



CITY OF NEWPORT BEACH
 3300 Newport Boulevard
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Negative Declaration

To:		From:	
<input type="checkbox"/> Office of Planning and Research State Clearinghouse P.O. BOX 3044 Sacramento, CA 95812-3044		City of Newport Beach, Planning Department 3300 Newport Boulevard P.O. Box 1768 Newport Beach, CA 92658-8915	
<input checked="" type="checkbox"/> County Clerk, County of Orange Public Services Division Santa Ana, CA 92702		Date: June 21, 2010	
Public Review Period:	30 days - June 21, 2010 to July 20, 2010		
Project Name:	Zoning Code Update		
Project Location:	Citywide		
Project Description:	Comprehensive revisions to Title 20 of the Newport Beach Municipal Code (Planning and Zoning) and the Zoning Map, in order to bring them into compliance with the Newport Beach General Plan, which was comprehensively updated in July 2006. In accordance with CEQA, this Negative Declaration tiers from the Certified General Plan EIR (SCH#2006011119).		
<p>Finding: Pursuant to the provisions of City Council K-3 pertaining to procedures and guidelines to implement the California Environmental Quality Act, the City of Newport Beach has evaluated the proposed project and determined that the proposed project would not have a significant effect on the environment.</p> <p>A copy of the Initial Study containing the analysis supporting this finding is <input checked="" type="checkbox"/> attached <input type="checkbox"/> on file at the Planning Department. This document will be considered by the decision-maker(s) prior to final action on the proposed project. If a public hearing will be held to consider this project, a notice of the time and location is attached.</p> <p>Additional plans, studies and/or exhibits relating to the proposed project may be available for public review. If you would like to examine these materials, you are invited to contact the undersigned.</p> <p>If you wish to appeal the appropriateness or adequacy of this document, your comments should be submitted in writing prior to the close of the public review period. Your comments should specifically identify what environmental impacts you believe would result from the project, why they are significant, and what changes or mitigation measures you believe should be adopted to eliminate or reduce these impacts. There is no fee for this appeal. If a public hearing will be held, you are also invited to attend and testify as to the appropriateness of this document.</p> <p>If you have any questions or would like further information, please contact the undersigned.</p>			
Gregg Ramirez, Senior Planner	Phone: (949) 644-3219	Email: gramirez@newportbeachca.gov	Date: June 21, 2010

INITIAL STUDY/NEGATIVE DECLARATION

**City of Newport Beach
Zoning Code Update**

LEAD AGENCY:

City of Newport Beach

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Newport Beach, California 92663

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June 18, 2010

JN 10-105583

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1.0 INTRODUCTION

The City of Newport Beach (City) encompasses approximately 20 square miles located at the western edge of Orange County, California, adjacent to the Pacific Ocean. In order to implement the City's 2006 comprehensive update of its General Plan, and in accordance with State law, the City proposes a complete update of the City of Newport Beach Zoning Code (Zoning Code), as codified in Title 20 of the City of Newport Beach Municipal Code, *Planning and Zoning*. The Zoning Code is intended to implement many policies of the General Plan, to promote the orderly development of the City, to promote and protect the public health, safety, peace, comfort, and general welfare. The Zoning Code establishes zoning districts, as illustrated on the Zoning Map consistent with the 2006 comprehensive update of its General Plan and provides land use regulations and development standards to implement the General Plan.

Following preliminary review of the proposed City of Newport Beach Zoning Code Update (Project), the City has determined that the Project is subject to the guidelines and regulations of the California Environmental Quality Act (CEQA). This Initial Study addresses the direct, indirect, and cumulative environmental effects associated with the Project, as proposed.

1.1 STATUTORY AUTHORITY AND REQUIREMENTS

In accordance with the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000-21177) and pursuant to Section 15063 of Title 14 of the California Code of Regulations (CCR), the City of Newport Beach, acting in the capacity of Lead Agency, is required to undertake the preparation of an Initial Study to determine if the proposed Project would have a significant environmental impact. If, as a result of the Initial Study, the Lead Agency finds that there is evidence that any aspect of the project may cause a significant environmental effect, the Lead Agency shall further find that an Environmental Impact Report (EIR) is warranted to analyze project-related and cumulative environmental impacts. Alternatively, if the Lead Agency finds that there is no evidence that the project, either as proposed or as modified to include the mitigation measures identified in the Initial Study, may cause a significant effect on the environment, the Lead Agency shall find that the proposed project would not have a significant effect on the environment and shall prepare a Negative Declaration for that project. Such determination can be made only if "there is no substantial evidence in light of the whole record before the Lead Agency" that such impacts may occur (Section 21080(c), Public Resources Code).

The environmental documentation, which is ultimately selected by the City of Newport Beach in accordance with CEQA, is intended as an informational document undertaken to provide an environmental basis for subsequent discretionary actions upon the project. The resulting documentation is not, however, a policy document and its approval and/or certification neither presupposes nor mandates any actions on the part of those agencies from whom permits and other discretionary approvals would be required.

The environmental documentation and supporting analysis is subject to a public review period. During this review, public agency comments on the document relative to environmental issues should be addressed to the City of Newport Beach. Following review of any comments received, the City of Newport Beach will consider these comments as a part of the project's



environmental review and include them with the Initial Study documentation for consideration by the City of Newport Beach.



1.2 PURPOSE

The purposes of the Initial Study/Environmental Checklist are to: (1) identify environmental impacts; (2) provide the Lead Agency with information to use as the basis for deciding whether to prepare an EIR or Negative Declaration; (3) enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is prepared; (4) facilitate environmental assessment early in the design of the project; (5) provide documentation of the factual basis for the finding in a Negative Declaration that a project would not have a significant environmental effect; (6) eliminate needless EIRs; (7) determine whether a previously prepared EIR could be used for the project; and (8) assist in the preparation of an EIR, if required, by focusing the EIR on the effects determined to be significant, identifying the effects determined not to be significant, and explaining the reasons for determining that potentially significant effects would not be significant.

Section 15063 of the CEQA Guidelines identifies specific disclosure requirements for inclusion in an Initial Study. Pursuant to those requirements, an Initial Study shall include: (1) a description of the project, including the location of the project; (2) an identification of the environmental setting; (3) an identification of environmental effects by use of a checklist, matrix or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries; (4) a discussion of ways to mitigate significant effects identified, if any; (5) an examination of whether the project is compatible with existing zoning, plans, and other applicable land use controls; and (6) the name of the person or persons who prepared or participated in the preparation of the Initial Study.

1.3 TIERING

Agencies are encouraged to tier the environmental analyses, which they prepare for separate but related projects including general plans, zoning changes, and development projects. According to CEQA (CEQA Guidelines Section 15152, *Tiering*) "tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project. This approach is intended to eliminate repetitive discussions of the same issues and focus the later EIR or negative declaration on the actual issues pertinent to each level of environmental review.

1.4 INCORPORATION BY REFERENCE

The references outlined below were utilized during the preparation of the Initial Study. The documents are available for review at the City of Newport Beach Planning Department, located at 3300 Newport Boulevard, Newport Beach, California 92663.

- *City of Newport Beach General Plan (adopted July 25, 2006)*. The purpose of the City of Newport Beach General Plan (General Plan) is to provide a general, comprehensive, and long-range guide for community decision-making. The Newport Beach General Plan is organized into ten elements. General Plan Elements have been re-organized by thematic topic for clarity and to avoid redundancy. The subjects of the Conservation and Open Space Element have been merged into the Natural Resources Element. The General Plan also includes Parks and Recreation, Historical Resources, Arts and Cultural and Harbor and Bay Elements. Each General Plan element presents an



overview of its scope, summary of conditions and planning issues, goals, and policies. Goals and policies of the General Plan are applicable to all lands within the City's jurisdiction. Consistent with state statutes, it also specifies policies for the adopted Sphere of Influence (SOI), encompassing Banning Ranch.

- City of Newport Beach Environmental Impact Report General Plan 2006 Update (April 21, 2006) SCH No. 2006011119. The City of Newport Beach Environmental Impact Report General Plan 2006 Update (*General Plan EIR*) reviews the City's and Planning Area's existing conditions, analyzes potential environmental impacts from implementation of the General Plan Update, identifies policies from the proposed General Plan Update that serve to reduce and minimize impacts, and identifies additional mitigation measures, to reduce potentially significant impacts of the General Plan Update. The EIR presents a worst-case scenario based upon the City's and adjacent areas' maximum potential development from 2002 through 2030.

The EIR was prepared as a Program EIR (CEQA Guidelines Section 15168, *Program EIR*), and as such, was intended to serve as the environmental document for a series of actions contemplated by the General Plan, including amending the Zoning Ordinance to bring it into consistency with the General Plan. CEQA provides for using a Program EIR to ensure consideration of cumulative impacts, avoid duplicative reconsideration of basic policy issues, and allow early identification and evaluation of program wide mitigation measures. As discussed above in Section 1.4, Tiering, agencies are encouraged to tier the environmental analyses, which refers to using the analysis of general matters contained in a broader EIR (i.e., General Plan) with later EIRs/negative declarations on narrower projects. The City is using the tiering concept, as permitted under the CEQA Guidelines, and the environmental analysis contained within this document for the Zoning Code Update is being tiered with the *General Plan Update EIR*. This Zoning Code Update IS/ND is incorporating by reference the environmental analysis from the broader *General Plan Update EIR*, which provides a description of the environmental setting and environmental impact conclusions. The baseline conditions for analysis are those identified within the *General Plan Update EIR*.

- City of Newport Beach Zoning Code (Title 20 of the City of Newport Beach Municipal Code, Planning and Zoning) (adopted March 24, 1997 and as amended from time to time thereafter). The purpose of the *Zoning Code* is to promote growth in Newport Beach in an orderly manner, while promoting public health, safety, peace, comfort and general welfare. The Zoning Code also establishes zoning districts and regulations for the use of land and development for properties within the City. The Zoning Code has been amended several times since 1997, but has not been comprehensively updated until this time.



2.0 PROJECT DESCRIPTION

2.1 PROJECT LOCATION AND ENVIRONMENTAL SETTING

PROJECT LOCATION

The City of Newport Beach is located in Southern California, within the westernmost portion of Orange County, California; refer to Exhibit 2-1, *Regional Vicinity Map*. Newport Beach is bordered by the cities of Costa Mesa to the northwest, Irvine to the northeast, unincorporated Orange County to the southeast, and by the Pacific Ocean to the west; refer to Exhibit 2-2, *Local Vicinity*.

ENVIRONMENTAL SETTING

Newport Beach has a current population of approximately 86,738 persons¹. The Newport Beach planning area contains 26,676 acres, not including streets and roadways, which account for approximately 20 percent (5335 acres) of the gross land acreage. Approximately 42 percent (11,119 acres) of the planning area is water, which includes the Upper and Lower Newport Bay and its channels, and the Pacific Ocean.

¹ State of California, Department of Finance, *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2001-2010, with 2000 Benchmark*. Sacramento, California, May 2010.



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Source: City of Newport Beach General Plan 2006 Update Volume I Draft EIR.

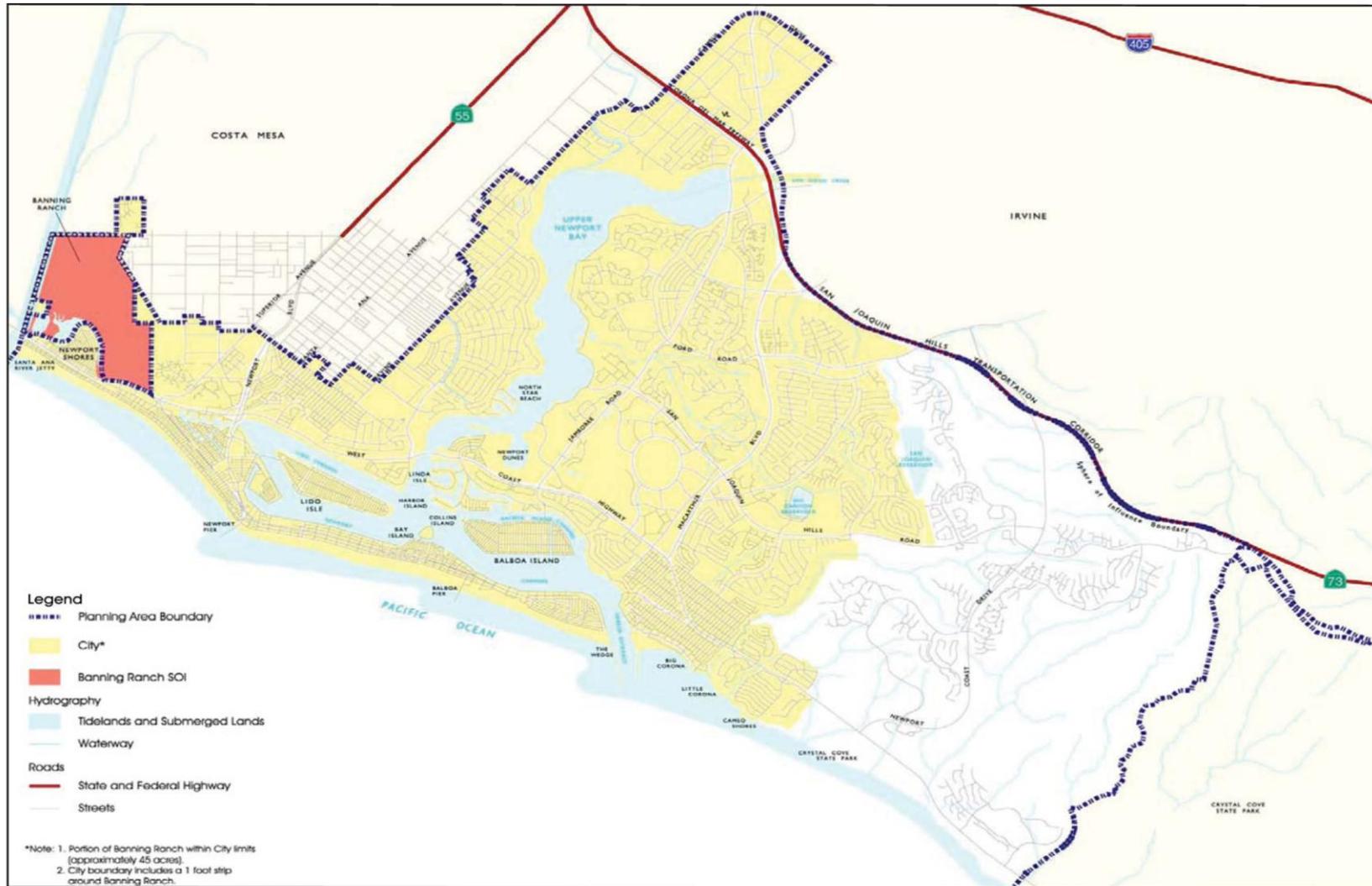
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CITY OF NEWPORT BEACH ZONING CODE UPDATE
Regional Vicinity

Exhibit 2-1



Source: City of Newport Beach General Plan 2006 Update Volume I Draft EIR.

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INITIAL STUDY/NEGATIVE DECLARATION
CITY OF NEWPORT BEACH ZONING CODE UPDATE
Local Vicinity

Exhibit 2-2



2.2 PROJECT CHARACTERISTICS

The Project involves undertaking comprehensive revisions to Title 20 of the Newport Beach Municipal Code (*Planning and Zoning*) and the Zoning Map, in order to bring them into compliance with the Newport Beach General Plan, which was comprehensively updated in July 2006. Although adopted in 1997 and amended several times since, the Zoning Code has not been comprehensively updated until this time. The ZCU is not intended to be an Implementation Plan for the City's certified Coastal Land Use Plan (CLUP). However, future development consistent with the ZCU will be reviewed by the Planning Department for consistency with the CLUP (i.e. the policies of the CLUP will be directly applied through the City's permitting process) and Coastal Development Permits (CDP's) will be required for non-exempt activities where the Coastal Commission will be the final arbiter for consistency with the Coastal Act, which the CLUP is intended to implement. The proposed Zoning Code Update (the Project) is available on the City's website: <http://www.newportbeachca.gov/index.aspx?page=1528>.

On July 25, 2006, the City adopted an update to the City of Newport Beach General Plan to bring it into conformance with current State law, ensure internal consistency, respond to issues raised by City residents, and outline the specific goals, policies and action programs through 2030. In July 2006, the City Council certified a Final EIR for the General Plan Update, following public review and comment on the Draft EIR. The EIR, which was prepared as a Program EIR, serves as the initial programmatic environmental document for evaluating the need for further environmental analysis of the proposed Zoning Code and Zoning Map update.

As discussed above, CEQA also allows a lead agency to tier a negative declaration from a previously prepared EIR; refer to CEQA Guidelines Section 15152. Consistent with the CEQA tiering principles and procedures, in evaluating the potential environmental effects of the Project, the City prepared this Initial Study to determine whether the proposed Project could have any significant impacts that had not been adequately addressed in the General Plan EIR. The Initial Study that follows includes analysis of potential impacts related to forest lands and greenhouse gas emissions, which were not evaluated in the General Plan EIR. Based on the Initial Study and the accompanying analyses that follow, it is concluded that there is no substantial evidence that the Zoning Code Update (the Project) would have significant impacts that have not been adequately addressed in the General Plan EIR or that the Project would have significant impacts related to forest lands or greenhouse gas emissions. This is primarily due to the fact that as an implementing program for the General Plan, the Project does not propose or authorize any specific development projects. The Project is a compilation of land use regulations that will be applied to future development and land use activities. In large respects, the Project only contemplates land uses or development standards that have already been considered and adopted pursuant to the General Plan and evaluated General Plan EIR. Moreover, it is noted that potential impacts from implementation of the proposed Zoning Code Update have already been sufficiently analyzed and either mitigated or avoided as part of the General Plan EIR, or can be avoided or mitigated to less than significant through compliance with the General Plan policies. The proposed Zoning Code revisions are largely based on already adopted and approved General Plan policies. The Project does include several changes to zoning districts as a result of the review of land use changes within the General Plan by the California Coastal Commission (CCC)². The Coastal Commission rejected the proposed

² The CCC reviewed General Plan land use designation changes within the Coastal Zone through their review of an amendment to the corresponding Coastal Land Use Plan (NPB-MAJ-0-07). The Coastal Commission's review and certification of the City's Coastal Land Use Plan are part of a certified regulatory program and are exempt from CEQA pursuant of CCR § 15251.



land use designation changes for 11 small geographic areas within the coastal zone primarily on the Balboa Peninsula. As a result, the City is in the process of amending the General Plan land use designations for these areas consistent with the CCC's directive, which will eliminate the any potential impacts associated with these land use changes since the result will be no change from the existing use or the prior General Plan designation³. Therefore, the Project would not result in increased density, increased population potential, or major infrastructure upgrades that were not included in the General Plan or evaluated in the General Plan EIR or is exempt from CEQA pursuant to CCR § 15251 and § 15265. Accordingly, the City has prepared a Negative Declaration for the proposed Zoning Code Update. In accordance with CEQA, this Negative Declaration tiers from the General Plan EIR.

To summarize, the Zoning Code and Zoning Map Update Project is intended to:

- Carry out the policies of the City of Newport Beach General Plan by classifying and regulating the uses of land and structures within the City, consistent with the General Plan.
- Ensure that all provisions of the Zoning Code are consistent with the General Plan and that any development, land use, subdivision, specific plan, or community plan approved in compliance with the regulations of the Zoning Code are also consistent with those documents.
- Establish the City's land use regulations, minimum property development standards, and procedures and requirements for filing, reviewing, processing, approving, and implementing development applications. Additionally, the Zoning Code is intended to establish land use and development standards for the preparation and adoption of specific plans and planned community plans.
- Describe the:
 - Authority for the City to regulate uses of land and related development activity in the City;
 - Zoning district provisions, including identification of the individual zoning categories (e.g., residential, commercial, industrial, mixed-use, special purpose, and overlay zones), and allowable land use activities, consistent with the land use designations of the General Plan;

The proposed Zoning Code generally contains the following:

- Zoning districts in order to implement the uses of land established by the General Plan. The districts are identified on the Zoning Map and the various zones correspond to the General Plan Land Use Plan maps and land use categories.
- Allowed land uses within specific zoning districts and performance criteria for the operation of those uses.

³ The City's pending action to amend the General Plan to make it consistent with the Coastal Commission's certification of the Coastal Land Use Plan is exempt from CEQA CCR § 15265



- Individual zoning district development standards (e.g., minimum lot dimensions, density (dwelling per acre) or intensity (floor area ratio) limits, minimum setbacks, lot coverage limits, floor area limits, structure height, open space, fencing, landscaping, lighting, parking and signs among others). The density of residential use and intensity of non-residential use allowed within the various zones are no greater than allowed by the Land Use Element of the General Plan.
- General development standards that apply to most projects throughout the City (e.g., parking, landscaping, signs, affordable housing provisions, transfer of development rights, etc.);
- Land use specific development standards for identified uses allowed within the various zoning districts (e.g., accessory structures, child day care, eating and drinking establishments, etc.);
- Permits and entitlements processes necessary to secure City authorization to implement development projects; and
- Administrative procedures for the filing, review, noticing, and conducting of public hearings, appeals of City actions, and the amendment of the Zoning Code.

The Zoning Code includes various noteworthy revisions to existing standards and new or added provisions. Since the Zoning Code Update is a comprehensive re-write and organizational update, the following overview is not intended to be an all-inclusive listing of all the revisions or changes. Following is an overview of the proposed noteworthy revisions:

Zoning Districts

- Residential: The names of the various residential zoning districts would be altered (i.e., new residential districts introduced), although, the boundaries and use of existing residentially-zoned properties would remain unchanged.
- Commercial: The existing commercial zoning districts (RSC, RMC and APF) would be diversified (i.e., new commercial districts introduced).
- Industrial: The existing industrial zoning districts (M-1, M-1-A and IBP) would be condensed into the IG (Industrial Zoning District) due to the contraction of industrially designated land.
- Institutional: The existing institutional zoning district (GEIF) would be divided into two new districts (PF (Public Facilities) and PI (Private Institutional)), in order to differentiate between public and private institutions.
- Open Space: The existing open space zoning districts (OS-A and OS-P) would be altered to create the PR (Parks and Recreation) for active areas and the OS (Open Space) zone primarily for resource protection.
- Mixed-Use: Pursuant to the General Plan's mixed-use land use designations, the MU-V (Mixed-Use Vertical) zoning district would be applied to areas where residential units are presently allowed above a commercial use (would replicate existing standards). The MU-MM (Mixed-Use Mariner's Mile), MU-DW (Mixed-Use Dover/Westcliff) and MU-



CV/15th St (Mixed-Use Cannery Village and 15th Street) zoning districts would be new, consistent with General Plan provisions. The MU-W1 and MU-W2 (Mixed-Use Water) zoning districts would address mixed-use development for locations on Newport Bay and on Marine Avenue.

