



## CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION  
FROM: Seimone Jurjis, Community Development Director  
SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending April 30, 2021.

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### ZONING ADMINISTRATOR ACTIONS APRIL 29, 2021

Item 1: Dr. Eckermann Outpatient Surgery Facility Minor Use Permit No. UP2020-196 (PA2020-344)  
Site Address: 20321 Irvine Avenue, Suite F-2  
Action: Approved by Resolution No. ZA2021-021 Council District 3

Item 2: Norton Residence Coastal Development Permit No. CD2021-006 (PA2021-024)  
Site Address: 6806 West Ocean Front  
Action: Approved by Resolution No. ZA2021-022 Council District 1

### COMMUNITY DEVELOPMENT DIRECTOR OR PLANNING DIVISION STAFF ACTIONS (Non-Hearing Items)

Item 1: Interpreting Accessory Residential as an Allowed Use within Resort Hotels Director's Determination No. DD2021-001 (PA2021-096)  
Site Address: Various Resort Hotel Properties  
Action: Approved Council District Citywide

**APPEAL PERIOD:** An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

## RESOLUTION NO. ZA2021-021

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING MINOR USE PERMIT NO. UP2020-196 TO ALLOW AN OUTPATIENT SURGERY FACILITY AT 20321 IRVINE AVENUE, SUITE F2 (PA2020-344)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jan Eckermann, MD (“Applicant”), on behalf of the property owner Princess of Portofino LLC, with respect to property located at 20321 Irvine Avenue, Suite F2, and legally described as Parcel 1 of Parcel Map No 269-39 in the unincorporated territory of Orange County a portion of Lot 21, Tract No 456, Recorded in Book 17, Page 9, of Miscellaneous Maps in the office of the County Recorder of said county (Property), requesting approval of a minor use permit.
2. The Applicant proposes to operate an approximately 2,070 square-foot outpatient surgery facility with a single operating room within an existing professional office park (The Jetty). The practice will provide minimally invasive outpatient surgeries and is anticipated to see a maximum of four (4) patients per day, by appointment only. The facility will operate from 8 a.m. to 4 p.m., Monday through Friday. The facility will be staffed with approximately three (3) employees. There will be no walk-ins, emergency services, or after-hours services offered at this location.
3. The Property is categorized General Commercial Office (CO-G) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan (SP-7) Professional and Administrative (PA) Office Zoning District.
4. The Property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held online on April 29, 2021, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). 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. The Project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3.

2. The Class 1 exemption authorizes the operation, repair, maintenance and minor alterations of existing buildings. The proposed use will be located within an existing development and only minor alterations will be required to accommodate the new use.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits – Findings and Decision) of the NBMC, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *The use is consistent with the General Plan and any applicable specific plan.*

#### Facts in Support of Finding:

1. The General Plan Land Use Element categorizes the project site for commercial uses under CO-G (General Commercial Office). This category is intended to provide areas that can be developed with administrative, professional, and medical offices with limited accessory retail and service uses. Hotels, motels, and convalescent hospitals are not permitted in this area. An outpatient surgery facility offers planned procedures with no overnight stays and functions like a medical office which is consistent with the intent of the CO-G category.
2. The Property is located within the Santa Ana Heights Specific Plan (SP-7) and within the Professional and Administrative (PA) Office District. While an outpatient surgery facility use is not specifically listed as an allowed use subject to approval of a use permit, a Director's Determination (DD2020-001) has been made that medical office uses and similar uses are consistent with the purpose and intent of the PA District and are therefore allowable subject to the approval of a minor use permit. An outpatient surgery facility is consistent with Director's Determination No. DD2020-001 (PA2020-051).
3. The PA District is established to provide for the development and maintenance of an optimal environment for moderate intensity professional and administrative office uses and related uses on sites with large landscaped open spaces and off-street parking facilities. This district is intended to be located on heavily traveled streets or adjacent to commercial or industrial uses, and may be used to buffer residential uses. The Project would occupy an existing tenant space and would operate similarly to a traditional business or professional office use with hours from 8 a.m. to 4 p.m., Monday through Friday ("Hours of Operation"). The facility anticipates a maximum of four (4) patients per day. These operating characteristics ensure that the use would be of moderate intensity and therefore consistent with the intent of the district.

#### Finding:

- B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. All Facts in Support of Finding A are hereby incorporated by reference.
2. Tenant improvements to the existing tenant space are interior and will require the issuance of applicable building permits. No changes to the existing building footprint are proposed.
3. Pursuant to NBMC Section 20.40.040 (Off-Street Parking Spaces Required), outpatient surgery facilities are parked at a rate of one (1) space required for every 250 square feet of gross floor area. The project suite was previously used as a fitness facility, which has the same parking rate; therefore, no additional parking is required for the change in use.
4. The Jetty consists of six (6) buildings with an aggregate floor area of approximately 80,289 square feet. Approximately 77,354 square feet of The Jetty is office uses and requires 292 parking spaces. The remaining 2,935 square feet is occupied by a tutoring center, which was approved by a use permit (Conditional Use Permit No. UP2015-015 [PA2015-053]). The tutoring center use requires 27 spaces based on the requirement of one (1) space per peak staff, however 18 required spaces were waived as part of the approval. Parking is sufficient for the entire office park as 301 spaces are required and 301 spaces are provided.

