

# **Attachment B**

Draft Resolution for Denial

## RESOLUTION NO. 2018-\_\_

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, OVERTURNING THE PLANNING COMMISSION'S APPROVAL OF VARIANCE NO. VA2017-002 AND COASTAL DEVELOPMENT PERMIT NO. CD2017-091 TO ALLOW THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE FOR PROPERTY LOCATED AT 3200 OCEAN BOULEVARD (PA2017-208)**

**WHEREAS**, an application was filed by Nicholson Construction on behalf of Karen M. Hinton, Successor Trustee of the Maloney Family Trust ("Applicant"), with respect to property located at 3200 Ocean Boulevard, in the City of Newport Beach, and legally described as a portions of Lot 7 and Lot 8 of Block 138 of the Re-subdivision of Corona Del Mar, in the City of Newport Beach, County of Orange, State of California, as shown on Map recorded in Book 4, Page 67 of Miscellaneous Maps in the office of the County Recorder of said county, requesting approval of a coastal development permit and a variance;

**WHEREAS**, the Applicant requests a coastal development permit to demolish an existing single-family residence and allow the construction of a new 7,276-square-foot, single-family residence and a 688-square-foot, three-car garage. Excluding the 2,748-square-foot subterranean basement, the resulting total floor area proposed is 5,216 square feet. The Applicant requests a variance application to allow the residence to encroach five (5) feet into the required ten (10) foot rear setback and exceed the maximum floor area limit of 4,234 square feet;

**WHEREAS**, the site 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;

**WHEREAS**, the site 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 the Coastal Zone is Single-Unit Residential (R-1);

**WHEREAS**, a public hearing was held before the Planning Commission on August 9, 2018, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. The Planning Commission approved Variance No. VA2017-002 and Coastal Development Permit No. CD2017-091 allowing for the demolition of an existing single-family residence and construction of a new single-family residence and determining that the findings and facts in support of such findings were sufficient. Conditions of approval were established to minimize potential impacts from the residence to the surrounding neighborhood;

**WHEREAS**, on August 20, 2018, Council Member Jeff Herdman submitted a Call for Review for the City Council to review the previous approval made by the Planning Commission;

**WHEREAS**, on September 25, 2018, the City Council held a noticed public hearing to consider the appeal in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at the public hearing;

**WHEREAS**, the City Council may approve a variance application only after making each of the required findings set forth in NBMC Section 20.52.090(F) (Variances – Findings and Decision). In this case, the City Council was unable to make the required findings for the following reasons:

1. The proposed Variance for the Development is not consistent with the legislative intent of Title 20 of the NBMC and that findings required by Section 20.52.090 are not supported in this case. The Development may prove detrimental to the community;
2. The design, location, size and characteristics of the Development are not compatible with the single-family residences in the vicinity. The development may result in negative impacts to residents in the vicinity and would not be compatible with the enjoyment of the nearby residential properties; and

**WHEREAS**, the City Council may approve a coastal development permit application only after making each of the required findings set forth in NBMC Section 21.52.015 (F) (Findings and Decision). In this case, the City Council was unable to make the required findings for the following reasons:

1. The proposed residence does not conform to all applicable residential development standards as the Development does not comply with floor area limitation, setbacks, height and open volume requirements.

**NOW, THEREFORE**, the City Council of the City of Newport Beach resolves as follows:

**Section 1:** The City Council of the City of Newport Beach does hereby overturn the Planning Commission's approval of Variance No. VA2017-002 and Coastal Development Permit No. CD2017-091 on the basis that it is unable to make the required findings.

**Section 2:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

**Section 3:** If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 4:** Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

**Section 5:** This resolution shall take effect immediately and the City Clerk shall certify the vote adopting the resolution.

**Section 6:** Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**ADOPTED** this 25<sup>th</sup> day of September, 2018.

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Marshall "Duffy" Duffield  
Mayor

**ATTEST:**

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Leilani I. Brown  
City Clerk

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
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Aaron C. Harp  
City Attorney