

# **Attachment B**

Resolution No. 2022-66 to Approve GPA, SD, CD, NT & XP

**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)**

**WHEREAS**, Section 200 of the City of Newport Beach (“City”) Charter vests the City Council with the authority to make and enforce all laws, rules, and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers and privileges, or procedures granted or prescribed by any law of the State of California;

**WHEREAS**, in 2012, the City Council approved an application by Golf Realty Fund, Managing Owner (“Applicant”) for the reconstruction of the 3,725-square-foot tennis clubhouse, reduction of tennis courts from 24 to seven courts, construction of a 27-room boutique hotel with 9,700 square feet of ancillary uses, five single-family residential units, and a development agreement for the property (“2012 Entitlements”) located at 1602 East Coast Highway, and legally described as Parcels A, B, C, and D of Parcel Map No. 2016-151 (commonly referred as the “Tennis Club Site” or “Property”);

**WHEREAS**, on November 20, 2018, the Zoning Administrator approved Coastal Development Permit No. CD2017-039, authorizing the redevelopment of the Property consistent with the 2012 Entitlements (2012 Entitlements and Coastal Development Permit No. CD2017-039 are collectively referred to as the “Approved Project”);

**WHEREAS**, the Applicant is requesting an amendment to the Approved Project to allow an increase in the number of future tennis courts from seven to eight, an increase in the number of future hotel rooms from 27 to 41, an increase to the gross floor area of ancillary hotel uses by 4,686 square feet, three attached condominium units and two single family residences in-lieu of five single-family residences, and an amendment to the 2012 Development Agreement to account for the aforementioned changes to the Approved Project along with extending the term for an additional 10 years (“Project”);

**WHEREAS**, the following approvals are requested or required in order to implement the Project:

- General Plan Amendment (“GPA”) – An amendment to Anomaly No. 46 of Table LU2 of the 2006 Newport Beach General Plan Land Use Element to document the conversion of 17 tennis courts to 27 hotel rooms authorized by City Council Resolution No. 2012-10, and the addition of 14 hotel rooms for a total of 41 rooms and one tennis courts for a total of eight tennis courts;
- Local Coastal Program Implementation Plan Amendment (“LCPA”) – An amendment to Section 21.26.055(S)(2) (Planned Community Coastal Zoning District Development Standards, Newport Beach Country Club (PC-47, Tennis Club) of the Newport Beach Municipal Code (“NBMC”) to modify the permitted uses and development standards allowed on the Property;
- Planned Community Development Plan Amendment (“PCDP 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 Property;
- Major Site Development Permit Amendment (“SDA”) – An amendment to the existing site development review in accordance with PC-47 and Section 20.52.080 (Permit Review Procedures, Site Development Reviews) of the NBMC for the construction of the Project;
- Coastal Development Permit Amendment (“CDPA”) – A coastal development permit for the demolition of existing structures, further subdivision on the Property, and implementation of the Project;
- Vesting Tentative Tract Map Amendment (“VTMA”) – An amendment to Vesting Tentative Tract Map No. 15347 pursuant to Title 19 (Subdivisions) of the NBMC for a lot reduction created for the Approved Project and inclusion of the condominium ownership;
- Limited Term Permit Amendment (“XP”) – A limited term permit to allow temporary use of structures during construction on the Property, pursuant to Section 20.52.040 of the NBMC;
- Development Agreement Amendment (“DA”) – A second amendment to the Development Agreement (DA2008-001), between the Applicant and the City,

pursuant to Sections 15.45.020(A)(2)(c) (Buildings and Construction, Development Agreements Required, Development Agreement Required) and 15.45.070 (Buildings and Constructions, Development Agreements, Amendment/Cancellation) of the NBMC, which would provide vested rights to develop the Project for an additional 10 years and provide negotiated public benefits to the City; and

- Addendum to previously adopted Mitigated Negative Declaration No. ND-2010-008 (SCH2010091052) (“Addendum”) – Pursuant to the California Environmental Quality Act (“CEQA”), the Addendum addresses reasonably foreseeable environmental impacts resulting from the Project;

**WHEREAS**, the Property is designated Mixed-Use Horizontal 3/Parks and Recreation (MU-H3/PR) by the City of Newport Beach General Plan and is located within the Newport Beach Country Club Planned Community (PC-47) Zoning District;

**WHEREAS**, the Property is designated Mixed-Use Horizontal/Parks and Recreation (MU-H/PR) by the Coastal Land Use Plan and is located within the Newport Beach Country Club Planned Community (PC-47) Coastal Zone District;

**WHEREAS**, the Planning Commission held a public hearing on September 8, 2022, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California, at which time the Planning Commission considered the Project. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”), and Chapters 15.45 (Development Agreements), 19.12 (Tentative Map Review), 20.56 (Planning Community District Procedures), 20.62 (Public Hearings) and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

**WHEREAS**, at the hearing, the Planning Commission adopted Resolution No. PC2022-022 (5 ayes, 1 absent, 1 recusal) recommending approval of the Project to the City Council; and

**WHEREAS**, a public hearing was held by the City Council on September 27, 2022, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with the Ralph M. Brown Act, and Chapters 15.45 (Development Agreements), 19.12 (Tentative Map Review), 20.56 (Planning Community District Procedures), 20.62 (Public Hearings) and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

**NOW, THEREFORE,** the City Council of the City of Newport Beach resolves as follows:

**Section 1:** The City Council has considered the recommendation of the Planning Commission and determined that modifications to the Project made by the City Council, if any, are not major changes that require referral back to the Planning Commission for consideration and recommendation.

**Section 2:** The City Council hereby approves a General Plan Amendment, Amendment to Major Site Development Review No. SD2011-002, Amendment to Coastal Development Permit No. CD2017-039, Amendment to Tentative Vesting Tract Map No. NT2005-003, and Amendment to Limited Term Permit No. XP2011-004.

