



Appeal Application

City Clerk's Office
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Newport Beach, CA 92658-8915
949-644-3005

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Appeal the Decision of:

<input type="checkbox"/> Hearing Officer - NBMC §20.64
<input type="checkbox"/> Operator License - NBMC §5.25.060 (Attention: City Manager)
<input checked="" type="checkbox"/> Planning Commission - NBMC §20.64 21.64
<input type="checkbox"/> Zoning Administrator - NBMC §20.64 and §15.45.080 (F)
<input type="checkbox"/> City Manager re: Special Events Permit - NBMC §3.36.030

Applicable Appeal Fees Pursuant to Master Fee Schedule effective 10-24-16:

Hearing Officer - \$1,536.00
Operator License - \$710.00
Planning Commission - \$1,536.00
Zoning Administrator - \$1,536.00
Special Events Appeal to the City Council - \$1,639.00

Appellant Information:

Name(s): JAMES M. MOSHER
 Address: 2210 PRIVATE ROAD
 City/State/Zip: NEWPORT BEACH CA 92660
 Phone: (949) 548-6229 Fax: _____ Email: jimmosher@yahoo.com

Appealing Application Regarding:

Name of Applicant(s): Nicholson Construction Date of Decision: Dec. 7, 2017
 Project No.: PA2016-170/CD2017-80 Activity No.: _____
 Site Address: 2607 Ocean Boulevard
 Description of application: Request for Coastal Development Permit to replace existing single family residence

Reason(s) for Appeal (attach a separate sheet if necessary):
Please see attached. I do not believe the approved CDP conforms with the City's certified Local Coastal Program.

Signature of Appellant: James M. Mosher Date: Dec. 21, 2017

FOR OFFICE USE ONLY:

Date Appeal filed and Administrative Fee received: December 21, 2017

William A. Brown
City Clerk



Attachment to James M. Mosher's December 21, 2017, Appeal Application for CD2017-080

Reason(s) for Appeal: This is an appeal to the City Council, pursuant to Chapter 21.64 of the Newport Beach Municipal Code, of the Planning Commission's approval of a Coastal Development Permit which I believe does not conform with the City's certified Local Coastal Program.

At the Planning Commission hearing, I think the City's responsibilities under its newly certified LCP Implementation Plan were confused with those under its separate Zoning Code, resulting in Planning Commission approval of a CDP that I believe is clearly inconsistent with the certified LCP development standards for minimum setbacks and maximum floor area, as well as LCP (and Coastal Act) policies to protect, restore and enhance public views to and from the coast, and to minimize alterations to natural coastal landforms. The project also seeks to privatize public bluff top view land above the applicant's property, which I assume is inconsistent with the LCP's public access policies. And it is even possible there are undisclosed coastal habitat issues related to the currently undeveloped slopes.

To the extent it was part of the Planning Commission's CDP approval, I also believe the claim of a residential CEQA exemption is likely inadequate considering the unusual characteristics of the bluff-face construction site.

For all these reasons (further detail regarding which can be provided on request), I believe an appeal of the Planning Commission's CDP decision to the City Council is both appropriate and necessary.

It might be noted that the City Clerk does not appear to have the form contemplated in NBMC Section 21.64.030.B.1.a.ii for appeals of CDP's. The form provided, and being submitted, is for appeals pursuant to Chapter 20.64, within which Section 20.64.030.B.2 authorizes the Council to set a filing fee.

NBMC Chapter 21.64, and Title 21 in general, contains no comparable authorization for charging a filing fee, and the Implementation Plan language submitted by the Council to the Coastal Commission on November 10, 2015, made it clear no fee was intended to be charged for any appeals of CDP's. Although the certified IP is less clear on this point, I have no wish to pay a fee.

Should the City insist that a fee is required to file or process this appeal, then pursuant to Title 14 California Code of Regulations Section 13573(a)(4) I will consider myself to be an aggrieved person justified in filing an appeal of the Planning Commission's approval directly to the California Coastal Commission; the charging of a fee and the cited state Regulation invalidating the LCP requirement (NBMC Sec. 21.64.035.C) that an appeal to the Coastal Commission can be made "*only after exhausting all appeals to the Planning Commission and Council in compliance with this chapter.*"