



**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 25, 2014

**ZONING ADMINISTRATOR ACTIONS
JULY 24, 2014**

Item 1: Parrott Residence Modification and Condominium Conversion Permit Nos. CC2014-002, NP2014-003 and MD2014-006 (PA2014-064)
3130 and 3140 Breakers Drive

Action: Approved by Resolution No. ZA2014-027 Council District 6

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. ZA2014-027

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING CONDOMINIUM CONVERSION NO. CC2014-002, TENTATIVE PARCEL MAP NO. NP2014-003, AND MODIFICATION PERMIT NO. MD2014-006 FOR TWO-UNIT CONDOMINIUMS AND TO ADJUST THE MINIMUM INTERIOR PARKING DIMENSIONS REQUIRED FOR PROPERTY AT 3130 AND 3140 BREAKERS DRIVE (PA2014-064)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Margaret J.F. Parrott, property owner, with respect to property located at 3130 and 3140 Breakers Drive, and legally described as Parcel 2 of Lot Line Adjustment No. LA2012-007, in the City of Newport Beach, County of Orange, State of California, recorded July 29, 2013, as instrument no. 2013000450126, Official Records of said County, requesting approval of a condominium conversion, tentative parcel map, and modification permit.
2. The applicant proposes a condominium conversion in conjunction with a tentative parcel map to convert an existing duplex to two-unit condominiums. Included with the request is a modification permit to adjust the minimum interior parking dimensions required of the two-unit dwelling. The adjustment would establish an interior dimension of 10 feet by 19 feet for each single-car garage and 18 feet 8 inches by 19 feet 1 inch for the proposed covered two-car parking. As part of the project, the applicant proposes to cover the uncovered parking in compliance with the Zoning Code. No other modifications or waiver of any Title 19 condominium conversion requirements were requested.
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-C).
5. A public hearing was held on July 24, 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 (NBMC). 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 15301), Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities). The Class 1 exemption authorizes minor alterations to existing structures involving negligible or no expansion of use, including but not limited to, the division of existing multi-family or single-family residences into common-interest ownership where no physical changes occur which are not otherwise exempt.
2. The proposed project involves the conversion of an existing duplex to two-unit condominiums and an adjustment to minimum interior parking dimensions which does not constitute an expansion or change of use.

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 and facts in support of such 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 off-street parking regulations contained within Title 20 of this Code, in effect at the time of approval of the conversion.*

Facts in Support of Finding:

1. The existing duplex provides a single-car garage and an uncovered parking space for each unit, for a total of four spaces.
2. The applicant proposes to cover the uncovered spaces, in compliance with the Zoning Code.
3. The four spaces provided will meet the number (two per unit) and type (one in garage and one covered) of spaces required and the location is in conformance with provisions of Chapter 20.40 (Off-Street Parking) of the Zoning Code.
4. A modification permit was filed in conjunction with the Condominium Conversion and Tentative Parcel Map applications to adjust the minimum interior parking dimensions required of the two-unit dwelling.

Finding:

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

Facts in Support of Finding:

1. The existing duplex was constructed with 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:

1. The existing duplex was constructed with two separate sewer cleanouts located at the property line.

Finding:

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

Facts in Support of Finding:

1. The existing duplex was constructed with two separate water meters and water meter connections.

Finding:

- E. The electrical service connection shall comply with the requirements of Chapter 15.32 of the NBMC.*

Facts in Support of Finding:

1. The existing duplex was constructed with an electrical service connection that was at such time, determined to be in compliance 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:

1. A special inspection was completed by the Building Division on May 12, 2014, and no safety violations were identified.

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:

1. As conditioned, permanent lot stakes and tags will be installed at all lot corners.

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:

1. The General Plan does not include any specific goals for the dispersion of rental housing within the area. Housing Program 2.1.1 of the Housing Element of the General Plan, which restricts the conversion of rental units to condominiums in developments containing 15 or more units, does not apply.
2. Although the conversion from rental to ownership will reduce the number of rental opportunities in the area, the elimination of two rental units will not create a detrimental impact to housing opportunities in the area or City, as two units represents a very small fraction of the City's supply of rental housing (estimated to be approximately 17,500 units).

Finding:

- I. *The establishment, maintenance or operation of the use or building applied for shall not, under circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of person 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:

1. The proposal is to convert an existing duplex into two condominiums on property located within the R-2 zoning district.

2. The use of the property will continue to be for two-unit residential purposes and there is no evidence suggesting this use has been detrimental to the health, safety, peace, comfort, and welfare of those residing in the neighborhood, or the City.

Tentative Parcel Map

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. The existing two-unit dwelling was built in 2011 to condominium standards. 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.

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 a two-unit development because it is regular in shape.
2. The subject property is accessible from Breakers Drive 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 is developed with an existing 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 15301 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 1 (Existing Facilities).

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 two-unit 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. 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 existing 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. As conditioned, wastewater discharge into the existing sewer system shall comply with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Facts in Support of Finding:

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

Modification Permit

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

Finding:

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

Facts in Support of Finding:

1. The existing duplex, related single-car garages and uncovered two-car parking were permitted in 2009. At the time of permit issuance all four parking spaces were compliant in size.
2. The neighborhood is developed with single-unit and two-unit dwellings and the proposed modification will not change the two-unit use of the property.
3. The requested modification to adjust minimum interior parking dimensions will result in parking sizes that remain adequate in depth and width to accommodate vehicles on-site. The proposed cover above existing parking spaces will be an aesthetic improvement and will result in increased compatibility with existing development in the neighborhood.

