



CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

January 10, 2019
Agenda Item No. 8

SUBJECT: 323 Marguerite LLC Residential Condominiums (PA2018-231)

SITE LOCATION: 323 Marguerite Avenue, Units A and B

- Tentative Parcel Map No. NP2018-033
- Coastal Development Permit No. CD2018-101
- County Tentative Parcel Map No. 2016-198

APPLICANT: Julian Tooma

OWNER: 323 Marguerite, LLC

PLANNER: Patrick Achis, Planning Technician
949-644-3237, pachis@newportbeachca.gov

GENERAL PLAN/ZONING DISTRICT

- **General Plan:** RM (Multiple-Unit Residential)
- **Zoning District:** RM (Multi-Unit Residential)
- **Coastal Land Use Category:** RM-D (Multiple Unit Residential - (30.0 - 39.9 DU\AC))
- **Coastal Zoning District:** RM (Multi-Unit Residential)

PROJECT SUMMARY

The applicant requests a tentative parcel map for two-unit condominium purposes. An existing duplex was demolished and a new duplex is under construction pursuant to Zoning and Building Code requirements. Approval of the Tentative Parcel Map will allow each unit to be sold individually. No waivers of Title 19 (Subdivisions) are proposed. The Tentative Parcel Map also requires the approval of a coastal development permit (CDP) pursuant to Newport Beach Municipal Code (NBMC) Title 21 (Local Coastal Program Implementation Plan).

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 Tentative Parcel Map No. NP2018-033 and Coastal Development Permit No. CD2018-101 (Attachment No. ZA 1).

DISCUSSION

- The project site is located on the west side of Marguerite Avenue between Seaview Avenue and Bayside Drive. The lot is rectangular, relatively flat, and approximately 3,540 square feet in area.
- An existing duplex is currently under construction to condominium standards.
- A Coastal Development Permit Waiver for demolition of the existing duplex and construction of a new duplex was approved by the California Coastal Commission in 2016 (CDP Waiver 5-15-2008-W).
- The new duplex has been designed to provide the Code-required minimum two-car parking per unit as required by Sections [20.40.040](#) and [21.40.040](#) (Off-Street Parking Spaces Required). Vehicular access will be maintained from the alley at the rear of the property. Each unit will be served by separate utility connections.
- The property is designated for Multiple-Unit Residential use by the General Plan, Zoning Code, Coastal Land Use Plan, and Coastal Zoning District. The new duplex is consistent with this designation and a tentative parcel map for condominiums does not change the use.
- Approval of the Tentative Parcel Map will allow each unit to be sold individually.
- The new condominium project will conform to current Municipal Code requirements and meet all Title 19 (Subdivisions) standards, as detailed in the attached draft Resolution (Attachment No. ZA 1).
- The Tentative Parcel Map is subject to a coastal development permit and conforms to NBMC Title 21 (Local Coastal Program Implementation Plan), including [Section 21.30.035 \(Coastal Subdivisions\)](#).
- The project site is not located between the nearest public road and the sea or shoreline area and approval of the parcel map would not affect public recreation access or views. The Tentative Parcel Map meets the required findings found in [Section 21.52.015.F \(Coastal Development Permits\)](#).

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. 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 proposed parcels are consistent with the land use and zoning designations, do not have a slope greater than 20 percent, and were not involved in the division of a larger parcel within two years. Therefore, the proposed 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 NBMC. 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 19 (Subdivisions) and Title 21 (Local Coastal Program 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:



Patrick Achis
Planning Technician

JM/pa

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Tentative Parcel Map No. NP2018-033
		County Tentative Parcel Map No. 2016-198

