COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
3300 Newport Boulevard, Building C, Newport Beach, CA 92663
(949) 644-3200 Fax: (949) 644-3229
www.newportbeachca.gov

CITY OF NEWPORT BEACH
ZONING ADMINISTRATOR STAFF REPORT
June 13, 2012
Agenda Item No. 1

SUBJECT: Carnation Lot Line Adjustment - (PA2011-194)
412 and 412 ½ Carnation Avenue
- Lot Line Adjustment No. LA2011-002

APPLICANT: Kurt Christiansen

PLANNER: Melinda Whelan, Assistant Planner
949-644-3221

ZONING DISTRICT/GENERAL PLAN

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

PROJECT SUMMARY

A lot line adjustment for the purpose of incorporating an approximate 1,009-square-foot portion of abandoned Carnation Avenue right-of-way into the adjacent Two-Unit Residential (R-2) property. The lot line adjustment is required by the City Council approved Agreement for Purchase and Sale of Real Property of said portion of vacated right-of-way. No new lots will be created and the number of lots will remain the same.

RECOMMENDATION

1) Conduct a public hearing; and

2) Adopt Draft Zoning Administrator Resolution No. _ approving Lot Line Adjustment No. LA2011-002 (Attachment No. ZA 1).

BACKGROUND

This item was opened for public hearing at the May 23, 2012, Zoning Administrator hearing however, upon request by the applicant it was continued to the June 13, 2012 hearing. The applicant requested continuance in order to better understand the draft conditions of approval. Prior to continuation, staff suggested an additional condition to

insure that the lot line adjustment does not change the location where the front yard setback is measured. This condition has been included in the revised draft Zoning Administrator resolution for approval as Condition No. 11 (Attachment No. ZA 1). The staff report package that was presented at the May 23, 2012, hearing can be accessed at 5-23-12 Staff Report.

DISCUSSION

- Re-alignment of Carnation Avenue created City-owned vacated right-of-way on the east side of Carnation Avenue including approximately 1,009 square feet abutting the subject property which is developed with a two-unit condominium.
- In 1997, the applicant (owner of one of the condos) received an encroachment permit and encroachment agreement from the City to install private improvements in the City-owned parcel. These improvements were limited to an entrance stairway and walkway, a 3-foot high retaining wall, raised concrete block planter walls, landscaping and irrigation.
- In 2011, the applicant requested and received approval to purchase the 1,009-square-foot portion of the vacated right-of-way and entered into a Purchase and Sale agreement with the City (Attachment No. ZA 2).
- This agreement requires that a lot line adjustment be applied for to incorporate the portion of the vacated right-way into 412 and 412 ½ Carnation Avenue. The resulting lot area will be approximately 5,791 square feet.
- If approved, front yard setback regulations will apply to the acquired area.
- Conditions and limitations of the Agreement stipulate that no habitable structures are permitted in the acquired area nor can the area be used to increase the buildable area of the lot. These conditions are included in the draft Zoning Administrator Resolution for approval (Attachment No. ZA 1).

ENVIRONMENTAL REVIEW

The project qualifies for exemption under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations) of the California Environmental Quality Act because it consists of minor alterations in land use limitations (lot line adjustments) in areas with an average slope of less than 20%, which do not result in any changes in land use or density.

PUBLIC NOTICE

Notice of the May 23, 2012, Zoning Administrator hearing was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Since this hearing was continued to the next regularly scheduled Zoning Administrator meeting, June 13, 2012, additional notice is not required.

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.

Prepared by:

Melinda Whelan
Assistant Planner

GR/msw

Attachments:	ZA 1	Draft Resolution
	ZA 2	Agreement for Purchase and Sale of Real Property
	ZA 3	Vicinity Map
	ZA 4	Lot Line Adjustment Exhibits

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2012-0##

A RESOLUTION OF THE ZONING ADMNISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2011-002 TO INCORPORATE 1,009-SQUARE-FOOT PORTION OF AN ABANDONED CARNATION AVENUE RIGHT-OF-WAY INTO THE ADJACENT R-2 PROPERTY LOCATED AT 412 AND 412 ½ CARNATION AVENUE (PA2011-194).

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Kurt Christiansen, with respect to property located at 412 and 412 ½ Carnation Avenue, and legally described as Parcel 2 Block 331 LLA2009-006 requesting approval of a lot line adjustment.

2. The applicant proposes a lot line adjustment for the purpose of incorporating an approximate 1,009-square-foot portion of abandoned Carnation Avenue right-of-way into the adjacent Two-Unit Residential (R-2) property. The lot line adjustment is required by the City Council approved Agreement for Purchase and Sale of Real Property of said portion of vacated right-of-way.

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 (R-2).

4. The subject property is located within the coastal zone in the Categorical Exclusion Zone. The Coastal Land Use Plan category is Two Unit Residential (RT-D)

5. A public hearing was held on May 23, 2012 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting. The public hearing was continued to the June 13, 2012, Zoning Administrator meeting at the request of the applicant.

6. A public hearing was held on June 13, 2012 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Section 15305, of the California

DRAFT

Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations).

2. This project qualifies for a Class 5 exemption because it consists of minor alterations in land use limitations (lot line adjustments) in areas with an average slope of less than 20%, which do not result in any changes in land use or density.

SECTION 3. REQUIRED FINDINGS.

Lot Line Adjustment

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. That the establishment, maintenance or operation of the use of the property or building 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 for the following reasons.

Facts in Support of Finding:

1. The two-unit residential use of the property is not changing and is consistent with the two-unit residential (R-2) zone.

2. With the additional area added to the lot, the lot remains consistent with the development pattern of the neighborhood.

3. Public improvements and infrastructure currently exist within the neighborhood; and the lot line adjustment, in and of itself, will not result in the need for additional improvements and/or facilities.

Finding:

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

Facts in Support of Finding:

1. A portion of the vacated right-of-way is being added to the adjacent 412 and 412 ½ Carnation Avenue parcel. Therefore, no additional parcels will result from the lot line adjustment.

