



allow up to an 8 foot tall retaining wall topped with a 6 foot tall wall along the west property line. **MND:** To analyze the potential environmental impacts of the proposed project.

**LOCATION:**

8371-8461 Talbert Avenue, 92647 (northwest corner of Talbert Avenue and Newland Street)

**APPLICANT:**

Ben R. Johnson, The Olson Company, 3010 Old Ranch Pkwy, #100, Seal Beach, CA 90740

**PROPERTY OWNER:**

Mary Langston, 18627 Brookhurst Street, Unit # 456, Fountain Valley, CA 92708

**BUSINESS OWNER:**

Not applicable

**STATEMENT OF ISSUE:**

1. Are the GPA and ZMA necessary for the changing needs and orderly development of the community and consistent with other elements of the General Plan?
2. Are the proposed GPA and ZMA designations compatible with the surrounding area?
3. Does the project satisfy all the findings required for approval of a ZMA, TTM, CUP, and MND?
4. Is the MND adequate and complete in that it has identified all significant environmental effects of the project and any applicable mitigation measures?
5. Was the MND prepared in compliance with the California Environmental Quality Act (CEQA) Guidelines?

**RECOMMENDATION:**

That the Planning Commission take the following actions:

- A) Recommend approval of Mitigated Negative Declaration No. 21-003 with findings (Attachment No. 1) and mitigation measures;
- B) Recommend approval of General Plan Amendment No. 21-002 and forward the draft City Council Resolution (Attachment No. 2) to the City Council for consideration;
- C) Recommend approval of Zoning Map Amendment No. 21-001 with findings (Attachment No. 1) and forward the draft City Council Ordinance (Attachment No. 3) to the City Council for consideration; and
- D) Approve Tentative Tract Map No. 19157 and Conditional Use Permit No. 21-004 with findings and suggested conditions of approval (Attachment No.1).

**ALTERNATIVE ACTION(S):**

The Planning Commission may take alternative actions such as:

- A) Deny Mitigated Negative Declaration No. 21-003, General Plan Amendment No. 21-002, Zoning Map Amendment No. 21-001, Tentative Tract Map No. 19157, and Conditional Use Permit No. 21-004 with findings for denial.
- B) Continue Mitigated Negative Declaration No. 21-003, General Plan Amendment No. 21-002, Zoning Map Amendment No. 21-001, Tentative Tract Map No. 19157, and Conditional Use Permit No. 21-004 and direct staff accordingly.

**PROJECT PROPOSAL:**

The applicant is proposing to subdivide and redevelop the approximately 2.07 net acre site with 34 attached townhomes (Attachment No. 5). The project includes the following requests:

General Plan Amendment (GPA) No. 21-002 - To amend the General Plan designation from Residential Low Density (RL) to Residential Medium Density (RM).

Zoning Map Amendment (ZMA) No. 21-001 - To amend the zoning designation from Residential Low Density (RL) to Residential Medium Density (RM).

Tentative Tract Map (TTM) No. 19157 - To subdivide approximately 2.07 acres for condominium purposes.

Conditional Use Permit (CUP) No. 21-004 - To: 1) develop 34 attached, 2- and 3-story townhomes up to 35 feet tall and 2) allow up to an 8 foot tall retaining wall topped with a 6 foot tall wall along the west property line.

Mitigated Negative Declaration (MND) No. 21-003 - To analyze the potential environmental impacts of the proposed project.

The site is currently developed with 3 single family residences and some accessory structures which are proposed to be demolished.

