COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
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**CITY OF NEWPORT BEACH**
**ZONING ADMINISTRATOR STAFF REPORT**
Agenda Item No. 2

**SUBJECT:** 424 Marguerite Avenue Parcel Map - (PA2013-060)
424 Marguerite Avenue
- Tentative Parcel Map No. NP2013-008
- County Tentative Parcel Map No. 2012-139

**APPLICANT:** Marguerite Project LLC, Property Owner

**PLANNER:** Jason Van Patten, Planning Technician
(949) 644-3234, jvanpatten@newportbeachca.gov

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## ZONING DISTRICT/GENERAL PLAN

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

## PROJECT SUMMARY

A tentative parcel map application for two-unit condominium purposes. No exceptions to Title 19 (Subdivision Code) development standards are proposed with this application. An existing single-family residence with a detached garage will be demolished and replaced with a proposed two-unit duplex that will provide the code required two-car parking per unit. The proposed development has been submitted for plan check and assigned plan check no. 0331-2013. A parcel map is for the purpose of creating separate ownership units.

## RECOMMENDATION

1) Conduct a public hearing; and

2) Adopt Draft Zoning Administrator Resolution No. _ approving Tentative Parcel Map No. NP2013-008 (Attachment No. ZA 1).

## DISCUSSION

- An existing single-family residence with a detached garage will be demolished and replaced with a new two-unit duplex that was submitted for plan check on February 15, 2013 and assigned plan check no. 0331-2013.

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

- Approval of a parcel map will create separate ownership units allowing each unit to be sold separately.

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

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

- The applicant will be subject to fees for park dedication and affordable housing in accordance with the provisions of Section 19.52 and 19.54 of the Newport Beach Municipal Code.

## ENVIRONMENTAL REVIEW

The project has been reviewed, and qualifies for a Class 15 (Minor Land Divisions) categorical exemption pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act). 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 proposed parcel map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

## PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code.

Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

**APPEAL PERIOD**:

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

Prepared by:

Jason Van Patten
Planning Technician

JG/jvp

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|---|---|---|
| Attachments: | ZA 1 | Draft Resolution |
| | ZA 2 | Vicinity Map |
| | ZA 3 | Parcel Map No. NP2013-008 |
| | | County Tentative Parcel Map No. 2012-139 |

# Attachment No. ZA 1

Draft Resolution

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

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING PARCEL MAP APPLICATION NO. NP2013-008 FOR A PARCEL MAP FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 424 MARGUERITE AVENUE (PA2013-060)**

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Marguerite Project LLC, property owner, with respect to property located at 424 Marguerite Avenue, and legally described as Lot 18 in Block 439 of Corona del Mar, in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 3, Pages 41 and 42 of maps in the Office of the County Recorder of Orange County, State of California requesting approval of a tentative parcel map.

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

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

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

5. A public hearing was held on May 16, 2013 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The project has been reviewed, and qualifies for a Class 15 (Minor Land Divisions) categorical exemption pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act)

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

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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 proposed 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 proposed parcel map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

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

Facts in Support of Finding:

A-1. The proposed parcel map is for two-unit condominium purposes. An existing single-family residence will be demolished and 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 General Plan Land Use Designation "Two-Unit Residential."

Finding:

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

Facts in Support of Finding:

B-1. The lot is physically suitable for two-unit development because it is regular in shape and has a slope of less than 20 percent.

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.*

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Facts in Support of Finding:

C-1. This project has been reviewed, and it has been determined that it qualifies for a Class 15 categorical exemption pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act). The Class 15 (Minor Land Divisions) 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 proposed parcel map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

Finding:

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

Facts in Support of Finding:

D-1. The proposed parcel map is for residential condominium purposes. All construction for 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.*

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Facts in Support of Finding:

E-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:

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

F-2. The site will be developed for a residential use and is zoned for residential uses.

Finding:

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

Facts in Support of Finding:

G-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 50 or more parcels.

G-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:

H-1. The proposed parcel map and improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling

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

Finding:

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

Facts in Support of Finding:

I-1. The two-unit duplex is consistent with the R-2 Zoning District which allows two units on the property. Therefore, the 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:

J-1. Wastewater discharge into the existing sewer system has been designed to comply with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Facts in Support of Finding:

K-1. The project is not located within the Coastal Zone, and therefore, is not applicable in regards to conformance with the certified Local Coastal Program and public access and recreation policies of Chapter Three of the Coastal Act.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Parcel Map No. NP2013-008, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

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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 16th DAY OF MAY, 2013.**

By:

_____

Brenda Wisneski, AICP, Zoning Administrator

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**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. Prior to the recordation of the parcel map, in-lieu housing fees for one additional dwelling unit shall be paid consistent with the fee amount in effect at the time of payment as established by the City of Newport Beach Municipal Code.