Specific Plans

- Except the Santa Ana Heights Specific Plan that would will remain unchanged (although possibly adopted separately from Title 20 by ordinance), the five existing specific plan districts (Newport Shores, Mariner's Mile, Cannery Village/McFadden Square, Central Balboa, and Old Newport Boulevard) would be eliminated and replaced with the various zones identified above, pursuant to the General Plan.

Overlay Zoning Districts

- The number and type of "overlay" districts would be reduced, as a result of the expanded zoning districts. The "B" Overlay would be eliminated and its provisions incorporated within the new residential zones.
- The "R" or Residential overlay, and the "MM" or Mariner's Mile overlay would be eliminated with their provisions replaced by the mixed-use zones. The "IS" or Interim Study overlay is being eliminated altogether.
- The "SPR" or Site Plan Review overlay, and the "PRD" or Planned Residential Development overlay would be replaced by updated permit processes contained within Part 5 of the new Zoning Code.
- A Bluff Overlay District would be added, in order to implement specific Natural Resources Element policies that require limiting development to the predominant line of existing development to preserve visual quality, protect public views, and ensure safety.

Site Planning and Development Standards

- Section 20.30.020 - Buffering and Screening: This section would be revised to add standards to address the interfaces between residential and nonresidential uses, and buffering and screening requirements.
- Section 20.30.040 - Fences, Hedges, Walls and Retaining Walls: This section would be revised to add limits to the height of retaining walls and to require that they be terraced. Also, it would increase the maximum height for fences, hedges, and retaining walls within front setback areas. Provisions would also be added to allow protective fencing for pools and spas for consistency with Building Code requirements.
- Section 20.30.050 - Grade Establishment: The existing provisions would be revised to establish a formula that uses an average grade calculation to simplify the way grade is established for the purpose of measuring building height.
- Section 20.30.060 - Height Limits and Exceptions: Height limits would not change. This section would be revised to eliminate the practice of measuring the height of buildings at the mid-point of sloping roofs.



- Section 20.30.070 - Outdoor Lighting: This section would be revised to provide subjective outdoor lighting standards without specifying minimum or maximum levels. The revised standards would provide a more complete set of tools than at present.
- Section 20.30.080 – Noise: This new section would introduce provisions for review of proposed projects, in order to avoid or mitigate impacts, establishes thresholds of significance pursuant to the Noise Element, and promote compatibility between land uses.
- Section 20.30.100 - Public View Protection: This new section would introduce public view protection regulations to preserve visual resources and public views from identified public view points and corridors, in accordance with General Plan polices under GP Goal NR 20.
- Section 20.30.110 - Setback Exceptions Regulations and Exceptions: The current standards pertaining to encroachments allowed within required setback areas would be revised to provide clearer rules for the placement of accessory mechanical equipment, minor accessory structures, and allow a broader range of minor structures.
- Section 20.30.120 - Solid Waste and Recyclable Materials Storage: This section would be revised to require solid waste and recyclable material storage areas in compliance with State law for both residential and commercial uses.
- Section 20.30.130 - Traffic Visibility Area: This section would be revised to provide additional safety visibility standards consistent with Public Works Traffic standards.
- Chapter 20.32 - Density Bonus: This section would introduce density bonus regulations consistent with State law to promote the City's goal to add affordable housing units to the housing stock.
- Chapter 20.34 - Conversion or Demolition of Affordable Housing: This section would be revised, maintaining its consistency with State law, while adding standards to determine if providing affordable replacement units is feasible.
- Chapter 20.36 - Landscaping Standards: This section would be added to provide landscape standards to enhance the appearance of development projects, reduce heat and glare, control soil erosion, conserve water, screen potentially incompatible land uses, preserve the integrity of neighborhoods, improve air quality, and improve pedestrian and vehicular traffic and safety.
- Chapter 20.38.40 - Nonconforming Uses and Structures: This section would be revised to allow only conforming additions of up to 50 percent over a 10-year period by right (provided that the minimum number of parking spaces are provided). Additions would be limited to 10 percent when the minimum number of parking spaces is not provided. The proposed code would eliminate a time consuming review process.
- Chapter 20.40 - Off-Street Parking: A new section would allow for an in-lieu fee authorized by the Planning Commission or City Council for parking reductions if an in-lieu fee amount is established by the City Council. Most required parking ratios were left unchanged.



- Chapter 20.46 - Transfer of Development Rights: Traffic analysis would remain necessary and the revisions would clarify that the transfer of development intensity from one property to another must be within the same statistical area and would require a General Plan amendment. The review authority would be changed from the Planning Commission to City Council.

Standards for Specific Purposes

- Standards for Specific Land Uses would replace Special Land Use Regulations, which currently provides development standards and in some cases operational standards for various uses. With the reorganization of the code, some of the existing Chapters remain although they have been updated and renamed.
- The provisions regarding low and moderate income housing within the coastal zone were relocated to Part 3.
- The Chapter on oil wells was deleted given that it largely duplicates provisions within the City Charter.

Revisions to the sections addressing the following Specific Purposes are proposed:

- Section 20.48.030 - Alcohol Sales;
- Section 20.48.040 - Animal Keeping;
- Section 20.48.040 - Animal Sales and Service;
- Section 20.48.070 - Day Care Facilities (Adult and Child);
- Section 20.48.080 - Drive-Through and Drive-Up Facilities;
- Section 20.48.090 - Eating and Drinking Establishments;
- Section 20.48.100 - Emergency Shelters;
- Section 20.48.130 - Mixed-Use Projects;
- Section 20.48.140 - Outdoor Storage Display and Activities;
- Section 20.48.180 - Residential Development Standards;
- Section 20.48.160 - Recycling Facilities; and
- Section 20.48.220 - Time Share Facilities.

Planning Permit Procedures

- Section - 20.52.020 - Conditional Use Permits and Minor Use Permits: Current Code Chapter 20.91 would be renamed Conditional Use Permits (CUP). The review authority would remain with the Planning Commission and the review process would be essentially unchanged. Use Permit/Planning Director would be eliminated and a Minor Use Permit (MUP) process would be added with the review authority being the Zoning Administrator. The findings for CUP's and MUP's would remain essentially unchanged.
- Section 20.52.040 - Limited Term Permits: This section would replace current section 20.60.015 Temporary Structure and Uses and would include significant revisions to provide a clear process, findings for approval and standard conditions of approval for temporary structure and uses.
- Section 20.52.050 - Modification Permits: This section would be revised to limit some modification requests (e.g., fence height, setback encroachments) to a maximum 10 percent deviation from the applicable standard.



- Section 20.52.060 - Planned Development Permits: The Planned Development Permit chapter would be added to provide a method whereby land may be developed or redeveloped as a unified site resulting in better design than what would be possible by using the standard regulations.
- Section 20.52.070 - Reasonable Accommodations: This section would be revised to clarify review authority when a reasonable accommodation application is filed concurrently with another discretionary application.
- Section 20.52.080 - Site Development Reviews: This section would be significantly revised from the existing Site Plan Review process by expanding the applicability and providing more guidance for review. The new provisions would provide a process for the comprehensive review of some development projects not otherwise subject to discretionary review to ensure compliance with the Zoning Code, General Plan Policies, and site design criteria. Examples of the types of projects subject to Site Development Review include: residential construction of five units or more; nonresidential construction of 10,000 square feet or more; mixed use projects with residential uses; and any increase in height limits. Review authority rests with the Zoning Administrator or Planning Commission, as specified by Table 5-2 on page 5-34.
- Section 20.52.100 - Zoning Clearances: This section would be revised to add a Zoning Clearance process that would provide a procedure to verify that proposed developments, uses or projects comply with the list of uses and development standards for the applicable zoning district.
- Chapter 20.58 - Specific Plan Procedures: This chapter would revise the Specific Plan procedures found in Chapter 20.40 of the current code to provide a process for preparing, processing, reviewing, adopting, and amending specific plans in compliance with Government Code Section 65450 et seq.



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3.0 ENVIRONMENTAL SUMMARY

3.1 BACKGROUND

1. Project Title: City of Newport Beach Zoning Code Update
2. Lead Agency Name and Address: City of Newport Beach 3300 Newport Boulevard Newport Beach, California 92663
3. Contact Persons and Phone Numbers: Mr. James Campbell, Principal Planner, 949.644.3210 Mr. Gregg Ramirez, Senior Planner, 949,644.3219
4. Project Location: The City of Newport Beach is located in western Orange County, California.
5. Project Sponsor's Name and Address: City of Newport Beach 3300 Newport Boulevard Newport Beach, California 92663
6. General Plan Designation: Residential: Single-Family Detached, Single-Family Attached, Two-Family Residential, Multi-Family Residential, and Mixed Residential. Commercial: Retail; Administrative, Professional, and Financial; Marine and Auto Related; and Visitor Serving. Industrial: Industrial, Multi-Tenant Industrial, Industrial Business Park. Other: Government, Education, Institutional Facilities; Quasi-Public; Right-of-Way/Undesignated; Recreation and Environmental Open Space; Vacant Land; and Water.
7. Zoning: Residential-Agriculture (R-A) District; Single-Family Residential (R-1) District; Restricted Two Family Residential (R-1.5) District; Two Family Residential (R-2) District; Multi-Family Residential (MFR) District; Retail Service Commercial (RSC) District; Administrative, Professional, and Financial Commercial (APF) District; Recreational and Marine Commercial (RMC) District; Manufacturing (M-1) District; Controlled Manufacturing (M-1-A) District; Industrial Business Park (IBP) District; Government, Educational, and Institutional Facilities (GEIF) District; Open Space (OS) District; Specific Plan (SP) District; and Planned Community (PC) District.
8. Description of the Project: Comprehensive revision/update of the Zoning Code (Title 20). Refer to <u>Section 2.2, Project Characteristics</u> .
1 9. SURROUNDING LAND USES AND SETTING: Newport Beach is bordered by the cities of Costa Mesa to the northwest, Irvine to the northeast, unincorporated Orange County to the southeast, and the Pacific Ocean to the west.
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement): None.



3.2 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” or “Potentially Significant Impact With Mitigation Incorporated,” as indicated by the checklist on the following pages.

Aesthetics	Land Use and Planning
Agriculture and Forest Resources	Mineral Resources
Air Quality	Noise
Biological Resources	Population and Housing
Cultural Resources	Public Services
Geology and Soils	Recreation
Greenhouse Gas Emissions	Transportation/Traffic
Hazards and Hazardous Materials	Utilities and Service Systems
Hydrology and Water Quality	Mandatory Findings of Significance

3.3 EVALUATION OF ENVIRONMENTAL IMPACTS

Section 4 (following) analyzes the potential environmental impacts associated with the proposed Zoning Code Update. The issue areas evaluated in this Initial Study include:

- Aesthetics
- Agriculture and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Greenhouse Gas Emissions
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities and Service Systems

The environmental analysis in Section 4 is patterned after the Initial Study Checklist recommended by the *CEQA Guidelines*, as amended, and used by the City of Newport Beach in its environmental review process. For the preliminary environmental assessment undertaken as part of this Initial Study’s preparation, a determination that there is a potential for significant effects indicates the need to more fully analyze the development’s impacts and to identify mitigation.

For the evaluation of potential impacts, the questions in the Initial Study Checklist are stated and an answer is provided according to the analysis undertaken as part of the Initial Study. The analysis considers the long-term, direct, indirect, and cumulative impacts of the development. To each question, there are four possible responses:



- **No Impact.** The development will not have any measurable environmental impact on the environment.
- **Less Than Significant Impact.** The development will have the potential for impacting the environment, although this impact will be below established thresholds that are considered to be significant.
- **Less Than Significant Impact With Mitigation Incorporated.** The development will have the potential to generate impacts, which may be considered as a significant effect on the environment, although mitigation measures or changes to the development's physical or operational characteristics can reduce these impacts to levels that are less than significant.
- **Potentially Significant Impact.** The development could have impacts, which may be considered significant, and therefore additional analysis is required to identify mitigation measures that could reduce potentially significant impacts to less than significant levels.

Where potential impacts are anticipated to be significant, mitigation measures will be required, such that impacts may be avoided or reduced to insignificant levels.



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4.0 ENVIRONMENTAL ANALYSIS

The following is a discussion of potential project impacts as identified in the Initial Study. Explanations are provided for each item.

4.1 AESTHETICS

<i>Would the project:</i>	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Have a substantial adverse effect on a scenic vista?			T	
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				T
c. Substantially degrade the existing visual character or quality of the site and its surroundings?			T	
d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?			T	

Impact Analysis

4.1(a) *Have a substantial adverse effect on a scenic vista?*

Less Than Significant Impact. The City has identified roadway segments that provide significant public views, although, there are no officially designated scenic vistas within the City. Additionally, the City's parks and other public viewing areas provide significant views and are identified within the Natural Resources Element (Figure NR 3). Given that the City is primarily a built-out area, it is anticipated that future development permitted by the ZCU would generally consist of infill and redevelopment. Notwithstanding, future development could impact a scenic vista, particularly those involving roadway segments, parks, and viewing areas. However, the GPEIR concluded existing and future development would be regulated by the General Plan (GP) policies, and scenic vistas would not be adversely affected.⁴ Since future development in compliance with the ZCU would be consistent with the General Plan, as modified by the CCC action, there are no impacts that were not evaluated within the program EIR or avoided by CCC action. As such, potential impacts to scenic vistas from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that scenic vistas are not adversely impacted. The ZCU proposes the addition of the Public View Protection section applicable to discretionary development, which includes regulations to preserve visual resources and public views from identified public view points and

⁴ EIP Associates, *City of Newport Beach General Plan 2006 Update Draft EIR*, Page 4.1-16.



corridors in accordance with General Plan polices under GP Goal NR 20. Also, the Bluff Overlay District was added to implement specific policies of the General Plan Natural Resources Element that require limiting development (discretionary or not) to the predominant line of existing development to preserve visual quality, protect public views, and ensure safety. Policy LU 6.19.9 requires that buildings be located and sites designed to provide adequate and unobstructed views significant visual corridors of the Bay from Coast Highway (Mariners' Mile) and this policy would be implemented during the discretionary review of future development consistent with proposed Public View Protection section and the view protection policies of the General Plan (e.g. Policy NR 20.2 requires new development to restore and enhance the visual quality in visually degraded areas, where feasible, and to provide view easements or corridors designed to protect public views or to restore public views in developed areas, where appropriate and Policy NR 20.4 would serve to design and site new development, including landscaping, on the edges of public view corridors, including those down public streets, to frame, accent, and minimize impacts to public views. Given that future development would undergo project-by-project review for consistency with the Zoning Code and that significant development would be subject to discretionary review and as such would undergo environmental review and/or development review and must be found consistent with General Plan policies, impacts to scenic vistas would be less than significant.

Mitigation Measures: No mitigation is required.

4.1(b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No Impact. Currently, there are no state scenic highways that traverse the City. State Route 1 (Pacific Coast Highway) is identified by the City as being eligible for the State Scenic Highway designation, however, an official designation has not been received from Caltrans. Therefore, future development would not damage scenic resources within a designated State scenic highway.

4.1(c) Substantially degrade the existing visual character or quality of the site and its surroundings?

Less Than Significant Impact. Development permitted by the ZCU would replace improved or unimproved lands with new uses consistent with the General Plan, replace developed sites with similar land uses with similar densities or intensities and intensify some areas through infill construction. Given that the City is primarily a built-out area and future development permitted by the ZCU would occur primarily as infill and redevelopment, Project implementation would not substantially degrade the existing visual character of the development sites and their surroundings. Nonetheless, future development permitted by the ZCU could alter the visual character of the respective development sites and their surroundings over time. The GPEIR concluded the visual character would change as development intensity increased, but development would be required to conform to a development pattern that retains and complements the City's residential neighborhoods, commercial and industrial districts, open spaces, and natural environment; thus, less than significant impacts on the visual character of developed urban areas would occur.⁵ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the

⁵ Ibid., Page 4.1-19.



General Plan. As such, potential impacts to the visual character of the respective development sites and their surroundings from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that the existing visual character of the development sites and their surroundings is not substantially degraded. Additionally, the proposed ZCU includes revisions that would avoid or minimize impacts to visual character. More specifically, the ZCU proposes the addition of the Public View Protection section applicable to discretionary development, which includes regulations to preserve visual resources. The Bluff Overlay District was added to implement specific General Plan policies that require limiting development (discretionary or not) to preserve visual quality. The Buffering and Screening section adds standards to address the interfaces between residential and nonresidential uses and buffering requirements to reduce impacts between incompatible land uses. The Fences, Hedges, Walls and Retaining Walls section was revised to limit the height of retaining walls and to require that they be terraced to help minimize alteration of slopes. The Landscaping Standards chapter is added to include standards that enhance the appearance of development projects, screen potentially incompatible land uses, and preserve the integrity of neighborhoods, among other objectives. Future development pursuant to the ZCU and those subject to discretionary review would also be subject to compliance with policies included in the General Plan Land Use and Natural Resources Elements (refer to GP EIR Pages 4.1-24 through 4.1-39) that provide direct aesthetic guidance, establish the aesthetic character of an area, and ensure that the City retains its unique aesthetic qualities. Moreover, these regulations and guidelines are intended to diminish conflicts between urban development and visual resources. Therefore, future development permitted by the ZCU is not anticipated to substantially degrade the existing visual character or quality of the development sites and their surroundings.

Mitigation Measures: No mitigation is required.

4.1(d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?

Less Than Significant Impact. There are two primary sources of light: light emanating from building interiors that pass through windows and light from exterior sources (i.e., street lighting, parking lot lighting, building illumination, security lighting and landscape lighting). Depending upon the location of the light source and its proximity to adjacent light sensitive uses, light introduction can be a nuisance, affecting adjacent areas and diminishing the view of the clear night sky.

Newport Beach is primarily built-out; therefore, ambient light from urban uses currently exists. New development permitted by the ZCU could create new sources of light and glare, which could affect day or nighttime views of the respective development areas. However, the GPEIR concluded new development could create new sources of light and glare that could affect day or nighttime views of adjacent sensitive land uses (i.e., undeveloped lands and residential uses adjacent to commercial or industrial areas). Additionally, the GPEIR concluded implementation of GP Policies would reduce impacts resulting from daytime glare, ambient nighttime lighting, and



potential spillover from new development to a less-than-significant level.⁶ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts associated with light and glare from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future development would either undergo environmental and design review through the discretionary review process or be reviewed on a project-by-project basis for consistency with ZCU Outdoor Lighting section with the Zoning Clearance process in order to ensure that the project would not create a new source of substantial light and glare. Future discretionary development would also be subject to compliance with General Plan policies that address the creation of light and glare from new developments. In particular, Policy LU 5.5.2 specifies the use of non-reflective textured surfaces on building exteriors, as well as avoidance of the use of reflective glass. Policy LU 5.5.3 requires that outdoor lighting be located and designed to prevent spillover onto adjoining properties or significantly increase the overall ambient illumination of their location. In addition, Policies LU 6.1.3 and 6.2.5 allow for the integration of uses to be designed specifically to assure development compatibility by addressing issues such as lighting. Therefore, since future development would undergo project-by-project review, be regulated by the proposed ZCU, and subject to compliance with General Plan policies, impacts from daytime glare, ambient nighttime lighting, and potential spillover from new development would be less than significant.

Mitigation Measures: No mitigation is required.

⁶ Ibid., Pages 4.1-21 and 22.



4.2 AGRICULTURE AND FOREST RESOURCES

<p><i>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:</i></p>	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				T
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?			T	
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				T
d. Result in the loss of forest land or conversion of forest land to non-forest use?				T
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				T

Impact Analysis

4.2(a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

No Impact. There is no designated Prime Farmland, Unique Farmland or Farmland of Statewide Importance within the City. Therefore, project implementation would not result in the conversion of farmland to non-agricultural use.

Mitigation Measures: No mitigation is required.

4.2(b) Conflict with existing zoning for agricultural use or a Williamson Act contract?

Less Than Significant Impact. The Residential-Agricultural (R-A) District provides areas for single-family residential and light farming land uses. Given that the proposed ZCU does not involve changes to the R-A District, and since there are no agricultural uses or Williamson Act



contracts present in the City, Project implementation would result in a less than significant impact in this regard.

Mitigation Measures: No mitigation is required.

4.2(c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

No Impact. There is no zoning for forest land in the City. Additionally, the City is primarily a built-out area, and it is anticipated that future development permitted by the ZCU would generally consist of infill and redevelopment. Therefore, Project implementation would not conflict with existing zoning for, or cause rezoning of, forest land.

Mitigation Measures: No mitigation is required.

4.2(d) Result in the loss of forest land or conversion of forest land to non-forest use?

No Impact. There are no forest lands present in the City. Therefore, Project implementation would not result in the loss of forest land or conversion of forest land to non-forest use.

Mitigation Measures: No mitigation is required.

4.2(e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

No Impact. No farmland, agricultural activity, or forest lands exist within the City. Therefore, the Project would not result in environmental changes that would convert farmland to non-agricultural use or forest land to non-forest use.

Mitigation Measures: No mitigation is required.



4.3 AIR QUALITY

<i>Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:</i>	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with or obstruct implementation of the applicable air quality plan?			T	
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			T	
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			T	
d. Expose sensitive receptors to substantial pollutant concentrations?			T	
e. Create objectionable odors affecting a substantial number of people?			T	

The City of Newport Beach is part of the South Coast Air Basin (SCAB) and is under the jurisdiction of the South Coast Air Quality Management District (SCAQMD). The SCAQMD’s current guidelines and emission thresholds are established in the CEQA Air Quality Handbook. Air quality assessments estimate emissions of air pollutants associated with short-term construction and long-term operation of a proposed project. Both the State of California and the Federal government have established health-based Ambient Air Quality Standards (AAQS) for the following six criteria air pollutants: carbon monoxide (CO); ozone (O3); nitrogen oxides (NOX); sulfur oxides (SOX); particulate matter up to 10 microns in diameter (PM10); and lead (Pb). O3 (smog) is formed by a photochemical reaction between NOX and reactive organic compounds (ROCs). Thus, evaluating impacts from NOX and ROCs assesses impacts from O3. The net increase in pollutant emissions determines the impact on regional air quality as a result of a proposed project. The results also allow the local government to determine whether a proposed project would deter the region from achieving the goal of reducing pollutants in accordance with the air quality management plan (AQMP) in order to comply with Federal and State AAQS.

