

**CITY OF NEWPORT BEACH
MODIFICATIONS STAFF ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Planning Department
Javier Garcia, Zoning Administrator
jgarcia@city.newport-beach.ca.us

SUBJECT: Report of the actions taken for the Modifications Hearing on Monday, March 24, 2008

Item 1: Parcel Map No. NP2008-005 (PA2008-032)
417 Poinsettia Avenue

Request for two-unit condominium purposes. The existing duplex was demolished and a new duplex is being constructed. The new duplex will become a two-unit condominium structure. The code required two-car parking per unit will be provided. No exceptions to Title 19 development standards are proposed with this application. The property is located in the R-2 District.

This item was approved.

Council District 6

Item 2: Condominium Conversion No. CC2008-002 and Parcel Map No. NP2008-006
(PA2008-035)
604 and 604 ½ Jasmine Avenue

Request to convert an existing duplex into a two-unit condominium project. The code required two-car parking per unit will be provided. No waivers of Title 19 development standards are proposed with this application. In addition, a Tentative Parcel Map application has been submitted for two-unit condominium purposes. The existing duplex will be converted to two-unit condominiums. The code required two-car parking per unit will be provided. No exceptions to Title 19 development standards are proposed with this application. The property is located in the R-2 District.

This item was continued to the 04/14/08 Modifications Hearing.

Council District 6

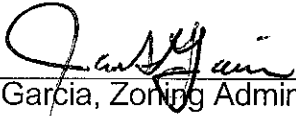
Item 3: Modification No. MD2008-015 (PA2008-033)
1 Burning Tree Road

Request to permit an exterior, freestanding fireplace that encroaches approximately 13 feet, 6 inches into the required 15-foot rear yard setback. The request also includes the retention of an existing barbeque that encroaches into the required 5-foot side yard setback. The property is located in the PC-8 (Big Canyon low density residential) District.

This item was approved.

Council District 5

Prepared and submitted by:



Javier S. Garcia, Zoning Administrator

APPEAL: The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

- c: David Lepo, Planning Director (*e-mail*)
Sharon Wood, Assistant City Manager (*e-mail*)
David Keely, Public Works Senior Civil Engineer (*e-mail*)
Kay Sims, Assistant Planner (*e-mail*)
Sgt. Ron Vallercamp, Vice/Narcotics (*e-mail*)
Code Enforcement Division(*e-mail*)
Erin Steffen, Office Assistant (*e-mail*)
Iris Lee, Public Works (*e-mail*)
Evelyn Tseng, Revenue (*e-mail*)



PARCEL MAP NO. NP2008-005
(PA2008-032)

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application No. Parcel Map No. NP2008-005 (PA2008-032)
Applicant County Parcel Map No. 2007-204
A. Weir Construction Inc
Site Address 417 Poinsettia Avenue
Legal Description Corona Del Mar, Block 442, Lot11

On March 24, 2008, the Zoning Administrator approved the parcel map request for two-unit condominium purposes. The existing duplex was demolished and a new duplex is being constructed. The new duplex will become a two-unit condominium structure. The code required two-car parking per unit will be provided. No exceptions to Title 19 development standards are proposed with this application. The property is located in the R-2 District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

FINDINGS

The Zoning Administrator determined in this case that the proposed parcel map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 of Title 19:

1. The proposed parcel map is for condominium purposes. A previously existing duplex was demolished and a new duplex, currently under construction, will become a two-unit condominium structure. The residential density on the site will remain the same. The proposed subdivision and duplex are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation "Two Unit Residential".
2. The lot is regular in shape, has very little slope and is suitable for development.
3. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 5 (Minor Alterations in Land Use Limitations) and Class 15 (Minor Land Divisions).

4. The proposed parcel map is for residential condominium purposes. The construction of the proposed condominiums will comply with all Building, Public Works, and Fire Codes. Public improvements will be required of the developer per Section 19.28.010 of the Municipal Code and Section 66411 of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.
5. The design of the subdivision will not conflict with any easements acquired by the public-at-large for access through or use of the property within the proposed subdivision. Currently, there are no public easements located on the property.
6. The property is not subject to the Williamson Act since its use is not agricultural.
7. The property is not located within the boundaries of a specific plan and is not subject to any specific plan regulations.
8. The proposed subdivision and 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 Department enforces Title 24 compliance through the plan check and inspection process.
9. The proposed 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. The residential density on the site will remain the same. No affordable housing units are being eliminated based upon the fact that the previously existing duplex was not occupied by low or moderate income households.
10. Wastewater discharge into the existing sewer system will remain the same and does not violate Regional Water Quality Control Board (RWQCB) requirements.
11. The proposed parcel map is not located in the Coastal Zone.

