



**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 May 27, 2016

**ZONING ADMINISTRATOR ACTIONS
MAY 26, 2016**

- Item 1: 15 Hermitage Lane Lot Line Adjustment No. LA2015-007 (PA2015-222)
Site Address: 15 Hermitage Lane and 1 Big Canyon Drive
Action: Approved by Resolution No. ZA2016-030 Council District 5
- Item 2: 1930 Port Ramsgate Place Modification Permit No. MD2016-006 (PA2016-052)
Site Address: 1930 Port Ramsgate Place
Action: Approved by Resolution No. ZA2016-031 Council District 5
- Item 3: 712 Heliotrope Avenue Tentative Parcel Map No. NP2016-008 (PA2016-054)
Site Address: 712 Heliotrope Avenue
Action: Approved by Resolution No. ZA2016-032 Council District 6
- Item 4: 302 Marguerite Avenue Tentative Parcel Map No. NP2016-007 (PA2016-055)
Site Address: 302 Marguerite Avenue
Action: Approved by Resolution No. ZA2016-033 Council District 6

Item 5: Annual Review of Development Agreement for North Newport Center (PA2009-023)
Site Address: Sub-areas of Fashion Island; Block 100, Block 400, Block 500,
Block 600, and Block 800 of Newport Center Drive; and San Joaquin Plaza

Action: *Item Continued to June 16, 2016 ZA Hearing* 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. ZA2016-030

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2015-007 TO ADJUST THE BOUNDARIES OF PARCELS LOCATED AT 1 BIG CANYON DRIVE AND 15 HERMITAGE LANE (PA2015-222)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Stephen and Cherie Batcheller, property owners, with respect to property located at 1 Big Canyon Drive and 15 Hermitage Lane, and legally described as a portion of Block 55, 56, 92 and 93 of Irvine's Subdivision and Lot 85 of Tract No. 7223, respectively, requesting approval of a lot line adjustment.
2. The applicant proposes to adjust the boundary between two (2) contiguous parcels located in the Big Canyon Planned Community (PC 8). Land taken from 1 Big Canyon Drive will be reallocated to 15 Hermitage Lane. There will be no change in the number of parcels.
3. The property at 1 Big Canyon Drive is the golf course area of the Big Canyon Planned Community (PC 8) Zoning District and the General Plan Land Use Element category is Parks and Recreation (PR). The property at 15 Hermitage Lane is located within Low Density Residential Area 12 of the PC 8 Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject properties are not located within the coastal zone.
5. A public hearing was held on May 26, 2016, 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.

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 boundary adjustment will not change the existing use of either property affected. The General Plan Land Use Designation Single-Unit Residential Detached (RS-D), which is intended for detached single-unit residential dwelling units, will be maintained for the Hermitage Lane parcel. The Parks and Recreation designation, which applies to active public or private recreational uses, including golf courses, will be maintained for the Big Canyon Drive parcel.
2. The proposed boundary adjustment will not result in a development pattern that is inconsistent with the surrounding neighborhood. The Hermitage Lane parcel will continue to allow for single-unit development consistent with applicable General Plan Land Use and zoning designation. The proposed Big Canyon Drive parcel will remain a golf course and development will continue to be consistent with limits specified by the General Plan and zoning designation.
3. The proposed boundary 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 land taken from one lot is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment.
4. The subdivision is consistent with the General Plan, does not affect open space areas in the City, does not negatively impact surrounding land owners, and will not in itself be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood, because the adjustment affects an interior property line between two (2) adjacent parcels.

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 boundary adjustment will shift the property line between two (2) adjacent parcels to the north. The number of parcels remain 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 Hermitage Lane property is located within Low Density Residential Area 12 of the Big Canyon Planned Community (PC 8) Zoning District, which is intended to provide for detached single-unit dwellings. The golf course is located in an area of the PC 8 Zoning District, which is intended for a golf course. The proposed lot line adjustment will not change the existing use of the parcels affected.
2. The proposed boundary adjustment will shift the property line between parcels 1.51 feet to the north, reallocating 181 square feet of land from 1 Big Canyon Drive to 15 Hermitage Lane.
3. The proposed Hermitage Lane parcel will continue to exceed the minimum site area requirement of the Big Canyon Planned Community development regulations. Lots in Area 12 are required to provide a minimum lot area of 8,000 square feet. In this case, the proposed Hermitage Lane parcel is compliant in size with an area of 13,510 square feet.
4. The proposed parcels comply with all applicable lot size regulations of the Big Canyon Planned Community Development Plan and will not result in a 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. The proposed boundary adjustment affects the property line between two (2) adjacent parcels. Legal access to the subject properties from Big Canyon Drive, Jamboree Road, and Hermitage Lane are not 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. Vehicular access to the existing properties is taken from Big Canyon Drive, Jamboree Road, and Hermitage Lane, and the final configuration will not change.