Construction Emission Thresholds

The following CEQA significance thresholds for construction emissions have been established for the SCAB:

- 75 pounds per day (lbs/day) or 2.5 tons per quarter-year of VOCs;
- 100 lbs/day or 2.5 tons per quarter of NOX ;
- 550 lbs/day or 24.75 tons per quarter of CO;
- 150 lbs/day or 6.75 tons per quarter of PM10; and
- 150 lbs/day or 6.75 tons per quarter of SOX.

In the SCAB, project construction-related emissions that exceed any of the above emission thresholds are considered to be a significant impact under the SCAQMD guidelines.



Operational Emission Thresholds

Project operational emissions that exceed any of the thresholds listed below are considered to be a significant impact under the SCAQMD guidelines:

- 55 lbs/day of VOCs;
- 55 lbs/day of NOX;
- 550 lbs/day of CO;
- 150 lbs/day of PM10; and
- 150 lbs/day of SOX.

Localized Thresholds of Significance

Localized significance thresholds (LSTs) represent the maximum emissions from a project that would not cause or contribute to an exceedance of the most stringent applicable federal or state ambient air quality standard, and are developed based on the ambient concentrations of that pollutant for each source receptor area. The cleaner the air is in a local area, the greater emissions increment it can afford without causing or contributing to an exceedance of the most stringent ambient air quality standard. If the existing air quality is not yet in compliance with the air quality standards, all areas are subject to generally equivalent LSTs. LSTs apply to projects that are less than five acres in size. Public agencies can use LST methodology and mass rate look-up tables by source receptor area (SRA) to determine whether or not a project may generate significant adverse localized air quality impacts. LSTs are only applicable to the following criteria pollutants: oxides of nitrogen (NOX), carbon monoxide (CO), and particulate matter less than 10 microns in aerodynamic diameter (PM10). LSTs represent the maximum emissions from a project that are not expected to cause or contribute to an exceedance of the most stringent applicable federal or state ambient air quality standard, and are developed based on the ambient concentrations of that pollutant for each source receptor area and distance to the nearest sensitive receptor. For PM10 LSTs were derived based on requirements in SCAQMD Rule 403 (Fugitive Dust).

Impact Analysis

4.3(a) Conflict with or obstruct implementation of the applicable air quality plan?

Less Than Significant Impact. Consistency with the *2007 Air Quality Management Plan for the South Coast Air Basin (2007 Air Quality Management Plan)* means that a project is consistent with the goals, objectives, and assumptions in the respective plan to achieve the Federal and State air quality standards. Per the SCAQMD *CEQA Air Quality Handbook*, there are two main indicators of a project's consistency with the applicable Air Quality Management Plan:

- Whether the project would increase the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay timely attainment of air quality standards or the interim emission reductions specified in the *2007 Air Quality Management Plan*.
- Whether the project would exceed the *2007 Air Quality Management Plan's* assumptions for 2030 or yearly increments based on the year of project buildout and phasing.



Given that the City is primarily a built-out area, future development permitted by the ZCU would occur primarily as infill and redevelopment. Construction activities would generate pollutant emissions, including but not limited to site grading, operation of construction equipment, and vehicle activities. Future development permitted by the ZCU would also generate population growth with resultant pollutant emissions from stationary equipment, new vehicular trips, off-site power and natural gas generation, etc.

The GPEIR concluded GP implementation would induce population growth through increased residential development beyond projected population levels for the City.⁷ Since the AQMP growth projections are based on SCAG population levels, the General Plan's increase in population growth would not have been accounted for in the AQMP. Therefore, General Plan implementation would not be consistent with AQMP attainment forecasts and attainment of the standards could be delayed. The GPEIR concluded the General Plan would conflict with implementation of the 2003 AQMP, this impact would be significant.⁸ The GPEIR also concluded the General Plan would be consistent with the 2003 AQMP in the reduction of vehicle miles traveled, with implementation of General Plan policies. Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts from future development permitted by the ZCU involving consistency with the AQMP were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to verify consistency with the AQMP. Additionally, the proposed ZCU includes revisions that would promote consistency with the AQMP. Namely, the ZCU proposes residential use densities and non-residential use intensities within the various zoning districts that would be no greater than allowed by the General Plan Land Use Element. Future development would also be subject to compliance with General Plan policies that would promote consistency with the AQMP (i.e., use of transit, reduce the number of vehicle trips and miles traveled, and create opportunities to walk and bike to work or shop). In particular, Policy LU 3.3 identifies opportunities for mixed use development with expanded opportunities for residents to live close to jobs, commerce, entertainment, and recreation, and is supported by a pedestrian-friendly environment. Policy LU 6.14.5 encourages improved pedestrian connections and streetscape amenities, and Policy LU 6.15.9 allows the development of multi-family residential units and mixed-use buildings that integrate residential with commercial uses. Policies NR6.1, NR6.2, and NR6.3 would reduce vehicle trips through land use planning through mixed-use development or siting of amenities in proximity to residential or employment areas. Additionally, Policies NR 6.4 and NR 6.5 would promote Transportation Demand Management programs, which encourage the use of alternative transportation modes, and promote mass transit use. Given that future development would undergo project-by-project review, be regulated by the proposed ZCU, and be subject to compliance with General Plan policies, impacts involving consistency with the AQMP would be less than significant.

Mitigation Measures: No mitigation is required.

⁷ Ibid., Page 4.2-12.

⁸ Ibid., Page 4.2-13.



4.3(b) *Violate any air quality standard or contribute substantially to an existing or projected air quality violation?*

Less Than Significant Impact. Future development permitted by the ZCU would occur primarily as infill and redevelopment. However, construction activities would generate pollutant emissions, including but not limited to site grading, operation of construction equipment, and vehicle activities. Future development permitted by the ZCU would also generate pollutant emissions from stationary equipment, new vehicular trips, off-site power and natural gas generation, etc. As the proposed ZCU involves a programmatic project, no emission calculations are necessary in the preparation of this document. Notwithstanding, future development permitted by the ZCU could violate air quality standards or contribute substantially to an existing or projected air quality violation. The GPEIR concluded certain projects implemented under the General Plan could individually exceed the SCAQMD thresholds, and the total amount of construction under the General Plan could also exceed the SCAQMD's thresholds. This impact would remain significant and unavoidable, despite compliance with General Plan policies.⁹ The GPEIR concluded air emissions associated with General Plan implementation would also occur as a result of operation of new land uses. Given that the thresholds of significance for these new emissions were developed for individual development projects, the SCAQMD does not recommend calculation of operational emissions for a planning document, such as the General Plan. Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts from future development permitted by the ZCU involving potential violations of air quality standards were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to determine air emissions and potential violations of air quality standards. Additionally, the ZCU proposes residential use densities and non-residential use intensities within the various zoning districts that would be no greater than allowed by the General Plan Land Use Element, thus, would not result in greater air emissions. Future development would also be subject to compliance with General Plan policies that would help reduce short- and long-term air pollutant emissions. General Plan Policies NR 6.1 through 6.9 are intended to reduce mobile source emissions, Policies NR 7.1 to 7.4 are intended to reduce air emissions from stationary sources, Policies NR 8.1 to NR 8.5 reduce air emissions from construction activities, and Policies LU 5.3.1 to 5.3.3, LU 6.14.5, and 6.15.9 are intended to reduce vehicle miles traveled by promoting mixed-use districts. Given that future development would undergo project-by-project review, would be regulated by the proposed ZCU, and be subject to compliance with General Plan policies, impacts resulting from short- and long-term air pollutant emissions would be less than significant.

Mitigation Measures: No mitigation is required.

4.3(c) *Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state*

⁹ Ibid., Page 4.2-14.



ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?

Less Than Significant Impact. Refer to Response 4.3(c).

Mitigation Measures: No mitigation is required.

4.3(d) Expose sensitive receptors to substantial pollutant concentrations?

Less Than Significant Impact. Sensitive receptors are defined as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples of these sensitive receptors are residences, schools, hospitals, and daycare centers. CARB has identified the following groups of individuals as the most likely to be affected by air pollution: the elderly over 65, children under 14, athletes, and persons with cardiovascular and chronic respiratory diseases such as asthma, emphysema, and bronchitis.

Sensitive receptors are located throughout the City. To identify impacts to sensitive receptors, the SCAQMD recommends addressing localized significance thresholds for construction and operations impacts, as well as a carbon monoxide hot-spots analyses.

The construction of individual projects could potentially lead to fugitive emissions and other pollutants affecting sensitive land uses. Increased traffic volumes on City streets could also lead to increases in traffic congestion and associated vehicle emissions, which could impact sensitive receptors. However, the GPEIR concluded sensitive receptors within the City would not be exposed to substantial pollutant concentrations, and the potential impacts of General Plan implementation would be less than significant.¹⁰ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts from future development permitted by the ZCU involving potential exposure of sensitive receptors to substantial pollutant concentrations were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to determine pollutant concentrations. More specifically, future development may be required to prepare an air quality analysis that evaluates the air emission impacts during construction. The SCAQMD requires a quantified assessment of a CO hot-spot when a project increases the volumes to capacity ratio (also called the intersection capacity utilization) by 0.02 (two percent) for any intersection with an existing level of service (LOS) D or worse. The project specific air quality analysis would provide mitigation measures to off-set impacts associated with that development. Given that future development would undergo project-by-project review, potential impacts involving the exposure of sensitive receptors to substantial pollutant concentrations would be less than significant.

Mitigation Measures: No mitigation is required.

¹⁰ Ibid., Page 4.2-16.



4.3(e) Create objectionable odors affecting a substantial number of people?

Less Than Significant Impact. Odors are one of the most obvious forms of air pollution to the general public. Although offensive odors seldom cause physical harm, they can be a nuisance to the general public. Most people determine an odor to be offensive (objectionable) if it is sensed longer than the duration of a human breath, typically two to five seconds. The SCAQMD handbook states that land uses associated with odor complaints typically include agricultural uses, wastewater treatment plants, food processing plants, chemical plants, composting, refineries, landfills, dairies, and fiberglass molding. Future discretionary development projects would be required to prepare a project specific air quality analysis. An odor assessment would be required as part of the air quality analysis should the proposed development have the potential to create objectionable odors.

The construction activity from future development permitted by the ZCU may generate detectable odors from heavy-duty equipment exhaust. Construction related odors would be short-term in nature and cease upon project completion. Additionally, the GPEIR concluded General Plan implementation would not create objectionable odors affecting a substantial number of people within the City and potential impacts would be less than significant.¹¹ Since future development in compliance with the ZCU would be consistent with the General Plan, as modified by the CCC action, there are no impacts that were not evaluated within the program EIR or avoided by CCC action. As such, potential impacts from future development permitted by the ZCU involving the creation of objectionable odors were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified. Given that future development would undergo project-by-project review, potential impacts involving the creation of objectionable odors would be less than significant.

Mitigation Measures: No mitigation is required.

¹¹ Ibid., Page 4.2-17.



4.4 BIOLOGICAL RESOURCES

<i>Would the project:</i>	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			T	
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			T	
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				T
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			T	
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			T	
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				T

Impact Analysis

4.4(a) *Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

Less Than Significant Impact. Sensitive habitat within the City consists of Diegan Coastal Sage Scrub, Riparian Habitat, and Native Grasslands. According to the California Native Diversity Database (CNDDDB) search conducted for the GPEIR, the City has the potential for 78 special status wildlife species and 33 plant species. However, not all of these species are found within the City due to the lack of suitable habitat.

Since future development permitted by the ZCU would occur primarily as infill and redevelopment, Project implementation is not anticipated to have a substantial adverse effect on any species identified as a candidate, sensitive, or special status. Moreover, implementation of the ZCU would not directly remove sensitive vegetation communities or species, because the ZCU does not infer direct development rights. Notwithstanding, due to the conceptual nature of the future development permitted by the ZCU, the potential exists for adverse impacts to species identified as a candidate, sensitive, or special status. Additionally, future development may result in the removal of mature trees that provide perching or nesting habitat for migratory birds and raptors



and may result in a “take” of one of the special status species. However, the GPEIR concluded compliance with General Plan policies would result in less than significant impacts to candidate, sensitive, and special status species.¹² Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to candidate, sensitive, and special status species from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to determine potential impacts to candidate, sensitive, and special status species. Future development may be required to comply with the NCCP/HCP, the Migratory Bird Treaty Act, Federal Endangered Species Act, and the California Endangered Species Act. Additionally, future development would be subject to compliance with General Plan policies that would reduce potential impacts on candidate, sensitive, and special status species. Namely, implementation of Policies NR10.1 to 10.13 provide protection to sensitive and rare terrestrial and marine resources from urban development (Policy NR 10.4 requires a site-specific survey and analysis), Policies NR 11.1 to 11.3 require protection of eelgrass meadows, and Policies 12.1 to 12.3 require protection of coastal dune habitats. Given that future development would undergo project-by-project review (a site-specific survey and analysis may be required), and be subject to compliance with Federal/State and General Plan policies, impacts to candidate, sensitive, and special status species would be less than significant.

Mitigation Measures: No mitigation is required.

4.4(b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*

Less Than Significant Impact. Riparian habitat is known to occur throughout the City. Since future development permitted by the ZCU would occur primarily as infill and redevelopment, Project implementation is not anticipated to have a substantial adverse effect on any riparian habitat. Moreover, implementation of the ZCU would not directly remove riparian or other sensitive habitats, because the ZCU does not infer direct development rights. Notwithstanding, due to the conceptual nature of the future development permitted by the ZCU, the potential exists for adverse impacts to riparian habitats. However, the GPEIR concluded compliance with General Plan policies would result in less than significant impacts to riparian habitats.¹³ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to riparian habitats from future development permitted by the ZCU were anticipated in the

¹² Ibid., Page 4.2-23.

¹³ Ibid., Page 4.2-25.



GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to determine potential impacts to riparian habitats. Future development would be subject to compliance with Section 404 of the Clean Water Act and the Section 1600 of the Streambed Alteration Agreement, which regulate the alteration of riparian vegetation. Additionally, future development would be subject to compliance with General Plan policies that would reduce potential impacts on riparian habitats. Namely, Policies NR 10.1 through NR 10.7 would require reduction or avoidance of impacts to riparian areas by ensuring cooperation with resource protection agencies, organizations, and conservation plans, and limiting or placing constraints on future development within identified ESAs or areas containing significant or rare biological resources. In addition, Policies NR 10.9 and NR 10.10 would require protection of existing or potential riparian habitats, and encourage restoration of the ESAs located within the Planning Area. Policies NR 13.1 and NR 13.2 would serve to protect wetlands and their riparian habitat, and require a survey and analysis of future General Plan development within a delineated wetland area. Given that future development would undergo project-by-project review and be subject to compliance with Federal/State and General Plan policies, impacts to riparian habitats would be less than significant.

Mitigation Measures: No mitigation is required.

4.4(c) *Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

No Impact. According to the GPEIR, wetlands are known to occur throughout the City. Since future development permitted by the ZCU would occur primarily as infill and redevelopment, Project implementation is not anticipated to have a substantial adverse effect on wetlands. Moreover, implementation of the ZCU would not directly remove wetlands, because the ZCU does not infer direct development rights. Additionally, the GPEIR concluded compliance with General Plan policies would result in no impacts to wetlands.¹⁴ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to wetlands from future development permitted by the ZCU were considered in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to determine potential impacts to wetlands. Future development would be subject to compliance with Section 404 of the Clean Water Act, which requires that a permit be obtained from the Army Corps of Engineers (ACOE) prior to discharge or dredged or fill material into any “waters of the United States.” Should development occur within wetland areas, Federal and State regulations

¹⁴ Ibid., Page 4.2-27.



would be implemented to protect resources from development through the ACOE permitting process. Additionally, future development would be subject to compliance with General Plan policies that would reduce potential impacts on wetlands. Namely, Policies NR 13.1 and NR 13.2 would protect, maintain, and enhance the City's wetlands. Policies NR 14.1 to NR 14.4 would serve to maintain and enhance deep water channels and ensure they remain navigable by boats through the management of dredging and maintaining the capacity of wetlands and estuaries. Policies NR 15.1 to NR 15.3 would serve to ensure the proper disposal of dredge spoils to avoid disruption to natural habitats through monitoring and management of sediment. Given that future development would undergo project-by-project review, and would be subject to compliance with Federal/State laws and regulations and the "no net wetland loss" policy currently in place, as well as General Plan policies, impacts to wetlands would be less than significant.

Mitigation Measures: No mitigation is required.

4.4(d) *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

Less Than Significant Impact. Given that the City is primarily a built-out area, it is anticipated that future development permitted by the ZCU would generally consist of infill and redevelopment. Additionally, the GPEIR concluded new urban uses within the City's developed areas would not have a substantial effect on the movement of native resident or migratory wildlife species or corridors, and impacts on these areas would be less than significant.¹⁵ Development permitted by the Zoning Code Update (ZCU) was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to migratory wildlife species or corridors from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that migratory wildlife species or corridors are not adversely impacted. Future development would also be subject to compliance with General Plan policies that would serve to protect migratory wildlife species or corridors. In particular, Policies NR 10.1 and NR 10.2 would serve to ensure that all future development cooperates with the regulatory framework and complies with NCCP policies. Policies NR 10.3 and NR 10.4 would serve to protect and prohibit development in nature preserves, conservation areas, and designated open space areas, and would require a site-specific study be prepared where development would occur within or contiguous to such areas. Policies NR 10.5, NR 10.7, and NR 10.8 would serve to prevent disruption, and ensure protection of sensitive habitat through siting and design requirements. Policies NR 12.1 through NR 12.3 would serve to protect coastal dune habitats (movement corridors for coastal wildlife species). Policies NR 13.1 and NR 13.2 would serve to protect, maintain, and enhance the Planning Area's wetlands, another movement corridor for a variety of aquatic, terrestrial, and avian species. Given that future development would undergo project-by-

¹⁵ Ibid., Page 4.3-28.



project review, and be subject to compliance with General Plan policies, impacts to migratory wildlife species or corridors would be less than significant.

Mitigation Measures: No mitigation is required.

4.4(e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Less Than Significant Impact. Future development permitted by the ZCU would be subject to all applicable federal, state, and local policies and regulations related to preservation of biological resources. Specific local regulations consist of Council Policy G-1, *Retention or Removal of City Trees*, and Newport Beach Municipal Code (NBMC) Chapter 7.26, *Protection of Natural Habitat for Migratory and Other Waterfowl*. Future development would be subject to compliance with General Plan Policies NR 10.1 and NR 10.3, which would serve to ensure that all future development cooperates with the regulatory framework and complies with NCCP policies, as well as all policies specified in GPEIR Section 4.3, *Biological Resources*, which are intended to protect biological resources. A less than significant impact would occur in this regard.

Mitigation Measures: No mitigation is required.

4.4(f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No Impact. The Central and Coastal Orange County Natural Community Conservation Plan and Habitat Conservation Plan (NCCP/HCP) and the associated Implementation Agreement cover 13 cities, including Newport Beach. Therefore, the City is within jurisdiction of the NCCP/HCP. The purpose of the NCCP/HCP is to create a multi-species, multi-habitat reserve system and implementation of a long-term management program that will protect primarily coastal sage scrub and the species that utilize this habitat.

The GPEIR concluded compliance with General Plan policies would result in no impacts involving the NCCP/HCP.¹⁶ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential conflicts with the NCCP/HCP from future development permitted by the ZCU were considered in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to determine potential conflicts with the NCCP/HCP. Additionally, future development would be subject to compliance with General Plan policies that would ensure consistency with the NCCP/HCP. Namely, Policy NR 10.2 states that future development must comply with the policies contained within the Orange County NCCP. In addition, Policy NR 10.1 states that future development shall cooperate with state and federal agencies, and private organizations, in the

¹⁶ Ibid., Page 4.2-29.



protection of the Planning Area's biological resources. Given that future development would undergo project-by-project review, and would be subject to compliance with General Plan policies, conflicts with the NCCP/HCP would not occur.

Mitigation Measures: No mitigation is required.



4.5 CULTURAL RESOURCES

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines §15064.5?			T	
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5?			T	
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			T	
d. Disturb any human remains, including those interred outside of formal cemeteries?			T	

Impact Analysis

4.5(a) *Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines §15064.5?*

Less Than Significant Impact. GPEIR Figure 4.4-1, *Historic Resources*, illustrates the locations of the 11 properties within the City that have been listed or designated eligible for listing on the NRHP or CRHR, or otherwise listed as historic or potentially historic in the California Historic Resources Information System (CHRIS) maintained by the Office of Historic Preservation. Future development permitted by the ZCU would generally consist of infill and redevelopment. Therefore, future development could cause a substantial adverse change in the significance of a historical resource. Additionally, the GPEIR concluded redevelopment of a site could result in the demolition of historic or potentially historic structures, and infrastructure or other public works improvements could result in damage to or demolition of other historic features. These impacts would remain significant and unavoidable, despite compliance with General Plan policies.¹⁷ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to historic resources from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that historic resources are not adversely impacted. Future development would be subject to Federal, State, and local regulations, and institutions in place to protect the City's historical resources. Additionally, future development would be subject to compliance with General Plan policies that would protect the City's historic resources. In particular, Policies HR 1.1 through HR 1.5 are intended to provide protection of historically significant landmarks, sites, and structures by requiring that the Historical Resources Inventory be maintained and updated, encouraging the preservation and adaptive reuse of historic structures, promoting the placement

¹⁷ Ibid., Page 4.4-15.



of historical landmarks throughout the City, encouraging adaptive reuse, and mandating the incorporation of historical elements in new redevelopment projects in the City. Specifically, Policy HR 1.2 focuses on preserving structures listed in the National Register of Historic Places, the List of California Historic Landmarks, and the Newport Beach Register of Historic Property by offering incentives. In addition to encouraging the placement of historical landmarks, photographs, markers, and plaques at areas of historical interest or value, Policy HR 1.3 would serve to create a Landmark Plan to recognize and designate culturally important heritage sites that are eligible for the placement of historical landmarks or plaques. Policy HR 1.4 encourages alternatives to demolition of historical sites through providing incentives. If preservation or adaptive reuse is not possible, Policy HR 1.5 requires that a project incorporate a physical link to the past within the site or structural design. Given that future development would undergo project-by-project review, be regulated by the Federal/State regulatory framework, and be subject to compliance with General Plan policies, impacts to historic resources would be less than significant.

