



**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 December 13, 2013

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**ZONING ADMINISTRATOR ACTIONS  
DECEMBER 12, 2013**

- Item 1:** Bowl of Heaven Minor Use Permit No. UP2013-025 (PA2013-218)  
1280 Bison Avenue, Suite B-11  
Action: Approved by Resolution No. ZA2013-083 Council District 4
- Item 2:** Macy's Sign Modification Permit No. MD2013-020 (PA2013-207)  
101 Newport Center Drive  
Action: Continued to 12/23/13 Council District 5
- Item 3:** Block 500 Newport Center Drive Sign Modification Permit No. MD2013-022 (PA2013-222)  
500, 520, and 550 Newport Center Drive, Block 500 Newport Center Drive  
Action: Approved by Resolution No. ZA2013-084 Council District 5
- Item 4:** Harbor View Shopping Center Comprehensive Sign Program No. CS2013-013 and Modification Permit No. MD2013-018 (PA2013-201)  
1610-1666 San Miguel Drive and 2500 San Joaquin Hills Road  
Action: Approved by Resolution No. ZA2013-085 Council District 7

**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. ZA2013-083

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2013-025 FOR A TAKE-OUT SERVICE LIMITED, EATING AND DRINKING ESTABLISHMENT LOCATED AT 1280 BISON AVENUE, SUITE B-11 (PA2013-218)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Dan McCormick, with respect to property located at 1280 Bison Avenue, and legally described as Lot 6 of Tract No. 12309 requesting approval of a minor use permit.
2. The applicant proposes a minor use permit to convert a vacant tenant space within the Newport North Shopping Center into a take-out service limited, eating and drinking establishment (Bowl of Heaven). No late hours (after 11:00 p.m.) or alcohol service are proposed as part of the application.
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 December 12, 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 pursuant to the State CEQA (California Environmental Quality Act) Guidelines under Class 1 (Existing Facilities).
2. This exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves interior alterations to convert a currently vacant commercial space into a take-out service limited, eating and drinking establishment.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

- A-1. The General Plan designates the site as General Commercial (CG) which is intended to provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs.
- A-2. The proposed take-out service is a commercial activity intended to provide a service not only to visitors, but also to residents within the immediate neighborhood and surrounding area, and is therefore consistent with the CG designation.
- A-3. Eating and drinking establishments exist within the Newport North Shopping Center and the proposed take-out service would be complementary to the surrounding commercial and residential uses.
- A-4. 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:

- B-1. The site is located in the North Ford Planned Community (PC-5) Zoning District. The proposed establishment which includes kitchen facilities, no seating, no alcohol service, and no late hours is a permitted use subject to the approval of a minor use permit in the PC-5 Zoning District.
- B-2. Parking for the proposed establishment is provided within the shared shopping center parking lot. The parking requirement for a take-out service limited, eating and drinking establishment (1 space per 250 square feet) is consistent with the previous commercial tenant (hair salon) and does not result in a requirement for additional parking.
- B-3. As conditioned, the proposed establishment will comply with Zoning Code standards for eating and drinking establishments, including those specific to the take-out service limited use classification which includes a maximum of six seats.

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:

- C-1. The proposed take out service use is appropriate given the establishment will be located within an existing shopping center which is bounded by two major streets which provide convenient access to motorists, pedestrians, and bicyclists.
- C-2. The shopping center contains various retail, and visitor serving commercial uses including eating and drinking establishments. The proposed establishment is compatible with the existing and permitted uses within the area.
- C-3. The proposed hours of operation will be from 8:00 a.m. to 8:00 p.m., Monday through Saturday, which will minimize any disturbance on residences north and south of the site.
- C-4. The existing trash storage area is adequate to accommodate the proposed food service use and is conveniently located where materials can be deposited and collected, and does not impede with the parking spaces.

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:

- D-1. The existing parking lot provides adequate circulation and parking spaces for patrons.
- D-2. This site has been reviewed by the Fire Department to ensure adequate public and emergency vehicle access is provided.
- D-3. Proposed site improvements will comply with all Building, Public Works, and Fire Codes.