Finding:

- C. *The design, location, size, operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The Project is an outpatient surgery facility land use within The Jetty, which already contains a mix of professional and administrative offices, support uses, as well as a tutoring center. Based on the Project description and operational attributes, it is expected to operate in a manner compatible with other tenants and land uses in the building and office park. Any change in the proposed operational characteristics, expansion in area, or other modification to the approved plans shall require subsequent review and approval by the Planning Division.
2. The Jetty abuts residential uses to the north and west. The subject building (Building F) is located on the opposite side of the site, adjacent to Irvine Avenue. The outpatient surgery facility would operate with standard business hours, and conduct business on an appointment-only basis. The outpatient surgery facility is anticipated to operate similarly to a typical office space and would not impact residential uses to the north and west.
3. Adequate parking exists to the support the Project, as discussed in Facts in Support of Finding B.3 and B.4.

Finding:

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. All proposed tenant improvements, with exception of signage, would be limited to the inside of the existing office building and would not affect pedestrian circulation, parking spaces, or access to existing tenants.
2. Based on the Hours of Operation, limited number of patients receiving treatment, the small scale and moderate intensity of the use, the Project is anticipated to operate similarly to the adjacent office uses and is therefore physically suitable for the office park.
3. Emergency access to the Property is currently provided by a single drive approach from Irvine Avenue. Access through the site is provided by a large surface parking area with drive aisles that are at least 24 feet in width. No changes to emergency access are proposed and onsite circulation would not change as part of the Project. Furthermore, the project was reviewed by both the Public Works Department and Fire Prevention Division and no comments were given on access.
4. The Property, including the subject tenant space, is adequately served by public services and utilities.
5. The design of the improvements will comply with all Building, Public Works, and Fire Codes, and plans will be reviewed prior to the issuance of building permits.

Finding:

- E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. An outpatient surgery facility within an existing office park would operate similarly to a standard professional office or medical office and would not constitute a hazard to the public.
2. The Project includes conditions of approval to ensure that potential conflicts with the surrounding land uses and the City as a whole are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance within the facility, adjacent

properties, or surrounding public areas, sidewalks, or parking lots, during business hours, if directly related to the patrons of the business.

3. The Hours of Operation are compatible with the other offices in The Jetty.

#### SECTION 4. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2020-196, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. 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 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 29<sup>TH</sup> DAY OF APRIL, 2021.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

**Planning Division**

1. The development shall be in substantial conformance with the approved site plan, and floor plans stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
4. Any proposed signs shall be in conformance with the approved Comprehensive Sign Program for the Property and provisions of NBMC Chapter 20.42 (Sign Standards).
5. Minor Use Permit No. UP2020-196 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 20.54.060 (Time Limits and Extensions), unless an extension is otherwise granted.
6. *Prior to the issuance of a building permit, applicable Fair Share Traffic Fees shall be paid to convert the space from general office to outpatient surgery facility in accordance with NBMC Chapter 15.38 (Fair Share Traffic Contribution Ordinance). The Applicant shall be credited for the existing office use and shall pay the net difference for the outpatient surgery facility use. The fees shall be consistent with those in effect at the time the building permit is issued.*
7. This Minor Use Permit may be modified or revoked by the Zoning Administrator should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
8. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review and approval by the Planning Division and may require an amendment to this Minor Use Permit or the processing of a new Minor Use Permit.
9. *The outpatient surgery facility shall not operate as a medical office without either an amendment to this Minor Use Permit or the processing of a new Minor Use Permit.*
10. *The outpatient surgery facility shall see patients by appointment only.*

11. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
12. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
13. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
14. Construction activities shall comply with NBMC Section 10.28.040 (Construction Activity – Noise Regulations), which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
15. All trash shall be stored within the building or within dumpsters stored in the trash enclosure or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
16. Trash receptacles for patrons shall be conveniently located both inside or outside of the establishment, however, not located on or within any public property or right-of-way.
17. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
18. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
19. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10 p.m. and 7 a.m. on weekdays and Saturdays and between the hours of 10 p.m. and 9 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Minor Use Permit.
20. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
21. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site



- media broadcast, or any other activities as specified in the NBMC to require such permits.
22. 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 NBMC Title 20 Planning and Zoning.
  23. 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 Dr. Eckermann Outpatient Surgery Facility including, but not limited to, Minor Use Permit No. UP2020-196 (PA2020-344). 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.