DRAFT

Finding:

C. The parcel resulting from the lot line adjustment complies with all applicable zoning regulations and there will be no change in the land use, density, or intensity on the property.

Facts in Support of Finding:

1. The lot line adjustment is adding 1,009 square feet of vacated right-of-way and is not creating a new lot. The resulting lot size of approximately 5,791 square feet is consistent with the size of lots in the vicinity.

2. The lot line adjustment is consistent with applicable zoning regulations and the resultant parcel is not more nonconforming as to lot width, depth and area than the parcel that existed prior to the lot line adjustment.

3. The existing and allowed density of two-units does not change with the lot line adjustment.

4. There is no change in intensity as the added area can't be used to increase buildable area.

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 portion of the vacated right-of-way is adjacent to Carnation Avenue. Access to the subject parcel and to any adjacent parcels is from the alley which is 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. The portion of the vacated right-of-way is adjacent Carnation Avenue and therefore, the final configuration of the parcel will not result in the loss of direct vehicular access from the alley.

Finding:

DRAFT

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 lot is not being reoriented and the final configuration of the parcels does not result in a requirement for revised setbacks.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment LA2011-002, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. This action shall become final and effective ten 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 13th DAY OF JUNE, 2012.

BY:_____
Brenda Wisneski, AICP
Zoning Administrator

DRAFT

EXHIBIT "A"

CONDITIONS OF APPROVAL

PUBLIC WORKS

1. Property corners shall be monumented by a licensed Land Surveyor or registered Civil Engineer authorized to perform surveying by the State Board of Civil Engineers and Land Surveyors (Pre-1982 with numbers prior to 33,966). Surveyor or Civil Engineer to submit a "Corner Record" or "Record of Survey" to the County Surveyor.

2. The westerly property line shall be located 5 feet back from the existing Carnation Avenue right-of-way line to accommodate the existing 5-foot wide sidewalk located on the Carnation Avenue frontage.

3. The existing private improvements permitted through the encroachment agreement are allowed to remain.

4. No habitable structures shall be allowed to be constructed on the vacated right-of-way area and this area shall be regulated as a front yard pursuant to the Zoning Code.

5. The square footage of the vacated right-of-way (approximately 1,009 square feet) cannot be used to increase the buildable area allowed on the subject parcel.

6. The City makes no guarantees or warrantee related to the stability of the slope on the subject parcel.

7. All Public Works Department plan check fees shall be paid prior to review of the lot line adjustment and grant deeds.

8. Prior to recordation of the lot line adjustment, grant deeds indicating the changes in titles of ownership should be submitted to the Public Works Department for review and approval.

9. The lot line adjustment and grant deeds reviewed and approved by the Public Works Department should be filed concurrently with the County Recorder and County Assessor's Offices.

10. Applicant shall comply with all the requirements identified in the Purchase and Sale of Real Property Agreement.

DRAFT

PLANNING

11. The 15-foot front yard setback shall be measured from the front lot line as legally described by Lot Line Adjustment No. LA2009-006, not the front lot line resulting from this approval.

12. 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 **Carnation Lot Line Adjustment** including, but not limited to, **Lot Line Adjustment No. LA2011-002 (PA2011-194)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition

DRAFT

Attachment No. ZA 2

Agreement for Purchase and Sale of Real Property

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

This **AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY** ("Agreement") is entered into by and between the **CITY OF NEWPORT BEACH**, a California municipal corporation and charter city (the "City"), **KURT P. CHRISTIANSEN, TRUSTEE OF THE KURT P. CHRISTIANSEN TRUST dated August 1, 2002** ("the Christiansen Trust"), owner of the real property commonly known as 412 Carnation, and **NICHOLAS A. SAMIOS** and **CAROL B. SAMIOS** ("the Samios'"), husband and wife, owners in joint tenancy of the real property commonly known as 412 ½ Carnation Avenue. The Christiansen Trust and the Samios' shall be referred to collectively as the "Buyers." This Agreement is for sale of certain real property owned by City to the Buyers, and is made on the basis of the following facts, intentions and understandings.

RECITALS

A. Buyers are the present owners of certain real property located in the City of Newport Beach, County of Orange, California. The Christiansen Trust is the owner of the parcel of land commonly known as 412 Carnation Avenue, Corona del Mar, California, 92625, Assessor's Parcel No. 938-016-50. Nicholas A. Samios and Carol B. Samios (The "Samios'") are the owners of the parcel of land commonly known as 412 ½ Carnation Avenue, Corona del Mar, California, 92625. Assessor's Parcel No. 938-01-326. For purposes of this Agreement, Assessor's Parcel No. 938-016-50 and Assessor's Parcel No. 938-01-326 shall be referred to collectively as "412 Carnation." A map of 412 Carnation is attached hereto as **Exhibit "A"**, which is attached hereto and incorporated herein by reference.

B. 412 Carnation has been improved with two residential condominium units as provided for in a Revised Condominium Plan recorded on April 9, 2010 as Instrument No. 2010000168317 in the Offficial Records of the Orange County Clerk-Recorder. One condominium unit is owned by the Christiansen Trust, and the other is owned by the Samios'.

C. City owns certain real property consisting of a parcel of approximately 1,009 square feet of land, located between the westerly property line of 412 Carnation and the easterly side of Carnation Avenue (the, "Property"), more particularly described in **Exhibit "B"** ("Legal Description") which is attached hereto and incorporated herein by reference.

D. Under the terms of Encroachment Permit No. EP97-472 and an Encroachment Agreement between City and Kurt P. Christiansen dated January 5, 1997, and recorded as Document No. 1998-0020393 in the official records of the County of Orange, the Christiansen Trust has improved the Property with a retaining wall, concrete entrance stairway, raised concrete block planters, landscaping, irrigation, garden paths, paved patio areas and appurtenances (the, "Permitted Improvements").

E. Buyers desire to purchase the Property from City with the intent to merge Property with 412 Carnation as their interests appear in the Revised Condominium Plan described in Paragraph B above.

