



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
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**CITY OF NEWPORT BEACH
ZONING ADMINISTRATOR STAFF REPORT**

October 24, 2013
Agenda Item No. 4

SUBJECT: 208 41st Street Condominium Conversion - (PA2013-175)
208 and 208 1/2 41st Street
▪ Condominium Conversion No. CC2013-004

APPLICANT: Bill Caskey

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 condominium conversion to convert an existing duplex into a condominium project. There are no waivers of Title 19 development standards proposed with this application.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. _ approving Condominium Conversion No. CC2013-004 utilizing Tentative Parcel Map No. NP2007-024 (Attachment No. ZA 1).

DISCUSSION

- The site is located in West Newport, between River Avenue and Balboa Boulevard, in the R-2 zoning district. The adjacent properties are also zoned for residential use. The area of the lot is approximately 2,465 square feet (29' X 85'), which is typical in this neighborhood.
- In 2007, an existing duplex was demolished and a new duplex was constructed to condominium specifications with separate utilities, separate garage spaces, and separate water meters. The building permit was issued April 27, 2007 and construction was finalized June 19, 2008. A tentative parcel map for condominium purposes was also approved concurrently with the construction of the duplex. However, construction of the new duplex was finalized and the parcel map was never recorded at the County. Tentative Parcel Map No. NP2007-024 (County Map No. 2007-201) was approved by the Zoning Administrator on October 27, 2007 and remains valid until October 2020, per state-mandated extension (Government Code Sections 66452.21, 66452.22, 66452.23, and 66452.24). A condominium conversion is now required to implement the existing Parcel Map and convert the duplex into condominiums.
- Condominium Conversion ensures proper notification per Section 19.64.040 (Tenant Notification) to the existing tenants to mitigate impacts to the tenants from their displacement.
- The Land Use Element of the General Plan designates the site as Two-Unit Residential (RT), and the current development is consistent with this designation.
- The Coastal Land Use Plan designates this site as Two-Unit Residential (RT-E), which is intended to provide for two-family residential development, and the current development is consistent with this designation.
- One garage parking space and one tandem carport parking space are provided for each dwelling unit, which satisfies the off-street parking requirements of Chapter 20.40 (Off-Street Parking) of the Municipal Code.
- A special inspection was completed pursuant to Section 19.64.070 F by the Building Inspector on September 25, 2013, for the purpose of identifying any building safety violations. Only one violation was identified which was to replace batteries in all smoke detectors. The violation was corrected and the inspection was approved by the Building Inspector on October 9, 2013.

ENVIRONMENTAL REVIEW

The project has been determined to be categorically exempt pursuant to the State California Environmental Quality Act (CEQA) Guidelines under Class 1 (Existing Facilities) and Class 15 (Minor Land Divisions).

The division of existing multiple family or single-family residences into common interest ownership is exempt under Class 1 of CEQA. The division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels is exempt under Class 15 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 to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.

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 before the scheduled hearing, 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 of the Condominium Conversion may be filed with the Director of Community Development within fourteen (14) 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

Attachments: ZA 1 Draft Resolution
 ZA 2 Vicinity Map
 ZA 3 Project Plans
 ZA 4 County Tentative Parcel Map No. 2007-201

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2013-0##

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING CONDOMINIUM CONVERSION NO. CC2013-004 FOR A TWO-UNIT CONDOMINIUM DEVELOPMENT LOCATED AT 208 AND 208 ½ 41ST STREET (PA2013-175)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bill Caskey, with respect to property located at 208 and 208 ½ 41st Street, and legally described as Lot 5, Block 140, of the Canal Section in the City of Newport Beach, as per map thereof recorded in Book 423, Page 30 of miscellaneous maps in the office of the County Recorder of said Orange County, requesting approval of a condominium conversion and utilizing an existing parcel map for condominium purposes.
2. The applicant proposes a condominium conversion and utilization of an existing parcel map to convert an existing duplex into a condominium project. The code required two-car parking per unit is provided and no waivers of Title 19 development standards are proposed with this application.
3. The subject property is located within the R-2 (Two-Unit Residential) Zoning District and the General Plan Land Use Element category is RT (Two-Unit Residential).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two-Unit Residential).
5. A public hearing was held on October 24, 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. This project has been determined to be categorically exempt pursuant to the State California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities) and Class 15 (Minor Land Divisions).
2. The division of existing multiple family or single-family residences into common interest ownership is exempt under Class 1 of CEQA. The division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels is exempt under Class 2 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 to local standards are available,

the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.