### **Building Division**

24. *The project shall comply with California Building Code (CBC) Section 422 for ambulatory care facility and related provisions.*
25. *The project shall comply with disabled access requirements, per CBC Chapter 11B.*
26. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the CBC. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

### **Fire Prevention Division**

27. *An automatic fire alarm system shall be installed for the facility in accordance with California Fire Code (CFC) 907.2.2.1 for Ambulatory Care Facilities*

## RESOLUTION NO. ZA2021-022

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-006 FOR THE DEMOLITION OF AN EXISTING SINGLE-FAMILY RESIDENCE AND THE CONSTRUCTION OF A NEW 2,678-SQUARE-FOOT, SINGLE-FAMILY RESIDENCE WITH A 383-SQUARE-FOOT ATTACHED TWO (2)-CAR GARAGE LOCATED AT 6806 WEST OCEAN FRONT (PA2021-024)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Eric Aust, with respect to property located at 6806 West Ocean Front, and legally described as Lot 4 of Block H, requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing single-family residence and the construction of a new three (3)-story, 2,678-square-foot, single-family residence with a 383-square-foot attached garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
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 (RT). The R-2 Zoning District permits single-unit residential dwellings.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two Unit Residential (30.0 – 39.9 DU/AC) (RT-E) and the Coastal Zoning District is Two-Unit Residential (R-2).
5. A public hearing was held online on April 29, 2021, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the construction of limited numbers of new, small structures, including one (1) single-family residence. The proposed project is a new single-family residence located in the R-2 Coastal Zoning District.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Findings and Decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 3,124 square feet and the proposed floor area is 3,061 square feet.
  - b. The proposed development complies with the required setbacks, which are 5 feet abutting the West Ocean Front, 5 feet along the property line abutting the alley, and 3 feet along each side property line.
  - c. The highest guardrail/parapet is below 24 feet from established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
  - d. The proposed development provides a two (2)-car garage, meeting the minimum garage requirement for a single-family residence.
  - e. The proposed development complies with the minimum 9.0-foot North American Vertical Datum of 1988 (NAVD 88) top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two (2)- and three (3)-story single and two (2)-unit residences. The proposed three (3)-story structure's design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. A Coastal Hazards Report was prepared by Geosoils, Inc. on October 19, 2020. The project site is separated from the water by a wide sandy beach. The site is approximately 570 feet from the mean high tide line. The report concludes that the highest high tide elevation (currently 7.7 feet NAVD 88) will not exceed 10.9 feet (NAVD 88) using the low-risk aversion projected sea level rise (3.2-foot increase) over the 75-year design life

of the structure based on estimates for sea level rise provided by the State of California Sea-Level Rise Guidance 2018. The report states that the estimated sea level rise over the next 75 years, using the Medium-High Risk Aversion, is potentially 6 feet (13.7 feet NAVD 88). Additionally, the site has not historically been subject to any wave overtopping, nor is overtopping waters over the next 75 years expected to reach the subject site, even under extreme conditions. Based on the data provided, the study provides no recommendations necessary for shoreline protection devices and concludes that coastal hazards will not impact the property over the next 75 years, as the proposed project has minimal risk from flooding.

4. The finish floor elevation of the proposed dwelling is 13.47 feet (NAVD 88), which complies with the minimum 9.0-foot (NAVD 88) elevation standard.
5. Pursuant to Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 2,500 square feet of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A WQHP prepared by Toal Engineering, Inc. dated February 3, 2020, has been submitted and will be reviewed by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
6. 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 (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and the CBC prior to building permit issuance.
7. The project site is not located adjacent to a coastal view road, public viewpoint, public park, beach, or public accessway, as identified in the Coastal Land Use Plan. The project may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Facts in Support of Finding:

1. The project site is located in West Newport between the nearest public road and the sea. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) 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 replaces an existing single-family residence with a new single-family residence. Therefore, 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. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. The project site is located between Orange Street and Fern Street, which are identified by the Coastal Land Use Plan as vertical access locations. The project does not interfere with the existing nearby access to the beach.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2021-006, 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 (NBMC). Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) 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 APRIL, 2021.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2021-006 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code (NBMC), unless an extension is otherwise granted.
4. Prior to the issuance of a Certificate of Occupancy, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
5. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify 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 development.
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. The applicant shall submit a separate Approval-In-Concept to the City and receive all required permits from the California Coastal Commission for any proposed encroachments onto the public beach along West Ocean Front.

9. All proposed accessory structures located within setback areas shall comply with applicable height limits consistent with Zoning Code Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).
10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock-piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
13. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
14. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
15. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
  - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is

found, one (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.

16. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
17. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
18. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
19. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
20. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
21. 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 Norton Residence including, but not limited to, Coastal Development Permit No. CD2021-006 (PA2021-024). 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.

#### Building Division

22. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the WQHP/WQMP and any changes could require separate review and approval by the Building Division.



23. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
24. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
25. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.



