



CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

October 11, 2018
Agenda Item No. 3

SUBJECT: Patterson Residential Condominiums (PA2018-176)
Coastal Development Permit No. CD2018-075
Tentative Parcel Map No. NP2018-026

SITE LOCATION: 312 35th Street

APPLICANT: Andrew Patterson

OWNER: Andrew Patterson

PLANNER: Liz Westmoreland, Assistant Planner
949-644-3234, westmoreland@newportbeachca.gov

LAND USE AND ZONING

- **General Plan:** RT (Two-Unit Residential)
- **Zoning District:** R-2 (Two-Unit Residential)
- **Coastal Land Use Category:** RT-E (Two Unit Residential – (30.0-39.9 DU/AC))
- **Coastal Zoning District:** R-2 (Two-Unit Residential)

PROJECT SUMMARY

The applicant requests approval of a coastal development permit and tentative parcel map. An existing single-family residence has been demolished and a new duplex is currently under construction. No waivers of Title 19 (Subdivisions) are proposed. The Tentative Parcel Map would allow each unit to be sold individually. The Tentative Parcel Map also requires the approval of a Coastal Development Permit pursuant to Title 21 Local Coastal Program Implementation Plan in the Municipal Code.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions), because it has no potential to have a significant effect on the environment; and
- 3) Adopt Draft Zoning Administrator Resolution No. __ approving Coastal Development Permit No. CD2018-075 and Tentative Parcel Map No. NP2018-026 (Attachment No. ZA 1).

DISCUSSION

- The Tentative Parcel Map is for two-unit residential condominium purposes. An existing single-family residence has been demolished and new two-unit dwelling is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation (Two-Unit Residential).
- The subject property is within a developed neighborhood and is located approximately 150 feet from the bay. The subject property is not located near or adjacent to any natural landforms including coastal bluffs, and is not within the proximity of any environmentally sensitive areas.
- The duplex currently under construction provides access to the required off-site parking via an alley in the rear of the property. Thus, no on-street parking would be lost.
- The project site is not located between the nearest public road and the sea or shoreline; the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
- The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the 35th Street frontage, as needed, as well as the undergrounding of utilities, consistent with the Subdivision Code (Title 19).
- The future residential building will be designed to have wastewater discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

ENVIRONMENTAL REVIEW

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.

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 proposed parcels are consistent with the land use and zoning designations, does not have a slope greater than 20 percent, and

was not involved in the division of a larger parcel within two years. Therefore, the propose parcel map is eligible for the Class 15 exemption.

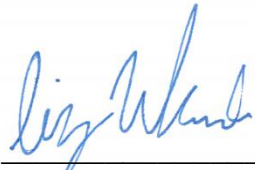
PUBLIC NOTICE

Notice of this public hearing was published in the Daily Pilot, mailed to all owners and residential occupants 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:

This action shall become final and effective 14 days following the date the Resolution is 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 21 (Local Coastal Implementation Plan) of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:



Liz Westmoreland, Assistant Planner

JM/law

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

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2018-###

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-075 AND TENTATIVE PARCEL MAP NO. NP2018-026 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 312 35th STREET (PA2018-176)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Andrew Patterson, with respect to property located at 312 35th Street, requesting approval of a coastal development permit and tentative parcel map.
2. The lot at 312 35th Street is legally described as Lot 7, Block 234, of the Lake Tract of Newport Beach.
3. The applicant proposes a tentative parcel map and associated coastal development permit for condominium purposes. No waivers of development standards are requested. An existing single-family residence has been demolished and a new duplex is currently under construction. No waivers of Title 19 (Subdivisions) are proposed. The Tentative Parcel Map would allow each unit to be sold individually. The Tentative Parcel Map also requires the approval of a Coastal Development Permit pursuant to Title 21 Local Coastal Program Implementation Plan in the Municipal Code.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two Unit Residential – (30.0-39.9 DU/AC)) and it is located within the R-2 (Two-Unit Residential) Coastal Zone District.
6. A public hearing was held on October 11, 2018, 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 categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 15 (Minor Land Divisions), 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 proposed parcels are consistent with the land use and zoning designations, does not have a slope greater than 20 percent, and was not involved in the division of a larger parcel within two years. Therefore, the proposed parcel map is eligible for 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 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code and approves the Coastal Development Permit based on the following findings per Section 21.52.015 F of Title 21:

Finding:

A. *Conforms to all applicable sections of the certified Local Coastal Program.*

Facts in Support of Finding:

1. The tentative parcel map meets all of the requirements of the Local Coastal Program, including the provisions contained within Section 21.30.025 Coastal Subdivisions.
2. The subject property is within a developed neighborhood and is located approximately 150 feet from the bay. The subject property is not located near or adjacent to any natural landforms including coastal bluffs, and is not within the proximity of any environmentally sensitive areas.
3. The duplex currently under construction provides access to the required off-site parking via an alley in the rear of the property. Thus, no on-street parking would be lost.

Finding:

B. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline; the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

- A. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. An existing single-family residence has been demolished and new two-unit dwelling is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation (Two-Unit Residential).
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the 35th Street frontage, as needed, as well as the undergrounding of utilities, consistent with the Subdivision Code (Title 19).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a two-unit development because it is regular in shape.
2. The subject property is accessible from 35th Street and the alley in 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. An existing single-family residence has been demolished and a new two-unit dwelling is currently under construction.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat on-site.
3. The project is categorically exempt under Section and 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 1 (Existing Structures) and 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 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 Public Works department has reviewed the proposed parcel map and determined that 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 no public easements are 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. 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 dwelling is consistent with the R-2 Zoning District, which allows two residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

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

Facts in Support of Finding:

1. The future residential building will be designed to have 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 within the Coastal Zone. The facts in support of findings A and B above are hereby incorporated by reference.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-075 and Tentative Parcel Map No. NP2018-026, 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 19 (Subdivisions) and Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title

14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 11TH DAY OF OCTOBER, 2018.

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 final. The building permit for the new construction shall not be final until after recordation of the parcel map.
3. Prior to the recordation of the Parcel Map, a park fee shall be assessed for one additional dwelling unit.
4. 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 Coastal Development Permit.
5. This Coastal Development Permit No. CD2018-075 and Tentative Parcel Map No. NP2018-026 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
6. 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 Patterson Residential Condominiums including, but not limited to, Coastal Development Permit No. CD018-075 and Tentative Parcel Map No. NP2018-026 (PA2018-176). 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

7. A Parcel Map shall be recorded. The map shall be prepared on the California coordinate system (North American Datum of 1983, 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 -9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivisions 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.**

8. 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.
9. All improvements shall be constructed as required by Ordinance and the Public Works Department.
10. Reconstruct all damaged sidewalk panels, curb, gutter, and street along the 35th Street property frontage and any damaged concrete alley panels along the alley property frontage as determined by the Public Works Department.
11. All existing overhead utilities shall be undergrounded.
12. No above ground improvements shall be permitted within the 5-foot alley setback.
13. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
14. An encroachment permit is required for all work activities within the public right-of-way.
15. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
16. In case of damage done to public improvements surrounding the development site by private construction, additional reconstruction within the public Right-of-way could be required at the discretion of the Public Works Inspector.

Building

17. Separate utilities shall be provided for each unit.
18. Independent fire risers shall be provided for each unit.
19. Fire resistive assemblies shall be of equal rating for each unit.
20. Sound ratings shall comply with City of Newport Beach Building requirements.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP



Coastal Development Permit No. CD2018-075 and
Tentative Parcel Map NP2018-026
PA2018-176

312 35th Street

Attachment No. ZA 3

Plans

MAY 2018

SITE ADDRESS
312 35TH STREET
NEWPORT BEACH, CA 92663
(APN: 423-374-02)

