



**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 February 13, 2015

**ZONING ADMINISTRATOR ACTIONS
FEBRUARY 12, 2015**

- Item 1: Khorsandi Residence Condominium Conversion No. CC2014-007 and NP2014-019 (PA2014-216)
5308 Seashore Drive
Action: Approved by Resolution No. ZA2015-003 Council District 1
- Item 2: Z Pizza Minor Use Permit No. UP2014-045 (PA2014-206)
2549 Eastbluff Drive
Action: Approved by Resolution No. ZA2015-004 Council District 4
- Item 3: Starbucks Minor Use Permit No. UP2014-051 (PA2014-220)
137 Newport Center Drive
Action: Approved by Resolution No. ZA2015-005 Council District 5

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS
(Non-Hearing Items)**

- Item 1: Uptown Newport Phase 1 – Landscape Improvement Bond Deferment Staff Approval No. SA2015-001 (PA2015-020)
4311 & 4321 Jamboree Road
Action: Approved 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.

Det. Randy Parker & Det. John Thulin, NBPD (*ABC License*)
Det. Brad Miller, NBPD (*Massage Therapy - ABC License*)

RESOLUTION NO. ZA2015-003

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING CONDOMINIUM CONVERSION NO. CC2014-007 AND TENTATIVE PARCEL MAP NO. NP2014-019 FOR A TWO-UNIT CONDOMINIUM DEVELOPMENT LOCATED AT 5308 SEASHORE DRIVE (PA2014-216)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Mojtaba Khorsandi with respect to property located at 5308 Seashore Drive, and legally described as Lot 98 of Tract No. 3813, in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 162, Pages 11 through 19, of Miscellaneous Maps, filed in the Office of the County Recorder of said County, 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 designated by the Local Coastal Program Land Use Plan as RT-D (Two-Unit Residential – (20.0 – 29.9 DU/AC)).
5. A public hearing was held on February 12, 2015, 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 (Sections 15301 and 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities) and 15 (Minor Land Divisions).
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.

3. 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, and 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 project is consistent with this exemption.

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:

1. The existing duplex consists of 4,082 square feet including two attached, two-car garages.
2. The four spaces provided meet the number of spaces required (two 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:

1. As permitted and conditioned, the duplex will maintain 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. As permitted and conditioned, the duplex will maintain 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:

1. As permitted and conditioned, the duplex will maintain 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:

1. The 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 January 7, 2015, and five building and safety violations were identified including guardrails, electrical safety, smoke detectors/carbon monoxide alarms, and separation of utilities.
2. Since the duplex 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.
3. As conditioned, the project will not be condominiums until all 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:

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:

1. The project is consistent with the adopted goals and policies of the Land Use Element and other Elements of the General 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.
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:

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.
2. The proposed project is to convert an existing, remodeled duplex into two condominiums on property located within the R-2 Zoning District.
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:

1. The proposed tentative parcel map is for two-unit condominium purposes. The existing duplex was renovated 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.
2. The proposed tentative 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:

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:

2. 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 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 two 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:

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:

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, 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:

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.
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 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:

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:

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:

1. The Tentative Parcel Map is for a two-unit dwelling. The proposed subdivision and improvements are consistent with the Coastal Land Use Plan designations Two-Unit Residential (RT-D).
2. The subject property conforms to public access policies of Chapter 3 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 3 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 Condominium Conversion No. CC2014-007 and Tentative Parcel Map No. NP2014-019 (PA2014-216), 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 12TH DAY OF FEBRUARY, 2015.



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. 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 January 7, 2015.
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 Khorsandi Residence Condominium Conversion, but not limited to, Condominium Conversion No. CC2014-007 and Tentative Parcel Map No. NP2014-019 (PA2014-216). 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 Chapter 19.16 (Tentative Map Expiration and Extension) of the Newport Beach Municipal Code.

Public Works Division

11. 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.**
12. 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.
13. All improvements shall be constructed as required by Ordinance and the Public Works Department.
14. 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.
15. An encroachment permit is required for all work activities within the public right-of-way.
16. All improvements shall comply with the City's sight distance requirement consistent with Municipal Code Section 20.30.130 (Traffic Safety Visibility Area) and City Standard 110-L.
17. 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 site shall be removed.

18. The applicant shall reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Seashore Drive and Neptune Avenue frontages.
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 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.

RESOLUTION NO. ZA2015-004

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2014-045 TO ALLOW A TYPE 41 (ON SALE BEER AND WINE) ALCOHOL LICENSE AND EXTEND THE CLOSING HOUR OF OPERATION TO 11:00 P.M., DAILY, AT AN EXISTING RESTAURANT LOCATED AT 2549 EASTBLUFF DRIVE (PA2014-206)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Sidney Fanarof of Z Pizza East Bluff Inc., with respect to property located at 2549 Eastbluff, and legally described as Parcel 1 of Lot Line Adjustment No. 98-14, being all of Parcel 1 of Lot Line Adjustment No. 93-2, in the City of Newport Beach, recorded October 29, 1993, as Instrument No. 93-0740854 and a portion of Parcel 2 of Lot Line Adjustment No. 94-6 in the City of Newport Beach, recorded June 28, 1994, as Instrument No. 94-0426999 both being official records of the County of Orange, State of California. The applicant requests approval of a minor use permit.
2. The applicant proposes a minor use permit application modifying Use Permit No. UP2002-047 (PA2002-228) to allow a Type 41 (On-Sale Beer and Wine) Alcoholic Beverage Control (ABC) license and extend the closing hour from 9:00 p.m. to 11:00 p.m., daily, at an existing food service, eating and drinking establishment, Z Pizza. The restaurant completed minor tenant improvements in 2014. No late hours of operation (after 11:00 p.m.) are proposed.
3. The subject property is located within the Commercial Neighborhood (CN) Zoning District and the General Plan Land Use Element category is Neighborhood Commercial (CN).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on February 12, 2015, 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 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).

2. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed project involves the addition of a Type 41 (On Sale Beer and Wine) alcohol license and the extension of the closing hour of operation to 11:00 p.m., daily, for an existing restaurant. These changes of operational characteristics are well within the thresholds identified in CEQA Guidelines Section 15301.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

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

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
 1. The subject property is located in Reporting District 35 (RD 35). The Part One Crime Rate (Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report – homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson) in RD 35 is higher than adjacent Reporting Districts 36 and 38 but lower than the City overall.
 2. Year-to-date, zero (0) Part One Crimes and one (1) Part Two Crime has been reported at the subject property.
 3. The Police Department has reviewed the proposal, provided operating conditions of approval, and has no objection to the addition of alcoholic beverage service and proposed hours of operation.
- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
 1. The total number of alcohol-related calls for service, crimes, or arrests in RD 35 is higher than adjacent Reporting District 38 but lower than Reporting District 36. The Police Department has reviewed the proposal and has no objection.

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2. Year-to-date, four (4) calls for service, representing less than one (1) percent (4/1,141 = 0.3 percent) of all calls for service in the Reporting District have been reported near the subject property. There have been no arrests or citations reported at the subject property.
 - iii. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
 1. The site is developed with a commercial shopping center which is consistent with the General Plan designation, Neighborhood Commercial. Properties within the shopping center consist of retail, service, and eating and drinking establishment uses. The Newport Beach Tennis Club is located 120 feet north of the subject property, along Eastbluff Drive. The Eastbluff Park and Boys and Girls Club is located 100 feet to the west, across Vista Del Oro. Corona del Mar High School is located approximately 1,500 feet south of the Eastbluff Shopping Center, along Eastbluff Drive. Our Lady Queen of Angels Church is located approximately 2,800 feet south of the shopping center, along Eastbluff Drive. The nearest residential and recreational uses are buffered from the shopping center by support buildings, Eastbluff Drive, and Vista del Sol. Eating and drinking establishments with incidental alcohol service have existed at the subject location since original construction of the shopping center in 1966 and the proposed change in Alcoholic Beverage Control license type is not anticipated to alter the operational characteristics of the use, such that it becomes detrimental to the area.
 - iv. *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
 1. Multiple eating and drinking establishments within the shopping center, including Bistro Le Crillon (Type 47, On Sale General) and Provenance (Type 47, On Sale General), sell alcoholic beverages. Z Pizza has requested a Type 41 (On Sale Beer and Wine) license. There is no evidence suggesting the existing alcohol outlets have been detrimental to surrounding properties or the neighborhood.
 - v. *Whether or not the proposed amendment will resolve any current objectionable conditions.*
 1. An eating and drinking establishment has operated at the subject location since 2002.
 2. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the establishment. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol-related impacts.

3. The proposed hours of operation for the establishment will minimize the potential effects on adjacent land uses. The establishment closes by 11:00 p.m., daily, which will ensure the use does not become a late night bar, tavern, or nightclub.
4. The establishment is located within an existing shopping center which is developed with other commercial uses. Adding alcohol service will not alter the existing operation, but will complement the food service and provide a convenience to customers.

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

Finding:

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

Facts in Support of Finding:

1. The General Plan designates the site as Neighborhood Commercial (CN) which 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.
2. The existing eating and drinking establishment is located within the Eastbluff Shopping Center and serves those working, residing in, or visiting the surrounding neighborhood, consistent with the CN land use designation.
3. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The site is located in the Commercial Neighborhood (CN) Zoning District which 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. Eating and drinking establishments without late hours are permitted uses subject to the approval of a minor use permit.
2. The existing eating and drinking establishment operates pursuant to Use Permit No. UP2002-047 (PA2002-228), which allowed a full-service small-scale eating and drinking facility and established hours of operation between 7:00 a.m. and 9:00 p.m., daily.

3. The use will remain an eating and drinking establishment and the addition of a Type 41 (On Sale Beer and Wine) ABC license will not alter or intensify the existing use.
4. The closing hours up until 11:00 p.m. for eating and drinking establishments may be authorized with the approval of a minor use permit. The proposed hours are consistent with surrounding land uses in the vicinity.

Finding:

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

Facts in Support of Finding:

1. Eating and drinking establishments with the service of alcohol have operated at the shopping center since original construction in 1966 and have not proven detrimental to the area.
2. The principal use will remain an eating and drinking establishment and the change in license type will not alter the design, size, or operating characteristics of the facility.
4. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community and that the eating and drinking establishment does not become a bar or tavern. The establishment is required to comply with the requirements of the Alcoholic Beverage Control Department to ensure the safety and welfare of customers and employees of the establishment. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.
5. The proposed closing hour of operation does not involve late hours after 11:00 p.m. and is consistent with the hours of operation for other restaurants within the shopping center.
6. The conditions of approval reflected in "Exhibit A" of this resolution ensure that potential conflicts with surrounding land uses are eliminated or minimized to the greatest extent possible.

Finding:

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

Facts in Support of Finding:

1. The existing eating and drinking establishment is located within an existing shopping center and has demonstrated that it is physically suitable in terms of design, location, shape, and size to support the use and hours of operation.
2. Adequate public and emergency vehicle access, public services, and utilities are provided on-site.

