



**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 August 16, 2013.

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**ZONING ADMINISTRATOR ACTIONS  
AUGUST 15, 2013**

- Item 1: Via Koron Lot Line Adjustment No. LA2013-006 (PA2013-119)  
116 Via Koron  
Action: Approved by Resolution No. ZA2013-041 Council District 1
- Item 2: 416 Orchid Parcel Map No. NP2013-013 (PA2013-124)  
416 Orchid Avenue  
Action: Approved by Resolution No. ZA2013-042 Council District 6
- Item 3: 606 Acacia Parcel Map No. NP2013-014 (PA2013-125)  
606 Acacia Avenue  
Action: Approved by Resolution No. ZA2013-043 Council District 6
- Item 4: 1301 Dove Street Comprehensive Sign Program Permit No. CS2013-003 and  
Modification Permit No. MD2013-008 (PA2013-063)  
1301 Dove Street, West Side of Dove Street, at the terminus of Newport Place  
Drive  
Action: Approved by Resolution No. ZA2013-044 Council District 3
- Item 5: Spade Day Spa Minor Use Permit No. UP2013-011 (PA2013-140)  
1220 Bison Avenue, Suite A6  
Action: Approved by Resolution No. ZA2013-045 Council District 4

**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. ZA2013-041

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2013-006 TO ADJUST THE BOUNDARIES OF PARCELS LOCATED AT 116 VIA KORON (PA2013-119)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Fuscoe Engineering, with respect to property located at 116 Via Koron, and legally described as Lots 648, 649 and the Southwesterly  $\frac{1}{2}$  of Lot 650 of Tract No. 907 in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 28, Page(s) 25 to 36, inclusive, of Miscellaneous Maps, in the Office of the County Recorder of Orange County, California, requesting approval of a lot line adjustment.
2. The applicant proposes to adjust the underlying legal lot lines on a site that has been historically developed with a single structure. The applicant is requesting to remove the lot line between Lots 650 and 649 and to shift the lot line between Lots 649 and 648 north 7.5 feet to create two 37.5-foot-wide parcels for single-family residential development. The structure on the site crossing the property lines will be demolished prior to map recordation. There will be no change in the number of parcels.
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 located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached - (10.0 - 19.9 DU/AC) (RSD-C).
5. A public hearing was held on August 15, 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 15305, 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:

1. The proposed lot line adjustment will not change the single-unit residential use of the lots involved, 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.
2. The lot line adjustment will not result in a development pattern which is inconsistent with the surrounding neighborhood as the request is to reappportion two and a half legal lots into two separate parcels for future single-unit development which is consistent with the General Plan Land Use Plan and zoning designations.
3. 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 full lots where the land taken from one lot is added to the abutting lot and the existing boundary line of the half lot is removed. The original number of lots will remain unchanged after the adjustment.
4. The subdivision is consistent with the General Plan, 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.

5. Public improvements and infrastructure currently exist within the neighborhood and the lot line adjustment, in and of itself, 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:

1. The residence on the subject property was originally constructed across two legal lots and half of another legal lot, Lot 648, 649, and half of 650 of Tract No. 907. The proposed lot line adjustment will remove the interior lot line between Lots 649 and 650 and will adjust the interior lot line between Lots 648 and 649. 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:

1. The lot line adjustment will take 1,320 square feet of land from Lot 650 and add to Lot 649. Lot 648 will gain 660 square feet from Lot 649. The resulting net areas of the proposed Parcel 1 and 2, which are both 3,300 square feet, is consistent with the range of lot sizes in the vicinity within Tract No. 907.
2. The proposed parcels comply with all applicable zoning regulations, are not more nonconforming as to lot width, depth and area than the parcels that existed prior to the lot line adjustment, and there will be no change in allowed land uses, density, or intensity on the properties.
3. Typical lots within the surrounding area are 30 feet in width and 88 feet in depth with a resulting area of 2,640 square feet. Lots at the end of each block are wider varying between 35 and 40 feet in width. The proposed lot configuration is compatible with neighboring lots in the surrounding area.

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. Legal access to the subject properties from Via Lorca 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:

1. The final configuration of the lots involved will not result in the loss of direct vehicular access from any street for any lots included in the lot line adjustment. Vehicular access to the existing residential property is taken from the Via Lorca and the final configuration will not change this.

