



**CITY OF NEWPORT BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director  
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, Hearing Officer, and/or Planning Division staff for the week ending June 29, 2012

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**ZONING ADMINISTRATOR ACTIONS  
JUNE 27, 2012**

- Item 1: Vin Goat Minor Use Permit No. UP2012-007 (PA2012-051)  
3326 E. Coast Highway
- Action: Approved by Resolution No. ZA2012-023 Council District 6
- Item 2: 720 Poinsettia Parcel Map No. NP2012-005 (PA2012-058)  
720 Poinsettia Avenue
- Action: Approved by Resolution No. ZA2012-024 Council District 6
- Item 3: Chase Bank Minor Use Permit No. UP2012-004, Comprehensive Sign Program  
No. CS2012-006 and Lot Line Adjustment No. LA2012-002 (PA2012-035)  
1000 Irvine Avenue
- Action: Approved by Resolution No. ZA2012-025 and Council District 3  
by Resolution No. ZA2012-026

**APPEAL PERIOD:** An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Brian Haas, NBPD (*ABC License*)  
Sgt. Chuck Freeman, NBPD (*Massage Therapy - ABC License*)

## RESOLUTION NO. ZA2012-023

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2012-007 TO ADD OFF-SALE AND ON-SALE BEER AND WINE FOR THE PURPOSE OF CONDUCTING TASTING AND/OR PAIRING CLASSES IN A RETAIL STORE LOCATED AT 3326 EAST COAST HIGHWAY (PA2012-051)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John Bennett dba Vin Goat with respect to property located at 3326 East Coast Highway, and legally described as Tract Number 323, Block S, Lots 1, 2, 3, and 4 requesting approval of a Minor Use Permit.
2. The applicant proposes beer and wine retail sales and tasting and/or pairing classes, in conjunction with the existing retail store specializing in artisan cheeses. The request includes the establishment of a Type 20 (Off-Sale Beer and Wine) and a Type 42 (On-Sale Beer and Wine for Public Premises) Alcoholic Beverage Control (ABC) license.
3. The subject property is located within the CC (Commercial Corridor) Zoning District and the General Plan Land Use Element category is CC (Corridor Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on June 27, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed project involves the addition of beer and wine sales (accessory use) to an existing retail store. Therefore, the use qualifies for a categorical exemption under Class 1.

#### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a minor use permit are set forth:

### Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

### Facts in Support of Finding

1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The addition of beer and wine is intended for the convenience of patrons wishing to partake in tasting and/or pairing classes taking place within the retail tenant space. Operational conditions of approval recommended by the Police Department relative to the service of beer and wine will ensure compatibility with the surrounding uses and minimize related impacts.
2. Due to the high concentration of commercial land uses, the calls for service, number of arrests, and crime rate are greater than adjacent residential Reporting Districts; however, the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District.
3. The proposed use is not located in close proximity to day care centers, park and recreation facilities, places of religious assembly, and schools; however, it is abutting a residential zoning district. The addition of a conditional Type 42 license, coupled with the limited hours of operation, is not considered or anticipated to be detrimental to the neighboring residential properties. In accordance with the Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal, the Police Department has reviewed the minor use permit application and has added conditions to ensure that the design and security of the tasting/preparation areas within the existing retail store are properly addressed.
4. The provision of off-sale beer and wine in conjunction with beer and wine tasting and/or pairing classes to the designated area within the tenant space will not substantially change the operational characteristics. The use authorized by this permit is not a bar, tavern, cocktail lounge, nightclub or an establishment where live entertainment or dancing is provided. The City has experienced land use conflicts, nuisance issues, and issues requiring police intervention with these types of activities in the past. Prohibition of these uses or activities will minimize potential land use conflicts, nuisances and police intervention.
5. The retail store is located within a highly-traveled commercial area that is occupied by a mixture of retail, service, and eating and drinking establishments.
6. There are two comparable establishments on Coast Highway which provide wine tasting as an amenity to patrons. The beer and wine licenses requested are the same as those obtained for said establishments and there is no evidence suggesting these uses have been detrimental to the neighborhood.

7. The retail store and preparation area are permitted in the CC (Commercial Corridor) Zoning District. The off-sale and on-site consumption of beer and wine provides a public convenience by allowing the tasting of beer and wine for sale in addition to specialty food items offered for sale.

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a minor use permit are set forth:

#### Finding

- B. The use is consistent with the General Plan and any applicable specific plan;*

#### Facts in Support of Finding

1. The property is designated Corridor Commercial (CC) by the Land Use Element of the General Plan. The CC designation is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The retail store use and accessory tasting is consistent with that designation.
2. The subject property is not part of a specific plan area.

#### Finding

- C. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*

#### Facts in Support of Finding

1. The retail sales use is consistent with the Commercial Corridor (CC) Zoning District, which is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The addition of off-sale beer and wine sales and on-site tastings is accessory to the retail sales use. The beer and wine service is allowed upon the approval of a minor use permit by the Zoning Administrator.
2. The proposed off-sale beer and wine sales and associated tasting and/or pairing classes are considered accessory to the retail use and are not considered an intensification of use; therefore, there is no change in the parking requirement.
3. The proposed conditions of approval ensure that potential conflicts with surrounding land uses are minimized to the greatest extent possible or eliminated.

