



CITY OF NEWPORT BEACH HEARING OFFICER STAFF REPORT

July 31, 2019
Agenda Item No. 1

SUBJECT: Moore Hedge Height (PA2019-050)
▪ Reasonable Accommodation No. RA2019-001

SITE LOCATION: 101 Via Undine

APPLICANT: Rhonda and Rex Moore

OWNER: Rhonda and Rex Moore

PLANNER: Melinda Whelan, Assistant Planner
949-644-3221, mwhelan@newportbeachca.gov

PROJECT SUMMARY

A reasonable accommodation application to allow a hedge along the perimeter of a front yard setback area to exceed the maximum height limit of 42 inches. The hedge is currently trimmed at the allowed maximum height and the requested accommodation would allow the hedge to be grown to a maximum height of 6.5 feet. The additional hedge height is requested to provide privacy of the front yard area on the subject property for an individual with a disability.

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, Chapter 3, because it has no potential to have a significant effect on the environment; and
- 3) Adopt Resolution No. ____ approving Reasonable Accommodation No. RA2019-001 (Attachment No. HO 1).



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-family dwelling
NORTH	RSD	R-1	Single-family dwellings
SOUTH	RSD, Private Institutions (PI)	R-1, PI	Single-family dwellings, beach and community clubhouse
EAST	RSD	R-1	Single-family dwellings
WEST	RSD	R-1	Single-family dwellings

INTRODUCTION

Project Setting

The subject property is developed with an existing two-story, single-family dwelling located on a corner lot at the intersection of Via Undine and Via Lido Soud. The lot also fronts a public walkway known as Strada Trieste. The existing dwelling was constructed in 1966 and appears to be in conformance with all Zoning Code regulations. Surrounding land uses include single-family development, and across Via Lido Soud is a community association clubhouse and beach area. The existing dwelling is developed consistent with surrounding development patterns with a small yard area adjacent to Strada Trieste and a small interior courtyard with some small balconies.

Project Description

A reasonable accommodation application is requesting relief from Newport Beach Municipal Code (NBMC) Section 20.30.040 (Fences, Hedges, Walls and Retaining Walls) and Section 21.30.040 (Fences, Hedges, Walls and Retaining Walls) to allow a hedge to exceed the maximum allowed hedge height within a front yard setback. The hedge is existing and is currently trimmed to the maximum allowed height of 42 inches. The proposed application would allow the existing hedge to grow to a maximum height of 6.5 feet along the perimeter of the small yard area along Strada Trieste. The front yard along Strada Trieste is approximately 40 feet wide. There is a required sight distance triangle adjacent to the intersection of Strada Trieste and Via Lido Soud, where the hedge will be trimmed and maintained at a maximum 36 inches to comply with the City Traffic Engineer's recommendation pursuant to Zoning Code Section 20.30.130(E) (Traffic Visibility Area) to ensure the safety of pedestrians and bicyclists (see Exhibit A in Attachment No. HO 3). No other changes to the property are proposed with this application.

DISCUSSION

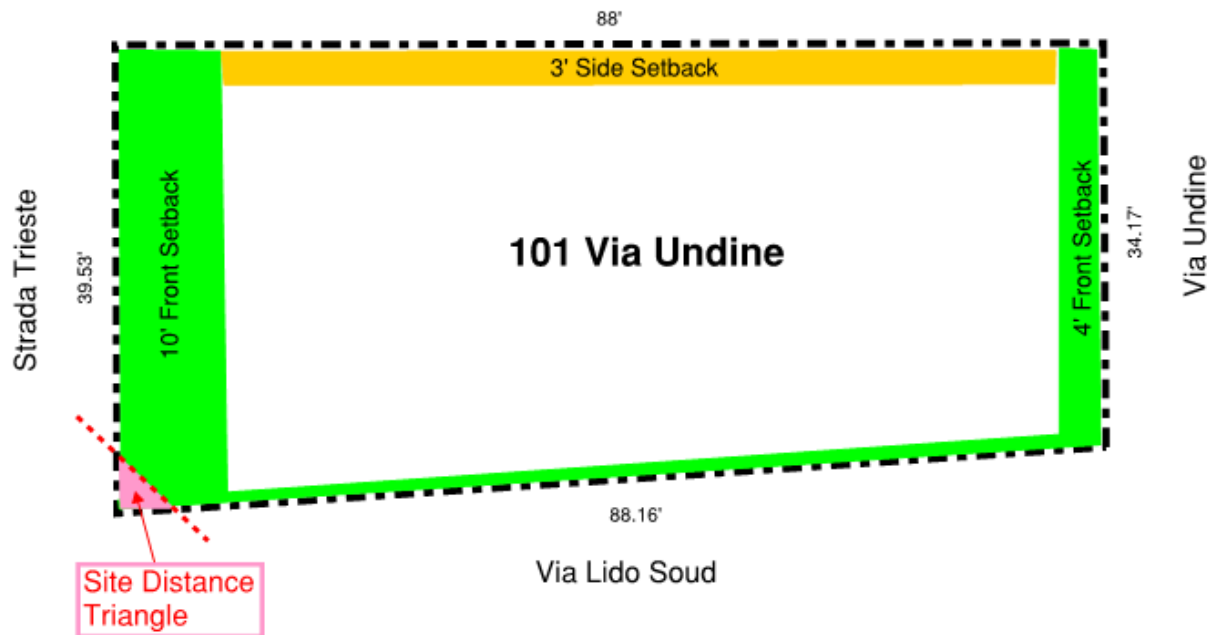
General Plan, Local Coastal Plan, and Zoning Code

