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June 9, 2016

Honorable Members of the City Council  
City Hall, Room 395  
200 N Spring Street  
Los Angeles, CA 90012

**RE: CF 16-0602 Appeal of Case No. DIR 2015-3546(RAO), Reasonable Accommodation Determination for 530 South Rossmore Avenue, 90020.**

The Director of City Planning, after having received additional information from the Applicant, recommends that the appeal be granted, authorizing a Reasonable Accommodation to make specified improvements to the property in order to make housing available to an individual with a disability.

**Recommendation**

**Grant the Appeal;**

**Grant a Reasonable Accommodation to authorize the following:**

- 1) Construction, use and maintenance of a concrete pathway within the front yard setback;
- 2) Widening of the existing driveway with concrete, and concurrent widening of curb cut, driveway apron and approach;
- 3) Construction, use and maintenance of a new semi-circular driveway, and concurrent new curb cut, driveway apron and approach;
- 4) Construction, use and maintenance of a new northerly parking area;
- 5) Removal of landscaping, including trees and shrubs, within the front yard setback;
- 6) Construction, use and maintenance of a vehicle gate across the southern driveway, within the side yard setback; and
- 7) Parking within the front yard setback;

**Adopt Exhibit "A" Plot Plan and Site Plan;**

**Adopt Exhibit "B" Conditions of Approval;**

**Adopt Exhibit "C" Findings for Approval; and**

**Adopt ENV 2015-3547-CE as the environmental clearance.**

### **Background**

On March 17, 2016, the Director of Planning denied a Reasonable Accommodation request for the construction, use and maintenance of a new semi-circular driveway within the front yard setback and to allow parking within the front yard setback.

The applicant appealed the determination.

Subsequent to the appeal filing, the applicant's representative (mother) met with Planning staff, submitted revised plans and information, and identified additional requests for consideration under the Reasonable Accommodation Ordinance.

On examination of the new materials and revised requests and plans, Planning staff has concluded that the requests can be granted under the Reasonable Accommodation Ordinance.

However, further discussions with the applicant's mother revealed her opposition to the inclusion of the following standard condition:

15. Pursuant to Section 12.22-A,27(f) of the Municipal Code, this Reasonable Accommodation request is granted to an individual (i.e., **Jade Bailey-Wong**) and shall not run with the land, unless upon future request the Director determines that the accommodation granted herein is to be used by another Individual with a Disability as defined by Section 12.22-A,27(b).

NOTE: The right is reserved for the Department of Building and Safety, under its Code enforcement authority, to inspect the subject property for compliance with the requirements of this grant. This accommodation is specifically granted to an Individual with a Disability as required under the Federal Fair Housing Amendments Act of 1988 and California Fair Employment and Housing Act. This action as described in the grant clause does not otherwise permit a deviation from any other zone code regulations or any other provisions of the Municipal Code.

The applicant's mother is concerned that they will be required to bear the financial burden of removing the authorized improvements granted herein upon expiration of the grant.

### **Discussion**

The Reasonable Accommodation Ordinance (Ordinance No. 177,325, effective on March 18, 2006) was incorporated into the Los Angeles Municipal Code (LAMC) for the following purpose (Section 12.22-A,27(a)):

**Purpose.** The purpose of this provision is to establish a formal procedure for an Individual with a Disability seeking equal access to housing to request a reasonable accommodation as provided by the federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act, and to establish criteria to be used when considering these requests. Reasonable accommodation means providing an Individual with a Disability or developers of housing for an Individual with a Disability, flexibility in the application of land use and zoning

regulations or policies (including the modification or waiver of certain requirements), when it is necessary to eliminate barriers to housing opportunities.

Section 12.22-A,27(f) further states:

**Applicability.** If the Director grants the request, the request shall be granted to an individual and shall not run with the land unless the Director determines that (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code or (2) the accommodation is to be used by another Individual with a Disability.

The authority contained within the Reasonable Accommodation Ordinance gives the Director of Planning broad authority to authorize deviations from the requirements and limitations of the Zoning Code. This authority is given to facilitate improvements and modifications to residentially-used properties in order to accommodate the special needs of a person with a disability.