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 are not proposed to be reoriented. The setbacks shall continue to apply to the adjusted parcels per the Zoning Code development standards in the same way that they applied to the previous parcel configuration. Therefore, the lot line adjustment does not result in the reduction of any existing 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. LA2013-006 (PA2013-119), 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 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 15<sup>th</sup> DAY OF AUGUST, 2013.**

BY:



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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 the release for recordation of the lot line adjustment, the applicant shall apply for a building permit to remove the existing single-family residence, and all work fulfilling this requirement shall be completed and finalized by the Building Division.
3. Prior to issuance of the building permit for the second, new single-family residence, Fair Share Fees consistent with the fee schedule in effect at the time of building permit issuance shall be paid for one dwelling unit.
4. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department for construction or demolition. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
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 Via Koron Lot Line Adjustment including, but not limited to, Lot Line Adjustment No. LA2013-006 (PA2013-119). 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.
6. 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. ZA2013-042

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING TENTATIVE PARCEL MAP NO. NP2013-013 FOR A PARCEL MAP FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 416 ORCHID AVENUE (PA2013-124)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by 416 Orchid Avenue, LLC, with respect to property located at 416 Orchid Avenue, and legally described as Lot 10, Block 442, Corona del Mar in the City of Newport Beach, County of Orange, State of California, requesting approval of a Tentative Parcel Map.
2. The applicant requests a tentative parcel map for two-unit condominium purposes. No exceptions to 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 dwelling that has been demolished and a new duplex is currently under construction.
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 August 15, 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 it qualifies for a categorical exemption pursuant to Section 15315 of the California Environmental Quality Act under 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".
2. The project has been conditioned to require public improvements including the reconstruction of existing broken or otherwise damaged sidewalks, curbs, and gutters, along Orchid Avenue consistent with the Subdivision Code (Title 19).

#### 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 residential density on the site will increase by one unit to two units, consistent with the R-2 Zoning District designation. Therefore, the parcel map for condominium purposes will not affect the City in meeting its regional housing need.

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.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Parcel Map No. NP2013-013, 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 15TH DAY OF AUGUST, 2013.**

By:



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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

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, reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Orchid Avenue frontage.
4. Prior to recordation of the parcel map, reconstruct the damaged concrete alley adjacent to the project site.
5. All above ground improvements shall stay a minimum 5-foot clear of the alley setback.
6. Orchid Avenue is part of the City's Moratorium List. Work performed on said roadway will require additional surfacing requirements. See City Standard 105-L-F.
7. 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. Newly proposed decorative carriage walk will require an Encroachment Agreement.
8. 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.
9. An encroachment permit is required for all work activities within the public right-of-way.
10. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L and Municipal Code 20.30.130.

11. 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.
12. All on-site drainage shall comply with the latest City Water Quality requirements.
13. All unused water services to be abandoned shall be capped at main (corporation stop) and all unused sewer laterals shall be capped at property line.
14. Prior to recordation of the parcel map, per Chapter 13 of the City Municipal Code, a 36-inch box Hong Kong Orchid (*Bauhinia Blakeana*) street tree shall be planted along the Orchid Avenue frontage.
15. Prior to recordation of the Parcel Map, a park dedication fee for one dwelling unit shall be paid in accordance with Chapter 19.52.070 of the Newport Beach Municipal Code and pursuant City Council Resolution No. 2007-30.
16. Prior to recordation of the Parcel Map, a housing in-lieu fee for one dwelling unit shall be paid in accordance with Chapter 19.54.050(D) of the Newport Beach Municipal Code and pursuant to City Council Resolution No. 2010-44.
17. Two-car parking, including one enclosed garage space, shall be provided on site for each dwelling unit per requirements of the Zoning Code.
18. 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 4 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.
19. 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.
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 the 416 Orchid Avenue Parcel Map including, but not limited to, Parcel Map No. NP2013-013 (PA2013-124). 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.

21. This Parcel Map shall expire if the map has not been recorded within 24 months of the date of approval, unless an extension is granted by the Community Development Director in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.



