

RESOLUTION NO. HO-2009-011

A RESOLUTION OF A HEARING OFFICER OF THE CITY OF NEWPORT BEACH APPROVING REASONABLE ACCOMMODATION NO. 2008-003 FOR A RESIDENTIAL CARE FACILITY LOCATED AT 900 WEST BALBOA BOULEVARD AND OPERATED BY LMS PROPERTIES, LLC (PA 2008-213)

WHEREAS, Ordinance No. 2008-05 was adopted by the Newport Beach City Council on January 22, 2008, following noticed public hearings; and

WHEREAS, the adoption of Ordinance No. 2008-05 amended the City of Newport Beach's Municipal Code (NBMC) relating to Group Residential Uses; and

WHEREAS, Ordinance No. 2008-05 added Chapter 20.98 to the NBMC. Chapter 20.98 sets forth a process to provide reasonable accommodations in the City's zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling; and

WHEREAS, an application was filed by Steve Kim, on behalf of LMS Properties, LLC, with respect to property located at 900 West Balboa Boulevard, and legally described as Lot 1 and southeasterly 14 feet of Lot 2, Block 109, Section B Newport Beach Tract, requesting an accommodation from the requirements of NBMC Section 20.10.020 (Residential Districts: Land Use Regulations), and allow the continued operation of an existing unlicensed residential care facility in the R-2 District where such uses are not permitted unless a use permit has been applied for and received; and

WHEREAS, a public hearing was held on March 25, 2009, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Municipal Code and other applicable laws. Evidence, both written and oral, was presented and considered at this meeting; and

WHEREAS, the hearing was presided over by Thomas W. Allen, Hearing Officer for the City of Newport Beach; and

WHEREAS, the required findings of Section 20.98.025(B) of the NBMC and facts in support of such findings are as follows:

- 1. Finding: The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws.**

Facts in Support of Finding: LMS Properties, LLC submitted a statement signed under penalty of perjury that every resident of the facility is in recovery from alcohol and/or drug addiction. Federal regulations and case law have defined recovery from alcoholism and drug addiction as a disability, because it is a physical or mental condition that substantially impairs one or more major daily life activities.

2. Finding: The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.

Facts in Support of Finding: The abatement period established by NBMC Section 20.62.090(A)(2)(a) has passed, and this facility is currently subject to abatement by the City.

LMS Properties, LLC seeks to continue to house up to four disabled individuals plus one staff member in a three-bedroom unit of a duplex building. The facility currently houses residents who could be denied housing if abatement proceeds while they are still in residence at the facility. Potential future residents seeking to integrate into a sober lifestyle by living in a small sober living environment surrounded entirely by single housekeeping units would also be deprived of an opportunity to live in this type of dwelling situation. The City is unaware of other sober living facilities within the City that offers a sober living environment to such a small number of resident clients surrounded entirely by single housekeeping units.

NBMC Section 20.98.025(C) also allows the City to consider the following factors in determining whether the requested accommodation is necessary to provide the disabled individual an equal opportunity to use and enjoy a dwelling:

A. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.

Current and potential clients of LMS Properties, LLC will be able to live in a dwelling unit in an R-2 District with other individuals in recovery from addiction. This is a situation that can affirmatively enhance the quality of life of a person in recovery from addiction, unless overcrowding of the facility or institutionalization of the neighborhood interferes with the residents' re-integration into society. The small size of the facility, coupled with its integration into an area comprised of single housekeeping units enhances the therapeutic benefit and value to the residents of the facility.

The facility is surrounded on all sides by single housekeeping units, including any future residents of the other unit of the duplex. The nearest residential care facility is located at 1115 West Balboa Boulevard, over two blocks away to the west and on the south side of Balboa Boulevard. To the east, there are no known licensed or unlicensed residential care facilities on the Balboa Peninsula. LMS Properties, LLC's request for only four resident clients plus one supervisory staff in a three-bedroom dwelling unit further reduces the likelihood that neighborhood institutionalization or facility overcrowding will interfere with its residents' re-integration and recovery.

