



**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 November 13, 2015

**ZONING ADMINISTRATOR ACTIONS
NOVEMBER 12, 2015**

- Item 1: 612 Acacia Avenue Tentative Parcel Map No. NP2015-018 (PA2015-177)
Site Address: 612 Acacia Avenue
Action: Approved by Resolution No. ZA2015-060 Council District 6
- Item 2: 429 Larkspur Avenue Tentative Parcel Map No. NP2015-016 (PA2015-170)
Site Address: 429 Larkspur Avenue
Action: Approved by Resolution No. ZA2015-061 Council District 6
- Item 3: Café Gratitude To-Go Minor Use Permit No. UP2015-038 (PA2015-163)
Site Address: 1617 Westcliff Drive, Unit 114
Action: Approved by Resolution No. ZA2015-062 Council District 3
- Item 4: Starline Live-Work Lofts Minor Site Development No. SD2015-006 and
Tentative Parcel Map No. NP2015-019 (PA2015-174)
Site Address: 421 29th Street
Action: Approved by Resolution No. ZA2015-063 Council District 1

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. ZA2015-060

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2015-018 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 612 ACACIA AVENUE (PA2015-177)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Targhee Capital Advisors, LLC, with respect to property located at 612 Acacia Avenue, and legally described as Portions of Lot 14 in Block 629 in City of Newport Beach, County of Orange, and State of California requesting approval of a tentative parcel map.
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. An existing single-family dwelling has been demolished and a new duplex is under construction. The Tentative Parcel Map would allow each unit to be sold individually.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-D).
5. A public hearing was held on November 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 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 (4) 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 (2) 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 (Planning and Zoning) 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. An existing single family dwelling has been demolished and a two-unit dwelling is currently under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation "Two-Unit Residential."
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Acacia 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 a two-unit development because it is regular in shape.
2. The subject property is accessible from the alley at the rear, and is adequately served by existing utilities.

Finding:

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

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

Facts in Support of Finding:

1. The site was previously developed with 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 is developed for residential use and is located 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 fifty (50) or more parcels.
2. The project is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

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

Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

- I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Facts in Support of Finding:

1. The proposed two-unit dwelling is consistent with the R-2 Zoning District which allows two residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

- J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2015-018 (PA2015-177), 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 or call for review 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 12th DAY OF NOVEMBER, 2015.



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, Sub article 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, Sub article 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 recordation of the Parcel Map, a park fee shall be assessed for one additional dwelling unit.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. All improvements shall be constructed as required by Ordinance and the Public Works Department.
6. Reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, concrete curb and gutter along the Acacia Avenue frontage.
7. Reconstruct the existing broken alley panels within the alley frontage.
8. All existing overhead utilities shall be undergrounded.
9. No above ground improvements shall be installed within the 5-foot alley setback.
10. Per Chapter 13 of the Municipal Code, one (1) 36-inch box street tree shall be planted along the Acacia Avenue frontage. Type shall be per City Council Policy G-6 and shall be approved by the Municipal Operations Department.
11. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover. Water meter and sewer cleanout shall be located within the public right-of-way.
12. An encroachment permit is required for all work activities within the public right-of-way.

13. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L and Municipal Code 20.30.130.
14. 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.
15. All on-site drainage shall comply with current Water Quality requirements.
16. All unused and abandoned water services shall be capped at the main (corporation stop) and all unused and abandoned sewer laterals shall be capped at property line. If the abandoned sewer lateral has an existing cleanout, abandonment shall include removal of the cleanout riser, the 4TT box and the wye. Sewer lateral shall then be capped where the wye used to be.
17. 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.
18. 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.
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 612 Acacia Tentative Parcel Map, including, but not limited to, Tentative Parcel Map No. NP2015-018 (PA2015-177). 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. ZA2015-061

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2015-016 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 429 LARKSPUR AVENUE (PA2015-170)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ramin and Setareh Afshar, with respect to property located at 429 Larkspur Avenue, and legally described as Lot 21, Block 437, Corona Del Mar Tract requesting approval of a tentative parcel map.
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. An existing single-family residence was demolished and will be replaced with a new 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 November 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 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 residence was demolished and will be replaced with a new two-unit duplex. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current RT General Plan Land Use Designation.
2. The Tentative Parcel Map does not apply to any specific plan area.

