



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending July 11, 2014

**ZONING ADMINISTRATOR ACTIONS
JULY 10, 2014**

- Item 1: Heliotrope Waterpointe Tentative Parcel Map No. NP2014-008 (PA2014-093)
431 Heliotrope Avenue
Action: Approved by Resolution No. ZA2014-024 Council District 6
- Item 2: Vaughan Residence Condominium Conversion No. CC2014-004 and Tentative
Parcel Map No. NP2014-006 (PA2014-076)
618 and 618 ½ Poinsettia Avenue
Action: Approved by Resolution No. ZA2014-025 Council District 6
- Item 3: The Waffle Affair Minor Use Permit No. UP2014-022 (PA2014-099)
1064 Bayside Drive
Action: Approved by Resolution No. ZA2014-026 Council District 5

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

RESOLUTION NO. ZA2014-024

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2014-008 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 431 HELIOTROPE AVENUE (PA2014-093)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Heliotrope Waterpointe, LLC, property owner, with respect to property located at 431 Heliotrope Avenue, and legally described as Lot 13 in Block 434, of Corona del Mar, requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map application for two-unit condominium purposes. No exceptions to Title 19 (Subdivision Code) development standards are proposed with this application. A single-family dwelling was demolished and a new two-unit duplex is under construction. The Tentative Parcel Map would allow each unit to be sold individually.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-D).
5. A public hearing was held on July 10, 2014, 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 15 (Minor Land Divisions).
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel

Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

SECTION 3.REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

- A. *That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. A single-family dwelling was demolished and a new two-unit duplex is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation "Two-Unit Residential."
2. The Tentative Parcel Map does not apply to any specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of existing broken or otherwise damaged sidewalks, curbs, and gutters along the Heliotrope Avenue frontage consistent with the Subdivision Code (Title 19).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for two-unit development because it is regular in shape and is relatively flat.
2. The subject property is accessible from Heliotrope Avenue and the alley at the rear, and is adequately served by existing utilities.

Finding:

- C. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making*

body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Facts in Support of Finding:

1. The site was developed with a single-family dwelling which was demolished, and will be replaced with a new two-unit dwelling.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 15 (Minor Land Alterations).

Finding:

- D. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Facts in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per Section 19.28.010 (General Improvement Requirements) of the Municipal Code and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Facts in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements located on the property.

Finding:

- F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in a Zoning District that permits residential uses.

Finding:

- G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code because the existing subdivision does not contain 50 or more parcels.
2. The project is not located within a specific plan area.

Finding:

- H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Facts in Support of Finding:

1. The Tentative Parcel Map and any future improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building 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:

1. The proposed two-unit dwelling is consistent with the R-2 Zoning District which allows two residential units on the property. 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:

1. The new two-unit dwelling will be designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Facts in Support of Finding:

1. The Tentative Parcel Map is for a two-unit dwelling. The proposed subdivision and improvements are consistent with the Coastal Land Use Plan designation RT-D (Two-Unit Residential).

2. The subject property conforms to public access policies of Chapter Three of the Coastal Act because the development does not impede public access from the nearest public roadway to the shoreline and along the coast.
3. Recreation policies contained within Chapter Three of the Coastal Act are not applicable to the subject property.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2014-008, 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 10TH DAY OF JULY, 2014.

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. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. 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.)
5. Prior to the recordation of the Parcel Map, park dedication fees for one additional dwelling unit shall be paid consistent with the fee amount in effect at the time of payment as established by the City of Newport Beach Municipal Code.
6. Prior to the recordation of the Parcel Map, fair-share fees for one additional dwelling unit shall be paid consistent with the fee amount in effect at the time of payment as established by the City of Newport Beach Municipal Code.
7. The applicant shall reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Heliotrope Avenue frontage.
8. Heliotrope Avenue is part of the City's Moratorium List. Work performed on said roadway will require additional surfacing requirements pursuant to City Standard 105-L-F.
9. 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.

10. 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. The water meter and sewer cleanout shall be located within the public-right-of-way.
11. An encroachment permit is required for all work activities within the public right-of-way.
12. All improvements shall comply with the City's sight distance requirement pursuant to City Standard 110-L and Municipal Code Section 20.30.130.
13. 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.
14. All on-site drainage shall comply with the latest City water quality requirements.
15. 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.
16. Pursuant to Chapter 13 of the Municipal Code, a 36 inch box *Pinus Thunbergiana* (Japanese Black Pine) street tree shall be planted along the Heliotrope Avenue frontage.
17. All landscaping within the public right-of-way shall not exceed a maximum height of 36 inches.
18. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for description change of the subject project development from "duplex" to "condominium." **The development will not be condominiums until this permit is finalized.** The building permit for the new construction shall not be finalized until after recordation of the Parcel Map.
19. 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.
20. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Heliotrope Waterpointe Tentative Parcel Map, including, but not limited to, the NP2014-008 (PA2014-093). 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. ZA2014-025