CONDITIONS

1. 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.**

2. 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.
3. All improvements shall be constructed as required by City Ordinance and the Public Works Department.
4. Reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, concrete curb and gutter, and alley along the Poinsettia Avenue frontage. Extent of reconstruction shall be determined by the Public Works Inspectors.
5. All above ground improvements shall stay a minimum 5-foot clear of the alley setback.
6. All applicable Public Works Department plan check fees, park dedication fees, improvement bonds, and inspection fees shall be paid prior to processing of the map by the Public Works Department.
7. Arrangements shall be made with the Public Works Department in order to guarantee satisfactory completion of the public improvements if it is desired to record a parcel map or obtain a building permit prior to completion of the public improvements.
8. Each dwelling unit shall be served with an individual water service and sewer lateral connection to the public water and sewer systems, unless otherwise approved by the Public Works Department and the Building Department.
9. Each unit shall be connected to its individual water meter and sewer lateral and cleanout located within the public right-of-way. If installed at a location that will be subjected to vehicle traffic, each water meter and sewer cleanout shall be installed with a traffic-grade box/frame and cover.
10. Each dwelling unit shall be served with individual gas and electrical service connection and shall maintain separate meters for the utilities.
11. Overhead utilities serving the site shall be undergrounded to the nearest appropriate pole in accordance with Section 19.28.090 of the Municipal Code unless it is determined by the City Engineer that such undergrounding is unreasonable or impractical.
12. In accordance with the provisions of Chapter 13 (or any other applicable chapters) of the Newport Beach Municipal Code, street trees shall be planted

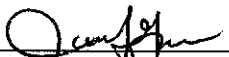
along the Poinsettia Avenue frontage. Contact Mr. John Conway of the General Services Department at (949) 644-3083 for the size and species of tree required.

13. All existing drainage facilities in the public right-of-way shall be retrofitted to comply with the City's on-site non-storm runoff retention requirements. The Public Works Inspector shall field verify compliance with this requirement prior to recordation of the parcel map.
14. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
15. All on-site drainage shall comply with the latest City Water Quality requirements.
16. Poinsettia Avenue is part of the City's Moratorium List. Work performed on said roadways will require additional surfacing requirements. See city Standard 105-L-F.
17. Install new sod or low groundcovers of the type approved by the city throughout the Poinsettia Avenue parkway fronting the development site.
18. Additional Public Works improvements, including street and alley reconstruction work may be required at the discretion of the Public Works Inspector.
19. 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.
20. All work conducted within the public right-of-way shall be approved under an encroachment permit issued by the Public Works Department.
21. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed unless an Encroachment Agreement is applied for and approved by the Public Works Department.
22. Two-car parking, including one enclosed garage space, shall be provided on site for each dwelling unit per requirements of the Zoning Code.
23. All vehicular access to the property shall be from the adjacent alley, unless otherwise approved by the City Council.
24. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagmen. Traffic control and transportation of equipment and materials shall be conducted in accordance with state and local requirements.

25. In compliance with the requirements of Chapter 9.04, Section 901.4.4, of the Newport Beach Municipal Code, approved street numbers or addresses shall be placed on all new and existing buildings in such a location that is plainly visible and legible from the street or road fronting the subject property. Said numbers shall be of non-combustible materials, shall contrast with the background, and shall be either internally or externally illuminated to be visible at night. Numbers shall be no less than four inches in height with a one-inch wide stroke. The Planning Department Plan Check designee shall verify the installation of the approved street number or addresses during the plan check process for the new or remodeled structure.
26. County Sanitation District fees shall be paid prior to issuance of any building permits, if required by the Public Works Department or the Building Department.
27. Subsequent to recordation of the parcel map, the applicant shall apply for a building permit for description change of the subject project 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.
28. This parcel map shall expire if the map has not been recorded within 3 years of the date of approval, unless an extension is granted by the Planning Director in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.

APPEAL PERIOD

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

By: 
Zoning Administrator Javier S. Garcia, AICP

JSG:ks/es

Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None

VICINITY MAP



Parcel Map No. NP2008-005
PA2008-032

417 Poinsettia Avenue

Community District Regulations allow fences and walls to be located within a side or rear yard setback, limited to a maximum height of 8 feet. However, for fireplace regulations, the Planned Community Text refers to the Municipal Code which makes no such provision for accessory structures such as fireplaces.

4. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
 - The practical difficulties of locating the freestanding fireplace outside of the required setbacks would preclude placement of the structure within the patio area, in this particular case. It is staff's determination that such placement is not the intent of the Big Canyon Planned Community District Regulations for setback requirements for fireplaces and barbeques.
 - The placement of the fireplace and barbeque to comply with the 15-foot rear yard, 5-foot side yard (south), and 20-foot side yard (north) setback would result in a physical hardship that reduces the usable area of the rear-yard space.

5. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing developments in the neighborhood for the following reasons:
 - The surrounding developments are the Big Canyon Golf Course and residential properties. Many residential properties throughout the City have outdoor accessory structures, such as barbeques and fireplaces.
 - The granting of an encroachment in the required 15-foot rear yard setback with the freestanding fireplace and in the required 5-foot side yard setback with the barbeque is consistent with the modified and conditioned approvals granted by the Modifications Committee and the Planning Commission on appeal for encroachments of similar structures and Citywide.

6. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:
 - The fireplace is abutting open space to the rear (west) of the property. The encroachment of the fireplace is toward the street side of the property, so the fireplace is more than 20 feet from the nearest residential site.