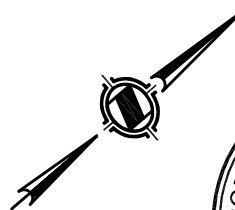
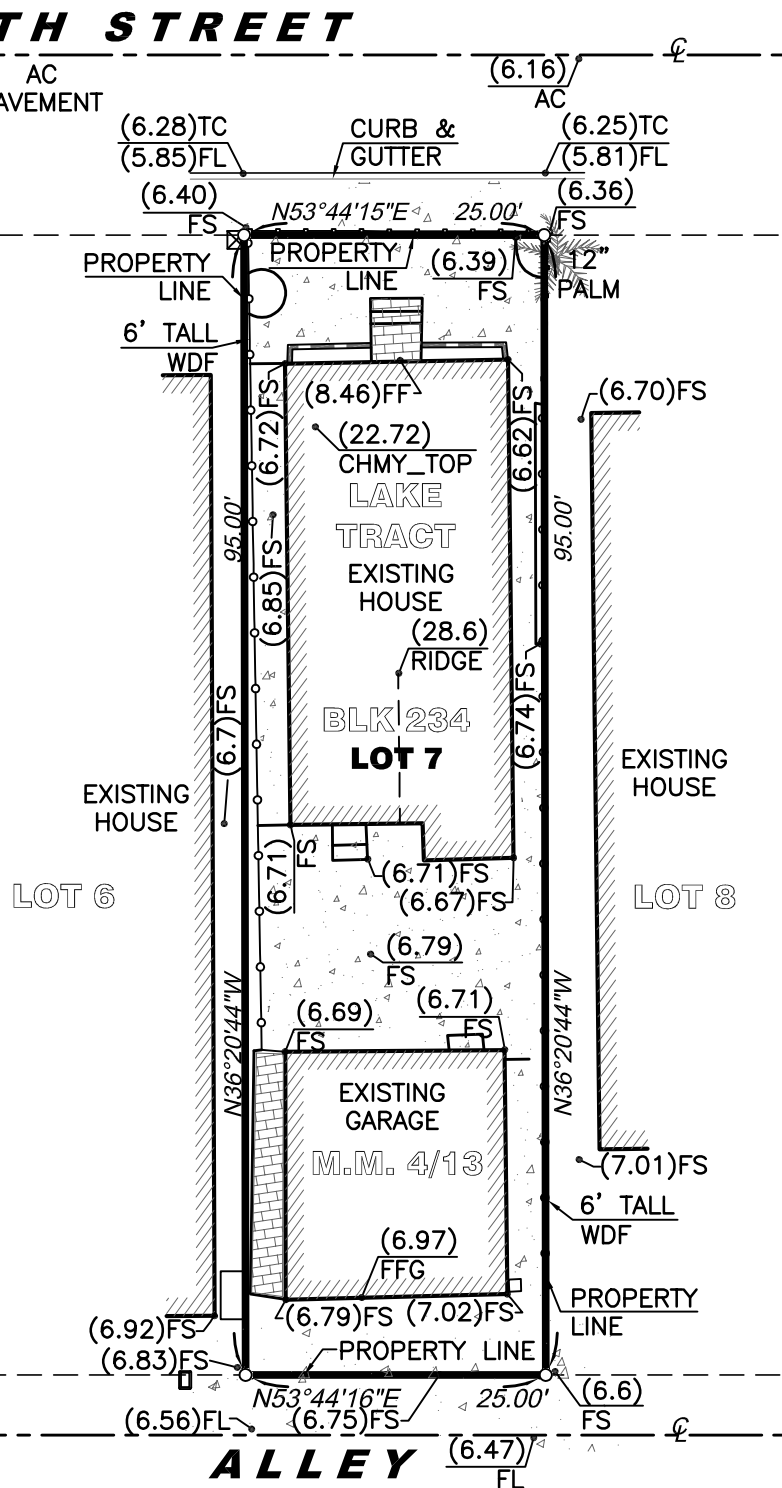
LOT 7
BLOCK 234
LAKE TRACT
M.M. 4/13

THE LAND REFERRED TO HEREIN BELOW IS
SITUATED IN THE COUNTY OF ORANGE, STATE
OF CALIFORNIA, AND DESCRIBED AS
FOLLOWS:

LOT 7 IN BLOCK 234 OF LAKE TRACT IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 4, PAGE 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

OWNER/DEVELOPER:

ANDREW PATTERSON, A MARRIED MAN



SCALE = 1" = 16'



PREPARED BY: A. R. H.

5/17/2018

PAUL D. CRAFT, P.L.S. 8516 DATE
 LICENSE EXPIRES 12/31/18
 JN:17068

APEX LAND SURVEYING
INC.
HUNTINGTON BEACH, CALIFORNIA 92646
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APEXLSINC@GMAIL.COM