**ISSUES AND ANALYSIS:**

**Subject Property And Surrounding General Plan Designations, Zoning And Land Uses:**

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	Residential Low Density (RL)	Residential Low Density (RL)	Single Family Residential
North of Subject Property:	RL	RL	Single Family Residential
East of Subject Property (across Newland St.):	Low Medium Density Residential (City of Fountain Valley)	Garden Homes (City of Fountain Valley)	Single Family Residential

South of Subject Property (across Talbert Ave.):	RL	RL	Single Family Residential
West of Subject Property:	Public-Semipublic (underlying Open Space-Park) (PS (OS-P))	Qualified (Residential Agriculture) (Q(RA))	Church

**General Plan Conformance:**

The applicant proposes to amend the subject site’s General Plan land use designation from Residential Low Density (RL) to Residential Medium Density (RM). The RM designation allows detached and attached residential like detached single-family residential, townhomes, and apartments at a maximum of 15 dwelling units per acre. The RM designation is found north of Jalm Drive and is compatible with and often located next to areas designated RL. The project is consistent with the residential character of the area and with the following goals and policies in the General Plan:

A. Land Use Element

Goal LU-1 - New commercial, industrial, and residential development is coordinated to ensure that the land use pattern is consistent with the overall goals and needs of the community.

Policy LU-1A - Ensure that development is consistent with the land use designations presented in the Land Use Map, including density, intensity, and use standards applicable to each land use designation.

Policy LU-1C - Support infill development, consolidation of parcels, and adaptive reuse of existing buildings.

Policy LU-1D - Ensure that new development projects are of compatible proportion, scale and character to complement adjoining uses.

Policy LU-2D - Maintain and protect residential neighborhoods by avoiding encroachment of incompatible land uses.

Policy LU-2E - Intensify the use and strengthen the role of public art, architecture, landscaping, site design, and development patterns to enhance the visual image of Huntington Beach.

Goal LU-4 - A range of housing types is available to meet the diverse economic, physical, and social needs of future and existing residents, while neighborhood character and residences are well maintained and protected.

Goal LU-7 - Neighborhoods, corridors, and community subareas are well designed, and buildings, enhanced streets, and public spaces contribute to a strong sense of place.

The ZMA will implement the land use designation proposed with General Plan Amendment No. 21 -002 and will be an extension of zoning found in the area. It will enable redevelopment of an infill site into a residential community consisting of 34 townhomes to address the diverse housing

needs of the community. The proposed project will be compatible with the character of the neighborhood and will meet the changing needs of the community. The project will exhibit an architectural style that is in keeping with the proportion, scale, and character of the neighborhood. It is consistent with the development standards in the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) except for any concession and waivers permitted under the State Density Bonus Law. The project also provides landscaped areas along the street frontages and throughout the site to enhance its appearance.

## B. Housing Element

Policy 1.1 - Preserve the character, scale and quality of established residential neighborhoods.

Goal 2 - Provide adequate housing sites through appropriate land use, zoning and specific plan designations to accommodate Huntington Beach's share of regional housing needs.

Policy 2.1. - Provide site opportunities for development of housing that responds to diverse community needs in terms of housing types, cost and location, emphasizing locations near services and transit that promote walkability.

Goal 3 - Enhance housing affordability so that modest income households can remain an integral part of the Huntington Beach community.

Policy 3.1 - Encourage the production of housing that meets all economic segments of the community, including lower, moderate, and upper income households, to maintain a balanced community.

Policy 3.2 - Utilize the City's Inclusionary Housing Ordinance as a tool to integrate affordable units within market rate developments. Continue to prioritize the construction of affordable units on-site, with provision of units off-site or payment of an in-lieu housing fee as a less preferred alternative.

Policy 3.3 - Facilitate the development of affordable housing through regulatory incentives and concessions, and/or financial assistance, with funding priority to projects that include extremely low income units. Proactively seek out new models and approaches in the provision of affordable housing.

Policy 3.4 - Explore collaborative partnerships with non-profit organizations, developers, the business community and governmental agencies in the provision of affordable housing.

Policy 4.1 - Regulatory Incentives for Affordable Housing Support the use of density bonuses and other incentives, such as fee deferrals/waivers and parking reductions, to offset or reduce the costs of developing affordable housing while ensuring that potential impacts are addressed.

