

RESOLUTION NO. PC2019-008

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING MAJOR SITE DEVELOPMENT REVIEW NO. SD2017-008 AND TENTATIVE TRACT MAP NO. NT2017-003 FOR AN EIGHT-UNIT RESIDENTIAL CONDOMINIUM DEVELOPMENT LOCATED AT 1501 MESA DRIVE AND 20462 SANTA ANA AVENUE (PA2017-218)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Anastasios Nikolaou with respect to property located at 1501 Mesa Drive and 20462 Santa Ana Drive, and legally described as a Portion of Lot 5 of Tract Map 456 requesting approval of a major site development review and tentative tract map.
2. The applicant proposes to demolish two (2) existing single-family residences and construct eight (8) new residential condominium units (the "Project"). Each unit will consist of four (4) stories (including a roof deck) with an attached two (2) car garage. The Project includes four (4) on-site guest parking spaces including one accessible parking space. A tract map is requested to merge the two (2) existing lots and allow for each of the eight (8) units to be sold individually as condominiums.
3. The subject property is designated Multiple-Unit Residential ("RM") by the General Plan Land Use Element and is located within the Multi-Unit Residential Detached (RMD) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on March 21, 2019, in the Council Chambers 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 ("NBMC"). Evidence, both written and oral, was presented to, and considered by, the Planning Commission 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 15332 under Class 32 (In-Fill Development) 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. In this case, the Project is consistent with the General Plan Land Use Element category of RM as well as the RMD Zoning District. Residential condominiums are an allowed use in the land use category designation as well as in medium density residential ("RMD"). The

Project site area is less than five (5) acres and generally surrounded by residential development and a golf course. The lot is substantially developed and is not within environmentally sensitive areas. The Project was reviewed by the Public Works Department and concerns related to traffic were not found. Further, a traffic study was not required under the City's Traffic Phasing Ordinance ("TPO"). No significant effects are anticipated for the lot with regard to noise or air quality as the Project will be replacing existing single-family developments. A preliminary water quality management plan ("WQMP") was reviewed and approved to address potential water quality issues. The Project was also reviewed by the Public Works and Fire Departments and it was determined both lots maintain adequate access to both utilities and public services.

SECTION 3. REQUIRED FINDINGS.

Major Site Development Review

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

Finding:

- A. *The proposed development is allowed within the subject zoning district.*

Fact in Support of Finding:

1. The subject property is located within the Multi-Unit Residential Detached ("RMD Zoning District"), which provides for areas appropriate for multi-unit residential development consisting of detached units. Although the Project does not contain detached dwelling units, the Project is consistent with the General Plan and applicable development standards of the Zoning Code. Prior to the Zoning Code update of 2010, the properties were zoned RMD, and both attached and detached units were permitted. The Zoning Code update of 2010 erroneously omitted the allowance for attached units, which was not the intent of the update. Thus, both attached and detached units are allowed in the RMD Zoning District.

Finding:

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

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

Facts in Support of Finding:

1. The Land Use Element of the General Plan designates the subject property as RM, which is intended primarily for multi-family residential development containing attached or detached dwelling units. The proposed multi-unit residential development is consistent with the General Plan designation. This designation allows forty-three (43) dwelling units per acre. The eight (8) unit Project is less than the maximum allowable density of approximately thirteen (13) units.
2. The RMD Zoning District allows one unit per 1,000 square feet of lot area. The property is 14,180 square feet in area; therefore, up to fourteen (14) units could be permitted onsite per the Zoning Code Table 2-3 (Development Standards). The General Plan further limits density to a maximum of thirteen (13) units on-site. Thus, the eight (8) unit Project proposes approximately 60 percent of the maximum density allowed on-site, while still providing additional housing opportunities and types within the City. The Project would result in a net increase of six (6) units.
3. The Project complies with the development standards of the RMD Zoning District. The proposed four (4) story buildings are approximately thirty-three (33) feet tall, in compliance with the maximum height limitation of the district. The buildings meet all required setbacks. The Project provides common and private open space, where none is required by the Zoning Code. Approximately 2,245 square feet of common open space is provided in the form of open landscaped areas and a barbeque area. Approximately 1,500 square feet (minimum) of private open space is provided in the form of roof decks. Eight (8), two-car garages and four (4) uncovered guest parking spaces (inclusive of one (1) accessible space) are proposed for the development, which meets the minimum Zoning Code required for parking.
4. The Project will incorporate consistent architectural design such that all structures on the property are unified. The two (2) buildings are almost identical, with the same siding, color scheme, balconies, and awnings. The buildings will appear uniform from Santa Ana Avenue. Architectural treatment will harmonize with the surrounding neighborhood, which includes a range of design themes and architectural styles.
5. The Project provides a varied roof profile, with the fourth floor set back from the side setbacks and interior drive aisle. The fourth floor is both limited in size and setback from the property line, with roof decks on either side of the living space to create more visual relief and reduced building mass. The fourth floor (interior living area) is approximately half the size of the second and third floors below, creating additional relief from the neighboring roadways. The first floor level is partially below grade, with the units along