F. City desires to sell the Property to Buyers. City agrees to sell, assign and transfer Property to Buyers on the terms and conditions set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. Purchase and Sale of Property. Upon the terms and conditions contained herein, Buyers hereby agree to purchase all of City's right, title and interest in and to the Property from City and City agrees to sell, assign and convey all of the City's right, title and interest in and to the Property to Buyer.

2. Purchase Price. The purchase price for the Property shall be Sixteen Thousand Dollars and no/100 ($16,000.00) ("Property Purchase Price").

3. Conveyance. City's conveyance of the Property to Buyers ("Conveyance") shall be completed within thirty (30) business days of the satisfaction of the conditions to Conveyance set forth in Section 4, but in any event not later than 365 days after City and the Buyers have approved this Agreement (the "Outside Date") unless the City and Buyers have mutually agreed in writing to an extension of this Outside Date if necessary. The Conveyance shall occur at a time and place reasonably agreed upon by the parties. The "Conveyance" shall mean the time and day the Quitclaim deed is filed for recording with the Orange County Recorder. The "Conveyance Date" shall mean the day on which the Conveyance occurs.

4. Conditions to Conveyance. The Conditions to the Conveyance are as follows:

(a) Buyers and City shall apply for a lot line adjustment to incorporate the Property into 412 Carnation.

(b) Buyers have secured any and all permits and approvals required for the lot line adjustment by the City or any other government agency including The California Coastal Commission; and

(c) Buyers have secured any and all approvals interest holder in property required pursuant to any mortgage deed of trust or other form of conveyance for financing recorded on 412 Carnation Avenue.

(d) Buyers determining that the condition of the Property is as represented herein by City; and

(e) Neither Buyers or City are in material default of this Agreement; and

(f) None of Buyers or City's representations and warranties contained herein shall be proven materially untrue; and

(g) Satisfaction of all of City's obligations enumerated in Section 5 hereof; and

(h) Satisfaction of all of Buyers' obligations enumerated in Section 6 hereof; and

5. City's Obligations.

(a) City shall Advise Buyers no later than five (5) business days before the anticipated Conveyance of the instructions to facilitate an electronic transfer of funds.

(b) City shall deliver to Buyers, no later than 12:00 o'clock noon, one (1) business day before the anticipated Conveyance, an originally executed and recordable Quitclaim Deed (the, "Quitclaim Deed") in substantially the form set forth of **Exhibit "C"** incorporated herein by reference.

(c) A certification ("FIRPTA Certificate") originally executed by City under penalty of perjury in substantially the form of **Exhibit "D"**, setting forth City's address(es) and social security/tax identification numbers, and certifying that none of the parties comprising Seller is a "foreign person" for purposes of Section 1445 (as may be amended) of the Internal Revenue Code of 1986, as amended, and any regulation promulgated thereunder and City are resident taxpayers in the State of California for purposes of Revenue and Taxation Code Sections 18805 and 26131.

6. Buyers' Obligations. Buyers shall deliver to City, no later than 12:00 o'clock noon one (1) business day before the anticipated Conveyance, the following:

(a) Buyers shall deliver to City, no later than 12:00 o'clock noon two (2) business days before the anticipated Conveyance the funds comprising the Property Price. Delivery of funds shall be via wire transfer pursuant to the instructions set forth in **Exhibit "E"**

(b) Prior to Conveyance, Buyers shall apply with City for a lot line adjustment merging the Property with 412 Carnation, and shall pay all fees required by City for the processing the lot line adjustment. Buyers shall diligently perform all actions and submit all plans and other documents necessary for the lot line adjustment, including but not limited retaining such surveyors, consultants and design professionals as are necessary to prepare plans, documents and legal descriptions of the Property and 412 Carnation. Fees for surveyors, design professionals, and/or other consultants retained to produce such plans, documents and legal descriptions of the Property and 412 Carnation shall be paid entirely by Buyers.

7. Representations and Warranties.

7.1 The Buyers represent and warrant to the City as follows:

(a) Authority. Buyers have full right, power, and lawful authority to purchase the Property as provided herein; and

(b) No Conflict. Buyers execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or offer to which Buyers are a party or by which it is bound; and

(c) To the best of the Buyers' knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting this Agreement thereof, at law, or in equity before any court or governmental agency, domestic or foreign; and

(d) To the best of the Buyers' knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, or other agreement; and

7.2 The City represents and warrants to the Buyers as follows:

(a) The City has full right, power and lawful authority to grant, sell and convey the Property as provided herein; and

(b) To the best of the City's knowledge there are no other persons who have a lawful interest in the Property; and

(c) To the best of the City's knowledge, there are no pending or threatened actions, suits, material claims, legal proceedings, or any other proceedings affecting the Property or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign; and

(d) Until the Conveyance, the City shall not do anything, or allow any other person or entity to do anything, which would impair the City's title to the Property or title to the Property; and

(e) The City agrees to convey by Quitclaim Deed to Buyers title to the Property.

(f) Until the Conveyance, the City shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 7.2 not to be true as of Conveyance, immediately give written notice of such fact or condition to Buyers.

8. Release and Waiver. The Property Purchase Price has been determined based upon negotiations at arm's-length. City waives any right to receive an offer based on an appraisal, and agrees that the Purchase Price shall be the sole payment and compensation to the City for the sale of the City's interest in the Property.

9. Condition and Limitations on Use of the Property.

(a) The square footage of the Property cannot be used to increase the buildable area allowed on 412 Carnation. This restriction shall be recorded with the Quitclaim Deed substantially in a form set forth in Exhibit "C."

(b) No habitable structures may be constructed or installed on the Property. This restriction shall be recorded with the Quitclaim Deed. Landscape features, garden walls, fences, walkways, hardscape and paths and maintenance or adjustment thereof will be allowed on the Property, subject to Buyersobtaining all necessary permits that may be required by City or any other governmental agency. Existing Permitted Improvements may remain on the Property.