Finding

- D. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

Facts in Support of Finding

1. As conditioned, the tasting and/or pairing classes will be restricted to the hours after the retail store closes and will cease at 10:00 p.m., daily.
2. Although there are nearby residential properties, the operational conditions of approval recommended by the Police Department relative to the sale of beer and wine will ensure compatibility with the surrounding uses and minimize related impacts. The project has been conditioned to ensure the welfare of the surrounding community so that the business remains a market with accessory dining and does not become a bar or tavern. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.
3. The retail store is required to comply with the California Building Code and requirements of the Alcoholic Beverage Control Department to ensure the safety and welfare of customers and employees within the market.

Finding

- E. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

Facts in Support of Finding

1. The project site is located within an existing multi-tenant commercial building.
2. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing infrastructure.
3. The tenant improvement for a change of occupancy for the existing retail store and related preparation area was reviewed for compliance with all Building, Public Works, and Fire Codes in February of 2011.
4. All ordinances of the City and all conditions of approval will be complied with.

Finding

- F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard*

*to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

#### Facts in Support of Finding


1. The project has been reviewed and subjected to conditions of approval including limited hours of operation to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute nuisance areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the retail store.
2. As conditioned, the owners, managers and employees selling beer and wine shall undergo and successfully complete a certified training program in responsible methods and skills for selling beer and wine.
3. The addition of off-sale and on-sale beer and wine for the purpose of conducting tasting classes is accessory to the retail sales and is not considered an intensification of use and will not be detrimental to the neighborhood.
4. As conditioned, the hours of operation from 6:00 p.m. to 10:00 p.m., Monday through Saturday and from 4:00 p.m. to 10:00 p.m. on Sunday will preclude nuisances to the nearby residential properties. Although the applicant indicated 9:00 p.m. in his request, staff determined 10:00 p.m. would not be detrimental and would allow greater flexibility.

#### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-007, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen 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 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 27<sup>th</sup> DAY OF JUNE, 2012.**



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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan and floor plan dated with this date of approval. (Except as modified by applicable conditions of approval.)
2. This minor use permit may be modified or revoked by the Zoning Administrator upon a finding of failure to comply with the conditions set forth in Chapter 20.52 of the Municipal Code, other applicable conditions and regulations governing beer and wine service, or should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
3. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans as they relate to beer and wine sales, shall require an amendment to this minor use permit or the processing of a new use permit.
4. Minor Use Permit No. UP2012-007 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.
5. Should the beer and wine license be transferred, any future license holders, operators or assignees shall be notified of the conditions of this approval by either the current licensee, business operator, or the leasing company. Future licensees, operators or assignees shall submit, within 30 days of transfer of the beer and wine license, a letter to the Planning Division acknowledging their receipt and acceptance of the limitations, restrictions and conditions of approval of this minor use permit.
6. The tasting area shall be accessible to disabled persons including work table number 8.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. 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 minor use permit.
9. The types of beer and wine license issued by the California Board of Alcoholic Beverage Control shall be a Type 20 (Off-sale Beer and Wine) and a Type 42 (On-Sale Beer and Wine for Public Premises) in conjunction with the principal retail use.

10. The pairing and/or tasting classes shall only be conducted and on-sale beer and wine shall only be served upon the retail store closing to those who are not patrons of the tasting and/or pairing classes. The hours of operation for said classes shall be limited to between the hours of 6:00 p.m. and 10:00 p.m., Monday through Saturday and between the hours of 4:00 p.m. and 10:00 p.m., Sunday. Any increase in the hours of tasting and/or pairing classes shall be subject to the approval of an amendment to this minor use permit and may be subject to approval by the Zoning Administrator.
11. The operation of the pairing and/or tasting classes shall include a maximum of 20 patrons. Any increase in this number is subject to subsequent review by the Planning Division.
12. Individual servings of alcoholic beverages shall not exceed two ounces per glass or container. This condition shall not be construed as to prohibit a patron from sampling more than one glass and/or container of an alcoholic beverage for the purpose of comparative tasting(s).
13. The beer and wine sales for the purpose of on-site tasting classes shall be limited to the designated tasting area indicated on the floor plan submitted with the application. Any change in the operation of on-sale beer and wine sales or increase in the tasting area devoted to beer and wine sales for customers shall be subject to the approval of an amendment to this minor use permit issued by the Zoning Administrator.
14. No exterior amplified music, public address speakers, outside paging system, loudspeaker, sound system, or other noise generating device shall be utilized.
15. The operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the beer and wine outlet and adjacent properties during business hours, if directly related to the patrons of the subject beer and wine outlet. If the operator fails to discourage or correct nuisances, the Zoning Administrator may review, modify, or revoke this minor use permit in accordance with Chapter 20.96 of the Zoning Code.
16. The area outside of the retail store shall be maintained in a clean and orderly manner. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises. The operator of the use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
17. All trash shall be stored within dumpsters behind the retail building.
18. 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 Vin Goat Minor Use Permit including, but not limited to, Minor Use Permit No. UP2012-007 (PA2012-051). 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.

