



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

November 29, 2018  
Agenda Item No. 3

**SUBJECT:** Pack Condominiums (PA2018-221)  
▪ Coastal Development Permit No. CD2018-090  
▪ Tentative Parcel Map No. NP2018-031  
▪ County Tentative Parcel Map No. 2018-145

**SITE LOCATION:** 1045 West Balboa Boulevard

**APPLICANT:** FoxLin Architects

**OWNER:** Pack Investment Group, LLC

**PLANNER:** David S. Lee, Assistant Planner  
949-644-3225, dlee@newportbeachca.gov

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### **LAND USE AND ZONING**

- **Coastal Land Use Category:** RT-D (Two-Unit Residential)
- **Coastal Zoning District:** R-2 (Two-Unit Residential)
- **General Plan:** RT (Two-Unit Residential)
- **Zoning District :** R-2 (Two-Unit Residential)

### **PROJECT SUMMARY**

A request for a tentative parcel map for two-unit condominium purposes. Four residential apartment units have 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, Class 15 (Minor Land Divisions) of the CEQA Guidelines, 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. CD2018-090 and Tentative Parcel Map No. NP2018-031 (Attachment No. ZA 1).

## **DISCUSSION**

- Two structures with two units each (four units total) have been demolished and a new duplex is currently under construction. The new duplex will provide the Newport Beach Municipal Code-required two-car parking per unit. Vehicular access will be maintained from the alley at the rear of the property.
- The subject property is approximately 3,152 square feet in area and generally flat.
- Coastal Development Permit No. CD2017-078 was previously issued by the Zoning Administrator on November 16, 2017, authorizing the demolition of four units and the construction of a new duplex.
- Approval of the Tentative Parcel Map will allow each unit to be sold individually.
- The property is designated for two-unit residential use by the General Plan, Zoning Code, Coastal Land Use Plan and Coastal Zoning District. The new two-unit dwelling is consistent with this designation and a tentative parcel map for condominiums does not change the use.
- The new condominium project will conform to current Municipal Code requirements and meet all Title 19 standards.
- The project site is located between the nearest public road and the sea or shoreline. The residential lot does not currently provide nor inhibit public coastal access. Newport Beach Municipal Code (NBMC) Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project is a tentative parcel map for condominium purposes. Thus, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities.
- Public improvements such as reconstructing damaged concrete sidewalk panels, curb and gutter along West Balboa Boulevard will be required of the applicant per the Municipal Code and Subdivision Map Act.

## **ENVIRONMENTAL REVIEW**

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 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.

### **PUBLIC NOTICE**

Notice of this application 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:**

An appeal may be filed with the Director of Community Development within 14 days following the date of action. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:

  
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David S. Lee, Planning Technician

JM/dl

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Tentative Parcel Map No. NP2018-031
		County Tentative Parcel Map No. 2018-145

# **Attachment No. ZA 1**

Draft Resolution

## **RESOLUTION NO. ZA2018-###**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2018-031 AND COASTAL DEVELOPMENT PERMIT NO. CD2018-090 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 1045 WEST BALBOA BOULEVARD (PA2018-221)**

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

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

1. An application was filed by FoxLin Architects, with respect to property located at 1045 West Balboa Boulevard, and legally described as Lot 12 of Block 10, requesting approval of a tentative parcel map and a coastal development permit.
2. The applicant proposes a tentative parcel map for two-unit condominium purposes. Four residential apartment units have been demolished and a new two-unit dwelling is currently under construction. No waivers of Title 19 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 of the Municipal Code. Coastal Development Permit No. CD2017-078 was previously issued by the Zoning Administrator on November 16, 2017, authorizing the demolition of four units and the construction of a new duplex.
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.
4. The subject property is located within the coastal zone and has a Coastal Land Use Designation of Two-Unit Residential (RT-D) and a Coastal Zoning District of Two-Unit Residential (R-2).
5. A public hearing was held on November 29, 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 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 (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 parcels 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. 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 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. That the proposed map conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The Tentative Parcel Map is for condominium purposes and meets all of the requirements of the Local Coastal Program, including 21.30.025 Coastal Subdivisions.
2. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies.
3. The Tentative Parcel Map is for a property within a developed neighborhood that is approximately 660 feet from the mean high water line and is not near any natural landforms or environmentally sensitive areas.

#### Finding:

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

#### Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. The residential lots do not currently provide nor inhibit public coastal access. Newport Beach Municipal Code Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project is a tentative parcel map for condominium purposes. Thus, the project does not involve a change in land use,

density or intensity that will result in increased demand on public access and recreation opportunities.

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:

*C. 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. Four residential apartment units have been demolished and a 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 West Balboa Boulevard frontage, consistent with the Subdivision Code (Title 19).

Finding:

*D. 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 the alley at the rear and is adequately served by existing utilities.

Finding:

*E. 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. Four residential apartment units have 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.
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:

*F. 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:

*G. 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:

*H. 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 is developed for residential use and is located in a Zoning District that permits residential uses.

Finding:

*I. 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.*

Facts in Support of Finding:

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:

*J. 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:

*K. 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:

*L. 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 dwelling will be designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

*M. 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 Tentative Parcel Map No. NP2018-031 and Coastal Development Permit No. CD2018-090, 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 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 29<sup>TH</sup> DAY OF NOVEMBER, 2018.**

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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. 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 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan) 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 Pack Residence Condominiums including, but not limited to, Tentative Parcel Map No. NP2018-031 and Coastal Development Permit No. CD2018-090 (PA2018-221). 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**

5. A 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. All damaged sidewalk panels, curb, gutter and street along the West Balboa Boulevard property frontage shall be reconstructed and any damaged concrete alley panels along the alley property frontage as determined by the Public Works Department.
9. All existing overhead utilities shall be undergrounded.
10. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed per City standard with a traffic-grade box and cover. Each water meter and sewer clean out shall be located within the public right of way.
11. An encroachment permit is required for all work activities within the public right-of-way.
12. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
13. Any non-standard encroachment within the public right of way shall be removed.
14. 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.

## **BUILDING**

15. Independent utility services shall be provided for each unit.
16. Independent fire risers shall be required for each unit.
17. Construction shall comply with the California Code of Regulations.

## **Attachment No. ZA 2**

Vicinity Map

# VICINITY MAP



Coastal Development Permit No. CD2018-090  
Tentative Parcel Map No. NP2018-031  
PA2018-221

**1045 West Balboa Boulevard**

# **Attachment No. ZA 3**

Tentative Parcel Map



TENTATIVE PARCEL MAP  
NO. 2018-145

