



## **CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT**

December 07, 2023  
Agenda Item No. 2

**SUBJECT:** Pine Knot Motel Appeal (PA2023-0027)  
▪ Coastal Development Permit

**SITE LOCATION:** 6302 West Coast Highway

**APPELANT:** Jim Mosher

**APPLICANT:** Eric Aust, Architect

**OWNER:** 6302 INVESTMENTS LLC managed by Kevin Giz

**PLANNER:** Joselyn Perez, Associate Planner  
949-644-3312, [jperez@newportbeachca.gov](mailto:jperez@newportbeachca.gov)

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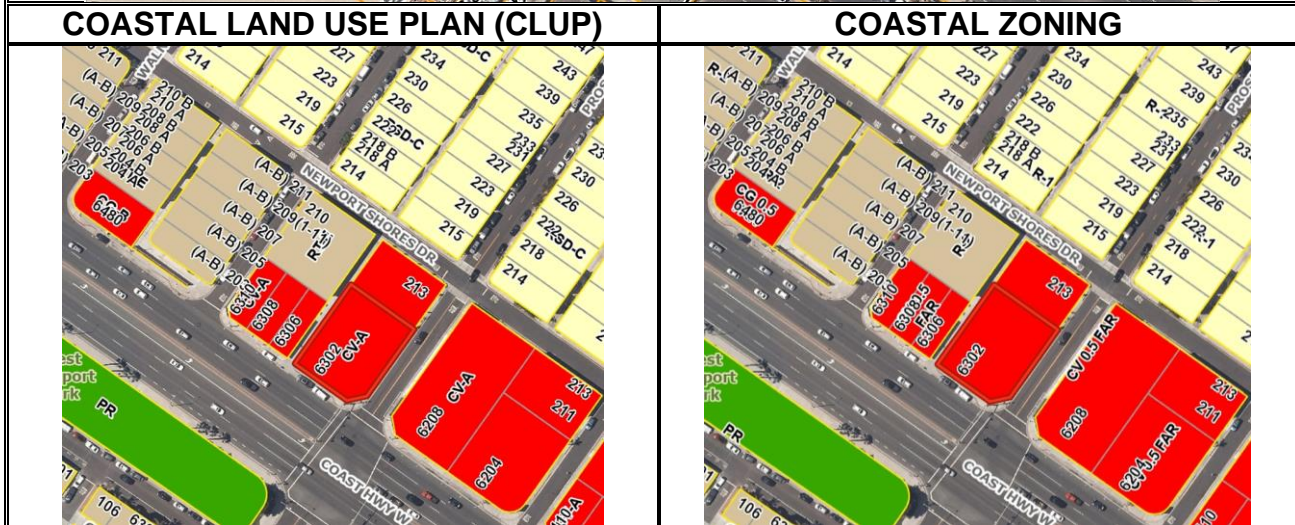
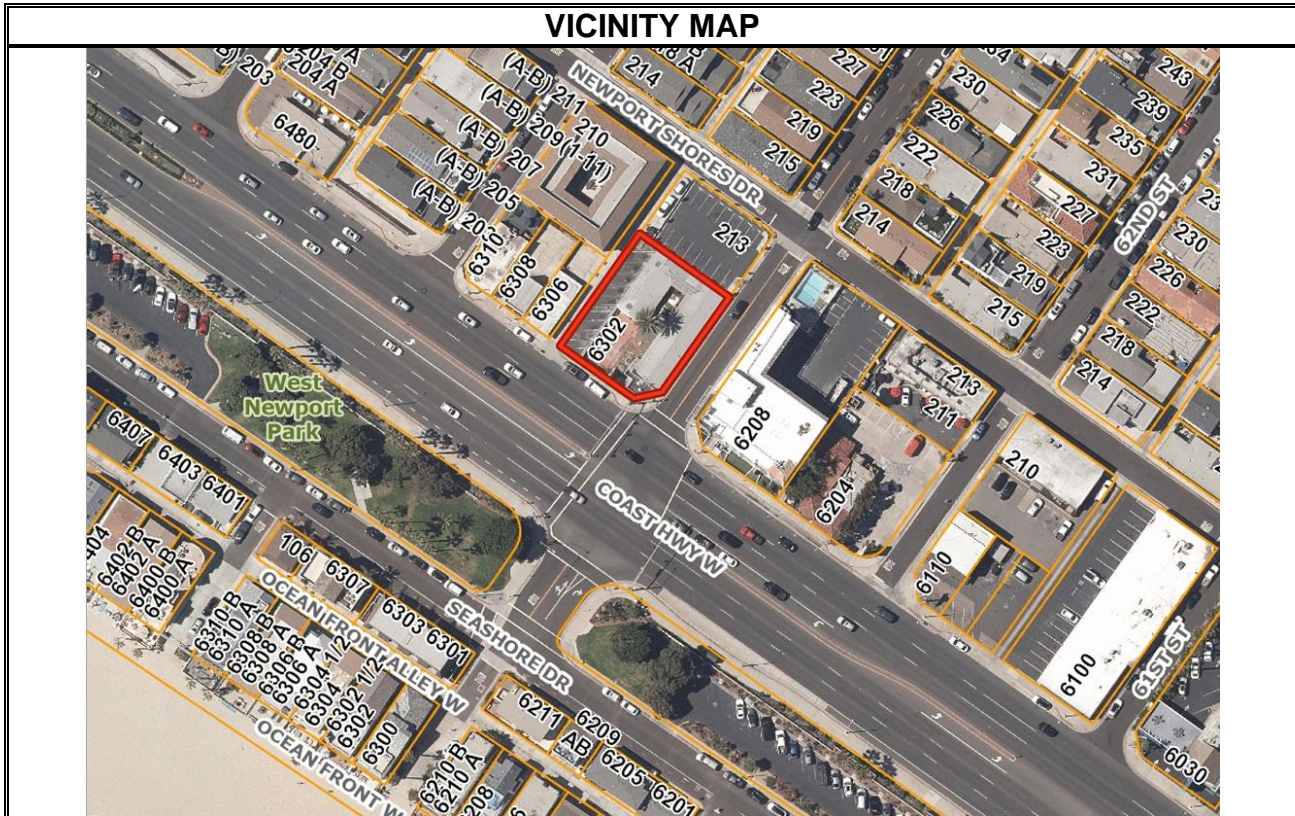
### **PROJECT SUMMARY**