### **Police Department Conditions**

19. This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.
20. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
21. The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
22. There shall be no dancing and/or live entertainment allowed on the premises.
23. All owners, managers, and employees selling beer and wine shall undergo and successfully complete a certified training program in responsible methods and skills for selling beer and wine. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The retail store shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
24. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of beer and wine, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

## RESOLUTION NO. ZA2012-024

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING TENTATIVE PARCEL MAP NO. NP2012-005 FOR A PARCEL MAP FOR TWO-UNIT CONDOMINIUM PURPOSES (PA2012-058)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Aaron Albertson, representing the property owner, Ali Marandi, with respect to property located at 720 Poinsettia Avenue, and legally described as Lot 22, Block 743, Tract 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 miscellaneous maps, in the office of the county recorder of said Orange County requesting approval of a Tentative Parcel Map.
2. The applicant requests a tentative parcel map for two-unit condominium purposes. No exceptions to the 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 residence that has been demolished and will be replaced by a two-unit duplex.
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 June 27, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

#### 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 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".

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 allowed residential density on the site will remain the same, which allows two units in the R-2 Zoning District. Therefore, the parcel map for condominium purposes will not affect the City in meeting its regional housing need.
2. The increase in one unit requires the payment of fees for in-lieu park dedication, fair share, and affordable housing.

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 not located within the Coastal Zone.

Finding

- L. *That public improvements will be required of the Applicant per the Municipal Code and the Subdivision Map Act.*

Facts in Support of Finding

1. The project has been conditioned to require public improvements including the dedication of a corner cutoff at the corner of Poinsettia Avenue and Fifth Avenue, reconstructing existing broken or otherwise damaged sidewalks, curbs, and gutters, and the planting of a street tree.
2. Vehicular access to the property is permitted along Fifth Avenue due to conflicting Southern California Edison guy wires in the adjacent alleyway.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Parcel Map No. NP2012-005, 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 27TH DAY OF JUNE, 2012.**

By:



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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**

CONDITIONS OF APPROVAL

**Conditions**

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 recordation of the parcel map, in-lieu park dedication and affordable housing fees shall be paid for the additional one residential unit.
4. All improvements shall be constructed as required by Ordinance and the Public Works Department.
5. Prior to recordation of the parcel map, the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Poinsettia Avenue and Fifth Avenue frontages shall be reconstructed. The limits of reconstruction are at the discretion of the Public Works Inspector.
6. Additional public works improvements, including street and alley reconstruction work, may be required at the discretion of the Public Works Inspector.
7. Prior to recordation of the parcel map, all existing overhead utility connections shall be undergrounded.
8. All above ground improvements shall stay clear of the rear alley setback.
9. Prior to recordation of the parcel map, all 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.



10. All improvements shall comply with the City's sight distance requirement (City Standard STD-110-L).
11. All on-site drainage shall comply with the latest City Water Quality requirements.
12. An approved encroachment permit is required for all work activities within the public right-of-way.
13. Prior to recordation of the parcel map, a Public Works Department encroachment permit inspection is required. At the time of Public Works Department inspection, if any of the existing public improvements surrounding the site is damaged, new concrete sidewalk, curb and gutter, and alley/street pavement will be required and 100 percent paid by the owner. Said determination and the extent of the repair work shall be made at the discretion of the Public Works Inspector.
14. Prior to recordation of the parcel map, one (1) new 36-inch boxed Street Tree shall be planted along the Fifth Avenue frontage per Chapter 13 of the City Municipal Code, unless otherwise approved by the Municipal Operations Department.
15. Prior to recordation of the parcel map, a 10-foot radius corner cutoff at the corner of Poinsettia Avenue and Fifth Avenue shall be dedicated to the City for street purposes. A Grant of Easement for Utilities and Street Purposes shall be submitted for City review and County of Orange recording. All drawings and exhibits submitted for said dedication purposes shall conform to the City's CADD Standards. Scanned images will not be accepted. The Public Works Department plan check approval will not be issued until said document has been submitted. The Certificate of Occupancy will not be issued until said Map has been recorded by the County of Orange.
16. Prior to recordation of the parcel map, the proposed entry gate and wall shall be relocated outside of the corner cutoff area.
17. 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.
18. Each dwelling unit shall be served with individual gas and electrical service connection and shall maintain separate meters for the utilities.
19. Prior to recordation of the parcel map, a 4-foot wide full-width concrete sidewalk shall be constructed along the entire Fifth Avenue property frontage per City Standard STD-180-L.
20. Prior to recordation of the parcel map, a new curb access ramp shall be constructed on the corner of Poinsettia Avenue and Fifth Avenue per STD-181-L A/B/C/D.

