



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

100 Civic Center Drive, Newport Beach, CA 92660

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CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

August 15, 2013

Agenda Item No. 3

SUBJECT: 606 Acacia Parcel Map - (PA2013-125)
606 Acacia Avenue

- Tentative Parcel Map No. NP2013-014
- County Tentative Parcel Map No. 2013-102

APPLICANT: 97 Acacia Avenue, LLC

PLANNER: Melinda Whelan, Assistant Planner
(949) 644-3221, mwhelan@newportbeachca.gov

ZONING DISTRICT/GENERAL PLAN

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

PROJECT SUMMARY

A parcel map for two-unit condominium purposes. No exceptions to Title 19 (Subdivision Code) development standards are proposed with this application. An existing single-family residence has been demolished and a two-unit duplex is under construction that will provide the code required two-car parking per unit. The parcel map would allow each unit of the project to be sold individually.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. _ approving Tentative Parcel Map No. NP2013-014 (Attachment No. ZA 1).

DISCUSSION

- The existing single-family residence and detached garage (approximately 911 square feet) was demolished and is being replaced with a new 3,528-square-foot

two-unit condominium project that was approved for Building permits, April 24, 2013.

- The property is designated for two-unit residential use by the General Plan and Zoning Code. The new condominium project is consistent with this designation and a parcel map for condominiums does not change the use.
- Approval of a parcel map will allow each unit to be sold separately.
- The new condominium project will conform to current Newport Beach Municipal Code requirements and meet all Title 19 standards.
- Public improvements will be required of the applicant per the Municipal Code and Subdivision Map Act.
- Map approval is subject to fees for park dedication and affordable housing for one dwelling unit in accordance with the provisions of Sections 19.52 and 19.54 of the Subdivision Code. The current park dedication fee is \$26,125 per unit and the current in-lieu affordable housing fee is \$20,513 per unit. However, these fees are subject to change and the tentative parcel map is subject to conditions of approval that require the applicant to pay the fees in-effect at the time of payment, not those in-effect at the time of approval.

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

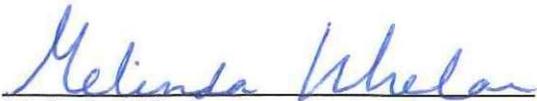
Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent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

City Hall, 100 Civic Center Drive, Newport Beach, California, CA 92660 and at the City of Newport Beach website at www.newportbeachca.gov/zoningadministrator.

APPEAL PERIOD:

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

Prepared by:



Melinda Whelan
Assistant Planner

GR – msw

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|--------------|------|------------------|
| Attachments: | ZA 1 | Draft Resolution |
| | ZA 2 | Vicinity Map |
| | ZA 3 | Tentative Map |

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2013-0##

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING TENTATIVE PARCEL MAP NO. NP2013-014 FOR A PARCEL MAP FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 606 ACACIA AVENUE (PA2013-125).

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by 97 Acacia Avenue, LLC, with respect to property located at 606 Acacia Avenue, and legally described as Lot 8, Block 629, Corona del Mar in the City of Newport Beach, County of Orange, State of California, requesting approval of a Tentative Parcel Map.
2. The applicant requests a tentative parcel map for two-unit condominium purposes. No exceptions to Title 19 (Subdivision Code) development standards are proposed with this application. The code required two-car parking per unit will be provided. The property was developed with a single-family dwelling that has been demolished and a new duplex is currently under construction.
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 located within the Coastal Zone designated as with a land use of Two-Unit Residential (20 – 29.9 du/acre).
5. A public hearing was held on August 15, 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 it qualifies for a categorical exemption pursuant to Section 15315 of the California Environmental Quality Act under Class 15 (Minor Land Divisions) of the Implementing Guidelines 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 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

1. The proposed Parcel Map is for two-unit condominium purposes. An existing single-family dwelling was demolished and is being replaced with a new 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".
2. The project has been conditioned to require public improvements including the reconstruction of existing broken or otherwise damaged sidewalks, curbs, and gutters, along Acacia Avenue consistent with the Subdivision Code (Title 19).