Finding:

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

Facts in Support of Finding:

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

Finding:

- C. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. The site was previously developed with a single-family residence which has been demolished and will be replaced with a new two-unit duplex.
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.*

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 fifty (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 duplex 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 duplex 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. NP2015-016 (PA2015-170), 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 or call for review 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 12th DAY OF NOVEMBER, 2015.



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 (NAVD88). 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 recordation of the Parcel Map, a park fee shall be assessed for one additional dwelling unit.
4. A 10-foot radius corner cut-off easement for street and public utility purposes at the Larkspur Avenue/Second Avenue curb return shall be recorded as a part of the parcel map.
5. All improvements shall be constructed as required by Ordinance and the Public Works Department.
6. An encroachment permit is required for all work activities within the public right-of-way.
7. The existing damaged concrete sidewalk, curb and gutter along the Larkspur Avenue and Second Avenue frontages shall be reconstructed and any damaged concrete alley panels along the alley frontage shall be reconstructed. Limits of construction shall be determined by the Public Works Inspector.
8. A new concrete sidewalk with a minimum width of four feet (4') shall be constructed along the entire Second Avenue frontage. The installation of a meandering type of travel path might be required to accommodate the existing street trees.
9. Upon the construction of new concrete sidewalk along the Third Avenue frontage, a new ADA compliant curb access ramp shall be constructed at the Larkspur Avenue/Second Avenue curb return to meet current City Standards.
10. All above ground improvements shall stay a minimum five foot (5') clear of the alley setback.

11. All existing private, non-standard improvements within the public rights-of-way and/or extensions of private, non-standard improvements into the public rights-of-way fronting the development site shall be removed.
12. Each proposed condominium unit shall be served by its own individual water service/meter and sewer lateral/cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
13. Existing street trees within the parkway area of Larkspur Avenue and Second Avenue shall be protected-in-place. Any street tree removal shall require approval from the Public Works Department and the Municipal Operations Department.
14. 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.
15. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a 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.
16. 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.
17. 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 429 Larkspur Avenue Tentative Parcel Map including, but not limited to Tentative Parcel Map No. NP2015-016 (PA2015-170). 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. ZA2015-062

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2015-038 FOR A TAKE-OUT SERVICE LIMITED, EATING AND DRINKING ESTABLISHMENT LOCATED AT 1617 WESTCLIFF DRIVE, SUITE 114 (PA2015-163)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Lisa Bonbright on behalf of Café Gratitude Newport Beach, LLC, with respect to property located at 1617 Westcliff Drive, Suite 114, and legally described as Parcel 1 of Lot Line Adjustment No. LA2002-031 requesting approval of a minor use permit.
2. The applicant proposes a minor use permit to allow the operation of a take-out service limited, eating and drinking establishment. No late hours (after 11:00 p.m.) or alcohol service are proposed as part of the application. Required parking for the use is provided in the onsite parking lot.
3. The subject property is located within the Commercial General (CG) Zoning District and the General Plan Land Use Element category is General Commercial (CG).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on November 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. This exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves interior improvements to convert a retail space to a take-out service limited, eating and drinking establishment and involves no expansion in floor area or change in parking requirement.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The General Plan designates the site as General Commercial (CG) which is intended to provide for areas appropriate for a wide variety of commercial activities oriented primarily to serve Citywide or regional needs.
2. The proposed establishment will occupy a tenant space within a multi-unit commercial building and is intended to provide a service not only to visitors, but also to residents within the immediate neighborhood and surrounding area, and is therefore consistent with the CG designation.
3. A variety of uses including general office and food service uses are permitted within the building and the proposed take-out service would serve and be complementary to these uses.
4. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The property is located in the Commercial General (CG) Zoning District. The proposed establishment, which includes a kitchen, six (6) seats, no alcohol service, and no late hours is a permitted use subject to the approval of a minor use permit pursuant to Newport Beach Municipal Code Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements).
2. Parking required for the proposed establishment is provided within the shared parking lot. The parking requirement for a take-out service limited, eating and drinking establishment (1 space per 250 square feet) is the same standard required of a retail tenant. Therefore, the existing onsite parking is sufficient for the proposed establishment.

