

**CITY OF DANA POINT  
PLANNING COMMISSION  
AGENDA REPORT**

---

**DATE:** MARCH 27, 2017

**TO:** DANA POINT PLANNING COMMISSION

**FROM:** COMMUNITY DEVELOPMENT DEPARTMENT

**SUBJECT:** MINOR SITE DEVELOPMENT PERMIT SDP17-0006(M) AND ADMINISTRATE MODIFICATION OF STANDARDS AMS17-0031 TO ALLOW THE ADDITION OF 357 SQUARE FEET TO AN EXISTING, NONCONFORMING SINGLE-FAMILY DWELLING AT 7 NEW YORK

---

**RECOMMENDATION:** That the Planning Commission adopt the attached Draft Resolution approving Minor Site Development Permit SDP17-0006(M) and Administrative Modification of Standards AMS17-0031

**APPLICANT/OWNER:** John and Debra Edleston

**AGENT:** Andrew Miller, Draft Haus Designs & Restorations

**LOCATION:** 7 New York Court (APN 672-411-40)

**REQUEST:** To permit the addition of 357 square feet to an existing, nonconforming single-family dwelling.

**ENVIRONMENTAL:** The project is Categorically Exempt from the provisions set forth in the California Environmental Quality Act (CEQA) per Section 15301 (Class 1 – Existing Facilities) in that the Project proposes nominal additions to an existing residential dwelling.

**NOTICE:** Notices of the Public Hearing were mailed to property owners within a 300-foot radius on March 17, 2017, published within a newspaper of general circulation on March 17, 2017, and posted on March 17, 2017 at Dana Point City Hall, the Dana Point and Capistrano Beach Branch Post Offices, as well as the Dana Point Library.

**BACKGROUND:**

The subject application proposes the addition of 357 square feet to the property's 2,317 square-foot, single-family dwelling in the form of an expanded first-floor living room, new entry, kitchen, and expanded second-floor bedroom. Other proposed improvements

include a new, second-story deck in the property's rear-yard (accessed from both a new sliding door within the floor-plan's master bedroom and via new exterior stairs). With implementation of all improvements, the remodeled/expanded dwelling would comprise 2,674 square feet of floor area. No other improvements to the building or property are proposed and the structure's overall height and story-count would remain unchanged. The improvements constitute an expansion of more than ten percent and require approval of a Minor Site Development Permit. The proposed project is located within the Coastal Zone, but outside of the appeals jurisdiction, and pursuant to DPZC section 9.69.040 is exempt from a Coastal Development Permit.

### *Previous Approval*

In October 2016, the proposed project was administratively approved. A condition of approval was incorporated requiring Home Owner Association (HOA) approval prior to the issuance of Building Permit in response to concerns raised prior to the administrative hearing by HOA representatives. The HOA had previously approved the project, but HOA representatives requested the applicant go through the HOA process again as the HOA approval was older than six months. The applicant was agreeable to this condition in an effort to work with the HOA and move the project forward.

Subsequent to the project's original approval, the applicant engaged in the HOA review process however disagreement between the owner and HOA arose concerning Covenants, Conditions, and Restrictions (CC&R) requirements. Staff's understanding of the HOA's concerns are: private views, the rear deck and potential encroachments into CC&R specified setbacks, and proposed locations of windows and potential impact on adjacent neighbor privacy. The concerns focused primarily on improvements located towards the rear and side of the structure.

Staff received a letter from the applicant (Supporting Document C) requesting that a new application for the same previously approved project be approved with identical conditions of approval with the exception of Condition No. 18 for the new HOA approval. Staff agrees with the applicant's request/analysis that the City cannot impose the condition. The application and enforcement of HOA CC&Rs is outside the purview of the City's review process. While the City encourages applicants to seek and obtain HOA approval prior to obtaining permits from the City, CC&R's are ultimately a private civil matter that must be addressed outside the City's permitting process. Based on staff's review, the proposed deck in the rear meets applicable development standards, and the City does not regulate window placement except to enforce the building code. Building code review will be completed if the project is approved. The City of Dana Point does not protect private views.

As SDP16-0030(M) and AMS16-0005 won't expire until October 2018, a condition of approval has been included in the current project's draft Planning Commission Resolution that, should approval be granted, the previously approved SDP16-0030(M)

and AMS16-0005 will become null and void.

### **DISCUSSION:**

Identical to the previously approved project, the project requires a Minor Site Development permit for an addition of larger than 10% to a legal non-conforming residence and an Administrative Modification of Standards for a reduction of the front yard setback. A non-conforming structure does not need to be brought into conformance until 50% or more of the existing linear walls are removed. Less than 50% demolition is proposed for this project. The existing heights and story count will remain unchanged with the proposed project.

### **MINOR SITE DEVELOPMENT PERMIT:**

The proposed project is an addition of 357 square feet to a 2,317 square foot, two-story single-family dwelling. The project also includes the addition of a new second-story deck at the rear of the property. The overall height and story count is unmodified by the proposed project and will remain two-stories and 26 feet in height. If the addition is approved the home would be 2,674 square feet.