**Section 3:** An amendment to the 2006 Newport Beach General Plan Land Use Element is a legislative act. Neither Title 20 (Planning and Zoning) nor California Government Code Section 65000 *et seq.*, set forth any required findings for either approval or denial of such amendments. Nonetheless, the GPA is consistent with the following City of Newport Beach General Plan Land Use based upon the following:

Findings and Facts in Support of General Plan Consistency:

As part of the Approved Project, the City Council adopted Resolution No. 2012-10, which authorized the conversion of 17 tennis courts to 27 hotel rooms along with the redevelopment of the Property including seven remaining tennis courts. The City Council found that the conversion of tennis courts to hotel rooms was consistent with the General Plan based upon the revitalization to Newport/Fashion Island area where the General Plan encourages additional hotel development and housing units, and the fact that the conversion did not create traffic impacts. At the time of the conversion, the 17 tennis courts generated 658 average daily trips based upon ITE Trip Generation Rates (7<sup>th</sup> edition), while the 27 hotel rooms generated 221 average daily trips, resulting in a net decrease of 389 daily trips.

With the amendment to the Approved Project, Anomaly No. 46 will be modified to include 14 additional hotel rooms and one tennis court. Together, a total of 41 hotel rooms (27+14=41 rooms) and eight tennis courts will be included in Anomaly No. 46. No change to the 3,725-square-foot tennis clubhouse is proposed. The GPA does not include a change in land use designation and would remain as Mixed-Use Horizontal 3/Parks and Recreation (MU-H3/PR).

The amendment to the Approved Project is consistent with the following General Plan policies:

- a. ***Land Use Element Policy LU1.1 (Unique Environment).*** *Maintain and enhance the beneficial and unique character of the different neighborhoods, business districts, and harbor that together identify Newport Beach. Locate and design development to reflect Newport Beach's topography, architectural diversity, and view sheds.*

The Project includes an amendment to the PC-47 District regulations on the Tennis Club site and reflects the proposed development on the Property. PC-47 will continue to guide development occurring within the Property. The development standards address building height, setbacks, landscaping, and architectural character. The standards are intended to ensure that the City's unique character is maintained through land use and architectural diversity.

- b. ***Land Use Element Policy LU1.2 (Citywide Identity).*** *While recognizing the qualities that uniquely define its neighborhoods and districts, promote the identity of the entire City that differentiates it as a special place within the Southern California region.*

The area in which in the Property is located is characterized by a variety of residential, commercial, and recreational land uses that reflect a range of architectural styles, which contribute to the unique character of the City. The intensity and architectural character of the Project are compatible with the variety of densities and styles within the area, which are consistent with the identity of the City. The architectural character of the Project, including the bungalow-style hotel rooms, detached residential units, and attached residential loft buildings, is consistent with the City's desire to differentiate Newport Beach from other coastal cities.

- c. ***Land Use Element Policy LU2.1 (Resident-Serving Land Uses).*** *Accommodate uses that support the needs of Newport Beach's residents including housing, retail, services, employment, recreation, education, culture, entertainment, civic engagement, and social and spiritual activity that are in balance with community natural resources and open spaces.*

The Project will continue to provide residents with recreational opportunities, culture, entertainment, and civic engagement. The proposed

amendment remains supportive of recreational uses by providing one additional tennis court to the previously approved seven courts. The amendment also includes an additional 14 hotel rooms to the previously approved 27-unit hotel development with additional hotel amenities for club members such as a Performance Therapy Center and Yoga Pavilion.

- d. ***Land Use Element Policy LU.2.6 (Visitor Serving Uses).*** *Provide uses that serve visitors to Newport Beach's ocean, harbor, open spaces, and other recreational assets, while integrating them to protect neighborhoods and residents*

The Project provides visitors with an updated recreational facility as it includes a new tennis clubhouse and eight tennis courts, which includes a stadium size court. The tennis club is adjacent to a golf course with amenities and is within 2,000 feet from the Newport Bay. The proposed 41 hotel rooms provide additional opportunities for visitors to enjoy the tennis club and nearby recreational activities.

- e. ***Land Use Element Policy LU3.2 (Growth and Change).*** *Enhance existing neighborhoods, districts, and corridors, allowing for reuse and infill with uses that are complementary in type, form, scale, and character. Changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach's share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service.*

The character of the tennis club, hotel development, and residential units are compatible with the existing land uses and development intensities of the surrounding area. Although the additional 14 hotel rooms and one tennis court requires amendments to adopted plans and regulations, the existing tennis club and hotel development that are the substance of the Approved Project are allowed under the General Plan. The Project has been designed to be compatible with the existing residential, commercial, and recreational uses located within the vicinity of the Project site. In addition, the surrounding area is adequately served by existing infrastructure, including circulation, water, sewer, and storm drainage systems. As a result, the

implementation of the Project will not adversely affect those systems or the provision of adequate service to nearby development.

- f. ***Land Use Element Policy LU3.3 (Opportunities for Change).*** Provide opportunities for improved development and enhanced environments for residents in the following districts and corridors, as specified in Policies 6.3.1 through 6.22.7: Fashion Island/Newport Center: expanded retail uses and hotel rooms and development of residential in proximity to jobs and services, while limiting increases in office development.

The Project provides enhancement to the Property, which is currently being used exclusively as a tennis club, to include 41 hotel rooms and ancillary uses, and five residential units. The Project retains a total of eight tennis courts and the reconstruction of the Tennis Clubhouse. The Project will be utilized as a recreational facility for residents, guests, and club members.

- g. ***Land Use Element Policy LU4.1 (Land Use Diagram).*** Accommodate land use development consistent with the Land Use Plan.

The Project is consistent with the designation of the General Plan Land Use Element, which designates the Property as MU-H3/PR. The Property is located within Anomaly No. 46, which allocates 24 tennis courts with residential permitted in accordance with the MU-H3 designation. The GPA includes an amendment to the Development Limit (Other) of Anomaly No. 46, to reduce the number of tennis courts to eight and to include 41 hotel rooms.

- h. ***Land Use Element Policy LU5.1.2 (Compatible Interfaces).*** Require that the height of development in nonresidential and higher-density residential areas transition as it nears lower-density residential areas to minimize conflicts at the interface between the different types of development.

