

Attachment F

Planning Commission Staff Report, Dated September 8, 2022 (without attachments)



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

September 8, 2022
Agenda Item No. 3

- SUBJECT:** Tennis Club at Newport Beach Project Amendment (PA2021-260)
- General Plan Amendment
 - Local Coastal Land Use Plan Amendment
 - Planned Community Development Plan Amendment
 - Major Site Development Review Amendment (SD2011-002)
 - Coastal Development Permit Amendment (CD2017-039)
 - Vesting Tentative Tract Map Amendment (NT2005-003)
 - Limited Term Permit Amendment (XP2011-004)
 - Development Agreement Amendment (DA2008-001)
 - Addendum to Mitigated Negative Declaration (ND2010-008)

SITE LOCATION: 1602 East Coast Highway

APPLICANT: Robert O' Hill (Golf Realty Fund, Managing Owner)

OWNER: Dba NBCC L & I

PLANNER: David Lee, Associate Planner
949-644-3225 or dlee@newportbeachca.gov

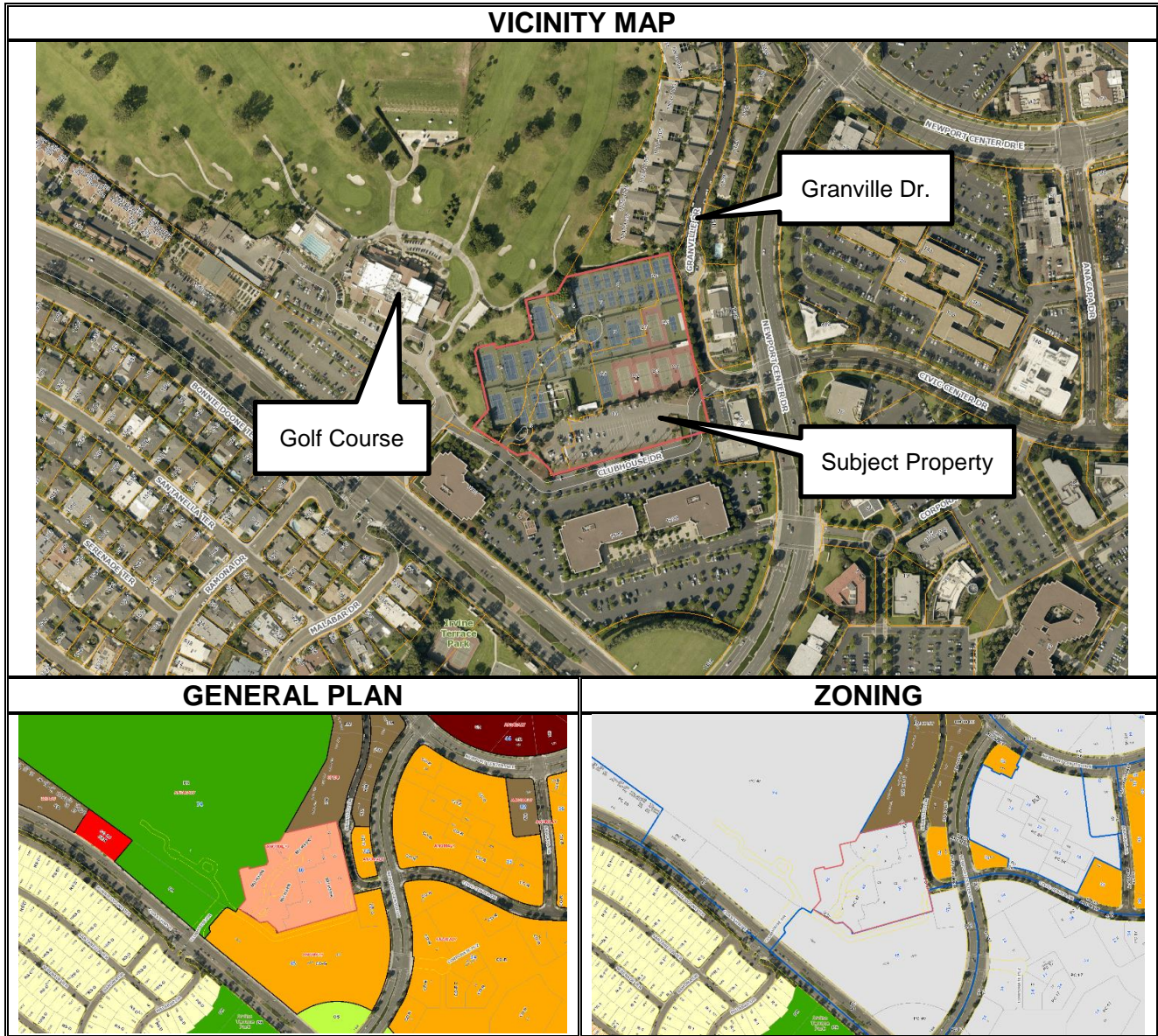
PROJECT SUMMARY

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 (7) to eight (8) 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 (3) attached condominium units and two (2) detached single-family residences in-lieu of five (5) detached single-family residences. The request also includes a 10-year term extension to the approve project's Development Agreement to ensure the orderly development of the property and certain public benefits to the City.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find that the Proposed Project will not result in any new significant impacts that were not previously analyzed in the adopted Mitigated Negative Declaration No. ND2010-008 (SCH 2010091052) for the Approved Project, and the addendum has been prepared to address reasonably foreseeable environmental impacts resulting from the Proposed Project; and