An appeal of the Zoning Administrator's September 28, 2023, decision to approve a coastal development permit (CDP) to rehabilitate a 12-room motel that was significantly damaged by fire in 2018 and partially demolished pursuant to Emergency Coastal Development Permit No. ECD2018-150. The project involves replacing the demolished portions of the structure, repairing the uninhabitable portions of the structure, the addition of a partial second story at the front of the property, and related site improvements.

### **RECOMMENDATION**

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (Replacement or Reconstruction) 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; and
- 2) Adopt Resolution No. PC2023-041 denying the appeal and upholding and affirming the Zoning Administrator's approval of a Coastal Development Permit to allow the addition of a partial second story and the rehabilitation of a 12-room motel filed as PA2023-0027 (Attachment No. PC 1).

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LOCATION	CLUP	COASTAL ZONING	CURRENT USE
ON-SITE	Visitor Serving Commercial (0.0 – 0.75 FAR) (CV-A)	Commercial Visitor-Serving (CV)	Damaged, vacant, motel
NORTH	CV-A	CV	Parking lot
EAST	CV-A	CV	Real estate office
SOUTH	Parks and Recreation (PR)	PR	West Newport Park
WEST	CV-A	CV	Hotel

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## **INTRODUCTION**

Attached to the staff report is the appeal application received by the City (Attachment No. PC 2), the resolution of the Zoning Administrator approving the CDP (Attachment No. PC 3), and minutes from the September 28, 2023, meeting of the Zoning Administrator (Attachment No. PC 4).

### **Project Setting and Background**

Pine Knot Motel is located within the Newport Shores neighborhood of West Newport. The motel historically provided 12 guest rooms, caretaker quarters, lobby, central courtyard, rooftop deck, and nine onsite parking spaces. Due to room rates falling below the Statewide average daily room rate, the motel meets the Local Coastal Program definition of a low cost overnight visitor accommodation (LCOVA).