Although the Property is not located adjacent to lower density residential development, the Project has been designed to respect the proximity of the existing residential development adjacent to the Property. The amended PC-47 prescribes maximum building heights and setback requirements for each of the development components to ensure land use compatibility. Building heights for the proposed structures will range from 46 feet for the attached residential loft buildings, 39 feet for the detached residential units,



31 feet for the hotel rooms, and 30 feet for the Tennis Clubhouse, which are within the maximum 50-foot building height allowed by PC-47.

- i. ***Land Use Element Policy LU (5.3.3).*** *Require that properties developed with a mix of residential and non-residential uses be designed to achieve high levels of architectural quality in accordance with Policies 5.1.9 and 5.2.1 and planned to assure compatibility among the uses and provide adequate circulation and parking. Residential uses should be seamlessly integrated with non-residential uses through architecture, pedestrian walkways, and landscape. They should not be completely isolated by walls or other design elements.*

The Project includes one additional tennis court to the tennis club, 41 hotel rooms, two single-family residences, and two residential condominium units. The Project provides adequate parking for each of the proposed uses. Vehicular and pedestrian circulation has been designed to accommodate the residents, as well as guests and members of the tennis club and hotel development. The architectural character of the uses is defined in PC-47 to ensure that compatibility between proposed uses and the surrounding area is maintained.

- j. ***Land Use Element Policy LU5.3.4 (Districts Integrating Residential and Nonresidential Uses).*** *Require that sufficient acreage be developed for an individual use located in a district containing a mix of residential and non-residential uses to prevent fragmentation and assure each use's viability, quality, and compatibility with adjoining uses.*

Each of the uses has been designed to complement the overall Project. The uses are connected by the vehicular and pedestrian circulation system, including sidewalks and pedestrian pathways. Land use compatibility is achieved through a common landscape theme and design guidelines in PC-47 to ensure that the architectural integrity of the Project is not compromised.

- k. ***Land Use Element Policy LU6.14.2 (Newport Center).*** *Provide the opportunity for limited residential, hotel, and office development in accordance with the limits specified by Tables LU1 and LU2.*

The Project has 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 in Table LU1 under the MU-H3/PR land use designation. The GPA proposes to amend the development limits of Table LU2 to include eight tennis courts and 41 hotel rooms.

- I. **Land Use Element Policy LU6.14.6 (Pedestrian Connectivity and Amenity).** Encourage that pedestrian access and connections among uses within the district be improved with additional walkways and streetscape amenities concurrent with the development of expanded and new uses.*

The Project provides for both pedestrian and vehicular access within the Property. Sidewalks and pedestrian pathways are incorporated into the circulation system that are intended to accommodate pedestrians utilizing the tennis club, hotel facilities, and future residents. A landscape plan has been provided which includes plant materials that are intended to reflect and complement the existing character within the project area.

Tribal Consultation Finding:

Pursuant to California Government Code Section 65352.3 (SB18), a local government is required to contact the appropriate tribes identified by the Native American Heritage Commission (“NAHC”) each time it considers a proposal to adopt or amend the General Plan. If requested by any tribe, the local government must consult for the purpose of preserving or mitigating impacts to cultural resources.

Fact in Support of Finding of Consistency:

The City received comments from the NAHC indicating that 12 tribal contacts should be provided notice regarding the proposed amendment. The tribal contacts were provided notice on June 9, 2022. California Government Code Section 65352.3 requires notification 90 days prior to Council action to allow tribal contacts to respond to the request to consult. The Project will not be heard by the City Council until the 90-day period expires on September 7, 2022.

**Section 4:** 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, 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.

Council Policy A-18 (Guidelines for Implementing Charter Section 423) requires that proposed amendments to the General Plan be reviewed to determine if a vote of the Newport Beach electorate would be required. This policy includes a provision that all General Plan amendments be tracked as “Prior Amendments” for 10 years to determine if minor amendments in a single Statistical Area cumulatively exceed the thresholds indicated above.

Facts in Support Finding of Consistency with Charter Section 423:

1. The Property is within Statistical Area L1. Prior amendments within the past ten years are Vivante Senior Housing and Residences at Newport Center. Charter Section 423 counts 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 square footage increases.
2. The GPA results in an increase of 14,000 square feet (at the rate of 1,000 square feet per hotel unit) of non-residential floor area, 9.51 AM trips, and 12.42 PM trips. When combined with 80 percent of the prior increases, this results in cumulative increases of 14,000 square feet of non-residential floor area, 32.51 AM trips, and 55.42 PM trips. As none of the thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required if the City Council chooses to approve the GPA.

**Section 5:** On January 24, 2012, the City Council approved Site Development Review No. SD2011-002, which authorized the construction of Approved Project. The proposed changes to the Approved Project, necessitate an amendment to the SDA.

In accordance with Section 4.0 of the Newport Beach Country Club Planned Community (PC-47) (Site Development Review), the following findings and facts in support of Amendment to Site Development Review No. SD2011-002 are set forth as follows:

Finding of Consistency with Section 4.3(1):

*The Site Development Plan shall be in compliance with all other provisions of the Newport Beach Country Club Planned Community Development Plan.*

Facts in Support of Finding of Consistency with Section 4.3(1):

1. PC-47 requires that a site development review process to be completed for construction of any new major building structure located on the subject site and would require consideration and approval by the Planning Commission prior to the issuance of grading or building permits. An amendment to the previously approved site development review has been submitted for the Property and meets provisions stated in the draft PCDP and thereby meets the intent specified in Section 20.52.080 (Planning and Zoning, Permit Review Procedures, Site Development Reviews) of the NBMC.
2. The Project includes an amendment to the PC-47 to incorporate revisions to the Approved Project. These revisions include the addition of one tennis court, the addition of 14 hotel rooms, and the conversion of three single-family residences to residential condominium units. Should the PC-47 amendment be approved, the SDA complies with all provisions of the PC-47, as the proposed development complies with all development criteria specified in the PC-47 in order to provide a coordinated, cohesive, and comprehensive large-scale planning project.

Finding of Consistency with Section 4.3(2):

*The Site Development Plan 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.*

Fact in Support of Finding of Consistency with Section 4.3(2):

The architecture, landscaping components, circulation design, and all other project components reflected in the SDR are compatible with the character of the neighboring uses and surrounding sites. The additional 14 hotel rooms and attached residential condominium buildings are of similar architectural style to the Approved Project's bungalow-styled rooms. As a result, the Project is not detrimental to the orderly and harmonious development of the surroundings and the City.