SECTION 3. REQUIRED FINDINGS.

Condominium Conversion

In accordance with Section 19.64.070 (Standards for Condominium Conversions) of the Newport Beach Municipal Code, the following findings are set forth:

Finding

- A. *The minimum number, and the design and location of off-street parking spaces shall be provided in conformance with the provisions of the Zoning Ordinance in effect at the time of approval of the conversion.*

Facts in Support of Finding

- A-1. The existing duplex consists of 4,061 square feet including two, single-car garages and two covered spaces.
- A-2. The four spaces provided meet the number of spaces required (2 per unit) per Chapter 20.40 (Off-Street Parking) of the Zoning Ordinance.

Finding

- B. *Each dwelling unit within a building shall have a separate sewer connection to the City sewer.*

Facts in Support of Finding

- B-1. The duplex has two separate sewer connections to the City sewer.

Finding

- C. *Each sewer lateral shall be retrofitted/fitted with a cleanout at the property line.*

Facts in Support of Finding

- C-1. The duplex has two separate sewer cleanouts located at the property line.

Finding

- D. *Each unit shall maintain a separate water meter and water meter connection.*

Facts in Support of Finding

- D-1. The duplex has two separate water meters and water meter connections.

Finding

- E. The electrical service connection shall comply with the requirements of Chapter 15.32 (Underground Utilities) of the Newport Beach Municipal Code.*

Facts in Support of Finding

- E-1. The duplex was constructed with electrical service connections in compliance with the requirements of Chapter 15.32.

Finding

- F. The applicant for a condominium conversion shall request a special inspection from the Building Division for the purpose of identifying any building safety violations. The applicant shall correct all identified safety violations prior to approval of a final map for the condominium conversion.*

Facts in Support of Finding

- F-1. A special inspection was completed pursuant to Section 19.64.070 F by the Building Inspector on September 25, 2013, for the purpose of identifying any building safety violations. Only one violation was identified which was to replace the batteries in all smoke detectors. The violation was corrected and the inspection was approved by the Building Inspector on October 9, 2013.

Finding

- G. Permanent lot stakes and tags shall be installed at all lot corners by a licensed surveyor or civil engineer unless otherwise required by the City Engineer.*

Facts in Support of Finding

- G-1. As conditioned, the project will comply with this requirement prior to recordation of the final parcel map.

Finding

- H. For residential conversions, the project shall be consistent with the adopted goals and policies of the General Plan, particularly with regard to the balance and dispersion of housing types within the City.*

Facts in Support of Finding

- H-1. An existing two-unit dwelling rental will be converted into a two-unit condominium project. The residential density on the site will remain the same.
- H-2. The General Plan does not include any specific goals for the dispersion of rental housing within the area. Housing Program 2.1.1 of the Housing Element of the

General Plan which restricts the conversion of rental units to condominiums in developments containing 15 or more units does not apply.

- H-3. Although the conversion from rental to ownership will reduce the number of rental opportunities in the area, the elimination of two rental units will not create a detrimental impact to housing opportunities in the area or City, as two units represents a very small fraction of the City's supply of rental housing (estimated to be approximately 17,500 units).

Finding

- 1. The establishment, maintenance or operation of the use or building applied for shall not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.*

Facts in Support of Finding

- I-1. The application of the project conditions will ensure the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood and the City.
- I-2. The proposed project is to convert an existing duplex into two condominiums on property located within the R-2 zoning district.
- I-3. Public improvements will be required of the applicant per the Municipal Code and the Subdivision Map Act.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Condominium Conversion No. CC2013-004 (PA2013-175), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. The Condominium Conversion action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 24th DAY OF OCTOBER, 2013.