## RESOLUTION NO. ZA2013-043

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING TENTATIVE PARCEL MAP NO. NP2013-014 FOR A PARCEL MAP FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 606 ACACIA AVENUE (PA2013-125).**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by 97 Acacia Avenue, LLC, with respect to property located at 606 Acacia Avenue, and legally described as Lot 8, Block 629, Corona del Mar in the City of Newport Beach, County of Orange, State of California, requesting approval of a Tentative Parcel Map.
2. The applicant requests a tentative parcel map for two-unit condominium purposes. No exceptions to 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 dwelling that has been demolished and a new duplex is currently under construction.
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 located within the Coastal Zone designated as with a land use of Two-Unit Residential (20 – 29.9 du/acre).
5. A public hearing was held on August 15, 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 it qualifies for a categorical exemption pursuant to Section 15315 of the California Environmental Quality Act under 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".
2. The project has been conditioned to require public improvements including the reconstruction of existing broken or otherwise damaged sidewalks, curbs, and gutters, along Acacia Avenue consistent with the Subdivision Code (Title 19).

#### 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 residential density on the site will increase by one unit to two units, consistent with the R-2 Zoning District designation. Therefore, the parcel map for condominium purposes will not affect the City in meeting its regional housing need.

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 located within the Coastal Zone and the parcel map and the development of the property as a two-unit condominium is consistent with the Coastal Land Use Designation of Two-Unit Residential (20 – 29.9 du/ac).

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Parcel Map No. NP2013-014, 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 15TH DAY OF AUGUST, 2013.**

By:

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

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

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.**
4. 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.
5. All improvements shall be constructed as required by Ordinance and the Public Works Department.
6. Prior to recordation of the parcel map, reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Acacia Avenue frontage.
7. Prior to recordation of the parcel map, reconstruct the existing broken and/or otherwise damaged concrete alley adjacent to the project site.
8. All above ground improvements shall stay a minimum 5-foot clear of the alley setback.
9. Acacia Avenue is part of the City's Moratorium List. Work performed on said roadways will require additional surfacing requirements. See City Standard 105-L-F.
10. 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. The newly proposed decorative carriage walk will require an Encroachment Agreement.
11. Prior to recordation of the parcel map, install new sod or low groundcovers of the type approved by the City throughout the portion of Acacia Avenue fronting the development site.
12. 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.
13. An encroachment permit is required for all work activities within the public right-of-way.
14. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L and Municipal Code 20.30.130.

15. 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.
16. All on-site drainage shall comply with the latest City Water Quality requirements.
17. All unused water services to be abandoned shall be capped at the main (corporation stop) and all unused sewer laterals to be abandoned shall be capped at property line.
18. Prior to recordation of the parcel map, per Chapter 13 of the City Municipal Code, a 36-inch box Southern Magnolia (Russett) street tree shall be planted along the Acacia Avenue frontage.
19. Prior to recordation of the Parcel Map, a park dedication fee for one dwelling unit shall be paid in accordance with Chapter 19.52.070 of the Newport Beach Municipal Code and pursuant City Council Resolution No. 2007-30.
20. Prior to recordation of the Parcel Map, a housing in-lieu fee for one dwelling unit shall be paid in accordance with Chapter 19.54.050(D) of the Newport Beach Municipal Code and pursuant to City Council Resolution No. 2010-44.
21. 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.
22. 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 606 Acacia Avenue Parcel Map including, but not limited to, Parcel Map No. NP2013-014 (PA2013-125). 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.
23. This Parcel Map shall expire if the map has not been recorded within 24 months of the date of approval, unless an extension is granted by the Community Development Director in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.

## RESOLUTION NO. ZA2013-044

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COMPREHENSIVE SIGN PROGRAM NO. CS2013-003 AND MODIFICATION PERMIT NO. MD2013-008 FOR THE PROPERTY LOCATED AT 1301 DOVE STREET (PA2013-063)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by JB3D, with respect to property located at 1301 Dove Street, and legally described as Parcel No. 1 of Parcel Map 120-27, requesting approval of a Comprehensive Sign Program and Modification Permit.
2. The applicant requests a Comprehensive Sign Program for the existing ten-story multiple-tenant office building as follow:
  - o Existing wall signs to remain:
    - Two (2) primary wall signs (Sign Type 4) and
    - Two (2) secondary wall signs (Sign Type 5)
  - o New signs:
    - Two (2) monument signs (Sign Type 1),
    - One address sign (Sign Type 2),
    - Five (5) directional signs (Sign Type 3),
    - Two (2) additional secondary wall signs (Sign Type 5), and
    - One windscreen signs (Sign Type 6).
3. A comprehensive sign program is required whenever there are three or more separate tenant spaces on the same property and signs (Sign Types 4 and 5) are proposed to be located on or above the second level on a multiple-story building. The building has a total of 34 tenants and tenant identification signs are proposed at the parapet (10<sup>th</sup> story) level.
4. A modification permit is being requested in order to allow the following signs to exceed the sign deviation allowance per the Comprehensive Sign Program criteria, and from the sign allowance per the Newport Place Planned Community Development Plan (PC Text) and/or the Zoning Code:
  - a. To allow two monument signs (Sign Type 1) to exceed the sign height limit by one foot. The maximum sign height allowed by the PC Text is four feet. Each of the proposed monument signs will be 34 square feet in size with a logo area of 3.25 square feet to be mounted on a five-foot-high wall element. The purpose of the request is to provide motorists better visibility in identifying the subject property from Dove Street.