(c) **"AS IS" Acceptance of the Property**. The Property is located on a slope, and Permitted Improvements have been installed on the Property by the Buyers. City makes no guarantees, representations or warranties related to the condition of the Property, or the stability of the slope on the Property. Buyers are satisfied with the physical condition, quality, quantity and state of repair of the Property in all respects and by proceeding to Conveyance, Buyers shall be deemed to have determined that the same is satisfactory to Buyers;

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT FOR CITY'S REPRESENTATIONS AND WARRANTIES IN SECTION 6.2 OF THIS AGREEMENT AND ANY WARRANTIES OF TITLE CONTAINED IN THE QUITCLAIM DEED DELIVERED AT THE CONVEYANCE ("CITY'S WARRANTIES"), THIS SALE IS MADE AND WILL BE MADE WITHOUT REPRESENTATION, COVENANT, OR WARRANTY OF ANY KIND (WHETHER EXPRESS, IMPLIED, OR, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, STATUTORY) BY CITY. AS A MATERIAL PART OF THE CONSIDERATION FOR THIS AGREEMENT, BUYERS AGREE TO ACCEPT THE PROPERTY ON AN "AS IS" AND "WHERE IS" BASIS, WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATION OR WARRANTY, ALL OF WHICH CITY HEREBY DISCLAIMS, EXCEPT FOR CITY'S WARRANTIES IN SECTION 6.2 OF THIS AGREEMENT. BUYERS ACKNOWLEDGE THAT BUYERS ARE NOT NOW RELYING, AND WILL NOT LATER RELY, UPON ANY REPRESENTATIONS AND WARRANTIES MADE BY CITY OR ANYONE ACTING OR CLAIMING TO ACT, BY, THROUGH OR UNDER OR ON CITY'S BEHALF CONCERNING THE PROPERTY. ADDITIONALLY, BUYERS AND CITY HEREBY AGREE THAT EXCEPT FOR CITY'S WARRANTIES, BUYERS TAKE THE PROPERTY "AS IS" WITH ALL LATENT AND PATENT DEFECTS AND THAT EXCEPT FOR CITY'S WARRANTIES IN SECTION 6.2 OF THIS AGREEMENT, THERE IS NO WARRANTY BY CITY THAT THE PROPERTY IS FIT FOR A PARTICULAR PURPOSE. EXCEPT FOR CITY'S WARRANTIES IN SECTION 6.2 OF THIS AGREEMENT, BUYERS ARE SOLELY RELYING UPON THEIR EXAMINATION OF THE PROPERTY. BUYERS TAKE THE PROPERTY UNDER THIS AGREEMENT UNDER THE EXPRESS UNDERSTANDING THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES (EXCEPT FOR THE LIMITED WARRANTIES OF TITLE SET FORTH IN THE QUITCLAIM DEED AND CITY'S WARRANTIES).

10. Termination. If Buyers' or City's conditions or other obligations under this Agreement have not been performed prior to the Outside Date, then either party which has fully performed under this Agreement may, in writing, demand the return of money including any earned interest or property and terminate this Agreement. Termination of this Agreement shall be without prejudice as to whatever legal rights either party may have against the other arising from this Agreement.

11. Loss or Damage. Loss or damage to Property, by fire or other casualty, occurring prior to the recordation of the Quitclaim deed shall be at the risk of the Buyer.

12. General Provisions.

12.1 Brokers. The Buyers represent and warrant to City that they have not used any finder, broker or real estate agent in connection with this transaction, and agrees that it shall indemnify and hold the other harmless from and against all brokerage commissions or finder's fees and claims therefore, payable in connection with the disposition of the Property and resulting from the acts or omissions of such indemnifying party.

12.2 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Buyers and the City and their respective heirs, personal representatives, successors and assigns.

12.3 Attorneys' Fees. In any action between the parties to interpret, enforce, award, modify or rescind any of the terms or provisions of this Agreement, or any action otherwise commenced or taken in connection with this Agreement, both parties shall be responsible for their respective litigation costs and attorneys' fees.

12.4 Approvals and Notices. Any approval, disapproval, demand, document or other notice ("Notice") which either party may desire or be required to give to the other party under this Agreement must be in writing and may be given by any commercially acceptable means to the party to whom the Notice is directed at the address of the party as set forth below, or at any other address as that party may later designate by Notice. Any Notice given under this paragraph, whether personally or by mail, shall be deemed received only upon actual receipt by the intended party.

To City: City Manager
City of Newport Beach
3300 Newport Blvd.
P.O. Box 1768
Newport Beach, CA 92658-8915
Tele: (949)644-3000

To Buyers: Kurt Christiansen, Trustee
The Kurt P. Christiansen Trust
412 Carnation
Corona del Mar, CA 92625

Nicholas and Carol Samios
P.O. Box 876
Westminster, MD 21158-0867

12.5 Jurisdiction and Venue. This Agreement shall be construed under the laws of the State of California in effect at the time of the signing of this Agreement. The parties consent to the jurisdiction of the California courts with venue in County of Orange.

12.6 Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. Reference to section numbers are to sections in this Agreement, unless expressly stated otherwise.

12.7 Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly by both parties.

12.8 No Waiver. A waiver by either party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

12.9 Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party.

12.10 Severability. If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, and the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

12.11 Offer. Any delivery of unsigned copies of this Agreement is solely for the purpose of review by the party to whom delivered, and neither the delivery nor any prior communications between the parties, whether oral or written, shall in any way be construed as an offer by City, nor in any way imply that City is under any obligation to enter the transaction which is the subject of this Agreement. The signing of this Agreement by the Buyers constitute an offer to purchase which shall not be deemed accepted by City unless and until the City has signed this Agreement. This is not a binding agreement unless and until executed on behalf of City after approval and adoption of a resolution or minute action by the City's City Council in full compliance with the City's Charter, ordinances, and regulations.

12.12 Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

12.13 Legal Advice. Each party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

12.14 Time of Essence. Time is expressly made of the essence with respect to the performance by the Buyers and the City of each and every obligation and condition of this Agreement including, without limitation, the Conveyance.

12.15 Cooperation. Each party agrees to cooperate with the other in the Conveyance of this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Agreement including, but not limited to, releases or additional agreements.

12.16 Agreement in Total.

(a) Entire Agreement. This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. The City is entering this Agreement based solely upon the representations set forth herein and upon the City's own independent investigation of any and all facts the City deems material. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of either party shall be of any effect unless it is in writing and executed by the party to be bound thereby.

