



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending July 17, 2015

**ZONING ADMINISTRATOR ACTIONS
JULY 16, 2015**

- Item 1: 1114 E. Balboa Boulevard Lot Merger No. LM2015-002 (PA2015-098)
1114 E. Balboa Boulevard
Action: Approved by Resolution No. ZA2015-037 Council District 1
- Item 2: Choco Fruit Minor Use Permit No. UP2015-027 (PA2015-103)
2233 W. Balboa Boulevard, Suite 110
Action: Approved by Resolution No. ZA2015-038 Council District 1
- Item 3: Breakers Lot Line Adjustment No. LA2015-003 (PA2015-105)
3150 and 3200 Breakers Drive
Action: Approved by Resolution No. ZA2015-039 Council District 6
- Item 4: Annie Ko Acupuncture Minor Use Permit No. UP2015-014 (PA2015-051)
200 Newport Center Drive, Suite 203
Action: Approved by Resolution No. ZA2015-040 Council District 5
- Item 5: Smallcakes Cupcakery Minor Use Permit No. UP2015-026 (PA2015-099)
208 Marine Avenue
Action: Approved by Resolution No. ZA2015-041 Council District 5

APPEAL PERIOD: An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2015-037

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2015-002, WAIVING THE PARCEL MAP REQUIREMENT, AND COMBINING THREE PARCELS INTO A SINGLE PARCEL FOR SINGLE FAMILY DEVELOPMENT LOCATED AT 1114 EAST BALBOA BOULEVARD (PA2015-098)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Timothy P. Sullivan, with respect to property located at 1114 East Balboa Boulevard, and legally described as Lots 8 and 9 in Block K of Bay Front Section of the Balboa Tract in Book 69, Page 15 of miscellaneous maps; Lots 8 and 9 in Block 17 of the East Side addition to the Balboa Tract in Book 4, Page 20 of miscellaneous maps; together with that portion of the northeasterly 6.00 feet of Balboa Boulevard vacated by Resolution No. 5037 of the City Council of Newport Beach on June 30, 1959 in Book 4780, Page 77; and that portion of Bay Avenue, 30.00 feet wide, as shown on the map of Bay Front Section of the Balboa Tract recorded in Book 6, Page 15 all within the City of Newport Beach, County of Orange, State of California.
2. The applicant proposes a lot merger and a request to waive the parcel map requirement to combine three parcels including portions of vacated Balboa Boulevard and Bay Avenue into a single parcel under common ownership located on the Balboa Peninsula abutting the bay.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-A).
5. A public hearing was held on July 16, 2015 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 pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 15 (Minor Land Divisions).

2. The Class 15 exemption includes the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) 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 parcel to local standards are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified below.

SECTION 3. REQUIRED FINDINGS.

Merger of Continuous Lots

In accordance with Section 19.12.070.A (Required Findings for Approval) of the City of Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of Title 19.*

Facts in Support of Finding:

1. The subject property was developed as a single site with a single-unit dwelling constructed across the interior property line of Lots 8 and 9 in 1961. Currently there is a permit in process for a remodel to the existing house which requires approval of the lot merger.
2. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions). The proposed merger will protect land owners and surrounding residents, and will preserve the public health, safety, and general welfare of the City.
3. Building alterations and improvements are required to comply with applicable Municipal Code regulations and City policies.

Finding:

- B. *The lots to be merged are under common fee ownership at the time of the merger.*

Facts in Support of Finding:

1. Lots 8 and 9 and the portions of vacated right-of-ways as described in Section 1 of the Resolution are under common fee ownership by Timothy Sullivan.

Finding:

- C. *The lots, as merged, will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. The merged lot will retain the Single-Unit Residential (R-1) zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide for areas appropriate for a detached single-family residential dwelling units located on a single lot.
2. Both of the lots to be combined comply with Zoning Code required Residential Development Regulations (20.18.030) relating to lot area and minimum lot width.
3. The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units. The Coastal Land Use Plan designates this site as Single-Unit Residential Detached (RSD-B) which provides for density ranges from 6.0 - 9.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.