Finding of Consistency with Section 4.3(3):

*The Site Development Plan shall be sited and designed to maximize of aesthetic quality of the Newport Beach Country Club Planned Community Development Plan as viewed from surrounding roadways and properties, with special consideration given to the mass and bulk of buildings and the streetscape on East Coast Highway.*

Facts in Support of Finding of Consistency with Section 4.3(3):

1. The Property is separated from East Coast Highway by a commercial office plaza which comprises of three two-story office buildings (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. Additionally, the Property is approximately 250 feet from East Coast Highway and is not visible to motorists travelling on the street.
2. The Project is designed consistent with the Approved Project's architectural style with landscaping, circulation, signage and other components which visually connect the tennis clubhouse and attached residential structures to the smaller structures such as the hotel rooms and single-family residences. Therefore, the aesthetic quality of PC-47 is continued to be maximized as viewed from the surrounding roadways and properties.
3. The Project seeks to add additional hotel rooms, ancillary hotel uses, and attached residential buildings to the Property. However, the overall footprint of the Project is not expanding and will not affect the mass of the Project as viewed from surrounding roadways and properties.

Finding of Consistency with Section 4.3(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.*

Facts in Support of Finding of Consistency with Section 4.3(4):

1. The site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping, and other site features maximizes the functionality of the proposed uses, while avoiding conflicts between uses and activities. The Project'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 existing golf course uses.

2. The Project promotes additional functionality between residential and hotel components, as residential condominiums are attached to hotel rooms 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.

**Section 6:** On April 10, 2013, the California Coastal Commission, which had permitting jurisdiction for coastal development permits at the time, issued a notice of intent to issue CDP No. 5-12-160 for the Approved Project. A one (1)-year extension was granted on June 2, 2015. However, the CDP subsequently expired. The City obtained CDP permitting authority in January of 2017. On November 20, 2018, the City's Zoning Administrator approved the CDP, which authorized the redevelopment of the Approved Project. The Project requires an amendment to Coastal Development Permit No. CD2017-039.

In accordance with Section 21.52.015(F) (Local Coastal Program Implementation Plan, Coastal Development Permits, Findings and Decisions) the following findings and facts in support of Amendment to Coastal Development Permit No. CD2017-039 are set forth as follows:

Finding of Consistency with Section 21.52.015(F)(1):

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

Facts in Support of Finding of Consistency with Section 21.52.015(F)(1):

1. The Coastal Land Use Plan designates the Tennis Club site as Mixed-Use Horizontal/Parks and Recreation (MU-H/PR). Policy 2.1.8-1 of the Coastal Land Use Plan allows the horizontal intermixing of hotel rooms, single-family residences, attached residential condominiums, and tennis club facilities on the project site (formerly known/referenced as the Balboa Bay Tennis Club). Permitted uses include those permitted by the MU-H and PR land use designations. A complete consistency analysis of each of the applicable Coastal Land Use Plan policies is included in Table 11 of the Land Use and Planning Section of the previously adopted MND, pages 82 through 87, as well as in Table 5-5 of the Land Use and Planning Section of Addendum to the MND. Furthermore, facts have been

provided in this resolution which support the proposed amendment to the Local Coastal Program Implementation Plan. In summary, the Project is consistent with the Coastal Land Use Plan.

2. The MU-H coastal land use 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. Additionally, five residential dwelling units totaling 20,653 square feet (approximately 0.06 FAR). The proposed density/intensity of the hotel and single-family units comply with the FAR limitations identified in the Coastal Land Use Plan.
3. The PR category 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 the Property 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.
4. The Property is part of the 145-acre planned community (PC-47), which has been adopted to regulate developments within the Property and the adjacent Golf Club Site, and is in conformance with the Coastal Land Use Plan designation pursuant to Section 21.26.055(S)(2) of the NBMC.
5. The Project conforms to all applicable development standards in the proposed amendment to PC-47, including density/intensity, setbacks, building heights, and parking.
6. The Property is not located in an area known for the potential of seismic activity or 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 a building permit. 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.

7. Elevations on the 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.
8. The Project is required to develop and implement a Stormwater Pollution Prevention Plan ("SWPPP") since the Project involves clearing, grading, and ground disturbance of more than one acre. Pursuant to Section 21.35.030 (Local Coastal Program Implementation Plan, Water Quality Control, Construction Pollution Prevention Plan) of the NBMC, when a SWPPP is required, a Construction Pollution Prevention Plan ("CPPP") is required to implement temporary Best Management Practices ("BMP") during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. A CPPP has been prepared and will be reviewed by the City's Engineer Geologist prior to issuance of grading/building permits for site grading. Construction plans and activities will be required to adhere to the approved CPPP/SWPPP.
9. A Water Quality and Hydrology Plan ("WQHP") is required Pursuant to Section 21.35.050 (Local Coastal Program Implementation Plan, Water Quality Control, Water Quality and Hydrology Plan) of the NBMC since the Project is considered a development of water quality concern and includes the development of five dwelling units, more than 10,000 square feet of impervious surface area, and a parking area in excess of 5,000 square feet. The WQHP/WQMP will be reviewed and approved by the City's Engineer Geologist prior to the issuance of building permits for site grading. The WQHP/WQMP includes a polluted runoff and hydrologic site characterization, a description of site design BMP, and documentation of the expected effectiveness of the proposed BMP. Construction plans will be reviewed for compliance with the approved WQHP/WQMP prior to building permit issuance.
10. 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 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 rate for all 41 rooms is approximately \$920



and the statewide average daily room rate is \$205.69. Therefore, 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 impact low-cost accommodations. While the Project does not include any lower cost rooms, and the Local Coastal Program Implementation Plan defines it as an impact, there is no impact on the provision of lower-cost visitor accommodations in the Coastal Zone. The Project features larger guest facilities to accommodate a higher occupancy per room, kitchens in a majority of the hotel rooms, and separate living rooms with sofa beds, all which offset higher costs of accommodations.

Finding of Consistency with Section 21.52.015(F)(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.

