



**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 29, 2016

**ZONING ADMINISTRATOR ACTIONS
JULY 28, 2016**

- Item 1: LA Styles Salon Minor Use Permit No. UP2016-026 (PA2016-097)
Site Address: 404 Westminster Avenue, Suite 3
Action: Approved by Resolution No. ZA2016-041 Council District 2
- Item 2: 2312 Laurel Place Modification Permit No. MD2016-008 (PA2016-086)
Site Address: 2312 Laurel Place
Action: *Item Continued to 08-11-2016 ZA Hearing* Council District 2
- Item 3: 2451 and 2455 Marino Drive Lot Merger No. LM2016-006 (PA2016-087)
Site Address: 2451 and 2455 Marino Drive
Action: Approved by Resolution No. ZA2016-042 Council District 3
- Item 4: Walz Condominiums Tentative Parcel Map No. NP2016-012 (PA2016-110)
Site Address: 510 and 510 ½ Larkspur Avenue
Action: Approved by Resolution No. ZA2016-043 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 Tabled*

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. ZA2016-041

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2016-026 FOR ACCESSORY MASSAGE LOCATED AT 404 WESTMINSTER AVENUE, SUITE 3 (PA2016-097)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Sarah Renner, with respect to property located at 404 Westminster Avenue, Suite 3, and legally described as Lots 17, 18, 19, and 20 of Tract 1136 requesting approval of a minor use permit.
2. The applicant proposes to add massage services (accessory massage) to an existing 590-square-foot hair salon. The massage services will be provided as an additional amenity and be limited to a 119-square-foot room in the tenant space. A maximum of one massage technician will be permitted on-site at a time.
3. The subject property is located in the Office General (OG) Zoning District and the General Plan Land Use Element category is General Commercial Office (CO-G).
4. The subject property is not located in the coastal zone.
5. A public hearing was held on July 28, 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 Class 1 exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves the addition of massage services at an existing hair salon, and does not result in an intensification of use, parking, or expansion in floor area.

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 General Commercial Office (CO-G) in the Land Use Element of the General Plan. This designation is intended to provide for administrative, professional, and medical offices with limited accessory retail and service uses.
2. The existing hair salon is a service use intended to serve nearby residents, the surrounding community, and visitors to the City of Newport Beach. The addition of massage services will not change this. Therefore, the use is consistent with the CO-G land use designation.
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 Office General (OG) Zoning District, which is intended to provide for administrative, professional, and medical offices with limited accessory retail and service uses.
2. Pursuant to Table 2-4 of Zoning Code Chapter 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements) accessory massage is a service use that may be permitted in the OG Zoning District subject to the approval of a minor use permit. Personal service, general uses, which include hair salons, are permitted by right.
3. The proposed establishment with accessory massage is consistent with the legislative intent of Section 20.48.120 (Massage Establishments and Services) and Chapter 5.50 (Massage Establishments) of the Municipal Code. These sections provide standards for the establishment, location, and operation of massage services and establishments operated as an independent use. The intent is to promote the operation of legitimate massage services and to prevent problems of blight and deterioration that may accompany and result from large numbers of massage establishments.

4. The massage services will not be located within 500 feet of a public or private school, park or playground, civic center, cultural site, or religious institution. The applicant requests a waiver of location restrictions pursuant to Zoning Code Section 20.48.120. A massage therapist currently operates on-site in a separate tenant space and an independent massage establishment is located approximately 400 feet from the subject property.
5. 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 applicant proposes to add massage services (accessory massage) to an existing 590-square-foot hair salon (personal services, general). The massage services will be provided as an additional amenity and be limited to a 119-square-foot room in the tenant space.
2. Existing uses in the building include office, medical office, and similar personal service uses. Nearby land uses include similar nonresidential uses. The proposed massage establishment will provide a service consistent with existing and permitted uses in the area.
3. Residential uses are located to the rear of the property across the alley. Hours of operation between 9 a.m. and 9 p.m., daily should limit any compatibility concerns and any potential late night/early morning land use conflicts with nearby properties.
4. The proposed operation will consist of one therapy room and three rooms for hair services. A maximum of one massage therapist will be on-site at a time.
5. The existing parking spaces to the rear provide parking for patrons and employees of the multi-tenant buildings. The proposed accessory massage will not result in an intensification of use and will not require the provision of additional parking.

