



**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 12, 2014

**ZONING ADMINISTRATOR ACTIONS
DECEMBER 11, 2014**

- Item 1: 715 Heliotrope Tentative Parcel Map No. NP2014-015 (PA2014-144)
715 Heliotrope Avenue
Action: Approved by Resolution No. ZA2014-044 Council District 6
- Item 2: 928 E. Balboa Boulevard Tentative Parcel Map No. NP2014-018 (PA2014-168)
928 E. Balboa Boulevard
Action: Approved by Resolution No. ZA2014-045 Council District 1
- Item 3: 121 and 125 McFadden Place Lot Merger No. LM2014-004 (PA2014-205)
121 and 125 McFadden Place
Action: Approved by Resolution No. ZA2014-046 Council District 1
- Item 4: Annual Review of Development Agreement for Fletcher Jones (PA2009-052)
3300 Jamboree Road
Action: Receive and File Council District 3

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. ZA2014-044

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2014-015 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 715 HELIOTROPE AVENUE (PA2014-144)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by James Person, representing property owner, 715 Heliotrope LLC, requesting approval of a tentative parcel map. The property is located at 715 Heliotrope Avenue, and legally described as Lot 15, Block 734, Corona del Mar Tract.
2. The applicant proposes a tentative parcel map application for two-unit condominium purposes. No waiver of Title 19 (Subdivisions) development standards are proposed with this application. A single-family dwelling was demolished and will be replaced with a two-unit duplex. 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 not located within the coastal zone.
5. A public hearing was held on December 11, 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 will be replaced with a two-unit duplex. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation "Two-Unit Residential."
2. The 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 is developed with a single-family dwelling 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 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. NP2014-015 (PA2014-144), 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 11th DAY OF DECEMBER, 2014.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. A Parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
2. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the Map shall tie the boundary of the Map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set on each lot corner, unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
3. Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid for one new dwelling unit in accordance with Chapter 15.38 of the Newport Beach Municipal Code (currently \$1,704).
4. Prior to the recordation of the Final Tract Map, a park dedication fee for one new dwelling units (currently \$26,125.00 per new additional dwelling unit) shall be paid in accordance with Chapter 19.52 of the Newport Beach Municipal Code. This fee shall be paid upon submittal of the map to the Public Works Department for plan check and deposited into the appropriate Service Area account as identified in the Recreation and Open Space Element of the General Plan.
5. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
6. An encroachment permit is required for all work activities within the public right-of-way.
7. All improvements shall be constructed as required by Ordinance and the Public Works Department.
8. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
9. Heliotrope Avenue is part of the City's Moratorium List. Work performed on said roadway will require additional surfacing requirements. See City Standard 105-L-F.
10. All existing overhead utilities shall be undergrounded.

11. The applicant shall reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Heliotrope Avenue frontage.
12. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector.
13. All improvements shall comply with the City's sight distance requirement pursuant to City Standard 110-L and Municipal Code Section 20.30.130.
14. No above ground improvements shall be installed within the 5-foot alley setback.
15. All landscaping within the public right-of-way shall be maintained at a maximum height of 36-inches.
16. Pursuant to Chapter 13 of the Municipal Code, a 36-inch box Pinus Thunbergiana (Japanese Black Pine) or other street tree shall be planted along the Heliotrope Avenue frontage to the satisfaction of the Public Works Department.
17. All on-site drainage shall comply with the latest City water quality requirements.
18. 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.
19. 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.
20. 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.
21. 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.
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 715 Heliotrope Tentative Parcel Map, including, but not limited to, the NP2014-015 (PA2014-144). 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. ZA2014-045

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2014-018 FOR A SUBDIVISION LOCATED AT 928 EAST BALBOA BOULEVARD (PA2014-168)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bruce Ogilvie, property owner, with respect to property located at 928 East Balboa Boulevard, and legally described as Lots 13 and 14 in Block 13 of Balboa Tract, together with Lots 13 and 14 in Block "I" of Bay Front Section of the Balboa Tract, and that portion of Section 35, Township 6 South, Range 10 West, San Bernardino Meridian, and that portion of Bay Avenue as vacated per Resolution 4751 of the City of Newport Beach recorded March 3, 1958, requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map to create two separate parcels (Parcel 1 and 2), each for single-unit or two-unit development. The subject property consists of four underlying legal lots and an abandoned right-of-way. The existing single-unit dwelling on the property will be demolished prior to map recordation.
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 December 11, 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 15 (Minor Land Divisions).
2. Class 15 consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are

