

MINOR COASTAL DEVELOPMENT PERMIT  
NOTICE OF DECISION

December 1, 2022

David Jacinto  
219 Meadow Vista Way  
Encinitas, CA 92024

**RE: CDP 2022-0053 (DEV2022-0189) – JACINTO JR ADU**

The city has completed a review of the application for a Minor Coastal Development Permit to permit an as-built 452-square-foot junior accessory dwelling unit (JADU) above an existing attached garage with an attached deck and stairs totaling 340-square-feet at 421 Tamarack Avenue (APN 206-042-02-00). The property is located in the appealable area of the California Coastal Commission.

It is the City Planner's determination that the project **CDP 2022-0053 (DEV2022-0189) – JACINTO JADU**, is consistent with the city's applicable Coastal Development Regulations (Chapters 21.201 - 21.205) and with all other applicable city ordinances and policies. The City Planner, therefore, **APPROVES** this request based upon the following:

1. That the proposed development requires no discretionary approvals other than a Minor Coastal Development Permit.
2. That the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act, in that **the as-built attached JADU with a deck and stairs is not located on a property adjacent to a body of water. Therefore, no opportunities for coastal access are available from the subject site, nor are public recreation areas required of the project.**
3. The proposed development will have no adverse effect on coastal resources, in that **the as-built attached JADU with deck and stairs is not located on a property adjacent to a body of water, and the entire lot is already disturbed and developed with a single-family home, attached garage, and mature landscaping.**
4. That the proposed development is in conformance with the **Melo II Segment** Certified Local Coastal Program and all applicable policies in that **the property is designated R-4, Residential 0-4 du/ac and R-1, One-Family Residential, which allows for residential development including a single-family-dwelling and ADUs. The project proposes to permit an as-built 452-square-foot JADU above an existing attached garage and includes an attached deck and stairs totaling 340-square-feet. The addition of the as-built JADU with deck and stairs is consistent with the surrounding residential development, which consists of a mixture of one and two-story residential structures. The proposed project will not obstruct views of the coastline as seen from public lands or the public right-of-way, nor otherwise damage the visual beauty of the coastal zone. No agricultural uses**

currently exist on the site, nor are there any sensitive resources located on the property. Furthermore, the as-built attached JADU is not located in an area of known geologic instability or flood hazards.

5. The project is consistent with the provisions of the Coastal Resource Protection Overlay Zone (Chapter 21.203 of the Zoning Ordinance), in that **the project will adhere to the city's Master Drainage Plan, Grading Ordinance, Storm Water Ordinance, BMP Design Manual and Jurisdictional Runoff Management Program (JRMP) to avoid increased urban runoff, pollutants, and soil erosion. No undevelopable steep slopes or native vegetation exist on the subject property and the developed site is not located in an area prone to landslides, or susceptible to accelerated erosion, floods, or liquefaction. No habitat buffers or geologic stability setbacks are required of the property.**
6. That the request for a minor coastal development permit was adequately noticed at least ten (10) working days before the date of this decision pursuant to Section 21.201.080(B) and (C) of the Carlsbad Coastal Development Regulations.
7. That the City Planner has determined that the project is exempt from the requirements of the California Environmental Quality Act (CEQA) per Section **15303(a) – New Construction or Conversion of Small Structures** – of the State CEQA Guidelines and will not have any adverse significant impact on the environment.

**Conditions:**

1. The City Planner does hereby **APPROVE** the Minor Coastal Development Permit, **CDP 2022-0053**, for the project entitled **JACINTO JR ADU (Exhibits "A" – "B")**, dated December 1, 2022, on file in the Planning Division and incorporated by this reference, subject to the conditions herein set forth.
2. If any of the following conditions fail to occur; or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the city shall have the right to revoke or modify all approvals herein granted; deny or further condition issuance of all future building permits; deny, revoke or further condition all certificates of occupancy issued under the authority of approvals herein granted; record a notice of violation on the property title; institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. No vested rights are gained by Developer or a successor in interest by the city's approval of this **Minor Coastal Development Permit**.
3. Staff is authorized and directed to make, or require the Developer to make, all corrections and modifications to the **Minor Coastal Development Permit** documents, as necessary to make them internally consistent and in conformity with the final action on the project. Development shall occur substantially as shown on the approved Exhibits. Any proposed development different from this approval, shall require an amendment to this approval.
4. The Developer shall comply with all applicable provisions of federal, state, and local laws and regulations in effect at the time of building permit issuance.