- Mesa Drive afforded additional privacy due to the lower grade of the ground floor office and garage. Architectural treatment and building articulation is concentrated along Mesa Drive, which is the longest frontage of the property and the most visible to pedestrians and motorists. There is substantial visual interest created through varied materials and colors, such as metal clad siding and a mix of vertical and horizontal lines.
6. The bulk and scale of the structures on-site are compatible with the surrounding RMD properties more recently developed for apartment and condominium use. For example, the adjacent property to the east was approved for similar construction. The adjacent Santa Ana Cottages development at 20452 Santa Ana Avenue was approved for the development of seven (7) condominium units (PA2016-069). Although the approved project contains three (3) stories, it will reach the same maximum height of thirty-three (33) feet as the proposed Mesa Drive Townhomes project. Therefore, the Project will not look out-of-scale with existing and approved development.
 7. Existing access for 20462 Santa Ana Avenue is provided via two (2) separate driveways along Santa Ana Avenue on either side of the single-family residence. The proposed site layout would consolidate the curb cuts on Santa Ana Avenue by creating one uniform driveway through the center of the site (i.e. perpendicular to Santa Ana Avenue). The eight (8) garages would be accessible via this central driveway and drive aisle. Additionally, the Project would remove the existing curb cut and access point for 1501 Mesa Drive property along Mesa Drive. Removal of the driveway and carport along this road would reduce hazards related to residents pulling in and out of the driveway on Mesa Drive. The site layout and guest parking area allow vehicles sufficient space to turn around on-site. Pedestrian access to the site is available along Santa Ana Avenue along an existing public sidewalk.
 8. The Public Works Department has reviewed and approved the site plan, proposed improvements, parking configuration, and access driveway subject to the conditions of approval.
 9. The twenty (20) foot front setback on Santa Ana Avenue and site layout provide for additional landscaping opportunities immediately adjacent to the street. As conditioned, all landscaping will comply with NBMC Chapter 14.17 (Water-Efficient Landscaping).
 10. The subject property is not located at or near a public view point or corridor as identified in the General Plan Figure NR3 (Coastal Views); and therefore, is in compliance with NBMC Section 20.30.100 (Public View Protection).

Finding:

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

Facts in Support of Finding:

1. The proposed eight (8) unit project would result in a net increase of six (6) units on the subject properties, where up to thirteen (13) units could be constructed per the General Plan. The amount of traffic to and from the neighborhood will not significantly change. The Project is conditioned to pay fair share traffic fees for the additional dwelling units on the property. A separate fee will be assessed and paid to both the City of Newport Beach as well as the San Joaquin Hills Transportation Corridor Agency ("TCA").
2. Currently there are large hedges, fences, and other accessory structures that impede visibility at the corner of Santa Ana Avenue and Mesa Drive. The Project would remove all non-conforming features and new structures would comply with Public Works Standard STD 110-L, which provides visibility for pedestrians and motorists at intersections. Additionally, the new structure would comply with all setback requirements for residential development in this zoning district where the existing structure encroaches into the side setbacks along Mesa Drive. All features within the twenty (20) foot front setback along Sana Ana Avenue would be limited to forty-two (42) inches from existing grade.
3. The proposed development will comply with all Building, Public Works, and Fire Codes. The Project will also comply with all City ordinances and conditions of approval.
4. The Project has been conditioned to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment.

