avoiding excessive building mass near the property line.

A public comment was received from the property owner across the unimproved alley at 2514 Bayside Drive expressing concerns regarding the variance (Attachment No. PC 4). The existing hedge condition at the rear of the property will soften views of the deck from the public right-of-way and properties across the unimproved alley. As such, a new balcony will cause no harm or inconvenience to any persons residing or working in this location.

Title 21 (Local Coastal Program Implementation Plan) Consistency

The Project complies with the R-2 Coastal Zoning development standards, apart from the requested setback encroachments and over-height retaining wall (see Table 1 for applicable standards). While the Project Site is within the Categorical Exclusion Area, it is not eligible under the CEO because of the requested coastal variance. Therefore, the Applicant is requesting approval of a CDP.

Pursuant to Subsection 21.52.015(F) (Coastal Development Permits - Findings and Decision) the Planning Commission must make the following findings to approve the CDP:

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

2. *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.*

The proposed finish floor elevation is 59.63 feet based on the North American Vertical Datum of 1988 (NAVD 88), which complies with the minimum 9.0-foot NAVD 88 requirement for new structures. A Coastal Hazards Report is not required for this project given that that property is approximately 700 feet from the harbor and separated from the water by Bayside Drive and three blocks of residential development. Since the Project is in an area known for the potential for seismic activity, a preliminary Water Quality and Hydrology Plan (WQHP) was prepared by Civilscapes, Inc. and reviewed by the City's Building Division for compliance.

The Project Site is not located in an environmentally sensitive habitat area or environmentally sensitive area under Section 21.30B.030 (Environmentally Sensitive Habitat Area) of the NBMC.

The Project Site is not located between the first public road and the sea. As such, it is not necessary to assess the project's consistency with the public access and public recreation policies of Chapter 3 of the Coastal Act. Nonetheless, the nearest vertical and lateral access to the harbor/beach is available via China Cove, approximately 1,250 feet southwest of the property. The Project does not include any features that would obstruct access along these routes. The Project will replace an existing two-unit dwelling with a new single-unit dwelling and JADU that complies with applicable development standards, thus preserving the existing residential density on-site.

As shown in Figure 5 below, the nearest designated coastal viewpoint is Begonia Park and is approximately 250 feet west of the Project Site. The Project may fall within the general viewshed of this viewpoint; however, the Project is not directly visible from Begonia Park due to intervening development. Additionally, views from this viewpoint are to the southwest looking down Bayside Drive and over the row of homes adjacent to the Newport Harbor entrance – not through or towards the Project Site. Although not a designated coastal viewpoint, the Project is also visible from Bayside Park. The Project complies with all applicable Local Coastal Program (LCP) development standards, with exception of the requested setback encroachments and retaining wall height, and maintains a building envelope consistent with the existing neighborhood pattern of development. The project would improve conditions within the Bayside Park by removing the overgrown hedge and facilitating access to the public through this park. Additionally, the Project is consistent with the established residential character of the surrounding neighborhood and will not have any measurable impact to coastal views from designated public viewpoints, as no viewpoints designated for public enjoyment are affected by the Project's design or massing. Lastly, the project includes substantial building articulation, use of glass elements, and appropriate modulation, therefore, the Project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