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING CONDOMINIUM CONVERSION NO. CC2014-004 AND TENTATIVE PARCEL MAP NO. NP2014-006 FOR A TWO-UNIT CONDOMINIUM DEVELOPMENT LOCATED AT 618 AND 618 ½ POINSETTIA AVENUE (PA2014-076)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Robert Vaughan with respect to property located at 618 and 618 ½ Poinsettia Avenue, and legally described as Lot 20, Block 643, Corona del Mar as shown on a Map recorded in Book 3, Pages 41 and 42 of Miscellaneous Maps, Records of Orange County, California, requesting approval of a condominium conversion and tentative parcel map.
2. The applicant proposes a condominium conversion and tentative parcel map to convert an existing duplex into a condominium project. The code required two-car parking per unit is provided and no waivers of Title 19 development standards are proposed with this application.
3. The subject property is located within the R-2 (Two-Unit Residential) Zoning District and the General Plan Land Use Element category is RT (Two-Unit Residential).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on July 10, 2014, 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 Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).
2. The Class 1 exemption involves negligible or no expansion of an existing use. This classification includes the division of existing multiple-family or single-family residences into common-interest ownership, and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt. The proposed project involves the conversion of an existing duplex into a two-unit condominium development.

SECTION 3. REQUIRED FINDINGS.

Condominium Conversion

In accordance with Section 19.64.070 (Standards for Condominium Conversions) of the Newport Beach Municipal Code, the following findings are set forth:

Finding

- A. *The minimum number, and the design and location of off-street parking spaces shall be provided in conformance with the provisions of the Zoning Ordinance in effect at the time of approval of the conversion.*

Facts in Support of Finding

- A-1. The existing duplex consists of 3,326 square feet including two, single-car garages and two covered spaces.
- A-2. The four spaces provided meet the number of spaces required (2 per unit) per Chapter 20.40 (Off-Street Parking) of the Zoning Ordinance.

Finding

- B. *Each dwelling unit within a building shall have a separate sewer connection to the City sewer.*

Facts in Support of Finding

- B-1. The duplex has two separate sewer connections to the City sewer.

Finding

- C. *Each sewer lateral shall be retrofitted/fitted with a cleanout at the property line.*

Facts in Support of Finding

- C-1. The duplex has two separate sewer cleanouts located at the property line.

Finding

- D. *Each unit shall maintain a separate water meter and water meter connection.*

Facts in Support of Finding

- D-1. The duplex has two separate water meters and water meter connections.

Finding

- E. *The electrical service connection shall comply with the requirements of Chapter 15.32 (Underground Utilities) of the Newport Beach Municipal Code.*

Facts in Support of Finding

- E-1. The duplex complies with the requirements of Chapter 15.32.

Finding

- F. *The applicant for a condominium conversion shall request a special inspection from the Building Division for the purpose of identifying any building safety violations. The applicant shall correct all identified safety violations prior to approval of a final map for the condominium conversion.*

Facts in Support of Finding

- F-1. A special inspection was completed by the Building Division on June 26, 2014, and one safety violation was identified inasmuch as carbon monoxide detectors were not provided in all required locations.
- F-2. Since the front unit is currently undergoing renovation, several items in the special inspection could not be verified in the field; however, the building permit set indicates the required improvements will be constructed.
- F-3. As conditioned, the project will not be condominiums until all housing and safety violations have been corrected and verified.

Finding

- G. *Permanent lot stakes and tags shall be installed at all lot corners by a licensed surveyor or civil engineer unless otherwise required by the City Engineer.*

Facts in Support of Finding

- G-1. As conditioned, the project will comply with this requirement prior to recordation of the final parcel map.

Finding

- H. *For residential conversions, the project shall be consistent with the adopted goals and policies of the General Plan, particularly with regard to the balance and dispersion of housing types within the City.*

Facts in Support of Finding

- H-1. The project is consistent with the adopted goals and policies of the Land Use Element and other Elements of the General Plan and the Local Coastal Program Land Use Plan. The project site is designated as RT (Two-Unit Residential) by the Land Use Element of the General Plan. The proposed project is consistent with the RT land use category, which is intended to provide for a range of two-family dwelling units such as duplexes and townhomes.
- H-2. An existing, remodeled two-unit dwelling rental will be converted into a two-unit condominium project. The residential density on the site will remain the same.