- 3) Adopt Resolution No. PC2022-022, recommending the City Council approval of PA2021-260, which includes adoption of a Mitigated Negative Declaration Addendum, and approval of a General Plan Amendment, Local Coastal Land Use Plan Amendment, Planned Community Development Plan Amendment, Major Site Development Review Amendment, Coastal Development Permit Amendment, Vesting Tentative Tract Map Amendment, Limited Term Permit Amendment, and Development Agreement Amendment for The Tennis Club at Newport Beach Project located at 1602 East Coast Highway.



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	MU-H3/PR (Mixed-Use Horizontal 3/Parks and Recreation)	PC-47 (Newport Beach Country Club)	Tennis Club
NORTH	RM (Multiple Residential)	RM (Multiple Residential)	Multi-family residences
SOUTH	CO-G (General Commercial Office)	PC-40 (Corporate Plaza West)	Offices
EAST	CO-G	OG (Office-General)	Offices
WEST	PR	PC-47	Golf Club

INTRODUCTION

Project Setting and Background

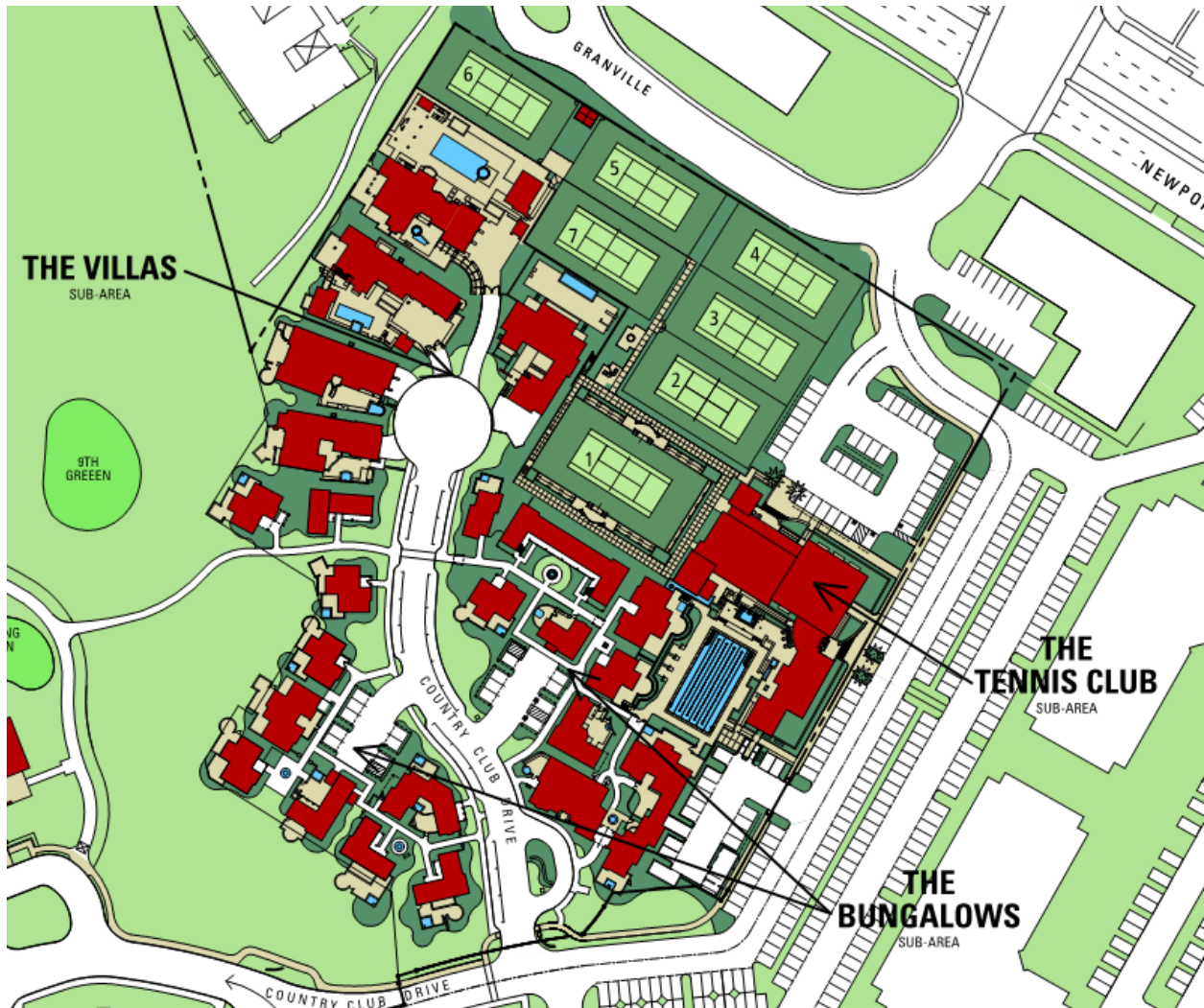
The subject property is approximately seven (7) acres in size and presently improved with a private tennis club consisting of a 3,725-square-foot tennis clubhouse, 14 tennis courts, 32 pickle ball courts, and a 125-space surface parking lot. The subject property is located adjacent to the Newport Beach Country Club Golf Course and 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 (7) courts, including one lighted stadium court;
- 2) Hotel (Bungalows) - Construct a 27-room boutique hotel with ancillary uses consisting of a performance therapy center, yoga pavilion, hotel office, common area, and a spa and fitness center; and
- 3) Residential (Villas) - Construct five (5) detached single-family residences.

