

**NEWPORT BEACH ZONING ADMINISTRATOR MINUTES
100 CIVIC CENTER DRIVE, NEWPORT BEACH
CORONA DEL MAR CONFERENCE ROOM (BAY E-1ST FLOOR)**

**THURSDAY, MAY 30, 2019
REGULAR MEETING – 3:03 P.M.**

I. CALL TO ORDER – The meeting was called to order at 3:02 p.m.

Staff Present: Patrick J. Alford, Zoning Administrator
Rosalinh Ung, Senior Planner
Chelsea Crager, Associate Planner
Liz Westmoreland, Assistant Planner
Patrick Achis, Planning Technician
Liane Schuller, Consultant Planner

II. REQUEST FOR CONTINUANCES

None.

III. APPROVAL OF MINUTES

ITEM NO. 1 MINUTES OF MAY 16, 2019

Action: Approved as amended

IV. PUBLIC HEARING ITEMS

ITEM NO. 2 Pedicini Residence Coastal Development Permit No. CD2019-009 (PA2019-024)
Site Location: 1520 East Ocean Front Council District 1

Liane Schuller, Consultant Planner, provided a brief project description stating that the Applicant is requesting a coastal development permit to allow the demolition of an existing single-family residence and construction of a new 2,449-square-foot, single-family residence with an attached 759-square-foot, three-car garage. The proposed project complies with all applicable development standards including height, setbacks, and floor area limits. No deviations are requested.

Applicant Justin Johnston of Brandon Architects, on behalf of John Pedicini, stated that he had reviewed the draft resolution and agrees with all of the required conditions.

The Zoning Administrator opened the public hearing. Seeing that no one from the public wished to comment, the public hearing was closed.

Action: Approved

ITEM NO. 3 Stack Residence Coastal Development Permit No. CD2018-110 (PA2018-284)
Site Location: 101 Shorecliff Road Council District 6

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 12,882-square-foot single-family residence including an attached 762-square-foot 3-car garage. The proposed project complies with all applicable development standards including Bluff Overlay standards and no deviations are requested. Staff updated the draft resolution to include a condition of approval requiring that swimming pools shall be of double wall construction with subdrains between the walls and leak detection devices or an equivalent method. One comment was received via email from Mr. Jim Mosher, a member of the public, stating that the project complies with density requirements and inquiring as to why the existing residence was being replaced.

Property owner Geoffrey Stack, stated that he had reviewed the draft resolution including the added condition and agrees with all of the required conditions.

The Zoning Administrator opened the public hearing.

One member of the public, Barry Steele of 223 Evening Canyon Road, questioned the existing footprint of the home compared to the proposed footprint of the new structure. Staff confirmed the proposed footprint is larger than the existing. He also questioned the potential effects to private views

Mr. Stack noted that story poles were up for the project as a requirement of the homeowners association.

Two members of the public, Fred Couples of 208 Evening Canyon Road and Helen Holland of 212 Evening Canyon Road, stated their concerns of property views being affected by the project's chimneys.

The Zoning Administrator closed the public hearing.

The Zoning Administrator explained that the scope of review of the coastal development permit is limited to consistency with the City's certified Local Coastal Program and consistency with Chapter 3 of the Coastal Act. The Local Coastal Program and the Coastal Act do not protect private views, and the scope of review is limited to public views to and along the shoreline and the overall visual quality of the coastal zone. The Zoning Administrator confirmed with staff that the project's chimneys are consistent with the coastal zoning district development standards and did not affect public views.

Action: Approved

**ITEM NO. 4 The Milan Panic Family Trust Residence Coastal Development Permit No. CD2019-013
(PA2019-033)
Site Location: 2104 East Balboa Boulevard Council District 1**

Chelsea Crager, Associate Planner, provided a brief project description stating that the project is a coastal development permit for the demolition of an existing single-family residence and the construction of a new 14,273-square-foot single family residence including an 897-square-foot attached at-grade three-car garage and an 8,559-square-foot subterranean basement. The project also includes a reinforced bulkhead and height extensions to address coastal hazards protection. The project complies with all applicable development standards and no deviations are requested. The property is bisected by the California Coastal Commission's permit jurisdiction boundary resulting in a portion of the project and bulkhead improvements being within the Coastal Commission's permit jurisdiction and requiring Coastal Commission review. Staff updated the draft resolution to include a condition requiring that the project obtain authorization from the California Coastal Commission for portions of the project within their permit jurisdiction.