Mitigation Measures: No mitigation is required.

4.5(b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5?

Less Than Significant Impact. According to the GPEIR, Newport Beach has had a long cultural history and has been home to Native American groups, since before Euro-American settlement. Due to the historic nature of Newport Beach, archaeological materials have been found during ground-disturbing activities, particularly in areas that have not previously been developed. Moreover, archaeological resources may be present under existing buildings.

According to the GPEIR, several locations within the City have known significant paleontological resources. These areas include areas underlain by the Vaqueros formation, such as the Newport Coast and the Newport Banning Ranch area, the Topanga and Monterey Formations, and Fossil Canyon in the North Bluffs area. Therefore, any ground-disturbing activities in these areas could potentially result in damage to or destruction of fossils in the formations.

Project implementation is not anticipated to cause a substantial adverse change in the significance of an archaeological/paleontological resource. Since, the City is primarily a built-out area, it is anticipated that future development permitted by the ZCU would generally consist of infill and redevelopment. Future development sites have already been subject to extensive disruption and may contain artificial fill materials. As such, any archaeological/paleontological resources, which may have existed on the development sites, have likely been disturbed. Notwithstanding, due to the conceptual nature of the future development and the known existence of archaeological/paleontological resources in the area, future development permitted by the ZCU could cause a substantial adverse change in the significance of an archaeological/paleontological resource. However, the GPEIR concluded compliance with General Plan policies would ensure impacts to archaeological and Native American cultural resources, and paleontological resources would be less than significant, by requiring the scientific recovery and evaluation of any resources that could be encountered during construction of future development.¹⁸ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to

¹⁸ Ibid., Pages 4.4-16 and 4.4-17.



archaeological/paleontological resources from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that archaeological resources are not adversely impacted. Future development would be subject to compliance with “Archaeological Guidelines (K-5)” and “Paleontological Guidelines (K-4),” established by the Newport Beach City Council, in order to ensure the preservation of significant archeological/paleontological resources and require that the impact caused by any development be mitigated with CEQA. Moreover, future development would also be subject to compliance with General Plan policies that would protect the City’s archaeological/paleontological resources. In particular, Policy HR 2.1 and Policy NR 18.1 require that any new development protect and preserve archaeological resources from destruction, and that potential impacts to such resources be avoided and minimized through planning policies and permit conditions. Other policies under Goal HR 2 and Goal NR 18 serve to ensure that information resources are maintained regarding these resources; grading and excavation activities where there is a potential to affect cultural or archaeological resources be monitored by a qualified archaeologist; cultural organizations are notified of all developments that have the potential to adversely impact these resources; and that any new development donates scientifically valuable archaeological resources to a responsible public or private institution. Policy HR 2.2 would serve to ensure that sources of information regarding paleontological and archeological sites and the names and addresses of responsible organizations and qualified individuals, who can analyze, classify, record, and preserve paleontological or archeological findings would continue to be maintained. A qualified paleontologist/archeologist would be required to monitor all grading/ excavation where there is a potential to affect cultural, archeological or paleontological resources. Given that future development would undergo project-by-project review, be regulated by the City’s Archaeological Guidelines, and be subject to compliance with General Plan policies, impacts to archaeological resources would be less than significant.

Mitigation Measures: No mitigation is required.

4.5(c) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

Less Than Significant Impact. Refer to Response 4.5(b).

Mitigation Measures: No mitigation is required.

4.5(d) *Disturb any human remains, including those interred outside of formal cemeteries?*

Less Than Significant Impact. Human burials have been found throughout the City. The burials outside of a formal cemetery have been found in prehistoric archaeological contexts. Project implementation is not anticipated to disturb any human remains. Since, the City is primarily a built-out area, it is anticipated that future development permitted by the ZCU would generally consist of infill and redevelopment. Future development sites have already been subject to extensive disruption and may contain artificial fill materials. Due to the level of past disturbance



on the development sites, it is not anticipated that human remains, including those interred outside of formal cemeteries, would be encountered during earth removal or disturbance activities. Additionally, the GPEIR concluded compliance with existing Federal, State, and local policies would ensure that the General Plan's impact on human burial grounds would be reduced to a less than significant level by ensuring appropriate examination, treatment, and protection of human remains, as required by law.¹⁹ Notwithstanding, ground-disturbing activities, such as grading or excavation, have the potential to disturb as yet unidentified human remains. If human remains were found, those remains would require proper treatment, in accordance with applicable laws. State of California Public Resources Health and Safety Code Section 7050.5-7055 describe the general provisions for human remains. Specifically, Health and Safety Code Section 7050.5 describes the requirements if any human remains are accidentally discovered during excavation of a site. As required by State law, the requirements and procedures set forth in Section 5097.98 of the California Public Resources Code would be implemented, including notification of the County Coroner, notification of the Native American Heritage Commission, and consultation with the individual identified by the Native American Heritage Commission to be the "most likely descendant." If human remains are found during excavation, excavation must stop in the vicinity of the find and any area that is reasonably suspected to overly adjacent remains until the County coroner has been called out, and the remains have been investigated and appropriate recommendations have been made for the treatment and disposition of the remains. Following compliance with State regulations, which detail the appropriate actions necessary in the event human remains are encountered, impacts in this regard would be considered less than significant.

Mitigation Measures: No mitigation is required.

¹⁹ Ibid., Page 4.4-18.



4.6 GEOLOGY AND SOILS

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
1) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				T
2) Strong seismic ground shaking?			T	
3) Seismic-related ground failure, including liquefaction?			T	
4) Landslides?			T	
b. Result in substantial soil erosion or the loss of topsoil?			T	
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-site or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			T	
d. Be located on expansive soil, as defined in Table 18-1-B of the California Building Code (2001), creating substantial risks to life or property?			T	
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				T

Impact Analysis

4.6(a)(1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

No Impact. The Alquist-Priolo Earthquake Fault Zoning Act was passed in 1972 to mitigate the hazard of surface faulting to structures for human occupancy. The Act's main purpose is to prevent the construction of buildings used for human occupancy on the surface trace of active faults. The Act requires the State Geologist to establish regulatory zones, known as "Earthquake Fault Zones," around the surface traces of active faults and to issue appropriate maps. Local agencies must regulate most development projects within these zones. The City of Newport Beach does not have any State-designated Earthquake Fault Zone.²⁰

²⁰ California Department of Conservation official website, <http://www.conservation.ca.gov/cgs/rghm/ap/Pages/affected.aspx>. Accessed May 18, 2010.



Mitigation Measures: No mitigation is required.

4.6(a)(2) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?

Less Than Significant Impact. The City is located in the northern part of the Peninsular Ranges Province. This is an area that is exposed to multiple fault zones, such as the Newport-Inglewood fault zone, the Whittier fault zone, the San Joaquin Hills fault zone, and the Elysian park Fault zone. The City would also be subject to movement caused by the San Andreas Fault. Each of these zones has potential to cause ground shaking within the City. Due to the presence of several significant faults, the City is anticipated to experience strong seismic ground shaking. According to the City's *General Plan*, the City has a probability for ground motion values 43 to 50 percent the force of gravity once every 50 years. This is considered to be in the high to very high range for southern California. The intensity of ground shaking would depend upon the magnitude of the earthquake, distance to the epicenter, and the geology of the area between the epicenter and the City.

The future development permitted by the ZCU could expose people or structures to adverse effects involving strong seismic ground shaking. The possibility of moderate to high ground acceleration or shaking in the City may be considered as approximately similar to the Southern California region, as a whole. The GPEIR concluded compliance with applicable regulations and the General Plan policies would ensure that impacts related to strong seismic ground shaking remain at a less than significant level.²¹ As such, the exposure of people/structures to potential adverse effects involving strong seismic ground shaking from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that the exposure of people/structures to potential adverse effects involving strong seismic ground shaking is minimized. Numerous controls would be imposed on future development through the permitting process. In general, the City regulates development (and reduces potential seismic hazards) under the requirements of the California Building Code (CBC), which was adopted by the City and known as the Newport Beach Building Code (NBMC Section 15.04.010, *Adoption of the California Building Code*), the Alquist-Priolo Earthquake Fault Zoning Act, local land use policies, and zoning, and project specific mitigation measures. The effects of ground shaking would be sufficiently mitigated for structures designed and constructed in conformance with current building codes and engineering standards. Moreover, future development would also be subject to compliance with General Plan policies that would serve to ensure geologic hazards such as strong seismic ground shaking are minimized. Namely, Policy S 4.1 requires regular update to building and fire codes to provide for seismic safety and design and Policies S 4.4 and S 4.5 serve to ensure that new development is not located in areas that would be affected by seismic hazards. Given that future development would undergo project-by-project review, be regulated by the CBC and NBMC, and be subject to compliance with General Plan policies, impacts involving the exposure of people/structures to strong seismic ground shaking would be less than significant.

²¹ EIP Associates, *City of Newport Beach General Plan 2006 Update Draft EIR*, Page 4.5-14.



Mitigation Measures: No mitigation is required.

4.6(a)(3) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?

Less Than Significant Impact. Liquefaction can occur in loose soils in response to severe ground shaking. Liquefaction susceptibility is based on both geologic and geotechnical data. According to the GPEIR, the City is susceptible to liquefaction and ground failure in the coastline areas, including Balboa Peninsula, Newport Bay, Upper Newport, the lower reaches of major streams in Newport Beach, and the floodplain of the Santa Ana River. The majority of the City's mapped liquefiable area has been built upon.

Earthquake-induced landslides of steep slopes occur in either bedrock or soils and can result in undermining of buildings, severe foundation damage and collapse. Hillside areas could pose a potential hazard from earthquake-induced landslides. The central and eastern areas of the City have been identified as vulnerable to seismically induced slope failure.

Future development permitted by the ZCU could expose people or structures to adverse effects involving seismic-related liquefaction and/or landslides. However, the GPEIR concluded that compliance with applicable regulations, as well as General Plan policies, would ensure that impacts would be less than significant.²² As such, the exposure of people/structures to potential adverse effects involving seismic-related liquefaction or landslides from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that the exposure of people/structures to potential adverse effects involving seismic-related liquefaction and landslides is minimized. Numerous controls would be imposed on future development through the permitting process. In general, the City regulates development (and reduces potential seismic hazards) under the requirements of the CBC, local land use policies, and zoning, and project specific mitigation measures. Compliance with the CBC standards would require an assessment of hazards related to landslides and liquefaction and the incorporation of design measures into structures to mitigate these hazards. Site-specific geotechnical studies would be required prior to development, in order to determine the soil properties and specific potential for liquefaction. Additionally, development proposed on steep terrain would require site-specific slope stability design, in order to ensure adherence to the standards contained in City Building Code Appendix Chapter A33, *Excavation and Grading*. The effects of liquefaction and landslides would be sufficiently mitigated for structures designed and constructed in conformance with current CBC and engineering standards. Additionally, the proposed ZCU includes revisions that would avoid or minimize impacts the exposure of people/structures to potential adverse effects involving seismic-related landslides. More specifically, the Bluff Overlay District was added to implement specific General Plan policies that require limiting development to ensure safety. The Fences, Hedges, Walls and Retaining Walls section was revised to limit the height of

²² Ibid., Page 4.5-15.



retaining walls and require that they be terraced to help minimize alteration of slopes. Moreover, future development would also be subject to compliance with General Plan policies that would minimize the exposure of people/structures to potential adverse effects involving seismic-related liquefaction and landslides. Namely, Policies S 4.1 through S 4.6 require new development to be in compliance with the most recent seismic and other geologic hazard safety standards, and the protection of community health and safety through the implementation of effective, state of the art standards for seismic design of structures in the City. Given that future development would undergo project-by-project review, be regulated by the CBC and NBMC, and be subject to compliance with General Plan policies, impacts involving the exposure of people/structures to seismic-related liquefaction and landslide would be less than significant.

Mitigation Measures: No mitigation is required.

4.6(a)(4) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?

Less Than Significant Impact. Refer to Response 4.6(a)(3).

Mitigation Measures: No mitigation is required.

4.6(b) Result in substantial soil erosion or the loss of topsoil?

Less Than Significant Impact. Most of the City is built-out, therefore topsoil erosion is not an issue in the areas where topsoil is not exposed. However, soil erosion is a concern along the shoreline and for undeveloped areas within the City.

Clearing, grading, and excavation associated with future development permitted by the ZCU could expose soils to minimal short-term erosion by wind and water, and loss of topsoil. Specific erosion impacts would depend largely on the areas affected and the length of time soils are subject to conditions that would be affected by erosion processes. However, the GPEIR concluded that compliance with applicable regulations, as well as General Plan policies, would ensure that impacts would be less than significant.²³ As such, soil erosion impacts from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that substantial soil erosion would not occur. Compliance with NBMC Chapter 15.10, *Excavation and Grading Code*, would be required. Chapter 15.10 sets forth rules and regulations to control excavation, grading, drainage conditions, erosion control, earthwork construction, and the use of earth materials as a structural component; and provides for the approval of plans and inspection of grading construction and drainage control. Additionally, the proposed ZCU includes revisions that would minimize soil erosion. Namely, the ZCU adds the Landscaping Standards chapter, which provides landscape standards to control soil erosion.

²³ Ibid., Page 4.5-16.



All demolition and construction activities within the City would be subject to compliance with the CBC, as follows:

- CBC Chapter 70. Standards that would ensure implementation of appropriate measures during grading activities to reduce soil erosion.
- CBC Chapter 33. Regulates excavation activities and the construction of foundations.
- CBC Appendix Chapter 33. Regulates grading activities, including drainage and erosion control.

Project sites encompassing an area of one or more acres would require compliance with a National Pollutant Discharge Elimination System (NPDES) permit and consequently the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP); refer to Response 4.9(a) below. Moreover, future development would be subject to compliance with General Plan policies that would ensure that new development would not result in substantial soil erosion or loss of topsoil. More specifically, Policies NR 3.11, NR 3.12, and NR 3.13 would require compliance with applicable local, State, or Federal laws, ensuring maximum practicable protection available for soils excavated during the construction and building associated with infrastructure. Given that future development would undergo project-by-project review, be regulated by the CBC, NBMC, and NPDES, and be subject to compliance with General Plan policies, impacts involving soil erosion would be less than significant.

Mitigation Measures: No mitigation is required.

4.6(c) *Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in an on-site or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?*

Less Than Significant Impact. The majority of the City is underlain by compressible soils. Other soils in the City are low-density and/or manmade. The low-density soils are susceptible to liquefaction if sandy in nature and saturated in water. Manmade fill areas can be expansive depending on the type of fill used. The City is also underlain by geologic units, both surficial soils and bedrock that have fine-grained components that are moderate to highly expansive. Fine-grained soils are susceptible to expansion due to the clay components.

Future discretionary development permitted by the ZCU could be located on an unstable geologic unit or soil, resulting in collapse, subsidence, differential settlement, lateral spreading, or heaving. However, the GPEIR concluded that compliance with Code requirements and General Plan policies would ensure that impacts would be less than significant.²⁴ As such, the exposure of people/structures to potential adverse effects involving unstable geologic units/soils from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that the exposure of people/structures to potential adverse effects involving unstable geologic

²⁴ Ibid., Page 4.5-17.



units is minimized. An acceptable degree of soil stability can be achieved for expansive or compressible material through compliance with the CBC requirements. Also, a site-specific evaluation of soil conditions is required by the City Building Code and must contain recommendations for ground preparation and earthwork specific to the site, that become an integral part of the construction design. As part of the construction permitting process, the City requires completed reports of soil conditions at specific construction sites to identify potentially unsuitable soil conditions. Moreover, future development would be subject to compliance with General Plan policies that would minimize the exposure of people/structures to potential adverse effects involving unstable geologic units/soils. Policies S 4.1 through S 4.6 require new development to be in compliance with the most recent seismic and other geologic hazard safety standards. More specifically, compliance with Policies S 4.4 and S 4.6 would serve to ensure that development is not located on unstable soils or geologic units. Given that future development would undergo project-by-project review, be regulated by the CBC and NBMC, and be subject to compliance with General Plan policies, impacts involving the exposure of people/structures to unstable geologic units/soils would be less than significant.

Mitigation Measures: No mitigation is required.

4.6(d) Be located on expansive soil, as defined in Table 18-1-B of the California Building Code (2001), creating substantial risks to life or property?

Less Than Significant Impact. Expansive soils have a significant amount of clay particles that give up water (shrink) or take on water (swell). The change in volume exerts stress on buildings and other loads placed on these soils. The City is underlain by materials that have a low to moderate expansion potential. The variation in expansion potential depends on the geologic or soil type present.

Future development permitted by the ZCU could be located on expansive soils, creating substantial risk to life/property. However, the GPEIR concluded that compliance with Code requirements and General Plan policies would ensure that impacts would be less than significant.²⁵ As such, the creation of substantial risk to life/property involving expansive soils from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in addition to the requirements of the CBC and NBMC in order to ensure that risk to life/property from expansive soils is minimized. As part of the construction permitting process, the City requires completed reports of soil conditions at specific construction sites to identify potentially unsuitable soil conditions. The design of foundation support must conform to the analysis and implementation criteria described in CBC Chapter 15. Moreover, future development would be subject to compliance with General Plan Policies S 4.4 and S 4.6, which would serve to ensure that development is not located on unstable soils or geologic units. Given that future development would undergo project-by-project review, be regulated by the CBC and NBMC, and be subject to compliance with General Plan policies, impacts involving the creation of substantial risk to life/property from expansive soils would be less than significant.

²⁵ Ibid., Page 4.5-18.



Mitigation Measures: No mitigation is required.

4.6(e) *Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?*

No Impact. Any future development would connect to the City's existing waste disposal system. Therefore, future projects would not involve the use of septic tanks or alternative wastewater disposal systems.

Mitigation Measures: No mitigation is required.



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4.7 GREENHOUSE GAS EMISSIONS

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			T	
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			T	

Impact Analysis

4.7(a) *Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

Less Than Significant Impact. Greenhouse gases (GHGs) are gases in the atmosphere that absorb and emit radiation. The greenhouse effect traps heat in the troposphere through the following three-fold process: short wave radiation emitted by the Sun is absorbed by the Earth; the Earth emits a portion of this energy in the form of long wave radiation; and GHGs in the upper atmosphere absorb this long wave radiation and emit this long wave radiation into space and toward the Earth. This “trapping” of the long wave (thermal) radiation emitted back toward the Earth is the underlying process of the greenhouse effect. The main GHGs in the Earth’s atmosphere are water vapor, carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), ozone (O₃), hydrofluorocarbons (HCFs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆).

Direct GHG emissions include emissions from construction activities, area sources, and mobile (vehicle) sources. Typically, mobile sources make up the majority of direct emissions. Indirect GHG emissions are generated by incremental electricity consumption and waste generation. Electricity consumption is responsible for the majority of indirect emissions.

Regulatory Environment

In June 2005, Governor Schwarzenegger established California’s GHG emissions reduction targets in Executive Order S-3-05. The Executive Order established the following goals:

- GHG emissions should be reduced to 2000 levels by 2010;
- GHG emissions should be reduced to 1990 levels by 2020; and
- GHG emissions should be reduced to 80 percent below 1990 levels by 2050.

California further solidified its dedication to reducing GHGs by setting a new Low Carbon Fuel Standard for transportation fuels sold within the State in 2007 with Executive Order S-1-07. Executive Order S-1-07 sets a declining standard for GHG emissions measured in CO₂ equivalent gram per unit of fuel energy sold in California.



In response to the transportation sector accounting for more than half of California's CO₂ emissions, Assembly Bill (AB) 1493 (AB 1493, Pavley) was enacted on July 22, 2002. AB 1493 required the California Air Resources Board (CARB) to set GHG emission standards for passenger vehicles, light duty trucks, and other vehicles whose primary use is noncommercial personal transportation in the State. Additionally, the California legislature enacted AB 32 (AB 32, Nuñez) in 2006 to further the goals of Executive Order S-3-05. AB 32 represents the first enforceable statewide program to limit GHG emissions from all major industries, with penalties for noncompliance.

CARB adopted the *AB 32 Climate Change Scoping Plan* (Scoping Plan) in December 2008 to achieve reductions in GHG emissions in California pursuant to the requirements of AB 32. The Scoping Plan contains the main strategies California will use to reduce GHG emissions. AB 32 requires California to reduce its GHG emissions by approximately 28 to 33 percent below business as usual. CARB has identified reduction measures to achieve this goal as set forth in the Scoping Plan.

Per the Attorney General's Office, their recommended General Plan measures will reduce GHG emissions and the effects of climate change.²⁶ Additionally, the Climate Action Team Report to Governor Schwarzenegger at the Legislature (CAT Report) provides "overarching recommendations considered essential by the (Climate Action Team) in meeting the statewide climate change emissions reduction targets" and "lays out a path forward to ensure that California's climate change emission reduction targets are met." The CAT Report identifies strategies designed to reduce California's GHG emissions and meet AB 32 and Executive Order S-3-05 goals. Therefore, compliance with all applicable CAT Report strategies and Attorney General's General Plan recommendations would ensure the proposed Project would help achieve the AB 32 and Executive Order S-3-05 goals to reduce GHG emissions for California.

Construction Emissions

CEQA does not require an agency to evaluate an impact that is "too speculative", provided that the agency identifies the impact, engages in a "thorough investigation" but is "unable to resolve an issue", and then discloses its conclusion that the impact is too speculative for evaluation. (CEQA Guidelines Section 15145, Office of Planning and Research Commentary). Pursuant to CEQA Guidelines Section 15146(b):

An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.

Construction of future development permitted by the ZCU would result in GHG emission from the use of construction equipment. However, details of these future construction activities are unknown at this time, and therefore, cannot be quantified. Compliance with General Plan Policies NR 8.1 to NR 8.5 would serve to reduce air emissions from construction activities. Therefore, compliance with GP Policies and standard SCAQMD regulations would reduce construction-related GHG emissions associated with future development to a level below "business as usual."

²⁶ California Office of the Attorney General, *Sustainability and General Plans: Examples of Policies to Address Climate Change*, updated January 22, 2010.