Since the project site is located in the Coastal Zone, a coastal development permit (CDP) is required to implement the project. On April 10, 2013, the California Coastal Commission (CCC), which had permitting jurisdiction for Coastal Development Permits (CDP) at the time, issued a notice of intent to issue CDP No. 5-12-160 for the project. However, the CDP eventually expired without action. The City obtained CDP permitting authority in January of 2017, and on November 20, 2018, the City's Zoning Administrator approved a CDP authorizing the redevelopment of the tennis club consistent with the 2012 entitlements. The CDP is scheduled to expire on November 20, 2022, after receiving two, one-year time extensions. The project includes both the 2012 City Council and 2018 Zoning Administrator approvals (commonly referred to as "Approved Project").

The exhibit below illustrates the proposed site plan for the Approved Project:



The 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 process an amendment to the Approved Project, which was submitted by the applicant on November 2, 2021.

Project Description

The applicant is requesting an amendment to the Approved Project to add one tennis court for a total of eight (8) tennis courts, 14 hotel rooms for a total of 41 hotel units with additional

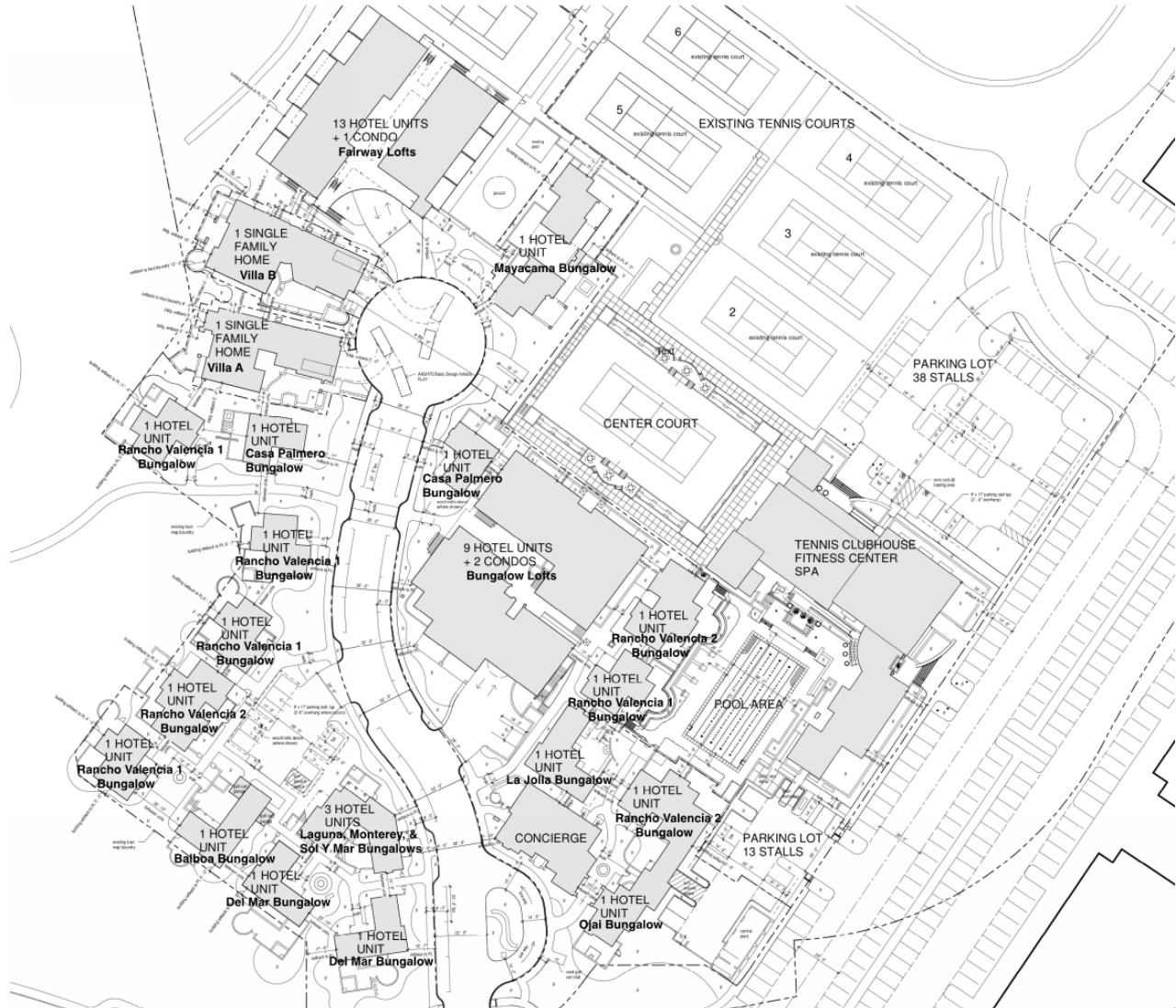
ancillary uses, and to allow three (3) of five (5) single-family residential units to be converted to condominiums (“Proposed Project”).

The following approvals are requested or required in order to implement the Proposed Project:

- General Plan Amendment: An amendment to Anomaly No. 46 of Table LU2 of the 2006 Newport Beach General Plan Land Use Element to amend the allowable development limits for the tennis club site;