The proposed project will result in an expanded first floor-living room, remodeled and expanded kitchen, and expanded second floor bedroom and bathroom. Architectural plans have been provided as Supporting Document 7.

The addition will match the existing architecture (a modern Spanish architecture) utilizing matching stucco, colors, details around the windows, and clay tile roof. Overall, the addition will be fully integrated into the existing residence.

Section 9.71.050 of the DPZC stipulates a minimum of four (4) findings to approve a Site Development Permit:

1. *Compliance of the site design with development standards of this Code.*
2. *Suitability of the site for the proposed use and development.*
3. *Compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines.*
4. *Site and structural design which is appropriate for the site and function of the proposed use(s), without requiring a particular style or type of architecture.*

The required findings are articulated in the attached draft Resolution identified as Action Document A.

### Administrative Modification of Standard

Consistent with past approvals in the development, the applicant is requesting a reduction of no more than two feet and seven inches (2'-7") into the required front yard setback. The proposed encroachment is consistent with the surrounding neighborhood, and will result in a home similar in character to others in the neighborhood. All other portions of the proposed project, including the proposed deck meets applicable City of Dana Point development standards.

Section 9.61.090 of the DPZC stipulates a minimum of four (4) findings to approve an Administrative Modification of Standards:

1. *That there are practical difficulties or unnecessary hardships created by strict application of the Zoning Code due to physical characteristics of the property.*
2. *The administrative modification does not constitute a grant of special privileges which are not otherwise available to surrounding properties in similar conditions and will not be materially detrimental to the public welfare or to the property of other persons located in the vicinity.*
3. *The administrative modification places suitable conditions on the property to protect the public health, safety, and welfare and surrounding properties.*
4. *For development within the coastal zone, that the administrative modification would not result in significant adverse impacts either individually or cumulatively to coastal access/recreation opportunities or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan.*

**CORRESPONDENCE:** To date, staff has received one phone call concerning the project. Their concern was the HOA process had not been completed and they did not support the removal of the condition that would require HOA approval prior to issuance of a building permit.

**CONCLUSION:** Staff finds that the subject project is consistent with the policies and provisions of the Dana Point Zoning Code, and both the Minor Site Development Permit and Administrative Modifications of Standards findings can be met. The project has been found to comply with all standards of development, except for those components requiring the Administrative Modification of Standards. Staff recommends the Planning Commission adopt the attached resolution, approving Minor Site Development Permit 17-0006(M) and Administrative Modification of Standards AMS 17-0031.

A blue ink signature of Sean Nicholas, written in a cursive style, positioned above a horizontal line.

Sean Nicholas, AICP  
Senior Planner

A blue ink signature of Ursula Luna-Reynosa, written in a cursive style, positioned above a horizontal line.

Ursula Luna-Reynosa, Director  
Community Development Department

**ATTACHMENTS:**

**Action Documents**

A. Draft Planning Commission Resolution No. 17-03-27-xx

**Supporting Documents**

B. Vicinity Map

C. Applicant's request

D. Previously approved SDP16-0030(M) and AMS16-0005

E. Original HOA approval for same project

F. Photographs

G. Project Plans (architectural only)

H. CEQA Exemption

## RESOLUTION NO. 17-03-27-XX

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING MINOR SITE DEVELOPMENT PERMIT 17-0006(M) FOR AN ADDITION OF GREATER THAN 10% TO A LEGAL NON-CONFORMING SINGLE FAMILY RESIDENCE AND ADMINISTRATIVE MODIFICATION OF STANDARDS AMS17-0031 TO ALLOW FOR A TWO FOOT AND SEVEN INCH ENCROACHMENT INTO THE FRONT YARD SETBACK FOR A RESIDENCE LOCATED AT 7 NEW YORK COURT**

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, John and Debra Edleston (collectively, the “Owners”), own the real property commonly referred to as 7 New York Court (APN: 672-411-40) (the “Property”); and

WHEREAS, the Owners caused to be filed a verified application for a Minor Site Development Permit and Administrative Modification of Standards for an addition larger than 10% to an existing single family residence and encroachment of two feet and seven inches into a required front yard setback; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, the Planning Commission did, on the 27<sup>th</sup> day of March, 2017, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, the proposed project qualifies as a Class 1 (Section 15301) exemption pursuant to the applicable provisions of the California Environmental Quality Act (CEQA) in that the project involves an addition and remodel that meets all applicable development standards for an existing legal non-conforming single family residence in a residential zone; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Minor Site Development Permit SDP17-0006(M) and Administrative Modification of Standards 17-0031.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows;

- A) That the above recitations are true and correct and incorporated herein by reference;

#### Findings:

- B) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves a Minor Site

Development Permit SDP17-0006(M), subject to conditions:

- 1) Compliance of the site design with development standards of the Dana Point Zoning Code, **in that the subject application proposes the addition of 357 square feet to the property's 2,317 square-foot, single-family dwelling, and is consistent with similar homes within the neighborhood. With implementation of all improvements, the remodeled/expanded dwelling would comprise 2,674 square feet of floor area. The structure's overall height and story-count would remain unchanged.**
- 2) That the site is suitable for the proposed use and development **in that, all proposed development is permitted in the subject property's RSF-7 Zoning District and PRD-3 Overlay. Staff finds that the proposed floor area additions will comply with both the standards and intent of the DPZC and would allow the property owner more effective and enjoyable use of the property. The architecture and overall massing of the additions would serve to complement the existing dwelling, as well as those in the vicinity.**
- 3) That the project is in compliance with all elements of the General Plan and all applicable provision of the Urban Design Guidelines **in that, the proposed scope of work is consistent with the City's General Plan and all applicable provisions of the Urban Design Guidelines in that the proposed improvements are not in conflict with any goal or policy. While the subject property is located within the City's Coastal Overlay District, it is located outside of the Appeals Jurisdiction of the California Coastal Commission, and further, qualifies as "exempt development" pursuant to Section 9.69.040 (b) of the Dana Point Zoning Code (which acts as the City's Certified Local Coastal Program).**
- 4) That the site and structural design is appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture, **in that, the proposed improvements are appropriate for the site in that all development is permitted within the property's RSF-7 Zoning District and PRD-3 Zoning Overlay and are of a design that is compatible in form and mass to existing, surrounding development.**

- C) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Administrative Modification of Standards AMS17-0031, subject to conditions:
- 1) That there are practical difficulties or unnecessary hardships created by strict application of the Zoning Code due to physical characteristics of the property **in that, the deviation is found to be truly minor and not resulting in potential impacts to the health, safety or general welfare of adjacent persons or properties.** The proposed project will allow encroachment into the front setback by two feet and seven inches (2'-7"). Staff finds that the irregular and narrow shape of the subject lot create a practical difficulty in developing in accordance with the standards of the DPZC. Moreover, the prevailing development pattern within the property's private and gated community mirrors the yard setbacks proposed by the Project. To limit improvements in accordance with standards of the property's zoning, in itself creates a constraint in that it disallows development that is complementary to established precedent and denies the owner a privilege afforded to others in the vicinity. The proposed deviation is found to be truly minor and would result in a more aesthetically pleasing building that remains similar in size, orientation and massing as others in the vicinity.
  - 2) The administrative modification does not constitute a grant of special privileges which are not otherwise available to surrounding properties in similar conditions and will not be materially detrimental to the public welfare or to the property of other persons located in the vicinity **in that, the proposed scope of the administrative modification is truly minor as defined in the DPZC.** The proposed deviation from Code would result in development onsite that is consistent and complimentary to existing vicinity development as well as to the architecture and form of the property's existing dwelling. Development in the surrounding neighborhood is comprised of expanded and remodeled structures set back similar (non-conforming) distances from property-lines. The subject



request would accordingly not constitute the granting of a special privilege otherwise unavailable to surrounding properties in similar conditions and, would not be materially detrimental to the public welfare or to the property of other persons located in the vicinity.

- 3) The administrative modification places suitable conditions on the property to protect the public health, safety, and welfare and surrounding properties **in that, the subject application has been reviewed for conformance with the standards of the Dana Point Municipal Code by Planning and Building/Safety Division staff and found to comply with standards as relate to approval of an AMS. Following discretionary approval, structural and civil plans will be submitted for review by the City. Standard conditions of approval, adherence to best management practices (BMPs) during construction and inspection by Building/Safety Division staff as construction progresses will all ensure that the final project adequately protects the public health, safety, and welfare of the property owner as well as surrounding properties.**
- 4) If located in the Coastal Zone, that the administrative modification would not result in significant adverse impacts either individually or cumulatively to coastal access/recreation opportunities or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan, **in that, the subject property is located within the City's Coastal Overlay District (the CA Coastal Zone) but outside of the Appeals Jurisdiction of the California Coastal Commission. Pursuant to Section 9.69.040 (b) of the DPZC, all proposed improvements qualify as "exempt development" and, none of the exceptions are applicable. No existing or proposed coastal access/recreation areas or coastal resources would be adversely impacted with implementation of the subject project. The Dana Point Zoning Code has been adopted and certified as the Local Coastal Program (LCP) for the City and, as all findings can be made for approval of the AMS, the project is consistent with the policies of the LCP.**

**A.     General:**

- 1)     The approval of Minor Site Development Permit SDP16-0030(M) and Administrative Modification of Standards AMS16-0005 are null and void with the approval of the Minor Site Development Permit SDP17-0006(M) and Administrative Modification of Standards AMS17-0031.
- 2)     Approval of this application permits a reduction in the property's front yard setback to permit the addition of 357 square feet of new floor area (as per plans submitted to and on file with the Planning Division) at 7 New York Court. Subsequent changes to the approved scope-of-work shall be in substantial compliance with those plans presented to the Community Development Director, and in compliance with applicable provisions of the City of Dana Point General Plan, Local Coastal Program and Municipal Code.
- 3)     This permit shall be copied in its entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Dana Point Building/Safety Department for plan check.
- 4)     Approval of this application shall be valid for a period of 24 months (two years) from the date of determination. If the scope-of-work approved by this action is not established, or a building permit for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.
- 5)     The application is approved as a plan for the location and design of the uses, structures, features, and materials shown on the approved plans. Any demolition beyond that described in this entitlement or any relocation, alteration, or addition to any use, structure, feature, or material not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development.
- 6)     Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
- 7)     The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against

the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify and hold harmless the city shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action or proceeding.

The applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions or proceedings against the City, its officers, employees, or agents arising out of or resulting from negligence of the applicant or the applicant's agents, employees or contractors. Applicant's duty to defend, indemnify and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

- 8) The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.
- 9) The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
- 10) The construction site shall be posted with signage indicating that construction not commence before 7:00 AM and must cease by 8:00 PM, Monday through Saturday. No construction activities shall be permitted on Sundays or Federal holidays.
- 11) The applicant shall ensure that pollutant discharges from the project are reduced to the maximum extent practicable. The applicant shall, at a minimum, implement all appropriate source control BMPs and implement site design/landscape characteristics, where feasible, which maximize infiltration, provide retention, slow runoff, and minimize impervious land coverage.
- 12) The project shall meet all water quality requirements including Low Impact Development (LID) implementation.

- 13) The applicant shall be responsible for coordination with water district, sewer district, SDG&E, AT&T California and Cox Communication Services for the provision of water, sewer, electric, telephone and cable television and/or internet services.
- 14) The applicant shall exercise special care during the construction phase of this project to prevent any off-site siltation. Per direction of the Public Works/Engineering Department, the Applicant shall provide erosion control measures of a type, size and location as approved by the Director of Public Works. The erosion control measures shall be constructed to the satisfaction of the Director of Public Works prior to the start of any construction operations. Prior to the removal of any erosion control devices so constructed, the area served shall be protected by additional drainage facilities, slope erosion control measures and other methods as may be required by the Director of Public Works. The applicant shall maintain the erosion control devices until the Director of Public Works approves of the removal of said facilities.
- 15) Building materials, unlicensed vehicles, portable toilets, and similar items shall not be placed within the public right-of-way.
- 16) The Applicant, property owner or successor in interest shall submit a standard Waste Reduction and Recycling Plan to the City's Construction & Demolition (C&D) Official per the Dana Point Municipal Code. A deposit will be required upon approval of the Waste Management Plan to ensure compliance and the Plan shall be reviewed and approved and the aforementioned deposit posted prior to issuance of any permits.

**D. Prior to Issuance of a Building Permit**

- 17) Building plan check submittal shall include four sets of the following construction documents:
  - *Building Plans*
  - *Structural Calculations*
  - *Soils/Geology Report*  
*(if requested/required by the Building/Safety Division)*
- 18) All documents prepared by a professional shall be wet-stamped and signed.

**D. Prior to Issuance of a Certificate of Use and Occupancy**

- 19) Prior to commencement of framing, the Applicant shall submit a foundation certification, by survey that the structure will be constructed in compliance with the dimensions shown on plans approved by the Planning Commission, including finish floor elevations and setbacks to property lines included as part of AMS16-0005 and SDP16-0030(M). The City's standard "Line & Grade Certification" form shall be obtained at time of permit issuance, prepared by a licensed civil engineer/surveyor and delivered to the City of Dana Point Building and Planning Divisions for review and approval.
- 20) All structural Best Management Practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.
- 21) Upon completion of all construction activities associated with this permit, and prior to contacting the Building/Safety Division, the Applicant/Owner shall contact the Planning Division to arrange a final inspection of the completed project.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 27<sup>th</sup> day of March, 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Eric Nelson, Chairman  
Planning Commission

ATTEST:

---

Ursula Luna-Reynosa, Director

Director of Community Development



## VICINITY MAP

**Project:** Minor Site Development Permit SDP17-0006(M)/Administrative Modification of Standards AMS17-0031

**Applicant:** John Edleston

**Location:** 7 New York Court



*John & Debbie Edelson*  
*5537 Fairgrange Drive*  
*Agoura Hills, California 91301*  
818.425-0008 ■ *jme45@aol.com*

March 13, 2017

***Sent via email and US Mail***

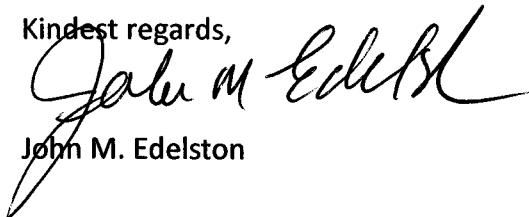
Mr. Matt Schneider, Planning Manager  
City of Dana Point, Planning Division  
3328 Golden Lantern  
Dana Point, California 92629

Dear Mr. Schneider:

Pursuant to our telephone discussion, I am requesting that a new application for the same previously approved project remodel of my home at 7 New York Court, Dana Point, be approved with identical conditions, with the exception of Condition #18. I believe Condition of Approval #18 requiring applicant's need to "...provide evidence of current project approval by the Regatta Homeowners Association" is improper. Such a requirement imposes a condition pertaining to the Regatta HOA CC&Rs that the City has no authority or nexus to enforce. As you are aware, CC&Rs are private agreements between property owners and their HOA and should be addressed outside the purview of City review and permitting procedures.

