



NEWPORT BEACH

City Council Staff Report

September 27, 2022
Agenda Item No. 15

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Seimone Jurjis, Community Development Director - 949-644-3232, sjurjis@newportbeachca.gov

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TITLE: Ordinance Nos. 2022-19 and 2022-20: Tennis Club at Newport Beach Project Amendment (PA2021-260)

ABSTRACT:

The applicant requests an amendment to the approved Tennis Club at Newport Beach project to 1) increase the number of future tennis courts from seven to eight courts; 2) increase the number of future hotel rooms from 27 to 41 rooms; 3) increase the gross floor area of the ancillary hotel uses by 4,686 square feet; and 4) provide three attached condominium units and two detached single-family residences in-lieu of five detached single-family residences. The request also includes a 10-year term extension to the approved project's development agreement to ensure the orderly development of the property and certain public benefits to the City of Newport Beach (City).

For the City Council's consideration is the adoption of three resolutions for environmental clearance and planning applications for the project, and the introduction of two ordinances to amend the Newport Beach Country Club Planned Community Development Plan and approval of a second amendment to the approved project's development agreement. If approved, the item will return to the City Council on October 11, 2022, for the second reading and adoption of the two ordinances. The requested local coastal program amendment (Title 21 Amendment) will not become effective until approval by the California Coastal Commission (CCC) and adoption.

RECOMMENDATION:

- a) Conduct a public hearing;
- b) Adopt Resolution No. 2022-65, *A Resolution of the City Council of the City of Newport Beach, California, Adopting an Addendum to Mitigated Negative Declaration No. ND2010-008 for the Tennis Club at Newport Beach Located at 1602 East Coast Highway,*

- c) Adopt Resolution No. 2022-66, *A Resolution of the City Council of the City of Newport Beach, California, Approving a General Plan Amendment, Amendment to Major Site Development Review No. SD2011-002, Amendment to Coastal Development Permit No. CD2017-039, Amendment to Vesting Tentative Tract Map No. NT2005-003, and Amendment to Limited Term Permit No. XP2011-004 for the Tennis Club at Newport Beach Located at 1602 East Coast Highway (PA2021-260);*
- d) Adopt Resolution No. 2022-67, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of Local Coastal Program Amendment to the California Coastal Commission to Amend the Newport Beach Country Club Planned Community Development Plan (PC-47) for the Tennis Club Located at 1602 East Coast Highway (PA2021-260);*
- e) Waive full reading, direct the City Clerk to read by title only, and introduce Ordinance No. 2022-19, *An Ordinance of the City Council of the City of Newport Beach, California, Approving an Amendment to the Newport Beach Country Club Planned Community Development Plan (PC-47) for the Tennis Club at Newport Beach Located at 1602 East Coast Highway, and pass on to second reading on October 11, 2022; and*
- f) Waive full reading, direct the City Clerk to read by title only, and introduce Ordinance No. 2022-20, *An Ordinance of the City Council of the City of Newport Beach, California, Approving the Second Amendment to the Development Agreement (DA2008-001) for the Tennis Club at Newport Beach Located at 1602 East Coast Highway (PA2021-260), and pass on to second reading on October 11, 2022.*

DISCUSSION:

The subject property is approximately seven acres in size and presently improved with a private tennis club consisting of a 3,725-square-foot tennis clubhouse, 14 tennis courts, 32 pickle ball courts, and a 125-space surface parking lot. The subject property is located adjacent to the Newport Beach Country Club golf course and is west of the Corporate Plaza West Planned Community, which consists of several office buildings. The site is also located directly south of the Granville residential community.

On March 27, 2012, the City Council approved land use entitlements and executed a 10-year term development agreement (DA) to allow the redevelopment of the tennis club site into three distinct components:

- 1) Tennis Club – Reconstruct the existing 3,725-square-foot tennis clubhouse, and reduce the total number of tennis courts from 24 to seven courts, including one lighted stadium court;
- 2) Hotel (Bungalows) - Construct a 27-room boutique hotel with ancillary uses consisting of a spa and fitness center and a concierge guest center; and
- 3) Residential (Villas) - Construct five detached single-family residences.