- Barbeques are typically used for shorter durations of time; thereby, minimizing any detrimental effects to persons residing in the adjoining residential properties.
- As conditioned, the fireplace will be gas-burning only. The prohibition to burn smoke-generating combustible material will mitigate any detrimental or negative effects to persons, property, or improvements in the neighborhood.
- The proposed height and location of the fireplace and barbeque will minimize any impact on the flow of light and air to the adjacent residential properties.

CONDITIONS

1. The development shall be in substantial conformance with the approved plot plan, floor plans, and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. The fireplace shall not exceed 6 feet in height, including the spark arrestor, measured from the finished surface of the patio.
4. The freestanding fireplace shall be restricted to gas-burning only. The burning of wood or any smoke-producing combustible product is strictly prohibited, unless the barbeque is relocated outside of the setbacks.
5. If any of the existing public improvements surrounding the site are damaged by private work; new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
6. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
7. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
8. A building permit shall be obtained prior to commencement of the construction.

9. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
10. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
11. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

APPEAL PERIOD

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By: 
Zoning Administrator Javier S. Garcia, AICP

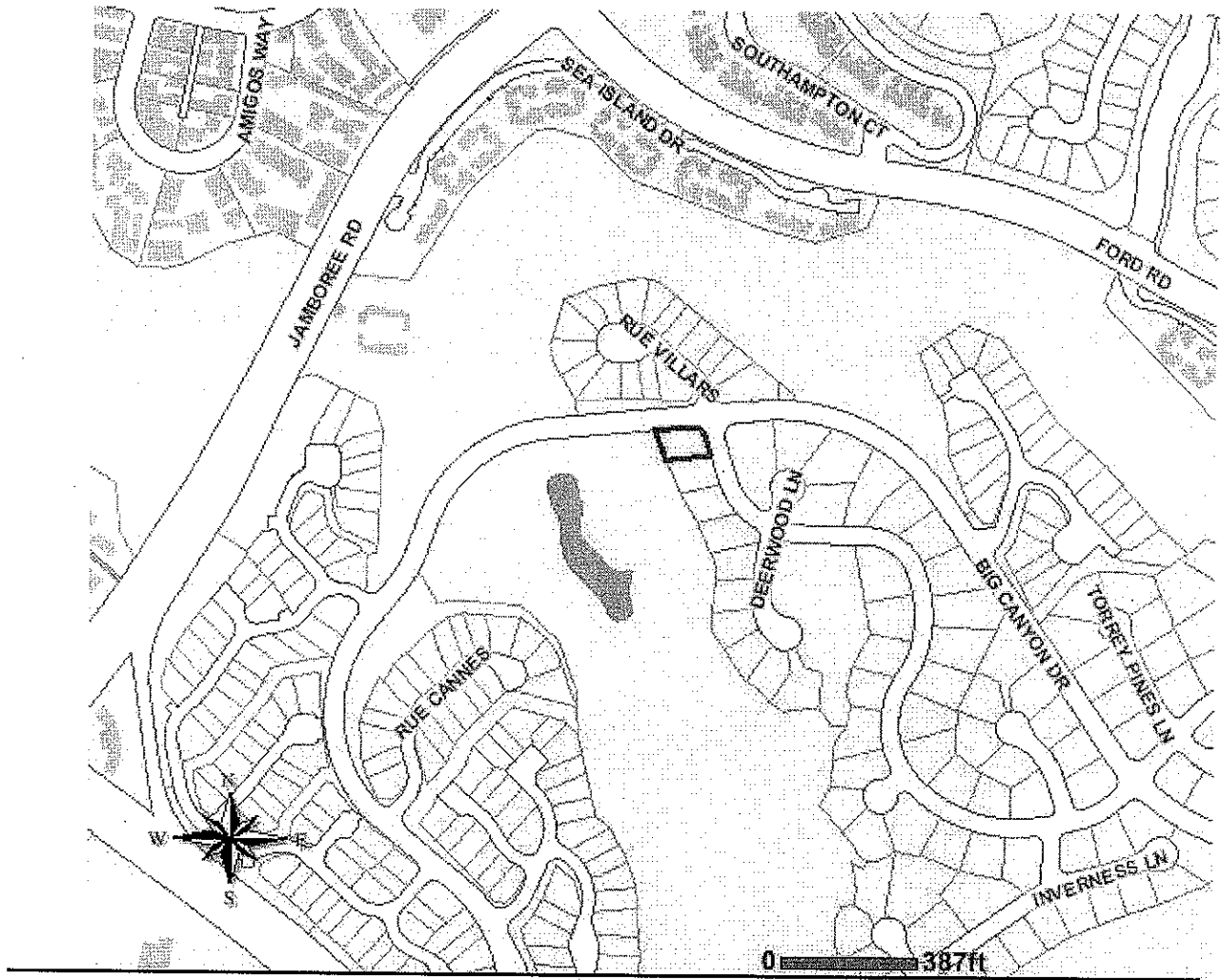
JSG:fn/es

Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None

VICINITY MAP



Modification Permit No. MD2008-015
PA2008-033

1 Burning Tree Road