



NEWPORT BEACH

City Council Staff Report

July 23, 2024
Agenda Item No. 23

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Seimone Jurjis, Assistant City Manager/Community Development Director - 949-644-3232, sjurjis@newportbeachca.gov

PREPARED BY: Benjamin M. Zdeba, AICP, Principal Planner - 949-644-3253, bzdeba@newportbeachca.gov

Jaime Murillo, AICP, Deputy Community Development Director - 949-644-3209, jmurillo@newportbeachca.gov

Leilani I. Brown, City Clerk - 949-644-3005, lbrown@newportbeachca.gov

TITLE: Ordinance Nos. 2024-16 and 2024-17, and Resolution Nos. 2024-50 to 2024-57 for the Necessary Amendments to Implement the 6th Cycle Housing Element and to Place the Major General Plan Amendment on the November 5, 2024 General Election Ballot Pursuant to City Charter Section 423; or Resolution No. 2024-58 to Initiate an Amendment to the 6th Cycle Housing Element

ABSTRACT:

For the City Council's consideration are the legislative amendments necessary to accommodate State of California mandated housing development, as planned for in the adopted and certified statutorily compliant 6th Cycle Housing Element. These include targeted amendments to the General Plan Land Use Element, the Coastal Land Use Plan, and Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code. To remain compliant, the amendments must take effect by the statutory deadline of February 2025. To analyze the resulting potential environmental impacts under the California Environmental Quality Act (CEQA), the City of Newport Beach has prepared a program environmental impact report (SCH No. 2023060699). The City Council will also consider adopting a resolution overriding the May 16, 2024, Orange County Airport Land Use Commission (ALUC) determination that the amendments are inconsistent with the 2008 John Wayne Airport Environs Land Use Plan (AELUP) pursuant to Public Utilities Code Section 21676(b). Approval of the amendments and the adoption of the resolution to override the ALUC requires a two-thirds majority vote of the City Council.

Lastly, the General Plan Land Use Element could be considered a "major amendment" pursuant to the City's Charter Section 423, as it results in an increase of more than 100 new dwelling units and over 100 peak hour trips (AM/PM) across several statistical areas. Accordingly, the City Council will also consider a resolution to authorize a ballot measure and the calling of a consolidated municipal election with the County of Orange for the November 5, 2024, election ballot.

As an alternative, the City Council can determine a Charter Section 423 vote is precluded by State law and initiate an amendment to the 6th Cycle Housing Element removing Charter Section 423 voter approval requirements for the adoption of the General Plan Amendment and related legislative amendments for implementation.

RECOMMENDATIONS:

a) Conduct a public hearing and proceed with one of the following two options:

Option No. 1:

- 1a) Adopt Resolution No. 2024-50, *A Resolution of the City Council of the City of Newport Beach, California, Certifying Environmental Impact Report (State Clearinghouse [SCH] Number 2023060699), Including a Mitigation Monitoring and Reporting Program and Adopting Findings, and a Statement of Overriding Considerations Related to the Implementation of the 6th Cycle Housing Element Involving Amendments to the General Plan, Coastal Land Use Plan, and Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (PA2022-0245);*
- 1b) Adopt Resolution No. 2024-51, *A Resolution of the City Council of the City of Newport Beach, California, Amending the General Plan Land Use Element to Implement the General Plan 6th Cycle Housing Element (PA2022-0245);*
- 1c) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2024-16, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 20 (Planning and Zoning) of the Newport Beach Municipal Code to Implement the General Plan 6th Cycle Housing Element (PA2022-0245), and pass to second reading on August 27, 2024;*
- 1d) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2024-17, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 20 (Planning and Zoning) of the Newport Beach Municipal Code to Create Multi-Unit Objective Design Standards (PA2022-0245), and pass to second reading on August 27, 2024;*
- 1e) Adopt Resolution No. 2024-52, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of a Local Coastal Program Amendment to the California Coastal Commission to Amend the City of Newport Beach Coastal Land Use Plan and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code Related to the Housing Element Implementation Program (PA2022-0245);*

- 1f) *Adopt Resolution No. 2024-53, A Resolution of the City Council of the City of Newport Beach, California, Finding the Housing Element Implementation Program Amendments Consistent with the Purposes of the State Aeronautics Act and Overriding the Orange County Airport Land Use Commission's Determination of Inconsistency with the 2008 John Wayne Airport Environs Land Use Plan (PA2022-0245);*
- 1g) *Adopt Resolution No. 2024-54, A Resolution of the City Council of the City of Newport Beach, California, Calling for the Holding of a General Municipal Election to be Held on Tuesday, November 5, 2024, for the Submission of a Proposed Major Amendment to the Newport Beach General Plan Land Use Element Related to Implementation of the 6th Cycle Housing Element in Compliance with State Housing Law (PA2022-0245);*
- 1h) *Adopt Resolution No. 2024-55, A Resolution of the City Council of the City of Newport Beach, California, Requesting the Board of Supervisors of the County of Orange to Consolidate a General Municipal Election to be Held on Tuesday, November 5, 2024, with the Statewide Primary Election to be Held on the Same Date Pursuant to California Elections Code Section 10403 for the Purpose of Submitting a Proposed Charter Amendment;*
- 1i) *Adopt Resolution No. 2024-56, A Resolution of the City Council of the City of Newport Beach, California, Setting Priorities for Filing Written Arguments Regarding a City Measure, and Directing the City Attorney to Prepare an Impartial Analysis;*
- 1j) *Adopt Resolution No. 2024-57, A Resolution of the City Council of the City of Newport Beach, California, Providing for the Filing of Rebuttal Arguments for the City Measure Submitted to the Voters at the General Municipal Election to be Held on Tuesday, November 5, 2024, Pursuant to California Elections Code Section 9285; and*
- 1k) If desired, designate Councilmembers to draft a Direct Argument for the ballot measure and any Rebuttal Argument, if needed; or

Option No. 2

- 2a) Determine this action is exempt from environmental review under CEQA pursuant to Section 15262 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and
- 2b) *Adopt Resolution No. 2024-58, A Resolution of the City Council of the City of Newport Beach, California, Initiating a Narrowly Focused Amendment to the Adopted and Certified 6th Cycle Housing Element to Remove the Reference to Charter Section 423 Voter Approval (PA2022-0245).*

DISCUSSION:

July 9, 2024, City Council Study Session

On July 9, 2024, the City Council conducted a study session to discuss whether a vote of the electorate is required under City Charter Section 423 to effectuate the General Plan Land Use Element Amendment necessary as part of the Housing Element Implementation Program Amendments. After public comments and City Council discussion, the City Council directed staff to return on July 23, 2024, with two options as presented in the “Recommendations” section of this report and as discussed further under “Charter Section 423 Vote.”

Background

The Housing Element is a required element of the General Plan. It presents how a city plans to accomplish the State-mandated Regional Housing Needs Allocation (RHNA) on sites within city limits. Local jurisdictions, like the City, are responsible for creating a regulatory environment in which the private market can build the unit types included in the RHNA. The City is required to prepare an update to its housing element every eight years.

After conducting wide-ranging public outreach involving extensive public participation opportunities, including numerous meetings of the City Council-appointed Housing Element Update Advisory Committee (HEUAC), the City Council adopted the City’s 6th Cycle Housing Element for the 2021-2029 planning period (Housing Element) on September 13, 2022. The Housing Element was later certified as statutorily compliant with State law by the California Department of Housing and Community Development (HCD) on October 5, 2022.

The Housing Element provides the City with a coordinated comprehensive strategy for promoting the production of a variety of housing types for all. The Housing Element was prepared to ensure the City establishes policies, procedures and incentives in its land use planning and development standards that result in maintenance and expansion of the housing supply. Section 4 (Housing Plan) of the Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations within the City based on the RHNA allocation of 4,845 new housing units. To comply with State law, the City must now implement the various strategies and programs outlined in Section 4 of the Housing Element no later than February 2025. The City is not required to build housing units to meet its RHNA allocation, only to establish the appropriate zoning designations and development standards to allow the private market to develop these units.

Of critical importance is that the City is required to ensure the continued and effective implementation of the Housing Element programs including, but not limited to, the provision of sufficient adequately zoned land to accommodate its share of the regional growth and its required share of lower income dwelling units consistent with the General Plan and RHNA obligations. The areas where rezoning is required are focused in five areas of the city, as displayed in Figure 1. Although Banning Ranch (now the Randall Preserve) was included as a housing opportunity due to existing development capacity in the current General Plan Land Use Element, it is not being considered as an opportunity site that counts toward meeting the City's RHNA allocation.



Figure 1, Focus Areas for Residential Development

Overview of Implementing Amendments

The City Council's adoption of the 6th Cycle Housing Element in September 2022, and HCD's certification of statutory compliance in October 2022, created a roadmap for the City to comply with State law as it relates to housing. The proposed updates to the General Plan, Title 20 (Planning and Zoning), Local Coastal Program, and Title 21 (Local Coastal Program Implementation Plan) are crucial to the Housing Element's planned implementation. The amendments will collectively help to ensure the City's Housing Element remains compliant, thereby providing for retention of local development control. They will also provide greater clarity for prospective private developers while affording the opportunity for diverse housing options that meet the needs of the City, as identified by the RHNA allocation.

An in-depth and detailed project description has been prepared as Section 3.0 (Project Description) of the Draft Program Environmental Impact Report (Draft PEIR), which is digitally attached to this staff report as Exhibit “A” to Attachment A, due to size and made available online at www.newportbeachca.gov/CEQA within the “Housing Implementation Program EIR (PA2022-0245)” folder.

The three primary implementing actions are described below.

1) General Plan Land Use Element Amendment

The Land Use Element is a guide for the City’s future development. Its goals and policies help to guide the distribution and general location of land uses, such as residential, services, retail, open space, recreation, and public uses. The Land Use Element also addresses the permitted density and intensity of the various land use categories.

The first step in the Housing Element’s implementation is to revise the necessary goals and/or policies within the Land Use Element to support housing production in the focus areas identified by the Housing Element. City staff worked in collaboration with the City Council-appointed General Plan Update Steering Committee and the General Plan Advisory Committee to create draft revisions to the Land Use Element.

The proposed amendments to the Land Use Element include both revised policies and a series of new policies to implement the Housing Element in accordance with its policy actions. The new Land Use Element Policies 4.4 through 4.7 serve to allow for potential residential development in areas that do not necessarily allow it currently. Each of the new policies are summarized in Table 1 below.

Table 1, General Plan Land Use Element New Policies

Policy	Effect
LU 4.4 (Rezoning to Accommodate Housing Opportunities)	Supports the creation of the Housing Opportunity Overlay Zoning Districts and provides guidance on associated development limits for each focus area.
LU 4.5 (Residential Uses and Residential Densities)	Clarifies that residential use of identified properties is allowed regardless of and in addition to the underlying land use category or density. Identifies the maximum density in Policy 4.4 as an average across an entire property or project site. Furthermore, this Policy clarifies that development limits do not include units that are produced pursuant to State density bonus law or current pipeline units.
LU 4.6 (Continuation of Existing Development)	Reinforces that residential development opportunities are in addition to the existing uses allowed by the General Plan. The allowance for residential does not require development as residential nor does it create nonconforming conditions.
LU 4.7 (Redevelopment and Transfer of Development Rights)	Works in conjunction with current Policy 4.3 (Transfer of Development Rights) and allows the transfer of development rights within the same statistical area when a property is redeveloped. For example, removing an office building for a residential development would free up the net change in trips thereby allowing for additional nonresidential intensity on a neighboring site within the same statistical area. This condition will help to ensure the opportunity for adequate resident-serving commercial in newly development residential neighborhoods.

Attachment B provides additional justification for the proposed General Plan Land Use Element Amendment by way of a consistency analysis.

2) *Title 20 (Planning and Zoning) Amendment*

To implement the Land Use Element's policy changes, the City must rezone identified properties to allow housing development as an opportunity and to establish appropriate development standards.

The proposed amendment to Title 20 (Planning and Zoning) consists of two primary components. The first component is the proposed Housing Opportunity (HO) Overlay Zoning Districts, which would be applied to the housing opportunity sites identified in the Housing Element and in the Draft EIR. These sites generally include properties within the Airport Area, West Newport Mesa, Dover-Westcliff, Newport Center, and Coyote Canyon.

The second component is the proposed Multi-Unit Objective Design Standards. Each of the components are further described below.

Housing Opportunity Overlay Zoning Districts

An overlay zoning district is a regulatory tool that adds special provisions and regulations to a specific area. All proposed development within an overlay district must comply with the district's applicable development standards in addition to the base development standards unless specifically modified.

As a part of the proposed implementation program, Chapter 20.28 (Overlay Zoning Districts) of the NBMC would be amended to include new Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts). The HO Overlay Zoning Districts are intended to accommodate housing opportunities consistent with the Housing Element's focus areas and to ensure the City maintains adequately zoned sites consistent with its RHNA allocation. Although the City's 6th Cycle RHNA allocation is 4,845 housing units, a total new rezoning development capacity of 8,174 units is being provided to include a buffer necessary to address future "no net loss"¹ of available sites and to preclude the need to identify replacement sites during the 6th Cycle implementation. The provisions of Section 20.28.050 would be applicable in whole or in part to the following focus areas with associated maximum development limits:

¹ Pursuant to California Government Code Section 65863, the City must ensure its Housing Element opportunity sites inventory continues to always have capacity to accommodate the RHNA by income group throughout the planning period. This requires a careful accounting of development on the sites identified in the Housing Element and residential projects. Action by the City to modify development standards in a way that would result in a lower density, limit or stop development on sites identified in the inventory, exchange sites in the inventory, or downzone sites would trigger No Net Loss unless the City can make the required findings or identify alternative sites. The buffer helps to prevent the triggering of No Net Loss provisions. The lack of sites to accommodate the jurisdiction's RHNA represents a fundamental alteration to the City's ability to meet Housing Element Law.

HO-1: Airport Area (2,577 units)
HO-2: West Newport Mesa (1,107 units)
HO-3: Dover-Westcliff (521 units)

HO-4: Newport Center (2,439 units)
HO-5: Coyote Canyon (1,530 units)
HO-6: 5th Cycle Sites

Properties identified within HO-1, HO-2, HO-3, HO-4, and HO-5 Overlay Zoning Districts would be eligible for special development standards that are conducive to residential development at the prescribed average density range. These standards include, but are not limited to, minimum lot area, setbacks, height, open space, landscaping, and parking. The allowable uses are those that are permitted or conditionally permitted in the base zone, as well as multiple-unit residential and mixed-use developments that meet the density requirements and development standards of each HO Overlay Zoning District.

A critical component of the HO Overlay Zoning Districts is the development limits, which are included with the list above for reference and align with the housing strategy for each focus area. These limits are intended to be an additional opportunity on top of current intensity and density allowances allowed by the General Plan. As drafted, the development limits will only be drawn down with base residential units. Units that are produced through State density bonus law or other State provisions (e.g., Senate Bill 6 and accessory dwelling units) will not be counted against the development limits. Furthermore, current prospective developments identified as pipeline projects and those projects that have been applied for prior to the effective date of these HO Overlay Zoning Districts are also not counted against the development limits.

It is important to note that, as required by California Government Code Section 65584.2(h) and Section 65584.2(i), any residential or mixed-use development in an HO Overlay Zoning District that includes a minimum of 20% of the units reserved for low- and very-low income residents would not require discretionary review and would instead be allowed by-right, subject to the development standards and Objective Design Standards described in the next section. Developments meeting these criteria would also require an Affordable Housing Implementation Plan (AHIP) that stipulates a minimum 30-year affordability covenant and requires affordable units to be dispersed throughout a project and reflect the range of bedrooms and interior finishes that are features on market-rate units.

The HO-6 Overlay Zoning District is only listed to provide for a by-right review process for residential development on the prior 5th Cycle Housing Element sites. These are sites that are already zoned for residential development and were included in the 5th Cycle Housing Element, but which have not yet been redeveloped. They will simply be carried forward at the existing densities provided by current zoning. Sites within this HO-6 Overlay Zoning District are not provided additional density or modified development standards beyond the base zoning standards currently in place.

Attachment C provides additional justification for the proposed amendments to Title 20. Exhibit “B” of this attachment shows the proposed development standards for the five housing opportunity areas (HO-1 through HO-5) and the by-right approval process for HO-6, which will be incorporated into Chapter 20.28 (Overlay Zoning Districts).

Objective Design Standards

Under new State housing laws (i.e., Senate Bill 35 – Housing Accountability Act, Senate Bill 330 – Housing Crisis Act, Senate Bill 6, and Assembly Bill 2011), the City is prevented from enforcing subjective development standards and is required to permit certain housing development projects meeting minimum affordability criteria by-right. Therefore, it is important to create a set of objective design standards that provide certainty of compliance for housing developers while fostering good design and maintaining the character of Newport Beach. For example, the City is not allowed to include subjective standards in this document, such as requirements for “quality architecture” or “compatible colors and window treatments.”

State housing law specifies having objective design standards (hereafter “ODS”) available to apply to housing projects where the City’s discretion over design review is otherwise preempted per State law. ODS are defined under State law as “standards that involve no personal or subjective judgement by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal” (California Government Code §65913.4). Housing Element Policy Action 3A requires the preparation and adoption of the City’s own ODS.

The proposed ODS are to be incorporated into Title 20 as Section 20.48.185 (Multi-Unit Objective Design Standards), which will be part of Chapter 20.48 (Standards for Specific Land Uses). The ODS will supplement the development standards of the HO Overlay Zoning Districts, as well as any base zoning requirements. ODS address items such as amount of window coverage on the ground floor of mixed-use buildings, size of entry porches, building articulations and modulation, building orientation, open space, storefront design, and similar standards.

While there are existing development standards and proposed development standards under the HO Overlay Zoning District, the City’s proposed ODS go further and ensure high quality development without too much prescriptiveness to help address atypical situations. Should a developer wish to deviate from the ODS, a waiver of design standards may be requested through a discretionary site development review by the Planning Commission when it can be demonstrated that compensating design and development features are provided that offset impacts associated with the waiver of standards. Alternatively, projects that include affordable or special needs housing that are eligible for a density bonus may also request development standard waivers.

Attachment D provides additional justification for the proposed ODS. Exhibit “B” of this attachment contains the proposed draft ODS.

3) Local Coastal Program Amendment

The LCP consists of the Coastal Land Use Plan (CLUP) and the Implementation Plan, which is Title 21 (Local Coastal Program Implementation Plan) of the NBMC. The CLUP sets forth goals, objectives, and policies that govern the use of land and water in the coastal zone within the city and its sphere of influence, except for Newport Coast and Banning Ranch. Title 21 provides the zoning and development standards for those properties within the Coastal Zone.

The proposed amendments serve to implement the Housing Element strategy for properties that are within the Coastal Zone. They are complementary to the General Plan Land Use Element and include updated and new policies to implement the Housing Element programs and strategies. They are also complementary to the amendments proposed for Title 20.

The new CLUP policies are listed in Table 2 below.

Table 2, Coastal Land Use Plan New Policies

Policy	Effect
Policy 2.1.11-1	Supports the creation of the Housing Opportunity Overlay Coastal Zoning Districts and provides guidance on associated development limits for each focus area.
Policy 2.1.11-2	Clarifies that residential use of identified properties is allowed regardless of and in addition to the underlying land use category or density. Furthermore, this policy clarifies that development limits do not include units that are produced pursuant to State density bonus law or current pipeline units.
Policy 2.1.11-3	Reinforces that residential development opportunities are in addition to the existing uses allowed by the General Plan. The allowance for residential does not require development as residential nor does it create nonconforming conditions.
Policy 2.1.11-4	Requires consistency with other Implementation Plan requirements, including a coastal development permit, and compliance with established procedures to grant relief from standards, such as a coastal modification or coastal variance.

The amendment to Title 21 includes the addition of the new Housing Opportunity (HO) Overlay Coastal Zoning Districts along with its corresponding development standards for the various overlay districts. While the new HO Overlay Coastal Zoning Districts will allow for a new residential development opportunity where it may not be allowed today, it is important to identify that a coastal development permit will still be required for any development project in the Coastal Zone.

Attachment E provides additional justification for the proposed LCP Amendments. Exhibits “B” and “C” of this attachment include the proposed amendments to the Coastal Land Use Plan’s policies, as well as to Title 21 of the NBMC. The standards address typical development standards including, but not limited to, height, setbacks, open space, landscaping, and parking.

Charter Section 423 Vote

A successful vote of the electorate is required for any major amendment to the City’s General Plan pursuant to City Charter Section 423 and its implementing guidelines. A “major amendment” is one that significantly increases the maximum amount of traffic that allowed uses could generate, or significantly increases allowed density or intensity. “Significantly increases” means over 100 peak hour trips (traffic), or over 100 dwelling units (density), or over 40,000 square feet of floor area (intensity).

The thresholds apply to the total of 1) Increases resulting from the amendment itself, plus 2) 80% of the increases resulting from other amendments affecting the same neighborhood and adopted within the preceding 10 years. Due to the broad and speculative nature of the implementation amendments across several statistical areas, City staff prepared Table 3 in a cumulative fashion by focus area, and without consideration of the previous increases.

Table 3, Potential Charter Section 423 Increases and Affected Statistical Areas

Focus Area	Affected Statistical Areas	Dwelling Units	Peak Hour Trips (AM)¹	Peak Hour Trips (PM)¹
Airport Area	J5, J6, and L4	2,577	1,031	1,314
West Newport Mesa	A1, A2, and A3	1,107	443	565
Dover-Westcliff	B5, H3, H4, and J2	521	208	266
Newport Center	F1, G1, K1, L1, L2 and M6	2,439	976	1,244
Coyote Canyon	Not Identified	1,530	612	780

(1) Conservatively uses the “ITE Trip Gen Land Use 220: Multifamily Housing (Low Rise) Not Close to Rail” trip generation rate, consistent with the provisions of City Council Policy A-18 (Guidelines for Implementing Charter Section 423. This land use category in the ITE Manual references residential developments up to three levels

At the City Council Study Session on July 9, 2024, the City Council discussed whether a vote under Charter Section 423 is appropriate given the 6th Cycle Housing Element and its implementation are mandated under State Housing Element Law.

If the City Council proceeds with Option No. 1 and determines the provisions of Charter Section 423 are not precluded by State law, then the proposed amendment is considered a major amendment due to increases in both density and trips across all affected statistical areas. Accordingly, the proposed General Plan Land Use Element amendment would not take effect unless it has been submitted to the voters and approved by a majority of those voting on it.

Given the February 2025 deadline for implementation of the zoning actions, City staff has been working to bring the matter to a ballot vote as part of the November 5, 2024 General Election.

Pursuant to Housing Element Section 4 (Housing Plan), a failed vote should result in the City's pursuit of a second ballot vote with a revised approach that lessens the amount of development proposed to meet the RHNA allocation. However, this approach anticipated an initial ballot vote in March 2024, and there is no longer time to conduct a second ballot vote and meet the February 2025 deadline for implementation. It is further important to note that any reduced development would also reopen the Housing Element for HCD review and require revisions to all implementing documents. As outlined in Section 4, should the second ballot vote fail, the City would request an opinion from the State Attorney General's Office to determine the City's options for compliance. Accordingly, a failed vote on November 5, 2024, will significantly jeopardize the City's ability to meet the stated February 2025 deadline for implementation, and is almost inevitable to result in loss of compliance with State Housing Element Law.

Should the City Council proceed with Option No. 2 and determine that a vote of the electorate pursuant to Charter Section 423 is precluded by State law, then the following section of this staff report ("November 5, 2024, General Municipal Election Process") is no longer applicable or relevant. Instead, the City Council will adopt the draft resolution included at the back of this staff report as Attachment O. This action would delay the adoption of the General Plan Land Use Amendment and related legislative amendments. City staff would immediately work with HCD on completing a narrowly focused review of the revisions to remove the Charter Section 423 vote as a constraint from Section 3 (Housing Constraints, Resources, and Affirmatively Furthering Fair Housing) and as an implementation action from Section 4. After HCD review and assurance that the proposed amendment would not affect the City's compliant status, City staff would return with both the amendment to the Housing Element and the General Plan Land Use Amendment and related legislative amendments to complete the implementation ahead of the February 2025 deadline.

November 5, 2024, General Municipal Election Process

Attachment G calls a General Municipal Election on November 5, 2024, for the purpose of placing the amendments to the General Plan Land Use Element on the ballot; and Attachment H requests a consolidated election with the County of Orange for the purpose of presenting the ballot measure to the electorate.

Attachment I directs the City Attorney to prepare an impartial analysis of the ballot measure showing the effect of the ballot measure on existing law. The analysis shall not exceed 500 words in length and the deadline to submit the impartial analysis to the elections official is 5:30 p.m. on Monday, July 29, 2024. The 10 calendar day examination period for the impartial analysis shall commence on Tuesday, July 30, 2024, and end on Thursday, August 8, 2024.

The Elections Code allows arguments to be submitted for ballot measures and Section 9287 establishes priorities as to which argument is chosen for printing by the election official if two or more arguments are submitted in favor of or against a measure. Although some types of measures give the Council automatic first priority to file arguments, if it is the Council's desire to ensure that it has first priority in submitting arguments, formal action is required (Attachment J). The direct arguments shall not exceed 300 words in length and requires that at least one, but not more than five, persons sign it. For Councilmembers, not more than three signatures are allowed. The deadline for submitting direct arguments is 5:30 p.m. on Tuesday, August 6, 2024, and the 10 calendar day examination period for the direct arguments shall commence on Wednesday, August 7, 2024, and end on Friday, August 16, 2024.

In selecting the argument, the election official shall give preference and priority, in the order named, to the arguments of the following:

- A. the legislative body, or member or members of the legislative body authorized by that body;
- B. The individual voter, or bona fide association of citizens, or combination of voters; and associations, who are the bona fide sponsors or proponents of the measure
- C. Bona fide associations of citizens; or
- D. Individual voters who are eligible to vote on the measure.

Rebuttal arguments must be filed not more than 10 days after the deadline for filing direct arguments, or 4:30 p.m. on Friday, August 16, 2024, and are limited to no more than 250 words. Any rebuttal argument received the election official will be made available in the City Clerk's Office for public examination during the 10 calendar day period commencing on Saturday, August 17, 2024, and ending on Monday, August 26, 2024.

The resolution relative to rebuttal arguments is included as Attachment J.

Public Outreach and Review

In early 2023, City staff began to work closely with the General Plan Update Steering Committee (GPUSC), the General Plan Advisory Committee (GPAC), and GPAC's Land Use Element Subcommittee to formulate initial policy revisions for the General Plan Land Use Element. The draft revisions were reviewed at three GPUSC meetings, three GPAC meetings, and four GPAC Land Use Subcommittee meetings.

In June and July 2023, the City began work on the Draft Program Environmental Impact Report (DPEIR) for the project. This is discussed in more detail beneath the "environmental review" header.

In August 2023, the City released initial draft versions of the General Plan Land Use Element revisions, Housing Opportunity (HO) Overlay Zoning Districts, and Multi-Unit Objective Design Standards for public review and comment. On September 21, 2023, the Planning Commission conducted a study session to review these implementing components. Some of the commissioners expressed concern regarding overly restrictive Objective Design Standards and suggested broadening them to provide for more latitude for atypical sites.

Based on input received from the Planning Commission and various community stakeholders, the drafts were revised and reposted on January 16, 2024.

On February 12, 2024, the City released the Draft EIR for a 46-day public review and comment period. On February 13, 2024, the City Council held a study session to receive an update on the Housing Element's implementation.

Based on input received from various community stakeholders, the drafts of implementing amendments were once again revised and reposted on March 29, 2024. At this time, the City also prepared a draft of the Local Coastal Program Amendments for review and published initial drafts of the HO Overlay Zone maps.

Potential Consequences of Missing the February 2025 Deadline

Implementation of the Housing Element's rezonings by the February 2025 mandated deadline is of critical importance to maintain a compliant Housing Element.

Should the matter proceed to a Charter Section 423 vote, and the vote fails, the Housing Element may be considered non-compliant with State housing law. This would enable developers of affordable housing projects to have their residential projects approved as a "builder's remedy" in accordance with the Housing Accountability Act allowing higher density housing on any site, including those not identified as housing opportunity sites in the Housing Element, and effectively circumventing well established height limits, density limits, and other regulations designed to ensure development is consistent with the City's Vision Statement of the General Plan. Beyond builder's remedy projects, further ramifications could include, but are not limited to, increased exposure to public and private litigation, loss of permitting authority, financial penalties including substantial monthly fines, loss of eligibility for state and regional funding sources, court receivership, and increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD.

Planning Commission Review and Recommendation

On April 18, 2024, the Planning Commission considered and recommended the City Council approve the Amendments. The April 18, 2024, Planning Commission staff report, Planning Commission minutes excerpt, and Planning Commission Resolution No. PC2024-006 are all included as Attachment K.

Orange County Airport Land Use Commission (ALUC) Override

Section 4.3 of the AELUP and Section 21676(b) of the California Public Utilities Code (CPUC) require the City to submit legislative amendments to the ALUC for a determination of consistency with the AELUP. ALUC conducted a hearing on the Amendments at its May 16, 2024, meeting and found them inconsistent with the AELUP. ALUC's staff report and determination letter are included as Attachment L.

On May 28, 2024, consistent with CPUC Sections 21670 and 21676, the City Council held a duly noticed public hearing and adopted Resolution No. 2024-32, containing findings necessary to override the ALUC determination.

On May 29, 2024, a notice of intent to override, along with Resolution No. 2024-32, were sent via certified mail and emailed to ALUC and to the California Department of Transportation, Aeronautics Program.

The City received timely comments from the Aeronautics Program on June 21, 2024, and from ALUC on June 28, 2024, which are summarized under the individual sub headings below. Both letters are attached and incorporated by reference in the draft resolution for overriding (Attachment F). The facts in support of the findings provided in Exhibit "D" to that resolution adequately address the comments received. As previously noted, overriding the ALUC determination and adopting the proposed Amendments requires a two-thirds majority vote of the Council to be effective.

Aeronautics Program

The Aeronautics Program primarily echoed ALUC's concerns with locating housing near John Wayne Airport, and in higher noise areas or less desirable safety zones.

ALUC Comments

ALUC reiterated its determination of inconsistency due to concerns of airport noise, safety, and overflight impacts. ALUC further suggested that the ALUC is comprised of pilots and individuals who are best qualified to further the objectives of the John Wayne Airport while upholding the spirit and intent of the AELUP.

Minor Language Changes Since Planning Commission and ALUC Review

Four immaterial changes were made to proposed Land Use Element Policies 3.3, 4.4, and 4.5 to provide additional guidance and clarity, and one immaterial change was made to Footnote 1 for Table 2-16 of Section 20.28.050 (Housing Opportunity [HO] Overlay Zoning Districts) to define more clearly "Pipeline Units." These changes are provided in redline-strikeout format in Attachment M to this staff report.

FISCAL IMPACT:

Recommended Options

Should the City Council proceed with Option No. 1, funding has been budgeted to conduct the November 5, 2024, General Municipal Election. Should the City Council proceed with Option No. 2, there are no further funding requirements.

Housing Element Implementation Program Amendments

Pursuant to General Plan Implementation Program 12.1, a fiscal impact analysis was prepared for the Housing Element Implementation Program Amendments by Keyser Marston Associates (KMA) dated July 9, 2024 (Fiscal Impact Analysis). As there are no specific projects proposed and the dwelling unit capacity added through implementation does not contemplate any replacement of existing uses, KMA's evaluation is highly conservative and theoretical. The Fiscal Impact Analysis has been provided as Attachment N to this staff report. In summary, KMA found the following:

- Rents, sales prices and assessed values in the city are all very high, benefiting General Fund revenues.
- Total buildout of all the potential residential would have a net negative impact on the City's General Fund; however, this may be mitigated if projects continue to be developed at higher price points.
- The replacement of land uses that generate minimal public revenues can offset the negative impact of the residential. For example, the recently approved 1400 Bristol Street project demonstrates that office development can have a net negative impact on the General Fund and higher rents/values can significantly reduce the residential impact to the General Fund.
- Cities will often adopt a development fee program, negotiate development agreements, and pursue other methods to mitigate the fiscal impact of residential development. KMA understands the City is currently preparing a development fee program, which could potentially offset some of the projected impacts.

ENVIRONMENTAL REVIEW:

Program Environmental Impact Report (PEIR)

Prior to considering approval, the City Council must first review, consider and certify the Program Environmental Impact Report (PEIR) identified by State Clearinghouse Number (SCH No.) 2023060699.

The City contracted with Kimley-Horn & Associates, Inc. (Kimley-Horn), a well-qualified planning and environmental consulting firm, to prepare the Draft Program Environmental Impact Report (Draft PEIR) for implementation in accordance with CEQA and the CEQA Guidelines. A copy of the Draft PEIR was made available on the City’s website, at each Newport Beach Public Library location, and at the Community Development Department.

Given the wide-sweeping and programmatic nature of the Draft PEIR, all topics to potentially be evaluated under CEQA were analyzed. It is further important to highlight that the analyses conducted for the Draft PEIR were highly conservative and assumed full build-out of the entire housing development capacity without any consideration for removal and replacement of existing development. While a robust discussion is provided in the Draft PEIR, the following Table 4 provides a quick summary of the outcome for the analyses conducted under each topical area.

Table 4, Summary of Significant Impacts and Mitigation Program

Topic	Level of Significance	Notes
Aesthetics	Significant and Unavoidable	No feasible mitigation measures to reduce to less than significant for Banning Ranch only. No mitigation required for other focus areas.
Air Quality	Significant and Unavoidable	No feasible mitigation measures to reduce to less than significant.
Biological Resources	Less Than Significant	Implementation of standard conditions and mitigation measures.
Cultural Resources	Significant and Unavoidable	No feasible mitigation measures to reduce to less than significant given the unknown and speculative locations of development, and the potential loss of buildings that are 50 years old and older.
Energy	Less Than Significant	Implementation of current regulations.
Geology and Soils	Less Than Significant	Implementation of current regulations.
Greenhouse Gas Emissions	Significant and Unavoidable	No feasible mitigation measures to reduce to less than significant.
Hazards and Hazardous Materials	Less Than Significant	Implementation of current regulations.
Hydrology and Water Quality	Less Than Significant	Implementation of current regulations.
Land Use and Planning	Less Than Significant	Implementation of current regulations.
Noise	Significant and Unavoidable	For roadway noise, no feasible mitigation measures to reduce to less than significant for one segment only (Campus Drive from MacArthur Boulevard to Von Karman Avenue).
Population and Housing	Less Than Significant	Implementation of current regulations.
Public Services	Less Than Significant	Implementation of current regulations.
Recreation	Less Than Significant	Implementation of current regulations.

Topic	Level of Significance	Notes
Transportation²	Less Than Significant	Implementation of current regulations and a mitigation measure.
Tribal Cultural Resources	Less Than Significant	Implementation of standard conditions and mitigation measures.
Utilities	Significant and Unavoidable	Related to availability of water, no feasible mitigation measures to reduce to less than significant.
Wildfire	Less Than Significant	Implementation of current regulations and a mitigation measure.

All standard conditions, current regulations, and required mitigation measures are identified in the Mitigation Monitoring and Reporting Program, which is included in Exhibit “C” of Attachment A.

The Draft PEIR document was released for a 46-day public comment period from February 12, 2024, through March 28, 2024.

Staff received seven comment letters on the Draft PEIR from agencies and members of the public. Kimley-Horn has worked with City staff to prepare detailed written responses to each of the comments received on the adequacy of the Draft PEIR. Corrections and additions to the Draft EIR are also provided to incorporate additional or revised information required for the preparation of responses to certain comments. The revisions do not alter any conclusions for level of significance disclosed in the Draft PEIR, and therefore, do not warrant recirculation of the Draft PEIR for public review. The revisions to the Draft PEIR will be incorporated into the Final PEIR, if certified.

The Draft PEIR reflects the independent judgment of the City and recognizes project design features, standard construction and engineering practices, compliance with federal, state and local laws, and standard conditions of approval for projects within the city. On the basis of the analyses provided in the Draft PEIR, City staff has concluded that full build out of the project without consideration of removal or replacement of existing development would potentially have a significant impact on the environment. However, there are overriding considerations to consider given the programmatic nature of this document and the mandated planning exercise for the 6th Cycle RHNA allocation under State law. In that, the project’s benefits and the City’s retention of local development and land use control outweigh the potential impacts.

Tribal Consultation

Pursuant to Senate Bill 18 (SB 18), the City requested a Sacred Lands File (SLF) search on the project location from the Native American Heritage Commission (NAHC) on March 5, 2023.

² A major consideration for the topic of Transportation is the concept of Vehicle Miles Traveled or “VMT.” Based on a comprehensive VMT analysis prepared by Urban Crossroads and reviewed by the City Traffic Engineer, the project results in an overall decrease of 0.6 VMT/Service Population. While VMT increases, the population near job-rich areas in the City also increases, thereby resulting in a reduction of VMT per capita and no significant impact from a CEQA standpoint.

On March 22, 2023, the NAHC responded that the findings of the search were positive and identified 19 Native American tribal representatives to contact for further information on potential tribal resources. To comply with both the requirements of SB 18 and Assembly Bill 52 (AB 52), the City mailed and emailed notices regarding the proposed project to all listed tribes. The City received a response from only one representative of the Gabrieleño Band of Mission Indians – Kizh Nation expressing no concerns on the project given its programmatic nature, but also expressing a desire to be consulted on future individual projects.

Level of Service Analysis

Although a Level of Service (LOS) traffic study is no longer required for the purpose of CEQA, nor is it required for the Housing Element Implementation Program Amendments, the City has prepared the *Housing Element Transportation Analysis* (Analysis) consistent with the methodology prescribed by the City's Traffic Phasing Ordinance. The Analysis serves as a reference document to provide additional information regarding potential traffic conditions related to the implementation of the Housing Element.

The Analysis is available on the City's website using the following link: <https://www.newportbeachca.gov/home/showpublisheddocument/74436/638458397515200000>.

Much like the PEIR, the Analysis is a highly conservative, "worst-case" analysis in that it assumes full build-out of all units occurring without removal or redevelopment of any existing development. In reality, development of the new housing units will likely occur through redevelopment of existing nonresidential uses (e.g., office, retail, etc.) helping to offset vehicular trips. Furthermore, the Analysis notes that the introduction of residential into an area with predominantly existing employment uses will help to balance the land uses in the area, such that traffic volume increases may not be as substantial as expected.

Even with this highly conservative scenario, the Analysis concludes that only six of the study intersections are projected to potentially experience unacceptable conditions. These include the following:

- **Superior Avenue at Coast Highway (AM)**
- Riverside Avenue at Coast Highway (AM/PM)
- **Tustin Avenue at Coast Highway (AM)**
- **Irvine Avenue at University Drive (AM/PM)**
- SB Newport Boulevard Off-Ramp at Coast Highway (AM)
- Orange at Coast Highway (AM)

Of these six intersections, the three bolded are expected to operate at acceptable levels of service based on future improvements already identified in the General Plan. The Analysis provides recommendations that facilitate improved levels of service for the remaining three intersections.

NOTICING:

Given the citywide nature of this activity, notice of this hearing was published in the Daily Pilot in a one-eighth-page format at least 10 days before the scheduled meeting, consistent with Section 20.62.020(B)(2)(c) of the NBMC. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

ATTACHMENTS:

- Attachment A – Resolution No. 2024-50 Certifying the PEIR
- Attachment B – Resolution No. 2024-51 Amending the General Plan Land Use Element
- Attachment C – Ordinance No. 2024-16 Amending Title 20 (Planning and Zoning) for Overlays
- Attachment D – Ordinance No. 2024-17 Amending Title 20 (Planning and Zoning) for Multi-Unit Objective Design Standards
- Attachment E – Resolution No. 2024-52 Authorizing Submittal of the Local Coastal Program Amendment
- Attachment F – Resolution No. 2024-53 Overruling ALUC
- Attachment G – Resolution No. 2024-54 Calling Election
- Attachment H – Resolution No. 2024-55 Requesting Consolidation
- Attachment I – Resolution No. 2024-56 Filing Written Arguments and Directing the City Attorney to Prepare an Impartial Analysis
- Attachment J – Resolution No. 2024-57 Providing for the Filing of Rebuttal Arguments
- Attachment K – April 18, 2024 Planning Commission Staff Report, Minutes Excerpts, and Resolution No. 2024-006
- Attachment L – May 16, 2024, ALUC Staff Report and Corresponding Action Letter
- Attachment M – Minor Language Changes Since Planning Commission and ALUC Review
- Attachment N – Fiscal Impact Analysis
- Attachment O – Resolution No. 2024-58 Initiating an Amendment to the 6th Cycle Housing Element

Attachment A

Resolution No. 2024-50 Certifying the PEIR

RESOLUTION NO. 2024- 50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, CERTIFYING ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE SCH NUMBER 2023060699), INCLUDING A MITIGATION MONITORING AND REPORTING PROGRAM AND ADOPTING FINDINGS, AND A STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO THE HOUSING ELEMENT IMPLEMENTATION PROGRAM INVOLVING AMENDMENTS TO THE GENERAL PLAN, COASTAL LAND USE PLAN, AND TITLE 20 (PLANNING AND ZONING) AND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE (PA2022-0245)

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

WHEREAS, California Government Code Section 65580 *et seq.* ("State Housing Element Law") requires each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing;

WHEREAS, the City of Newport Beach ("City") General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating as necessary for consistency with other General Plan elements;

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment ("RHNA") allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted by an ad-hoc committee called the Housing Element Update Advisory Committee (“HEUAC”) formed and appointed by the City Council;

WHEREAS, after several meetings with the State Department of Housing and Community Development (“HCD”) and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City's 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the “fair share” of regional housing need and demand, by planning for units within the following site groupings or “focus areas” that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City's RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 (“6th Cycle Housing Element Implementation”), which requires the following amendments and actions:

- General Plan Amendment (“GPA”) - To revise the necessary goals and/or policies within the City's Land Use Element to support housing production in the focus areas identified by the 6th Cycle Housing Element;

- Amendment to Title 20 (Planning and Zoning) ("ZCA") - To implement the Land Use Element's policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;
- Local Coastal Program Amendment ("LCPA") - To revise and create new policies within the City's Coastal Land Use Plan and update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code ("NBMC") to support housing production in the focus areas identified by the 6th Cycle Housing Element that are within the Coastal Zone; and
- Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act ("CEQA") related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report ("Draft PEIR"), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to \$600,000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City's zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

WHEREAS, pursuant to the California Environmental Quality Act as set forth in the Public Resources Code Sections 21000 et seq. ("CEQA"), Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 Implementation Procedures for the California Environmental Quality Act), it was determined that the 6th Cycle Housing Element Implementation (also referred to herein as the "Project") may have a significant adverse effect on the environment, and thus warranted the preparation of the PEIR;

WHEREAS, on June 27, 2023, the City, as lead agency sent a Notice of Preparation (“NOP”) of the PEIR to responsible and trustee public agencies, organizations and individuals likely to be interested in the potential impacts of the Project, including any persons who had previously requested notice in writing;

WHEREAS, the public comment period on the NOP commenced on June 27, 2023, and concluded on July 27, 2023;

WHEREAS, on July 10, 2023, the City held a scoping meeting to solicit input from responsible and trustee public agencies, organizations and interested individuals regarding environmental issues that should be addressed in the PEIR;

WHEREAS, pursuant Section 21080.3.1 of the California Public Resources Code, on March 30, 2023, the City provided notice to California Native American tribes that requested in writing to be informed of projects in the geographic area that are traditionally and culturally affiliated with the tribe;

WHEREAS, pursuant to Government Code Section 65352.3, the City also provided notice to California Native American tribes that are on the contact list maintained by the California Native American Heritage Commission (“NAHC”),

WHEREAS, pursuant to Senate Bill 18, the City requested a Sacred Lands File (“SLF”) search on the project location from the NAHC on March 5, 2023, and on March 22, 2023, the NAHC responded that the findings of the search were positive and identified 19 Native American tribal representatives to contact for further information on potential tribal resources;

WHEREAS, to comply with both the requirements of SB 18 and Assembly Bill 52, the City mailed and emailed notices regarding the Project to all the listed tribes and the City received a response from only one representative of the Gabrieleño Band of Mission Indians – Kizh Nation expressing no concerns on the Project given its programmatic nature, but also expressing a desire to be consulted on future individual projects;

WHEREAS, a Notice of Availability of the Draft PEIR was published on February 11, 2024, in the Daily Pilot and a revised Notice of Availability was published on February 15, 2024, announcing the availability of the Draft PEIR for a 46-day public comment period that commenced on February 12, 2024, and concluded on March 28, 2024;

WHEREAS, the City reviewed all comments on the Draft PEIR and prepared written responses to those comments;

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 (Public Hearings) and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by the Planning Commission at this hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation to the Orange County Airport Land Use Commission ("ALUC") to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan ("AELUP");

WHEREAS, on May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with the AELUP;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on May 28, 2024, and adopted Resolution No. 2024-32 (7 ayes, 0 nays), to notify the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding and on May 29, 2024, the City issued the Notice of Intent to Override ALUC's determination and received two comments in response;

WHEREAS, the Final PEIR, consisting of the NOP, Draft PEIR, Appendices, Responses to Comments received on the Draft PEIR, and any revisions to the Draft PEIR as a result of public comment are attached hereto and incorporated herein by reference as Exhibit "A";

WHEREAS, a Statement of Overriding Considerations has been prepared by the City with respect to significant and unavoidable potential environmental impacts of the Project related aesthetics, air quality, cultural resources, greenhouse gas emissions, noise, and utilities and service systems, including cumulative impacts; and

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing.

