



COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

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**CITY OF NEWPORT BEACH  
ZONING ADMINISTRATOR STAFF REPORT**

January 12, 2017  
Agenda Item No. 6

**SUBJECT:** Avila Lot Merger (PA2016-193)  
2800 and 2804 Newport Boulevard  
▪ Lot Merger No. LM2016-011

**APPLICANT:** Sergio Avila

**OWNER:** Sergio Avila

**PLANNER:** David Lee, Planning Technician  
(949) 644-3225, [dlee@newportbeachca.gov](mailto:dlee@newportbeachca.gov)

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**ZONING DISTRICT/GENERAL PLAN**

- **Zone:** Commercial Visitor-Serving (CV)
- **General Plan:** CV

**PROJECT SUMMARY**

A lot merger application and request to waive the parcel map requirement for two properties, under common ownership. The merger would combine two legal lots into a single parcel and allow development across the existing interior property line.

**RECOMMENDATION**

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. \_ approving Lot Merger No. LM2016-011 (Attachment No. ZA 1).

**DISCUSSION**

- A lot merger is proposed with respect to property located at 2800 and 2804 Newport Boulevard. The lot at 2800 Newport Boulevard is legally described as Parcel 1 of Block 225, as per map thereof recorded in Newport Beach Lot Line Adjustment No. 95-04, currently developed with the El Ranchito restaurant. The lot at 2804 Newport Boulevard is legally described as Parcel 2 of Block 225, as per

map thereof recorded in Newport Beach Lot Line Adjustment No. 95-04, and is currently developed with a parking lot and outdoor dining area supporting the restaurant. The lot at 2806, which is not included in the proposed lot merger, is also developed as a parking lot supporting the restaurant.

- The purpose of the lot merger is to legally merge the two parcels, under common ownership, into one parcel to allow for construction of a patio cover over the existing outdoor dining area to be built over the existing interior property line.
- Properties along Newport Boulevard consist of lots of varying shapes and sizes. Although the proposed lot merger will create a larger lot (7,739 square feet), it will not create an excessively large lot in comparison to the existing lots in the area. There are many existing lots in the surrounding development that are similar to the proposed lot area, including 2807 Newport Boulevard (17,693), and 2823 Newport Boulevard (8,437).
- The proposed lot width is approximately 77 feet, which will not create an excessively wide lot in comparison to other existing lots in the area. There are existing lots in the surrounding development that exceed the proposed lot width, including 2807 Newport Boulevard (approximately 149 feet wide), 2823 Newport Boulevard (approximately 100 feet wide), and 2911 Newport Boulevard (approximately 110 feet wide).
- The lot merger will not change the visual appearance of the restaurant in that the parcel to be merged is currently and will continue to be utilized as parking and outdoor dining for the restaurant.
- As demonstrated in the attached draft resolution, the proposed merger meets the requirements of Title 19 (Subdivisions).

## **ENVIRONMENTAL REVIEW**

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. 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.

**PUBLIC NOTICE**

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways), including the applicant, and posted on the subject property at least 10 days before the scheduled hearing, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

**APPEAL PERIOD:**

An appeal may be filed with the Director of Community Development within 10 days following the date of action. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200.

Prepared by:



David S. Lee, Planning Technician

JM/dl

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Project Plans

# **Attachment No. ZA 1**

Draft Resolution

## **RESOLUTION NO. ZA2017-###**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2016-011 AND A WAIVER OF THE PARCEL MAP REQUIREMENT FOR A LOT MERGER LOCATED AT 2800 AND 2804 NEWPORT BOULEVARD (PA2016-193)**

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

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Sergio Avila, with respect to property located at 2800 and 2804 Newport Boulevard. The lot at 2800 Newport Boulevard is legally described as Parcel 1 of Block 225, as per map thereof recorded in Newport Beach Lot Line Adjustment No. 95-04. The lot at 2804 Newport Boulevard is legally described as Parcel 2 of Block 225, as per map thereof recorded in Newport Beach Lot Line Adjustment No. 95-04.
2. The applicant proposes a lot merger and requests to waive the parcel map requirement for three properties under common ownership.
3. The subject properties are located within the Commercial Visitor-Serving (CV) Zoning District and the General Plan Land Use Element category is Visitor Serving Commercial (CV).
4. The subject properties are located within the coastal zone. The Coastal Land Use designation is Visitor Serving Commercial (CV-A).
5. A public hearing was held on January 12, 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. The project is categorically exempt under Section 15315, of the State CEQA (California Environmental Quality Act) Guidelines - Class 15 (Minor Land Divisions). 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 Section 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 existing legal lots by removing the interior lot line between the lots 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.*

#### Facts in Support of Finding:

1. The two 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 Commerical Visitor-Serving (CV) zoning designation, consistent with the surrounding area. The CV Zoning District is intended to provide for

areas appropriate for accommodations, goods, and services intended to serve primarily visitors to the City.

