



**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 for the week ending March 31, 2017.

---

**ZONING ADMINISTRATOR ACTIONS  
MARCH 30, 2017**

- Item 1: Temporary Fire Station No. 5 Limited Term Permit No. XP2016-008 (PA2016-172)  
Site Address: 801 Marguerite Avenue  
Action: Approved by Resolution No. ZA2017-016 Council District 6
- Item 2: 708 Marguerite Avenue Condominiums Tentative Parcel Map No. NP2017-003 (PA2017-039)  
Site Address: 708 and 708 ½ Marguerite Avenue  
Action: Approved by Resolution No. ZA2017-017 Council District 6
- Item 3: 603 Marguerite Avenue Condominiums Tentative Parcel Map No. NP2017-001 (PA2017-011)  
Site Address: 603 and 603 ½ Marguerite Avenue  
Action: Approved by Resolution No. ZA2017-018 Council District 6
- Item 4: 3418 Via Lido Lot Merger No. LM2016-012 (PA2016-209)  
Site Address: 3418 – 3428 Via Lido  
Action: Approved by Resolution No. ZA2017-019 Council District 1

**APPEAL PERIOD:** An appeal or call for review 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. ZA2017-016

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LIMITED TERM PERMIT XP2016-008 FOR A TEMPORARY FIRE STATION LOCATED AT 801 MARGUERITE AVENUE (PA2016-172)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by the City of Newport Beach, with respect to property located at 801 Marguerite Avenue, and legally described as Parcel 2 of Parcel Map No. 2008-161, requesting approval of a limited term permit with a duration of greater than 90 days.
2. The applicant proposes the installation of a 36-foot by 60-foot modular building to be used as a temporary fire station during the replacement construction of Fire Station No. 5. Also included is the installation of canopy structures to house two fire trucks. The proposed location is within the Grant Howald Park parking area at the corner of Marguerite Avenue and Fifth Avenue.
3. The subject property is located within the Public Facilities (PF) Zoning District and the General Plan Land Use Element category is Public Facilities (PF).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on March 30, 2017, 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 hearing 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 hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Smaller Structures) and Section 15304 under Class 4 (Minor Alterations to Land) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 3 exemption includes the construction and location of a commercial structure not involving the use of significant amounts of hazardous substances and not exceeding 2,500 square feet in floor area. In this case, the proposed project includes the location of a 36-foot by 60-foot modular building (2,160 square feet) to be used as a temporary fire station.

3. The Class 4 exemption consists of minor public alterations in the condition of land, which do not involve removal of healthy, mature, scenic trees. The proposed project may include minor changes to the parking area to accommodate the temporary use (i.e., barriers and signage). No trees will be removed as part of this project.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.040(G) (Limited Term Permits – Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *The operation of the requested limited duration use at the location proposed and within the time period specified 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 requested limited duration use.*

#### Facts in Support of Finding:

1. The property is currently developed with a 74-space parking area adjacent to a public park. The proposed project will occupy 28 of the parking spaces with a modular building and two canopies for fire trucks. A barrier will be placed to cordon off the area to be used for the temporary fire station.
2. Forty-six parking spaces will remain available to the public for use of the park. The City's Recreation and Senior Services Department has reviewed the project and believes the remaining spaces will sufficiently accommodate park users.
3. The existing driveway onto Fifth Avenue will facilitate appropriate access for all Fire Department vehicles.
4. All improvements associated with the Limited Term Permit will be removed once the permanent fire station has been constructed.

#### Finding:

- B. *The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot.*

#### Facts in Support of Finding:

1. The subject parcel is 2.181 acres in size with approximately 0.60 acre developed as parking area and the remainder being public park. The parking area is rectangular in shape and has a single driveway access from Fifth Avenue. The proposed project

will be confined to the western portion of the parking area, which is aligned with the driveway such that turning movements for fire trucks will be limited.

2. Given the size of the parking area and proposed siting of the temporary structures, the temporary use can be accommodated on-site with little disruption to surrounding residential uses, the use of the public park, and the remaining public parking lot area.
3. As conditioned, temporary signs will be appropriately located to help ensure ease of on-site wayfinding for park users.

Finding:

*C. The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate.*

Facts in Support of Finding:

1. The proposed temporary fire station will be located approximately one-third mile northwest of the permanent fire station site at 410 Marigold Avenue. During operation of the temporary fire station, the permanent facility would be under construction; therefore, increased traffic is not anticipated.
2. The driveway access to the Grant Howald Park parking area is approximately 30 feet in width, which will provide adequate maneuverability for fire trucks accessing the site.
3. The existing permanent fire station uses Marguerite Avenue to access East Coast Highway. The temporary fire station will also use Marguerite Avenue as a main access point as its 40-foot width and striped lane in each direction will adequately accommodate fire trucks traveling in either direction.