4. Prior to the recordation of the parcel map, park dedication fees for one additional dwelling unit shall be paid consistent with the fee amount in effect at the time of payment as established by the City of Newport Beach Municipal Code.

5. Prior to the issuance of building permits, fair-share fees for one additional dwelling unit shall be paid consistent with the fee amount in effect at the time of payment as established by the City of Newport Beach Municipal Code.

6. As per California Fire Code Section 903.2.8, an automatic sprinkler system shall be installed throughout all new buildings in a Group R occupancy.

7. Smoke alarms shall be installed outside of each separate dwelling unit sleeping area in the immediate vicinity of bedrooms, and on every level of a dwelling unit including basements.

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

9. The applicant shall reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Marguerite Avenue frontage. Limits of reconstruction are at the discretion of the Public Works inspector.

10. All above ground improvements shall stay a minimum 5-feet clear of the alley setback.

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11. 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.

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

13. All improvements shall comply with the City's sight distance requirements. See City Standard 110-L and Municipal Code Section 20.30.130.

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

15. 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 meters and sewer cleanouts shall be located within the public right-of-way.

16. Each unit shall be served with individual gas and electrical service connections and shall maintain separate utility meters.

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

18. All abandoned sewer lateral(s) shall be capped at the property line.

19. All abandoned water service(s) shall be capped at main (corporation stop).

20. The existing street tree along Marguerite Avenue shall be protected in place.

21. Private landscaping shall not encroach onto the public sidewalk.

22. Two-car parking, including one in a garage and one covered or in a garage, shall be provided on site for each dwelling unit per requirements of the Zoning Code.

23. In compliance with the requirements of Chapter 9.04, Section 901.4.4, of the Newport Beach Municipal Code, approved street numbers or addresses shall be placed on all new and existing buildings in such a location that is plainly visible and legible from the street or road fronting the subject property. Said numbers shall be of non-combustible materials, shall contrast with the background, and shall be either internally or externally illuminated to be visible at night. Numbers shall be no less than four inches in height with a one-inch wide stroke.

24. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all

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applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

25. Prior to the recordation of the parcel map, the applicant shall apply for a building permit for description change of the subject project development from “duplex” to “condominium.” **The development will not be condominiums until this permit is finaled.** The building permit for the new construction shall not be finaled until after recordation of the parcel map.

26. 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 424 Marguerite Avenue Parcel Map including, but not limited to, Parcel Map No. NP2013-008 (PA2013-060). 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.

27. This parcel map shall expire if the map has not been recorded within 24 months of the date of approval, unless an extension is granted by the Director of Community Development in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.