**CITY OF NEWPORT BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT**

100 Civic Center Drive  
Newport Beach, California 92660

949 644-3200  
[newportbeachca.gov/communitydevelopment](http://newportbeachca.gov/communitydevelopment)

## Director's Determination

**To:** Planning Division, Community Development Department  
**From:** Seimone Jurjis, Community Development Director  
**Date:** April 30, 2021  
**Re:** Director's Determination No. DD2021-001 Interpreting Accessory Residential as an Allowed Use within Resort Hotels (PA2021-096)

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Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code ("NBMC") define "hotel" as *an establishment that provides guest rooms or suites for a fee to transient guests for sleeping purposes. Access to units is primarily from interior lobbies, courts, or halls. Related accessory uses may include conference rooms and meeting rooms, restaurants, bars, and recreational facilities. Guest rooms may or may not contain kitchen facilities for food preparation. Hotels with kitchen facilities are commonly known as extended stay hotels. A hotel operates subject to taxation under California Revenue and Taxation Code Section 7280.*

Neither Title 20 (Planning and Zoning) nor Title 21 (Local Coastal Program Implementation Plan) list residential uses as part of the definition of "hotel". Both Title 20 and Title 21 definitions of "hotel" are out of date and do not reflect current industry practice. Specifically, the definition of "hotel" has not been updated to designate residential uses as an accessory use, which has become common practice for destination resort hotels (mixed-use hotels). While the definition of a hotel does not prohibit residential uses, a Director's Determination is necessary to fill the gap between contemporary practice and the exact wording of Title 20 and Title 21.

Sections 20.12.020 and 21.12.020 (Rules of Interpretation) of the NBMC authorize the Community Development Director to interpret the meaning of provisions of the Zoning Code and Local Coastal Program Implementation Plan.

### **Background**

#### *Council Policy K-4 (Reducing the Barriers to the Creation of Housing)*

At the March 9, 2021 City Council meeting, the City Council adopted Resolution No. 2021-18 adding City Council Policy K-4 (Reducing the Barriers to the Creation of Housing). Council Policy K-4 recognizes that the City has several major constraints on existing lands that severely limit or totally restrict the City's ability to

accommodate growth to the extent identified in the Sixth Cycle Regional Housing Needs Allocation (“RHNA”). As a result, new and flexible land use and zoning regulations and strategies should be developed in order to reasonably and practically accommodate this ambitious State housing mandate while protecting the character and maintaining a quality of life that makes Newport Beach a special place to live, work, and visit.

Council Policy K-4 directs City staff to develop, modify as necessary, and aggressively implement various strategies and action plans that are designed to accelerate housing production consistent with the policy, including encouraging and incentivizing the development of mixed-use hotels. Council Policy K-4’s goals include interpreting ambiguities in the City of Newport Beach General Plan, Coastal Land Use Plan, and Titles 20 (Planning and Zoning) and 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to allow hotels, located outside of the Coastal Commission Appeal Jurisdiction, to convert up to thirty percent (30%) of their approved hotel rooms into residential units on a one-for-one basis. Such an interpretation would allow for residential units to be deemed an accessory use to the principal use of a hotel and find that such residential uses are consistent with the hotel’s underlying General Plan, Coastal Land Use Plan and municipal code land use and zoning designations.

*Applicable Resort Hotels*

Mixed-use hotels are an established trend in the hospitality industry that incorporate hotel-branded residential units as an accessory use located within a resort hotel complex where residents enjoy access to the full range of services, facilities, and amenities provided by the hotel operator or brand. These hotel-residential uses cannot exist without the hotel’s services, facilities, and amenities. There are currently twenty-two (22) hotels in the City, of which ten (10) hotels qualify as a resort hotel, a self-contained destination that provides for all travel accommodation needs in one location, including but not limited to restaurants, bars, shopping, and recreational facilities (Attachment A). Of the ten (10) resort hotels in the City, one (1) hotel is located in the coastal zone, but completely outside the Coastal Commission Appeal Jurisdiction area, and three (3) hotels are located outside the coastal zone.

<b>Table 1. Applicable Resort Hotel Properties in the City</b>					
<b>Map ID</b>	<b>Hotel Name</b>	<b>Location</b>	<b>General Plan</b>	<b>Local Coastal Program</b>	<b>Zoning</b>
1	<b>Renaissance Newport Beach</b>	4500 MacArthur Blvd.	Mixed-Use Horizontal (MU-H2)	N/A- Outside Coastal Zone	Koll Center Planned Community (PC15)
2	<b>Fashion Island Hotel</b>	690 Newport Center Dr.	MU-H3	N/A- Outside Coastal Zone	North Newport Center Planned Community (PC56)
3	<b>Hyatt Regency John Wayne Airport</b>	4545 MacArthur Blvd.	MU-H2	N/A- Outside Coastal Zone	Newport Place Planned Community (PC11)
4	<b>Newport Beach Marriot</b>	900 Newport Center Dr.	Visitor Serving Commercial (CV)	Commercial Visitor-Serving (CV-B) / Visitor Serving Commercial (CV)	Commercial Visitor-Serving (CV)

