



**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 September 27, 2013

**ZONING ADMINISTRATOR ACTIONS
SEPTEMBER 26, 2013**

- Item 1: South Bay Front Lot Line Adjustment No. LA2013 008 (PA2013-162)
1604 and 1610 South Bay Front
Action: Approved by Resolution No. ZA2013-054 Council District 5
- Item 2: 601 Poppy Avenue Tentative Parcel Map No. NP2013-017 (PA2013-158)
601 Poppy Avenue
Action: Approved by Resolution No. ZA2013-055 Council District 6
- Item 3: 603 Poppy Avenue Tentative Parcel Map No. NP2013-018 (PA2013-159)
603 Poppy Avenue
Action: Approved by Resolution No. ZA2013-056 Council District 6
- Item 4: Blue C Sushi - Minor Use Permit No. UP2013-013 (PA2013-148)
1095 Newport Center Drive
Action: Approved by Resolution No. ZA2013-057 Council District 5

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

Det. Randy Parker, NBPD (*ABC License*)
Sgt. Chuck Freeman, NBPD (*Massage Therapy - ABC License*)

RESOLUTION NO. ZA2013-054

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT APPLICATION NO. LA2013-008 TO ADJUST THE BOUNDARY BETWEEN TWO CONTIGUOUS PARCELS LOCATED AT 1604 AND 1610 SOUTH BAY FRONT (PA2013-162)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brad Cosby, with respect to property located at 1604 and 1610 South Bay Front, and legally described as Lots 3 and 4 and the Westerly 20 feet of Lot 5 in Block 2 of Section 5, Balboa Island in the City of Newport Beach, (Certificate of Compliance 2013-016), and Lot 6 and the Easterly 10 feet of Lot 5 in Block 2 of Section 5, Balboa Island in the City of Newport Beach (Certificate of Compliance 2013-137), respectively, requesting approval of a lot line adjustment.
2. The applicant proposes to adjust the interior boundary between two contiguous parcels. Land taken from the 1604 South Bay Front parcel will be added to the 1610 South Bay Front parcel. There will be no change in the number of parcels.
3. The subject properties are located within the Balboa Island (R-BI) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject properties are located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-E).
5. A public hearing was held on September 26, 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.
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 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 residential use of the lots affected, and will maintain consistency with the General Plan Land Use Designation, RT.
- 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 parcels where the land taken from one parcel is added to an adjacent parcel. The original number of parcels will remain unchanged after the adjustment.
- A-3. The subdivision is consistent with the General Plan, does not negatively impact surrounding land owners in as much as it affects an interior lot line between two adjacent parcels, and will not in itself be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.

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 proposed lot line adjustment will shift the interior boundary between two adjacent legal parcels, taking land from the 1604 South Bay Front parcel and adding to the 1610 South Bay Front parcel. No parcels would be added or eliminated as a result of 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 lot line adjustment will take approximately 3,400 square feet of land from the 1604 South Bay Front parcel and add to the 1610 South Bay Front parcel. The resulting net areas of the proposed parcels which are 3,400 square feet and 6,800 square feet, respectively, remains the same as the parcels that existed prior to the lot line adjustment.
- C-2. The proposed parcels 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.
- C-3. As conditioned, the existing residence at 1604 South Bay Front shall be demolished or brought into conformance with applicable setbacks so that the lot line adjustment is consistent with applicable zoning regulations and does not create a nonconforming setback situation.

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. The lot line adjustment affects the interior boundary between two adjacent parcels. Legal access to the subject properties from South Bay Front and the alley at the rear is not 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 the alley at the rear of each parcel.

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 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 in the same way 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. LA2013-008 (PA2013-162), 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 26TH DAY OF SEPTEMBER, 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, or bring the existing residential structure at 1604 South Bay Front into conformance with applicable setbacks, and all work shall be completed and finalized by the Building Division.
3. 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.
4. 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 South Bay Front Lot Line Adjustment including, but not limited to, the LA2013-008 (PA2013-162). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2013-055

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2013-017 FOR A PARCEL MAP FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 601 POPPY AVENUE (PA2013-158)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Miguel Hargrove of Hargrove Homes, on behalf of Jim and Carol Skahan, Property Owner, with respect to property located at 601 Poppy Avenue, and legally described as Lot 1 of Block 643 of Corona Del Mar, requesting approval of a tentative parcel map.
2. The applicant requests a tentative parcel map for two-unit condominium purposes. No exceptions to the Title 19 (Subdivisions) development standards are proposed with this application. The property is currently developed with a single-unit dwelling and a triplex that will be demolished and replaced with a new duplex.
3. The subject property is located within the Two-Unit Residential (R2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. A public hearing was held on September 26, 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 Guidelines for the California Environmental Quality Act under Class 15 (Minor Land Divisions).
2. Class 15 exempts 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 to local standards 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 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 (Planning and Zoning) of the Municipal Code and is approved based on the following findings pursuant to Section 19.12.070 (Required Findings for Action on Tentative Maps) of the Municipal Code:

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

- A-1. The proposed Tentative Parcel Map is for two-unit condominium purposes. The existing single-family residence and triplex at 601 and 603 Poppy Avenue will be demolished and will be replaced with a new duplex. The proposed subdivision and improvements are consistent with the Two-Unit Residential (R-2) Zoning District and the Two-Unit Residential (RT) General Plan Land Use Designation, which allows a maximum of two residential units on a single lot.
- A-2. The project has been conditioned to require public improvements, including the reconstruction of existing broken or otherwise damaged sidewalks, curbs, and gutters along Poppy Avenue and Third Avenue frontages consistent with Subdivision Code (Title 19).

Finding

- B. *That the site is physically suitable for the type and density of development.*

Facts in Support of Finding

- B-1. The lot is regular in shape, has a slope of less than 20 percent, and is suitable for two-unit residential 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

- C-1. The subject property is developed and located in a developed area. The lot, proposed improvements, and proposed Tentative Parcel Map application will not cause substantial environmental damage.
- C-2. 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

- D-1. The proposed Tentative 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. Furthermore, the proposed project will conform to all applicable City ordinances.

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

- E-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

- F-1. The property is not subject to the Williamson Act. 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

- G-1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code.
- G-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

- H-1. The proposed Tentative Parcel Map and improvements, including the new duplex, are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards based on location and

climate. The Newport Beach Building Division 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

- I-1. The residential density allowed for the site will remain the same, which allows two units in the R-2 Zoning District. Therefore, the Tentative 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

- J-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

- K-1. The proposed 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 Tentative Parcel Map No. NP2013-017, 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 26th DAY OF SEPTEMBER, 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.**
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. A 10-foot radius corner cut-off easement for street and public utility purposes at the Poppy Avenue/Third Avenue curb return shall be recorded as a part of the parcel map.
4. All improvements shall be constructed as required by Ordinance and the Public Works Department.
5. Prior to recordation of the parcel map, the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Poppy Avenue and Third Avenue frontages shall be reconstructed.
6. Prior to recordation of the parcel map, the existing driveway approach along Third Avenue shall be replaced with a new driveway plug per City Standards. Per City Council Policy L-2, "Street curb openings shall not be permitted to residential property which abuts an alley."
7. Prior to recordation of the parcel map, a new minimum four-foot wide (4') concrete sidewalk shall be constructed along the entire Third Avenue frontage.
8. Prior to the recordation of the parcel map and upon the construction of the new concrete sidewalk along the Third Avenue frontage, a new ADA compliant curb access ramp shall be constructed at the Poppy Avenue/Third Avenue curb return.
9. No above ground improvements shall be located within the five-foot (5') alley setback. The setback area shall remain drivable at all times.

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10. Poppy Avenue and Third Avenue are part of the City's Moratorium List. Work performed on said roadways will required additional surfacing requirements. See City Standard 105-L-F.
 11. 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.
 12. Prior to recordation of the parcel map, new sod or low groundcover of the type approved by the City, shall be installed throughout the Third Avenue parkway fronting the development site.
 13. 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 sewer cleanout shall be located within the public right-of-way.
 14. An encroachment permit is required for all work activities within the public right-of-way.
 15. All improvements shall comply with the City's sight distance requirement. See City Standard STD-110-L and Municipal Code 20.30.130.
 16. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector.
 17. All on-site drainage shall comply with the current City Water Quality requirements.
 18. 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 the property line.
 19. Prior to recordation of the parcel map, per Chapter 13 of the City Municipal Code, two (2) 36-inch box Archontopheonix Cunningham (King palm) street trees with six-foot (6') minimum brown trunk height shall be planted along the Third Avenue frontage.
 20. Prior to recordation of the parcel map, the sidewalls of the steps near the alley along Third Avenue shall be removed from the public right-of-way.
 21. Prior to recordation of the parcel map, the sidewalk along Third Avenue shall extend straight into the alley with a maximum slope of 8.33% and max cross-slope of 2%.
 22. Each dwelling unit shall be served with individual gas and electrical service connection and shall maintain separate meters for the utilities.
 23. Prior to release for recordation of the Tentative Parcel Map, the applicant shall obtain a building permit to demolition the existing single-unit dwelling and triplex and all work shall be completed and finaled by the Building Division.

