



**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 August 31, 2012

**ZONING ADMINISTRATOR ACTIONS
AUGUST 29, 2012**

- Item 1: 121 Newport Center Drive LLA - Lot Line Adjustment No. LA2012-004
(PA2012-084)
121 Newport Center Drive
- Action: Approved by Resolution No. ZA2012-032 Council District 5
- Item 2: 143 & 151 Newport Center Drive LLA – Lot Line Adjustment No. LA2012-005
(PA2012-086)
143 & 151 Newport Center Drive
- Action: Approved by Resolution No. ZA2012-033 Council District 5

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.

RESOLUTION NO. ZA2012-032

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2012-004 TO ADJUST THE BOUNDARIES BETWEEN PARCELS DESIGNATED AS LOTS 14 (121 NEWPORT CENTER DRIVE), 17 AND R-2 OF TRACT 6015. (PA2012-084)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Stantec Consulting Services, Inc., representing the Irvine Company, with respect to properties located at Lots 14 (addressed as 121 Newport Center Drive) and R-2 of Tract 6015; and a portion of a lot utilized as parking lot and legally described as Lot 17 of Tract 6015, requesting approval of a lot line adjustment to reconfigure the parcels.
2. The applicant proposes a lot line adjustment to establish a building pad for the construction of a new commercial structure. The proposed lot line adjustment will move the interior lot lines to enlarge Lot 14 of Tract 6015 which lies adjacent and northerly of the Macy's Department Store and includes taking land from one lot and adding it to the other. Existing parking drive aisles or traffic circulation in the immediate area will also be realigned.
3. The lot line adjustment increases the area of the existing 121 Newport Center Drive parcel (proposed commercial pad) to 0.886 acres (Proposed LLA Parcel 1).
4. The area of the existing Lot 17 (Parking Lot Parcel) is acres 17.64 acres and the proposed lot line adjustment would decrease the size to 11.402 acres (Proposed LLA Parcel 2).
5. The boundaries of the existing Lot R-2 (Site Improvements Parcel) will be reconfigured to encompass the existing two-level parking structure (addressed as 1101-PS Newport Center Drive). The area would be increased to approximately 4.168 acres (Proposed LLA Parcel 3).
6. The subject property is located within the CR (Regional Commercial) Zoning District and the General Plan Land Use Element category is CR (Regional Commercial).
7. The subject property is not located within the coastal zone.
8. A public hearing was held on August 29, 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 19.76.020.1 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 regional commercial retail and service uses and parking lots that support the commercial use, which are permitted uses in this area.
2. The adjusted lot lines 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 Lot Nos. 14, 17 and R-2 of Tract 6015. The proposed lot line adjustment will move the interior lot lines between three legal lots.
2. The land of the existing lots will be redistributed to accommodate the construction of a new commercial building. There will be no change in the number of parcels.

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 and the North Newport Center Planned Community District Regulations.
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 existing and proposed development on the parcels will comply with the Zoning Code development standards and North Newport Center Planned Community District Regulations.

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 within the Fashion Island Regional Shopping Center.
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. All easements that currently exist will be continued either by inclusion of the lot line adjustment documents or by separate instrument.

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 since 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 since the lots as proposed will comply with street side setback requirements. The setbacks shall continue to apply to the realigned parcels per the Zoning Code development regulations and the North Newport Center Planned Community District 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. LA2012-004 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 Director of Community Development in accordance with the provisions of Title 19 Subdivision Code, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 29th DAY OF AUGUST, 2012.

By:



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. *Lot Line Adjustment No. LA2012-004 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 and this Lot Line Adjustment No. LA2012-004 has been recorded, unless otherwise approved by the Director of the Community Development Department.
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 121 Newport Center LLA including, but not limited to, Lot Line Adjustment No. LA2012-004 (PA2012-084). 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.