Finding:

- E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

- E-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.
- E-2. The applicant is required to 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.
- E-3. The take-out service limited, eating and drinking establishment will serve the surrounding commercial and residential community.


SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2013-025, 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 14 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 12<sup>th</sup> DAY OF DECEMBER, 2013.**

By:



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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. *Minor Use Permit No. UP2013-025 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
4. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
5. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new use permit.
6. Incidental seating for up to a maximum of six seats may be provided for on-site consumption of food or beverage.
7. The sale of alcoholic beverages shall be prohibited unless an amendment to this Minor Use Permit or other required application is first approved in accordance with the provisions of the Municipal Code.
8. The hours of operation are limited to between 7:00 a.m. and 11:00 p.m. daily.
9. All proposed signs shall conform to Title 20, Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code regulations or any sign program applicable to the property.
10. The applicant is required to obtain a valid Business License Tax Certificate from the City's Revenue Department.
11. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

12. A copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
13. 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. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

14. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
15. The applicant is required to obtain all applicable permits from the City’s Building Department 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.
16. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
17. No outside paging system shall be utilized in conjunction with this establishment.
18. 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.
19. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
20. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.

21. 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).
22. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Director of Community Development, and may require an amendment to this Minor Use Permit.
23. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
24. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of 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.
25. 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.
26. 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 Bowl of Heaven MUP including, but not limited to, the UP2013-025 (PA2013-218). 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.





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(PA2013-222)  
500, 520, and 550 Newport Center Drive, Block 500 Newport Center Drive  
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- Item 4:** Harbor View Shopping Center Comprehensive Sign Program No. CS2013-013  
and Modification Permit No. MD2013-018 (PA2013-201)  
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**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. ZA2013-084

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2013-022 TO ALLOW MODIFICATIONS TO THE FREE-STANDING SIGNAGE FOR BLOCK 500 NEWPORT CENTER DRIVE (PA2013-222)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by The Irvine Company, with respect to property located at 500, 520 and 550 Newport Center Drive.
2. The applicant proposes a Modification Permit application to allow one additional monument sign (Sign Type A) where two (2) are currently allowed, for a total of three (3) monument signs. The two allowed, but not constructed, monument signs will be repositioned within the Block 500 Sub-Area of the North Newport Center Planned Community (PC 56). The Modification Permit application also includes a request to allow one additional landscape wall sign (Sign Type D) where four (4) are currently allowed, for a total of five (5) signs to be located within the Block 500 Sub-Area of the North Newport Center Planned Community (PC 56).
3. The subject property is located within the Block 500 Sub-Area of the North Newport Center Planned Community (PC 56) and Block 500 Planned Community (PC 46) Zoning Districts and the General Plan Land Use Element category is MU-H3 (Mixed Use – Horizontal).
4. Sign standards for Block 500 Sub-Area of the PC 56 allow two (2) large cube or blade monument signs (Sign Type A) to be located at entries to the Newport Center. Their locations are as follows:
  - Avocado Avenue at San Joaquin Hills Road
  - Avocado Avenue at San Nicolas Drive

The Modification Permit seeks an approval to reposition these allowed, but not constructed, monument signs to different locations within the PC 56, at the Santa Rosa Drive (identified as ST1.2 per the proposed sign plan) and San Nicolas Drive (identified as ST1.1 per the proposed sign plan) entries.

5. The PC 46 does not identify blade (monument) signs as a permitted sign; however, it does make allowance for additional sign types if approved by the City and The Irvine Company. Section IV.K.1 of the PC 46 states: “All permanent and temporary signs must be consistent with the provisions of these regulations or be approved by the City of Newport Beach and The Irvine Company.”

The Modification Permit seeks an approval of a large blade sign to be located at the entry of Block 500 from San Joaquin Hills Road (identified as ST1.3 per the proposed sign plan). The height, width and letter height of this sign are designed to be consistent with Sign Type A allowed in the PC 56, for compatibility with the existing signage in the immediate vicinity.