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24. The building permit for the new construction shall not be finalized until after recordation of the Parcel Map. 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.
 25. 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 Poppy Avenue Tentative Parcel Map including, but not limited to, Tentative Parcel Map No. NP2013-017. 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.
 26. 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. ZA2013-056

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2013-018 FOR A PARCEL MAP FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 603 POPPY AVENUE (PA2013-159)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Miguel Hargrove of Hargrove Homes, on behalf of Jim and Carol Skahan, Property Owner, with respect to property located at 603 Poppy Avenue (formerly 601 Poppy Avenue), and legally described as Lot 3 of Block 643 of Corona Del Mar, requesting approval of a tentative parcel map.
2. The applicant requests a tentative parcel map for two-unit condominium purposes. No exceptions to the Title 19 (Subdivisions) development standards are proposed with this application. The property is currently developed with a single-unit dwelling and a triplex that will be demolished and replaced with a new duplex.
3. The subject property is located within the Two-Unit Residential (R2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. A public hearing was held on September 26, 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 Guidelines for the California Environmental Quality Act under Class 15 (Minor Land Divisions).
2. Class 15 exempts 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 to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 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 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 (Planning and Zoning) of the Municipal Code and is approved based on the following findings pursuant to Section 19.12.070 (Required Findings for Action on Tentative Maps) of the Municipal Code:

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

- A-1. The proposed Tentative Parcel Map is for two-unit condominium purposes. The existing single-family residence and triplex at 601 and 603 Poppy Avenue will be demolished and will be replaced with a new duplex. The proposed subdivision and improvements are consistent with the Two-Unit Residential (R-2) Zoning District and the Two-Unit Residential (RT) General Plan Land Use Designation, which allows a maximum of two residential units on a single lot.
- A-2. The project has been conditioned to require public improvements, including the reconstruction of existing broken or otherwise damaged sidewalks, curbs, and gutters along the Poppy Avenue frontage consistent with Subdivision Code (Title 19).

Finding

- B. *That the site is physically suitable for the type and density of development.*

Facts in Support of Finding

- B-1. The lot is regular in shape, has a slope of less than 20 percent, and is suitable for two-unit residential 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

- C-1. The subject property is developed and located in a developed area. The lot, proposed improvements, and proposed Tentative Parcel Map application will not cause substantial environmental damage.
- C-2. 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 2 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

- D-1. The proposed Tentative 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. Furthermore, the proposed project will conform to all applicable City ordinances.

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

- E-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

- F-1. The property is not subject to the Williamson Act. 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

- G-1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code.
- G-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

- H-1. The proposed Tentative Parcel Map and improvements, including the new duplex, are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards based on location and

climate. The Newport Beach Building Division 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

- I-1. The residential density allowed for the site will remain the same, which allows two units in the R-2 Zoning District. Therefore, the Tentative 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

- J-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

- K-1. The proposed 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 Tentative Parcel Map No. NP2013-018, 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 26th DAY OF SEPTEMBER, 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.**
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. All improvements shall be constructed as required by Ordinance and the Public Works Department.
4. Prior to recordation of the parcel map, the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Poppy Avenue frontages shall be reconstructed.
5. Per City Council Policy L-2, "Street curb openings shall not be permitted to residential property which abuts an alley."
6. No above ground improvements shall be located within the five-foot (5') alley setback. The setback area shall remain drivable at all times.
7. Poppy Avenue is part of the City's Moratorium List. Work performed on said roadways will required additional surfacing requirements. See City Standard 105-L-F.
8. 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.
9. 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 sewer cleanout shall be located within the public right-of-way.
10. An encroachment permit is required for all work activities within the public right-of-way.

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11. All improvements shall comply with the City's sight distance requirement. See City Standard STD-110-L and Municipal Code 20.30.130.
 12. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector.
 13. All on-site drainage shall comply with the current City Water Quality requirements.
 14. 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 the property line.
 15. Each dwelling unit shall be served with individual gas and electrical service connection and shall maintain separate meters for the utilities.
 16. Prior to release for recordation of the Tentative Parcel Map, the applicant shall obtain a building permit to demolition the existing single-unit dwelling and triplex and all work shall be completed and finalized by the Building Division.
 17. The building permit for the new construction shall not be finalized until after recordation of the Parcel Map. 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.
 18. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Poppy Avenue Tentative Parcel Map including, but not limited to, Tentative Parcel Map No. NP2013-018. 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.
 19. 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. ZA2013-057

