

NEWPORT BEACH ZONING ADMINISTRATOR MINUTES
100 Civic Center Drive, Newport Beach
Corona del Mar Conference Room (Bay E-1st Floor)
Thursday, September 27, 2018
REGULAR MEETING
3:00 p.m.

I. CALL TO ORDER – The meeting was called to order at 3:00 p.m.

Staff Present: Patrick J. Alford, Zoning Administrator
Chelsea Crager, Associate Planner
David Lee, Assistant Planner
Liz Westmoreland, Assistant Planner

II. REQUEST FOR CONTINUANCES

None.

III. APPROVAL OF MINUTES

ITEM NO. 1 MINUTES OF SEPTEMBER 13, 2018

Action: Approved

IV. PUBLIC HEARING ITEMS

ITEM NO. 2 BDL Equities Duplex Coastal Development Permit No. CD2018-038 (PA2018-087)
Site Location: 417 East Bay Avenue and 410 Harding Street Council District 1

Liz Westmoreland, Assistant Planner, stated she was presenting this item on behalf of Ben Zdeba, Associate Planner, who was absent. She provided a brief project description, the demolition of two separate duplexes and construction of a new duplex. She noted the site size and location, as well as the current development and the project's consistency with the certified Local Coastal Program. She noted that since the current development is two separate duplexes, Municipal Code Chapter 21.34 related to conversion or demolition of affordable housing does not apply.

The Applicant was not present.

The Zoning Administrator opened the public hearing.

One member of the public, Jim Mosher, discussed review procedures related to presenting a draft resolution for approval, as well as a draft resolution for denial at the hearing. He also expressed concern regarding affordable housing stock within the coastal zone and consistency with the residential densities outlined within the Coastal Land Use Plan. Lastly, he requested clarification on the setbacks noted within the staff report and resolution for approval.

The Zoning Administrator requested clarification from Mr. Mosher regarding whether or not he saw inconsistency with the proposed project and the Coastal Act. Mr. Mosher clarified that the inconsistency may be with the density limits in the LCP.

As there were no other public comments, the Zoning Administrator closed the public hearing.

Ms. Westmoreland stated that the densities prescribed within the Zoning Code and the Local Coastal Program Implementation Plan are based on surrounding area rather than an individual lot. She also clarified the setbacks for the property, as raised by Mr. Mosher's comment.

Action: Approved

**ITEM NO. 3 Silvers Bulkhead Improvements Coastal Development Permit No. CD2018-063
(PA2018-145)
Site Location: 1601 East Bay Avenue Council District 1**

Liz Westmoreland, Assistant Planner, provided a brief project description, the replacement of an existing wooden bulkhead with a new pre-cast concrete bulkhead. She provided existing site conditions, lot configuration, the coastal hazards report and the project's consistency with the certified Local Coastal Program.

Applicant Jacquelyn Chung, on behalf of the Owner, stated that they had reviewed the draft resolution and agree with all of the required conditions.

The Zoning Administrator opened the public hearing.

One member of the public, Jim Mosher, spoke and stated that the application is for the bulkhead and the rest of the project is exempt. He referred to the appeal map and expressed concerns that the bulkhead was not located within an area where the City has authority. He also referred to references in the staff report where certain features are exempt from CDP requirements. He expressed concerns that certain kinds of fencing may not be exempt from CDP requirements. He also asked if the previous lot line adjustment received a CDP questioned why the required future lot merger did not require a CDP. He asked if the Zoning Administrator agreed with the staff report.

As there were no other public comments, the Zoning Administrator closed the public hearing.

Ms. Westmoreland responded that the area where the bulkhead is shown is existing land area, is not an area within coastal waters, and is considered "terra firma" and thus within the City's permit jurisdiction. The City does have jurisdiction over the replacement bulkhead. The bulkhead is not new nor will it move any farther seaward.

The Zoning Administrator followed up that the Coastal Commission Mapping Unit has directed that the City can interpret the Permit and Appeal Jurisdiction Map. Since the project site is on dry land, it is within the City's jurisdiction.

Ms. Westmoreland also responded that accessory structures, including fences, are considered exempt so long as they are not located on the beach, sand, a bluff, or sensitive habitat.

The Zoning Administrator summarized that there is an exception to the exemption, if a fence is located near a coastal resource.

Ms. Westmoreland responded to the question regarding the lot line adjustment, stating that it was approved in 2004 before the City had jurisdiction over coastal matters. The future lot merger would not be subject to a coastal development permit because it is a subdivision that would not result in a change in intensity or density, like the case here. The area being merged is the area out near the water and bulkhead merging with the area where the house is located. It is more for clean-up purposes.

Action: Approved

ITEM NO. 4 Juicy Seven Juice Bar Minor Use Permit No. UP2018-018 (PA2018-180)

Site Location: 229 Marine, Avenue, Unit A**Council District 5**

David Lee, Assistant Planner, provided a brief project description, a minor use permit to operate a juice bar. Mr. Lee provided information on the project's consistency with the General Plan and Zoning Code operational characteristics, and nonconforming parking. He noted that as there is no intensification of use, a coastal development permit is not required.

Applicant Jennifer Li stated that she had reviewed the draft resolution and agrees with all of the required conditions.

The Zoning Administrator opened the public hearing.

One member of the public, Helaine Lenneth, spoke and stated concern for the hours of operation for a juice bar, and that opening until 10:30 p.m. has the potential to create parking problems in the neighborhood.

One member of the public, Jim Mosher, spoke and asked for clarification of what would be considered an intensification of use. Mr. Mosher also stated that Condition of Approval No. 13 should state "contain odors" instead of "maintain odors."

