



## STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: September 20, 2017

**PLANNER:**

Kirt A. Cury, Contract Planner *KC*

**SUBJECT:**

**Minor Exception Permit 17-188, Beauchemin Residence**, a request to consider a one-inch reduction (.016%) of the required five-foot side yard setback to construct a 2,460 square-foot single-story residence.

**LOCATION:**

148 W Avenida Cadiz

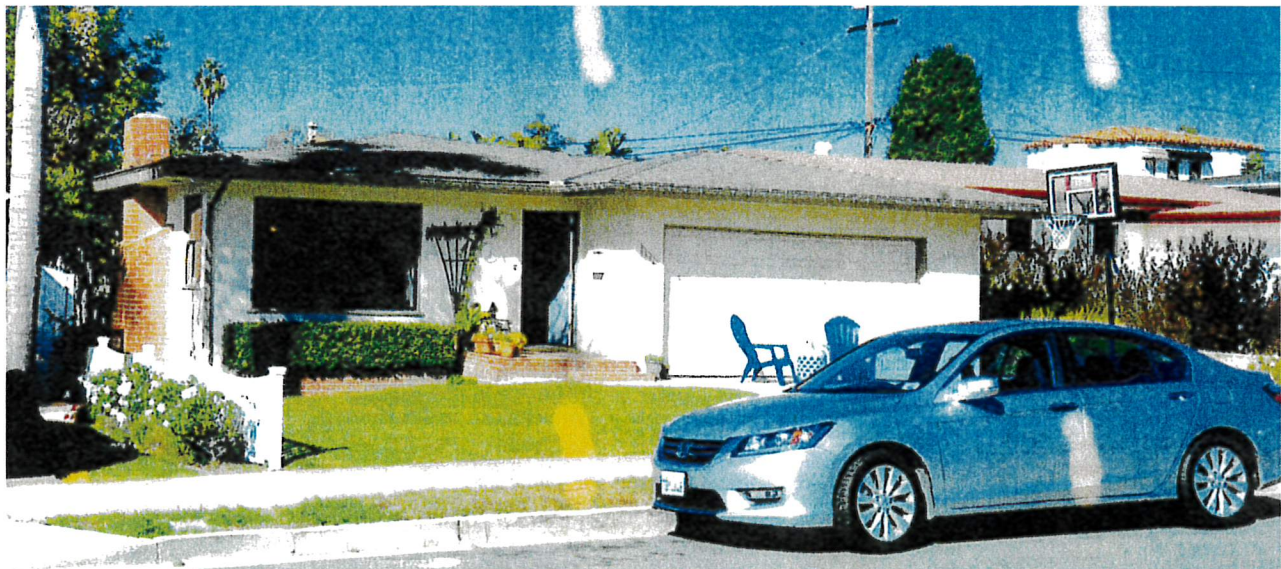
**ZONING/GP:**

Residential Low Density with a Coastal Zone Overlay (RL-CZ)

**BACKGROUND:**

- The project site is a 5,000 square-foot lot. In 1955, the lot was improved with a 1,068 square-foot single-story residence with an attached two-car garage. The home was expanded over the years and currently is 1,477 square-feet in total size.

**Figure 1: Existing Residence**



- The residence is legal-nonconforming because it has a setback of four feet and eleven-inches where five feet is required. Along this setback is a stem wall that supports the residence above.
- The applicant proposes to demolish the residence and construct a new one-story home with a total of 2,460 square feet for a lot coverage of 49.2 percent (the code allows a maximum lot coverage of 50 percent).
- The applicant requests a Minor Exception Permit (MEP) to allow the new residence to reduce the side yard setback to four-foot, eleven-inches (instead of five feet). The

existing raised floor system supporting the home was determined by a structural engineer to be in good shape, therefore, in an effort to reduce costs potential grading impacts, the applicant is proposing to building on top of the existing floor system. Construction of the new wall directly on top of the existing stem wall and raised floor will result in the reduced side yard setback.