Thank you for your time and consideration of this request.

Kindest regards,



John M. Edelson





**CITY OF DANA POINT**  
**PLANNING DEPARTMENT**

**PROJECT INFORMATION PACKET**

**NOTE:**

- ☐ The planner who provides this sheet will check (X) the box if the item is required for your application.

**Complete to following sections of the Project Information Packet**

- ☐ Application Form.
- ☐ Land Use Fact Sheet
- ☐ Justification Statement
- ☐ Environmental Assessment Form



## CITY OF DANA POINT

PLANNING DEPARTMENT  
33282 GOLDEN LANTERN  
DANA POINT, CA 92629  
PHONE: (949) 248-3500 FAX: (949) 248-7372

Application:

### Planning Activity

- ☐ Conditional Use Permit  
(Minor) (Major)
- ☐ Site Dev. Permit  
(Minor) (Major)
- ☐ Coastal Development Permit  
(Admin.) (Emergency) (Waiver)
- ☐ Variance
- ☐

Submittal Date:

Received By:

#### APPLICANT / AGENT: (Print)

Name: Andrew Miller

Mailing Address: 105 Avenida Dolores

City, State, ZIP: San Clemente, CA 92672

Phone: (949) 322-9916 Fax: ( )

Email: SKATELF262@hotmail.com

#### CONTACT PERSON: (if different)

Name: JED STAMEN

Mailing Address:

City, State, ZIP:

Phone: (949) 303-9494 Fax: ( )

Email:

#### PROPERTY OWNER: (if different)

Name: JOHN EDESTON

Mailing Address: 5537 FAIRFAX DR

City, State, ZIP: AGOURA HILLS, CA 91301

Phone: (949) 303-9494 Fax: ( )

Email:

#### CHOOSE ONE:

- ☐ I am the sole owner and hereby authorize the filing of this application.
- ☐ I own the project site jointly with one or more persons and am empowered to authorize the filing of this application on behalf of my fellow property owners; or,
- ☐ I own the project site in conjunction with one or more persons who are listed with their acknowledgement and authorization for the filing of this application attached for additional property owner authorization/acknowledgements

Signature:

Date:

PROJECT DESCRIPTION: Remodel and ADDITION FOR SINGLE FAMILY RESIDENCE.  
DEMOL EXISTING KITCHEN, ADD BALCONY, REPLACE ALL LIGHTS, BATHROOMS.  
SEE PLANS FOR SCOPE.

#### PROJECT ADDRESS:

7 NEW YORK

#### LEGAL DESCRIPTION:

APN:

67241140

COASTAL ZONE: ☐ Yes ☐ No ☐ Appeal Zone

PREVIOUS APPROVALS:

#### CERTIFICATION

As the Property Owner or Applicant/Agent in the request made by this filing, I hereby certify that I acknowledge, understand and concur with the following statements:

- (a) That there are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision making body regarding this application.
- (b) That major changes to the proposed project may require a new application and payment of new fees.
- (c) That to the best of my knowledge the information I have presented in this form and the accompanying materials is true and correct. I also understand that additional data and information may be required prior to final action on this application.

Signature(s)

John M Edeston  
Property Owner or Agent

Date: 3-13-17

#### FEES

Application Filing Fees:

Environmental Fee:

Required Postage:

Deposit(s):

Total:



**CITY OF DANA POINT**  
PLANNING DEPARTMENT

**LAND USE APPLICATION FACT SHEET**

	Existing	Proposed Development	Zone Code Requirement
General Plan Designation			
Zoning	R 3/U	R 3/U	
PRD			
Specific Plan			
Lot Area (sf)	4,000 SF	4,000 SF	
Lot Width (ft)	~47' 1"	~47' 1"	
Lot depth (ft)	108'-10"	108'-10"	
Setback Yards			
Front (ft)	10'	10'	
Side (ft)	1'-0"	1'-0"	
Side (ft)	12'-2"	7'-7"	
Rear (ft)	40' 5"	27' 2"	
Gross Floor Area (sf)	2,028 SF	2,256 SF	
Floor Area Ratio			
Building Coverage (%)	50%	50%	
Building Height (ft)	27'	27'	
Landscaping (%)	22%	22%	
Paving (%)	28%	28%	
Parking Spaces	GARAGE	GARAGE	
Surrounding Land Uses			
North	SFR	"	
South	SFR	"	
East	SFR	"	
West	SFR	"	



CITY OF DANA POINT  
PLANNING DEPARTMENT

JUSTIFICATION STATEMENT

1. Briefly describe the proposed use and existing conditions:

EXISTING RESIDENCE ENCROACHES ONTO FRONT & SIDEYARD SETBACKS.  
PROPOSED PLANS ADDS ONTO SECOND STORY, NOT ENCROACHING  
ANY MORE INTO SETBACK.