Finding

- I. The establishment, maintenance or operation of the use or building applied for shall 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.*

Facts in Support of Finding

- I-1. The application of the project conditions will ensure the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood and the City.
- I-2. The proposed project is to convert an existing, remodeled duplex into two condominiums on property located within the R-2 zoning district.
- I-3. Public improvements will be required of the Applicant per the Municipal Code and the Subdivision Map Act.

Tentative Parcel map

The Zoning Administrator determined in this case, that the proposed parcel map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19 (Subdivision Code):

Finding:

- A. 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 parcel map is for two-unit condominium purposes. The existing duplex was constructed in 2011 to condominium standards. The residential density on the site (two-units) will remain the same. The proposed subdivision and improvements are

consistent with the density of the R-2 Zoning District and the "Two-Unit Residential" General Plan Land Use designation.

A-2 The proposed parcel map does not apply to any specific plan area.

Finding:

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

Facts in Support of Finding:

B-1. The lot is physically suitable for two-unit development because it is regular in shape and has a slope of less than 20 percent.

Finding:

C. *The design of the subdivision or the proposed improvements are not likely to 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. This project has been reviewed, and it has been determined that it qualifies for a Class 1 and a Class 15 categorical exemption pursuant to Title 14 of the California Code of Regulations (Sections 15301 and 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act). Under Class 1 (Existing Facilities), the division of existing multiple family or single-family residences into common interest ownership is exempt under Class 1 of CEQA. Under Class 15 (Minor Land Divisions), the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels is exempt 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.

Finding:

D. *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 parcel map is for residential condominium purposes. The development 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 of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- E. *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 ones 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 easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements 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 because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
- F-2. The site, which is developed for residential use, lies in a residentially zoned area.

Finding:

- G. *That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to*

be included within the land project; and (2) 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 previously defined in Section 11000.5 of the California Business and Professions Code because the existing subdivision does not contain 50 or more parcels.

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 parcel map and improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process. The existing duplex was constructed in compliance with Title 24.

Finding:

I. *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 proposed parcel map 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. The residential density on the site will remain the same, which allows two units in the R-2 Zoning District. Therefore, the parcel map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

J. *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 will remain the same and does not violate 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 subject property is not located within the Coastal Zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2014-006 and Condominium Conversion No. CC2014-004 (PA2014-076), subject to the conditions set forth in Exhibit "A", which is attached hereto and incorporated by reference.
2. The Condominium Conversion and Tentative Parcel Map action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 10th DAY OF JULY, 2014.



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. 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 Parcel Map and Condominium Conversion.
3. No more than two-dwelling units shall be permitted on the site.
4. In accordance with the provisions of Chapter 13 of the Newport Beach Municipal Code or other applicable section or chapter, additional street trees may be required and existing street trees shall be protected in place during construction of the subject project, unless otherwise approved by the General Services Department and the Public Works Department through an encroachment permit or agreement.
5. Two-car parking, including one enclosed garage space and one covered or enclosed parking space, shall be provided on site for each dwelling unit per requirements of the Zoning code. All parking spaces shall be maintained clear of obstructions for the parking of vehicles at all times.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. Prior to the recordation of the parcel map, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
8. Prior to the final of the building permit for the special inspection, the applicant shall resolve all building safety violations identified in the Condominium Conversion Inspection Report dated June 26, 2014.
9. 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 Condominium Conversion and Parcel Map including, but not limited to, Condominium Conversion No. CC2014-004 and Tentative Parcel Map No. NP2014-006 (PA2014-076). 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.

10. The 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 Planning Director in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.

Public Works Conditions

11. Prior to the recordation of the parcel map, the applicant shall pay a park dedication fee for one (1) unit in accordance with the fee amount in effect at the time of recordation.
12. 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.**
13. 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 (1- 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.
14. All improvements shall be constructed as required by Ordinance and the Public Works Department.
15. An encroachment agreement is required for any private improvements in the public right-of-way and shall comply with City Council Policy L-6 (Private Encroachments in Public Rights-of-Way).
16. Each dwelling 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 meters and sewer cleanouts shall be located within the public right-of-way.
17. An encroachment permit is required for all work activities within the public right-of-way.

18. The existing damaged curb, gutter, and sidewalk along the Poinsettia Avenue frontage shall be reconstructed. Limits of reconstruction shall be determined by the Public Works Inspector.
19. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
20. All on-site drainage shall comply with the latest City Water Quality requirements.
21. All above ground improvements shall stay a minimum 5-foot clear within the alley setback, including planting.
22. Existing street trees on Poinsettia Avenue shall be protected in place. Removal of street trees shall require the approval of the Parks and Trees Division of the Municipal Operations Department and the Public Works Department.

