



**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 October 14, 2016

**ZONING ADMINISTRATOR ACTIONS
OCTOBER 13, 2016**

- Item 1: OceanQuest Sign Program No. CS2016-007 and Modification No. MD2016-015 (PA2016-105)
Site Address: 600 East Bay Avenue (Fun Zone)
- Action: Approved by Resolution No. ZA2016-056 Council District 1
- Item 2: 701 Poppy Avenue Tentative Parcel Map No. NP2016-016 (PA2016-154)
Site Address: 701 Poppy Avenue
- Action: Approved by Resolution No. ZA2016-057 Council District 6

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

RESOLUTION NO. ZA2016-056

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH AMENDING COMPREHENSIVE SIGN PROGRAM NO. CS2016-007 AND MODIFICATION PERMIT NO. 2016-007 FOR THE OCEANQUEST LOCATED AT 600 EAST BAY AVENUE (PA2016-105)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Stephan Sandland, Project Dimensions, with respect to property located at 600 East Bay Avenue, and legally described as a Resubdivision of Lots 1 through 6, Inclusive, and a Portion of Lot 7 in Block B of Bayside per a Map Recorded in Book 3, Page 38 of Miscellaneous Maps, Records of Orange County, California, Together with a Portion of Washington Street and a Portion of Section 35, Township 6 South, Range 10 West, San Bernardino Base and Meridian requesting an amendment of a Comprehensive Sign Program and Modification Permit.
2. The applicant requests an amendment to a Comprehensive Sign Program and a Modification Permit to include a project sign which exceeds the size allowed by the Zoning Code.
3. The existing Comprehensive Sign Program was approved on February 29, 2012, for the existing, multi-tenant development located on a roughly 34,000 square-foot lot. The center is developed with four (4) multi-tenant buildings currently comprised of a total of thirteen commercial tenants and the museum. All buildings are interconnected by a common courtyard area.
4. A Modification Permit was also approved on February 29, 2012, to allow four exhibition wall signs that both exceed the maximum sign area permitted by the Zoning Code.
5. The subject property is located within the CV (Commercial Visitor-Serving) Zoning District and the General Plan Land Use Element category is CV (Visitor Serving Commercial).
6. The subject property is located within the Coastal Zone.
7. A public hearing was held on October 13, 2016, 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 under the requirements of the California Environmental Quality Act, pursuant to Section 15311 (Class 11 – Accessory Structures).
2. Class 11 exempts construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to on-premise signs.

SECTION 3. REQUIRED FINDINGS.

Modification Permit to allow projecting in excess of the sign area allowed by the Zoning Code.

In accordance with Section 20.52.050.E (findings and decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a Modification Permit are set forth:

Finding

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

Facts in Support of Finding

1. The subject property is located in the CV (Commercial Visitor-Serving) District and is designated CV (Visitor Serving Commercial) by the Land Use Element of the General Plan. This district is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors to the City. The existing commercial development and existing and proposed signage is consistent with this land use designation. The proposed signage is accessory to the primary use.
2. The property, historically known as the “Balboa Fun Zone”, is a multi-tenant development that is a use consistent with the Zoning and General Plan Land Use Designation in that it is an eclectic mix of visitor-serving commercial within a festive atmosphere. The projecting sign is located on Edgewater Place which acts as a pedestrian promenade and is highly traveled. The sign is approximately 27 square feet which is an appropriate scale for the property which is 211 feet along Edgewater Place.
3. The size of the sign is consistent with other signage in the area which are designed to be visible to the highly utilized pedestrian promenade.
4. The illumination of sign is conditioned to prevent excessive glare onto adjacent public areas and any nearby properties.

Finding

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

Facts in Support of Finding

1. The proposed projecting sign area is necessary due to the expansive configuration of the property, the numbers of tenants within the development and high level of pedestrian activity on Edgewater Place.

Finding

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

Facts in Support of Finding

1. The property is developed with four large buildings that are interconnected by an open patio area. The four buildings have an aggregate total frontage of approximately 500 lineal feet.
2. The modification permit will allow signage that is in scale with the building and that provides visibility of a sign which projects the image of the new establishment.