Finding:

- D. *Neither the lots, as merged, nor adjoining parcels, will be deprived of legal access as a result of the merger.*

Facts in Support of Finding:

1. Neither of the merged parcels, nor the adjoining parcels, will be deprived of legal access as a result of the merger. Legal access is provided from the front of the property along East Balboa Boulevard and will remain unchanged.

Finding:

- E. *The lots, as merged, will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots.*

Facts in Support of Finding:

1. The orientation and access to the parcel would remain from East Balboa Boulevard, a public road.

2. Properties on the Balboa Peninsula consist of lots of varying shapes and sizes. Although the proposed lot merger will create a larger lot width, it will not create an excessively large lot in comparison to many of the existing lots.
3. Lots between C Street and F Street along East Balboa Boulevard contain vacated portions of Balboa Boulevard and Bay Avenue but the lots vary in depth due to the shape of the bay. There are similar merged lots within this area with varying widths.

Waiver of Parcel Map

In accordance with Section 19.08.030.A.3 (Waiver of Parcel Map Requirement) of the City of Newport Beach Municipal Code, the Zoning Administrator may approve a waiver of the parcel map requirement in cases where no more than three (3) parcels are eliminated. The following finding and facts in support of such finding are set forth:

Finding:

F. That the proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of Title 19, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. Future improvements on the site will be required to comply with the development standards of the Municipal Code, General Plan, and Coastal Land Use Plan.
2. The proposed lot merger combines the properties into a single parcel of land and does not result in the elimination of more than three (3) parcels.
3. Approval of the proposed lot merger would remove the existing interior lot line, and allow the property to be used as a single site. The lot merger in and of itself would not change the land use, density, and intensity. The proposed merged parcel would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, General Plan, and Coastal Land Use Plan.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2015-002 (PA2015-098), 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 ten (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 16th DAY OF JULY, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

PLANNING

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
3. Prior to the issuance of final building permits for construction of the remodel, recordation of the lot merger documents with the County Recorder shall be required.
4. Lot Merger No. LM2015-002 shall expire unless exercised within twenty-four (24) months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
5. 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 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 1114 E. Balboa Boulevard Lot Merger including, but not limited to, Lot Merger No. LM2015-002 (PA2015-098). 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

RESOLUTION NO. ZA2015-038

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING USE PERMIT NO. UP2015-027 FOR A TAKE-OUT SERVICE LIMITED, EATING AND DRINKING ESTABLISHMENT LOCATED AT 2233 WEST BALBOA BOULEVARD, SUITE 110 (PA2015-103)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Albasha, LLC dba Choco Fruit, with respect to property located at 2233 West Balboa Boulevard, Suite 110, and legally described as Lot 9, 10, 11, 12, 13, 14 and 15, in Block 22 of Newport Beach, as shown on map recorded in Book 3, Page 26, Miscellaneous Maps, Records of Orange County requesting approval of a minor use permit.
2. The applicant proposes a minor use permit to allow the operation of a take-out service limited, eating and drinking establishment with six seats in an existing mixed-use building. No late hours (after 11:00 p.m.) or alcohol service are proposed as part of this application.
3. The subject property is located within the MU-W2 (Mixed-Use Water Related) Zoning District and the General Plan Land Use Element category is MU-W2 (Mixed-Use Water Related).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is MU-W (Mixed-Use Water Related).
5. A public hearing was held on July 16, 2015, in the City Hall Council Chambers, 100 Civic Center Drive, Newport Beach, California. 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 pursuant to Section 15301 of the State CEQA (California Environmental Quality Act) Guidelines under Class 1 – (Existing Facilities).
2. This exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves alterations to the interior floor plan of an existing commercial space with no expansion in use.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The General Plan designates the site as MU-W2 (Mixed-Use Water-Related) which applies to properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors.
2. The proposed establishment is a commercial use intended to serve nearby residents, the surrounding community, and visitors to the City of Newport Beach and is consistent with the MU-W2 land use designation.
3. A variety of small eating and drinking establishments exist within the multi-tenant building and the proposed take-out service would be complementary to the surrounding commercial and residential uses.
4. The subject property is not part of a specific plan area.