The proposed project will develop an underutilized site with 34 two- and three-story townhomes that will be consistent with the scale and nature of residential land uses surrounding the site while also addressing the diverse housing needs of the community. The project will comply with the City's affordable housing requirement to provide 10 percent of the proposed base dwelling units as affordable units. Due to the provision of affordable housing, the applicant is entitled to a 5 percent density bonus, one incentive/concession, and an unlimited number of waivers of

development standards as permitted by the State Density Bonus Law. The project includes a 5 percent density bonus to allow 2 density bonus dwelling units in addition to the 32 base density units. The density bonus, concession, and waivers would facilitate development of the project, which adds to the City's overall housing stock.

### **Zoning Compliance:**

#### ***Zoning Map Amendment***

The proposed zoning designation for the subject site of RM is in conformance with the proposed General Plan designation and is an extension of the zoning found in the area north of Jalm Drive. Development standards require a minimum parcel size of 6,000 square feet, lot width of 60 feet, maximum building height of 35 feet, and lot coverage of 50 percent among others. Additional development standards are identified in Chapter 210 (Residential Districts) of the HBZSO.

The adoption of the ZMA will be in conformity with public convenience, general welfare and good zoning practice because the proposed zoning will implement the proposed General Plan land use designation and is compatible with the surrounding neighborhood. A community need is demonstrated for the change proposed because it will allow the site to be redeveloped into a townhome project that is consistent with the character of the area and will add to the housing stock, including deed restricted affordable units. All of the proposed dwelling units would be counted toward the City's Regional Housing Needs Assessment (RHNA).

#### ***Tract Map/Site Layout/Compatibility***

Gated access to the site will be provided off Newland Street and Talbert Avenue to a 20-foot wide 2-way private drive aisle running along the north and west sides of the site. The main drive aisle connects to other drive aisles that provide direct access to each unit and its attached garage. The main drive aisle, 5 feet of perimeter landscaping, and a 6-foot tall wall provide buffering to the adjacent residential development to the north. Talbert Avenue and Newland Street separate the site from the other surrounding residential development. Open parking spaces are located on the south side of the main drive aisle. The project includes vehicular stacking at the gated access of over 40 feet at the Newland driveway and 20 feet at the Talbert driveway in compliance with code. Pedestrian access to the site will be through existing sidewalks along Newland and Talbert and interior sidewalks throughout the project.

The project includes 9 buildings in a north-south orientation with each building containing 3 to 4 units. The northernmost units of all buildings are designed as 2 story for greater compatibility with the adjoining homes while the remainder of the units are proposed at 3 story and 35 feet tall in compliance with the zoning code. Most of the units are oriented towards courtyards while a larger central open space provides amenities like a shade structure, seating, tables, and a grilling island. Building 1 contains 4 units that orient towards Newland Street. Both the Talbert and Newland frontages include 15 feet of landscaping except where waivers are requested.

The TTM is consistent with the proposed General Plan and zoning designation. It complies with required minimum lot size and width. The site is physically suitable for the type and density of development proposed because it is located in a residential neighborhood with similar development including some also under the RM designation. The design of the subdivision or the proposed improvements will not cause serious health problems or substantial environmental damage or

substantially and avoidably injure fish or wildlife or their habitat because the site has been previously been disturbed and is void of any wildlife habitat. 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 unless alternative easements, for access or for use, will be provided. The subdivision will provide all necessary streets, sidewalk, and utility easements to serve the new development.

### ***Conditional Use Permit***

The proposed 34 townhomes will improve an existing underutilized site with a residential development consistent with other uses in the vicinity. The applicant has submitted 4 floor plans with most units at 3 stories and 35 feet tall in compliance with the HBZSO. The northernmost unit in each building has 2 stories at 27 feet tall. The units range from 1,258 to 1,846 square feet with 3 to 4 bedrooms and a 2-car attached garage.