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 property is located at the intersection of Westminster Avenue and Beacon Street and contains three detached one-story buildings with multiple tenants. The site is accessible from multiple points of entry including Old Newport Boulevard, Hospital Road, and the alley at the rear. Parking at the rear and on-street has functioned satisfactorily under the current configuration and is conveniently located for patrons and employees.
2. The site has supported the three single-story buildings with nonresidential uses since 1956. It is not anticipated that the change in use will alter the site's ability to provide basic services.
3. Adequate public and emergency vehicle access, public services, and utilities are provided on the property and the proposed massage establishment 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 establishment has been conditioned with hours of operation that will minimize any potential detriment to the area.
2. The existing multi-tenant building is not located in an area with problems of blight and deterioration.
3. The proposed massage services will provide an additional economic opportunity for the lessee of the tenant space. Additionally, the establishment will provide an additional service to those working, residing, or visiting the City of Newport Beach.
4. The Building and Code Enforcement Divisions, Public Works, Fire, and Police Departments have reviewed the proposal. Recommended conditions of approval have been included to limit any detriment to the City or general welfare of persons visiting or working in the surrounding neighborhood.

In accordance with Section 20.48.120.B (Massage Establishments and Services – Waiver of Location Restrictions) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a Minor Use Permit are set forth:

Finding:

- F. The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.*

Facts in Supporting of Finding:

1. The intent of this section is to promote the operation of legitimate massage services and to prevent problems of blight and deterioration that can accompany large numbers of massage establishments that may act as fronts for prostitution and other illegal activity.
2. The proposed massage services are located within 500 feet of other establishments offering massage services (404 Westminster Avenue, Suite 5 – Body Haven, 333 Old Newport Boulevard – Araiya Thai Massage). However, this location is in a different development and sufficiently separated from the independent massage establishment at 333 Old Newport Boulevard.
3. The business at 404 Westminster Avenue, Suite 5, operates pursuant to Use Permit No. UP2005-025 and is limited to one room for massage. This existing massage service along with the proposed massage services in Suite 3 will not be contrary to public interest. Both operations are limited in the number of massage therapists at one time, require an Operator's Permit from the Newport Beach Police Department, and must comply with conditions of approval, limiting concerns regarding blight.

Finding:

- G. The proposed use will not enlarge or encourage the development of an urban blight area.*

Facts in Supporting of Finding:

1. The proposed use is located in a single tenant space in a managed, multi-tenant commercial building. The property fronts a well-traveled street that is developed with a mixture of retail and service uses that serve the surrounding neighborhood and resident of the City. It is not located in a blighted area.

Finding:

- H. The proposed use will not adversely affect a religious institution, school, park, or playground.*

Facts in Supporting of Finding:

1. The proposed use is located adjacent to nonresidential uses. There are no public or private schools, parks, playgrounds, or religious institutions within 500 feet of the subject property.

2. Conditions of approval limiting hours of operation and number of massage therapists at one time will ensure the use does not constitute a hazard to public convenience. These restrictions will prevent potential late night/early morning land use conflicts and limit the number of patrons visiting the site at one time.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2016-026, 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 or call for review 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 28TH DAY OF JULY, 2016.

By:



Patrick J. Alford, 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. Any change in operational characteristics, expansion in area, increase in the number of massage therapy rooms, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new use permit.
6. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of any plans prior to issuance of the building permits.
7. A maximum of one massage therapist shall be on-site at any one time.
8. A maximum of one room shall be used for massage therapy.
9. The hours of operation shall be limited between 9 a.m. and 9 p.m., daily.
10. A valid business license from the City of Newport Beach with sellers permit shall be required prior to start of business. Any contractors/subcontractors doing work at the subject site shall be required to obtain a valid business license from the City of Newport Beach prior to the commencement of any work on the subject site.
11. Any therapists/technicians working as independent contractors shall obtain their own City of Newport Beach business license.