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

Section 1: The City Council hereby certifies Final PEIR (SCH No. 2023060699), attached as Exhibit "A," which includes the NOP, Draft PEIR, Appendices, Responses to Comments, and revisions to the Draft PEIR. The City finds that information added to the Final PEIR prior to certification merely clarifies, amplifies or makes insignificant modifications to the PEIR and any changes or alterations incorporated into the Final PEIR do not warrant recirculation of the Final PEIR. Rather, all information added to the Final PEIR after public notice of the availability of the Draft PEIR for public review but before certification, merely clarifies, amplifies or makes insignificant modifications to the Final PEIR.

Section 2: Pursuant to CEQA Section 21081.6 and Section 15091 of the CEQA Guidelines, and in support of its certification of the 6th Cycle Housing Element Implementation consisting of amendments to the General Plan, Local Coastal Plan and Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC, the City Council has reviewed and considered the CEQA Findings of Fact and Statement of Overriding Considerations for the 6th Cycle Housing Element Implementation, attached hereto as Exhibit "B" and incorporated herein by reference, finds that such Findings of Fact are supported by substantial evidence, and the City Council adopts the Findings of Fact and Statement of Overriding Considerations.

Section 3: Pursuant to CEQA Section 21081.6 and Section 15091 of the CEQA Guidelines, the City Council has reviewed and considered the Mitigation Monitoring and Reporting Program (“MMRP”) that requires all mitigation measures described in the Final EIR be implemented, as set forth in the MMRP, attached hereto as Exhibit “C” and incorporated herein by reference. The City Council adopts the MMRP.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachments: Exhibit "A" – Program Environmental Impact Report (SCH No. 2023060699) Including Appendices
Exhibit "B" – Findings and Statement of Overriding Considerations
Exhibit "C" – Mitigation Monitoring and Reporting Program (MMRP)

EXHIBIT "A"
Program Environmental Impact Report (SCH No. 2023060699)
Including Appendices

(Available digitally due to size)

Visit www.newportbeachca.gov/ceqa and reference the folder titled "Housing Implementation Program EIR (PA2022-0245)"

EXHIBIT "B"
Findings and Statement of Overriding Considerations

CEQA FINDINGS AND FACTS IN SUPPORT OF FINDINGS
STATEMENT OF OVERRIDING CONSIDERATIONS
THE CITY OF NEWPORT BEACH GENERAL PLAN HOUSING IMPLEMENTATION PROGRAM
PROGRAM ENVIRONMENTAL IMPACT REPORT
PA2022-0245
STATE CLEARINGHOUSE NO. 2023060699

Section 1: Introduction

This statement of Findings of Fact (Findings) addresses the environmental effects associated with the City of Newport Beach General Plan Housing Implementation Program (Project), as described in the Final Program Environmental Impact Report (referred herein as the "Program EIR"). These Findings are made pursuant to the California Environmental Quality Act (CEQA) (California Public Resources Code [PRC] §21000 et seq.), specifically PRC Sections 21081, 21081.5, and 21081.6, and the State CEQA Guidelines (14 California Code of Regulations [CCR] 15000 et seq.), specifically Sections 15091 and 15093. The Program EIR evaluated the potential environmental effects of the implementing actions associated with the City of Newport Beach 6th Cycle Housing Element for 2021-2029 (referred herein as the "2021-2029 Housing Element") and identified mitigation practices that could be employed to reduce, minimize, or avoid those potential effects.

1.1 Project Description Summary

The City of Newport Beach is located in coastal Orange County, California. The project area encompasses housing sites throughout the City of Newport Beach and its Sphere of Influence (collectively referred to herein as the City).

The Housing Element is one of the state-mandated elements of the General Plan and must be updated every eight years to address existing and projected housing needs across all segments of the community. The 2021-2029 Housing Element was adopted by the City Council on September 13, 2022, and was subsequently found in compliance with State housing law (certified) by the State of California Department of Housing and Community Development (HCD) on October 5, 2022.

The Regional Housing Needs Assessment (RHNA) is a State Housing law requirement that is part of the periodic process of updating local General Plan Housing Elements. It is a process that determines the existing and projected housing need (i.e., RHNA allocation) for all jurisdictions (cities and unincorporated county areas) with the intent to provide opportunities for a mix of unit types, tenure, and affordability. Each jurisdiction must demonstrate that its Housing Element can accommodate its RHNA allocation at all income levels. The City's 6th Cycle RHNA allocation is 4,845 housing units, including 1,456 Very-Low-Income units and 930 Low-Income units.

In addition to the 6th Cycle RHNA allocation, the Program EIR analysis accounts for additional housing units as a buffer to address future "no net loss" to preclude the need to identify replacement sites during 6th Cycle implementation.¹ Therefore, the Program EIR conservatively analyzed a total development capacity

¹ State Housing laws require cities and counties to identify RHNA obligations by income category. A future housing applicant is not required to meet affordability goals. The City is obligated to ensure there is no net loss when projects are developed such that there are adequate opportunities for the City to meet its RHNA obligations. If there is a net loss, the City has 120 days to provide rezoning that accommodates the net loss. Therefore, Newport Beach includes a buffer to avoid the net loss scenario.

of 9,914 units including future development capacity of up to 9,649 units (4,845 RHNA plus a 5,069-unit buffer) on 247 housing sites, 25 units of pipeline projects, and 240 ADUs. However, only a portion of the housing units identified on housing sites will be necessary to accommodate the City's RHNA planning obligation of 4,845 housing units.

The City is not required to build housing units in order to meet its RHNA allocation, only to identify potential sites and create the framework to allow the market the opportunity to develop these units. The proposed Project would not directly construct new housing but would facilitate the development of residential units by adopting implementing actions associated with the 2021-2029 Housing Element.

The 2021–2029 Housing Element identifies six Focus Areas in the City that have sufficient capacity to meet its RHNA allocation for the 6th Cycle. The six Focus Areas in the 2021–2029 Housing Element are: Airport Area, West Newport Mesa, Dover-Westcliff, Newport Center, Coyote Canyon, and Banning Ranch. The Banning Ranch Focus Area is included in the 2021–2029 Housing Element's sites inventory but is not assumed in order to accommodate the City's 2021–2029 RHNA growth need. Banning Ranch is considered as additional dwelling unit opportunity beyond that needed to accommodate the RHNA.

As a part of the Project, amendments to the General Plan Land Use Element goals and policies are proposed, including proposed modifications to land use goals and policies, as well as new policies. These changes further the implementation of the 2021–2029 Housing Element. Amendments are also proposed to the City's Local Coastal Program Coastal Land Use Plan including proposed modifications to existing policies, as well as new policies. To facilitate future development of housing within the identified Focus Areas, five corresponding "Housing Overlay Zones" are proposed to increase the maximum allowable density for future housing projects on identified housing sites within each Focus Area. A Housing Overlay Zone is not proposed for Banning Ranch. A sixth Housing Overlay Zone is applicable to 5th Cycle housing sites. In addition to the Housing Overlay Zones, the Municipal Code would also be amended to add Multi-Unit Objective Design Standards, and Zoning maps would be amended to identify the Housing Overlay Zoning Districts.

1.2 Purpose

PRC Section 21081, and State CEQA Guidelines Section 15091 require that the lead agency, in this case the City of Newport Beach (City), prepare written Findings for identified significant effects, accompanied by a brief explanation of the rationale for each finding. PRC Section 21081(a) affirmatively requires a lead agency make one or more of three possible findings in reference to each significant impact. In addition, PRC Section 21081(b) requires an additional finding for impacts that include specific economic, legal, social, technological, and other considerations wherein the lead agency affirms that the project benefits outweigh the environmental impacts.

State CEQA Guidelines Section 15091 states, in part, that:

- a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. [referred to in these Findings as "Finding 1"].

- 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. [referred to in these Findings as "Finding 2"].
- 3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR. [referred to in these Findings as "Finding 3"].

In accordance with PRC Section 21081, and State CEQA Guidelines Section 15093 (Statement of Overriding Conditions), whenever significant effects cannot be mitigated to below a level of significance, the decision-making agency is required to balance, as applicable, the benefits of the project against its unavoidable environmental risks when determining whether to approve the project. If the benefits of a project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable." In that case, the decision-making agency may prepare and adopt an SOC, pursuant to the CEQA Guidelines.

State CEQA Guidelines Section 15093 provides:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

The Program EIR identified potentially significant effects that could result from the Project. The City finds that the inclusion of feasible mitigation measures as part of the approval of the Project will reduce most, but not all, of those effects to less-than-significant levels. Those impacts that are not reduced to less-than-significant levels are identified and overridden due to specific Project benefits.

As required by CEQA, the City, in adopting these Findings, also adopts a Mitigation Monitoring and Reporting Program (MMRP) for the Project. The City finds that the MMRP, which is incorporated by reference and made a part of these Findings, meets the requirements of PRC Section 21081.6, by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the Project.

In accordance with the CEQA Statutes and Guidelines, the City adopts these Findings for the Project. Pursuant to PRC Section 21082.1(c)(3), the City also finds that these Findings reflect the City's independent judgment as the lead agency for the Project.

1.3 Records of Proceedings

For the purposes of CEQA and these Findings, the record of proceedings for the Project includes all data and materials outlined in PRC Section 21167.6(e), along with other project-relevant information contained within the City's files. Specifically, the record of proceedings for the City's decision on the Project includes the following documents, all of which are incorporated by reference and are relied on in supporting these Findings:

- The Notice of Preparation (NOP), Notice of Availability, and all other public notices issued by the City in conjunction with the Project
- All written comments submitted by agencies, organizations, or members of the public during the NOP public review comment period, inclusive of the Scoping Meeting
- The Draft Program EIR for the Project and all technical appendices, technical memoranda and documents relied upon or incorporated by reference
- All written comments submitted by agencies, organizations, or members of the public during the public review comment period on the Draft Program EIR and the City's responses to those comments, including related referenced technical materials
- The Program EIR for the Project
- The MMRP for the Project
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by the City or consultants to the City with respect to the City's compliance with the requirements of CEQA and with respect to the City's action on the Project
- All documents submitted to the City by other public agencies or members of the public in connection with the Program EIR
- Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the City in connection with the Project
- Any documentary or other evidence submitted to the City at such information sessions, public meetings, and public hearings
- All resolutions adopted by the City regarding the Project, and all staff reports, analyses, and summaries related to the adoption of those resolutions
- Matters of common knowledge to the City, including, but not limited to federal, State, and local laws and regulations
- Any documents expressly cited in these Findings, in addition to those cited above, and any other materials required for the record of proceedings by PRC Section 21167.6(e)

1.4 Custodian and Location of Records

The documents and other materials that as a whole make up the Record of Proceedings for the City's actions related to the Project are located at the City of Newport Beach, 100 Civic Center Drive, Newport Beach, CA 92660. The City, as the lead agency for the Project, is the custodian of the Record of Proceedings for the Project.

1.5 CEQA Findings of Independent Judgment, Review, and Analysis

Under CEQA, the lead agency must (1) independently review and analyze the EIR; (2) circulate draft documents that reflect its independent judgment; (3) as part of the certification of an EIR, find that the report or declaration reflects the independent judgment of the lead agency; and (4) submit copies of the documents to the State Clearinghouse if there is State agency involvement or if the project is of statewide, regional, or area-wide significance (PRC §21082.1[c]).

The Findings contained in this document reflect the City's conclusions, as required pursuant to CEQA, for the Project. The City has exercised independent judgment, in accordance with PRC Section 21082.1(c)(3), in the preparation of the Draft Program EIR, the review of materials prepared by the City and its consultants, and the preparation of the Final Program EIR based on comments received during the public comment process. The City has made one or more of the required written findings for each significant impact associated with the Project. Those written findings, along with a presentation of facts in support of each of the written findings, are presented below.

Having received, reviewed, and considered the information in the Draft Program EIR and Final Program EIR, as well as any and all other information in the record, the City hereby makes these Findings pursuant to and in accordance with PRC Sections 21081, 21081.5, and 21081.6.

The mitigation program adopted as part of the Project is feasible and mitigates the environmental impacts associated with future housing projects to the maximum extent feasible and possible as discussed in the findings made below.

Therefore, it is the finding of the City that the Project as described in the Program EIR does not present any new, significant information requiring recirculation or additional environmental review under PRC Section 21092.1 and State CEQA Guidelines Section 15088.5.

A MMRP for the Project has been adopted pursuant to the requirements of PRC Section 21081.6 to ensure implementation of the adopted mitigation measures to reduce significant effects on the environment and is included in the Program EIR document. The City is the custodian of the documents and other material that constitute the record of the proceedings upon which certification of the Final Program EIR for the Project is based, as described above.

It is the finding of the City Council that the Final Program EIR, as presented for review and approval, fulfills environmental review requirements for the Project, and that the document constitutes a complete, accurate, adequate, and good faith effort at full disclosure under CEQA, and reflects the independent judgment of the City.

Section 2: Environmental Impacts Found to Have No Impact

As a result of the Notice of Preparation circulated by the City between June 27, 2023 and July 27, 2023, in connection with preparation of the Program EIR, the City determined, based upon the threshold criteria for significance, that the Project would have no impact or a less than significant impact on the following potential environmental effects, and therefore, determined that these potential environmental effects would not be addressed in the Program EIR. Based upon the environmental analysis presented in the Program EIR, and the comments received by the public on the Program EIR, no substantial evidence was submitted to or identified by the City which indicated that the Project would have an impact on the following environmental areas:

Aesthetics

"Would the Project substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?"

Basis for Conclusion: There are no State designated scenic highways within the City. According to the Scenic Highway System List, State Route 1, otherwise known as Pacific Coast Highway, is eligible for the State Scenic Highway System but is not designated as a State scenic highway. A State scenic highway changes from "eligible" to "officially designated" when the local jurisdiction adopts a scenic corridor protection program, applies to Caltrans for scenic highway approval, and receives notification from Caltrans that the highway has been designated as a Scenic Highway. The City must also adopt ordinances to preserve the scenic quality of the corridor or document that such regulation already exists in local codes. If in the future, the City decides to pursue these actions, it would also be required to take actions to preserve views within the corridor. However, these procedures are beyond the scope of this Project. For this reason, no impact would occur.

Agricultural and Forestry Resources

"Would the Project 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?"

"Would the Project conflict with existing zoning for agricultural use, or a Williamson Act contract?"

"Would the Project 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))?"

"Would the Project result in the loss of forest land or conversion of forest land to non-forest use?"

"Would the Project 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?"

Basis for Conclusion: None of the housing sites contain Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. No portion of the City is covered by a Williamson Act Contract. Additionally, the

City does not include forest resources, including timberlands. With respect to zoning, the City has a Residential-Agricultural (R-A) Zoning District. Title 20, Planning and Zoning, of the City of Newport Beach Municipal Code (Municipal Code) states that the R-A Zoning District "...is intended to provide for areas appropriate for detached single-family residential dwelling units and light farming uses, each located on a single legal lot." None of the housing sites has this zoning designation. Therefore, no impact would occur.

Biological Resources

"Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?"

Basis for Conclusion: The Project does not directly propose any site development on the housing sites evaluated in the Program EIR. Rather, it provides a series of actions that support implementation of the 2021-2029 Housing Element. All future development facilitated by the Project would be subject to the City's development review process and required to comply with relevant federal, State, and local regulations protecting biological resources, which would ensure that future development within the City would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. Therefore, no impact would occur.

"Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?"

Basis for Conclusion: The Project does not propose any site development on the housing sites. Rather, it provides capacity for future development consistent with State law. All future development facilitated by the Project would be subject to the City's development review process and required to comply with the provisions of the Central-Coastal Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) per General Plan Policy NR 10.2. In addition, General Plan Policy NR 10.1 states that future development shall cooperate with State and federal agencies, and private organizations, in the protection of the City's biological resources. This includes local, regional, or State habitat conservation plans. The General Plan policies ensure that future development facilitated by the Project would not conflict with the provisions of the Central-Coastal NCCP/HCP; no impact would occur.

Geology and Soils

"Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving the 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 faults or strong seismic ground shaking?"

Basis for Conclusion: None of the known faults have been zoned under the guidelines of the Alquist-Priolo Earthquake Fault Zoning Act. Therefore, development on the housing sites would not expose people or structures to potential adverse effects involving rupture of a known earthquake fault in Alquist-Priolo zones and no impact would occur.

“Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?”

Basis for Conclusion: The City is almost entirely built out with established utility services. A majority of the housing sites are developed and connected with existing wastewater infrastructure. For the few housing sites which are currently undeveloped, there is existing infrastructure within the vicinity that could support future growth and development. The use of septic tanks or alternative wastewater disposal systems is not assumed. For this reason, no impact would occur.

Hazards and Hazardous Materials

“Would the Project 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?”

Basis for Conclusion: None of the housing sites are included on a hazardous site list compiled pursuant to California Government Code Section 65962.5. Therefore, no impact would occur.

Section 3: Environmental Impacts Found to be Less Than Significant (No Mitigation Required)

As a result of the preparation of the Program EIR, the City determined, based upon the threshold criteria for significance, that the Project would have no impact or a less than significant impact on the following potential environmental effects. No mitigation measures would be required. Where the potential impact can be reduced to less than significant solely through adherence with standard conditions, these measures are considered "incorporated into the project" which mitigate or avoid the potentially significant effect.

Based upon the environmental analysis presented in the Program EIR, and the comments received by the public on the Program EIR, no substantial evidence was submitted to or identified by the City which indicated that the Project would have an impact on the following environmental areas evaluated in the Program EIR:

Aesthetics

"Would the Project have a substantial adverse effect on a scenic vista?"

Basis for Conclusion: Although there are no officially designated scenic vistas in the City, the City has identified the Pacific Ocean, the San Joaquin Corridor, Crystal Cove State Park, and Upper Newport Bay as locally significant scenic vistas. While future housing development within the City would generally consist of infill and intensification of uses within a primarily built-out area, this development could affect views to the identified vistas. Specifically, if new developments blocked or obscured views from any of the significant public viewpoints, then impacts would be potentially significant. While housing sites are within the vicinity of public view points around the City, none of the housing sites are located immediately in front of or adjacent to view points. Therefore, future development on housing sites would not have the potential to obstruct views or degrade visual quality of scenic vistas within the City.

The Project would not result in direct construction of residential uses. Future development on identified housing sites would be subject to project-specific review, including design review, and would be required to comply with the goals and policies in the City's General Plan and Municipal Code.

The Project includes Land Use Element policy amendments, including updates to policies that would minimize potential impacts to scenic vistas from future housing development. These policies include Policy LU 1.1 which requires future housing developments to be designed in a manner that maintains and enhances neighborhood character and public views. Therefore, consistent with the findings of the Newport Beach General Plan EIR, the Project would have a less than significant impact on a scenic vista and no mitigation is required.

"Would the Project conflict with applicable zoning and other regulations governing scenic quality?"

Basis for Conclusion: Future housing development would be required to adhere to General Plan policies that govern scenic quality including, but not limited to, Policy LU 5.6.1 through LU 5.6.3, Policy NR 20.1 through NR 20.4, and Policy NR 23.1 through 23.7. Further, the Project includes Land Use Element policy amendments, including updates to policies that support the City's goal to maintain scenic quality and minimize potential impacts from future housing development. The Project includes the adoption of *The City of Newport Beach Multi-Unit Objective Design Standards* (Objective Design Standards) to ensure the highest possible design quality and to provide a baseline standard while streamlining the approval process for all new multi-unit development in Newport Beach, including by-right and discretionary actions.

Residential and mixed-use development projects that include a density of 20 dwelling units per acre must demonstrate compliance with all the standards contained in the *Multi-Unit Objective Design Standards*, or they must seek approval through a discretionary site development review process, as discussed in Municipal Code Chapter 20.52.080 (Site Development Reviews). Compliance with these applicable City policies, the Municipal Code including the proposed Objective Design Standards, and Local Coastal Program Implementation Plan requirements would minimize impacts to scenic quality. A less than significant impact would occur and no mitigation is required.

Air Quality

“Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standard?”

Basis for Conclusion: With respect to short-term construction emissions, quantifying individual future development’s air emissions from short-term, temporary construction-related activities is not possible due to project-level variability and uncertainties concerning detailed site plans, construction schedules/duration, equipment requirements, etc., among other factors, which are presently unknown. Since these parameters can vary so widely (and individual project-related construction activities would occur over time dependent upon numerous factors), quantifying precise construction-related emissions and impacts would be impractical and speculative.

The Program EIR modeled four hypothetical scenarios for different sizes of residential development that could occur under the Project. Modeling was conducted for construction and operation of the following residential development scenarios:

- 50 DU, 1 Acre: includes 50 low rise apartments and the project acreage is approximately 1 acre.
- 250 DU, 5 Acres: includes 250 low rise apartments and the project acreage is approximately 5 acres.
- 500 DU, 5 Acres: includes 500 low rise apartments and the project acreage is approximately 5 acres.
- 600 DU, 12 Acres: includes 600 low rise apartments and the project acreage is approximately 12 acres.

The construction emission estimates were based on a hypothetical construction duration of approximately 16 months for each development scenario. Default construction equipment was also included in CalEEMod. It is also noted, these scenarios are considered a reasonable assumption of the development that could occur at any given time in the future. The estimated daily short-term construction emissions for the four hypothetical scenarios would not violate the SCAQMD thresholds under any of the scenarios.

Future housing development would be subject to the City’s development review. In addition, SCAQMD Rules 402 and 403 (e.g., prohibition of nuisances, watering of inactive and perimeter areas, track out requirements, etc.) would be applied to future developments on a project-by-project basis in order to minimize those potential negative air quality effects. Therefore, construction air quality impacts would be less than significant.

“Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?”

Basis for Conclusion: The South Coast Air Quality Management District (SCAQMD) *CEQA Air Quality Handbook* identifies certain land uses as sources of odors. These land uses include agriculture (farming and livestock), wastewater treatment plants, food processing plants, chemical plants, composting facilities, refineries, landfills, dairies, and fiberglass molding. The Project does not include any of the land uses that have been identified by the SCAQMD as odor sources. However, future housing development facilitated by the Project could result in odors generated from vehicles and/or equipment exhaust emissions during construction. These odors are a temporary short-term impact that is typical of construction projects and would disperse rapidly. Therefore, the Project would not create objectionable odors. Impacts would be less than significant impact would occur and no mitigation is required.

Biological Resources

“Would the Project have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?”

Basis for Conclusion: While the Project does not propose alteration of a State or federally protected wetland, it is possible that potential future development facilitated by the Project could directly or indirectly impact wetlands through activities such as vegetation removal and grading activities. Generally, development facilitated by the Project would be confined to previously developed urban areas and would not be located in the vicinity of wetland areas. However, several housing sites include wetlands.

Developments proposed on or adjacent to wetland areas are required to comply with federal and State laws and regulations that protect wetland resources (e.g., Clean Water Act Sections 404 and 401). In addition to the existing federal and State regulatory framework, the General Plan Natural Resources and Land Use Elements contain policies that provide additional protection to the City's wetlands. General Plan Policies NR 13.1 and NR 13.2 protect, maintain, and enhance the City's wetlands by recognizing and protecting wetlands and requiring wetland delineations in accordance with the California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS). General Plan Policies NR 14.4 and NR 14.5 maintain and enhance deep water channels and ensure they remain navigable by boats through capacity management and new structure design by requiring projects to maintain the capacity of wetlands and new structures to be sited and designed to be consistent with the natural appearance of the surrounding area. These policies will ensure that any future development facilitated by the Project protect and maintain the City's wetlands. Policy LU 6.5.4 requires development to be located and designed to preserve and/or mitigate for the loss of wetlands and drainage course habitat. Adherence to the above identified federal and State laws and regulations and General Plan policies ensures that any future development facilitated by the Project would result in less than significant impacts on State or federally protected wetlands and no mitigation is required.

“Would the Project 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?”

Basis for Conclusion: Most of the housing sites are of limited value for wildlife movement and corridors due to existing residential and commercial development and public infrastructure. Housing sites 110-118, 120-124, 126-131, and 215 are vacant, which could potentially support nesting birds. Although the

remaining sites are developed, ornamental landscaping associated with the existing developed sites can provide habitat for native birds. All future development facilitated by the Project would be subject to the City's development review process and required to comply with relevant federal, State, and local regulations for avoiding and minimizing interference with the movement of any native resident or migratory fish and wildlife species, migratory wildlife species, or migratory wildlife corridors. As part of the development review process, future development would be required to comply with Municipal Code Chapters 21.30, 21.30B, and 21.53, which outlines additional requirements for new development to ensure the protection of environmentally sensitive habitat areas and coastal zones.

Future housing development facilitated by the Project would be subject to several relevant General Plan Policies. General Plan Policies NR 10.3 and NR 10.4, 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. General Plan Policies NR 10.5, NR 10.7, and NR 10.8 prevent disruption, and ensure protection of sensitive habitat through siting and design requirements, along with sufficient buffer sizes and shielding from direct exterior lighting. Policies NR 12.1 through NR 12.3 would serve to protect coastal dune habitats, which serve as movement corridor for coastal wildlife species. Policies NR 13.1 and NR 13.2 would protect, maintain, and enhance the City's wetlands, another movement corridor for a variety of aquatic, terrestrial, and avian species. With implementation of the policies, new urban uses within the developed areas of the City would not have a substantial effect on the movement of native resident or migratory wildlife species or corridors. Future housing development where the City has determined a potential for impacts to a wildlife corridor, would be required to prepare a site-specific general biological resources survey on sites that contain the presence of any sensitive biological resources.

Following compliance with the established regulatory framework future housing development impacts concerning interference 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 would be less than significant and no mitigation is required.

Cultural Resources

"Would the Project disturb any human remains, including those interred outside of dedicated cemeteries?"

Basis for Conclusion: According to the General Plan EIR, archaeological materials, including human burials, have been found in the City. Human burials outside of formal cemeteries often occur in prehistoric archeological contexts. The potential still exists for these resources to be present, particularly in the areas of the City that are still mostly underdeveloped for urban uses, such as but not limited to the Banning Ranch area. While the Project does not propose activities such as grading or construction, human remains could be uncovered during future grading activities facilitated by the Project.

In the unlikely event that human remains are found, those remains would require proper treatment in accordance with applicable laws, including California Health and Safety Code (HSC) (§§7050.5, 7051, and 7054) and PRC Sections 5097.98 and 5097.99. Therefore, following compliance with the established regulatory framework, future development facilitated by the Project would have a less than significant impact concerning human remains and no mitigation is required.

Standard Conditions of Approval

SC CUL-2 California Health and Safety Code Section 7050.5, CEQA Guidelines Section 15064.5, and Public Resources Code Section 5097.98 mandate the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery. California Health and Safety Code Section 7050.5 requires that in the event that human remains are discovered within the project site, disturbance of the site shall be halted until the coroner has conducted an investigation into the circumstances, manner and cause of death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes or has reason to believe the human remains to be those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

Energy

“Would the Project result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation?”

Basis for Conclusion: The majority of future housing development facilitated by the Project would occur on sites that are fully improved. Unlike an individual project for which project-specific construction information is available, it is impractical to quantify construction-related energy consumption from all of the future housing development that would contribute incrementally to construction energy demand throughout the City. The amount of construction-related fuel cannot be determined at this time due to the lack of project-specific construction information associated with future development on each of the housing sites. Rather, construction energy consumption would be evaluated for specific development projects as future development applications are processed by the City. It is noted that construction fuel use is temporary and would cease upon completion of construction activities. Further, there are no unusual Project characteristics that would necessitate the use of construction equipment that would be less energy-efficient than at comparable construction sites in the region or State. Therefore, construction fuel consumption associated with future housing development facilitated by the Project would not be any more inefficient, wasteful, or unnecessary than other similar residential developments. A less than significant impact would occur and no mitigation is required.

The energy consumption associated with Project operations would occur from building energy (electricity and natural gas) use, water use, and transportation-related fuel use. The Project would be required to adhere to all federal, State, and local requirements for energy efficiency, including the latest Title 24 standards. Project implementation would not constrain local or regional energy supplies and would not require the expansion or construction of new electricity generation and/or transmission facilities. As such, implementation of the Project would not use large amounts of fuel or energy in an unnecessary, wasteful, or inefficient manner. Impacts would be less than significant and no mitigation is required.

“Would the Project conflict with or obstruct a State or Local plan for renewable energy or energy efficiency?”

Basis for Conclusion: The energy conservation policies and plans relevant to the Project include the California Title 24 energy standards and the 2022 CALGreen building code. Future housing development facilitated by the Project would be required to comply with these existing energy standards. Compliance with State and local energy efficiency standards would ensure that the Project meets all applicable energy conservation policies and regulations. As such, the Project would not conflict with applicable plans for renewable energy or energy efficiency. SCAG’s 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (Connect SoCal) (RTP/SCS) integrates transportation, land use, and housing to meet GHG reduction targets set by CARB. The document establishes GHG emissions goals for automobiles and light-duty trucks, as well as an overall GHG target for the region consistent with both the target date of AB 32 and the post-2020 GHG reduction goals of SB 375. The Project would not conflict with the stated goals of the RTP/SCS. Potential impacts are considered less than significant without mitigation.

Geology and Soils

“Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?”

Basis for Conclusion: The City is within a seismically active area that could be subject to strong seismic ground shaking. The fault zones traversing the City each have the potential to cause moderate to large earthquakes that would cause ground shaking at the housing sites. Although the City does not contain a known Alquist-Priolo zone as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map, the housing sites within the Banning Ranch Focus Area are located near the Newport Inglewood Rose Canyon fault zone.² Following compliance with all relevant regulations and requirements for avoiding seismic impacts from development, the Project would result in a less than significant impact concerning adverse effects involving strong seismic ground shaking and no mitigation is required.

“Would the Project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction, and landslides?”

Basis for Conclusion: There are 31 housing sites located in liquefaction-susceptibility zones and 17 housing sites located within landslide-susceptibility zones. However, liquefaction and landslide potential do not necessarily limit development potential, as site-specific geotechnical studies would be required to determine the soil properties and specific potential for liquefaction in a specific area for new proposed development, per General Plan Policy S 4.7. Further, future residential developments facilitated by the Project would be subject to the City’s development review process, and required to adhere to all federal, State, and local requirements for avoiding and minimizing seismic-related impacts. With compliance with all relevant regulations and requirements for avoiding seismic impacts from development, the Project would result in a less than significant impact concerning adverse effects involving seismic-related ground failure including liquefaction and landslides and no mitigation is required.

² The Banning Ranch Focus Area is included in the 2021–2029 Housing Element’s sites inventory but is not assumed to accommodate the City’s 2021–2029 Regional Housing Needs Assessment (RHNA) growth need. Banning Ranch is considered as additional dwelling unit opportunity in addition to those that accommodate the RHNA.

“Would the Project result in substantial soil erosion or the loss of topsoil?”

Basis for Conclusion: Future residential development facilitated by the Project could result in grading activities that would disrupt soil profiles, and thereby result in potential increased exposure of soils to wind and rain. Erosion on graded slopes could cause downstream sedimentation impacts. Other related impacts resulting from substantial short-term erosion or loss of topsoil include topography changes and the creation of impervious surfaces. A majority of the housing sites are currently developed with existing structures. Future residential projects would be subject to the City’s development review process and would be required to comply with General Plan Policies NR 3.10, NR 3.11, and NR 3.12 which require compliance with applicable local, State, or federal laws. Compliance with the California Building Code (CBC) and the National Pollutant Discharge Elimination System (NPDES) permits would minimize soil erosion and loss of topsoil and ensure consistency with the Regional Water Quality Control Board (RWQCB) Water Quality Control Plan. The NPDES permit requires preparation of a Stormwater Pollution Prevention Plan (SWPPP), which specifies best management practices (BMPs) to be used to minimize storm water pollution from project construction, including erosion and topsoil. All future residential projects would also be required to comply with the City’s Erosion Control regulations specified under Municipal Code Chapter 15.10.130. Compliance with these regulations would reduce the potential for substantial erosion or loss of topsoil. Impacts would be less than significant and no mitigation is required.

“Would the Project 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- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?”

Basis for Conclusion: While multiple housing sites are located on geologic units or soils that could become unstable, future housing development facilitated by the Project would be subject to the City’s development review process. Future residential developments would be required to adhere to all federal, State, and local requirements for avoiding and minimizing impacts caused by unstable geological units or soils. These housing projects would be subject to compliance with General Plan Safety Element Policy S 4.7, which requires seismic studies for new development in areas where potentially active faults may occur. These studies would also include soil investigations and recommendations for addressing grading procedures, soil stabilization during and post-construction, foundation design, and slope stability. The City requires reports of soil conditions to identify potentially unsuitable soil conditions including liquefaction, subsidence, and collapse. The evaluations must be conducted by registered soil professionals, and measures to eliminate inappropriate soil conditions must be applied. The design of foundation support must conform to the analysis and implementation criteria described in CBC Chapter 18 – Soils and Foundations. Adherence to the CBC, City’s codes, and General Plan policies would ensure the maximum practicable protection available for users of buildings and infrastructure and associated trenches, slopes, and foundations. The Project would have a less than significant impact concerning potential substantial adverse effects involving exposure to unstable geological units or soils and no mitigation is required.

“Would the Project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?”

Basis for Conclusion: The City contains surficial soils and bedrock with fine-grained components that are moderately to highly expansive. The City’s Building Code adopts the latest CBC regulations, which also requires geotechnical investigations that identifies potentially unsuitable soil conditions and contains appropriate recommendations for foundation type and design criteria that conform to the analysis and implementation criteria described in Municipal Code Title 15 (Building and Construction). General Plan

Safety Element Policy S 4.7 requires that development not be located on unstable soils or geologic units. Through compliance with applicable provisions of the CBC, General Plan Policy 4.7 and Municipal Code Title 15 requirements, the Project would not create substantial direct or indirect risks to life or property due to a project located on expansive soils. Impacts are less than significant and no mitigation is required.

“Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?”

Basis for Conclusion: Future construction activities associated with development could affect unidentified paleontological resources through grading and other earthwork activities. In the inadvertent event of discovery of paleontological resources, impacts could be potentially significant. Future housing development facilitated by the Project would be subject to the City's development review process and would be subject to comply with City regulations and policies. Policy HR 2.1 and Policy NR 18.1 require any new development to protect and preserve archaeological resources from destruction, and that potential impacts to such resources be avoided and minimized through planning policies and permit conditions. Development in the coastal zone would also be subject to LCP Policy 4.5.1-2 and Policy 4.5.1-5. LCP Policy 4.5.1-2 requires a qualified paleontologist/archeologist to monitor all grading and/or excavation where there is a potential to affect cultural or paleontological resources. LCP Policy 4.5.1-5 requires submittal of a monitoring plan when there is a potential to impact paleontological resources. The Newport Beach City Policy Manual also identifies Policy K-5 Paleontological and Archaeological Resource Protection Guidelines, which requires that the City prepare and maintain sources of information regarding paleontological sites. Future development facilitated by the Project would be required to comply with the City Council Policy K-5, as set forth in SC GEO-1. Compliance with SC GEO-1, General Plan policies within Natural Resources Element Goal NR 18, and the policies under Goal HR 2 of the Historical Resources Element would reduce impacts to paleontological resources to a less than significant level.

Standard Conditions of Approval

SC GEO-1 In compliance with Newport Beach Council Policy Manual, Paleontological and Archaeological Resource Protection Guidelines (K-5), prior to the issuance of a grading permit by the City, the project applicant shall retain and provide documentation of such retention to the City of Newport Beach Community Development Director. The qualified paleontologist shall be to be present during ground-disturbing activities on the site or available on an on-call basis, as determined by the City. If paleontological resources are encountered, all construction work in the general area of the find shall cease until the paleontologist assesses the find. Construction activities may continue in other areas. The paleontologist shall determine the significance of the resources and recommend next steps (e.g., additional excavation, curation, preservation, etc.). If, in consultation with the City, the discovery is determined to not be important, work will be permitted to continue in the area. Any resource shall be curated at a public, nonprofit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Cooper Center (a partnership between California State University, Fullerton and the County of Orange).

Hazards and Hazardous Materials

“Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?”

Basis for Conclusion: Hazardous materials would be limited to those associated with common household fertilizers, pesticides, paint, solvents, and petroleum products. Because these materials would be used in very limited quantities, they are not considered a significant hazard to the public. The routine transport, use, or disposal of hazardous materials would be less than significant since all uses and facilities are required to comply with all applicable federal, State and regional regulations which are intended to avoid impacts to the public or environment.

“Would the Project 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?”

Basis for Conclusion: Regulatory databases (i.e., SWRCB GeoTracker and DTSC Envirostor), identified housing sites 141 (closed case) and 235 (active case) as located on a listed Envirostor site and housing site 100 (inactive case) as located adjacent to a listed Envirostor site. Housing sites 33, 84, 86, 204, 224, 235, and 238 are located on a GeoTracker site; all of these cases are closed. Because the contamination status of properties can change, as a part of the City’s development review process, each housing site would be required to be evaluated and/or reevaluated, if and when the individual site is proposed for development or redevelopment with a residential land use. Future development would be subject to comply with General Plan Safety Element Policy S 7.1, which requires proponents of projects in known areas of contamination from oil operations or other uses perform comprehensive soil and groundwater contamination assessments in accordance with American Society for Testing and Materials standards.

Future housing development could require demolition of existing uses, which could release asbestos containing materials (ACM), lead-based paints (LBP), and other hazardous materials. Federal and State regulations govern the renovation and demolition of structures where materials containing lead and asbestos are present. In addition to exposure to ACMs and LBPs, there is also the potential that grading and excavation of sites for future residential development may also expose construction workers and the public to potentially unknown hazardous substances present in the soil or groundwater. Compliance with General Plan Safety Element Policy S 7.4, which requires implementation of remediation efforts for contaminated surface water and groundwater resources, would minimize the potential risks to construction workers and the public. Compliance with the existing regulatory framework would ensure that future housing development on housing sites would not result exposure of construction workers or the public to hazardous substances in the soil or groundwater, and impacts are less than significant.

Construction activities associated with future residential development would include the use of materials such as fuels, lubricants, and greases in construction equipment and coatings used in construction. However, the materials used would not be in such quantities or stored in such a manner as to pose a significant safety hazard. Compliance with applicable laws and regulations governing the use, storage, and transportation of hazardous materials would ensure that all potentially hazardous materials are used and handled in an appropriate manner and would minimize the potential for safety impacts to occur.

Future development near the Newport Oil Field, West Newport Oil Field, or on housing sites within the Methane Overlay Zone would be subject to comply with specific requirements outlined in Municipal Code 15.55.040, which also requires testing of building site soils for the presence of methane gas and identify

measures to mitigate excessive methane levels. Other requirements include installation of an isolation barrier beneath all newly constructed foundations and floors at ground level. Future development associated in the identified areas of the City would be subject to the provisions of Chapter 9.04.170 of the City's Fire Code, which regulates the development on or near land containing or emitting toxic, combustible or flammable liquids, gases, or vapors. Compliance with the existing regulatory framework as outlined in Municipal Code Chapters 15.55.040 and 9.04.170 would ensure that future housing development on housing sites would not result in health and/or safety hazards associated with existing oil wells and methane gas; impacts are considered less than significant.

Operation of the future residential development facilitated by the Project would involve the use of small quantities of hazardous materials for cleaning and maintenance purposes, such as paints, household cleaners, fertilizers, and pesticides. No manufacturing, industrial, or other uses using large amounts of hazardous materials would occur as a result of the Project. Therefore, impacts to the public and the environment during operation of the future residential development facilitated by the Project would be less than significant and no mitigation is required.

"Would the Project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?"

Basis for Conclusion: Future housing development on housing sites facilitated by the Project would have a potentially significant impact on the environment from emitting hazardous emissions or substances within 0.25-mile of an existing or proposed school. The Project evaluates future residential uses on the housing sites. Residential uses do not generate hazardous emissions or involve the handling of hazardous materials, substances, or waste in significant quantities that would have an impact to surrounding schools. Impacts would be less than significant with no mitigation required.

"Would the Project be located within an airport land use plan or, where such a plan has not yet been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?"

Basis for Conclusion: Project Implementation would facilitate housing development within the John Wayne Airport Notification Area. While future housing development and non-residential development in the City, inclusive of the Airport Area, would increase the number of residents and non-residents proximate to John Wayne Airport, individual projects would be subject to development review by the City and where a General Plan, Specific Plan or PC amendment, or a rezone is required, the project would also be subject to the review of the Airport Land Use Commission (ALUC). A determination would be made by the City regarding whether future development on housing sites within an Airport Environs Land Use Plan (AELUP) Safety Zone would result in a potential safety hazard. Based on the locations of the majority of the housing sites located in Safety Zone 6, the allowance for residential uses in Safety Zone 4, and the restriction of only low-density residential uses in Safety Zone 3, the potential for airport safety hazard impacts are considered less than significant.

"Would the Project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?"

Basis for Conclusion: The City's Emergency Operations Plans (EOP) provides guidance for the City's response to emergency situations associated with natural disasters, technological incidents, and national

security emergencies. The Emergency Operations Plans identify evacuation routes, emergency facilities, and personnel, and describes the overall responsibilities of federal, State, regional, and city entities. Municipal Code Chapter 9.04 also sets standards for road dimension, design, grades, and other fire safety features. Further, the latest CBC also contains standards for new construction and development related to emergency events such as seismic events. Future development on housing sites would be required to comply with applicable building and fire safety regulations required for the design of new housing and emergency access. Impact are less than significant and no mitigation is required.

“Would the Project 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?”

Basis for Conclusion: A small portion of housing site 131 is located within the Very High Fire Hazard Severity Zone (VHFHSZ) and all of housing site 336 is located within the VHFHSZ. Both housing sites are within the Coyote Canyon Focus Area. Future residential development facilitated by the Project on these sites would consequently result in higher fire-related risks to people and structures. To minimize risk from wildfire, future development on the housing sites in high hazard severity zones are required to adhere to the California Fire Code Chapter 49, which requires applicants to prepare a fire protection plan for any sites located in the VHFHSZ or Wildland-Urban Interface Fire Areas, the CBC, which contains construction requirements to reduce risk of fire hazards to residential property, and General Plan Safety Element Policies S 6.1 through 6.9, which are directly related to reducing the threat of fire hazards within the City. Compliance with the existing regulatory framework, including CBC regulations, California Fire Code regulations, and General Plan policies would reduce impacts related to wildfire hazards to a less than significant level, and no mitigation is required.

Hydrology and Water Quality

“Would the Project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?”