Operational Impacts

Area sources include emissions from natural gas combustion, hearth (wood stove/fireplaces), landscaping equipment, consumer products, and architectural coatings. Indirect sources include emissions from energy consumption and water conveyance. Mobile sources include emission from passenger vehicles and delivery trucks. Typically, mobile sources are the primary contributor of GHG emissions. However, consistent with the General Plan, the ZCU would discourage sprawl, promote mixed use development, and encourage public transportation.

General Plan Policies NR 6.1 to 6.9, LU 5.3.1 to 5.3.3, 6.14.5, and 6.15.9, CE 5.1.1 to 5.1.16, and 6.2.1 to 6.2.3 are intended to reduce vehicle miles traveled and mobile source emissions by promoting mixed use development and encouraging alternative transportation modes (i.e., public transit, pedestrian, and bicycle). Also, General Plan Policies NR 1.1 to 1.5 address water conservation, and Policies NR 24.1 to 24.5 address energy efficiency and conservation. Additionally, the ZCU proposes residential use densities and non-residential use intensities within the various zoning districts that would be no greater than allowed by the GP Land Use Element. Therefore, compliance with GP Policies would reduce GHG emissions associated with future development allowed under the ZCU to below “business as usual” levels.

Compliance with the Attorney General’s Recommendations

The California Office of the Attorney General has established recommended measures for projects to mitigate GHG emissions at the plan level.²⁷ A list of the Attorney General’s recommended measures and the project’s compliance with each measure are listed in Table 4.7-1, *Project Compliance with the Attorney General’s Recommendations*.

As noted above, ZCU consistency with GP Policies and existing regulations would reduce GHG emissions associated with future development permitted by the ZCU to a level below “business as usual.” General Plan Policies establish smart growth principles, which would allow for mixed-use development, and would serve to reduce mobile source GHG emissions by encouraging alternative transportation modes that would result in a decrease in auto dependency and vehicle miles traveled. GP Policies would also serve to reduce GHG emissions associated with future development under the ZCU through energy and water efficiency and conservation measures. The ZCU would result in GHG emissions below “business as usual” levels. Therefore, the proposed ZCU would not generate GHG emissions that would substantially impact the environment, and the GHG reduction goals of AB 32 would not be hindered. A less than significant impact would occur in this regard.

4.7(b) *Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

Less Than Significant Impact. The City of Newport Beach does not have an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. As stated in Response 4.7(a), the General Plan Natural Resources, Land Use, and Circulation Elements include goals and policies addressing smart land use decisions, the reduction of vehicle miles traveled, and energy efficiency and conservation. Although the City does not have an applicable

²⁷ Ibid.



plan, policy, or regulation adopted for the purpose of reducing GHG emissions, the sustainable development goals and policies established within the GP would result in GHG emissions below “business as usual” levels. Therefore, a less than significant impact would occur.

**Table 4.7-1
Project Compliance with the Attorney General’s Recommendations**

Attorney General's Recommended Measures	Compliance
Smart growth, jobs/housing balance, transit-oriented development, and infill development through land use designations, incentives and fees, zoning, and public-private partnerships.	Compliant. The proposed ZCU would be consistent with GP Policies LU 5.3.1 to 5.3.3, 6.14.5, and 6.15.9, which address smart growth and mixed use developments.
Create transit, bicycle, and pedestrian connections through planning, funding, development requirements, incentives and regional cooperation; create disincentives for auto use.	Compliant. The GP LU Policies referenced above would serve to create opportunities for pedestrian friendly developments that would result in a decrease in auto dependency. Also, Policies CE 5.1.1 to 5.1.16 and 6.2.1 to 6.2.3 would encourage alternative modes of transportation on the local and regional scale including pedestrian, bicycle, and transit, which would reduce vehicle miles traveled.
Energy- and water-efficient buildings and landscaping through ordinances, development fees, incentives, project timing prioritization, and other implementing tools.	Compliant. The ZCU would be consistent with GP Policies NR 1.1 to 1.5, which address energy and water conservation and efficient design features. Compliance with Policies NR 1.1 to 1.5 would result in reduced GHG emissions.
Waste diversion, recycling, water efficiency, energy efficiency and energy recovery in cooperation with public services districts and private entities.	Compliant. The ZCU would be consistent with GP Policies NR 24.5, which allows for new methane extraction activities in the City. Also, although the GP does not include Policies regarding solid waste, the City maintains a 52 percent diversion rate from Orange County landfills. The City has one composting facility, five recycling programs, and six programs specializing in source reduction. Additionally, the GP states that the City recycles over 25 percent of its residential waste stream, as well as 100 percent of the concrete, asphalt, and green and brown wastes generated by City operations.
Urban and rural forestry through tree planting requirements and programs; preservation of agricultural land and resources that sequester carbon; heat island reduction programs.	Compliant. The ZCU would be consistent with Municipal Code Sections 13.08, <i>Planting</i> , and 13.09, <i>Parkway Trees</i> , which include standards for tree planting, preservation, removal, and relocation. Also, the City’s Street Trees Division is responsible for the maintenance and care of City trees, and the enforcement of the City’s Tree Codes and Policies.
Regional cooperation to find cross-regional efficiencies in GHG reduction investments and to plan for regional transit, energy generation, and waste recovery facilities.	Compliant. Refer to responses above.
Source: California Office of the Attorney General, <i>Sustainability and General Plans: Examples of Policies to Address Climate Change</i> , updated January 22, 2010.	



4.8 HAZARDS AND HAZARDOUS MATERIALS

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			T	
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			T	
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?			T	
d. Be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, and, as a result, would it create a significant hazard to the public or the environment?			T	
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?			T	
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				T
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			T	
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?			T	

Impact Analysis

4.8(a) ***Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?***

Less Than Significant Impact. Many types of businesses utilize various chemicals and hazardous materials, and their routine business operations involve chemicals that are manufactured, warehoused, or transported. Currently, there are a variety of existing business operations in the City (commercial and industrial) that use, store, or transport hazardous substances, as well as generate hazardous waste. The secondary activities that would occur with residential, commercial, and industrial uses (e.g., building and landscape maintenance) would also involve the use of hazardous materials.

Under the proposed ZCU, existing commercial zoning districts (RSC, RMC and APF) have been diversified. The existing retail districts (RSC and some RMC areas) are proposed CC (Commercial Corridor), CG Commercial General), CN (Commercial Neighborhood), CM (Commercial Recreational and Marine), and CV (Commercial Visitor-Serving). The existing office zoning district (APF) is proposed OA (Office – Airport), OG (Office – General), OM (Office –



Medical), and OR (Office – Regional). Additionally, the existing industrial zoning districts (M-1, M-1-A and IBP) are proposed to condense into the IG (Industrial Zoning District). Therefore, both residential and non-residential development permitted by the ZCU could require or engage in operations that involve the routine transport, use, or disposal of hazardous materials, potentially creating a significant hazard to the public and/or environment. The types and quantities of hazardous materials utilized by the various types of businesses that could locate in the City would vary and, as a result, the nature of potential hazards would also be varied. However, the GPEIR concluded oversight by the appropriate Federal, State, and local agencies and compliance by new development with applicable regulations related to the handling and storage of hazardous materials would minimize the risk of the public's potential exposure to these substances, resulting in less than significant impacts.²⁸ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts involving the routine transport, use, or disposal of hazardous materials from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to minimize risks involving the routine transport, use, or disposal of hazardous materials. While the risk of exposure to hazardous materials cannot be eliminated, measures can be implemented to maintain risk to acceptable levels. All future development within the City would be subject to compliance with existing regulations, standards, and guidelines established by the Federal, State, and local agencies related to storage, use, and disposal of hazardous materials. Specifically, future development within the City would be subject to compliance with the environmental programs administered by the Orange County Health Care Agency or the Orange County Fire Authority. The Hazardous Waste Inspection Program requires that all hazardous wastes that would be generated by City businesses be properly handled, recycled, treated, stored, and disposed. Compliance with the Underground Storage Tank Inspection Program would ensure that hazardous materials stored in underground tanks are not released into the groundwater and/or the environment, and compliance with the Aboveground Petroleum Storage Tank (APST) Program would protect people and natural resources from aboveground petroleum storage tank spills or releases. Compliance with the Hazardous Materials Disclosure/Business Plan Program requires a chemical inventory form (on a Hazardous Materials Disclosure Form) to disclose hazardous materials stored, used, or handled on site. Additionally, preparation of a Business Emergency Plan (BEP) would be required, in order to assure that businesses have appropriate procedures and policies in place, and employees and contractors have adequate training for responding to a hazardous materials incident at the facility. Compliance with these programs would assist in mitigating a release or threatened release of a hazardous material and minimize any potential harm or damage to human health or the environment. Compliance with the City's Emergency Operations Plan would also be required.

Future development would also be subject to compliance with General Plan policies that would minimize potential impacts involving the routine transport, use, storage, or disposal of hazardous materials. Namely, Policy S 7.3 would serve to educate residents and businesses about how to reduce or eliminate their use of hazardous materials. Policy S 7.6 requires that all users,

²⁸ EIP Associates, *City of Newport Beach General Plan 2006 Update Draft EIR*, Page 4.6-19.



producers, and transporters of hazardous materials and wastes clearly identify the materials that they store, use, or transport, and to notify the appropriate City, County, State and Federal agencies in the event of a violation. Given that future development would undergo project-by-project review, be regulated by the existing regulatory framework, and be subject to compliance with General Plan policies, impacts involving the routine transport, use, storage, or disposal of hazardous materials would be less than significant.

Mitigation Measures: No mitigation is required.

4.8(b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Less Than Significant Impact. Human exposure to hazardous substance could occur through accidental release. Incidents that result in an accidental release of hazardous substance into the environment can cause contamination of soil, surface water, and groundwater, in addition to any toxic fumes that might be generated. If not cleaned up immediately and completely, the hazardous substances can migrate into the soil or enter a local stream or channel causing contamination of soil and water. Human exposure of contaminated soil or water can have potential health effects on a variety of factors, including the nature of the contaminant and the degree of exposure.

Short-Term Accidental Release of Hazardous Materials

Short-term construction related activities associated with future development permitted by the ZCU could release hazardous materials into the environment through reasonably foreseeable upset and accident conditions. Hazardous material issues may exist relating to commercial/industrial sites and old buildings.

Demolition. Existing structures may need to be demolished prior to construction of new buildings. Demolition of structures could expose construction personnel and the public to hazardous substances such as asbestos containing materials (ACM) or lead-based paints (LBP), depending on the age of the structure. Further, the potential exists that construction activities may release potential contaminants that may be present in building materials (e.g., mold, lead, etc.). Federal and State regulations govern the renovation and demolition of structures where ACMs and LBPs are present. All demolition that could result in the release of ACMs or LBPs must be conducted according to Federal and State standards. The National Emission Standards for Hazardous Air Pollutants (NESHAP) mandates that building owners conduct an asbestos survey to determine the presence of ACMs prior to the commencement of any remedial work, including demolition. If ACM material is found, abatement of asbestos would be required prior to any demolition activities. Compliance with the recommended mitigation regarding the requirement for an asbestos survey and asbestos abatement, as well as compliance with SCAQMD Rule 1403, would reduce potential impacts to a less than significant level.

Soil and Groundwater Contamination in Unknown Contaminated Sites. Grading and excavation for future development could expose construction workers and the public to unidentified hazardous substances present in the soil or groundwater. Exposure to contaminants could occur if the contaminants migrated to surrounding areas or if contaminated zones were disturbed at the contaminated location. Exposure to hazardous substances is considered potentially significant.



Additionally, the potential exists for unidentified underground storage tanks (USTs) to be present on a development site. Removal activities could pose risks to workers and the public. Potential risks would be minimized by managing the tank according to existing Orange County Health Care Agency's standards. Potential impacts to groundwater would be dependant on the type of contaminant, the amount released, and depth to groundwater at the time of the release.

Long-Term Accidental Release of Hazardous Materials

Long-term operations of future land uses permitted by the ZCU could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. The specific potential future increase in the amount of hazardous materials transported within and through the City, as a result of future development cannot be predicted, since specific development projects are not identified. Typical incidents that could result in accidental release of hazardous materials involve:

- Leaking underground storage tanks;
- Spills during transport;
- Inappropriate storage;
- Inappropriate use; and/or
- Natural disasters.

If not cleaned up immediately and completely, these and other types of incidents could cause contamination of soil, surface water, and groundwater, in addition to any toxic fumes that might be generated. Depending on the nature and extent of the contamination, groundwater supplies could become unsuitable for use as a domestic water source. Human exposure to contaminated soil or water could have potential health effects depending on a variety of factors, including the nature of the contaminant and the degree of exposure.

Leaking Storage Tanks. Chemicals and wastes stored in aboveground or underground storage tanks would follow guidelines mandated by the California State Water Resources Control Board. Compliance with the Underground Storage Tank Inspection Program would ensure that hazardous materials stored in underground tanks are not released into the groundwater and/or the environment, and compliance with the Aboveground Petroleum Storage Tank (APST) Program would protect people and natural resources from aboveground petroleum storage tank spills or releases.

Off-Site Transport. Transportation of hazardous materials can result in accidental spills, leaks, toxic releases, fire, or explosion. The potential exists for licensed vendors to transport hazardous materials to and from the City's new commercial sites. Accidental releases would most likely occur in the commercial areas/industrial areas and along transport routes leading to and from these areas. The USDOT Office of Hazardous Materials Safety prescribes strict regulations for the safe transportation of hazardous materials, as described in Title 49 of the Code of Federal Regulations, and implemented by Title 13 of the CCR.

Storage and Use/Handling. Hazardous materials must be stored in designated areas designed to prevent accidental release to the environment. California Building Code (CBC) requirements prescribe safe accommodations for materials that present a moderate explosion hazard, high fire or physical hazard, or health hazards. Compliance with all applicable Federal, State, and local



laws related to the storage of hazardous materials would be required to maximize containment and provide for prompt and effective clean-up, if an accidental release occurs.

Hazardous materials use/handling would present a slightly greater risk of accident than hazardous materials storage. However, for those employees who would work with hazardous materials, the amount of hazardous materials that are handled at any one time are generally relatively small, reducing the potential consequences of an accident during handling. All future development within the City would be subject to compliance with the CalARP, which requires any business that handles more than threshold quantities of a Regulated Substance (RS) to develop a Risk Management Plan (RMP). The RMP is implemented by the business to prevent or mitigate releases of regulated substances that could have off-site consequences. Additionally, as discussed above, all future development within the City would be subject to compliance with the Hazardous Waste Inspection Program, which requires that all hazardous wastes that would be generated by Newport Beach businesses be properly handled, recycled, treated, stored, and disposed. Compliance with the Hazardous Materials Disclosure/Business Plan Program requires a chemical inventory form (on a Hazardous Materials Disclosure Form) to disclose hazardous materials stored, used, or handled on site.

Emergency Response. Preparation of a Business Emergency Plan (BEP) would be required, in order to assure that businesses have appropriate procedures and policies in place, and employees and contractors have adequate training for responding to a hazardous materials incident at the facility. Compliance with these programs would assist in mitigating a release or threatened release of a hazardous material and minimize any potential harm or damage to human health or the environment. Compliance with the City's Emergency Operations Plan would also be required.

The Orange County Fire Authority Haz-Mat personnel would respond to hazardous materials incidents. Major hazardous materials accidents associated with industrial and retail-commercial uses are infrequent, and it is not anticipated additional emergency response capabilities would be necessary, in order to respond to the potential incremental increase in the number of incidents that could result from future development within the City.

The GPEIR concluded compliance with existing regulations and General Plan policies, and implementation of established safety practices, procedures, and reporting requirements, would ensure that construction workers and the general public would not be exposed to any unusual or excessive risks related to hazardous materials during construction activities, and reduce the risk of upset involving routine hazardous materials use, transportation, and handling. Impacts were concluded as less than significant.²⁹ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts associated with the creation of a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

²⁹ Ibid., Page 4.6-22 and 23.



Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to minimize risks due to reasonably foreseeable upset and accident conditions involving the release of hazardous materials. While the risk of exposure to hazardous materials cannot be eliminated, measures can be implemented to maintain risk to acceptable levels. Oversight by the appropriate agencies and compliance with measures established by Federal, State, and local regulatory agencies is considered adequate to offset the negative effects related to the reasonably foreseeable upset and accident conditions involving the release of hazardous materials in the City. Future development would also be subject to compliance with General Plan policies that would minimize potential impacts involving hazardous materials; refer to Response 4.8(a). Given that future development would undergo project-by-project review, be regulated by the existing regulatory framework, and be subject to compliance with General Plan policies, impacts due to the creation of a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment would be less than significant.

Mitigation Measures: No mitigation is required.

4.8(c) *Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

Less Than Significant Impact. There are schools located throughout the City of Newport Beach. As discussed in Response 4.7.a, construction and operations of various uses permitted by the ZCU could involve the routine use of hazardous materials. Hazardous materials could be used during construction of commercial uses within the City, including the use of standard construction materials, cleaning and other maintenance products, and diesel and other fuels. Additionally, future commercial development may include businesses that utilize chemicals and hazardous materials, and their routine business operations involve chemicals that are manufactured, warehoused, or transported. The secondary activities that would occur with commercial and residential uses (e.g., building and landscape maintenance) would also involve the use of hazardous materials. Therefore, the possibility exists that construction or routine operations associated with future development in the City would involve transport, use, or disposal of hazardous materials, within one-quarter mile of an existing school.

The GPEIR concluded compliance with the provisions of the City's Fire Code and implementation of General Plan policies would minimize the risks associated with the exposure of sensitive receptors (i.e., schools) to hazardous materials. This impact would be less than significant.³⁰ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts from future development permitted by the ZCU associated with hazardous emissions or hazardous materials in proximity to a school were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Although hazardous materials and waste generated from future development may pose a health risk to nearby schools, disclosure to the OCFA (on a Hazardous Materials Disclosure Form) is

³⁰ Ibid., Page 4.6-26.



required for any business that uses, handles, or stores hazardous materials or waste materials equal to or in excess of the basic quantities. Among other requirements, businesses must also prepare a BEP, in order to ensure that businesses have appropriate procedures and policies in place, and employees and contractors have adequate training for responding to a hazardous materials incident at the facility. The short- and long-term transport, use, and disposal of hazardous materials would be subject to a wide range of laws and regulations intended to minimize potential health risks associated with their use or the accidental release of such substances.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU. Oversight by the appropriate agencies and compliance with measures established by Federal, State, and local regulatory agencies is considered adequate to offset the negative effects associated with the exposure of sensitive receptors (i.e., schools) to hazardous materials. Future development would also be subject to compliance with General Plan policies that would minimize potential impacts involving hazardous materials; refer to Responses 4.8(a) and 4.8(b). Given that future development would undergo project-by-project review, be regulated by the existing regulatory framework, and be subject to compliance with General Plan policies, potential impacts involving hazardous emissions or hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school would be less than significant.

Mitigation Measures: No mitigation is required.

4.8(d) *Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

Less Than Significant Impact. According to GPEIR Section 4.6, there are various hazardous material sites located within the City. Potential hazards to construction workers and the public may occur from construction activities on existing sites that may be contaminated; refer to Response 4.8(b). Future development of any of these documented hazardous materials sites would require prior remediation and cleanup under the supervision of the DTSC, in order to meet Federal, State, and local standards. Since the proposed ZCU does not include any specific development projects, future development would be evaluated on a project-by-project basis to determine if such sites are listed on a current regulatory hazardous materials site list.

The GPEIR concluded compliance with the established regulations and implementation of General Plan policies would minimize the risks associated with development of contaminated site, and impact would be less than significant.³¹ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts from future development permitted by the ZCU involving contaminated sites were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

³¹ Ibid., Page 4.6-26.



Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to minimize risks involving development of a contaminated site. Development of these sites would be required to undergo remediation and cleanup under DTSC and the SARWQCB before construction activities can begin. Future development would also be subject to compliance with General Plan policies. Namely, Policy S 7.1 requires proponents of projects in known areas of contamination from oil operations or other uses to perform comprehensive soil and groundwater contamination assessments in accordance with American Society for Testing and Materials standards. Given that future development would undergo project-by-project review, be regulated by the existing regulatory framework, and be subject to compliance with General Plan policies, potential impacts involving development on a contaminated site would be less than significant.

Mitigation Measures: No mitigation is required.

4.8(e) *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?*

Less Than Significant Impact. The southeastern portion of John Wayne Airport borders the City of Newport Beach. Additionally, the City lies under the arrival traffic pattern for the Long Beach Airport. While aviation accidents with one or more fatalities are rare events, development permitted by the ZCU could expose people residing or working in the City to aviation hazards from local airports.

The GPEIR concluded compliance with existing regulations and General Plan policies, and utilization of the California Airport Land Use Planning Handbook for new development within JWA land use boundaries would minimize impacts associated with JWA operations on surrounding land uses, and impacts would be less than significant.³² Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to future development involving aviation hazards were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that potential impacts involving aviation hazards are minimized. All land uses surrounding JWA would be subject to the land use standards established in the City's Municipal Code and the Airport Land Use Commission's (ALUC) JWA "Airport Environs Land Use Plan" (AELUP). The AELUP vicinity height guidelines would protect public safety, health, and welfare by ensuring that aircraft could fly safely in the airspace around the airport. Additionally, the California Airport Land Use Planning Handbook would be utilized in the preparation of environmental documents for all new development located within the AELUP boundaries. The Handbook establishes statewide requirements for the conduct of airport land use compatibility planning, and provides compatibility planning guidance to ALUCs, their staffs and consultants, the

³² Ibid., Page 4.6-29.



counties and cities having jurisdiction over airport area land uses, and airport proprietors. The City's Emergency Management Plan also establishes safety procedures with respect to aviation hazards. Future development would also be subject to compliance with General Plan policies that would minimize impacts involving aviation-related hazards. Namely, General Plan Policies S 8.1 through S 8.4 would ensure preparation and minimize risk in the case of an aviation accident. LU Policy 6.15.24 requires that all development be constructed within the height limits and residential uses be located outside of areas exposed to the 65 dBA CNEL noise contour specified by the AELUP, unless the City Council makes appropriate findings for an override in accordance with applicable law. Given that future development would undergo project-by-project review, and be subject to compliance with the established regulations and General Plan policies, impacts involving aviation-related hazards would be less than significant.

Mitigation Measures: No mitigation is required.

4.8(f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

No Impact. There are no private airstrips located within the City of Newport Beach. Development permitted by the ZCU would not expose people residing or working in the City to aviation hazards from a private airstrip.