Finding:

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

Facts in Support of Finding:

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The eating and drinking establishment will continue to service patrons of the shopping center, surrounding commercial buildings, and provide dining services as a public convenience to the surrounding neighborhood. The service of alcohol will complement the principal use of the facility and provide an economic opportunity for the property owner to maintain a successful business in a way which best serves the community.
3. As conditioned, the owners, managers and employees selling alcohol are required to undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2014-045 (PA2014-206), 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 following the date this Resolution was adopted 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.

3. This resolution supersedes Use Permit No. UP2002-047 (PA2002-228), which upon vesting of the rights authorized by this minor use permit, shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 12TH DAY OF FEBRUARY, 2015.



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 applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
3. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
4. The net public area shall be limited to a maximum of 667 square feet.
5. The eating and drinking establishment as proposed will contain 1,394 gross square feet. 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.
6. Hours of operation shall be limited to between 7:00 a.m. and 11:00 p.m., daily. Any increase in the hours of operation shall be subject to the approval of an amendment to this Minor Use Permit or the processing of a new use permit.
7. The use of the rear door shall be limited to deliveries and employee use only, use by customers as an entry shall be prohibited.
8. The use of the rear door is prohibited between 10:00 p.m. and 8:00 a.m., daily, except by employees exiting the facility or depositing trash after the closing of the restaurant.
9. Maximum seating and/or stand-up counter space for no more than eighteen (18) customers shall be maintained inside the subject eating and drinking establishment (Exclusive dining or seating outside of the facility is prohibited).
10. A minimum of one (1) parking space for each 250 square feet of gross floor area (six (6) spaces shall be provided on-site). All employees shall park on-site.
11. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control (ABC) shall be a Type 41 (On Sale Beer and Wine) in conjunction with the service of food.

12. Should the Alcoholic Beverage Control (ABC) license be transferred, any future license holders, operators or assignees shall be notified of the conditions of this approval by either the current licensee, business operator, or the leasing company. Future licensees, operators or assignees shall submit, within thirty (30) days of transfer of the ABC license, a letter to the Planning Division acknowledging their receipt and acceptance of the limitations, restrictions and conditions of approval of this minor use permit.
13. The alcoholic beverage sales for the purpose of on-site consumption shall be limited to the designated dining areas indicated on the floor plan submitted with the application. Any change in the operation of on-sale alcoholic beverage sales or increase in the dining area devoted to alcohol sales for customers shall be subject to the approval of an amendment to this minor use permit issued by the Zoning Administrator.
14. A covered wash-out area for refuse containers and kitchen equipment shall be provided and the area shall drain directly into the sewer system, unless otherwise approved by the Building Division and Public Works Department in conjunction with the approval of an alternative drainage plan. This covered washout area can be located either inside or outside of the facility but must be fully enclosed, when in use, to prevent rainwater from entering the sewer system.
15. The facility shall comply with the provisions of Chapter 14.30 (Fats, Oils and Grease Control) for commercial kitchen grease disposal. A grease interceptor shall be installed, unless otherwise approved by the Building Division. Any changes to the facility or use, including menu changes or the addition of cooking facilities, that may result in the introduction of grease or similar byproducts shall be reviewed for conformance with Chapter 14.30 and may at that time require the installation of a grease interceptor.
16. Kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Division.
17. 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 Use Permit.
18. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
19. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.

20. The 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).
21. The operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the alcoholic beverage outlet and adjacent properties during business hours. If the operator fails to discourage or correct nuisances, the Zoning Administrator may review, modify, or revoke this minor use permit in accordance with Chapter 20.96 of the Zoning Code.
22. 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 twenty (20) feet of the premises.
23. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
24. No outside paging system shall be utilized in conjunction with this establishment.
25. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
26. Future owners or assignees shall be notified of the conditions of this approval by the current business owner, property owner or the leasing company, in the event this business is sold or otherwise comes under different ownership.
27. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the City's approval of the Z Pizza Minor Use Permit including, but not limited to Minor Use Permit No. UP2014-045 (PA2014-206). 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, the City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City's costs, attorneys' fees, and damages which the 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.

Police Department Conditions

28. This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code.
29. Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.
30. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
31. The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
32. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The license shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
33. There shall be no on-site radio, television, video, film, or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
34. There shall be no live entertainment allowed on the premises.
35. There shall be no dancing allowed on the premises.
36. Strict adherence to maximum occupancy limits is required.
37. The applicant shall post and maintain professional quality signs measuring 12 inches by 12 inches with lettering no smaller than 2 inches in height that read, "No Alcoholic Beverages Beyond This Point" at all exits leading from the dining area.
38. 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.

39. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The retail market shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.

RESOLUTION NO. ZA2015-005

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2014-051 FOR A TYPE 41 (ON SALE BEER AND WINE) ALCOHOL LICENSE LOCATED AT 137 NEWPORT CENTER DRIVE (PA2014-220)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Keith Glassman of GPA Inc. representing Starbucks Coffee Company, with respect to property located at 137 Newport Center Drive, and legally described as Parcel 1 of Lot Line Adjustment No. 2012-004, consisting of those portions of Lots 14 and 17 of Tract No. 6015, in the City of Newport Beach, County of Orange, State of California, per Map Filed in Book 239, Pages 28 through 41, inclusive, of Miscellaneous Maps, in the office of the County Recorder of said County.
2. The applicant proposes a minor use permit application to allow a Type 41 (On Sale Beer and Wine) Alcoholic Beverage Control (ABC) license for Starbucks, a food service, eating and drinking establishment. The existing tenant will re-locate to a new tenant space within Fashion Island. No late hours (after 11:00 p.m.) are proposed as part of this application.
3. The subject property is located within the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District and the General Plan Land Use Element category is CR (Regional Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on February 12, 2015, 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 3 (New Construction or Conversion of Small Structures).
2. The proposed project involves the minor alteration of a 3,234-square-foot tenant space within an existing 17,396-square-foot retail structure. The additional area associated with the outdoor dining patio consists of 1,210 square feet, which is well within the

thresholds identified in CEQA Guidelines Section 15303. The project involves the addition of alcoholic beverages at a proposed eating and drinking establishment and a new outdoor dining patio at an existing retail building. Therefore, both the interior use and new outdoor dining patio qualify for a categorical exemption under Class 3.