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 proposed parcels does not result in a requirement for revised setbacks since the parcels are not proposed to be reoriented. The required setbacks applicable to parcels in the PC 8 Zoning District shall continue to apply to the adjusted parcels per the Planned Community Development Plan.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2015-007, 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 or call for review 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 26TH DAY OF MAY, 2016.

BY:



Patrick J. Alford, 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. 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.
3. Prior to recordation of the lot line adjustment, the applicant shall submit the Lot Line Adjustment exhibits to the Public Works Department for final review.
4. Prior to recordation of the lot line adjustment, the applicant shall obtain a building permit to remove the existing wood deck crossing the property line.
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 15 Hermitage Lane Lot Line Adjustment including, but not limited to, LA2015-007 (PA2015-222). 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. ZA2016-031

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2016-006 FOR A TEN PERCENT ENCROACHMENT INTO THE FRONT SETBACK FOR AN ADDITION TO A SINGLE-FAMILY RESIDENCE LOCATED AT 1930 PORT RAMSGATE PLACE (PA2016-052)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Dewain and Jenny Campbell, with respect to property located at 1930 Port Ramsgate Place, and legally described as Lot 64 in Tract 6624 requesting approval of a modification permit.
2. The applicant proposes a 10 percent encroachment into the required 25-foot front setback. The encroachment would allow approximately a total of 16.5 square feet to encroach a maximum 2 feet 6 inches into the front setback for the corners of a proposed three-car garage and the corner of a family room. An exterior porch column for the entryway would also encroach 2 feet 6 inches.
3. The subject property is located within the Harbor View Hills Planned Community (PC-3) Zoning District and the General Plan Land Use Element category is Single-Unit Residential (RS-D).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on May 26, 2016 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 exemption consists of additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition or 2,500 square feet, whichever is less. The proposed scope of work is to

add 380 square feet to an existing 2,168-square-foot dwelling, or approximately 17.5 percent of the existing floor area.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050 (Modification Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. The requested modification will be compatible with existing development in the neighborhood.

Facts in Support of Finding:

1. The neighborhood is comprised of a development pattern of single-story, single-family dwellings.
2. The proposed addition and setback encroachment at the ground level of an existing single-story, single-family dwelling will result in a residence that is compatible in bulk and scale with others in the Harbor View Hills community.
3. The approved front setbacks for the Harbor View Hills Planned Community (PC-3) vary on each lot. The proposed encroachments will result in a front setback that is still greater than the abutting and adjacent lots therefore, compatible with these neighbors.

Finding:

B. The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.

Facts in Support of Finding:

1. The subject property has a 25-foot front setback which is the largest required front setback on the block and the two adjacent blocks.
2. The 25-foot front setback is larger than the neighboring lots required front setbacks. With the proposed encroachments, the resulting setback will remain larger than all but two of the lots on both sides of the entire length of Port Ramsgate Place.
3. The property is uniquely located at the end of a cul-de-sac abutting a park. This location creates a curved front property line and irregular shape that inhibits the development of the buildable area of the lot. The irregular shape also affects the access to the lot.

4. The proposed encroachment is necessary to allow the entry, garage, and family room to be squared-off to a regular shape along the curved property.
5. The proposed addition and encroachment at the front would maintain the minimum 5-foot side setback, and the dwelling will continue to comply with the height limit, lot coverage and all other required setbacks from the PC-3 regulations the any other regulations applicable from the Zoning Code.

Finding:

C. The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.

Facts in Support of Finding:

1. The proposed encroachments are only for the corners of the garage, entry and family room and result in a minimal total area of 16.5 square feet. The total length of the proposed encroachment is approximately 15.5 feet which is a minimal 2.8 percent of the buildable width of the lot (56 feet).
2. A strict application of the approved PC-3 front setback would require the corners of the garage, entry and family room to be set back even further than the minimum 25-foot requirement in order to be squared-off and be architecturally desirable. This would further inhibit development within the buildable area of the lot.

Finding:

D. There are no alternatives to the modification permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.

Facts in Support of Finding:

1. Without this approval the applicant would be required to provide the 25-foot front setback which coupled with the location and shape of the lot at the end of the cul-de-sac, unfairly impacts the buildable area of the property.
2. The encroachments of the corner of the garage, family room and a portion of the entry totals approximately 16.5 square feet, is minimal in nature and does not impact surrounding properties. However, denying the proposed encroachments would impact the subject property and not allow them to enjoy the property rights enjoyed by others in the neighborhood.