6. Section III.F.4 of the PC 56 currently allows a total of four (4) landscape wall signs (Sign Type D) facing Newport Center Drive. Presently, three (3) are currently being used by the following tenants: The Irvine Company, City National Bank and Bank of America.

The Modification Permit seeks an approval for one additional sign, for a total of five (5) signs for an additional tenant. No change to the maximum allowable sign height or area is proposed. The remaining unassigned sign and the proposed additional sign will be located along Newport Center Drive and identified as ST18.01 and ST18.02 per the proposed sign plan.

7. The subject property is not located within the coastal zone.
8. A public hearing was held on December 12, 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 15311 of the California Environmental Quality Act under Class 11 (Accessory Structures) of the California Environmental Quality Act Guidelines.
2. Class 11 includes construction or replacement of minor structures such as on-premise signs accessory to the existing regional office/commercial development. The proposed free-standing signs are incidental and accessory to the principal use of the properties and they do not intensify or alter the use.

## SECTION 3. REQUIRED FINDINGS.

### *Modification Permit*

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

Finding

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

Fact in Support of Finding

A-1. The proposed additional signs are consistent with the maximum allowable height, area, and design requirements for Sign Type A (cube/blade) and Sign Type D (landscape wall sign) allowed within the PC 56, which provides development standards to ensure that these signs will be compatible with the surrounding development in sign and scale. The proposed signs will be constructed of similar materials and lettering as the existing Type A and Type D signs located within the PC 56.

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.*

Fact in Support of Finding

B-1. Block 500 has entry points from San Joaquin Hills Road, Santa Rosa Drive, and San Nicolas and it is logical to provide adequate signage directing traffic to the pedestrian drop-off area for the new 20-story building and two (2) parking structures are currently under construction. The proposed new locations for Sign Type A are more appropriate because they are the entries to 500, 520, and 550 Newport Center Drive and will provide drivers with the most efficient pathway to their desired designations.

B-2. Block 500 has limited frontage along Newport Center Drive and because of this limitation, it is necessary and important to provide convenient and accurate information for motorist in identifying their destination. The additional landscape wall sign will provide applicable information regarding tenants located in the 500 and 550 Buildings.

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.*

Fact in Support of Finding

C-1. The granting of the Modification Permit is necessary to allow deviations from the current approved blade sign locations, where there is low traffic volume for motorists whose destination is the North Newport Center portion of Block 500. The new Sign Type A locations will be at the entrances into the North Newport Center portion of

Block 500 where the majority of traffic will be headed in order to drop off passengers or park in one of the new parking structures.

- C-2. The proposed new Sign Type A and landscape wall signs will not interfere with or be in conflict with the intent or purpose of the Zoning Code, PC 46, or PC 56. The proposed changes are necessary to accommodate the changes in land use development patterns within the two planned development areas.

#### 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.*

#### Fact in Support of Finding

- D-1. The proposed blade and landscape wall signs are the appropriate design location in the identification of three (3) main buildings and the major tenants in Block 500. The signs are in proper scale that compliments other free-standing signs in Block 500 as well as those currently existing throughout North Newport Center.
- D-2. Due to sizable amount of office space within Block 500 and the size and configuration of the buildings, the number, size and location of the proposed signs will provide better direction and visibility for motorists. The proposed signs have been reviewed by the Public Works Department. The final placement of these signs shall be subject to the approval of the Traffic Engineer to ensure that the sight distance requirements will be met and they will not pose a detriment to the surrounding neighborhood or the general public.