- B. Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation.*

Denial of the requested accommodation could result in abatement proceedings commencing against the facility. After abatement, current and potential residents of this facility would be denied the opportunity to live in a relatively uncrowded sober living environment surrounded entirely by single housekeeping units. There are no approved sober living facilities with a population of four or less in an area where the nearest other residential care facility is over two blocks away.

- C. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants.*

LMS Properties, LLC does not clearly state why an exemption from the Residential District Land Use Regulations requirements is necessary to make its facilities viable in light of the current market for the type of services it provides. LMS Properties, LLC has stated that the facility provides well-kept housing with reliable services (rent and bills paid) with moderately upscale features. A resident manager resides on-site to ensure that resident clients comply with the house rules.

- D. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.*

In 2007, there were approximately 315 sober living beds in the City. (These numbers are exclusive of the up to 213 ADP-licensed treatment beds.) There are no approved sober living facilities with a correspondingly small population located at a similarly significant distance from all other residential care facilities.

- 3. Finding: That the requested accommodation will not impose an undue financial or administrative burden on the City as "undue financial or administrative burden" is defined in Fair Housing Laws and interpretive case law.**

Facts in Support of Finding: Allowing the facility to remain at its current location so long as it is necessary to provide disabled individuals with an equal opportunity to use and enjoy a dwelling would not impose an undue financial or administrative burden on the City. To date, there have been no complaints made to the City regarding the operations of this facility.

4. Finding: That the requested accommodation will not result in a fundamental alteration in the nature of the City's zoning program, as "fundamental alteration" is defined in Fair Housing Laws and interpretive case law.

Facts in Support of Finding: The applicant requested an exemption from the requirement of NBMC Section 20.10.020 that Residential Care, Small Unlicensed uses be established only in a residential district zoned MFR, with a use permit. The applicant's facility is located in a residential district zoned R-2. Therefore, the City must grant the requested accommodation only if allowing the applicant's facility to continue operation in its current location does not result in a fundamental alteration of the City zoning program. "Fundamental alteration" has been described in cases interpreting the FHAA's reasonable accommodation requirement as "undermining the basic purpose which the requirement seeks to achieve." Therefore, the request must be granted only if the granting the accommodation does not undermine the basic purpose of requiring Residential Care, Small Unlicensed facilities to establish only in districts zoned MFR, and does not undermine the basic purpose of requiring a use permit for such uses.

NBMC Section 20.10.010 sets forth the basic purposes which NBMC Chapter 20.10 seeks to achieve. Those purposes include locating residential development in areas which are consistent with the General Plan and with standards of public health and safety established by the Municipal Code, ensuring adequate light, air and privacy for each dwelling, protecting residents from the harmful effects of excessive noise, population density, traffic congestion and other adverse environmental effects, and providing public services and facilities to accommodate planned population and densities.

Ordinance No. 2008-05 places regulations on all groups not living in either a single housekeeping unit or a residential care facility classified as "Residential Care Facilities, Small Licensed." These regulations apply to licensed and unlicensed residential care facilities housing more than seven resident clients, and small unlicensed (six or fewer resident clients), which more closely resemble multi-family housing uses. These regulations are in place to ensure that the fundamental purposes of the Zoning Code can be achieved, and so that adverse secondary impacts residential care facilities may have on the surrounding neighborhood can be mitigated.

Pursuant to NBMC Section 20.10.010, the specific purposes of the Two-Family Residential (R-2) District is to provide "areas for single-family and two-family residential land uses," and the Multifamily Residential (MFR) District is to provide "for medium-to-high density residential development up to approximately 36 dwelling units per gross acre, including single-family (attached and detached), two-family and multi-family." Residential districts zoned R-2 in the Central Newport area provide medium density residential development.

Due to the small size and resident population of this three-bedroom facility, the density of this use is consistent with the density that would be produced by other occupants of

two-family residential districts. Furthermore, under the specific facts of this particular case; a four-bed resident client facility in a three-bedroom apartment with two on-site designated parking spaces, surrounded only by single housekeeping units, with no similar uses nearby, and with a resident manager who resides at the facility and supervises the resident clients full-time, the facility will operate in a manner that is consistent and compatible with adjoining and surrounding properties. As such, permitting the facility to remain in its current location in the R-2 District would not undermine the basic purpose of this portion of the City's zoning program.