2. How the proposed use is justified in reference to:

- 1) Compatibility. The location, size design, and operating characteristics of the proposed use will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

SIMILAR IMPROVEMENTS HAVE BEEN MADE TO EXISTING HOMES  
IN THE NEIGHBORHOOD.

- 2) General welfare. The application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

//

October 25, 2016

John and Debra Edleston  
5537 Fairgrange Drive  
Agoura Hills, CA 91301

**ADMINISTRATIVE MODIFICATION OF STANDARDS AMS16-0005  
MINOR SITE DEVELOPMENT PERMIT SDP16-0030(M)**

**APPLICANTS:** John and Debra Edleston

**AGENT:** Andrew Miller, Draft Haus Designs & Restorations

**LOCATION:** 7 New York Court (APN 672-411-40)

**REQUEST:** To permit the addition of 357 square feet to an existing, nonconforming single-family dwelling.

**ENVIRONMENTAL:** The project is Categorically Exempt from the provisions set forth in the California Environmental Quality Act (CEQA) per Section 15301 (Class 1 – Existing Facilities) in that the Project proposes nominal additions to an existing residential dwelling.

**DETERMINATION:** The Community Development Director hereby  
\_\_\_\_\_ APPROVES  
\_\_\_\_\_ DENIES

the requested Administrative Modification of Standards and Minor Site Development Permit as described herein, subject to the attached findings and applicable conditions.

---

Ursula Luna-Reynosa, Director  
Community Development Department

**FINDINGS:**

Minor Site Development Permit SDP16-0030(M)

**A. Compliance of the site design with development standards of the Dana Point Zoning Code:**

Pursuant to standards enumerated in the Dana Point Zoning Code (DPZC), proposed additions to legal non-conforming structures exceeding 10 percent of existing square footage shall require approval of a Minor Site Development Permit SDP(M). The subject dwelling is defined as nonconforming by virtue of an existing front-yard setback that doesn't comply with the 20 foot minimum (habitable portions only) otherwise required by the property's Residential Single-Family 7 (RSF-7) Zoning District and Planned Residential Development 3 (PRD-3) Overlay.

The subject application proposes the addition of 357 square feet to the property's 2,317 square-foot, single-family dwelling in the form of an expanded first-floor living room, closet and expanded second-floor bedroom. These improvements would project into the property's otherwise required front and side yard setbacks, however, the encroachments are seen to be minor (pursuant to standards enumerated in Section 9.61.090 of the DPZC) and the Project accordingly includes a request for an Administrative Modification of Standards (AMS) to allow the deviation. Findings for the AMS request are included herein.

Other proposed improvements include a new, second-story deck in the property's rear-yard (accessed from both new sliding doors within the floor-plan's master bedroom and via new exterior stairs). With implementation of all improvements, the remodeled/expanded dwelling would comprise 2,674 square feet of floor area. No other improvements to the building or property are proposed and the structure's overall height and story-count would remain unchanged. The improvements constitute an expansion of more than ten percent and so require approval of a Minor Site Development Permit.

All improvements have been reviewed against the standards of the Dana Point Municipal Code by the Planning and Building/Safety Divisions as well as the Public Works/Engineering Department and found to conform. Supportive findings for the Minor Site Development Permit can accordingly be made and are enumerated herein.

**B. Suitability of the site for the proposed use and development:**

All proposed development is permitted in the subject property's RSF-7 Zoning District and PRD-3 Overlay. Staff finds that the proposed floor area additions will comply with both the standards and intent of the DPZC and would allow the property owner more effective and enjoyable use of the property. The architecture and overall massing of the additions would serve to complement the existing dwelling, as well as those in the vicinity.

**C. Compliance with all elements of the General Plan and Local Coastal Program and all applicable provisions of the Urban Design Guidelines:**

The proposed scope of work is consistent with the City's General Plan and all applicable provisions of the Urban Design Guidelines in that the proposed improvements are not in conflict with any goal or policy. While the subject property is located within the City's Coastal Overlay District, it is located outside of the Appeals Jurisdiction of the California Coastal Commission, and further, qualifies as "exempt development" pursuant to Section 9.69.040 (b) of the Dana Point Zoning Code (which acts as the City's Certified Local Coastal Program).

**D. Site and structural design which is appropriate for the site and function of the proposed use(s), without requiring a particular style or type of architecture:**

The proposed improvements are appropriate for the site in that all development is permitted within the property's RSF-7 Zoning District and PRD-3 Zoning Overlay and are of a design that is compatible in form and mass to existing, surrounding development.

Administrative Modification of Standards AMS16-0005

**A. That there are practical difficulties or unnecessary hardships created by strict application of the Zoning Code due to physical characteristics of the property:**

Pursuant to Section 9.61.090 of the DPZC, certain deviations from development standards may be approved via Administrative Modification of Standards (AMS), and where the deviation is found to be truly minor and not resulting in potential impacts to the health, safety or general welfare of adjacent persons or properties.