21. In compliance with the requirements of Chapter 9.04, Section 505.1 (Premises Identification), 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. The Planning Division Plan Check designee shall verify the installation of the approved street number or addresses during the plan check process for the new or remodeled structure.
22. 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.
23. 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 720 Poinsettia Avenue Parcel Map including, but not limited to, Parcel Map No. NP2012-005 (PA2012-058). 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.
24. This Parcel Map shall expire if the map has not been recorded within three years of the date of approval, unless an extension is granted by the Planning Director in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.

## RESOLUTION NO. ZA2012-025

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2012-004 AND COMPREHENSIVE SIGN PROGRAM NO. CS2012-006 FOR A NEW FINANCIAL INSTITUTION WITH A DRIVE-THROUGH ATM LOCATED AT 1000 IRVINE AVENUE (PA2012-035)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by The Irvine Company, with respect to property located at 1000 Irvine Avenue, and legally described as Lot 16 of Tract 4824 requesting approval of a minor use permit and comprehensive sign program.
2. The applicant proposes a minor use permit and comprehensive sign program to allow the construction of a new 4,005-square-foot financial institution. The minor use permit is requested to allow a dual lane drive-through ATM on-site. The comprehensive sign program application includes a request to allow one additional secondary wall sign on a second secondary frontage, a 30 percent increase in area for both secondary wall signs, and deviations from the minimum separation and placement requirements for wall signs in the middle 50 percent of the tenant frontage.
3. The subject property is located within the CN (Commercial Neighborhood) Zoning District and the General Plan Land Use Element category is CN (Neighborhood Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on June 27, 2012 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This minor use permit has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures). The Class 3 exemption applies to up to four commercial buildings in urbanized areas not exceeding 10,000 square feet in floor area on sites zoned for such use, if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive. The subject property is zoned for retail and service commercial uses, the proposed project does not involve significant amounts of hazardous substances, and all necessary public services and

facilities are provided. The proposed project is consistent with this exemption and involves the development of one commercial building with a total of 4,005 square feet and parking lot accessory structures within an urbanized area.

2. This comprehensive sign program has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 11 (Accessory Structures). The project consists of on-premise signs which are exempt under the Class 11 designation.

### SECTION 3. REQUIRED FINDINGS.

#### *Minor Use Permit*

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

#### Finding

- A. *The use is consistent with the General Plan and any applicable specific plan:*

#### Facts in Support of Finding

1. The General Plan land use designation for this site is CN (Neighborhood Commercial). The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. A financial institution with an ATM drive-through is a consistent use within this land use designation. Banks are complementary to the surrounding commercial and residential uses.
2. Retail uses such as financial institutions are common in the vicinity along the Westcliff Drive and serve visitors and residents. The establishment is compatible with the land uses permitted within the surrounding neighborhood. The new establishment will improve and revitalize the existing property and the surrounding neighborhood.
3. The subject property is not part of a specific plan area.

#### Finding

- B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code:*

#### Facts in Support of Finding

1. The site is located in the CN (Commercial Neighborhood) Zoning District. The CN zoning district is intended to provide for areas appropriate for a range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The

proposed financial institution is consistent with land uses permitted by the CN Zoning District.

2. The proposed use will comply with all applicable development and parking standards. A queuing study has been provided to demonstrate that adequate queuing space is available within the proposed dual lane drive-through to accommodate anticipated demand for the ATMs.

### Finding

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity:*

### Facts in Support of Finding

1. The hours of operation for the primary banking facility will be from 9:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 4:00 p.m. on Saturdays. The walk-up and dual lane drive through ATM's will operate 24-hours, daily.
2. Prior to its closure and demolition in 2012, a gas service station had operated in this location since 1963 pursuant to Use Permit Nos. UP947 and UP3193. A number of other financial and retail tenants exist within the Westcliff Shopping Center and have demonstrated the location's capability of operating as a compatible commercial retail use with other land uses in the vicinity.
3. The two-lane drive through is oriented toward the east side of the property and is located approximately 400 feet from residential properties across Irvine Avenue.
4. The project has been reviewed for compliance with Section 20.48.080 (Drive-Through and Drive-Up Facilities) of the Zoning Code and complies with the development standards for circulation, walkways, parking, signage, landscaping, and screening.
5. The project has been reviewed for compliance with the parking area requirements and landscaping standards as provided in Section 20.40.070 (Development Standards for Parking Areas).
6. The surrounding commercial corridor contains various retail and visitor commercial uses. The proposed financial institution with a two-lane drive through is compatible with the existing and permitted uses within the neighborhood.

### Finding

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities:*

Facts in Support of Finding

1. The proposed parking lot provides adequate vehicle circulation and parking spaces for patrons.
2. Adequate public and emergency vehicle access, public services, and utilities are provided.
3. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible.
2. The proposed financial institution with dual lane drive-through will serve the surrounding residential community. This will revitalize the project site and provide an economic opportunity for the property owner to update the retail tenants and services, which best serve the quality of life for the surrounding residential community.