Patrick Alford, Zoning Administrator

DRAFT

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Parcel Map and Condominium Conversion.
2. No more than two-dwelling units shall be permitted on the site.
3. In accordance with the provisions of Chapter 13 of the Newport Beach Municipal Code or other applicable section or chapter, additional street trees may be required and existing street trees shall be protected in place during construction of the subject project, unless otherwise approved by the General Services Department and the Public Works Department through an encroachment permit or agreement.
4. Two-car parking, including one enclosed garage space and one covered or enclosed parking space, shall be provided on site for each dwelling unit per requirements of the Zoning code. All parking spaces shall be maintained clear of obstructions for the parking of vehicles at all times.
5. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
6. Prior to the recordation of the parcel map, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
7. The applicant shall verify that monuments (1 inch iron pipe with tag) are set On Each Lot Corner.
8. 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.**
9. 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 Condominium Conversion including, but not limited to, Condominium Conversion No. CC2013-004 (PA2013-175). 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.

Building Division Conditions

10. Any building modifications or alterations may require the sound rating to be verified by wall and floor ceiling assembly where the units are adjoined or overlapped for a minimum STC 50.
11. Any building modifications or alterations may require horizontal fire separation to show the firewall alignment does not stack.
12. Any building modifications or alterations may require penetration of light fixtures or other MPE systems in the one hour fire and sound rated assembly quantified to meet the required fire rating and sound rating (STC 50).
13. Any building modifications or alterations may require that all walls that support fire resistive floor assemblies meet one hour fire resisting assembly.
14. Any building modifications or alterations may require stairway elements to have an approved fire rating and sound rating assembly where the stairs of each individual unit overlap the other. Details substantiating the requirements shall be verified.
15. Any building modifications or alterations may require area over the garage or carports to meet the required fire resistive assembly and sound rating including light penetrations or MPE systems.

Public Works Conditions

16. A parcel map shall be recorded. The map shall be prepared on the California coordinate system (NAD83). 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.**
17. 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.

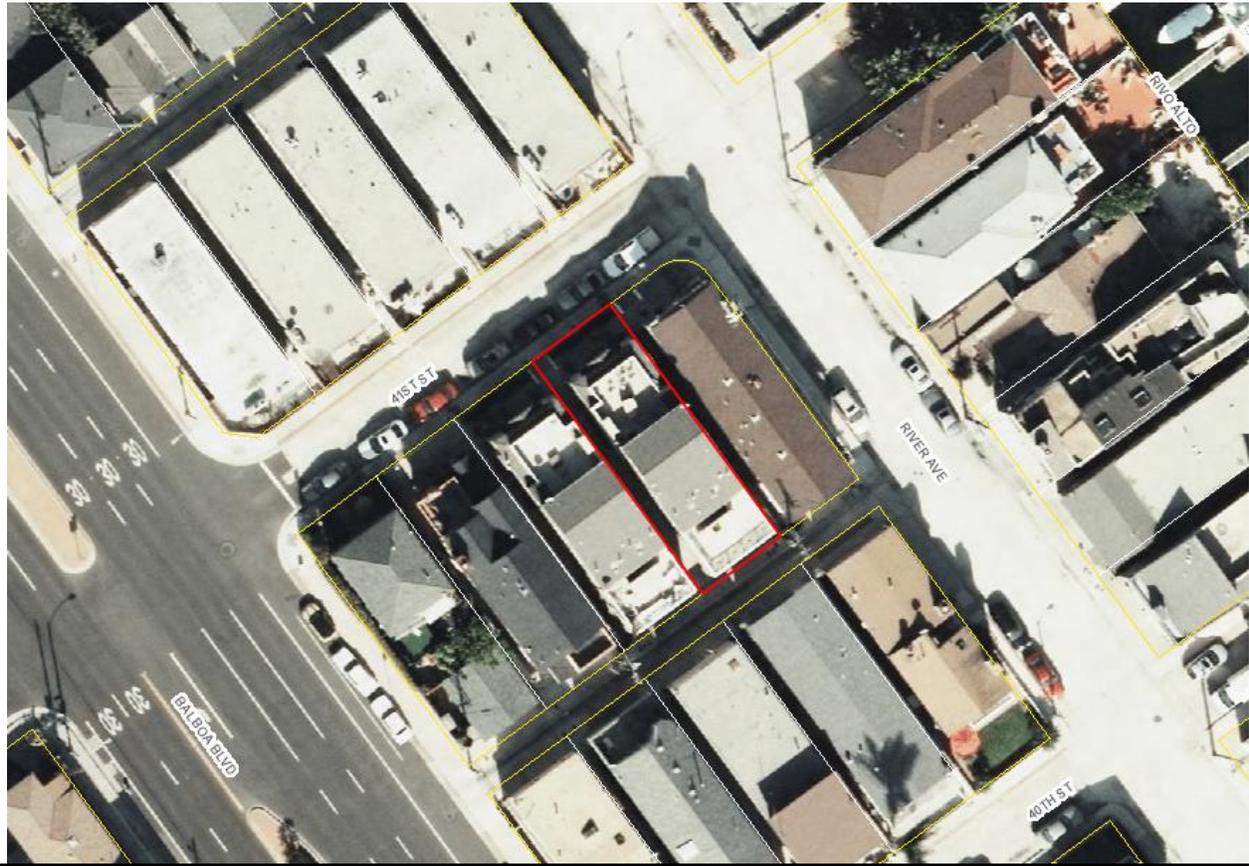
18. All improvements shall be constructed as required by Ordinance and the Public Works Department.
19. Prior to the final of the building permit for a description change, Tentative Parcel Map No. NP2007-024 (County Parcel Map No. 2007-201) shall be recorded and all of the conditions of approval implemented.