Ms. Crager stated that public comments were received on the project. The adjacent property owner, expressed concern about the methods of construction of the project. Mr. Jim Mosher, a member of the public, stated that the project does not meet the minimum density required by the Coastal land use designation; questioned the need for the bulkhead to be raised, and questioned the staff report's reference to a three-car garage. Staff responded that the project is located in the R-1 Coastal Zoning District and only one dwelling unit is permitted on the property. Additionally, the bulkhead is required to be raised pursuant to the coastal hazards report prepared for this project. Finally, that the three-car garage is at-grade parking with additional parking and car storage is provided in the subterranean garage.

Applicant Scott Hudgins of Hudgins Design Group, stated that he had reviewed the draft resolution and agrees with all of the required conditions, including the added condition. He also stated that he had reached out to the neighbor that had submitted the written comment and noted that the concerns were primarily regarding the building process and that the applicant's team has been proactive in ensuring the project is built correctly.

The Zoning Administrator opened the public hearing.

One member of the public, Howard Hull of 2106 East Balboa Boulevard, stated that he was concerned about the construction of a large basement. The Zoning Administrator asked Mr. Hull if he was concerned with the design of the extension of the seawall that might interfere with the natural shoreline process or that it simply would not protect his property. Mr. Hull replied he was concerned that the Coastal Commission may require mitigation for the loss of public access.

Another member of the public, David Kline of 2102 East Balboa Boulevard, stated that he did not know of the project until the notice of public hearing. He stated there were no story poles for this project. He stated that the proposed development has a smaller front setback than the surrounding properties. Mr. Kline confirmed the size of the project with staff and his concerns regarding the duration of time for construction. He stated that the seawall is in good condition and that the project's additional height may weaken the existing seawall and neighboring property seawalls. Mr. Kline stated that he concurred with the letter submitted by the 2106 East Balboa Boulevard property owner. The Zoning Administrator asked Mr. Kline if he believed that the project could impact public views. Mr. Kline stated that view corridors for the public may be impacted, but he could not answer the question without further study.

The Zoning Administrator stated that the seawall extension is necessary to protect the development from coastal hazards over the economic life of the development and is based upon the best available science.

The Zoning Administrator closed the public hearing.

The Zoning Administrator confirmed with staff that the application and hearing was properly noticed. The project conforms to all setbacks. The subterranean basement is not included in the calculation of floor area limit and concluded that the finished floor elevation of the first floor of the structure is 11.00 NAVD88, which would protect the structure in the event that the adjacent properties flooded.

Action: Approved

ITEM NO. 5 Martin Residence Coastal Development Permit No. CD2019-008 (PA2019-039)
Site Location: 18 Balboa Coves Council District 6

Patrick Achis, Planning Technician, provided a brief project description stating that the request is for a coastal development permit to demolish an existing single-family residence and construct a new three-story, 5,373-square-foot, single-family residence, including three-car garage parking. The proposed project complies with all development standards both in the Zoning Code and Implementation Plan. The subject site is located between the nearest public road and sea; however, its location inside the existing gated community of Balboa Coves does not provide nor inhibit public coastal access opportunities. Public comment was received by Mr. Jim Mosher, a member of the public, regarding the project's consistency with the Local Coastal Program's density range and a formatting error in the staff report. Staff confirmed the project does not involve a change in density as the proposal replaces an existing single-family residence with a new single-family residence and that the scrivener's error would be addressed.

Applicant Brad Smith of Bradford Smith Architect, on behalf of the owner, stated that he had reviewed the draft resolution and agrees with all of the required conditions.