## **Planning and Zoning (Title 20) Interpretation**

Pursuant to Section 20.12.020E (Rules of Interpretation – Unlisted Uses of Land) of the NBMC, the Director may determine that a proposed land use that is not listed in Part 2 of this title (Zoning Districts, Allowable Land Uses, and Zoning District Standards) may be allowed if the following findings can be made:

### **Finding:**

- A. *The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the zoning district;*

### **Facts in Support of finding:**

1. The allowance of residential accessory units within a hotel will be regulated to ensure the underlying characteristics and activities remain equivalent to the listed hotel use within the applicable CV (Commercial Visitor-Serving) Coastal Zoning District or PC (Planned Community) Zoning District.
2. Approved hotel rooms will be allowed to convert to residential uses on a one-for-one basis to ensure the accessory residential use does not involve a greater level of activity, population density, traffic generation, parking, dust, odor, noise, or similar impacts than the other uses listed within the applicable CV (Commercial Visitor-Serving) Coastal Zoning District or PC (Planned Community) Zoning District.
3. The conversion of hotel rooms to residential uses will be limited to no more than 30 percent of the total number of approved hotel rooms. This restriction will further ensure that residential uses remain an accessory use to the hotel and do not change the primary use of the property from hotel to residential.
4. The traffic generation associated with a residential use is comparable to the traffic generation for a resort hotel use. According to the Institute of Transportation Engineers Trip Generation Manual (10<sup>th</sup> Edition), a Multi-Family Housing Mid-Rise (3-10 levels) development (ITE Code 221) would generate 0.36 and 0.44 average AM and PM weekday peak hour trips per dwelling unit. A Resort Hotel (ITE Code 330) would generate 0.32 and 0.41 average AM and PM weekday peak hour trips per room. The published ITE trip rates are generally for stand-alone development (e.g. stand-alone hotel or multi-family housing buildings); however, the reality is accessory residential dwelling units would likely have lower rates due to the additional on-site amenities provided. Therefore, following conversion of a hotel room to a residential unit, the anticipated traffic generation will be similar or lower.

5. Pursuant to Council Policy K-3 and in compliance with Senate Bill 743, the conversion of a resort hotel room to a residential unit is considered to be less than significant impact on transportation/traffic and no further vehicle miles traveled (VMT) analysis is required since all trips associated with such conversion have already been accounted for as approved hotel rooms. As a result, conversions are expected to fall below the adopted land use screening threshold of 300 or less daily trips. For ITE Code 330, there is no listed daily trip rate; however, the City Traffic Phasing Ordinance states that if there is not an applicable rate, the City Traffic Engineer may, in the exercise of his/her professional judgement, authorize the use of trip generation rates in San Diego Association of Government's (SANDAG) Traffic Generators or on the basis of actual site counts. The SANDAG daily trip rate for Resort Hotel is eight daily trips per room. The SANDAG daily trip rate for Multi-Family Condominium is also eight daily trips per unit. Therefore, the conversion of a resort hotel room to a residential unit would result in same or lower daily trips, and below the screening threshold of 300 daily trips requiring VMT analysis.
6. Based on the similar vehicular trips associated with accessory residential uses, levels of odor, dust, noise, or similar impacts at a hotel property with accessory residential uses is expected to be similar or less.
7. Mixed-use hotels are a form of accommodation that affords buyers with access to the full range of services, facilities, and amenities provided by the hotel.
8. The definition of hotel allows related accessory uses such as conference rooms and meeting rooms, restaurants, bars, and recreational facilities that can generate additional parking demand substantially higher than residential parking rates. The conversion of hotel rooms to residential units would constitute an amendment to the conditional use permit. In reviewing such amendments, approval of the conditional use permit would require ensuring adequate parking is provided to accommodate the residential units through surplus parking, shared parking, or the adoption of a parking management plan.

Finding:

- B. The proposed use will meet the purpose/intent of the zoning district that is applied to the location of the use;*

Facts in Support of finding:

1. The CV (Commercial Visitor-Serving) Coastal Zoning District is intended to provide for areas appropriate for accommodations, goods, and services intended to primarily serve visitors to the City. Hotels are allowed in the CV (Commercial Visitor-Serving) Coastal Zoning District subject to obtaining a

conditional use permit pursuant to Section 20.20.020 of the NBMC. A hotel with an accessory residential use that is limited to no more than 30 percent of the approved hotel rooms will primarily serve visitors to the City.

2. The resort hotels located within PC11, PC15, and PC56 are located within the MU-H (Mixed-Use Horizontal) land use category of the General Plan. The MU-H designations are intended to provide for the development of areas for a horizontally distributed mix of uses, which may include general or neighborhood commercial, commercial offices, multi-family residential, visitor-serving and marine-related uses, and/or buildings that vertically integrate residential with commercial uses. The hotel-branded units are consistent with the MU-H designations as residential units are clearly allowed, and a hotel with an accessory residential use that is limited to no more than 30 percent of the approved hotel rooms will primarily serve visitors to the City.
3. Mixed-use hotels are common practice within the hotel industry and provide visitor serving amenities and services consistent with the CV (Commercial Visitor-Serving) Coastal Zoning District and PC (Planned Community) Zoning District.
4. Fact in Support of Finding A.7 is hereby incorporated.