#### 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.*

#### Fact in Support of Finding

- E-1. The proposed signs will be constructed on private properties in Block 500 and will not change the density or intensity of the existing regional office and commercial development. The proposed signs are not excessive in the number or area and they will improve the traffic circulation within the North Newport Center, reduce traffic hazards, and therefore will not be detrimental to public health or safety.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2013-022, 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 (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 12TH DAY OF DECEMBER, 2013.**



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Brenda Wisneski, AICP, Zoning Administrator

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

*(Project-specific conditions are in italics)*

**PLANNING**

1. The blade (monument) (Sign Type A) and landscape wall (Sign Type D) signs shall be in conformance with the provisions of Section III.F.4 Signs Standards for Mixed-Use and Commercial Office Blocks of the North Newport Planned Community Development Plan (PC 56), except as modified by this modification permit.
2. Locations of the signs are limited to the designated areas and shall comply with the limitations specified in the approved sign plan.
3. The signs shall be illuminated in accordance with the provisions of Section 20.42.060.H of the Newport Beach Municipal Code.
4. The applicant is required to obtain all applicable permits from the City's Building Division. The construction plans must comply with the most recent, City-adopted version of the California Building Code.
5. Modification No. MD2013-022 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. This Modification Permit may be modified or revoked by the Zoning Administrator if it is determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
8. A copy of the Resolution, including Exhibit "A" (Conditions of Approval) and approved sign plan shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
9. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
10. The proposed three (3) monument signs (Sign Type A) shall be installed outside the sight distance triangle as determined by Standard Plan 110-L. The final placement of

these signs shall be reviewed and approved by the Traffic Engineer, prior to the building permit issuance.

11. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Block 500 Newport Center Drive Sign Modification including, but not limited to, Modification Permit No. MD2013-022 (PA2013-222). 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. ZA2013-085

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COMPREHENSIVE SIGN PROGRAM NO. CS2013-013 AND MODIFICATION PERMIT NO. MD2013-018 AUTHORIZING SIGNAGE FOR THE HARBOR VIEW SHOPPING CENTER LOCATED AT 1610-1666 SAN MIGUEL DRIVE AND 2500 SAN JOAQUIN HILLS ROAD (PA2013-201)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by the Irvine Company, with respect to property located at 1610-1666 San Miguel Drive and 2500 San Joaquin Hills Road, and legally described as Parcels 2, 3, and 4 of Resubdivision 284 requesting approval of a Comprehensive Sign Program and Modification Permit.
2. The applicant requests a Comprehensive Sign Program to authorize signage for the Harbor View Shopping Center ("Center") and a Modification Permit to allow signs to exceed the maximum allowable height and width standards for monument signs.
3. The subject property is located within the Commercial Neighborhood (CN) Zoning District and the General Plan Land Use Element category is Neighborhood Commercial (CN).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on December 12, 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 pursuant to the State CEQA (California Environmental Quality Act) Guidelines under Class 11 (Accessory Structures).
2. Class 11 exempts minor structures accessory to existing commercial facilities, including signs.

### SECTION 3. REQUIRED FINDINGS.

#### *Comprehensive Sign Program*

In accordance with Section 20.42.120 (Comprehensive Sign Program Standards) of the Newport Beach Municipal Code, 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], any adopted sign design guidelines and the overall purpose and intent of this Section [Section 20.42.120].*

#### Facts in Support of Standard:

- A-1 The purpose of a comprehensive sign program is to integrate all of a project's signs. A comprehensive sign program provides a means for the flexible application of sign regulations for projects that require multiple signs in order to provide incentive and latitude in the design and display of signs and to achieve, not circumvent, the purpose of Chapter 20.42. In compliance with the purpose and intent of Chapter 20.42 (Sign Standards), the proposed Comprehensive Sign Program provides the Center with adequate identification without excessive proliferation of signage, including service station signs that are generally consistent with the service station guidelines (Section 20.42.080.K.3. Furthermore, it preserves community appearance by consistently regulating the type, number, location, design, and size of signs.
- A-2 The Comprehensive Sign Program is consistent with the Sign Design Guidelines because the signs enhance the site's architectural design and effectively communicate a commercial message without creating sign clutter. The text of the signs would be legible and contrast with the background. The location and size of the wall signs would be proportional to the building facades and are designed to relate to the architectural features of the buildings. The location and size of the freestanding signs are compatible with the size and design of the Center. The number of identification panels that list tenant names on monument signs is consistent with the City's adopted Sign Design Guidelines, as the signs have the Center name and a maximum of three tenants identified.