SECTION 3. REQUIRED FINDINGS.

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

Finding

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

Facts in Support of Finding

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

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
1. The proposed establishment is located within Reporting District 39, wherein the number of crimes is higher than adjacent Reporting Districts and the City. RD 37, 38 and 47 have a lower number of crimes as they are primarily residential with few commercial uses. Due to the high concentration of commercial land uses in Fashion Island, the crime rate and shoplifting rate is greater than adjacent residential Reporting Districts; however, the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District.
 2. Year to date, zero (0) Part One Crimes and one (1) Part Two Crime have been reported at the subject property.
- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
1. Due to the high concentration of commercial land uses, the calls for service and number of arrests are greater than adjacent residential Reporting Districts. The Police Department does not consider the rate high because of the concentration of restaurants and commercial uses within Fashion Island and the surrounding North Newport Center.
 2. In 2014, eighteen (18) calls for service representing three (3) percent ($18/5,581 = 2.7\%$ percent) of all calls for service in the Reporting District have been reported near the existing Starbucks location in Fashion Island (549 Newport Center Drive). There have been no arrests or citations reported at the subject property.

- iii. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
 - 1. Fashion Island does not abut sensitive land uses and is separated from other uses by parking lots, roadways and other commercial uses. Residential uses are permitted in the northern sections of the PC-56 (North Newport Center Planned Community) Zoning District within Blocks 500, 600, 800, and San Joaquin Plaza. The proposed use is not located in close proximity to these residential districts, day care centers, park and recreation facilities, places of religious assembly, and schools.
- iv. *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
 - 1. There are several other restaurant establishments within the Fashion Island Shopping Center. These include tenants such as Roy's Hawaiian Fusion, Fleming's Steak House, True Food Kitchen, Whole Foods, Cheesecake Factory, P.F. Chang's, etc. These establishments have Type 41 (On Sale Beer and Wine) or Type 47 (On Sale General) alcohol licenses and there is no evidence suggesting these uses have been detrimental to the neighborhood.
 - 2. The proposed hours of operation do not include late hours after 11:00 p.m. and an adequate security plan per the Police Department is in place for the Fashion Island Shopping Center. Conditions of approval are proposed to adequately manage alcohol service in the outdoor dining patio.
- v. *Whether or not the proposed amendment will resolve any current objectionable conditions*
 - 1. The proposed eating and drinking establishment is located within a new restaurant tenant space and is designed as a restaurant that includes on-site service and consumption of alcoholic beverages.
 - 2. The Police Department has reviewed the proposal, provided operating conditions of approval, and has no objection to the addition of alcoholic beverage service and proposed hours of operation.

Minor Use Permit

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

Finding

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

Facts in Support of Finding

1. The Land Use Element of the General Plan designates the project site as Regional Commercial (CR), which is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The proposed eating and drinking establishment with alcoholic beverage sales will serve local and regional residents and is consistent with land uses in the CR land use designation.
2. The subject property is not a part of a specific plan area.

Finding

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

Facts in Support of Finding

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

Finding

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

Facts in Support of Finding

1. The Fashion Island Sub-Area permits a range of retail, dining, and commercial entertainment uses within the PC-56 (North Newport Center Planned Community) Zoning District. The proposed use is compatible with surrounding permitted commercial uses in the vicinity and there are no sensitive land uses located nearby.
2. The on-site consumption of alcoholic beverages will be incidental to the eating and drinking establishment. The quarterly gross sales of alcoholic beverages will not exceed the gross sales of food during the same period, per the conditions of approval. Alcoholic beverage service will be under the supervision of employees who have completed a certified training program pursuant to Condition of Approval No. 9.

3. The eating and drinking establishment will not operate with late hours after 11:00 p.m. which will ensure that it does not operate as a bar, lounge, or nightclub.
4. The conditions of approval reflected in "Exhibit A" of this resolution ensure that potential conflicts with surrounding land uses are eliminated or minimized to the greatest extent possible.

Finding

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

Facts in Support of Finding

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

Finding

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

Facts in Support of Finding

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

provide alcohol service as a public convenience to visitors and workers within the surrounding area.


3. Fashion Island management has historically provided efficient on-site security and cooperates with the Newport Beach Police Department.
4. The applicant is required to obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Use Permit No. UP2014-051 (PA2014-220), 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 following the date this Resolution was adopted 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 12TH DAY OF FEBRUARY, 2015.



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. Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid for any additional gross floor area associated with the eating and drinking establishment in accordance with Chapter 15.38 of the Newport Beach Municipal Code. The applicant shall be credited for existing retail square footage identified in the tenant improvement plan under Plan Check No. 2894-2014 and the remaining balance shall be charged to the applicant.
3. Alcohol service shall be limited to a Type 41 (On Sale Beer and Wine) Alcoholic Beverage Control License.
4. The regular business hours for the tenant are from 4:30 a.m. to 11:00 p.m. The closing hour for all business operations shall be limited to 11:00 p.m. Any change to a later closing time shall require an Operator's License from the Police Department and an amendment to this use permit.
5. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code, unless the Zoning Administrator first approves an amended minor use permit. This Minor Use Permit shall be terminated if the operation is no longer maintained as a "bona fide public eating place" as defined by the California Department of Alcoholic Beverage Control.
6. Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.
7. Alcohol may be served within the interior of the establishment and on the outdoor dining patio ("licensed premises"). Alcoholic beverages served by the establishment shall only be consumed on the licensed premises and shall not be consumed on any adjacent property .
8. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
9. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.

10. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
11. There shall be no live entertainment on the premises.
12. There shall be no dancing allowed on the premises.
13. Strict adherence to maximum occupancy limits is required.
14. Any changes in operational characteristics, hours of operation, expansion in area, or modification to the floor plan, shall require an amendment to this Minor Use Permit, unless otherwise approved by the Planning Division. Any changes in the business operation will require the preparation of an individual security plan subject to the review and approval of the Police Department.
15. All persons, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each person's, manager's, and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
16. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of this business that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
17. The outdoor dining patio shall be separated from the main mall corridor with a solid decorative barrier (subject to ADA compliance) which may include gates at least 36 inches high placed around the perimeter of the consumption area. The barrier and gates shall meet egress requirements and shall be installed to the satisfaction of the Building Division.
18. Prior to the issuance of building permits, the outdoor dining barrier adjacent to the stand-up counter areas (Seats 11-16 as identified on the project plans) shall be modified to provide a minimum 36-inch high landscape buffer with no bench seating on the opposite side.
19. The alcoholic beverage outlet operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks,

and areas surrounding the alcoholic beverage outlet and adjacent properties, if directly related to the patrons of the subject alcoholic beverage outlet.

20. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
21. The operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage and litter generated by the use.
22. 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.
23. 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).
24. Storage outside of the building shall be prohibited.
25. All proposed signs shall be in conformance with the provisions of the PC-56 (North Newport Center Planned Community), Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code, or an approved Comprehensive Sign Program for the project site.
26. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this permit.
27. The Zoning Administrator may add to or modify conditions of approval to this Minor Use Permit, upon a determination that the operation which is subject of this Minor Use Permit causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
28. Should the business, subject to the Minor Use Permit conditioned herein, be sold or otherwise come under different ownership or a change in operators, any future owners, operators, or tenants shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
29. This Minor Use Permit shall expire unless exercised within twenty-four (24) months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code.

30. 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 Starbucks Minor Use Permit including, but not limited to, Minor Use Permit No. UP2014-051 (PA2014-220). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division and Fire Department Conditions

31. 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.
32. A covered wash-out area (36 inches wide by 36 inches deep by 6 feet high) for refuse containers and kitchen equipment shall be provided and shall drain directly into the sewer system, unless otherwise approved by the Community Development Director and Public Works Director in conjunction with the approval of an alternative drainage plan. The washout area shall be specifically shown on the construction drawings submitted for building permits.
33. The site plan shall clearly identify the parking, path of travel, entrance, restrooms, fixed seating, and bar seating to comply with accessibility requirements.
34. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Division.
35. Public sanitation facilities shall be available to the general public (patrons) during regular business hours of the operation, unless otherwise approved by the Building Division.



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
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**COMMUNITY DEVELOPMENT DIRECTOR ACTION
LETTER**

Application No. **Staff Approval No. SA2015-001 (PA2015-020)**

Applicant **Uptown Newport Jamboree, LLC.
TSG-Parcel 1, LLC.
TPG/TSG Venture 1 Acquisition, LLC.**

Site Address **4311 & 4321 Jamboree Road**

Legal Description **Parcels 1 through 4 of Parcel Map 2013-108**

On **February 12, 2015**, the Community Development Director approved Staff Approval No. SA2015-001. This approval is based on the following findings and subject to the following conditions.

PROJECT SUMMARY

The applicant proposes an amendment to Condition No. 46 of Uptown Newport Tentative Tract Map No. NT2012-002 (TTM No. 17763), to allow labor and improvement bonds for landscape improvements within the Phase 1 development, to be posted prior to the building permit issuance of various parcels instead of prior the Final Map approval.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** Uptown Newport PC (PC-58)
- **General Plan:** MU-H2 (Mixed Use District Horizontal 2)

I. BACKGROUND

On February 26, 2013, the City Council approved the Tentative Tract Map along with other entitlement applications for the Uptown Newport project, which consists of the removal of existing office and industrial uses in two primary phases and the construction of a mixed-use community consisting of 1,244 residential units, 11,500 square feet of neighborhood-serving retail space, and approximately two acres of park space.

The Tentative Tract Map for Phase 1 development is being prepared for final approval as Phase 1 development is underway that includes demolition of the existing single-story office building at 4311 Jamboree Road (the "Half Dome Building"), and development of the westerly portion of the property with up to 680 residential units, 11,500 square feet of retail, one 1-acre park, and associated infrastructure including

roads, sidewalks, utilities, and landscaping. As a part of the final map approval process, the applicant is required to post to the City separate labor and material improvement bonds in a form and amount acceptable to the Director of Public Works for 100 percent of estimated improvement cost for all public improvements on the subject property prior to any final map approval in accordance to Condition 46 of the Tentative Tract Map.

II. PROPOSED CHANGES

The applicant is proposing to bifurcate and delay the submission of labor and material improvement bonds for the landscape improvements within Phase 1 as follows:

- Bond 2a for the Phase 1 site improvements which also includes dry utilities and Jamboree Road street improvements and Bond 2b for the landscape and sidewalk improvements along Jamboree Road will be provided prior to the Final Map approval, as originally required by Condition No. 46.
- Bond 3a for the interior street landscape improvements, Bond 3b for the apartment landscape (abutting Lots 3 & 4 of Tract Map 17763), and Bond 3c for the apartment paseo improvements (between Lots 3 & 4 of Tract Map 17763) will be provided prior to the issuance of building permit of Lots 3 or 4.
- Bond 4a for the landscape improvements abutting Lot 1 of Tract Map 17763 and Bond 4b for Phase 1 Park landscape improvements will be provided prior to the issuance of building permit of Lots 1, 3 or 4.