The project will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. It will be consistent with the overall bulk and scale of existing residential uses in the project vicinity. The project includes facade breaks, roof variations, and architectural treatment to minimize overall building mass and scale. The dwellings will be separated from the nearest residential development to the north by a 6 foot tall wall, 5 feet of landscaping, and a 20 foot wide drive aisle. Two-story units are proposed along the north side to enhance compatibility with existing development before transitioning to 3-story towards Talbert Avenue. The proposed 8-foot tall retaining wall with 6-foot tall above ground wall along the western property line is needed to enable the entire site to be developed. Its location along the western interior property line will reduce its visibility and existing and proposed landscaping will help soften its appearance. The proposed grading plan minimizes pad elevations and the retaining wall as much as possible while still allowing the site to function and drain properly.

The granting of the conditional use permit will not adversely affect the General Plan because the project will be consistent with the RM Land Use Element designation established in the area. The proposed project will comply with the provisions of the RM zoning district and other applicable provisions in Titles 20-25 of the HBZSO with the exception of any concession/incentive and waivers of development standards permitted under the State Density Bonus Law.

### ***California Density Bonus Law***

The applicant is seeking to invoke development tools and privileges outlined in the California Density Bonus Law (CDBL) (found in California Government Code Sections 65915-65918). As stipulated in the CDBL, projects providing 10 percent of the total base units as available to moderate income households are entitled to a 5 percent density bonus. In addition to a density bonus, local jurisdictions are required to grant other incentives or concessions to housing projects containing a percentage of affordable units. A concession or incentive is defined as any of the following: a reduction in site development standards or a modification of zoning code or architectural design requirements (e.g., a reduction in setback or minimum square footage requirements) approval of mixed use zoning, other regulatory incentives or concessions which result in identifiable and actual cost reductions.

The number of required incentives or concessions that are granted to an applicant is based on the

percentage of affordable units included as part the project. Projects that include 10 percent of the proposed units as affordable to moderate income households (e.g., the proposed project) are entitled to one incentive/concession. Concessions/incentives are permitted unless the proposed incentives/concessions do not result in identifiable and actual cost reductions, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would be contrary to the law.

In addition to granting incentives/concessions, developments qualifying for a density bonus also can receive an unlimited number of waivers from development standards. As such, the City is not permitted to apply development standards that would physically prevent the project from being developed at the permitted density with the granted incentives/concessions. However, the City is not required to waive or reduce development standards that would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law. A waiver or reduction of a development standard does not count as an incentive or concession, and there is no limit on the number of development standard waivers that may be requested or granted.

In addition, the CDBL stipulates that the City may not require parking at ratios beyond what is established in the CDBL upon the developer's request.

Consistent with the CDBL, the project includes the following density bonus, incentive/concession, waivers of City standards, and reduction of parking requirements:

**Density Bonus:**

The project qualifies for a 5 percent density bonus per the CDBL due to the provision of 10 percent of the total base units as affordable to moderate income households. As such, the applicant is entitled to and is requesting a 5 percent density bonus to allow 2 additional units in addition to the 32 base units permitted.

It should be noted that the maximum number of base units permitted in the General Plan and HBZSO is based on the net lot area after any dedication for public right of way. Based on the project site's net lot area of 89,949 square feet and the RM density factor of 1 unit per 2,904 square feet of lot area, the project would yield 30.97 units which under the CDBL rounds up to 31 units. However, the CDBL Section 65915(f) refers to ". . . allowable gross residential density." Furthermore, Section 65915(r) states that the CDBL ". . . shall be interpreted in favor of producing the maximum number of total housing units." To this end, approximately 2,979 square feet of the gross lot size is being added to the net lot of 89,949 square feet in order to yield 32 base units.

**Incentives:**

The applicant is not requesting any incentives.

**Waivers:**

The following waivers of development standards are proposed so as not to physically preclude the applicant from developing the proposed number of units on the site:

- 1.) Common and private open space dimensions:** The applicant is proposing a waiver of the common and private open space minimum dimensions to allow the open space dimensions proposed. The project requires total private and common open space equal to 25 percent of the residential floor area per unit, which results in a total open space requirement of 14,505 square feet for the project. Common open space must have a minimum dimension of 10

feet. Private open space must have a minimum dimension of 10 feet for courts and 6 feet for balconies. The proposed open space plan Sheet L-6 shows that the project proposes 7,261 square feet of common and private open space that meet the minimum dimension requirements. An additional 10,518 square feet of open space that does not meet the minimum dimensions is also proposed. While the project meets the overall amount of open space required by the HBZSO (based on square footage only), more than half of it cannot be counted toward meeting the code requirement because it does not meet the minimum dimensions.

