COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
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**CITY OF NEWPORT BEACH**
**ZONING ADMINISTRATOR STAFF REPORT**
November 27, 2013
Agenda Item No. 1:

**SUBJECT:** Mikelson Residence Parcel Map - (PA2013-194)
428 Marigold
- Tentative Parcel Map No. NP2013-026
- County Tentative Parcel Map No. 2013-111

**APPLICANT:** James and Janet Mikelson

**PLANNER:** Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

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## ZONING DISTRICT/GENERAL PLAN

- **Zone:** R-2 (Two-Family Residential)
- **General Plan:** RT (Two-Unit Residential)

## PROJECT SUMMARY

A tentative parcel map application for two-unit condominium purposes. No waivers of Title 19 (Subdivision Code) development standards are proposed with this application. A single-family residence has been demolished and will be replaced with a two-unit duplex under construction that will provide the code required two-car parking per unit. The Parcel Map would allow each unit to be sold individually.

## RECOMMENDATION

1) Conduct a public hearing; and

2) Adopt Draft Zoning Administrator Resolution No. _ approving Tentative Parcel Map No. NP2013-026 (Attachment No. ZA 1).

## DISCUSSION

- A single-family residence was demolished and is being replaced with a new two-unit duplex (approximately 3,348 square feet) that will provide the code required two-car parking per unit.

- Approval of the Tentative Parcel Map will allow each unit to be sold individually.

- The property is designated for two-unit residential use by the General Plan and Zoning Code. The new duplex project is consistent with this designation and a parcel map for condominiums does not change the use.

- The new condominium project will conform to current Newport Beach Municipal Code requirements and meet all Title 19 standards.

- Public improvements will be required of the applicant per the Municipal Code and Subdivision Map Act.

- Park fees for one additional dwelling unit will be assessed prior to recordation of the parcel map.

## ENVIRONMENTAL REVIEW

The project is categorically exempt under Section 15315 of the California Environmental Quality Act (CEQA) Guidelines - Class 15 (Minor Land Divisions).

The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The proposed parcel map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

## PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled hearing, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

## APPEAL PERIOD:

An appeal may be filed with the Director of Community Development within 10 days following the date of action. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200.

Prepared by:

Makana Nova
Assistant Planner
GR/mkn

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|---|---|---|
| Attachments: | ZA 1 | Draft Resolution |
| | ZA 2 | Vicinity Map |
| | ZA 3 | Site Photos |
| | ZA 4 | Parcel Map No. NP2013-026 |
| | | County Tentative Parcel Map No. 2013-111 |

# Attachment No. ZA 1

Draft Resolution

**RESOLUTION NO. ZA2013-0##**

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2013-026 FOR A PARCEL MAP FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 428 MARIGOLD AVENUE (PA2013-194)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by James and Janet Mikelson, with respect to property located at 428 Marigold Avenue, and legally described as Lot 20, Block 440, of the Corona del Mar Tract, requesting approval of a tentative parcel map.

2. The applicant proposes a tentative parcel map for two-unit condominium purposes. No waivers of Title 19 (Subdivision Code) development standards are proposed with this application. A single-family residence has been demolished and will be replaced with a two-unit duplex under construction that will provide the code required two-car parking per unit. The Parcel Map would allow each unit to be sold individually.

3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).

4. The subject property is not located within the coastal zone.

5. A public hearing was held on November 27, 2013, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 15 (Minor Land Divisions).

2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The proposed parcel map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

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SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the proposed Parcel Map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

*A. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

Facts in Support of Finding:

A-1. The proposed Parcel Map is for two-unit residential condominium purposes. A single-family residence was demolished and is being replaced with a new two-unit duplex (3,348 square feet) currently under construction. The proposed subdivision and improvements are consistent with the Two-Unit Residential (R-2) Zoning District and the Two-Unit Residential (RT) General Plan Land Use Designation, which allows a maximum of two residential units on a single lot.

A-2. The subject property is not located within a specific plan.

A-3. The project has been conditioned to require public improvements, including the reconstruction of existing broken or otherwise damaged sidewalks, curbs, and gutters along the Marigold Avenue frontage consistent with Subdivision Code (Title 19).

Finding:

*B. That the site is physically suitable for the type and density of development.*

Facts in Support of Finding:

B-1. The lot is physically suitable for two-unit density and development as the site is relatively flat and has demonstrated it is adequate to accommodate the residential use.