Finding:

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

Facts in Support of Finding:

1. Each existing side-by-side single-car garage provides an interior width of 10 feet and a depth of 19 feet. The proposed covered two-car parking provides an unobstructed interior width of 18 feet 8 inches and a depth of 19 feet 1 inch.
2. Expanding each single-car garage to meet the required 20-foot depth would require the dividing wall (separating the garages from the living area) to be relocated, impacting utilities running through the wall as well as the first and second floor living area. The intent of the modification request is to alleviate any impact on the first floor plan and second floor above.
3. Providing a 20-foot by 20-foot dimension at the proposed covered parking spaces is limited by an approximate 11-foot-tall concrete retaining wall. A portion measuring approximately 2 feet 3 inches wide by 9 feet 4 inches deep would need to be removed which would create a physical hardship due to the thickness and material (concrete

and reinforcing steel) of the wall. Further, the adjacent bathroom at the entry and a column necessary to support the proposed cover are additional constraints. The bathroom would need to be reconfigured or an approval granted to allow the column to encroach into a required setback in order to provide a conforming dimension.

4. The granting of the Modification Permit is necessary to allow the conversion of rental units to ownership for a two-unit dwelling that was constructed in compliance with off-street parking standards in effect at the time, and that are adequate in width and depth for the parking of vehicles.

Finding:

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

Facts in Support of Finding:

1. The intent is to convert an existing duplex to condominiums. Increasing the scope of the project to increase the size of existing parking spaces would result in a practical and physical difficulty by requiring alterations to the interior living area and excavation of a large concrete retaining wall.
2. The duplex was permitted with the existing parking dimensions on January 23, 2009, and construction was completed December 12, 2011, consistent with the off-street parking requirements at the time of review.
3. The purpose and intent of off-street parking requirements is to ensure sufficient parking facilities are available to meet the needs generated by specific uses, that adequate parking is provided, accessible, attractive, and well-maintained, and that congestion on public streets and impacts to public street parking available for coastal access and recreation are minimized.
4. The existing parking dimensions provide sufficient width and depth to accommodate vehicles, are accessible from Breakers Drive, aesthetically pleasing and will have no impact on coastal access. Breakers Drive is fronted by approximately 20 properties and is only accessible via a private gate which minimizes congestion on the public street.
5. The proposed cover above the uncovered parking spaces will extend a minimum of 20 feet wide by 20 feet deep and the existing parking dimensions represent the maximum extent feasible.
6. The existing and proposed improvements to the property will comply with the location and access requirements for residential uses specified in the off-street parking chapter of the Zoning Code.

Finding:

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

Facts in Support of Finding:

1. Without this approval, the applicant would be required to significantly alter interior living area, and would need to remove a portion of an existing concrete retaining wall which would involve an unreasonable amount of additional construction and cost beyond the current scope of work.
2. The only alternative is to maintain the existing parking dimensions that were previously permitted.
3. The granting of the Modification Permit will not be detrimental to surrounding owners or the general public because the subject property will maintain four accessible parking spaces on-site that are consistent with the number and type required by the Zoning Code and that have proven to be of sufficient size to accommodate vehicles.

Finding:

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

Facts in Support of Finding:

1. The size of the existing parking spaces has not proven to be detrimental to the occupants of the property or nearby properties.
2. Existing and future tenants or purchasers of each dwelling unit will have access to one garage parking space and one covered parking space, consistent with the requirements of the Zoning Code.
3. The existing development on the property is a two-unit dwelling. The adjustment to interior parking dimensions does not change the density or intensity on the property.
4. Breakers Drive is not a through street and is lightly travelled by residents and visitors to those residences. The proposed modification will not impact the public health, safety, or welfare of people residing in or visiting the neighborhood because it does not affect access or the number and type of off-street parking spaces required of the two-unit dwelling.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED

1. The Zoning Administrator of the City of Newport Beach hereby approves Condominium Conversion No. CC2014-002, Tentative Parcel Map No. NP2014-003, and Modification Permit No. MD2014-006 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 24TH DAY OF JULY, 2014.

By:



Brenda Wisneski, AICP, Zoning Administrator

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

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 project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the Conditions of Approval.
3. No more than two dwelling units shall be permitted on the site.
4. Prior to recordation of the Parcel Map, the uncovered parking spaces shall be covered and all work finalized by the Building Division.
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. Each single-car garage shall provide a minimum interior dimension not less than 10 feet wide by 19 feet deep, and the covered two-car parking shall provide a dimension not less than 18 feet 8 inches wide by 19 feet 1 inch deep.
7. 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.
8. 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 Parrott Residence Condominium Conversion and Modification Permit including, but not limited to the CC2014-002, NP2014-003, and MD2014-006 (PA2014-064). 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.

PUBLIC WORKS

9. 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.**
10. 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.
11. 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.
12. All improvements shall be constructed as required by Ordinance and the Public Works Department.
13. An encroachment permit is required for all work activities within the public right-of-way.
14. All improvements shall comply with the City's sight distance requirement pursuant to City Standard 110-L and Municipal Code Section 20.30.130.
15. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector.
16. All on-site drainage shall comply with the latest City water quality requirements.