Basis for Conclusion: Future projects would be required to demonstrate consistency with General Plan, Municipal Code, and LCP requirements, including those intended to protect water quality. The NPDES Construction General Permit program requires the implementation of BMPs to reduce or prevent pollutant discharge from these activities to the Maximum Extent Practicable for urban runoff for construction storm water. Construction activities would be required to comply with a project-specific SWPPP that identifies erosion-control and sediment-control BMPs that would meet or exceed measures required by the Construction Activity General Permit to control potential construction-related pollutants.

Future housing projects would be required to comply with applicable local and regional storm water and urban runoff pollution and conveyance requirements including those outlined in the Orange County Stormwater Management Program and the City’s General Plan and Municipal Code. These regulations would manage storm water flows from development projects, both to prevent erosion and to protect and enhance existing water-dependent habitats. These requirements would ensure that potential impacts from construction of developments facilitated by the Project related to soil erosion, siltation, and sedimentation remain less than significant and avoid violation to any water quality standards or waste discharge requirements. Future development would also be required to implement post-construction BMPs in project design to capture and treat runoff. Therefore, the Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality. Impacts are less than significant and no mitigation is required.

“Would the Project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin?”

Basis for Conclusion: The City is underlain by the Orange County Groundwater Basin which is managed by the Orange County Water District; however, it is not located within an identified recharge area. Of the 247 of the 247 housing sites are developed with impervious surfaces that limit groundwater infiltration. Future housing development facilitated by the Project would be required to adhere to Municipal Code standards for avoiding and minimizing construction and operations impacts to groundwater supplies, including Municipal Code Section 14.36.040 (Control of Urban Runoff), Section 15.10.130 (Erosion Control), and the Citywide Urban Runoff Management Plan NPDES Municipal Stormwater MS4 Permit. Therefore, the Project would not interfere substantially with groundwater recharge.

Future housing development facilitated by the Project would result in increased demand for groundwater as supplied by the City, Irvine Ranch Water District, and Mesa Consolidated Water District. General Plan Policy NR 3.6 requires that development not result in the degradation of natural water bodies. Policy NR 3.19 requires incorporation of natural drainage systems and storm water detention facilities into new developments, where appropriate and feasible, to retain storm water in order to increase groundwater recharge. These policies are consistent with the intent of the Groundwater Management Plan for the Orange County Groundwater Basin. The Project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin. Impacts are less than significant and no mitigation is required.

“Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site?”

Basis for Conclusion: All future development, regardless of existing conditions, would be subject to the NPDES Construction General Permit program which requires implementation of BMPs to reduce or prevent pollutant discharge from construction activities. Specifically, project-specific SWPPPs would identify erosion-control and sediment-control BMPs that would meet or exceed measures required by the Construction Activity General Permit. The General Plan also contains policies designed to minimize storm water and erosional impacts during construction. Policy NR 3.10 requires new development applications to include a WQMP to minimize runoff during construction. Policies NR 3.11, NR 3.12, and NR 4.4 require improvement and implementation of BMPs to prevent or minimize erosion during construction. Compliance with the existing regulatory framework and General Plan policies would reduce, prevent, or minimize soil erosion from grading and construction activities. Impacts would be less than significant.

“Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?”

Basis for Conclusion: On developed sites, future residential development facilitated by the Project would not substantially alter drainage patterns because these areas are already developed with existing uses and impervious surfaces. Increased impervious surfaces would increase storm water runoff. Increased runoff could exceed the capacity of existing and planned infrastructure and cause downstream flooding

impacts. Future housing development facilitated by the Project would be required to adhere to all federal, State, and local requirements for avoiding construction and operations impacts that could substantially alter the existing drainage pattern or alter the course of a stream or river, including Municipal Code Sections 15.10.130 (Erosion Control) and 15.50 (Floodplain Management), General Plan Safety Element Policies S 2.6, S 5.1, and S 5.3, which would require storm drain maintenance, mitigation of flood hazards by including on-site drainage systems that are connected to the City's storm drain system, grading of sites such that runoff does not impact adjacent properties, or elevating buildings above flood levels, and incorporation of storm water detention basins. Compliance with General Plan policies and Municipal Code regulations would ensure the Project does not increase the rate or amount of surface runoff in a manner which would result in flooding. Impacts are less than significant and no mitigation is required.

“Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would 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?”

Basis for Conclusion: Future residential development facilitated by the Project could potentially exceed existing storm water drainage systems capacities due to increased population growth and storm water generation. Several General Plan Natural Resources Element policies designed to minimize storm water runoff would apply to future development on housing sites. Policy NR 3.11 requires implementation of BMPs in all developments to treat storm water runoff, Policy NR 3.19 requires incorporation of natural systems and storm water detention facilities to retain storm water and increase groundwater recharge, and Policy NR 3.20 requires minimize the creation of impervious surfaces and increase pervious surfaces where possible, which would reduce downstream impacts to the City's storm water drainage infrastructure. Implementation of these policies would reduce the volume of runoff generated, and further reduce impact to existing or planned storm water drainage systems.

New development and significant redevelopment are subject to Municipal Code Section 14.36.040 (Control of Urban Runoff), which enables the Community Development Department and/or Public Works Department to issue conditions and requirements reasonably related to the reduction or elimination of pollutants in storm water runoff from a development site.

Upgrades to the existing storm drain system in the City could be required as result of new development and redevelopment that could occur under the Project. However, future development would require the study of localized conditions and construction of additional storm drains based on site-specific conditions and proposed development plans. If constraints are identified, the applicant would be required to construct or contribute a fair-share toward the storm drain improvement. Compliance with General Plan policies identified above and Municipal Code sections would minimize storm water runoff and would not exceed the capacity of existing or planned storm water drainage systems. Therefore, impacts would be less than significant and no mitigation is required.

“Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would impede or redirect flood flows?”

Basis for Conclusion: There are 29 housing sites within a Flood Hazard Zone. General Plan Safety Element Policy S 5.1 requires that all new development within 100-year floodplains incorporate sufficient

measures to mitigate flood hazards including the design of on-site drainage systems that are connected with the City's storm drainage system, gradation of the site such that runoff does not impact adjacent properties, and buildings are elevated. Policy S 5.3 requires storm water detention basins to reduce potential risk of flood hazards. Municipal Code Chapter 15.50 (Floodplain Management) establishes methods and provisions that would minimize flood damage to residential development. Municipal Code Section 15.50.200 specifies standards for construction for all new construction and substantial improvements of structures within special flood hazard areas. These requirements include that the lowest floor of residential structures and structures within subdivisions to be elevated to or above the base flood level. Compliance with General Plan policies and Municipal Code regulations would reduce impacts related to flood flows. Impact would be less than significant and no mitigation is required.

“Would the Project, in flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?”

Basis for Conclusion: Three housing sites are in tsunami evacuation areas – sites 133, 134, and 334 – all of which are within the Dover-Westcliff Focus Area. As set forth in General Plan Safety Element Policies S 1.1 and S 1.2, the City has identified evacuation routes in areas susceptible to tsunami inundation and developed and implemented response plans for the City's emergency services. All future housing development within tsunami evacuation areas would be covered by the established evacuation plan, including routes along the Balboa Peninsula and Mariner's Mile.

Twenty-eight housing sites are in an identified Flood Hazard Zone. Future development facilitated by the Project could place housing and structures within a 100-year flood hazard area and/or dam inundation area. Several General Plan Safety Element Policies are aimed at reducing impacts related to flooding and storm surge events. Policy S 2.7 requires new or remodeled residential structures in area susceptible to storm surges to raise floor elevations as required by building codes. Policy S 5.1, which require that all new development within 100-year floodplains incorporate sufficient measures to mitigate flood hazards including the design of on-site drainage systems that are connected to the City's storm drainage system.

The City requires all new development within a 100-year flood hazard area to obtain all necessary permits from applicable governmental agencies, and implement specific construction standards codified under Municipal Code Section 15.50.200. Future development facilitated by the Project would be required to adhere to all federal, State, and local requirements for avoiding and minimizing impacts related to flood hazards, tsunami, or seiches, including General Plan policies and Municipal Code regulations. Considering these requirements, future development facilitated by the Project would not result in significant increased risk concerning release of pollutants due to inundation, tsunami, or seiche zones. Therefore, impacts would be less than significant and no mitigation is required.

“Would the Project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?”

Basis for Conclusion: The City is under the jurisdiction of the Santa Ana Regional Water Quality Control Board (RWQCB), which establishes water quality objectives and standards for both surface and groundwater of the region, and water quality discharge requirements. Under the Santa Ana RWQCB's NPDES permit system, all existing and future municipal discharges to surface waters within the City would be subject to regulations. NPDES permits are required for operators of MS4s, construction projects, and industrial facilities. Developments within the City would also be subject to the provisions in Municipal Code Chapter 14.36 (Water Quality). Under the provisions of Chapter 14.36, any discharge that would result in or contribute to degradation of water quality via storm water runoff is prohibited. Operation of

new development or redevelopment projects are required implement of BMPs identified in the Drainage Area Management Plan (DAMP) to control storm water runoff to prevent any deterioration of water quality that would impair subsequent or competing beneficial uses of the water. Future housing development would not obstruct implementation of applicable plans; impacts would be less than significant and no mitigation is required.

Land Use and Planning

“Would the Project physically divide an established community?”

Basis for Conclusion: The Project would not result in the division of an established community because housing sites are located throughout the City, rather than in a single, concentrated area, and the Project does not propose any major roadways that would traverse an existing community or neighborhood. Therefore, impacts are less than significant and no mitigation is required.

“Would the Project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?”

Basis for Conclusion: The Project does not propose changes to the existing General Plan land use categories that govern land uses within the City, including the five land use designations that solely accommodate residential development. No change is proposed to the designations' densities or housing types. The Project proposes amendments to the General Plan Land Use Element goals and policies to further the implementation of the 2021-2029 Housing Element. The proposed Land Use Element updates are required to ensure consistency between General Plan elements in compliance with State law. The Land Use Element amendments would ensure that future housing development facilitated by the Project occurs in a manner that is consistent with densities, objective design, and development standards in the City. Analysis of the Project's consistency with the applicable existing and proposed goals and policies of the General Plan Land Use Element concludes that the Project would not conflict with key relevant Land Use Element policies adopted for the purposes of avoiding or mitigating an environmental effect.

The Project includes 48 housing sites that are located within the Coastal Zone and would be subject to the LCP. The Project includes modifications to existing LCP policies, as well as new policies, to facilitate future development of housing on sites located within the Coastal Zone. Additionally, Municipal Code Chapter 21.28, Overlay Coastal Zoning Districts, would be amended to include Section 21.28.070: Housing Opportunity (HO) Overlay Coastal Zoning Districts. The HO Overlay Coastal Zoning Districts are intended to accommodate housing opportunities consistent with the 2021-2029 Housing Element's focus areas and to ensure the City can meet RHNA allocation. The LCP policy changes and associated Municipal Code amendments would not change the underlying zoning or land use of housing sites. Future housing development facilitated by the Project would be subject to the City's review and approval process and would need to comply with all applicable federal, State, and local laws and regulations, including those related to the Coastal Zone. Therefore, upon approval of the Project's discretionary actions, the Project would result in less than significant impacts related to conflicts with the LCP and policies and programs adopted for the purpose of avoiding or mitigating an environmental effect.

Noise

“Would the Project result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?”

Basis for Conclusion: Construction. Construction activities occurring under the Project could result in a temporary increase in ambient noise levels. General Plan Policy N 4.6 would reduce impacts related to construction noise by limiting the hours of maintenance or construction activity in or adjacent to residential areas, and General Plan Policy N 5.1 would enforce the limits on hours of construction activity. Construction noise is an existing noise source in the City and while the noise levels at existing construction sites may not substantially differ from future construction noise resulting from development under the Project, construction noise would occur in areas of the City that are already developed. In some instances, construction noise may be introduced where it did not previously exist. Because specific project-level information is inherently not available at this time, it is not possible nor appropriate to quantify the construction noise impacts at specific sensitive receptors. In most cases, construction of individual developments associated with implementation of the Project would temporarily increase the ambient noise environment in the vicinity of each housing site, potentially affecting existing and future nearby sensitive uses. The nearest sensitive uses (e.g., residential uses) could be located within approximately 25 feet of construction activities associated with the Project. Intermittent construction equipment could reach or exceed 91 dBA. Because of the high degree of variability in construction noise, exposure to such sound level incursions could be brief, and the maximum noise levels at adjacent uses would lessen as the noisiest piece of construction equipment moved farther away, reduced the necessary power setting, and/or changed the interaction with the work piece. Nearby sensitive receptors may be exposed to elevated noise levels for the duration of construction. Noise levels would be higher during the demolition, site preparation, and excavation activities, where the use of heavy construction equipment is more frequent but also during other portions of the overall construction process. Construction activities would also cause increased noise along access routes to and from the site due to movement of equipment and workers. These trips would occur incrementally over the construction phases.

Municipal Code Section 10.28.040 (Construction Activity – Noise Regulations) limits noise sources associated with construction, repair, remodeling, or grading of any real property to the hours of 7:00 a.m. and 6:30 p.m. on weekdays. Construction can be performed on Saturday, in any area of the City that is not designated as a high-density area, between the hours of 8:00 a.m. and 6:00 p.m. Municipal Code Section 10.26.035(D) also exempts construction noise from the City’s exterior and interior noise limits, acknowledging that construction activity is a normalized function of typical urban and suburban activities during daytime hours. Therefore, construction noise is exempt and following compliance with the City’s allowable construction hours and provisions of the Municipal Code, construction activities associated with the Project would be less than significant.

Operations – Stationary Noise Sources. Operational stationary noise sources (e.g., heating, ventilation, and air conditioning [HVAC]) are anticipated to increase incrementally from increased residential development as a result of the Project. Due to the variability and details for future individual residential developments, quantifying long-term stationary noise impacts from the Project is not feasible. Depending on how development proceeds (i.e., individual housing developments would occur over time dependent upon market demand, economic, and planning considerations, among other factors), future residential development could generate noise levels that exceed the City’s noise standards at adjacent sensitive receptors. However, long-term stationary noise levels would be reduced through implementation of

General Plan Policies N 1.1, N 1.4, N 4.1, and N 4.5. In addition, future development would be required to comply with City, State and federal guidelines concerning noise abatement and insulation standards. This would ensure that noise levels at the housing sites and surrounding areas are maintained within acceptable standards that prevent excessive disturbance, annoyance, or disruption.

The noise standards outlined in Municipal Code Section 10.26.025 (Exterior Noise Standards) and Section 10.26.030 (Interior Noise Standards) would be relied upon to evaluate noise impacts from stationary sources at future residential developments. Following individual development and design review and compliance with the City's noise standards, as well as General Plan policies, the Project's impacts from stationary noise sources would be less than significant.

"For a Project located within the vicinity of a private airstrip or 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?"

Basis for Conclusion: There are housing sites located within the 65-70 dBA CNEL noise contour for John Wayne Airport. Section 3.2.3 of the AELUP requires residential uses to be developed with advanced insulation systems to bring the sound attenuation to no more than 45 dB interior and also requires uses to be "indoor oriented." Project compliance with General Plan Noise Element policies N.1.2, N 1.5, N 1.5A, N 2.2, N 3.1, N 3.2, LU 6.15.3, and Municipal Code Section 20.30.080(F) (Residential Use Proximate to John Wayne Airport) would result in less than significant impacts with respect to housing development proximate to the airport and no mitigation is required.

Population and Housing

"Would the Project induce substantial unplanned 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)?"

Basis for Conclusion: The Project's implementing actions would facilitate future housing development, which could induce population growth in the City beyond 2023 existing conditions and extrapolated 2029 SCAG forecast conditions. However, State law requires that the City accommodate their RHNA "fair share" of the region's housing needs, which cannot be achieved without the Project's proposed rezoning/land use amendments. While the Project would facilitate the development of additional housing throughout the City, resulting in a forecast population growth of approximately 21,811 persons, this forecast population growth would be attributed to accommodating the City's remaining RHNA allocation of 4,845 dwelling units plus the RHNA buffer. Therefore, although the Project would indirectly induce population growth in the City, it is not considered unplanned given State law requirements.

As the City is predominately built out, it is anticipated that future housing development facilitated by the Project would be adequately served by existing services and located near established infrastructure with only minor modifications required. Therefore, the Project would not induce unplanned population growth in the City by proposing new businesses or through extension of roads or other infrastructure.

Planning for the increase in housing is necessary to comply with the State-mandated 6th Cycle RHNA. The Project would not induce substantial growth, but rather would accommodate projected growth in the region. Impacts are less than significant and no mitigation is required.

“Would the Project displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere or displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?”

Basis for Conclusion: A majority of the housing sites are developed with non-residential uses. Future housing development would occur such that there is no net loss of residential unit capacity. The Project would be consistent with State and local land use plans and would not displace a substantial number of housing units that would require replacement. Impacts are less than significant and no mitigation is required.

Public Services

“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 fire protection?”

Basis for Conclusion: Of the 247 housing sites, all are developed/occupied with structures except 21 sites. Fire protection services are provided to the currently developed sites and in the surrounding area of the vacant sites. Future housing would incrementally increase the demand for fire protection and emergency services. All future housing development facilitated by the Project would be subject to the City's development review process and would be assessed on a project-specific basis for potential effects concerning the secondary effects of population growth, including but not limited to the need for public service improvements. Projects would need to demonstrate that adequate fire protection services can be provided for new housing and continue to be provided for existing land use. At the program-level of review, the Project would not result in a need for expanded or newly constructed facilities, and impacts associated with fire services would be less than significant. Should construction of new facilities be required in the future, each would undergo site-specific environmental analysis, as applicable.

“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 police protection?”

Basis for Conclusion: Police protection services are provided to the currently developed sites and in the surrounding area of the vacant sites. Future housing would incrementally increase the demand for police protection. All future housing development would be subject to the City's development review process and would be assessed on a project-specific basis for potential effects concerning the secondary effects of population growth, including but not limited to the need for public service improvements. Projects would need to demonstrate that adequate police protection services can be provided for new housing and continue to be provided for existing land use. At the program-level of review, the Project would not result in a need for expanded or newly constructed facilities, and impacts associated with police protection services would be less than significant. Should construction of new facilities be required in the future, each would undergo site-specific environmental analysis, as applicable.

“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 schools?"

Basis for Conclusion: The Project could result in an additional 1,623 students within the Newport-Mesa Unified School District and 4,939 students within the Santa Ana Unified School District. Due to the existing capacities within the school districts, it is expected that the increase in school-aged children could be accommodated within the existing school facilities. If new facilities would need to be constructed at a future date to accommodate increased demand on schools further environmental review separate from the Program EIR would be required as project-specific plans are developed to determine which school districts and schools specific development proposals would have the potential to Impact. Therefore, impacts are less than significant and no mitigation is required.

"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 libraries?"

Basis for Conclusion: Future housing development would generate population growth that could incrementally increase the demand for library services at the Newport Beach Library System's facilities. This new development would be subject to the City's development review process which includes project-specific review. New development would also be required to comply with Municipal Code Section 3.12 (Property Development Tax), which imposes an excise tax upon the construction and occupancy of each residential unit, commercial unit, and industrial unit. Development facilitated by the Project would occur incrementally over time and as market conditions allow. Similarly, the tax proceeds from future development would be collected over time, allowing library improvements and expansions to occur as needed. If new facilities would need to be constructed at a future date to accommodate increased demand on libraries, further environmental review separate from the Program EIR would be required as project-specific plans are developed to determine which specific development proposals would have the potential to impact. Therefore, impacts are less than significant and no mitigation is required.

Recreation

"Would the Project increase the use of existing neighborhood, community and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?"

"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?"

Basis for Conclusion: An increase in City residents associated with the future development of housing sites within the Focus Areas would result in an increased demand for recreational facilities. Newport Beach's park dedication requirement is 5 acres per 1,000 persons (Municipal Code Chapter 19.52: Park Dedications and Fees). Based on the City's estimated 2023 population of 83,411, the City has approximately 4.4 acres of improved/developed parkland for every 1,000 residents. The future 9,914 housing units (RHNA plus buffer) facilitated by implementation of the 2021-2029 Housing Element would

generate a population growth of approximately 21,811 persons in the City, which would increase the City's demand for parkland by approximately 109 acres assuming that every housing unit is constructed.

Individual housing developments and the location of the housing in the City would occur over time dependent upon market demand, economic, and planning considerations, among other factors. Where a future housing project includes the subdivision of land, the housing project would be required to provide land or in lieu fees for parks and recreation purposes to bear a reasonable relationship to the use of the park and recreational facilities by future inhabitants per Municipal Code Section 19.52.030 (Use of Park Dedications and Fees). While there would be an increased use of parkland and recreational facilities resulting from the increase in residential population, the City provides for the maintenance and enhancement of parks and recreational facilities through various funding sources. Because of the City's commitment to the maintenance and enhancement of such facilities and exploration of potential future funding sources, increased use of existing parks and recreational facilities resulting from the Project would not result in substantial physical degradation. Therefore, impacts are less than significant.

Transportation

“Would the Project , conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?”

Basis for Conclusion: SCAG's Connect SoCal and the City have adopted programs, plans, ordinances, and policies that establish the planning framework to achieve a safe, accessible, and sustainable transportation system for all users. Connect SoCal aims to reduce or limit new trip generation and associated regional growth in traffic congestion and VMT by focusing growth, density, and land use intensity within existing urbanized areas. Connect SoCal also strives to enhance the existing transportation system, maximize multi-modal transportation, and integrate land use into transportation planning. Project implementation would not, in and of itself, construct new housing in the City but would facilitate the development of residential units in existing urbanized areas by providing programs and policies that would promote housing for all persons. The Project supports these goals by providing opportunities for future housing throughout the City, including the integration of multi-unit housing in areas of the community that have historically been jobs rich. The Project is consistent with and would assist the City in meeting Connect SoCal Goal 9 to encourage development of diverse housing types in areas that are supported by multiple transportation options. Future housing projects are expected to include mixed-use developments and a mix of market rate and affordable housing units, which would help the City improve mobility through a better jobs-housing balance.

General Plan Circulation Element Policy CE 2.2.4 requires designing traffic controls to ensure the roadway network functions safely and efficiently for vehicles, bicycles, and pedestrians. Policy CE 5.2.6 requires that new development projects include safe and attractive sidewalks, walkways, and bike lanes. All future housing development facilitated by the Project would also be subject to Municipal Code Section 15.38.050, which requires fair share contribution to construct circulation system improvements that improve the efficiency of the circulation system. Thus, compliance with applicable General Plan Circulation Element policies and Municipal Code would ensure that future housing development projects facilitated by the Project would not conflict with programs addressing the circulation system. Impacts are less than significant and no mitigation is required.

“Would the proposed project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

“Would the proposed project result in inadequate emergency access?”

Basis for Conclusion: Future site-specific development would be subject to the City’s development review process, which would include both design and engineering review to ensure roads and access is configured consistent with established roadway design standards. Future housing development would be required to comply with applicable building and fire safety regulations required for the design of new housing and emergency access; and would be required to adhere to applicable State and local requirements. As a result, future housing development on the housing sites would not substantially increase hazards due to design features or incompatible uses, or result in inadequate emergency access. Therefore, impacts would be less than significant and no mitigation is required.

Utilities and Service Systems

“Require or result in the relocation or construction of new or expanded water facilities, the construction or relocation of which could cause significant environmental effects?”

Basis for Conclusion: The majority of housing sites are within urbanized and developed areas, where there is existing water infrastructure. Therefore, it is anticipated that future housing development facilitated by the Project would connect to existing nearby domestic water infrastructure of the respective water purveyors with a limited need for relocation or construction of new or expanded water infrastructure. If improvements to the existing water system are required or additional facilities are needed, the property developer would be required to pay its fair share of the cost of all of portions of the needed improvements. All future housing development would be subject to the City’s development review process and would be assessed on a case-by-case basis for potential effects concerning the secondary effects of population growth, including the need for infrastructure improvements. Although the Project would require the relocation or construction of new or expanded water facilities, the construction or relocation of which would not cause significant environmental effects through compliance with the existing regulatory framework. Impacts would be less than significant impact and no mitigation is required.

“Would the Project require or result in the relocation or construction of new or expanded wastewater treatment facilities, the construction or relocation of which could cause significant environmental effects?”

“Would the Project 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?”

Basis for Conclusion: The majority of housing sites are within urbanized and developed areas, where there is existing wastewater infrastructure. Therefore, it is anticipated that future housing development would connect to existing nearby sewer infrastructure of the respective districts with a limited need for relocation or construction of new or expanded infrastructure. All future housing projects would be subject to the City’s development review process including site-specific evaluation of the respective sanitation districts’ existing infrastructure and treatment capacity to serve the development. Projects would need to demonstrate that adequate sewer infrastructure and treatment capacity is available or can be provided for new housing and continue to be provided for existing land uses. The City levies connection fees for

new or expanded sewer connections, including those to new development. These connection fees help fund the costs associated with providing wastewater facility capacity to both new users requiring new connections, as well as existing users requiring additional capacity.

Projects would be required to comply with federal, State, and local requirements related to wastewater treatment during construction and operations, including the Municipal Code Chapter 21.35 (Water Quality Control), Municipal Code Chapter 14.36 (Water Quality), and the Construction Permit. General Plan policies require that adequate public services and infrastructure be provided as new development occurs. For example, compliance with Land Use Element Policies LU 2.8 and LU 3.2 require that land uses can be adequately supported by public services, transportation, and utility infrastructure. Future development would be subject to General Plan Policies NR 5.1 and NR 5.3 which require the renovation of all older sewer pump stations and the installation of new plumbing according to most recent standards, and implementation of the Sewer System Management Plan and Sewer Master Plan.

All future housing development would be required to be designed, constructed, and operated in accordance with the respective service providers including OC San Ordinance Nos. 40 and 48, and all wastewater discharges into OC San facilities would be required to comply with the discharge standards set forth to protect the public sewage system and Waters of the United States. Following compliance with the regulatory and General Plan policy requirements, the Project would result in a less than significant impact concerning its potential to cause environmental effects from the relocation or construction of new or expanded wastewater treatment or facilities and no mitigation is required.

“Would the Project require or result in the relocation or construction of new or expanded storm water drainage facilities, the construction of which could cause significant environmental effects?”

Basis for Conclusion: All storm water infrastructure from future development facilitated by the Project, including on-site and off-site improvements, would connect to the City’s existing storm water infrastructure. Banning Ranch and Coyote Canyon would require the construction of new storm water infrastructure. All future development would be subject to the Orange County Drainage Area Management Plan which requires new developments to create and implement a Water Quality Management Plan (WQMP), which would ensure pollutant discharges are reduced to the maximum extent practicable and do not exceed existing storm drainage capacities. Projects are required to reduce discharge of storm water into urban runoff from the operational phase by managing site runoff volumes and flow rates through application of appropriate BMPs and be designed in accordance with the NPDES requirements. As a part of the site-specific development review process through the City, applicants would be required to demonstrate that drainage facilities would also be designed in accordance with Municipal Code Section 19.28.080, set forth in SC UTIL-1. Therefore, following compliance with the regulatory requirements and SC UTIL-1, the Project would result in a less than significant impact.

Standard Conditions of Approval

SC UTIL-1 The Project shall be required to comply with the City of Newport Beach Municipal Code Chapter 14.16 related to water conservation and supply level regulations in effect during the construction and operation of the project, and Municipal Code Chapter 14.17 with respect to water-efficient landscaping.

“Would the Project require or result in the relocation or construction of new or expanded electric power, natural gas, or telecommunication facilities, the construction of which could cause significant environmental effects?”

Basis for Conclusion: All but 20 housing sites (19 within the Banning Ranch Focus Area and 1 within the Coyote Canyon Focus Area) are currently developed with infrastructure in place to serve the existing land uses. Housing sites that are located in or near developed areas would connect to existing electric power provided by Southern California Edison (SCE), natural gas provided by SoCalGas, and telecommunications facilities provided by a variety of service providers. It is anticipated that SoCalGas would have sufficient capacity to serve the Project’s natural gas demands. Because electricity and natural gas demands can be met by the current service providers, it is assumed that the Project would only require connections to existing facilities near future developments. Any future housing development in Banning Ranch and Coyote Canyon would require the construction of new dry utility infrastructure to connect to existing facilities. Any future residential development in these focus areas would also be subject to the City’s development review process, and required to adhere to all federal, State, and local requirements for avoiding and minimizing impacts related to the relocation or construction of new or expanded electricity, natural gas, and telecommunication facilities. Following compliance with the regulatory requirements, the Project would result in a less than significant impact concerning its potential to cause environmental effects from the relocation or construction of new or expanded dry utilities and no mitigation is required.

“Would the Project generate solid waste in excess of State and local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?”

“Would the Project comply with federal, State, and local management and reduction statutes and regulations related to solid waste?”

Basis for Conclusion: Future housing development facilitated by the Project would incrementally increase solid waste generation in the City. Future housing development would be subject to the City’s development review process and be required to adhere to all federal, State, and local requirements for solid waste reduction and recycling. In addition, all future housing development would be required to comply with the Green Building Code, which implements design and construction measures that act to reduce construction-related waste through material conservation measures and other construction-related efficiency measures. Municipal Code Section 20.30.120 (Solid Waste and Recyclable Materials Storage) requires all new development projects requiring a building permit to provide adequate, enclosed areas with solid roofs for collecting and loading solid waste and recycling materials. Impacts would be less than significant and no mitigation is required.

Wildfire

“If located in or near State Responsibility Areas (SRAs) or lands classified as Very High Fire Hazard Severity Zones (VHFHSZ), would the Project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?”

Basis for Conclusion: The need for installation and maintenance of new infrastructure (such as roads, fuel breaks, emergency water resources, power lines, or other utilities) would be evaluated as part of the development permit review process for future site-specific housing projects. General Plan Land Use

Element Policy LU 2.8 notes that future development must be supported by adequate utility and transportation infrastructure. It is anticipated that future housing development facilitated by the Project would be served by the extension of existing utility infrastructure located primarily in existing rights-of-way because of the predominately developed nature of the City. The extension of existing utility infrastructure is not expected to exacerbate fire risk and applicants would be required to address wildfire exposure by complying with the wildfire protection building construction requirements contained in the then-current CBC, including CBC, Chapter 7A, California Residential Code, Section R327, and California Referenced Standards Code, Chapter 12-7A. Impacts would be less than significant and no mitigation is required.

"If located in or near State Responsibility Areas (SRAs) or lands classified as Very High Fire Hazard Severity Zones (VHFHSZ), would the Project expose people or structures, to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?"

Basis for Conclusion: The VHFHSZ is exclusively located in the eastern portion of the City extending from SR-73 to the north to the Pacific Ocean to the south. The natural environment of the Wildland Urban Interface sites indicates people and structures are highly prone to wildfires and downslope or downstream flooding as a result of runoff, post-fire instability or drainage. Flooding impacts could occur if there are increases in the amount of runoff delivered to the surrounding waterways as a result of wildfire in VHFHSZs. Increased runoff could result in an increased total flow in the creeks or rivers causing flooding in flood hazards areas around the City. In addition to flooding impacts, downslope landslide hazards as a result of post-fire instability are also a possibility. Future housing development would be subject to development review by the City and each development would be engineered and constructed to maximize stability and preclude safety hazards to on-site and adjacent areas. Site-specific geotechnical studies would be required to determine the soil properties and specific potential for landslides in an area for new development per General Plan Policy S 4.7. Further, compliance with the CBC would require an assessment of hazards related to landslides and the incorporation of design measures into structures to mitigate this hazard if development were considered feasible. Municipal Code Chapter 15.10 (Excavation and Grading Code) also contains regulations and design requirements for hillside developments which would reduce impacts to any developments located downslope or downstream. Adherence to State and City codes and emergency and evacuation plans set by the City and County would prevent impacts to people or structures from significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes. Therefore, impacts would be less than significant, and no mitigation is required.

Section 4: Environmental Impacts Found to be Less Than Significant with Mitigation Incorporated

The following potentially significant environmental impacts were analyzed in the Program EIR, and the effects of the Project were considered in the Program EIR. Where as a result of the environmental analysis of the Project and compliance with existing laws, codes and statutes, and the identification of feasible mitigation measures, the following potentially significant impacts have been determined by the City to be reduced to a level of less than significant, the City has found in accordance with CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a) (1) that "Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment," which is referred to herein as "Finding 1". Where the City has determined pursuant to CEQA Section 21081(a)(2) and State CEQA Guidelines Section 15091(a)(2) that "Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency," the City's findings is referred to herein as "Finding 2".

Air Quality

"Would the Project expose sensitive receptors to substantial pollutant concentrations?"

Finding

The City adopts CEQA Finding 1 (State CEQA Guidelines §15091(a)(1)). The City finds that MM AQ-1 is feasible, is adopted, and will reduce air toxic impacts to a less than significant level. Accordingly, the City finds that, pursuant to PRC Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant biological impacts of the Project identified in the Program EIR.

Basis for Conclusion: Toxic Air Contaminants (TACs). Implementation of the Project could expose sensitive receptors to substantial pollutant concentrations associated with diesel particulate matter (DPM) emissions from heavy trucks which could result in health effects. Eight housing sites are located within the CARB specified buffer distances for freeways, for which a more detailed site-specific analysis of TAC impacts would be required. Therefore, a project-specific Health Risk Assessment is required for residential uses that could be located within 500 feet of SR-73 in compliance with MM AQ-1. With implementation of this mitigation measure, air toxic impacts would be less than significant.

Mitigation Measures

MM AQ-1 A project-specific Health Risk Assessment shall be conducted for future residential development proposed within 500 feet of the State Route 73 right-of-way, pursuant to the recommendations set forth in the California Air Resources Board (CARB) Air Quality and Land Use Handbook. The Health Risk Assessment shall evaluate a project per the following South Coast Air Quality Management District (SCAQMD) thresholds:

- Cancer Risk: Emit carcinogenic or toxic contaminants that exceed the maximum individual cancer risk of 10 in one million.
- Non-Cancer Risk: Emit toxic contaminants that exceed the maximum hazard quotient of one in one million.

The SCAQMD has also established non-carcinogenic risk parameters for use in HRAs. Noncarcinogenic risks are quantified by calculating a "hazard index," expressed as the ratio between the ambient pollutant concentration and its toxicity or Reference Exposure Level (REL). An REL is a concentration at or below which health effects are not likely to occur. A hazard index less of than one (1.0) means that adverse health effects are not expected. If projects are found to exceed the SCAQMD's Health Risk Assessment thresholds, mitigation shall be incorporated to reduce impacts to below SCAQMD thresholds.

Biological Resources

"Would the Project 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 Wildlife or U.S. Fish and Wildlife Service?"

Finding

The City adopts CEQA Finding 1 (State CEQA Guidelines §15091(a)(1)). The City finds that MM BIO-1 is feasible, is adopted, and will reduce the biological impacts of the Project to a less than significant level. Accordingly, the City finds that, pursuant to PRC Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant biological impacts of the Project identified in the Program EIR.

Basis for Conclusion: While the Project does not propose grading or construction, it can be assumed that any future housing development facilitated by the Project could directly or indirectly impact sensitive wildlife or plant species through such activities. Given the City's existing developed nature, the housing sites mainly include properties that are developed or located adjacent to existing development. Except for the 21 vacant housing sites (Sites 110-118, 120-124, 126-131, and 215), all other housing sites are developed/occupied by structures and do not contain any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

The precise locations of sensitive plant and wildlife species would be identified through site-specific, on-site reconnaissance and project-level analysis in conjunction with future development permit applications. Sites with sensitive biological resources require discretionary review and may require permits (e.g., Coastal Development Permits, Conditional Use Permits, and/or permits by regulatory agencies including the CDFW and USFWS). Any future housing development would be required to comply with the permit processing procedures and development regulations required by the Municipal Code. Any future development facilitated by the Project on housing sites would require biological studies and mitigation as identified in MM BIO-1, if applicable based on site-specific review of future development applications. However, all housing sites would be required to comply with applicable federal, State, and local programs and requirements with respect to potential impacts to biological resources, including concerning sensitive and protected plant and wildlife species and jurisdictional waters.

General Plan Goal Natural Resources Element NR-10 and Policies NR-10.1 through 10.9 identify actions that may be necessary during project-specific analysis and development to protect sensitive and rare terrestrial and marine resources from urban development. Safety Element Policies S-6.3 through 6.5 protect sensitive habitats from fuel modification zone impacts. Compliance with Policies NR 10.1 through 10.9 and S-6.3 through 6.5 would ensure that sensitive and rare biological species are protected from impact that may occur from future development facilitated by the Project. The General Plan policies

further restrict development within wetland areas and ESAs; 23 sites are within an ESA. New development proposed on these sites would be subject to compliance with General Plan Policy NR 10.3, which requires a site-specific survey and analysis prepared by a qualified biologist as a filing requirement for any development permit applications where development would occur within or contiguous to areas identified as ESAs. Compliance with Policy NR-10.3 would ensure that any future development within an ESA would identify any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. Future housing development would comply with SC BIO-1, which requires a pre-construction bird survey to identify any active nests in and adjacent to a project site. The General Plan Program EIR determined that compliance with these policies and federal, State, and local laws would mitigate potential impacts to a less than significant level.

Compliance with the existing regulatory framework and MM BIO-1 would reduce potential impacts on sensitive plant and wildlife species and ensure proper assessment of potential impacts to candidate, sensitive, and special status species be made on a project-by-project basis. The Project's potential impacts to any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS would be less than significant with mitigation.

Standard Conditions of Approval

SC BIO-1 Prior to the commencement of any proposed actions (e.g., site clearing, demolition, grading) during the breeding/nesting season (September 1 through February 15), a qualified biologist shall conduct a preconstruction survey(s) to identify any active nests in and adjacent to the project site no more than three days prior to initiation of the action. Costs associated with the biologist shall be the responsibility of the project applicant. If the biologist does not find any active nests that would be potentially impacted, the proposed action may proceed. However, if the biologist finds an active nest within or directly adjacent to the action area (within 100 feet) and determines that the nest may be impacted, the biologist shall delineate an appropriate buffer zone around the nest using temporary plastic fencing or other suitable materials, such as barricade tape and traffic cones. The buffer zone shall be determined by the biologist in consultation with applicable resource agencies and in consideration of species sensitivity and existing nest site conditions, and in coordination with the construction contractor. The qualified biologist shall serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. Only specified construction activities (if any) approved by the qualified biologist shall take place within the buffer zone until the nest is vacated. At the discretion of the qualified biologist, activities that may be prohibited within the buffer zone include but not be limited to grading and tree clearing. Once the nest is no longer active and upon final determination by the biologist, the proposed action may proceed within the buffer zone.

The qualified biologist shall prepare a survey report/memorandum summarizing his/her findings and recommendations of the preconstruction survey. Any active nests observed during the survey shall be mapped on a current aerial photograph, including documentation of GPS coordinates, and included in the survey report/memorandum. The completed survey report/memorandum shall be submitted to the City of Newport Beach Community Development Department prior to construction-related activities that have the potential to disturb any active nests during the nesting season.

Mitigation Measures

MM BIO-1 Applications for future housing development facilitated by the Project, where the City has determined a potential for impacts to special-status wildlife and plants species, shall be required to comply with the following mitigation framework:

Prior to the issuance of any permit for future development consistent with the Project, a site-specific general biological resources survey shall be conducted to identify the presence of any sensitive biological resources, including any sensitive plant or wildlife species. A biological resources report shall be submitted to the City to document the results of the biological resources survey. The report shall include (1) the methods used to determine the presence of sensitive biological resources; (2) vegetation mapping of all vegetation communities and/or land cover types; (3) the locations of any sensitive plant or wildlife species; (4) an evaluation of the potential for occurrence of any listed, rare, and narrow endemic species; and (5) an evaluation of the significance of any potential direct or indirect impacts from the proposed project. If potentially significant impacts to sensitive biological resources are identified, future project site grading and site plans shall incorporate project design features required by the applicant to minimize direct impacts on sensitive biological resources to the extent feasible, and the report shall also recommend appropriate mitigation to be implemented by the applicant to reduce the impacts to below a level of significance. The project design features shall be submitted to the Community Development Director or their designee for review and approval.

"Would the Project 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 Wildlife or U.S. Fish and Wildlife Service?"

Finding

The City adopts CEQA Finding 1 (State CEQA Guidelines §15091(a)(1)). The City finds that MM BIO-1 is feasible, is adopted, and will reduce the biological impacts of the Project to a less than significant level. Accordingly, the City finds that, pursuant to PRC Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant biological impacts of the Project identified in the Program EIR.

Basis for Conclusion: Potential future housing projects could directly impact sensitive vegetation communities. The disturbance or removal of sensitive vegetation communities could result in a significant impact. Where sensitive vegetation communities are assumed to be present, site-specific surveys would be required to verify and confirm the presence of sensitive vegetation communities occurring on individual housing sites and determine the extent of any potential impacts. Projects facilitated by the Project would be required to adhere to all federal, State, and local requirements, including MM BIO-1 for avoiding and minimizing construction and operations impacts to sensitive vegetation communities. Impacts to sensitive vegetation communities would be mitigated to a less than significant level.

Riparian habitats are known to exist throughout the City. Implementation of General Plan Policies NR 10.1 through NR 10.7 would reduce or avoid 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 13.1 and NR 13.2 would protect wetlands and their riparian habitat, and require a survey and

analysis of future development within a delineated wetland area under the Project. An indirect impact to riparian habitat could result from the future development of existing vacant sites. The placement of development next to riparian habitats would disturb wildlife that rely on these areas for shelter and food and could also result in the degradation of these areas through the introduction of feral animals and contaminants that are typical of urban uses. Because federal regulations do not specifically address protection of riparian vegetation under the Section 404 permitting process, and the fact that the CDFG Section 1600 SAA is a negotiated agreement, some unmitigated loss of riparian resources may occur. Therefore these regulations would not serve to fully protect and manage riparian habitat under future development. However, the aforementioned General Plan policies and MM BIO-1 would serve to regulate indirect impacts future development could have on riparian habitats. Therefore, the Project impacts associated with riparian habitats would be less than significant with mitigation.

Mitigation Measures

MM BIO-1 is applicable.

Cultural Resources

"Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?"

Finding

The City adopts CEQA Finding 1 (State CEQA Guidelines §15091(a)(1)). The City finds that MM CUL-2 is feasible, is adopted, and will reduce the cultural resources impacts of the Project to a less than significant level. Accordingly, the City finds that, pursuant to PRC Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant archeological resource impacts of the Project identified in the Program EIR.

Basis for Conclusion: Future development facilitated by the Project could involve ground-disturbing activities such as grading or excavation that could directly or indirectly impact undiscovered subsurface archaeological resources. Should archaeological deposits be encountered during project ground disturbance, a substantial adverse change in the significance of the archaeological resource could occur. Undeveloped sites often have a higher potential for the presence of unknown archaeological resources as the likelihood of encountering archaeological resources is greatest on sites that have been minimally excavated in the past. Previously excavated areas are generally considered to have a lower potential for archaeological resources since the soil containing the archaeological resources has been removed or previously disturbed. However, the depth of subsurface excavation would influence whether previously undisturbed areas are impacted. Therefore, the vacant housing sites have more potential to contain archaeological resources. Sites 110-118, 120-124, and 126-131 are vacant and any future development could have the potential to contain archaeological resources.

Surface and shallow subsurface archaeological deposits at the housing sites have likely been destroyed or heavily disturbed because of previous development. However, future development still has the potential to disturb and potentially destroy subsurface prehistoric/historic archaeological resources through grading and development; therefore, future development would be subject to City Council Policy K-5, which requires preservation of significant archeological and tribal cultural resources (SC CUL-1).

General Plan Policy HR 2.1, Policy HR 2.2 and Policy NR 18.1 require new development projects to identify and protect important archaeological resources within the City. General Plan Policy HR 2.1 and Policy NR 18.1 require that new development protects and preserves archaeological resources from destruction and avoids or mitigates impacts to such resources. General Plan Policy HR 2.2 requires any future development with the potential to affect archaeological resources to have a qualified archeologist on site to monitor all ground-disturbing activities and outlines the procedure if such resources are found. General Plan Policy HR 2.3 and Policy NR 18.3 require the notification of cultural groups to proposed development adversely impacting cultural resources and permitting monitoring during grading. Policy HR 2.4 and Policy NR 18.4 require any new development, where on-site preservation is infeasible, to donate archaeological resources to responsible institutions. Compliance with these City policies would ensure that future development facilitated by the Project would protect and preserve archaeological and tribal resources from destruction during new development construction.