Finding:

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. The property is located in the Mixed-Use Water Related (MU-W2) Zoning District. The proposed establishment, which includes kitchen facilities, six seats, no alcohol service, and no late hours, is a permitted use subject to the approval of a minor use permit pursuant to Newport Beach Municipal Code Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements).
2. The property is nonconforming due to a deficiency in on-site parking for the nonresidential uses. Six parking spaces are provided on-site, where, based on a retail parking ratio of one space per 250 square feet, a total of 42 spaces ($10,400/250 = 41.6$) are required. The residential units each provide a two-car garage, consistent with the Zoning Code.

3. Pursuant to Municipal Code Section 20.38.060 (Nonconforming Parking), a nonconforming use in a nonresidential zoning district may be changed to a new use allowed in that zoning district without providing additional parking, provided no intensification or enlargement (e.g., increase in floor area) occurs, and the new use requires a parking rate of no more than one space per 250 square feet of gross building area. In this case, the parking requirement for a take-out service limited, eating and drinking establishment is one space per 250 square feet of gross building area and no intensification or enlargement is proposed. Therefore, no additional parking is required and the proposed project is compliant.
4. As conditioned, the proposed establishment will comply with Zoning Code standards for eating and drinking establishments, including those specific to the take-out service limited use classification which includes a maximum of six seats.

Finding:

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The location of the proposed take-out service use is appropriate given the establishment will be accessible from 23rd Street, West Balboa Boulevard and two alleys, which provides convenient access to motorists, pedestrians, and bicyclists.
2. The mixed-use building contains various retail, and visitor-serving commercial uses including small eating and drinking establishments. The proposed establishment is compatible with the existing and allowed uses within the area.
3. As conditioned, the allowed hours of operation will be 7:00 a.m. to 11:00 p.m. daily, which will minimize any disturbance to residences residing near the property.
4. The existing trash storage area at the rear of the property is adequate to accommodate the proposed food service use and is conveniently located where materials can be deposited and collected, and does not impede with the parking spaces.

Finding:

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. The existing parking lot provides adequate circulation and parking spaces for patrons.

2. The site has been reviewed by the Fire Department to ensure adequate public and emergency vehicle access is provided.
3. Proposed site improvements will comply with the Zoning Code and all Building, Public Works, and Fire Codes.

Finding:

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The restrictions on seating will prevent adverse traffic impacts for the surrounding residential and commercial uses.
3. The proposed food service, eating and drinking establishment will help revitalize the project site and provide an economic opportunity for the property owner to update the tenant space, and provide additional services to the residents and visitors alike.
4. The applicant is required to obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2015-027, 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 fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF JULY, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan and floor plans stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
3. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
4. 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.
5. The hours of operation for the establishment shall be limited to 7:00 a.m. through 11:00 p.m., daily.
6. The sale of alcohol shall not be permitted.
7. The maximum number of seats allowed within the eating and drinking establishment shall be six (6). No outdoor seating is permitted unless an amendment to this Minor Use Permit is acquired.
8. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new Use Permit.
9. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
10. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
11. No outside paging system shall be utilized in conjunction with this establishment.

12. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
13. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
14. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
15. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
16. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Director of Community Development, and may require an amendment to this Minor Use Permit. All deliveries shall be done onsite in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
17. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
18. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permit.
19. 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.
20. 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 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 Choco Fruit including, but not limited to, UP2015-027 (PA2015-103). 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.