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2013-013 TO ALLOW A TYPE 47 (ON SALE GENERAL) ALCOHOLIC BEVERAGE CONTROL LICENSE AT A NEW FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT LOCATED AT 1095 NEWPORT CENTER DRIVE (PA2013-148)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Art Rodriguez & Associates, with respect to property located at 1095 Newport Center Drive, and legally described as Parcel 1 of Lot Line Adjustment No. LA2009-001, recorded May 6, 2009 as Instrument No. 2009000226826 of official records, in the office of the County Recorder of the County of Orange, requesting approval of a minor use permit.
2. The applicant requests a minor use permit to allow a Type 47 (On Sale General) Alcoholic Beverage Control (ABC) license for Blue C Sushi, a food service, eating and drinking establishment with no late hours (after 11:00 p.m.).
3. The subject property is located within the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District and the General Plan Land Use Element category is CR (Regional Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on September 26, 2013 in the City Hall Council Chambers, 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 under Class 1 (Existing Facilities).
2. The proposed project involves the addition of alcoholic beverages at a restaurant that is currently in plan check as a tenant improvement. Therefore, the project qualifies for a categorical exemption under Class 1.

SECTION 3. REQUIRED FINDINGS.

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

Finding

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

Facts in Support of Finding

In finding that the proposed use is consistent with Section 20.48.030 (Alcohol Sales) of the Zoning Code, the following criteria must be considered:

- i. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
 1. The proposed establishment is located within Reporting District 39, wherein the number of crimes is higher than adjacent Reporting Districts (RDs) and the City. The adjacent RDs (43, 44, and 47) have a lower number of crimes as they are primarily residential with few commercial uses. Due to the high concentration of commercial land uses in Fashion Island, the crime rate and shoplifting rate is greater than adjacent residential Reporting Districts; however, the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District.
- ii. The number of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
 1. Due to the high concentration of commercial land uses, the calls for service and number of arrests are greater than adjacent residential Reporting Districts. The Police Department does not consider the rate high because of the concentration of restaurants and commercial uses within Fashion Island and the surrounding North Newport Center. The Newport Beach Police Department has not previously reported any calls for service to the subject property.
- iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
 1. Fashion Island does not abut sensitive land uses and is separated from other uses by parking lots, roadways and other commercial uses. Residential uses are permitted in the northern sections of the PC-56 (North Newport Center Planned Community) Zoning District within Blocks 500, 600, 800, and San Joaquin Plaza. The proposed use is not

located in close proximity to these residential districts, day care centers, park and recreation facilities, places of religious assembly, and schools.

iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.

1. There are many comparable restaurant establishments within the Fashion Island Shopping Center. These include tenants such as Roy's Hawaiian Fusion, Fleming's Steak House, True Food Kitchen, Whole Foods, Lemonade's, Native Foods etc. The Type 47 (On Sale, General) alcohol license requested is the same as those obtained for said establishments and there is no evidence suggesting these uses have been detrimental to the neighborhood.

v. Whether or not the proposed amendment will resolve any current objectionable conditions.

1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the restaurant. Operational conditions of approval relative to the sale of alcoholic beverages will help ensure compatibility with the surrounding uses and minimize alcohol related impacts.
2. The restaurant use will be located within a shopping center designated to include such development. The Regional Commercial (CR) designation of the General Plan allows eating and drinking establishments. The service and consumption of alcohol at the proposed restaurant, pursuant to a Type 47 Alcoholic Beverage Control license under the conditions imposed by this Minor Use Permit that it will be operated and maintained, complies with the provisions of the Zoning Code and the North Newport Center Planned Community District Regulations.
3. The restaurant is within a highly-traveled commercial area that is occupied by a mixture of office and retail uses. It is anticipated that the establishment will serve visitors and employees of the nearby businesses who stop and eat within the North Newport Center area. Adding alcohol service to the menu will compliment the food service and provide for the convenience of customers.
4. The proposed restaurant is located within an existing restaurant space and tenant improvements to the interior of the building for the restaurant use is currently in plan check and will be designed specifically for a restaurant that includes on-site service and consumption of alcoholic beverages.

Minor Use Permit

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

Finding

B. The use is consistent with the General Plan and any applicable specific plan:

Facts in Support of Finding

1. The Land Use Element of the General Plan designates the project site as Regional Commercial (CR), which is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The proposed restaurant with alcoholic beverage sales is a use that serves local and regional residents and is consistent with land uses in the CR land use designation.