#### 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:

- B-1 The Program will ensure consistency among all signs, and the proposed signs are designed with complementary colors, fonts, and materials. The strategic location of the freestanding signs will increase visibility for motorists on San Joaquin Hills Road and San Miguel Drive.
- B-2 The proposed monument and vehicle-oriented directional signage should improve the flow of vehicles entering the site and reduce vehicle stacking and congestion upon entering the Center.

Standard:

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

Facts in Support of Standard:

- C-1 The proposed Comprehensive Sign Program addresses all project signage. Temporary and exempt signs not specifically addressed in the sign program shall be regulated by the provisions of Chapter 20.42 (Sign Standards) of the Zoning Code, and are included in the sign program.

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:

- D-1 The sign program has been designed to be effective for the Center tenants by establishing allowed type, number, location, design, and size of signage with flexibility to accommodate any existing and future tenants. Proposed signs for a change of use from the service station could be approved pursuant to the sign provisions within Chapter 20.42.
- D-2 It is not anticipated that future revisions of the Comprehensive Sign Program will be necessary to accommodate changes in tenants or uses. However, the Community Development Director may approve signs that substantially conform to the sign program if the intent of the original approval is not affected and said signs conform to the Zoning Code.

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:

- E-1. The requested deviation to the number, size, and location of project and tenant identification monument signs, vehicle-oriented directional signs, and fuel price signs will improve visibility of the commercial tenants from the public roadways, improve vehicular circulation by directing patrons entering the Center, and provide consistent design to enhance the use and customer experience.
- E-2. The proposed Program for the Center is consistent with Chapter 20.42, and is being processed concurrently with a Modification Permit consistent with Zoning Code Section 20.52.050 to allow the monument signs, fuel price monument signs, and vehicle-oriented directional signs, to be larger than the Zoning Code limits.

Standard:

- F. *The Approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter [Chapter 20.42].*

Facts in Support of Standard:

- F-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:

- G-1 The content of the signs was not considered and the proposed Program does not contain any regulations regarding sign message content.

*Modification Permit*

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

Finding

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

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Fact in Support of Finding

- H-1 The Center is located in the Commercial Neighborhood Zoning District with residential uses nearby. The increase in sign size is compatible with the neighborhood because the adjacent streets provide adequate separation from the proposed signs. Signs are also not so large to be out of proportion.
- H-2 The fuel price signs will provide greater visibility from the adjacent streets allowing motorists more time to efficiently navigate. The signs will not interfere with vehicle sight distance as they will be set back from the street intersection. The signs are not located in proximity to nearby developments due to the adjacent street widths.
- H-3 The proposed vehicle-oriented directional signs will be located near the entrances at each drive approach and will help motorists in locating the various tenants within the Center. The location of the proposed vehicle-oriented directional signs will be internal to the Center, and will not have any impact on the surrounding neighborhood or other existing developments.
- H-4 The proposed signs do not constitute or contribute to a significant proliferation of signs which would be inconsistent with the neighborhood character.

Finding

- I. 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.*

Fact in Support of Finding

- I-1. The Center consists of three parcels and is developed with multi-tenant commercial buildings, a freestanding bank, a freestanding service station, and surface parking. There are five vehicular access points into the Center from three public streets.
- I-2. The multi-tenant commercial buildings are set back from the entry points into the Center and visibility is further reduced by the two single-tenant, freestanding buildings at the corners of the Center, which partially screen the view of the inline tenant spaces.
- I-3. The location of the existing surface parking results in parked cars reducing the visibility of the freestanding signs.
- I-4. The location and size of the two fuel price signs for the service station will provide the ability for motorists to clearly identify the brand and price more quickly, thereby enhancing site use and reducing potential hazards.
- I-5. The location and size of the vehicle-oriented directional signs increase internal circulation of vehicles after entering the Center, and will direct motorists to the portion

of the parking lot that is closest to their destination, thereby reducing vehicle congestion in the parking lot entrances.