Finding:

- C. The proposed use will be consistent with the goals, objectives, and policies of the General Plan, or any applicable specific plan;*

Facts in Support of finding:

1. The CV (Commercial Visitor-Serving) Coastal Zoning District General Plan land use designation is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primary visitors to the City. By limiting residential uses to an accessory use at a hotel property, the primary purpose of the hotel meets the goals, objectives and policies of the General Plan, or any applicable specific plan.
2. The MU-H (Mixed-Use Horizontal) designations are intended to provide for the development of areas for a horizontally distributed mix of uses, which may include general or neighborhood commercial, commercial offices, multi-family residential, visitor-serving and marine-related uses, and/or buildings that vertically integrate residential with commercial uses. Mixed-use hotels are consistent with the MU-H designations as residential units are clearly allowed, and a hotel with an accessory residential use that is limited to no more than 30 percent of the approved hotel rooms will primarily serve visitors to the City.

3. The trend in the hotel industry is to locate limited residential uses at a hotel property to create resort amenities that can be shared by residents, visitors, and tourists alike.
4. This interpretation implements Land Use Element Policy LU 2.3 (Range of Residential Choices) by providing new opportunities for the development of residential units in response to community and regional needs for housing.
5. This interpretation implements Land Use Element Policy LU 3.2 (Growth and Change) which encourages enhancement of existing neighborhoods, districts, and corridors, allowing for re-use and infill with uses that are complementary in type, form, scale, and character. Changes in use and/or density/intensity should only be considered in those areas that are economically underperforming, are necessary to accommodate the City's share of regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The hotel industry has been one of the hardest hit industries due to the COVID-19 pandemic and for some hotels, a full recovery of the industry is not anticipated for many years. Mixed-use hotels provide an opportunity to revitalize older and/or underperforming hotels to maintain their competitive standing by creating multiple revenue streams that can support improvements to the property enhancing the visitor experience. Economies of scale created by shared facilities, amenities, and services add additional benefit to mixed-use hotel developments. This cross pollination of business benefits both the hotel and the resident. It may also increase occupancy rates at the resort by creating increased synergy between uses and social gathering opportunities, boosting transient occupancy taxes while providing in-fill housing opportunities to partially assist the City in meeting its RHNA obligation in highly desirable and built-out areas.

Finding:

*D. The proposed use is not listed as allowable in another zoning district;*

Fact in Support of finding:

1. Hotels with an accessory residential use are not listed as allowable in another zoning district, Stand-alone residential uses, which are allowable in another zoning district, would not be permitted under this interpretation.

Finding:

*E. The proposed use is not a prohibited or illegal use.*

Fact in Support of finding:

1. Hotels with an accessory residential use are neither a prohibited or an illegal use.

**Local Coastal Program Implementation Plan (Title 21) Interpretation**

Pursuant to NBMC Section 21.12.020(E) (Rules of Interpretation – Unlisted Uses of Land) of the NBMC, the Director may determine that a proposed land use that is not listed in Part 2 of this title (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards) may be allowed if the following findings can be made:

Finding:

*F. The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the coastal zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the coastal zoning district;*

Facts in Support of finding:

1. The allowance of residential accessory units within a hotel will be regulated to ensure the underlying characteristics and activities remain equivalent to the listed hotel use within the applicable CV (Commercial Visitor-Serving) Coastal Zoning District.
2. Approved hotel rooms will be allowed to convert to residential uses on a one-for-one basis to ensure the accessory residential use does not involve a greater level of activity, population density, traffic generation, parking, dust, odor, noise, or similar impacts than the other uses listed within the applicable CV (Commercial Visitor-Serving) Coastal Zoning District.
3. The conversion of hotel room to residential units would constitute a major change in hotel operations requiring a coastal development permit. The coastal development permit review will require adequate parking be provided to accommodate the residential units through surplus parking, shared parking, or the adoption of a parking management plan, and to ensure the protection of lower-coast visitor accommodations.
4. Facts in Support of Finding A.3 through A.8 are hereby incorporated by reference.



Finding:

*G. The proposed use will meet the purpose/intent of the coastal zoning district that is applied to the location of the use;*

Facts in Support of finding:

1. The CV (Commercial Visitor-Serving) Zoning District is intended to provide for areas appropriate for accommodations, goods, and services intended to primarily serve visitors to the City. A hotel with an accessory residential use that is limited to no more than 30 percent of the approved hotel rooms will primarily serve visitors to the City.
2. Mixed-use hotels are common practice within the hotel industry and provide visitor serving amenities and services consistent with the CV (Commercial Visitor-Serving) Coastal Zoning District.