- Local Coastal Program Implementation Plan Amendment: An amendment to Local Coastal Implementation Plan Section 21.26.055.S.2 (Tennis Club of Newport Beach Country Club Planned Community Coastal Zoning District Development Standards) to amend land use regulations for the tennis club site;
- Planned Community Development Plan Amendment: An amendment to Planned Community Development Plan No. 47 (Newport Beach Country Club Planned Community) to amend land use regulations and development standards on the tennis club site;
- Major Site Development Review: A site development review in accordance with Section 4.0 (Site Development Review) of Planned Community Development Plan No. 47 and NBMC Section 20.52.80 (Site Development Reviews) for the construction of the Proposed Project;
- Coastal Development Permit: An amendment to Coastal Development Permit No. CD2017-039 for the demolition of existing structures, further subdivision on the tennis club site, and implementation of the Proposed Project;
- Tentative Vesting Tract Map: An amendment to Tentative Vesting Tract Map pursuant to Title 19 of the Municipal Code to create separate lots for the tennis club site;
- Limited Term Permit: A limited term permit to allow temporary use of structures during construction pursuant to Section 20.60.015 of the Municipal Code;
- Development Agreement: A second amendment to the Development Agreement (DA2008-001), between the applicant and the City pursuant to Section 15.45 of the Municipal Code, which would provide vested right to develop the Proposed Project while also providing negotiated public benefits and extend the term of Agreement for an additional 10 (ten) years; and

- Addendum to the 2010 Mitigated Negative Declaration: Pursuant to the California Environmental Quality Act (“CEQA”), the addendum addresses reasonably foreseeable environmental impacts resulting from the proposed development.