Facts in Support of Finding of Consistency with Section 21.52.015(F)(2):

1. The Property is not located between the nearest public road and the sea or shoreline. The Property will not affect the public's ability to gain access to, use, and/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.
2. 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 Property and the closest public viewpoint as Irvine Terrace Park, located 525 feet south of the Property. Coastal views from these view corridors and viewpoints are directed toward the Newport Bay and the Pacific Ocean. Since the Property is located to the north of Irvine Terrace Park, the 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 maximum height allowed in PC-47 is 50 feet for the attached condominium lofts, 39 feet for the two single-family villas, 30 feet for the tennis clubhouse, and 31 feet for the hotel rooms. Therefore, 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, 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 Project will not impact coastal views.

**Section 7:** On January 24, 2012, the City Council approved Tentative Vesting Tract Map No. 15347, which authorized the creation of seven separate lots for the tennis club, five single-family residences, and 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 Project, which consists of two single-unit residential dwellings, three residential condominiums, 41 hotel rooms, a tennis clubhouse, their common open space areas and a private street to support the proposed uses. The TVMA reflects the combination of two previously divided lots which were intended for two detached single-family residences. This results in the elimination of one lot for a total of six separate lots. No changes to the lots created for common areas and a private street are proposed. The map of the VTMA has also been modified to include residential condominium portion of the Project.

In accordance with Section 19.12.070 (Subdivisions, Tentative Map Review, Required Findings for Action on Tentative Maps) the following findings and facts in support of Tentative Vesting Tract Map Amendment No. NT2005-003 are set forth as follows:

Finding of Consistency with Section 19.12.070(A)(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.

Facts in Support of Finding of Consistency with Section 19.12.070(A)(1):

1. The Project is consistent with the MU-H3/PR General Plan designation of the Property.
2. The Public Works Department has reviewed the proposed revisions to the approved vesting tentative tract map and determined it is consistent with the Title 19 (Subdivisions) of the NBMC and applicable requirements of the Subdivision Map Act set forth in California Government Code Section 664410 *et seq.*
3. Conditions of approval have been included to ensure compliance with Title 19 (Subdivisions) of the NBMC.

Finding of Consistency with Section 19.12.070(A)(2):

That the site is physically suitable for the type and density of development.

Facts in Support of Finding of Consistency with Section 19.12.070(A)(2):

1. The Property is entirely developed and does not support any environmental resources.
2. The Property is located in the Newport Center and Fashion Island area. The Property 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.

Finding of Consistency with Section 19.12.070(A)(3):

That the design of the subdivision or the proposed improvements will not cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. 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.

Fact in Support of Finding of Consistency with Section 19.12.070(A)(3):

An Addendum to the MND has been prepared and concludes that no significant environmental impacts will result from the Project in accordance with the proposed subdivision map revision.

Finding of Consistency with Section 19.12.070(A)(4):

That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Facts in Support of Finding of Consistency with Section 19.12.070(A)(4):

1. The VTMA is required for the subdivision of parcels in order to accommodate the development of the tennis club and courts, two single-unit residential dwellings, and 41 hotel rooms on the Property. All construction for the project will comply with

all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per Section 19.28.010 of the NBMC and Section 66411 of the Subdivision Map Act. Compliance with all ordinances of the City and all conditions of approval for the Project will ensure that the Project will not cause any serious health problems.

2. All mitigation measures will be implemented as outlined in the Addendum to the MND to ensure the protection of the public health.
3. No evidence is known to exist that would indicate that the planned subdivision pattern will generate any serious public health problems.

Finding of Consistency with Section 19.12.070(A)(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 easements 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.

Facts in Support of Finding of Consistency with Section 19.12.070(A)(5):

1. The design of the Project will not conflict with any easements acquired by the public at large for access through or use of property within the Property.
2. An easement through the Property will be retained by the City to sewer and utilities purposes.
3. No other public easements for access through or use of the Property have been retained for use by the public at large.

Finding of Consistency with Section 19.12.070(A)(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.

Fact in Support of Finding of Consistency with Section 19.12.070(A)(6):

The Property is not subject to the Williamson Act since the Property is not considered an agricultural preserve and is less than 100 acres.

Finding of Consistency with Section 19.12.070(A)(7):

That, in the case of a “land project” as defined in Section 11000.5 of the California Business and Professions Code: (a) there is an adopted specific plan for the area to be included within the land project; and (b) the decision-making body finds that the proposed land project is consistent with the specific plan for the area.

Facts in Support of Finding of Consistency with Section 19.12.070(A)(7):

1. The Property is not a “land project” as defined in Section 11000.5 of the California Business and Professions Code.
2. The Property is not located within a specific plan area.

Finding of Consistency with Section 19.12.070(A)(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.

Facts in Support of Finding of Consistency with Section 19.12.070(A)(8):

The VTMA and improvements are subject to Title 24 of the California Code of Regulations (“California Building Standards Code”) that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces the California Building Standards Code and will ensure compliance through the plan check and inspection process.

Finding of Consistency with Section 19.12.070(A)(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.

Facts in Support of Finding of Consistency with Section 19.12.070(A)(9):

1. The proposed amendment to Vesting Tentative Tract Map 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. The Project does not involve the elimination of residential rooms and therefore will not affect the City's ability to meet its share of housing needs.
2. Public services are available to serve the Project and the Addendum to the MND prepared for the Project indicates that the Project's potential environmental impacts are properly mitigated.

Finding of Consistency with Section 19.12.070(A)(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.

Facts in Support of Finding of Consistency with Section 19.12.070(A)(10):

1. Waste discharge into the existing sewer system will be not violate Regional Water Quality Control Board ("RWQCB") requirements.
2. Sewer connections have been conditioned to be installed per City Standards, the applicable provisions of Chapter 14.24 (Sewer Connection, Permits), and the latest revision of the Uniform Plumbing Code.

Finding of Consistency with Section 19.12.070(A)(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.

Facts in Support of Finding of Consistency with Section 19.12.070(A)(11):

1. The Property is located in the coastal zone and subject to a coastal development permit.

2. The Property does not have access to any beaches, shoreline, coastal waters, tidelands, coastal parks or trails.
3. Facts in Support of Finding of Consistency with Sections 19.12.070(A)(5) and (A)(6) are hereby incorporated by reference.

