

## **Attachment No. PC 3**

Zoning Administrator Resolution No.  
ZA2023-060

INTENTIONALLY BLANK PAGE

## **RESOLUTION NO. ZA2023-060**

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO ALLOW THE ADDITION OF A PARTIAL SECOND STORY AND THE REHABILITATION OF A 12-ROOM MOTEL LOCATED AT 6302 WEST COAST HIGHWAY (PA2023-0027)**

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

#### **SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Eric Aust, Architect (Applicant), with respect to property located at 6302 West Coast Highway and legally described as a portion of Lots 3, 4, 5, and 6, Block 3, Seashore Colony Tract, requesting approval of a coastal development permit (CDP).
2. The applicant proposes 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, construction of a commercial trash enclosure, and site improvements. Those improvements include but are not limited to, hardscaping, drainage, and restriping of the existing parking lot. Approximately 306 square feet will be added to the total gross floor area of the structure as part of the rehabilitation. The motel will maintain a relatively similar footprint to the damaged structure and will maintain the same number of guest rooms.
3. The subject property is categorized as Visitor Serving Commercial (CV) by the General Plan Land Use Element and is located within the Commercial Visitor-Serving (CV) Zoning District.
4. The subject property 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 issued by the CCC. The Coastal Land Use Plan category is Visitor Serving Commercial (0.0 – 0.75 FAR) (CV-A) and it is located within the Commercial Visitor-Serving (CV) Coastal Zone District.
5. The motel previously operated without a conditional use permit (CUP) and prior to the current NBMC use regulations requiring motels obtain a CUP to operate within the CV zone. Pursuant to Section 20.38.030 (Determination of Nonconformity) of the NBMC, Pine Knot Motel is considered a nonconforming use due to its lack of a CUP. Section 20.38.080 (Repair of Damaged or Partially Destroyed Nonconformities) 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 (12) months of the date of damage, unless otherwise allowed by the Director, is diligently pursued to completion, and is not

subject to an abatement period. 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 is now seeking CDP approval to implement the rehabilitation plan. The property is not subject to an abatement period. As the project meets the requirements to reestablish the nonconforming use, no CUP is required pursuant to NBMC Section 20.38.080.

6. Section 20.38.050 (Nonconforming Uses) restricts the ways in which a nonconforming use may be changed, expanded, increased, or intensified. It provides that an intensification is allowed subject to approval of a CUP. An increase in floor area, lot area, or in occupancy load are provided as examples of what constitutes an intensification. Section 20.12.020 (Rules of Interpretation) however clarifies that the headings of the chapters, sections, and subsections of this Zoning Code, together with the accompanying examples and explanatory notes, are inserted as a matter of convenience and are not intended to define, limit, or enlarge the scope or meaning of this Zoning Code or its provisions. Given the parking requirements for motels is set by number of guest rooms rather than gross floor area, the appropriate measure of intensification is the required parking for the project. The nominal addition of 306 square feet of gross floor area helps modernize and enhance usability of the motel, thereby supporting feasibility of the rehabilitation work. The addition is not an intensification of use, and no CUP is required pursuant to NBMC Section 20.38.050 (Nonconforming Uses).
7. A public hearing was held on September 28, 2023, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15302, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 2 (Replacement or Reconstruction), because it has no potential to have a significant effect on the environment.
2. 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.

## SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

- 1) The proposed development complies with applicable development standards including, but not limited to, floor area limitation, setbacks, and height.
  - a) The maximum gross floor area limitation is 4,406.5 square feet (0.50 FAR) and the proposed floor area of the motel is 4,406 square feet.
  - b) The CV Coastal Zoning District only requires a side setback when a property abuts a residential use and only requires a rear setback when the property abuts either an alley or a residential use. No front setback is required. As the subject property does not abut any residentially zoned properties and is abutted to the rear by a commercially zoned property, no building setbacks are required.
  - c) The base height limit of the zoning district is 26 feet for flat elements and 31 feet for sloping roofs (minimum 3:12 slope). The highest guardrail is approximately 26 feet from established grade (9.56 feet NAVD88) and the highest ridge is no more than 31 feet from established grade, which comply with the maximum height requirements.
  - d) Pursuant to Table 21.40-1 (Off-Street Parking Requirements) of the NBMC, a motel use requires one parking space per guest room. The 12-room motel requires 12 off-street parking spaces. The most recent parking lot configuration provided nine (9) parking spaces, resulting in the structure being nonconforming due to parking. The proposed project will further reduce the total number of parking spaces to seven due to the required restriping of the parking lot to comply with current parking lot and Americans with Disabilities Act (ADA) standards. The loss of two existing spaces is requested pursuant to Section 21.40.110 (Adjustments to Off-Street Parking Requirements) of the NBMC.
- 2) The project site is located within the West Newport neighborhood known as Newport Shores. The neighborhood was developed prior to the existence of minimum parking requirements and many properties do not provide the code required minimums. Section 21.40.110 (Adjustments to Off-Street Parking Requirements) of the NBMC allows the number of parking spaces to be reduced subject to demonstrating 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:
  - a. As the motel is a visitor serving use, it is reasonable to assume not all guests will arrive by vehicle. Some guests are likely to arrive via rideshare and will not need on-site parking.

- b. Some guests, especially families traveling with children, are likely to book more than one (1) room without arriving in more than one (1) vehicle. Likewise, groups staying at the motel are likely to carpool and will not arrive individually.
  - c. The site is served by regular bus service, with an Orange County Transit Authority (OCTA) bus stop approximately one (1) block to the east.
  - d. There is on-street parking available along West Coast Highway, Seashore Drive, and there are multiple municipal lots along Seashore Drive. Two (2) of the municipal lots are located less than 300 feet from the project site.
  - e. The project site is within walking distance of coastal resources that guests will be able to access. For example, the site is less than 400 feet from a large, sandy, beach. Beach volleyball courts are 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.
  - f. The motel is small in scale and will operate with a limited number of employees at any given time.
  - g. The project will ultimately increase coastal access for disabled individuals. The prior parking lot layout did not provide an ADA compliant space. The restriping of the parking lot will provide one (1) ADA compliant space and the rehabilitated motel will provide two (2) ADA compliant guest rooms.
- 3) While Section 21.40.070 (Development Standards for Parking Areas) of the NBMC does not contain standard vehicle space requirements for parking provided at a 49-degree angle, the parking lot layout has been reviewed and accepted by the Public Works Department.
- 4) The motel does not provide the required number of parking spaces and is considered nonconforming pursuant to Section 21.38.060 (Nonconforming Parking) of the NBMC. Section 21.38.060 (Nonconforming Parking) of the NBMC allows for a nonconforming structure or use to be enlarged by up to ten (10) percent of its existing gross floor area if the required parking for the additional square footage is provided. As the required parking for a motel use is based on number of guest rooms provided rather than gross floor area of the structure, no additional parking is required.
- 5) The surrounding neighborhood is predominantly developed with either single or two (2)-story duplexes. Properties fronting West Coast Highway are nonresidential and typical one (1) to two (2) stories tall. The notable exception being the three (3)-story hotel to the immediate east of the project site. The proposed design, bulk, and scale of the rehabilitated motel is consistent with the existing neighborhood pattern of development.
- 6) While the motel previously operated as a low cost overnight visitor accommodations (LCOVA) as defined in Section 21.48.025(C) of the NBMC, the April 10, 2018, structure

fire that occurred at the subject project left guest rooms 1 through 4 red-tagged (unsafe to enter) with the remainder of guest rooms were yellow-tagged (given limited access to retrieve personal items only). Rooms 1 through 4 were demolished pursuant to Emergency Coastal Development Permit No. ECD2018-150 with the remaining rooms left uninhabitable. The fire significantly damaged the units and ended the availability of visitor accommodations at the site.