The Proposed Project does not increase the overall footprint of the Approved Project. The Proposed Project introduces two (2) new loft buildings, which includes a mixture of attached residential condominiums atop of two levels of hotel rooms and are a maximum height of 46 feet. The additional hotel amenities, which includes a hotel office, common area, performance therapy center, and yoga pavilion, are located within the first floor of one of the loft buildings (Bungalow Lofts). The remainder of the hotel rooms remain as bungalow-style buildings as previously envisioned and approved, have a maximum height of 31 feet, and are located throughout the project site. Parking is available for each component of the project, as there are multiple parking lots, street parking, and underground parking available for residents, the tennis club, and hotel guests. A total of 131 parking spaces are provided, where 91 spaces are required (Table 4, below). The Proposed Project features a distinct architectural style, which includes smooth plaster exterior siding, clay-tile roofs, and stone veneer exterior accent finishes that is compatible with the surrounding uses and area. The exhibit below illustrates the site plan for the Proposed Project:



The anticipated duration of construction of the Proposed Project is approximately 20 months, which will begin with the demolition of the existing tennis and pickleball courts and portion of the parking lot. Six (6) tennis courts are to be maintained for use during construction. The construction of the hotel rooms, tennis club house and stadium court will follow immediately and will be completed with the construction of the residential units. A Phasing Plan is included as part of the Project Plans and is attached to the Staff Report (Attachment No. PC 6).

The property has an existing parking lot with two (2) entrances currently taken from Clubhouse Drive, which has a westerly outlet to East Coast Highway and an easterly outlet to Granville Drive and Newport Center Drive. During the various phases of construction, the easterly entrance to the parking lot will remain available to the public for parking and will provide direct access for the modular office trailer and portable toilets, while the westerly entrance will be for construction access only. A Construction

Management Plan is included as an attachment to the Staff Report (Attachment No. PC 4). Table 1 provides a summary of the Approved Project comparing it to the and 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

DISCUSSION

Analysis

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 (+14) and number of tennis courts from 7 to 8 courts (+1). 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 No. PC 1) 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 General Plan 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 ten 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 ten years are 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. Table 2 below illustrates the calculations and none of the thresholds specified by Charter Section 423 are exceeded, therefore no vote of the electorate is required should the City Council choose to approve the General Plan Amendment.

Table 2 - Charter Section 423 Calculations

	Unit	Floor area	Trip rates	AM trips	PM Trips
Tennis Clubhouse			N/A	N/A	N/A
Tennis Courts	1 court	N/A	1.67/Court AM 3.88/Court PM	1.67	3.88
Hotel	14 rooms	14,000 ¹	0.56 AM/room 0.61 PM/room	7.84	8.54
Total - Project	N/A	14,000	N/A	9.51	12.42
Vote Required Project	N/A	No	N/A	No	No
80% of Prior Amendments	N/A	0	N/A	23	43
Total- Project + Prior Amendments	N/A	14,000	N/A	32.51	55.42
Vote Required Project + Prior Amendments	N/A	No	N/A	No	No

¹ Pursuant to Council Policy A-18, each hotel room equals 1,000 square feet, so there is a 14,000 square foot increase.

Upon approval of the project, the Proposed Project will be added to L1 Tracking Table as such:

Project Name	Date Approved	Amendment Description	Square Footage Change	Dwelling Unit Change	AM Peak Hour Trip Change	PM Peak Hour Trip Change
Vivante Senior Housing	8/13/2019	Private Institutions (PI) to Mixed Use Horizontal (MU-H3)	(Reduction: 45,028 to 16,000)	90	26	52
Residences at Newport Center	9/28/2021	Regional Commercial Office (CO-R) to Planned Community (PC-61)	0	28	3	2
Tennis Club at Newport Beach	TBD	14 Hotel Rooms and 8 Tennis Courts	14,000	0	9.51	12.42
100% Totals			14,000	118	38.51	66.42
80% Totals			11,200	94	30.80	53.14
Remaining Capacity Without Vote			28,800	6	69.20	46.86

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 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 (8) tennis courts, a 41-unit hotel development and ancillary uses, and five (5) 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 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 (7) to eight (8) courts. The addition of the tennis court increases the minimum required parking from 28 spaces to 32 spaces (4 spaces per court). There is no change to the 3,725-square-foot limit for the tennis clubhouse.
2. The number of residential units remains unchanged. However, the amendment converts three (3) of the five (5) single-family residences to attached residential condominium units. Therefore, the amendment revises the density and intensity limit for the Villas from five (5) to two (2) 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 (3) 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 (5) feet from any property line. The remaining single-family residences require a minimum of two (2) enclosed parking spaces and one guest parking space per unit, while the proposed attached condominiums require a minimum of three (3) 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 (1) 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 is 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 keeping with the surrounding area in Newport Center. The Proposed Project includes additional hotel rooms and two (2) 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 (2) attached residential condominium loft buildings and additional hotel rooms to be at a maximum of 46 feet high and comply with the height limit.