Reasonable Accommodation deviations are not subject to the same findings as otherwise required for identical requests for relief through more typical Zoning Administrator's Determination (Section 12.24-X), Zone Variance (Section 12.27), Zoning Administrator's Adjustment (Section 12.28), or other discretionary processes. Where the standard of review for Reasonable Accommodation is directed toward eliminating barriers to housing for individuals with a disability, the standards of review for typical land use discretionary actions are directed toward compatibility, conformity, and unique circumstance, irrespective of the user.

Also, unlike typical land use entitlements, the deviations granted under a Reasonable Accommodation do not run with the land, but rather with the individual identified as requiring the accommodation. This is to ensure that authorized deviations are only being utilized and maintained for the purpose of accommodating an individual with a disability.

Given the very specific purpose for which Reasonable Accommodation requests are justified, it is not desirable for these deviations to enter into the long-term authorized pattern of development within a community. If Reasonable Accommodation deviations became permanent land-use decisions on par with more typical land-use discretionary actions, those deviations would become a precedent for future development within the local community, and form the basis for similar deviation requests on other properties, ultimately compromising the development standards of the community.

Section 12.22-A,27(f) of the LAMC provides two exceptions to allow certain Reasonable Accommodation-approved improvements to continue, beyond their usefulness to the granted individual with a disability:

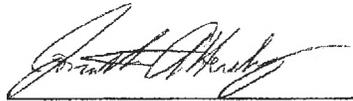
- (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code or
- (2) the accommodation is to be used by another Individual with a Disability.

In the applicant's case, the improvements authorized do not meet the standard of the first exception, and whether the authorization can continue to be utilized under the second exception cannot be known at this time.

Condition No.15, recommended for adoption in conjunction with this appeal action, simply reflects the limitations of this Reasonable Accommodation authorization, as expressed in LAMC Section 12.22-A,27(f). Condition No. 15 is advisory and does not, in itself, impose any new requirement or limitation. Deleting Condition No. 15 would not grant an authorization beyond its usefulness to an individual with a disability. Maintaining this condition of approval puts the owner of the property, both present and future, on notice regarding the status and requirements for the continued utilization of the authorizations granted.

There is no authority contained within the Reasonable Authorization Ordinance to extend the term of the authorization or waive their responsibility to conform to the Zoning Code once the authorization has expired, as sought by the appellant. Should there be a desire to maintain those improvements in a longer-term or more permanent fashion, authorizations would need to be granted through more typical land-use discretionary processes.

As such, the Department of City Planning recommends that Condition No. 15 be retained as proposed.