(b) Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS WHEREOF, the Buyers and the City have signed this Agreement on the dates set forth below.

BUYERS:

Kurt Christiansen, Trustee
The Kurt P. Christiansen Trust

Date: 8/10/11

Nicholas A. Samios

Date: 8/24/11

Carol B. Samios

Date: 8/24/11

CITY:
CITY OF NEWPORT BEACH,
a California charter city and municipal corporation

By: Dave Kiff, City Manager

Date: 8/16/2011

ATTEST:

By: for Leilani Brown, City Clerk

Date: 8/25/11

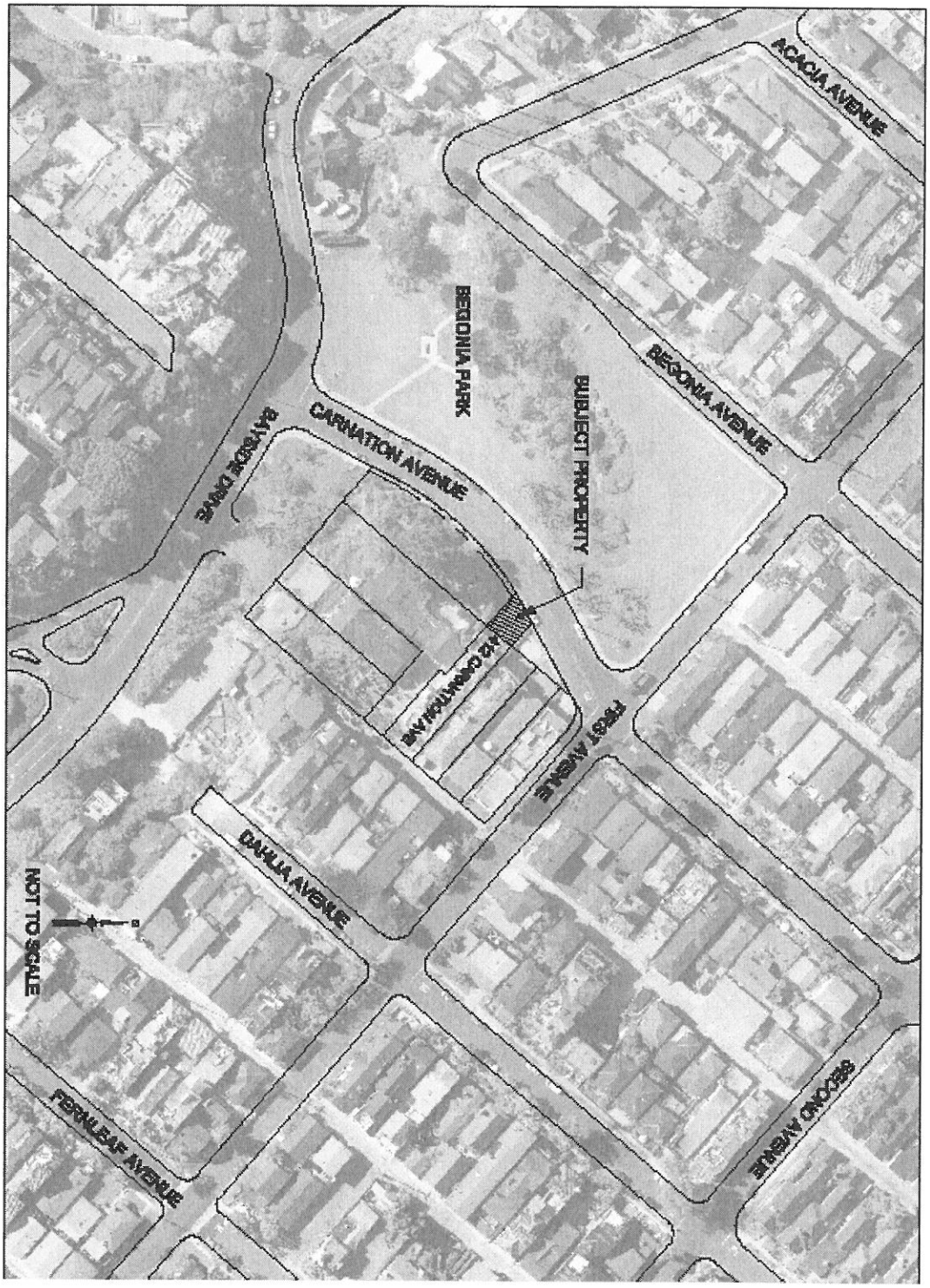
APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: Leonie Mulvihill,
Assistant City Attorney

Date: 8/9/11

Exhibit A: Map of 412 Carnation Ave.
Exhibit B: Property Legal Description
Exhibit C: Quit Claim Deed
Exhibit D: FIRPTA Certificate

EXHIBIT A
MAP OF 412 CARNATION AVE.



AREA MAP

EXHIBIT "B"
LEGAL DESCRIPTION OF SUBJECT PROPERTY

To Be Inserted

EXHIBIT C
QUITCLAIM DEED

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:
Kurt P. Christiansen, Trustee
412 Carnation
Corona del Mar, CA 92625

WITH A CONFORMED COPY TO:
Nicholas and Carol Samios
P.O. Box 876
Westminster, MD 21158-0867

And;
City of Newport Beach
3300 Newport Blvd.
PO Box 1768
Newport Beach, CA 92658-8915
Attn: City Clerk

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

QUITCLAIM DEED

For valuable consideration, receipt of which is hereby acknowledged, CITY OF NEWPORT BEACH, a California municipal corporation and charter city, hereby quitclaims to KURT P. CHRISTIANSEN, Trustee of the KURT P. CHRISTIANSEN TRUST, dated August 1, 2002 and NICHOLAS A. SAMIOS and CAROL B. SAMIOS, husband and wife, as joint tenants, _____[need owner's preferred vesting designation, city cannot provide this legal advise to buyers],as their interests appear in the Revised Condominium Plan recorded on April 9, 2010, as Instrument No., 2010000168317 of the Official Records of Orange County, California, that real property in the City of Newport Beach, County of Orange, state of California, described as follows:

See Exhibit 1 attached hereto.