Finding:

*D. Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator.*

Facts in Support of Finding:

1. Five parking spaces will be maintained on-site in conjunction with the operation of the temporary fire station. Additionally, two parking areas will be covered with canopies to accommodate the two fire trucks associated with the temporary use.
2. Improvements in the parking area will not impede use of the parking reserved for disabled persons and accessible path of travel.

Finding:

*E. The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the Municipal Code, and other City regulations.*

Facts in Support of Finding:

1. The PF designation of the Land Use Element of the General Plan is intended to provide public facilities, including public schools, cultural institutions, government facilities, libraries, community centers, public hospitals, and public utilities. The proposed temporary fire station is consistent with this designation.
2. Section 20.26.020 (Special Purpose Zoning Districts Land Uses and Permit Requirements) of the Municipal Code allows temporary uses within the PF District subject to the approval of a Limited Term Permit. Limited Term Permits may authorize uses that might not meet the development or use standards of the applicable zoning district, but may otherwise be acceptable because of their temporary or limited nature. In this case, the proposed fire station is a limited duration use that would cease operating at completion of the new permanent development.
3. The proposed use is conditioned such that it will comply with all other applicable provisions of the General Plan, Municipal Code, and other City regulations. Applicable ministerial permits must be obtained prior to construction.
4. The site is not located within a specific plan area.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2016-008, 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 30<sup>TH</sup> DAY OF MARCH, 2017.**



---

Patrick J. Alford, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved site plan stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Anything not specifically approved by this limited term permit is prohibited and shall be addressed by a separate and subsequent review.
3. The Limited Term Permit shall expire twelve (12) months from the date the building permit to install the temporary facility is considered final, unless an extension of up to one (1) additional permit of twelve (12) months is granted by the Zoning Administrator.
4. Temporary barriers shall be placed to appropriately cordon off the temporary fire station area from the public.
5. Temporary signage shall be placed on-site to help direct the public to the eastern portion of the parking area.
6. All temporary signage shall be located outside the traffic safety visibility area, subject to the review and approval of the City's Traffic Engineer.
7. All temporary improvements shall be removed after the permanent fire station has received its certificate of occupancy.
8. 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.
9. 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.
10. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the City's approval of Temporary Fire Station No. 5 including, but not limited to, Limited Term Permit No. XP2016-008 (PA2016-172). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or

proceeding whether incurred by applicant, the City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City's costs, attorneys' fees, and damages which the City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

## RESOLUTION NO. ZA2017-017

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2017-003 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 708 AND 708 1/2 MARGUERITE AVENUE (PA2017-039)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Forkert Engineering and Surveying, Inc., with respect to property located at 708 and 708 1/2 Marguerite Avenue, and legally described as Lot 10 of Block 739, 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 duplex 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 March 30, 2017 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 duplex 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 Marguerite 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 neither 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 two-unit duplex 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 not located within the Coastal Zone.
2. The project is not located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone; therefore, the public access and recreation policies of chapter 3 of the Coastal Act are not applicable.

**SECTION 4. DECISION.**

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2017-003 (PA2017-039), 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 30<sup>TH</sup> DAY OF MARCH, 2017.**



---

Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. A Final 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.**
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. An encroachment permit is required for all work activities within the public right-of-way.
5. All damaged concrete sidewalk panels, curb and gutter along the Marguerite Avenue property frontage and any damaged concrete alley panels along the alley property frontage as determined by the Public Works Department shall be reconstructed.
6. All existing overhead utilities shall be undergrounded.
7. 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.
8. Each 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.
9. Existing street trees within the Marguerite Avenue right-of-way fronting the property shall be protected-in-place.
10. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.

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. 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.
13. 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.
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 the 708 Marguerite Condominiums including, but not limited to Tentative Parcel Map No. NP2017-003 (PA2017-039). 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. ZA2017-018

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2017-001 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 603 AND 603 1/2 MARGUERITE AVENUE (PA2017-011)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Meliza Morongo Dickens with respect to property located at 603 and 603 ½ Marguerite Avenue and legally described as Lot 3 in Block 638 of Corona del Mar, requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map for two-unit condominium purposes. A duplex was demolished and will be replaced with a new duplex. The Tentative Parcel Map would allow each unit to be sold individually. No waivers of Title 19 (Subdivisions) are proposed with this application.
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 March 30, 2017 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 is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
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.