RESOLUTION NO. ZA2014-026

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2014-022 FOR A FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT USE LOCATED AT 1064 BAYSIDE DRIVE (PA2014-099)

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 1040 Bayside Drive, and legally described as Parcel 1 of Lot Line Adjustment No. LLA 98-06 requesting approval of a minor use permit.
2. The applicant proposes a minor use permit to allow the operation of a new food service, eating and drinking establishment use within an existing commercial shopping center. No late hours (after 11:00 p.m.) or alcohol service is requested as part of the application.
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 located within the coastal zone. The Coastal Land Use Plan category is Neighborhood Commercial (CN).
5. A public hearing was held on July 10, 2014, 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 Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities). The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use.
2. The proposed project involves interior improvements to an existing retail bakery tenant space to establish a food service, eating and drinking establishment use and no expansion of gross floor area. Therefore, the project qualifies for a categorical exemption under Class 1.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of the Minor Use Permit are set forth:

Finding:

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

Facts in Support of Finding:

1. The General Plan Land Use designation for this site is CN (Neighborhood Commercial). The CN designation is intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented to primarily serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed project is consistent with this land use designation as it will provide an additional service within the Bayside Shopping Center to the nearby residential communities. The operation has also been conditioned to help ensure it maintains compatibility with both commercial and residential uses in the immediate area.
2. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The site is located in the Commercial Neighborhood (CN) Zoning District. This designation is intended to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The proposed food service, eating and drinking establishment use will provide a service to the neighboring residential areas.
2. Within Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements) of the Zoning Code, the CN District allows food service, eating and drinking establishment uses subject to the approval of a minor use permit when proposed within 500 feet of a residential zoning district.
3. The Bayside Shopping Center utilizes a shopping center parking requirement consistent with Zoning Code Section (20.40.050 Parking Requirements for Shopping Centers). Under this section, the shopping center may be parked at a rate of one parking space per every 200 square feet of gross floor area on the condition that it is less than 100,000 square feet in gross building area and has a limited amount of eating and drinking establishment uses (15% of the gross floor area). The change of

use from a retail bakery (Java Bakery Café) to a food service, eating and drinking establishment use will not necessitate any additional parking space requirements as the eating and drinking establishment uses will comprise 11% of the gross floor area.

Finding:

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

Facts in Support of Finding:

1. The food service, eating and drinking establishment use will occupy an existing 1,316-square-foot tenant space within the Bayside Shopping Center. The space will be improved with a small-scale kitchen and related storage areas, a restroom, and a dining area with seating for up to 20 patrons.
2. The project is located within the Bayside Shopping Center. Nearby uses include residential, personal services, retail sales, eating and drinking establishments, and a bank. The operational characteristics of the project are conditioned to help ensure the use is compatible with the residential and other commercial uses in the vicinity.
3. As conditioned, the allowed hours of operation are 7:00 a.m. to 10:00 p.m., daily, thereby limiting the likelihood of late night/early morning land use conflicts with nearby residences and businesses.

Finding:

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

Facts in Support of Finding:

1. The Bayside Shopping Center is approximately five acres and is developed with approximately 56,000 square feet comprised of one large multi-tenant building, one smaller pad building, and a parking lot area. The existing buildings and parking lot have functioned satisfactorily with the current configuration which allows vehicular access from three separate driveways along Bayside Drive.
2. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing property and the proposed project will not negatively affect emergency access.

Finding:

E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to

the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding:

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

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2014-022, 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 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 10TH DAY OF JULY, 2014.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"
CONDITIONS OF APPROVAL

Planning Division

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. All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.
3. Minor Use Permit No. UP2014-022 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
6. This Minor Use 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.
7. The hours of operation for the establishment shall be limited to between the hours of 7:00 a.m. and 10:00 p.m., daily.
8. A maximum number of 20 seats may be provided inside the establishment.
9. No alcohol sales or service shall be permitted unless an amendment to this Use Permit is obtained.
10. Any change in operational characteristics, expansion in area, or other modification to the approved plans, may require an amendment to this Minor Use Permit or the processing of a new use permit.
11. 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.
12. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Minor Use

Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Minor Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

13. 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.
14. 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.
15. No outside paging system shall be utilized in conjunction with this establishment.
16. 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.
17. 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.
18. 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).
19. 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.
20. 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.
21. 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.

22. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the The Waffle Affair MUP including, but not limited to, the Minor Use Permit No. UP2014-022 (PA2014-099). 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

23. 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.
24. Pursuant to Section 422.2 of the California Plumbing Code, separate toilet facilities shall be provided for each sex.

Fire Department

25. A type I hood protected with an approved automatic fire-extinguishing system will be required for cooking of products which produce grease laden vapors.