Finding

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

Facts in Support of Finding

1. The project is located in the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District. Fashion Island is intended to be a regional retail and entertainment center and a day/evening destination with a wide variety of uses that will serve visitors, residents, and employees of the area. The restaurant with alcoholic beverage sales is a commercial use that serves visitors, residents, and employees in the area and, therefore, is consistent with the purposes of the North Newport Center Planned Community District for the Fashion Island Sub-Area.
2. Eating and Drinking Establishments are permitted uses within the Fashion Island Sub-Area of the North Newport Center Planned Community Zoning District. Pursuant to the Planned Community Text, the on-premise sale of alcohol in conjunction with an eating and drinking establishment requires a minor use permit.

Finding

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

Facts in Support of Finding

1. The Fashion Island Sub-Area permits a range of retail, dining, and commercial entertainment uses within the PC-56 (North Newport Center Planned Community) Zoning District. The proposed use is compatible with surrounding permitted commercial uses in the vicinity and there are no sensitive land uses located nearby.

2. The on-site consumption of alcoholic beverages will be incidental to the restaurant use. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period, per the conditions of approval. Alcoholic beverage service will be under the supervision of employees who have completed a certified training program pursuant to Condition of Approval No. 12.
3. The restaurant will not be open late hours (past 11:00 p.m.) which will ensure that it does not operate as a bar, lounge or nightclub.

Finding

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

Facts in Support of Finding

1. The Fashion Island shopping center provides adequate parking and circulation within the surface parking lots and parking structures on site.
2. This site has been reviewed by the Fire Department to ensure adequate public and emergency vehicle access is provided. Utilities are provided with all applicable requirements.
3. The existing tenant space is designed for a restaurant use. Improvement to the interior of the building for the restaurant use is currently in plan check.
4. Improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

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

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.

2. The food service, eating and drinking establishment with alcohol service will serve visitors and the surrounding business community. The proposed establishment will provide alcohol service as a public convenience to visitors and workers within the surrounding area.
3. Fashion Island management has historically provided efficient on-site security and cooperates with the Newport Beach Police Department.
4. The existing space was previously occupied by a restaurant use and therefore is designed with a grease interceptor. The proposed restaurant will obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2013-013 (PA2013-148), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 26th DAY OF SEPTEMBER, 2013.

By:



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****Planning Division Conditions**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Alcohol service shall be limited to a Type 47 (On Sale General) Alcoholic Beverage Control License.
3. The closing hour of operation shall be limited to 11:00 p.m., daily. Any change to a later closing time shall require an Operator's License from the Police Department and an amendment to this Use Permit.
4. There shall be no live entertainment allowed on the premises without first obtaining a Live Entertainment Permit from the City.
5. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code, unless the Zoning Administrator first approves an amended minor use permit. This Minor Use Permit shall be terminated if the operation is no longer maintained as a "bona fide public eating place" as defined by the California Department of Alcoholic Beverage Control.
6. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
7. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
8. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of this restaurant business that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
9. There shall be no dancing allowed on the premises unless permitted by a Special Events permit.
10. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of

the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.

11. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
12. All owners, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's, and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
13. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
14. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets, and shall be sound attenuated in accordance with Chapter 10.26 of the Municipal Code, Community Noise Control.
15. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
16. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
17. The operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
18. Storage outside of the building shall be prohibited, with the exception of the required trash container enclosure.

19. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
20. The alcoholic beverage outlet operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the alcoholic beverage outlet and adjacent properties, if directly related to the patrons of the subject alcoholic beverage outlet.
21. All proposed signs shall be in conformance with the provisions of the PC-56 (North Newport Center Planned Community), Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code, or an approved Comprehensive Sign Program for the project site.
22. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this permit.
23. The Zoning Administrator may add to or modify conditions of approval to this Minor Use Permit, upon a determination that the operation which is subject of this Minor Use Permit causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
24. Any changes in operational characteristics, hours of operation, expansion in area, or modification to the floor plan, shall require an amendment to this Minor Use Permit, unless otherwise approved by the Planning Division.
25. Should the business, subject to the Minor Use Permit conditioned herein, be sold or otherwise come under different ownership or a change in operators, any future owners, operators, or tenants shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
26. This Minor Use Permit shall expire unless exercised within twenty-four months from the date of approval as specified in Section 20.54.60 of the Newport Beach Municipal Code.
27. 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 Blue C Sushi Minor Use Permit including, but not limited to, the Minor Use Permit No. UP2013-013. 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.

Building Division and Fire Department Conditions

28. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. 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. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
29. The tenant improvement for the restaurant shall comply with all plan check comments for Plan Check 1549-2013.