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2019-###

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING TENTATIVE PARCEL MAP NO. NP2018-033 AND COASTAL DEVELOPMENT PERMIT NO. CD2018-101 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 323 MARGUERITE AVENUE (PA2018-231)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Julian Tooma (“Applicant”), on behalf of 323 Marguerite, LLC (“Owner”), with respect to property located at 323 Marguerite Avenue, Units A and B, and legally described as Lot 23, in Block 238 of the Corona Del Mar Tract, requesting approval of a tentative parcel map and coastal development permit for two-unit condominium purposes.
2. The applicant proposes a tentative parcel map and associated coastal development permit for condominium purposes. A duplex was demolished and a new duplex is currently under construction pursuant to Zoning and Building Code requirements. Approval of the Tentative Parcel Map will allow each unit to be sold individually. No waivers of Title 19 (Subdivisions) are proposed. The Tentative Parcel Map also requires the approval of a coastal development permit (CDP) pursuant to Newport Beach Municipal Code (NBMC) Title 21 (Local Coastal Program Implementation Plan).
3. The subject property is located within the Multi-Unit Residential (RM) Zoning District and the General Plan Land Use Element category is Multiple-Unit Residential (RM).
4. The subject property is located within the coastal zone and has a Coastal Land Use Designation of Multiple Unit Residential (RM-E) (30.0 - 39.9 DUAC) and a Coastal Zoning District of Multi-Unit Residential (RM).
5. A public hearing was held on January 10, 2019, 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 NBMC. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to the State CEQA (California Environmental Quality Act) Guidelines under Class 15 (Minor Land Divisions).
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (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 proposed parcels are consistent with the land use and zoning designations, do not have a slope greater than 20 percent, and were 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 NBMC Title 21 (Local Coastal Program Implementation Plan) and approves the Coastal Development Permit based on the following findings per Section 21.52.015(F):

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 a property within a developed neighborhood, on a lot that is more than 1,100 feet from the shoreline and is not near any natural landforms including coastal bluffs, and is not within the proximity of any environmentally sensitive areas.
2. The duplex currently under construction provides access to the required off-street parking via an alley in the rear of the property. Thus, no on-street parking would be lost.
3. A Coastal Development Permit Waiver for demolition of the existing duplex and construction of a new duplex was approved by the California Coastal Commission in 2016 (CDP Waiver 5-15-2008-W).

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.

Fact in Support of Finding:

1. The Tentative Parcel Map is not between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of NBMC Title 20 (Planning and Zoning) and is approved based on

the following findings per [NBMC Section 19.12.070 \(Required Findings for Action on Tentative Maps\)](#):

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. An existing duplex has been demolished and a new duplex is under construction. The proposed subdivision and improvements are consistent with the density of the RM Zoning District (Multi-Unit Residential) and current General Plan Land Use Designation (Multiple-Unit Residential).
2. The subject property is not located within a specific plan area.
3. The project is conditioned to require public improvements, including the reconstruction of drains, sidewalks, curbs, and gutters along the Marguerite Avenue frontage, consistent with the requirements of NBMC 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. The lot is rectangular in shape, 30 feet wide, 118 feet deep, and 3,540 square feet in area. A previously existing duplex was demolished and a new duplex is under construction.
2. The project site will maintain vehicular access from the alley at the rear of the property and existing utility services are adequate for the two-unit development.

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. The site was previously developed with a duplex and a new duplex is 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) for the reasons noted in Section 2 of this Resolution.

Finding:

F. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Fact 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 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. 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 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 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 the Multi-Unit Residential (RM) Zoning District, which 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 duplex is consistent with the RM 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 duplex is 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. NP2018-033 and Coastal Development Permit No. CD2018-101, 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 Director of Community Development in accordance with the provisions of NBMC Title 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan).

PASSED, APPROVED, AND ADOPTED THIS 10th DAY OF JANUARY, 2019.

Patrick J. Alford, Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL****Planning Division**

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 and prior to final of the building permit for construction of the new duplex, the applicant shall apply for a building permit to change the description of the subject development from “duplex” to “condominium.” The development will not be condominiums until this permit is finalized. The building permit for the new construction shall not be finalized until after recordation of the parcel map.
3. This approval shall expire and become void unless exercised within 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 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 323 Marguerite, LLC Residential Condominiums including, but not limited to, Tentative Parcel Map No. NP2018-033 and Coastal Development Permit No. CD2018-101 (PA2018-231). 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 Department

5. A parcel map shall be recorded. The map shall be prepared on the California coordinate system (North American Datum of 1983). 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 Section 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 Marguerite Avenue property frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department.
9. All existing overhead utilities shall be undergrounded.
10. All above ground improvements shall be prohibited within the 5-foot rear alley setback.
11. All existing private improvements, including brick pavers within the public right-of-way fronting the development site shall be removed.
12. New sod or low groundcovers of the type approved by the City shall be installed throughout the Marguerite Avenue parkway fronting the development site.
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. The existing street tree fronting the property shall be protected in place.
17. 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.