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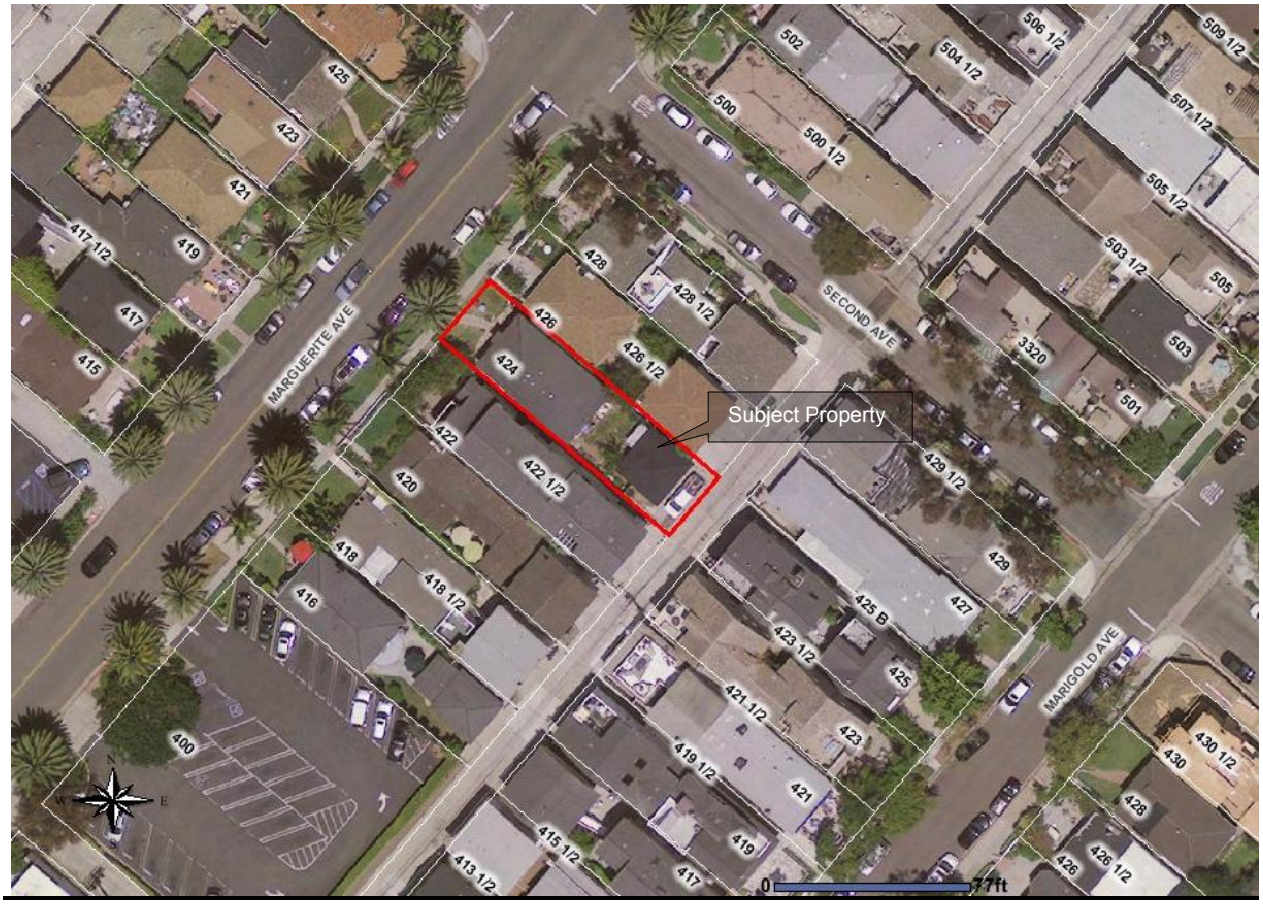
# Attachment No. ZA 2