The bond bifurcation listing the type, cost, timeframe, and location of the landscape improvements is attached as CD 2. It is important to note that the bonds for the street improvements and utilities (Bonds 2a and 2b) will be posted prior to final map recordation. The purpose of this request is to allow the applicant to bifurcate labor and material improvement bonds for the landscape improvements within Phase 1 into a more manageable sequence consistent with the project development.

III. FINDINGS

Pursuant to Section 19.12.090 (Amendments to Approved Tentative Maps) of the Municipal Code, the Community Development Director may authorize minor amendments to approved tentative tract maps or any condition of approval thereon. This staff approval is based on the following findings and facts in support of the findings.

Finding:

- A. *No lots, unit, building sites, or structures are added to the project.*

Facts in Support of Finding:

1. The requested amendment is to delay the posting of landscape labor and material improvement bonds for the Phase 1 development. No changes to the lots, number of units, building sites, or structures are proposed to Phase 1 development or to the overall Uptown Newport residential project.

Finding:

- B. The changes involve no substantial change in lot configuration, street layout, improvements or conditions of approval.*

Facts in Support of Finding:

1. The requested amendment does not change the lot configuration, street layout, or proposed improvements. The change to Condition No. 46 only delays the posting of certain bonds.

Finding:

- C. The changes are consistent with the intent of the original tentative map approval.*

Facts in Support of Finding:

1. The project approval, including the approval of the Tentative Tract Map, is for the development of a mixed-use residential development of up to 1,244 residential units, 11,500 square feet of retail commercial uses, and 2.05 acres of parklands. The proposed amendment is allowed the posting of landscape improvement and labor bonds for the Phase 1 development at different stages other than what required per Condition No. 46 of Tentative Tract Map. There are no changes to the intent of the original tentative map approval.
2. The intent of requiring bonds for public improvements is to ensure their timely completion in the event the developer cannot complete the improvements. The Municipal Code requires that 100 percent of the estimated cost of public improvements be secured by a bond or other form of financial surety. The change to Condition No. 46 will require bonds for 100 percent of the improvement costs and will delay the posting of certain bonds and not eliminate the bonds.

Finding:

- D. The resulting tentative map remains in conformity with this Subdivision Code, other applicable provisions of the Municipal Code and the Subdivision Map Act.*

Facts in Support of Finding:

1. The resulting tentative tract map will continue to allow the development of mixed-use residential community, which thereby remains consistent with the land uses, densities and intensities of the Planned Development Plan and General Plan Land Use designation, and other applicable provisions of the Municipal Code and Subdivision Map Act.

IV. DETERMINATION

The Community Development Director hereby determines that the proposed changes are minor in nature and are consistent with the criteria specified in Section 19.12.090 (Amendments to Approved Tentative Maps) of the Municipal Code that authorizes the approval of minor changes to the approved tentative maps by the Community Development Director.

Condition No. 46 of Tentative Tract Map NT2012-002 (17763) shall be amended as follows:

Prior to any Final Map approval, the applicant shall provide performance bonds and separate labor and material improvement bonds or irrevocable letters of credit in a form and amount acceptable to the Director of Public Works for 100 percent of estimated improvement cost, as prepared by a Registered Civil Engineer and approved by the Director of Public Works, for each of the following, but not limited to, public and private improvements separately:

Street improvements, monuments, sidewalks, striping and signage, neighborhood park improvements, street lights, sewer systems, water systems, storm drain and water quality management systems, erosion control, landscaping and irrigation along Jamboree Road frontage in public rights-of-way, common open space areas accessible by the public, and off-site improvements required as part of the project.

Performance bonds, labor and material improvement bonds for landscape and hardscape improvements shall be posted as follows:

- a. Bond 2a for the site improvements which also includes dry utilities and Jamboree Road street improvements and 2b for the landscape and sidewalk improvements along Jamboree Road shall be provided prior the Final Map approval, as originally required by Condition No. 46 of Tentative Tract Map NT2012-002 (17763).
- b. Bond 3a for the interior street landscape improvements, Bond 3b for the apartment landscape (abutting Lots 3 & 4 of Tract Map 17763), and Bond 3c for the apartment paseo improvements (between Lots 3 & 4 of Tract Map 17763) shall be provided prior to the issuance of building permit of Lots 3 or 4 as illustrated in the attached Exhibit CD 2).
- c. Bond 4a for the landscape improvements abutting Lot 1 of Tract Map 17763 and Bond 4b for Phase 1 Park landscape improvements shall be provided

prior to the issuance of building permit of Lots 1, 3 or 4 (as illustrated in the attached Exhibit CD 2).