In accordance with Section 19.12.070 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-unit residential condominium purposes. A duplex was demolished and will be replaced with a new duplex. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The Tentative Parcel Map is not located within a 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 Marguerite 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 duplex, which was demolished and will be replaced with a new 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 or Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – 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 required 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, is located within 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. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a “land project” as previously defined in Section 11000.5 of the California Business and Professions Code because the project site does not contain 50 or more parcels of land.
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 the proposed condominiums 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 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 NP2017-001 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 30<sup>TH</sup> DAY OF MARCH, 2017.**



---

Patrick J. Alford, Zoning Administrator

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

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. 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.
3. 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.
4. 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 Dickens Tentative Parcel Map including, but not limited to, NP2017-001. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**Public Works Conditions**

5. A Final 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.**

6. 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.
7. All improvements shall be constructed as required by Ordinance and the Public Works Department.
8. An encroachment permit is required for all work activities within the public right-of-way.
9. Reconstruct all damaged concrete sidewalk panels, curb and gutter along the Marguerite Avenue frontage and any damaged concrete alley panels along the alley frontage as determined by the Public Works Department.
10. All existing overhead utilities shall be undergrounded.
11. 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.
12. Each 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 tree within the Marguerite Avenue right-of-way fronting the property shall be protected-in-place.
14. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
15. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

## RESOLUTION NO. ZA2017-019

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2016-012 AND A WAIVER OF THE PARCEL MAP REQUIREMENT FOR A LOT MERGER LOCATED AT 3418-3428 VIA LIDO (PA2016-209)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Tait & Associates with respect to property located at 3418-3428 Via Lido and legally described as Lots 6, 7, and 8 (excepting therefrom the northwesterly half of said Lot 8) requesting approval of a lot merger.
2. The applicant proposes a lot merger and requests to waive the parcel map requirement for properties under common ownership.
3. The subject property is located within the Mixed Use Water Related (MU-W2) Zoning District and the General Plan Land Use Element category is Mixed Use Water Related (MU-W2).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed Use Water Related (MU-W2).
5. A public hearing was held on March 30<sup>th</sup>, 2017 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 is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.
2. The Class 15 exemption includes 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 parcel to local standards 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. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.



### SECTION 3. REQUIRED FINDINGS.

In accordance with Sections 19.68.030 and 19.08.030 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The lot merger to combine two lots and a portion of a lot by removing the interior lot lines will not result in the creation of additional parcels.
2. The project is in an area with an average slope of less than 20 percent.
3. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions).
4. The future development on the proposed parcel will be subject to the Zoning Code development standards, which are intended to promote orderly development, protect neighborhood character, and preserve public health, safety, and general welfare of the City.

Finding:

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

Fact in Support of Finding:

1. The lots to be merged are under common fee ownership.

Finding:

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

Facts in Support of Finding:

1. The merged lots will retain the Mixed Use Water Related (MU-W2) zoning designation, consistent with the surrounding area. The MU-W2 Zoning District is intended to provide for marine-related uses such as general commercial, visitor-serving commercial, and

residential dwelling units on upper floors located on a lot with a minimum lot area of 2,500 square feet.

2. The Land Use Element of the General Plan designates the subject site as Mixed Use Water Related (MU-W2), which applies to a range of waterfront properties in the area. The land use will remain the same and the merger is consistent with the land use designations of the General Plan.
3. The subject property is not located within a Specific Plan area.

Finding:

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

Facts in Support of Finding:

1. No adjoining parcels will be deprived of legal access as a result of the merger.
2. Legal access is provided from Via Lido and an alley to the rear and will remain unchanged.

Finding:

*E. The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making this finding, the review authority may consider the following:*

- a. Whether development of the merged lots could significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.*
- b. Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
- c. Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the zoning district.*

Facts in Support of Finding:

1. Properties along Newport Boulevard and within the Lido Marina Village area exhibit a variety of shapes and sizes. Although the proposed lot merger will create a larger lot, it will not create a lot that is uncharacteristic of the project vicinity. The minimum lot width is 25 feet and the existing lot width is approximately 40 feet. The proposed lot width is 100 feet, therefore complying with the minimum size requirements. Lots of similar or greater size in the vicinity include the properties at 3434 Via Lido, 3450 Via Oporto, and 3440 Via Oporto, among others.

2. The resulting lot configuration will not change the existing pattern of development since the orientation and access to the parcels would remain the same.

### Waiver of Parcel Map

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

### Finding:

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

### Facts in Support of Finding:

1. Approval of the proposed lot merger would remove the existing interior lot lines and allow the property to be used as a single site. The lot merger in and of itself would not change the land use, density, or intensity at the site. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, and General Plan.
2. The subject property is not subject to a Specific Plan.
3. The proposed lot merger combines the properties into a single parcel of land and does not result in the elimination of more than three (3) parcels.
4. The subject property is accessible from Via Lido and an alley to the rear. The site is served by all of the necessary public utilities.

## SECTION 4. DECISION.

### **NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2016-012 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 30<sup>TH</sup> DAY OF MARCH, 2017.**



---

Patrick J. Alford, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The map shall be submitted to the Public Works Department for Final Map Review and Approval. All applicable fees shall be paid.
4. Prior to the issuance of any future building permits for construction that crosses the existing interior lot lines, recordation of the lot merger with the County Recorder shall be required.
5. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of 3418 Via Lido Lot Merger including, but not limited to, Lot Merger No. LM2016-012. 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.