Finding:

*H. The proposed use will be consistent with the goals, objectives, and policies of the Coastal Land Use Plan;*

Facts in Support of finding:

1. The CV (Commercial Visitor-Serving) Coastal Zoning District Coastal Land Use Plan designation is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primary visitors to the City. By limiting residential uses to an accessory use at a hotel property, the primary purpose of the hotel meets the goals, objectives and policies of the Coastal Land Use Plan that prioritize visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over other uses.
2. The trend in the hotel industry is to locate limited residential uses at a hotel property to create resort amenities that can be shared by residents, visitors, and tourists alike.
3. This interpretation would restrict its applicability to hotel properties located outside of the appeal areas identified in the California Public Resources code Section 30603(a) as generally depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map. This applicability restriction ensures that coastal access and coastal dependent uses are not impacted.
4. Any development would be required to adhere to all LCP goals and policies including those related to public access and resource protection, and the protection of lower-cost visitor accommodations.

Finding:

- I. The proposed use is not listed as allowable in another coastal zoning district; and*

Fact in Support of finding:

1. Hotels with an accessory residential use are not listed as allowable in another coastal zoning district. Separate or stand-alone residential uses operating as primary land uses, which are allowable in another coastal zoning district, would not be permitted under this interpretation.

Finding:

- J. The proposed use is not a prohibited or illegal use.*

Fact in Support of finding:

1. Hotels with an accessory residential use are neither a prohibited or an illegal use.

**Directors Determination**

The Community Development Director of the City of Newport Beach hereby determines that residential uses are permitted as an accessory use to hotels subject to the following:

- a. This interpretation shall only apply to resort hotels, a self-contained destination that provides for all travel accommodation needs in one location, including but not limited to restaurants, bars, shopping, and recreational facilities. Residents shall enjoy access to the full range of services, facilities, and amenities provided by the hotel operator or brand.
- b. The hotel property relying upon this interpretation shall be located outside the appeal area identified in California Public Resources Code Section 30603(a) as generally depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map.
- c. Approved hotel rooms may be converted to residential units but only on a one-for-one basis.
- d. The residential use shall at all times be accessory to the hotel use, and the residential units shall comprise no more than 30 percent of the approved hotel rooms.
- e. The residential units may be located within a repurposed hotel or in a new residential structure.

- f. A property owner that desires to have an accessory residential use at their hotel shall process a conditional use permit and coastal development permit (if applicable). In reviewing said permits, the review authority shall ensure adequate parking is provided to accommodate the residential units through surplus parking, shared parking, or the adoption of a parking management plan.
- g. Potential impacts to public access, affordable housing, and the loss of transient occupancy tax must be mitigated by entering into a Development Agreement with the City or by some other means deemed appropriate.

Please note that a call for review or appeal may be filed within 14 days following the date of this determination.