RESOLUTION NO. ZA2012-033

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2012-005 TO ADJUST THE BOUNDARIES BETWEEN LOTS R (151 NEWPORT CENTER DRIVE), R-1, R-3 AND A PORTION OF LOT 17 OF TRACT 6015 (143 NEWPORT CENTER DRIVE). (PA2012-086)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Stantec Consulting Services, Inc., representing the Irvine Company, with respect to properties located at 143 and 151 Newport Center Drive, Lots R, R-1, and R-3 of Tract 6015, and a portion of a lot utilized as parking lot, and legally described as Lot 17 of Tract 6015, respectively, requesting approval of a lot line adjustment.
2. The area of the existing Lot 17 (Parcel 2 of LA004, Parking Lot Parcel) is 11.402 acres and the proposed lot line adjustment would decrease the size to 5.433 acres (Proposed Parcel 1 LA2012-005).
3. 151 Newport Center Drive- The proposed lot line adjustment will alter the interior lot lines between Lots R and 17 (Parcel 2 of LA2012-004) of Tract 6015. The lot line adjustment increases the area of the proposed parcel (currently designated as 151 Newport Center Drive) to 1.255 acres (Proposed Parcel 2 LA2012-005).
4. 143 Newport Center Drive- The applicant proposes a lot line adjustment to establish a building pad for the construction of a new commercial building. The proposed lot line adjustment will move the interior lot lines to enlarge Lot R-3 of Tract 6015 which lies adjacent and southerly of the Macy's Department Store and includes taking land from Lot 17 and adding it to Lot R-3. The lot line adjustment increases the area of the existing Lot R-3 (to be designated as 143 Newport Center Drive) to 0.989 acres (Proposed Parcel 3).
5. The proposed lot line adjustment will alter the interior lot lines between Lots R-1 and 17 (Parcel 2 of LA2012-004) of Tract 6015. As proposed, the parcel will be occupied by site improvements, parking and drive aisles, no buildings are proposed on this parcel. The lot line adjustment will take land from Lot 17 of Tract 6015 (Parcel 2 of pending LA 2012-004) and add it to Lot R-1 of Tract 6015 resulting in a parcel area of approximately 4.112 acres (Proposed Parcel 4)
6. Existing parking drive aisles for traffic circulation in the immediate adjacent area will also be realigned in conjunction with the proposed lot line adjustment.

7. The subject property is located within the CR (Regional Commercial) Zoning District and the General Plan Land Use Element category is CR (Regional Commercial).
8. The subject properties are not located within the coastal zone.
9. A public hearing was held on August 29, 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 regional commercial retail and service uses and parking lots that support the commercial use, a permitted use in this area.
2. The adjusted lot lines 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 Lot Nos. R, R-1, R-3, and 17 of Tract 6015. The proposed lot line adjustment will move the interior lot lines between four legal lots.
2. The land taken from Lot 17 of Tract 6015 will be added to the reconfigured contiguous Lots R, R-1, R-3 of Tract 6015 and does not change or reduce the number of lots.

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 and the North Newport Center Planned Community District Regulations (PC56).
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 existing and proposed development on the parcels will comply with the Zoning Code development standards and the North Newport Center Planned Community District Regulations (PC56).

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 within the Fashion Island Regional Shopping Center.
2. 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. All easements that currently exist will be continued either by inclusion of the lot line adjustment documents or by separate instrument.

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 since 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 since street side setbacks shall continue to apply to the realigned parcels per the Zoning Code development regulations and the North Newport Center Planned Community District 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. LA2012-004 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 Director of Community Development in accordance with the provisions of Title 19 Subdivision Code, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 29th DAY OF AUGUST, 2012.

By:



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. *Lot Line Adjustment No. LA2012-004 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. Sequential Recordation Required: Lot Line Adjustment No. LA2012-004 shall be recorded prior to this Lot Line Adjustment No. LA2012-005.
10. No building permits may be issued until the appeal period has expired and Lot Line Adjustment No. LA2012-005 has been recorded, unless otherwise approved by the Director of the Community Development Department.
11. All improvements shall be constructed as required by Ordinance and the Public Works Department.

12. 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 151 Newport Center LLA including, but not limited to, Lot Line Adjustment No. LA2012-005 (PA2012-086). 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.