B-2. The subject property is accessible from Marigold Avenue and the alley at the rear and is adequately served by existing utilities.

Finding:

*C. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the*

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*California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

C-1. The site was previously developed with a single-family residence and the applicant will construct a new two-unit duplex, consistent with the land uses permitted in the R-2 (Two Unit Residential) Zoning District.

C-2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.

C-3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 15 (Minor Land Alterations).

Finding:

*D. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Facts in Support of Finding:

D-1. The proposed Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems.

D-2. Public improvements will be required of the developer per Section 19.28.010 (General Improvement Requirements) of the Municipal Code and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act.

D-3. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

*E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

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Facts in Support of Finding:

E-1. There are no existing easements acquired by the public at large for access through, or use of the property. Therefore the Parcel Map will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development.

Finding:

*F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

F-1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.

F-2. The site, developed for residential use, lies in a zone that permits such use.

Finding:

*G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

G-1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code.

G-2. The subject property is not located within a specific plan.

Finding:

*H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Facts in Support of Finding:

H-1. The proposed Parcel Map and any future improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and

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cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

*I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Facts in Support of Finding:

I-1. The proposed Parcel Map is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need. The residential development on the site will add one additional dwelling unit, which is consistent with the R-2 Zoning District that allows for two units. Therefore, the Parcel Map for condominium purposes will help the City in meeting its regional housing need.

Finding:

*J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Facts in Support of Finding:

J-1. The new two-unit duplex will be designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

*K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Facts in Support of Finding:

K-1. The project is not located within the Coastal Zone.

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SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2013-026, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 27th DAY OF NOVEMBER, 2013.**

_____
Brenda Wisneski, AICP, Zoning Administrator

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**EXHIBIT "A"**

CONDITIONS OF APPROVAL

**PLANNING**

1. The Parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**

2. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the Map shall tie the boundary of the Map into the Horizontal Control System established by the County Surveyor in a manner described in Section s 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set on each lot corner, unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.

3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.

4. Prior to recordation of the Parcel Map, park dedication fees for one (1) dwelling unit shall be paid in accordance with Chapter 19.52 (Park Dedications and Fees) of the Newport Beach Municipal Code. This fee shall be paid at the time the Map is submitted to the Public Works Department for plan check.

5. All improvements shall be constructed as required by Ordinance and the Public Works Department.

6. The applicant shall reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb, and gutter along the Marigold Avenue frontage.

7. The applicant shall reconstruct the existing broken and/or otherwise damaged alley adjacent to the project site.

8. The 5-foot rear alley setback shall remain clear of any above ground improvements.

9. Marigold Avenue is part of the City's Moratorium List. Work performed on said roadways will require additional surfacing requirements pursuant to City Standard 10-L-F.

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10. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.

11. The applicant shall install new sod or low groundcovers of the type approved by the City throughout the Marigold Avenue parkway fronting the development site.

12. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic grade box and cover. The water meter and sewer cleanout shall be located within the public-right-of way.

13. An encroachment permit is required for all work activities within the public right-of-way.

14. All improvements shall comply with the City's sight distance requirement pursuant to City Standard 110-L and Municipal Code Section 20.30.130 (Traffic Safety Visibility Area).

15. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector.

16. All on-site drainage shall comply with the latest City Water Quality requirements.

17. All unused water services to be abandoned shall be capped at the main (corporation stop) and all unused sewer laterals to be abandoned shall be capped at the property line.

18. County Sanitation District fees shall be paid prior to the issuance of any building permits.

19. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

20. <u>Prior to the recordation of the Parcel Map</u>, the applicant shall apply for a building permit for description change of the subject project development from "duplex" to "condominium." **The development will not be condominiums until this permit is finaled.** The building permit for the new construction shall not be finaled until after recordation of the Parcel Map.

21. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and

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expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Mikelson Residence Parcel Map including, but not limited to, the NP2013-026 (PA2013-194). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

22. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.