Finding

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

Facts in Support of Finding

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

Finding

- C. *That the design of the subdivision or the proposed improvements will not 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. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 15 (Minor Land Divisions) which 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

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 easements 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 any easements acquired by the public at large for access through or use of property within the proposed development as there are no public easements that are 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 since the subject property is not designated as an agricultural preserve and is less than 100 acres.

Finding

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

Facts in Support of Finding

1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code.
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 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 efficiency standards depending on location and climate. The Newport Beach Building Department 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 residential density on the site will increase by one unit to two units, consistent with the R-2 Zoning District designation. 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

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

1. The subject property is located within the Coastal Zone and the parcel map and the development of the property as a two-unit condominium is consistent with the Coastal Land Use Designation of Two-Unit Residential (20 – 29.9 du/ac).

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Parcel Map No. NP2013-014, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. Tentative Parcel Map applications do not become effective until 10 days following the date of action. Prior to the effective date, the applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by submitting a written appeal application to the Community Development Director. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF AUGUST, 2013.

By:

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.**
4. 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.
5. All improvements shall be constructed as required by Ordinance and the Public Works Department.
6. Prior to recordation of the parcel map, reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Acacia Avenue frontage.
7. Prior to recordation of the parcel map, reconstruct the existing broken and/or otherwise damaged concrete alley adjacent to the project site.
8. All above ground improvements shall stay a minimum 5-foot clear of the alley setback.
9. Acacia Avenue is part of the City's Moratorium List. Work performed on said roadways will require additional surfacing requirements. See City Standard 105-L-F.
10. 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. The newly proposed decorative carriage walk will require an Encroachment Agreement.
11. Prior to recordation of the parcel map, install new sod or low groundcovers of the type approved by the City throughout the Acacia Avenue fronting the development site.
12. 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.

13. An encroachment permit is required for all work activities within the public right-of-way.
14. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L and Municipal Code 20.30.130.
15. 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.
16. All on-site drainage shall comply with the latest City Water Quality requirements.
17. 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.
18. Prior to recordation of the parcel map, per Chapter 13 of the City Municipal Code, a 36-inch box Southern Magnolia (Russett) street tree shall be planted along the Acacia Avenue frontage.
19. Prior to recordation of the Parcel Map, a park dedication fee for one dwelling unit shall be paid in accordance with Chapter 19.52.070 of the Newport Beach Municipal Code and pursuant City Council Resolution No. 2007-30.
20. Prior to recordation of the Parcel Map, a housing in-lieu fee for one dwelling unit shall be paid in accordance with Chapter 19.54.050(D) of the Newport Beach Municipal Code and pursuant to City Council Resolution No. 2010-44.
21. Subsequent to 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.
22. 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 606 Acacia Avenue Parcel Map including, but not limited to, Parcel Map No. NP2013-014 (PA2013-125). 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.

23. 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 Community Development Director in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP

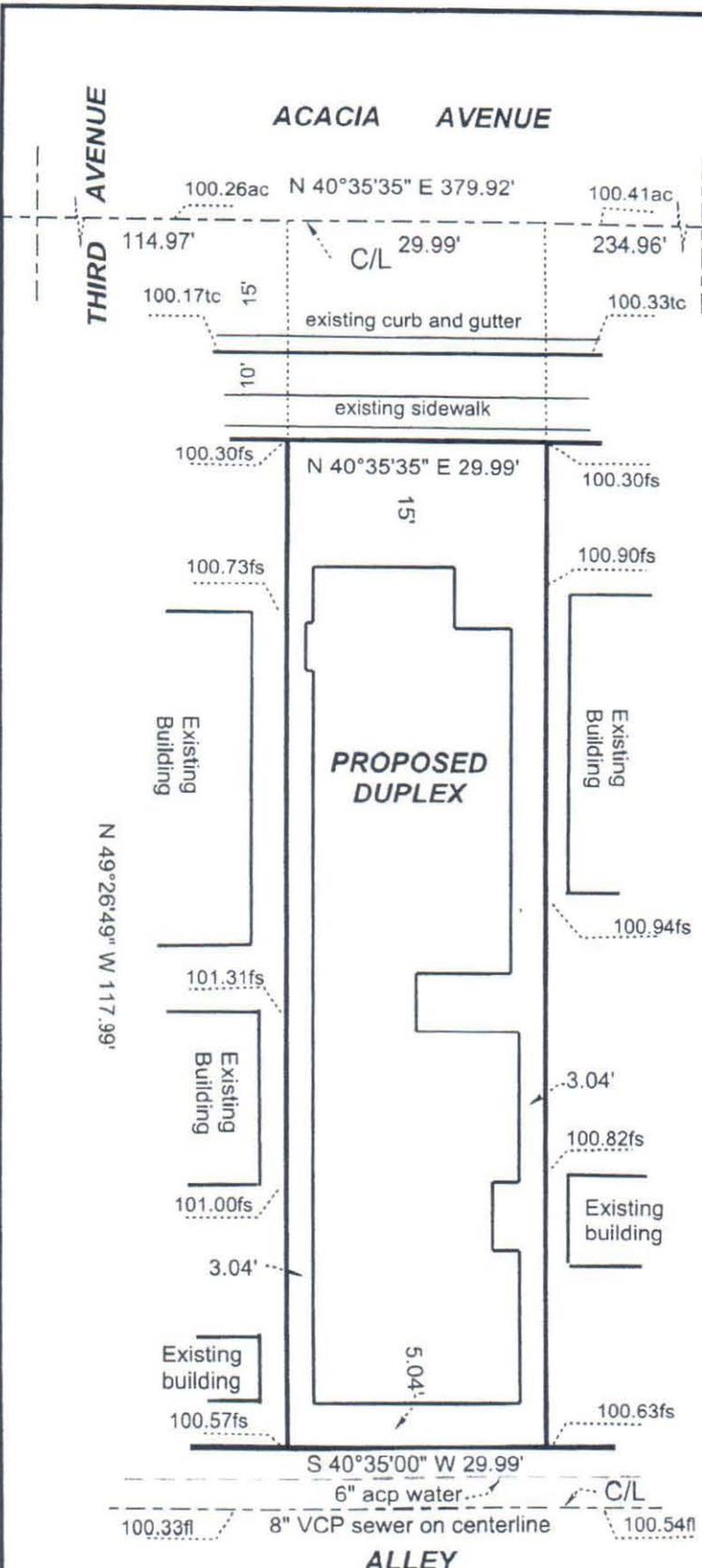


Tentative Parcel Map No. NP2013-014
PA2013-125

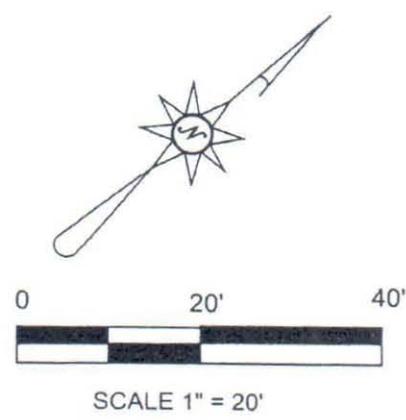
606 Acacia Avenue

Attachment No. ZA 3

Project Plans



TENTATIVE PARCEL MAP
2013-102
 FOR CONDOMINIUM PURPOSES
 LOT 8 BLOCK 629 CORONA DEL MAR
 OWNER-DEVELOPER
 97 ACACIA AVE, LLC
 17782 SKY PARK CIRCLE
 IRVINE CA 92614
 Date of Survey November 27, 2012



Prepared in the office of
Leonard C. Stiles
 Leonard C. Stiles pls 5023

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- b. If additional adjustments to 650, or the other legal lots, are necessary to make them conform to the actual pattern of development, how does this action impact them?
2. In the proposed resolution, I do not understand how required Finding C can be made. After this action legal lots 648 and 649 (Parcels 1 and 2) will be consistent with the regulations, but the surviving legal lot 650 will be reduced to half its present width, which certainly less conforming than it is now.
3. As Section 1.4 indicates, the properties are in the Coastal Zone, and a reminder that an application for a Coastal Development Permit is needed to determine consistency with the Coastal Act (including whether the adjustment is consistent with the dwelling units per acre requirement cited in Section 1.4 – something that is not addressed in the resolution or staff report) should be included as a Condition of Approval.
4. Regarding Condition of Approval 3, are there any other benefit/development fees (parks, affordable housing, etc.) required if a new dwelling unit is developed (see, for example, Conditions 15 and 16 to Item 2)?