- Zoning Ordinance Section 17.16.090.C.18.a, requires Zoning Administrator approval of a Minor Exception Permit (MEP) to allow the new residence to reduce the side yard setback. The proposed project meets the required findings because:
  - The requested MEP will not interfere with the purpose or standards of the Residential Low Zone, in that the request is minor compared the maximum encroachment allowed by the Zoning Code. With a MEP, the Zoning Code allows a maximum setback encroachment of 20 percent (one foot) and the request is to allow the addition to encroach one inch or .016 percent. The proposed setback of the new residence will maintain the character of the lot as it will match and align with the current setback of the existing home.
  - The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the MEP, in that it will maintain the character and look of the residence and the surrounding neighborhood. The scale, mass, form, and materials of the project are in character with the neighborhood and compatible with adjacent properties as several lots within the neighborhood are developed with one-story residences. In addition, the size of the single-story residence will be consistent with other residences located within the vicinity; and
  - The approval or conditional approval of the MEP will not be detrimental to the health, safety or welfare of the general public in that there is adequate space between the addition and abutting residence for light and ventilation with the requested setback exception. Additionally, the project must be permitted and inspected for compliance with building codes to ensure the project does not have adverse impacts on health, safety, and welfare. Lastly, the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan.
- The project is categorically exempt from CEQA as a Class 3 exemption pursuant to CEQA Guidelines Section 15303(a) because the project involves the construction of a single-family residence in a residential zone on a residential property with no sensitive resources and can be supported by existing public utilities and services.
- At the writing of this report, staff has not received comments from the public regarding this proposal.

### **RECOMMENDATION**

Based on the information in the staff report and subject to the required Findings and Conditions of Approval, staff recommends that the Zoning Administrator:

1. Determine the project is Categorical Exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15303(a), because the project involves the construction of a single-family residence on a residential property in a residential zone, and
2. Approve MEP 17-188, Beauchemin Residence, subject to attached Resolution ZA 17-030 and conditions of approval.

Attachments:

1. Resolution ZA 17-030  
Exhibit A Conditions of Approval
2. Location Map
3. Photos  
Plans

RESOLUTION NO. ZA 17-030

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MEP 17-188, BEAUCHEMIN RESIDENCE, A REQUEST TO CONSIDER A ONE-INCH REDUCTION OF THE REQUIRED FIVE FOOT SIDE YARD SETBACK OF A LEGAL-NONCONFORMING RESIDENCE LOCATED AT 148 W. AVENIDA CADIZ

WHEREAS, on June 8, 2017, an application was submitted and deemed complete on August 14, 2017 by Brandon and Kylie Beauchemin, 148 W. Avenida Cadiz, San Clemente, CA 92672, for Minor Exception Permit (MEP) 17-188, a request to consider a one-inch reduction of the required five-foot side yard setback to construct a 2,460 square-foot single-story residence. The project is located in the Residential-Low Density Zoning district with a Coastal Zone Overlay (RL-CZ) at 148 W. Avenida Cadiz. The legal description is Lot 26 of Tract 822 and Assessor's Parcel Number is 692-142-19; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends the Zoning Administrator determine the project is Categorical Exempt from CEQA pursuant to State CEQA Guidelines Section 15303(a), because the project involves the construction of a single-family residence on a residential property in a residential zone where public utilities and services are available; and

WHEREAS, on June 15, and July 27, 2017, the City's Development Management Team (DMT) reviewed the project for compliance with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, on September 20, 2017, the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, The Zoning Administrator of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Zoning Administrator hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Zoning Administrator as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Zoning Administrator, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is categorically exempt from CEQA pursuant to State CEQA Guidelines section 15303

(Class 3: New Construction or Conversion of Small Structures).

The Class 3 exemption specifically exempts from further CEQA review the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. This exemption covers, but is not limited to, accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. Here, the proposed project involves the construction of a single-family residence on a residential property in a residential zone. Thus, the project qualifies for the Class 3 exemption.