Use permits are required for use classifications typically having operating characteristics requiring special consideration so that they may be located and operated compatibly with uses on adjoining properties and in the surrounding area. NBMC Section 20.91A.010 sets forth the purposes of requiring use permits in residential districts. The first stated purpose is "to promote the public health, safety, and welfare and to implement the goals and policies of the Newport Beach General Plan by ensuring that conditional uses in residential neighborhoods do not change the character of such neighborhoods as primarily residential communities. The second purpose is to "protect and implement the recovery and residential integration of the disabled, including those receiving treatment and counseling in connection with dependency recovery. In doing so, the City seeks to avoid the overconcentration of residential care facilities so that such facilities are reasonably dispersed throughout the community and are not congregated or over-concentrated in any particular area so as to institutionalize that area."

The requested exemption is narrowly tailored to enable facility residents to enjoy the housing type of their choice without depriving the surrounding neighborhood of reasonable conditions that mitigate any adverse secondary impacts that emanate from the facility. Although the applicant has not applied for a use permit, granting the requested accommodation would not undermine the basic purpose of the use permit requirement for the following reasons: (a) because the applicant has demonstrated that it could comply with substantially all of the NBMC's requirements to receive a use permit, the purpose of those requirements is not undermined, and (b) through the reasonable accommodation process, the Hearing Officer may impose conditions of approval similar to that a use permit to mitigate any negative secondary impacts on neighboring properties.

The facility at 900 West Balboa Boulevard presents the following characteristics:

1. Very limited resident client capacity – four beds only.
2. Live-in resident supervisor - constant resident supervision provided on a one-to-four ratio.
3. Number of bedrooms (three) and on-site enclosed parking spaces allocated to this dwelling unit (two) are in excess of those required for issuance of a use permit.

4. No other residential care use in the duplex building, all single housekeeping units within a two-block radius.
5. No complaints received by City in relation to any residential care use at this location.
6. Facility may have been in use at a similar size for similar clientele at this location for up to five years prior to the City's adoption of Ordinance No. 2008-05.

NBMC Section 20.98.015 states that the Hearing Officer shall approve, conditionally approve or deny applicants for reasonable accommodation. Therefore, the hearing officer can impose the same conditions through an accommodation that he or she could impose under a use permit. A reasonable accommodation with appropriate conditions can mitigate adverse secondary impacts such as noise, overcrowding, excessive second-hand smoke, and unruly behavior by residents of applicant's facility to the detriment of neighbors.

The facility is operating with a bed count that enables it to conform to on-site parking requirements of one parking space for every three beds. The bed count is also well within the operational standards of NBMC Section 20.91A.050(C)(2), which requires that a use permit allow no more than two residents per bedroom plus one additional resident. After review of the house rules and parking requirements, conditions of approval have been agreed upon by the LMS Properties, LLC that will allow the accommodation to be granted consistent with the basic purposes of NBMC Sections 20.10.010, 20.10.020, and Chapter 20.91A. They include:

1. That the facility agree to a bed cap of no more than four resident clients plus one on-site resident manager;
2. That the facility agree not to occupy the other unit of the duplex;
3. Changing the quiet hours to 10:00 p.m. to 8:00 a.m.;
4. Establishing quiet hours for television use from 10:00 p.m. to 8:00 a.m.;
5. Requiring compliance with the standards of NBMC Section 20.91A.050(A), relating to secondhand smoke detectable from off the parcel upon which the facility is located;
6. Providing the names of all persons and entities with an ownership or leasehold interest in the facility;
7. Providing a list of any similar facilities in the State of California owned or operated by the facility operator within the past five years, and certifying under penalty of perjury that none of such facilities have been found by State or local authorities to be operating in violation of State or local law.