- b. To allow one address sign (Sign Type 2) of 46 square feet (6 ft x 7.66 ft) to be mounted onto the building canopy. The type and size of the proposed sign are not specifically permitted by the PC Text; however, they are limited to a maximum of 72 square inches and 8 inches in height for letters and individual numbers pursuant to the Zoning Code. The purpose of the request is to provide patrons better visibility in identifying the building address and entry point to the building.
  - c. To allow five directional signs (Sign Type 3) to exceed the sign height limit by 2 feet for a total of 6 feet. These new signs will be located within the existing landscaped planters throughout the parking lot. The directional signs are limited to 6 square feet in size for each, per the PC Text. The sign height is limited to a maximum of 4 feet per the Zoning Code; however, the sign height could be higher with an approval of a comprehensive sign program. The purpose of these signs is to improve internal traffic circulation within the property.
  - d. To allow two additional secondary wall signs (Sign Type 5). The subject property currently has two of these signs which were approved in 2001 and 2004 by modification permits. The applicant is requesting to have two additional signs for a total of four, each with a total sign area of 60 square feet. The number and size of the proposed signs are not specifically permitted by the PC Text or Zoning Code. The purpose of these additional signs is to provide identification for up to four major tenants within the ten-story building that would be visible from Dove Street and from the parking lot.
  - e. To allow one windscreen sign (Sign Type 6) of 1.5 square feet to be mounted on the windscreen at the entrance of the existing café. The type and size of the proposed sign are not specifically permitted by the PC Text or Zoning Code. The purpose of the windscreen sign is to provide the identification and point of entry to the café.
5. The subject property is located within the PC-11 Zoning District (Newport Place Planned Community, Professional & Business Office Site 1 & 2) and the General Plan Land Use Element category is MU-H2 (Mixed-Use Horizontal).
  6. A public hearing was held on August 15, 2013, in the Corona del Mar Conference Room (Bay E-1<sup>st</sup> Floor), 100 Civic Center Drive, 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 project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act, pursuant to Section 15311 (Class 11 – Accessory Structures).

2. Class 11 exempts construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to on-premise signs.

### SECTION 3. REQUIRED FINDINGS.

*Modification Permit to allow a deviation in sign area (above 30%), and height and number of wall and free-standing signs (above 20%) as limited by the provisions of the Newport Place Planned Community District Regulations (PC Text) and the Zoning Code authority in conjunction with an adoption of a comprehensive sign program.*

In accordance with Section 20.52.050.E (Findings and decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a Modification Permit are set forth:

#### Finding

- A. *The requested modification will be compatible with existing development in the neighborhood.*

#### Facts in Support of Finding

1. The subject property is located in the PC-11 (Newport Place Planned Community, Professional & Business Sites 1 & 2) and is designated MU-H2 (Mixed-Use Horizontal) by the Land Use Element of the General Plan. Sites 1 & 2 are intended to provide for areas appropriate for professional and business offices and commercial uses. The existing property is currently improved with a ten-story, multiple-tenant office building and proposed signage is consistent with this land use designation.
2. The requested modification permit in conjunction with the proposed sign program would allow the existing property to have adequate signage that is more comparable to other current multiple-tenant office buildings located within the Newport Place Planned Community. The existing sign standards in the PC Text were adopted in the early 1970's and have less flexibility for developments that have multiple tenants. The approval of the modification permit with the following restrictions would allow the subject property to have up-to-date sign standards that are compatible with the existing developments in the Newport Place Planned Community.
  - a. The monument signs (Sign Type 1), as proposed, are in scale with the building frontages in that the maximum permissible height for each sign, as denoted in the sign program matrix (Exhibit B), does not exceed five square feet. The purpose of the request is to provide motorists better visibility in identifying the subject property from Dove Street.
  - b. The address sign (Sign Type 2) is to be mounted onto the building canopy as a part of the building entry element and is limited to 46 square feet in size. The

purpose of this request is to provide patrons better visibility in identifying the building address and entry point to the building.