The project described above (Approved Project) has not been implemented to date and continues to operate as a private tennis club, with pickleball courts being introduced in 2019.

On June 28, 2022, the City Council approved the first amendment to the DA previously approved in 2012, which authorized the extension of the DA by one year. This provided City staff additional time to review an amendment to the Approved Project that was submitted by the applicant on November 2, 2021.

Since the proposed project involves a Local Coastal Program Amendment requiring subsequent approval by the California Coastal Commission (CCC), if the CCC does not approve the amendment, the entire application would not become effective.

Project Description

The applicant is requesting an amendment to the Approved Project to add one tennis court for a total of eight tennis courts, to add 14 hotel units for a total of 41 hotel units with additional ancillary uses, and to allow three of five single-family residential units to be converted to condominiums (Proposed Project).

The applicant's project description and project plans are available online at <https://ecms.newportbeachca.gov/Web/0/foi/2834530/Row1.aspx>

Table 1 below provides a summary of the Approved Project comparing it to the Proposed Project.

Table 1 – Project Comparison

Use	Approved Project	Proposed Project
Tennis	Clubhouse (3,725 sq. ft.) 7 Tennis Courts	No Change 8 Tennis Courts (+1)
Hotel	27 Hotel Rooms Concierge Center (2,200 sq. ft.) Spa/Fitness Center (7,500 sq. ft.)	41 Hotel Rooms (+14) No Change No Change +4,686 sq. ft. of Ancillary Uses Performance Therapy (+852 sq. ft.), Yoga Pavilion (+633 sq. ft.), Administrative Office (+2,620 sq. ft.), Common Area (+581 sq. ft.)
Residential	5 Detached Single-Family Residences	2 Detached Single-Family Residences 3 Attached Condominiums

General Plan

The subject property has a General Plan Land Use designation of Mixed-Use Horizontal 3/Parks and Recreation (MU-H3/PR). The Mixed Use Horizontal 3 designation on the subject site provides for the horizontal intermixing of regional commercial office, hotel, single-family and multi-family residential, and ancillary commercial uses. The PR designation applies to land used or proposed for active public or private recreational use. Permitted uses include parks (both active and passive), golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation, and similar facilities. The project site is designated as Anomaly No. 46 by the existing Land Use Element, which limits development intensity to 3,725 square feet for a tennis club building and 24 tennis courts at the subject property. Residential use is also permitted in Anomaly No. 46 in accordance with MU-H3/PR designation. As part of the Approved Project, the City Council authorized the conversion of 17 tennis courts to 27 hotel rooms on a traffic neutral basis. Since the Approved Project did not include a General Plan Amendment, the conversion did not change Anomaly No. 46.

The applicant seeks no changes to the General Plan designations, but rather requests to increase the number of hotel rooms from 27 to 41 rooms and the number of tennis courts from seven to eight courts. The subject property would remain Mixed-Use Horizontal 3/Parks and Recreation (MU-H3/PR). The Proposed Project is consistent with the MU-H3/PR designation as it includes a mix of land uses including single-family residential, attached residential condominiums, recreational tennis club facilities, and visitor-serving commercial uses. These uses are permitted as stated above. A complete consistency analysis of each of the applicable General Plan policies is provided in the attached Draft Resolution (Attachment B) and included in Table 5-12 of the Land Use and Planning Section of the Mitigated Negative Declaration Addendum.

Charter Section 423 (Measure S)

Pursuant to City Charter Section 423 and Council Policy A-18, an analysis must be prepared to establish whether a proposed General Plan Amendment (if approved) requires a vote by the electorate. Charter Section 423 requires voter approval of any major amendment to the General Plan. A major General Plan amendment is one that significantly increases allowed density or intensity by 40,000 square feet of non-residential floor area or increases traffic by more than 100 peak hour vehicle trips (AM/PM) or increases residential dwelling units by 100 units. These thresholds apply to the total of increases resulting from the amendment itself, plus 80 percent of the increases resulting from other amendments affecting the same neighborhood (defined as a Statistical Area as shown in the General Plan Land Use Element) and adopted within the preceding 10 years.