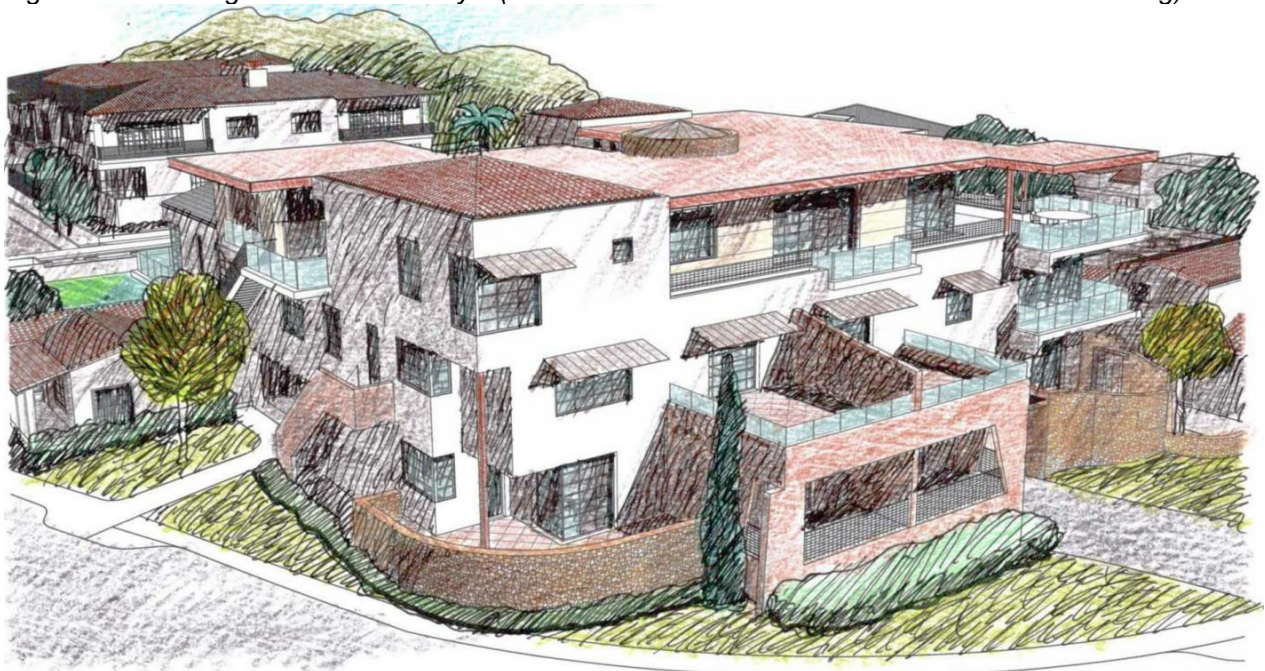
Site Development Review

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. In accordance with Section 4.0 of PC-47 (Site Development Review), the following findings and facts in support of such findings are set forth:

1. *The development shall be in compliance with all other provisions of the Planned Community District Plan;*
2. *The development shall be compatible with the character of the neighboring uses and surrounding sites and shall not be detrimental to the orderly and harmonious development of the surroundings and of the City;*
3. *The development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways and properties, with special consideration given to the mass and bulk of buildings and the streetscape on Coast Highway; and*
4. *Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development.*

The proposed development complies with all Site Development Review criteria specified in PC-47 in order 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 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 not detrimental to the orderly and harmonious development of the surroundings and of the City.

Figure 1: Rendering of Architectural Style (Pictured: Attached Condominium and Hotel Loft Building)



The Proposed Project promotes additional functionality between residential and hotel components, as residential condominiums are attached to hotel units in two (2) 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 (2) single-family residences provide a two (2)-car garage to serve its residents. The project has been designed to include a surplus of 40 spaces beyond what is required. Table 4 below shows the required and provided parking for the proposed project.