For those housing sites in the coastal zone, the City's Coastal Land Use Plan (CLUP) includes applicable policies. CLUP Policy 4.5-1 requires an in situ or site-capping preservation plan or a recovery plan for mitigating the effect of the development where avoidance is not feasible. CLUP Policy 4.5.1-2 requires monitoring during grading and excavation by a qualified archeologist and describes the process for determination of significance and mitigation should archaeological resource be discovered. CLUP Policy 4.5.1-3 requires the notification of cultural organizations of proposed developments that have the potential to adversely impact cultural resources and to allow monitoring during grading and/or excavation. CLUP Policy 4.5.1-4 addresses the disposition of archaeological materials when in situ preservation and avoidance are not feasible. CLUP Policy 4.5.1-5 requires an archeological/cultural resources monitoring plan that identifies monitoring methods, procedures to be followed should additional or unexpected archeological/cultural resources be encountered during site development.

In addition to the noted policies, MM CUL-2 is required, which requires the preparation of an archaeological survey where deemed necessary by the City. Following compliance with General Plan and Coastal Land Use Plan policies, and MM CUL-2, the Project's potential to cause a substantial adverse change in the significance of an archaeological resource would be reduced to a less than significant level.

Standard Conditions of Approval

SC CUL-1 In compliance with City Council Policy K-5, prior to the issuance of a grading permit by the City of Newport Beach, the Applicant shall retain a qualified archaeologist to periodically monitor ground-disturbing activities onsite and provide documentation of such retention to the City of Newport Beach Community Development Director. The archaeologist shall train project construction workers on the types of archaeological resources that could be found in site soils. The archaeologist shall periodically monitor project ground-disturbing activities. During construction activities, if Native American resources (i.e., Tribal Cultural Resources) are encountered, a Cultural Resource Monitoring and Discovery Plan (CRMDP) shall be created and implemented to lay out the proposed personnel, methods, and avoidance/recovery framework for tribal cultural resources monitoring and evaluation activities within the project area. A consulting Native American tribe shall be retained and compensated as a consultant/monitor for the project site from the time of discovery to the completion of ground disturbing activities to monitor grading and excavation activities. If archaeological resources are encountered, all construction work within 50 feet of the find shall cease, and the archaeologist shall assess the find for importance and whether

preservation in place without impacts is feasible. Construction activities may continue in other areas. If, in consultation with the City and affected Native American tribe (as deemed necessary), the discovery is determined to not be important, work will be permitted to continue in the area. Any resource that is not Native American in origin and that cannot be preserved in place shall be curated at a public, nonprofit institution with a research interest in the materials, such as the South Central Coastal Information Center at California State University, Fullerton.

Mitigation Measures

MM CUL-2 Prior to any earth-disturbing activities (e.g., excavation, trenching, grading) that could encounter undisturbed soils, the project-level applicant for future development shall retain an archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology to determine if site-specific development allowed under the General Plan Update could result in a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the CEQA Guidelines. The investigation shall include, as determined appropriate by the archaeologist and the City of Newport Beach, an updated records search of the South Central Coastal Information Center of the California Historical Resources Information System, updated Native American consultation, and a pedestrian survey of the area proposed for development. The results of the investigation shall be documented in a technical report or memorandum that identifies and evaluates any archaeological resources within the development area and includes recommendations and methods for eliminating or avoiding impacts on archaeological resources or human remains. The measures shall include as appropriate, subsurface testing of archaeological resources and/or construction monitoring by a qualified professional and, if necessary, appropriate Native American monitors identified by the applicable tribe and/or the Native American Heritage Commission.

Noise

"Would the Project result in the exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?"

Finding

The City adopts CEQA Finding 1 (State CEQA Guidelines §15091(a)(1)). The City finds that MM-NOI 1 is feasible, is adopted, and will reduce the potential noise impacts of the Project to a less than significant level. Accordingly, the City finds that, pursuant to PRC Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant noise impacts of the Project identified in the Program EIR.

Basis for Conclusion: Short-term construction activities could result in groundborne vibration impacts at noise sensitive receptors within the City depending on the site location, duration of construction activities, and equipment used at the construction site. Similar to noise, groundborne vibration rapidly attenuates with distance. Groundborne vibration would primarily impact vibration sensitive land uses (e.g., nonengineered timber and masonry buildings) located adjacent to or proximate to individual project sites. Vibration velocities from typical heavy construction equipment operations at 25 feet from the activity source would not exceed the FTA's 0.2 inch/second threshold, except for pile driving activities. Vibration velocities from pile driving activities at 50 feet from the activity source would exceed the 0.2 the

inch/second threshold. Construction-related activities that involve pile driving and occur 50 feet from a vibration sensitive land use (i.e., non-engineered timber and masonry buildings) could exceed the 0.2 the inch/second threshold. The Project has the potential to expose persons or structures to, or generate excessive groundborne vibration or groundborne noise levels. MM NOI-1 requires a preconstruction survey of all buildings within a 50-foot radius of proposed construction activities that involve pile driving, and that alternative methods be utilized. With implementation of MM NOI-1, construction vibration impacts would be less than significant.

Residential uses are not expected to generate excessive groundborne vibration or groundborne noise. Future development under the Project would not involve railroads or heavy truck operations, and therefore would not result in vibration impacts at surrounding uses. Therefore, operational activities associated with future residential development from the Project would be less than significant.

Mitigation Measures

MM NOI-1 To avoid impacts to vibration sensitive land uses (i.e., non-engineered timber and masonry buildings) located within a 50-foot radius of pile driving activities, prior to demolition, grading, or building permit approval, the following measures shall be specified on the Project plans and implemented during construction:

- Pile driving within a 50-foot radius of vibration sensitive land uses shall utilize alternative installation methods (e.g., pile cushioning, jetting, predrilling, cast-in-place systems, resonance-free vibratory pile drivers) such that vibration velocities from the alternative construction activity would fall below the 0.2 Inch/second threshold.
- The preexisting condition of all vibration sensitive land uses within a 50-foot radius of proposed pile driving shall be documented during a preconstruction survey. The preconstruction survey shall determine conditions that exist before construction begins for use in evaluating damage caused by pile driving, if any. Fixtures and finishes susceptible to damage and within a 50-foot radius of pile driving shall be documented (photographically and in writing) prior to demolition, grading, or building permit approval. All damage shall be repaired/restored to its preexisting condition.

Transportation

"Would the Project conflict or be Inconsistent with State CEQA Guidelines Section 15061.3(b)?"

Finding

The City adopts CEQA Finding 1 (State CEQA Guidelines §15091(a)(1)). The City finds that MM TRANS-1 is feasible, is adopted, and will reduce the potential transportation impacts of the Project to less-than-significant levels. Accordingly, the City finds that, pursuant to PRC Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant transportation impacts of the Project identified in the Program EIR.

Basis for Conclusion: The Existing Citywide Vehicle Miles Traveled (VMT) is 5,096,931, generated by a Service Population (population + employees) of 165,123 SP, resulting in 30.9 VMT/SP. The VMT for the Project is 6,139,436, generated by a Service Population of 202,944 SP, resulting in 30.3 VMT/SP, a

decrease of 0.6 VMT/SP from existing conditions. The Project would decrease the amount of travel per individual that is forecast to occur in comparison to the existing conditions.

The General Plan Baseline (Buildout Land Use) was analyzed to determine, at a programmatic level, whether the Project would improve or worsen the VMT in comparison to the City's horizon year No Project condition. The Buildout Land Use VMT would be 6,006,700, generated by a Service Population of 186,367 SP, resulting in 32.2 VMT/SP. A comparison of the VMT indicates that from Existing to Buildout Land Use there is an increase of 909,769 VMT. The Project VMT/SP is lower in comparison to the Buildout Land Use VMT/SP. The VMT/SP for the Buildout Land Use is 32.2, which is more than the Project's VMT/SP. The Project decreases the amount of travel per individual that is forecast to occur in comparison to the Buildout Land Use. The Project would place more housing near to where the employment is located, reducing Citywide VMT/SP in comparison to the Buildout Land Use. This is because the Project would develop more housing proximate to where employment is located, reducing Citywide VMT/SP in comparison to the 2006 General Plan Baseline (Buildout Land Use).

While Project implementation would decrease the Citywide VMT/SP, the VMT/SP varies for each individual Traffic Analysis Zone (TAZ). Generally, in areas with a mix of residential and employment uses, VMT/SP is generally lower than in areas that have more uniform land uses. A reduction in VMT can be attributed to the introduction of housing units within areas that are currently characterized by predominantly office uses, resulting in a more balanced land uses. In other areas, VMT/SP increases due to a change from no residents (existing non-residential land uses) to a residential population greater than employment in the TAZ.

As future projects are proposed, their VMT generation characteristics may incorporate Transportation Demand Management (TDM) programs such as telecommuting and working from home incentives, accommodations for pedestrians and bicyclists, and transit service availability. These measures would be evaluated against established thresholds. Project-specific VMT impacts and the potential for mitigation would be identified for each project if the project triggers CEQA review. Future ministerial development projects would not require a subsequent environmental review but would be still be subject to review under the City's development review process.

The Newport Beach VMT Guidelines provide details on appropriate "screening thresholds" that can be used to identify when a proposed land use project is anticipated to result in a less than significant impact without conducting a more detailed analysis. Screening thresholds relate to Transit Priority Areas (TPAs), low VMT areas, and daily trip generation. The VMT screening analysis, provides the results for each TAZ within housing Focus Areas and whether further analysis would be required, consistent with the screening thresholds in the City SB 743 VMT Implementation Guide, and included as MM TRANS-1. Future housing projects compliance with the VMT screening criteria and MM TRANS-1 would result in a less than significant impact concerning VMT. For future housing projects that do not satisfy VMT screening criteria, a full VMT analysis would be necessary for that development, and a VMT impact may or may not occur. The Project would not conflict with or be inconsistent with State CEQA Guidelines Section 15064.3(b) upon implementation of MM TRANS-1, which outlines VMT reduction measures for future projects that are not able to screen out from VMT analysis.

Mitigation Measures

MM TRANS-1 Vehicle Miles Traveled (VMT). Prior to issuance of a building permit, one or more of the following measures shall be implemented to reduce VMT-related impacts associated with future projects that are not able to be screened out of the VMT analysis process such that

the development's VMT is below the low VMT thresholds recommended by the Office of Planning and Research or adopted by the City of Newport Beach at the time of the development application:

- Modify the project's-built environment characteristics to reduce VMT generated by a project.
- Implement Transportation Demand Management strategies pursuant to reduce VMT generated by a project.
- Participate in a Fair Share Traffic Impact Fee program or VMT mitigation banking program, if available.

Examples of potential measures to reduce VMT include, but are not limited to, the following: Improve or increase access to transit; Increase access to common goods and services, such as groceries, schools, and daycare; Incorporate affordable housing into the project; Orient the project toward transit, bicycle, and pedestrian facilities; Improve pedestrian or bicycle networks, or transit service; Provide traffic calming; Provide bicycle parking; Limit or eliminate parking supply; Unbundle parking costs; Implement or provide access to a commute reduction program; Provide car-sharing, bike sharing, and ride-sharing programs; Provide transit passes.

Tribal Cultural Resources

"Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: a) listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k) or b) a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe."

Finding

The City adopts CEQA Finding 1 (CEQA Guidelines §15091(a)(1)). The City finds that MM TCR-1 and MM TCR-2 are feasible and are adopted. Accordingly, the City finds that, pursuant to PRC Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant tribal cultural resources impacts of the Project identified in the Program EIR.

Basis for Conclusion: Of the 247 housing sites, all are developed/occupied by structures except 21 sites. Sites 110-118, 120-124, 126-131, and 215 are vacant. Therefore, almost all of the housing sites have been subject to ground disturbing activities. Notwithstanding, previously recorded known cultural resources have been identified within the City and the Native American Heritage Commission's (NAHC) Sacred Lands File database search was positive indicating known tribal cultural resources are present within the City.

Site disturbance does not preclude the presence of undiscovered and potentially sensitive tribal cultural resources. Future housing development on the housing sites would involve ground-disturbing activities such as grading and excavation that could directly or indirectly impact tribal cultural resources that could cause a substantial adverse change in the significance of a tribal cultural resource.

Future development facilitated by the Project would be subject to City Council Policy K-5, which requires preservation of significant archeological and tribal cultural resources (SC CUL-1). Compliance with General Plan Policy HR 2.1, Policy HR 2.2 and Policy NR 18.1 require new development projects to identify and protect important archaeological resources within the City and these policies are considered applicable to potential Native American tribal cultural resources. General Plan Policy HR 2.1 and Policy NR 18.1 requires that new development protects and preserves archaeological resources from destruction and avoids or mitigates impacts to such resources. General Plan Policy HR 2.2 requires any future development with the potential to affect archaeological resources to have a qualified archeologist on site to monitor all ground-disturbing activities and outlines the procedure if such resources are found. General Plan Policy HR 2.3 and Policy NR 18.3 require the notification of cultural groups to proposed development adversely impacting cultural resources and permitting monitoring during grading. Additionally, Policy HR 2.4 and Policy NR 18.4 require any new development, where on-site preservation is infeasible, to donate archaeological resources to responsible institutions. Compliance with these City policies would ensure that future development facilitated by the Project would protect and preserve archaeological and tribal resources from destruction during new development construction facilitated by the Project.

For those housing sites in the coastal zone, the City's CLUP includes applicable policies. CLUP Policy 4.5-1 requires an in situ or site-capping preservation plan or a recovery plan for mitigating the effect of the development where avoidance is not feasible. CLUP Policy 4.5.1-2 requires monitoring during grading and excavation by a qualified archeologist and describes the process for determination of significance and mitigation should archaeological resource be discovered. CLUP Policy 4.5.1-3 requires the notification of cultural organizations of proposed developments that have the potential to adversely impact cultural resources and to allow monitoring during grading and/or excavation. CLUP Policy 4.5.1-4 addresses the disposition of archaeological materials when in situ preservation and avoidance are not feasible. CLUP Policy 4.5.1-5 requires an archeological/cultural resources monitoring plan that identifies monitoring methods, procedures to be followed should additional or unexpected archeological/cultural resources be encountered during development of the site.

In addition to the aforementioned policies, the City would require that future development comply, as a mitigation measure (or standard condition for by-right projects), with MM TCR-1 and MM TCR-2. MM TCR-1 requires project-specific applicants to retain a qualified professional and, if necessary, appropriate Native American monitors identified by the applicable tribe (e.g., the Gabrielino Tongva Nation) and/or the NAHC, prior to any earth-disturbing activities to determine if a project would cause a substantial adverse change in the significance of a tribal cultural resources. MM TCR-2, which requires all earth-disturbing activity within 100 feet of a tribal cultural resources discovery/find to be halted, the City to be notified, and impacts to any significant resources be mitigated to a less than significant level through data recovery or other methods determined adequate by the appropriate Native American monitors. The Project's potential impacts associated with causing a substantial adverse change in the significance of tribal cultural resources would be reduced to a less than significant level.

Standard Conditions of Approval

SC CUL-1 and SC CUL-2 are applicable.

Mitigation Measures

MM TCR-1 Unanticipated Discovery of Tribal Cultural and Archaeological Resources: Upon discovery of any tribal, cultural, or archaeological resources during ground-disturbing activities for future development facilitated by the Project, the applicant shall immediately cease such activities in the immediate vicinity. The find will then be assessed by a qualified archeologist retained by the applicant and a tribal monitor/consultant approved by the consulting tribe. The applicant shall promptly notify the City Planning Division to the discovery of resources. If the resources are Native American in origin, the consulting tribe shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the tribe will request preservation in place or recovery for educational purposes. At the direction of the qualified archaeologist and tribal monitor/consultant, and in coordination with the Planning Division, work may continue on other parts of the affected site while evaluation and, if necessary, additional protective measures are completed at the affected portion of the site pursuant to State CEQA Guidelines Section 15064.5(f). If a resource is determined by the qualified archaeologist to constitute a "historical resource" or "unique archaeological resource," time and funding to allow for sufficient implementation of avoidance measures must be made available. The treatment plan established for the resources shall be in accordance with State CEQA Guidelines Section 15064.5(f) for historical resources.

Preservation in place (i.e., avoidance) is the preferred manner of treatment upon identification of unique archeological resources (PRC §21083.2(b)). If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. All tribal cultural resources shall be returned to the consulting tribe. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials. Acceptance and curation of the historic archeological materials will be at the discretion of the institution. If no institution accepts the archaeological material, they shall be offered to the consulting tribe or the responsible public or private institution with suitable repository for educational purposes.

MM TCR-2 If evidence of an archaeological site or other suspected historical resource as defined by CEQA Guidelines Section 15064.5, including darkened soil representing past human activity ("midden"), that could conceal material remains (e.g., worked stone, fired clay vessels, faunal bone, hearths, storage pits, or burials) are discovered during any project-related earth-disturbing activities (including projects that would not encounter undisturbed soils), all earth-disturbing activity within 100 feet of the find shall be halted and the City's Planning Department shall be notified. The project-level applicant shall retain an archaeologist who meets the U.S. Secretary of the Interior's Professional Qualifications Standards for Archaeology to assess the significance of the find. Impacts to any significant resources shall be mitigated to a less than significant level through data recovery or other methods determined adequate by the archaeologist and that are consistent with the U.S.

Secretary of the Interior's Standards for Archaeological Documentation. Any identified cultural resources shall be recorded on the appropriate DPR 523 form and filed with the appropriate Information Center.

Wildfire

“If located in or near State Responsibility Areas (SRAs) or lands classified as Very High Fire Hazard Severity Zones (VHFHSZ), would the Project substantially impair an adopted emergency response plan or emergency evacuation plan?”

Finding

The City adopts CEQA Finding 1 (State CEQA Guidelines §15091(a)(1)). The City finds that MM W-1 is feasible, is adopted, and will reduce the potential wildfire impacts of the Project to a less than significant level. Accordingly, the City finds that, pursuant to PRC Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant wildfire impacts of the Project identified in the Program EIR.

Basis for Conclusion: Of the 247 housing sites, there are two housing sites (i.e., a small portion of housing site 131) is located within the VHFHSZ (northwestern edge) and all of housing site 336 is within a VHFHSZ. Both sites are in the Coyote Canyon Focus Area. The remaining sites are not in or proximate to a VHFHSZ.

The City has adopted and implemented programs to reduce and prevent risks associated with wildfire including Municipal Code Section 2.20.050 (Emergency Operations Plan), Municipal Code Chapter 9.04 (Fire Code), and Municipal Code Chapter 15.04 (Building Code). Municipal Code Sections 9.04.110 through 9.04.160 require compliance with emergency access design standards as part of new construction of roads to provide sufficient access for emergency equipment. The Fire Code sets standards for road dimension, design, grades, and other fire safety features. CBC standards also apply regarding new construction and development of emergency access issues associated with earthquakes, flooding, climate, strong winds, and water shortages. Future development would be required to comply with applicable building and fire safety regulations required for the design of new housing and emergency access.

In the case of a wildfire evacuation, an increase in housing development would incrementally increase vehicular traffic on evacuation routes. Development on housing sites 131 and 336, which are located within a VHFHSZ, could potentially impair implementation of or physically interfere with the emergency response or evacuation plans. All future residential development in VHFHSZs would be subject to compliance with the Fire Safe Development Regulations as specified in Title 14. Additionally, the City would require as a mitigation measure (or standard condition for by-right projects), MM W-1 which requires the preparation of a fire protection plan for those sites within or adjacent to a VHFHSZ.

Future development on the housing sites would be required to go through the City's development review and permitting process and would be required to comply with the regulations and measures to maintain adequate availability of emergency services during an emergency response or an emergency evacuation. As a result, the Project would not substantially impair an adopted local or county-wide emergency response or evacuation plan. Therefore, impacts would be mitigated to a less than significant level.

Mitigation Measures

MM W-1 Prior to issuance of a grading permit for sites within or adjacent to a Very High Fire Hazard Safety Zone (VHFHSZ), the project applicant shall prepare a Fire Protection Plan (FPP). Prior to preparation of an FPP, the project applicant shall coordinate with City of Newport Beach

Fire Department to ensure that modeling of the FPP and design of the Project is appropriate to meet the requirements and standards of the City. The FPP shall be subject to the review and approval from the Fire Department. The FPP shall assess the Project's compliance with current regulatory codes and ensure that impacts resulting from wildland fire hazards have been adequately mitigated. The FPP shall also specifically identify the need for fire protection systems, water availability for structural firefighting, construction requirements, fire department access, locations and spacing of fire hydrants, fire-smart landscaping, and appropriate defensible space around structures (Fuel Modification Zones).

"If located in or near State Responsibility Areas (SRAs) or lands classified as Very High Fire Hazard Severity Zones (VHFHSZ), would the Project, due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?"

Finding

The City adopts CEQA Finding 1 (State CEQA Guidelines §15091(a)(1)). The City finds that MM W-1 is feasible, is adopted, and will reduce the potential wildfire impacts of the Project to less-than-significant levels. Accordingly, the City finds that, pursuant to PRC Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant wildfire impacts of the Project identified in the Program EIR.

Basis for Conclusion: Housing sites 131 and 336 are located partially or totally within a VHFHSZ in the Coyote Canyon Focus Area. Development of future residential units on these sites are subject to higher wildfire hazards due to slope and prevailing winds based on their location which would consequently result in higher fire-related risks to people and structures. Sites within existing developed area would not exacerbate wildfire risk. Adherence to mandatory fire prevention requirements and regulations, including the California Fire Code Chapter 49 (Requirements for WUI Fire Areas) would require applicants to prepare a fire protection plan for any sites located in the VHFHSZ or WUI areas. California Fire Code Chapter 49 requirements are provided as MM W-1. Therefore, following compliance with the established regulatory framework and with MM W-1 incorporated, a less than significant impact would occur concerning exposure of project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.

Mitigation Measures

MM W-1 is applicable.

Section 5: Environmental Impacts Found to be Significant and Unavoidable

Where, as a result of the environmental analysis of the Project, the City has determined that either (1) even with compliance with existing laws, codes and statutes, and/or the identification of feasible mitigation measures, potentially significant impacts cannot be reduced to a less than significant level, or (2) no feasible mitigation measures or alternatives are available to mitigate the potentially significant impact, the City has found in accordance with CEQA Section 21081(a)(3) and State CEQA Guidelines Section 15091(a)(3) that "Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report," referred to herein as "Finding 3". This section identifies the significant unavoidable impacts that require a statement of overriding considerations to be issued by the City, pursuant to State CEQA Guidelines Section 15093 if the Project is approved.

Aesthetics

"Would the Project create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?"

Finding

The City adopts CEQA Finding 3 (State CEQA Guidelines §15091(a)(3)) because even with compliance with applicable policies, ordinances, and regulations, the Project will still have a significant and unavoidable impact with respect to development within the Banning Ranch Focus Area. There are no feasible mitigation measures to reduce this impact to a less than significant level, and there are no feasible alternatives to avoid the identified unavoidable significant impact. Pursuant to PRC Section 21081(a)(3), as described in the Statement of Overriding Consideration, the City has determined that there are specific economic, social, and other public benefits that outweigh the significant unavoidable impacts associated with the potential development of Banning Ranch. However, potential impacts associated with aesthetics and visual resources for the remainder of the housing sites would be less than significant.

Basis for Conclusion: Impacts could occur if future housing development would introduce new sources of light and glare on a housing site or proximate to a housing site. A majority of the housing sites are developed and/or located adjacent to developed parcels with existing sources of lighting and/or glare. Housing sites 23 through 26 within the Airport Area Focus Area, housing site 215 within the West Newport Mesa Focus Area, housing site 131 within the Coyote Canyon Focus Area, and the housing sites within the Banning Ranch Focus Area (Sites 110-118, 120-124, and 126-131) do not contain existing sources of lighting or glare.

All future housing development projects, including development on the aforementioned sites, would be subject to the City's development review process and would be required to demonstrate consistency with Newport Beach General Plan policies and Municipal Code requirements, including those related to lighting and glare. General Plan Land Use Policy 5.6.3 on ambient lighting requires "that outdoor lighting be located and designed to prevent spillover onto adjoining properties or significantly increase the overall ambient illumination of their location" and Municipal Code Section 20.30.070 which requires that "all outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties and to not produce glare onto adjacent properties or roadways." These measures would reduce potential lighting impacts from future housing development to a less than significant level, with the exception of Banning Ranch.

Residential and non-residential development, including roadways and a park, would introduce new sources of nighttime lighting, which would affect the existing adjacent uses. In addition, the new sources of nighttime lighting could also affect the sensitive habitat areas associated with Banning Ranch. The General Plan EIR found that the introduction of new sources of lighting associated with development of Banning Ranch would be considered significant and unavoidable. Therefore, consistent with the Newport Beach General Plan EIR, if housing development occurs within the Banning Ranch Focus Area, impacts would be significant and unavoidable. With respect to the Banning Ranch Focus Area, this Focus Area includes 19 housing sites on 30 acres with 1,475 dwelling units. Banning Ranch is considered as additional dwelling unit opportunity in addition to those that accommodate the RHNA.

Air Quality

“Would the Project conflict with or obstruct implementation of the applicable air quality plan?”

Finding

The City adopts CEQA Finding 3 (State CEQA Guidelines §15091(a)(3)) because even with compliance with applicable policies, ordinances, and regulations, the Project will still have a significant and unavoidable impact concerning air quality plan consistency. There are no feasible mitigation measures to reduce this impact to a less than significant level and there are no feasible alternatives to avoid the identified unavoidable significant impact. Pursuant to PRC Section 21081(a)(3), as described in the Statement of Overriding Consideration, the City has determined that there are specific economic, social, and other public benefits that outweigh the significant unavoidable impacts associated with the Project.

Basis for Conclusion: The Project is subject to the 2022 Air Quality Management Plan Air (AQMP). Criteria for determining consistency with the AQMP are defined in the South Coast Air Quality Management District (SCAQMD CEQA Handbook, Chapter 12, Section 12.2, and Section 12.3.

The determination of 2022 AQMP consistency is primarily concerned with the long-term influence of a project on air quality in the air basin. The Project would result in a long-term impact on the region’s ability to meet State and federal air quality standards. Further, the Project would conflict with the 2022 AQMP goals and policies. Implementation of mitigation measures and compliance with SCAQMD rules would reduce conflicts and obstruction of the AQMP; however, the combined emissions from future development would exceed the SCAQMD significance thresholds for criteria pollutants. Exceeding these thresholds has the potential to hinder the region’s compliance with each AQMP. Therefore, because the Project would conflict with the growth assumptions in the AQMP and would exceed the SCAQMD daily emissions thresholds during long-term operations, and because there are no feasible mitigation measures to reduce this impact to a less than significant level, the Project would result in a significant and unavoidable impact concerning air quality plan consistency.

“Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standard?”

Finding

The City adopts CEQA Finding 3 (State CEQA Guidelines §15091(a)(3)) because even with compliance with applicable policies, ordinances, and regulations, the Project will still have a significant and unavoidable impact concerning long-term operational air quality emissions. There are no feasible mitigation measures to reduce this impact to a less than significant level and there are no feasible alternatives to avoid the

identified unavoidable significant impact. Pursuant to PRC Section 21081(a)(3), as described in the Statement of Overriding Consideration, the City has determined that there are specific economic, social, and other public benefits that outweigh the significant unavoidable impacts associated with the Project.

Basis for Conclusion: In analyzing cumulative impacts for future housing development facilitated by the Project, an analysis must specifically evaluate a development's contribution to the cumulative increase in pollutants for which the CARB is designated as nonattainment for the CAAQS and NAAQS. The SCAB is designated as a federal nonattainment area for O₃, PM₁₀, and PM_{2.5}. The SCAQMD air basin is designated as a State nonattainment area for O₃, PM_{2.5}, and lead (partial). The nonattainment status is the result of cumulative emissions from all sources of these air pollutants and their precursors within the air basin.

It is important to note that the SCAQMD significance thresholds do not distinguish between project-level EIRs and program-level EIRs and therefore the application of the SCAQMD thresholds to the Project within a programmatic EIR is highly conservative. Future development facilitated by the Project would occur as market conditions and economic factors allow and would be required to comply with the established thresholds of significance. Additionally, future development would be required to analyze potential conflicts in development with SCAQMD's LSTs. These standards represent the maximum emissions that can be generated through the development and operation of a project without expecting to cause or substantially contribute to an exceedance of the most stringent State or federal ambient air quality standards. Nonetheless, future development on housing sites facilitated by the Project may result in a cumulatively considerable net increase of a criteria pollutant for which the CARB is in nonattainment under an applicable federal or State ambient air quality standard.

The City employs goals and policies related to air quality that would help reduce the long-term operational emissions associated with the Project. In addition, mobile emissions would gradually decline in the future with the expansion of electric vehicle infrastructure (see Municipal Code §15.19.060). However, due to the unknown nature of development activities under the Project, long-term operational emissions from implementation of the Project could exceed the SCAQMD's regional significance thresholds. At a programmatic level of analysis, there are no feasible mitigation measures to reduce long-term emissions to levels below the SCAQMD's thresholds of significance. Therefore, a significant and unavoidable impact would occur concerning long-term operational air quality emissions.

"Would the Project expose sensitive receptors to substantial pollutant concentrations?"

Finding

The City adopts CEQA Finding 3 (State CEQA Guidelines §15091(a)(3)) because even with compliance with applicable policies, ordinances, and regulations, the Project will still have a significant and unavoidable impact concerning localized air quality impacts. At a programmatic level of analysis, there are no feasible mitigation measures to reduce this impact to a less than significant level and there are no feasible alternatives to avoid the identified unavoidable significant impact. Pursuant to PRC Section 21081(a)(3), as described in the Statement of Overriding Consideration, the City has determined that there are specific economic, social, and other public benefits that outweigh the significant unavoidable impacts associated with the Project.

Basis for Conclusion: Localized Pollutant Concentrations. Because the specific details (e.g., size, construction phasing, equipment, earthwork volumes, etc.) for individual future residential projects are unknown at this time, project-level analysis for localized pollutant concentrations impacts cannot be accurately determined using SCAQMD's localized significance thresholds (LST) analysis methodology.

Depending on the size and location of each individual project, construction and operational emissions could exceed LSTs. Compliance with General Plan policies, Municipal Code requirements, SCAQMD rules and regulations, and supplemental mitigation measures (if required) would reduce air pollutant emissions. However, the potential emissions reductions from implementation of these measures cannot be quantified because specific details such as individual project size, construction scheduling, and earthwork quantities that would occur within the City is not available. Therefore, it is not feasible to conclude that air pollutant emissions from future development projects would be reduced to levels below the SCAQMD LST thresholds. Therefore, localized air quality impacts would be significant and unavoidable.

Cultural Resources

“Would the Project cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?”

Finding

The City adopts CEQA Finding 1 (State CEQA Guidelines §15091(a)(1)). The City finds that MM CUL-1 is feasible and adopted. Although MM CUL-1 is feasible and will be adopted by the City, the City adopts CEQA Finding 3 (State CEQA Guidelines §15091(a)(3)) because even with compliance with applicable policies, ordinances, and regulations, the Project will still have a significant and unavoidable impact concerning the potential loss of historically significant structures and resources. There are no feasible mitigation measures to reduce this impact to a less than significant level and there are no feasible alternatives to avoid the identified unavoidable significant impact. Pursuant to PRC Section 21081(a)(3), as described in the Statement of Overriding Consideration, the City has determined that there are specific economic, social, and other public benefits that outweigh the significant unavoidable impacts associated with the Project.

Basis for Conclusion: All of the housing sites, except Sites 110-118, 120-124, and 126-131, are developed and therefore have the potential to contain a structure that would meet, now or in the future, the criteria as a historical resource, as determined by the National Register of Historic Places (NRHP) or the California Register of Historic Resources (CRHR) during future construction of housing units. Therefore, future housing development facilitated by the Project could cause a substantial adverse change in the significance of a historical resource on the housing sites.

Future projects facilitated would be subject to the City’s development review process and required under to comply with applicable regulations including applicable General Plan policies. General Plan Historical Resources Element Policies HR 1.2, HR 1.4, HR 1.5, HR 1.6, and HR 1.7 are in place to protect historically significant landmarks, sites, and structures within the City. General Plan Land Use Element Policy LU 6.8.6 addresses development on the Balboa Peninsula. Specifically, Policies HR 1.5 through 1.7 outline requirements that future development would be required to comply with to protect historically significant resources. Policy HR 1.5 requires that proposed development located on a historical site or structure incorporate a physical link to the past within the site or structural design if preservation or adaptive reuse is not a feasible option. Policy HR 1.6 requires that prior to the issuance of a demolition or grading permit, developers of a property that contains a historic structure, as defined by State CEQA Guidelines, retain a qualified consultant to record the structure in accordance with U.S. Secretary of Interior guidelines and submit the information to the City’s Historical Society, Orange County Public Library, and City Planning Department. Policy HR 1.7 further requires that prior to the demolition of a historic structure, developers offer the structure for relocation by interested parties. Policy LU 6.8.6 addresses the historic character of

the Balboa Peninsula and requires development on the Balboa Peninsula to be compatible with the scale, mass, and materials of existing structures, while allowing opportunities for architectural diversity.

The City can require any future housing development on sites with potential historic resources to conduct site-specific evaluation prior to any alteration, demolition, relocation, or new development to determine the presence of historically significant resources. This site-specific analysis would be used to determine, prior to the approval of future development permits, if the proposed development has the potential to impact a significant historical resource, or whether the existing development or property is eligible for listing on the NHRP, CRHR, or local listing. Any future development would be required to comply with applicable federal, State, and local laws that concern the preservation of historical resources, including the National Historic Preservation Act and CEQA.

Since various structures on housing sites could age beyond 50 years during Project implementation, any future development facilitated on a site with buildings or structures aged 50 years or more having its original structural integrity intact would be required to comply with MM CUL-1, which requires the applicant to retain a qualified professional historian to determine whether the affected buildings or structures are historically significant. As set forth in the General Plan EIR, the City's General Plan policies do not preclude the alteration or demolition of known historically significant resources or resources that have not yet been evaluated for potential historical significance. Because the demolition of a historic significant resource would be a physical effect on the environment and neither the City's General Plan or CEQA statutes precludes this demolition or alteration, the potential loss of historically significant structures and resources would be a significant unavoidable impact. This finding is consistent with the General Plan EIR.

Mitigation Measures

MM CUL-1 Applications for future development facilitated by the Project, where the City has determined a potential for impacts to historic resources, shall be required to comply with the following mitigation framework:

For any building/structures in excess of 50 years of age having its original structural integrity intact, the applicant shall retain a qualified professional historian to determine whether the affected building/structure is historically significant. The evaluation of historic architectural resources shall be based on criteria such as age, location, context, association with an important person or event, uniqueness, or structural integrity, as indicated in State CEQA Guidelines Section 15064.5. A historical resource report shall be submitted by the applicant to the City and shall include the methods used to determine the presence or absence of historical resources, identify potential impacts from the proposed project, and evaluate the significance of any historical resources identified.

Greenhouse Gas Emissions

"Would the Project generate greenhouse gas emissions, either directly or indirectly, that could have a significant impact on the environment?"

Finding

The City adopts CEQA Finding 1 (State CEQA Guidelines §15091(a)(1)). The City finds that MM GHG-1 is feasible and adopted. Although MM GHG-1 is feasible and will be adopted by the City, the City adopts CEQA Finding 3 (State CEQA Guidelines §15091(a)(3)) because even with compliance with applicable

policies, ordinances, and regulations, the Project will still have a significant and unavoidable impact concerning GHG emissions. There are no feasible mitigation measures to reduce this impact to a less than significant level and there are no feasible alternatives to avoid the identified unavoidable significant impact. Pursuant to PRC Section 21081(a)(3), as described in the Statement of Overriding Consideration, the City has determined that there are specific economic, social, and other public benefits that outweigh the significant unavoidable impacts associated with the Project.

Basis for Conclusion: Construction-related GHG emissions are typically site specific and depend upon multiple variables. Quantifying individual future development's GHG emissions from short-term, temporary construction-related activities is not possible due to project-level variability and uncertainties concerning detailed site plans, construction schedules/duration, equipment requirements, etc., among other factors, which are presently unknown. Since these parameters can vary so widely (and individual project-related construction activities would occur over time dependent upon numerous factors), quantifying precise construction-related GHG emissions and impacts would be speculative and impractical. Depending on how development proceeds, construction-related GHG emissions associated with future development could exceed SCAQMD thresholds of significance.

Future housing development facilitated by Project would generate long-term operational emissions. The total daily operational emissions that could potentially be generated over the life of Project were estimated using the CalEEMod Version 2022.1.0. The annual emissions ranges from buildout of the Project would total approximately 499 MTCO₂e to 5,991 MTCO₂e. Therefore, the Project would generate increases in GHG emissions from both the construction and operation of new housing. Future residential development would be subject to the City's development review process and would be required to demonstrate consistency with General Plan policies, Municipal Code requirements, and other applicable local and State requirements.

A case-by-case review of future development provides flexibility to incorporate the latest analysis methods, technological advancements, mitigation options, and GHG significance thresholds (including using thresholds that meet the latest GHG reduction goals). Projects would need to demonstrate compliance with the City's GHG thresholds. MM GHG-1 requires future development to conduct a project-level GHG emissions impact assessment and mitigate potentially significant emissions to the extent feasible. A future development project with GHG emissions below SCAQMD thresholds is considered to have a less than significant impact. Future development projects that are allowed "by right" would be required to submit substantiation to the City demonstrating GHG emissions would be less than significant or otherwise have to prepare CEQA documentation. At the program level, the Project's GHG emissions would exceed SCAQMD thresholds. In addition, due to the forecast population growth and GHG emissions associated with future development, and the lack of specificity of future development, program-level GHG emissions impacts would remain significant and unavoidable after implementation of mitigation.

Mitigation Measures

MM GHG-1 Prior to demolition, grading, or building permit approval, and in accordance with SCAQMD's guidance, a project-specific Greenhouse Gas Emissions Assessment shall be prepared for residential developments that would exceed SCAQMD's 3,000 MTCO₂e proposed threshold of significance (or those in place at the time of the development application). Future development shall mitigate GHG emissions to below SCAQMD's thresholds of significance to the extent feasible.

“Would the Project conflict with an applicable plan, policy, or regulation adopted for the purposes of reducing the emissions of GHG?”

Finding

The City adopts CEQA Finding 3 (State CEQA Guidelines §15091(a)(3)) because even with compliance with applicable policies, ordinances, and regulations, the Project will still have a significant and unavoidable impact concerning GHG emissions at the program level. There are no feasible mitigation measures to reduce this impact to a less than significant level and there are no feasible alternatives to avoid the identified unavoidable significant impact. Pursuant to PRC Section 21081(a)(3), as described in the Statement of Overriding Consideration, the City has determined that there are specific economic, social, and other public benefits that outweigh the significant unavoidable impacts associated with the Project.

Basis for Conclusion: The significance of the GHG emissions associated with the Project have been evaluated based on whether it would be consistent with the relevant statewide and regional mandates, plans, policies and regulations to reduce GHG emissions. These include AB 32 and SB 32 (Health and Safety Code Division 25.5), AB 1279, SB 375, Connect SoCal, and other statewide and regional regulations and programs. Because the City’s existing regulatory framework incorporates sustainability goals and policies that would promote a reduction in GHG emissions, the Project would not conflict with the GHG reduction goals of Health and Safety Code Division 25.5 and associated GHG reduction plans such as Connect SoCal. Connect SoCal also strives towards enhancing the existing transportation system and integrating land use into transportation planning. Connect SoCal recommends local jurisdictions accommodate future growth within existing urbanized areas to reduce VMT, congestion, and GHG emissions. The Project would plan for the development of a minimum of 4,845 dwelling units (of which 49% are for lower income levels), thus creating opportunities for many of the employees within the City to live closer to their jobs, reducing VMT and associated GHG emissions on a regional basis. Providing new housing would create a more diverse, denser, and mixed-use City with opportunities to walk, bike, and take transit, consistent with Connect SoCal’s alignment of transportation, land use, and housing strategies. As such, the Project would be consistent with regional plans to reduce VMT and associated GHG emissions.

The Project would also be consistent with the State’s strategies in the 2022 Scoping Plan Update to reduce GHG emissions. The 2022 Scoping Plan Update relies on a broad array of GHG reduction strategies. These potential strategies include increasing the fuel economy of vehicles, reducing the rate of growth in VMT, supporting high speed rail and other alternative transportation options, and use of high efficiency appliances, water heaters, and HVAC systems. The Project would benefit from statewide, regional, and City efforts towards increasing the portion of electricity provided from renewable resources as well as statewide efforts towards increasing the fuel economy standards of vehicles. Additionally, future residential projects would continue to be subject to the City’s requirements for sustainable design, energy efficiency, water efficiency, and VMT reduction – all of which are consistent with State and regional mandates that address GHG emissions. The primary focus of many of the statewide and regional mandates, plans, policies and regulations is to address worldwide climate change. Global GHG emissions, in their aggregate, contribute to climate change, not any single source of GHG emissions alone.

Based on the above, the Project would be consistent with the California Renewables Portfolio Standard Program, SB 100, Title 24 of the CCR (Energy Code and CALGreen), SB 375, RTP/SCS and recommendations of the State Attorney General, California Office of Planning and Research, and Climate Action Team. However, due to the magnitude of the Project’s GHG emissions, impacts would be significant and unavoidable at the program level.

Noise

“Would the Project result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?”

Finding

The City adopts CEQA Finding 3 (State CEQA Guidelines §15091(a)(3)) because even with compliance with applicable policies, ordinances, and regulations, the Project will still have a significant and unavoidable impact concerning traffic noise impacts along Campus Drive between MacArthur Boulevard and Von Karman Avenue. There are no feasible mitigation measures to reduce this impact to a less than significant level and there are no feasible alternatives to avoid the identified unavoidable significant impact. Pursuant to PRC Section 21081(a)(3), as described in the Statement of Overriding Consideration, the City has determined that there are specific economic, social, and other public benefits that outweigh the significant unavoidable noise impacts associated with the Project.

Basis for Conclusion: Operations – Traffic Noise Impacts. Under “Future Plus Project” conditions, noise levels at a distance of 100 feet from the roadway centerline would range from approximately 56.0 dBA to 74.9 dBA, with the highest noise levels occurring along MacArthur Boulevard south of Ford Road. One roadway segment – Campus Drive from MacArthur Boulevard to Von Karman Avenue – would exceed the City’s noise increase standards with Project implementation. The change in traffic noise along this roadway segment would be 1.2 dBA and would exceed the City’s 1 dBA threshold for existing noise levels between 65 and 70 dBA CNEL.

The General Plan contains goals and policies to reduce traffic noise impacts at sensitive receptors, including Noise Element Goal N 2 and Policies N 1.2, N 2.1, N 2.2, and N 2.6. However, these goals and policies would only apply to the development of new sensitive residences or other sensitive receptors, as existing receptors cannot always be redesigned to include noise abatement, and it is not possible to construct noise barriers between roadways and existing development. There are four housing sites along the impacted roadway segment of Campus Drive. Existing residences are also located along the north side of Campus Drive; therefore, the Project would result in traffic noise impacts at this location.

It should be noted that the traffic noise analysis conservatively uses full buildout traffic data assuming all of the housing sites would be developed. Future development would be subject to General Plan Policy N 2.1, which requires noise sensitive uses in areas of 60 dBA and greater meet interior and exterior noise levels. Policy N 2.2 requires new residential developments to include walls, berms, interior noise insulation, double-paned windows, advanced insulation systems, or other noise measures, as appropriate to meet the 45 dBA CNEL interior standard. New noise-sensitive land uses adjacent to major arterials and within the 65-70 dBA CNEL noise contour area are required to be indoor-oriented to reduce noise impacts on outdoor living or recreational areas. Therefore, operational traffic noise would be less than significant following individual design review and compliance with the City’s noise standards, as well as General Plan policies. However, Project implementation would result in a significant increase along Campus Drive from MacArthur Boulevard to Von Karman Avenue in traffic noise levels under the current City of Newport Beach standards of significance for noise increases. Therefore, where residential development would occur along this roadway segment, traffic noise impacts would be significant and unavoidable.