These conditions will ensure that the facility complies with the development and operational standards required of similar facilities receiving a use permit under NBMC Chapter 20.91A. With these conditions, the findings of which NBMC Section 20.91A.060 requires for issuance of a use permit could be made with regard to this facility. With the conditions of approval, the use would conform to all applicable

provisions of Section 20.91A.050, the building provides sufficient on-site parking for the use, and traffic impacts are similar to those generated by surrounding single-family and two-family uses. The property and existing structure is physically suited to accommodate the use and with the conditions of approval the requested accommodation will not undermine the basic purpose which the zoning program seeks to achieve, and will not result in a fundamental alteration in the nature of the City's zoning program. There has been no evidence presented that indicates that there have been any issues with delivery of goods that adversely affect the peace and quiet of neighboring properties, or issues of trash generated in excess of surrounding properties. LMS Properties, LLC has submitted a list of individuals with leasehold interests in the facility, or who will participate in operating the facility. None of which have demonstrated a pattern or practice of operating similar facilities in violation of state or local law.

With the conditions of approval, the facility would be compatible with the character of the surrounding neighborhood, and the continued maintenance of the use would not contribute to changing the residential character of the neighborhood or create an overconcentration of residential care uses in the vicinity. In considering whether the residential character of the neighborhood would be changed, the Hearing Officer considered that the American Planning Association standard of one or two such uses per block is not exceeded by allowing the continued operation of this facility. There are no other residential care uses on this block, or any of the immediately adjacent blocks.

Pursuant to Section 20.98.025(D) of the NBMC, the City may also consider the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the City's zoning program:

A. *Whether the requested accommodation would fundamentally alter the character of the neighborhood.*

The requested accommodation would permit a maximum of four individuals in recovery with one resident manager, all not living as a single housekeeping unit, to live in a neighborhood surrounded on all sides by single housekeeping units. The nearest known group not living as a single housekeeping unit is located approximately two blocks to the west. The City has received no complaints of negative secondary impacts from neighbors of this facility. It does not appear that allowing the facility to remain in its current location, at its current size with appropriate conditions, would fundamentally alter the character of the surrounding neighborhood.

B. *Whether the accommodation would result in a substantial increase in traffic or insufficient parking.*

Parking – The dwelling unit occupied by the facility has two enclosed garage parking spaces on-site assigned to this unit. The Zoning Code requires three on-site parking spaces per residential care facility bed. With no more than five beds, including staff, the on-site parking requirements for this use are met.

Traffic and Generated Trips – The Institute of Transportation Engineers (ITE) establishes and publishes standards for trip generation rates based on the use classification of a site. In the case of a duplex, the standard trip rate is based on 6.72 average daily trips per dwelling unit. Trip rates for residential care facilities are based on 2.74 average daily trips per each occupied bed. Based on these standards, a four-bed residential care facility with an additional resident manager bed would generate approximately 13.7 average daily trips. This does not represent a substantial increase in traffic.

- C. *Whether granting the requested accommodation would substantially undermine any express purpose of either the City's General Plan or an applicable Specific Plan.*

General Plan Policy LU 6.2.7 requires the City to regulate day care and residential care facilities to the maximum extent allowed by federal and state law. The request for reasonable accommodation is consistent with this policy. The facility has been conditioned to ensure that the operations will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the facility.

The subject property is also situated within the R-2 zone. The purposes of the Two-Family Residential (R-2) District is to provide medium density residential development. Surrounding properties are characterized by two and three-unit residential uses, with a mixture of rental and owner-occupied properties. Due to the small resident population of this three-bedroom facility, the density of this use appears to be consistent with the density that would be produced by other occupants of two-family residential districts. Under the specific facts of this particular case, permitting the facility to remain in its current location in the R-2 District would not undermine the basic purpose of this portion of the City's zoning program.

- D. *In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.*

The facility as conditioned would be compatible with the character of the surrounding neighborhood, and the continued maintenance of the use would not contribute to changing the residential character of the neighborhood or create an overconcentration of residential care uses in the vicinity. The

American Planning Association standard of one or two such uses per block is not exceeded by allowing the continued maintenance of this facility as there are no other residential care uses on this block, or any of the immediately adjacent blocks. The nearest known group not living as a single housekeeping unit is located over two blocks away approximately 1,000 feet, to the west.