- c. The increased height of the directional signs (Sign Type 3) is necessary to provide improved traffic circulation within the subject property and shall be limited to 6 square feet in size and 6 feet in height. The purpose of the request is to improve internal traffic circulation within the subject property.
- d. The additional secondary wall signs (Sign Type 5), for a total of four, are limited to 60 square feet in size. These signs would be visible from Dove Street and parking lot. The purpose of this request is to provide identification for up to four (4) major tenants within the ten-story building that would be visible from Dove Street and the parking lot.
- e. The windscreen sign (Sign Type 6) is limited to 1.5 square feet in size to provide identification and entry point to the existing café. The purpose of this request is to provide identification and point of entry to the existing café.

#### Finding

- B. The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

#### Facts in Support of Finding

- 1. The existing building is situated approximately 170 feet from Dove Street. The lack of clear orientation of building entryways and the parking configurations limit the ability to identify the subject property from Dove Street; to determine the building address and entry points to the building; and to follow vehicular direction to appropriate parking location.

#### Finding

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

#### Facts in Support of Finding

- 1. The modification permit will allow additional signage to clearly identify the subject property, building entry points, building tenants, and to improve internal traffic circulation.

Finding

- D. *There are no alternatives to the modification permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

Facts in Support of Finding

1. The granting of a modification permit allows the increased height, size and number of the signs to facilitate identification of the multiple-tenant building and to improve the overall internal traffic circulation. No similar provision could be granted within the parameters of Section 20.42.120 (Comprehensive Sign Program) of the Zoning Code.
2. No foreseeable detriment will result from the approval of the modification permit as conditioned.

Finding

- E. *The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.*

Facts in Support of Finding

1. The proposed modification for signage will not be detrimental to public health, safety, or welfare to the occupants of the property, nearby properties, the neighborhood, or the City. The location, number, and size of the proposed signs will not cause and/or generate safety issues to motorists.

*Comprehensive Sign Program*

Pursuant to Section 20.42.120 of the Zoning Code, approval of a Comprehensive Sign Program is required whenever there are three or more separate tenant spaces on the same property and signs (Sign Types 4 and 5) are proposed to be located on or above the second level on a multiple-story building. The building has a total of 34 tenants and tenant identification signs are proposed at the parapet (10<sup>th</sup> story) level. 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:

- A. *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. The application for a Comprehensive Sign Program is appropriate in order to allow flexibility of signage regulations for projects that require multiple signs. This application is allowed by the Zoning Code provisions and takes the place of the Newport Place Planned Community District Regulations. It applies to the proposed and existing signs on the subject property. In doing so, the purpose of the PC Text and Zoning Code is achieved while allowing latitude in the design and display of multiple signs.
2. 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. The proposed sign program would be more comparable to other multiple-tenant office buildings located within the Newport Place Planned Community.

Standard:

- B. 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 site is for use by multiple tenants and the signage has been designed to be integral with the design and character of the building.
2. The size, number and location of the proposed signs will ensure that adequate visibility is provided, and are proportional in size with the building.

Standard:

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

Facts in Support of Standard:

1. The proposed 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:

- D. 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 for the use of multiple commercial tenants and has been designed to be effective for such uses.
2. Consistent with Chapter 20.42, the Community Development Director [or his/her designee] may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

Standard:

*E. 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 deviations in the sign height of up to 30 percent and 20 percent for the number, location and height of the proposed signs to aid and enhance the identification and visibility of the commercial tenants from the public roadway.

Standard:

*F. 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:

*G. 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 Comprehensive Sign Program No. CS2013-003 and Modification Permit No. MD2013-008, subject to the

conditions set forth in Exhibit A, which are attached hereto and incorporated by reference.