Utilities and Service Systems

“Would the Project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?”

Finding

The City adopts CEQA Finding 3 (State CEQA Guidelines §15091(a)(3)) because even with compliance with federal, State, and local requirements, the water demands from future development facilitated by the Project would result in a significant and unavoidable impact concerning water supply. There are no feasible mitigation measures to reduce this impact to a less than significant level and there are no feasible alternatives to avoid the identified unavoidable significant impact. Pursuant to PRC Section 21081(a)(3), as described in the Statement of Overriding Consideration, the City has determined that there are specific economic, social, and other public benefits that outweigh the significant unavoidable impacts associated with the Project.

Basis for Conclusion: Of the 247 housing sites, 227 housing sites are currently developed and are provided with water service by the City, IRWD, or Mesa Water. Of the 20 undeveloped housing sites, 19 sites are in the Banning Ranch Focus Area and one site is in the Coyote Canyon Focus Area. Future housing development would be subject to the City’s development review process and required to adhere to all federal, State, and local requirements during construction and operation for ensuring that sufficient water supplies are available. Future development that contains 500 or more residential units would be required to prepare a Water Supply Assessment, per SB 610. Future housing development would also be subject to Title 24 CBC requirements such as smart water fixtures which would reduce water demand. Future housing projects would also be subject to Municipal Code Chapter 14.16 (Water Conservation and Water Supply Shortage Program), which establishes permanent water conservation requirements to reduce water consumption and implements the City’s Water Shortage Contingency Plan, and Municipal Chapter 14.17 (Water-efficient Landscaping), which requires water efficient landscaping consistent with SB 1383 and EO B-29-15. These housing projects would also be required to present will-serve letters or submit a Utility Service Application to the City substantiating that adequate water supplies would be available. It is also important to note that future housing development would occur incrementally, based on market conditions and other factors, such that it is not expected that water supplies are not overburdened by substantially increased demands at any single point in time.

The 2020 UWMP’s for the City, IRWD, and Mesa Water identify sufficient water supplies during normal, single-dry, and multiple-dry year scenarios from 2025 through 2045 for both imported and groundwater supplies. However, the UWMPs for the respective water districts do not account for the 6th Cycle RHNA for the municipalities they serve. Although the 6th Cycle RHNA was not accounted for in the UWMPs, water efficiency measures and continued conservation, new building standards, and a conversion of potentially high demand uses to lower demand uses has allowed water districts to adequately serve their respective users in their service areas. However, because the UWMPs did not account for the 6th Cycle RHNA, documentation is not available to substantiate that there will be sufficient water supplies available to serve future development facilitated by the Project and reasonably foreseeable future development during normal, dry and multiple dry years. Despite compliance with federal, State, and local requirements, the water demands from future development facilitated by the Project would result in a significant and unavoidable impact concerning water supply based on consistency with the UWMPs.

Section 6: Alternatives to the Proposed Project

Under CEQA, the identification and analysis of alternatives to a project is a fundamental part of the environmental review process. Public Resources Code (PRC) Section 21002.1(a) establishes the need to address alternatives in an EIR by stating that in addition to determining a project's significant environmental impacts and indicating potential means of mitigating or avoiding those impacts, "the purpose of an environmental impact report is . to identify alternatives to the project."

Unlike a typical development project or even an update to a General Plan initiated by a local agency, the Project is being undertaken to implement the City's 2021-2029 Housing Element, a state-mandated 6th Cycle RNHA that identified a specific number of new residential units that the City is required to plan for and accommodate. Each alternative was evaluated for its feasibility, its ability to attain the Project's objectives, and its ability to reduce and/or eliminate significant impacts associated with the Project.

6.1 Project Objectives

The adopted and statutorily compliant (certified) 2021–2029 Housing Element provides the City with a coordinated and comprehensive strategy for promoting the production of safe, decent, and affordable housing for all within the City. The 2021–2029 Housing Element was prepared to ensure the City establishes policies, procedures, and incentives in its land use planning and development activities that result in maintenance and expansion of the housing supply to adequately accommodate households currently living and expected to live in the City.

The objective of the Project is to ensure compliance with State housing law and implementation of the 2021–2029 Housing Element, including an update to the City's Land Use Element and rezoning of housing opportunity sites.

6.2 Elimination/Reduction of Significant Impacts

CEQA Guidelines Section 15126.6(b) (14 CCR) states that "Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (PRC §21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." With implementation of the Mitigation Program identified for each topical issue, many of the potentially significant impacts resulting from future development on the housing sites would be reduced to a level considered less than significant. The following topical issues are expected to result in significant and avoidable impacts even after mitigation:

- Aesthetics: light and glare (Banning Ranch)
- Air Quality
- Cultural Resources: historic resources
- Greenhouse Gas Emissions
- Noise
- Utilities and Service Systems: water supply

6.3 Alternatives Considered But Not Carried Forward

Compliance with the 6th Cycle RHNA mandate significantly narrows options available for alternatives that both meet the basic Project objectives that are driven by the RHNA issued by the Southern California Association of Governments (SCAG) as well as those capable of avoiding or substantially reducing the potentially significant impacts identified for the proposed Project. The following alternative has not been carried forward in the Program EIR because it would not meet the basic objectives of the proposed Project; was not considered feasible; and/or would not result in any substantial avoidance or minimization of impacts that are not already accommodated in the other alternatives evaluated.

Alternative Housing Sites

Under the Alternative Housing Sites scenario, the City would consider a different or broader range of sites to accommodate housing to be planned for to meet the RHNA while still meeting the basic objectives of the Project to ensure compliance with State housing law and implementation of the 2021–2029 Housing Element and avoiding or substantially reducing potentially significant environmental impacts.

As required by State Housing Law, the City adopted and HCD certified the 2021-2029 Housing Element, which identifies specific parcels/sites that may be available and suitable (e.g., avoids major constraints) for residential development in order to demonstrate that the City has adequate capacity to accommodate residential development as necessary to achieve the City's 6th Cycle RHNA. Alternate housing sites were considered but rejected during the preparation of the 2021-2029 Housing Element because they were determined to be infeasible during the City's Candidate Sites Analysis process due to regulations, site constraints, property owner interest in developing housing, community input, and existing uses. Development on a different or amended set of sites throughout the City would be unlikely to avoid or substantially lessen potentially significant impacts identified for the proposed Project as the proposed levels of residential development and population growth would remain similar and therefore result in similar environmental impacts as identified in the Program EIR for the proposed Project. Therefore, based on the City's previous detailed screening of sites throughout the City and limited or no reduction in environmental impacts, this alternative was eliminated from further consideration in the Program EIR.

6.4 Project Alternatives Considered

Alternative A: No Project Alternative

Description: There are 247 housing sites, of which only 21 sites are vacant. The No Project Alternative assumes that future development of the sites could occur consistent with the existing underlying zoning of the sites. No zoning overlays would be adopted and no General Plan Land Use Element policy amendments would occur to facilitate housing development and implement the 2021-2029 Housing Element. While the proposed Project does not consider any loss of existing on the ground development which may be displaced to accommodate 9,914 housing units, this alternative acknowledges that fewer sites would be redeveloped. It is speculative to know how many of the currently developed sites would be redeveloped. Future reuse would likely occur on these sites over time depending upon numerous factors such as market conditions, and economic and planning considerations, and at the individual property owners' discretion.

The proposed Project's housing sites inventory is intended to accommodate future housing development on identified properties, consistent with the 2021-2029 Housing Element. The No Project Alternative is the circumstance under which the actions required to implement the Housing Element would not occur.

Environmental Effects: Alternative A's environmental impacts are compared to the proposed Project in Section 6.4.1 of the Program EIR. Under Alternative A, no development would occur on 14 of the 21 vacant housing sites. The two housing sites in the Coyote Canyon Focus Area (housing sites 131 and 336) are zoned Parks and Recreation (PR). Therefore, the Coyote Canyon Focus Area assumes development of the property with active public or private recreational use. Banning Ranch is designated in the General Plan Land Use Element as OS(RV). The proposed Project does not include a zoning overlay for the Banning Ranch Focus Area. Consistent with the 2021-2029 Housing Element, Alternative A assumes the potential to accommodate 1,475 housing units (at an assumed unit yield of 50 du/ac) on 44 acres of Banning Ranch. The Banning Ranch Focus Area is included in the 2021-2029 Housing Element's sites inventory but is not assumed in order to accommodate the City's 6th Cycle RHNA growth allocation. Banning Ranch is considered as an additional dwelling unit opportunity beyond that needed to accommodate the RHNA.

While less housing development is assumed, Alternative A would not eliminate significant unavoidable impacts associated with the proposed Project. Impacts would be the same or less because no development would occur on seven sites.

Ability to Achieve Project Objectives: The City would be in noncompliance, which could lead to decertification of the 2021-2029 Housing Element by HCD. Additionally, the City would not provide adequate opportunities to implement the 2021-2029 Housing Element because the City would not approve and/or amend (1) General Plan goals and policies; (2) Housing Opportunity Overlay zoning districts for the focus areas, including housing sites in the Coastal Zone; and (3) Local Coastal Program Implementation Plan policies. Following certification by HCD, the City is required to ensure the continued and effective implementation of the Housing Element programs including, but not limited to, the provision of sufficient adequately zoned land to accommodate its share of the regional growth and its required share of lower income dwelling units consistent with the General Plan and RHNA obligations.

HCD notes that various consequences may apply if a city or county does not have a Housing Element in compliance with State Housing Element Law. First, noncompliance would result in ineligibility or delay in receiving State funds that require a compliant Housing Element as a prerequisite. Second, jurisdictions that do not meet their Housing Element requirements may face additional financial and legal ramifications. Other potential ramifications could include the loss of local land use authority to a court-appointed agent.

Future housing development facilitated by the 2021-2029 Housing Element would only occur where the proposed multi-unit use is currently consistent with applicable land use regulations; otherwise, future projects may require both amendments to General Plan land use designations and rezones.

In addition to the legal remedies available in the courts, under the Housing Accountability Act (Government Code §65589.5(d)), jurisdictions without a substantially compliant Housing Element cannot rely on inconsistency with zoning and general plan standards as a basis for denial of a housing project for Very-Low-, Low-, or Moderate-income households.

Alternative A Findings: The City Council rejects this alternative on the following grounds which provides sufficient justification for rejection of this alternative. The Project objective is to ensure compliance with State housing law and implementation of the 2021-2029 Housing Element, including an update to the City's Land Use Element and rezoning of housing opportunity sites. Alternative A would not facilitate the development of housing to ensure compliance with State housing law and implementation of the 2021-2029 Housing Element. Alternative A would not attain any of the Project objectives, including those that

are required to comply with State law, except the Alternative A would preserve the community's existing housing stock and no existing housing would be impacted.

Under the No Project Alternative, the City would not meet its 6th Cycle RHNA allocation and would result in risk of penalties and loss of eligibility for funding opportunities due to the City's noncompliance with various State housing-related laws. Therefore, this alternative would directly conflict with California Government Code Section 65583, which stipulates that a jurisdiction must implement the Housing Element and facilitate development of housing to provide for the existing and projected needs of all economic segments of the community.

Alternative B: RHNA with Reduced Buffer

Description: Alternative B assumes a reduced buffer, representing a range of units between the City's RHNA allocation (4,845 units) and the proposed Project (9,914 units), to address future "no net loss". Because future housing projects on the identified housing sites would occur incrementally over time, largely based on economic conditions, market demand, and other planning considerations, it is speculative to know how many of the housing sites will be developed, the number of housing units on a housing site, or the affordability characteristics of the projects.

This alternative would still require amendments/updates to General Plan Land Use policies, the Municipal Code, and Local Coastal Program Implementation Plan. It is not possible to know which combination of housing sites would be developed at what densities; however, the overall development capacity would result in an incremental decrease in the number of housing units and/or housing throughout the City.

Environmental Effects: Alternative B's environmental impacts are compared to the proposed Project in Section 6.4.2 of the Program EIR. This alternative was selected for analysis because it would result in a lower intensity of development that could lessen some of the Project's environmental effects. It would not, however, substantially lessen or eliminate all of the Project's significant and unavoidable effects. Potential impacts from implementation of Alternative B would be similar to the proposed Project for a majority of resource areas, and impacts would remain significant and unavoidable for air quality, cultural resources (historic resources), GHG emissions, recreation, and utilities and service systems (water supply). Alternative B would not have a significant unavoidable roadway noise impact.

Ability to Achieve Project Objectives: The RHNA identified the projected number of dwelling units needed to accommodate estimated future growth during the 6th Cycle planning period (2021-2029) at specified levels of affordability. The City's 6th Cycle RHNA allocation is 4,845 housing units, including 1,456 Very-Low-Income units and 930 Low-Income units. The City's 2021-2029 Housing Element demonstrates compliance with its RHNA obligations including the identification of housing sites.

In addition to the 6th Cycle RHNA allocation, the Program EIR includes additional housing units as a buffer to address future "no net loss" to preclude the need to identify replacement sites during 6th Cycle implementation. State Housing laws require cities and counties to identify RHNA obligations by income category. It is important to note that future housing applicants are not required to meet affordability goals. The City is obligated to ensure there is no net loss when projects are developed such that there are adequate opportunities for the City to meet its RHNA obligations, particularly in order to demonstrate that Low-Income and Very-Low-Income units are being constructed. Therefore, the proposed Project assumes a total development capacity of 9,914 units including future development capacity of up to 9,649 units on 247 housing sites, 25 units of pipeline projects, and 240 units of anticipated accessory dwelling units (ADUs).

Alternative B would meet the Project's objective to ensure compliance with State housing law and implementation of the 2021–2029 Housing Element, including an update to the City's Land Use Element goals and policies and the adoption of Housing Opportunity Zones. However, as Alternative B would include a reduced buffer, should the City have an insufficient number of remaining sites to meet its RHNA obligations in the income categories resulting in a net loss, the City would have 120 days to provide rezoning that accommodates the net loss. Although Alternative B would adopt state-mandated and locally desired programs to implement the City's Housing Element, it would not provide a buffer to address "no net loss" to the same extent as the proposed Project.

Alternative B Findings: The City Council rejects this alternative on the following grounds which provides sufficient justification for rejection of this alternative. Under Alternative B, while the City could meet its 6th Cycle RHNA allocation from future development on the housing sites, there would be greater risk of penalties and noncompliance with various State housing-related laws in case housing sites were removed from the inventory during the planning period or sufficient sites were not available to meet the RHNA at specified levels of affordability.

Alternative C: RHNA Only

Description: Alternative C assumes a maximum development capacity of 4,845 housing units, which is the City's 6th Cycle RHNA allocation. While a buffer is not required, it is recommended by HCD. Therefore, Alternative C assumes no buffer to address future "no net loss" if actual housing development does not provide Very-Low-Income and Low-Income housing consistent with the RHNA. This alternative would represent an approximate 50 percent reduction in overall development capacity as compared to the proposed Project. This alternative would still require amendments/updates to the General Plan Land Use Element policies, Municipal Code, and Local Coastal Program Implementation Plan. It is not possible to know which combination of housing sites would be developed at what densities.

Environmental Effects: Alternative C's environmental impacts are compared to the proposed Project in Section 6.4.3 of the Program EIR, which is hereby incorporated by reference. This alternative was selected for analysis because it would result in a lower intensity of development that could lessen some of the Project's environmental effects. It would not, however, substantially lessen or eliminate the Project's significant and unavoidable effects. Potential impacts from implementation of Alternative C would be similar or less than the proposed Project for a majority of resource areas because fewer housing units are assumed. Impacts would remain significant and unavoidable for air quality, cultural resources (historic resources), GHG emissions, and utilities and service systems (water supply assumptions). Alternative C would eliminate significant, unavoidable roadway noise impacts.

Ability to Achieve Project Objectives: Alternative C would facilitate future residential development on 247 identified housing sites, but would not include any housing units to serve as a buffer to address future "no net loss" to preclude the need to identify replacement sites during 6th Cycle implementation. Alternative C would meet the Project's objective to ensure compliance with State housing law and implementation of the 2021–2029 Housing Element, including goal and policy modifications City's Land Use Element and adoption of Housing Opportunity Zones.

Under Alternative C, while the City may be able to meet its 6th Cycle RHNA allocation from future development on identified housing sites, it is important to note that future housing applicants are not required to meet affordability goals. State Housing laws require cities and counties to identify RHNA obligations by income category. The City is obligated to ensure there is no net loss when projects are developed such that there are adequate opportunities for the City to meet its RHNA obligations,

particularly in order to demonstrate that Low-Income and Very-Low-Income units are being constructed. It is reasonable to assume that the City may not meet its RHNA obligations in the various income categories and be required to rezone additional sites. The City would have 120 days to provide rezoning that accommodates the net loss or risk conflicting with State law and the Project objectives.

Alternative 3 Findings: The City Council rejects this alternative on the following grounds which provides sufficient justification for rejection of this alternative. Under Alternative C, while the City could meet its 6th Cycle RHNA allocation from future development on the housing sites but would provide no buffer to address no net loss. There would be greater risk of penalties and noncompliance with various State housing-related laws in case housing sites were removed from the inventory during the planning period or sufficient sites were not available to meet the RHNA at specified levels of affordability.

Section 7: Statement of Overriding Considerations

CEQA requires the decision-making agency to balance the benefits of a project against its significant unavoidable impacts when determining whether to approve a project. If the benefits of the project outweigh its unavoidable adverse environmental effects, those effects may be considered acceptable (State CEQA Guidelines §15093(a)). CEQA requires the agency to state in writing the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Program EIR or elsewhere in the administrative record (State CEQA Guidelines §15093(b)). The Project, as proposed, could result in significant unavoidable impacts related to aesthetics, air quality, cultural resources, GHG emissions, noise, and utilities and service systems even after incorporation of the Mitigation Program. These significant and unavoidable impacts are identified and discussed in Section 6 of these Findings.

The City adopts and makes this Statement of Overriding Considerations regarding the significant unavoidable impacts of the Project and the anticipated benefits of the Project. The City finds that each of the benefits set forth below in this Statement constitutes a separate and independent ground for finding that the long-term benefits of the Project, which constitute the specific economic, legal, social, technological, and other considerations that justify the approval of the Project:

- As stated in Government Code Section 65589.5, the State of California has a housing supply and affordability crisis of historic proportions. The consequences of failing to confront this crisis effectively and aggressively are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the State's environmental and climate objectives. The Legislature adopted the Housing Crisis Act of 2019 (SB 330) which states that "In 2018, California ranked 49th out of the 50 states in housing units per capita...California needs an estimated 180,000 additionally new homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years."
- The State has identified the lack of housing as a significant area of public concern, leading to an unsustainable lack of housing affordability, increased homelessness, social stress related to increased poverty and a reduction in economic prosperity for many State residents. In the current RHNA cycle, Newport Beach has been allocated 4,845 units, including 1,456 Very-Low Income units and 930 Low-Income units. The 9,914 units estimated in the 2021-2029 Housing Element provide for development of the RHNA units and create an important level of flexibility to allow market forces to efficiently develop the required units.
- Under State law, the City must adopt a 6th Cycle Housing Element Update that meets its assigned RHNA requirement and allow for future growth and development.
- The 2021-2029 Housing Element was shaped by an extensive public outreach process that engaged the community and decision-makers. The City worked with the Housing Element Update Advisory Committee, Planning Commission, City Council, and the community to prepare an update to the Housing Element. The 2021-2029 Housing Element reflects this public input and consideration.
- The Project could achieve a number of benefits that address both City and regional goals for fiscal sustainability, housing supply and affordability, and enhancement of public infrastructure and facilities.

On balance, the City finds that there are specific economic, legal, social, technological, and other considerations associated with the Project that serve to override and outweigh the significant unavoidable effects of the Project. Therefore, pursuant to State CEQA Guidelines Section 15093(b), these adverse effects are considered acceptable.

EXHIBIT "C"
Mitigation Monitoring and Reporting Program (MMRP)

MITIGATION MONITORING AND REPORTING PROGRAM

THE CITY OF NEWPORT BEACH GENERAL PLAN HOUSING IMPLEMENTATION PROGRAM

(STATE CLEARINGHOUSE NO. 2023060699)
PA2022-0245

Prepared for | City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, California 92660

Prepared by | Kimley-Horn and Associates, Inc.
1100 W. Town & Country Road, Suite 700
Orange, California 92868

APRIL 2024

Kimley»Horn

PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM

The California Environmental Quality Act (CEQA) requires that all public agencies establish monitoring and/or reporting procedures for mitigation adopted as conditions of approval in order to mitigate or avoid significant environmental impacts. This Mitigation Monitoring and Reporting Program (MMRP) has been developed to provide a vehicle by which to monitor the Mitigation Program outlined in the City of Newport Beach General Plan Housing Implementation Program Final Program Environmental Impact Report (EIR), State Clearinghouse No. 2023060699. The MMRP has been prepared in conformance with Section 21081.6 of the Public Resources Code. Specifically, Section 21081.6 states:

- (a) When making findings required by paragraph (1) of subdivision (a) of Section 21081 or when adopting a mitigated negative declaration pursuant to paragraph (2) of subdivision (c) of Section 21080, the following requirements shall apply:
 - (1) The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.
 - (2) The lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.

CEQA Guidelines Section 15097 provides clarification of mitigation monitoring and reporting requirements and guidance to local lead agencies on implementing strategies. The reporting or monitoring program must be designed to ensure compliance during project implementation. The City of Newport Beach is the Lead Agency for the Project and is therefore responsible for ensuring the implementation of the MMRP. The MMRP has been drafted to meet the requirements of Public Resources Code Section 21081.6 as a fully enforceable monitoring program.

BACKGROUND

The Mitigation Program identified in the Program EIR outlines General Plan Policies, Coastal Land Use Plan Policies, standard conditions of approval, and mitigation measures for which implementation of future housing development associated with the proposed Project would be consistent with.

The MMRP defines the following for each Mitigation Program element:

- **Definition.** The Mitigation Program element contains the criteria for mitigation, either in the form of adherence to certain adopted regulations or identification of the steps to be taken in mitigation.
- **Time Frame.** In each case, a time frame is provided for performance of the mitigation or the review of evidence that mitigation has taken place. The performance points selected are designed

to ensure that impact-related components of Project Implementation do not proceed without establishing that the mitigation is implemented or ensured. All activities are subject to the approval of all required permits from agencies with permitting authority over the specific activity.

- **Monitoring/Reporting Method.** The actions required to ensure the measure is implemented are noted.
- **Responsible Party or Designated Representative.** Unless otherwise indicated, an applicant would be the responsible party for implementing the mitigation, and the City Newport Beach or designated representative would be responsible for monitoring the performance and implementation of the mitigation measure. To guarantee that the mitigation will not be inadvertently overlooked, a supervising public official acting as the Designated Representative is the official who grants the permit or authorization called for in the performance. Where more than one official is identified, permits or authorization from all officials shall be required.

The last column of the MMRP table will be used by the parties responsible for documenting when implementation of the measure has been completed. The ongoing documentation and monitoring of mitigation compliance will be completed by the City of Newport Beach. The completed MMRP and supplemental documents will be kept on file at the City of Newport Beach Community Development Department.

The mitigation measures and/or the performance standards of the mitigation measures identified in the City of Newport Beach General Plan Housing Implementation Program EIR would be implemented as part of consideration of subsequent projects within the City. Implementation would consist of determining whether subsequent projects are consistent with the General Plan, utilization of policies and action items as conditions of approval and/or mitigation measures and any applicable City-initiated planning activities.

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
4.1: Aesthetics						
Threshold 4.1-1: Have a substantial adverse effect on a scenic vista.	General Plan Land Use (LU) Element Policies: LU 6.5.5 (Banning Ranch) General Plan Natural Resources (NR) Element Policies: NR 20.1, NR 20.2, NR 20.3, NR 20.4, NR 23.1, NR 23.2, NR 23.3 Local Coastal Program Policies: 4.4.1-2, 4.4.1-3, 4.4.1-4, 4.4.1-5, 4.4.1-7, 4.4.3-1 Municipal Code: Chapter 20.30; Chapter 20.52 Section 20.52.080; Chapter 21.30	No mitigation.				
Threshold 4.1-2: Conflict with applicable zoning and other regulations governing scenic quality.	General Plan Land Use (LU) Element Policies: LU 3.2, LU 5.1.2, LU 5.1.6, LU 5.1.9 (Not applicable to Newport Center and Airport Area), LU 5.3.1, LU 5.3.3, LU 5.3.5, LU 5.3.6, LU 5.6.1, LU 6.10.2 (Cannery Village), Policy LU 6.14.4 (Newport Center), LU 6.15.3 (Airport Area), LU 6.15.6 (Airport Area), LU 6.15.22 (Airport Area), LU 6.15.27 (Airport Area), LU 6.16.6, LU 6.17.3 (West Newport), LU 6.18.3 (West Newport), LU 6.19.7 (Mariners' Mile), LU 6.19.8 (Mariners' Mile), LU 6.19.9 (Mariners' Mile), LU 6.19.12 (Mariners' Mile) General Plan Natural Resources (NR) Element Policies: NR 20.3, NR 21.1, NR 23.6 Local Coastal Program Policies: 4.4.1-3, 4.4.2-4, 4.4.4-1, 4.4.4-6 Municipal Code: Chapter 20.30; Chapter 20.52 Section 20.52.080; Chapter 21.30; City of Newport Beach Multi-Unit Objective Design Standards	No mitigation.				
Threshold 4.1-3: Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.	General Plan Land Use (LU) Element Policies: LU 5.6.2, LU 5.6.3 Municipal Code: Chapter 20.30 Section 21.30.070; City of Newport Beach Multi-Unit Objective Design Standards	Regarding Banning Ranch, consistent with the City of Newport Beach General Plan Program EIR, there are no feasible mitigation measures to reduce this impact to a less than significant level. No mitigation is required for the other housing sites.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
4.2: Air Quality						
Threshold 4.2-1: Conflict with or obstruct implementation of the applicable air quality plan.	General Plan Natural Resources (NR) Element Policies: NR 6.1, NR 6.3, NR 7.1, NR 7.2, NR 8.1 Municipal Code: Chapter 15.19 South Coast Air Quality Management District (SCAQMD) Rules and Regulations: Rule 401, Rule 402, Rule 403, Rule 445, Rule 1113, Rule 1120, Rule 1143	There are no feasible mitigation measures to reduce this impact to a less than significant level.	-	-		
Threshold 4.2-2: Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable federal or State ambient air quality standard.	General Plan Natural Resources (NR) Element Policies: NR 6.1, NR 6.3, NR 7.1, NR 7.2, NR 8.1 Municipal Code: Chapter 15.19 South Coast Air Quality Management District (SCAQMD) Rules and Regulations: Rule 401, Rule 402, Rule 403, Rule 445, Rule 1113, Rule 1120, Rule 1143	There are no feasible mitigation measures to reduce this impact to a less than significant level.	-	-		
Threshold 4.2-3: Expose sensitive receptors to substantial pollutant concentrations.	General Plan Natural Resources (NR) Element Policies: NR 6.1, NR 6.3, NR 7.1, NR 7.2, NR 8.1 Municipal Code: Chapter 15.19 South Coast Air Quality Management District (SCAQMD) Rules and Regulations: Rule 401, Rule 402, Rule 403, Rule 445, Rule 1113, Rule 1120, Rule 1143	Note: There are no feasible mitigation measures to reduce this impact to a less than significant level. The following mitigation measure is applicable. MM AQ-1: A project-specific Health Risk Assessment shall be conducted for future residential development proposed within 500 feet of the State Route 73 right-of-way, pursuant to the recommendations set forth in the California Air Resources Board (CARB) <i>Air Quality and Land Use Handbook</i> . The Health Risk Assessment shall evaluate a project per the following South Coast Air Quality Management District (SCAQMD) thresholds: <ul style="list-style-type: none"> ▪ Cancer Risk: Emit carcinogenic or toxic contaminants that exceed the maximum individual cancer risk of 10 in one million. ▪ Non-Cancer Risk: Emit toxic contaminants that exceed the maximum hazard quotient of one in one million. The SCAQMD has also established non-carcinogenic risk parameters for use in HRAs. Noncarcinogenic risks are	If found to be applicable on a project-specific basis for future housing on the identified housing sites. Preparation during development review process.	City of Newport Beach Community Development Department		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
		quantified by calculating a "hazard index," expressed as the ratio between the ambient pollutant concentration and its toxicity or Reference Exposure Level (REL). An REL is a concentration at or below which health effects are not likely to occur. A hazard index less of than one (1.0) means that adverse health effects are not expected. If projects are found to exceed the SCAQMD's Health Risk Assessment thresholds, mitigation shall be incorporated to reduce impacts to below SCAQMD thresholds.				
Threshold 4.2-4: Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.	General Plan Natural Resources (NR) Element Policies: NR 7.2, NR 8.1 South Coast Air Quality Management District (SCAQMD) Rules and Regulations: Rule 402	No mitigation.				
4.3: Biological Resources						
Threshold 4.3-1: 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 CDWG or USFWS.	General Plan Natural Resources (NR) Element Policies: NR 10.3, NR 10.4, NR 10.5, NR 10.6, NR 10.7, NR 10.9 (Banning Ranch) General Plan Safety (S) Element Policies: S 6.3, S 6.4, S 6.5 Local Coastal Program Policies: 4.1.1-13 Municipal Code: Chapter 13.08, 21.30, 21.208, 21.52 Federal and State Regulatory Requirements determined on project-specific basis	SC BIO-1: Prior to the commencement of any proposed actions (e.g., site clearing, demolition, grading) during the breeding/nesting season (September 1 through February 15), a qualified biologist shall conduct a preconstruction survey(s) to identify any active nests in and adjacent to the project site no more than three days prior to initiation of the action. Costs associated with the biologist shall be the responsibility of the project applicant. If the biologist does not find any active nests that would be potentially impacted, the proposed action may proceed. However, if the biologist finds an active nest within or directly adjacent to the action area (within 100 feet) and determines that the nest may be impacted, the biologist shall delineate an appropriate buffer zone around the nest using temporary plastic fencing or other suitable materials, such as barricade tape and traffic cones. The buffer zone shall be determined by the biologist in consultation with applicable resource agencies and in consideration of species sensitivity and	Prior to the commencement of any proposed actions (e.g., site clearing, demolition, grading) during the breeding/nesting season (September 1 through February 15)	City of Newport Beach Community Development Department		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
		<p>existing nest site conditions, and in coordination with the construction contractor. The qualified biologist shall serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. Only specified construction activities (if any) approved by the qualified biologist shall take place within the buffer zone until the nest is vacated. At the discretion of the qualified biologist, activities that may be prohibited within the buffer zone include but not be limited to grading and tree clearing. Once the nest is no longer active and upon final determination by the biologist, the proposed action may proceed within the buffer zone.</p> <p>The qualified biologist shall prepare a survey report/memorandum summarizing his/her findings and recommendations of the preconstruction survey. Any active nests observed during the survey shall be mapped on a current aerial photograph, including documentation of GPS coordinates, and included in the survey report/memorandum. The completed survey report/memorandum shall be submitted to the City of Newport Beach Community Development Department prior to construction-related activities that have the potential to disturb any active nests during the nesting season.</p>				
		<p>MM BIO-1: Applications for future housing development facilitated by the Project, where the City has determined a potential for impacts to special-status wildlife and plants species, shall be required to comply with the following mitigation framework:</p> <p>Prior to the issuance of any permit for future development consistent with the Project, a site-specific general biological resources survey shall be conducted to</p>	<p>If found to be applicable on a project-specific basis for future housing on the identified housing sites.</p> <p>Submittal during development review</p>	<p>City of Newport Beach Community Development Director</p>		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
		Identify the presence of any sensitive biological resources, including any sensitive plant or wildlife species. A biological resources report shall be submitted to the City to document the results of the biological resources survey. The report shall include (1) the methods used to determine the presence of sensitive biological resources; (2) vegetation mapping of all vegetation communities and/or land cover types; (3) the locations of any sensitive plant or wildlife species; (4) an evaluation of the potential for occurrence of any listed, rare, and narrow endemic species; and (5) an evaluation of the significance of any potential direct or indirect impacts from the proposed project. If potentially significant impacts to sensitive biological resources are identified, future project site grading and site plans shall incorporate project design features required by the applicant to minimize direct impacts on sensitive biological resources to the extent feasible, and the report shall also recommend appropriate mitigation to be implemented by the applicant to reduce the impacts to below a level of significance. The project design features shall be submitted to the Community Development Director or their designee for review and approval.	process; Prior to issuance of first permit.			
Threshold 4.3-2: 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 Wildlife Service or U.S. Fish and Wildlife Service.	General Plan Natural Resources (NR) Element Policies: NR 10.3, NR 10.4, NR 10.5, NR 10.6, NR 10.7, NR 10.9 (Banning Ranch) Local Coastal Program Policies: 4.1.1-13 Municipal Code: Chapter 13.08, 21.30, 21.208, 21.52 Federal and State Regulatory Requirements determined on project-specific basis	MM BIO-1 would apply.	If found to be applicable on a project-specific basis for future housing on the identified housing sites. Submittal during development review process; Prior to	City of Newport Beach Community Development Director		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
			issuance of first permit.			
Threshold 4.3-3: Have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.	General Plan Natural Resources (NR) Element Policies: NR 10.3, NR 10.4, NR 10.5, NR 10.6, NR 10.9 (Banning Ranch), NR 13.1, NR 13.2 Local Coastal Program Policies: 2.1.7-2, 2.2.1-2 Municipal Code: Chapter 13.08, 21.30, 21.208, 21.52 Federal and State Regulatory Requirements determined on project-specific basis	No mitigation.				
Threshold 4.3-4: Interfere substantially with the movement of any native or migratory fish or wildlife species; inhibit established native resident or migratory fish or wildlife corridors; or impede the use of native wildlife nursery sites.	General Plan Natural Resources (NR) Element Policies: NR 10.3, NR 10.4, NR 10.9 (Banning Ranch) Municipal Code: Chapter 7.26 Federal and State Regulatory Requirements determined on project-specific basis	No mitigation.				
Threshold 4.3-5: Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	General Plan Natural Resources (NR) Element Policies: NR 10.3, NR 10.4, NR 10.5, NR 10.6, NR 10.7, NR 10.9 (Banning Ranch), NR 13.1, NR 13.2 General Plan Safety (S) Element Policies: S 6.3, S 6.4, S 6.5 Local Coastal Program Policies: 2.1.7-2, 2.2.1-2, 2.8.8-1, 2.8.8-2, 2.8.8-4, 4.1.1-2, 4.1.1-3, 4.1.1-6, 4.1.1-13, 4.1.1-17, 4.3-8	No mitigation.				
Threshold 4.3-6: Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan.	General Plan Natural Resources (NR) Element Policies: NR 10.3, NR 10.4 Local Coastal Program Policies: 4.1.1-2, 4.1.1-3, 4.1.1-13, 4.1.1-17, 4.3-8 Municipal Code: Chapter 13.08, 21.30, 21.208, 21.52	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
	Federal and State Regulatory Requirements determined on project-specific basis					
4.4: Cultural Resources						
Threshold 4.4-1: Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5.	<p>General Plan Historical Resources (HR) Element Policies: HR 1.2, HR 1.4, HR 1.5, HR 1.6, HR 1.7</p> <p>General Plan Land Use (LU) Element Policies: LU 6.8.6</p> <p>Local Coastal Program Policies: 4.5.1-1, 4.5.1-2, 4.5.1-4</p> <p>Municipal Code: Chapter 21.20.105</p> <p>Newport Beach City Council Policy Manual: Places of Historical and Architectural Significance (K-2)</p>	<p>Note: There are no feasible mitigation measures to reduce this impact to a less than significant level. The following mitigation measure is applicable.</p> <p>MM CUL-1: Applications for future development facilitated by the Project, where the City has determined a potential for impacts to historic resources, shall be required to comply with the following mitigation framework:</p> <p>For any building/structures in excess of 50 years of age having its original structural integrity intact, the applicant shall retain a qualified professional historian to determine whether the affected building/structure is historically significant. The evaluation of historic architectural resources shall be based on criteria such as age, location, context, association with an important person or event, uniqueness, or structural integrity, as indicated in State CEQA Guidelines Section 15064.5. A historical resource report shall be submitted by the applicant to the City and shall include the methods used to determine the presence or absence of historical resources, identify potential impacts from the proposed project, and evaluate the significance of any historical resources identified.</p>	<p>If found to be applicable on a project-specific basis for future housing on the identified housing sites.</p> <p>Determination made during development review process; Submittal of report as part of CEQA review.</p>	<p>Project Applicant</p> <p>City of Newport Beach Community Development Director</p>		
Threshold 4.4-2: Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.	<p>General Plan Historical Resources (HR) Element Policies: HR 2.1, HR 2.2, HR 2.3, HR 2.4</p> <p>General Plan Natural Resources (NR) Element Policies: NR 18.1, NR 18.3, NR 18.4</p>	<p>SC CUL-1: In compliance with City Council Policy K-5, prior to the issuance of a grading permit by the City of Newport Beach, the Applicant shall retain a qualified archaeologist to periodically monitor ground-disturbing activities onsite and provide documentation of such retention to the City of Newport Beach Community Development Director. The archaeologist shall train</p>	<p>If found to be applicable on a project-specific basis for future housing on the identified housing sites.</p>	<p>City of Newport Beach Community Development Director</p>		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
	Local Coastal Program Policies: 4.5.1-1, 4.5.1-2, 4.5.1-3, 4.5.1-4, 4.5.1-5 Municipal Code: Municipal Code: Chapter 21.20.105 Newport Beach City Council Policy Manual: Paleontological and Archaeological Resource Protection Guidelines (K-5).	project construction workers on the types of archaeological resources that could be found in site soils. The archaeologist shall periodically monitor project ground-disturbing activities. During construction activities, if Native American resources (i.e., Tribal Cultural Resources) are encountered, a Cultural Resource Monitoring and Discovery Plan (CRM DP) shall be created and implemented to lay out the proposed personnel, methods, and avoidance/recovery framework for tribal cultural resources monitoring and evaluation activities within the project area. A consulting Native American tribe shall be retained and compensated as a consultant/monitor for the project site from the time of discovery to the completion of ground disturbing activities to monitor grading and excavation activities. If archaeological resources are encountered, all construction work within 50 feet of the find shall cease, and the archaeologist shall assess the find for importance and whether preservation in place without impacts is feasible. Construction activities may continue in other areas. If, in consultation with the City and affected Native American tribe (as deemed necessary), the discovery is determined to not be important, work will be permitted to continue in the area. Any resource that is not Native American in origin and that cannot be preserved in place shall be curated at a public, nonprofit institution with a research interest in the materials, such as the South Central Coastal Information Center at California State University, Fullerton.	During the development review process; Compliance with City requirements for archaeological, paleontological, and tribal cultural resources. Monitoring during ground disturbing activities.			
		MM CUL-2: Prior to any earth-disturbing activities (e.g., excavation, trenching, grading) that could encounter undisturbed soils, the project-level applicant for future development shall retain an archaeologist who meets the Secretary of the Interior's Professional Qualifications	If found to be applicable on a project-specific basis for future housing on	Project Applicant City of Newport Beach Community Development Director		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
		Standards for Archaeology to determine if site-specific development allowed under the General Plan Update could result in a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the CEQA Guidelines. The investigation shall include, as determined appropriate by the archaeologist and the City of Newport Beach, an updated records search of the South Central Coastal Information Center of the California Historical Resources Information System, updated Native American consultation, and a pedestrian survey of the area proposed for development. The results of the investigation shall be documented in a technical report or memorandum that identifies and evaluates any archaeological resources within the development area and includes recommendations and methods for eliminating or avoiding impacts on archaeological resources or human remains. The measures shall include as appropriate, subsurface testing of archaeological resources and/or construction monitoring by a qualified professional and, if necessary, appropriate Native American monitors identified by the applicable tribe and/or the Native American Heritage Commission.	the identified housing sites. During the development review process; prior to ground-disturbing activities. Compliance with City requirements for archaeological, paleontological, and tribal cultural resources. Monitoring during ground disturbing activities.			
Threshold 4.4-3: Disturb any human remains, including those interred outdoors of dedicated cemeteries.	General Plan Historical Resources (HR) Element Policies: HR 2.1, HR 2.2, HR 2.3, HR 2.4 Local Coastal Program Policies: 4.5.1-2 Municipal Code: Municipal Code: Chapter 21.20.105 Newport Beach City Council Policy Manual: Paleontological and Archaeological Resource Protection Guidelines (K-5).	SC CJL-2: California Health and Safety Code Section 7050.5, CEQA Guidelines Section 15064.5, and Public Resources Code Section 5097.98 mandate the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery. California Health and Safety Code Section 7050.5 requires that in the event that human remains are discovered within the project site, disturbance of the site shall be halted until the coroner has conducted an investigation into the circumstances, manner and cause of death, and the recommendations concerning the	If found to be applicable on a project-specific basis for future housing on the identified housing sites. Compliance with regulatory requirements during	City of Newport Beach Community Development Department		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
		treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes or has reason to believe the human remains to be those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.	ground disturbing activities.			
4.5: Energy						
Threshold 4.5-1: Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation.	General Plan Housing (H) Element Policies: Policy Action 5G General Plan Land Use (LU) Element Policies: LU 6.15.25 Municipal Code: Chapter 15.18	No mitigation.				
Threshold 4.5-2: Conflict with or obstruct a State or Local plan for renewable energy or energy efficiency	General Plan Housing (H) Element Policies: Policy Action 5G General Plan Land Use (LU) Element Policies: LU 6.15.25	No mitigation.				
4.6: Geology and Soils						
Threshold 4.6-1: 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	General Plan Safety (S) Element Policies: S 4.7 General Plan Natural Resources (NR) Element Policies: NR 3.12 Municipal Code: Title 15, Chapter 15.04	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
on other substantial evidence of a known fault.						
Threshold 4.6-2: Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking.	General Plan Safety (S) Element Policies: S 4.7 General Plan Natural Resources (NR) Element Policies: NR 3.12 Municipal Code: Title 15, Chapter 15.04	No mitigation.				
Threshold 4.6-3 : Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction, and landslides.	General Plan Safety (S) Element Policies: S 3.9, S 3.10, S 3.11, S 4.3, S 4.7 General Plan Natural Resources (NR) Element Policies: NR 3.12 Municipal Code: Title 15, Chapter 15.04	No mitigation.				
Threshold 4.6-4: Result in substantial soil erosion or the loss of top soil.	General Plan Safety (S) Element Policies: S 3.9, S 3.10, S 3.11, S 3.12, S 4.3 General Plan Natural Resources (NR) Element Policies: NR 3.9, NR 3.11, NR 3.12, NR 3.14, NR 3.15, NR 3.19, NR 3.20, NR 4.4 Municipal Code: Title 15, Chapter 15.04	No mitigation.				
Threshold 4.6-5: 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 or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	General Plan Safety (S) Element Policies: S 3.9, S 3.10, S 3.11, S 4.3, S 4.7 General Plan Natural Resources (NR) Element Policies: NR 3.12 Municipal Code: Title 15, Chapter 15.04	No mitigation.				
Threshold 4.6-6: Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating	General Plan Safety (S) Element Policies: S 3.9, S 3.10, S 3.11, S 4.3 General Plan Natural Resources (NR) Element Policies: NR 3.4, NR 3.9	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
substantial direct or indirect risks to life or property.	Municipal Code: Title 15, Chapter 15.04					
Threshold 4.6-7: Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	General Plan Historical Resources (HR) Element Policies: HR 2.1, HR 2.2, HR 2.3, HR 2.4 General Plan Natural Resources (NR) Element Policies: NR 18.1, NR 18.3, NR 18.4 Local Coastal Program Policies: 4.5.1-2, 4.5.1-5 Municipal Code: Municipal Code: Chapter 21.20.105 Newport Beach City Council Policy Manual: Paleontological and Archaeological Resource Protection Guidelines (K-5).					
4.7: Greenhouse Gas Emissions						
Threshold 4.7-1: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.	General Plan Natural Resources (NR) Element Policies: NR 6.1, NR 7.2, NR 8.1 Municipal Code: Chapter 15.19	Note: There are no feasible mitigation measures to reduce this impact to a less than significant level. The following mitigation measure is applicable. MM GHG-1: Prior to demolition, grading, or building permit approval, and in accordance with SCAQMD's guidance, a project-specific Greenhouse Gas Emissions Assessment shall be prepared for residential developments that would exceed SCAQMD's 3,000 MTCO ₂ e proposed threshold of significance (or those in place at the time of the development application). Future development shall mitigate GHG emissions to below SCAQMD's thresholds of significance to the extent feasible.	If found to be applicable on a project-specific basis for future housing on the identified housing sites. Submittal during the development review process; Prior to issuance of the first permit.	City of Newport Beach Community Development Department		
Threshold 4.7-2: Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gas.	General Plan Natural Resources (NR) Element Policies: NR 6.1, NR 7.2, NR 8.1 Municipal Code: Chapter 15.19	There are no feasible mitigation measures to reduce this impact to a less than significant level.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
4.8: Hazards and Hazardous Materials						
Threshold 4.8-1: Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	General Plan Safety (S) Element Policies: S 7.6 Municipal Code: Chapter 9.04	No mitigation.	-	-		
Threshold 4.8-2: 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.	General Plan Safety (S) Element Policies: S 7.6 Municipal Code: Chapter 9.04	No mitigation.	-	-		
Threshold 4.8-3: Emit hazardous emissions or handle hazardous or acutely hazardous material, substances, or waste within one-quarter mile of an existing or proposed school.	General Plan Safety (S) Element Policies: S 7.6 Municipal Code: Chapter 2.20, Chapter 9.04	No mitigation.	-	-		
Threshold 4.8-4: 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.	General Plan Safety (S) Element Policies: S 7.1, S 7.2 Municipal Code: Section 15.55.040 (Methane Overlay Zone)	No mitigation.	-	-		
Threshold 4.8-5: Be 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	General Plan Safety (S) Element Policies: S 8.6 General Plan Land Use (LU) Element Policies: LU 6.15.3 Municipal Code: Chapter 20.080(F)	No mitigation.	-	-		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area						
Threshold 4.8-6: Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan	General Plan Safety (S) Element Policies: S 7.6 Municipal Code: Chapter 2.20	No mitigation.				
Threshold 4.8-7: 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.	General Plan Safety (S) Element Policies: S 6.2, S 6.7, S 6.4, S 6.5 Local Coastal Program Policies: 2.8.8-1, 2.8.8-2, 2.8.8-4 Municipal Code: Chapter 2.20, Chapter 9.04	No mitigation.				
4.9: Hydrology and Water Quality						
Threshold 4.9-1: Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality.	General Plan Natural Resources (NR) Element Policies: NR 1.1, NR 3.5, NR 3.7, NR 3.16, NR 4.1, NR 4.3, NR 3.11, NR 3.14, NR 3.15, NR 3.19 Local Coastal Program Policies: 4.3.2-1, 4.3.2-6, 4.3.2-7, 4.3.2-8, 4.3.2-12, 4.3.2-13, 4.3.2-14, 4.3.2-23 Municipal Code: Chapter 14.36	No mitigation.				
Threshold 4.9-2: Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin	General Plan Natural Resources (NR) Element Policies: NR 3.5, NR 4.1, NR 4.3, NR 3.4, NR 3.11, NR 3.14, NR 3.19, NR 3.20 Local Coastal Program Policies: 4.3.2-6, 4.3.2-9, 4.3.2-12, 4.3.2-13, 4.3.2-15, 4.3.2-17, 4.3.2-24 Municipal Code: Chapter 14.17	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (M&M)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
<p>Threshold 4.9-3: Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:</p> <p>i) result in substantial erosion or siltation on- or off-site;</p> <p>ii) increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;</p> <p>iii) create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff; or</p> <p>iv) impede or redirect flood flows.</p>	<p>General Plan Natural Resources (NR) Element Policies: NR 1.1, NR 3.4, NR 3.5, NR 3.9, NR 3.11, NR 3.14, NR 3.19, NR 3.20, NR 4.1, NR 4.3, NR 4.4</p> <p>General Plan Safety (S) Element Policies: S 2.7, S 5.1, S 5.3</p> <p>General Plan Land Use (LU) Element Policies: LU 6.4.10</p> <p>Local Coastal Program Policies: 4.3.1-5, 4.3.1-7, 4.3.1-8, 4.3.2-1, 4.3.2-2, 4.3.2-6, 4.3.2-7, 4.3.2-8, 4.3.2-9, 4.3.2-10, 4.3.2-11, 4.3.2-12, 4.3.2-13, 4.3.2-14, 4.3.2-15, 4.3.2-17, 4.3.2-22, 4.3.2-23, 4.3.2-24</p> <p>Municipal Code: Chapter 14.36, Chapter 15.50</p>	No mitigation.	-	-		
<p>Threshold 4.9-4: In flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation.</p>	<p>General Plan Safety (S) Element Policies: S 2.7, S 3.9, S 3.10, S 3.11, S 3.12 S 5.3, S 5.3</p> <p>General Plan Natural Resources (NR) Element Policies: NR 3.11</p> <p>Local Coastal Program Policies: 4.3.1-5, 4.3.1-6, 4.3.1-7, 4.3.2-2, 4.3.2-6, 4.3.2-22</p> <p>Municipal Code: Chapter 14.36, Chapter 15.50</p>	No mitigation.	-	-		
<p>Threshold 4.9-5: Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan</p>	<p>General Plan Natural Resources (NR) Element Policies: NR 1.1, NR 3.5, NR 3.7, NR 3.16, NR 4.1</p> <p>Local Coastal Program Policies: 4.3.2-6</p> <p>Municipal Code: Chapter 14.36, Chapter 15.50</p>	No mitigation.	-	-		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MMA)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
4.10: Land Use and Planning						
Threshold 4.10-1: Physically divide an established community.	General Plan Land Use (LU) Element Policies: LU 2.3, LU 6.2.1, LU 6.2.5 Local Coastal Program Policies: 2.2.1-1, 2.2.1-3, 2.7-1	No mitigation.	-	-		
Threshold 4.10-2: Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.	General Plan Land Use (LU) Element Policies: LU 2.3, LU 3.8, LU 6.2.1, LU 6.2.3, LU 6.2.5, LU 6.14.2, LU 9.2, LU 5.1.2, LU 5.3.3, LU 5.6.3, LU 6.15.3 Local Coastal Program Policies: 2.1.1-1, 2.2.1-1, 2.2.1-2, 2.2.1-3, 2.2.2-1, 2.7-1, 2.7-2, 2.7-5	No mitigation.	-	-		
4.11: Noise						
Threshold 4.11-1: Result in the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.	General Plan Noise (N) Element Policies: N 1.1, N 1.2, N 1.3, N 1.4, N 1.5, N 1.6, N 1.7, N 1.8, N 2.1, N 2.2, N 2.3, N 4.1, N 4.6, N 5.1 Municipal Code: Chapter 10.26, Section 10.28.040, Section 20.30.080.C, Section 20.30.080.F (John Wayne Airport)	There are no feasible mitigation measures to reduce this impact to a less than significant level.	-	-		
Threshold 4.11-2: Result in the exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.	General Plan Noise (N) Element Policies: N 1.1, N 1.2, N 1.3, N 1.4, N 1.5, N 1.6, N 1.7, N 1.8, N 2.1, N 2.2, N 2.3, N 4.1, N 4.6, N 5.1 Municipal Code: Chapter 10.26, Section 10.28.040, Section 20.30.080.C, Section 20.30.080.F	MM NOI-1: To avoid impacts to vibration sensitive land uses (i.e., non-engineered timber and masonry buildings) located within a 50-foot radius of pile driving activities, prior to demolition, grading, or building permit approval, the following measures shall be specified on the Project plans and implemented during construction: <ul style="list-style-type: none"> ▪ Pile driving within a 50-foot radius of vibration sensitive land uses shall utilize alternative installation methods (e.g., pile cushioning, jetting, predrilling, cast-in-place systems, resonance-free vibratory pile drivers) such that vibration velocities from the alternative 	If found to be applicable on a project-specific basis for future housing on the identified housing sites. During the development review process; Prior to issuance of the first to	City of Newport Beach Community Development Director		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/Approval	Verification	
					Date	Initials
		construction activity would fall below the 0.2 inch/second threshold. • The preexisting condition of all vibration sensitive land uses within a 50-foot radius of proposed pile driving shall be documented during a preconstruction survey. The preconstruction survey shall determine conditions that exist before construction begins for use in evaluating damage caused by pile driving, if any. Fixtures and finishes susceptible to damage and within a 50-foot radius of pile driving shall be documented (photographically and in writing) prior to demolition, grading, or building permit approval. All damage shall be repaired/restored to its preexisting condition.	demolition, grading, or building permit.			
Threshold 4.11-3: For a project located within the vicinity of a private airstrip or 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.	General Plan Noise (N) Element Policies: N 1.2, N 1.5A, N 2.2, N 3.1, N 3.2 General Plan Land Use (LU) Element Policies: LU 6.15.3 Municipal Code: Chapter 10.26, Section 10.26.040, Section 20.30.080.C, Section 20.30.080.F (John Wayne Airport)	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
4.12: Population and Housing						
Threshold 4.12-1: 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)	General Plan Land Use (LU) Element Policies: LU 1.4, LU 3.2, LU 6.2.3 Local Coastal Program Policies: 2.1.1-1, 2.1.10-1, 2.2.1-1, 2.2.1-2, 2.2.1-3, 2.2.2-1, 2.7-1, 2.7-2, 2.7-5	No mitigation.				
Threshold 4.12-2: Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere or displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.	General Plan Land Use (LU) Element Policies: LU 1.4, LU 3.2, 6.2.3 Local Coastal Program Policies: 2.1.1-1, 2.1.10-1, 2.2.1-1, 2.2.1-2, 2.2.1-3, 2.2.2-1, 2.7-1, 2.7-2, 2.7-5	No mitigation.				
4.13: Public Services						
Threshold 4.13-1: Result in substantial adverse physical impacts associated with the provision of 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 fire protection.	General Plan Land Use (LU) Element Policies: LU 2.8, LU 3.2, LU 6.1.1, LU 6.1.2, LU 6.2.5, LU 4.1 General Plan Safety (S) Element Policies: S 6.7 Municipal Code: Chapter 3.12, Chapter 9.04	No mitigation.				
Threshold 4.13-2: Result in substantial adverse physical impacts associated with the	General Plan Land Use (LU) Element Policies: LU 2.8, LU 3.2, LU 6.1.1, LU 6.1.2, LU 6.2.5, LU 4.1 General Plan Safety (S) Element Policies: S 6.7	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MMA)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
provision of 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 police protection.	Municipal Code: Chapter 3.12					
Threshold 4.13-3: Result in substantial adverse physical impacts associated with the provision of 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 schools.	General Plan Land Use (LU) Element Policies: LU 2.8, LU 3.2, LU 6.1.1, LU 6.1.2, LU 6.2.5, LU 4.1 General Plan Safety (S) Element Policies: S 6.7 Municipal Code: Chapter 19.48	No mitigation.				
Threshold 4.13-4: Result in substantial adverse physical impacts associated with the provision of 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 libraries.	General Plan Land Use (LU) Element Policies: LU 2.8, LU 3.2, LU 6.1.1, LU 6.1.2, LU 6.2.5, LU 4.1 General Plan Safety (S) Element Policies: S 6.7 Municipal Code: Chapter 3.12	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
4.14: Recreation						
Threshold 4.14-1: Increase the use of existing neighborhood, community and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated	General Plan Recreation (R) Element Policies: R 1.1, R 1.2, R 2.1, R 2.2 General Plan Land Use (LU) Element Policies: LU 6.5.2, LU 6.15.13, LU 6.15.16 Local Coastal Program Policies: 3.2.1-3, 3.2.1-4, 3.2.2-3 Municipal Code: Chapter 19.52	No mitigation.				
Threshold 4.14-2: Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	General Plan Recreation (R) Element Policies: R 1.1, R 1.2, R 2.1, R 2.2 General Plan Land Use (LU) Element Policies: LU 6.5.2, LU 6.15.13, LU 6.15.16 Local Coastal Program Policies: 3.2.1-3, 3.2.1-4, 3.2.2-3 Municipal Code: Chapter 19.52	No mitigation.				
4.15: Transportation						
Threshold 4.15-1: Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities.	General Plan Circulation (CE) Element Policies: CE 1.1.1, CE 1.1.2, CE 2.1.2, CE 2.2.5, CE 2.3.3, CE 5.2.6, CE 5.2.7, CE 5.2.11, CE 5.4.1, CE 5.4.6, CE 7.1.4, CE 7.1.5, CE 7.1.7, CE 8.1.1, CE 8.1.9, CE 8.1.13, CE 8.1.14, CE 9.1.9, CE 9.1.10, CE 9.1.12 General Plan Land Use (LU) Element Policies: LU 6.15.18, LU 6.15.19, LU 6.15.20 Local Coastal Program Policies: 2.9.1-2, 2.9.1-3, 2.9.1-10, 2.9.2-4, 2.9.3-1, 2.9.3-2, 2.9.3-3, 2.9.3-5, 2.9.3-6, 2.9.3-7, 2.9.3-10, 2.9.3-11, 2.9.3-14 Municipal Code: Chapter 15.40, Chapter 20.44 Newport Beach City Council Policy Manual: Traffic Management Policy (L-26)	No mitigation.				
Threshold 4.15-2: Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b).	General Plan Circulation (CE) Element Policies: CE 7.1.1, CE 7.1.2 Municipal Code: Chapter 20.44	MM TRANS-1: Vehicle Miles Traveled (VMT). Prior to issuance of a building permit, one or more of the following measures shall be implemented to reduce VMT-related impacts associated with future projects that are	if found to be applicable on a project-specific basis for future housing on	City of Newport Beach Community Development		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
	Newport Beach City Council Policy Manual: Traffic Management Policy (L-26)	<p>not able to be screened out of the VMT analysis process such that the development's VMT is below the low VMT thresholds recommended by the Office of Planning and Research or adopted by the City of Newport Beach at the time of the development application:</p> <ul style="list-style-type: none"> ▪ Modify the project's-built environment characteristics to reduce VMT generated by a project. ▪ Implement Transportation Demand Management strategies pursuant to reduce VMT generated by a project. ▪ Participate in a Fair Share Traffic Impact Fee program or VMT mitigation banking program, if available. <p>Examples of potential measures to reduce VMT include, but are not limited to, the following:</p> <ul style="list-style-type: none"> ▪ Improve or increase access to transit. ▪ Increase access to common goods and services, such as groceries, schools, and daycare. ▪ Incorporate affordable housing into the project. ▪ Orient the project toward transit, bicycle, and pedestrian facilities. ▪ Improve pedestrian or bicycle networks, or transit service. ▪ Provide traffic calming. ▪ Provide bicycle parking. ▪ Limit or eliminate parking supply. ▪ Unbundle parking costs. ▪ Implement or provide access to a commute reduction program. ▪ Provide car-sharing, bike sharing, and ride-sharing programs. ▪ Provide transit passes. 	<p>the identified housing sites in the Coastal Zone.</p> <p>Submittal during the development review process; Prior to issuance of the first permit.</p>	Department and Public Works Department		
Threshold 4.15-3: increase hazards due to a geometric design feature (e.g. sharp curves or dangerous intersections) or	<p>General Plan Circulation (CE) Element Policies: CE 2.2.5, CE 2.2.7, CE 2.2.8, CE 5.4.1, CE 5.4.2, CE 8.1.10</p> <p>Municipal Code: Chapter 9.04</p>	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
incompatible uses (e.g. farm equipment)						
Threshold 4.15-4: Result in inadequate emergency access.	General Plan Circulation (CE) Element Policies: CE 2.2.7 Municipal Code: Chapter 9.04	No mitigation.				
4.16: Tribal Cultural Resources						
Threshold 4.16-1: Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: a) listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k) or b) a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code section	General Plan Historical Resources (HR) Element Policies: HR 2.1, HR 2.2, HR 2.3, HR 2.4 General Plan Natural Resources (NR) Element Policies: NR 18.1, NR 18.3, NR 18.4 Local Coastal Program Policies: 4.5-1, 4.5-2, 4.5-3, 4.5-4, 4.5-5 Municipal Code: Chapter 21.20.105 Newport Beach City Council Policy Manual: Paleontological and Archaeological Resource Protection Guidelines (K-5).	SC CUL-1: In compliance with City Council Policy K-5, prior to the issuance of a grading permit by the City of Newport Beach, the Applicant shall retain a qualified archaeologist to periodically monitor ground-disturbing activities onsite and provide documentation of such retention to the City of Newport Beach Community Development Director. The archaeologist shall train project construction workers on the types of archaeological resources that could be found in site soils. The archaeologist shall periodically monitor project ground-disturbing activities. During construction activities, if Native American resources (i.e., Tribal Cultural Resources) are encountered, a Cultural Resource Monitoring and Discovery Plan (CRMDP) shall be created and implemented to lay out the proposed personnel, methods, and avoidance/recovery framework for tribal cultural resources monitoring and evaluation activities within the project area. A consulting Native American tribe shall be retained and compensated as a consultant/monitor for the project site from the time of discovery to the completion of ground disturbing activities to monitor grading and excavation activities. If archaeological resources are encountered, all construction work within 50 feet of the find shall cease, and the archaeologist shall assess the find for importance and whether preservation in place without impacts is feasible. Construction activities may continue in other areas. If, in consultation with the City and affected Native	If found to be applicable on a project-specific basis for future housing on the identified housing sites. Determination made during development review process; Submittal of report as part of CEQA review.	Project Applicant City of Newport Beach Community Development Director		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
S024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.		American tribe (as deemed necessary), the discovery is determined to not be important, work will be permitted to continue in the area. Any resource that is not Native American in origin and that cannot be preserved in place shall be curated at a public, nonprofit institution with a research interest in the materials, such as the South Central Coastal Information Center at California State University, Fullerton.				
		SC CUL-2: California Health and Safety Code Section 7050.5, CEQA Guidelines Section 15064.5, and Public Resources Code Section 5097.98 mandate the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery. California Health and Safety Code Section 7050.5 requires that in the event that human remains are discovered within the project site, disturbance of the site shall be halted until the coroner has conducted an investigation into the circumstances, manner and cause of death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes or has reason to believe the human remains to be those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.	If found to be applicable on a project-specific basis for future housing on the identified housing sites. Compliance with regulatory requirements during ground disturbing activities.	City of Newport Beach Community Development Director		
		MM TCR-1: Unanticipated Discovery of Tribal Cultural and Archaeological Resources: Upon discovery of any tribal, cultural, or archaeological resources during ground-disturbing activities for future development facilitated by the Project, the applicant shall immediately	If found to be applicable on a project-specific basis for future housing on	City of Newport Beach Community Development Department		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
		<p>cease such activities in the immediate vicinity. The find will then be assessed by a qualified archeologist retained by the applicant and a tribal monitor/consultant approved by the consulting tribe. The applicant shall promptly notify the City Planning Division to the discovery of resources. If the resources are Native American in origin, the consulting tribe shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the tribe will request preservation in place or recovery for educational purposes. At the direction of the qualified archeologist and tribal monitor/ consultant, and in coordination with the Planning Division, work may continue on other parts of the affected site while evaluation and, if necessary, additional protective measures are completed at the affected portion of the site pursuant to State CEQA Guidelines Section 15064.5(f). If a resource is determined by the qualified archeologist to constitute a "historical resource" or "unique archaeological resource," time and funding to allow for sufficient implementation of avoidance measures must be made available. The treatment plan established for the resources shall be in accordance with State CEQA Guidelines Section 15064.5(f) for historical resources.</p> <p>Preservation in place (i.e., avoidance) is the preferred manner of treatment upon identification of unique archeological resources (PRC §21083.2(b)). If preservation in place is not feasible, treatment may include implementation of archeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. All tribal cultural resources shall be returned to the consulting tribe. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the</p>	<p>the identified housing sites.</p> <p>During ground-disturbing and excavation activities.</p>			