2. The Land Use Element of the General Plan designates the subject site as Visitor Serving Commercial (CV), which is intended to provide for accommodations, goods, and services intended to primarily serve visitors to the City of Newport Beach. 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.

Finding:

- E. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.*

Facts in Support of Finding:

1. Properties along Newport Boulevard consist of lots of varying shapes and sizes. Although the proposed lot merger will create a larger lot (7,739 square feet), it will not create an excessively large lot in comparison to the existing lots in the area. There are many existing lots in the surrounding development that are similar to the proposed lot area, including 2807 Newport Boulevard (17,693), and 2823 Newport Boulevard (8,437).
2. The proposed lot width is approximately 77 feet, which will not create an excessively wide lot in comparison to other existing lots in the area. There are existing lots in the surrounding development that exceed the proposed lot width, including 2807 Newport Boulevard (approximately 149 feet wide), 2823 Newport Boulevard (approximately 100 feet wide), and 2911 Newport Boulevard (approximately 110 feet wide).
3. The lot merger will not change the visual appearance of the restaurant in that the parcel to be merged is currently and will continue to be utilized as parking and outdoor dining for the restaurant.
4. The resulting lot configuration will not change the existing pattern of development since the orientation and access to the parcels would remain the same.

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 proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, General Plan, and Coastal Land Use Plan.
2. The subject property is not subject to a Specific Plan.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2016-011, 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 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 12<sup>th</sup> DAY OF JANUARY, 2017.**

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Patrick J. Alford, Zoning Administrator



**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

1. The map shall be submitted to the Public Works Department for Final Map Review and Approval. All applicable fees shall be paid.
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. Recordation of the lot merger documents with the County Recorder shall be required.
4. Lot Merger No. LM2016-011 shall expire unless exercised within twenty-four (24) months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
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 the Avila Lot Merger including, but not limited to, Lot Merger No. LM2016-011 (PA2016-193). 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

## **Attachment No. ZA 2**

Vicinity Map

# VICINITY MAP



Lot Merger No. LM2016-011  
PA2016-193

**2800 AND 2804 NEWPORT BOULEVARD**

# **Attachment No. ZA 3**

Project Plans

EXHIBIT "A"  
CITY OF NEWPORT BEACH  
LOT MERGER NO. LM 2016 - \_\_\_\_\_  
(LEGAL DESCRIPTION)

OWNERS	EXISTING PARCEL AP NUMBER	PROPOSED PARCELS REFERENCE NUMBERS
SERGIO AVILA & MARYBELL AVILA, AS TRUSTEES OF THE SERGIO & MARYBELL AVILA TRUST	047-052-08	1
SERGIO AVILA & MARYBELL AVILA, AS TRUSTEES OF THE SERGIO & MARYBELL AVILA TRUST	047-052-09	1

PARCEL 1:

PARCELS 1 AND 2, AS CREATED BY THE CITY OF NEWPORT BEACH LOT LINE  
ADJUSTMENT N.B.L.L.A. 95-4 RECORDED SEPTEMBER 8, 1995 AS INSTRUMENT  
NO. 95-0393420, OFFICIAL RECORDS, IN THE CITY OF NEWPORT BEACH, COUNTY  
OF ORANGE, STATE OF CALIFORNIA.



*Douglas O. Foster P.L.S.*  
DOUGLAS O. FOSTER P.L.S. 4599

**EXHIBIT "B"**  
**CITY OF NEWPORT BEACH**  
**LOT MERGER NO. LM 2016 - \_\_\_\_\_**  
(MAP)

OWNERS	EXISTING PARCEL AP NUMBER	PROPOSED PARCELS REFERENCE NUMBERS
ER PUERTO NUEVO, LLC A CALIFORNIA LIMITED LIABILITY COMPANY	047-052-08	1
ER PUERTO NUEVO, LLC A CALIFORNIA LIMITED LIABILITY COMPANY	047-052-09	1