The subject property is within Statistical Area L1. Only 14 hotel rooms are required to be analyzed for Charter Section 423 since the 27 hotel rooms have been previously converted from the 17 tennis courts. The proposed GPA results in an increase of 14,000 square feet (1,000 square feet per hotel room), 9.51 AM trips, and 12.42 PM trips based on the most recent ITE trip rates pursuant to City Council Policy A-18. Prior amendments within the past 10 years are the Vivante Senior Housing and Residences at Newport Center projects. Charter Section 423 requires consideration of 80 percent of prior increases, which results in a cumulative increase of 94 dwelling units, 23 AM trips, and 43 PM trips between both projects. There were no nonresidential gross square footage increases with these two prior amendments. When combined with 80 percent of the prior amendment increases, this results in cumulative increases of 14,000 square feet, 32.51 AM trips, and 55.42 PM trips. As a result, no vote of the electorate is required should the City Council choose to approve the General Plan Amendment.

Local Coastal Program

The proposed amendment to the Local Coastal Program Implementation Plan (Title 21) is consistent with the Coastal Land Use Plan (CLUP), which designates the property as MU-H/PR (Mixed Use Horizontal/Parks and Recreation). This designation allows a horizontally distributed mix of uses, which may include general or neighborhood commercial, commercial offices, multi-family residential, visitor-servicing and marine-related uses, buildings that vertically integrate residential with commercial uses, and active public or private recreational uses, including parks, golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation, and similar facilities. The Proposed Project is a request to increase existing uses which have been previously permitted. The project includes a mixture of uses which include a tennis club and eight tennis courts, a 41-unit hotel development and ancillary uses, and five residential units. All of these uses are intended to provide an updated recreational facility to serve the residents and visitors of the city. Additionally, the amendment is consistent with the applicable land use policies of the CLUP, as provided in the attached draft resolution. Therefore, an amendment to the CLUP is not necessary.

Title 21 includes specific development standards for the Approved Project. As a result, an amendment to Title 21 is necessary to revise the development standards listed in Section 21.26.055.S, which specifically refers to the Newport Beach Country Club Planned Community (PC-47) development standards of the "Tennis Club", "The Villas", and "The Bungalows." The following amendments are proposed:

1. The amendment increases the density and intensity limit for the number of tennis courts from seven to eight courts. The addition of the tennis court increases the minimum required parking from 28 spaces to 32 spaces (four spaces per court).
2. The amendment converts three of the five single-family residences to attached residential condominium units. Therefore, the amendment revises the density and intensity limit for the Villas from five to two single-family residences and removes previous development standards for three single-family residences referred to as Villas C, D and E.

3. The amendment includes new development standards for attached residential condominiums, which have a density limit of three units and maximum gross floor area of 15,035 square feet. The maximum height allowed for the condominium buildings is 50 feet. The buildings are required to be set back five feet from any property line. The remaining single-family residences require a minimum of two enclosed parking spaces and one guest parking space per unit, while the proposed attached condominiums require a minimum of three enclosed parking spaces and one guest parking space per unit.
4. The amendment revises the density and intensity limits for the bungalows from 27 to 41 short-term guest rental rooms. Additionally, the maximum allowable gross floor area increases from 28,300 to 47,484 square feet, and square footage for ancillary hotel uses are included. A minimum of one space per hotel unit is required.

Planned Community Development Plan Amendment

In 2012, the City Council adopted NBCC Planned Community Development Plan (PC-47) for the subject site as part of the Approved Project that also includes the adjacent Newport Beach Country Club golf course site. All proposed changes as part of the Proposed Project are limited to the tennis club property and do not apply to the golf club.

