

**NEWPORT BEACH PLANNING COMMISSION MINUTES
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, NOVEMBER 9, 2023
REGULAR MEETING – 6:00 P.M.**

I. CALL TO ORDER – 6:00 p.m.

II. PLEDGE OF ALLEGIANCE – Commissioner Salene

III. ROLL CALL

PRESENT: Vice Chair Mark Rosene, Secretary Tristan Harris, Commissioner Brady Barto, Commissioner Jonathan Langford, Commissioner Lee Lowrey, and Commissioner David Salene

ABSENT: Chair Curtis Ellmore

Staff Present: Deputy Community Development Director Jim Campbell, Assistant City Attorney Yolanda Summerhill, City Traffic Engineer Brad Sommers, Planning Manager Jaime Murillo, Senior Planner David Lee, and Administrative Assistant Clarivel Rodriguez

IV. PUBLIC COMMENTS

None

V. REQUEST FOR CONTINUANCES

None

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF OCTOBER 19, 2023

Recommended Action: Approve and file

Motion made by Secretary Harris and seconded by Commissioner Salene to approve the minutes of the October 19, 2023, meeting with Mr. Mosher's edits and a clarification by Commissioner Lowrey to Item No. 3 stating he had no ex parte communication with the landowners.

AYES: Barto, Lowrey, Langford, Harris, and Salene
NOES: None
ABSTAIN: Rosene
ABSENT: Ellmore

VII. PUBLIC HEARING ITEMS

**ITEM NO. 2 DAWSON RESIDENCE (PA2022-0315)
Site Location: 2741 Ocean Boulevard**

Summary:

An appeal of the Zoning Administrator's August 10, 2023, approval of a remodel and addition to an existing, non-conforming single-unit residence. The following discretionary approvals are requested to implement the project:

- **Coastal Development Permit:** Authorization of development in the Coastal Zone pursuant to the City's Local Coastal Program. The scope of work consists of all construction activities shown on the proposed plans including grading and excavation, foundation work, landscape and hardscape improvements, drainage devices, a swimming pool, and various accessory structures;

- **Modification Permit:** Required to authorize retaining walls and associate guardrails located within the required front yard setback along Ocean Boulevard that 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 that authorized deviations to height, floor area, and setbacks for the existing building.

Recommended Actions:

1. Conduct a public hearing;
2. Determine the project is consistent with the Mitigated Negative Declaration approved with VA1137 and 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 Resolution No. PC2023-037 denying the appeal and upholding the action of the Zoning Administrator and approving an application (PA2022-0315) for a coastal development permit, modification permit, and staff approval.

Assistant City Attorney Summerhill announced Chair Ellmore's recusal due to real property interests.

Senior Planner Lee used a presentation to review the property location, project request, background, project description, site plan, project comparisons, massing reduction, entryway modification, Zoning Administrator approval and appeal, Ocean Boulevard vision plan, nonconforming structure, Ocean Boulevard views, CLUP Policy 4.4.3-9, bluff development and overlay, development along Ocean Boulevard, slope alteration, and recommendation.

All Commissioners disclosed ex parte communication with a representative for the applicant.

Vice Chair Rosene opened the public hearing.

Sara Pijuan, KAA Design Group/Evens Architects representing the applicant, used a presentation to review the project scope, the Dawson family, project team, site history, project process and history, City staff and project goals, the 2017 approved project versus current design relative to square footage, grading excavation (cut), and existing bluff to remain. She discussed neighbor outreach efforts for the current and previous project. She noted that the predominant line of existing development is not applicable to 2741 Ocean Boulevard because it does not fall within the coastal bluff overlay designated in the Zoning Code. Additionally, Ms. Pijuan shared proposed versus existing Ocean Boulevard views, street views, and project design renderings.

Daniel Herman, appellant, expressed concern that the project conflicts with the Corona del Mar Residents Association vision plan and shared his vested interest in the public realm of the City. He used a presentation to outline five areas of noncompliance with the City of Newport Beach Local Coastal Plan (LCP).

Jim Mosher explained how the proposal is not consistent with other City plans for Ocean Boulevard and referenced Policy 2.2.5-1 and thought that a nonconforming structure that impairs public coastal views is no longer eligible for any addition, the expansion is not allowed, the project needs to remain in the current footprint, and the slope is not available for development because a coastal development permit for the 1998 street vacation was never issued. He read and reviewed Policy 4.4.3-8 on agenda packet page 37 and noted obstructed views below the curb line.

Mr. Herman used the presentation to review the proposed project inclusions, concern for proposed caissons on Ocean Boulevard and public access conditions, the predominant line of development, project history, blocked landscape, and impacts to scenic quality. He asked the Planning Commission to uphold the appeal and preserve green space on Ocean Boulevard.