SUBJECT TO, easements and rights of way of record or apparent and the restrictions contained in Exhibit 2, attached hereto and incorporated by reference.

RESERVING UNTO GRANTOR, its successors and assigns, the right to use said land for any purpose, that will not in any way interfere with the use by Grantee of this easement, including, but not limited to, the Grantee's right to construct, relocate, repair, maintain, piping and appurtenances, in, on, over, across, under and along said land. Grantee shall not be obligated to relocate its facilities to accommodate any exercise of the rights retained herein by Grantor; except that Grantee may, in its discretion, permit such relocation provided the expense is borne by Grantor or others.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

GRANTORS:

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

Dated: _____

By:_____
Leonie Mulvihill,
Assistant City Attorney

CITY OF NEWPORT BEACH,
A California Municipal Corporation
and charter City

Dated: _____

By:_____
David Kiff,
City Manager

ATTEST:

By:_____
Leilani I. Brown,
City Clerk

State of California)

County of ORANGE)

On _____, 2011 before me, _____, Notary Public, personally appeared DAVE KIFF, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature on the instrument the person, or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

_____(Seal)

Exhibit 1

Legal Description to Be Inserted

Exhibit 2
PERMANENT RESTRICTIONS

1. No habitable structures shall be constructed on the parcel. Landscape features, garden walls, retaining walls, irrigation equipment, fences, paths and patios will be allowed.

2. The square footage of the Property cannot be used to increase the buildable area allowed on the adjacent parcel.

3. "AS IS" Acceptance of the Property. The Property is located on a slope, and Permitted Improvements have been installed on the Property by the Buyer. Seller makes no guarantees, representations or warranties related to the condition of the Property, or the stability of the slope on the Property.

EXHIBIT D

TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS

To inform the KURT P. CHRISTIANSEN, Trustee of the the KURT P. CHRISTIANSEN TRUST dated August 1, 2002 and NICHOLAS A. SAMIOS and CAROL B. SAMIOS ("Transferee") that withholding of tax under Section 1445 of the Internal Revenue Code of 1986, as amended ("Code") will not be required upon the transfer of certain real property described as Assessor's Parcel No._____ located in the City of Newport Beach, County of Orange in the State of California to the Transferee by CITY OF NEWPORT BEACH, a California municipal corporation and charter city (the "Transferors"), the undersigned hereby certify the following:

1. We am/are not a nonresident alien for purposes of United States income taxation;

2. My/our United States taxpayer identifying number (Employer Identification Number is 95-6000751.

3. My/our address is: City of Newport Beach
3300 Newport Blvd.
PO Box 1768
Newport Beach, CA 92658

Transferor understands that this Certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury, we declare that we have examined this Certification and to the best of my/our knowledge and belief it is true, correct, and complete, and we further declare that we have authority to sign this document on behalf of the Transferor.

"TRANSFEROR"

Dated:. _____ By:_____
Dave Kiff, City Manager

Attachment No. ZA 3

Vicinity Map

VICINITY MAP

Lot Line Adjustment No. LA2011-002
PA2011-194

412 and 412 ½ Carnation Avenue

Attachment No. ZA 4

Lot Line Adjustment Exhibits

EXHIBIT "A"
CITY OF NEWPORT BEACH
LOT LINE ADJUSTMENT LA 2011-

(LEGAL DESCRIPTION)

OWNERS	EXISTING PARCELS AP NUMBER	PROPOSED PARCELS REFERENCE NUMBER
NICHOLAS A SAMIOS KURT CHRISTIANSEN	938-01-325 938-01-326	PARCEL 1
CITY OF NEWPORT BEACH	NONE	PARCEL 2

PARCEL 1:

THAT PORTION OF BLOCK 330 OF CORONA DEL MAR, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 3, PAGES 41 AND 42 MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT PORTION OF THE NORTHWESTERLY HALF OF ABANDONED STREET KNOWN AS CARNATION AVENUE FORMALLY SHOWN AS 30TH AVENUE ON SAID MAP OF CORONA DEL MAR, VACATED BY ORDINANCE NO. 297, A CERTIFIED COPY OF WHICH RECORDED JUNE 26, 1941 IN BOOK 1099, PAGE 237 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 1 OF PARCEL MAP NO. 97-163, RECORDED IN BOOK 300, PAGES 41 AND 42 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PARCEL 1, NORTH 49°24'45" WEST 24.42 FEET; THENCE SOUTH61°24'58" WEST 32.11 FEET TO A POINT ON THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE OF SAID PARCEL 1; THENCE ALONG SAID NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE, SOUTH 49°24'45" EAST 35.85 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE ALONG THE NORTHWEST LINE OF SAID PARCEL 1, NORTH 40°34'38" EAST 30.01 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH PARCEL 2 OF LOT LINE ADJUSTMENT NO. 2009-006 .

PARCEL 2:

ALL OF BLOCK 330 OF CORONA DEL MAR, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 3, PAGES 41 AND 42 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THE NORTHWESTERLY HALF OF ABANDONED STREET KNOWN AS CARNATION AVENUE FORMALLY SHOWN AS 30TH AVENUE ON SAID MAP OF CORONA DEL MAR, VACATED BY ORDINANCE NO. 297, A CERTIFIED COPY OF WHICH RECORDED JUNE 26, 1941 IN BOOK 1099, PAGE 237 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM THAT PORTION THEREOF, BEGINNING AT THE NORTHWEST CORNER OF PARCEL 1 OF PARCEL MAP NO. 97-163, RECORDED IN BOOK 300, PAGES 41 AND 42 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PARCEL 1, NORTH 49°24'45"WEST 24.42 FEET; THENCE SOUTH 61°24'58" WEST 32.11 FEET TO A POINT ON THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE, SOUTH 49°24'45"EAST 35.85 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE ALONG THE NORTHWEST LINE OF SAID PARCEL 1, NORTH40°34'38"EAST 30.01 FEET TO THE POINT OF BEGINNING.