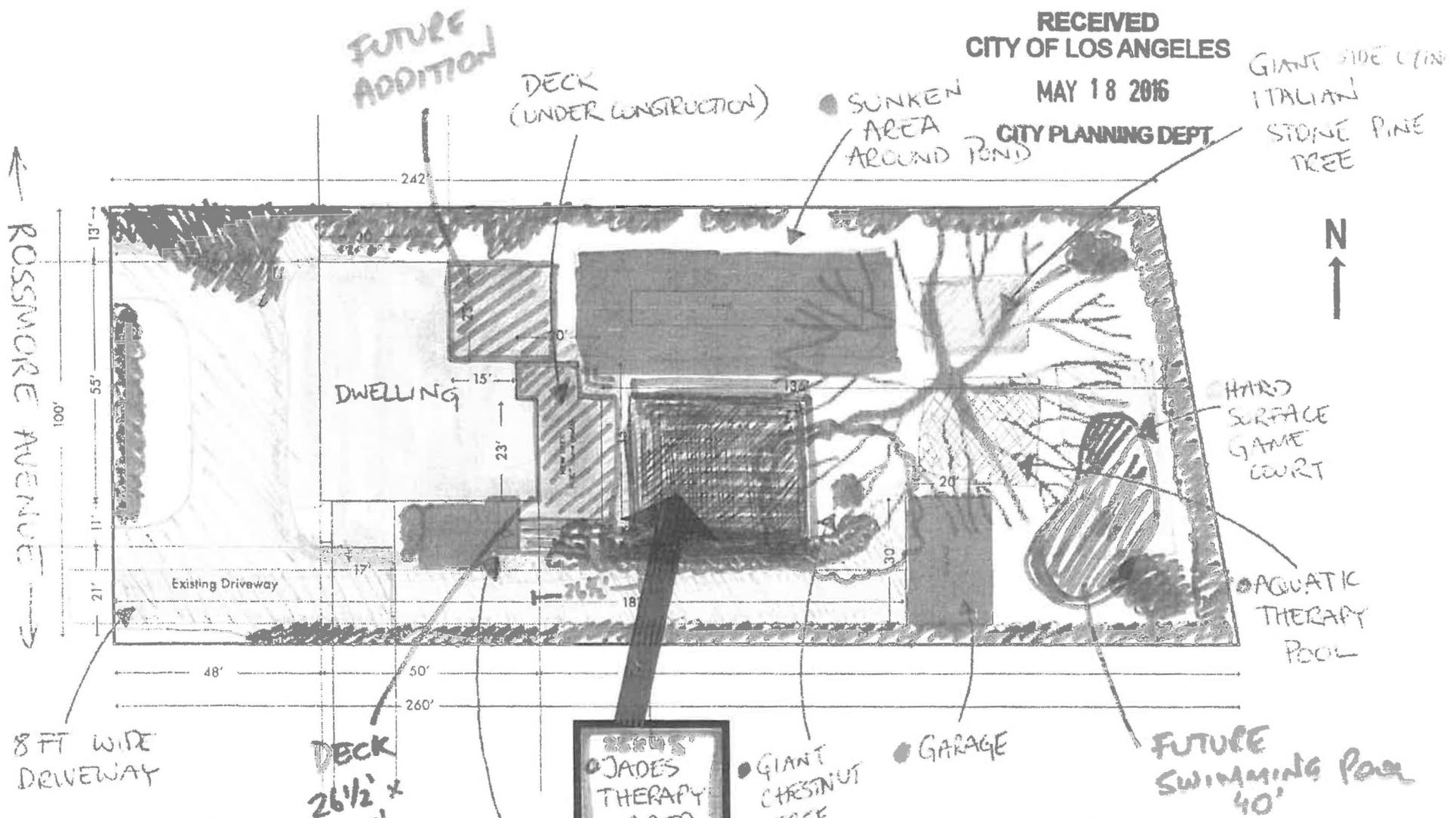
Jonathan A. Hershey, AICP  
Senior City Planner  
Department of City Planning

RECEIVED  
CITY OF LOS ANGELES  
MAY 18 2016  
CITY PLANNING DEPT.

GIANT SIDE LIND  
ITALIAN  
STONE PINE  
TREE

ROSSMORE AVENUE

N  
↑



Site Plan

**EXHIBIT "A"**  
Page No. 1 of 2  
Case No. DER 2015-3546 (RAO) - IA

• JADES  
WHEELCHAIR  
LIFT  
AND ADJACENT  
LOADING AREA

530 S Rossmore Ave,  
Los Angeles 90020

TR 3446 Lot 15  
County Map Reference #M B 37-84  
Assessor Parcel # 5505-015-003

~~EXHIBIT G~~: SITE PLAN SHOWING LAND USE AND  
OBSTRUCTIONS- SPECIFICALLY JADES THERAPY AREA



## EXHIBIT "B"

### Conditions of Approval

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
6. Authorization.
  - a. Widening of the existing 8-foot-wide southern driveway to a width of 12 feet to 16 feet, as generally depicted on Exhibit "A", along with appropriate curb cut, driveway apron and approach within the public right-of-way.
  - b. Construction, use and maintenance of a 12-foot-wide semi-circular driveway within the front yard setback, along with an appropriate second curb cut, driveway apron and approach within the public right-of-way.
  - c. Construction, use and maintenance of a 4-foot-wide concrete ADA-compliant pathway within the front yard.
  - d. Construction, use and maintenance of a two-vehicle parking area in the northeastern corner of the front yard setback.
  - e. Parking of vehicles within the front yard setback.