*Comprehensive Sign Program*

Pursuant to Section 20.42.120 of the Zoning Code, approval of a Comprehensive Sign Program is required whenever three or more non-exempt signs are proposed for a single-tenant development. In accordance with Section 20.42.120.E, a Comprehensive Sign Program shall comply with a number of standards. The following standards and facts in support of such standards are set forth:

Standard

- F. The proposed sign program shall comply with the purpose and intent of this Chapter [Chapter 20.42: Signs], any adopted sign design guidelines and the overall purpose and intent of this Section [Section 20.42.120].*

Facts in Support of Standard

1. In compliance with the purpose and intent of the Sign Code, the proposed Sign Program provides the uses with adequate identification without excessive proliferation of signage. Furthermore, it preserves community appearance by regulating the type, number, and general design of signage.

Standard

- G. *The proposed signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign Program, to the structures and/or developments they identify, and to surrounding development when applicable.*

Facts in Support of Standard

1. The building is located on a new corner pad at the southwest corner of the Westcliff Plaza Shopping Center. The signage has been designed to be integral with the design and character of the building.
2. The tenant will be permitted signage that will provide adequate visibility on site and from Irvine Avenue and Westcliff Drive to the greatest extent possible.
3. All signage will be permitted pursuant to the submitted sign program matrix, which allows three wall signs, three vehicle-oriented directional signs, ATM signage, ATM canopy signage, headache bars, and additional ADA and parking signage as part of the application. The freestanding building will be allowed to have one wall sign on each of three building facades as depicted on the site plan. The size and location of the letters and logos of the signs will ensure that adequate visibility is provided, and not be abrupt in scale with the tenant frontage.

Standard

- H. *The sign program shall address all signs, including permanent, temporary, and exempt signs.*

Facts in Support of Standard

1. The Sign Program submitted for the project addresses all project signage. Temporary and exempt signs not specifically addressed in the program shall be regulated by the provisions of Chapter 20.42.

Standard

- I. *The sign program shall accommodate future revisions that may be required because of changes in use or tenants.*

Facts in Support of Standard

1. The project site is intended for a single pad tenant and has been designed to be effective for such use.
2. It is not anticipated that future revisions to the program will be necessary to accommodate normal changes in tenants or uses. However, flexibility has been incorporated into the Sign Program Matrix to allow minor deviations from the proposed signs.
3. Consistent with Chapter 20.42, the Director [or his/her designee] may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

Standard

- J. *The program shall comply with the standards of this Chapter, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter.*

Facts in Support of Standard

1. The Sign Program requests deviation in the number and size of secondary wall signs which will aid and enhance the identification and visibility of the commercial tenants from the public roadway.
2. The proposed wall sign locations deviate from the Zoning Code standard limiting wall signs to the center 50 percent of the building frontage. The location of the wall signs are designed for coherence with the building facades and will provide adequate distance to avoid visual clutter and compliment the architecture of the proposed development.

Standard

- K. *The Approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter.*

Facts in Support of Standard

1. The program does not authorize the use of prohibited signs.

Standard

- L. *Review and approval of a Comprehensive Sign Program shall not consider the signs' proposed message content.*



Facts in Support of Standard

1. The program contains no regulations affecting sign message or content.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-004 and Comprehensive Sign Program No. CS2012-006, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This resolution supersedes Use Permit Nos. UP947, UP3193, and UP2001-024 (PA2001-135), Modification Permit Nos. MD3186 and MD2001-008 (PA2001-010), which upon vesting of the rights authorized by this application, shall become null and void.

**PASSED, APPROVED AND ADOPTED THIS 27<sup>th</sup> DAY OF JUNE, 2012.**

By:

  
\_\_\_\_\_  
Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL****PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. All proposed signs shall be in conformance with the approved Comprehensive Sign Program Matrix for the project site and provisions of Chapter 20.42 of the Newport Beach Municipal Code. Locations of the signs are limited to the designated areas and shall comply with the limitations specified in the Sign Program Matrix included in Exhibit "B".
3. Minor Use Permit No. UP2012-004 and Comprehensive Sign Program No. CS2012-006 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. 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 Use Permit.
6. This approval may be modified or revoked by the Zoning Administrator should he/she determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new use permit.
8. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
9. Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid for the new drive-in ATM in accordance with Chapter 15.38 of the Newport Beach Municipal Code. The applicant shall be credited for the reduction in fuel service station pumps and the remaining balance shall be charged to the applicant.