2. This action shall become final and effective fourteen (14) days after adoption of this Resolution unless within the same time an appeal is filed with the Community Development Director in accordance with the provisions of the Title 20 of the Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 15<sup>th</sup> DAY OF AUGUST, 2013.**



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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 Comprehensive Sign Program, details, and elevations, except as noted in the following conditions.
2. Upon demolition or substantial structural and nonstructural changes to the exterior of the development on which this approval is based, this Comprehensive Sign Program and Modification Permit shall be rendered nullified and a new Comprehensive Sign Program shall be obtained for the new or altered development in accordance with the Newport Place Planned Community District Regulations and the Zoning Code Provisions in effect at the time the new development is approved.
3. The number, size, and type of the signs located on the subject property shall comply with the limitations specified in the Sign Program Matrix included in Exhibit "B" and the approved Comprehensive Sign Program.
4. 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", the approved Comprehensive Sign Program, and any applicable sight distance provisions of Chapter 20.42 of the Newport Beach Municipal Code or required by the Public Works Department (City Standard 110-L, using  $S=525$  feet for MacArthur Boulevard). Additionally, the applicant shall provide Sight Distance Exhibits for review and approval by the Public Works Department prior to issuance of building permits.
5. 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.
6. In accordance with Municipal Code Section 20.42.120.F of the Zoning Code, the Community Development Director may approve minor revisions to the approved Comprehensive 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.
7. 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.



8. A building permit shall be obtained prior to commencement of the construction and/or installation of the signs.
9. A copy of the approved resolution, including conditions of approval and sign matrix, shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits for the proposed new sign installations to identify this approval as the authority for location, size and placement.
10. 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 1301 Dove Street Sign Program, including, but not limited to Modification Permit No. MD2013-008 and Comprehensive Sign Program No. CS2013-003 (PA2013-063) and the determination that the project is exempt under the requirements of the California Environmental Quality Act. 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.

**EXHIBIT "B"**

SIGN PROGRAM MATRIX

## SIGN TYPE 1 - TENANT MONUMENT SIGN

INTENT	MONUMENT SIGN TO IDENTIFY THE PROJECT
FRONTAGE	DOVE STREET
CONTENT	PROJECT NAME AND UP TO (4) TENANT NAMES
LOCATION	PARALLEL TO DOVE STREET AT THE PROJECT ENTRY
QUANTITY	TWO
SIGN SIZE	TOTAL SIZE: 14'-2" X 28" SIGN AREA: 34 SF LOGO SIZE: 21 1/2" SQ. LOGO SIGN AREA: 3.25 SF
MATERIAL	SMOOTH, DURABLE, NON-WEATHERING SIGN. ALL HARDWARE SHALL BE OF NONFERROUS METALS.
ILLUMINATION	PERMITTED
LETTERSTYLE	PROJECT FONT
COLOR	DARK GREY, SILVER, & WHITE

## SIGN TYPE 2 - ADDRESS

INTENT	TO IDENTIFY THE BUILDING TO PATRONS
FRONTAGE	DOVE STREET
CONTENT	ADDRESS NUMBER
LOCATION	AT BUILDING ENTRY
QUANTITY	ONE
SIGN SIZE	TOTAL SIZE: 7'-8" X 6'-0" SIGN AREA: 46 SF
MATERIAL	SMOOTH, DURABLE, NON-WEATHERING SIGN. ALL HARDWARE SHALL BE OF NONFERROUS METALS.
ILLUMINATION	PERMITTED
LETTERSTYLE	PROJECT FONT
COLOR	DARK GREY, SILVER, & WHITE

## SIGN TYPE 3 - DIRECTIONAL

INTENT	TO PROVIDE DIRECTIONAL INFO TO PATRONS
FRONTAGE	N/A
CONTENT	DIRECTIONAL INFO AND PROJECT LOGO
LOCATION	WITHIN PROJECT
QUANTITY	FIVE
SIGN SIZE	GRAPHIC AREA: 6 SF LOGO SIZE: 6" SQ. SIGN HEIGHT: 6'-0"
MATERIAL	SMOOTH, DURABLE, NON-WEATHERING SIGN. ALL HARDWARE SHALL BE OF NONFERROUS METALS.
ILLUMINATION	PROHIBITED
LETTERSTYLE	PROJECT FONT
COLOR	DARK GREY, SILVER, & WHITE