The Zoning Administrator asked staff as to the intent of Condition of Approval No. 13. Mr. Lee stated that the condition should read "contain odors."

As there were no other public comments, the Zoning Administrator closed the public hearing.

The Zoning Administrator asked staff to speak on the intensification of use in regards to the findings of a minor use permit. Mr. Lee replied that staff reviews the parking requirements to determine if there is an intensification of use. Since there is no change in required parking for the proposed use, there is no intensification of use. The Zoning Administrator asked staff if there is a specific finding that requires there is no intensification of use. Mr. Lee stated that there is no such finding required. The Zoning Administrator asked the staff if the conditions of approval will address any impact with any intensification of use. Mr. Lee replied that the conditions of approval will address impacts.

The Zoning Administrator asked if the hours of operation will be out of character with the surrounding uses. The property owner, Leanne Bowman, stated that other properties in the surrounding areas are open later than the proposed juice bar, depending on the season.

The applicant, Jennifer Li, inquired about changing the hours of operation to open at an earlier time. Mr. Lee stated that the conditioned hours of operation are from 10:00 a.m. to 10:30 p.m., daily. In response to a question from the Zoning Administrator, Mr. Lee stated that the hours of operation were included in the public notice. The Zoning Administrator gave the applicant two options, deferring action on the project and re-noticing with the earlier opening hour or approving the project with the hours in the public notice and amending the use permit at a future date. The applicant decided to proceed with the hours of operation of 10:00 a.m. to 10:30 p.m.

Action: Approved

ITEM NO. 5 Huberman Residence Coastal Development Permit No. CD2018-076 (PA2018-171)
Site Location: 808 Via Lido Nord Council District 1

Chelsea Crager, Associate Planner, provided a brief project description stating that the project is a coastal development permit to demolish an existing single-family residence and construct a new single-family residence. She provided information on the bulkhead and project's consistency with the certified Local Coastal Program.

The Zoning Administrator confirmed with staff that there is currently a three-car garage on the site and that there would be no loss of on-street parking from a larger curb cut for the proposed project.

The Zoning Administrator opened the public hearing.

One member of the public, Jim Mosher, stated the existing lot does inhibit coastal access to the coast by nature of it being a privately-owned residential lot. He also stated that by nature of being located adjacent to the harbor, the project impacts public views.

The Zoning Administrator asked Mr. Mosher if he believes that the project impairs existing public access either on or adjacent to the subject property. Mr. Mosher stated that the existence of the residential lot inhibits public's access to the harbor, and that if the lot were a public lot or public park, the lot would not inhibit access. Mr. Mosher stated that the proposed development is not changing public access opportunities, but that the existence of the lot inhibits public access and will continue to. The Zoning Administrator then asked Mr. Mosher to provide specifics as to the project's impact to public views that are inconsistent with the City's certified LCP. Mr. Mosher stated that he has not studied the issue in detail, but disagrees that there are no public view opportunities. The Zoning Administrator asked Mr. Mosher if he was requesting a continuance to allow him to further study the project. Mr. Mosher responded he was not.

As there were no other public comments, the Zoning Administrator closed the public hearing.

Applicant Caitlin Smith of Brandon Architects, stated that she had reviewed the draft resolution and agrees with all of the required conditions.

Action: Approved

**ITEM NO. 6 Annual Review of Development Agreement for Hoag Memorial Hospital Presbyterian
(PA2009-064)
Site Location: 1 Hoag Drive Council District 1, 2, 3**

Chelsea Crager, Associate Planner, provided a brief project description stating that the project is the annual review of Development Agreement No. 5 for Hoag Memorial Hospital Presbyterian. She provided a summary of landscape and noise abatement improvements over the past year.

The Zoning Administrator confirmed with staff that changes in decibel levels of 3 or less are generally not perceptible to human hearing. The Zoning Administrator also confirmed with staff's interpretation of the Municipal Code that a sliding glass door is not a window and that the Municipal Code would need to be amended if sliding glass doors were to be required to be used as a point of noise measurement.

The Zoning Administrator asked if staff had received any additional correspondence since the publication of the staff report. Associate Planner Crager responded that staff had not received any additional correspondence.

Applicant's representative Roxanna Bryant of Hoag Memorial Hospital Presbyterian, stated that she appreciates staff's time.

The Zoning Administrator opened the public hearing.

One member of the public, Rosemary Steinbrecher of the Versailles residential community, spoke and stated that the noise coming from Hoag Hospital has improved significantly over the years. There were no other public comments.

Applicant's representative Cora Newman, representing Hoag Memorial Presbyterian, stated that they had read the report appreciate staff's time. She stated that the prior meeting with community representatives was helpful.

As there were no other public comments, the Zoning Administrator closed the public hearing

The Zoning Administrator found the review of Development Agreement No. 5 exempt from CEQA under Class 21, received and filed the annual report and found that the applicant has demonstrated good faith compliance with the terms of Development Agreement No. 5.

E. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Mr. Mosher, a member of the public, referred to his earlier comment in the hearing regarding intensification. He stated that though the review of intensification is not required for granting a minor use permit, it is a required finding for changing the use of a building that has nonconforming parking.

F. ADJOURNMENT

The hearing was adjourned at 3:52 p.m.

The agenda for the Zoning Administrator Hearing was posted on September 20, 2018, at 2:33 p.m. in the Chambers binder and 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 September 20, 2018, at 2:25 p.m.

Patrick J. Alford, Zoning Administrator