3. As conditioned, the proposed establishment will comply with Zoning Code standards for eating and drinking establishments, including those specific to the take-out service limited use classification which includes a maximum of six (6) seats.

Finding:

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

Facts in Support of Finding:

1. The proposed take-out service use is appropriate given the establishment will be located within an existing multi-unit commercial building accessible from two streets (Sherington Place and Westcliff Drive), which provides convenient access to motorists, pedestrians, and bicyclists.
2. Surrounding properties consist of various nonresidential uses including general office and food service uses. The proposed establishment is compatible with the existing and permitted uses within the area.
3. As conditioned, the allowed hours of operation will be 7:00 a.m. to 11:00 p.m. daily, which will minimize any disturbance to residences residing near the property.
4. The existing trash storage area within the parking lot is adequate to accommodate the proposed food service use and is conveniently located where materials can be deposited and collected, and does not impede with the parking spaces.

Finding:

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

Facts in Support of Finding:

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

Finding:

- E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise*

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

Facts in Support of Finding:

1. The take-out service limited, eating and drinking establishment will occupy vacant space within an existing multi-unit commercial building that has not proven to be detrimental to the occupants of the property or nearby properties.
2. 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.
3. 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 Minor Use Permit No. UP2015-038, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days 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 NOVEMBER, 2015.

BY:



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
3. The 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 is 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. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to the Minor Use Permit or the processing of a new use permit.
5. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
6. Incidental seating for up to a maximum of six (6) patrons may be provided for on-site consumption of food or beverage.
7. The sale of alcoholic beverages shall be prohibited unless an amendment to the Minor Use Permit or other required application is first approved in accordance with the provisions of the Municipal Code.
8. The hours of operation are limited to between 7:00 a.m. and 11:00 p.m. daily.
9. Parking spaces shall not be assigned for exclusive use.
10. A valid business license from the City of Newport Beach with a sellers permit shall be required prior to start of business. Any contractors/subcontractors doing work at the subject site shall be required to obtain a valid business license from the City of Newport Beach prior to the commencement of any work on the subject site.
11. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

12. All proposed signs shall conform to Title 20, Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code regulations or any sign program applicable to the property.
13. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

14. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
15. The applicant is required to obtain all applicable permits from the City’s Building 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.
16. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
17. Strict adherence to maximum occupancy limits is required.
18. No outside paging system shall be utilized in conjunction with this establishment.
19. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three (3) walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
20. The applicant is required to provide a metal gate and decorative solid roof above the trash enclosure for aesthetic and screening purposes.
21. 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.

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. 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. 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.
25. 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.
26. 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.
27. 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.
28. 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 Café Gratitude To-Go including, but not limited to, UP2015-038 (PA2015-163). 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. ZA2015-063

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR SITE DEVELOPMENT REVIEW NO. SD2015-006 AND TENTATIVE PARCEL MAP NO. NP2015-019 FOR A TWO-UNIT, LIVE-WORK DEVELOPMENT LOCATED AT 421 29TH STREET (PA2015-174)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Cannery Project Newport, LLC with respect to property located at 421 29th Street, and legally described as Lot 10 and 11 of Block 230, Book 5, Page 15 of Miscellaneous Maps, requesting approval of a Minor Site Development Review and a Tentative Parcel Map.
2. The applicant requests a Minor Site Development Review for the development of two live-work residential units and a Tentative Parcel Map to allow each unit to be sold separately.
3. The subject property is located within the MU-CV/15 Street (Mixed Use Cannery Village and 15 Street) Zoning District and the General Plan Land Use Element category is Mixed Use Horizontal 4 (MU-H4).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is MU-H (Mixed Use Horizontal).
5. A public hearing was held on November 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. The project is categorically exempt under Sections 15303 and 15315, of the State CEQA (California Environmental Quality Act) Guidelines – Classes 3 (New Construction or Conversion of Small Structures) and 15 (Minor Land Divisions). The Class 3 exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units in urbanized areas. The proposed construction of a two-unit, live-work development is consistent with all requirements of the Class 3 exemption. 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.