- 5. Finding: That the requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.**

Facts in Support of Finding: A request for reasonable accommodation may be denied if granting it would pose "a direct threat to the health or safety of other individuals or result in substantial physical damage to the property of others." See 42 U.S.C. § 3604(f)(9). This is a very limited exception and can only be used when, based on the specific facts of a situation, a requested accommodation results in a significant and particularized threat. Federal cases interpreting this exception in the FHAA indicate that requested accommodations cannot be denied due to generalized fears of the risks posed by disabled persons.

WHEREAS, the project qualifies for a Categorical Exemption pursuant to Section 15301 of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities). This class of projects has been determined not to have a significant effect on the environment and is exempt from the provisions of CEQA. This activity is also covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines). It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment and it is not subject to CEQA; and

NOW THEREFORE, BE IT RESOLVED:

Section 1. The Hearing Officer of the City of Newport Beach here approves Reasonable Accommodation No. 2008-003, subject to the Conditions set forth in Exhibit "A" attached hereto and made part hereof.

Section 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 14th DAY OF APRIL, 2009.

By: 
Thomas W. Allen, Hearing Officer

ATTEST:

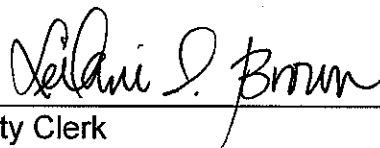

City Clerk



EXHIBIT "A"

CONDITIONS OF APPROVAL

REASONABLE ACCOMMODATION NO. 2008-003

LMS PROPERTIES, LLC at 900 WEST BALBOA BOULEVARD, LOWER UNIT

1. **Occupancy Level.** The operator of LMS Properties, LLC, hereinafter referred to as "Operator," shall limit occupancy of this facility to 4 client beds. No more than 4 persons in recovery may reside at the facility.
2. **Staffing.** Operator shall have one qualified manager on-site at all times (24 hours a day, seven days a week) to appropriately and responsibly manage the facility.
3. **Governmental Referrals.** Operator shall not provide any services to any client or house any client who has been referred or caused to be referred to this facility by any governmental agency, including but not limited to probationers or parolees.
4. **Assembly Uses.** Assembly uses are prohibited, except those that are limited solely to client residents of the facility and facility staff.
5. **Medical Waste.** Any and all medical waste generated through the operation of the facility shall be disposed of in accordance with the City of Newport Beach's Municipal Code, all other laws and best industry standards and practices.
6. **Trash.** Operator shall abide by the City's regulations regarding trash disposal, including providing the proper amount of trash cans for the property's use (so that cans do not overflow), placing the cans out no earlier than 7:00 p.m. the evening prior to collection, and placing the cans back in the side yard (or other contained area) no later than 6:00 p.m. the day of collection.
7. **Smoking & Cigarette Litter.** Per NBMC Section 20.91A.050(A), no clients, guests, or any other users of the subject property may smoke in an area from which the secondhand smoke may be detected on any parcel other than the parcel upon which the use is located. LMS Properties will enforce house rules against litter, including prohibiting allow clients, staff, or residents from littering cigarette butts on the ground, sidewalk, gutter or street.
8. **Parking & Garages.** Operator shall keep the two (2) designated garage parking spaces at the facility open and available for parking for staff, and resident clients at all times.
9. **Quiet Hours.** The on-site facility manager shall maintain Quiet Hours of between 10:00 p.m. to 8:00 a.m., daily, where persons on the street or on adjacent properties

cannot hear any noise (including music, TV's, voices) from the facility except in an emergency.