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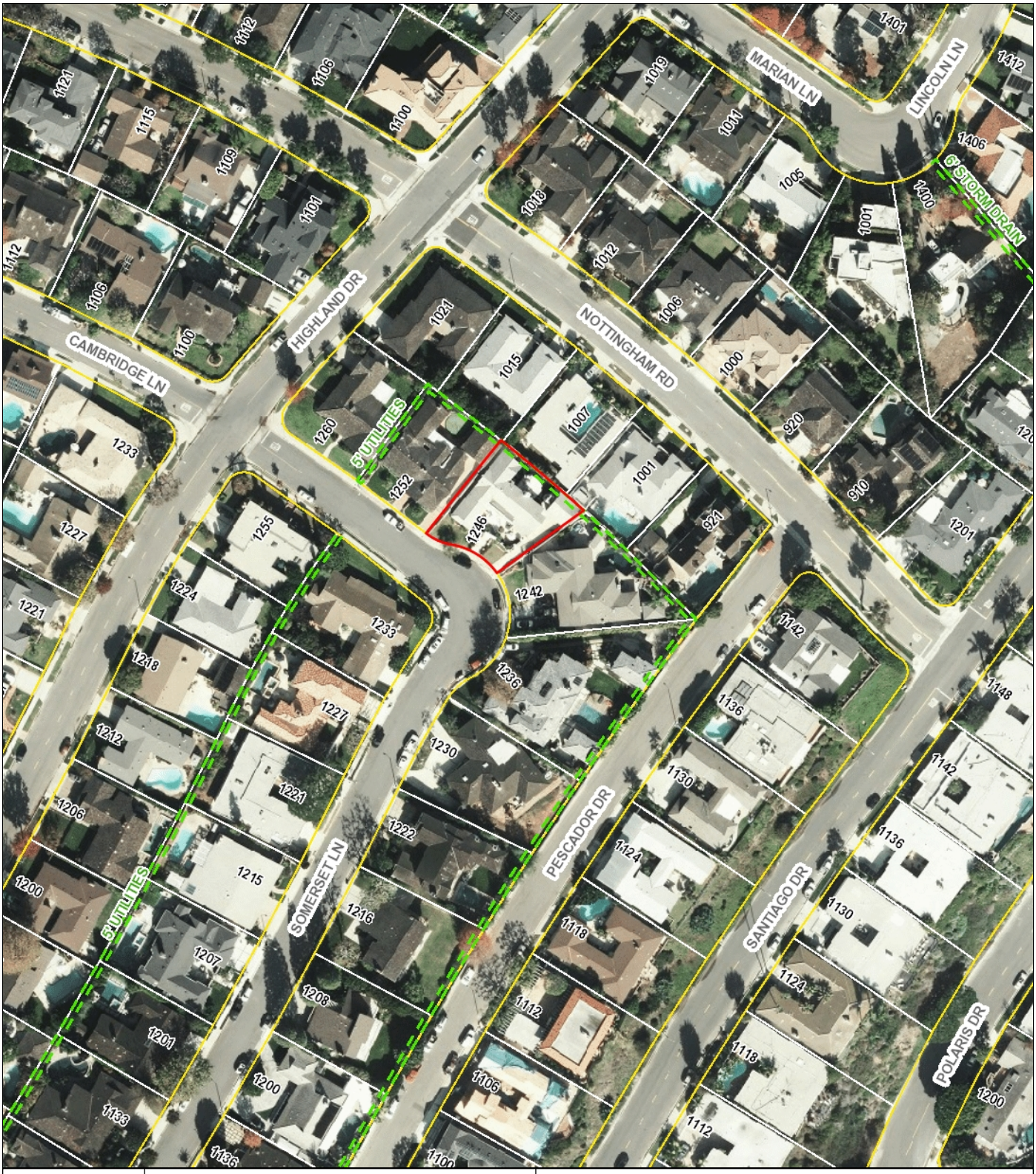
# Attachment No. ZA 2

