



**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 and/or Planning Division staff for the week ending July 12, 2013

**ZONING ADMINISTRATOR ACTIONS
JULY 11, 2013**

Item 1: Bay Shore Drive Lot Line Adjustment No. LA2013-005 (PA2013-096)
2482 and 2500 Bay Shore Drive

Action: Approved by Resolution No. ZA2013-035 Council District 3

Item 2: Flanagan Lot Merger No. LM2013-002 (PA2013-102)
506 and 512 Signal Road

Action: Approved by Resolution No. ZA2013-036 Council District 3

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. ZA2013-035

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2013-005 TO ADJUST THE BOUNDARIES OF PARCELS LOCATED AT 2482 AND 2500 BAY SHORE DRIVE (PA2013-096)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Scott T. Burnham, Property Owner, with respect to property located at 2482 and 2500 Bay Shore Drive, and legally described as Parcel 1 of Lot Line Adjustment No. 2003-032 in the City of Newport Beach, County of Orange, State of California, Recorded 11-5-03 as Instrument No. 2003001362485, and Parcel 2 as shown on Exhibit B attached to Lot Line Adjustment 87-6, recorded March 20, 1989 as Instrument No. 89-143482 of official records of Orange County, California, respectively, requesting approval of a lot line adjustment.
2. The applicant proposes to shift the interior lot line between contiguous parcels of land, to the east. The boundary adjustment will take land from 2500 Bay Shore Drive, Parcel 2, LLA 87-6, and add to 2482 Bay Shore Drive, Parcel 1, LLA 2003-032. The lot line adjustment will increase the area of Parcel 1 from 0.187 acres (8,165.15 square feet), to 0.218 acres (9,476.40 square feet), approximately. It will reduce the area of Parcel 2 from 0.161 acres (7,007.65 square feet), to 0.131 acres (5,696.40 square feet), approximately. The minor boundary adjustment will have no impact on access to or use of the affected properties.
3. The subject properties are located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject properties are located within the Coastal Zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-B).
5. A public hearing was held on July 11, 2013, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The project has been reviewed, and qualifies for a Class 5 (Minor Alterations in Land Use Limitations) categorical exemption pursuant to Title 14 of the California Code of

Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act).

2. The Class 5 exemption consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density, including but not limited to minor lot line adjustments not resulting in the creation of any new parcel. The proposed lot line adjustment will not change the number of existing parcels, will not result in any change in use or density, and is consistent with all of the requirements of the Class 5 exemption.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.76.020 (Procedures for Lot Line Adjustments) of the Newport Beach Municipal Code, the following findings and facts in support of such findings 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 this title.*

Facts in Support of Finding:

- A-1. The proposed lot line adjustment will not change the single-unit residential use of the lots affected, and will maintain consistency with the General Plan Land Use Designation, Single-Unit Residential Detached (RS-D), which is intended for detached single-family residential dwelling units on a single lot.
- A-2. The proposed lot line adjustment is consistent with the purpose identified in Chapter 19.76 (Lot Line Adjustments) of the Newport Beach Municipal Code. The lot line adjustment constitutes a minor boundary adjustment involving two adjacent lots where the land taken from one lot is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment.
- A-3. The subdivision does not affect open space areas in the City, does not negatively impact surrounding land owners in as much as it affects an interior lot line between two adjacent lots, and will not in itself be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.
- A-4. Public improvements and infrastructure currently exist within the neighborhood and the lot line adjustment will not result in the need for additional improvements and/or facilities.

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:

- B-1. The project site consists of Parcel 1 of Lot Line Adjustment No. 2003-032 and Parcel 2 of Lot Line Adjustment 87-6. The proposed lot line adjustment will shift the interior lot line between two adjacent legal lots, taking land from Parcel 2 and adding to Parcel 1. No additional lots will result from the adjustment and the number remains the same as before 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 lot width, depth and area than the parcels that existed prior to the lot line adjustment.*

Facts in Support of Finding:

- C-1. The proposed parcels conform with the development pattern in the area which consist primarily of lots 40 feet wide. The original subdivision of the subject parcels (Tract Map 2095 dated May 7, 1954) and those within the vicinity across Bay Shore Drive (Tract Map 1140 dated May 16, 1946) created lots ranging between 40 feet and 87 feet wide. The width of the proposed Parcel 1 (2500 Bay Shore Drive) will be 45.22 feet and the proposed Parcel 2 (2482 Bay Shore Drive) will be 71.22 feet wide.
- C-2. The depth of the resultant parcels will remain the same as the parcels that existed prior to the lot line adjustment.
- C-3. Setbacks applicable to properties in the R-1 Zoning District shall continue to apply to the adjusted parcels in the same way that they applied to the previous parcel configuration.
- C-4. The proposed parcels will comply with all applicable regulations of the Zoning Code and there will be no change in allowed land uses, density, or intensity on the properties.

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:

- D-1. Legal access to the subject properties from Bay Shore Drive will not be affected by the lot line adjustment.