5. If any condition for construction of any public improvements or facilities, or the payment of any fees in-lieu thereof, imposed by this approval or imposed by law on this Project are challenged, this approval shall be suspended as provided in Government Code Section 66020. If any such condition is determined to be invalid this approval shall be invalid unless the City Council determines that the project without the condition complies with all requirements of law.
6. Developer/Operator shall and does hereby agree to indemnify, protect, defend, and hold harmless the City of Carlsbad, its Council members, officers, employees, agents, and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees incurred by the city arising, directly or indirectly, from (a) City's approval and issuance of this **Minor Coastal Development Permit**, (b) City's approval or issuance of any permit or action, whether discretionary or nondiscretionary, in connection with the use contemplated herein, and (c) Developer/Operator's installation and operation of the facility permitted hereby, including without limitation, any and all liabilities arising from the emission by the facility of electromagnetic fields or other energy waves or emissions. This obligation survives until all legal proceedings have been concluded and continues even if the city's approval is not validated.
7. This approval shall become null and void if building permits are not issued for this project within 24 months from the date of project approval.
8. Developer shall pay the citywide Public Facilities Fee imposed by City Council Policy #17, the License Tax on new construction imposed by Carlsbad Municipal Code Section 5.09.030, and CFD #1 special tax (if applicable), subject to any credits authorized by Carlsbad Municipal Code Section 5.09.040. Developer shall also pay any applicable Local Facilities Management Plan fee for Zone 1, pursuant to Chapter 21.90. All such taxes/fees shall be paid at issuance of building permit. If the taxes/fees are not paid, this approval will not be consistent with the General Plan and shall become void.
9. **Fees are applicable to the extent allowable by state law for ADUs less than 750 square feet in size.** Developer shall pay the citywide Public Facilities Fee imposed by City Council Policy #17, the License Tax on new construction imposed by Carlsbad Municipal Code Section 5.09.030, and CFD #1 special tax (if applicable), subject to any credits authorized by Carlsbad Municipal Code Section 5.09.040. Developer shall also pay any applicable Local Facilities Management Plan fee for Zone 8, pursuant to Chapter 21.90. All such taxes/fees shall be paid at issuance of building permit. If the taxes/fees are not paid, this approval will not be consistent with the General Plan and shall become void.
10. Prior to Planning approval of the **Building Permit**, Developer shall submit to the City a Notice of Restriction to be filed in the office of the County Recorder, subject to the satisfaction of the City Planner, notifying all interested parties and successors in interest that the City of Carlsbad has issued a **Minor Coastal Development Permit** on the property. Said Notice of Restriction shall note the property description, location of the file containing complete project details and all conditions of approval as well as any conditions or restrictions specified for inclusion in the Notice of Restriction. The City Planner has the authority to execute and record an amendment to the notice which modifies or terminates said notice upon a showing of good cause by the Developer or successor in interest.

11. Approval of this request shall not excuse compliance with all applicable sections of the Zoning Ordinance and all other applicable city ordinances in effect at time of building permit issuance, except as otherwise specifically provided herein.
12. Prior to hauling dirt or construction materials to or from any proposed construction site within this project, Developer shall apply for and obtain approval from, the City Engineer for the proposed haul route.
13. Premise identification (addresses) shall be provided consistent with Carlsbad Municipal Code Section 17.04.060. Prior to submittal for a building permit, Developer shall submit a request for addressing to the Building Division.

### NOTICE

The project site is within the appealable area of the California Coastal Commission. This Minor Coastal Development Permit (CDP) shall not become effective until ten (10) working days have elapsed, without a valid appeal being filed with the Coastal Commission, following the Coastal Commission's receipt of the city's notice of the CDP issuance ("Notice of Final Action"). The filing of a valid appeal with the Coastal Commission within such time limit shall stay the effective date of this CDP until such time as a final decision on the appeal is reached by the Coastal Commission.

Please take **NOTICE** that approval of your project includes the "imposition" of fees, dedications, reservations, or other exactions hereafter collectively referred to for convenience as "fees/exactions."

You have 90 days from date of final approval to protest imposition of these fees/exactions. If you protest them, you must follow the protest procedure set forth in Government Code Section 66020(a), and file the protest and any other required information with the City Manager for processing in accordance with Carlsbad Municipal Code Section 3.32.030. Failure to timely follow that procedure will bar any subsequent legal action to attack, review, set aside, void, or annul their imposition.

You are hereby FURTHER NOTIFIED that your right to protest the specified fees/exactions DOES NOT APPLY to water and sewer connection fees and capacity charges, nor planning, zoning, grading or other similar application processing or service fees in connection with this project; NOR DOES IT APPLY to any fees/exactions of which you have previously been given a NOTICE similar to this, or as to which the statute of limitations has previously otherwise expired.

If you have any questions regarding this matter, please feel free to contact Lauren Yzaguirre at 442-339-2634 or by email at [Lauren.Yzaguirre@carlsbadca.gov](mailto:Lauren.Yzaguirre@carlsbadca.gov).

#### CITY OF CARLSBAD

*Cliff Jones*

**CLIFF JONES**

Principal Planner