Mitigation Measures: No mitigation is required.

4.8(g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Less Than Significant Impact. Future development permitted by the ZCU could increase traffic volumes and may impede the rate of evacuation, in the event of an accident or natural disaster. The GPEIR concluded compliance with the General Plan policies would reduce impacts associated with emergency response and evacuation in the City to a less than significant level.³³ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to future development associated with emergency response and evacuation were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that potential impacts involving aviation hazards are minimized. Additionally, the City would continue to implement its Emergency Management Plan, which guides the City's response to extraordinary emergency situations. Moreover, General Plan Policies S 9.1, S 9.2, and S 9.3 would serve to ensure that the City's Emergency Management Plan is regularly updated, provides for efficient and orderly citywide evacuation, and also ensures that emergency services personnel are familiar with the relevant response plans applicable to the City. Given that future development would undergo project-by-project review, and be subject to the City's EMP and General Plan policies, impacts involving emergency response and evacuation would be less than significant.

³³ Ibid., Page 4.6-29.



Mitigation Measures: No mitigation is required.

4.8(h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

Less Than Significant Impact. Areas susceptible to wildland fires are located in the eastern portions of the City, as well as surrounding areas to the north, east, and southeast. Future development permitted by the ZCU could increase residential or commercial development in areas susceptible to wildland fires, exposing people or structures to a significant risk.

The GPEIR concluded compliance with the General Plan policies would reduce impacts associated with the exposure of people and structures to risk involving wildland fires to a less than significant level.³⁴ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to future development associated with the exposure to wildland fires were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that potential impacts involving the exposure to wildland fires is minimized. In areas susceptible to wildland fires, land development is governed by special State and local codes, and property owners are required to follow maintenance guidelines aimed at reducing the amount and continuity of the fuel (vegetation) available. The City also maintains hazard reduction standards, which regulate landscaping, firewood storage, debris clearing from rooftops, and other fire hazard reduction techniques. Moreover, compliance with General Plan Policies S 6.1 to S 6.9 would serve to reduce the threat of fire hazards within the City. In particular, Policy S 6.2 would implement hazard reduction, fuel modification, and other methods to reduce wildfire hazards. Given that future development would undergo project-by-project review, and be subject to compliance with the General Plan policies, potential impacts involving the exposure of people and structures to risk from wildland fires would be less than significant.

Mitigation Measures: No mitigation is required.

³⁴ Ibid., Page 4.6-30.



4.9 HYDROLOGY AND WATER QUALITY

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Violate any water quality standards or waste discharge requirements?			T	
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			T	
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?			T	
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?			T	
e. Create or contribute runoff which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?			T	
f. Otherwise substantially degrade water quality?			T	
g. Place housing within a 100-year flood hazard as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			T	
h. Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?			T	
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?			T	
j. Inundation by seiche, tsunami, or mudflow?			T	

Impact Analysis

4.9(a) *Violate any water quality standards or waste discharge requirements?*

Less Than Significant Impact. As part of Section 402 of the Clean Water Act, the U.S. Environmental Protection Agency (EPA) has established regulations under the National Pollution Discharge Elimination System (NPDES) program to control direct storm water discharges. In California, the State Water Resources Control Board (SWRCB) administers the NPDES permitting program and is responsible for developing NPDES permitting requirements. The NPDES program regulates industrial pollutant discharges, which include construction activities. The SWRCB works in coordination with the Regional Water Quality Control Boards (RWQCB) to preserve, protect, enhance, and restore water quality. The City of Newport Beach is within the jurisdiction of the Santa Ana RWQCB (SARWQCB).



Short-Term Construction

The SWRCB adopted NPDES General Permit No. CAS000002, Waste Discharge Requirements (WDRs) for Discharges of Stormwater Runoff Associated With Construction Activity (General Construction Permit). Construction sites with 1.0 acre or greater of soil disturbance or less than 1.0 acre, but part of a greater common plan of development, are required to apply for coverage for discharges under the General Construction Permit by submitting a Notice of Intent (NOI) for coverage, developing a Stormwater Pollution Prevention Plan (SWPPP), and implementing Best Management Practices (BMPs) to address construction site pollutants. Construction activity subject to this permit includes clearing, grading, and disturbances to the ground such as stockpiling or excavation, but does not include regular maintenance activities.

Construction activities from future development permitted by the ZCU would be subject to compliance with NBMC Chapter 14.36, *Water Quality*, NBMC Chapter 15.10, *Excavation and Grading Code*, and NPDES requirements. Prior to issuance of any Grading or Building Permit, and as part of the future development's compliance with the NPDES requirements, a NOI would be prepared and submitted to the Santa Ana RWQCB providing notification and intent to comply with the General Construction Permit. Also, a SWPPP would be submitted and approved by the Director of Public Works and the City Engineer for water quality construction activities onsite. A copy of the SWPPP would be made available and implemented at the construction site at all times. The SWPPP is required to outline the source control and/or treatment control BMPs to avoid or mitigate runoff pollutants at the construction site to the "maximum extent practicable." Additionally, through the City's development review process, future projects would be evaluated for potential site-specific water quality impacts from construction activities. Compliance with NBMC Chapters 14.36 and 15.10, and NPDES requirements would reduce short-term construction-related impacts to water quality to a less than significant level.

Long-Term Operations

The Municipal Storm Water Permitting Program regulates storm water discharges from municipal separate storm sewer systems (MS4s). The RWQCBs have adopted NPDES storm water permits for medium and large municipalities. Most of these permits are issued to a group of co-permittees encompassing an entire metropolitan area. The SARWQCB issued the permit governing the public storm drain system discharges in northern Orange County from the storm drain systems owned and operated by the Orange County cities and Orange County (collectively "the Co-permittees"). This permit regulates storm water and urban runoff discharges from development to constructed and natural storm drain systems in the City of Newport Beach. Among other requirements, the NPDES permit specifies requirements for managing runoff water quality from new development and significant redevelopment projects, including specific sizing criteria for treatment BMPs.

To implement the requirements of the NPDES permit, the Co-permittees have developed the Orange County Stormwater Program 2003 Drainage Area Management Plan (DAMP), which includes a New Development/ Significant Redevelopment Program. The New Development/Significant Redevelopment Program provides a framework and a process for following the NPDES permit requirements and incorporates watershed protection/storm water quality management principles into the Co-Permittees' General Plan process, environmental review process, and development permit approval process. Local jurisdictions, including the City of Newport Beach, have adopted a Local Implementation Plan (LIP) based upon the County's



DAMP, which includes a Model Water Quality Management Plan (WQMP). Using the local LIP (City of Newport Beach Stormwater LIP) as a guide, the City would review and approve project-specific WQMPs, as part of the development plan and entitlement approval process for discretionary projects, prior to issuing permits for ministerial projects. More specifically, prior to issuance of any Grading Permit, future development would be required to prepare a WQMP, which includes both Structural and Non-Structural BMPs in order to comply with the requirements of the current DAMP and NPDES. Compliance with NBMC Chapters 14.36 and 15.10, and NPDES requirements would reduce long-term impacts to water quality to a less than significant level.

The GPEIR concluded compliance with NPDES requirements, the Orange County DAMP, the NBMC, and General Plan Policies would reduce the risk of water degradation within the City from the operation of new developments to the maximum extent practicable. Therefore, since violation of waste discharge requirements or water quality standards would be minimized, this impact would be less than significant.³⁵ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential violations to water quality standards from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that impacts involving violations of waste discharge requirements or water quality standards would be minimized. Additionally, future development would be subject to compliance with General Plan policies. In particular, Policies NR 3.1 through NR 5.4 would serve to limit the use of landscape chemicals detrimental to water quality, require development to result in no degradation of natural water bodies, require new development applications to include a WQMP to minimize construction and post-construction runoff, implement and improve BMPs, require all street drainage systems to be designed to minimize adverse impacts on water quality, and require grading/erosion control plans with structural BMPs that prevent or minimize erosion. Implementation of General Plan Policy NR 3.21 would serve to minimize the creation of impervious surfaces, while increasing the area of pervious surfaces, where feasible. Given that future development would undergo project-by-project review, be regulated by the NPDES, DAMP, and the NBMC, and subject to compliance with *General Plan* policies impacts involving water quality standards or waste discharge requirements would be less than significant.

Mitigation Measures: No mitigation is required.

4.9(b) *Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?*

³⁵ Ibid., Page 4.7-32.



Less Than Significant Impact. Groundwater within the City is shallow and can occur as shallow as 50 beneath ground surface. During construction, the groundwater table could be encountered during pile driving, dewatering, and other construction activities. However, given that the City is primarily a built-out area, and that development permitted by the ZCU would generally consist of infill and redevelopment, the displaced/removed volume from these activities would not be substantial relative to the Orange County Groundwater Basin's water volume. Therefore, future development permitted by the ZCU would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge.

Groundwater recharge is derived from percolation of Santa Ana River flow, injection into wells, and infiltration of precipitation. The City of Newport Beach is not located within an identified recharge area for groundwater. Future development would not interfere significantly with recharge as the City does not contribute a significant amount to the Santa Ana River flow, there are no injection wells in the City. Additionally, since the City is primarily a built-out area and development permitted by the ZCU would generally consist of infill and redevelopment, the amount of impervious surfaces would not change significantly.

Water service is provided by the City, Irvine Ranch Water District, and the Mesa Consolidated Water District. Future development permitted by the ZCU would increase the demand for groundwater. However, the GPEIR concluded groundwater supplies would meet projected demands throughout the City, and compliance with General Plan policies would reduce water consumption to ensure adequate groundwater supplies.³⁶ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to groundwater supplies due to water consumption from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to determine potential impacts on groundwater supplies. Additionally, future development would be subject to compliance with General Plan policies (refer to Response 4.17(b)), policies designed to minimize water consumption and expand the use of alternative water sources to provide adequate water supplies for present use and future growth. Given that future development would undergo project-by-project review and be subject to compliance with *General Plan* policies, impacts to groundwater supplies would be less than significant.

Mitigation Measures: No mitigation is required.

4.9(c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?

Less Than Significant Impact. Construction activities of future development could temporarily alter existing drainage patterns through earth-disturbing activities. Future development would also alter drainage through changes in ground surface permeability and changes in topography.

³⁶ Ibid., Page 4.7-33.



However, the GPEIR concluded compliance with NPDES and NBMC regulations, in addition to implementation of General Plan policies would reduce impacts involving alterations to the existing drainage patterns from new developments to a less than significant level.³⁷ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts due to alterations of drainage patterns from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to minimize potential impacts due to alterations of drainage patterns. Additionally, future development would be subject to compliance with General Plan policies (i.e. Policies NR 3.10 to NR 3.12, NR 4.4, NR 3.16, NR 3.20, NR 3.21, and S 5.3), which would serve to minimize potential impacts due to alterations of drainage patterns. Given that future development would undergo project-by-project review and be subject to compliance with NPDES requirements and *General Plan* policies, potential impacts due to alterations of drainage patterns would be less than significant.

Mitigation Measures: No mitigation is required.

4.9(d) Substantially alter the existing drainage pattern of the site or area, including through alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?

Less Than Significant Impact. Given that the City is primarily a built-out area, it is anticipated that future development permitted by the ZCU would generally consist of infill and redevelopment. As such, new development would not substantially alter drainage patterns, because these areas are already developed with existing uses and impervious surfaces. Similarly, the increase in impervious surfaces would be limited, and thus, the increase stormwater runoff would not be substantial, such that the capacity of existing and planned infrastructure would be exceeded, and flooding impacts would occur downstream. Therefore, Project implementation would not substantially alter the existing drainage patterns, and would not result in flooding. Refer also to Response 4.8.c.

Mitigation Measures: No mitigation is required.

4.9(e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

Less Than Significant Impact. Refer to Responses 4.9(a), 4.9(c), and 4.9(d).

Mitigation Measures: No mitigation is required.

³⁷ Ibid., Page 4.7-34.



4.9(f) Otherwise substantially degrade water quality?

Less Than Significant Impact. Refer to Responses 4.9(a) and 4.9(c).

Mitigation Measures: No mitigation is required.

4.9(g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

Less Than Significant Impact. The Federal Emergency Management Agency (FEMA) prepares and maintains Flood Insurance Rate Maps (FIRMs), which show the extent of Special Flood Hazard Areas (SFHAs) and other thematic features related to flood risk, in participating jurisdictions. To receive insurance benefits in the event of flood, participating agencies must recognize these official flood boundaries and establish appropriate land use policy for the flood zones.

GPEIR Figure 4.7-3, *Flood Zones*, illustrates the City's 100- and 500-year flood Zones. As indicated by Figure 4.7-3, the City's coastline and areas of Newport Bay are located within a 100-year flood zone, where the potential for private property flooding exists. The 100-year flood (one percent annual chance flood), also known as the base flood, is the flood that has a one percent chance of being equaled or exceeded in any given year. This SFHA is the area subject to flooding by the one percent annual chance flood.

Future development permitted by the ZCU could place structures or housing within a 100-year flood hazard area. Moreover, flood waters that exceed the capacities of existing and improved drainages would travel by overland flow on any available grounds. Building density permitted by the ZCU is not anticipated to increase to such an extent that would substantially increase obstructions to flood flows. Notwithstanding, the GPEIR concluded compliance with General Plan policies and NBMC standards would sufficiently protect new structures from damage in the event of a 100-year flood and would ensure flows are not substantially impeded or redirected. Therefore, impacts of flood hazards or impeding/redirection flows would be less than significant.³⁸ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, exposure of people or structures from future development permitted by the ZCU to potential substantial adverse effects involving flood hazards were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that historic resources are not adversely impacted. Further, NBMC Chapter 15.50 establishes methods and provisions that would minimize flood damage to residential development. A water displacement analysis would be required to investigate the effect of new structural development or fill on flooding depth, pursuant to FEMA regulation 44 CFR 60.3 (c)(10). Future development would also be subject to General Plan policies that would protect human life

³⁸ Ibid., Pages 4.7-38 and 39.



and public and private property from the risks of flooding. Namely, Policy S 5.1 requires all new development within 100-year flood zones to mitigate flood hazards by including onsite drainage systems that are connected to the City's storm drain system, grading of sites within the project area such that runoff does not impact adjacent properties, or elevating buildings above flood levels. If building pads are elevated out of the floodplain, a Letter of Map Revision (LOMR) would be required from FEMA that certifies the land has been elevated out of the floodplain. Floodproofing measures included in the General Plan and NBMC would be sufficient to protect new structures from damage in the event of a 100-year flood. Given that future development would undergo project-by-project review, be regulated by the Federal/State regulatory framework, and be subject to compliance with General Plan policies, impacts to historic resources would be less than significant.

Mitigation Measures: No mitigation is required.

4.9(h) Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?

Less Than Significant Impacts. Refer to Response 4.9(g).

Mitigation Measures: No mitigation is required.

4.9(i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

Less Than Significant Impact. There are several dams located in the City's vicinity. Specifically, the City is located downstream of Prado Dam, Santiago Creek Reservoir, Villa Park Reservoir, San Joaquin Reservoir, Big Canyon Reservoir, and Harbor View Reservoir. The areas of the City that would be impacted to inundation include the areas near the Santa Ana River, San Diego Creek, Newport Bay, and Big Canyon Reservoir. The probability of dam failure is low.³⁹ Future development permitted by the ZCU would not increase the risk of dam failure and flooding, however, the number of people exposed to this hazard would increase. Compliance with the NBMC and General Plan policies would reduce the exposure of people or structures to risk due to failure of a dam to less than significant.

Mitigation Measures: No mitigation is required.

4.9(j) Inundation by seiche, tsunami, or mudflow?

Less Than Significant Impact. According to the GPEIR, potential risks from seiche and tsunami exist throughout the City. Seiches in large, enclosed bodies of water, such as the reservoirs in the City and, to an extent, Newport Harbor and Newport Bay, would inundate immediate areas surrounding the body of water. Coastal flood hazards, such as tsunamis and rogue waves, would inundate primarily the low-lying areas of the City's coastline. Potential risks from mudflow (i.e., mudslide, debris flow) are also prevalent, as steep slopes exist throughout the City. Prolonged rainfall during certain storm events would saturate and could eventually loosen soil, resulting in slope failure.

³⁹ Ibid., Page 4.7-40.



Development permitted by the ZCU would increase the exposure of people to the low-probability but high-risk events such as seiche, tsunami, and mudflows by increasing development in certain areas of the City. However, the GPEIR concluded risks associated with inundation by seiche, tsunami, and mudflow are considered to be less than significant following compliance with General Plan policies.⁴⁰ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, risks associated with inundation by seiche, tsunami, and mudflow to the future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that historic resources are not adversely impacted. Implementation of General Plan Policies S 1.1 through S 1.5 would serve to minimize adverse effects of coastal hazards related to tsunamis and rogue waves. In addition, Policies S 2.1 through S 2.7 would minimize adverse effects of coastal hazards related to storm surges and seiches. Given that future development would undergo project-by-project review, and be subject to compliance with General Plan policies, potential impacts involving inundation by seiche, tsunami, or mudflow would be less than significant.

Mitigation Measures: No mitigation is required.

⁴⁰ Ibid., Page 4.7-41.



4.10 LAND USE AND PLANNING

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Physically divide an established community?			T	
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			T	
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?				T

Impact Analysis

4.10(a) *Physically divide an established community?*

Less Than Significant Impact. Given that the City is primarily a built-out area, it is anticipated that future development permitted by the ZCU would generally consist of infill and redevelopment. Therefore, development permitted by the ZCU would not physically divide an established community. Additionally, the GPEIR concluded the types of development proposed by the General Plan would not divide established communities and impacts would be less than significant.⁴¹ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, the potential impacts of future development permitted by the ZCU dividing an established community were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Mitigation Measures: No mitigation is required.

4.10(b) *Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?*

Less Than Significant Impact. Development within the City of Newport Beach is required to comply with several regional and local land use plans, policies, and regulations. These include the 2003 Air Quality Management Plan, 1999 Amendment for Ozone, SCAG's Regional Comprehensive Plan and Guide, Santa Ana River Basin Plan, City of Newport Beach Zoning Code, Newport Beach CLUP, specific plans adopted by the City, and the AELUP for John Wayne Airport. The proposed ZCU would not change or conflict with these plans. Moreover, the proposed Zoning Code would not supersede any other regulations or requirements adopted or

⁴¹ Ibid., Page 4.8-16.



imposed by the City, the State of California, or any federal agency that has jurisdiction by law over uses and development. There would be no impact in this regard.

The City's *General Plan* is consistent with the 2003 Air Quality Management Plan and SCAG's Regional Comprehensive Plan and Guide, with the exception of mitigating traffic volumes on freeway ramps. The *General Plan* is also consistent with the Santa Ana Basin Plan, since all future development is required to comply with all applicable water quality requirements established by the Santa Ana and San Diego Regional Water Quality Control Boards (RWQCB) and State Water Resources Control Boards (SWRCB).

The City of Newport Beach Zoning Code (NBMC Title 20, *Planning and Zoning*) is one of the primary means for implementing the *General Plan*. Adoption of the *General Plan* requires a review of the Zoning Code regarding policies pertaining to land use, density/intensity, design and development, resource conservation, public safety, and other pertinent topics in an effort to ensure consistency between the *General Plan* and the Zoning Code. Several modifications to the Zoning Code are proposed, in order to ensure compatibility with the *General Plan*. These modifications are discussed in Section 2.0, *Project Description*.

The Coastal Land Use Plan (CLUP) was prepared as required by the California Coastal Act of 1976. The CLUP sets forth goals, objectives, and policies that govern the use of land and water in the coastal zone within the City of Newport Beach. The *General Plan* was prepared to comply and incorporate the CLUP.

The AELUP for John Wayne Airport contains policies that govern the land uses surrounding the airport. These policies establish development criteria that protect sensitive receptors from airport noise, persons from risk of operations, and height guidelines to ensure aircraft safety. The AELUP establishes height restrictions for buildings surrounding John Wayne Airport and establishes a 65 dBA CNEL noise contour in which residential uses should not be constructed. If development would occur within the 65 dBA CNEL contour, the *General Plan* would be inconsistent with the AELUP. If the City Council were to approve such development, a significant impact would result. Implementation of the *General Plan* would be consistent with applicable adopted plans, regulations, or policies, other than the AELUP (if the City were to adopt residential development projects within the 65 dBA contour).

The GPEIR concluded the *General Plan* would not be inconsistent with applicable adopted plans, regulations, or policies (excepting the AELUP). Therefore, impacts associated with potential inconsistencies with all other applicable land use plans for the City would be less than significant.⁴² Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, the potential impacts of future development permitted by the ZCU conflicting with any applicable land use plan, policy, or regulation were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified. Therefore, impacts associated with potential inconsistencies with all other applicable land use plans for the City resulting from the proposed ZCU would be less than significant.

⁴² Ibid., Page 4.8-23.



Mitigation Measures: No mitigation is required.

4.10(c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

No Impact. Future Refer to Response 4.4(f).

Mitigation Measures: No mitigation is required.



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4.11 MINERAL RESOURCES

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				T
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				T

Impact Analysis

4.11(a) *Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?*

No Impact. GPEIR Figure 4.5-4, *Mineral Resource Areas*, illustrates the City’s mineral resource areas. As indicated by Figure 4.5-4, the City does not have any land classified as MRZ-2; rather, it is classified by mineral resource zones MRZ-1 and MRZ-3. Development permitted by the ZCU could affect the availability of oil and gas produced in these areas. However, the GPEIR concluded General Plan implementation would not result in the loss of the availability of known mineral resources that would be of value to the region and the residents of the State, following compliance with General Plan policies and no impact would occur.⁴³ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, the potential impacts of future development permitted by the ZCU resulting in the loss of availability of a known mineral resource were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that future development permitted by the ZCU would not result in the loss of availability of a known mineral resource. Future development would also be subject to General Plan Policy NR 19.4, which encourages consolidation of existing oil and gas activities, and ensures that access to these resources would not be altered. General Plan policies do not require that existing operations cease production, however, compliance with Policies NR19.1 through 19.4 would prohibit additional, future oil extraction within the City and oppose new offshore oil and gas drilling activities. Given that future development would undergo project-by-project review, and be subject to compliance with General Plan policies, the ZCU would not result in the loss of availability of mineral resources.

Mitigation Measures: No mitigation is required.

⁴³ Ibid., Page 4.5-31.



4.11(b) *Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?*

No Impact. Refer to Response 4.11(a).