V. CONDITIONS

1. *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 Uptown Newport – Landscape Improvement Bonds Deferment including, but not limited to, Staff Approval No. SA2015-001. 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.*

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.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:



Rosalinh Ung
Associate Planner

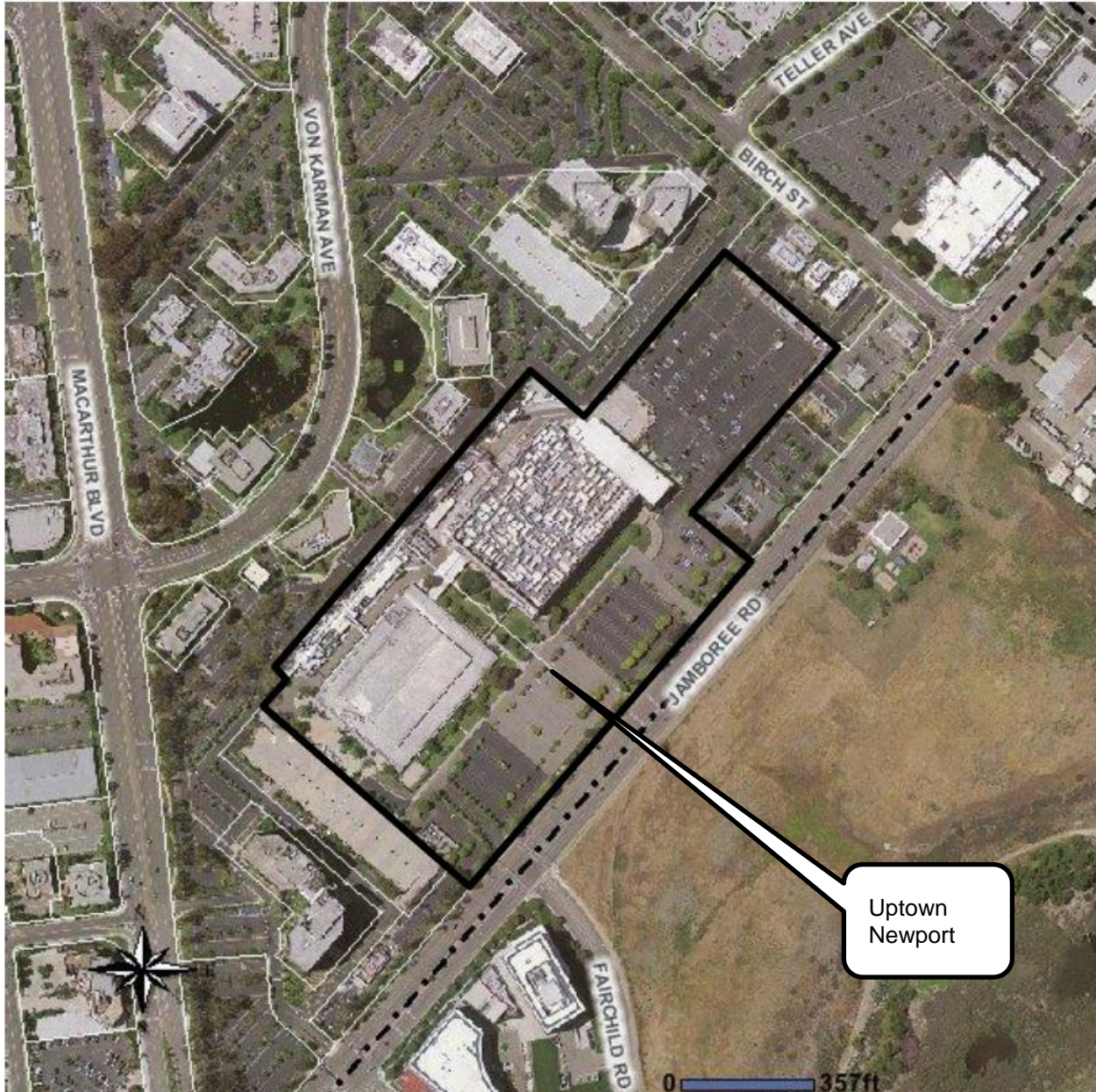
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Attachments: CD 1 Vicinity Map
CD 2 Uptown Newport Phase 1 – Final Map Bond Bifurcation