RESOLUTION NO. ZA2015-039

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2015-003 TO ADJUST THE BOUNDARIES OF PARCELS LOCATED AT 3150 AND 3200 BREAKERS DRIVE (PA2015-105)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Apex Land Surveying, Inc. on behalf of the property owners, with respect to properties located at 3150 and 3200 Breakers Drive, and legally described as Lot 10 and Lot 11, respectively, of Tract No. 1026, in the City of Newport Beach, County of Orange, State of California, as per Map filed in Book 12, Page 35 of Record of Surveys, in the office of the County Recorder of said County, being a re-survey of said Tract No. 1026 showing corrections of bearings and distances, requesting approval of a lot line adjustment.
2. The applicant proposes to relocate a portion of the interior lot line between 3150 and 3200 Breakers Drive where an existing spa encroaches approximately two feet over the property line. The proposed adjustment would place the interior lot line around the existing spa such that it no longer crosses a property line and will be entirely on 3200 Breakers Drive (Parcel 1). The area of adjustment is 48 square feet (4 feet by 12 feet). The minor boundary adjustment will have no impact on access to or use of the affected properties.
3. The subject properties are located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject properties are located within the Coastal Zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-A).
5. A public hearing was held on July 16, 2015, 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. The project has been reviewed, and qualifies for a Class 5 (Minor Alterations in Land Use Limitations) categorical exemption pursuant to Title 14 of the California Code of Regulations (Section 15305, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act).
2. The Class 5 exemption consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in

land use or density, including but not limited to minor lot line adjustments not resulting in the creation of any new parcel. The proposed lot line adjustment will not change the number of existing parcels, will not result in any change in use or density, and is consistent with all of the requirements of the Class 5 exemption.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.76.020 (Procedures for Lot Line Adjustments) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *Approval of the lot line adjustment will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot line adjustment is consistent with the legislative intent of this title.*

Facts in Support of Finding:

1. The proposed lot line adjustment will not change the single-unit residential use of the lots affected, and will maintain consistency with the General Plan Land Use Designation, Single-Unit Residential Detached (RS-D), which is intended for detached single-family residential dwelling units on a single lot.
2. The proposed lot line adjustment is consistent with the purpose identified in Chapter 19.76 (Lot Line Adjustments) of the Newport Beach Municipal Code. The lot line adjustment constitutes a minor boundary adjustment involving two (2) adjacent lots where the land taken from one (1) lot is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment.
3. The subdivision does not affect open space areas in the City, does not negatively impact surrounding land owners in as much as it affects an interior lot line between two (2) adjacent lots, and will not in itself be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.
4. Public improvements and infrastructure currently exist within the neighborhood and the lot line adjustment will not result in the need for additional improvements and/or facilities.

Finding:

- B. *The number of parcels resulting from the lot line adjustment remains the same as before the lot line adjustment.*

Facts in Support of Finding:

1. The proposed lot line adjustment will shift the interior lot line between two (2) adjacent legal lots, taking land from Parcel 2 and adding to Parcel 1. No additional lots will result from the adjustment and the number remains the same as before the lot line adjustment.

Finding:

- C. *The lot line adjustment is consistent with applicable zoning regulations except that nothing herein shall prohibit the approval of a lot line adjustment as long as none of the resultant parcels is more nonconforming as to lot width, depth and area than the parcels that existed prior to the lot line adjustment.*

Facts in Support of Finding:

1. The proposed parcels conform with the development pattern in the area which consists of lots with varying widths. The original subdivision of the subject parcels (Tract Map No. 1026, dated April 7, 1938) created lots that were approximately 50 feet wide. The minor adjustment to the interior lot line will not affect the overall widths of either parcel.
2. The depth of the resultant parcels will remain the same as the parcels that existed prior to the lot line adjustment.
3. Setbacks applicable to properties in the R-1 Zoning District shall continue to apply to the adjusted parcels in the same way that they applied to the previous parcel configuration.
4. The proposed parcels will comply with all applicable regulations of the Zoning Code and there will be no change in allowed land uses, density, or intensity on the properties.