The surrounding neighborhood is primarily developed with single-story and two-story single-unit and two-unit dwellings. Properties fronting West Coast Highway are nonresidential and are typically one to two stories tall. The notable exception being the three-story hotel to the immediate east of the project site. A City park and residential uses are located across West Coast Highway to the south. Figure 1 below provides an elevated view of the surrounding development.



*Figure 1: Project site and surrounding neighborhood*

On April 10, 2018, a structure fire occurred within the southwestern corner of the property and significantly damaged the motel. The Chief Building Official red-tagged (unsafe to

enter) rooms 1 through 4, shown below in Figure 2, with the remainder of rooms yellow-tagged (given limited access to retrieve personal items only).



*Figure 2: Red tagged motel rooms, prior to demolition*

Rooms 1 through 4 were demolished in accordance with Emergency Coastal Development Permit No. ECD2018-150. A copy of ECD2018-150 is included as Attachment No. PC 5. The remaining units not demolished as part of ECD2018-150 are uninhabitable and have sat unused since the fire. The owners of the motel at the time of the fire explored a variety of options to restore the property prior to ultimately selling the property to the current ownership. Both property owners have been working diligently with the City to rehabilitate the property.

### Project Description

The project will repair the damaged portions of the motel and a new building will be constructed in the place of the previously demolished portion of the motel. There will be a partial second story added at the front of the property as part of the new construction. There is a small 306 square-foot increase in gross floor area and no increase in the total

number of rooms from the earlier motel. The rehabilitated motel will feature a coastal modern architectural style that uses a mix of materials, such as wood siding and stucco, and will be painted white with black accents. While the footprint of the motel will remain mostly unchanged, the layout of the rooms will be reconfigured to provide eight standard rooms and four suites. Two of the reconfigured rooms will provide accessible accommodations for disabled persons whereas the original motel did not. The motel will feature a lobby with coffee bar, a courtyard with bocce ball and fire pit, a lounge, storage lockers, second-floor deck space, and laundry facilities. In addition, beach friendly amenities such as bicycles, towels, and chairs will be available to motel guests. A commercial trash enclosure will be constructed and the on-site, surface, parking lot will be improved and restriped. Restriping of the parking to comply disabled access standards will eliminate two parking spaces, resulting in a total of seven spaces provided. The project plans are included as Attachment No. PC 6.

### Zoning Administrator Hearing, Decision, and Appeal

On September 28, 2023, the Zoning Administrator held a public hearing for the project. During the public hearing, one member of the public representing the Newport Shores Community Association, spoke in favor of the project and cited the widespread neighborhood interest in seeing the property rehabilitated to provide visitor accommodations. Mr. Jim Mosher also spoke and suggested the Planning Commission should review the project. He questioned the designs conformity with previous owner's original plans, whether the nonconforming use could be reestablished, and if the conclusions of the LCOVA analysis were appropriate.

The Zoning Administrator concluded the required findings could be made and adopted Resolution No. ZA2023-060 approving the Coastal Development Permit.

On October 12, 2023, Mr. Jim Mosher filed a timely appeal of the Zoning Administrator's decision.

### *Conduct of Hearing*

Pursuant to NBMC Section 21.64.030.C.3 (Conduct of Hearing), a public hearing on an appeal is conducted "de novo," meaning that it is a new hearing. The prior decision of the Zoning Administrator to approve the CDP has no force or effect. The Planning Commission is not bound by the Zoning Administrator's prior decision or limited to the issues raised by the appeal.

## **DISCUSSION**

### General Plan and Zoning Code Consistency

The property is categorized as Visitor Serving Commercial (CV) by the Land Use Element of the General Plan and is located within the Commercial Visitor-Serving (CV) Zoning

District. These designations are intended to provide areas appropriate for providing accommodations, goods, and services intended to primarily serve visitors to the City of Newport Beach. A motel use is consistent with CV General Plan land use designation and is a permitted use, subject to the approval of a Conditional use Permit (CUP), under the CV zoning designation.