Section 3. With regard to Minor Exception Permit 17-188, the Zoning Administrator finds as follows:

- A. The requested MEP will not interfere with the purpose or standards of the Residential Low zone in that the request is minor compared the maximum encroachment allowed by the Zoning Code. With a MEP, the Zoning Code allows a maximum setback encroachment of 20 percent (one foot) and the request is to allow the addition to encroach one inch or .016 percent.
- B. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the MEP, in that it will maintain the character and look of the residence and the surrounding neighborhood. The scale, mass, form, and materials of the project are in character with the neighborhood and compatible with adjacent properties as several lots within the neighborhood are developed with one-story residences. In addition, the size of the single-story residence will be consistent with other residences located within the vicinity; and
- C. The approval or conditional approval of the MEP will not be detrimental to the health, safety or welfare of the general public, in that there is adequate space between the addition and abutting residence for light and ventilation with the requested setback exception. Additionally, the project must be permitted and inspected for compliance with building codes to ensure the project does not have adverse impacts on health, safety, and welfare. Lastly, the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan.

Section 4. Based on the foregoing recitals and findings above, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Minor Exception Permit 17-188, Beauchemin, subject to the above Findings, and the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Zoning Administrator on September 20, 2017.

---

Cecilia Gallardo-Daly, Zoning Administrator

CONDITIONS OF APPROVAL  
MINOR EXCEPTION PERMIT 17-188  
BEAUCHEMIN RESIDENCE

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)\_\_\_\_\_
  
2. Thirty (30) days after project approval, the owner or designee shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)\_\_\_\_\_

3. Minor Exception Permit MEP 17-188 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. Since the use requires the issuance of a building permit, the use shall not be deemed to have commenced until the date that the building permit is issued for the development. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PIng.)\_\_\_\_\_
4. A use shall be deemed to have lapsed, and MEP 17-188 shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]* (PIng.)\_\_\_\_\_
5. The owner or designee shall have the right to request an extension of and MEP 17-188 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval in compliance with section 17.12.160 of the Zoning Ordinance. *[Citation - Section 17.12.160 of the SCMC]* (PIng.)\_\_\_\_\_
6. Prior to the issuance of building permits, the applicant or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the final approval for the project. *[Citation - City Quality Assurance Program]* (PIng.)\_\_\_\_\_
7. Prior to issuance of certificate of occupancy, the project shall be develop in conformance with the site plan, floor plans, elevations, details, and any other applicable submittals approved by the Zoning Administrator on September 20, 2017, subject to the Conditions of Approval. Any deviation from the approved plans or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Zoning Administrator or Planning Commission. *[Citation - Section 17.12.180 of the SCMC]* (PIng.)\_\_\_\_\_
8. Prior to the Planning Division's final inspection and release of construction permits, a landscaping plant list and/or planting plan shall be submitted to the Planning Division for the front yard. The plan must show how landscaped areas will be re-vegetated that are cleared in the process of construction and show new plants and planting areas that are proposed. New landscaping must meet Zoning Ordinance requirements. (■■PIng.)\_\_\_\_\_
9. Prior to releasing finalized construction permits, front yard landscaping and hardscape shall be completed according to the Zoning Ordinance, to the satisfaction of the City Planner or designee. (■■PIng.)\_\_\_\_\_