10. No building permits may be issued until the appeal period has expired, unless otherwise approved by the Planning Division. Building permits for structures located across the existing property lines shall not be issued until the lot line adjustment has been recorded.
11. In accordance with Municipal Code Section 20.42.120.F of the Zoning Code, the Community Development Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected. This may include deviations on the tenant configurations, such as combining or dividing suites.
12. All signs shall be maintained in accordance with Section 20.42.170 (Maintenance Requirements) of the Newport Beach Municipal Code. Temporary and exempt signs not specifically addressed in the program shall be regulated by the provisions of Chapter 20.42 of the Newport Beach Municipal Code.
13. Site Assessment Plan for Soil Contamination. Prior to the issuance of grading or building permits, the applicant shall submit written documentation from the Orange County Department of Environmental Health, the Certified Unified Program Agency (CUPA) for Orange County, verifying that the project site is in compliance with all applicable Underground Storage Tank (UST) requirements, that the project site has passed any applicable UST site pollution testing and that the repair, maintenance and removal of any existing UST's is being performed in accordance with Orange County Department of Environmental Health (CUPA) regulations and policies.
14. Prior to the issuance of building permits, documents/plans shall be submitted demonstrating compliance with the requirements of Chapter 14.16 of the Municipal Code, Water-Efficient Landscaping Ordinance.
15. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
16. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
17. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance

with the provisions of Title 14, including all future amendments (including Water Quality related requirements).

18. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Planning 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 approval and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
19. A copy of this resolution, including conditions of approval, shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
20. 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 Chase Bank including, but not limited to, Minor Use Permit No. UP2012-004 and Comprehensive Sign Program CS2012-006 (PA2012-035). 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.

### **Fire Department Conditions**

21. A "Knox" key storage box shall be provided for all new construction. Keys shall be provided for all exterior entry doors, fire protection equipment control rooms, mechanical and electrical rooms, and equipment spaces.
22. Fire extinguishers are required and shall be located within 75 feet of travel distances from all portions of the building.
23. Address signage shall be provided. Commercial buildings require six-inch address numbers, and shall be placed on the structure in such a position as to be plainly visible and legible from the street or roadway fronting the property. Numbers shall be non-combustible, contrast with their background and shall be either internally or externally illuminated to be visible at night.
24. All exit door hardware must meet the California Building Code Section 1008.1.9.3.

**Building Division Conditions**

25. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. Separate building permits shall be required for the ATM's and site signage. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The project plans shall be stamped by a civil or structural engineer. The construction plans must meet all applicable State Disabilities Access requirements.
26. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

**Dust Control**

- Water all active construction areas at least twice daily.
- Cover all haul trucks.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.
- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment.

**Off-Site Impacts**

- Encourage car pooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

**Fill Placement**

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

27. Prior to the issuance of grading permits, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) consistent with the State Water Board Requirements. The SWPPP and NOI shall be prepared to comply with the General Permit for Construction Activities, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and

practices that will be in effect during construction to minimize the project's impact on water quality. If it is determined that a SWPPP and NOI are not required by the State Water Board, this condition shall be waived.

28. Prior to issuance of grading permits, the applicant shall prepare and submit a Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.
29. A list of "good house-keeping" practices will be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants will be used, stored or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of storm water away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

### **Public Works Conditions**

30. All improvements shall be constructed as required by Ordinance and the Public Works Department.
31. Reconstruct the broken and/or otherwise damaged concrete sidewalk panels, concrete curb and gutter along the Westcliff Drive and Irvine Avenue frontages.
32. All unused driveway approaches along Westcliff Drive and Irvine Avenue shall be replaced with a new driveway plug per City Standards STD-165-L.
33. The existing storm drain line along Westcliff Drive is owned and maintained by Orange County Flood Control District (OCFCD). All proposed connections to said storm drain line shall be approved by OCFD.
34. 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.
35. An encroachment permit is required for all work activities within the public right-of-way.
36. 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.

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37. All signs and improvements shall comply with the City's sight distance requirement, City Standard 110-L, with minor modifications to the sign distance standard as approved by the City Traffic Engineer.
  38. Signage located within the site distance triangle shall be limited to 36 inches in height.
  39. Traffic signage shall comply with California Manual of Uniform Traffic Control Signage Devices (MUTCD).
  40. All on-site drainage shall comply with the latest City Water Quality requirements.
  41. The applicant is responsible for all upgrades to the City's utilities as required to fulfill the project's demand, if applicable.
  42. New and existing fire services, when required by the Fire Department, shall be protected by a City approved double check detector assembly and installed per STD-517-L.
  43. New water services shall be installed per STD-503-L.
  44. New and existing commercial water meter(s) shall be protected by a City approved reduced pressure backflow assembly and installed per STD-520-L-A. Any existing sewers that will be abandoned shall be capped at main (corporation stop).
  45. Landscaping lines shall be protected by a dedicated City approved reduced pressure backflow assembly.
  46. New and existing sewer laterals shall have a cleanout installed per STD-406-L. All existing laterals which will be abandoned shall be capped at the property line.
  47. The curb ramp at the westerly corner of the property shall be upgraded per City Standards STD-181-L-A and STD-181-L-B.
  48. The parking lot shall be per City Standards STD-805-L-A and STD-805-L-B.
  49. New commercial driveway approaches shall be installed per City Standard STD-166-L.
  50. All applicable Public Works Department plan check fees shall be paid prior to review of the lot line adjustment and grant deeds.
  51. County Sanitation District fees shall be paid prior to the issuance of any building permits.