available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The proposed subdivision occurs in an area zoned for residential uses and will create two separate parcels for single-unit or two-unit residential development which will be in conformance with the General Plan and zoning. Further, the project site was not previously involved in a division of larger parcels and does not have an average slope greater than 20 percent, consistent with the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for the purpose of creating two separate parcels, each for single-unit or two-unit development.
2. The existing single-unit dwelling on the property is required to be demolished prior to the recordation of the Parcel Map to avoid violations of the Building and Zoning Codes.
3. Future development of the proposed parcels is required to comply with the Municipal Code and must be consistent with the use and development standards of the R-2 (Two-unit Residential) Zoning District. One or two units on each newly created parcel is allowed consistent with the current Zoning, General Plan, and Coastal Land Use Plan land use designation, Two-Unit Residential.
4. The new parcels do not meet the minimum lot width requirement of 50 feet and area requirement of 5,000 square feet set forth in Title 20 (Zoning) for new subdivisions. However, the proposed width is the same as the original underlying lots and the resulting land area is more consistent with the standard relative to nearby lots on the block or in the surrounding area. Deviation from the lot design standards (lot width and area standards established by the Zoning Code) may be approved subject to required findings pursuant to Section 19.24.050.A. Those findings and the facts that support them are enumerated below and are incorporated by reference. Conditions of approval have been incorporated to require all necessary public improvements including, but not limited to, street, drainage, sidewalk and utility laterals to support the proposed subdivisions in accordance with the Subdivision Code.

Finding:

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

Facts in Support of Finding:

1. The site is currently developed with a single-unit dwelling that was constructed across underlying legal lot lines. The Tentative Parcel Map would create two separate parcels, each for single-unit or two-unit development.
2. The proposal would revert back to the original subdivision pattern and each parcel would be developed consistent with other similar parcels in the vicinity.
3. The slope of the lot is less than 20 percent and is each parcel will be suitable for residential development.

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 a single-unit dwelling constructed across underlying legal lot lines, with each lot originally designed for a single-unit or two-unit dwelling. The Tentative Parcel Map would create two parcels, each for single-unit or two-unit dwellings, consistent with the intent of the original design.
2. The property is located in an urbanized area and 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 would create two separate parcels for the purpose of developing two new single-unit or two-unit dwellings. 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 no agricultural resources are present.
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 and 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 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 Tentative 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.
2. Each proposed parcel is intended for single-unit or two-unit development which is consistent with the R-2 Zoning District which allows two residential units on each parcel. The addition of a single-unit or two-unit dwelling will increase the City’s housing stock.

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. Each new single-unit or two-unit dwelling on each parcel 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 subject property is located within the Coastal Zone, and there is no public access or recreation area located on the site. The proposed subdivision would be consistent with the policies of the certified Local Coastal Program Land Use Plan.

Deviation from Design Standards

Per Section 19.24.050.A of Title 19 (Lot Design, Lot Size), new subdivisions must meet the applicable zoning district regulations stated in Title 20 (Zoning Code). Deviation from the design standards set forth in Chapter 19 of Title 19 may be approved by the Zoning Administrator subject to specific findings stated per Section 19.24.130.C. The proposed subdivision would create lots which would not meet the lot width and lot area standards required by the Zoning Code for new subdivisions within the R-2 Zoning District. The Zoning Code requires new subdivision lots to be 50 feet wide, and have a lot area of 5,000 square feet. The proposed Parcel 1 measures 30 feet wide and 4,233 square feet in area. The proposed Parcel 2 measures 30 feet wide and 4,182 square feet in area. The required findings to deviate from the standards and facts in support of those findings are as follows:

Finding:

- A. *The requested deviations will create a land plan or development design equal or superior to that under the baseline design standards in this Chapter.*

Facts in Support of Finding:

1. The proposed parcels measure 30 feet wide which equals the width of the original lots of the underlying subdivision. The proposed length and area of each parcel is larger than the original subdivision and superior to the design of neighboring lots.

2. The existing orientation of the lot with vehicular access taken from East Balboa Boulevard is maintained under the proposed parcel configuration.

Finding:

- B. *The deviations will not negatively impact the carrying capacity of the local vehicular circulation network.*

Facts in Support of Finding:

1. The proposed subdivision may increase the density by up to three additional dwelling units. According to the City's Traffic Engineer, East Balboa Boulevard has sufficient capacity to accommodate the minor increase in traffic.