DRAFT

Attachment No. ZA 2

Vicinity Map

VICINITY MAP

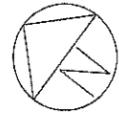


Condominium Conversion No. CC2013-003
PA2013-173

210 41st Street

Attachment No. ZA 3

Project Plans



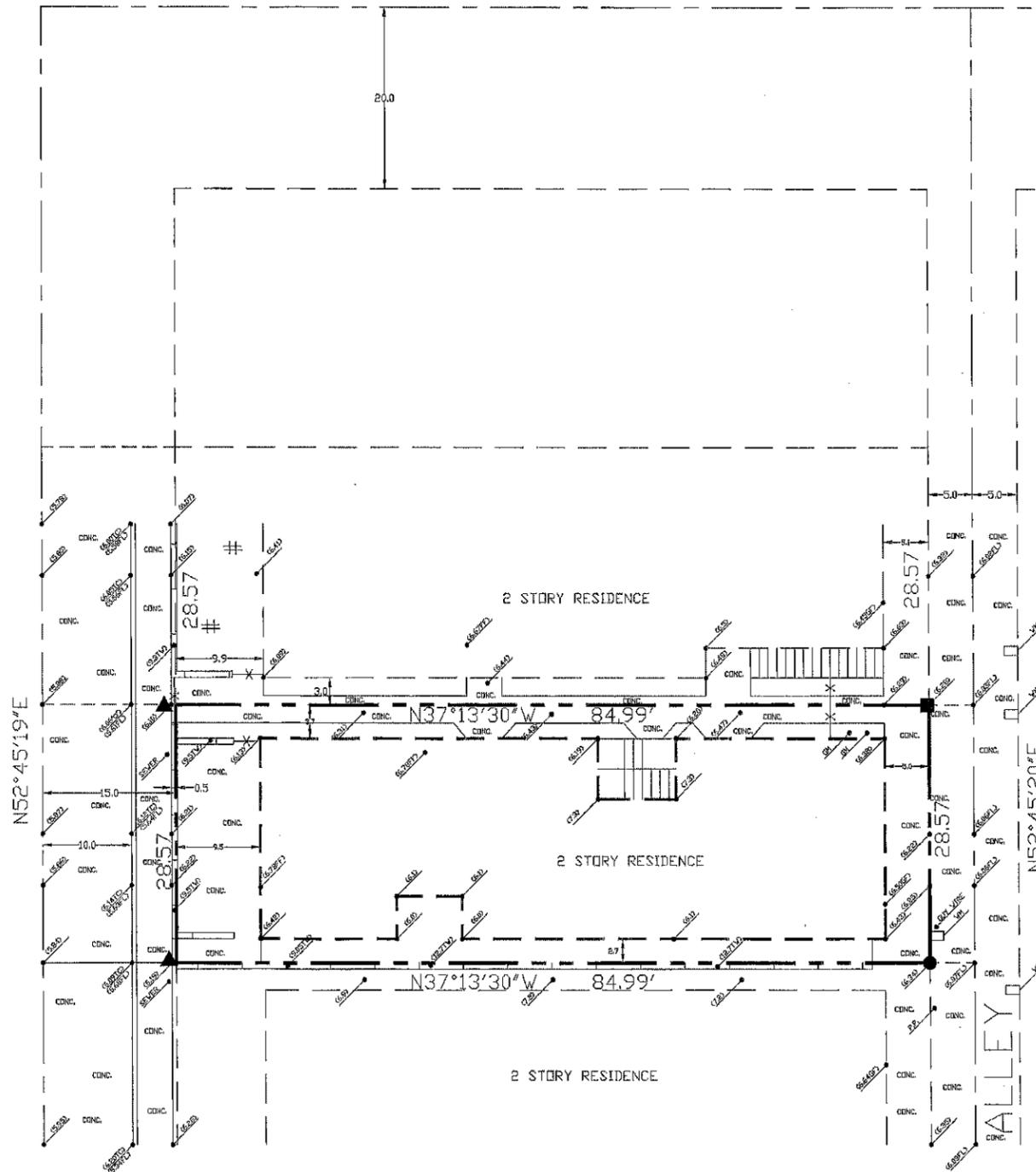
SCALE 1"=8'