**Section 8:** In accordance with Section 20.52.040 (Planning and Zoning, Permit Review Procedures, Limited Term Permits) the following findings and facts in support of Amendment to Limited Term Permit XP2011-004 are set forth as follows:

Finding of Consistency with Section 20.52.040(G)(1):

The operation of the 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.

Facts in Support of Finding of Consistency with Section 20.52.040(G)(1):

1. The limited term permit will allow two temporary modular trailers and portable toilets. 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 Project. 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 phase of the project (approximately 16 months after construction begins). The portable toilets are proposed to serve the temporary tennis club office and located nearby.
2. The operation of the temporary modular trailers is proposed to exceed 90 days from the date of the permit. The construction office is proposed to be staged for the duration of all construction activities, which is estimated to be approximately 20 months. The tennis club office is proposed to be staged for approximately 16 months, and will be removed upon completion of the Project.

Finding of Consistency with Section 20.52.040(G)(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.

Fact in Support of Finding of Consistency with Section 20.52.040(G)(2):

The Property is approximately seven acres in size. Based on the construction phasing plan, there is adequate area to accommodate the proposed modular trailers and portable toilets throughout the various phases of construction. The construction trailer will be located within an area which is fenced off from public view and access.

Finding of Consistency with Section 20.52.040(G)(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.

Facts in Support of Finding of Consistency with Section 20.52.040(G)(3):

1. The Property has an existing parking lot with two 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.
2. 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. The construction trailer is intended for construction use only and not for the public. There are no traffic issues anticipated.

Finding of Consistency with Section 20.52.040(G)(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.



Facts in Support of Finding of Consistency with Section 20.52.040(G)(4):

1. The proposed trailers will not create additional parking demand since it will be utilized as offices for construction activities and employees displaced during the renovation of the tennis clubhouse.
2. A portion of the existing parking lot will remain, with access available on the easterly side of the lot from Granville Drive and Newport Center Drive. The remaining parking lot provides adequate parking for employees and members of the tennis club.

Finding of Consistency with Section 20.52.040(G)(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.

Facts in Support of Finding of Consistency with Section 20.52.040(G)(5):

1. The temporary trailers are conditioned to comply with all applicable provisions of the General Plan, Municipal Code, and other City regulations.
2. The Property is not located within a specific plan area.

**Section 9:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

**Section 10:** If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 11:** An Addendum to Mitigated Negative Declaration No. ND2010-008 (MND) was prepared for the Project in compliance with the California Environmental Quality Act (“CEQA”) set forth in California Public Resources Code Section 2100 *et seq.*; CEQA’s implementing regulations set forth in CCR Title 14, Division 6 Chapter 3 (“CEQA Guidelines”) and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act) to ensure that the Project will not result in new or increased environmental impacts. On the basis of the MND and entire environmental review record, the additional tennis court, hotel rooms, ancillary hotel uses, and conversion of three 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 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 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, the City Council adopted Resolution No. 2022-\_\_\_\_, thereby adopting an addendum to the previously adopted MND. Resolution 2022-\_\_\_\_, including all findings contained therein, is hereby incorporated by reference.

**Section 12:** This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

**ADOPTED** this 27th day of September, 2022.

\_\_\_\_\_  
Kevin Muldoon  
Mayor

**ATTEST:**

\_\_\_\_\_  
Leilani I. Brown  
City Clerk

**APPROVED AS TO FORM:  
CITY ATTORNEY’S OFFICE**

  
\_\_\_\_\_  
Aaron C. Harp  
City Attorney

Attachment(s):        Exhibit "A" - General Plan Amendment for the Tennis Club at  
  Newport Beach  
  Exhibit "B" - Conditions of Approval for the Tennis Club at Newport  
  Beach

**EXHIBIT "A"**

**GENERAL PLAN AMENDMENT FOR THE TENNIS CLUB AT NEWPORT BEACH**

Anomaly Number	Statistical Area	Land Use Designation	Development Limit (sf)	Development Limit (Other)	Additional Information
46	L1	MU-H3/PR	3,725	8 Tennis Courts  41 Hotel Rooms*	Residential permitted in accordance with MU-H3  *27 rooms converted from 17 tennis courts per Council Resolution 2012-10 and 14 rooms per General Plan Amendment PA2022-260

## EXHIBIT "B"

### CONDITIONS OF APPROVAL FOR THE TENNIS CLUB AT NEWPORT BEACH

*(Project-specific conditions are in italics)*

#### **Planning Division**

1. The project 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. The project is subject to compliance with all applicable submittals approved by the City of Newport Beach ("City") and all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. *Notwithstanding the legislative actions (ie. General Plan Amendment, Planned Community Development Plan, and Local Coastal Program Amendment) activities reviewed under Planning Activity No. PA2021-260 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted by the City for a period of time provided for in the Development Agreement pursuant to the provisions of California Government Code Section 66452.6(a).*
4. *The Vesting Tentative Tract Map Amendment, as reviewed under Planning Activity No. PA2021-260, shall expire in accordance with the Subdivision Code, unless an extension is otherwise granted consistent with the Subdivision Code and Subdivision Map Act. The expiration date shall be extended for the unexpired term of the Second Amendment to Development Agreement between City of Newport Beach and Golf Realty Fund.*
5. *The project shall consist of the followings:*
  - a. *Tennis Club: A 3,725 square-foot tennis clubhouse and eight (8) tennis courts;*
  - b. *Hotel: Forty-one (41) hotel rooms of 47,484 square feet, a 2,200 square-foot concierge and guest meeting facility, a 7,500 square-foot spa/fitness center, and 4,686 square feet of ancillary uses; and*
  - c. *Residential: two (2) single-family units and three (3) condominium units*
6. *Pickleball courts shall not be permitted after the issuance of a Certificate of Occupancy for the Tennis Clubhouse and Spa and Fitness Center unless the property owner and/or pickleball facility operator follows any and all City of Newport Beach General Plan, Municipal Code, or other applicable requirements in order to continue the use of pickleball courts.*