Finding:

- C. *The deviations will not negatively impact pedestrian circulation.*

Facts in Support of Finding:

1. The subdivision will not reduce or encroach within the abutting public right-of-way (East Balboa Boulevard and B Street).
2. The subdivision will not eliminate or impede pedestrian circulation provided that the necessary improvements are provided in accordance with applicable Public Works design standards and permitting.

Finding:

- D. *The resulting subdivision will be compatible with the pattern of surrounding subdivisions.*

Facts in Support of Finding:

1. The original subdivision established 30-foot-wide lots with varying depths, some as short as 90 feet on both sides of East Balboa Boulevard and throughout the surrounding area.
2. The proposed parcels measure 30 feet wide which equals the width of the original lots of the underlying subdivision. The resulting length and area of each parcel is larger than the original subdivision and superior to the design of neighboring lots.

Finding:

- E. *The resulting subdivision design and improvements will not be materially detrimental to the residents or tenants of the proposed subdivision or surrounding properties, nor to public health or safety.*

Facts in Support of Finding:

1. The proposed subdivision to re-subdivide the existing lot in a comparable manner to the underlying, legal lots would allow a single-unit or two-unit dwelling to be constructed on each parcel in accordance with the General Plan. Approval does not introduce an incompatible land use, and the resulting subdivision design would not be detrimental to the residents as vehicular and pedestrian access would be maintained. Any new development must be in accordance with the conditions of approval and the Municipal Code. The resulting lot widths are consistent with the variety of lot widths and development pattern of the neighborhood.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2014-018, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 11TH DAY OF DECEMBER, 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. 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
3. 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.
4. Prior to recordation of the Parcel Map, the demolition permit to remove all existing improvements on the site shall be inspected and deemed final by the Building Inspector.
5. Prior to recordation of the Parcel Map, the existing covenant and agreement to hold the property as a single parcel and building site shall be rescinded from the County of Orange and said action shall be recorded in the official record.
6. Prior to issuance of building permits for the additional dwellings, Fair Share traffic fees shall be paid in accordance with the fee schedule in effect at the time.
7. All improvements shall be constructed as required by Ordinance and the Public Works Department.
8. The applicant shall reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the East Balboa Boulevard and B Street frontages.
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 new dwelling unit shall be served by its own individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover 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 could 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. A 10-foot radius corner cut shall be dedicated to the City at the corner of East Balboa Boulevard and B Street.
17. A new ADA compliant curb ramp shall be installed at the East Balboa Boulevard and B Street intersection.
18. 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.
19. 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 928 East Balboa Boulevard Tentative Parcel Map including, but not limited to, the NP2014-018 (PA2014-168). 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. ZA2014-046

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2014-004, WAIVING THE PARCEL MAP REQUIREMENT, AND COMBINING TWO LOTS INTO A SINGLE PARCEL FOR PROPERTY LOCATED AT 121 AND 125 MCFADDEN PLACE (PA2014-205)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Mario Marovic with respect to property located at 121 and 125 McFadden Place, legally described as a Lots 15 and 16, Block 21 of the Newport Beach Tract within the City of Newport Beach, County of Orange, State of California.
2. The applicant proposes a lot merger application and a request to waive the parcel map requirement to combine two lots into a single parcel for the continuation of nonresidential development. The lots to be merged are under common ownership located within McFadden Square.
3. The subject properties are located within the MU-W2 (Mixed-Use Water Related) Zoning District and the General Plan Land Use Element category is MU-W2 (Mixed-Use Water Related).
4. The subject properties are located within the coastal zone. The Coastal Land Use Plan category is MU-W (Mixed-Use Water Related).
5. A public hearing was held on December 11, 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 15 (Minor Land Divisions).
2. The Class 15 exemption includes 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 parcel to local standards are

available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.

SECTION 3. REQUIRED FINDINGS.