NOTE: RECORD EASEMENTS ARE NOT PLOTTED

SURVEYOR OR ENGINEER SHALL PERMANENTLY MONUMENT PROPERTY CORNERS OR OFFSETS BEFORE STARTING GRADING.

RIVER AVENUE

41ST STREET



LEGEND

DESCRIPTION

	DESCRIPTION
	WALL
	BUILDING
	LOT LINE
WM	WATER METER
F.F.	FINISH FLOOR
G.F.	GARAGE FLOOR
CONC.	CONCRETE
M.H. RES.	MAN-HOLE RESIDENCE

- FOUND LEAD AND TAG RCE 11066
- ▲ SET LEAD AND TAG, L.S. 4653 ON P.L. PROD., 1 FOOT FROM THE CORNER.
- SET LEAD AND TAG L.S. 4653 AT THE PROPERTY CORNER



10-2406

RDM SURVEYING INC.

RON MIEDEMA L.S. 4653
23010 LAKE FOREST DRIVE #409
LAGUNA HILLS, CA 92653
(949) 858-2924 OFFICE
(949) 858-3438 FAX
RDMSURVEYING@COX.NET

TOPOGRAPHIC SURVEY

JOB: (42-71)

DATE: 3-22-2006

PREPARED FOR:

BILL CASKEY

LEGAL DESCRIPTION:

PARCEL 6, PARCEL MAP NO.82-704

BENCH MARK:

#J782 EL=7.142 NAVD88

ADDRESS OF PROJECT:

208 41ST STREET, NEWPORT BEACH, CA

SUR1

Attachment No. ZA 4

County Tentative Parcel Map No. 2007-
201



TENTATIVE PARCEL MAP NO. 2007-201

BEING A SUBDIVISION OF: LOT 5, BLOCK 140, NEWPORT BEACH TRACT
FOR CONDOMINIUM PURPOSES, 1 PARCEL, 2 UNITS

SCALE 1"=8'