Mitigation Measures: No mitigation is required.



4.12 NOISE

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			T	
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?			T	
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			T	
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			T	
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			T	
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				T

State of California Guidelines

The State of California Office of Planning and Research (OPR) Noise Element Guidelines include recommended interior and exterior level standards for local jurisdictions to identify and prevent the creation of incompatible land uses due to noise. The OPR Guidelines describe the compatibility of various land uses with a range of environmental noise levels in terms of dBA CNEL. The State of California Office of Noise Control has established guidelines for acceptable community noise levels. The State Office of Noise Control defines an outdoor level of 60 dBA CNEL or less as being “normally acceptable” for residential uses.

Table 4.12-1, *Noise and Land Use Compatibility Matrix*, illustrates the State guidelines established by the State Department of Health Services for acceptable noise levels for each county and city. These standards and criteria are incorporated into the land use planning process to reduce future noise and land use incompatibilities. This table is the primary tool that allows the City to ensure integrated planning for compatibility between land uses and outdoor noise. As shown in Table 4.12-1, the acceptable noise levels for residences are up to 65 A-weighted decibels (dBA) on the community noise equivalent level (CNEL) scale; up to 70 dBA CNEL for schools, churches, libraries, hospitals, and nursing homes; and up to 75 dBA CNEL for office and commercial uses. The exterior noise standard is 65 dBA; the interior noise standard is 45 dBA.



**Table 4.12-1
Noise and Land Use Compatibility Matrix**

Land Use	CNEL Value						
	55	60	65	70	75	80	85
Residential – Low Density Single-Family, Duplex, Mobile Home							
Residential – Multi-family							
Commercial – Motels, Hotels, Transient Lodging							
Schools, Churches, Libraries, Hospitals, Nursing Homes							
Amphitheatres, Auditoriums, Concert Halls, Meeting Halls							
Sports Arenas, Outdoor Spectator Sports							
Playgrounds, Neighborhood Parks							
Golf Courses, Riding Stables, Water Recreation, Cemeteries							
Office Buildings, Business, Commercial, Professional, and Mixed-Use Developments							
Industrial, Manufacturing, Utilities, Agriculture							
CNEL = community noise equivalent level.							
<input type="checkbox"/> Normally Acceptable – Specific land use is satisfactory, based on the assumption that any building is of normal conventional construction, without any special noise insulation requirements.							
<input type="checkbox"/> Conditionally Acceptable – New construction or development should be undertaken only after a detailed analysis of noise reduction requirements is made and needed noise insulation features included in design. Conventional construction, but with closed windows and fresh air supply systems or air conditioning, will normally suffice.							
<input type="checkbox"/> Normally Unacceptable – New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of noise reduction requirements must be made and needed noise insulation features must be included in the design.							
<input type="checkbox"/> Clearly Unacceptable – New construction or development should generally not be undertaken.							

City of Newport Beach Noise Standards

The City maintains a comprehensive Noise Ordinance within its Municipal Code (Chapter 10.26, *Community Noise Control*) that establishes citywide interior and exterior noise level standards. The ordinance is intended to control unnecessary, excessive and annoying noise in the City.

Section 10.26.020, *Designated Noise Zones*, establishes the following noise zones, based on the actual use of a property:

- Noise Zone I: All single-, two- and multiple-family residential properties;
- Noise Zone II: All commercial properties;
- Noise Zone III: The residential portion of mixed-use properties; and
- Noise Zone IV: All manufacturing or industrial properties.

Additionally, Sections 10.26.025 and 10.26.030, establish exterior and interior noise standards, respectively; refer to Table 4.12-2, *Newport Beach Noise Ordinance Standards*.



**Table 4.12-2
Newport Beach Noise Ordinance Standards**

Noise Zone	Type of Land Use	Allowable Exterior Noise Level (Equivalent Noise Level, Leq)		Allowable Interior Noise Level (Equivalent Noise Level, Leq)	
		7 AM to 10 PM	10 PM to 7 AM	7 AM to 10 PM	10 PM to 7 AM
I	Single-, two- or multiple-family residential	55 DBA	50 DBA	45 DBA	40 DBA
II	Commercial	65 DBA	60 DBA		
III	Residential portions of mixed-use properties	60 DBA	50 DBA	45 DBA	40 DBA
IV	Industrial or manufacturing	70 DBA	70 DBA		

Source: NBMC Section 10.26.025, *Exterior Noise Standards*, and Section 10.26.030, *Interior Noise Standards*.

Pursuant to NBMC Section 10.26.035, *Exemptions*, the following activities, among others, shall be exempted from the provisions of this chapter:

- Noise sources associated with construction, repair, remodeling, demolition or grading of any real property. Such activities shall instead be subject to the provisions of NBMC Chapter 10.28;
- Noise sources associated with construction, repair, remodeling, demolition or grading of public rights-of-way or during authorized seismic surveys.

Additionally, NBMC Chapter 10.28, *Loud and Unreasonable Noise*, declares:

It is unlawful for any person or property owner to make, continue, cause or allow to be made any loud, unreasonable, unusual, penetrating or boisterous noise, disturbance or commotion which annoys, disturbs, injures or endangers the comfort, repose, health, peace and quiet within the limits of the City, and the acts and things listed in this chapter, among others, are declared to be loud, disturbing, injurious and unreasonable noises in violation of this Chapter, but shall not be deemed to be exclusive.

NBMC Section 10.28.040, *Construction Activity - Noise Regulations*, specifies the following:

- A. *Weekdays and Saturdays. No person shall, while engaged in construction, remodeling, digging, grading, demolition, painting, plastering or any other related building activity, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any weekday except between the hours of seven a.m. and six-thirty p.m., nor on any Saturday except between the hours of eight a.m. and six p.m.*
- B. *Sundays and Holidays. No person shall, while engaged in construction, remodeling, digging, grading, demolition, painting, plastering or any other related building activity, operate any tool, equipment or machine in a manner which produces loud noise that*



disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any Sunday or any federal holiday.

- C. *No landowner, construction company owner, contractor, subcontractor, or employer shall permit or allow any person or persons working under their direction and control to operate any tool, equipment or machine in violation of the provisions of this section.*

Significance of Changes in Ambient Noise Levels

Changes of 5.0 dBA or greater may be noticed by some individuals and, therefore, may be considered an environmental impact, since under these conditions sporadic complaints may occur. Changes in community noise levels of less than 3.0 dBA are normally not noticeable and are therefore considered less than significant.⁴⁴ Areas where ambient noise levels exceed the established standards or where sensitive land uses are exposed to levels in excess of 60 dBA. These areas generally occur along freeways, toll roads, arterial and secondary roadways where noise barriers have not been constructed.

Impact Analysis

- 4.12(a) *Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?***

Less Than Significant Impact. Future development permitted by the ZCU would involve construction activities and operations, which would generate both short-term and long-term noise impacts. Short-term noise impacts could occur during grading and construction. Construction activities have the potential to expose adjacent land uses to noise levels between 70 and 90 decibels at 50 feet from the noise source. Construction activities associated with future development are anticipated to temporarily exceed the City's noise standards. The degree of noise impact would be dependent upon the distance between the construction activity and the noise sensitive receptor. Long-term noise impacts would be associated with vehicular traffic to/from the site (including residents, visitors, patrons), outdoor activities, and stationary mechanical equipment on site. To determine long-term noise levels and project-related impacts, specific information is needed for a particular project.

Additionally, the GPEIR concluded the exposure of existing land uses to noise levels in excess of City standards as a result of the future growth under the General Plan is considered a significant impact.⁴⁵ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential noise impacts from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

⁴⁴ Bolt, Beranek, and Newman, *Fundamentals and Abatement of Highway Traffic Noise*, 1973.

⁴⁵ EIP Associates, *City of Newport Beach General Plan 2006 Update Draft EIR*, Page 4.9-22.



Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that noise standards are not exceeded. Future development would be required to comply with City, State, and Federal guidelines regarding vehicle noise, roadway construction, and noise abatement and insulation standards. This would ensure that noise levels in Newport Beach are maintained within acceptable standards that prevent extensive disturbance, annoyance, or disruption. Individual assessments of potential impacts from project-related noise sources may be required. If necessary, mitigation would be required to reduce potential impacts to a less than significant level. Additionally, the proposed ZCU includes revisions to avoid or mitigate noise impacts. Namely, the ZCU Noise section adds provisions for the review of proposed projects to avoid or mitigate impacts, establishes thresholds of significance pursuant to the Noise Element, and promotes compatibility between land uses. The proposed ZCU is consistent with and augments the standards within NBMC Chapters 10.26. Future development would also be subject to compliance with General Plan Policies N 1.1 to N 1.8 and N 2.1 to N 2.6, which would serve to reduce noise impacts to future land uses. Given that future development would undergo project-by-project review, be regulated by NBMC requirements, and be subject to compliance with General Plan policies, impacts involving the exposure of persons to or generation of noise levels in excess of standards would be less than significant.

Mitigation Measures: No mitigation is required.

4.12(b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Less Than Significant Impact. Construction activities associated with the future development permitted by the ZCU could expose persons to or generate excessive groundborne vibration; refer also to GPEIR Table 4.9-7. Additionally, the GPEIR concluded when construction vibration occurs, impacts would be significant.⁴⁶ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential vibration impacts from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified. Given that future development would undergo project-by-project review and be regulated by NBMC, impacts involving the exposure of persons to or generation of excessive vibration would be less than significant.

Mitigation Measures: No mitigation is required.

4.12(c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Less Than Significant Impact. Refer to Response 4.12(a).

Mitigation Measures: No mitigation is required.

⁴⁶ Ibid., Page 4.9-29.



4.12(d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Less Than Significant Impact. Refer to Response 4.12(a).

Mitigation Measures: No mitigation is required.

4.12(e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Less Than Significant Impact. GPEIR Figure 4.9-6, *Future Noise Contours – Northern Planning Area*, indicates that the 60 and 65 dBA CNEL noise contour for JWA extends into Newport Beach. Future sensitive receptors permitted by the ZCU developed within the 65 dBA CNEL noise contour could be exposed to noise levels in excess of allowable standards. Additionally, the GPEIR concluded impacts on exterior noise levels at new land uses in the vicinity of the airport would be significant, although, compliance with General Plan policies would ensure that impacts on interior noise levels would be less than significant.⁴⁷ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential airport-related noise impacts to future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that airport-related noise impacts are avoided or minimized. All land uses surrounding JWA would be subject to the land use standards established in the NBMC and the AELUP addressing airport-related noise. Additionally, the California Airport Land Use Planning Handbook would be utilized in the preparation of environmental documents for all new development located within the AELUP boundaries. Future development would also be subject to compliance with General Plan Policy N 3.2, which requires that any residential or sensitive noise uses to be located within the 60 dBA or 65 dBA CNEL airport noise contour maintain an interior noise level of 45 dBA CNEL. Compliance with Policies N 3.1 and N 3.2 would serve to ensure new development is compatible with the noise environment by using the airport noise contour maps as guides to future planning and development decisions and require that any residential or sensitive noise uses be located within the 60 dBA or 65dBA CNEL airport noise contour maintain an interior noise level of 45 dBA CNEL, respectively. Given that future development would undergo project-by-project review, and be subject to compliance with the established regulations and General Plan policies, impacts involving aviation-noise would be less than significant.

Mitigation Measures: No mitigation is required.

⁴⁷ Ibid., Page 4.9-35.



4.12(f) *For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?*

No Impact. There are no private airstrips within the City of Newport Beach. Therefore, no impacts would occur.

Mitigation Measures: No mitigation is required.



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4.13 POPULATION AND HOUSING

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			T	
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				T
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				T

4.13(a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Less Than Significant Impact. The City’s existing population, as of January 2010 is 86,738 persons.⁴⁸ A project could induce population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). Although, the ZCU does not infer direct development rights, future development permitted by the ZCU could induce population growth in the City through the anticipated construction of housing. Additionally, the GPEIR concluded General Plan buildout would increase the number of dwelling units by 14,215 units (35 percent) over 2002 conditions, for a total of 54,394 units.⁴⁹ As a result, the City’s population could increase by 31,131 persons (43 percent), for a total population of 103,753 persons at General Plan buildout. Additionally, because the General Plan implementation would substantially increase population growth within the City (approximately 37 percent over existing conditions and approximately 10 percent higher than existing SCAG projections), the GPEIR concluded impacts on population growth would be considered significant. Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential population growth in the City from future development permitted by the ZCU was anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified. Therefore, Project implementation would not induce substantial population growth in the City.

Development permitted by the ZCU would generally consist of infill and redevelopment served by existing roads and infrastructure. Project implementation would not require extension of public infrastructure (i.e., any transportation facility or public utility), or provision of new public services. The roads providing access are fully improved. Public utilities would be extended to the future

⁴⁸ State of California, Department of Finance, *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2001-2010, with 2000 Benchmark*. Sacramento, California, May 2010.

⁴⁹ *Ibid.*, Page 4.10-6.



development from existing facilities. Public services are provided throughout the City and the establishment of new sources of serve would not be required. Therefore, project implementation would not induce indirect population growth in the City through extension of roads or other infrastructure, or provision of new services.

Mitigation Measures: No mitigation is required.

4.13(b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

No Impact. The City's existing housing stock, as of January 2010 is 43,515 units.⁵⁰ Given that the City is primarily a built-out area, and it is anticipated that future development permitted by the ZCU would generally consist of infill and redevelopment, the ZCU would not displace substantial numbers of existing housing or persons. Additionally, the GPEIR concluded the General Plan does not propose uses that would displace substantial numbers of existing housing or people, therefore, there would be no impact.⁵¹ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts involving the displacement of housing or persons from future development permitted by the ZCU was anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified. Therefore, Project implementation would not displace a substantial number of housing or persons.

Mitigation Measures: No mitigation is required.

4.13(c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

No Impact. Refer to Response 4.13(b).

Mitigation Measures: No mitigation is required.

⁵⁰ State of California, Department of Finance, *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2001-2010, with 2000 Benchmark*. Sacramento, California, May 2010.

⁵¹ EIP Associates, *City of Newport Beach General Plan 2006 Update Draft EIR*, Page 4.10-6.



4.14 PUBLIC SERVICES

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
1) Fire protection?			T	
2) Police protection?			T	
3) Schools?			T	
4) Parks?			T	
5) Other public facilities?			T	

Impact Analysis

4.14(a) *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:*

4.14(a)(1) Fire protection?

Less Than Significant Impact. Fire protection services are provided by the Newport Beach Fire Department (Nbfd). The Nbfd’s service goals are based on acceptable service levels, such as five-minute response times for fire engines at a fire or medical aid event and eight-minute response times for first-arriving fire engine for a paramedic unit. The Nbfd is currently operating at an acceptable level.

Future development permitted by the ZCU would increase the demand for fire protection services in the City, and may require improvements to existing facilities or increases in staffing and equipment. The environmental impacts associated with the provision of new or physically altered fire protection facilities would be dependent upon the location and nature of the proposed facilities, and would undergo separate environmental review pursuant to CEQA Guidelines. Additionally, the GPEIR concluded compliance with applicable General Plan policies would ensure impacts involving fire protection services remain less than significant.⁵² Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased

⁵² Ibid., Page 4.11-10.



densities/intensities that were not included in the GP. As such, potential impacts to fire protection services from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure potential impacts to fire protection services are minimized. Additionally, future development permitted by the ZCU would be subject to compliance with applicable Federal, State, and local regulations governing the provision of fire protection services (i.e., fire access, fire flows, hydrants). The City adopted the International Fire Code (2006 Edition) and the California Fire Code (2007 Edition); refer to NBMC Chapter 9.04, *Fire Code*. These include construction standards for new structures and remodels that address road widths and configurations, and requirements for minimum fire flow rates. Future development would also be subject to compliance with General Plan Policy LU 3.2, which requires that adequate infrastructure be provided as new development occurs. Thus, fire staffing and facilities would be expanded commensurately to serve the needs of new development to maintain the current response time. Policy S6-18 ensures that building and fire codes will be continually updated to provide for fire safety design. Given that future development would undergo project-by-project review, and be subject to compliance with the established Fire Code regulations and General Plan policies, impacts involving fire protection services would be less than significant.

Mitigation Measures: No mitigation is required.

4.14(a)(2) Police protection?

Less Than Significant Impact. The Newport Beach Police Department (NBPD), Costa Mesa Police Department (CMPD), and the Orange County Sheriff Department (OCSD) provide police protection services to the City of Newport Beach. Currently, the City does not have staffing standards. The NBPD provides a ratio of 1.7 officers per 1,000 residents. This ratio allows the NBPD to meet the needs of permanent and transient population, which can increase to 200,000 people in one day.

Future development permitted by the ZCU could increase the demand for police protection services in the City, and may require improvements to existing facilities or increases in staffing and equipment. The environmental impacts associated with the provision of new or physically altered police protection facilities would be dependent upon the location and nature of the proposed facilities, and would undergo separate environmental review pursuant to CEQA Guidelines. Additionally, the GPEIR concluded maintaining the current service ratio and compliance with applicable General Plan policies would ensure impacts involving police protection services remain less than significant.⁵³ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to police protection services from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

⁵³ Ibid., Page 4.11-16.



Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure potential impacts to police protection services are minimized. Future development would also be subject to compliance with General Plan policies that would ensure adequate law enforcement is provided, as the City experiences future development. Namely, compliance with Policy LU 2.8 would ensure that only land uses that can be adequately supported by the City's Public Services would be accommodated, and that adequate service ratios are maintained. Given that future development would undergo project-by-project review, and be subject to compliance with General Plan policies, impacts involving police protection services would be less than significant.

Mitigation Measures: No mitigation is required.

4.14(a)(3) Schools?

Less Than Significant Impact. The Newport Mesa Unified School District (NMUSD), the Santa Ana Unified School District (SAUSD), and the Laguna Beach Unified School District (LBUSD) serve the City of Newport Beach. The NMUSD serves the majority of the City and has 32 public schools including 22 elementary schools, two junior high schools, five high schools, two alternative education centers, and one adult school. Several private schools are located in or immediately surrounding the City.

Future development permitted by the ZCU would increase the City's student population, and may require new school facilities and/or improvements to existing facilities. The degree of impacts to schools would be dependent upon the size and location of the residential development and the existing condition of the school facilities serving the area. The environmental impacts associated with the provision of new or physically altered school facilities would be dependent upon the location and nature of the proposed facilities, and would undergo separate environmental review pursuant to CEQA Guidelines. Additionally, the GPEIR concluded adherence to the General Plan policies would ensure that impacts related to the provision of new educational facilities would be less than significant.⁵⁴ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to school facilities from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure potential impacts to school facilities are minimized. Future development would also be subject to compliance with General Plan Policy LU 6.1.1, which requires that adequate school facilities within Newport Beach be provided such that the residents' needs would be served, and Policy LU 6.1.2 allows for the development of new public and institutional facilities within the City provided that the use and development facilities are compatible with adjoining land uses, environmentally suitable, and can be supported by transportation and utility infrastructure. Given

⁵⁴ Ibid., Page 4.11-24.



that future development would undergo project-by-project review, and be subject to compliance with General Plan policies, impacts to school facilities would be less than significant.

Mitigation Measures: No mitigation is required.

4.14(a)(4) Parks?

Less Than Significant Impact. There are approximately 286 acres of parkland and approximately 90 acres of active beach recreational area within the City. Pursuant to NBMC Section 19.52.040, *Parkland Standard*, the City's park dedication standard for new subdivisions is 5.0 acres of parkland per 1,000 residents. According to the GPEIR, a deficit of approximately 38.8 acres of combined park and beach acreage citywide, with seven of the 12 service areas experiencing a deficit in this combined recreation acreage.

Future development permitted by the ZCU would increase the demands for parkland and recreational facilities, and usage of existing facilities, such that deterioration of these facilities could be accelerated. Additionally, future housing development may require new parks or recreational facilities, and/or improvements to existing facilities. The environmental impacts associated with the provision of new or physically altered parks and recreational facilities would be dependent upon the location and nature of the proposed facilities, and would undergo separate environmental review pursuant to CEQA Guidelines.

The GPEIR concluded the construction and enhancement of park and recreational facilities, and compliance with General Plan policies would ensure that increased demand and use resulting from an increased population would not significantly accelerate the deterioration of existing recreational facilities. This impact would be less than significant.⁵⁵ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to parks and recreational facilities from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure potential impacts to parks and recreational facilities are minimized. Additionally, future development would be subject to compliance with NBMC Chapter 19.52, *Park Dedications and Fees*, which is intended to provide for the dedication of land, the payment of fees in lieu thereof or a combination of both, for park or recreational purposes in conjunction with the approval of residential development. These provisions are in accordance with Section 66477 of the Subdivision Map Act (known as the Quimby Act). Future development would also be subject to compliance with General Plan Policy R 1.1, which requires future development to dedicate land or pay in-lieu fees at a minimum of 5.0 acres of parkland per 1,000 residents (per NBMC Section 19.52.040). In addition, developers of new high-density residential developments on parcels eight acres or larger are required to provide on-site recreational amenities, as required under Policy R 1.3. Given that future development would undergo project-by-project review, and be subject to

⁵⁵ Ibid., Page 4.12-15.



compliance with General Plan policies, impacts to parks and recreational facilities would be less than significant.

Mitigation Measures: No mitigation is required.

4.14(a)(5) Other public facilities?

Less Than Significant Impact. The City of Newport Beach is serviced by four libraries: the Central Library, Mariner’s Library, Balboa Branch Library, and Corona Del Mar Branch Library. The Newport Beach Public Library (NBPL) assesses their needs on a ratio of books per measure of population. The standard guidelines used for evaluating the acceptable level of service, which are set by the California State Library Office of Library Construction, the Public Library Association, and the American Library Association, are 0.5 sq. ft. of library facility space and 2.0 volumes per capita.

Future development permitted by the ZCU would increase the demands for library facilities and resources. However, the GPEIR concluded compliance with General Plan policies would be less than significant.⁵⁶ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to library facilities from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified. Therefore, implementation of the ZCU would result in less than significant impacts to library facilities.

Mitigation Measures: No mitigation is required.

⁵⁶ Ibid., Page 4.11-29.



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4.15 RECREATION

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			T	
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?			T	

Impact Analysis

4.15(a) *Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?*

Less Than Significant Impact. Refer to Response 4.14(a)(4).

Mitigation Measures: No mitigation is required.