**EXHIBIT "B"**

SIGN PROGRAM MATRIX



## SIGN PROGRAM MATRIX

Frontage Designations:

A. Facing East – Parking Lot  
D. Facing South – Westcliff Drive

C. Facing North – Parking Lot  
B. Facing West – Irvine Avenue

TYPE OF SIGN	STANDARDS
Wall Sign – primary frontage Sign N-2	Number: One Sign N-2 (Frontage A) Area: 57.6 sf Letter Height: 28” Logo Height: 36” Illumination: yes
Wall Sign – secondary footage Signs N-1 and N-3	Number: Two  Sign N-1 (Frontage B) Area: 36.9 sf Letter Height: 24” Logo Height: 32” Illumination: yes  Sign N-3 (Frontage C) Area: 36.9 sf Letter Height: 24” Logo Height: 32” Illumination: yes
ATM Surrounds Signs N-5 and N-6	Number: Two located at bank entrance (Frontage A) Area: 2.3 sf Height: N/A Letter Height: 6” Illumination: yes
Vehicle Oriented Directional Sign Signs N-7 thru N-9	Number: Three (double-sided) Area: 4.9 sf Sign Height: 3’-3” Letter Height: 3” Illumination: no
ATM Canopy Signs N-10 and N-11	Number: Two (one for each drive-up) Area: 5.4 sf Height: N/A Letter Height: 10” Illumination: yes
Drive-Thru ATM Topper Cabinet Signs N-12 and N-13	Number: Two (one for each drive-up ATM, double-sided and w/logo on each end) Area: 4.3 sf Height: N/A Illumination: yes
Drive-Thru Clearance Bar Signs N-14 and N-15	Number: Two (one for each drive-up ATM) Area: 2.1 sf Height: 9’-0” Letter Height: 3” Illumination: no
Vehicle Oriented Directional Sign (Do Not Enter Sign) Signs N-16 and N-17	Number: One per vehicle exit (Located at the exit of each ATM drive-thru aisle) Area: 1.5 sf Sign Height: 7’-0” Illumination: no
Public Service Signs (ADA Sign) Signs N-18 and N-19	Number: One per ADA parking space (Located in front of the main entry – Frontage A)  N-18 (van accessible)

## SIGN PROGRAM MATRIX

TYPE OF SIGN	STANDARDS
	Area: 2.5 sf Sign Height: 9'-2" Illumination: no  N-19 Area: 2.0 sf Sign Height: 8'-8" Illumination: no
Address Sign Sign N-20	Number: One (Located to face Irvine Avenue – Frontage B) Area: 1.4 sf Letter Height: 8" Illumination: yes
Window Sign	Number: None Area: 20% of total window area maximum (primary or secondary frontage) Location: Ground or second story (primary or secondary frontage) Method of Attachment: Permanently painted or mounted on inside of window Note: Signs within 5 feet of storefront window count as window signs in determining total area and number.

### COMPLIANCE REQUIRED

- Exempt signs shall comply with the standards prescribed in the Zoning Code.
- Temporary Banner Signs shall comply with Chapter 20.42 of the Zoning Code.
- All signs shall substantially conform to the stamped and dated approved set of plans.
- Signs shall also comply with the provisions of Section 20.42.080 of the Newport Beach Municipal Code, Standards for Specific Types of Permanent Signs, unless otherwise indicated by table matrix and/or in the finding and conditions in the associated resolution of approval.
- Pursuant to Section 20.42.120.F of the Zoning Code, the Planning Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

## RESOLUTION NO. ZA2012-026

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2012-002 TO ADJUST THE BOUNDARIES OF PARCELS LOCATED AT 1000 IRVINE AVENUE AND 1016 THROUGH 1150 IRVINE AVENUE (PA2012-035)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by The Irvine Company, with respect to property located at 1000 through 1150 Irvine Avenue, and legally described as Lots 16 and 17 of Tract 4824 requesting approval of a lot line adjustment.
2. The applicant proposes a lot line adjustment to allow the construction of a new 4,005-square-foot financial institution. The proposed lot line adjustment will move the interior lot lines to encompass existing landscape areas on the Westcliff Plaza Shopping Center to provide for parking, ATM, drive-aisle, and landscape improvements for the development of the bank site at 1000 Irvine Avenue. Existing parking drive aisles or traffic circulation within the Westcliff Plaza Shopping Center will not be impacted. The lot line adjustment increases the area of the existing 22,366-square-foot 1000 Irvine Avenue parcel by 4,260 square feet to 26,626 square feet. The area of the existing Westcliff Plaza parcel is 339,768 square feet and the proposed lot line adjustment would decrease the size of the Westcliff Plaza parcel to 335,508 square feet.
3. The subject property is located within the CN (Commercial Neighborhood) Zoning District and the General Plan Land Use Element category is CN (Neighborhood Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on June 27, 2012 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Lot Line Adjustment has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 5 (Minor Alterations in Land Use Limitations). The project consists of minor alteration in land use limitations in areas with an average slope of less than 20 percent which does not result in any changes in land use or density. The Lot Line Adjustment will not result in the creation of a new parcel.