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
		materials. Acceptance and curation of the historic archeological materials will be at the discretion of the institution. If no institution accepts the archeological material, they shall be offered to the consulting tribe or the responsible public or private institution with suitable repository for educational purposes.				
		MM TCR-2: If evidence of an archaeological site or other suspected historical resource as defined by CEQA Guidelines Section 15064.5, including darkened soil representing past human activity ("midden"), that could conceal material remains (e.g., worked stone, fired clay vessels, faunal bone, hearths, storage pits, or burials) are discovered during any project-related earth-disturbing activities (including projects that would not encounter undisturbed soils), all earth-disturbing activity within 100 feet of the find shall be halted and the Community Development Department shall be notified. The project-level applicant shall retain an archaeologist who meets the U.S. Secretary of the Interior's Professional Qualifications Standards for Archaeology to assess the significance of the find. Impacts to any significant resources shall be mitigated to a less than significant level through data recovery or other methods determined adequate by the archaeologist and that are consistent with the U.S. Secretary of the Interior's Standards for Archaeological Documentation. Any identified cultural resources shall be recorded on the appropriate DPR 523 form and filed with the appropriate Information Center.	If found to be applicable on a project-specific basis for future housing on the identified housing sites. During ground-disturbing and excavation activities.	City of Newport Beach Community Development Department		
4.17: Utilities						
Threshold 4.17-1: Require or result in the relocation or construction of new or	General Plan Natural Resources (NR) Element Policies: NR 1.2 Municipal Code: Chapter 21.20.105	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
expanded water facilities, the construction of which could cause significant environmental effects.						
Threshold 4.17-2: Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years	General Plan Natural Resources (NR) Element Policies: NR 1.1, NR 1.2 General Plan Land Use (LU) Element Policies: LU 2.8, LU 3.2 Municipal Code: Chapter 14.16, Chapter 14.17	There are no feasible mitigation measures to reduce this impact to a less than significant level.				
Threshold 4.17-3: Require or result in the relocation or construction of new or expanded wastewater treatment facilities, the construction of which could cause significant environmental effects.	General Plan Natural Resources (NR) Element Policies: NR 1.1, NR 1.2, LU 2.8, NR 3.4, NR 3.11, NR 3.15 General Plan Land Use (LU) Element Policies: LU 2.8, LU 3.2, LU 6.4.10 Municipal Code: Chapter 14.35	No mitigation.				
Threshold 4.17-4: 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	General Plan Natural Resources (NR) Element Policies: NR 3.11, NR 3.15 General Plan Land Use (LU) Element Policies: LU 2.8 Municipal Code: Chapter 14.36	No mitigation.				
Threshold 4.17-5: Require or result in the relocation or construction of new or expanded storm water drainage facilities, the construction of	General Plan Natural Resources (NR) Element Policies: NR 1.1, NR 1.2, NR 3.4, NR 3.11, NR 3.15 General Plan Land Use (LU) Element Policies: LU 2.8, LU 3.2, LU 6.4.10 Municipal Code: Chapter 19.28.080, Chapter 21.35	SC UTIL-1: The project shall be required to comply with the City of Newport Beach Municipal Code Chapter 14.16 related to water conservation and supply level regulations in effect during the construction and operation of the project, and Municipal Code Chapter 14.17 with respect to water-efficient landscaping.	Submittal during the development review process; Prior to issuance of the first permit and first	City of Newport Beach Community Development Department		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
which could cause significant environmental effects			Certificate of Occupancy.			
		SC UTIL-2: The project shall be required to comply with Section 19.28.080 (Storm Drains) of the City's Municipal Code which requires developers to design and construct all drainage facilities necessary for the removal of surface water from the site (e.g., open/closed channels, catch basins, manholes, junction structures), and to protect off-site properties from a project's water runoff. The storm drain system must be designed in accordance with the standards of the Orange County Flood Division. A drainage fee is also charged to fund improvements to the City's drainage facilities.	Submittal during the development review process; Prior to issuance of the first permit and first Certificate of Occupancy. Evidence of payment of fees.	City of Newport Beach Community Development Department		
		SC UTIL-3: The Applicant shall prepare and obtain approval of a Construction and Demolition Waste Management Plan (CDWMP) for the project. The CWMP shall list the types and weights or volumes of solid waste materials expected to be generated from construction. The CDWMP shall include options to divert from landfill disposal, non-hazardous materials for reuse or recycling by a minimum of 65 percent of total weight or volume.	Submittal during the development review process; Prior to issuance of the first permit and first Certificate of Occupancy. Evidence of payment of fees.	City of Newport Beach Community Development Department		
Threshold 4.17-6: Require or result in the relocation or construction of new or expanded electric power, natural gas, or telecommunication facilities, the construction of which could cause significant environmental effects.	General Plan Land Use (LU) Element Policies: LU 2.8, LU 3.2, LU 6.4.10 Municipal Code: Chapter 20.49, Chapter 21.49	No mitigation.				
Threshold 4.17-7: Generate solid waste in excess of State and local standards, or in excess of the capacity of local	General Plan Land Use (LU) Element Policies: LU 2.8 Municipal Code: Chapter 12.63.030, Chapter 20.30.120	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
infrastructure, or otherwise impair the attainment of solid waste reduction goals.						
Threshold 4.17-8: Comply with federal, State, and local management and reduction statutes and regulations related to solid waste.	General Plan Land Use (LU) Element Policies: LU 2.8 Municipal Code: Chapter 12.63.030, Chapter 20.30.120	No mitigation.				
4.18: Wildfire						
Threshold 4.18-1: If located in or near State Responsibility Areas (SRAs) or lands classified as Very High Fire Hazard Severity Zones (VHFHSZ), would the Project substantially impair an adopted emergency response plan or emergency evacuation plan.	General Plan Safety (S) Element Policies: S 7.6 Local Coastal Program Policies: 2.8.1-2, 2.8.1-3, 2.8.8-3, 2.8.8-4, 2.8.8-6 Municipal Code: Chapter 2.20.050, Chapter 9.04, Chapter 15.04.	MM W-1: Prior to issuance of a grading permit for sites within or adjacent to a Very High Fire Hazard Safety Zone (VHFHSZ), the project applicant shall prepare a Fire Protection Plan (FPP). Prior to preparation of an FPP, the project applicant shall coordinate with City of Newport Beach Fire Department to ensure that modeling of the FPP and design of the Project is appropriate to meet the requirements and standards of the City. The FPP shall be subject to the review and approval from the Fire Department. The FPP shall assess the Project's compliance with current regulatory codes and ensure that impacts resulting from wildland fire hazards have been adequately mitigated. The FPP shall also specifically identify the need for fire protection systems, water availability for structural firefighting, construction requirements, fire department access, locations and spacing of fire hydrants, fire-smart landscaping, and appropriate defensible space around structures (Fuel Modification Zones).	If found to be applicable on a project-specific basis for future housing on the identified housing sites. Submittal during the development review process; prior to issuance of first permit and Certificate of Occupancy.	City of Newport Beach Community Development Department and Fire Department		
Threshold 4.18-2 if located in or near State Responsibility Areas (SRAs) or lands classified as Very High Fire Hazard Severity Zones (VHFHSZ).	General Plan Safety (S) Element Policies: S 6.2, S 6.3, S 6.4, S 6.5 Local Coastal Program Policies: 2.8.1-1, 2.8.1-2, 2.8.1-3, 2.8.8-3, 2.8.8-4, 2.8.8-6 Municipal Code: Chapter 2.20.050, Chapter 9.04, Chapter 15.04.	MM W-1	if found to be applicable on a project-specific basis for future housing on	City of Newport Beach Community Development Department and Fire Department		

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
would the Project, due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.			the identified housing sites. Submittal during the development review process; prior to issuance of first permit and Certificate of Occupancy.			
Threshold 4.18-3 If located in or near State Responsibility Areas (SRAs) or lands classified as Very High Fire Hazard Severity Zones (VHFHSZ), would the Project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.	General Plan Safety (S) Element Policies: S 5.2, S 5.3 Local Coastal Program Policies: 2. 2.8.1-3, 2.8.8-1, 2.8.8-2	No mitigation.				
Threshold 4.18-4 If located in or near State Responsibility Areas (SRAs) or lands classified as Very High Fire Hazard Severity Zones (VHFHSZ), would the Project expose people or structures, to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.	General Plan Safety (S) Element Policies: S 5.2 General Plan Land Use (LU) Element Policies: LU 5.6.4 Local Coastal Program Policies: 2.8.8-3, 2.8.8-4 Municipal Code: Chapter 2.20.050, Chapter 9.04, Chapter 15.04	No mitigation.				

City of Newport Beach General Plan Housing Implementation Program Mitigation Monitoring and Reporting Program						
Impact Thresholds	General Plan Policies, Local Coastal Program Coastal Land Use Plan (Local Coastal Program) Policies, Regulatory Requirements	Mitigation Measures (MM)/Conditions of Approval	Implementation Timing	Responsible Party for Implementation/ Approval	Verification	
					Date	Initials
Notes: * Action 5G is referenced from the City of Newport Beach Housing Element. Acronyms: The following acronyms denote what element from the City of Newport Beach General Plan policies are referenced from. LU = Land Use Element HR = Historical Resources CE = Circulation Element R = Recreation Element NR = Natural Resource Element S = Safety Element N = Noise Element						

Attachment B

Resolution No. 2024-51 Amending the General Plan Land Use Element

RESOLUTION NO. 2024- 51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING THE GENERAL PLAN LAND USE ELEMENT TO IMPLEMENT THE GENERAL PLAN HOUSING ELEMENT IMPLEMENTATION PROGRAM (PA2022-0245)

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

WHEREAS, California Government Code Section 65580 *et seq.* (“State Housing Element Law”) requires each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing;

WHEREAS, the City’s General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating as necessary for consistency with other General Plan elements;

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment (“RHNA”) allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted by an ad-hoc committee called the Housing Element Update Advisory Committee (“HEUAC”) formed and appointed by the City Council;

WHEREAS, after several meetings with the State Department of Housing and Community Development (“HCD”) and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City’s 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the “fair share” of regional housing need and demand, by planning for units within the following site groupings or “focus areas” that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City’s RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 (“6th Cycle Housing Element Implementation”), which requires the following amendments and actions:

- General Plan Amendment (“GPA”) - To revise the necessary goals and/or policies within the City’s Land Use Element to support housing production in the focus areas identified by the 6th Cycle Housing Element;
- Amendment to Title 20 (Planning and Zoning) (“ZCA”) - To implement the Land Use Element's policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;

- Local Coastal Program Amendment (“LCPA”) - To revise and create new policies within the City’s Coastal Land Use Plan and update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6th Cycle Housing Element that are within the Coastal Zone; and
- Program Environmental Impact Report (“PEIR”) (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act (“CEQA”) related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report (“Draft PEIR”), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to \$600,000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City’s zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

WHEREAS, City staff worked closely with the community through the City Council-appointed General Plan Advisory Committee (“GPAC”) and General Plan Update Steering Committee (“GPUSC”) from March 2023 to August 2023 to draft Land Use Element goals and policies that support 6th Cycle Housing Element Implementation;

WHEREAS, the draft GPA that was supported by the GPAC and the GPUSC was posted online on August 30, 2023, with additional public comments and participation at the Planning Commission Study Session on September 21, 2023, and City Council Study Session on February 13, 2024;

WHEREAS, the draft GPA was revised and reposted online on January 16, 2024, and March 28, 2024, based on the public’s input;

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 (Public Hearings) and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by the Planning Commission at this hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation to the Orange County Airport Land Use Commission ("ALUC") to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan ("AELUP");

WHEREAS, on May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with the AELUP;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on May 28, 2024, and adopted Resolution No. 2024-32 (7 ayes, 0 nays), to notify the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding and on May 29, 2024, the City issued the Notice of Intent to Override ALUC's determination and received two comments in response; and

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the NBMCA, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing.

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

Section 1: The City Council does hereby make the findings attached hereto as Exhibit "A," and incorporated herein by reference, and approves the GPA, which is also attached hereto as Exhibit "B," and incorporated herein by reference.

Section 2: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the "Project") in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-____, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the GPA was considered within the PEIR. Resolution No. 2024-____ is hereby incorporated by reference.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: This resolution shall take effect upon approval of the Land Use Element Amendment by a majority (50%+1) of the electorate voting on it at the General Municipal Election on November 5, 2024, and the City Clerk's certification of the vote.


ADOPTED this 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachments: Exhibit "A" – Findings for Approval
 Exhibit "B" – General Plan Land Use Element Amendment

**Exhibit “A”
Findings for Approval**

General Finding:

An amendment to the City’s General Plan Land Use Element is a legislative act. Neither Title 20 (Planning and Zoning) of the NBMC nor California Government Code Section 65000 *et seq.*, set forth any required findings for approval of such amendments. Notwithstanding the foregoing, the following amendments to the General Plan Land Use Element will create internal consistency with the certified 6th Cycle Housing Element:

Facts in Support of Finding:

1. According to General Plan Implementation Program 1.2, revisions and updates of the General Plan must be made in accordance with the Vision Statement. While it is being reviewed as part of the comprehensive General Plan update, as presently written, it is the City’s intention to be a residential community, balanced with supporting nonresidential uses, job opportunities, and visitor and recreational services and amenities. Furthermore, the Vision Statement calls for “a range of housing opportunities that allows people to live and work in the City.”
2. Implementation Program 1.2 further states that amendments to accommodate the City’s “fair share” of regional housing demand will be considered in context of these visions and the goals stipulated by the General Plan. Adoption of the proposed Amendment will support the 6th Cycle Housing Element adopted in the context of the visions and goals stipulated by the General Plan.
3. The proposed GPA, attached to this resolution and incorporated herein, is in full compliance with the Section 4 of the 6th Cycle Housing Element as presented below:

6th Cycle Housing Element Implementation Measures	Amendments in Support of Housing Element’s Implementation Measures
<p>Housing Goal #1. Provision of adequate sites to accommodate projected housing unit growth needs within the following identified housing opportunity sites:</p> <ul style="list-style-type: none"> • Airport Area Environs • West Newport Mesa • Newport Center • Dover/Westcliff • Banning Ranch • Coyote Canyon 	<p>Revised Policies LU 1.1 through LU 1.5 emphasize the goal of balancing the needs of residents, business and visitors through the recognition that Newport Beach is primarily a residential community. The polices underscore the need to preserve and enhance residential neighborhoods. The identified sites direct new housing opportunities outside of established residential neighborhoods. The amended Policies ensure the continued recognition that Newport Beach is primarily a residential community.</p>

6th Cycle Housing Element Implementation Measures	Amendments in Support of Housing Element's Implementation Measures
<p>Housing Goal #2. Quality residential development and preservation, conservation and appropriate redevelopment of housing stock.</p> <p>Housing Goal #3. A variety of housing types, designs, and opportunities for all social and economic segments.</p> <p>Housing Goal #4. Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.</p>	<p>Revised Policies LU 2.2 and LU 2.5 call for supporting the development of uses that allow the City to be a complete community and indicate that harbor and waterfront Uses contribute to the charm and character of the City and provide needed support for residents.</p> <p>Revised Policy 3.3 (Transition of Land Uses) calls for supporting residential opportunities in West Newport Mesa; residential infill development along Balboa Boulevard corridor and facilitating workforce housing in proximity to jobs, transportation and services in West Newport Mesa and the Airport Area; and providing for housing opportunities that complement nonresidential uses in the Coyote Canyon Landfill site.</p> <p>Revised Goal LU 4 Manage growth and change to:</p> <ul style="list-style-type: none"> • Support the livability of existing neighborhoods. • Support residential opportunities that accommodate the City's share of the Regional Housing Needs Assessment. • Promote new uses that are complimentary to already existing neighborhoods and uses. • Achieve distinct and economically vital business and employment districts. • Correlate with supporting infrastructure and public services. • Sustain Newport Beach's natural setting. <p>The above goal supports Housing Goal #1 as it accommodates City's share of RHNA.</p> <p>Revised Policy LU4.1 (Land Use Diagram) clarifies that density limits exclude increases allowed through the application of density bonus laws as stipulated also by State law.</p> <p>New Policies 4.4 (Rezoning to Accommodate Housing Opportunities); 4.5 (Residential Uses and Residential Densities); 4.6 (Continuation of</p>

6 th Cycle Housing Element Implementation Measures	Amendments in Support of Housing Element's Implementation Measures
	<p>Existing Development); and 4.7 (Redevelopment and Transfer of Development Rights) all support 6th Cycle Housing Element Implementation Measures. These policies stipulate that residential opportunities are to be established as overlay zones which allow for existing uses to continue. Opportunities for by-right development, when at least 20 percent or more of units are affordable to lower-income households, ensures housing opportunities for all social and economic segments and ensures streamlined project review.</p> <p>Revised Policy LU 5.1.3 (Neighborhood Identification) calls for the establishment of objective design and development standards which ensures Implementation Goals 1 and 2 which stipulate quality design and variety of housing designs.</p> <p>Revised Policy LU 6.2.4 (Accessory Dwelling Units (ADU)) supports and promotes the development of accessory dwelling units and junior accessory dwellings. This policy fulfills Implementation Goal #1 that calls for the City to aggressively support and accommodate the construction of at least 240 ADUs.</p> <p>Revised Policies LU 6.4.2 (Residential); LU 6.6.2 (Residential Types (West Newport Mesa); LU 6.15.4 (Priority Uses (Airport Area – Mixed-Use Districts [Subarea C, “MU-H2” designation]); LU 6.15.28 (Priority Uses (Airport Area – Commercial Nodes]”CG” designation Sub-Area C-part]) and LU 6.15.29 (Priority Uses (Airport Area – Commercial Office District [“CO-G” designation Sub-Area C—part]) support housing development or redevelopment within the opportunity sites identified in the Housing Element.</p>

Charter Section 423 Analysis Finding:

Unless precluded by state or federal law, Section 423 of the Charter of the City of Newport Beach (“Charter Section 423”) requires voter approval for any major amendment to the City’s General Plan. A “major amendment” is one that significantly increases allowed intensity by 40,000 square feet of nonresidential floor area, increases traffic by more than 100 peak hour vehicle trips (AM/PM), or increases residential dwelling units by 100 units. These thresholds apply to the total of increases resulting from the amendment itself, plus 80% of the increases resulting from other amendments affecting the same neighborhood (defined as a “statistical area” as shown in the General Plan Land Use Element) and adopted within the preceding 10 years.

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

Facts in Support of Finding:

1. If it is determined a Section 423 vote is required, the proposed amendment will not take effect unless approved by a majority of the electorate voting on it.
2. Should the City not implement the 6th Cycle Housing Element by February 2025, the City may be considered non-compliant with State Housing Laws and developers of affordable housing projects will be entitled to have their residential projects approved as a “builder’s remedy” in accordance with Senate Bill 35 effectively ignoring height limits, density limits and other regulations designed to ensure development is consistent with the City’s Vision Statement of the General Plan.

Tribal Consultation (SB18) Finding:

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

Facts in Support of Finding:

Pursuant to SB18, the City requested a Sacred Lands File (“SLF”) search on the Project locations from the NAHC on March 5, 2023. On March 22, 2023, the NAHC responded that the findings of the search were positive and identified 19 Native American tribal representatives to contact for further information on potential tribal resources. To comply with both the requirements of SB18 and Assembly Bill 52, the City mailed and emailed notices regarding the proposed project to all of the listed tribes. The City received a response from only one representative of the Gabrieleño Band of Mission Indians – Kizh Nation expressing no concerns on the project given its programmatic nature, but also expressing a desire to be consulted on future individual projects.

Fiscal Impact Analysis Finding:

Pursuant to General Plan Implementation Program 12.1, a fiscal impact analysis is required to be prepared for the Project. This analysis must use the City’s fiscal impact model and should calculate public service impacts for specific land uses that support the residential population, the employment base, the visitor population in Newport Beach, public revenues that each type of land use typically generates for the City, including property taxes, sales taxes and other taxes, as well as a variety of user charges and fees. The fiscal impact model is designed to calculate the average cost of public services required by new development, on the assumption that new development affects the City services in approximately the same way that existing development does.

Facts in Support of Finding:

A fiscal impact analysis was prepared for the Housing Element Implementation Program Amendments by Keyser Marston Associates (“KMA”) dated July 9, 2024 (“Fiscal Impact Analysis”). As there are no specific projects proposed and the dwelling unit capacity added through implementation does not contemplate any replacement of existing uses, KMA’s evaluation is highly conservative and theoretical. In summary, KMA found the following:

- Rents, sales prices and assessed values in the City are all very high, benefiting General Fund revenues.
- Total buildout of all the potential residential would have a net negative impact on the City’s General Fund; however, this may be mitigated if projects continue to be developed at higher price points.
- The replacement of land uses that generate minimal public revenues can offset the negative impact of the residential. For example, the recently approved 1400 Bristol Street project demonstrates that office development can have a net negative impact on the General Fund and higher

rents/values can significantly reduce the residential impact to the General Fund.

- Cities will often adopt a development fee program, negotiate development agreements, and pursue other methods to mitigate the fiscal impact of residential development. KMA understands the City is currently preparing a development fee program, which could potentially offset some of the projected impacts.

EXHIBIT “B”
General Plan Land Use Amendment

General Plan Land Use Element Policy LU 1.1 is amended as follows:

LU 1.1 Unique Environment

Maintain and enhance the different villages, neighborhoods, business districts, and harbor that define Newport Beach through neighborhood preservation. Locate and design development in a way that to reflects Newport Beach’s topography and, architectural diversity while emphasizing the City’s coastal orientation, including public views. (Imp 1.1)

General Plan Land Use Element Policy LU 1.2 is amended as follows:

LU 1.2 Citywide Identity

Recognize and support the qualities that uniquely define Newport Beach’s neighborhoods and districts that promote a Citywide identity unique to the Southern California region. (Imp 1.1)

General Plan Land Use Element Policy LU 1.2 is amended as follows:

LU 1.5 Economic Health

Support the local economy through the identification and development of housing opportunities, as well as adequate commercial, office, medical, industrial, and marine-oriented uses that provide employment and local revenue opportunities to support high-quality community services for residents, businesses, and visitors. (Imp 1.1, 24.1)

General Plan Land Use Element Policy LU 2.2 is amended as follows:

LU 2.2 Sustainable and Complete Community

Emphasize and support the development of uses that enable Newport Beach to be a complete community that maintains the ability to provide locally accessible opportunities for retail, goods and services, and employment. (Imp 1.1, 24.1)

General Plan Land Use Element Policy LU 2.5 is amended as follows:

LU 2.5 Harbor and Waterfront Uses

Preserve the uses of the Harbor and the waterfront that contribute to the charm and character of Newport Beach and provide needed support for residents, boaters, and visitors, with appropriate regulations necessary to protect the interests of all users as well as adjoining residents. (Imp 1.1, 2.5, 5.1, 21.4, 24.1)

General Plan Land Use Element Policy LU 3.3 is amended as follows:

LU 3.3 Opportunities for Change

Support opportunities for new development and improved physical environments for residents, businesses, and visitors in the following districts and corridors, as specified in Policies 6.3.1 through 6.22.7:

West Newport: support consolidation of retail and visitor-serving commercial uses, and new residential opportunities

Santa Ana Heights: support continued implementation of the adopted Specific Plan and Redevelopment Plan

Fashion Island/Newport Center: support balanced expansion and enhancement of retail uses, hotel rooms, and offices, and development of residential in proximity to jobs and services

Balboa Peninsula: support patterns of use that consolidate the Peninsula's visitor-serving and mixed uses within the core commercial districts; encourage marine-related uses especially along the bay front; integrate residential with retail and visitor-serving uses in Lido Village, McFadden Square, Balboa Village, and along portions of the Harbor frontage; re-use interior parcels in Cannery Village for residential and limited mixed-use and live/work buildings; and redevelop underperforming properties outside of the core commercial districts along the Balboa Boulevard corridor for residential. Infill development shall be designed and sited to preserve the historical and architectural fabric of these districts

Mariners' Mile: support revitalization of existing properties for retail, visitor-serving, and marine-related uses, integrated with residential

Corona del Mar: support enhancement of public improvements and parking (Imp 1.1, 2.1, 5.1)

Study and consider the adoption of specific plans or other appropriate land use guidance for the following areas:

West Newport Mesa: This area is generally bounded by the City of Costa Mesa to the north, Banning Ranch to the west, State Route 55 to the east, and Hospital Road to the south. The area may be expanded if warranted. The intent is to support a cohesive strategy that enhances existing land use or repurpose underperforming commercial and industrial uses or activities while facilitating new and varied housing, including workforce housing proximate to jobs, transportation, and services. Future land uses are intended to be appropriately located and sized to accommodate local community needs.