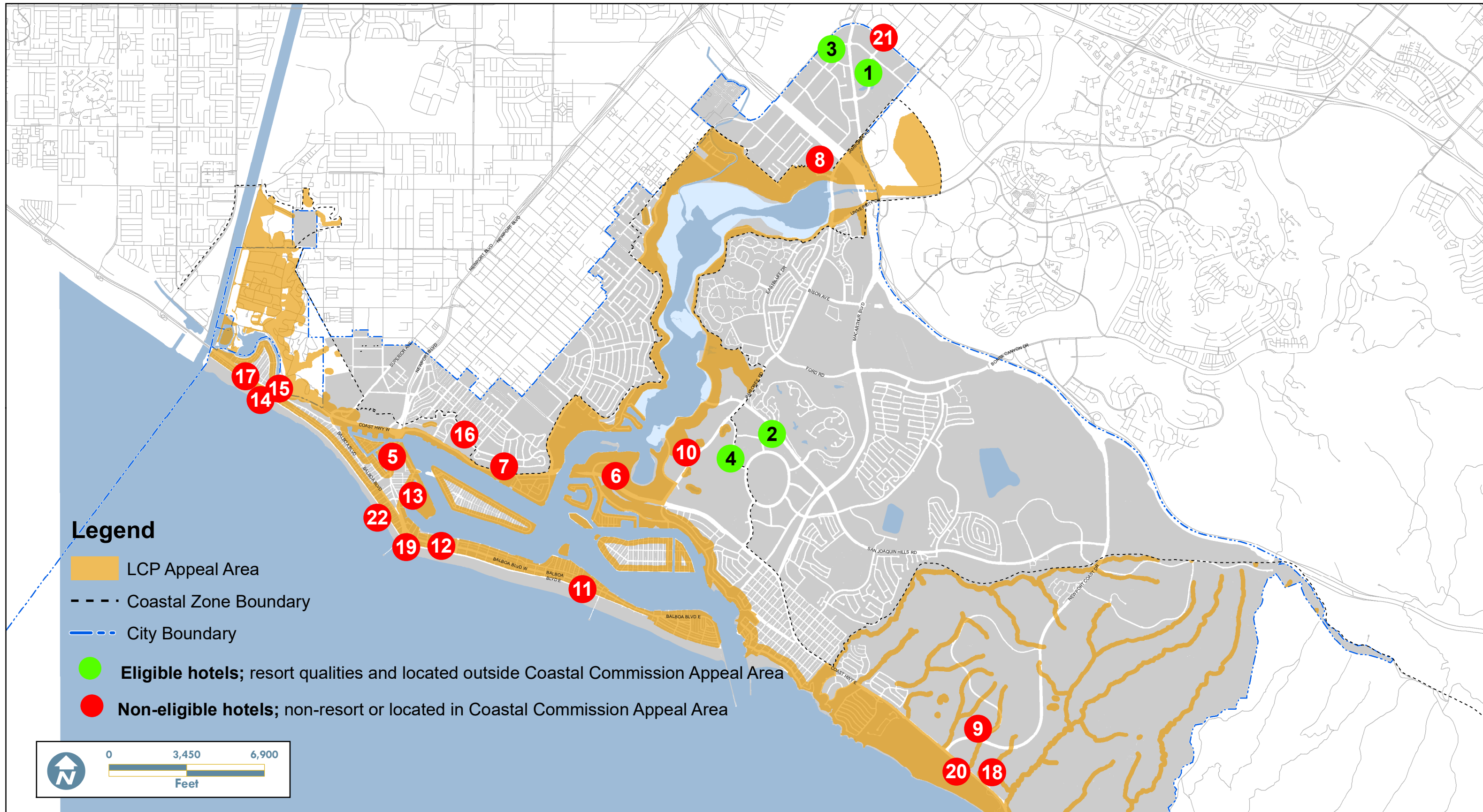
  
\_\_\_\_\_  
Seimone Jurjis, PE, CBO  
Community Development Director

Attachments:

A – Hotel Map and List

# **ATTACHMENT A**

Hotel Map and List



## Qualifying Resort Hotels Determination No. DD2021-001 (PA2021-096)

Tag	Name of Establishment	Address	GP	Zoning	Coastal land Use and Zoning	Appeal Area	Resort Qualities	Eligible for Interpretation Non-Appeal Area Resort Qualities
1	Renaissance Newport Beach	4500 MacArthur Blvd	MU-H2	PC-15 (Office Site A)	--	--	Yes	Yes
2	Fashion Island Hotel	690 Newport Center Drive	MU-H3	PC-56	--	--	Yes	Yes
3	Hyatt Regency John Wayne Airport	4545 MacArthur Blvd	MU-H2	PC11 (Hotel Site 1)	--	--	Yes	Yes
4	Newport Beach Marriot	900 Newport Center Dr	CV	CV	CV-B/CV	No	Yes	Yes
5	Lido House	3300 Newport Boulevard	CV-LV	CV-LV	CV-LV	Bisected	Yes	No
6	Newport Dunes	1131 Back Bay Drive	PR	PC48	PR/PC48	Yes	No	No
7	Balboa Bay Resort	1221 West Coast Highway	CV	PC45 (Resort)	CV-B/PC45	Yes	Yes	No
8	Newport Beach Marriot Bayview	500 Bayview Circle	CV	PC32	CV-A/PC-32	Bisected	Yes	No
9	The Resort at Pelican Hill	22701 Pelican Hill Rd	CV	PC52 (PA13C-Tourist Commercial)	PC52	Bisected	Yes	No
10	Hyatt Regency Newport Beach	1107 Jamboree Rd	CV	CV	CV-B/CV	Bisected	Yes	No
11	Balboa Inn	105 Main St.	CV	CV	CV-B/CV	Yes	Yes	No
12	Bay Shores Peninsula Hotel	1800 West Balboa Blvd.	CV	CV	CV-A/CV	Yes	No	No
13	Little Inn By The Bay	2627 Newport Blvd.	CV	CV	CV-A/CV	Bisected	No	No
14	Newport Channel Inn	6100 West Coast Highway	CV	CV	CV-A/CV	No	No	No
15	Hotel Solarena	6208 West Coast Highway	CV	CV	CV-A/CV	No	No	No
16	Holiday Inn Express	2300 West Coast Highway	CV	CV	CV-A/CV	Bisected.	No	No
17	Pine Knot	6302 West Coast Highway	CV	CV	CV-A/CV	No	No	No
18	Marriot's Newport Coast Villas	23000 Newport Coast Dr	CV	PC52 (PA13C-Tourist Commercial)	PC52	Bisected	No	No
19	Doryman's Inn	2102 West Ocean Front	CV	CV	CV-B/CV	Yes	No	No
20	Crystal Cove Beach Cottages	35 Crystal Cove	OS	PC52 (PA17)	PC52 (PA17)	Yes	No	No
21	Extended Stay America OC John Wayne Airport	4881 Birch Street	CG	PC15 (Retail and Service Site 1)	—	—	No	No
22	The Newport Beach Hotel A Four Sisters Inn	2306 W Oceanfront	CV	CV	CV-B/CV	Yes	No	No