10. A separate Building Permit is required. Plans to construct new building, add or alter the existing building configuration, change in use, add or alter structural, mechanical, electrical or plumbing features of the project must be reviewed and approved through a separate building plan check / permit process. *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]* (Bldg.)\_\_\_\_\_
11. Project has not been reviewed for Building Code compliance. Prior to issuance of building permits, code compliance will be reviewed during building plan check. *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]* (Bldg.)\_\_\_\_\_
12. Prior to issuance of building permits, applicant shall secure all utility agencies approvals for the proposed project. *[S.C.M.C – Title 15 Building Construction]* (Bldg.)\_\_\_\_\_
13. Building permits shall not be issued unless the project complies with all applicable codes, ordinances, and statutes including, but not limited to, the Zoning Ordinance, Grading Code, Security Ordinance, Transportation Demand Ordinance, Water Quality Ordinance, Title 24 of the California Code of Regulations as adopted by the City including, but not limited to the California Administrative, Building, Electrical, Plumbing, Mechanical, Energy, Green, and Fire Codes.*[S.C.M.C – Title 8 – Chapter 8.16 – Fire Code, Title 15 Building and Construction Chapters 15.08, 15.12, 15.16, 15.20, 15.21, Title 16 Subdivisions, Title 17 Zoning]* (Bldg.)\_\_\_\_\_
14. Prior to the issuance of building permits, the owner or designee shall submit plans that identify the intended use of each building or portion of building and obtain approval of the Building Official. *[S.C.M.C – Title 15 – Chapter 15.08]* (Bldg.)\_\_\_\_\_
15. Prior to the issuance of building permits, the owner or designee shall pay all applicable development fees in effect at the time, which may include, but are not limited to, Regional Circulation Financing and Phasing Program (RCFPP), park acquisition and development, water and sewer connection, drainage, Public Facility Construction, transportation corridor, Avenida La Pata Supplemental Road Fee and school fees, etc. *[S.C.M.C. – Title 15 Building and Construction, Chapters 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]* (Bldg.)\_\_\_\_\_
16. Prior to issuance of building permits, the owner or designee shall submit a copy of the City Engineer approved soils and geologic report, prepared by a registered geologist and/or soil engineer, which conforms to City standards and all other applicable codes, ordinances, statutes and regulations. The soils report shall accompany the building plans, engineering calculations, and reports. *[S.C.M.C – Title 15 – Chapter 15.08 – Appendix Chapter 1 – Section 106.1.4]* (Bldg.)\_\_\_\_\_
17. Prior to the Building Division's approval to pour foundations, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee

that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the forms for the building foundations conform to the front, side and rear setbacks are in conformance to the approved plans. *[S.C.M.C – Title 15 – Chapter 15.08, Title 17- Chapter 17.24]* (Bldg.)\_\_\_\_\_

18. Prior to the Building Division's approval of the framing inspection, the owner or designee shall submit evidence to the satisfaction of the City Building Official or designee that a registered civil engineer that is licensed to do surveying or land surveyor has certified that the height of all structures are in conformance to the approved plans. *[S.C.M.C – Title 15 – Chapter 15.08, Title 17- Chapter 17.24]* (Bldg.)\_\_\_\_\_
19. Fire sprinkler system required throughout as follows:
- a. All new Group R occupancies, including the attached garages;
  - b. All existing Group R occupancies and U-1 garages when the total floor area is increased by 50% of the existing area over a 2-year period;
  - c. All existing Group R occupancies and U-1 garages when the total area is increased by 750 square feet or more over a 2-year period;
  - d. All existing Group R occupancies and U-1 garages when an additional story is added to the structure regardless of the area involved;
  - e. An automatic sprinkler system shall be installed throughout any existing Group R Occupancy building when the floor area of the alteration or combination of an Addition and Alteration, within any two year period, is 50% or more of area of the existing structure and where the scope of the work exposes building framing and facilitates sprinkler installation and is such that the Building/Fire Code Official determines that the complexity of installing a sprinkler system would be similar as in a new building;
  - f. Any addition to existing building that has fire sprinklers installed.
- [S.C.M.C – Title 15 – Chapter 15.08]* (Bldg.)\_\_\_\_\_
20. Underground utilities required. Overhead wiring shall not be installed outside on private property. All utility services located within any lot to be installed underground if the property is to be developed with a new or relocated main building. *[S.C.M.C – Title 15 – Chapter 15.12-Electrical Code]* (Bldg.)\_\_\_\_\_
21. In the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, prior to the review of grading plans and soils reports, the owner or designee shall deposit a minimum of \$5,000.00 for plan check. *[Citation – Fee Resolution No. 08-81 and Section 15.36 of the SCMC]* (Eng.)\_\_\_\_\_
22. Prior to issuance of the building permit, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, the owner shall pay all applicable development fees, which may include, but are not limited to, City Attorney review, development, water and sewer connection, parks, drainage, grading, RCFPP, transportation corridor, etc.