Airport Area: This area is generally bound by Jamboree Road to the east, Campus Drive to the north and west, and State Route 73 to the south. This area may be expanded subject to LU 4.4. This area must support flexible land use planning for the reuse and repurposing of existing nonresidential uses while allowing for a variety of housing opportunities inclusive of workforce housing proximate to jobs, transportation, supporting commercial, and services. The intent is to support and provide neighborhood parks or other recreational opportunities, and other public services. Development in this area should contribute to a cohesive urban, mixed-use character where residents and visitors can live, work, shop, access services, and play.

Coyote Canyon Landfill: This approximately 375-acre open space area is generally bound by Newport Coast Drive to the east, State Route 73 to the north, and the Newport Ridge Planned Community to the west and south. The intent for this area is to support a comprehensive vision that

balances future land uses with environmental stewardship and public access. Future development should adapt the closed landfill as an area that supports a variety of outdoor recreational uses such as golf, hiking, and nature interpretation alongside housing opportunities with complementary nonresidential uses.

General Plan Land Use Element Goal LU 4 is amended as follows:

LU 4

Management of growth and change to:

- Support the livability of existing neighborhoods.
- Support residential opportunities that accommodate the City’s share of the Regional Housing Needs Assessment.
- Promote new uses that are complementary to already existing neighborhoods and uses.
- Achieve distinct and economically vital business and employment districts.
- Correlate with supporting infrastructure and public services.
- Sustain Newport Beach’s natural setting.

General Plan Land Use Element Policy LU 4.1 is amended as follows:

LU 4.1 Land Use Diagram

Support land use development consistent with the Land Use Plan. Figure LU1 depicts the general distribution of uses throughout the City and Figure LU2 through Figure LU15 depict specific use categories for each parcel within defined Statistical Areas. Table LU1 (Land Use Plan Categories) specifies the primary land use categories, types of uses, and, for certain categories, the densities/intensities to be permitted. The permitted densities/intensities or amount of development for land use categories for which this is not included in Table LU1, are specified on the Land Use Plan, Figure LU4 through Figure LU15. These are intended to convey maximum and, in some cases, minimums that may be permitted on any parcel within the designation or as otherwise specified by Table LU2 (Anomaly Locations).

The density/intensity ranges exclude increases allowed through the applications of density bonus laws and are calculated based on actual land area, actual number of dwelling units in fully developed residential areas, and development potential in areas where the General Plan allows additional development.

To determine the permissible development, the user should:

- a. Identify the parcel and the applicable land use designation on the Land Use Plan, Figure LU4 through Figure LU15
- b. Refer to Figure LU4 through Figure LU15 and Table LU1 to identify the permitted uses and permitted density or intensity or amount of development for the land use classification. Where densities/intensities are applicable, the maximum amount of development shall be determined by multiplying the area of the parcel by the density/intensity.
- c. For anomalies identified on the Land Use Map by a symbol, refer to Table LU2 to determine the precise development limits.
- d. For residential development in the Airport Area., refer to the policies prescribed by the Land Use Element that define how development may occur. (Imp 2.1, 5.1, 10.2)

General Plan Land Use Element Policy LU 4.4 is added in its entirety as follows:

LU 4.4 Rezoning to Accommodate Housing Opportunities

Accommodate housing opportunities through the adoption of housing opportunity overlay zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element’s focus areas. Properties within each overlay district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites or adjustments may be identified in the future through rezoning unless precluded by state law. The goal is to ensure an adequate number of sites Citywide to accommodate the City’s overall allocation of the Regional Housing Needs Assessment:

- **Airport Environs:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the area.
- **West Newport Mesa:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the area.
- **Newport Center:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the area. units per gross acre.
- **Dover / Westcliff:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the area.
- **Coyote Canyon:** the intent is to allow a density between 20 and 60 dwelling units per gross acre of viable land to accommodate up to 1,530 total dwelling units within the area.

General Plan Land Use Element Policy LU 4.5 is added in its entirety as follows:

LU 4.5 Residential Uses and Residential Densities

Residential use of any property included within an established housing opportunity overlay zoning district is allowed regardless of and in addition to the underlying land use category or density limit established through Policy LU 4.1, Table LU 1 and Table LU 2, or any other conflict in the Land Use Element. A general plan amendment is not required to develop a residential use within an established housing opportunity zoning overlay district. The maximum density specified for the various overlay districts specified in Policy LU 4.2 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 4.4 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units identified in LU 4.4 do not include units identified as pipeline units or units permitted pursuant to State density bonus law.

General Plan Land Use Element Policy LU 4.6 is added in its entirety as follows:

LU 4.6 Continuation of Existing Development

Residential opportunities are in addition to existing uses allowed by the General Plan. Properties within the established overlay zones are not required to be developed for mixed-use or residential. Existing uses may continue to operate provided they are legally established and consistent with policies and regulations related to legal nonconforming uses. The adoption of housing opportunity overlay districts shall not affect existing rights to use the property.

General Plan Land Use Element Policy LU 4.7 is added in its entirety as follows:

LU 4.7 Redevelopment and Transfer of Development Rights

Within an established housing opportunity overlay zone and notwithstanding Policy LU 6.15.5, the intensity of existing allowed uses of a site may be reconstructed on the site as part of a mixed-use development provided the gross floor area allowed by the General Plan is not increased, unless it is increased through a General Plan amendment or density bonus concession. The intensity of existing uses may be converted to other uses allowed by the underlying General Plan land use category provided that average daily trips and peak hour traffic trips are not increased above the trips from the existing allowed use. For example, office intensity may be converted to retail or service commercial, restaurants, or other nonresidential uses provided the General Plan land use category allows these uses. Nonresidential intensity not included as a component of a future residential project will remain within the General Plan allocations on a statistical area-wide basis. The City Council may transfer the intensity of a use to another site within the Statistical Area consistent with Policy LU 4.3 or Policy LU 6.15.3.

General Plan Land Use Element Policy LU 5.1.3 is amended as follows:

LU 5.1.3 Neighborhood Identification

Encourage and support residential neighborhood identity through the establishment of objective design and development standards that will distinguish neighborhoods from others in the City. (Imp 1.1, 1.3)

General Plan Land Use Element Policy 6.2.4 is amended as follows:

LU 6.2.4 Accessory Dwelling Units

Support and promote the development of accessory dwelling units and junior accessory dwelling units in all zones that will allow residential units, to provide a more affordable housing option that helps the City meet its housing production goals while minimizing the need to rezone for additional future capacity. (Imp 2.1)

General Plan Land Use Element Policy 6.4.2 is amended as follows:

LU 6.4.2 Residential

Accommodate a maximum of 1,475 residential units, which shall consist of a mix of single-family detached, attached, and multi-family units to provide a range of choices and prices for residents. (Imp 2.1)

General Plan Land Use Element Policy 6.6.2 is amended as follows:

LU 6.6.2 Residential Types

Support the development of a mix of residential types consistent with the densities permitted by the General Plan (Figure LU18), which may include single-family attached, townhomes, apartments, and comparable units, provided the overall average project density of 20 to 50 dwelling units per acre is not exceeded. (Imp 2.1)

General Plan Land Use Element Policy 6.10.2 is stricken and removed in its entirety.

General Plan Land Use Element Policy 6.10.3 is stricken and removed in its entirety.

General Plan Land Use Element Policy 6.12.2 is stricken and removed in its entirety.

General Plan Land Use Element Policy 6.15.4 is amended as follows:

LU 6.15.4 Priority Uses

Accommodate office, research and development, and similar uses that support the primary office and business park functions such as retail and financial services, as prescribed for the “CO-G” designation, while allowing for the re-use of properties for the development of cohesive mixed-use and residential developments that are integrated with business park uses. (Imp 2.1)

General Plan Land Use Element Policy 6.15.28 is amended as follows:

LU 6.15.28 Priority Uses

Encourage the development of retail, financial services, dining, hotel, and other uses that support the John Wayne Airport, the Airport Area’s office uses, and, as developed or redeveloped, its residential neighborhoods, as well as automobile sales and supporting uses at the MacArthur Boulevard and Bristol Street node. (Imp 2.1, 24.1)

General Plan Land Use Element Policy 6.15.29 is amended as follows:

LU 6.15.29 Priority Uses

Encourage the development of administrative, professional, and office uses that are proximate or adjacent to residential uses; with accessory retail and service uses that provide jobs for residents and benefit adjoining mixed-use districts. (Imp 2.1, 24.1)

Attachment C

Ordinance No. 2024-16 Amending Title 20 (Planning and Zoning) for Overlays

ORDINANCE NO. 2024-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING TITLE 20 (PLANNING AND ZONING) OF THE NEWPORT BEACH MUNICIPAL CODE TO IMPLEMENT THE GENERAL PLAN 6TH CYCLE HOUSING ELEMENT (PA2022-0245)

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

WHEREAS, California Government Code Section 65580 *et seq.* (“State Housing Element Law”) requires each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing;

WHEREAS, the City’s General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating every now and then for consistency with other General Plan elements;

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment (“RHNA”) allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted by an ad-hoc committee called the Housing Element Update Advisory Committee (“HEUAC”) formed and appointed by the City Council;

WHEREAS, after several meetings with the State Department of Housing and Community Development (“HCD”) and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City’s 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the “fair share” of regional housing need and demand, by planning for units within the following site groupings or “focus areas” that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City’s RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 (“6th Cycle Housing Element Implementation”), which requires the following amendments and actions:

- General Plan Amendment (“GPA”) - To revise the necessary goals and/or policies within the City’s Land Use Element to support housing production in the focus areas identified by the 6th Cycle Housing Element;
- Amendment to Title 20 (Planning and Zoning) (“ZCA”) - To implement the Land Use Element’s policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;

- Local Coastal Program Amendment (“LCPA”) - To revise and create new policies within the City’s Coastal Land Use Plan and update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6th Cycle Housing Element that are within the Coastal Zone; and
- Program Environmental Impact Report (“PEIR”) (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act (“CEQA”) related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report (“Draft PEIR”), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to \$600,0000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City’s zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

WHEREAS, City staff worked closely with the community through the City Council-appointed General Plan Advisory Committee (“GPAC”) and General Plan Update Steering Committee (“GPUSC”) from March 2023 to August 2023 to draft Land Use Element goals and policies that support 6th Cycle Housing Element Implementation, including the ZCA;

WHEREAS, the draft GPA that was supported by the GPAC and the GPUSC was posted online along with the draft ZCA on August 30, 2023, with additional public comments and participation at the Planning Commission Study Session on September 21, 2023, and City Council Study Session on February 13, 2024;

WHEREAS, the draft GPA was revised and reposed online on January 16, 2024, and March 28, 2024, based on the public’s input;

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”), Chapter 20.62 (Public Hearings) and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by the Planning Commission at this hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code (“CPUC”) Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation to the Orange County Airport Land Use Commission (“ALUC”) to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan (“AELUP”);

WHEREAS, on May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with the AELUP;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on May 28, 2024, and adopted Resolution No. 2024-32 (7 ayes, 0 nays), to notify the ALUC and State Department of Transportation Aeronautics Program of the City’s intent to override ALUC’s inconsistency finding and on May 29, 2024, the City issued the Notice of Intent to Override ALUC’s determination and received two comments in response; and

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing.

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

Section 1: The City Council finds amendments to Title 20 (Planning and Zoning) of the NBMC are legislative acts. Neither Title 20 nor State Planning Law set for any required findings for either approval or denial of such amendments. Notwithstanding the foregoing, the ZCA is consistent with the corresponding GPA and LCPA.

Section 2: The City Council does hereby make the findings attached hereto as Exhibit "A" and incorporated by reference, and approves the ZCA, as set forth in Exhibit "B," which is attached hereto and incorporated herein by reference.

Section 3: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the "Project") in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-____, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the ZCA was considered within the PEIR. Resolution No. 2024-____ is hereby incorporated by reference.

Section 4: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 5: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

Section 7: The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This Ordinance shall take effect upon approval of the Land Use Element Amendment by a majority (50%+1) of the electorate voting on it at the General Municipal Election on November 5, 2024, and the City Clerk's certification of the vote.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the ___ day of _____, 2024, and adopted on the ___ day of _____, 2024, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

WILL O'NEILL, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY

Attachments: Exhibit "A" – Findings for Approval
Exhibit "B" – Title 20 (Planning and Zoning) Housing Opportunity
(HO) Overlay Zoning Districts

EXHIBIT “A”
Findings for Approval

General Finding:

An amendment to the City’s Zoning Code is a legislative act. Neither Title 20 (Planning and Zoning) of the NBMC nor California Government Code Section 65000 *et seq.*, set forth any required findings for approval of such amendments. Notwithstanding the foregoing, the following amendments to the Zoning Code will create internal consistency with the certified 6th Cycle Housing Element:

Facts in Support of Finding:

1. The Zoning Code is a tool designed to implement the General Plan. Since the 6th Cycle Housing Element Implementation involves an amendment to the General Plan, it is necessary to also amend Title 20 (Planning and Zoning) to achieve its goals and policies.
2. The Zoning Code Amendment (“ZCA”), attached to this ordinance as Exhibit “B” incorporated herein, including the Housing Opportunity (HO) Overlay Zoning Districts with associated development standards, are consistent with the implementation program in the Housing Plan of the Housing Element, as discussed in Resolution No. 2024-____ under the Findings for the General Plan Amendment. The ZCA will enable the implementation of the Housing Element’s key objective, which is to accommodate the development of housing projects to fulfill City’s “fair share” of regional housing need and demand.

EXHIBIT “B”
Title 20 (Planning and Zoning)
Housing Opportunity (HO) Overlay Zoning Districts

Chapter 20.28 (Overlay Zoning Districts) of the NBMC is amended to include a new Section 21.28.050 (Housing Opportunity [HO] Overlay Zoning Districts) as follows:

Chapter 20.28

OVERLAY ZONING DISTRICTS (MHP, PM, B, HO, H)

Sections:

- 20.28.010 Purposes of Overlay Zoning Districts.**
- 20.28.020 Mobile Home Park (MHP) Overlay Zoning District.**
- 20.28.030 Parking Management (PM) Overlay District.**
- 20.28.040 Bluff (B) Overlay District.**
- 20.28.050 Housing Opportunity (HO) Overlay Zoning Districts.**
- 20.28.060 Height (H) Overlay District.**

Section 20.28.010 (Purposes of Overlay Zoning Districts) is amended to include a new Subsection (D) as follows:

D. HO (Housing Opportunity) Overlay Zoning Districts. The HO Overlay Zoning Districts are intended to accommodate housing opportunities consistent with the Housing Element’s focus areas and to ensure the City can meet its allocation of the Regional Housing Needs Assessment (RHNA). The specific areas are identified in Part 8 of this title (Maps).

New Section 20.28.050 (Housing Opportunity [HO] Overlay Zoning Districts) is incorporated into the Chapter as follows:

20.28.050 Housing Opportunity (HO) Overlay Zoning Districts.

A. Applicability. This section applies to properties located in one of the Housing Opportunity (HO) Overlay Zoning Districts, as identified in Part 8 of this title (Maps – NOTE: Maps largely mirror the focus areas in Appendix B of the Housing Element and will be posted once available). This includes the following subareas:

1. HO-1 - Airport Area Environs Area – The Airport Area Environs Area is located north of the Upper Newport Bay Nature Reserve, primarily around the John Wayne Airport.

2. HO-2 - West Newport Mesa Area – The West Newport Mesa Area is located near the southwest corner of the City and primarily consists of industrial properties along 16th Street, Production Place, and 15th Street.
3. HO-3 - Dover-Westcliff Area – The Dover-Westcliff Area includes property on both sides of West Coast Highway and the west of Dover Drive. Properties in the Lido Village area are included.
4. HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.
5. HO-5 - Coyote Canyon Area – The Coyote Canyon Area is located on the south side of California State Route 73, at the junction of Newport Coast Drive.

The above listed are general descriptions of each subarea and additional properties may be included with the subarea. To be eligible for the provisions of this chapter, the property must be listed on the HO area map as an “Opportunity Site”.

6. HO-6 - 5th Cycle Housing Element Sites – Those sites that are identified as 5th Cycle Housing Element sites on Figure B-5 of the 6th Cycle Housing Element. See subsection 20.28.050(E) for alternative review process.

B. Uses Allowed. The following uses shall be permitted in the Housing Opportunity (HO) Overlay Zoning Districts with exception of HO-6 where only the base zoning standards apply:

1. Any use that is permitted or conditionally permitted in the base zone;
2. Multiple-unit development that meets the density requirements set forth in this section;
3. Mixed-use development that includes a residential component which complies with the minimum density set forth in this section; and
4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.

C. Subarea Development Standards.

1.

1. Development Standards. The following development standards shall apply to any residential or mixed-use project permitted pursuant to this section. Unless otherwise modified by this section, all applicable development standards, including any adopted objective design standards, shall apply.

**TABLE 2-16
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES**

Development Feature	Housing Opportunity Subareas						
	HO-1	HO-2	HO-3	HO-4	HO-5	HO-6	
Development Limit (units) ⁽¹⁾	2,577	1,107	521	2,439	1,530	N/A	
Lot Size/Dimension	Per Base Zone						
Lot area required per unit (sq. ft.) ⁽²⁾	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)		Minimum: 2,178 (20 du/ac) Maximum: 726 (60 du/ac) ⁽¹⁰⁾		All Standards Per Base Zone	
Setbacks							
Front	0 ft. ⁽³⁾	10 ft. ⁽³⁾	10 ft. ⁽³⁾⁽⁴⁾	0 ⁽³⁾	10 ft. ⁽³⁾		
Rear	0	20 ft.	20 ft.	0	20 ft.		
Side	0 ⁽⁴⁾						
Street Side	0 ⁽³⁾	10 ft. ⁽³⁾	10 ft. ⁽³⁾	0 ft. ⁽³⁾	10 ft. ⁽³⁾		
Height	Per Base Zone unless otherwise identified on the map	65 ft.	65 ft. ⁽⁶⁾	Per Base Zone ⁽⁷⁾	65 ft.		
Building Separation	10 ft.						
Floor Area Ratio (FAR)	No restriction ⁽⁸⁾						
Common Open Space ⁽⁹⁾	Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)						
Private Open Space ⁽⁹⁾	5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)						
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).						
Landscaping	See Chapter 20.36 (Landscaping Standards).						
Lighting	See Section 20.30.070 (Outdoor Lighting).						
Outdoor Storage/Display	See Section 20.48.140 (Outdoor Storage, Display, and Activities).						
Parking	See Subsection (D)(3) below and Chapter 20.40 (Off-Street Parking).						
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).						
Signs	See Chapter 20.42 (Sign Standards).						

- (1) Development limits are additional residential development opportunities beyond the base allowances in this Title and General Plan, including projects approved under those base allowances and units identified as pipeline units in the 6th Cycle Housing Element (Table B-2). Development limits shall not include density bonus units. Furthermore, eligible units are only counted against the development limits when they are either entitled or are issued a building permit if allowed by right. However, 25% of the development limit within each HO Overlay Zoning District that includes properties within the Coastal Zone shall be reserved until such a time as the City's Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6th Cycle Housing Element. Following the City's Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone.
- (2) Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units.
- (3) Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way.
- (4) Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway.
- (5) The combined total from both sides shall be 15 feet.
- (6) The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1.
- (7) "Base Zone" includes all height limitations established by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).
- (8) The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable.
- (9) For purposes of this section, common and private open space in HO-1 may include enclosed shared amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility, children's playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director.
- (10) This density is intended for the former Coyote Canyon Landfill site only. The Sage Hill School site is limited to a maximum of 20 dwelling units.

2. Airport Area Environs Area (HO-1). The following development standards shall only apply to projects with the Airport Area Environs Area:

- a. Sound Mitigation. The interior ambient noise level of all new residential dwelling units shall meet applicable standards of the Section 10.26.030 (Interior Noise Standards). An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the interior noise standard. The residential units shall be constructed, and noise attenuated in compliance with the report.
- b. Advanced Air Filtration. The design of all new residential and mixed-use residential developments shall include advanced air filtration systems to promote cleaner air within living environments.
- c. Notification to Owners and Tenants. A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment adjacent to an airport and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written

description of the potential impacts to residents of both the existing environment (e.g., noise from planes, commercial activity on the site and vehicles streets) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.

3. West Newport Mesa Area (HO-2). The following development standards shall only apply to projects with the West Newport Mesa Area:

a. West Newport Mesa Streetscape Master Plan. Any residential or mixed-use residential development shall implement applicable components of the adopted West Newport Mesa Streetscape Master Plan.

4. Coyote Canyon Area (HO-5). The following development standards shall only apply to projects with the Coyote Canyon Area:

a. Public Park. Any future residential development within this subarea shall include a public park that is no less than 3.5 acres, in aggregate. As part of the review for the overall project, the developer shall provide a detailed description of the public park, including timing, dimensions, and location within the project site.

b. Public Trails. Any future residential development shall include public trails for the entire subarea that accommodate multiple modes of transit (i.e., walking and bicycling) and connect to nearby community resources, as well as the existing trail system. As part of the review for the overall project, the developer shall provide a detailed description of the trail system, including timing, dimensions, alignment, and location within the project site.

D. General Development Standards. The following development standards shall apply to all projects within the Housing Opportunity zone, regardless of subarea:

1. Mixed-use developments. All mixed-use developments shall comply with Section 20.48.130 (Standards for Mixed-Use Projects). In addition, a minimum of 50% of the

floor area of mixed-use developments shall be dedicated to residential uses. For purposes of this section, floor area be defined as all enclosed floor space, but exclude parking garages/spaces, utility areas, and storage areas that are not directly accessible from the interior of a dwelling unit.

2. Landscaped Setbacks. All front and street side setbacks shall be landscaped, except for areas that provide vehicle and pedestrian access to the right-of-way.
3. Residential Off-Street Parking Requirements. Residential parking requirements for projects within the Housing Opportunity Overlay Zones shall be provided in accordance with Table 2-17 below. Parking for all other uses not included in this table shall be provided in accordance with Chapter 20.40 (Off-Street Parking Requirements) of the NBMC.

**TABLE 2-17
RESIDENTIAL OFF-STREET PARKING FOR HOUSING OPPORTUNITY OVERLAY ZONES**

Land Use	Subtype	Parking Requirement
Residential (Rental)	Studio	1.1 spaces per dwelling unit
	1 Bedroom	1.5 spaces per dwelling unit
	2 Bedrooms	1.8 spaces per dwelling unit
	3 Bedrooms	2.0 spaces per dwelling unit
	Visitor Parking	0.3 spaces per dwelling unit
Residential (Ownership)	Studio	1.4 spaces per dwelling unit
	1 Bedroom	1.8 spaces per dwelling unit
	2 Bedrooms	1.8 spaces per dwelling unit
	3 Bedrooms	2.0 spaces per dwelling unit
	Visitor Parking	0.3 spaces per dwelling unit

E. Review Process. Notwithstanding Sections 20.48.130(A) and 20.52.080, any residential or mixed-use development in the HO Overlay Zones that includes a minimum of 20% of the units reserved for very-low- and low-income residents shall not require a Site Development Review, but shall require an affordable housing implementation plan (AHIP) and shall meet all the following criteria:

1. All units designated as affordable to very-low and/or low-income residents shall be subject to a minimum 30-year affordability covenant;
2. Affordable units shall reflect the range of numbers of bedrooms provided in the residential development project as a whole, but may be smaller and have different interior finishes and features than market-rate units;

3. Affordable units shall be comparable in the facilities provided (e.g., laundry, recreation, etc.) and in the quality of construction and exterior design to the market-rate units; and
4. Affordable units shall be dispersed throughout the residential development.

Subsection 20.48.130(B) shall be amended to include a reference to the HO Overlay Zoning Districts as follows:

B. Development Standards. In addition to the development standards provided in this section, development standards for mixed-use projects are provided in:

1. Table 2-10 (Development Standards for MU-V; MU-MM; MU-DW; and MUCV/15th St.);
2. Table 2-11 (Development Standards for MU-W1 and MU-W2 Mixed-Use Zoning Districts);
3. Table 2-16 (Development Standards for Housing Opportunity Overlay Zones); and
4. Other sections in this Part 4 for specific uses that may be part of the proposed mixed-use project.

Part 8. Maps, Chapter 20.80 (Maps) is amended to include new Section 20.80.025 (Housing Opportunity Overlay Zoning Districts maps) as follows:

Chapter 20.80

MAPS

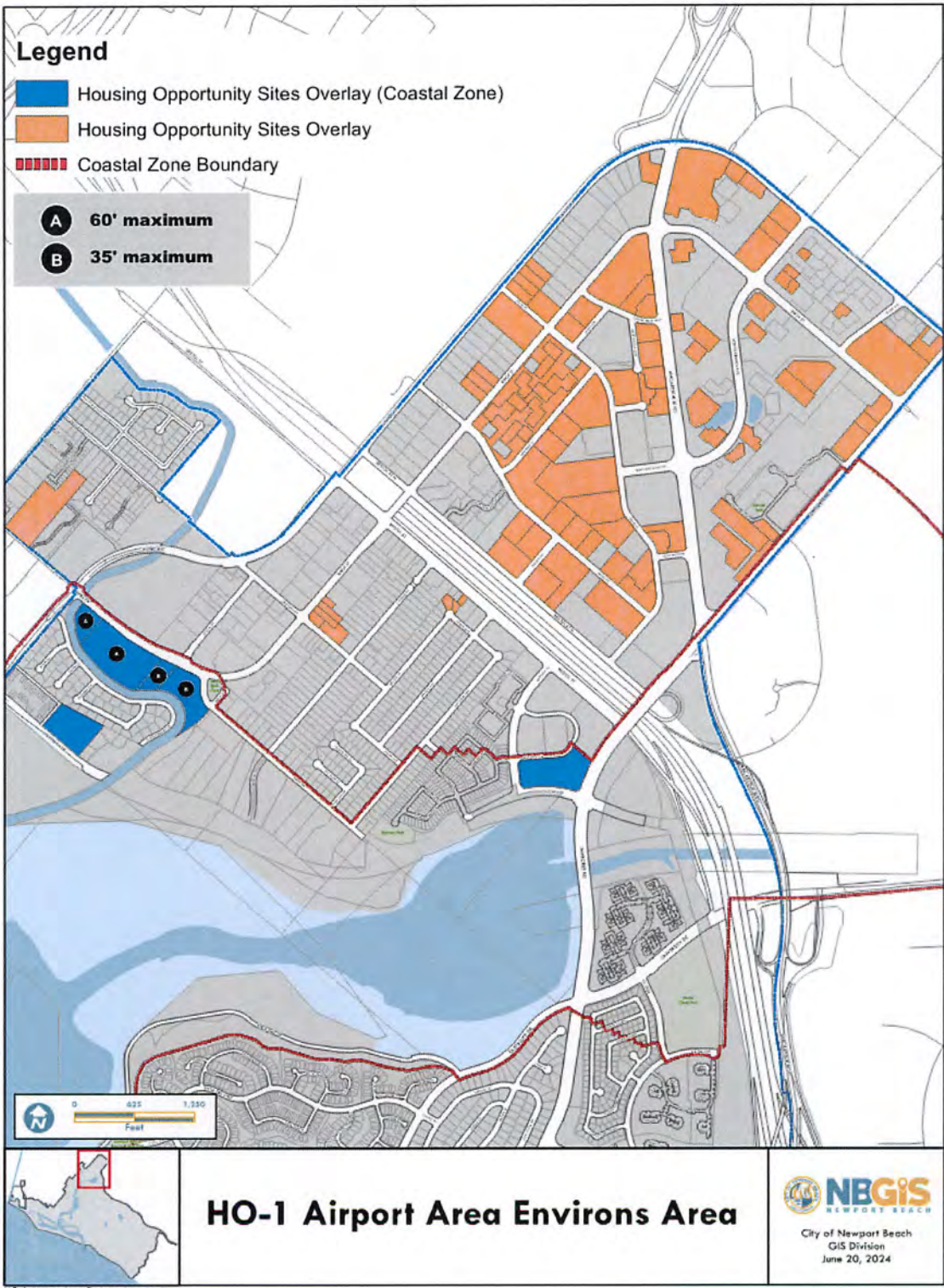
Sections:

- 20.80.010 Area maps.**
- 20.80.020 Bluff overlay.**
- 20.80.025 Housing Opportunity Overlay Zoning Districts maps.**
- 20.80.030 Height limit areas.**
- 20.80.035 Parking Management Overlay District maps.**
- 20.80.040 Setback maps.**

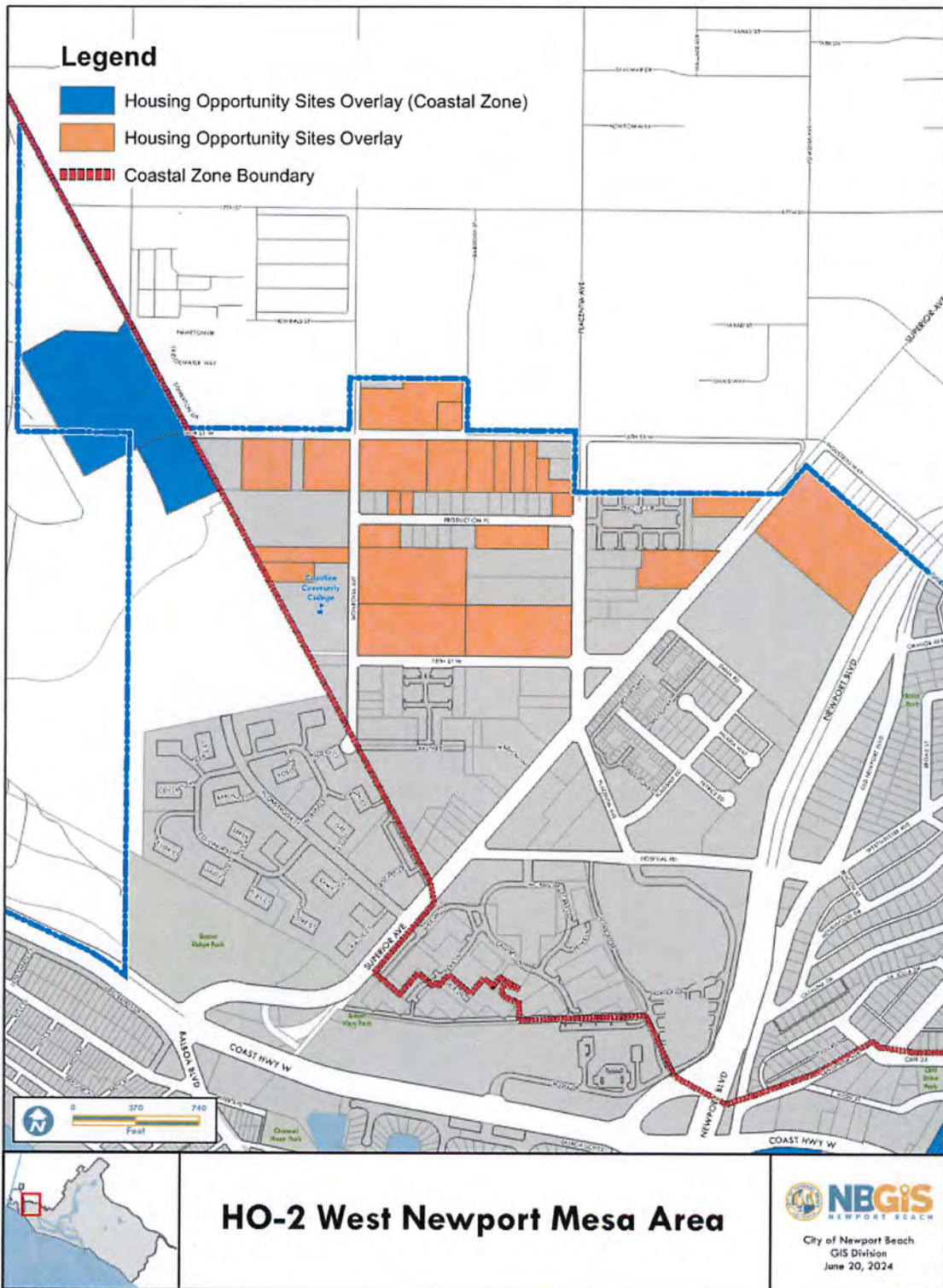
Section 20.80.025 (Housing Opportunity Overlay Zoning Districts maps) is added in its entirety to include an indexing of maps as follows:

- HO-1 - Airport Area Environs Area (PDF)
- HO-2 - West Newport Mesa Area (PDF)
- HO-3 - Dover-Westcliff Area (PDF)
- HO-4 - Newport Center Area (PDF)
- HO-5 - Coyote Canyon Area (PDF)
- HO-6 - 5th Cycle Housing Element Sites (PDF)

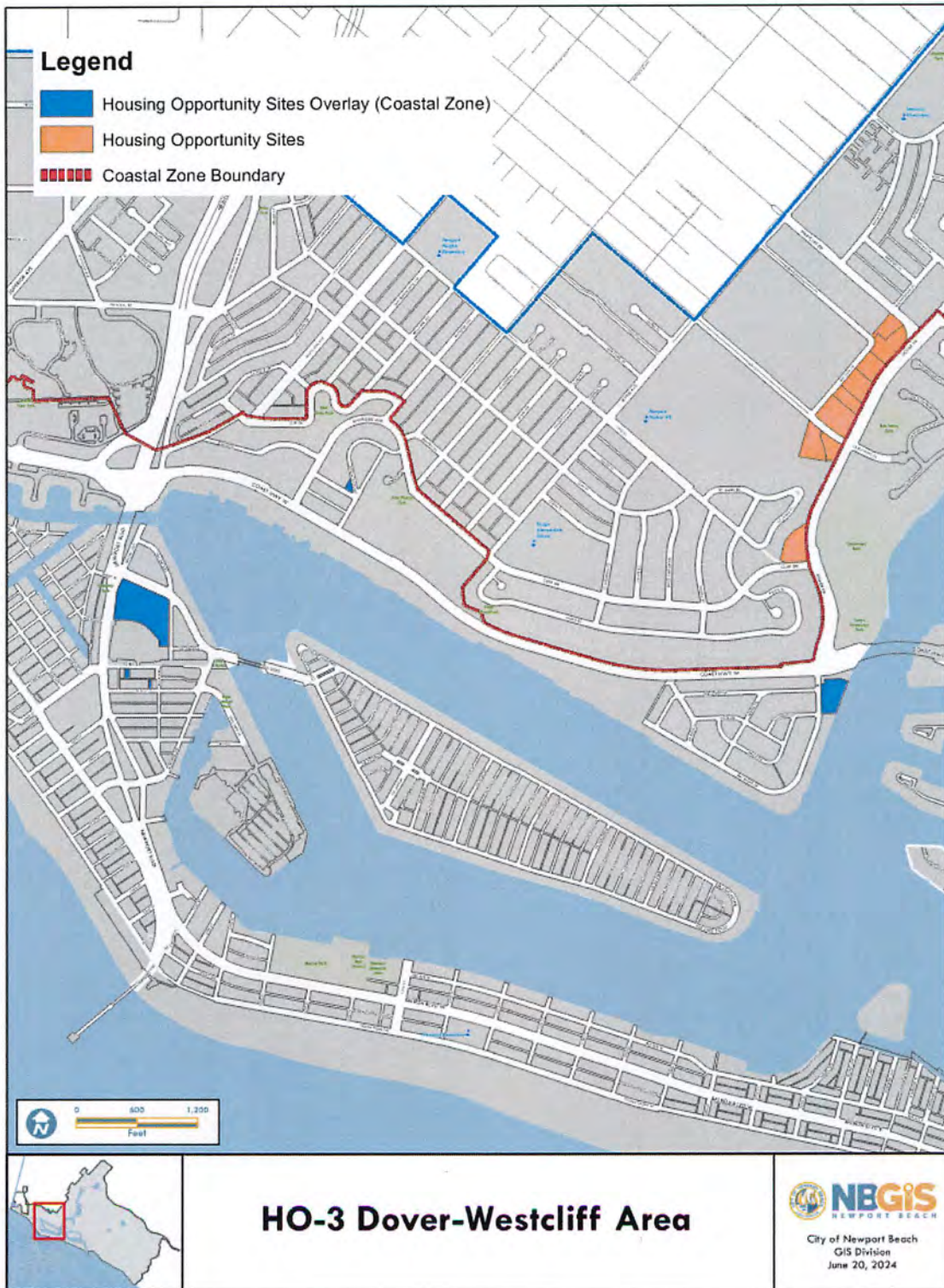
The corresponding maps for each of the Housing Opportunity Overlay Zoning Districts, as indexed in Section 20.80.025 and linked as a PDF, are to be in a similar format to the following series of maps beginning on the next page:

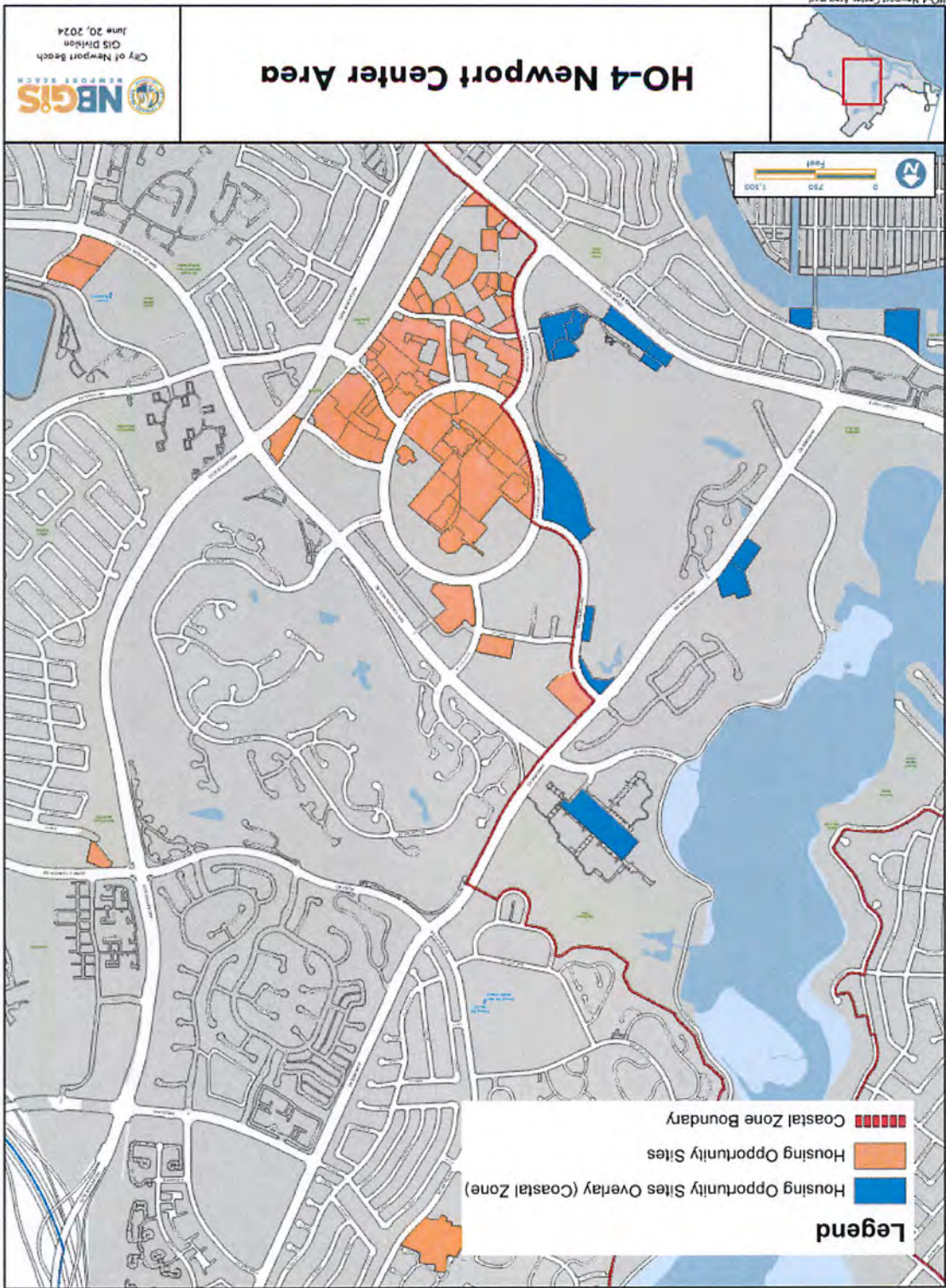


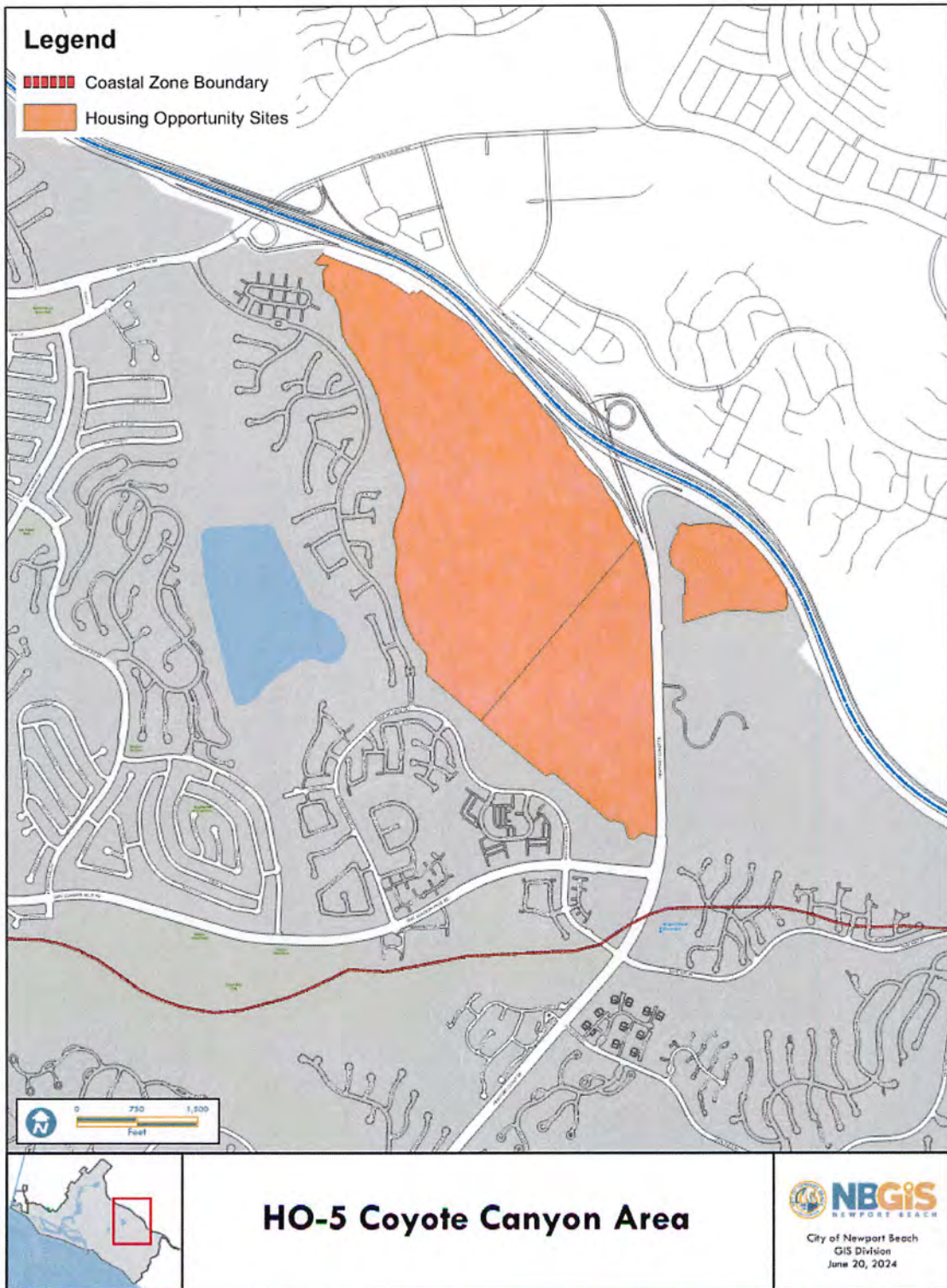
HO-1 Airport Area Environs Area.mxd

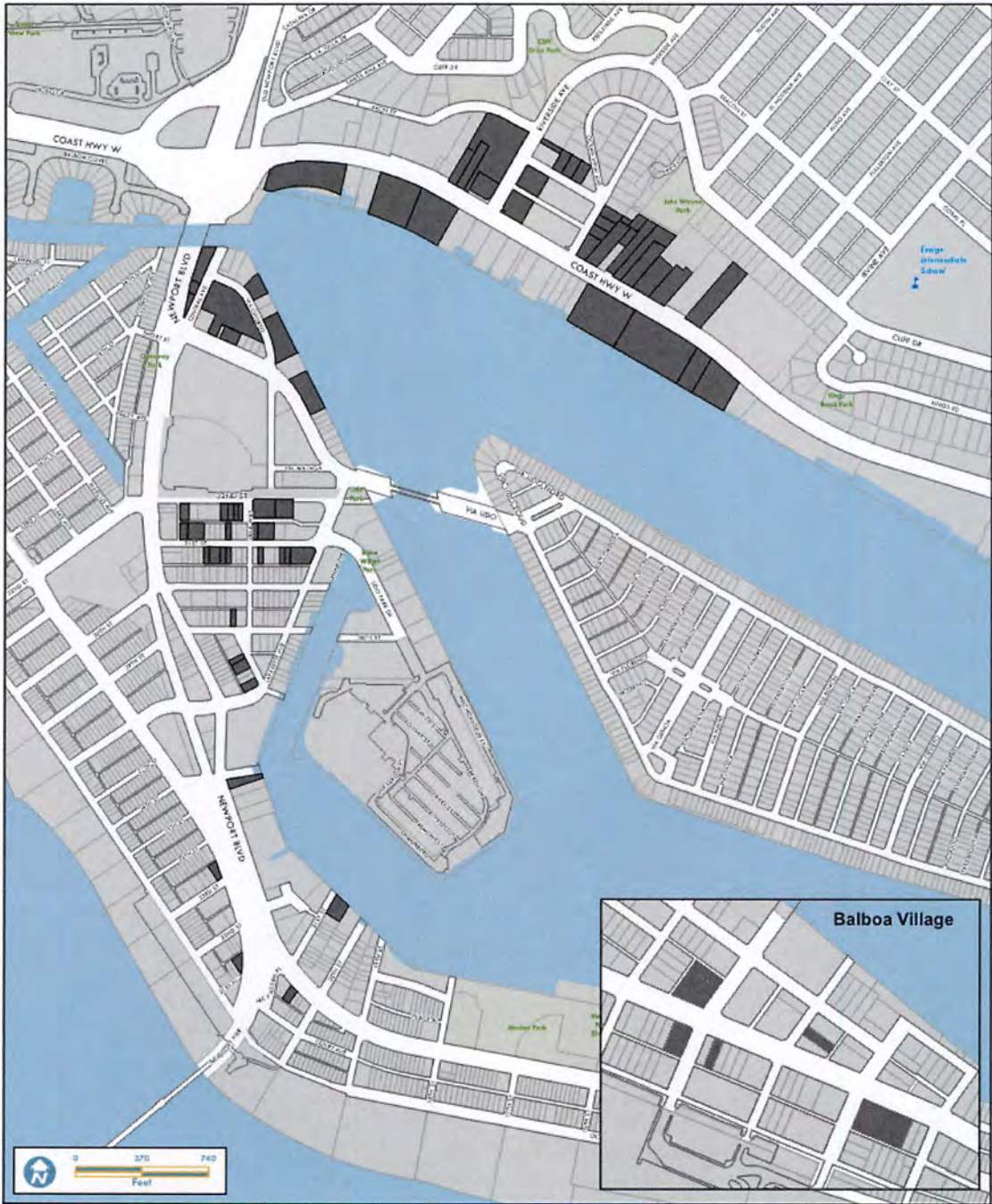


HO-2 West Newport Mesa Area.mxd









HO-6 Existing 5th Cycle Sites



City of Newport Beach
GIS Division
June 20, 2024

HO-6 Existing_5th_Cycle_Sites.mxd

Attachment D

Ordinance No. 2024-17 Amending Title 20 (Planning and Zoning)
for Multi-Unit Objective Design Standards