10. **Profanity and Lewd Behavior.** Operator shall not tolerate lewd behavior, lewd speech, or profanity at the subject property. Profanity at a level audible to neighboring residents may result in an administrative citation issued by the City upon the property owner and operator.
11. **Deliveries.** Any deliveries of business products and other packages and goods to the facility during weekdays shall be made between the hours of 9:00 a.m. to 5:00 p.m.
12. **Contact Information.** Operator shall provide area residents and the City with a 24/7 contact name, phone number and e-mail address to assist residents and the City with problems or concerns arising from the facility. E-mails or messages left for the Operator's designated contact shall be returned in a prompt manner within the next 24-hour period.
13. **Building and Zoning.** Operator recognizes that subject property has specific setbacks from the side yards, front yard, and/or back yard per the City's Building and Zoning Codes. Operator will keep these setbacks clear of obstruction, including building obstruction. The orderly storage of trashcans is acceptable in setbacks.
14. **Facility Nuisances.** The subject property shall not be unsafe, unsightly or poorly maintained. If Operator receives a nuisance violation from the City in regards to any of these issues, Operator shall correct the violation within seven days or contact the City directly to negotiate a mutually agreeable timeline.
15. **Beaches and Other Common Gathering Areas.** Operator's use of the beaches for meetings, prayer, conversation, or other gatherings shall show due respect to non-resident visitors, residents, and other beachgoers, thus allowing them to take full enjoyment of the beach. Operator shall not conduct business on the beach (per NBMC §10.08.030).
16. **Services to Facility's Clients or Residents.** Operator will use industry's best practices to ensure that the facility's clients or residents stay in recovery (including scheduled substance testing, random substance testing, and encouragement of 12-Step meetings or counseling). Operator has represented that the facility operates with an average client stay of 90 days. Operator shall use best efforts to maintain, at a minimum, an average client stay of 90-days. Operator shall ensure that any client or resident removed from Operator's program or facility has the resources necessary to return home.
17. **Federal, State and Local Laws.** Operator shall comply with all federal, state, and local laws. The issuance of this use permit shall not constitute a waiver of the

requirements of any federal, state or local law, including the requirements of the California Building Code.

18. **Grant of Reasonable Accommodation.** Reasonable Accommodation No. 2008-003 is granted solely to LMS Properties, LLC to operate an adult sober living facility in the lower unit only of 900 West Balboa Boulevard. All clients of the facility shall be classified as disabled, as that term is defined by federal and state fair housing laws. The Operator shall execute an affidavit declaring that all future clients receiving services from this facility are disabled persons.
19. **Additions or Modifications to Conditions of Approval, or Revocation of Reasonable Accommodation.** The Hearing Officer or City Council may add or modify conditions of approval to this reasonable accommodation, or revoke this Reasonable Accommodation upon a finding of failure to comply with the conditions set forth. The City Council may also revoke, modify, or amend this Reasonable Accommodation if it determines the conditions under which this facility is being operated or maintained are detrimental to the public health, safety, peace, morals, comfort, or general welfare of the community, or if the facility is materially injurious to property or improvements in the vicinity, or if the facility is operated or maintained so as to constitute a public nuisance. In any proceeding to revoke this Reasonable Accommodation, the cumulative effect of violation of two or more conditions shall be considered.
20. **Compliance with Conditions of Approval.** Per NBMC Section 20.98.035 (Amendments), a request for changes in conditions of approval shall be treated as a new application unless they are minor, do not involve a substantial alteration to the plan or conditions of approval, and are consistent with the intent of the original approval. Any changes in operational characteristics, including but not limited to the following, shall require an amendment to this reasonable accommodation or issuance of a new reasonable accommodation:
 - a. Increase in number of client residents.
 - b. Change in on-site staffing affecting the ability of the operator to adequately manage the facility and provide supervision of its residents.
 - c. Increase in physical capacity of facility including number of beds, number of bedrooms, floor area of facility, etc.
 - d. Request for amendment to any condition or conditions of approval.
 - e. Change in property ownership in a manner that causes the majority of the property to be owned by a person or entity not identified in the Use Permit or its application.

- f. Alteration and/or loss of approved on-site parking.
- g. Upon determination by the Planning Director, a change in facility management, a change in facility ownership, or a change in the population served by this facility. The term "change in facility management" shall include but not be limited to a change in the current management of LMS Properties, LLC, and/or the conveyance, sale or assignment of LMS Properties, LLC's rights and obligations as to the facility at 900 West Balboa to any successors in interest or assignees of LMS Properties, LLC.
- h. Any other material change in the operational characteristics that is not in substantial conformance with the Operation and Management Plan, upon determination by the Planning Director.