Finding:

E. The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.

Facts in Support of Finding:

1. The proposed setback encroachment is minimal in nature and does not run the entire width of the buildable width of the lot. The subject property abuts a park on one side and a neighbor with an even lesser required front setback of 20 feet. The location of the encroachment will maintain a minimum 22-foot 6-inch front setback and will maintain the 5-foot required side setbacks.
2. The applicant/owner is required to obtain a building permit. The construction will then be inspected prior to final of building permits.
3. The existing development on the property is a single-family dwelling. As such, there is no change to the density or intensity as a result of the addition.
4. The location of the encroachments will not block air or sunlight to any adjoining property or affect protected public views.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2016-006 (PA2016-052), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

PASSED, APPROVED, AND ADOPTED THIS 26th DAY OF MAY, 2016.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

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 encroachments shall maintain a minimum front setback of 22 feet 6 inches.
4. 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.
5. 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.
6. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities to 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.
7. 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.
8. 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 related (directly or indirectly) to City's approval of the 1930 Port Ramsgate Modification Permit including, but not limited to, Modification Permit No. MD2016-006 (PA2016-052). 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.

PUBLIC WORKS

9. The existing driveway shall be plugged per City Standard STD-165-L.
10. The new driveway approach shall be installed pursuant to City Standard STD-162-L.
11. Protect the existing water meter and service in place. A traffic rated box and cover shall be installed.
12. Install a new sewer cleanout within the public right-of-way per City Standard STD-406-L.
13. Provide a minimum 5-foot clearance from the top of the driveway X to the existing City street light pole along Port Ramsgate Place.
14. An encroachment permit is required for all work activities within the public right-of-way.

RESOLUTION NO. ZA2016-032

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP No. NP2016-008 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 712 HELIOTROPE AVENUE (PA2016-054)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Neil Longman, with respect to property located at 712 Heliotrope Avenue, and legally described as Lot 14, Block 735 in 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. A single-family dwelling will be demolished and a new duplex is currently in the building permit process. No waivers of Title 19 are proposed. The Tentative 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 May 26th, 2016 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 the State CEQA (California Environmental Quality Act) Guidelines 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 (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 parcels 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. The Tentative Parcel Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 (Planning and Zoning) 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:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. An existing single family dwelling will be demolished and a two-unit dwelling is currently in the plan check process. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation "Two-Unit Residential."
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Heliotrope Avenue frontage, consistent with the Subdivision Code (Title 19).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a two-unit development because it is regular in shape.
2. The subject property is accessible from 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 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:

1. The site was previously developed with single-family dwelling and will be replaced with a new two-unit dwelling.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
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:

1. The Tentative 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. 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. 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.

Facts in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements located on the property.

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:

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.
2. The site is developed for residential use and is located in a Zoning District that permits residential uses.

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:

1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code because the existing subdivision does not contain fifty (50) or more parcels.
2. The project is not located within a specific plan area.

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:

1. The Tentative 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 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:

1. The proposed two-unit dwelling is consistent with the R-2 Zoning District which allows two residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect 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:

1. The new two-unit dwelling 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:

1. The subject property is not within the Coastal Zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2016-008 (PA2016-054), 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 or call for review is filed with the Director of Community Development an appeal is filed with the City Council in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 26th DAY OF MAY, 2016.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. A 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, Sub article 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 Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Sub article 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. Prior to recordation of the Parcel Map, a park fee shall be assessed for one additional dwelling unit.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. All improvements shall be constructed as required by Ordinance and the Public Works Department.
6. Reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, concrete curb and gutter along the Heliotrope Avenue frontage.
7. All existing overhead utilities shall be undergrounded.
8. No above ground improvements shall be installed within the 5-foot alley setback.
9. 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 shall be removed.
10. 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. Water meter and sewer cleanout shall be located within the public right-of-way.
11. An encroachment permit is required for all work activities within the public right-of-way.

12. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L and Municipal Code 20.30.130.
13. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
14. All on-site drainage shall comply with current Water Quality requirements.
15. All unused and abandoned water services shall be capped at the main (corporation stop) and all unused and abandoned sewer laterals shall be capped at the property line. If the abandoned sewer lateral has an existing cleanout, abandonment shall include removal of the cleanout riser, the 4TT box and the wye. Sewer lateral shall then be capped where the wye used to be.
16. Per Chapter 13 of the City Municipal Code, one (1) 36-inch box street tree shall be planted along the Heliotrope Avenue frontage. Tree species shall be per Council Policy G-6.
17. Subsequent to the recordation of the Parcel Map, 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 finalized.** The building permit for the new construction shall not be finalized until after recordation of the Parcel Map.
18. 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.
19. 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 712 Heliotrope Tentative Parcel Map, including, but not limited to, Tentative Parcel Map No. NP2016-008 (PA2016-054). 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. ZA2016-033

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2016-007 FOR A TENTATIVE PARCEL MAP FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 302 MARGUERITE AVENUE (PA2016-055)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by 302 Marguerite CDM, LLC, with respect to property located at 302 Marguerite Avenue, and legally described as Lot 4, Block 239 in Corona del Mar Tract requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map for two-unit condominium purposes. A triplex has been demolished and a two-unit dwelling is under construction. No waivers of Title 19 are proposed.
3. The subject property is located within the Multi-Unit Residential (RM) Zoning District and the General Plan Land Use Element category is Multiple-Unit Residential (RM).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Multiple Unit Residential (RM-E).
5. A public hearing was held on May 26, 2016 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 the State CEQA (California Environmental Quality Act) Guidelines 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 (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 parcels 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. The Tentative Parcel Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 (Planning and Zoning) 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:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. An existing triplex has been demolished and a new two-unit dwelling is currently under construction. The proposed subdivision and improvements are consistent with the density of the R-M Zoning District and the current General Plan Land Use Designation RM
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Marguerite Avenue frontage, consistent with the Subdivision Code (Title 19).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a two-unit development because it is regular in shape.
2. The subject property is accessible from 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 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:

1. The site was previously developed with a triplex and will be replaced with a new two-unit dwelling.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
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:

1. The Tentative 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. 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. 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.

Facts in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements located on the property.

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:

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.
2. The site is developed for residential use and is located in a Zoning District that permits residential uses.

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:

1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code because the existing subdivision does not contain fifty (50) or more parcels.
2. The project is not located within a specific plan area.

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:

1. The Tentative 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 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:

1. The tentative parcel map for a two-unit condominium project is consistent with the R-M Zoning District, the General Plan designation and density which allows a maximum two residential units on the property. Therefore, this does not affect the City in meeting its regional housing need.
2. The subject property is within an existing residential neighborhood which is adequately served by existing public services and does not impact existing fiscal and environmental resources that are already available.

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:

1. The new two-unit dwelling 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:

1. The Tentative Parcel Map is for a two-unit dwelling. The proposed subdivision and improvements are consistent with the Coastal Land Use Plan designation RM-E (Multiple Unit Residential).

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2016-007 (PA2016-055), 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 or call for review is filed with the Director of Community Development an appeal is filed with the City Council in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 26th DAY OF MAY, 2016.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. A 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, Sub article 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 Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Sub article 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. All improvements shall be constructed as required by Ordinance and the Public Works Department.
5. Reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, concrete curb and gutter along the Marguerite Avenue frontage.
6. All existing overhead utilities shall be undergrounded.
7. No above ground improvements shall be installed within the 5-foot alley setback.
8. Marguerite Avenue is part of the City's Moratorium List. Work performed on said roadways will require additional surfacing requirements. See City Standard 105-L-F.
9. 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 shall be removed.
10. Install new low-growing groundcover of the type approved by the City throughout the Marguerite Avenue parkway fronting the development site.
11. 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. Water meter and sewer cleanout shall be located within the public right-of-way.

12. An encroachment permit is required for all work activities within the public right-of-way.
13. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L and Municipal Code 20.30.130.
14. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
15. All existing drainage facilities in the public right-of-way, including the existing curb drains along Marguerite Avenue frontage shall be retrofitted to comply with the City's on-site no-storm runoff retention requirements.
16. All on-site drainage shall comply with current Water Quality requirements.
17. All unused and abandoned water services shall be capped at the main (corporation stop) and all unused and abandoned sewer laterals shall be capped at property line. If the abandoned sewer lateral has an existing cleanout, abandonment shall include removal of the cleanout riser, the 4TT box and the wye. Sewer lateral shall then be capped where the wye used to be.
18. Subsequent to the recordation of the Parcel Map, 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 finalized.** The building permit for the new construction shall not be finalized until after recordation of the Parcel Map.
19. 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.
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 the 302 Marguerite Avenue Tentative Parcel Map, including, but not limited to, Tentative Parcel Map No. NP2016-007 (PA2016-055). 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.