- f. Installation, use and maintenance of a vehicle gate across the existing southern driveway located within the southern side yard.
    - g. Removal of trees and shrubs along the northern property line, within the front yard, and located easterly of an existing palm tree.
7. Prior to the sign-off of any permits by the Department of City Planning, a scaled and dimensioned site plan shall be submitted, a copy of which is to be forwarded to the case file for retention.
8. The existing southern driveway shall be widened and improved as follows:
  - a. The existing 8-foot-wide driveway width and path shall be maintained, repaired or replaced in the same footprint with poured-in-place concrete, with scoring pattern to match the historic material. Prior to Department of City Planning sign-off of any permit related to the driveway, the applicant shall have a scaled and dimensioned plan detailing the driveway reviewed by staff in the Office of Historic Resources for consistency with the Hancock Park HPOZ.
  - b. Those portions of the southern driveway width which extend beyond the original 8-foot width and path shall be differentiated from the original driveway width and path through color, scoring pattern, and/or paving material.
  - c. Widening of the existing driveway to a width of 12 feet shall occur only along the northerly side of the existing driveway, to the point at which further widening is necessary to accommodate the approach to, and the use and maintenance of, the southern two parking spaces as generally shown on Exhibit "A".
9. The new 12-foot in width semi-circular driveway and the northeastern parking area shall be constructed of decomposed granite or other water-permeable surface.
10. Prior to the issuance of any permits, driveway plans shall be submitted to the Department of Transportation for review and approval.
11. Prior to the issuance of any permits, driveway plans shall be submitted to the Bureau of Engineering, Department of Public Works, for review and approval.
12. All driveway-related construction/improvements within the public right-of-way shall be pursuant to a valid "A" Permit issued by the Bureau of Engineering, Department of Public Works.

13. The vehicle gate, located within the southern side yard setback, shall not exceed 6 feet in height and be of an open, wrought-iron design.
14. Trees and shrubs. Existing trees located within the front yard shall be preserved to the maximum extent practicable. Only those trees and shrubs which obstruct the use and maintenance of the semi-circular driveway and northeastern parking area are authorized to be removed. Under no circumstance is the palm tree to be removed.
15. Pursuant to Section 12.22-A,27(f) of the Municipal Code, this Reasonable Accommodation request is granted to an individual (i.e., **Jade Bailey-Wong**) and shall not run with the land, unless upon future request the Director determines that the accommodation granted herein is to be used by another Individual with a Disability as defined by Section 12.22-A,27(b).

NOTE: The right is reserved for the Department of Building and Safety, under its Code enforcement authority, to inspect the subject property for compliance with the requirements of this grant. This accommodation is specifically granted to an Individual with a Disability as required under the Federal Fair Housing Amendments Act of 1988 and California Fair Employment and Housing Act. This action as described in the grant clause does not otherwise permit a deviation from any other zone code regulations or any other provisions of the Municipal Code.

16. Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Development Services Center, Department of City Planning Public Counter, for attachment to the subject case file.

## EXHIBIT "C"

### Findings

- 1. The housing, which is the subject of the request for reasonable accommodation, will be used by an Individual with a Disability protected under the Acts.**

The applicant is seeking a Director's Determination granting Reasonable Accommodation for an individual with disabilities to allow: 1) the construction of a concrete ADA-pathway within the front yard; 2) the widening of an existing driveway; 3) the construction of a semi-circular front yard driveway; 4) the construction, use and maintenance of a two-vehicle parking area in the northeastern corner of the front yard setback; 5) the removal of some landscaping within the front yard setback; and 6) the installation of a side yard vehicle gate, all without review and approval by the Historic Preservation Overlay Zone Design Review Board, and 7) to allow parking of automobiles within the front yard setback, as otherwise not permitted.

The applicant has submitted documents from her medical caregiver attesting to the needs of the applicant. The document has been deemed confidential by the Office of Zoning Administration. The applicant states that she has suffered injuries that have resulted in a disability. The disability has left her dependent on full-time caregivers and restricts her to a wheelchair.

According to the applicant's mother, there would average between 5 to 6 vehicles on-site, with up to 8 vehicles, comprised of caregiver vehicles and three family cars. The intensity of care needed by the applicant, and the increased parking demand this generates precipitates the Reasonable Accommodation requests. The ADA-pathway is to allow the applicant to access the sidewalk within the Rossmore Avenue public right-of-way. The intent of widening the existing driveway is to accommodate some of the larger special-use vehicles visiting the property to deliver necessary medical supplies. The intent of the semi-circular driveway is to allow for safer vehicle egress from the property – essential because of the increased number of vehicles arriving at and leaving from the property on a daily basis. The small parking area on the northern side of the property is to help facilitate the increased parking demand of caregivers visiting the property on a daily basis. Removal of some front yard landscaping may be necessary to construct and maintain the semi-circular driveway and new parking area. A side yard vehicle gate is intended to provide some concealment and security for expensive accessibility equipment installed alongside the home. Authorizing

parking within the front yard accommodates the additional parking demand for the applicant's various caregivers.