Finding

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

Facts in Support of Finding

1. The granting of a modification permit allows the proposed projecting sign to be an appropriate size that will ensure adequate visibility. No similar provision could be granted within the parameters of Section 20.42.120 (Comprehensive Sign Program) of the Zoning Code.
2. No foreseeable detriment will result from the approval of the modification permit as conditioned.

Finding

- E. *The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the*

City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.

Facts in Support of Finding

1. The signage is for commercial uses in a commercial district and is not in or adjacent to a residential district. The sign illumination shall be turned off by 9 p.m., which will minimize a potential glare to residents across the bay.

Comprehensive Sign Program

The existing Comprehensive Sign Program was approved in accordance with Zoning Code Section 20.67.120.E, a Comprehensive Sign Program. This amendment is limited to the addition of the projecting sign and elimination of the roof sign on the ticket booth. The following standards and facts in support of such standards are set forth:

Standard:

- A. *The proposed sign program shall comply with the purpose and intent of this Chapter [Chapter 20.42: Signs], any adopted sign design guidelines and the overall purpose and intent of this Section [Section 20.42.120].*

Facts in Support of Standard:

1. In compliance with the purpose and intent of the Sign Code, the amendment to the Sign Program provides the new operator, OceanQuest, with adequate identification without excessive proliferation of signage. Furthermore, it preserves community appearance by eliminating an existing nonconforming sign.

Standard:

- B. *The proposed signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign Program, to the structures and/or developments they identify, and to surrounding development when applicable.*

Facts in Support of Standard:

1. The proposed projecting sign allows OceanQuest to display their brand in a manner which is appropriate for the overall development and surrounding neighborhood.

Standard:

- C. *The sign program shall address all signs, including permanent, temporary, and exempt signs.*

Facts in Support of Standard:

1. The Sign Program addresses all project signage. Temporary and exempt signs not specifically addressed in the program shall be regulated by the provisions of Chapter 20.42.

Standard:

- D. The sign program shall accommodate future revisions that may be required because of changes in use or tenants.*

Facts in Support of Standard:

1. The project site is for the use of multiple commercial tenants and OceanQuest and has been designed to be effective for such a use.
2. It is not anticipated that future revisions will be necessary to accommodate changes in tenants or uses. However, flexibility has been incorporated into the Sign Program Matrix to allow minor deviations from the proposed signs. OceanQuest, as a new operator for the site, continues to evaluate their brand as portrayed by signage. Any significant changes to the sign program would require additional amendments.
3. Consistent with Chapter 20.42, the Director [or his/her designee] may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

Standard:

- E. The program shall comply with the standards of this Chapter, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter.*

Facts in Support of Standard:

1. The amended Sign Program requests an increase in sign area for the projecting sign and the removal of an existing nonconforming roof sign.

Standard:

- F. The Approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter.*

Facts in Support of Standard:

1. The program does not authorize the use of new prohibited signs. In fact it removes an existing roof sign, which is prohibited by the sign code.

Standard:

- G. *Review and approval of a Comprehensive Sign Program shall not consider the signs' proposed message content.*

Facts in Support of Standard:

1. The program contains no regulations affecting sign message or content.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Comprehensive Sign Program No. CS2016-007 and Modification Permit No. MD2016-105, subject to the conditions set forth in Exhibit A and the parameters denoted in Exhibit B, which are attached hereto and incorporated by reference.
2. Comprehensive Sign Program and Modification Permit applications do not become effective until 14 days following the date of action. Prior to the effective date, the applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by submitting a written appeal application to the Community Development Director. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

PASSED, APPROVED, AND ADOPTED THIS 13TH DAY OF OCTOBER, 2016.



By: _____
Patrick Alford, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, details, and elevations, except if noted in the following conditions.
2. Prior to obtaining a building permit, all existing signage shall be brought into compliance with the Comprehensive Sign Program attached as Exhibit "B".
3. Upon demolition of the current development, this Comprehensive Sign Program and Modification Permit shall be rendered nullified and a new Comprehensive Sign Program shall be obtained for the new development in accordance with the Zoning Code Provisions in effect at the time the new development is approved.
4. Locations of the signs are limited to the designated areas and shall comply with the limitations specified in the Sign Program Matrix included in Exhibit "B" and any applicable sight distance provisions of Chapter 20.42 of the Newport Beach Municipal Code.
5. All signs must be maintained in accordance with Section 20.42.170 (Maintenance Requirements) of the Newport Beach Municipal Code.
6. Signs not specifically approved by this Comprehensive Sign Program and Modification Permit shall be removed, unless approved through separate and subsequent review.
7. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
8. 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 Planning 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 Staff Approval and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
9. A building permit shall be obtained prior to commencement of the construction and/or installation of the signs.
10. A copy of the conditions of approval shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
11. Sign lighting shall be placed on a timer so that it is turned off by 9 p.m.