The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element. The site is located within the RSD-C (Single Unit Residential Detached) land use category of the Coastal Land Use Plan. The site is located in the R-1 (Single-Unit Residential) Zoning District and Coastal Zoning District. The single-family residence is a permitted use under these land use designations.

Pursuant to NBMC Section 21.52.035(C)(1), the project is exempt from the requirements of a coastal development permit since the proposed hedge height increase does not change the principal use of the residence, is accessory to the residence, and does not

result in an increase of gross floor area, height, or bulk of the dwelling structure by more than 10 percent.

The R-1 Zoning and Coastal Zoning Districts allow a maximum height of fences, hedges, and walls of 42 inches within front yard setback areas. The subject property has three front yard setback areas as designated by the Zoning Code S-3B Setback Map: 4 feet on Via Undine, 10 feet on Strada Trieste, and 1.5 feet on Via Lido Soud. The 10-foot front yard setback on Strada Trieste is the only exterior yard area and is also accessed via a slider from the bedroom facing this area.



Reasonable Accommodation

The proposed hedge height within the required front yard setback requires a deviation from regulations for fences, hedges and walls in the Zoning and Coastal Zoning regulations. The applicant chose to request a reasonable accommodation because the person living in the home that is utilizing the bedroom and yard area has a disability. In compliance with Federal and State Fair Housing Laws, reasonable accommodations in the City's zoning and land use regulations, policies, and practices are permitted when needed to provide an individual with any disability an equal opportunity to use and enjoy a dwelling.

The Zoning Code and Local Coastal Program (LCP) include a procedure that allow for reasonable accommodations if certain findings can be made. The approval authority for a reasonable accommodation lies with the Hearing Officer in accordance with the provisions of NBMC Section 20.52.070(B) (Reasonable Accommodations, Review

Authority). The Hearing Officer is also required to conduct a public hearing in compliance with NBMC Chapter 20.62 (Public Hearings).

Pursuant to Section 21.16.020(E). (Reasonable Accommodations) of the Local Coastal Program Implementation Plan, the review authority may also grant reasonable accommodations to the City's coastal zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling in compliance with Federal and State Fair Housing Laws.

The applicant states that an increased hedge height is necessary for the yard area to be utilized by the disabled person. A physician's documentation prepared by Dr. Rimal Bera, MD of UCI Neuropsychiatric Center has been submitted by the applicant supporting the claim and the need for increased hedge height. Dr. Bera recommends the increased hedge height due to the necessary use of a private yard due to the resident's existing medical condition. The increased hedge height would allow the individual privacy and alleviates severe symptoms triggered by passing pedestrians, gardeners, construction workers, dogs, noise and lights. This particular pathway located on the public side of the hedge is frequently traveled and provides public access to the beach and clubhouse. The patient spends the majority of the time at home and utilizes this area located directly outside of the patient's bedroom and bathroom and is accessed by the patient through sliding glass doors. Dr. Bera concludes that this hedge that encloses the majority of the yard area allows this patient to continue to enjoy a more secluded, secure, quiet and safe area inside and outside the bedroom. Medical records from Dr. Bera provides further details on the specifics of the medical condition, however the documentation is protected under the Health Insurance Portability and Accountability Act (HIPAA) and is not public record.