Vicinity Map




Newport Beach GIS

0 131 262

Feet

Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

Imagery: 2009-2011 photos provided by Eagle Imaging www.eagleaerial.com

11/4/2013

# Attachment No. ZA 3

Site Photos

PATTERSON
428
PATTERSON
949-723-1800

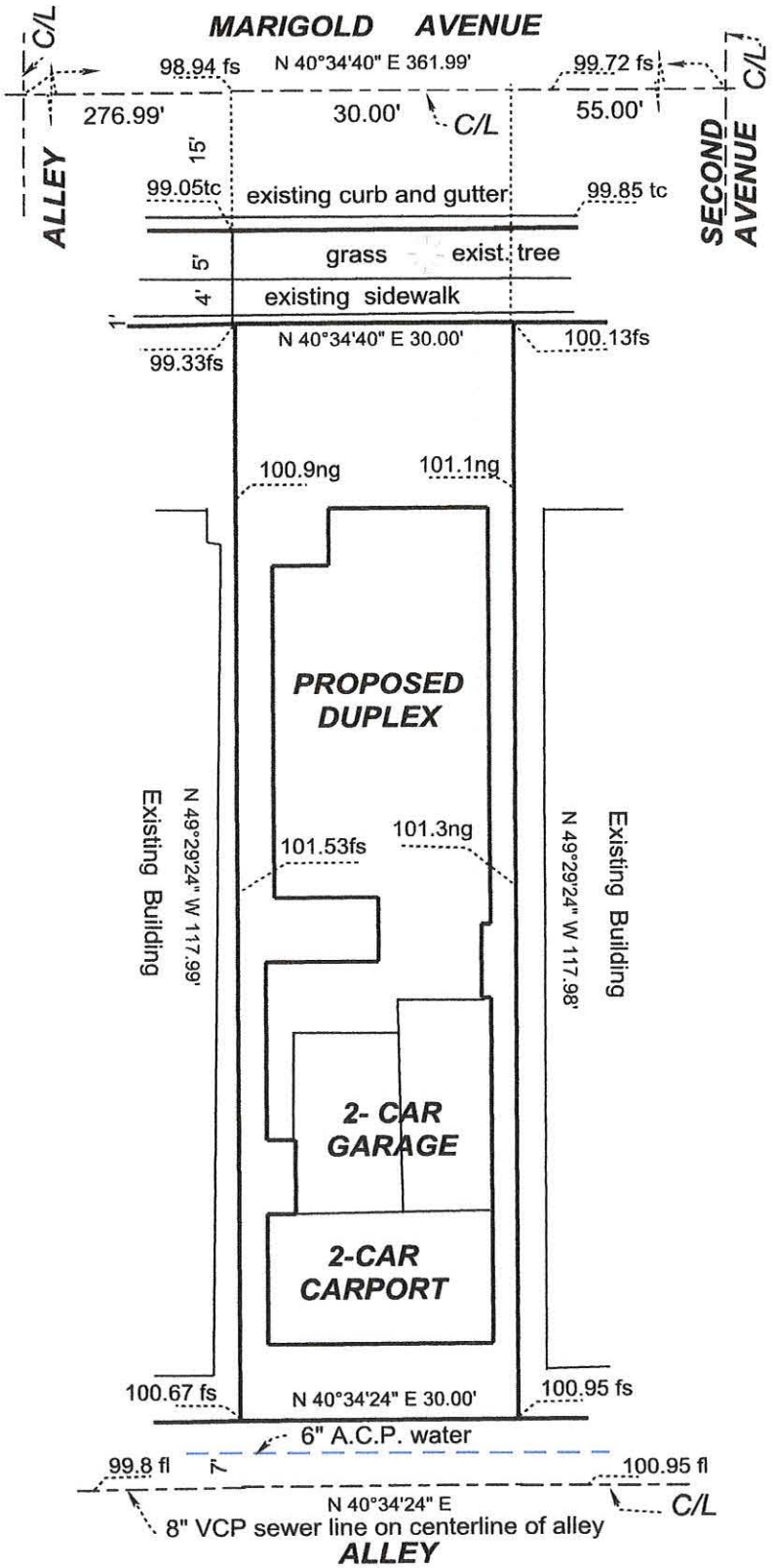
428
PATTERSON

# Attachment No. ZA 4

Parcel Map No. NP2013-026
County Tentative Parcel Map No. 2013-111

# TENTATIVE PARCEL MAP
# 2013-111

FOR CONDOMINIUM PURPOSES
LOT 20 BLOCK 440 CORONA DEL MAR



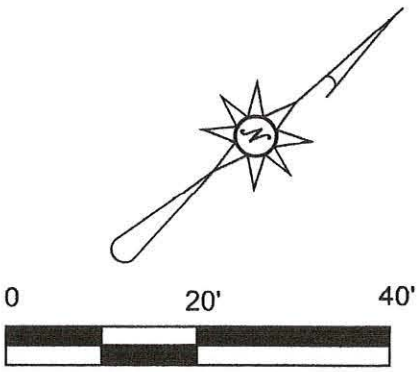

## OWNER-DEVELOPER

Mikelson Family Trust
P O Box 1071
Corona del Mar CA 92625

## SITE ADDRESS

428 Marigold Avenue
Corona del Mar CA 92625

Date of field survey October 22, 2012




Scale 1" = 20'

Prepared by

Leonard C. Stiles PLS 5023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Traverse PC