EXHIBIT "A"
CITY OF NEWPORT BEACH
LOT LINE ADJUSTMENT LA 2011-

(LEGAL DESCRIPTION)

OWNERS	EXISTING PARCELS AP NUMBER	PROPOSED PARCELS REFERENCE NUMBER
NICHOLAS A SAMIOS KURT CHRISTIANSEN	938-01-325 938-01-326	PARCEL 1
CITY OF NEWPORT BEACH	NONE	PARCEL 2

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF, BEGINNING AT THE MOST WESTERLY CORNER OF PARCEL 1 OF LOT LINE ADJUSTMENT NO. 95-11 RECORDED MARCH 12, 1996 AS INSTRUMENT NO. 96-121007 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE NORTH40°00'00"EAST 180 FEET ALONG THE NORTHWESTERLY LINE OF SAID PARCEL TO THE MOST NORTHERLY CORNER OF SAID PARCEL; THENCE NORTH50°00'00"WEST ALONG THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID PARCEL TO A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 275 FEET, SAID CURVE BEING CONCENTRIC AND 5 FEET SOUTHEASTERLY, MEASURED RADIALLY, FROM THAT CERTAIN CURVE IN THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF CARNATION AVENUE, AS NOW ESTABLISHED, HAVING A RADIUS OF 280 FEET; THENCE SOUTHWESTERLY ALONG SAID CONCENTRIC CURVE, THROUGH A CENTRAL ANGEL OF 33°00'00", AN ARC LENGTH OF 158.39FEET; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE SOUTH28°00'00"WEST 33.07 FEET TO THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE OF SAID PARCEL; THENCE SOUTHEASTERLY ALONG SAID PROLONGATION THE POINT OF BEGINNING, AS CONVEYED BY THE CITY OF NEWPORT BEACH IN DEED RECORDED FEBRUARY 19, 1999 AS INSTRUMENT NO. 99-119053 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

AREA= 5,194 SQ. FT MORE OR LESS

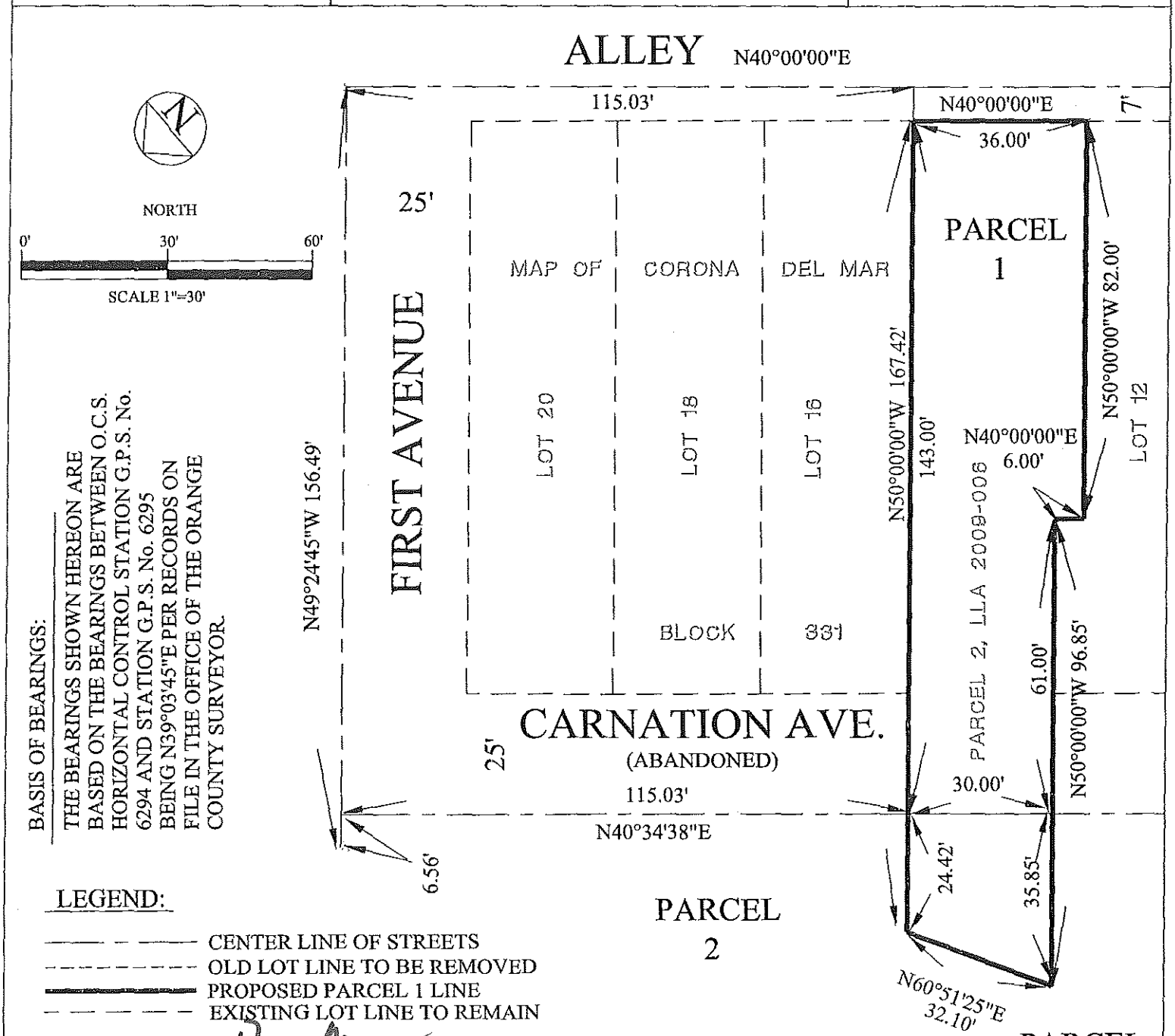
LICENSED LAND SURVEYOR
RON MIEDEMA
No. 4653
Exp. 9/30/13
STATE OF CALIFORNIA

PREPARED BY : _____
RON MIEDEMA L.S. 4653
REGISTRATION EXPIRES 9-30-2013

DATE: 09-16-2011

EXHIBIT "B"
CITY OF NEWPORT BEACH
LOT LINE ADJUSTMENT LA. 2011-
(MAP)

OWNERS	EXISTING PARCELS AP NUMBER	PROPOSED PARCELS REFERENCE NUMBER
KURT CHRISTIANSEN	938-01-325 938-01-326	PARCEL 1
CITY OF NEWPORT BEACH	NONE	PARCEL 2



BASIS OF BEARINGS:

THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARINGS BETWEEN O.C.S. HORIZONTAL CONTROL STATION G.P.S. No. 6294 AND STATION G.P.S. No. 6295 BEING N39°03'45"E PER RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR.