Pine Knot Motel previously operated without a CUP and is considered a nonconforming use due to its lack of a CUP. NBMC Section 20.38.080 (Repair of Damaged or Partially Destroyed Nonconformities) allows for a nonconforming use that was involuntarily damaged or destroyed to be reestablished by right if restoration work is commenced within 12 months of the date of damage and is diligently pursued to completion, and is not subject to an abatement period, unless otherwise allowed by the Director. The previous owners diligently pursued a viable rehabilitation plan after the fire and through the COVID-19 pandemic and ultimately sold the property. Current ownership has continued to diligently pursue restoration to maintain a motel use at the site. Additionally, the property is not subject to an abatement period. The project meets the requirements to reestablish the nonconforming use without a CUP.

As a nonconforming use, the motel is also regulated by NBMC Section 20.38.050 (Nonconforming Uses), which restricts the ways in which a nonconforming use may be changed, expanded, increased, or intensified. Intensification of use is allowed with the approval of a CUP. Given the parking requirements for motels is set by number of guest rooms rather than gross floor area, the appropriate measure of intensification in this case is the number of guest rooms. The nominal addition of 306 square feet of gross floor area helps modernize and enhance usability of the motel but does not result in an increase in room count. Therefore the project is not an intensification of use and no CUP is required.

#### Local Coastal Program Consistency

The project site is located within the coastal zone, but outside of the California Coastal Commission (CCC) Appeal Area. The Coastal Commission does not have jurisdiction over the project because it is outside the Appeal Area and because prior development was not subject to a coastal development permit (CDP) issued by the CCC.

The project site is categorized as Visitor Serving Commercial (0.0 – 0.75 FAR) (CV-A) by the Coastal Land Use Plan (CLUP). The coastal zoning designation is Commercial Visitor-Serving (CV). Both designations are intended to provide for accommodations (e.g. hotels, motels, hostels), goods, and services intended to primarily serve visitors to the City of Newport Beach. A motel use at the project site is consistent with these designations and an important part of maintaining the character of Newport Beach as a visitor destination with coastal access.



### Coastal Development Permit

A CDP is required because the rehabilitation project includes the construction of an additional story that increases the existing structure's height by more than 10%.

To approve a CDP, the following findings and facts in support of such findings are required:

- a. Conforms to all applicable sections of the certified Local Coastal Program; and*
- 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.*

### *Development Standards*

The rehabilitated motel and accessory structures conform to applicable development standards of Title 21 (Local Coastal Program Implementation Plan), including floor area limit, setbacks, and height, apart from parking, as evidenced by the project plans and illustrated in Table 1 below.

<b>Table 1 – Development Standards</b>		
<b>Development Standard</b>	<b>Standard</b>	<b>Proposed</b>
<b>Setbacks (min.)</b>		
Front	0	0 feet
Side – Prospect Street	0	3 feet, 3 inches
Side – Alley	0	19 feet, 4 inches
Rear	0	2 feet, 10 inches
<b>Maximum Gross Floor Area</b>	4,406.5 square feet	4,406 square feet
<b>Maximum Allowable Floor Area Ratio</b>	.5 FAR	.5 FAR
<b>Parking (min.)</b>	12 spaces	7 spaces
<b>Height (max.)</b>	26-foot flat roof 31-foot sloped roof	26-foot top of guardrail 31-foot sloped roof

### *Parking Reduction Request*

A motel use requires one parking space per guest room, or 12 spaces for a 12-room motel. However, the most recent parking lot configuration only provided nine nonconforming parking spaces. The proposed project will further reduce the total number of parking spaces to seven. This reduction is not voluntary and is to comply with current parking lot and disabled access standards.

While the loss of parking related to required disabled parking space upgrades is administratively permissible in Title 20 (Planning and Zoning), Title 21 lacks a similar allowance. The application instead includes a request to waive the two spaces affected

by the upgrade which is allowed pursuant to NBMC Section 21.40.110 (Adjustments to Off-Street Parking Requirements).