Table 4: Required and Provided Parking

Use	Parking Rate	Required	Provided
Tennis Club	4 per court	32 spaces	51 spaces
Single-Family Residences	2 per unit enclosed 1 per unit guest	4 enclosed spaces 2 guest spaces	4 enclosed spaces 4 guest spaces
Attached Condominiums	3 per unit enclosed 1 per unit guest	9 enclosed spaces 3 guest spaces	9 enclosed spaces 3 guest spaces
Hotel	1 per unit	41 spaces	60 spaces
Total	N/A	91 spaces	131 spaces
Surplus			40 spaces

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 comprises of three (3) two (2)-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. Per Section 21.52.015.F of NBMC, the required findings to approve a coastal development permit are as follows:

1. *Conforms to all applicable sections of the certified Local Coastal Program;*
2. *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.*

The Proposed Project is consistent with the Coastal Land Use Plan, which designates 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 (5) residential dwelling units totals 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. Vertical access to Newport Bay is available via existing public access at 1601 Bayside Drive, which is located approximately 1,600 feet southwest of the subject property. Elevations on the subject property range from 104 feet up to 120 feet North American Vertical Datum of 1988 (NAVD88) above mean sea level. These site elevations are well above projected sea level rise in Newport Bay for the next 75 years and the site is not subjected to other coastal hazards. Potential liquefaction risk (if any) must be mitigated with foundation designs consistent with the Building Code.

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 the 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.

The Planned Community Text amendment includes maximum building heights for all structure types (Table 3, above). The majority of the project would sit below the existing grade elevations along Newport Center Drive, minimizing the visibility of the project site and would not obstruct public coastal views. During construction, equipment would be obscured by vegetation and the grade differential so it would not obstruct coastal views from motorists traveling along Newport Center Drive. The Proposed Project will not impact coastal views.

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 (5) 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, which consists of two (2) single-unit residential dwellings, three (3) residential condominiums, 41 hotel rooms, a tennis clubhouse, their common open space areas and a private street to support the proposed uses.

In accordance with Section 19.12.070 of the Newport Beach Municipal Code, and the following finding and facts in support of such findings are set forth:

- 1. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code;*
- 2. That the site is physically suitable for the type and density of development;*
- 3. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report;*
- 4. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems;*
- 5. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property*

- within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision;*
- 6. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land;*
 - 7. That, in the case of a "land project" as defined in Section [11000.5](#) of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area;*
 - 8. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act;*
 - 9. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section [65584](#) of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources;*
 - 10. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board; and*
 - 11. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

The amended map reflects the combination of two (2) previously divided lots, which results in the elimination of one (1) lot. These two (2) lots were intended for two (2) detached-single family residences. The map has also been modified to include residential condominium portion of the Proposed Project.

The project site is located in the Newport Center and Fashion Island area. The site is currently improved with a private tennis club. Given its location, this site is ideal for the development of a recreation and mixed-use project as allowed by the General Plan Land Use Element. Additionally, the Addendum to the MND concludes that no significant environmental impacts will result with the Proposed Project in accordance with the proposed subdivision map revision.

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 (2) temporary modular trailers and portable toilets during construction. In accordance with Section 20.52.040 (Limited Term Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

- 1. The operation of the requested limited duration use at the location proposed and within the time period specified would not be detrimental to the harmonious and orderly growth of the City, nor 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 requested limited duration use;*
- 2. The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot;*
- 3. The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate;*
- 4. Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator; and*
- 5. The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the Municipal Code, and other City regulations.*

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 ten-year term. The DA provides vested rights to develop the

Approved project and the City negotiated the following public benefit fees of ninety-three thousand dollars (\$93,000) per each residential dwelling unit and ten dollars (\$10) per square foot of construction for the tennis clubhouse (Table 5). These fees are subject to annual adjustments, based on the CPI Index.

Table 5: Projected Public Benefit Fees (Subject to Adjustment)

Use	Multiplier	Fee Rate	Total
Residential	5 units	\$93,000 per unit	\$465,000
Tennis Clubhouse	3,725 square feet	\$10 per square foot	\$37,250
Grand Total			\$502,250

On July 12, 2022, the City Council approving 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.

In addition to the 10-year term extension, the Second Amendment (Exhibit “E” of the Draft Resolution) 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.

Environmental Review

On March 27, 2012, the Newport Beach City Council approved a Mitigated Negative Declaration and its Errata to Mitigated Negative Declaration (together referred to as “MND”) that addressed the potential environmental effects associated with the Approved Project. The MND was prepared in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3.