*[Citation – Fee Resolution No. 08-81& S.C.M.C. Title 15, Building and Construction, Sections 15.52, 15.56, 15.60, 15.64, 15.68, 15.72]* (Eng.)\_\_\_\_\_

23. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for, a soils and geologic report prepared by a registered geologist and/or geotechnical engineer which conforms to City standards and all other applicable codes, ordinances and regulations. *[Citation – Section 15.36 of the SCMC]* (Eng.)\_\_\_\_\_
24. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, the City Engineer shall determine that development of the site shall conform to general recommendations presented in the geotechnical studies, including specifications for site preparation, treatment of cut and fill, soils engineering, and surface and subsurface drainage. *[Citation – Section 15.36 of the SCMC]* (Eng.)\_\_\_\_\_
25. Prior to the issuance of any permits, in the event that Grading Plans are required due to anticipated soil processing placing or recompacting 50 cubic yards of soil or more, the owner or designee shall submit for review, and obtain the approval of the City Engineer, a precise grading plan, prepared by a registered civil engineer, showing all applicable frontage improvements and onsite improvements, including but not limited to, grading, building pad grades, storm drains, sewer system, retaining walls, water system, water quality features, erosion control devices, etc., as required by the City Grading Manual and Ordinance. *[Citation – Section 15.36 of the SCMC]* (Eng.)\_\_\_\_\_
26. Prior to issuance of any permits, the owner or designee shall submit for review, and shall obtain the approval of the City Engineer or designee for frontage improvement plans, prepared by a registered civil engineer. The owner or his designee shall be responsible for the construction of all required frontage and onsite improvements as approved by the City Engineer including but not limited to the following: *[Citation – Section 15.36, 12.08.010, and 12.24.050 of the SCMC]* (Eng.)\_\_\_\_\_
- A. Per City Municipal Code Section 12.08.010 (A), when building permit valuations exceed \$50,000, the owner or designee shall construct sidewalk along the public property frontages. Unless a waiver is approved by the City Manager, this includes construction of compliant sidewalk around drive approach or other obstructions to meet current City standards (2% cross fall) when adequate right-of-way exists. Since there is adequate right-of-way, a sidewalk easement will not be required to be granted to the City for any portion of sidewalk needed to go up and around the drive approach or other obstructions.

- B. In the event that areas of sidewalk or other street improvements are disturbed or damaged during the construction project, the applicants shall be responsible for replacing said sidewalk or other street improvements prior to the finalization of any Engineering or Building Permits.
  - C. An Engineering Department Encroachment Permit shall in place prior to the commencement of any work in the public right-of-way.
27. Prior to issuance of any grading permit, if applicable, the owner shall demonstrate to the satisfaction of the City Engineer that the project meets all requirements of the Orange County National Pollutant Discharge Elimination System (NPDES) Storm Drain Program, and Federal, State, County and City guidelines and regulations, in order to control pollutant run-off. The owner shall submit for review, and shall obtain approval of the City Engineer for, plans for regulation and control of pollutant run-off by using Best Management Practices (BMP's). *[Citation – Section 13.40 of the SCMC]* (Eng.)\_\_\_\_\_
28. Prior to issuance of any grading permits, if applicable, the owner shall provide separate improvement surety, bonds, or irrevocable letters of credit, as determined by the City Engineer for 100% of each estimated improvement cost, as prepared by a registered civil engineer as approved by City Attorney/City Engineer, for the following: grading improvements; frontage improvements; sidewalks; sewer lines; water lines; onsite storm drains; and erosion control. In addition, the owner shall provide separate labor and material surety for 100% of the above estimated improvement costs, as determined by the City Engineer or designee. *[Citation – Section 15.36 of the SCMC]* (Eng.)\_\_\_\_\_
29. Prior to issuance of certificates of occupancy, the owner shall demonstrate to the satisfaction of the City Engineer and City Maintenance Manager or their designees that all frontage improvements have been completed, and accepted and that any damage to new or existing street right-of-way during construction have been repaired/replaced. *[Citation – Title 12 of the SCMC]* (Eng.)\_\_\_\_\_

All Conditions of Approval are standard, unless indicated as follows:

- Denotes modified standard Condition of Approval
- ■ Denotes a project specific Condition of Approval



**City of San Clemente**

Project: MEP17-188, Beauchemin Residence  
Address: 148 W Ave. Cadiz







Z





3