12. The applicant shall adhere to all provisions set forth in AB1147 and Business and Professions Code Chapter 10.5 (Massage Therapy Act), relating to operating a massage establishment.
13. 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.
14. 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.
15. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise 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.
16. 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.
17. 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 LA Styles Salon including, but not limited to, Minor Use Permit No. UP2016-026 (PA2016-097). 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.

Code Enforcement Division

18. The applicant shall provide the contact information for the owner, operator, or responsible manager of the massage establishment. Any changes to the contact information shall be submitted to the Planning Division as part of the official record.

19. A list of employee names, contact information, and state certifications shall be posted, kept on-site at all times and available upon request by City officials.
20. All windows shall remain visible and transparent in nature. Window signage shall comply with the Newport Beach Municipal Code.
21. Facility shall be maintained in a safe and sanitary condition.
22. No alcohol shall be served or offered on-site.
23. Violations of the Penal Code may invoke revocation of this Minor Use Permit.

Police Department

24. The applicant is required to obtain an Operator's Permit from the Newport Beach Police Department in compliance with Chapter 5.50 (Massage Establishments) of the Newport Beach Municipal Code and submit to an inspection of the premise.
25. All employees of the business who conduct massage on or off the premise must be certified by the California Massage Therapy Council (CAMTC).
26. Strict adherence to Newport Beach Municipal Code 5.50 must be upheld.
27. As required by Newport Beach Municipal Code Section 5.50.030 the business must maintain requirements of operation, and submit to inspection by office of the police department.

RESOLUTION NO. ZA2016-042

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2016-006 AND A WAIVER OF THE PARCEL MAP REQUIREMENT FOR A LOT MERGER LOCATED AT 2451 AND 2455 MARINO DRIVE (PA2016-087)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Peter and Mary Rooney, with respect to property located at 2451 and 2455 Marino Drive. The lot at 2451 Marino Drive is legally described as Lot 73 of Tract 1140. The lot at 2455 Marino Drive is legally described as Lot 74 of Tract 1140.
2. The applicant proposes a lot merger and requests to waive the parcel map requirement for two properties under common ownership.
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-B).
5. A public hearing was held on July 28, 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. The project is categorically exempt under Section 15315, of the State CEQA (California Environmental Quality Act) Guidelines - Class 15 (Minor Land Divisions). 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 above.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.68.030 and 19.08.030 of the 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 this title.*

Facts in Support of Finding:

1. The lot merger to combine two existing legal lots by removing the interior lot line between the lots will not result in the creation of additional parcels.
2. The project is in an area with an average slope of less than 20 percent.
3. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions).
4. The future development on the proposed parcel will be subject to the Zoning Code development standards, which are intended to promote orderly development, protect neighborhood character, and preserve public health, safety, and general welfare of the City.

Finding:

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

Facts in Support of Finding:

1. The two lots to be merged are under common fee ownership.

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 lots 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 unit located on a single lot.

2. 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.
3. The subject property is not located within a Specific Plan area.
4. Section 20.18.030 of the Zoning Code establishes minimum lot area and width requirements. The proposed merger of the lots would create one 10,711 square-foot parcel that will exceed the minimum 6,000-square foot corner lot area standard of the Zoning Code. Also, the proposed merger of the lots would create one approximately 104-foot-wide parcel that will exceed the minimum 60-foot corner lot width standard of the Zoning Code.

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. No adjoining parcels will be deprived of legal access as a result of the merger. Legal access is provided from Marino Drive, Crestview Drive, and from an ingress and egress easement at the rear of the parcel, and will remain unchanged.