#### Finding

*J. 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.*

#### Fact in Support of Finding

- J-1. Approval of the location, size, and number of the proposed monument signs is necessary due to the size, design, location, circulation, and drive aisles within the Center.
- J-2. The multi-tenant commercial buildings are set back from the entry points into the Center and visibility is further reduced by the single-tenant, freestanding buildings at the corners of the Center, which partially screen the view of the inline tenant spaces. The monument signs will identify the Center and primary tenants to motorists on the adjacent streets.
- J-3. The location and size of the fuel price signs will provide more reaction time for motorists whose destination is the service station. The number and size of the signs is necessary due to the design of the Center, the location of the vehicle access points, and the proposed Center identification sign at the corner of the primary street intersection.
- J-4. The increase in size for the vehicle-oriented directional signs is necessary due to the design of the Center, including the placement of buildings, drive approaches, and drive aisles. The location and size of the vehicle-oriented directional signs increase internal circulation of vehicles after entering the Center, and will direct motorists to the portion of the parking lot that is closest to their destination.

#### Finding

*K. 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.*

#### Fact in Support of Finding

- K-1 Zoning Code Section 20.42.080.C allows a maximum average height of 6 feet and maximum height of 8 feet. The maximum width allowed is 1.5 times the average height. Due to the design of the center, location of the drive approaches, and existing landscaping, the increased height and width of the monument signs is necessary to provide identification for the Center and the primary tenants for motorist approaching from San Miguel Drive or San Joaquin Hills Road. There are no alternatives that would

provide adequate visibility from the adjacent streets. The Public Works Department has reviewed the proposed project to ensure that the proposed signs meet sight distance requirements for vehicle and pedestrian safety.

- K-2 Zoning Code Section 20.42.080.K.3 provides regulations for service station signs. One ground sign, two fuel price signs, and wall and canopy signs are allowed on the subject property. Due to the street intersection, street elevation, and existing landscaping, there are no alternatives to the increased size and height of the proposed fuel price signs that would provide the adequate visibility to identify the fuel prices and the service station location without a substantial redesign or redevelopment of the service station and Center driveways.
- K-3 Zoning Code Section 20.42.100.B.1.S allows for a maximum sign area of 3 square feet and sign height of 4 feet for vehicle-oriented directional signs. Smaller than proposed signs would not allow room for directional arrows and tenant names with a sufficient letter height for visibility. The proposed vehicle-oriented directional signs are consistent with the intent of the Zoning Code by serving the purpose of effectively guiding traffic, parking, and loading on private property. The larger sign will accommodate these multiple functions. The proposed signs have been reviewed and approved by the Public Works Department to ensure that the sight distance requirements have been met and they will not pose a detriment to the surrounding neighborhood or the general public.

#### Finding

- L. 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.*

#### Fact in Support of Finding

- L-1 The signs will be constructed on private property and will not change the intensity of the existing commercial use, affect the flow of light or air to adjoining properties, nor interfere with sight distance.
- L-2 The signs are not excessive in height, width, or area, and will improve the flow of vehicles accessing the Center and parking lot.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Comprehensive Sign Program No. CS2013-013 and Modification Permit No. MD2013-018, 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 14 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 12<sup>TH</sup> DAY OF DECEMBER, 2013.**



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Brenda Wisneski, AICP, Zoning Administrator



**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

**PLANNING**

1. The development shall be in substantial conformance with the approved sign matrix and plans and stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
2. Prior to issuance of a building permit for any freestanding sign, the Public Works Department shall review and approve the proposed signs to ensure compliance with sight distance and traffic regulations.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. 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 Comprehensive Sign Program and Modification Permit.
5. This Comprehensive Sign Program and Modification Permit may be modified or revoked by the Zoning Administrator if determined that the proposed project or conditions under which it is being operated or maintained is detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
6. Any change to the approved plans shall require an amendment to this Comprehensive Sign Program and Modification Permit or the processing of a new Comprehensive Sign Program and Modification Permit.
7. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
8. 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.
9. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless the 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 Harbor View Shopping Center Signs

including, but not limited to, the Comprehensive Sign Program No. CS2013-013 and Modification Permit No. MD2013-018. 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.