Finding:

- D. *Neither the lots as adjusted nor adjoining parcels will be deprived of legal access as a result of the lot line adjustment.*

Facts in Support of Finding:

1. Legal access to the subject properties from Breakers Drive will not be affected by the lot line adjustment.

Finding:

- E. *That the final configuration of the parcels involved will not result in the loss of direct vehicular access from an adjacent alley for any of the parcels that are included in the lot line adjustment.*

Facts in Support of Finding:

1. The final configuration of the parcels involved will not result in the loss of direct vehicular access from any street for either parcel. Vehicular access to both parcels is taken from Breakers Drive and the final configuration will not change this.
2. There are no alleys located within or near the subject parcels.

Finding:

- F. That the final configuration of a reoriented lot does not result in any reduction of the street side setbacks as currently exist adjacent to a front yard of any adjacent key, unless such reduction is accomplished through a zone change to establish appropriate street side setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street side setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.*

Facts in Support of Finding:

1. The final configuration of the parcels will not result in a requirement for revised setbacks since the lots are not proposed to be reoriented. Therefore, the lot line adjustment does not result in the reduction of any existing setbacks.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2015-003 (PA2015-105), 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 ten (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 16TH DAY OF JULY, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. 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 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 Breakers Lot Line Adjustment including, but not limited to, Lot Line Adjustment No. LA2015-003 (PA2015-105). 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.
3. This approval shall expire and become void unless exercised within twenty-four (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.

RESOLUTION NO. ZA2015-040

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2015-014 FOR AN ACUPUNCTURE AND NATURAL HEALING OFFICE (PERSONAL SERVICES, RESTRICTED USE) LOCATED AT 200 NEWPORT CENTER DRIVE, SUITE 203 (PA2015-051)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Yumui Ko, with respect to property located at 200 Newport Center Drive, Suite 203, and legally described as Parcel 3, in the City of Newport Beach, County of Orange, State of California, as shown on that certain Lot Line Adjustment No. 94-16, recorded February 2, 1995, as Instrument No. 95-0046155, Official Records, requesting approval of a minor use permit.
2. The applicant proposes to establish an acupuncture and natural healing office (Personal Services, Restricted use). The tenant space is approximately 600 square feet in area and will include three treatment rooms, a consultation office, and a reception/waiting area. No tenant improvements are proposed as part of the project.
3. The subject property is located within the Office Regional Commercial (OR) Zoning District and the General Plan Land Use Element category is Regional Commercial Office (CO-R).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on July 16, 2015, 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 pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).
2. This Class 1 exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves the conversion of a vacant office space to an acupuncture and natural healing office and does not involve any alterations to the existing floor plan.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The property is designated Commercial Office Regional (CO-R) within the Land Use Element of the General Plan which is intended to provide for administrative and professional offices that serve local and regional markets, with accessory limited retail, financial, service, and entertainment uses.
2. The proposed acupuncture and natural healing office is consistent with the CO-R designation as it will provide a service that will support the many office uses within the area.
3. The property is not located in a specific plan area.

Finding:

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. The property is located within the Office Regional Commercial (OR) Zoning District which is intended to provide for areas appropriate for administrative and professional offices that serve local and regional markets, with accessory limited retail, financial, service, and entertainment uses.
2. The use of the tenant space will be for an acupuncture and natural healing office. Pursuant to Zoning Code Chapter 20.70 (Definitions), acupuncture and similar natural healing methods are classified as a Personal Services, Restricted land use which may be permitted within the OR Zoning District subject to the approval of a minor use permit.
3. The parking requirement for a Personal Services, Restricted use is the same as the standard required of an office use (1 space per 250 square feet). Therefore, the proposed conversion of a vacant office space to an acupuncture and natural healing office does not result in an intensification of use and no additional parking is required.

4. As conditioned, the proposed use will comply with all other applicable provisions of the Zoning Code and Municipal Code.