LEGEND:

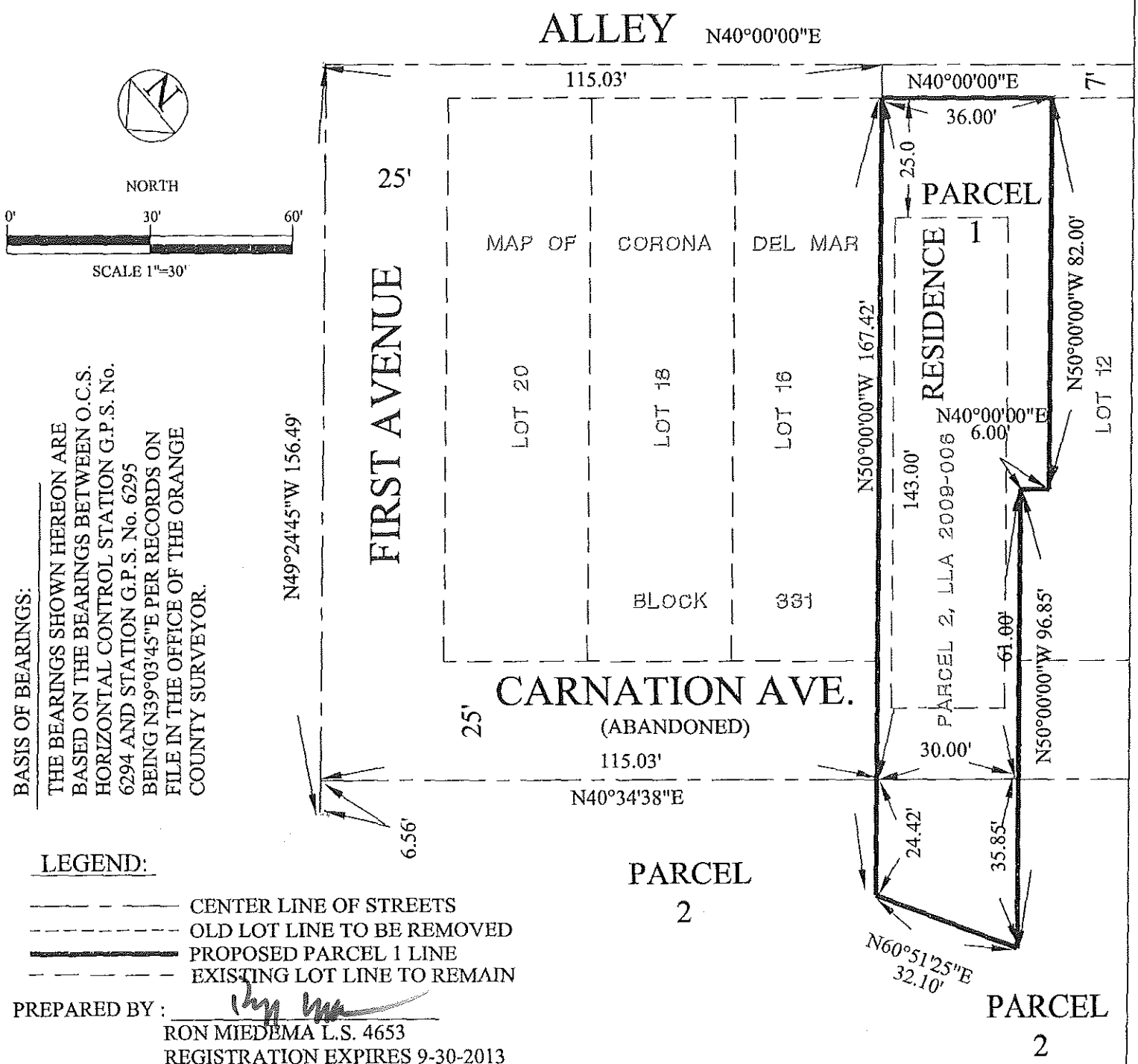
- CENTER LINE OF STREETS
- OLD LOT LINE TO BE REMOVED
- PROPOSED PARCEL 1 LINE
- EXISTING LOT LINE TO REMAIN

PREPARED BY : _____
RON MIEDEMA L.S. 4653
REGISTRATION EXPIRES 9-30-2013

DATE: 09-16-2011

EXHIBIT "C"
CITY OF NEWPORT BEACH
LOT LINE ADJUSTMENT LA. 2011-
(MAP)

OWNERS	EXISTING PARCELS AP NUMBER	PROPOSED PARCELS REFERENCE NUMBER
KURT CHRISTIANSEN NICHOLAS A SAMIOS	938-01-325 938-01-326	PARCEL 1
CITY OF NEWPORT BEACH	NONE	PARCEL 2



BASIS OF BEARINGS:
THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARINGS BETWEEN O.C.S. HORIZONTAL CONTROL STATION G.P.S. No. 6294 AND STATION G.P.S. No. 6295 BEING N39°03'45"E PER RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR.

LEGEND:

- CENTER LINE OF STREETS
- OLD LOT LINE TO BE REMOVED
- PROPOSED PARCEL 1 LINE
- EXISTING LOT LINE TO REMAIN

PREPARED BY : _____
RON MIEDEMA L.S. 4653
REGISTRATION EXPIRES 9-30-2013

DATE: 09-16-2011