The Zoning Administrator opened the public hearing. Seeing that no one from the public wished to comment, the public hearing was closed.

Action: Approved

Council Districts 6 and 7

Code Enforcement staff has received several complaints from one nearby resident who resides to the north of the park since the annual review of 2018. The complaints are listed in the staff report. Upon investigation, staff determined that PV is operating in conformance with the conditions of the Development Agreement pertaining to the overall development of the park and noise restrictions. After reviewing the annual report, applicable documents, and PV's resolution to address nuisance issues, staff believes PV has operated in good faith and is in compliance with the terms and conditions of the Development Agreement. Staff recommends the Zoning Administrator receive and file the annual report and find the applicant has complied with the terms of the Development Agreement. Michael Green from Clark & Green Associates, representing PV was present and available for questions from the staff and the public.

One member of the public, Peter Feibleman, expressed concerns with the loud noise from leaf blowers and requested quieter equipment be used when close to adjacent residential lots. He also expressed the lack of quality of life due to incense burning and requested limited use or the use of unscented incense to reduce or eliminate odor and health hazards. He suggested landscape maintenance be completed by 4:00 p.m. every day, if possible, and limited activities on Saturdays. He then asked that the records be corrected regarding unfound communication supposedly made from his wife, Leslie Feibleman, with the neighboring residents at a previous hearing.

The Zoning Administrator asked Mr. Feibleman how close his property is to the park and whether the leaf blowers were operating louder than the City's noise regulations. He responded that his property is abutting the park and there is no landscape buffer between the park and his property; and believes the noise is much louder than allowed.

One member of the public, Richard Ferncase, spoke and agreed with Mr. Feibleman regarding the loud leaf blower noise. He requested that the operation of the park close after dark to prevent the public from accessing the park at night and commented that light and glare from vehicles shine into his residence nightly. He also expressed pesticide spraying health concerns at the park. He then requested that trees be planted along the northern edge of the park to screen light and glare, burning incense, pesticide clouds, and general nuisances generated from the park.

There were no other public comments.

In responses to the Zoning Administrator's questions, Senior Planner Ung stated that the leaf blowers are within the noise criteria; however, the residents may have the perception of the leaf blowers not operating in compliance with the noise ordinance. There are no violations of air quality issues or other codes pertaining to incense burning. Light and glare nuisance from vehicles is not addressed in the Development Agreement. Also, there is no required landscape buffer along the northern edge that the PV must maintain; and policing/security provision of the park is not a part of the Use Permit's conditions of approval.

The Zoning Administrator stated that even though the City found PV is operating in good faith compliance with the terms of the Development Agreement, the City could still determine that there are nuisances. PV's Use Permit could be called up for review in order to bring the conditions of approval up to date by adding additional conditions, if necessary.

The Zoning Administrator invited the applicant to speak on the comments received from the public.

Ms. Ruby Louis, General Manager of Pacific View Memorial Park, responded to comments from the residents. She explained the Park's closure process and stated that the glaring lights may be coming from the security lights when PV security personnel are scanning the park grounds to ensure that the park is clear for closure. She invited residences to contact her office should the lights continue to shine into their homes. She also stated that there are other ways for the general public to gain access to the park besides the main entrance. With regard to the leaf blowers, PV is using a "Stihl" brand blower which has lower decibels than other gas blowers and the use of electric blowers, as requested by the residents, would increase the duration of time to complete the maintenance. She added that PV will make an extra effort in conducting lawn care near the residences on Thursdays, whenever possible. For incense burning odor, Ms. Louis stated that it would be very difficult for PV to restrict the use or limit the hours due to religious practices. She then asked Mr. Michael Green of Clark & Green Associates to address the Zoning Administrator on the landscaping buffer.