2. The Zoning Administrator finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. REQUIRED FINDINGS.

Site Development Review

In accordance with Section 20.52.080.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *Allowed within the subject zoning district.*

Facts in Support of Finding:

1. The subject property is located within the MU-CV/15 Street Zoning District, which allows multi-unit dwelling units, nonresidential uses and/or mixed-use structures; where the ground floor is restricted to nonresidential uses along the street frontage. Residential uses and overnight accommodations are allowed above the ground floor and to the rear of uses along the street frontage. Mixed uses or nonresidential structures are required on lots at street intersections. The proposed two live-work residential units are allowed within the subject zoning district as they are a mixed-used structure located on the northwest corner of 29th Street and Villa Way, and designed to have nonresidential uses to be occupied at the ground floor and the residential uses to be located above the ground floor.

Finding:

- B. *In compliance with all of the applicable criteria identified subsection [20.52.080](C)(2)(c):*
 - a. Compliance with this Section, the General Plan, the Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;
 - b. The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent development; and whether the relationship is based on standards of good design;
 - c. The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;

- d. The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;
- e. The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and
- f. The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protections).

Facts in Support of Finding:

1. The Land Use Element of the General Plan designates the subject property as Mixed Use Horizontal 4 (MU-H4), which is intended to provide for multi-family residential, general or neighborhood commercial, and/or mixed-use structure; where the ground floor shall be restricted to nonresidential uses along the street frontage and the rear and upper floor uses for residential, including seniors units and overnight accommodations. Mixed-use or commercial buildings shall be required on parcels at street intersections. The mixed-use development shall have floor area to land area (FAR) ratio of 1.5; where a minimum FAR ratio of 0.25 and maximum 0.5 shall be used for retail uses and a maximum of 1.0 for residential. The proposed development is consistent with the General Plan designation in that:
 - a. The proposed two live-work residential units are designed as a mixed-used structure, located on the northwest corner of 29th Street and Villa Way, and have nonresidential uses to be occupied on the ground floor and the residential uses to be located above the ground floor.
 - b. The proposed development has 0.37 FAR for commercial uses; and 1.00 FAR for residential uses. Together, the proposed project has 1.37 FAR for mixed-use (live-work) development.
2. The proposed development complies with the MU-CV/15 Street Zoning District development standards of FAR, building setbacks, public and private open spaces, building height, and parking.
3. The development consists of a 3-story, single building at 31 feet in height, divided by a common wall to create two separate, live-work residential units (Unit A and Unit B):
 - a. Unit A shall have a total of 3,747 square feet in size consisting of approximately 968 square-feet in commercial space, a 429 square-foot two-car garage to be located on the first floor, and approximately 2,350 square feet of residential space to be located on the 2nd and 3rd floors.
 - b. Unit B shall have a total of 3,829 square feet in size consisting of approximately 1,063 square-feet in commercial space, a 427 square-foot two-car garage to be located on the first floor, and approximately 2,339 square feet of residential space to be located on the 2nd and 3rd floors.
4. In addition to the four enclosed parking spaces provided for the residential use, a total of four open parking spaces for the nonresidential use will be provided and accessible

from 29th Street and from an existing alleyway located at the rear of property. The parking spaces comply with the live-work parking requirement for two enclosed parking spaces and two guest/customer parking spaces for each unit.