- 2.) **Aboveground transformer and vault within 15 foot Talbert Avenue setback:** The applicant is proposing a large vault and a transformer within the 15 foot Talbert Avenue setback as a result of the City’s utilities undergrounding requirement. The HBZSO does not allow aboveground utility improvements like transformers in the required front or street side yard.
- 3.) **Reduced Talbert/Newland corner unit building setback:** The applicant is proposing a reduced setback of 7 feet-11 inches lieu of 15 feet for the dwelling unit located at the corner of Talbert Avenue and Newland Street. The portion of the dwelling unit within the 15 foot setback includes the covered patio and covered deck above it.

**Reduced Parking Ratio:**

Per the CDBL, the City may not require more than the parking ratios for a density bonus project (inclusive of parking for persons with disabilities) outlined in the table below. As illustrated by this table, the proposed project would provide 20 more spaces than what is required by State law.

Unit Type	Type Count	Required Ratio per City Code	Required Parking Spaces per City Code	Maximum Parking Requirements per State Law	Required Parking Spaces per State Law	Provided Parking by the Project
3 Bedroom	20 Units	2.5 Spaces (1 enclosed) per Unit	50	1.5 per Unit	30	40
4 Bedroom	14 Units	2.5 Spaces (1 enclosed) per Unit	35	2.5 per Unit	35	28
		0.5 Guest Space per Unit	17	0 spaces	0	17
<b>Total</b>			<b>102</b>	-	<b>65</b>	<b>85</b>

***Quimby Act and Affordable Housing***

The Community Services and Library Department has determined that additional public park area within the project area is not needed. Therefore, the project will pay park and recreation in lieu fees to satisfy Quimby Act requirements pursuant to Chapter 254 of the HBZSO.

Pursuant to the HBZSO, the project is required to comply with affordable housing requirements and provide 10 percent of the proposed 32 base dwelling units (3.2 units) as affordable units. The restricted income units must be provided on-site with the new development in order to qualify for density bonus. In accordance with these requirements, the applicant is proposing one low income

unit and two moderate income units on-site and will pay an in lieu fee for the remaining 0.2 unit.

### ***Undergrounding of Utilities***

The applicant is required to underground utilities as part of the approval of the proposed TTM pursuant to Chapter 255 of the HBZSO. The applicant intends to underground all existing and proposed utilities on site and along the project's Talbert Avenue frontage. However, the applicant is requesting to pay an in lieu fee for the undergrounding of utilities from the project's Newland Street frontage to the City limit line (20 feet east of the existing street centerline). The Planning Commission may allow the payment of an in lieu fee to be determined by the City Engineer based on reasonable estimated costs upon finding:

- 1.) The subdivision is within an area where existing utilities have not been placed underground; and
- 2.) Physical constraints make undergrounding of existing and proposed utilities impractical; and
- 3.) Overhead utilities will have no significant visual impact.

The area around the project site has existing utilities that have not be placed underground. According to the applicant, in order to underground the 4 high voltage wires crossing Newland Street along Talbert Avenue, new utility support poles would need to be installed at the northeast corner of Talbert Avenue and Newland Street to provide structural support for the remaining City of Fountain Valley utility lines along Talbert Avenue. Further, 2 stabilizing span wires, crossing Newland Street, would need to remain for structural support. There would also be 1 new guy wire along Talbert Avenue to support the existing utility pole that would need to remain at the northwest corner of Talbert Avenue and Newland Street. Considering that any undergrounding of the Newland Street utilities would in fact result in a net decrease of only 3 wires (due to the addition of a new support guy wire and no change to the 2 necessary support wires), the undergrounding could be seen as providing minimal aesthetic improvement.