The Proposed Project is consistent with the intent and purpose of PC-47 in that the tennis club, hotel, and residential uses and their development standards have already been allowed and are in place on the tennis club site. The proposed changes are minor adjustments to the building height, setbacks, and parking standards in order to accommodate the Proposed Project. Additionally, PC-47 provides guidelines for architectural design to include coordinated and cohesive architecture which exhibits quality that is in keeping with the surrounding area in Newport Center. The Proposed Project includes additional hotel rooms and two attached residential condominium loft buildings. The proposed additions are designed to be compatible with the approved architectural design of the Approved Project. PC-47 permits structures to be a maximum of 50 feet in height. The Proposed Project includes two attached residential condominium loft buildings and additional hotel rooms to be at a maximum of 46 feet high and comply with the height limit.

Site Development Review

On January 24, 2012, the City Council approved Site Development Review No. SD2011-002, which authorized construction of the Approved Project. The proposed changes to the Approved Project necessitate an amendment to the approved Site Development Review.

The proposed development complies with all Site Development Review criteria specified in PC-47 to provide a coordinated, cohesive and comprehensive large-scale planning project. The Approved Project features a distinct and cohesive architectural style (Figure 2), and includes landscaping components, signage and circulation design, which are compatible with the character of the neighboring uses and surrounding sites.

The additional 14 hotel rooms and attached residential condominium buildings are designed to be of similar architectural style, which includes smooth plaster exterior siding, clay tile roofs, and stone veneer exterior accent finishes. As a result, the Proposed Project is compatible with the Approved Project, and is not detrimental to the orderly and harmonious development of the surroundings and of the city.

The Proposed Project promotes additional functionality between residential and hotel components, as residential condominiums are attached to hotel units in two separate loft buildings. Underground parking is provided in the loft buildings, with additional street parking and parking lots to serve hotel and tennis club guests. Each of the two single-family residences provide a two-car garage to serve its residents. The project has been designed to include a surplus of 40 spaces beyond what is required.

The development is designed to maximize aesthetic quality as viewed from surrounding properties. The property is separated from East Coast Highway by a commercial office plaza which is comprised of three two-story office buildings at 1200 Newport Center Drive. The office plaza includes landscaping along East Coast Highway with trees and various plantings. The Newport Beach Country Club golf clubhouse is located approximately 150 feet west of the property. The development's multiple components (tennis club, residential, and hotel) have been designed and sited to function cohesively, not only with each other, but also with the adjacent golf course uses and surrounding development.

Coastal Development Permit

The subject property is located within the Coastal Zone. Therefore, the Proposed Project requires a coastal development permit.

The Proposed Project is consistent with the Coastal Land Use Plan, which designates the site as Mixed-Use Horizontal/Parks and Recreation (MU-H/PR). The MU-H land use designation of the Coastal Land Use Plan allows the horizontal intermixing of hotel units, single-family residences, attached residential condominiums, and tennis club facilities on the project site. Additionally, the MU-H designation identifies a maximum density/intensity limit of 1.5 floor area ratio (FAR), with a minimum FAR of 0.25 and a maximum FAR of 0.5 for retail uses and a maximum of 1.0 for residential. The project proposes 65,595 square feet of nonresidential floor area (approximately 0.21 FAR) for the hotel rooms, concierge & guest center, and ancillary hotel uses which include a performance therapy center, yoga pavilion, office, common area, and a spa and fitness center. The five residential dwelling units total 20,653 square feet (approximately 0.06 FAR). The proposed density/intensity of the hotel and residential units comply with the FAR limitations identified in the Coastal Land Use Plan.

The PR coastal land use designation applies to land used or proposed for active public or private recreational use. Permitted uses include parks (both active and passive), golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation, and similar facilities. The PR designation on this site is applicable to the existing and proposed private tennis club and tennis courts.

The density/intensity limitations include incidental buildings, such as maintenance equipment sheds, supply storage, and restrooms, not included in determining intensity limits. The proposed tennis club and ancillary uses are consistent with this land use designation.

The property is not located between the nearest public road and the sea or shoreline and will not affect the public's ability to gain access to, use or view the coast and nearby recreational facilities. Coastal Land Use Plan, Policy 4.4.1-6 and Figure 4-3 (Coastal Views) identify the closest public view road as Newport Center Drive, located approximately 170 feet east of the project site and the closest public viewpoint as Irvine Terrace Park, located 525 feet south of the project site. Coastal views from these view corridors and viewpoints are directed toward Newport Bay and the Pacific Ocean. Since the project site is located to the north of Irvine Terrace Park, the Proposed Project will not affect coastal views due to its orientation. From Newport Center Drive, there is a zero to 40-foot grade difference to the project area below.