5. Appropriate vehicular access is provided along 29th Street and a public alley from Villa Way. The proposed site layout provides efficient vehicular access from 29th Street and an existing alleyway located behind the subject property. Adequate pedestrian access to the building is provided from the street and alleyway. The Public Works Department has reviewed and approved the site plan, proposed improvements, and parking configuration subject to the conditions of approval.
6. The subject property is not located at or near a public view point or corridor as identified in the General Plan Figure NR3 (Coastal Views); and therefore, is in compliance with Section 20.30.100 (Public View Protections).
7. The proposed tentative parcel map for condominiums does not change the use or density of the property.

Finding:

- C. *Not detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

Facts in Support of Finding:

1. The proposed development complies with all Building, Public Works, and Fire Codes. The project complies with all City ordinances and conditions of approval.
2. The project has been conditioned to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment for both businesses and residents.
3. The proposed project includes four enclosed parking spaces for the residential units and four open parking spaces for the nonresidential uses which comply with the parking requirements for live-work residential units, pursuant to the Municipal Code Section 20.40.040 (Off-Street Parking).
4. The proposed project design includes adequate common and private open spaces for each live-work residential unit.

Tentative Parcel Map

In accordance with Section 19.12.070 (Required Findings for Action on Tentative Maps) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

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 live-work residential condominium purposes. The subject property is presently vacant and is being used for automotive and boat storage. The proposed subdivision and improvements are consistent with the density of the MU-CV/15 Street (Mixed Use Cannery Village and 15 Street) Zoning District and the current General Plan Land Use Designation of Mixed Use Horizontal 4 (MU-H4).
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 construction of handicap-access ramps, and the reconstruction of an existing driveway approach on 29th Street, existing broken or otherwise damaged sidewalks, curbs, and gutters along the 29th Street and Villa Way frontages 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 5,552-square-foot lot is physically suitable for two live-work residential units as it exceeds the minimum lot size of 5,000 square feet. The residential units comply with all development standards inclusive of the Floor Area Ratio (FAR), building setbacks, height restriction, parking, and common and private open spaces.

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 presently vacant and will be improved with the construction of two live-work residential units.
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 Sections 15303 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 3 (New Construction or Conversion of Small Structures) and Class 15 (Minor Land Divisions).

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 issues. 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 live-work residential use, is located within a Zoning District that permits mixed-use 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 live-work residential development is consistent with the MU-CV/15 Street (Mixed Use Cannery Village and 15 Street) Zoning District which allows two live-work 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 proposed two live-work residential units 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 (3) of the Coastal Act.*

Facts in Support of Finding:

1. The Tentative Parcel Map is for a two-unit, live-work residential condominium. The proposed subdivision and improvements are consistent with the Coastal Land Use Plan designation of MU-H (Mixed Use Horizontal).
2. The subject property conforms to public access policies of Chapter Three (3) of the Coastal Act because the development is located inland from the shoreline and does not affect public access from the nearest public roadway to the shoreline and along the coast.
3. Public Access and Recreation policies contained within Chapter Three (3) of the Coastal Act are not applicable to the subject property. The site is not located along the coastline and does not impact public access.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Site Development Review No. SD2015-006 and Tentative Parcel Map No. NP2015-019, 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 or call for review 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 OF NOVEMBER, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

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. *Minor Site Development Review No. SD2015-006 and Tentative Parcel Map No. NP2015 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
3. *The applicant shall prepare a written disclosure statement prior to sale, lease, or rental of a residential unit in the proposed mixed-use development consistent with Section 20.48.130.H (Notification to Owners and Tenants) of the Municipal Code.*
4. *The development shall consist of a 3-story, single building at 31 feet in height, divided by a common wall to create two separate, live-work residential units (Unit A and Unit B):*
 - a. *Unit A shall have a total of 3,747 square feet in size consisting of approximately 968 square feet in commercial space, a 429 square-foot two-car garage to be located on the first floor, and approximately 2,350 square feet of residential space to be located on the 2nd and 3rd floors.*
 - b. *Unit B shall have a total of 3,829 square feet in size consisting of approximately 1,063 square feet in commercial space, a 427 square-foot two-car garage to be located on the first floor, and approximately 2,339 square feet of residential space to be located on the 2nd and 3rd floors.*
5. *A total of four open on-site parking spaces for commercial use located within Units A and B shall be provided and maintained at all time.*
6. *A total of four enclosed on-site parking spaces for residential use located within Units A and B shall be provided and maintained at all time.*
7. *Prior to certificate of occupancy, the applicant shall record a deed restriction stating that each commercial space located on the ground floor shall not be leased and/or occupied separately from the above residential unit.*
8. *Access between the upper-floor residential unit and the first-floor commercial space of each unit shall be maintained at all time.*
9. *The air conditioning units proposed to be located on the east side of the building along Villa Way shall be relocated within the structure or roof top.*