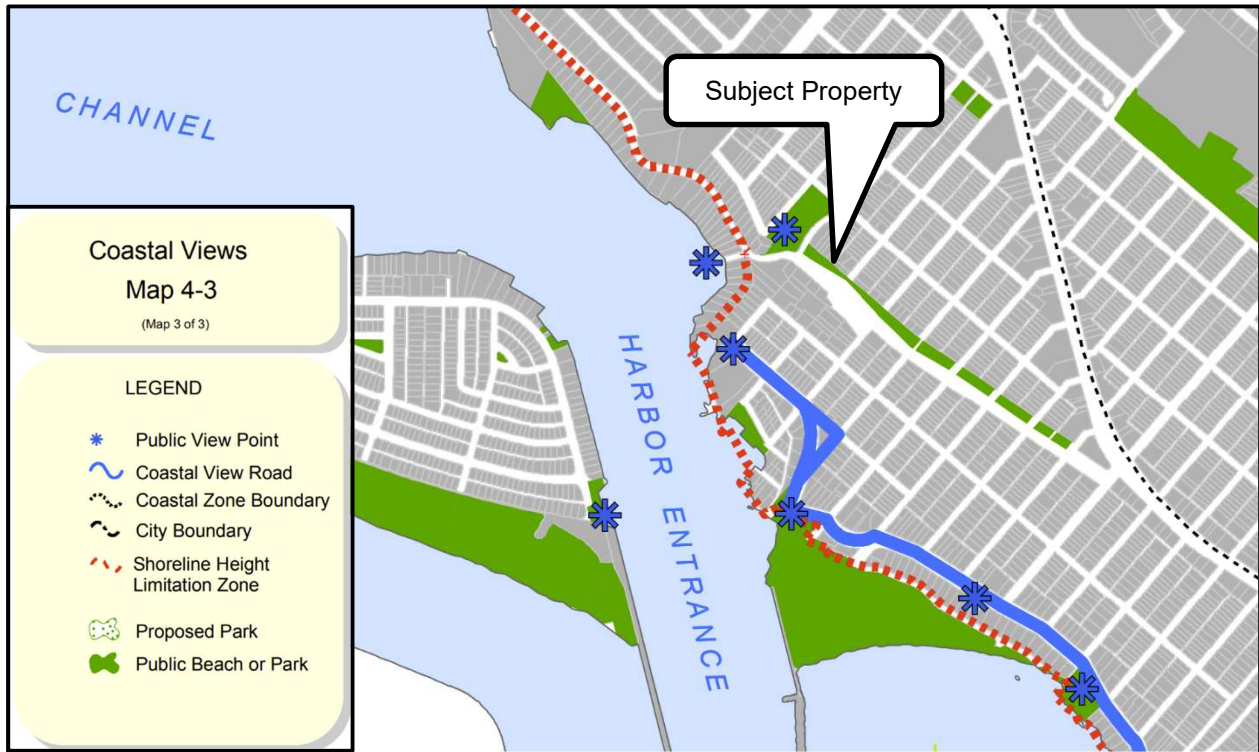


Figure 5, CLUP Coastal Views Map 4-3

Coastal Variance

Additional findings are required in accordance with Section 21.52.090 (Relief from Implementation Plan Development Standard) of the NBMC to approve the requested Variance from development standards. Staff believes facts to support the findings in the draft resolution are sufficient to demonstrate compliance with the LCP and that the Project would not impact any coastal resources, including access or views. The Planning Commission may approve a waiver (variance) of a development standard of the Implementation Plan only after making all of the following findings¹:

1. *Whether or not the development is consistent with the certified Local Coastal Program to the maximum extent feasible; and*
2. *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.*
3. *The granting of the variance is necessary due to special circumstances applicable to the property, including location, shape, size, surroundings, topography, and/or*

¹ Items 1 and 2 are “considerations” and not formal findings, however, they are required to be evaluated similar to findings and therefore included in the list for simplicity.

other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same coastal zoning district.

4. *The variance complies with the findings required to approval a coastal development permit in NBMC Section 21.52.015(F).*
5. *The variance will not result in development that blocks or significantly impedes public access to and along the sea or shoreline and to coastal parks, trails, or coastal.*
6. *The variance will not result in development that blocks or significantly impairs public views to and along the sea or shoreline or to coastal bluffs and other scenic coastal areas.*
7. *The variance will not result in development that has an adverse effect, either individually or cumulatively, on coastal resources, including wetlands, sensitive habitat, vegetation, or wildlife species.*
8. *The granting of the variance will not be contrary to, or in conflict with, the purpose of this Implementation Plan, nor to the applicable policies of the Local Coastal Program.*

Staff believes that sufficient facts exist to support each finding and has determined that the proposed development is consistent with the certified LCP to the maximum extent feasible. Mirroring Title 20 development standards, Table 21.18-3 (Development Standards for Two-Unit Residential Coastal Zoning Districts) of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of the NBMC requires a 5-foot setback for properties abutting a 15-foot wide (or less) alley. The Applicant is requesting to encroach 2 feet, 6 inches into the 5-foot rear setback with a second-floor balcony and to install planters and walls within the 5-foot rear alley setback, including a 10-foot-tall retaining wall.

The Project Site is one of two residences in the immediate vicinity that have a standard rectangular lot shape sited on a steep slope, abut an unimproved alley, and have no alley access. This condition is unique to the Project Site and the property at 2600 Bayside Drive.

An alternative to the Project would be to construct a residence in accordance with the required 5-foot rear setback and with retaining walls within the buildable area. However, enforcing these requirements would deprive the owner from constructing a single-unit dwelling with outdoor living area comparable to nearby properties in the same zoning district with the same dimensions. An alternative design orienting the structure to align with garage access at the alley would not be feasible due to the topographic constraints

discussed above. The Project was reviewed by the Building Division to ensure the Project design would not pose a hazard to the property or neighboring properties.