An analysis of the fiscal and economic Impacts was prepared on August 29, 2022, by Kosmont Companies to analyze the construction of new visitor accommodations in the coastal zone in accordance with the requirements of Section 21.48.025 (Local Coastal Program Implementation Plan, Standards for Specific Land Uses, Visitor Accommodations) of the NBMC. The report provides a feasibility analysis stating that the anticipated average daily room (ADR) rate for all 41 rooms is approximately \$920 and the statewide average daily room rate is \$205.69. Because the anticipated ADR will well exceed the statewide average, the proposed accommodations are not considered lower cost accommodations. The report considers the specific location of the property as an inappropriate location for low-cost accommodations. Additionally, low-cost accommodations are not feasible due to prohibitive land and construction costs. The property does not currently provide accommodations of any kind and implementation of the Project would not directly impact low-cost accommodations. While the Project would not include any lower cost accommodations, the Local Coastal Program Implementation Plan would identify the Project as generating an impact simply by not providing lower-cost accommodations. There is no impact on the provision of lower-cost visitor accommodations in the Coastal Zone as creating lower cost accommodations at the site is infeasible and there is no nexus to an actual impact; therefore, no mitigation is required. The Project features larger guest facilities with bedrooms, separate living rooms with sofa beds, and many rooms with kitchens. These features will accommodate more occupants per room, which lowers the costs per occupant.

Tentative Vesting Tract Map

On January 24, 2012, the City Council approved a Vesting Tentative Tract Map, which authorized the creation of separate lots for five single-family residences, 27 hotel rooms, and lettered lots for common areas and a private street. The applicant proposes an amendment to the vesting tentative tract map to accommodate the Proposed Project.

The amended map reflects the combination of two previously divided lots, which results in the elimination of one lot. These two lots were intended for two detached-single family residences. The map has also been modified to include residential condominium portion of the Proposed Project.

All construction for the project has been conditioned to comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. The Public Works Department has reviewed the proposed revisions to the approved vesting tentative tract map and determined it is consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act.

Limited Term Permit

The applicant is requesting a limited term permit (LTP) to allow two temporary modular trailers and portable toilets during construction. Both modular trailers are approximately 33 feet long and 13 feet wide. One modular trailer is proposed to be used as a construction office located at the southwest portion of the property and will be staged at this location through the entire duration of the Proposed Project, which is estimated to be approximately 20 months. The second modular office is proposed to be used as a temporary office for tennis club operations and will be located on the easterly portion of the property through the construction of the tennis clubhouse, which is estimated to be approximately 16 months. The portable toilets are proposed to serve the temporary tennis club office and located nearby.

Development Agreement

On March 27, 2012, the City Council approved a Development Agreement between the City and the Applicant for the Approved Project. The DA was executed and recorded, on January 29, 2014, with a 10-year term. The DA provides vested rights to develop the Approved project and the City negotiated public benefit fees of ninety-three thousand \$93,000 per each residential dwelling unit and \$10 per square foot of construction for the tennis clubhouse, for a grand total of \$502,250. These fees are subject to annual adjustments, based on the CPI Index.

On July 12, 2022, the City Council approved the First Amendment to the DA to extend the term of the agreement by one year. The DA will expire on September 23, 2023. In accordance with Section 15.45.020.A.2.c (Development Agreement Required) of the NBMC, a reconsideration of the agreement is required as the Proposed Project, which includes an amendment to PC-47 and a General Plan Amendment to increase the number of hotel rooms from 27 to 41 rooms, which is new non-residential development in Statistical Area L1 (Newport Center/Fashion Island).

The applicant requests an additional 10-year term of agreement (Second Amendment), pursuant to Section 15.45.070 (Amendment/Cancellation). The Second Amendment provides assurance that the applicant may proceed with the Proposed Project in accordance with existing policies, rules and regulations, and conditions of approval.