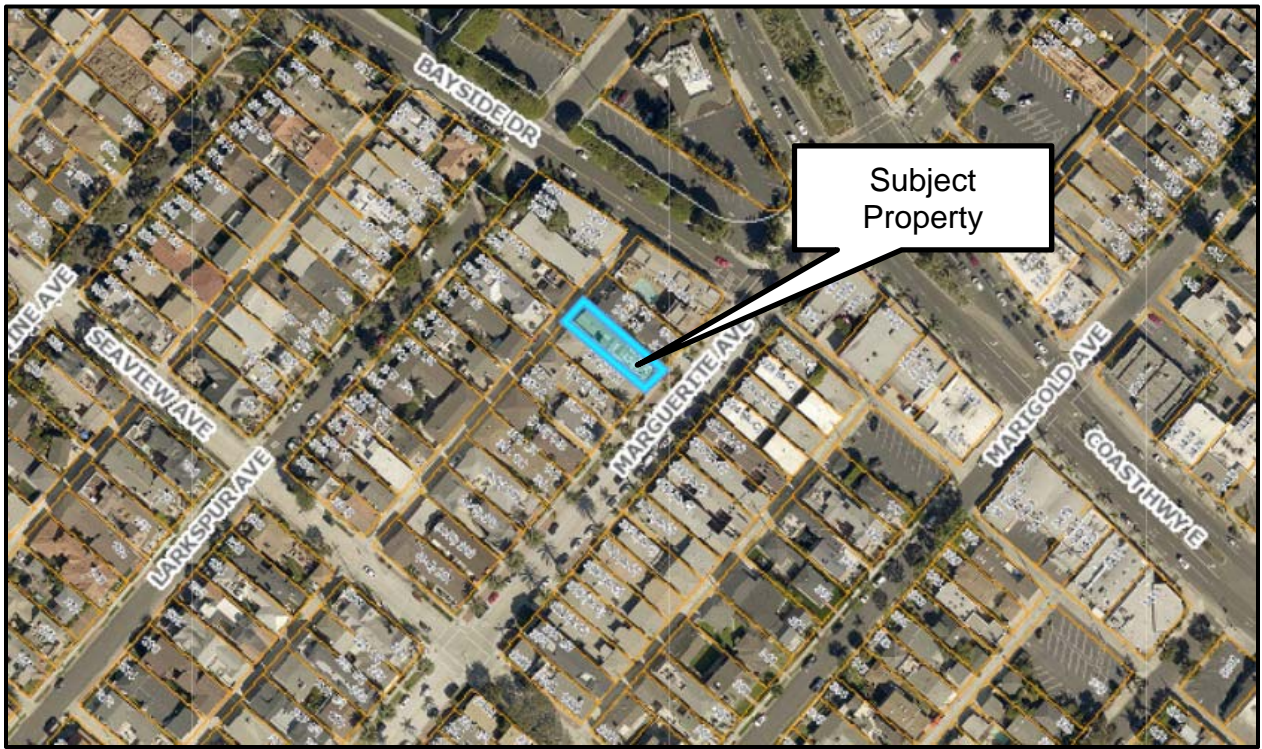
Building Division

18. Independent fire risers shall be provided for each unit as per National Fire Protection Association 13D.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP

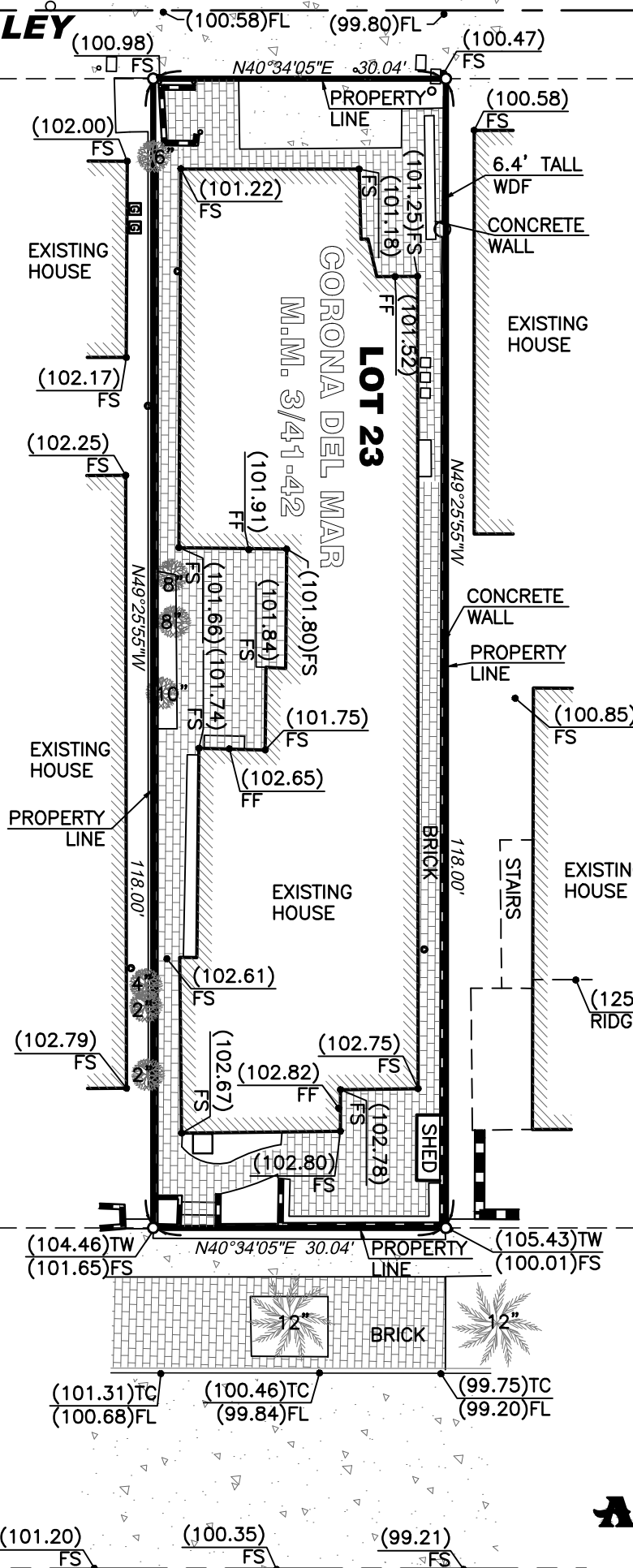


Tentative Parcel Map No. NP2018-033
Coastal Development Permit No. CD2018-101
(PA2018-231)
323 Marguerite Avenue, Units A and B

Attachment No. ZA 3

Tentative Parcel Map No. NP2018-033

County Tentative Parcel Map No. 2016-198

ALLEY

TENTATIVE PARCEL MAP NO. 2016-198

AUGUST 2018

SITE ADDRESS
323 MARGUERITE AVENUE #B
CORONA DEL MAR, CA 92625
(APN: 052-102-20)

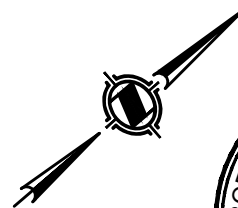
LOT 23
BLOCK 238
CORONA DEL MAR TRACT
M.M. 3/41-42

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

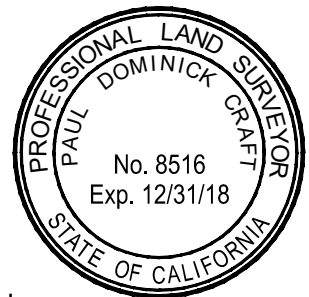
LOT 23 IN BLOCK 238 OF CORONA DEL MAR IN
THE CITY OF NEWPORT BEACH, COUNTY OF
ORANGE, STATE OF CALIFORNIA, AS PER MAP
RECORDED IN BOOK 3, PAGES 41 AND 42 OF
MISCELLANEOUS MAPS, IN THE OFFICE OF
THE COUNTY RECORDER OF SAID ORANGE
COUNTY.

OWNER/DEVELOPER:

323 MARGUERITE, LLC
A CALIFORNIA LIMITED LIABILITY COMPANY



SCALE = 1" = 16'



PREPARED BY: A. R. H.

PAUL D. CRAFT, P.L.S. 8516
LICENSE EXPIRES 12/31/18
JN: 15085

9/20/2018

DATE

**APEX LAND SURVEYING
INC.**

HUNTINGTON BEACH, CALIFORNIA 92646
PHONE: (714) 488-5006 FAX: (714) 333-4440
APEXLSINC@GMAIL.COM

MARGUERITE AVENUE