

**CITY OF NEWPORT BEACH
PLANNING DEPARTMENT ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: David Lepo, Planning Director

SUBJECT: Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending March 12, 2010.

ACTIONS TAKEN AT MARCH 11, 2010 ZONING ADMINISTRATOR HEARING

Item 1: Modification Permit No. MD2009-025 (PA2009-142)
131 Topaz Avenue

This item was approved.

Council District 5

ACTIONS TAKEN BY THE PLANNING DIRECTOR OR PLANNING DEPARTMENT STAFF

Item 2: Goodwill of Orange County – Staff Approval No. SA2009-006 (PA2009-167)
2100 Mar Vista Drive

Approved – March 12, 2010

Council District 4

On behalf of David Lepo, Planning Director:



Patrick J. Alford, Planning Manager

APPEAL PERIOD: Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

Email City Council
Planning Commission
David Lepo, Planning Director
Sharon Wood, Assistant City Manager
David Keely, Public Works Senior Civil Engineer
Code Enforcement Division



NOTICE OF ZONING ADMINISTRATOR ACTION

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

March 11, 2010

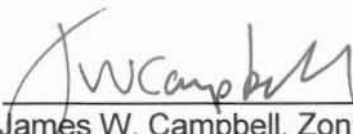
Garey Garrett
11581 Sumac Lane
Camarillo, CA 93012

Application No. Modification Permit No. MD2009-025

(PA2009-142)

**Site Address 131 Topaz Avenue
Garrett Residence**

On March 11, 2010, the Zoning Administrator approved the above referenced application based on the findings and conditions in the attached action letter.

By: 
James W. Campbell, Zoning Administrator

JWC: rwb

APPEAL PERIOD: Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

cc:
contact
Hiren Patel
5146 North Commerce Avenue
Moorpark, CA 93021



MODIFICATION PERMIT ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application No. **Modification Permit No. MD2009-025
(PA2009-142)**

Applicant **Garey Garrett**

Site Address **131 Topaz Avenue**

Legal Description **Lot 18, Block 11, Balboa Island Resubdivision Section 1**

On **March 11, 2010**, the Zoning Administrator approved the following: A modification permit for a remodel of an existing, non-conforming duplex. The duplex is non-conforming because it currently provides less than two parking spaces per unit. Pursuant to Section 20.62.040.C.2, a modification permit is required for structures that do not provide the code-required number of parking spaces (two per unit) when proposed structural alteration of the structure between 25 and 50 percent. The property is located in the R-1.5 (Two-Family Residential) District. The Zoning Administrator's approval is based on the following findings and subject to the following condition(s).

FINDINGS AND CONDITIONS:

Required Findings for Action and Facts in Support of Findings

The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Two-Unit Residential" use. The existing duplex structure is consistent with this designation.

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines under Section 15303 Class 3 (New Construction or Conversion of Small Structures). This exemption allows for construction or conversion new, small facilities or structures, which include duplexes.

The proposed alteration is the reconstruction of the single-story portion of the building. The walls are being demolished and constructed back in the same location. The percent of alteration is 26 percent based on the length of walls being reconstructed.

The Zoning Administrator determined in this case that the proposed Modification Permit 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 20.93.030:

1. **Finding:** The granting of the application is necessary due to the practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.

Facts in Support of Finding:

- The practical difficulty associated with the existing duplex on the property is in the form of a nonconformity with parking requirements per the Zoning Code, whereby strict application of the Zoning Code results in physical hardship.

Pursuant to Chapter 20.66 of the Zoning Code, two parking spaces per unit (four total) are required for a duplex. However, the existing duplex only has a total of two parking spaces. If the applicant is required to include four parking spaces on site, the entire building would need to be rebuilt.

- At the time of occupancy, the duplex was in full compliance with all Zoning Code requirements; however, due to Zoning Code changes to the parking requirement, the structure is nonconforming.
- The proposed remodel is a reasonable design solution given the development constraints of the existing, two-unit residential structure on the property. The project will not increase the nonconforming status once complete. Moreover, the remodel will not result in the addition of any building area.

2. **Finding:** The requested modification will be compatible with existing development in the neighborhood.

Facts in Support of Finding:

- The area of the remodel complies with all of the development standards relating to area and setbacks, which is compatible with the existing development in the neighborhood.
- Balboa Island is comprised of a development pattern of single-unit and two-unit (duplex) residential structures. One parking space per residential unit was the parking requirement in 1948, when the property was constructed.

3. **Finding:** The granting of such an application will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not be detrimental to the general welfare or injurious to property or improvements in the neighborhood.

Facts in Support of Finding:

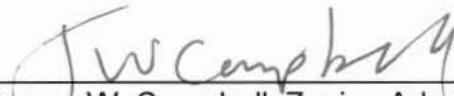
- As conditioned, the application of the California Building Code regulations to the construction of the project will ensure the safety and welfare of the surrounding community.
- The residential structure including and the proposed alterations comply with the front and side setback requirements, which are intended to allow for sufficient light and air into the adjacent properties.
- The project will comply with all of the provisions of the R-1.5 Zoning District, with the exception of the parking requirement, which was in compliance when the residential structure was built.
- The proposed construction does not increase the degree of nonconformity by reduction or elimination of parking.
- The proposed construction does not create any additional floor area or bedrooms, so the parking demand is not anticipated to increase.