Required Findings and Factors of Consideration

The Hearing Officer is designated to approve, conditionally approve, or deny all applications for a reasonable accommodation. Section 20.52.070(D)(2) requires that all of the following findings be made in order to approve the reasonable accommodation:

- i. That the requested accommodation is requested by or on behalf of one or more individuals with a disability protected under the Fair Housing Laws.*
- ii. That the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.*
- iii. That the requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law.*

- iv. *That the requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law.*
- v. *That the requested accommodation will not, under specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.*

In addition to the required findings, the Hearing Officer may consider, but is not limited to, the following factors in determining whether the requested accommodation is the minimum necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling and whether the requested accommodation would require a fundamental alteration in the nature of a City program (NBMC Section 20.52.070(D)(3-4):

- a. *Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability;*
- b. *Whether the individual(s) with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation;*
- c. *Whether the requested accommodation would fundamentally alter the character of the neighborhood;*
- d. *Whether the accommodation would result in a substantial increase in traffic or insufficient parking; and*
- e. *Whether granting the requested accommodation would substantially undermine any express purpose of either the City's General Plan or an applicable specific plan.*

Upon review of the application, staff believes that all of the findings can be made. The increase in the height of the existing hedge is necessary for the disabled resident to utilize the outdoor yard area on the subject property, thus enhancing quality of life.

Any alternative modifications necessary to add yard areas outside of the three front yard setback areas cannot be accommodated within the existing residence without more significant disruption and demolition of portions of the existing home.

The proposed accommodation would not result in any fundamental alterations to the character and use of the home or the neighborhood. The hedge is a common accessory improvement within the surrounding Lido Isle Community Association (LICA). LICA allows 60-inch-high hedges adjacent to Strada Trieste, which has resulted in a number of over-height hedges becoming prevalent in the community. In this case, the hedge provides necessary privacy of the yard on the subject property. The property is unique with three

front setbacks. The only setback that includes an exterior yard area is the front setback on Strada Trieste (public walkway). The disabled person must have privacy to enjoy the yard due to a medical condition as provided by Dr. Bera.

There are no feasible alterations for providing an accommodation at the dwelling that would provide greater consistency with the LCP. The taller hedge will not encroach onto Strada Trieste or any public walkway. Therefore, the existing public view that is afforded south down Strada Trieste and across Via Lido Soud towards the beach on the bay will not be impacted. Additionally, the public access via Strada Trieste will not be impacted. Traffic and parking are not affected by the increase in hedge height.

The location of the subject property at the intersection of Strada Trieste and Via Lido Soud creates a site distance requirement per the City Traffic Engineer for the safety of bicyclists and pedestrians using Strada Trieste. The hedge will be maintained at a maximum height of 36 inches within the first five feet of the corner to meet the site distance regulation; therefore, the proposed project would not pose a threat to the health or safety of other individuals or substantial physical damage to the property of others.

Alternatives

1. The Hearing Officer may deny the Reasonable Accommodation request (Attachment No. HO 2).

Environmental Review

This project is 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, Chapter 3, because it involves an accessory hedge (regulated as fences in the Zoning Code) that has no potential to have a significant effect on the environment. Project implementation includes raising the hedge and no other changes to the existing single-family dwelling.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners 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 meeting, 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:



Melinda Whelan
Assistant Planner

ATTACHMENTS

- HO 1 Draft Resolution for Approval with Findings and Conditions
- HO 2 Draft Resolution for Denial
- HO 3 Proposed Hedge Exhibit

01/12/18

Attachment No. HO 1

Draft Resolution Approving the
Reasonable Accommodation

RESOLUTION NO. HO2018-####

**A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF
NEWPORT BEACH, CALIFORNIA, APPROVING REASONABLE
ACCOMMODATION NO. RA2019-001 FOR THE PROPERTY
LOCATED AT 101 VIA UNDINE (PA2019-050)**

THE HEARING OFFICER OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Rhonda Moore (“Applicant”), owner requesting approval of a reasonable accommodation, with respect to property located at 101 Via Undine, Newport Beach, California and legally described as Lot 252 in Tract 907 in the City of Newport Beach, County of Orange, State of California, Assessor’s Parcel No. 423-251-14 (“Property”).
2. The Applicant has submitted a reasonable accommodation application requesting relief from Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) and Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the Newport Beach Municipal Code (“NBMC”) to allow a hedge along the perimeter of a front yard setback area to exceed the maximum height limit of 42 inches. The additional hedge height is requested to provide an individual with a disability privacy to utilize the yard area on the subject property.
3. The Property 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.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-C) and it is located within the Single-Unit Residential (R-1) Coastal Zoning District.
5. The project is exempt from the requirements of a coastal development permit pursuant to NBMC Section 21.52.035(C) because the hedge is considered accessory to the principle dwelling and would not result in any improvement to the dwelling structure that results in changes in floor area exceeding ten percent (10%) of the existing floor area or ten percent (10%) of the existing height, parking demand, or change the general level of activity within the neighborhood.
6. A public hearing was held on July 31, 2019, in the Newport Beach Conference Room (Bay B – 1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Ralph M. Brown Act and the NBMC. Evidence, both written and oral, was presented to, and considered by, the Hearing Officer at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is 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.
2. The project involves a minor accessory hedge that is pre-existing on an existing single-family property involving no construction.