In response to Commissioner Barto's questions, Mr. Herman utilized slide 13 and indicated that the proposed construction is within 10 feet of the sidewalk of Ocean Boulevard and will block the green space and ornamental landscape. Commissioner Barto thought the proposed development follows a similar setback to Ocean Boulevard and Mr. Herman disagreed and clarified that this home fronts Goldenrod Avenue because of the original planning. Commissioner Barto questioned if the predominant line of development is referring to the original house development or development of the area and noted that the neighbors appear to be on the orientation that fits the proposed development. Mr. Herman stated that this home with its construction is different from all the other homes because it constructs into the predominant line of development area based on the line of all the existing homes and the right-of-way is nonconsequential because it was granted 15 years ago. Commissioner Barto thought the prominent line of development is from Ocean Boulevard and Mr. Herman concurred.

Linda Razner, 2500 Ocean Boulevard, opposed the variance and supported preserving the bluff.

Ron Yeo, Ocean Bluff Walk Chairman, trusted the Planning Commission to make the right decision.

Walt Howald suggested going to the California Coastal Commission (CCC) to see if the property abandonment by the City will be approved, noted the construction is on the abandoned property, concern for the impact to the street, Lookout Point, and a full hearing, thought the existing houses must comply with the prevailing line along Goldenrod line, and expressed concern for pedestrian safety. He asked the Planning Commission to conduct a full public hearing and go to the CCC to see if they will approve the property abandonment and allow the construction.

Ms. Pijuan indicated that the project is abiding by the Zoning Codes and 10-foot front setback, asked if the City Attorney would provide clarity on the property abandonment issue, and agreed to the conditions of approval.

Mr. Mosher emphasized and restated the bluff policy for development, stated that the existing house is on the predominant line of development, believed that the coastal development permit must comply with the LCP, and reviewed possible next steps.

Assistant City Attorney Summerhill stated that the City stands behind the property abandonment in 1998, noted a 90-day statute of limitation to challenge a CDP issuance, and the opportunity to challenge it has expired.

Deputy Community Development Director Campbell reviewed next step options for the Planning Commission, clarified that the predominant line of development policy is not applicable and there is no bluff overlay protection, and a 10-foot front yard setback regulation certified by the CCC. He read Coastal Land Use Plan Policy 4.4.1-3 and indicated the property and property vacation is consistent with the policy, recommended project approval, noted a construction management plan to address temporary public access disruptions and minor construction delays during the caisson installation, indicated that the sidewalk will be in place and public views will be enhanced, relayed the limited impact is not inconsistent with LCP or zoning provisions and the structure does not fit the description of nonconforming and is not limited to the policy limiting renovations of existing nonconforming structures, and the proposed addition is fully consistent with the LCP.

Vice Chair Rosene closed the public hearing.

Commissioner Langford appreciated the appellants for acting to protect Corona del Mar, expressed satisfaction with the staff recommendation, thought it was right to development the property according to code, and supported staff's recommendation.

Commissioners Lowrey and Barto respected the appellant, applicant, and staff for their contributions to the conversation and supported staff's recommendation.

Secretary Harris thanked all the participants for participating and being thorough, thought that findings cannot be made on a plan that is not present, opposed adjudicating decisions made by the Planning Commission over 20 years ago, and concurred with staff on the line of development.

Motion made by Secretary Harris and seconded by Commissioner Salene to approve staff's recommendation to uphold the Zoning Administrator's decision.

AYES: Barto, Lowrey, Langford, Harris, Rosene, and Salene
NOES: None
ABSTAIN: None
ABSENT: Ellmore (Recused)

VIII. STAFF AND COMMISSIONER ITEMS

ITEM NO. 3 MOTION FOR RECONSIDERATION

None

ITEM NO. 4 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA

Deputy Community Development Director Campbell noted the appeal of the staff approval of the Champions Club has been withdrawn by the appellant, and the next Planning Commission meeting on December 7 will begin at 5:00 p.m. and include two public hearing housing projects in the airport area, Pine Knot Hotel appeal, and Sage Hill Middle School expansion. He indicated that he will not be present at the last meeting of the year on December 21 when three items will be considered, and Planning Manager Murillo will assume the role of acting Deputy Director.

ITEM NO. 5 REQUESTS FOR EXCUSED ABSENCES

None

IX. ADJOURNMENT – With no further business, the meeting was adjourned by Vice Chair Rosene at 7:23 p.m. until December 7, 2023, at 5:00 p.m.

The agenda for the November 9, 2023, Planning Commission meeting was posted on Thursday, November 02, 2023, at 3:30 p.m. in the Chambers binder, on the digital display board located inside the vestibule of the Council Chambers at 100 Civic Center Drive, and on the City's website on Thursday, November 02, 2023, at 3:13 p.m.

Mark Rosene, Vice-Chair

Tristan Harris, Secretary