To allow the reduction, the project must demonstrate a reduced parking demand and a lack of impact to coastal access. The following site and operational characteristics support the reduction of required off-street parking:

- While motels historically have been used by traveling motorists, modern technology increases the likelihood that some guests will arrive via rideshare.
- Some guests, especially families with children, are likely to book more than one room without arriving in more than one vehicle. Likewise, groups staying at the motel are likely to carpool and will not arrive individually.
- The site is served by regular bus service, with an Orange County Transit Authority (OCTA) bus stop approximately one block to the east.
- There is on-street parking available along West Coast Highway, Seashore Drive, and there are multiple municipal lots along Seashore Drive. Two of the municipal lots are located less than 300 feet from the project site.
- The project site is within walking distance of coastal resources that guests will visit. For example, the site is less than 400 feet from a large, sandy, beach with beach volleyball courts available off of the Grant Street end, less than .33 miles from the site. Additionally, the motel will have bicycles and on-site bicycle parking available for use by guests that wish to visit destinations beyond walking distance, such as the Balboa Peninsula, the Newport Pier, or popular surfing locations within the area.
- The motel is small in scale and will operate with a limited number of employees at any given time.
- The project will ultimately increase coastal access for disabled individuals. The prior parking lot layout did not provide an accessible space for the disabled. The restriping of the parking lot will provide one compliant space and the rehabilitated motel will provide two compliant guest rooms for the disabled.

#### *Visitor Accommodations*

Applications involving either the development of new visitor accommodations; or the expansion, reduction, redevelopment, demolition, conversion, closure, or cessation of existing visitor accommodations in the coastal zone, require the review authority to consider the following:

- 1) the development's ability to otherwise protect, encourage, or provide low-cost visitor-serving and recreational facilities on the project site or in the immediately adjacent area;
- 2) the impact to, and ability to provide, public recreational opportunities;
- 3) the feasibility to rehabilitate existing low-cost accommodations to meet a minimum acceptable level of comfort and hospitality while maintaining the ability to provide low cost visitor accommodations; and
- 4) the range of room types and room rates Citywide.

A feasibility and impact assessment report was prepared by PFK Hospitality Group, dated July 2023 (Attachment No. PC 7). The report found that the motel would need to charge an Average Daily Rate (ADR) of \$325 to operate successfully. The report concludes that while the project does not reduce the availability of low cost overnight visitor accommodations (LCOVA) within the City, the fire did that, the new accommodations fail to provide a range of affordability (i.e., no low cost accommodations would be provided). The report also adds that high land values within the City generally render sites unsuitable for the development of LCOVA.

NBMC Section 21.48.025.C.4 requires new accommodations provide a minimum of 25% of rooms as LCOVA. As the project fails to provide any LCOVA as it is infeasible, the project impacts the potential availability of LCOVA and mitigation proportional with the impact is required. Condition of Approval No. 2 in the draft resolution requires that the applicant pay an in-lieu fee for the inability to provide the minimum required 25% (three rooms) of the new accommodations as low cost in the amount of \$25,000 per room (\$75,000 total). The fee has been determined by the Community Development Director and is based on the size of the motel, proposed ADR, and the amenities provided by the motel. The applicant was agreeable to this payment as it does not render the project financial infeasible.

The in-lieu fee paid by the applicant will benefit the Fostering interest in Nature (FiiN) program, administered by the City of Newport Beach and Newport Bay Conservancy and fulfills the provision of providing lower-cost overnight opportunities. The FiiN program operates as a 3-day, 2-night program for 16 sessions over eight weeks and reaches a minimum of 560 disadvantaged students per year. FiiN partners with Newport Dunes to provide student and teacher accommodations, meals, and amenities to the program. FiiN provides students with a diverse environmental education experience and highlights the importance of coastal and estuarine environments. Lessons and activities take place at the Back Bay Science Center and within the natural settings of Upper Newport Bay and Big Canyon. The program helps foster increased awareness and need for environmental conservation and stewardship of the natural world. The curriculum also begins to stimulate and encourage interest in scientific inquiry and research involving natural environments and ecosystems. Many FiiN attendees have had limited exposure to nature-

based recreation activities and experience riding on a boat, viewing wildlife, kayaking, camping in a tent, and roasting a marshmallow over a campfire for the first time. The FiiN program was established as mitigation for the Lido House Hotel project and the subject application contribution will allow for a modest expansion so the program can accommodate additional children.