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:

- E-1. The final configuration of the parcels involved will not result in the loss of direct vehicular access from any street for either parcel. Vehicular access to both parcels is taken from Bay Shore Drive and the final configuration will not change this.
- E-2. 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:

- F-1. The final configuration of the parcels will not result in a requirement for revised setbacks since the lots are not proposed to be reoriented. Therefore, the lot line adjustment does not result in the reduction of any existing setbacks.
- F-2. Adjustment of the interior lot line will not create a nonconforming setback situation for either parcel.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2013-005 (PA2013-096), 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 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 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 11th DAY OF JULY, 2013.

BY:



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Prior to release for recordation of the lot line adjustment, the applicant shall obtain a building permit to demolish the residential structure on the proposed Parcel 1 (2500 Bay Shore Drive), and demolition shall be completed and finalized by the Building Division.
3. 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 Bay Shore Drive Lot Line Adjustment including, but not limited to, Lot Line Adjustment No. LA2013-005 (PA2013-096). 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.
4. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.

RESOLUTION NO. ZA2013-036

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER LM2013-002 AND A WAIVER OF THE PARCEL MAP REQUIREMENT FOR A LOT MERGER LOCATED AT 506 & 512 SIGNAL ROAD (PA2013-102)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Joseph Flanagan, with respect to property located at 506 and 512 Signal Road, and legally described as Parcel 1 and Parcel 2 of LA2004-001 requesting approval of a Lot Merger.
2. The applicant proposes to merge two adjacent lots of land to create a single lot of land for an existing single-family development and future additions to this development.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on July 11, 2013 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 5 (Minor Alterations in Land Use Limitations).
2. Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.68.030 and 19.08.030 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. Approval of the merger will not, under the circumstances of this 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 merger is consistent with the legislative intent of this title.

Facts in Support of Finding:

- A-1. The lot merger to combine two existing legal lots by removing the interior lot line between them will not result in the creation of additional lots.
- A-2. The project is in an area with an average slope of less than 20 percent.
- A-3. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions). The proposed merger will protect land owners and surrounding residents, and will preserve the public health, safety, and general welfare of the City.
- A-4. The future development on the proposed lot will be subject to the Zoning Code development standards.

Finding:

B. The lots to be merged are under common fee ownership at the time of the merger.

Facts in Support of Finding:

- B-1. The two lots to be merged are under common fee ownership as indicated by the title reports provided by the applicant.

Finding:

C. The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

- C-1. The merged lot will retain the Single-Unit Residential zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide for areas appropriate for a detached single-family residential dwelling units located on a single lot.
- C-2. The new lot will comply with the Zoning Code requirements for lot width and size which requires a minimum width of 50 feet and minimum area of 5,000 square feet.

- C-3. The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which applies to a range of single family residential dwelling units.

Finding:

- D. Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger.*

Facts in Support of Finding:

- D-1. The lots as merged will not be deprived of legal access as the merged lot will abut a street consistent with existing conditions.
- D-2. No adjoining lots will be deprived of legal access as a result of the merger. The public streets were developed to provide vehicular access for the properties located in the area. Vehicular access to and from the subject site and adjacent properties would remain via the public street (Signal Drive).

Finding:

- E. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.*

Facts in Support of Finding:

- E-1. Lot widths in the area vary from 60 to 125 feet; likewise lot sizes vary from approximately 7,000 square feet to almost 18,000 square feet. The subject lots, as merged, will result in a 16,330-square-foot lot that is a larger lot in the area. However, due to the inconsistency of lot widths and sizes the merged lot will be consistent with the surrounding development.
- E-2. Development within the R-1 Zoning District is allowed a maximum floor area equal 2.0 times the buildable area of the lot. The merged lot will not be developed beyond this maximum development limit and will be developed consistent with the surrounding development.
- E-3. The existing development already utilizes both lots for a single-family use. A lot line adjustment in 2004 moved a portion of the interior lot line between the two lots and created an irregular shape to allow the addition of a porch across the original lot lines. Therefore, keeping the existing lots as is with irregular shapes would be more inconsistent with the surrounding pattern of development than merging the two lots.

Finding:

F. The proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of this title, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

- F-1. Future improvements on the site will be required to comply with the development standards of the Municipal Code and General Plan.
- F-2. The proposed lot merger combines the properties into a single lot of land and does not result in the elimination of more than one lot.
- F-3. Approval of the proposed lot merger would remove the existing interior lot line, and allow the property to be used as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, and General Plan.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2013-002, 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 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 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 11th DAY OF JULY, 2013.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. 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.
3. Prior to the issuance of any building permit for construction to cross the existing interior lot line between the two lots proposed to be merged, recordation of the lot merger documents with the County Recorder shall be required.
4. Lot Merger No. LM2013-002 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.
5. 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 Flannagan Lot Merger including, but not limited to, the Lot Merger No. LM2013-002. 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.