SECTION 3. REQUIRED FINDINGS.

In accordance with NBMC Section 20.52.070(D)(2), the following findings and facts in support of such findings are set forth:

Finding:

- A. *That the requested accommodation is requested by or on behalf of one or more individuals with a disability protected under the Fair Housing Laws.*

Facts in Support of Finding:

1. A letter from Dr. Rimal Bera, MD has been submitted by the applicant supporting this claim and the necessity for the increase in hedge height within the front yard setback. The statement indicates that due to the severity of the existing medical condition of his patient who is a resident of the subject property, the accommodation is necessary to provide privacy to utilize the outdoor yard area on-site and outside the patient's bedroom slider. The increased hedge height is necessary for the patient to enjoy the yard and not have severe symptoms triggered by the exterior of the property.

Finding:

- B. *That the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.*

Facts in Support of Finding:

1. The additional hedge height is needed for the disabled resident to enjoy and utilize safe access to the outdoor yard area outside of their bedroom sliding door.
2. In the letter from Dr. Bera, MD of UCI Neuropsychiatric Center that has been submitted by the applicant supporting the claim and the need for increased hedge height. Dr. Bera recommends the increased hedge height due to the necessary use of a private yard due to the resident's existing medical condition. The increased

hedge height would allow the individual privacy and alleviates symptoms triggered by passing pedestrians, gardeners, construction workers, dogs, noise and lights. This particular pathway located on the other side of the hedge is frequently traveled and provides public access to the beach and clubhouse. The patient spends the majority of the time at home and utilizes this area located directly outside of the patients bedroom and bathroom and is accessed by the patient through sliding glass doors. Dr. Bera concludes that this hedge that encloses the majority of the yard area allows this patient to continue to enjoy a more secluded, secure, quiet and safe area inside and outside the bedroom.

3. With consideration of the factors provided by NBMC Section 20.52.070(D)(3-4), the requested reasonable accommodation is necessary to provide the disabled individual an equal opportunity to use and enjoy a dwelling. If the requested accommodation is granted, the disabled person will be able to utilize the outdoor yard area. This area is outside their bedroom sliding door. Access to this protected outdoor yard area for the disabled resident that spends most of their time at their home on the subject property is thereby enhancing their quality of life. Any modifications necessary to create similar outdoor yard areas on the subject property with three front setback areas cannot be accommodated within the existing residence without more significant disruption to the interior of the home and could be impossible without demolition of portions of the existing dwelling. Approval of the accommodation will not alter the character of the neighborhood, because the hedge is a nominal accessory feature common within the Lido Isle neighborhood and along the Stradas.

Finding:

- C. *That the requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law.*

Facts in Support of Finding:

1. Allowing the additional hedge height would not impose an undue financial or administrative burden on the City. There are no administrative costs because there are no building permits required.

Finding:

- D. *That the requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law.*

Facts in Support of Finding:

1. The proposed accommodation would not result in any fundamental alterations to the character and use of home or the neighborhood. The hedge only provides additional

privacy for the existing yard area which is approximately 400 square feet and does not change the use of the house or the yard. The hedge is nominal in nature and maintains a design, bulk, and scale of development that is consistent with the surrounding neighborhood pattern of development.

2. The hedge is a common accessory within the surrounding Lido Isle Community and provides necessary privacy of the yard on the subject property. The property is unique with three front setbacks. The only setback that includes an exterior yard area is the front setback on the Strada Trieste (public walkway). The proposed increase in the hedge height represents a nominal change to the existing property and would not intensify the existing single-unit residential use of the property; therefore, the requested accommodation would not undermine the express purpose or land use identified by the City's General Plan.

Finding:

- E. That the requested accommodation will not, under specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.*

Facts in Support of Finding:

1. There is a required site distance triangle adjacent the intersection of the Strada and Via Lido Soud, where the hedge will be trimmed and maintained at a maximum 36 inches to comply with the City Traffic Engineer recommendation pursuant to Zoning Code Section 20.30.130(E). Traffic Visibility Area to ensure the safety of pedestrians and bicyclists; therefore, the proposed project would not pose a threat to the health or safety of other individuals or substantial physical damage to the property of others.