Tentative Tract Map

In accordance with NBMC Section 19.12.070(A) (Required Findings for Action on Tentative Maps), the following findings and facts in support of a tentative tract map 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 the applicable provisions of the Subdivision Map Act and the City Subdivision Code.*

Facts in Support of Finding:

1. The Land Use Element (LU) of the General Plan designates the site as RM, which is intended to provide for areas appropriate for multiple-unit residential developments containing attached or detached dwelling units. This designation allows forty-three (43) dwelling units per acre, which equates to a maximum allowable density of approximately thirteen (13) units.
2. The Project is consistent with General Plan Policy LU 5.1.9, which requires multi-family dwellings to be designed to convey a high quality architectural character in regard to building elevations, ground floor treatment, roof design, parking, open space, and amenities. The Project provides common and private open space, where none is

required by the Zoning Code. Common open space is provided in the form of open landscaped areas and a barbeque area. Private open space is provided in the form of roof decks. Parking is provided as attached garages integrated with the residential structures, while the guest spaces on the site are uncovered. The Project provides a varied roof profile, with the fourth floor set back from the side setbacks and interior drive aisle. The third floor is also limited in size, with roof decks on either side of the living space to create more visual relief. The units along Mesa Drive have additional privacy due to the lower grade of the ground floor office and garage. Architectural treatment and building articulation is concentrated along Mesa Drive, which is the longest frontage of the property and the most visible to pedestrians and motorists. Consistency with the remaining principles of LU 5.1.9 is ensured through compliance with development standards.

3. The Project is consistent with General Plan Policy LU 6.6.2, which promotes the development of a mix of residential types and building scales as the Project includes an attached product type that will contribute to the variety of housing types in Santa Ana Heights and the surrounding areas.
4. The subject property is not located within a specific plan area.
5. The Public Works Department has reviewed the proposed tentative tract map and found it consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act.
6. The applicant will provide an in-lieu park dedication fee pursuant to NBMC Chapter 19.52 (Park Dedications and Fees), as required for park or recreational purposes in conjunction with the approval of a residential subdivision. The existing properties contain two (2) residential units and the Project would increase the number of dwelling units to eight (8). The in-lieu park fee would be required for the six (6) additional dwelling units. Credit for the existing residential units is provided because the impact to park services is related to the increase in residents associated with the new units.
7. Conditions of approval have been included to ensure compliance with Title 19 (Subdivisions).

Finding:

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

Fact in Support of Finding:

1. The 14,180-square-foot site is regular in shape, has a slope of less than twenty (20) percent, and is not within a zone deemed to be subject to seismically induced liquefaction potential. The site is large enough to accommodate the density proposed in compliance with all applicable Zoning requirements. The site is suitable for the type and density of development proposed in that the infrastructure serving the site and surrounding area has been designed and developed to accommodate the Project. As required by Condition of

Approval No. 41 (Exhibit "A"), a water and sewer demand study will be prepared to ensure that the water and sewer mains are adequate, and upgrades will be required if the infrastructure is not adequate.

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.*

Fact in Support of Finding:

1. The Project is not located near fish or wildlife habitat and the design of the subdivision will not cause substantial damage to habitat. See Section 2 (California Environmental Quality Act Determination).

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 proposed Tentative Tract Map is for condominium purposes. All construction for 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 NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. Furthermore, the Project conforms to all applicable City ordinances.
2. No evidence is known to exist that would indicate that the planned subdivision pattern will generate any serious public health problems.

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 does not conflict with any easements acquired by the public at large for access through or use of the property within the proposed development as there are no public easements that are located on the property. Sufficient site access is provided from the abutting public right-of-way (Santa Ana Avenue) with the proposed tract map.
2. Public improvements, including removal and replacement of damaged concrete curb, gutter, and sidewalk along Santa Ana Avenue and Mesa Drive frontage will be required of the applicant pursuant to the Municipal Code and the Subdivision Map Act. Each residential unit will be required to provide separate water service/meter and sewer lateral and cleanout.

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.*

Fact in Support of Finding:

1. The property is not subject to the Williamson Act. The subject property is not designated as an agricultural preserve and is less than one hundred (100) acres.

