



**MINOR COASTAL DEVELOPMENT PERMIT
NOTICE OF DECISION**

April 9, 2024

JOHN BEERY
2292 FARADAY AVE, SUITE 100
CARLSBAD, CA, 92008

SUBJECT: CDP 2023-0042 (DEV2023-0124) – MCGERVEY ADU

The city has completed a review of the application for a Minor Coastal Development Permit for the construction of a 640-square-foot detached accessory dwelling unit (ADU) over a new 708-square-foot detached garage. The combined height of the garage and ADU will be 27-feet. In addition, a 125-square-foot terrace is proposed to be attached to the ADU on the second floor. The property is currently developed with a single-family residence located at 830 Citrus Place (APN 206-040-31-00), and a detached garage that is to be demolished. The 0.15-acre project site is located outside of the appealable area of the California Coastal Commission.

It is the City Planner's determination that the project **CDP 2023-0042 (DEV2023-0124) – MCGERVEY ADU**, 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 detached ADU is not located on 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 detached ADU is not located on property adjacent to a body of water, and the entire lot is already disturbed and developed with a single-family home that will remain.**
4. That the proposed development is in conformance with the **Mello II Segment** of the Certified Local Coastal Program and all applicable policies in that **the site has a General Plan Land Use designation of R-4, Residential 0-4 du/ac and is zoned R-1, One-Family Residential, which allows for residential development including a single-family-dwelling and ADUs. The project proposes to construct a one-bedroom, 640-square-foot detached ADU with a 125-square-foot terrace at an overall height of 27 feet. The proposed ADU 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 proposed ADU 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. Limited development is proposed on an existing developed lot with a single-family residence and detached garage located in an established neighborhood. 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 2023-0042**, for the project entitled **MCGERVEY ADU (Exhibits "A" – "M")**, dated **April 9, 2024**, on file in the Planning Division and incorporated by this reference, subject to the conditions herein set forth. Development shall occur substantially as shown unless otherwise noted in these conditions.
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. **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 and the License Tax on new construction imposed by Carlsbad Municipal Code Section 5.09.030 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. Prior to the issuance 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.
10. 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.

11. 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.
12. 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.

Engineering Conditions:

NOTE: Unless specifically stated in the condition, all of the following conditions, upon the approval of this proposed development, must be met prior to approval of a building permit.

General

13. Prior to hauling dirt or construction materials 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.
14. This project is approved upon the express condition that building permits will not be issued for the development of the subject property, unless the district engineer has determined that adequate water and sewer facilities are available at the time of permit issuance and will continue to be available until time of occupancy.

Fees/Agreements

15. Developer shall cause property owner to enter into a Neighborhood Improvement Agreement with the city on a city standard form for the future public improvement of **CITRUS PLACE** along the property frontage **cul-de-sac up to the street centerline**. Public improvements shall include but are not limited to paving, base, sidewalks, curbs and gutters, grading, clearing and grubbing, undergrounding or relocation of utilities, sewer, water, fire hydrants and power poles.

Storm Water Quality

16. Developer shall comply with the city's Stormwater Regulations, latest version, and shall implement best management practices at all times. Best management practices include but are not limited to pollution control practices or devices, erosion control to prevent silt runoff during construction, general housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants to stormwater, receiving water or stormwater conveyance system to the maximum extent practicable. Developer shall notify prospective owners and tenants of the above requirements.
17. Developer shall complete and submit to the city engineer a Determination of Project's SWPPP Tier Level and Construction Threat Level Form pursuant to City Engineering Standards. Developer shall also submit the appropriate Tier level Storm Water Compliance form and appropriate Tier level Storm

Water Pollution Prevention Plan (SWPPP) to the satisfaction of the city engineer. Developer shall pay all applicable SWPPP plan review and inspection fees per the city's latest fee schedule.

18. Developer shall complete the City of Carlsbad Standard Stormwater Requirement Checklist Form. Developer is responsible to ensure that all final design plans, grading plans, and building plans incorporate applicable best management practices (BMPs). These BMPs include site design, source control and Low Impact Design (LID) measures including, but not limited to, minimizing the use of impervious area (paving), routing run-off from impervious area to pervious/landscape areas, preventing illicit discharges into the storm drain and adding storm drain stenciling or signage all to the satisfaction of the city engineer.

Dedications/Improvements

19. Prior to any work in city right-of-way or public easements, Developer shall apply for and obtain a right-of-way permit to the satisfaction of the city engineer.
20. Developer shall prepare and process public improvement plans and, prior to city engineer approval of said plans, shall execute a city standard Development Improvement Agreement to install and shall post security in accordance with C.M.C. Section 20.16.070 for public improvements shown on the site plan. Said improvements shall be installed to city standards to the satisfaction of the city engineer. These improvements include, but are not limited to:
 - a. Driveway
 - b. Removal of Water Facilities

Additional public improvements required in other conditions of this resolution are hereby included in the above list by reference. Developer shall pay the standard improvement plan check and inspection fees in accordance with the fee schedule. Improvements listed above shall be constructed within 36 months of approval of the subdivision or development improvement agreement or such other time as provided in said agreement.

Utilities

21. Developer shall meet with the fire marshal to determine if fire protection measures (fire flows, fire hydrant locations, building sprinklers) are required to serve the project.
22. Developer shall design and agree to construct public facilities within public right-of-way or within minimum 20-foot-wide easements granted to the district or the City of Carlsbad. At the discretion of the district or city engineer, wider easements may be required for adequate maintenance, access and/or joint utility purposes.
23. The developer shall design and agree to construct public water, sewer, and recycled water facilities substantially as shown on the site plan to the satisfaction of the district engineer and city engineer.

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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 Megan McElfish at (442) 339-5153 or by email at Megan.McElfish@carlsbadca.gov.

CITY OF CARLSBAD



ERIC LARDY
City Planner

EL:MM:cf

cc: Scott and Lori McGervey, 830 Citrus Place, Carlsbad, CA 92008
Nichole Fine, Project Engineer
Laserfiche/File Copy
Data Entry