Conditions

1. The development shall be in substantial conformance with the approved plot plan, demolition plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
4. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
5. A building permit shall be obtained prior to commencement of the construction.
6. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.

7. If any of the existing public improvements surrounding the site is damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
8. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
9. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

APPEAL PERIOD: Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

By: 
James W. Campbell, Zoning Administrator

JWC/rwb

Attachments: Vicinity Map

Appeared in Opposition:

Appeared in Support:

VICINITY MAP



Modification Permit No. MD2009-025
PA2009-142

131 Topaz Avenue



PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
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USE PERMIT ACTION LETTER

Application No.	Use Permit No. UP2009-043 (PA2009-167)
Applicant	Goodwill of Orange County
Site Address	2100 Mar Vista Drive Goodwill Donation Center
Legal Description	Portion of Block 56 of Irvine's Subdivision (APN 440-092-13)

On March 12, 2010, the Planning Director approved the following: Request to allow the retention of an 8-ft-wide by 28-ft-long commercial storage trailer previously approved for a temporary period of 90 days by Staff Approval No. SA2009-006. The extended period of time to begin March 17, 2010 and end on March 16, 2012. The trailer is currently located in the southwest corner of the parking lot and displaces five (5) on-site, parking spaces. The container will continue to be used for drop off and storage of charitable wares from congregation patrons and the public, with an attendant on duty during the hours of operation. No signs advertising the presence of the container are posted on the property, with the exception of signage on the trailer itself (see the photographs attached to the application). The property is located in the GEIF (Governmental, Educational and Institutional Facilities) District. The approval is based on the following findings and subject to the following conditions.

Authority:

Section 20.60.015 C of the Newport Beach Municipal Code provides that the Planning Director may authorize the temporary use of structures and land for a period of time to exceed 90 days and that said land or building will be restored at such time as the use is terminated, unless a subsequent application or request for an extension of time or other time period is approved prior to expiration of this approval.

FINDINGS

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 (CEQA) Guidelines under Section 15303, Class 13 (New Construction or Conversion of Small Structures). The proposed trailer is an accessory structure that will complement the church use and activities; and the use and the resulting loss of use of five parking spaces is a minor impact of the service provided and is therefore exempt under Section 15303.

2. The proposed location of the use is in accord with the objectives of the Zoning Code and the purposes of the district in which the site is located.

Facts in support of finding:

- The project is located in the Governmental, Educational, and Institutional Facilities (GEIF) District. The purpose of the GEIF District is to provide areas which are predominantly nonresidential and noncommercial uses in character but which allow some service activities that will serve the neighborhood.
 - Although the proposed trailer will displace use of five (5) parking spaces, there is adequate parking on site and on the neighboring off-site church property to accommodate any required overflow parking necessary for the ongoing church uses or activities.
 - Subject to the approval of a use permit by the Planning Director, an institutional use and its support activities are permitted within this district. Use permits enable the City to control certain uses which could have detrimental effects if not compatible with uses in the surrounding area or if not appropriately regulated. The trailer and its related activities are compatible and complementary to the neighboring uses in the residential districts. The proposed application does not present any conflict with the purpose and intent of the GEIF District.
3. The proposed location of the trailer requested by the use permit and the conditions of approval under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.

Facts in support of finding:

- The project site is designated as Private Institutions (PI) by the Land Use Element of the General Plan. The proposed project is consistent with the PI land use category, which is intended to provide for institutional uses developed in one or more distinct centers oriented to primarily serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed use will be available to serve residents of the city.
- The proposed hours of operation of the facility are 8:00 a.m. to 5:00 p.m., daily. Pick-up of full trailers and drop-off of empty replacement trailers shall be prohibited between the hours of 5 pm and 9 am, daily, to limit adverse noise impacts on the nearby residential uses. The residential properties are located within 100 feet of the trailer itself.

- The placement and use of the trailer will not conflict with the activities and use of the other church buildings on site. The limited duration of this approval will also limit any adverse impact on the use of the parking lot.
- The proposed trailer location in relation to the roadway is less visible to passing traffic on Mar Vista Drive, and its placement will have no effect on vehicular circulation or use of the parking lot.