The subject application proposes additions that would encroach into both front and side-yards. Pursuant to the property's RSF-7/PRD-3 Zoning/Overlay, development shall adhere to a front-yard setback of 5 feet

(minimum) for a proposed garage (20 feet for the remainder of the floor-plan) and an aggregate (total) side-yard setback of 10 feet. The project proposes an expansion at the second floor that would encroach into the property's front-yard, resulting in a setback at that level of five feet and an expansion at the second floor that would encroach into the property's southerly side-yard, resulting in a new setback of one foot.

Staff finds that the irregular and narrow shape of the subject lot create a practical difficulty in developing in accordance with the standards of the DPZC. Moreover, the prevailing development pattern within the property's private and gated community mirrors the yard setbacks proposed by the Project. To limit improvements in accordance with standards of the property's zoning, in itself creates a constraint in that it disallows development that is complementary to established precedent and denies the owner a privilege afforded to others in the vicinity. The proposed deviation is found to be truly minor and would result in a more aesthetically pleasing building that remains similar in size, orientation and massing as others in the vicinity.

**B. The administrative modification does not constitute a grant of special privileges which are not otherwise available to surrounding properties in similar conditions and will not be materially detrimental to the public welfare or to the property of other persons located in the vicinity:**

The proposed scope of the administrative modification is truly minor as defined in the DPZC. The proposed deviation from Code would result in development onsite that is consistent and complimentary to existing vicinity development as well as to the architecture and form of the property's existing dwelling. Development in the surrounding neighborhood is comprised of expanded and remodeled structures set back similar (non-conforming) distances from property-lines. The subject request would accordingly not constitute the granting of a special privilege otherwise unavailable to surrounding properties in similar conditions and, would not be materially detrimental to the public welfare or to the property of other persons located in the vicinity.

**C. The administrative modification places suitable conditions on the property to protect the public health, safety, and welfare and surrounding properties:**

The subject application has been reviewed for conformance with the standards of the Dana Point Municipal Code by Planning and Building/Safety Division staff and found to comply with standards as relate to approval of an AMS. Following discretionary approval, structural and civil plans will be submitted for review by the City. Standard conditions of



approval, adherence to best management practices (BMPs) during construction and inspection by Building/Safety Division staff as construction progresses will all ensure that the final project adequately protects the public health, safety, and welfare of the property owner as well as surrounding properties

- D. If located in the Coastal Zone, that the administrative modification would not result in significant adverse impacts either individually or cumulatively to coastal access/recreation opportunities or coastal resources, and the development would be consistent with the policies of the Local Coastal Program certified land use plan:**

The subject property is located within the City's Coastal Overlay District (the CA Coastal Zone) but outside of the Appeals Jurisdiction of the California Coastal Commission. Pursuant to Section 9.69.040 (b) of the DPZC, all proposed improvements qualify as "exempt development" and, none of the exceptions are applicable. No existing or proposed coastal access/recreation areas or coastal resources would be adversely impacted with implementation of the subject project. The Dana Point Zoning Code has been adopted and certified as the Local Coastal Program (LCP) for the City and, as all findings can be made for approval of the AMS, the project is consistent with the policies of the LCP.

#### **CONDITIONS OF APPROVAL:**

The City of Dana Point hereby grants approval of Administrative Modification of Standards AMS16-0005 and Minor Site Development Permit SDP16-0030(M) for the referenced project. This permit is valid subject to the following conditions of approval:

**A. General:**

1. Approval of this application permits a reduction in the property's front and side yard setbacks to permit the addition of 357 square feet of new floor area (as per plans submitted to and on file with the Planning Division) at 7 New York Court. Subsequent changes to the approved scope-of-work shall be in substantial compliance with those plans presented to the Community Development Director, and in compliance with applicable provisions of the City of Dana Point General Plan, Local Coastal Program and Municipal Code.
2. This permit shall be copied in its entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Dana Point Building/Safety Department for plan check.

3. Approval of this application shall be valid for a period of 24 months (two years) from the date of determination. If the scope-of-work approved by this action is not established, or a building permit for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.
4. The application is approved as a plan for the location and design of the uses, structures, features, and materials shown on the approved plans. Any demolition beyond that described in this entitlement or any relocation, alteration, or addition to any use, structure, feature, or material not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development.
5. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
6. The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify and hold harmless the city shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action or proceeding.

The applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions or proceedings against the City, its officers, employees, or agents arising out of or resulting from negligence of the applicant or the applicant's agents, employees or contractors. Applicant's duty to defend, indemnify and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

7. The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.
8. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
9. The construction site shall be posted with signage indicating that construction not commence before 7:00 AM and must cease by 8:00 PM, Monday through Saturday. No construction activities shall be permitted on Sundays or Federal holidays.
10. The applicant shall ensure that pollutant discharges from the project are reduced to the maximum extent practicable. The applicant shall, at a minimum, implement all appropriate source control BMPs and implement site design/landscape characteristics, where feasible, which maximize infiltration, provide retention, slow runoff, and minimize impervious land coverage.
11. The project shall meet all water quality requirements including Low Impact Development (LID) implementation.
12. The applicant shall be responsible for coordination with water district, sewer district, SDG&E, AT&T California and Cox Communication Services for the provision of water, sewer, electric, telephone and cable television and/or internet services.
13. The applicant shall exercise special care during the construction phase of this project to prevent any off-site siltation. Per direction of the Public Works/Engineering Department, the Applicant shall provide erosion control measures of a type, size and location as approved by the Director of Public Works. The erosion control measures shall be constructed to the satisfaction of the Director of Public Works prior to the start of any construction operations. Prior to the removal of any erosion control devices so constructed, the area served shall be protected by additional drainage facilities, slope erosion control measures and other methods as may be required by the Director of Public Works. The applicant shall maintain the erosion control devices until the Director of Public Works approves of the removal of said facilities.
14. Building materials, unlicensed vehicles, portable toilets, and similar items shall not be placed within the public right-of-way.

