

Attachment No. PC 5

Appeal Application

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Appeal Application

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Newport Beach, CA 92660
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Appeals are time sensitive and must be received by the City Clerk within the specified time period from a decision or final action by a decision-maker. It is advisable to consult with the Department managing the issue if there is question with regards to appealing an action. This is an appeal of the:

- ☒ (CDD222) Coastal Development Application CDP Appeal from Zoning Admin to the Planning Commission (only if appeal is solely based on the CDP portion of the application) – No Fee
- ☐ (CDD222) Community Development Director Action to the Harbor Commission - \$1,250
- ☐ (CDD222) Community Development Director Action to the Planning Commission - \$2,116
- ☐ (CDD222) Harbor Commission Action to the City Council (CDD – Planning) - \$940
- ☐ (CDD222) Hearing Officer Action to the City Council - \$2,116
- ☐ (CDD222) Planning Commission Action to the City Council - \$2,116
- ☐ (CDD222) Zoning Administrator Action to the Planning Commission - \$2,116
- ☐ (CDD223) Building Official/Fire Marshal Action to the Building/Fire Board of Appeals - \$1,768
- ☐ (CDD224) Chief of Police Action on an Operator License to the City Manager - \$1,000
- ☐ (FIN123) Short-Term Lodging Permits Suspension or Revocation Hearing - \$538
- ☐ (HBR001) Harbor Commission Action to the City Council (Harbor Department) - \$940
- ☐ (HBR001) Harbormaster Action to the Harbor Commission - \$1,250
- ☐ (PBW018) Harbor Commission Action to City Council (Public Works Department) - \$940
- ☐ (PBW018) Public Works Director Action to Harbor Commission - \$1,250
- ☐ (RSS073) City Manager Action on a Special Events Permit to the City Council - \$1,890
- ☐ Other - Specify decision-maker, appellate body, Municipal Code authority and fee: _____

Appellant Information:

Name(s): Jim Mosher

Address: 2210 Private Road

City/State/Zip: Newport Beach, CA, 92660

Phone: (949) 548-6229 Email: Jimmosher@yahoo.com

Appealing Application Regarding:

Name of Applicant(s): Eric Aust for 6302 INVESTMENT LLC Date of Final Decision: September 28, 2023

Project No.: PA2023-0027 Activity No.: PA2023-0027

Application Site Address: 6302 West Coast Highway

Description of Application: Rehabilitation of the 12-unit low-cost Pine Knot Motel, partially lost to fire in 2018, addition of a partial second story and reopening as a 12-unit non-low-cost boutique hotel.

Reason(s) for Appeal (attach a separate sheet if necessary): _____

see attached

Signature of Appellant: [Signature] Date: Oct 12, 2023

FOR OFFICE USE ONLY:

Date the Appeal was Filed and Administrative Fee Received: OCTOBER 12, 2023

[Signature]
City Clerk

cc: Department Director, Deputy Director, Staff, File



Reasons for Appeal of Zoning Administrator Decision Regarding CDP PA2023-0027

The primary reason for this appeal involves the interpretation of the NBMC Section 21.48.025 requirement to mitigate the loss of low cost visitor accommodations.

First, a one-time \$25,000 per room contribution to the City's Fostering Interest In Nature program appears to have been approved as an appropriate mitigation without explanation. It would appear to be far less than the cost of building a low-cost visitor accommodation in Newport Beach. It is also much less than the \$44,226 per room contribution to the FiiN program fund deemed necessary by the Coastal Commission to mitigate for a low-cost accommodation when the program was established as mitigation for low-cost accommodations similarly not provided by the Lido House hotel in 2015. With eight years of inflation, one would have expected something even higher than that, not lower.

Second, since according to the applicant's analysis this was apparently the site of the only 12 low-cost visitor accommodations in the entire Newport Beach coastal zone, and since NBMC Section 21.48.025 applies to "the expansion, reduction, redevelopment, demolition, conversion, closure, or cessation of existing visitor accommodations," there is doubt as to the number of accommodations that need to be mitigated for when the site is redeveloped, as is being requested here. In particular, it is unclear if five years of unavailability, whether voluntary or involuntary, relieves the property of responsibility for the lost former low-cost units when it is redeveloped.

Additionally, although this is a Coastal Development Permit application, with respect to the impact of the fire on a nonconforming use, the approval refers to Zoning Code Section 20.38.030, rather than the similar provision of Section 21.38.080 in the Local Coastal Program Implementation Plan. Both require diligent pursuit of a restoration plan commenced within 12 months of the date of the damage. This appears to be an entirely new proposal, quite different from the one commenced and pursued by the previous owner, making uncertain the applicability of either of those sections to it.

Finally, it is unclear if the operational characteristics of the proposed new facility justify a further reduction in the already small amount of parking that was provided by the original design.