Item 2. 416 Orchid Parcel Map (PA2013-124)

1. In the Discussion portion of the staff report, does the statement regarding the square footage of the previous single family residence (bottom of page 1) refer to the entire residence, or to the garage only?
2. With regard to Conditions 15 and 16, wasn't the requirement to pay these fees triggered by the approval to develop a duplex?
 - a. The staff report (page 3), says "*these fees are subject to change and the tentative parcel map is subject to conditions of approval that require the applicant to pay the fees in-effect at the time of payment, not those in-effect at the time of approval.*" But, there is no language about the timing of the payments in the Conditions of Approval as written. Does there need to (or should there?) be?
3. Also, is there a separate "Fair Share" fee involved (see Condition 3 of Item 1)?

Item 3. 606 Acacia Parcel Map (PA2013-125)

1. This is essentially the same staff report and proposed resolution as for Item 2, so the same comments apply.
2. In addition, with regard to Finding K, Comment 3 for Item 1 (above) about the Coastal Act requirements applies, and again neither the staff report nor the resolution indicates what the resulting number of dwelling units per acre will be.
3. Condition of Approval 11 is slightly ungrammatical. It was probably meant to say something like: "*Prior to recordation of the parcel map, install new sod or low groundcovers of the type approved by the City throughout the portion of Acacia Avenue fronting the development site.*" (?)

4. Condition 18, requiring planting of a *Southern Magnolia (Russett)* tree in the public parkway, would appear to be in conflict with NBMC Section 13.08.020. That section restricts the trees that can be legally planted in the parkway to those appearing on the Official Tree List on file with the City Clerk. According to that list, the Official Tree from 400 to 700 Acacia is an Acacia, specifically "*Acacia c. 'Emerald Cascade'* -- RIVER WATTLE."
 - a. Whatever the correct species, "**Chapter 13 of the City Municipal Code**" should read "**Title 13 of the City Municipal Code.**"
 - b. As far as I know there is no requirement for a 36-inch box in Title 13. I believe that is a requirement for citizen-initiated reforestation requests (that is, for applicant-funded replacement of existing healthy City trees) found in City Council Policy G-1. The general planting requirement for parkway trees in Council Policy G-6 is for 24-inch boxes.

Item 4. 1301 Dove Street Comprehensive Sign Program (PA2013-063)

For consistency of planning, I think the request being considered here would be better addressed through a proposal to change the sign standards in the Newport Place Planned Community Development Plan (PC Text), rather than through creation of individual, and possibly inconsistent, sign programs *within* what is supposed to be a planned community.

As to the proposed Resolution:

1. In Section 1.4.a: "*To allow two monument signs (Sign Type 1) to ~~increase in exceed~~ the sign height limit by one foot.*"
2. In Section 1.4.b: "*To allow one address sign (Sign Type 2) ~~to increase in the sign area~~ of 46 square feet (6 ft x 7.66 ft) to be mounted onto the building canopy. The type and size of the proposed sign are not specifically permitted by the PC Text; however, they are limited to a maximum of 72 square inches and 8 inches in height for letters and individual numbers pursuant to the Zoning Code. The purpose of the request is to provide patrons better visibility in ~~identifies identifying~~ the building address and entry point to the building.*"
 - a. The change from 72 square inches to 46 square feet seems like a tremendous increase to me, and I'm not convinced it's justified or consistent with other buildings in the area: the address sign shown on handwritten page 30 seems grossly out of scale with the architecture of the entrance canopy, certainly from the vantage point illustrated on page 42 (that is, it seems much larger than necessary to achieve its purpose). See also comment 6d, below.
3. In Section 1.4.c: "*To allow five directional signs (Sign Type 3) to ~~increase exceed~~ the sign height limit by 2 feet for a total of 6 feet.*"
 - a. Exceeding the height limit raises concerns that these might restrict sight lines and visibility both for motorists and pedestrians. That this is a valid concern seems to be acknowledged in Condition of Approval 4.