### SECTION 3. REQUIRED FINDINGS.

#### *Lot Line Adjustment*

In accordance with Section 19.76.020.I of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a lot line adjustment are set forth:

#### Finding

- A. *Approval of the lot line adjustment will 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, and further that the proposed lot line adjustment is consistent with the legislative intent of Title 19.*

#### Facts in Support of Finding

1. The proposal is consistent with the General Plan since the lots are for neighborhood commercial retail and service uses, which are permitted uses in this area.
2. The reconfiguration of the subject parcels will not result in a development pattern which is inconsistent with the surrounding neighborhood.
3. Public improvements will be required of the Applicant per the Municipal Code and the Subdivision Map Act.
4. The proposed lot line adjustment is consistent with the purpose identified by Title 19. The subdivision is consistent with the General Plan, does not affect open space areas in the City, does not negatively impact surrounding land owners, lot purchasers, or residents, provides for orderly controlled growth within the City, provides adequate traffic circulation and utilities, will not negatively affect property values.

#### Finding

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

#### Facts in Support of Finding

1. The project site described in the proposal consists of legal building sites including Parcel Nos. 16 and 17 of Tract No. 4824. The proposed lot line adjustment will move the interior lot lines between two legal lots.
2. The 4,260 square feet taken from Parcel No. 17 will be added to Parcel No. 16 within Tract No. 4824 and no additional parcels will result from the lot line adjustment.

Finding

- C. *The lot line adjustment is consistent with applicable zoning regulations except that nothing herein shall prohibit the approval of a lot line adjustment as long as none of the resultant parcels is more nonconforming as to width, depth, and area than the parcels that existing prior to the lot line adjustment.*

Facts in Support of Finding

1. The proposed lot widths and lot sizes are consistent with the zoning requirements of Title 20 of the Newport Beach Municipal Code.
2. The parcels proposed to be created by the lot line adjustment comply with all applicable zoning regulations and there will be no change in allowed land uses, density, or intensity on the properties.
3. The future development on the parcels will comply with the Zoning Code development standards.

Finding

- D. *Neither the lots as adjusted nor adjoining parcels will be deprived of legal access as a result of the lot line adjustment.*

Facts in Support of Finding

1. Adequate access to all of the reconfigured parcels is provided via Irvine Avenue and Westcliff Drive.
2. That 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.

Finding

- E. *That the final configuration of the parcels involved will not result in the loss of direct vehicular access from an adjacent alley for any of the parcels that are included in the lot line adjustment.*

Facts in Support of Finding

1. The final configuration of the parcels involved will not result in the loss of direct vehicular access from any street for any parcels included in the lot line adjustment. There are no alleys located within or near the subject parcels.

Finding

- F. *That the final configuration of a reoriented lot does not result in any reduction of the street side setbacks as currently exist adjacent to a front yard of any adjacent key, unless such reduction is accomplished through a zone change to establish appropriate street side setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street side setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.*

Facts in Support of Finding

1. The final configuration of the parcels does not result in a requirement for revised setbacks. The existing default setbacks are zero feet along all property lines for 1000 Irvine Avenue and Westcliff Plaza (1016-1150 Irvine Avenue) with the exception of a 5-foot setback adjacent to the residential development on the northeast interior property line of the Westcliff Plaza Shopping Center. These setbacks shall continue to apply to the realigned parcels per the Zoning Code development regulations in the same way that they did to the previous parcel configuration; therefore the lot line adjustment does not result in the reduction of any existing street side setbacks.

## SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2012-002 subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective ten (10) days after the adoption of this Resolution unless within such time an appeal is filed with the Planning Director in accordance with the provisions of Title 19 Subdivision Code, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 27<sup>th</sup> DAY OF JUNE, 2012.**

By:

  
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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**

## PROCEDURAL REQUIREMENTS

1. *Lot Line Adjustment No. LA2012-002 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. 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 Use Permit.
4. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
5. Property corners shall be monumented by a licensed Land Surveyor or registered Civil Engineer authorized to perform surveying by the State Board of Civil Engineers and Land Surveyors (Pre-1982 with numbers prior to 33,966). Surveyor or Civil Engineer to submit a "Corner Record" or "Record of Survey" to the County Surveyor.
6. All applicable Public Works Department plan check fees shall be paid prior to review of the lot line adjustment and grant deeds.
7. Prior to recordation of the lot line adjustment, grant deeds indicating the changes in titles of ownership should be submitted to the Public Works Department for review and approval.
8. The lot line adjustment and grant deeds reviewed and approved by the Public Works Department should be filed concurrently with the County Recorder and County Assessor's Offices.
9. No building permits may be issued until the appeal period has expired, unless otherwise approved by the Planning Division.
10. All improvements shall be constructed as required by Ordinance and the Public Works Department.

11. 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 Chase Bank including, but not limited to, Lot Line Adjustment No. LA2012-002 (PA2012-035). 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.