## SIGN TYPE 4 - PRIMARY ON-BUILDING SIGN

INTENT	TO IDENTIFY PRIMARY BUSINESS NAMES OCCUPYING A MULTI-OCCUPANT 10 STORY BUILDING.
FRONTAGE	DOVE STREET & WESTERLY
CONTENT	BUSINESS NAME CONSISTING OF INDIVIDUAL LETTERS AND LOGO ONLY.
LOCATION	AT PARAPET LEVEL WITH 1/3 THE LETTER HEIGHT OF SPACE ABOVE AND BELOW THE SIGN AND LOCATED NO MORE THAN 1/2 THE AVERAGE LETTER HEIGHT TO ANY BUILDING EDGE.
QUANTITY	TWO, LOCATED ON OPPOSITE ELEVATIONS
SIGN SIZE	TOTAL SIZE: 58'-6" X 4'-0" SIGN AREA: 234 SF LOGO SIZE: 4'-0" SQ.
MATERIAL	SMOOTH, DURABLE, NON-WEATHERING SIGN. ALL HARDWARE SHALL BE OF NONFERROUS METALS.
ILLUMINATION	PERMITTED
LETTERSTYLE	TENANT STANDARD LETTERING TO BE APPROVED BY BUILDING ASSOCIATION.
COLOR	SIGN COPY COLOR TO CONTRAST WITH BUILDING AND MUST BE APPROVED BY BUILDING ASSOCIATION.

## SIGN TYPE 5 - SECONDARY ON-BUILDING SIGN

INTENT	TO IDENTIFY SECONDARY BUSINESS NAMES OCCUPYING A MULTI-OCCUPANT 10 STORY BUILDING.
FRONTAGE	DOVE STREET & WESTERLY
CONTENT	BUSINESS NAME CONSISTING OF INDIVIDUAL LETTERS AND LOGO ONLY.
LOCATION	ON BUILDING WALL BETWEEN ROW OF WINDOWS ON FIRST FLOOR AND ROW OF WINDOWS ON SECOND FLOOR WITH 1/3 THE LETTER HEIGHT OF SPACE ABOVE AND BELOW THE SIGN.
QUANTITY	FOUR
SIGN SIZE	TOTAL SIZE: 30'-5" X 20" SIGN AREA: 60 SF LETTERING & LOGO SIZE: 20" SQ.
MATERIAL	SMOOTH, DURABLE, NON-WEATHERING SIGN. ALL HARDWARE SHALL BE OF NONFERROUS METALS.
ILLUMINATION	PERMITTED
LETTERSTYLE	TENANT STANDARD LETTERING TO BE APPROVED BY BUILDING ASSOCIATION.
COLOR	SIGN COPY COLOR TO CONTRAST WITH BUILDING AND MUST BE APPROVED BY BUILDING ASSOCIATION.

## SIGN TYPE 6 - WINDSCREEN & GRAPHIC

INTENT	TO SERVE AS PRIMARY IDENTIFICATION FOR THE CAFE ENTRANCE & OCCUPANT
FRONTAGE	DOVE STREET
CONTENT	CAFE NAME
LOCATION	TOP LEFT CORNER OF GLASS WINDSCREEN LOCATED AT THE ENTRANCE TO THE CAFÉ
QUANTITY	ONE
SIGN SIZE	HEIGHT: 6" WIDTH: 26" LOGO SIZE: 1.1 SF
MATERIAL	SMOOTH, DURABLE, NON-WEATHERING SIGN. ALL HARDWARE SHALL BE OF NONFERROUS METALS.
ILLUMINATION	EXTERNAL ONLY
LETTERSTYLE	PROJECT FONT
COLOR	SILVER