Pursuant to Section 21166 of the California Public Resources Code and Section 15162 of the CEQA Guidelines, when a negative declaration adopted for a project, no subsequent negative declaration is required unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the negative declaration was adopted as complete, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous negative declaration.
 - b. Significant effects previously examined will be substantially more severe than shown in the adopted negative declaration.
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

On the basis of the earlier MND and entire environmental review record including the Addendum, the Proposed Project 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 the Proposed Project would either be the same or less than those described in the MND, or as mitigated by applicable mitigation measures and standard conditions of approval 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.

The City contracted with an environmental consultant, Chambers Group, to prepare the Addendum. The entire Addendum and its technical appendixes are available online at the City's website at www.newportbeachca.gov/ceqa.

Summary

In summary, staff believes the findings for the project approval can be made with specific conditions of approval. The applicant proposed a general plan amendment to increase the number of hotel rooms and one (1) additional tennis court. According to the applicant, the request is necessary to provide a viable hotel development and adjust residential type in responding to the needs of the community. The Proposed Project is consistent with the General Plan's MU-H3/PR designation as it still includes and maintains a mix of land uses including single-family residential, attached residential condominiums, recreational tennis club facilities, and visitor-serving commercial uses. The proposed general plan amendment would not require a voter approval pursuant to Charter Section 423 analysis. Due to the lack of environmental impacts and apparent compatibility with the surrounding uses, staff does not object to the GPA request.

The Proposed Project is also consistent with the Local Coastal Program. The Coastal Land Use Plan designates the property as MU-H/PR (Mixed Use Horizontal/Parks and Recreation). This designation allows horizontally-distributed mix of uses, which includes multi-family residential, visitor-servicing uses, and tennis clubs and courts. The Proposed Project is within the maximum density/intensity limit allowed per MU-H designation.

The amendment to the Planned Community Development Plan 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 in place on the tennis club site. The proposed changes to the building height, setbacks, and parking standards in order to accommodate the Proposed Project are within the development standards in place for the Approved Project.

The Proposed Project meets all of the findings for the required Site Development Review as specified in PC-47. The proposed amendments maintain a coordinated, cohesive, and comprehensive large-scale planning project, which includes a distinct architectural style. The Proposed Project is compatible with the character of the neighboring uses and surrounding sites and is not detrimental to the orderly and harmonious development of the surroundings and of the City.

The Proposed Project meets all of the findings for the required Coastal Development Permit. As previously stated, the amendment is consistent with the City's Local Coastal Program. Additionally, the amendment will not affect the public's ability to gain access to, use, or view the coast and nearby recreational facilities.

The proposed revisions to the approved vesting tentative tract map is consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act. 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 (2) detached-single family residences. The map has also been modified to include attached residential condominiums.

The Proposed Project requires an amendment to the City's Local Coastal Program Implementation Plan (Title 21). This amendment requires the consideration of California Coastal Commission. As a result, the Proposed Project only becomes effective upon the approval by Coastal Commission. Upon such approval, the following discretionary permits approved for the Approved Project are to become null and void:

1. Site Development Review Permit No. SD2011-002
2. Tentative Tract Map No. ND2010-008
3. Limited Term Permit No. XP2011-004

Alternatives

1. The Planning Commission may require or suggest specific design changes that are necessary to alleviate any areas of concern. If the requested changes are substantial, staff will return with a revised resolution incorporating new findings and/or conditions.
2. If the Planning Commission chooses to deny the Proposed Project, the applicant would retain the vested right to build the Approved Project until the termination date of the DA (September 23, 2023). After the expiration of DA, the Approved Project could still be implemented with the approval of new discretionary permits (i.e., site development review permit, tentative tract map, limited term permit). The City, however, would not receive the negotiated public benefit fee as prescribed in the DA.

Public Notice

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.

Prepared by:

Submitted by:



David S. Lee
Associate Planner



Jim Campbell
Deputy Community Development Director

ATTACHMENTS

- ~~PC 1 Draft Resolution with Findings and Conditions~~
- ~~PC 2 Project Description~~
- ~~PC 3 LSA's Traffic and Parking Analysis Update~~
- ~~PC 4 MurowDC's Construction Management Plan~~
- ~~PC 5 Fiscal and Economic Impacts Analysis~~
- ~~PC 6 Project Plans~~

:\Users\PLN\Shared\PA's\PA's - 2021\PA2021-260\PC\PC-Staff_Report.docx01/12/18