7. *The project shall be subject to all applicable development standards prescribed in Planned Community Development Plan Amendment, as reviewed under Planning Activity No. PA2021-260, for the Tennis Club site, such as but not limited to, building height, building setbacks, parking, lighting, sign standards, etc.*
8. *Upon the effective date of Local Coastal Program Implementation Plan Amendment, as reviewed under Planning Activity No. PA2021-260, Site Development Permit No. SD2011-002, Limited Term Permit No. XP2011-004, and Vesting Tentative Map No. NT2005-003, approved for the Approved Project, shall be deemed of no further force.*
9. *The temporary modular building to accommodate on-going tennis club operation during the construction of new tennis clubhouse shall be located on the existing tennis courts, shall not interfere with the construction activities or parking, and shall be removed from the project site upon completion/occupancy of the new clubhouse.*
10. *Prior to the issuance of a building permit, the applicant shall pay all applicable development fees (i.e. school, park in-lieu, transportation corridor agency), unless otherwise addressed separately in the Development Agreement.*
11. *Prior to recordation of the Final Tract Map and the issuance of building permits, the Final Tract Map shall be signed by all of the current record owners of the property, which presently include: (1) Elliot Feuerstein as Managing Member of Mesa Shopping Center-West LLC; (2) Elliot Feuerstein as Managing Member of Mesa Shopping Center-East LLC; (3) Irving Chase as General Partner of Fainbarg III L.P.; and (4) Robert O Hill as Executive Director of Golf Realty Fund LP.*
12. Any substantial change to the approved plans, shall require an amendment to all non-legislative activities reviewed under Planning Activity No. PA2021-260, or the processing of new permits.
13. This Site Development Review, Coastal Development Permit, and Limited Term Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed development, uses, and/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. A copy of the Resolution, including conditions of approval Exhibit "F" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
15. *Prior to the issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Site Development Review file. The plans shall be identical to those approved by*

all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Site Development Review and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

16. Prior to the issuance of a building permit, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division.
17. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
18. *Prior to the final of issuance of a certificate of occupancy, the applicant shall schedule an inspection by the Planning Division to confirm that all landscaping was installed in accordance with the approved plan.*
19. Prior to the issuance of a building permit, the applicant shall prepare photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are "1" or less at all property lines.
20. *Lighting shall be in compliance with applicable standards of Planned Community Development Plan Amendment, as reviewed under Planning Activity No. PA2021-260 and Section 20.30.070 of the Newport Beach Municipal Code. Exterior on-site lighting shall be shielded and confined within site boundaries. No direct rays or glare are permitted to shine onto public streets or adjacent sites or create a public nuisance. "Walpak" and up-lighting type fixtures are not permitted. Parking area lighting shall have zero cut-off fixtures.*
21. The entire project shall not be excessively illuminated based on the outdoor lighting standards contained within Section 20.30.070 of the Newport Beach Municipal Code, or, if in the opinion of the Community Development Director, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
22. *Prior to the final of issuance of a certificate of occupancy or final of building permits for each component of the project (i.e. residential, hotel, or tennis club), the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm control of all lighting sources.*



23. 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.
24. 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:

Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	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

25. *The construction and equipment staging area for each phase of the project shall be located in the least visually prominent area on the site and shall be properly maintained and/or screened to minimize potential unsightly conditions.*
26. *A screen and security fence that is a minimum of six feet high shall be placed around the construction site during construction for each phase of the project.*
27. *Construction equipment and materials shall be properly stored on the site when not in use for each phase of the project.*
28. 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 either the current business owner, property owner or the leasing agent.
29. Construction activities shall comply with Section 10.28.040 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 Sundays or Holidays.
30. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development.
31. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any

form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

32. *All proposed signs shall be in conformance with the provision of the Planned Community Development Plan Amendment, as reviewed under Planning Activity No. PA2021-260, and Chapter 20.42 of the Newport Beach Municipal Code and shall be reviewed and approved by the City Traffic Engineer if located adjacent to the vehicular ingress and egress.*
33. *The final location of the signs shall be reviewed by the City Traffic Engineer and shall conform to City Standard 110-L to ensure that adequate vehicular sight distance is provided.*
34. 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 ***The Tennis at Newport Beach Project Amendment*** including, but not limited to, ***General Plan Amendment, Local Coastal Land Use Plan Amendment, Planned Community Development 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, Amendment to Limited Term Permit No. XP2011-004, & Second Amendment to Development Agreement No. DA2008-001 (PA2021-260)***. 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.

### **Fire Department**

35. An automatic fire sprinkler system shall be required for the residential and hotel components of the project.
36. A fire alarm system shall be required for the hotel component of the project.
37. A Fire Master Plan shall be submitted to the Fire Prevention Division for approval. The plan shall include information on the following (but not limited to) subjects: fire department vehicle access to the project site, secondary emergency vehicle

access, firefighter access (hose pull) around structures, fire lane identification, location of fire hydrants and other fire department appliances, and the location and type of gates or barriers that restrict ingress/egress.

38. All portions of the perimeter of all structures shall be located within 150' of a fire lane as measured along an approved route. A portion of the proposed structure exceeding this distance is considered "out of access" and shall be corrected during plan check review by one of the following methods:
  - a. Provide additional fire lanes to bring the entire structure "in access", or
  - b. Propose an alternate form of mitigation via the Alternate Methods and Materials provisions of the fire code for the Fire Marshal's review. There is no guarantee that the Alternate Methods and Materials proposal will be approved as proposed.
39. Fire department access roads shall comply with Newport Beach Fire Guidelines C.01 and C.02.
40. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.
41. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to the premises. Fire-flow requirements for buildings or portions of buildings and facilities shall be determined by Appendix B of the 2019 California Fire Code.
42. Fire hydrants shall be spaced along fire department access roads in compliance with the 2019 California Fire Code Appendix C.
43. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided.
44. Additional facilities or changes to the current facilities shall require submitted plans to the Newport Beach Fire Prevention Division for all changes, additions and modifications to existing or new fire protection systems.
45. The use or storage of portable propane heaters shall be prohibited. Heaters for future outdoor areas shall be fixed and plumbed with natural gas.

46. All fire hydrants and fire access road shall be installed and approved by the Fire Department prior to the delivery of combustible material on site.