Finding:

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The proposed use will occupy an approximately 600-square-foot tenant space on the second floor of an existing two-story office building. The operation will consist of three (3) treatment rooms offering a combination of acupuncture and natural healing services.
2. The project site and surrounding area consist of a mixture of nonresidential uses including office, auto services, personal services general, retail, and eating and drinking establishments which serve residents and visitors to the City of Newport Beach. The proposed acupuncture and natural healing office will provide a service that supports the various office uses within the area.
3. The proposed use will not require the provision of additional parking onsite.
4. As conditioned, the allowed hours of operation are 9:00 a.m. to 6:00 p.m., daily, limiting any potential late night/early morning land use conflicts with nearby properties.

Finding:

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. The existing two-story office building and surface parking lot were constructed in 1974 and have since demonstrated that the current configuration with access taken from Anacapa Drive is physically suitable to accommodate multiple uses.
2. Adequate public and emergency vehicle access, public services, and utilities are provided on the property and the proposed day spa will not change this.

Finding:

- E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The use is intended to serve employees of the surrounding commercial center as well as residents and visitors to the City of Newport Beach.
2. The use has been conditioned with a limitation on the hours of operation which will help minimize any potential detriment to the area.
3. As conditioned the applicant is required to obtain all applicable permits from the City's Building Division and Fire Department.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2015-014, 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 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF JULY, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****Planning Division**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
5. The hours of operation shall be limited to between 9:00 a.m. and 6:00 p.m., daily.
6. This approval does not authorize the operation of a massage establishment as defined by Chapter 20.70 (Definitions) of the Zoning Code.
7. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review and may require an amendment to this Minor Use Permit or the processing of a new Minor Use Permit.
8. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
9. 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.
10. 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 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 Annie Ko Acupuncture MUP including, but not limited to, the Minor Use Permit No. UP2015-014 (PA2015-051). 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.

Building Division

11. 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. Any construction plans must meet all applicable State Disabilities Access requirements.

RESOLUTION NO. ZA2015-041

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2015-026 FOR A TAKE-OUT SERVICE, LIMITED EATING AND DRINKING ESTABLISHMENT LOCATED AT 208 MARINE AVENUE (PA2015-099)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John Hartwig, with respect to property located at 208 Marine Avenue, and legally described as Lot 5 in Block 11, Section 4, Balboa Island, in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 7, Page 37, of Miscellaneous Maps, Records of said County, requesting approval of a minor use permit.
2. The applicant proposes a take-out service, limited eating and drinking establishment. The operation will be split between two buildings with the one-story front building serving as a retail storefront for the baked goods and the first floor of the rear building serving as a commercial kitchen to prepare the baked goods for sale. The front retail storefront will maintain a maximum of six seats. Late hours (after 11:00 p.m.) are not proposed as part of this application
3. The subject property is located within the Mixed-Use Water Related (MU-W2) Zoning District and the General Plan Land Use Element category is Mixed-Use Water Related (MU-W2).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Water Related (MU-W).
5. A public hearing was held on July 16, 2015, 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 pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 – Existing Facilities.
2. The Class 1 exemption includes minor alterations to existing facilities involving negligible expansion of use. The change of use from commercial office/storage and retail sales to a

take-out service, limited eating and drinking establishment is a negligible expansion of use.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The project site is designated as Mixed-Use Water Related (MU-W2) by the Land Use Element of the General Plan, which is intended to provide for commercial development near the bay while integrating residential development on the upper floors. The proposed project is consistent with the MU-W2 designation inasmuch as it is a commercial use on the ground floor that will provide a service to residents and visitors in the area.
2. Eating and drinking establishment uses are prevalent in the vicinity along Marine Avenue and are frequented by both visitors and residents. As conditioned, the establishment will be compatible with the land uses allowed within the surrounding neighborhood.
3. The subject property is not part of a specific plan area.

Finding:

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. The subject property is located in the MU-W2 Zoning District, which is intended to provide for commercial development near the bay while integrating residential development on the upper floors. The proposed project is consistent with the intent of this district as it will maintain the residential unit above while utilizing two ground floor tenant spaces as a commercial use which will provide a service to residents and visitors in the area.
2. A take-out service, limited eating and drinking establishment use is allowed with the approval of a minor use permit pursuant to Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements) of the Zoning Code.