Finding:

- G. *That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (a) there is an adopted specific plan for the area to be included within the land project; and (b) the decision-making body finds that the proposed land project is consistent with the specific plan for the area.*

Fact in Support of Finding:

1. California Business and Professions Code Section 11000.5 was repealed by the Legislature in 2006 via Assembly Bill 2711. However, the proposed subdivision is not a "land project," as defined in prior California Business and Professions Code Section 11000.5 because it does not consist of fifty (50) or more parcels.

Finding:

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

Facts in Support of Finding:

1. The proposed Tentative Tract Map includes attached dwelling units with open space, private streets, and walkways further separating the units. The proposed subdivision design allows for solar access and future passive or natural heating and cooling opportunities. The proposed building height complies with the maximum limit of thirty-three (33) feet, which is compatible with the existing and allowed heights of other structures in the area. All of the units are aligned southeast-northwest with sufficient setbacks to provide southern exposure.
2. The proposed improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards based 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.*

Fact in Support of Finding:

1. The maximum residential density allowed for the site will remain unchanged with project approval. The eight (8) unit Project is consistent with the RM General Plan land use designation, which allows a maximum of thirteen (13) residential units on the property. The increase in six (6) units will improve the City's ability to meet its regional housing goals.

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. Wastewater discharge from the Project into the existing sewer system has been designed to comply with the Regional Water Quality Control Board ("RWQCB") requirements.

2. A Preliminary WQMP has been prepared and approved for the Project.
3. The conditions of approval include the requirement for a sewer demand study to determine if the existing sewer main on Santa Ana Avenue will be able to handle the sewage flows from the proposed development. Sewer connections are required to be installed per City Standards, the applicable provisions of NBMC Chapter 14.24 (Sewer Connection, Permits), and the latest revision of the Uniform Plumbing Code.

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.*

Fact 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 Planning Commission of the City of Newport Beach hereby approves Major Site Development Review SD2017-008 and Tentative Tract Map No. NT2017-003 subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.


PASSED, APPROVED, AND ADOPTED THIS 21st DAY OF MARCH, 2019.

AYES: Ellmore, Kramer, Lowrey, and Zak

NOES: Weigand

ABSTAIN: None

ABSENT: Kleiman and Koetting

BY: 
~~Peter Zak, Chairman~~ **ERIK WEIGAND, VICE CHAIR**

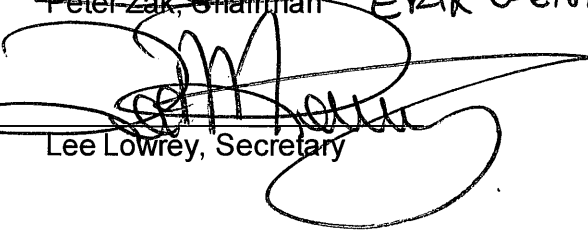
BY: 
~~Lee Lowrey, Secretary~~

EXHIBIT “A”

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

Planning Division Conditions

1. The development shall be in substantial conformance with the approved site plan, floor plans, building elevations, and project renderings 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 applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this approval.
4. *Prior to the issuance of a building permit, a park fee shall be assessed for the net increase of six (6) additional dwelling units.*
5. *Prior to the issuance of a building permit, fair share traffic fees shall be assessed for the net increase of six (6) additional dwelling units.*
6. *Prior to the issuance of a building permit, San Joaquin Hills Transportation Corridor Agency (“TCA”) fees shall be assessed for the net increase of six (6) additional dwelling units.*
7. A copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans prior to issuance of building permits.
8. The applicant is responsible for compliance with the Migratory Bird Treaty Act (“MBTA”). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within three hundred (300) feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.

- B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
9. Prior to the issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Site Development Review file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Major Site Development Review and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
 10. Prior to the issuance of building permits, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division.
 11. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
 12. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
 13. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
 14. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
 15. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.

16. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
17. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
18. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of NBMC Title 20 Planning and Zoning.
19. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Mesa Drive Townhomes including, but not limited to, Major Site Development Review No. SD2017-008 and Tentative Tract Map No. NT2017-003 (PA2017-218). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Fire Department Conditions

20. Dumpsters with an individual capacity of two hundred (200) gallons or more shall not be stored in buildings or placed within five (5) feet of combustible walls, openings, or combustible roof eave lines. Dumpsters are not prohibited in areas protected by an approved automatic sprinkler system installed throughout in accordance with NFPA 13 California Fire Code ("CFC") Section 304.3.4.
21. A fire flow shall be determined for the structure per Fire Department Guidelines B.01 CFC Section 507.3.