Finding:

- F. For housing located in the coastal zone, a request for reasonable accommodation under Section 21.16.020 (E) may be approved by the City if it is consistent with the findings provided in subsection (D)(2) of this section; with Chapter 3 of the California Coastal Act of 1976; with the Interpretative Guidelines for Coastal Planning and Permits established by the California Coastal Commission dated February 11, 1977, and any subsequent amendments, under the Local Coastal Program.*

Facts in Support of Finding:

1. In accordance with Section 21.16.020(E), (Reasonable Accommodations) of the Local Coastal Program Implementation Plan, the review authority may grant reasonable accommodations to the City's coastal zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling in compliance with Federal and State Fair Housing Laws.

2. In accordance with Section 21.52.035(C)(1) the project is exempt from the requirements from a coastal development permit since the hedge is accessory to the principal dwelling and the modifications do not result in an increase of gross floor area, height, or bulk of the principal structure by more than ten percent (10%).
3. There are no feasible alterations for providing an accommodation at the dwelling that would provide greater consistency with the LCP. The taller hedge will not encroach onto the Strada Trieste or any public walkway. Therefore, the public view that is afforded south down the Strada and across Via Lido Soud towards the beach on the Bay will not be impacted. Additionally, the public access via the Strada will not be impacted. Traffic and parking are not affected by the increase in hedge height.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Hearing Officer of the City of Newport Beach hereby approves Reasonable Accommodation No. RA2019-001, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of NBMC Title 20 Planning and Zoning.

PASSED, APPROVED, AND ADOPTED THIS 31st DAY OF JULY, 2019.

_____, Hearing Officer

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval).
2. The applicant shall maintain the hedge at all times at the maximum height of 6.5 feet except for the area within the site distance triangle from the intersection of Strada Trieste and Via Lido Soud where the maximum height shall not exceed thirty-six (36) inches at any time.
3. The reasonable accommodation shall lapse if the exercise of rights granted by it are discontinued for at least one hundred eighty (180) consecutive days.
4. If the person(s) initially occupying the residence vacates or conveys the property for which the reasonable accommodation was granted, the hedge shall be modified and maintained at heights compliant with the Zoning Code.
5. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
6. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
7. A copy of the Resolution, including conditions of approval set forth in this Exhibit "A", shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
8. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of NBMC Title 20 Planning and Zoning.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Moore Hedge Height Addition including, but not limited to, Reasonable Accommodation No. RA2019-001 (PA2019-050). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit

or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Attachment No. HO 2

Draft Resolution Denying the Reasonable
Accommodation

RESOLUTION NO. HO2018-####

**A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF
NEWPORT BEACH, CALIFORNIA, DENYING REASONABLE
ACCOMMODATION NO. RA2019-001 FOR THE PROPERTY
LOCATED AT 101 VIA UNDINE (PA2019-050)**

THE HEARING OFFICER OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Rhonda Moore ("Applicant"), owner requesting approval of a reasonable accommodation, with respect to property located at 101 Via Undine, Newport Beach, California and legally described as Lot 252 in Tract 907 in the City of Newport Beach, County of Orange, State of California, Assessor's Parcel No. 423-251-14 ("Property").
2. The Applicant has submitted a reasonable accommodation application requesting relief from Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) and Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the Newport Beach Municipal Code ("NBMC") to allow a hedge along the perimeter of a front yard setback area to exceed the maximum height limit of 42 inches. The additional hedge height is requested to provide an individual with a disability privacy to utilize the yard area on the subject property.
3. The Property 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.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-C) and it is located within the Single-Unit Residential (R-1) Coastal Zoning District.
5. The project is exempt from the requirements of a coastal development permit pursuant to NBMC Section 21.52.035(C) because the hedge is considered accessory to the principle dwelling and would not result in any improvement to the dwelling structure that results in changes in floor area exceeding ten percent (10%) of the existing floor area or ten percent (10%) of the existing height, parking demand, or change the general level of activity within the neighborhood.
6. A public hearing was held on July 31, 2019, in the Newport Beach Conference Room (Bay B – 1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Ralph M. Brown Act and the NBMC. Evidence, both written and oral, was presented to, and considered by, the Hearing Officer at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. 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 3. REQUIRED FINDINGS.

In accordance with Section 20.52.070(D)(2) of the Newport Beach Municipal Code, required findings must be made in order to approve the reasonable accommodation. In this case, the Hearing Officer was unable to make the required findings based upon the following.... (Hearing Officer will fill-in).

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Hearing Officer of the City of Newport Beach hereby approves Reasonable Accommodation No. RA2019-001, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of NBMC Title 20 Planning and Zoning.

PASSED, APPROVED, AND ADOPTED THIS 31st DAY OF JULY, 2019.

_____, Hearing Officer

Attachment No. HO 3

Proposed Hedge Exhibit

EXHIBIT A