### **Urban Design Guidelines Conformance:**

The project is in substantial conformance with the Urban Design Guidelines, Chapter 3 (Multi-Family Detached Residential) by providing:

- New residential buildings in an arrangement that is sensitive to the characteristics of the existing site and surrounding area;
- Ornamental landscaping and enhanced paving at the project entrance;
- Orienting the buildings to promote privacy to the greatest extent possible;
- Courtyards and open space areas throughout the project site;
- Minimize number of access points and locate as far as possible from intersections;
- Sidewalks along the perimeter and within the interior of the site;
- Landscaping throughout the development that frames, softens, and enhances the quality of the development;
- Architecture that is compatible with the surrounding buildings and meets or exceeds the standards of quality, which have been set by surrounding development;
- Architectural elements such as windows, doors, etc. that create a rhythmic composition;
- Varied building design, massing, and composition;
- Elevations that are architecturally enhanced;
- Roof designs that complement qualities of the neighboring residential structures such as type, slope, size, materials, and colors; and
- Open space in close proximity to every dwelling.

**Environmental Status:**

A MND was prepared for the project (Attachment No. 13) and concludes that no significant impacts are anticipated with implementation of mitigation measures in the areas of biological resources, cultural resources, geology, and tribal cultural resources. The MND was available for a 20-day public review period from March 31 to April 20, 2022. A response to the 12 comment letters received is attached for Planning Commission review prior to action on the project.

**Coastal Status:**

Not applicable.

**Design Review Board:**

Not applicable.

**Other Departments Concerns and Requirements:**

Public Works, Building, Fire, Police, and Community Services staff reviewed the proposed project and identified code requirements applicable to the project. The Public Works Department identified some conditions that have been incorporated into the suggested conditions of approval (Attachment No. 1)

**Public Notification:**

Legal notice was published in the Huntington Beach Wave on Thursday, April 28, 2022 and notices were sent to property owners of record within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Community Development Department's Notification Matrix), and applicant. Written communications received as of May 3, 2022 are attached to this staff report (Attachment No. 9).

**Application Processing Dates:**

DATE OF COMPLETE APPLICATION:	MANDATORY PROCESSING DATE(S):
April 22, 2022	MND - Within 180 days of complete application
	GPA/ZMA/TTM/CUP - None

**SUMMARY:**

Staff recommends the Planning Commission recommend approval of MND No. 21-003, GPA No. 21-002, and ZMA No. 21-001 with findings (Attachment No. 1) to the City Council and approve TTM No. 19157 and CUP 21-004 with findings and conditions (Attachment No. 1).

This recommendation is based on the following:

- The MND is adequate, complete, and has identified all significant effects of the project and any applicable mitigation measures.
- The MND was prepared in compliance with the CEQA Guidelines.
- The GPA, ZMA, TTM, and CUP are consistent with the General Plan and its goals and policies.
- The GPA, ZMA, TTM, and CUP are compatible with the surrounding area.
- The project meets the requirements of the Subdivision Map Act.
- The proposed project complies with the provisions of the HBZSO with the exception of any waivers of development standards proposed.
- The proposed project adds to the City's housing stock, including affordable housing, and RHNA targets.

**ATTACHMENTS:**

1. Suggested Findings and Conditions of Approval of MND No. 21-003, ZMA No. 21-001, TTM No. 19157, CUP No. 21-004
2. Draft City Council Resolution for GPA No. 21-002
3. Draft City Council Ordinance for ZMA No. 21-001
4. Vicinity Map
5. Project Narrative received and dated April 27, 2022
6. Existing and Proposed General Plan Land Use and Zoning Maps
7. Project Entitlement Plans dated March 2 - April 18, 2022
8. Code Requirements Letter (for informational purposes only) dated May 4, 2022
9. Letters in Opposition/Support
10. Police Department memo dated June 29, 2021
11. Response To Comments Draft MND No. 21-003
12. Mitigation Monitoring and Reporting Program
13. Draft MND No. 21-003 available at  
<https://www.huntingtonbeachca.gov/government/departments/planning/major/major-projects->