## RESOLUTION NO. ZA2013-045

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2013-011 FOR A DAY SPA (PERSONAL SERVICES, RESTRICTED) USE LOCATED AT 1220 BISON AVENUE, SUITE A-6 (PA2013-140)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Saeed Kamkar, Associate AIA on behalf of Beau Visage, Inc., with respect to property located at 1220 Bison Avenue, Suite A-6, and legally described as Lot 6 of Tract Number 12309 requesting approval of a minor use permit.
2. The applicant proposes to convert a vacant 1,195-square-foot retail tenant space to a day spa (Personal Services, Restricted) use. The applicant proposes to improve the space with five private rooms for consultation and procedures including makeup and skin treatments as well as general wellness and weight management.
3. The subject property is located within the North Ford Planned Community (PC-5) Zoning District and the General Plan Land Use Element category is General Commercial (CG).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on August 15, 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 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.
2. The proposed project involves interior improvements to an existing retail tenant space to establish a day spa which is a negligible expansion of use. Therefore, the project qualifies for a categorical exemption under Class 1.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (F) (Findings and decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of the minor 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 CG (General Commercial). The CG designation is intended to provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs. These may include professional and medical offices, restaurant, retail, and service uses. The day spa with beauty procedures and consultation is consistent with this land use designation.
2. 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 Commercial, Area 3 of the North Ford Planned Community (PC-5) Zoning District. This area of the PC-5 Zoning District is intended to allow the location of light general commercial activities engaged in the sale of products to the general public. The proposed personal services, restricted use is ancillary to the retail sale of products and further provides a service to the neighboring residential areas as well as commuters and visitors traveling along MacArthur Boulevard and SR-73 freeway.
2. Section VI.B (Commercial, Area 3 – Permitted Uses) of the PC-5 Text allows services of a convenience nature; however, there is no definition provided for this use classification. As such, the Zoning Code is utilized to better classify the use. Under Section 20.70.020 (Definitions of Specialized Terms and Phrases), a day spa is classified as a “personal services, restricted land use.”
3. The day spa use is consistent with the legislative intent of Section VI (Commercial, Area 3) of the PC-5 Text; however, it is not explicitly listed as a permitted use. The Zoning Code indicates that the personal services, restricted land uses have the possibility of having a blighting and/or deteriorating effect upon surrounding areas; therefore, the location of these land uses should be dispersed from other similar uses in order to minimize adverse impacts. Thus, a Minor Use Permit is required in all

commercial zoning districts in which a personal services, restricted use is permissible. Other personal services, restricted land uses include healing arts,

tanning salons, and tattoo services and body piercing studios. Nearby uses include residential, restaurants, retail stores, personal services, a service station, and two fitness facilities. The proposed project will not create an over abundance of personal services, restricted land uses in the area.

4. Pursuant to Section VI.H (Commercial, Area 3 - Parking) of the PC-5 Text, commercial uses require a parking ratio of one parking space per 250 square feet of gross floor area and one loading space for each 10,000 square feet of gross floor area.
5. The previous retail use of the tenant space required one parking space per 250 square feet of gross floor area. Since the change in use from retail to personal service will not increase the parking requirement/demand, additional parking spaces will not be required.

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 day spa will occupy an existing 1,195-square-foot tenant space within the Newport North Shopping Center. The space will be improved with five treatment rooms, a reception area, and retail/display areas.
2. The project is located within a commercial area of the North Ford Planned Community Zoning District. Nearby uses include residential, personal services, retail sales, eating and drinking establishments, and a service station. The operational characteristics of the project are that of a typical day spa with retail sales, and are compatible with the residential and commercial uses in the vicinity.
3. As conditioned, the allowed hours of operation are 9:00 a.m. to 9:00 p.m., daily, thereby limiting the likelihood of late night/early morning land use conflicts with nearby residences and businesses.

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 Newport North Shopping Center is 4.84 acres and is developed with approximately 47,800 square feet comprised of two in-line multi-tenant buildings, two pad buildings, a service station, and a parking lot area. The existing building and parking lot have functioned satisfactorily with the current configuration which allows vehicular access from Bison Avenue and Camelback Street.
2. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing property and the proposed project will not negatively affect emergency access.

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 use will serve the surrounding commercial and residential community, as well as visitors to the area.
2. The operation has been conditioned with limited hours of operation to minimize any potential detriment to the area.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2013-011, 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 Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 15<sup>th</sup> DAY OF AUGUST, 2013.**

  
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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

1. The development of the day spa shall be in substantial conformance with the approved site plan and floor plan.
2. A copy of the approved resolution shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits, if permits are deemed necessary.
3. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, may require an amendment to this minor use permit or the processing of a new use permit.
4. The hours of operation shall be limited to between 9:00 a.m. to 9:00 p.m., daily.
5. The maximum number of employees working onsite at any given time shall be no more than four.
6. Massage services are not allowed unless an amendment to this use permit is first approved.
7. The applicant is required to obtain all applicable permits from the City Building Division. Construction plans must comply with the most recent, City-adopted version of the California Building Code, and must comply with all applicable State Disabilities Access requirements.
8. The Zoning Administrator may add to or modify conditions of approval to this Minor Use Permit, or revoke this permit upon a determination that the operation that is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
9. This approval shall expire unless exercised within 24 months from the end of the appeal period, in accordance with Section 20.54.060 of the Newport Beach Municipal Code.
10. 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 Spade Day Spa Minor Use Permit including, but not limited to, Minor Use Permit No. UP 2013-011 (PA2013-140). 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.