Mr. Green, confirmed that PV is not required to provide and maintain a landscape buffer along the northern edge of the park, per the Development Agreement. PV has offered to purchase and plant trees along the common area near the Feibleman residence, however, maintenance of the trees would be provided by the Seaview HOA on the HOA's common area near the Feibleman residence. The Seaview HOA was not in favor of this offer. Mr. Green also stated PV has continued to maintain an approximately 10-foot portion of Seaview HOA's common area and helped with the purchase of trees to be placed in the Seaview HOA's common area near the Feibleman residence on several different occasions over the years. There are 35 residences directly adjacent to the park and no complaints were received in the past year. In reference to the odor nuisances, he stated the sea breeze blowing inland and through nearby residences may exacerbate the odor problem. He urged the concerned residents to request their HOA for additional landscaping to be planted within their common area. Mr. Green added that the park is a commercial entity, similar to the community parks scattered throughout the City, with beautiful gardens and an abundance of plants and flowers where routine landscape maintenance is part of the business operation. He further stated that the gardeners will work in the area near the residences on Thursdays and quickly move on to other areas as soon as they can.

Seeing that there was no one else from the public who wished to comment, the public hearing was closed.

The Zoning Administrator stated his scope of review is limited and found that PV is operating within the terms and conditions of the Development Agreement. However, the Development Agreement and Use Permit have not evolved efficiently to address some of the nuisance generated by the park. The Zoning Administrator also stated that he will find PV has demonstrated good faith effort. He also stated that the Development Agreement may not be adequate and would like staff to consider possibilities, under the terms of the Development Agreement, by taking the Use Permit to the Planning Commission for further review and to impose additional conditions to address these nuisances. He then directed the applicant to take additional steps to address the concerns that were raised.

Action: Approved

ITEM NO. 7 Argent LLC Lot Merger No. LM2018-006 (PA2018-261)
Site Location: 1601 East Bay Avenue (APN 048 231 40 and 048 231 41)

Council District 1

Liz Westmoreland, Assistant Planner, provided a brief project description stating that the application is for a lot merger to consolidate underlying legal lot lines. The existing legal lots located within Block P are not buildable lots. The abandoned right of way and the associated front setback measurement would remain the same, as codified in the setback map for this site. Thus, the lot merger would not result in a change in intensity or density, and no coastal development permit is required. The lots have historically been utilized as a single property. Staff provided a background describing the history of the underlying legal lots and abandoned right of way. A condition of approval has been included to ensure Public Works Department approval on the final version of the lot merger exhibits. Staff is comfortable with the draft exhibits as presented.

The Zoning Administrator asked staff if the intensity would not change. Staff confirmed that since the setback map is not changing, the buildable area and associated size of the potential structure on the property would not change.

Applicant Pete Swift, on behalf of the owner, stated that he 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, Jim Mosher, stated that the new map showed the lot line was moved further out and questioned staff if this was accurate. He asked if the bulkhead line orientation was correct and if the setbacks would change as part of the lot merger. He commented that the density will be lower than expected.

The Zoning Administrator closed the public hearing.

In response to the public comments, staff stated that the two buildable lots were already merged in 2004. The lots in the water are not buildable. The abandoned right of way and associated front setback are shown on the setback map, which will not change. The final exhibits will be verified by the Public Works Department to ensure that the map does not inadvertently increase the property's size and matches City records on file.

The Zoning Administrator acknowledged Mr. Mosher's comment about the Coastal Commission's concerns over affordable housing in the coastal zone; however, he noted that the density ranges in the certified Coastal Land Use Plan were a planning tool to identify the likely density range and not to establish a minimum density. He added that the Coastal Land Use Plan relies on the Implementation Plan, which was certified by the Coastal Commission. The Implementation Plan allows fewer units than the density range suggests. The Zoning Administrator did not see any inconsistencies with the certified LCP; furthermore, the project does not constitute a change in the density or intensity of use of land and is therefore not development and does not require a coastal development permit.

Action: Approved

V. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

VI. ADJOURNMENT

The hearing was adjourned at 4:38 p.m.

The agenda for the Zoning Administrator Hearing was posted on May 23, 2019, at 9:10 a.m. 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 May 23, 2019, at 9:15 a.m.

Patrick J. Alford
Zoning Administrator