Vicinity Map

# VICINITY MAP

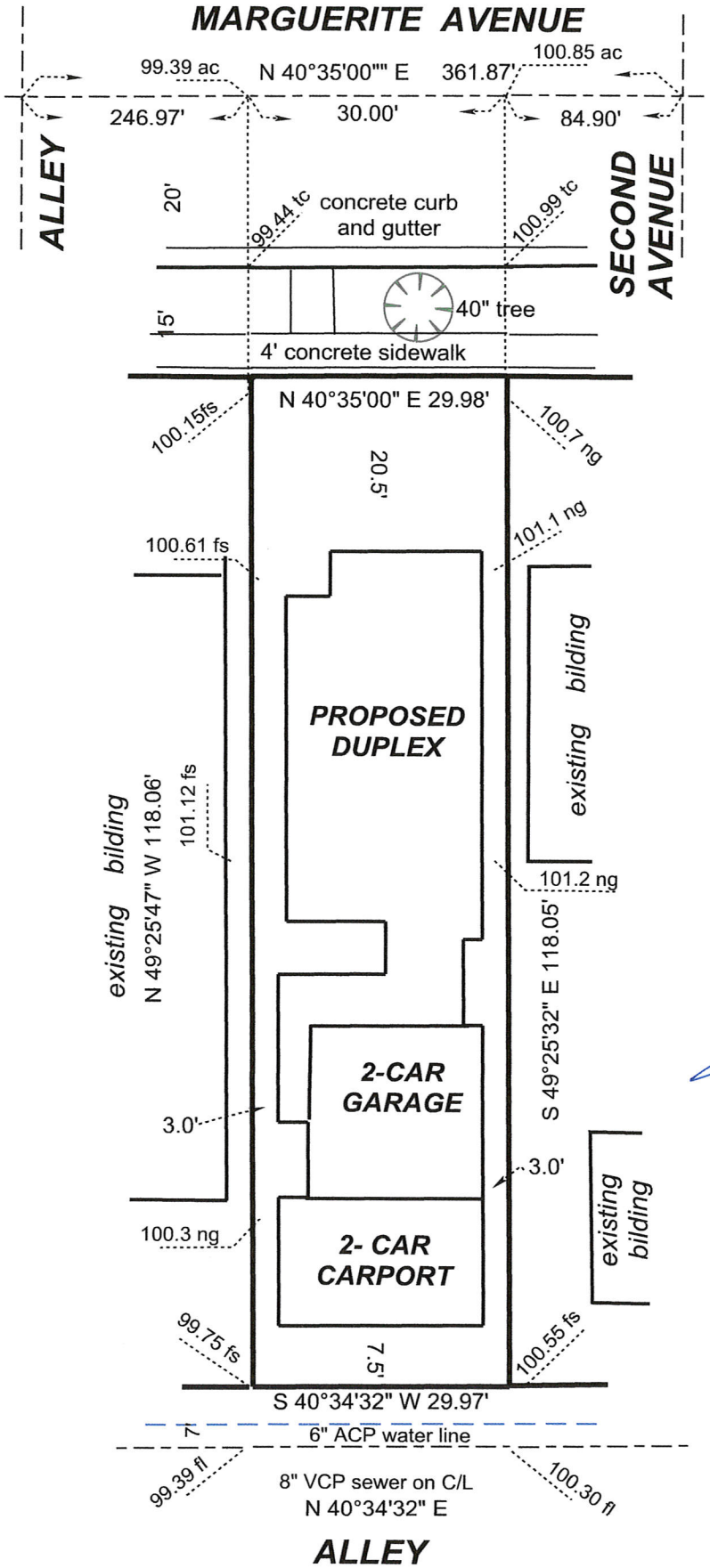



Tentative Parcel Map No. NP2013-008
PA2013-060

**424 Marguerite Avenue**

# Attachment No. ZA 3

Parcel Map No. NP2013-008
County Tentative Parcel Map No. 2012-139



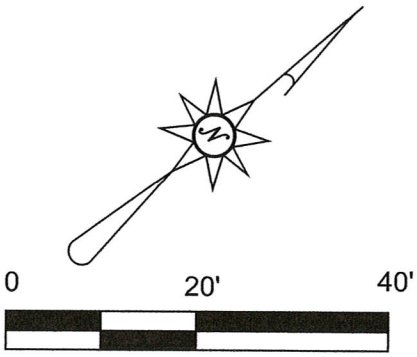

# TENTATIVE PARCEL MAP 2012-139

FOR CONDOMINIUM PURPOSES
LOT 18, BLOCK 439 CORONA DEL MAR

OWNER-DEVELOPER
Marguerite Project, LLC
2305 Pacicic Drive
Corona del Mar CA 92626

Site Address
424 Marguerite Avenue
Corona del Mar CA 62625

Date of field survey July 30, 2012




Scale 1"=20'

Prepared By

Leonard C. Stiles
PLS 5023
License Expires 12/31/2013

LICENSED LAND SURVEYOR
LEONARD CHARLES STILES
No. PLS 5023
STATE OF CALIFORNIA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Traverse PC

**PA2013-060 for NP2013-008**
424 Marguerite Avenue
Marguerite Project LLC

# May 16, 2013, Zoning Administrator Agenda Items

Comments submitted by: Jim Mosher ( jimmosher@yahoo.com ), 2210 Private Road, Newport Beach 92660 (949-548-6229)

**General comments**:

1. The "Public Notice" section of all four hearing item staff reports says notice was published, mailed and "*posted on the subject property at least 10 days **prior to the decision date**, consistent with the provisions of the Municipal Code*." NBMC Section 20.62.020.B actually requires those actions to be completed "*at least ten (10) days **before the scheduled hearing***," not the decision (which could presumably come many days after the initial hearing). The statements in the staff reports provide no assurance the hearings were properly noticed, although the resolutions say they were.
2. Passages shown below, with no further explanation, but in *italics* with ***~~strikeout~~*** ***underline*** are suggested corrections of what seem to be typos.

## *Item B: Minutes of April 25, 2013*

Page 1, Item C, paragraph 1: "*…the proposed towers would measure approximately 2 feet 3 inches **~~in~~** higher than the existing building."*

## *Item C.2. 424 Marguerite Avenue Parcel Map (PA2013-060)*

Comments on Draft Resolution (Attachment No. ZA 1):

1. Section 1.4.: "*The subject property is not located within the **~~coastal zone~~** **Coastal Zone***."
2. The Facts in Support of Finding: I-1. : "*Therefore, the parcel map for condominium purposes will not affect the City in meeting its regional housing need*" seem questionable:
    a. Section 66412.3 of the Subdivision Map Act involves considering the housing needs of the region and "*balanc[ing] these needs against the public service needs of its residents and available fiscal and environmental resources*."
    b. California Government Code Section 65584 involves housing for all income levels, and not having a disproportionate fraction in any one category.
    c. By adding one unit to the City's housing stock in a particular income category, doesn't this approval affect the City's ability to meet its goals with respect to both these sections?
3. Exhibit "A" : Conditions of Approval
    a. Condition "*10. All above ground improvements shall stay a minimum **of** 5-feet clear of the alley setback*."