12. Prior to building permit final, the sign shall be inspected after dusk by the Planning Division to ensure the sign illumination does not create excessive glare onto public areas and any nearby properties. A dimming of lights may be required.
13. Prior to issuance of building permits for the projecting sign, the applicant shall remove the existing nonconforming roof sign located on the ticket booth.
14. 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 **OceanQuest Sign Program** including, but not limited to **Comprehensive Sign Program No. CS2016-007 and Modification Permit No. MD2016-105 (PA2016-105)** and the determination that the project is exempt under the requirements of the California Environmental Quality Act. 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.

EXHIBIT “B”
SIGN PROGRAM MATRIX
(Changes to the Sign Code are shown underlined and strike-out.
Upon approval these will be removed)

- Frontages:** 1) East Bay Avenue
 2) Washington Street
 3) Palm Street
 4) Edgewater Place

(LF = Linear Feet / SF = Square Feet)

Sign Type	Frontages Size limitations where applicable
A. Exhibition Wall Signs <i>(Non-rigid material)</i>	<p>1) East Bay Avenue</p> <hr/> <p>Number of Signs: One Sign Area: 1.5 times linear frontage of building (Maximum of 150 SF) Maximum Letter/Logo Height: 36 inches</p> <p>2) Washington Street 3) Palm Street or Edgewater Place 4) Edgewater Place</p> <hr/> <p>Number of Signs: Three, one per frontage or one on Washington Street and two on Edgewater Place Sign Area: 1.5 times linear frontage of building (Maximum of 150 SF) Maximum Letter/Logo Height: 36 inches</p>
B1. Tenant Wall Signs	<p>1) East Bay Avenue 2) Washington Street 3) Palm Street 4) Edgewater Place</p> <hr/> <p>Number of Signs: One sign per street frontage of each tenant space (maximum three per any one tenant with multiple frontages) Maximum Sign Area: 25 SF for single tenant or 50 SF for multi-tenant Maximum Letter/Logo Height: 36 inches</p>
B2. Museum Wall Signs	<p>1) East Bay Avenue 2) Washington Street 3) Palm Street 4) Edgewater Place</p> <hr/> <p>Number of Signs: Eight, with no more than three signs per street elevation Maximum Sign Area: 25 SF Maximum Letter/Logo Height: 36 inches</p>

Sign Type	Frontages Size limitations where applicable
C. Entry Canopy Signs	<p>1) East Bay Avenue 4) Edgewater Place</p> <hr/> <p>Number of Signs: One allowed on framework at entry to building complex Maximum Sign Area: 50 SF Maximum Letter/Logo Height: 36 inches</p>
D. Directory Signs <i>(Manual, changeable copy permitted)</i>	<p>1) East Bay Avenue 2) Washington Street 3) Palm Street</p> <hr/> <p>Number of Signs: Two per frontage Location: Entrance between buildings or on wall plane Sign Area: 20 SF Maximum Letter/Logo Height: 6 inches</p>
E. Flags	<p>1) East Bay Avenue 2) Washington Street 3) Palm Street 4) Edgewater Place</p> <hr/> <p>Number of Flags: One flag per building corner, not to exceed 11 total Location: Mounted such that top of flag is no more than two feet above the eave of the roofline Sign Area: 20 SF Maximum Letter/Logo Height: 6 inches</p>
F. Projecting Signs	<p>2) Washington Street</p> <hr/> <p>Number of Signs: One Sign Area: 5 SF Maximum Letter/Logo Height: 6 inches</p> <p>3) Palm Street</p> <hr/> <p>Number of Signs: Three Sign Area: 5 SF Maximum Letter/Logo Height: 6 inches</p> <p>4) Edgewater Place</p> <hr/> <p>Number of Signs: Two Sign Area: 5 SF Maximum Letter/Logo Height: 6 inches</p> <p>4) East Bay Place</p> <hr/>