10. *The finished first floor elevation for interior living areas (commercial area on the ground floor of each unit) shall be raised to at least 9.00 (NAVD 88) as the proposed development is located in a low-lying area prone to flooding.*
11. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
12. 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.
13. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Site Development Review or the processing of a new Site Development Review.
14. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of building permits.
15. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Site Development Review file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Site Development Review and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
16. Prior to issuance of building permits, approval from the California Coastal Commission shall be required.
17. Prior to the issuance of building permits, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These landscape plans shall include the areas within the front setback adjacent to each commercial unit and incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division.
18. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
19. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an

unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

- 20. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
- 21. All noise generated by the proposed development shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

- 22. 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.
- 23. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
- 24. All trash shall be stored within the designated areas as approved by Community Development Department and screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
- 25. 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).
- 26. Storage outside of the building, in the front, side or at the rear of the property shall be prohibited.
- 27. 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 Starline Live-Work Lofts including, but not limited to Site Development Review No. SD2015-006 and Tentative Parcel Map No. NP2015-019. 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.

Fire Department Conditions

28. Automatic fire sprinklers shall be required for all new construction. The sprinkler system shall be an NFPA 13 Commercial system pursuant to California Fire Code Section 903.1.

Building Division Conditions

29. 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.
30. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment

Off-Site Impacts

- Encourage carpooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.

- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

31. Prior to the issuance of grading permits, a Geotechnical Report shall be submitted for the review and approval by the Building Division.
32. Prior to issuance of grading permits, the applicant shall prepare and submit a Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Division, Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.
33. Prior to the issuance of grading permits, a Hydrology Plan shall be submitted for the review and approval by the Building Division.

Public Works Conditions

34. A Parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). 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.**
35. 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.
36. All improvements shall be constructed as required by Ordinance and the Public Works Department.
37. An encroachment permit shall be required for all work activities within the public right-of-way.

38. The applicant shall be responsible for the reconstruction of the existing broken and/or otherwise damaged concrete curb, gutter and sidewalk along the 29th Street and Villa Way frontages and any existing broken and/or otherwise damaged concrete panels in the alley.
39. All existing overhead utilities shall be undergrounded.
40. All above ground improvements shall stay a minimum five foot (5') clear of the alley setback.
41. Each live-work unit shall be served by individual water services/meters and sewer laterals/cleanouts. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
42. Additional reconstruction within the public right-of-way shall be required at the discretion of the Public Works Inspector if it is determined that damage has been done to public improvements surrounding the development site by the private construction.
43. The applicant shall provide an ADA-compliant pedestrian path along 29th Street and Villa Way around the existing power poles, utility boxes and sign posts. These may require pedestrian easements to be provided. The minimum ADA path shall be 36 inches at a single point/obstruction and 48 inches at all other areas.
44. The applicant shall provide a 4-foot ADA-compliant pedestrian path around the 29th Street driveway approach. This shall require a pedestrian easement within private property to be granted to the City of Newport Beach.
45. A 10-foot radius corner cut off shall be dedicated to the City for street purposes at the corner of 29th Street and Villa Way.
46. A new ADA-compliant curb ramp shall be installed at the corner of 29th Street and Villa Way.
47. A new ADA-compliant alley approach shall be installed at the intersection of Villa Way and the alley.
48. No loss of on-street parking shall be permitted.