### **Building Division**

47. Pursuant to CBC Chapter 1, Division 1.9, all temporary construction trailers, modular office buildings, and safe pedestrian passageways around the construction sites shall be disabled accessible.
48. All temporary modular office buildings shall be approved by the State of California for the proposed use.
49. Foundations for temporary construction trailers and modular office buildings shall be designed to provide anchorage for these structures against seismic and wind loads; and provided with temporary utility connections.
50. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
51. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

#### Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

#### Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment.

## Off-Site Impacts

- Encourage car-pooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

## Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
  - Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent (10%) soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.
52. Prior to the issuance of a grading permit, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.
53. Prior to the issuance of a grading permit, the applicant shall prepare and submit a Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur, and must show amount of stormwater retained prior to going into the proprietary filtration system.
54. A list of "good housekeeping" practices will be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants will be used, stored or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of storm water

away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

### **Public Works Department**

55. The Final Tract Map shall be legible, scaled, dimensioned, and complete with all necessary pertinent information and details such as easement limits and descriptions; annotated lot lines, centerlines, and boundary lines; signature certificates; curve and line tables; etc.
56. The Final Tract Map shall be prepared on the California coordinate system (NAD88). Prior to Map recordation, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said Map in a manner described in the Orange County Subdivision Code and Orange County Subdivision Manual. **The Final Tract Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
57. Prior to recordation, the Final Map boundary shall be tied onto the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one-inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the City Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
58. A hydrology and hydraulic study and a master plan of water, sewer and storm drain facilities for the on-site improvements shall be prepared by the applicant and approved by the Public Works Department prior to Final Tract Map recordation.
59. Easements for public emergency and security ingress/egress, weekly refuse service, and public utility purposes on all private streets shall be dedicated to the City.
60. No structures shall be constructed within the limits of any utility easements.
61. All easements shall be recorded as a part of the Final Tract Map.
62. All applicable fees shall be paid prior to the City approval of the Final Tract Map.
63. Construction surety in a form acceptable to the City, guaranteeing the completion of the various required public improvements, shall be submitted to the Public Works Department prior to the City approval of the Final Tract Map.

64. Street, drainage and utility improvements shall be submitted on City standard improvement plan formats. All plan sheets shall be sealed and signed by the California licensed professionals responsible for the designs shown on the Plans.
65. All improvements shall be designed and constructed in accordance with the current edition of the City Design Criteria, Standard Special Provisions, and Standard Drawings.
66. All storm drains and sanitary sewer mains shall be installed with MacWrap.
67. All runoff discharges shall comply with the City's water quality and on-site non-storm runoff retention requirements.
68. New concrete sidewalks, curbs, gutters, curb disabled access ramps, roadway pavement, traffic detector loops, traffic signal devices, and street trees shall be installed along the development's Coast Highway frontage.
69. Public improvements may be required along the development's Granville Drive frontage upon building permit plan check submittal.
70. All on-site drainage, sanitary sewer, water and electrical systems shall be privately owned, operated, and maintained. The water system shall be owned operate and maintained by the City.
71. All curb return radii shall be 5-feet (5') minimum.
72. Each detached residential dwelling unit or bungalow building shall be served with an individual water service and sewer lateral connection.
73. All overhead utilities serving the entire proposed development shall be made underground.
74. ADA compliant curb ramps shall be installed within the interior parking area.
75. The intersection of the public streets, internal roadways, and drive aisle shall be designed to provide adequate sight distance per City of Newport Beach Standard Drawing Standard105. Slopes, landscaping, walls, signs, and other obstructions shall be considered in the sight distance requirements. Landscaping within the sight lines (sight cone) shall not exceed 24-inches in height and the monument identification sign must be located outside the line of sight cone. The sight distance may be modified at non-critical locations, subject to approval by the Traffic Engineer.

76. Any damage to public improvements within the public right-of-way attributable to on-site development may require additional reconstruction within the public right-of-way at the discretion of the Public Works Inspector.
77. The parking lot and vehicular circulation system shall be subject to further review and approval by the City Traffic Engineer. Parking layout shall be per City Standard 805. Parking layout shall be full dimensioned. On-street parking spaces shall be 8 feet wide by 22 feet long. Drive aisles to parking areas shall be 26 feet wide minimum. The one-way drive aisle adjacent to the hotel's concierge office and guest meeting building shall be 14 feet wide minimum with no parking, otherwise the drive aisle shall be widened to accommodate parking.
78. Cul-de-sacs shall comply with City Standards 102 and 103 and shall have a minimum diameter of 80 feet curb to curb.
79. County Sanitation District fees shall be paid prior to the issuance of any building permits.
80. Prior to the issuance of a building permit, a sewer and water demand study shall be submitted for review by the Public Works and Utilities Department.
81. Prior to the commencement of demolition and grading of the project, the applicant shall submit a construction management plan (CMP) to be reviewed and approved by the Community Development Director, City Fire Marshal, and City Traffic Engineer. The plan shall include discussion of project phasing, parking arrangements during construction, anticipated haul routes and construction mitigation. Upon approval of the CMP, the applicant shall be responsible for implementing and complying with the stipulations set forth in the approved CMP.
82. Prior to the issuance of a building permit, a sewer system management plan shall be submitted for review and approval by the Public Works and Utilities Department.
83. Prior to the issuance of a building permit, various water and sewer easement for City mains located on the adjacent properties shall be obtained and conveyed to the City.
84. A storm drain easement on behalf of the project shall be obtained from the adjacent property owner prior to issuance of a building permit. Provide documentation of said easement.
85. The City sewer manhole located within 1600 East Coast Highway shall be relocated to an area outside of the landscape and parking stalls. The manhole location shall be accessible at all time. A new sewer easement shall be provided for the sewer manhole and sewer main within the 1600 East Coast Highway property.



86. The public sewer connection to the OCSD main shall utilize the existing OCSD manhole located within East Coast Highway unless otherwise approved by OCSD and the City. Final design shall be approved by OCSD and the City.
87. The existing private sewer main from the proposed point of connection to the City's manhole located near East Coast Highway shall be video inspected and any damage repaired prior.
88. Utility easements shall be provided for all City water meters, fire hydrants, valves and back flow devices.