Additionally, the Second Amendment to the DA helps the applicant avoid a waste of resources and escalated costs of the Proposed Project while encouraging a commitment to private participation in comprehensive planning.

The Second Amendment (Attachment E) also specifies the updated permitted uses, density and intensity, and maximum height and size of proposed buildings, consistent with the Proposed Project. Additionally, the Second Amendment to the Agreement includes all mandatory elements, including public benefits that are appropriate to support conveying the vested development rights consistent with the City's General Plan, NBMC, and Government Code Sections 65864 *et seq.* No changes to the public benefit fees are proposed.

A more complete summary and analysis of the Proposed Project and related entitlement findings can be found in the attached September 8, 2022 Planning Commission staff report (Attachment F).

Planning Commission Review and Recommendation

The Planning Commission held a public hearing on September 8, 2022. The main topics discussed by the Planning Commission were confirmation of the applicant's request to maintain the existing private tennis club with tennis courts, the City's process for conversion of tennis courts to pickleball courts, tennis club and pickleball club operations as they relate to occupancy, parking, traffic, and noise impacts to the surrounding uses, and level of details on the submitted plans for project approval. Nine members of the public addressed the Planning Commission regarding the Proposed Project. At the conclusion of the public hearing, the Planning Commission voted 5-0 (5 ayes, 1 absent, and 1 recused) to adopt Resolution No. PC2022-022, recommending the City Council approve the Proposed Project. The Planning Commission staff report, meeting minutes, and resolution are attached for reference as Attachments F, G and H.

FISCAL IMPACT:

The applicant is required to reimburse the City for all costs associated with the review of the application. The applicant has agreed to the terms of the draft Second Amendment stated above that requires the payment of \$502,250 in addition to all required permit fees and development impact fees.

ENVIRONMENTAL REVIEW:

On March 27, 2012, the Newport Beach City Council approved Mitigated Negative Declaration No. ND2010-008 (SCH 2010091052) and an Errata to Mitigated Negative Declaration No. ND2010-008 (together referred as "MND") that addressed the potential environmental effects associated with the Approved Project.

Although the Project necessitates an amendment to the General Plan due to the increased number of hotel rooms and tennis courts, there are no proposed changes to the land uses permitted per the General Plan land use designation. Additionally, based on the changes associated with the Project, there are no conditions that would require the preparation of a subsequent or supplemental MND. As a result, an Addendum to the MND was prepared pursuant to Section 15162 (Subsequent EIRs and Negative Declarations) and 15164 (Addendum to an EIR or Negative Declaration) of the CEQA Guidelines.

On the basis of the MND and entire environmental review record, the additional tennis court, hotel rooms, ancillary hotel uses, and conversion of three (3) single-family residences to condominium units will not result in any new significant impacts that were not previously analyzed in the MND. The Addendum confirms and provides substantial evidence that the potential impacts associated with this Proposed Project would either be the same or less than those described in the MND, or as mitigated by applicable mitigation measures in the MND. In addition, there are no substantial changes to the circumstances under which the Proposed Project would be undertaken that would result in new or more severe environmental impacts than previously addressed in either the MND, nor has any new information regarding the potential for new or more severe significant environmental impacts been identified. Therefore, in accordance with Section 15164 of the CEQA Guidelines, an addendum to the previously adopted MND is the appropriate environmental document for the Proposed Project. In taking action to approve any of the requested applications for the Proposed Project, the data presented in the MND, as augmented by the Addendum for this Proposed Project, are considered as part of the record.

NOTICING:

Notice of this hearing was published in the *Daily Pilot*, mailed to all owners 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.

ATTACHMENTS:

Attachment A – Resolution No. 2022-65

Attachment B – Resolution No. 2022-66

Attachment C – Resolution No. 2022-67

Attachment D – Ordinance No. 2022-19

Attachment E – Ordinance No. 2022-20

Attachment F – Planning Commission Staff Report, Dated September 8, 2022

Attachment G – Planning Commission Minute Excerpts, Dated September 8, 2022

Attachment H – Planning Commission Resolution No. PC2022-022