3. Pursuant to Zoning Code Section 20.40.040 (Off-Street Parking Spaces Required), take-out service, limited eating and drinking establishment uses require one parking space per 250 square feet of gross floor area. The parking is nonconforming as the site does not provide any off-street parking; however, the change of use from commercial office/storage and retail sales does not increase the parking requirement.

Finding:

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The proposed project is located within a mixed-use zoning district with residential and commercial uses nearby. The operational characteristics are that of a take-out service, limited eating and drinking establishment and not of a bar, or nightclub.
2. The combined gross floor area of the two ground floor spaces proposed to be used for the operation is approximately 1,071 square feet. The proposed seating area is approximately 120 square feet in area.
3. As conditioned, the retail hours of operation will be from 9:00 a.m. to 9:00 p.m., Sunday through Thursday, and 9:00 a.m. to 10:00 p.m., Friday and Saturday.
4. As proposed and conditioned, there will be no sales and/or service of alcoholic beverages.
5. The surrounding area along Marine Avenue contains various commercial uses including restaurants and retail sales. The proposed establishment is compatible with the existing and allowed uses within the neighborhood.

Finding:

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. The subject lot is 30 feet by 75 feet (2,250 square feet in area) and was developed in the 1940s with two commercial tenant spaces on the ground floor fronting Marine Avenue and a two-story, two-unit residential structure at the rear. Since its original development, the ground floor residential unit has been converted to a commercial tenant space.
2. The subject lot is fronting a public street and also has alley access. The existing building has functioned effectively with the current configuration.

Finding:

- E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The restrictions on number of seats and stand-up counter space will help prevent adverse traffic impacts for the surrounding residential and commercial uses. Patrons who are nearby residents or visitors to the area will likely walk or ride a bicycle to the subject site.
2. As conditioned, the hours of operation will end no later than 10:00 p.m., which will help to eliminate any late-night noise impacts on the neighboring residential uses.
3. The proposed use will provide an economic opportunity for the property owner and provide additional services for the residents and visitors in the surrounding area who patronize the commercial uses on Marine Avenue.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2015-026, 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 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF JULY, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT “A”

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved floor plans stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
5. All baking and preparation work shall commence no earlier than 7:00 a.m., daily.
6. The retail hours of operation shall be limited to between the hours of 9:00 a.m. and 9:00 p.m., Sunday through Thursday, and 9:00 a.m. to 10:00 p.m., Friday and Saturday.
7. The total number of seats and/or stand-up counter space or any combination thereof shall be limited to six (6).
8. The rear commercial unit shall only be used for baking and preparation and shall not contain any seats for use by patrons of the establishment.
9. There shall be no sales and/or service of alcohol permitted unless a new use permit is approved.
10. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review by the Planning Division and may require an amendment to this Minor Use Permit or the processing of a new use permit.
11. A copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.

12. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Minor Use Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Minor Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
13. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
14. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts the hours of noise-generating construction activities that produce noise between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
15. No outside paging system shall be utilized in conjunction with this establishment.
16. All trash shall be stored within the building or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
17. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
18. The applicant shall ensure that the trash receptacles are maintained to control odors.
19. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
20. Storage outside of the building in the front or at the rear of the property shall be prohibited.
21. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permit.
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.

23. 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 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 Smallcakes Cupcakery MUP including, but not limited to, Minor Use Permit No. UP2015-026 (PA2015-099). 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.

Building Division

24. 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.

Public Works

25. New and existing sewer laterals shall have a cleanout installed per City Standard STD-406-L.
26. New and existing commercial water meter(s) shall be protected by a City approved reduced pressure backflow assembly and installed per City Standard STD-520-L-A.
27. New and existing fire services, when required by the Fire Department, shall be protected by a City approved double check detector assembly and installed per City Standard STD-517-L.
28. The applicant shall be responsible for all upgrades to the City's utilities as required to fulfill the project's demand as applicable.