Sign Type	Frontages Size limitations where applicable
	<u>Number of Signs: One</u> <u>Sign Area: 27 SF</u> <u>Maximum Letter/Logo Height: 26 inch average to allow in variation of letter height.</u> <u>Internal Illumination: Permitted. Panels shall be opaque so that only the letters, number, symbols, or logos appear illuminated. There shall be no exposed lamps or bulbs.</u>
G. Awning Signs <i>(Including Marine Boat Rental structure)</i>	1) East Bay Avenue 2) Washington Street 3) Palm Street 4) Edgewater Place <hr/> Number of Signs: One sign per frontage of each tenant space (not to be used in addition to wall signage on same frontage) Sign Area: 5 SF, limited to center 50% of valance or lower 18 inches of a barrel awning Maximum Letter/Logo Height: 12 inches
H. Tenant Window Signs	1) East Bay Avenue 2) Washington Street 3) Palm Street 4) Edgewater Place <hr/> Number of Signs: One sign per window, not to exceed 20% of window area Locations: Limited to upper <u>or</u> lower 12 inches of window only
J. Roof Sign <i>(Existing nonconforming)</i>	<u>4) Edgewater Place</u> <hr/> Existing, nonconforming sign — cannot be replaced or reconstructed without a variance

NOTES:

If frontage is not listed within a sign-type row, then the sign type is not permitted on that frontage. Once the existing building has been demolished and a new building is constructed, this comprehensive sign program shall be deemed void and must be amended.

Sign area is the area measured by two perpendicular sets of parallel lines that surround the proposed logo and sign copy. All signs shall substantially conform to the approved set of plans stamped and dated February 29, 2012, and the plans approved for the projecting sign on East Bay Avenue dated October 13, 2016.

Pursuant to Section 20.42.120.F of the Zoning Code, the Community Development Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

Signs not visible from the public right-of-way shall not be limited in type, area, height, and/or location.

Existing nonconforming signs (such as roof signs like Sign Type J) are subject to 20.42.140.

A minimum of 8 feet of clearance between the lowest part of a sign/awning and the grade below shall be provided.

Temporary Banners are limited to the regulations of Chapter 20.42

RESOLUTION NO. ZA2016-057

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2016-016 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 701 POPPY AVENUE (PA2016-154)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Nicholson Construction, with respect to property located at 701 Poppy Avenue, and legally described as Lot 1, Block 743, 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) design 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 October 13, 2016 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 (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. 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 Poppy Avenue and an 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 (2) 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 located within the Coastal Zone. The subdivision conforms to the Local Coastal Program since the Coastal Land Use category is Two-Unit Residential (RT-D).

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2016-016 (PA2016-154), 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 13th DAY OF OCTOBER, 2016.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. A Parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
2. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
3. All improvements shall be constructed as required by Ordinance and the Public Works Department.
4. The existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Poppy Avenue and Fourth Avenue frontage shall be reconstructed.
5. All existing overhead utilities shall be undergrounded.
6. No above ground improvements shall be installed within the 5-foot alley setback.
7. Low-growing groundcover, of the type approved by the City, shall be installed throughout the Poppy Avenue and Fourth Avenue parkway fronting the development site.
8. 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 the sewer cleanout shall be located within the Public right-of-way.
9. An encroachment permit is required for all work activities within the public right-of-way.
10. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L and Municipal Code 20.30.130.
11. 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.

12. All on-site drainage shall comply with the latest City Water Quality requirements.
13. 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 property line. If the sewer lateral to be abandoned 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.
14. Per Chapter 13 of the City Municipal Code, two (2) 36-inch box street trees shall be planted along the Fourth Avenue frontage. Tree species shall be per Council Policy G-6.
15. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
16. A 10-foot radius corner cut-off shall be dedicated to the City for street purpose at the corner of Poppy Avenue and Fourth Avenue.
17. A 4-foot wide minimum sidewalk along the Fourth Avenue frontage shall be installed.
18. Prior to recordation of the Parcel Map, a park fee shall be assessed for one additional dwelling unit.
19. 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.
20. 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.
21. 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 701 Poppy Avenue Condominiums including, but not limited to Tentative Parcel Map No. NP2016-016 (PA2016-154). 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.