Based on submitted plans, including the use and development of the property as a whole, the requests do seek to address circumstances of the residential property which prohibit or restrict use of the applicant's dwelling. Alternatives to the development and use of the property have been examined, and the proposal provides a viable solution for the needs of the applicant. Without the reasonable accommodations requested herein, the applicant's need for constant care and ability to access the public right of way is severely compromised.

2. **The requested accommodation is necessary to make housing available to an Individual with a Disability protected under the Acts.**

The Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act consider it a[n] act of discrimination against a person with a disability to refuse to permit, at the expense of the person with a disability, reasonable modifications of the existing premises occupied or to be occupied by such person if such modification may be necessary to afford such person full enjoyment of the premises. The Acts further consider it discrimination to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling.

The property is a slightly upward-sloping, rectangular-shaped, interior, approximately 25,088 square-foot parcel of land with a 100-foot frontage on the east side of Rossmore Drive. The property has a generally even width of 100 feet and a 242-foot depth on the northern side and a 260-foot depth on the southern side. The property is developed with a two-story estate-sized home of approximately 3,810 square feet, constructed circa 1923. The dwelling is listed as a contributing structure to the Hancock Park Historic Preservation Overlay Zone. The dwelling observes an approximately 50-foot front yard setback and a 20-foot southern side yard setback. An 8-foot wide driveway is located within the southern setback, leading to a detached garage in the rear portion of the property. The property enjoys a substantial backyard containing a linear fishpond along the northern side of the property and a hard-surface game court to the rear of the garage. Much of the property behind the dwelling and the rear yard is open and unobstructed. Based on submitted information, the rear yard area of the property is presently under construction or intended to be improved with an addition to the home, an outdoor deck, a swimming pool, and an open therapy area.

The applicant is an individual with a disability who resides upon the property. The requested ADA pathway is to provide for a smooth, appropriately graded surface for the applicant to travel from the home to the adjacent sidewalk along Rossmore Avenue. The driveway-widening, semi-circular driveway, parking area, front yard parking, and landscape removal are for the purpose of accommodating frequent caregiver visits to the property. The side yard fence is to provide security and concealment for some accessibility and therapeutic equipment installed alongside the home. The fence and driveway gates located within the front yard of the property, and depicted on Exhibit "A", are not a part of this request or authorization.

The applicant's representative has stated that the grade of the existing driveway is too steep to accommodate safe wheelchair travel. The narrow one-way driveway, in conjunction with the frequent and regular caregiver visits, exacerbate difficulties with vehicles having to back out onto Rossmore Avenue, a fast-paced and well-travelled Collector Street. Due to the applicant's disability, there is a much greater demand for parking on the property from frequent and regular caregiver visits than is typical for a single-family use, or than can be presently provided for on the property. The type of equipment installed alongside the home is expensive and is a target for theft, necessitating the fence for security and concealment.

Alternatives to the proposed improvements have been considered. Scenarios substantially moving needed parking areas and vehicle turn-around to the rear yard area were thoroughly discussed with the applicant, but ultimately determined to be infeasible due to the range of therapeutic and recreational activities to be provided for the applicant.

Therefore, based on the foregoing, the requested accommodation is necessary to make housing available to an Individual with a Disability protected under the Acts.

**3. The requested accommodation would not impose an undue financial or administrative burden on the City.**

The requested accommodations do not require the City to expend any monies, nor does it require the City to create or administer any administrative scheme, other than the present administrative approval. Therefore, approval of the request would not impose an undue financial or administrative burden on the City.

**4. The requested accommodation would not require a fundamental alteration in the nature of the City's land use and zoning program.**

The requested accommodations do not require a fundamental alteration in the nature of the City's land use and zoning regulations, but merely one-time applicant-specific deviations from the provisions of the Zoning Code. Further, approval of the accommodations are conditioned to have a term that runs only with the needs of the person being accommodated, after which the accommodation approval will expire.

#### **ADDITIONAL MANDATORY FINDINGS**

5. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone X, areas determined to be outside the 0.2% annual chance floodplain.
6. On May 26, 2016, the project was issued a Notice of Exemption (Article III, Section 3, City CEQA Guidelines), log reference ENV-2015-3547-CE, for a Categorical Exemption, Class 3, Category 6, City CEQA Guidelines, Article VII, Section 1, State EIR Guidelines, Section 15100, for Accessory Structures. I hereby adopt that action.