### *Coastal Hazards*

The project site is located on an inland property, in a developed area, approximately 600 feet from Semeniuk Slough and 800 feet from the mean high-water line of the Pacific Ocean. The site is separated from Semeniuk Slough by multiple blocks of residential properties and is separated from the mean-high water line of the Pacific Ocean by multiple blocks of residential properties and West Coast Highway. The lowest finished floor elevation of the first floor of the structure is 9.67 feet, based on the North American Vertical Datum of 1988 (NAVD 88). That height complies with the minimum 9.0-foot (NAVD 88) elevation standard for interior livable areas within new structures/new development. The identified distances from coastal hazard areas, coupled with the 9.67-foot NAVD 88 finish floor height, help ensure the project is reasonably safe from coastal hazards for the economic life of the structure.

The property is 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. A Preliminary Geotechnical Study has been prepared by R. McCarthy Consulting, Inc., dated May 4, 2022. The project has been designed to be consistent with the recommendations in the studies. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.

### *Public Views*

The project site is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan.





*Figure 3: Project proximity to the nearest designated viewpoints*

As demonstrated in Figure 3, the nearest designated public viewpoint is located at Newport Shores Park and overlooks the Semeniuk Slough. The viewpoint is approximately 600 feet to the east of the site and the site is not within the viewshed of the slough from that point. The nearest coastal view road is a portion of West Coast Highway that begins at the Santa Ana River, approximately 2,500 feet to the west of the site. The motel is not within the viewshed of the ocean from this roadway.

As shown in Figures 4 below, the motel has been shuttered and fenced off since the fire. The rehabilitated motel, shown in Figure 5, will ultimately remedy a blighted condition and will provide a significant aesthetic improvement to the neighborhood thereby improving the visual quality of the coastal zone.



*Figures 4 and 5: A before and after of the building, as seen from West Coast Highway*

Additionally, the building complies with applicable height limitations and maintains a building envelope consistent with the existing neighborhood pattern of development. The project does not contain any unique features that would degrade the visual quality of the coastal zone.

### Public Access

The project site is not located between the nearest public road and the sea or shoreline. As such, it is not necessary to assess project consistency with the public access and public recreation policies of Chapter 3 of the Coastal Act. However, vertical access to the beach is in proximity to the site, along Prospect Street. Lateral access to the coast is available beginning at the Prospect Street end and along the beach. The project does not include any features that would obstruct or limit access along these routes. Any potential impact to public access resulting from the small parking reduction is partly offset by the resumption of the use and any residual impact is nominal.

### Staff Response to the Project Appeal

The appeal objects to the proposed mitigation fee for the project's failure to provide LCOVA and the total number of rooms being assessed a mitigation fee. The appeal also contests whether the current proposal qualifies as diligent pursuit of a restoration plan within 12-months of damage and the proposed loss of two parking spaces.

### *Low Cost Overnight Visitor Accommodations and In-Lieu Fee*

The 2018 fire significantly damaged the motel and is responsible for its closure and ending the availability of 12 LCOVA units at the site. Since there are no existing LCOVA units on the site today, the project does not constitute or result in an expansion, reduction, redevelopment, demolition, conversion, closure, or cessation of existing LCOVA. Rather, the project is considered the development of new visitor accommodations for the purposes of implementing NBMC Section 21.48.025 (Visitor Accommodations). As discussed in the *Visitor Accommodations* section of this report, NBMC Section 21.48.025.C.4 requires new accommodations that fail to provide a range of affordability, including at least 25% of the rooms as LCOVA, pay an in-lieu fee proportional with the impact.

Mr. Mosher questions why the mitigation fee for Pine Knot Motel is lower than the in-lieu fee amount of \$44,226 per room imposed by the California Coastal Commission in 2015 on the then-new Lido House Hotel. It is important to recognize the significant difference in the type of accommodation provided. The Lido House Hotel is a 4-star boutique hotel with over 130 keys, with a mix of guest rooms, suites, and cottages. Many of the suites feature private balconies or patios with enhanced views of the coast. The amenities on the property include a fitness center, outdoor pool and hot tub, a full-service spa, restaurant, and rooftop bar. The hotel also offers indoor and outdoor event space, a grand ballroom, and meeting rooms. The mitigation fee for Lido House Hotel is not a fair comparison to Pine Knot Motel.

