

April 1, 2021

CHAIR AND PLANNING COMMISSIONERS

City of Long Beach

California

RECOMMENDATION:

Deny the appeal and uphold the Zoning Administrator's decision to deny a Reasonable Accommodation request for an elevator hall for a roof deck on a proposed single-family dwelling to exceed the height limits of the R-2-S zoning district. (District 3).

APPLICANT Ariane and Ronald Natale
AND 1420 Ashland Ave.
APPELLANT: Santa Monica, CA 90405
 (Application No. 2011-13, RAC20-005)

DISCUSSION

The proposed project is located at 147 Park Avenue, an interior lot in the R-2-S (Two-Family Residential, small lot) Zoning District in the Belmont Shore neighborhood and is surrounded on all sides by other residential lots in the same zoning district (Attachment A - Vicinity Map). The applicant submitted a request for a Reasonable Accommodation under the Fair Housing Act for a building height exception for a proposed single-family dwelling (Attachment B - Application).

It is City policy, pursuant to the Federal Fair Housing Amendments Act of 1988 (the "Act"), to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to ensure equal access to housing. Therefore, the Reasonable Accommodation procedure has been established in Chapter 21.25, Division XIII, of the Zoning Regulations that provides a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City. Reasonable Accommodation requests are acted upon administratively, without a public hearing, by the Zoning Administrator or Building Official, as appropriate. This process is not the same as a Standards Variance, which requires a full public hearing for initial action by the Zoning Administrator and requires the adoption of findings demonstrating that a Variance is necessary to provide regulatory relief from a hardship created by the physical configuration of a property (lot) or by the configuration of existing improvements on that property. For a Reasonable Accommodation, conversely, findings must be adopted demonstrating that granting of the



Reasonable Accommodation is necessary to make housing available to an individual protected by the Act.

The applicant proposes to demolish the existing single-family dwelling at the project site and build a new single-family dwelling with an Accessory Dwelling Unit (ADU). The proposed single-family dwelling would be two stories in height with a roof deck above the second story. The applicant, an individual covered under the Act, will reside at the home. On January 29, 2021, the Zoning Administrator adopted findings of fact and acted to administratively deny this request. The denial was appealed on February 8, 2021 (Attachment C – Appeals).

The proposed single-family dwelling is located in the R-2-S Zoning District, which has a height limit of twenty-four feet (24'-0") to the midpoint of a sloped roof or top of a parapet wall for a flat roof, and an additional height limit of twenty-eight feet (28'-0") to the ridge of a sloped roof. The proposed single-family dwelling complies with these height limits, except for a proposed elevator hall that would allow the applicant to access the proposed roof deck above the second floor of the house. With the elevator hall included, the height limit of twenty-four feet (24'-0") to the mid-slope of the highest sloped roof segment will be exceeded by four feet eleven inches (4'-11"), and the height limit of twenty-eight feet (28'-0") to the roof ridge will be exceeded by two feet and one-half inch (2'-0½") (Attachment D – Plans).

The project site is located in the Flood Hazard Zone, which provides a benefit to the applicant in the way building height is measured. Outside the Flood Hazard Zone, building height is measured from *grade* taken from the average elevation at the front top of curb line, per Sections 21.15.1190 (Grade) and 21.15.1330 (Height of Building) of the Zoning Regulations. This does not account for any height difference between the defined grade and the finish floor of the building, which is typically one to two feet, except in unusual high-slope circumstances not applicable here. However, in the Flood Hazard Zone, height is measured from the top of Base Flood Elevation instead, which is typically one to several feet above defined grade at the building location, providing a favorable measurement of building height to an applicant. Furthermore, within the Flood Hazard Zone, the Building Code now requires the ground-level finish floor of the building to be built at one foot above (+1'-0") Base Flood Elevation, instead of at Base Flood Elevation as in the past. To compensate for this, staff applies a departmental policy of measuring building height from Base Flood Elevation plus one foot (+1'-0") in this situation, providing another favorable factor to the applicant in the measurement of building height as compared to buildings not in the Flood Hazard Zone.

Despite these conferred advantages described above, the proposed single-family home's elevator hall still exceeds the building height limit by four feet eleven inches (4'-11"). Additionally, the proposed single-family home includes nine-foot (9'-0") floor-to-ceiling heights on both the first and second stories, where only eight feet (8'-0") is typically required by Building Code. Although elimination of the nine-foot ceilings alone would not bring the elevator hall within the height limits, the inclusion of the nine-foot ceilings makes the elevator hall height more nonconforming.

The proposed single-family dwelling complies with all other applicable development standards in all other respects, including building height without the elevator hall, and the standard for open space is met without the inclusion of the proposed roof deck. Elimination of the roof deck, adjusting the ceiling heights, lowering of building height, use of an alternative elevator lift, and

incorporation of a mezzanine level deck, are some of the many design changes that could allow the elevator hall to be lowered to provide full access, and comply with the building height limit. The proposed roof deck, and the over-height elevator hall that is necessary to provide access to it to the individual protected under the Act, is therefore not necessary to the project's compliance with the Zoning Regulations. The intended purpose of the Reasonable Accommodation procedure is to provide relief from zoning requirements which would otherwise make an existing dwelling unit non-accessible to an individual protected by the Act. This project, however, is all-new construction and in this instance could be designed to comply with the Zoning Regulations while still providing a home that is fully accessible to the protected individual. Staff has prepared findings of fact for this Reasonable Accommodation request, two of which could not be made in the affirmative (Attachment E – Findings). These findings are briefly summarized here.

The first finding requires that the housing in question will be used by an individual protected by the Act (a person with disabilities); this finding has been made affirmatively. The second finding requires that the Reasonable Accommodation request is necessary to make the housing available to the individual protected under the Act; this finding is made in the negative for the reasons discussed above; in short, that the project consists of new construction that could be designed to comply with the applicable Zoning Regulations while still being accessible to the protected individual. The third finding requires that the Reasonable Accommodation will not impose an undue financial or administrative burden on the City; this finding is made in the affirmative. The fourth finding requires that the requested Reasonable Accommodation will not fundamentally alter zoning or building laws, policies, or procedures of the City; this finding is made affirmatively. The fifth and final finding requires that for housing located in the Coastal Zone, that the requested accommodation is consistent to the maximum extent feasible with the Certified Local Coastal Program and that there are no alternative means for providing an accommodation at the property that will provide greater consistency with the Certified Local Coastal Program; this finding is made in the negative, as there are feasible and alternative means of carrying out the proposed project in a manner that will comply with the building height limits and therefore be more consistent with the Certified Local Coastal Program.

Staff recommends that the Planning Commission deny the appeal and uphold the Zoning Administrator's denial of this request. The Planning Commission's decision will be final.

PUBLIC HEARING NOTICE

A total of 268 notices of public hearing were distributed on March 10, 2021, in accordance with the requirements of Chapter 21.21 of the Long Beach Municipal Code. No public comments were received at the time this report was prepared. Any comments received following the preparation and publication of this report will be forwarded to the Planning Commission as they are received.

ENVIRONMENTAL REVIEW

The Reasonable Accommodation process is administered pursuant to the federal Fair Housing Amendments Act of 1988 and is not subject to compliance with the California Environmental Quality Act.

Respectfully submitted,



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PROJECT PLANNER



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Attachments:

- Attachment A – Vicinity Map
- Attachment B – Application
- Attachment C – Appeals
- Attachment D – Plans
- Attachment E – Findings