

CALIFORNIA COASTAL COMMISSION

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August 20, 2020

City of Newport Beach
James Campbell, Deputy Community Development Director
100 Civic Center Drive
Newport Beach, CA 92660

Re: Coastal Development Permit Waiver Request No. 4

Dear Mr. Campbell:

On April 2, 2020, April 8, 2020, April 10, 2020, and July 23, 2020 the Executive Director of the California Coastal Commission received the City of Newport Beach's requests for a waiver of coastal development permit requirements to authorize temporary development necessary to protect life and public property. These requests were in response to the Governor's declaration of a state of emergency and subsequent Executive Order N-33-20 "Stay at Home Order" of March 19, 2020, as well as the City of Newport Beach's March 18, 2020 Proclamation of Local Emergency, related to the COVID-19 pandemic. Previously, the Executive Director issued waivers to the City of Newport Beach on March 30, 2020, April 16, 2020 and May 7, 2020.

Specifically, the City of Newport Beach requests a waiver for the following development, as detailed in the City's waiver request and supporting materials, including the July 23, 2020 *Back to Business* Memorandum, Emergency Ordinance 2020-005 adopted on May 26, 2020, and Emergency Ordinance 2020-006 adopted on June 23, 2020:

- Temporary issuance of emergency temporary use permits and emergency coastal development permits for commercial businesses and religious institutions to use private property, parking lots, sidewalks, and public property for outdoor use
- Temporary issuance of emergency coastal development permit No. CD2020-019 (PA2020-071), instituting a minimum 3-night stay for short term lodging in the coastal zone and a minimum 4-night stay for short term lodging located on Newport Island

Temporary issuance of emergency temporary use permits and emergency coastal development permits for commercial businesses and religious institutions, as well as temporary issuance of emergency coastal development permit No. CD2020-019 (PA2020-071) is requested while Emergency Ordinance 2020-005 and Emergency Ordinance 2020-006 are in effect, or until the City of Newport Beach's Proclamation of Local Emergency (cited above) is no longer in effect, whichever occurs first. The request to issue emergency temporary use permits and emergency coastal development permits for use of public and private parking spaces for outdoor commercial use shall be limited to City-owned and privately-owned parking spaces, and/or parking stalls which are immediately adjacent to the commercial business in

areas that are already developed and equipped with ADA access improvements. The authorized capacity of the establishment shall not be exceeded and all local public health protocols shall be observed. There shall be no temporary use of outdoor areas that contain ESHA, wetlands, or sandy beach area. If an existing public parking lot is to be utilized, no more than 50% of the existing parking spaces may be used for temporary commercial or religious use, unless there is alternate public parking available in the immediate area.

Under Coastal Act Section 30611, coastal development permit requirements may be waived when immediate action by a person or agency performing a public service is required to protect life and public property in response to an emergency. The Executive Director has determined that the development that would be permitted pursuant to the City of Newport Beach's emergency actions described above meet the criteria to obtain a waiver of permitting requirements under Section 30611. In effect, this waiver obviates the need for the emergency CDPs described above or for any required follow-up CDPs that would normally be required after issuance of emergency CDPs, so long as the development conforms with that described in the Emergency Ordinances and this waiver. Although Section 30611 provides the Commission's Executive Director with the authority to waive coastal development permit requirements for development (as that term is defined in the Coastal Act) under certain circumstances, it does not permit the waiver of the requirement for Commission certification of Local Coastal Program amendments. Thus, this waiver makes it so that coastal development permits or permit amendments are not necessary for development activity that complies with Emergency Ordinance 2020-005 and Emergency Ordinance 2020-006, but it does not result in these two ordinances being certified as part of the City's Local Coastal Program.

This waiver determination is based on the City of Newport Beach's acknowledgement that: the proposed development will not result in the erection of any permanent structures valued at more than \$25,000; the authorized actions are limited to the minimum restrictions on public access necessary to protect public health while the City of Newport Beach's Emergency Ordinance 2020-005 and Emergency Ordinance 2020-006 and the proclaimed City of Newport Beach Local Emergency (cited above) from the COVID-19 pandemic are in place; and adaptive management will be used to minimize impacts on public access, consistent with the protection of public health.

Commission staff encourages the City of Newport Beach to continue closely coordinating with the local public health department to determine the minimum restrictions necessary to protect public health. After such consultation, we encourage the City of Newport Beach to consider, in consultation with Commission staff, some phased re-opening or modifications of restrictions, when appropriate, given the importance of providing access to open spaces and recreational facilities, especially during times of crisis.

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Thank you for coordinating with our agency and providing notice of your action. You may reach the Commission's South Coast District Office by email at southcoast@coastal.ca.gov, or by phone at (562) 590-5071, if you have any questions.

Thank you.



JOHN AINSWORTH

Executive Director

cc: South Coast District Office