15. The Applicant, property owner or successor in interest shall submit a standard Waste Reduction and Recycling Plan to the City's Construction & Demolition (C&D) Official per the Dana Point Municipal Code. A deposit will be required upon approval of the Waste Management Plan to ensure compliance and the Plan shall be reviewed and approved and the aforementioned deposit posted prior to issuance of any permits.

**D. Prior to Issuance of a Building Permit**

16. Building plan check submittal shall include four sets of the following construction documents:
  - *Building Plans*
  - *Structural Calculations*
  - *Soils/Geology Report*  
*(if requested/required by the Building/Safety Division)*
17. All documents prepared by a professional shall be wet-stamped and signed.
18. Applicant shall provide evidence of current project approval by the Regatta Homeowners Association to the Planning Division.

**D. Prior to Issuance of a Certificate of Use and Occupancy**

19. Prior to commencement of framing, the Applicant shall submit a foundation certification, by survey that the structure will be constructed in compliance with the dimensions shown on plans approved by the Planning Commission, including finish floor elevations and setbacks to property lines included as part of AMS16-0005 and SDP16-0030(M). The City's standard "Line & Grade Certification" form shall be obtained at time of permit issuance, prepared by a licensed civil engineer/surveyor and delivered to the City of Dana Point Building and Planning Divisions for review and approval.
20. All structural Best Management Practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.
21. Upon completion of all construction activities associated with this permit, and prior to contacting the Building/Safety Division, the

Applicant/Owner shall contact the Planning Division to arrange a final inspection of the completed project.



## REGATTA HOMEOWNERS ASSOCIATION

April 15, 2015

Edelston Family Trust  
30300 Agoura Road, Suite 270  
Agoura Hills, CA 91301

**Re: Architectural Application  
7 New York Court**

Dear Homeowner:

The Architectural Application dated October 9, 2014 that you submitted for renovation were provided to the Architectural Committee for review. The Committee has **approved** your request. See enclosed copy for your records.

Should you have any questions or wish to discuss this further, please feel free to contact me at the number listed below, extension 234 or email at [krystal@compasspropertymanagement.com](mailto:krystal@compasspropertymanagement.com)

Sincerely,

*Krystal Cervantes*

Krystal Cervantes  
Assistant Community Manager  
Enclosure

Cc: Owner File



Supporting Document #6

**CITY OF DANA POINT  
NOTICE OF EXEMPTION**

**Date:** March 27, 2017

**To:** County Clerk-Recorder  
County of Orange  
12 Civic Center Plaza, Room 106  
P.O. Box 238  
Santa Ana, CA 92702  
Attn: EIR Clerk

**From:** City of Dana Point  
Community Development Department  
33282 Golden Lantern, Suite No. 209  
Dana Point, California 92629

**Project Title:** Minor Site Development Permit SDP17-0006(M)/Administrative Modification of Standards AMS17-0031

**Project Location:**

The project is located at 7 New York Court within the Residential Single Family 7 (RSF7) zoning designation with a Planned Residential Development 3 (PRD3). Legal description being Lot 4, of Tract 11683, Assessor's Parcel Number 672-411-40.

**Description of Nature, Purpose, and Beneficiaries of Project:**

To permit the addition of 357 square feet to an existing, nonconforming single-family dwelling located at 7 New York Court in the RSF7-PRD3 zoning designation within the Coastal Zone.

**Name of Public Agency Approving Project:** City of Dana Point

**Project Applicant:** John and Debra Edleston

**Exempt Status:** (Check One)

Statutory Exemption

☐ Section:

☐ Ministerial (Sec. 21080(b)(1); 15268):

☐ Declared Emergency (Sec. 21080(b)(3); 15269(a))

☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c))

☒ X\_Categorical Exemption: Class: 1 Section: 15301

☐ Exempt: Sections:

**Reason Why Project is Exempt:**

The project includes a minor addition to an existing two-story, single family residence. The proposed addition meets all applicable development standards including lot coverage, setbacks, and heights, except those minor modifications approved through the AMS. The residence will remain a two-story, single family residence following the proposed improvements and the height and story count will remain unchanged.

**Lead Agency Contact Person:**

Sean Nicholas, AICP, Senior Planner  
City of Dana Point  
32282 Golden Lantern  
Dana Point, CA, 92629

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: \_\_\_\_\_

☐ Signed by Lead Agency    ☐ Signed by Applicant