As the Project Site is located in an existing neighborhood approximately 700 feet from the Newport Harbor where no public access occurs, the Project would not result in a negative impact on coastal access. Additionally, the proposed landscaping changes to Bayside Park will restore access to a public park in the coastal zone where currently an overgrown hedge blocks public access. This public benefit is shown in Figure 6 below.

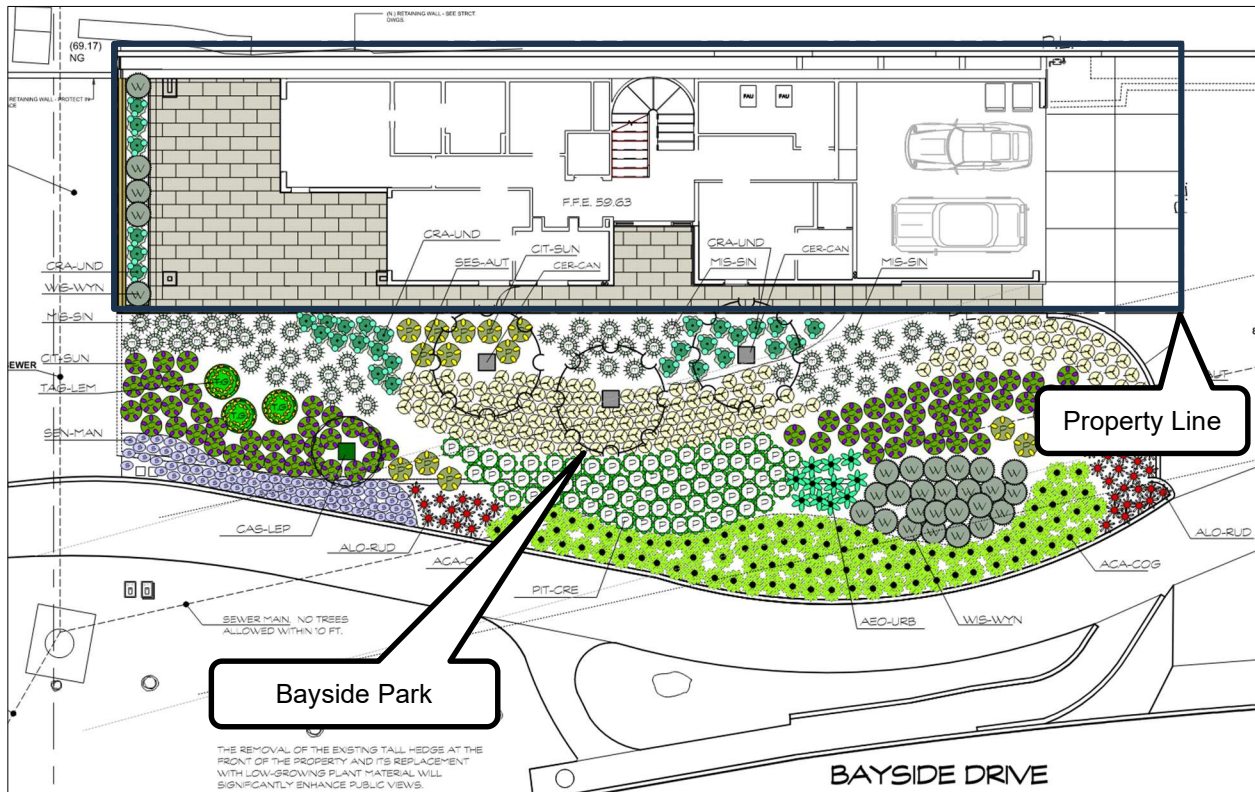


Figure 6, Bayside Park landscaping improvements replacing existing tall hedge

As previously noted, coastal views would not be impacted by the Project since the Project Site is not located within the viewshed of any designated viewpoints and replaces an existing duplex with a new single-unit dwelling and JADU.

Furthermore, the encroachments into the rear alley setback area will be partially hidden from view by the change in elevation immediately north and by the existing hedge at the rear undeveloped alley. Figure 7 below is an excerpt of the Applicant's view simulations, which shows the existing hedge in the undeveloped alley. The full view simulations are available as Attachment No. PC 2. This hedge will remain and be maintained by the property owner at a height not to exceed 20 feet, pursuant to Condition of Approval No. 20 in the draft resolution (Attachment No. PC1).