CONDITIONS

1. The trailer shall conform to the approved plans, attached. The sign, located at the southwesterly portion of the subject property, shall have a maximum width of 8 feet wide and 28 feet in length. The trailer shall remain as currently located in the southwest corner of the parking lot and displace no more than five (5) on-site, parking spaces. The container will continue to be used for drop off and storage of charitable wares from congregation patrons and the public, with an attendant on duty during the hours of operation.
2. The hours of operation shall be limited to between the hours of 8:00 a.m. and 5:00 p.m., daily. Removal or replacement of the trailer, and or other deliveries for the facility shall be prohibited between the hours of 5:00 p.m. and 9:00 a.m., daily. Any increase or change in the hours of operation shall be subject to the approval of an amendment to this use permit.
3. No on-site or off-site signs shall be permitted in conjunction with or advertising the presence of the trailer, with the exception of signs on the trailer as depicted in the attached photos and to show the hours of operation.
4. The trailer shall be removed from the site no later than March 16, 2012, unless it is otherwise extended or superseded by the approval of the Planning Director or the Planning Commission. The Planning Director may extend the duration for an additional year in accordance with the provisions of Section 20.91.050 B.
5. Storage outside or around the trailer; or in the front or at the rear of the property shall be prohibited.
6. The Planning Director or the Planning Commission may add to or modify conditions to this approval, or revoke this approval upon a finding of failure to comply with the conditions set forth in Chapter 20.82 of the Municipal Code or other applicable conditions and regulations governing the eating and drinking establishment.
7. This approval shall expire unless exercised within 24 months from the end of the appeal period, in accordance with Section 20.91.050 of the Newport Beach Municipal Code.

APPEAL PERIOD

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$3,070.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

On behalf of David Lepo, Planning Director

By: 
Javier S. Garcia AICP, Senior Planner

JSG

Attachments: Vicinity Map
Appendix
Applicant's Project Description
Photos
Site Plan

VICINITY MAP



Use Permit No. UP2009-043
PA2009-167

2100 Mar Vista Drive

APPENDIX

Background

The Planning Department advised the applicant the placement of the trailer required the approval of a use permit. The applicant subsequently applied for a use permit for temporary use to install the trailer prior to the holidays for a period not to exceed 90 days, with the understanding that a use permit for an extended period would be required. The applicant subsequently submitted this application asking to extend the duration for an additional two year period. The recommended conditions of approval include a provision that will allow the Planning Director to extend the duration for an additional year without the filing of a new use permit.

FAR Compliance

In accordance with Chapter 20.63 of the Newport Beach Municipal Code and the Land Use Element of the General Plan, floor area limitations apply to temporary structures as well as permanent structures. However, since the subject trailer is not a structure it does not fall under those provisions and would be comparable to a vehicle storage use.

Parking Requirement

In accordance with the provisions of Chapter 20.66 Municipal Code, parking for general retail commercial use is one space for each 250 square feet. Staff believes that the proposed use will not increase the parking demand of the subject facility since the use of the trailer is additional temporary storage to the primary institutional use.

GOODWILL OF ORANGE COUNTY

The Face of Independence

November 30, 2009

City of Newport Beach
Planning Department
3300 Newport Blvd
Newport Beach, Ca 92663

Dear Planning Department:

This letter is to express our intent in placing an Attended Donation Center (ADC) trailer in the parking lot of 2100 Mar Vista Dr., across the street from Our Lady Queen of Angels church. The parcel number is: 440-092-13. This ADC will be staffed with one (1) attendant to collect donated goods 7 days a week from the hours of 8am-5pm.

There is an agreement in place between Our Lady Queen of Angels (owner of property) and Goodwill of Orange County, specifying a 24 month commitment.

These donated goods provide us the opportunity to employ people with disabilities and other barriers to reach their highest levels of personal and economic independence.

Our ADC sites are kept clean with the strictest standards. In fact, we have never been asked to leave a site due to an untidy appearance or because trash is left behind. Our attendants arrive 30 minutes early to their shift to clean around the trailer area. We also have a nightly cleaning crew (between the hours of 6-7pm) to ensure the area surrounding the donation center is kept clean.

We are good neighbors to have in the city; our donation centers work towards increasing the state mandated landfill diversion (AB 939), lower crime since we have attendants monitoring the lots creating a deterrent to mischievous behavior, our ADC's do not create any additional noise, and because our containers are secure, do not attract scavengers.

Included in this packet are all the necessary documentation to be presented to make an informed decision. I have also included supporting information regarding our ADC program and a letter of endorsement. If there are any additional questions, please feel free to contact me at (714) 415.8192 or by email at caseyc@ocgoodwill.org.

Thank you for your support.

Sincerely,



Casey Caston

410 North Fairview
Santa Ana, CA 92701

voice: 714.547.6301
tty/tdd: 714.543.1873
fax: 714.541.6531

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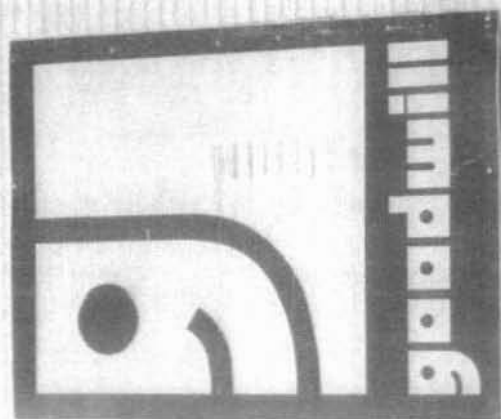
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The Mission of Goodwill Industries of Orange County is to provide people with disabilities the opportunity to achieve their highest level of personal and economic independence.