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2014-025

PA2014-187

4311 Jamboree Road

Attachment No. CD 2

Uptown Newport Phase 1 –
Final Map Bond Bifurcation

Uptown Newport Phase I - Final Map Bond Bifurcation with Bonding Triggers

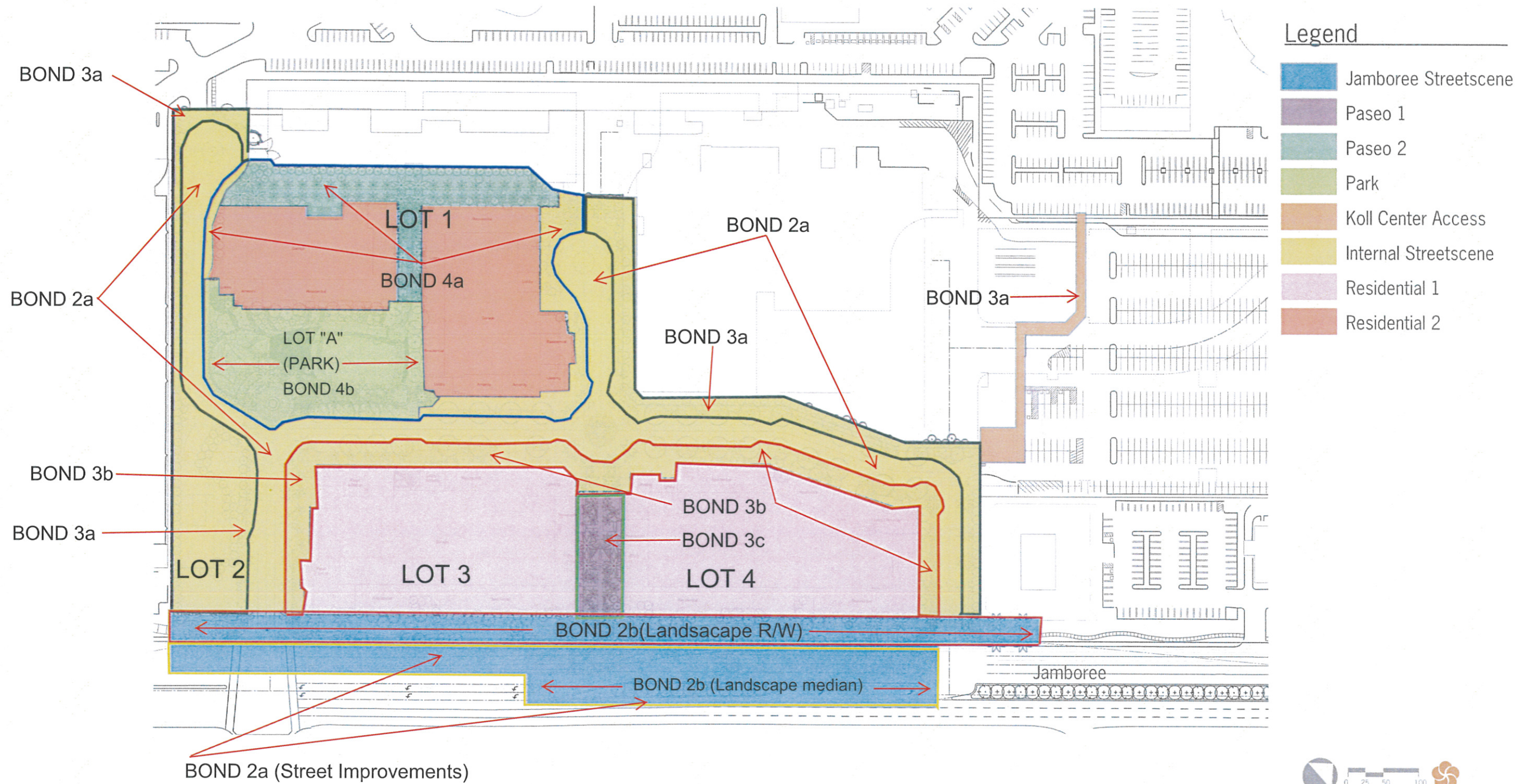
BONDING TRIGGER	PRIOR TO FINAL MAP APPROVAL	PRIOR TO FINAL MAP APPROVAL	LOT 3 OR 4 BUILDING PERMIT	LOT 3 OR 4 BUILDING PERMIT	LOT 3 OR 4 BUILDING PERMIT	LOT 1 BUILDING PERMIT	LOT 1, 3 OR 4 BUILDING PERMIT	
	Site Improvements BOND "2a"	Jamboree Landscape BOND "2b"	R/W Landscape BOND "3a"	Lot 3 & 4 Landscape BOND "3b"	Lot 3 & 4 Paseo BOND "3c"	Lot 1 Landscape BOND "4a"	Park BOND "4b"	
Site Improvements	\$ 4,379,394							Public Works Estimate - (Mark Co contract is \$2,780,924 for this work)
Jamboree Road Landscape & Sidewalk		\$ 823,061						ValleyCrest Estimate (all landscape & sidewalk)
Paseo 1					\$ 726,271			ValleyCrest Estimate
Paseo 2A						\$ 633,186		ValleyCrest Estimate
Paseo 2B						\$ 153,030		ValleyCrest Estimate
Park							\$ 2,639,728	ValleyCrest Estimate
Internal street landscape			\$ 781,690	\$ 1,743,364				ValleyCrest Estimate
Reduced landscape costs			\$ (147,413)	\$ (343,962)			\$ (435,000)	Reduced shade structure at park, st lights on streets
Parcel 1 Buyer Prorata Share of Landscape						\$ 594,520		ValleyCrest Estimate
Koll Center access			\$ 22,304					ValleyCrest Estimate
Paver reduction			\$ (156,996)	\$ (366,324)				Included in the site improvement amount
Dry Utilities	\$ 451,283							MurowCM Estimate
Jamboree Rd Street Improvements	\$ 360,382							Hall & Foreman Estimate
Monumentation	\$ 17,000							Hall & Foreman Estimate
SUB TOTAL	\$ 5,208,059	\$ 823,061	\$ 499,585	\$ 1,033,078	\$ 726,271	\$ 1,380,736	\$ 2,204,728	\$ 11,875,518
10% CONTINGENCY	\$ 520,806	\$ 82,306	\$ 49,959	\$ 103,308	\$ 72,627	\$ 138,074	\$ 220,473	\$ 1,187,552
TOTAL	\$ 5,728,865	\$ 905,367	\$ 549,544	\$ 1,136,386	\$ 798,898	\$ 1,518,810	\$ 2,425,201	\$ 13,063,070
Timing of Bonding	Feb-15	Feb-15	4Q 2015	4Q 2015	4Q 2015	1Q 2016	1Q 2016	
Construction Commencement	Feb-15	3Q 2017	3Q 2017	3Q 2017	3Q 2017	4Q 2017	4Q 2017	
Construction Completion	Jul-15	1Q 2018	1Q 2018	1Q 2018	1Q 2018	2Q 2018	2Q 2018	
Timing of Exoneration	Oct-15	TBD	TBD	TBD	TBD	TBD	TBD	
BONDING RESPONSIBILITY	SRI-TPG	SRI-TPG	SRI-TPG	SRI-TPG	TPG	LOT 1	LOT 1	

Indicates Landscape and sidewalk (hardscape) improvements only

Indicates reduction in costs due to removal of shade structure and change in street lights

Uptown Newport

Newport Beach, California
Overall Site Plan



ValleyCrest

DesignGroup
Project No: 173863
Date: February 14, 2014

Summary			
	Phase 1	Phase 2	Total
Number of Units:	680	564	1,244
Park Area (ac):	1.03	1.02	2.05
Retail (sf):	11,500	0	11,500
On-Street Parking Stalls:	59	34	93
Total Area (ac):	13.01	12.04	25.05