22. A fire alarm system that activates the occupant notification system shall be installed in Group R-2 occupancies where dwelling units, sleeping units are located three (3) or more stories above the lowest level of exit discharge (per CFC 907.2.9).
23. Means of egress shall be accessible per California Building Code ("CBC") Section 1009.
24. Elevators shall be required to accommodate a gurney and meet requirements of CBC Section 3002.
25. An automatic sprinkler system shall be installed in accordance with Section 903.3 throughout all buildings with a Group R fire area (CFC Section 903.2.8).

Building Division Conditions

26. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
27. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two (2) feet of freeboard.
- Pave or apply water four (4) times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two (2) hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed twenty-five (25) mph.

Emissions

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

Off-Site Impacts

- Encourage carpooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that South Coast Air Quality Management District (SCAQMD) significance thresholds are not exceeded.
 - Maintain and utilize a continuous water application system during earth placement and compaction to achieve a ten (10) percent soil moisture content in the top six (6) inch surface layer, subject to review/discretion of the geotechnical engineer.
28. Prior to issuance of grading permits, the applicant shall prepare and submit a WQMP for the Project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.
29. Prior to the issuance of grading permits, an erosion control plan shall be submitted and approved.

Public Works Department Conditions

30. Prior to commencement of demolition and grading of the Project, the applicant shall submit a construction management and delivery plan to be reviewed and approved by the Public Works Department. The plan shall include discussion of Project phasing; parking arrangements for both sites during construction; anticipated haul routes and construction mitigation. Upon approval of the plan, the applicant shall be responsible for implementing and complying with the stipulations set forth in the approved plan.
31. A Tract Map ("Map") shall be recorded. The Map shall be prepared on the California coordinate system (NAD 83). Prior to the recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphical 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, respectively. The Map submitted to the City of Newport Beach shall comply with the City's CADD standards. Scanned images will not be accepted.
32. Prior to the recordation of the Tract 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 the Orange County Subdivision Manual, Subarticle 18, respectively. Monuments (one (1) inch iron pipe with tag) shall be set on each lot corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of the construction Project.
33. Prior to the recordation of the Tract Map, a Subdivision Agreement shall be obtained and approved by the City Council.

34. Prior to the Final Tract Map approval, the applicant shall provide a Faithful Performance Bond and a Labor and Materials Bond, each for one hundred (100) percent of the estimated public improvements. An engineer's cost estimate shall be prepared by a Registered Civil Engineer and approved by the Public Works Director.
35. An encroachment permit is required for all work activities within the public right-of-way.
36. All improvements shall comply with the City's sight distance standard STD-11-L. Walls within the limited use area shall be limited to less than thirty-six (36) inches in height and planting within the limited use area shall be limited to twenty-four (24) inches in height maximum.
37. In case of damage done to public improvements surrounding the development site by the private construction, said damage shall be repaired and/or additional reconstruction within the public right-of-way may be required.
38. All on-site drainage shall comply with the latest City water quality requirements.
39. The parking garage layout and drive aisles shall comply with City Standard STD-805-L-A and STD-805-L-B. Dead-end drive aisles shall provide dedicated turn around space(s) and a five (5) foot minimum clear paved hammerhead/drive aisle extension. Drive aisle shall be a minimum of twenty-six (26) feet wide.
40. Each unit shall be served by separate water and sewer services, unless otherwise approved by the utility provider.
41. Sewer and water demand studies shall be submitted to the applicable utility providers. Approvals of said studies by the utility provider shall be provided to the City of Newport Beach prior to the recordation of the Final Tract Map.
42. *The applicant shall reconstruct the existing curb, gutter, and sidewalk along the entire Santa Ana Avenue and Mesa Drive property frontages.*
43. Driveway slopes shall comply with City Standard STD-160-L-C.
44. *The driveway design along Santa Ana Avenue shall provide a minimum four (4) foot accessible path around the sloped portion of the driveway. A pedestrian easement dedicated to the City may be required pending the final driveway design.*