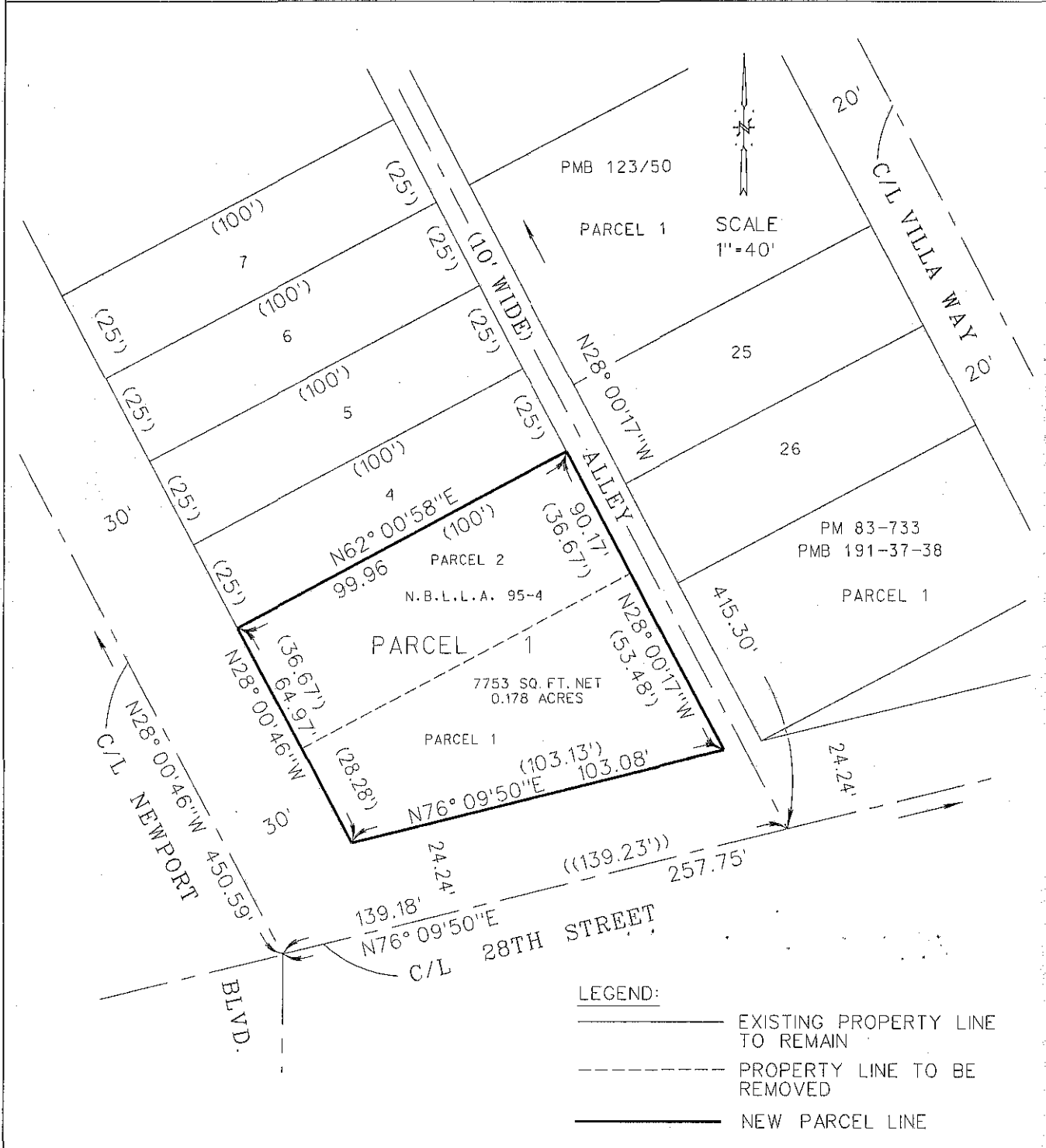


EXHIBIT "C"  
CITY OF NEWPORT BEACH  
LOT MERGER NO. LM 2016 - \_\_\_\_\_  
(MAP)

OWNERS	EXISTING PARCEL AP NUMBER	PROPOSED PARCELS REFERENCE NUMBERS
ER PUERTO NUEVO, LLC A CALIFORNIA LIMITED LIABILITY COMPANY	047-052-08	1
ER PUERTO NUEVO, LLC A CALIFORNIA LIMITED LIABILITY COMPANY	047-052-09	1