ADDRESS OF PROJECT:
208 41ST STREET, NEWPORT BEACH

DATE: 8-22-07

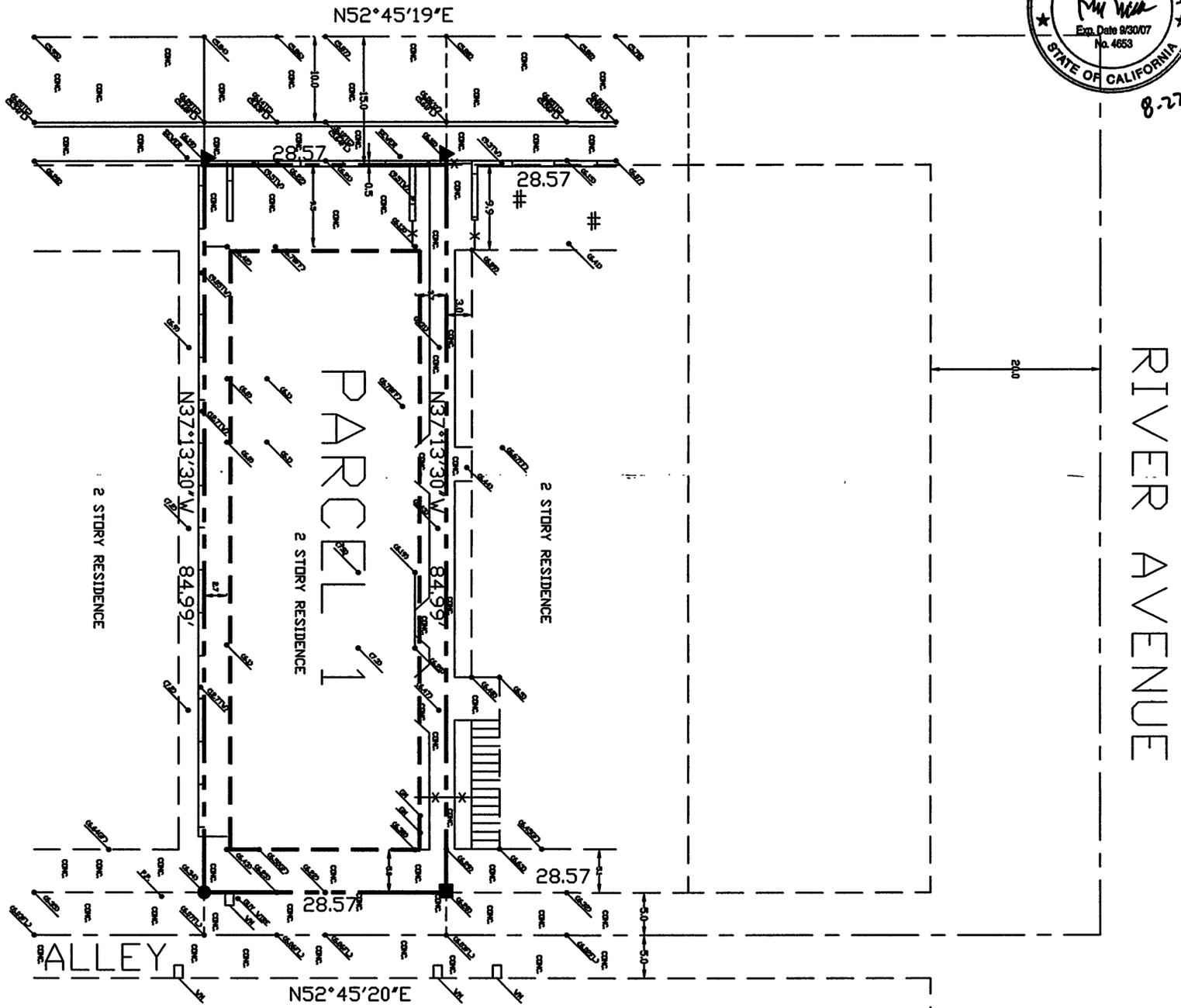
OWNER AND SUBDIVIDER:
ZOTOVICH DEVELOPMENT CO.
1000 QUAIL STREET #290
NEWPORT BEACH, CA

PREPARED BY:
RON MIEDEMA L.S. 4653
23010 LAKE FOREST DRIVE #409
LAGUNA HILLS, CA 92653
(949) 858-2924 OFFICE
(949) 858-3438 FAX
RDMSURVEYING@COX.NET

41ST STREET



8-27-07



LEGEND

DESCRIPTION

	WALL
	BUILDING
	LOT LINE
WM	WATER METER
F.F.	FINISH FLOOR
G.F.	GARAGE FLOOR
CONC.	CONCRETE
M.H. RES.	MAN-HOLE RESIDENCE

NOTE: ELEVATIONS AS SHOWN ARE EXISTING GRADES BEFORE CONSTRUCTION AND BUILDING IS THE PROPOSED BUILDING.

BENCH MARK:

#J782 EL=7.142 NAVD88