The proposed project is a motel and does not provide similar amenities as the Lido House Hotel. The proposed motel does not include fitness facilities, event spaces, or an on-site restaurant. The rooms will not have ocean or harbor views and the project site is not

centrally located in a visitor serving business district. Pine Knot Motel is well located for access to West Newport beaches and Coast Highway. The proposed fee for Pine Knot Motel balances both financial feasibility with providing a visitor accommodation use and offers the intended mitigation without functioning as an excessive hardship that ultimately renders the rehabilitation of the property infeasible. The applicant is not in agreement to a higher fee as it would likely render the overall project infeasible.

### *Reestablishing the Nonconforming Use*

Like Title 20 (Planning and Zoning), Title 21 (Local Coastal Implementation Plan) considers any use lawfully established prior to certification of the Implementation Plan to be a nonconforming use. Section 21.38.080 of the NBMC allows for a nonconforming use that was involuntarily damaged or destroyed to be reestablished by right if restoration work is commenced within twelve months of the date of damage and is diligently pursued to completion, and is not subject to an abatement period, unless otherwise allowed by the Director.

Reestablishing a use after a disaster requires considerable planning efforts, the availability of resources, and the availability of capital. Balancing a variety of considerations ranging from high land values, construction costs, operating costs, and the COVID-19 pandemic influenced the preparation and timing of the rehabilitation plan. Given the complexity of development, NBMC Section 21.38.080 offers the Community Development Director discretion in implementing this code section. The previous owners worked with City staff to explore multiple options to repair the site. While the owners ultimately sold the property, the current owner intends to maintain the motel use. The Community Development Director, in this case, considers these efforts to be the diligent pursuit of a plan to completion and the project meets the requirements to reestablish the nonconforming use.

### *Reduction in Parking*

As previously discussed in the report, the loss of two onsite parking spaces is related to the restriping of the existing parking lot to modern standards that comply with disabled access requirements. Adequate facts exist to support the parking reduction and demonstrate a lack of impact to coastal resources. Furthermore, the project ultimately adds an accessible parking space, in conjunction with accessible guest rooms, where they did not exist before. This is an overall increase in access to the coast for disabled visitors. Because the project maintains a similar footprint to the existing motel, the site is constrained and the ability to provide more onsite parking is significantly limited. The project balances the provision of onsite vehicle parking with new bicycle parking and a new trash enclosure. The Applicant coordinated with the Public Works Department to provide the maximum amount of onsite parking possible while adding new code required improvements and maintaining the existing motel footprint.



### Summary

Approval of the CDP will allow for the addition of a partial second story at the front of the property and the rehabilitation of a derelict 12-room motel previously destroyed by a fire. The project removes a blighted condition that has impacted the Newport Shores community for over five years. The project increases the availability of visitor accommodations within the Coastal Zone and provides disabled access rooms where they did not exist before. As the project cannot feasibly provide LCOVA, the applicant will instead pay an in-lieu fee in the total amount of \$75,000. The fee will benefit and prolong the operation of the FiiN program which brings a minimum of 560 students per year to the coast for recreational and overnight opportunities.

### Alternatives

1. The Planning Commission may suggest specific changes that are necessary to alleviate any concerns. If the requested changes are substantial, the item could be continued to a future meeting. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval and a denial action is more appropriate, staff would recommend a continuance to prepare a resolution reflecting this course of action.

### **ENVIRONMENTAL REVIEW**

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

Class 2 exempts the replacement or reconstruction of existing structures where the new structure will be located on the same site as the replaced structure and the replacement will have substantially the same purpose and capacity as the replaced structure. The proposed project will rehabilitate a partially destroyed motel. The motel will maintain the same number of guest rooms and a similar footprint on the same site as the existing structure.

The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

## **PUBLIC NOTICE**

Notice of this hearing was published in the Daily Pilot, mailed to all owners and residential occupants of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant, and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:

  
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Associate Planner

JM/jp

Submitted by:

  
Jim Campbell  
Deputy Community Development Director

## **ATTACHMENTS**

- PC 1 Draft Resolution
- PC 2 Emergency Coastal Development Permit No. ECD2018-150
- PC 3 Zoning Administrator Resolution No. ZA2023-060
- PC 4 Zoning Administrator Minutes from September 28, 2023
- PC 5 Appeal Application
- PC 6 Project Plans
- PC 7 Feasibility and Impact Assessment, prepared by PFK Hospitality Group

01/18/23