- 7) Pursuant to Section 21.48.025 (Visitor Accommodations) of the NBMC, applications involving the development of new visitor accommodations require the review authority to consider 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; the impact to, and ability to provide, public recreational opportunities; 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; the range of room types and room rates Citywide.
- 8) A feasibility and impact assessment report was prepared by PFK Hospitality Group, dated July 2023. The report found that the motel would need to charge an Average Daily Rate (ADR) of \$325 to achieve a 75% occupancy rate and operate successfully.
- 9) The report presents the statewide ADR as \$188 with only one (1) hotel, Extended Stay America located at 4881 Birch Street, as providing LCOVA. The report concludes that while the project does not reduce the availability of LCOVA, the new accommodations fail to provide a range of affordability, including at least twenty-five (25) percent of the rooms as LCOVA as required by NBMC Section 21.48.025.C.4. The report also adds that high land values within the City generally render sites unsuitable for the development of LCOVA.
- 10) As the project fails to provide low cost visitor-serving and recreational facilities, the project impacts the availability of LCOVA. Pursuant to NBMC Section 21.48.025.C.5 (Visitor Accommodations, Protection of Low Cost Visitor Accommodations), mitigation commensurate with the impact is required. Condition of Approval No. 2 requires that the applicant pay an in-lieu fee for inability to provide 25 percent of new accommodations as low cost. The applicant will pay an in-lieu fee in the amount of \$25,000 per room not provided as LCOVA, for a total of \$75,000.
- 11) The development is located on an inland property in a developed area approximately 600 feet from Semeniuk Slough and 800 feet from mean high water line of the Pacific Ocean. The site is separated from Semeniuk Slough by multiple blocks of residential development. The site is separated by the Pacific Ocean by multiple blocks of residential development, a park, 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 (NAVD88), which complies with the minimum 9.0-foot (NAVD 88) elevation standard for interior livable areas within new structures and/or new development. The identified distances from the coastal hazard areas, coupled with the 9.67-foot NAVD88 finish floor elevation, will help to ensure the project is reasonably safe for the economic life of the structure.

- 12) The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
- 13) A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
- 14) Pursuant to Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared for the project by Toal Engineering Inc., dated, January 25, 2023. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
- 15) 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. 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. Additionally, the motel has been shuttered and fenced off since the structure fire. The rehabilitation of the motel will remedy a blighted condition and provide a significant aesthetic improvement to the neighborhood. 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.

Finding:

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



Fact in Support of Finding:

The project site is not located between the nearest public road and the sea or shoreline. As such, it is not necessary to assess the consistency with the public access and public recreation policies of Chapter 3 of the Coastal Act. However, vertical access to the beach is available in proximity to the site, along Prospect Street. Lateral access to the coast begins at the Prospect Street end and is available along the beach. The project does not include any features that would obstruct access along these routes.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 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.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Coastal Development Permit, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Program (LCP) Implementation Plan, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 28<sup>TH</sup> DAY OF SEPTEMBER, 2023.**



---

Benjamin M. Zueba, AICP, Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Prior to the issuance of a building permit, the applicant shall pay an in-lieu fee in the amount of \$75,000 for inability to provide 25 percent of new accommodations as low cost.*
3. *Bicycles and on-site bicycle parking shall be provided for guest use to the satisfaction of the Community Development and Public Works Directors.*
4. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
5. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:
  - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
6. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
7. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle

maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

8. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
9. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
10. Revisions to the approved plans may require an amendment to this coastal development permit or the processing of a new coastal development permit.
11. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
12. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this coastal development permit.
13. This coastal development permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
14. Prior to the issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
15. Prior to the issuance of a building permit, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
16. Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
17. Prior to the issuance of a building permit, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
18. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00

a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.

19. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
Location	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

20. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
21. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
22. This coastal development permit shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
23. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Pine Knot Motel** including, but not limited to, Coastal Development Permit (PA2023-0027). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**Building Division**

- 24. Exterior walls and walls between onsite buildings shall comply with CBC 705 regarding fire rating and allowable openings.
- 25. Newly constructed buildings shall comply with Chapter 11B & 11B-24 transient lodging of the 2022 CBC.
- 26. Guest rooms and common areas on the second floor shall provide the same experience as accommodations on the first floor.
- 27. Exterior walls and walls between onsite buildings shall comply with CBC 705 regarding fire rating and allowable openings.

**Fire/Life Safety**

- 28. NFPA 13 fire sprinklers shall be required.
- 29. A fire alarm in compliance with NFPA 72 and Chapter 9 of 2022 CFC shall be required.

**Public Works Department**

- 30. The parking lot layout shall comply with layout stamped and dated with the date of this approval.
- 31. No encroachments, including but not limited to, foundation of structure is permitted with the West Coast Highway or Prospect Street Right of Way.
- 32. A new sewer clean out shall be installed on all existing sewer laterals in accordance with City Standard 406.

INTENTIONALLY BLANK PAGE