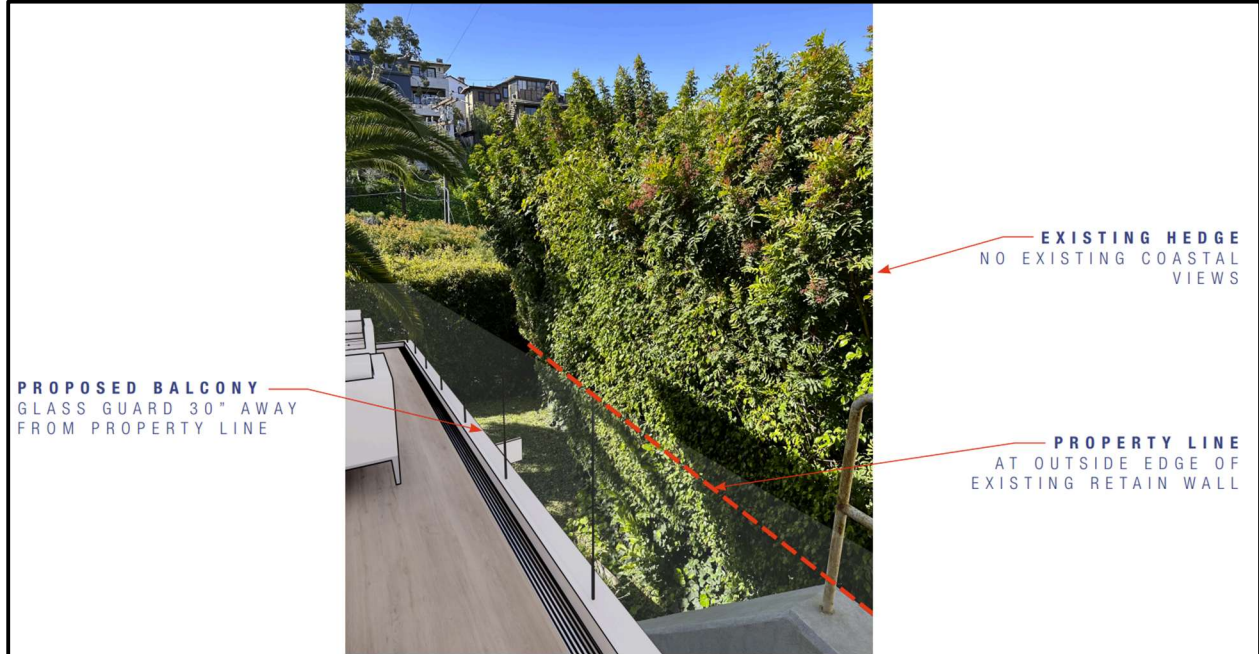


Figure 7, View simulation from proposed deck showing existing hedge to remain

Condition of Approval No. 4 also requires the removal of any applicable encroachments authorized by this Variance should the City decide to utilize the alley right-of-way for any reason and determine that the encroachments would conflict with said improvements. Removal of encroachments would be at the sole expense of the owner.

Summary and Alternatives

Staff finds the Project consistent with Title 20 (Planning and Zoning), Title 21 (Local Coastal Program Implementation Plan), the General Plan, and the Coastal Land Use Plan, as discussed in the analysis above. Based on the existing site conditions, staff believes the Variance for ground level rear setback encroachments, including an over-height retaining wall and a second-floor balcony encroachment, are warranted and compatible with the development of the neighboring properties.

Should the Planning Commission determine that the facts are not sufficient to support the project application, the following alternative actions are available:

1. The Planning Commission may suggest specific changes that are necessary to alleviate any concerns. If the requested changes are substantial, the item could be continued to a future meeting. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval and a denial action is more appropriate, staff would recommend a continuance to prepare a resolution reflecting this course of action.

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 construction of new small facilities or structures. The Project includes the demolition of one existing two-unit dwelling and construction of a new single-unit dwelling with JADU located within the Two-Unit Residential (R-2) Zoning District and the Two-Unit Residential (R-2) Coastal Zoning District.

The exceptions to this categorical exemption under Section 15300.2 of the CEQA Guidelines 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.

Prepared by:



Daniel Kopshever, Assistant Planner

Submitted by:



Liz Westmoreland, AICP, Deputy Director
Community Development Department

JP/djk

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions
- PC 2 Visual Simulations
- PC 3 Applicant Project Description
- PC 4 Public Comments
- PC 5 Project Plans

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