4.15(b) *Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?*

Less Than Significant Impact. Refer to Response 4.14(a)(4).

Mitigation Measures: No mitigation is required.



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4.16 TRANSPORTATION/TRAFFIC

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit??			T	
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?			T	
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				T
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			T	
e. Result in inadequate emergency access?			T	
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?			T	

Level of service (LOS) is commonly used as a qualitative description of intersection operation and is based on the capacity of the intersection and the volume of traffic using the intersection. The Intersection Capacity Utilization (ICU) analysis method is utilized in traffic impact analyses to determine the operating LOS of the signalized study intersections; and the Highway Capacity Manual (HCM) analysis methodology is utilized to determine the operating LOS of the unsignalized study intersections.

The ICU analysis methodology describes the operation of a signalized intersection using a range from LOS A (free-flow conditions) to LOS F (severely congested conditions), based on corresponding volume-to-capacity (V/C) ratios; refer to Table 4.16-1, LOS and V/C Ratio Ranges – Signalized Intersections.

The Highway Capacity Manual (HCM) operational analysis methodology describes the operation of an unsignalized intersection using a range from LOS A (free-flow conditions) to LOS F (severely congested conditions), based on delay experienced per vehicle; refer to Table 4.16-2, LOS and V/C Ratio Ranges – Unsignalized Intersections.



**Table 4.16-1
 LOS and V/C Ratio Ranges – Signalized Intersections**

LOS	V/C Ratio
A	<0.60
B	0.61 – 0.70
C	0.71 – 0.80
D	0.81 – 0.90
E	0.91 – 1.00
F	>1.00

Source: 1990 Transportation Research.

**Table 4.16-2
 LOS and V/C Ratio Ranges – Unsignalized Intersections**

LOS	V/C Ratio
A	≤ 10.0
B	10.01 – 15.0
C	15.01 – 25.0
D	25.01 – 35.0
E	35.01 – 50.0
F	> 50.0

Source: 1990 Transportation Research.

LOS is based on the average stopped delay per vehicle for all movements of all-way stop-controlled intersections; for one-way or two-way stop-controlled intersections, LOS is based on the worst stop-controlled movement.

Performance Criteria

The Newport Beach *General Plan* Circulation Element defines an “acceptable level of service” as Level of Service “D” or better. The LOS “D” goal adopted by the Newport Beach reflects the City’s desire to maintain stable traffic flow, realizing that peak hour congestion may occur at locations near the freeways or other locations with unusual traffic characteristics due to regional traffic flow. LOS “D” conditions conform to County-wide goals for traffic control along regional and sub-regional transportation routes.

Impact Analysis

4.16(a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to



intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

Less Than Significant Impact. Currently, 17 roadway segments within the City operate at a level of service (LOS) that exceeds the City's Standard of LOS D. Five intersections citywide function at a deficient LOS. Future development permitted by the ZCU would increase vehicular movement in the vicinity of each future development site during AM and PM peak hour periods. Given that the City is primarily a built-out area, it is anticipated that future development permitted by the ZCU would generally consist of infill and redevelopment. As a result, the transportation infrastructure is largely already available to these areas. Impacts would result from the incremental traffic generation of redevelopment activities and new uses on vacant parcels. Depending on the specific site locations, intensity of development, and trip distribution characteristics, future increases in traffic volumes could aggravate existing deficiencies and/or cause an intersection to operate at an unacceptable LOS. However, the GPEIR concluded General Plan buildout would not cause any intersection to fail to meet the City's LOS D standard, therefore, this impact would be less than significant.⁵⁷ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to intersection LOS from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure potential impacts to intersection LOS are minimized. Due to the conceptual nature of the future development, proposals would require individual assessments of potential impacts to traffic and transportation. If necessary, mitigation would be recommended to avoid or lessen potential impacts at the site specific level. Future development would also be subject to compliance with NBMC Chapter 15.38, *Fair Share Traffic Contribution Ordinance*, which establishes a fee, based upon the unfunded cost to implement the Master Plan of Streets and Highways, to be paid in conjunction with the issuance of a building permit. Compliance with NBMC Chapter 15.40, *Traffic Phasing Ordinance*, would ensure that the effects of new development projects are mitigated by developers as they occur. Future development would also be subject to compliance with General Plan Policies identified in GPEIR Section 4.13, *Transportation/Traffic*. Given that future development would undergo project-by-project review, and be subject to compliance with NBMC standards and General Plan policies, impacts to intersection LOS would be less than significant.

Refer to Response 4.16(f) for discussions regarding potential impacts to transit, bicycle, and pedestrian facilities.

Mitigation Measures: No mitigation is required.

⁵⁷ Ibid., Page 4.13-32.



4.16(b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

Less Than Significant Impact. The purpose of the Orange County Congestion Management Program (CMP) is to develop a coordinated approach to managing and decreasing traffic congestion by linking the various transportation, land use and air quality planning programs throughout the County. The CMP program requires review of substantial individual projects, which might on their own impact the CMP transportation system.

According to the CMP (*Orange County Transportation Authority, 2001*), those proposed projects, which meet the following criteria, shall be evaluated:

- Development projects that generate more than 2,400 daily trips (the threshold is 1,600 or more trips per day for development projects that will directly access a CMP Highway System link).
- Project with a potential to create an impact of more than three percent of level of service E capacity.

Future development permitted by the ZCU would increase vehicular movement in the vicinity of each future development site and potentially on facilities subject to CMP. However, as discussed in Response 4.16(a) above, development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed. As such, potential impacts to intersection LOS from future development permitted by the ZCU were anticipated in the GP/GPEIR. Given that future development would undergo project-by-project review, and be subject to compliance with NBMC standards and General Plan policies, impacts to CMP designated roads or highways would be less than significant.

Mitigation Measures: No mitigation is required.

4.16(c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

No Impact. The City is primarily a built-out area, and it is anticipated that future development permitted by the ZCU would generally consist of infill and redevelopment. Therefore, future development permitted by the ZCU would not result in a change in air traffic patterns that results in substantial safety risks.

Mitigation Measures: No mitigation is required.

4.16(d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Less Than Significant Impact. Currently, there are no site-specific development plans for development in accordance with the ZCU. Therefore, future development proposals would be reviewed on a case-by-case basis. At the time of review, any hazardous designs shall be



modified. Additionally, future development would be required to comply with the General Plan policies, which would minimize potential impacts involving hazards due to a design feature.

Mitigation Measures: No mitigation is required.

4.16(e) Result in inadequate emergency access?

Less Than Significant Impact. All future development permitted by the ZCU would be required to meet all applicable local and State regulatory standards for adequate emergency access; refer also to Response 4.8(g).

Mitigation Measures: No mitigation is required.

4.16(f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

Less Than Significant Impact. Currently transit lines exist throughout the City. As illustrated in GPEIR Figure 4.13-7, *Newport Beach Existing Bicycle Facilities*, bikeways, bike paths, and bike trails exist throughout the City. Additionally, there are currently sidewalks along all roadways in the City. There are also marked crosswalks or other pedestrian treatments at all intersections.

Given that the City is primarily a built-out area, and future development permitted by the ZCU would generally consist of infill and redevelopment, it is not anticipated that any incremental growth in transit trips produced by the future development would generate a demand beyond the capacity already provided. Additionally, it is not anticipated that future development would impact the effectiveness of the City's bicycle and pedestrian facilities. Future development would be subject to compliance with the General Plan policies pertaining to transit, bicycle, and pedestrian facilities outlined in GPEIR Section 4.13, *Transportation/Traffic*. In particular, compliance with General Plan Policies CE 5.1.1 to 5.1.16 and 6.2.1 to 6.2.3 would encourage alternative modes of transportation on the local and regional scale including pedestrian, bicycle, and transit. Given that future development would undergo project-by-project review, and be subject to compliance with General Plan policies, impacts to transit, bicycle, and pedestrian facilities would be less than significant.

Mitigation Measures: No mitigation is required.



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4.17 UTILITIES AND SERVICE SYSTEMS

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				T
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			T	
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			T	
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			T	
e. Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			T	
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			T	
g. Comply with federal, state, and local statutes and regulations related to solid waste?			T	

Impact Analysis

4.17(a) *Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?*

No Impact. The City requires NPDES permits, as administered by the Santa Ana RWQCB, according to federal regulations for both point source discharges (a municipal or industrial discharge at a specific location or pipe) and nonpoint source discharges (diffuse runoff of water from adjacent land uses) to surface waters of the United States. For point source discharges, such as sewer outfalls, each NPDES permit contains limits on allowable concentrations and mass emissions of pollutants contained in the discharge.

Future development permitted by the ZCU would not exceed wastewater treatment requirements. The GPEIR concluded General Plan implementation would result in no impact, because future development would be required to adhere to existing regulations and General Plan policies.⁵⁸ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts involving exceedances to wastewater treatment requirements from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU

⁵⁸ Ibid., Page 4.14-30.



would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure future development would not exceed wastewater treatment requirements. Future development would continue to comply with all provisions of the NPDES program, as enforced by the RWQCB. Additionally, the NPDES Phase I and Phase II requirements would regulate discharge from construction sites. All future projects would be required to comply with the wastewater discharge requirements issued by the SWRCB and Santa Ana RWQCB. Therefore, the future development permitted by the ZCU would not result in an exceedance of wastewater treatment requirements of the RWQCB with respect to discharges to the sewer system or stormwater system within the City.

Mitigation Measures: No mitigation is required.

4.17(b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Less Than Significant Impact.

Water Conveyance and Treatment

The City's water service is provided by the City, Irvine Ranch Water District (IRWD), and Mesa Consolidated Water District (Mesa). GPEIR Figure 4.14-1, *Water Infrastructure and Service Areas*, illustrates the City's water infrastructure and service boundaries of each provider. Moreover, the City's existing water system is described in GPEIR Section 4.14.1, *Water Systems*.

The City's imported surface water supply is primarily treated at the Metropolitan Water District (MWD) Diemer Filtration Plant, with a treatment capacity of approximately 520 MGD, operating at 72 percent capacity during the summer. According to the GPEIR, MWD can meet 100 percent of the City's imported water needs until the year 2030. In addition, Irvine Ranch Water District (IRWD) also receives potable water from MWD's Weymouth Filtration Plant, which operates at approximately 65 percent capacity during the summer. Currently, the City's groundwater supply is treated at the City's Utility Yard, which can accommodate up to 1.5 MG in each chamber reservoir.

Future development permitted by the ZCU would increase water consumption, placing greater demands on water conveyance and treatment facilities. However, the GPEIR concluded adequate water infrastructure would be provided for all General Plan development and impacts involving water conveyance and treatment facilities would be less than significant, following compliance with General Plan policies.⁵⁹ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to water conveyance and treatment facilities from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of

⁵⁹ Ibid., Page 4.14-17.



the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that adequate water conveyance and treatment infrastructure is provided. The environmental impacts associated with the construction of new water conveyance and treatment facilities or expansion of existing facilities (if required) would be dependent upon the location and nature of the proposed facilities, and would undergo separate environmental review pursuant to CEQA Guidelines. Future development would also be subject to compliance with General Plan policies that would implement water conservation measures, thereby reducing the volume of water requiring conveyance and treatment. Policy 2.8 directs the City to accommodate land uses that can be adequately supported by infrastructure, including water conveyance and treatment facilities. Given that future development would undergo project-by-project review, and be subject to compliance with General Plan policies, impacts to water conveyance and treatment facilities would be less than significant.

Wastewater Conveyance and Treatment

Wastewater service within the City is provided by the City, IRWD, and Costa Mesa Sanitation District (CMSD). GPEIR Figure 4.14-2, *Wastewater Infrastructure and Service Areas*, illustrates the City's wastewater infrastructure and service boundaries of each provider. Moreover, the City's existing wastewater system is described in GPEIR Section 4.14.2, *Wastewater Systems*.

Wastewater from the City's system and CMSD is treated by the Orange County Sanitation District (OCSD) at their two treatment plants. OCSD Treatment Plant No. 1 currently maintains a design capacity of 174 mgd and is operating at 52 percent design capacity. Treatment Plant No. 2 maintains a design capacity of 276 mgd and is currently operating at 55 percent of design capacity. Wastewater flows from the IRWD wastewater system are treated at the OCSD Reclamation Plant No. 1, Treatment Plant No. 2, or at the Michelson Water Reclamation Plant (MWRP). Therefore, each of the treatment plants serving the City is operating below their design capacity.

Future development permitted by the ZCU would generate increased wastewater flows, placing greater demands on wastewater conveyance and treatment. However, the GPEIR concluded compliance with General Plan policies would ensure adequate wastewater facilities are available to City residents, and impacts to wastewater conveyance and treatment facilities would be less than significant.⁶⁰ Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to wastewater conveyance and treatment facilities from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order

⁶⁰ Ibid., Page 4.14-32.



to ensure that adequate wastewater conveyance and treatment infrastructure is provided. The environmental impacts associated with the construction of new wastewater conveyance and treatment facilities or expansion of existing facilities (if required) would be dependent upon the location and nature of the proposed facilities, and would undergo separate environmental review pursuant to CEQA Guidelines. Future development would also be subject to compliance with the City's Sewer System Management Plan and Sewer Master Plan (Policy NR 5.1). Given that future development would undergo project-by-project review, and be subject to compliance with General Plan policies, impacts to wastewater conveyance and treatment facilities would be less than significant.

Mitigation Measures: No mitigation is required.

4.17(c) *Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

Less Than Significant Impact. Refer to Responses 4.9(a), 4.9(c), and 4.9(d).

Mitigation Measures: No mitigation is required.

4.17(d) *Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?*

Less Than significant Impact. Water service is provided by the City, IRWD, and Mesa Consolidated Water District. Water supply is provided by groundwater and imported surface water. Approximately 75 percent of the water supply is provided by groundwater from the Orange County Groundwater Basin. The remainder is provided by MWD, which delivers water from the Colorado River and the State Water Project.

Future development permitted by the ZCU would increase the City's water demands. However, the GPEIR concluded the 2030 projected availability of imported water supply exceeds the 2030 projected region-wide demand for imported water supply by at least 155,000 AF.⁶¹ Additionally, the GPEIR concluded, because adequate existing and planned imported water supply to accommodate the increased demand associated with the General Plan would be available, impacts to the water supply would be less than significant. Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to water supply from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and design review on a project-by-project basis, in order to ensure that adequate water supply is provided. In particular, future development would be subject to compliance with Senate Bills 221 and 610. The two bills amended State law to better link information on water supply availability to certain land use decisions by cities and counties. The two companion bills provide a regulatory forum that requires

⁶¹ Ibid., Page 4.14-32.



more collaborative planning between local water suppliers and cities and counties. All SB 610 and 221 reports are generated and adopted by the public water supplier.

Senate Bill (SB) 610 requires a detailed report regarding water availability and planning for additional water supplies that is included with the environmental document for specified projects. All “projects” meeting any of the following criteria require the assessment:

- A proposed residential development of more than 500 dwelling units (DU);
- A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet (SF) of floor space;
- A proposed commercial office building employing more than 1,000 persons or having more than 250,000 SF of floor space;
- A proposed hotel or motel, or both, having more than 500 rooms;
- A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 SF of floor area;
- A mixed-use project that includes one or more of the projects specified in this subdivision; or
- A project that would demand an amount of water equivalent to, or greater than the amount of water required by a 500-DU project.

While SB 610 primarily affects the Water Code, SB 221 principally applies to the Subdivision Map Act. The primary effect of SB 221 is to condition every tentative map for an applicable subdivision on the applicant by verifying that the public water supplier (PWS) has “sufficient water supply” available to serve it. Any future development meeting SB 610 criteria would require a water supply assessment. Similarly, any residential project involving a subdivision pursuant to SB 221 would require verification of sufficient water supply from the water supplier.

Additionally, the proposed ZCU adds the Landscaping Standards chapter, which provides landscape standards to conserve water, among other objectives. All future residential development would also be subject to compliance with General Plan policies, which serve to minimize water consumption through conservation methods and other techniques (Policies NR 1.1 to 1.5), and expand the use of alternative water sources to provide adequate water supplies for present uses and future growth (Policies NR 2.1 and 2.2). Given that future development would undergo project-by-project review, and be subject to compliance with existing legislation (SBs 610 and 221), NBMC standards, and General Plan policies, impacts to water supplies would be less than significant.

Mitigation Measures: No mitigation is required.

4.17(e) *Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?*

Less Than Significant Impact. Refer to Response 4.17(b).



Mitigation Measures: No mitigation is required.

4.17(f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

Less Than Significant Impact. The City contracts with Waste Management of Orange County in Newport Beach to collect and dispose of the City's solid waste. The solid waste is disposed of at the Frank R. Bowerman Landfill in Irvine. The Bowerman Landfill, which is operated by the Orange County Integrated Waste Management Department (OCIWMD), is a 725-acre facility that is operating at a maximum daily permitting capacity of 8,500 tons per day. The landfill has a remaining capacity of 44.6 million tons and is expected to remain open until 2022.

Future development permitted by the ZCU would generate increased solid wastes, placing greater demands on solid waste disposal services, and ultimately on landfill disposal capacities. However, the GPEIR concluded impacts would be less than significant, since Frank R. Bowerman Sanitary Landfill would have sufficient capacity to serve the increased General Plan development.⁶² Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential impacts to landfill capacity from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater impacts than previously identified.

Future discretionary development would undergo environmental and/or development review on a project-by-project basis based upon the permit requirements established within the ZCU in order to ensure that impacts to landfill capacities are minimized. Additionally, the ZCU proposes the revisions to the Solid Waste and Recyclable Materials Storage section, by including standards, in order to ensure that adequate space is provided and trash storage areas are adequately screened. Given that future development would undergo project-by-project review, and be subject to compliance with NBMC standards, impacts to landfill capacity would be less than significant.

Mitigation Measures: No mitigation is required.

4.17(g) Comply with federal, state, and local statutes and regulations related to solid waste?

Less Than Significant Impact. The California Integrated Waste Management Act of 1989 (AB 939) required that local jurisdictions divert at least 50 percent of all solid waste generated by January 1, 2000. The City consistently complies with AB 939 through diverting 50 percent or more of solid waste. The City also remains committed to continuing reducing and minimizing solid waste. Therefore, future development would not conflict with Federal, State, or local statutes and regulations.

Mitigation Measures: No mitigation is required.

⁶² Ibid., Page 4.14-44.



4.18 MANDATORY FINDINGS OF SIGNIFICANCE

<i>Would the project:</i>	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			T	
b. Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			T	
c. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?			T	

Impact Analysis

4.18(a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less Than Significant Impact. As concluded in Responses 4.4 and 4.5, respectively, the proposed ZCU would result in less than significant impacts on biological resources and cultural resources (i.e. historic, archaeological, or paleontological). Therefore, the proposed ZCU would result in less than significant impacts involving the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major period of California history or prehistory.

4.18(b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?



Less Than Significant Impact. As all impacts discussed in this Initial Study are less than significant or can be reduced to less than significant following compliance with General Plan policies, implementation of the proposed ZCU would not result in significant cumulative impacts. The ZCU is consistent with the City's GP/GPEIR. Through certification of the GPEIR in July 2006, the City Council found that the benefits of *General Plan* implementation outweighed its significant environmental impacts, including cumulative impacts on aesthetics, air quality, cultural, noise, population and housing, and traffic. Development permitted by the ZCU was considered in the GPEIR analysis, since additional development was assumed and there are no proposed changes to zoning districts that would result in increased densities/intensities that were not included in the GP. As such, potential cumulative impacts from future development permitted by the ZCU were anticipated in the GP/GPEIR. Implementation of the proposed ZCU would be consistent with the analysis presented in the GPEIR, and would result in no greater cumulative impacts than previously identified.

4.18(c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

Less Than Significant Impact. Previous sections of this Initial Study reviewed the proposed project's potential impacts involving aesthetics, air pollution, noise, public health and safety, traffic and other issues. As concluded in these previous discussions, the proposed Project would not result in any significant impacts related to these issues. Therefore, the proposed ZCU Project would not result in environmental impacts that would cause substantial adverse effects on human beings.



4.19 REFERENCES

The following references were utilized during preparation of this Initial Study. These documents are available for review at the City of Newport Beach, 3300 Newport Boulevard, Newport Beach, California 92663.

- 1) California Department of Conservation official website, <http://www.conservation.ca.gov/cgs/rghm/ap/Pages/affected.aspx>. Accessed May 18, 2010.
- 2) California Office of the Attorney General, *Sustainability and General Plans: Examples of Policies to Address Climate Change*, updated January 22, 2010.
- 3) City of Newport Beach, *City of Newport Beach General Plan*, July 25, 2006.
- 4) *City of Newport Beach Municipal Code*, Approved by Ordinance No. 97-09, Adopted March 24, 1997.
- 5) EIP Associates, *City of Newport Beach General Plan 2006 Update, Volume I Draft Environmental Impact Report*, April 21, 2006.
- 6) *Fundamentals and Abatement of Highway Traffic Noise*, Bolt, Beranek, and Newman, 1973.
- 7) South Coast Air Quality Management District, *2007 Air Quality Management Plan for the South Coast Air Basin*, October 2003.
- 8) South Coast Air Quality Management District, *CEQA Air Quality Handbook*, November 1993.
- 9) State of California, Department of Finance, *E-5 Population and Housing Estimates for Cities, Counties, and the State, 2001-2010, with 2000 Benchmark*. Sacramento, California, May 2010.



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4.20 REPORT PREPARATION PERSONNEL

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Ms. Linda Bo, Word Processor/Graphic Artist



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5.0 CONSULTANT RECOMMENDATION

Based on the information and environmental analysis contained in Section 3.0, *Initial Study Checklist*, and Section 4.0, *Environmental Analysis*, it is concluded that the proposed City of Newport Beach Zoning Code Update Project would not have a significant effect on the environmental issues analyzed. Accordingly, it is recommended that the first category be selected for the City's determination (refer to Section 6.0, *Lead Agency Determination*) and that the City of Newport Beach prepare a Negative Declaration for the Project.

May 25, 2010
Date



Rita Garcia
Project Manager
Environmental Services
RBF Consulting



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6.0 LEAD AGENCY DETERMINATION

On the basis of this initial evaluation:

I find that the proposed use COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposal could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in Section 4.0 have been added. A NEGATIVE DECLARATION will be prepared.

I find that the proposal MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

I find that the proposal MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.


Signature

City of Newport Beach
Agency

JAMES CAMPBELL
Printed Name/Title

June 18, 2010
Date



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