Finding:

- E. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.*

Facts in Support of Finding:

1. Properties in the Bay Shores neighborhood consist of lots of varying shapes and sizes. Although the proposed lot merger will create a larger lot, it will not create an excessively large lot in comparison to many of the existing lots in the area. There are many existing lots in the surrounding development that exceed the proposed lot area, including 2686 Bay Shore Drive (36,065 square feet), 2692 Bay Shore Drive (23,751 square feet), 2801 Circle Drive (13,522 square feet), and 2508 Marino Drive (10,988 square feet).

2. The proposed lot width is approximately 104 feet, which will not create an excessively wide lot in comparison to other existing lots in the area. There are existing lots in the surrounding development that exceed the proposed lot width, including 2692 Bay Shore Drive (approximately 111 feet), 2686 Bay Shore Drive (approximately 120 feet), and 2676 Bay Shore Drive (approximately 108 feet).
3. The resulting lot configuration will not change the existing pattern of development since the orientation and access to the parcel would remain from the alley in the rear of the lot.

Finding:

F. 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 this title, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. 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 proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, General Plan, and Coastal Land Use Plan.
2. The subject property is not subject to a Specific Plan.
3. Easements at the rear of parcel would remain in place for ingress, egress, public utilities, and garbage collection.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2016-006, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 (Subdivisions) of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 28th DAY OF JULY, 2016.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The map shall be submitted to the Public Works Department for Final Map Review and Approval. All applicable fees shall be paid.
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. Prior to the issuance of building permits for construction to cross the existing interior lot line between the two (2) parcels proposed to be merged, recordation of the lot merger documents with the County Recorder shall be required.
4. Prior to the recordation of the lot merger, a minimum of one existing dwelling unit shall be demolished or modified so that the merged lot will not contain more than one dwelling unit.
5. Lot Merger No. LM2016-006 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.
6. 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 Rooney Lot Merger including, but not limited to, Lot Merger No. LM2016-006 (PA2016-087). 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. ZA2016-043

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2016-012 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 510 AND 510½ LARKSPUR AVENUE (PA2016-110)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by JR Walz, with respect to property located at 510 and 510½ Larkspur Avenue, and legally described as Lot 12, Block 538, Corona Del Mar Tract, requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map application for two-unit condominium purposes. No waiver of Title 19 (Subdivisions) development standards are proposed with this application. An existing two-unit duplex was demolished and will be replaced with a new two-unit duplex. 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 July 28, 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 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 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 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. A two-unit duplex was demolished and will be replaced with a new two-unit duplex. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current RT General Plan Land Use Designation.
2. The Tentative Parcel Map does not apply to any specific plan area.

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 two-unit development because it is regular in shape and is relatively flat.
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 two-unit duplex that was demolished and will be replaced with a new two-unit duplex.
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, developed for residential use, lies 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.*

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 duplex 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 duplex will be designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Facts in Support of Finding:

1. The subject property is not located 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. NP2016-012 (PA2016-110), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 28TH DAY OF JULY, 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, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
2. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
3. All improvements shall be constructed as required by Ordinance and the Public Works Department.
4. Existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Larkspur Avenue frontage shall be reconstructed.
5. All existing overhead utilities shall be undergrounded.
6. No above ground improvements shall be installed within the 5-foot alley setback.
7. Low-growing groundcover, of the type approved by the City, shall be installed throughout the Larkspur Avenue parkway fronting the development site.
8. 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 the sewer cleanout shall be located within the Public right-of-way.
9. An encroachment permit is required for all work activities within the public right-of-way.
10. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L and Municipal Code 20.30.130.
11. 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.

12. All on-site drainage shall comply with the latest City Water Quality requirements.
13. All unused water services to be abandoned shall be capped at the main (corporation stop) and all unused sewer laterals to be abandoned shall be capped at property line. If the sewer lateral to be abandoned 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.
14. Per Chapter 13 of the City Municipal Code, one (1) 36-inch box street tree shall be planted along the Larkspur Avenue frontage. Tree species shall be per Council Policy G-6.
15. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
16. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a 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.
17. 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 19 (Subdivision Code) of the Newport Beach Municipal Code.
18. 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 Walz Condominiums, including, but not limited to, Tentative Parcel Map No. NP2016-012 (PA2016-110). 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.