Merger of Continuous Lots

In accordance with Section 19.12.070.A (Required Findings for Approval) of the City of Newport Beach Municipal Code, the following finding and facts in support of such findings are set forth:

Finding:

- A. *Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of Title 19.*

Facts in Support of Finding:

1. The subject lots are currently developed with a two-story nonresidential structure, which crosses the interior property lines of Lots 15 and 16, Block 21 of the Newport Beach Tract. Per Section 19.04.035 of the Municipal Code (Development Across Property Lines), structures cannot be constructed across property lines. With the approval of the lot merger, renovation of the existing structure onsite can proceed in conformance with the Building Code.
2. The project is similar to the development of other properties in the McFadden Square area and on the Balboa Peninsula, where individual nonresidential buildings have been built on each lot and modified over time; these developments have not been detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood or injurious to property and improvements in the neighborhood or the general welfare of the City.
3. Building alterations and improvements are required to comply with applicable Municipal Code regulations and City policies.

Finding:

- B. *The lots to be merged are under common fee ownership at the time of the merger.*

Facts in Support of Finding:

1. Lots 15 and 16, Block 21 of the Newport Beach Tract are under common fee ownership by McFadden Place, LLC.

Finding:

- C. *The lots, as merged, will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. The merged lots will be consistent with the applicable MU-W2 district regulations and other regulations relating to the subject property. The resulting parcel will be approximately 3,844 square feet in area, exceeding the minimum lot area requirements of 2,500 square feet, and no setback nonconformities would be directly created by the proposed merger.
2. The Land Use Element of the General Plan designates the subject site as MU-W2 (Mixed-Use Water Related), which applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors. The lot merger will allow for the renovation of the existing commercial and visitor-serving commercial uses within the structure, consistent with the intent of the MU-W2 land use designation.
3. The existing building at 121 and 125 McFadden Place is nonconforming to the 0.5 floor area ratio (FAR) limit. Any future redevelopment of the merged lots will be required to be consistent with MU-W2 (Mixed-Use Water Related) standards, including floor area, parking, and setback requirements and other applicable codes, regulations, and policies.
4. The lots are located within the coastal zone and the current uses conform to the MU-W (Mixed-Use Water Related) land use designation.

Finding:

- D. *Neither the lots, as merged, nor adjoining parcels, will be deprived of legal access as a result of the merger.*

Facts in Support of Finding:

1. Neither of the merged parcels, nor the adjoining parcels, will be deprived of legal access as a result of the merger. Legal access is provided from McFadden Place and West Ocean Front Alley and will remain unchanged.

Finding:

- E. *The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots.*

Facts in Support of Finding:

1. McFadden Square consists of lots of varying size. The proposed lot merger would remove the interior property line between the subject properties to permit the parcel as a single, unified site, and would not result in a development pattern, inconsistent with the existing development in McFadden Square.
2. As currently configured the individual lots do not meet the minimum area standard of 2,500 square feet stipulated by the Zoning Code for the MU-W2 Zoning District. The proposed lot merger will result in a parcel that is approximately 3,844 square feet in area, exceeding the minimum lot area requirement.

Waiver of Parcel Map

In accordance with Section 19.08.030.A.3 (Waiver of Parcel Map Requirement) of the City of Newport Beach Municipal Code, the Zoning Administrator may approve a waiver of the parcel map requirement in cases where no more than three parcels are eliminated. The following finding and facts in support of such finding are set forth:

Finding:

- F. *That the proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of Title 19, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. The proposed lot merger will result in a parcel that is approximately 3,844 square feet in area which is compliant with the Zoning Code requirement of 2,500 square feet for a newly created parcel within the MU-W2 district.
2. The lots are currently developed. Approval of the proposed lot merger would remove the existing interior lot line, and allow the properties to be used as a single site for development. The lot merger in and of itself would not change the land use, density, and intensity. The proposed merged parcel would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, and General Plan.

3. The proposed parcel will have a frontage on McFadden Place and alley access off of West Ocean Front Alley; therefore, the proposed lot merger will not result in a deprivation of legal access.
4. The proposed lot merger does not result in the elimination of more than three lots.
5. Any improvements to the project site are required to comply with applicable Municipal Code regulations and City policies.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2014-004 (PA2014-205), 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 11TH DAY OF DECEMBER, 2014.



Brenda Wisneski, AICP, Zoning Administrator

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

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. 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.
3. Prior to the issuance of final building permits for construction to cross the existing interior lot line between the two lots proposed to be merged, recordation of the lot merger documents with the County Recorder shall be required. A hold harmless agreement shall remain in place for permits issued until the lot merger is recorded.
4. Lot Merger No. LM2014-004 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.
5. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the 121 and 125 McFadden Place Lot Merger including, but not limited to, Lot Merger No. LM2014-004 (PA2014-205). 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