ORDINANCE NO. 2024-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING TITLE 20 (PLANNING AND ZONING) OF THE NEWPORT BEACH MUNICIPAL CODE TO ADOPT OBJECTIVE DEVELOPMENT STANDARDS (PA2022-0245)

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

WHEREAS, California Government Code Section 65580 *et seq.* (“State Housing Element Law”) requires each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing;

WHEREAS, the City’s General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating every now and then for consistency with other General Plan elements;

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment (“RHNA”) allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted by an ad-hoc committee called the Housing Element Update Advisory Committee (“HEUAC”) formed and appointed by the City Council;

WHEREAS, after several meetings with the State Department of Housing and Community Development (“HCD”) and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City’s 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the “fair share” of regional housing need and demand, by planning for units within the following site groupings or “focus areas” that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City’s RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 (“6th Cycle Housing Element Implementation”), which requires the following amendments and actions:

- General Plan Amendment (“GPA”) - To revise the necessary goals and/or policies within the City’s Land Use Element to support housing production in the focus areas identified by the 6th Cycle Housing Element;
- Amendment to Title 20 (Planning and Zoning) (“ZCA”) - To implement the Land Use Element’s policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;

- Local Coastal Program Amendment (“LCPA”) - To revise and create new policies within the City’s Coastal Land Use Plan and update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6th Cycle Housing Element that are within the Coastal Zone; and
- Program Environmental Impact Report (“PEIR”) (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act (“CEQA”) related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report (“Draft PEIR”), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to \$600,000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City’s zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

WHEREAS, City staff worked closely with the community through the City Council-appointed General Plan Advisory Committee (“GPAC”) and General Plan Update Steering Committee (“GPUSC”) from March 2023 to August 2023 to draft Land Use Element goals and policies that support 6th Cycle Housing Element Implementation, including the ZCA;

WHEREAS, the draft GPA that was supported by the GPAC and the GPUSC was posted online along with the draft ZCA on August 30, 2023, with additional public comments and participation at the Planning Commission Study Session on September 21, 2023, City Council Study Session on February 13, 2024;

WHEREAS, the draft GPA was revised and reposed online on January 16, 2024, and March 28, 2024, based on the public’s input;

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”), Chapter 20.62 (Public Hearings) and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by the Planning Commission at this hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code (“CPUC”) Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation to the Orange County Airport Land Use Commission (“ALUC”) to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan (“AELUP”);

WHEREAS, on May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with the AELUP;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on May 28, 2024, and adopted Resolution No. 2024-32 (7 ayes, 0 nays), to notify the ALUC and State Department of Transportation Aeronautics Program of the City’s intent to override ALUC’s inconsistency finding and on May 29, 2024, the City issued the Notice of Intent to Override ALUC’s determination and received two comments in response; and

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments) and Chapter 21.62 (Public Hearings) of the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing.

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

Section 1: The City Council finds amendments to Title 20 (Planning and Zoning) of the NBMC are legislative acts. Neither Title 20 nor State Planning Law set for any required findings for either approval or denial of such amendments. Notwithstanding the foregoing, the ZCA is consistent with the corresponding GPA and LCPA.

Section 2: The City Council does hereby make the findings attached hereto as Exhibit "A" and incorporated by reference, and approves the ZCA, as set forth in Exhibit "B," which is attached hereto and incorporated herein by reference.

Section 3: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the "Project") in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-____, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the ZCA was considered within the PEIR. Resolution No. 2024-____ is hereby incorporated by reference.

Section 4: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 5: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

Section 7: The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the ___ day of _____, 2024, and adopted on the ___ day of _____, 2024, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

WILL O'NEILL, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY

Attachments: Exhibit "A" – Findings for Approval
 Exhibit "B" – Title 20 (Planning and Zoning) Multi-Unit Objective Design Standards

EXHIBIT “A”
Findings for Approval

General Finding:

An amendment to the City’s Zoning Code is a legislative act. Neither Title 20 (Planning and Zoning) of the NBMC nor California Government Code Section 65000 *et seq.*, set forth any required findings for approval of such amendments. Notwithstanding the foregoing, the following amendments to the Zoning Code will create internal consistency with the certified 6th Cycle Housing Element:

Facts in Support of Finding:

1. The Zoning Code is a tool designed to implement the General Plan. Since the 6th Cycle Housing Element Implementation involves an amendment to the General Plan, it is necessary to also amend Title 20 (Planning and Zoning) to achieve its goals and policies.

The Zoning Code Amendment (“ZCA”), attached to this ordinance as Exhibit “B” incorporated herein, including the Multi-Unit Objective Design Standards, are consistent with Senate Bill 330 which limits discretion for housing development projects that are consistent with the general plan and zoning code. The objective development standards provided herein will provide for the orderly development of residential development projects that are consistent with SB 330.

EXHIBIT “B”
Title 20 (Planning and Zoning)
Multi-Unit Objective Design Standards

Section 20.48.185 (Multi-Unit Objective Design Standards) is added in its entirety as follows:

20.48.185 Multi-Unit Objective Design Standards

- A. Purpose. The purpose of the Objective Design Standards is to ensure the highest possible design quality and to provide a baseline standard for all new multi-unit development in Newport Beach. Multi-unit housing proposals must, at a minimum demonstrate compliance with all the standards contained herein. Proposals not consistent with any of these standards shall be required to seek approval through a discretionary site development review process as provided by Chapter 20.52.080 (Site Development Reviews). Applicants may request site development review to demonstrate that a project meets or exceeds the intent of the standards in this document by other means. The Objective Design Standards shall serve as the basis for evaluating proposed deviations; applicants using a discretionary review process shall refer to the Objective Design Standards to demonstrate how the proposal meets or exceeds the intent of the Newport Beach Development Code.
- B. Intent. The objective design standards are intended to result in quality design of multi-unit residential and mixed-use development. Review under these standards supports development that builds on context, contributes to the public realm, and provides high quality and resilient buildings and public spaces. These standards shall be applied uniformly and without discretion to enhance the built environment for both affordable and market-rate multi-unit residential development.
- C. Applicability. The standards shall be used for review of multi-unit development applications, including by-right and discretionary applications. The development standards in this subsection shall apply to residential and mixed-use development projects that include a residential density of a minimum of 20dwelling units per acre, which is calculated as an average over a project site. When an applicant elects to deviate from these objective development standards, approval of site development review by the Planning Commission shall be required in compliance with Chapter 20.52.080. The Planning Commission may waive any of the design and development standards in this section upon finding that:
 - 1. The strict compliance with the standards is not necessary to achieve the purpose and intent of this section; and
 - 2. The project possesses compensating design and development features that offset impacts associated with the modification or waiver of standards.
- D. General Standards

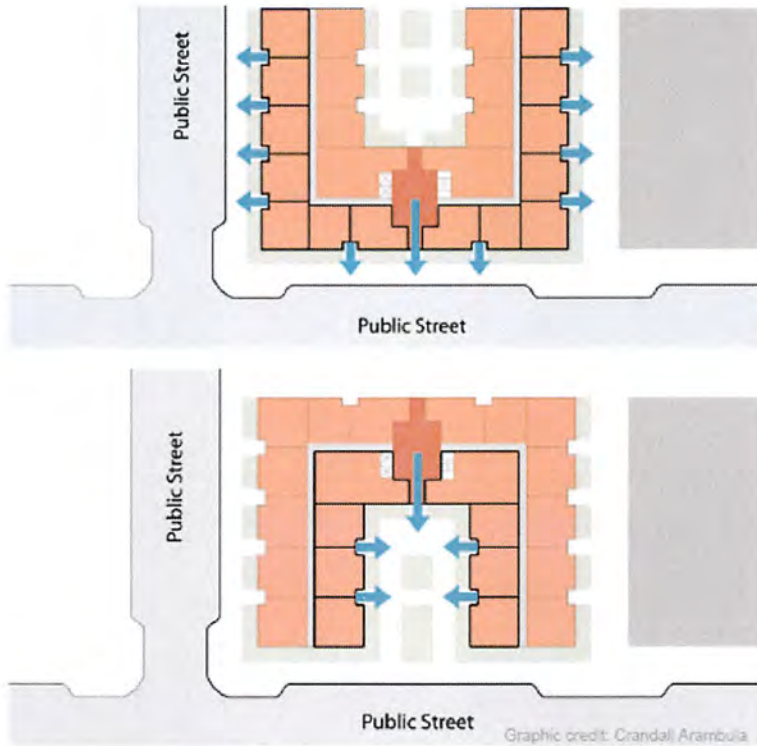
1. Multi-unit development orientation shall comply with the following standards:
 - a. Residential developments with more than 8 buildings shall provide a minimum of two (2) distinct color schemes. A single-color scheme shall be dedicated to no less than 30 percent of all residential buildings.
 - b. Residential developments with 30 or more buildings shall provide a minimum of three (3) distinct color schemes. The number of buildings in single style shall be no less than 30 percent.
 - c. Pedestrian linkages to nearby neighborhoods, schools, parks, commercial projects, and parking areas shall be provided.
 - d. Visual interest shall be provided through architectural variety, especially where several new buildings face streets, such as by using different layouts and/ or architectural features. Abutting buildings shall have complimentary architectural styles.
 - e. Except for garage entrances, structured parking shall not be visible from the primary streets or any public open space, unless treated in an architectural manner subject to the approval of the Director.
 - f. Loading docks and service areas on a corner lot must be accessed from the side street.
 - g. In order to accommodate a minimum of one vehicle entering the facility, controlled entrances to parking facilities (gates, doors, etc.) shall be located a minimum of 18 feet from the back of sidewalk.
2. Mixed-use buildings orientation shall comply with all the standards mentioned above and the following standards:
 - a. Commercial/office unit entrances shall face the street, a parking area, or an interior common space.
 - b. Entrances to residential units shall be physically separated from the entrance to the permitted commercial uses and clearly marked with a physical feature.



Buildings along streets and open space shall provide visual interest by using different form, color, and materials

E. Orientation

1. Building entries shall face the primary public street with direct pedestrian connections to the public sidewalks, unless determined to be infeasible due to topographic constraints by the Director. Pedestrian connections to the public sidewalks shall also be provided to parking areas and publicly accessible open space. For larger sites with multiple buildings, building entries may also be oriented to face internal open spaces, paseos, and recreation amenities.
2. Parking areas, covered and uncovered, shall be screened from public street frontages. Screening may be accomplished through building placement, landscaping, fencing, or some combination thereof.
3. For multi-unit projects located across the street from a single-unit family zoning district, parking lot areas and carports shall not be located along the single-unit neighborhood street frontages.
4. Buildings shall be arranged to provide functional common outdoors spaces (such as courtyards, paseos, or parks) for the use of residents.



Building entries shall face a public street, internal open space, or paseo

F. Parking Standards

1. Parking Lots. Parking shall comply with standards as specified in NBMC Section 20.40.070.
 - a. Parking lots shall be placed to the side or rear of buildings. Parking lots shall be connected to building entrances by means of internal pedestrian walkways.

- b. In surface parking lots with 10 or more spaces, a minimum of 14 square feet of landscape area shall be provided per parking space. Landscaping may be provided in parking lot planters and/or for perimeter screening.



Parking lots shall be shielded from view from adjoining streets

2. Residential Garages

- a. Street-facing garage doors serving individual units that are attached to the structure must incorporate one or more of the following so that the garage doors are visually recessive and complementary to other building element:
 - i. Garage door windows or architectural detailing consistent with the main dwelling.
 - ii. Arbor or other similar projecting feature above the garage doors.

3. Parking Structures and Loading Bays

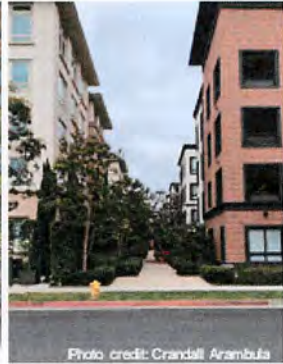
- a. Parked vehicles at each level within the structure shall be shielded from view from adjoining streets.
- b. The exterior elevations of parking structures shall be designed to minimize the use of blank concrete facades. This shall be accomplished through the use of decorative textured concrete, planters or trellises, or other architectural treatments.



Parking structures shall be shielded from view from adjoining streets

G. Common Open Space

1. The required front yard area shall not be counted toward satisfying the common recreation area requirement.
2. Residential unit entries shall be within a 1/4 mile walking distance of common open space.
3. Pedestrian walkways shall connect the common open space to a public right-of-way or building entrance.
4. Open space areas shall not be located directly next to arterial streets, service areas, or adjacent commercial development to ensure they are sheltered from the noise and traffic of adjacent streets or other incompatible uses. Alternatively, a minimum of ten (10) foot wide, dense landscaping area shall be provided as screening, but does not count towards the open space requirement.
5. An area of usable common open space shall not exceed an average grade of ten (10) percent. The area may include landscaping, walks, recreational facilities, and small decorative objects such as artwork and fountains.
6. All common open spaces shall include seatings and lighting.



H. Recreation Amenities

1. All play areas shall be located away from high automobile traffic and shall be situated for maximum visibility from the dwelling units.
2. Senior housing and/or housing for persons with disabilities shall be exempt from the requirement to provide play areas, but shall provide areas of congregation that encourage physical activity.
3. One common recreational amenity shall be provided for each 50 units or fraction thereof. Facilities that serve more people could be counted as two amenities. Examples of amenities that satisfy the recreational requirements include:
 - a. Clubhouse at a minimum of 750 square feet.
 - b. Swimming Pool at a minimum of 15x30 feet or equal surface area.

- c. Tennis, Basketball or Racquetball court.
- d. Children's playground at a minimum of 600 square feet.
- e. Sauna or Jacuzzi.
- f. Day Care Facility.
- g. Community garden.
- h. Other recreational amenities deemed adequate by the Director.





- I. Landscaping. All landscaping shall comply with all standards as specified in Chapter 20.36.
 1. A minimum of 8 percent of the total site shall be landscaped. Required setbacks and parking lot landscaping may be counted toward this requirement.
 2. Landscaping materials shall comply with the following:
 - a. Ground cover instead of grass/turf; and/or
 - b. Decorative nonliving landscaping materials including, but not limited to, sand, stone, gravel, wood or water may be used to satisfy a maximum of 25 percent of the required landscaping area.
 - c. Turf areas shall be placed in areas for recreational use only and must have a 10 foot minimum dimension.
 3. Landscaping and irrigation shall follow local and regional requirements and guidance for approved plant lists to meet the needs of local conditions, where available. For plants and planting materials addressing water retention areas, recommended resources include the Low Impact Development Manual for Southern California prepared by the Southern California Stormwater Monitoring Coalition, State of California Model Water Efficient Landscape Ordinance (MWELo) or Newport Beach Municipal Code Chapter 14.17 (Water-Efficient Landscaping).



J. Frontage Types and Standards. Frontage is the side of a building facing a public street right-of-way.

1. Storefronts for ground floor commercial in mixed-use projects. A frontage that reinforces the commercial character and use of the ground floor of the building. The elevation of the ground floor is located at or near the grade of sidewalk to provide direct public access into the building.

a. The ground floor elevation shall be located at the elevation of the sidewalk to minimize the need for external steps and ramps at public entrances.

b. Entrance shall be emphasized and clearly recognizable from the street. One or more of the following methods shall be used to achieve this result:

i. Projecting non-fabric awnings or canopies above an entry (covered entry);

ii. Varied building mass above an entry, such as a tower that protrudes from the rest of the building surface;

iii. Special corner building entryway treatments, such as a rounded or angled facets on the corner, or an embedded corner tower, above the entry;

iv. Special architectural elements, such as columns, porticoes, overhanging roofs, and ornamental light fixtures;

v. Projecting or recessed entries or bays in the facade;

vi. Recessed entries must feature design elements that call attention to the entrance such as ridged canopies, contrasting materials, crown molding, decorative trim, or a 45-degree cut away entry; or

vii. Changes in roofline or articulation in the surface of the subject wall.

- c. Windows and/or glass doors shall cover not less than 50 percent of the first floor elevation along street frontages.
- d. At least 25 percent of the surface area of each upper floor facade shall be occupied by windows.
- e. Development with retail, commercial, community or public uses on the ground floor shall have a clear floor to floor height of at least 15 feet. Floor-to-floor height may be reduced on sloping sites.
- f. The minimum height for awnings or marquees is 8 feet above finished grade and the maximum height for awnings or marquees is 12 feet above finished grade; except as otherwise required in the Building Code approved by the City.

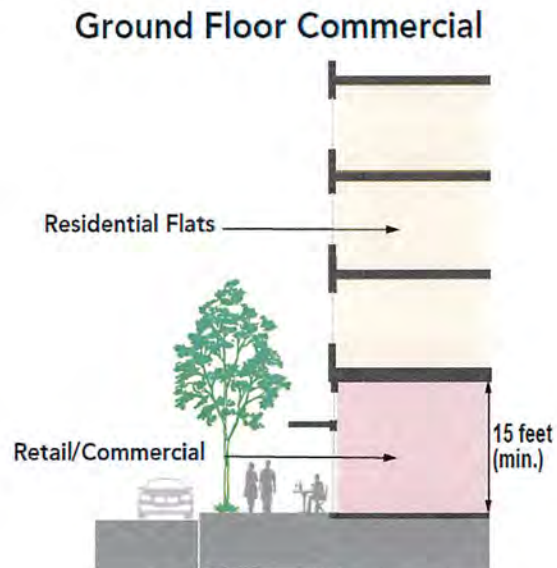
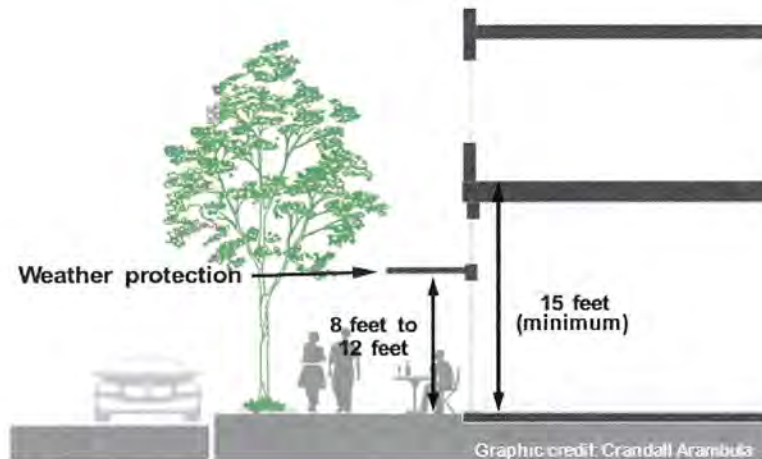




Photo credit: Crandall Arambula

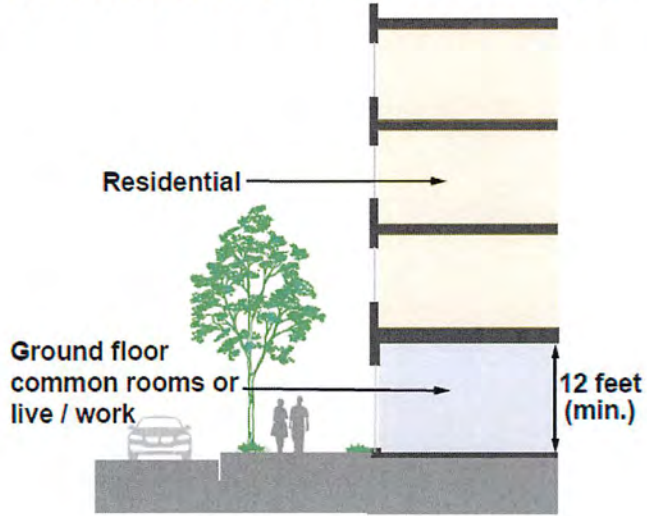


Photo credit: Crandall Arambula



2. Live-work/office fronts. A frontage that reinforces both residential and work activities that can occur in the building. The elevation of the ground floor is located at or near the grade of sidewalk to provide direct public access to the building.
 - a. The ground floor elevation shall be located near the elevation of the sidewalk to minimize the need for external steps and ramps at public entrances.
 - b. All ground floor tenant spaces that have street frontage shall have entrances on a facade fronting a street. All other ground floor uses may have a common lobby entrance along the front facade or private entrances along other facades.
 - c. Entrances to upper floor units may be provided through a common lobby entrance and/or by a common entrance along a facade fronting a street.
 - d. At least 40 percent of the surface area of the ground floor facade shall be occupied by display windows or translucent panels.
 - e. At least 25 percent of the surface area of each upper floor facade shall be occupied by windows.
 - f. The ground floor shall have a clear floor-to-ceiling height of at least 12 feet.
 - g. The minimum height for awnings or marquees is 8 feet above finished grade and the maximum height for awnings or marquees is 12 feet above finished grade; except as otherwise required in the Building Code approved by the City.
 - h. If the front facade is set back from the public sidewalk, the setback shall be landscaped and/or improved as an extension of the public sidewalk.

Ground Floor Live - Work / Office





3. Residential fronts. A frontage that reinforces the residential character and use of the buildings. The elevation of the ground floor is typically elevated above the grade of the lot to provide privacy for residences by preventing direct views into the home from the sidewalk. Applicable to buildings with no commercial use on the ground floor.
 - a. Residential frontages reinforce the residential character and use of the building. The ground floor may be elevated a maximum of 36 inches above the grade of the nearest adjacent public or private sidewalk to provide privacy for residences by preventing direct views into the home.
 - i. Garages facing a public street shall not exceed 40 percent of the length of the building facade.
 - ii. Entrances to ground floor units that have street frontage may be provided through a common lobby entrance and/or by private entrances from the adjacent sidewalk.
 - iii. Entrances to upper floor units may be provided through a common lobby entrance and/or by a common entrance along a facade fronting a street.
 - iv. At least 20 percent of the surface area of the ground and upper floor facade shall be occupied by windows.
 - v. If the front facade is set back from the public sidewalk, the setback shall be landscaped (excluding stoops/front porches and paved paths to building entrances).



Photo credit: Crandall Arambula

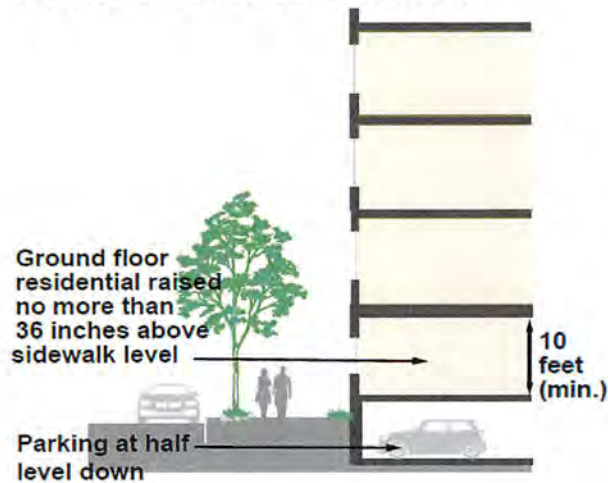


Photo credit: Crandall Arambula



Photo credit: Crandall Arambula

Ground Floor Residential



Graphic credit: Crandall Arambula

K. Walls and Fences

1. Community perimeter or theme walls shall be solid decorative block walls.
2. Wall materials shall be brick, slump stone, tile, textured concrete, stucco on masonry, steel framing, or other material walls which require little or no maintenance. Plain concrete block walls (i.e. precision block) nor chain link fencing with inserts shall not be used as wall materials.
3. The style of the wall shall be the same or similar to the architectural style of the project.
4. All exterior perimeter walls located along public streets shall have an offset of a minimum of 5 feet deep for every 50 linear feet to 75 linear feet of the wall length, or be screened by a minimum of 2 feet of landscaping depth.
5. Retaining walls within a street facing setback and visible from the public sidewalk shall not exceed 4 feet in height and shall provide a minimum of 18 inches deep landscape in front of the wall.



Photo credit: CrandallArambula



Photo credit: CrandallArambula



L. Utilities

1. All utility equipment shall be located out of the pedestrian path of travel. All utility equipment shall be purposefully and aesthetically placed adjacent to alleyways, within parking areas, rear or side yards, or within building “notch outs” and screened from public view.
2. If the mechanical equipment cannot be placed in rear or side yards, it shall be either placed on the ground and screened with landscape, or placed on the roof and screened with architectural materials such as roof or parapet consistent with the overall architectural style.
3. All electrical utility equipment, electrical meters, and junction boxes shall be placed within a utility room. If a utility room is not feasible, then all utility equipment shall be purposefully designed as an integral part of the building development, placed adjacent to alleyways, within parking areas, or within rear or side yards, and screened from public view.

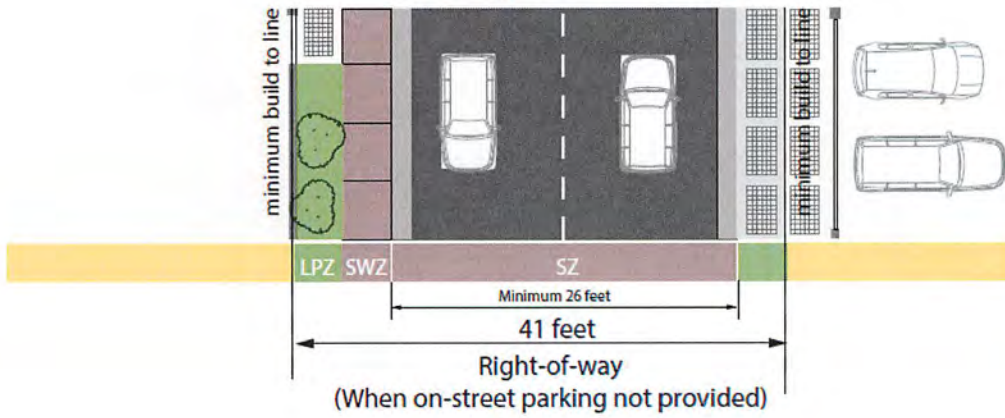


M. Private Street Standards. The intent of Private Street realm standards is to foster a low speed, multi-modal internal site circulation network. Streets shall provide a limited amount of curbside parking for visitors, loading, service, and accessible ADA spaces. The streets shall be designed as an amenity for the site, including surface treatments and landscaping similar in character and quality to any paseos or common open space.

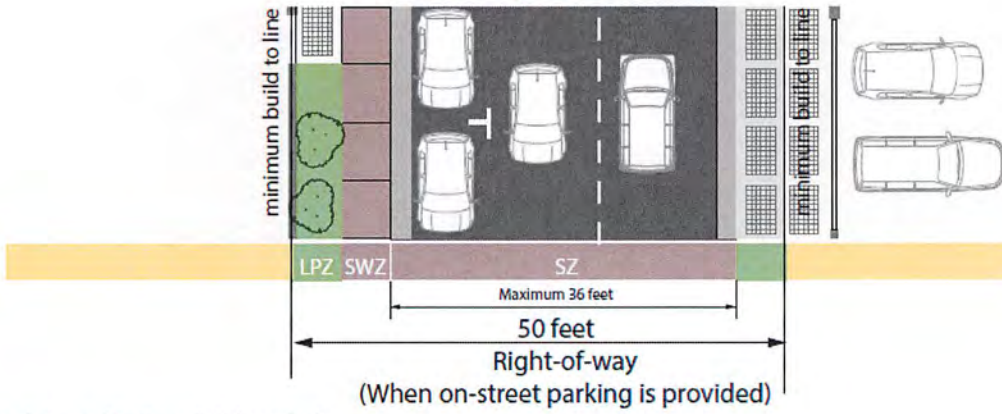
1. Private Street Right-of-Way. All new multi-unit development sites that provide private streets shall comply with a minimum width right-of-way standard.
 - a. When on-street parallel parking is not provided, the right-of-way width shall be 41 feet in width.

- b. When on-street parallel parking is provided, the right-of-way width shall be 50 feet in width.
2. Private Street Zones. Three zones as described below comprise the right-of-way. Variations in width reflect the presence or absence of on-street parking:
- a. Street Zone (SZ). Streets shall be 26-35 feet in width from curb-to-curb designed to provide motor vehicle and bicycle access. All Police and Fire emergency and maintenance vehicle access standards shall be met. Parallel curbside parking shall be permitted within roadways. Angled or head-in parking shall be prohibited.
 - b. Sidewalk Zone (SWZ). A minimum of one SWZ, 5-feet-wide, shall be provided.. When on-street parking is provided, the SWZ shall be on the side of street with parking. Shrubs, ground cover, and street trees are prohibited in the zone.
 - c. Landscaping and Paving Zone (LPZ). There shall be a minimum 5-foot Landscaping and Paving Zone. The zone is intended to provide a transition between the street and private residences. Landscaping shall comprise a minimum of 20 percent of the total building frontage(s) area. Landscape planting beds shall have a minimum width of 3 feet. Paving stone, brick or concrete unit pavers or poured in place concrete with integral color pigments is permitted in the Zone. Steps are permitted to above grade first floor entrances.

Parking Not Provided



Parking Provided



Graphic credit: Crandall Arambula



Photo credit: Crandall Arambola



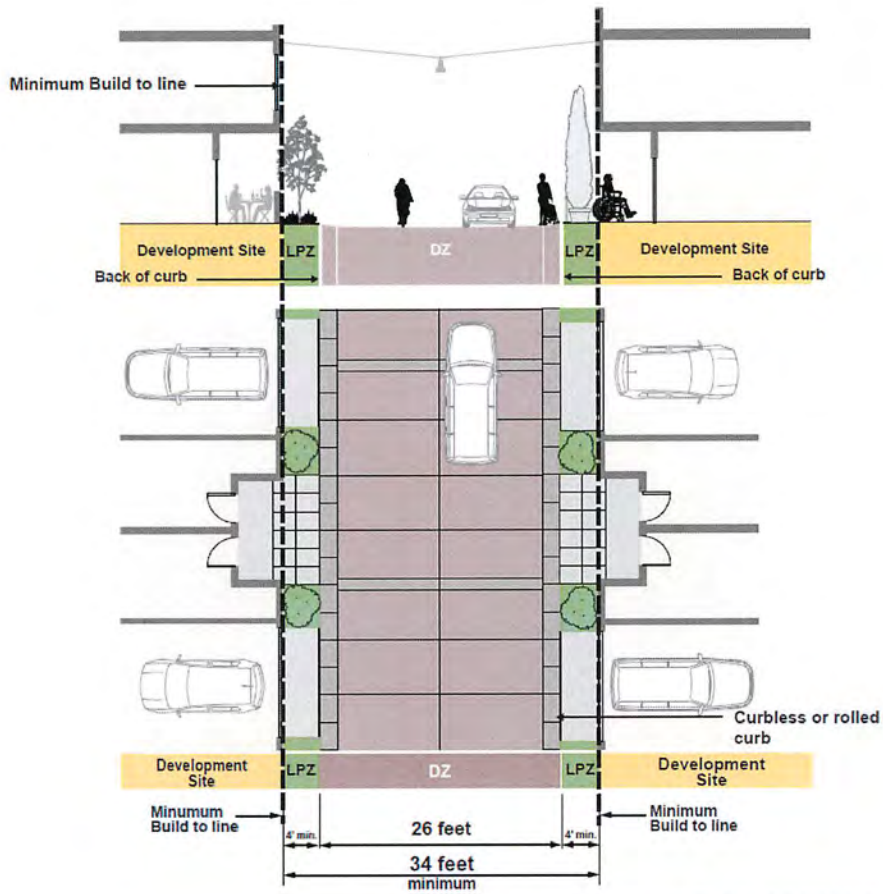
Photo credit: Crandall Arambola



Photo credit: Crandall Arambola

N. Private Driveway Standards. The intent of Driveway standards is to provide motor vehicle access to private garages and service areas, pedestrian access between residential garages and doors, and private or public street network.

1. Private Driveway Right-of-Way. All private driveways shall comply with a 26-foot minimum width fire apparatus access standard. No dead-end driveway shall exceed 150 feet in length.
2. Driveway Zones. Two zones described below comprise the driveway:
 - a. Driveway Zone (DZ). Paving shall be asphalt, stone, brick or concrete unit pavers or poured in place concrete with integral color pigment. Stamped concrete shall be prohibited.
 - b. Landscape and Paving Zone (LPZ). A 4-foot minimum width zone shall be provided. The Zone shall be landscaped a minimum of 20 percent of the total site abutting a building. A combination of vines, ornamental, grasses, shrubs, ground cover, and ornamental trees shall be provided. Landscaping in pots is permitted.



Graphic credit: Crandall Arambula



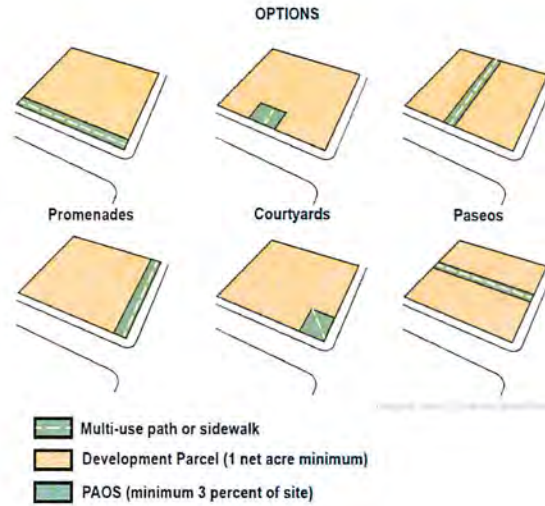
Photo credit: Crandall Arambula



Photo credit: Crandall Arambula

- O. Publicly Accessible Open Space (PAOS) Standards. PAOS is intended to serve as an amenity for multi-unit tenant and surrounding neighborhood residents, employees and visitors. The PAOS shall be configured as passive paseo or promenade mobility corridors that provide walking and biking connections through or along the development site, or more active

courtyard gathering spaces that can be the focus for adjacent ground floor uses, especially where ground floor commercial is provided. The PAOS shall be contiguous, universally accessible, and shall be connected directly to adjacent public realm. Development sites that meet all requirements for providing PAOS, shall include one of the options as specified.



Courtyard PAOS

1. Required PAOS. Development sites with a combined street frontage 200 feet or greater in width and a total development site area of 1 acre or greater shall provide a minimum of 3 percent PAOS of the net site area. All PAOS shall be in addition to all residential zoning common open space.
2. Site Area Calculations. The net site area shall be the total site area minus the following:
 - a. Public Easements. Total area measured between the right-of-way line to the build-to-line.
 - b. Utility Easements. The total area required easements for public utilities through the site.
3. PAOS Design Standards.
 - a. Minimum PAOS width. No paseo, promenade, or courtyard right-of-way shall be no narrower than 20 feet in width. If incorporated in a development plan, paseos or promenades shall include an 8-foot minimum width path; all courtyards shall include a minimum 6-foot minimum width path.

- b. Access. All PAOS multi-use path access-ways shall be dedicated as a public easement subject to restrictions on hours of use.



Paseo Publicly Accessible Open Space



Promenade Publicly Accessible Open Space

P. Facade Modulation Standards.

The intent of the standards is to modulate the building's massing and volume— the external dimensions comprising of height, length, width, and depth in a manner that results in buildings that are in proportion to development site context and provides opportunities for applied facade plane and surface architectural visual interest. All multi-unit dwellings, or multi-unit components of mixed-use buildings shall be modulated both vertically and horizontally.

Modulation standards are provided for density ranges that correlate with multi-unit building typologies. Townhome buildings shall adhere to standards for buildings up to 30 dwelling units per acre and apartment buildings shall follow standards for buildings with greater than 30 dwelling units per acre. Applicants shall select a set of standards based upon the density of the building. Where development sites are of sufficient size to accommodate multiple building typologies with varying densities, the following Design Standards shall apply to each typology separately. Density allocations may be transferred within a contiguous property.

Q. Vertical Modulation

The intent of the standards is to minimize the perceived height of a building by visually organizing the facade in a manner that reflects the function of the underlying building floor(s) through the use of varied yet uniform application of height, form, material, and color articulation.

1. Components. All buildings shall be organized into an identifiable base, middle, and top to differentiate the first floor and upper function of the building. This tripartite articulation provides opportunities to create varied application of materials, color, and fenestration.

Modern or contemporary building architecture may be approved at the discretion of the Director.

- a. Base. For multi-story buildings, the first floor primary facade shall constitute the building's base.
- b. Middle. The primary facade of floor(s) above the base and below the top shall constitute the middle.
- c. Top. The primary facade of the uppermost floor(s) to the parapet or ridge line of a building and any facade of a floor(s) that steps back shall constitute the building's top.



Buildings shall be vertically modulated with a base, middle, and top



Buildings shall be horizontally modulated with recesses or projections

2. Vertical Modulation Changes in Facade Material and/or Color

- a. Banding. Use of functional and/or decorative horizontal facade belt course, trim, or other projections or recesses at floor lines between the base, middle, and top. The

projection or recess shall have a minimum height of 12 inches and a depth of 4 inches.

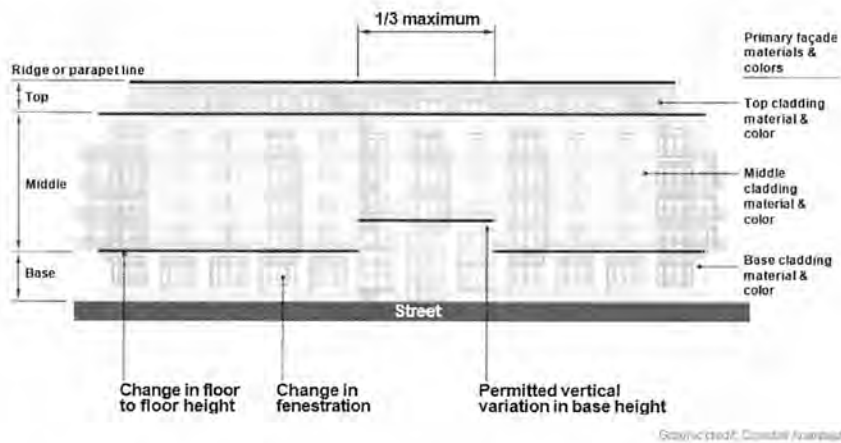
- b. Floor Heights. Change in floor-to-floor facade heights at the second floor or above. No middle or top floor-to-floor height shall be less than 10 feet.
- c. Fenestration. Changes in building window and door widths, heights, depths, materials, and colors. Changes in trim and inclusion or absence of shutters, mullions, muntins, transoms or other window components.
- d. Cladding Material. Buildings may express vertical modulation by providing a change of cladding materials to denote base, middle and top. Buildings using cladding material to provide vertical modulation are not required to provide banding. For buildings one hundred feet in height, a curtain wall system may be used above the building base.

3. Additional Vertical Modulation Standards

- a. First Floor Height. The minimum first finished floor to second finished floor plate elevation shall be:
 - i. 10 feet – for buildings with density of less than 30 dwelling units per acre.
 - ii. 12 feet – for buildings with density greater than 30 dwelling units per acre, developed as residential only.
 - iii. 15 feet – for buildings with a density greater than 30 dwelling units per acre with commercial uses on the ground floor.
- b. Vertical Variation. Base, middle and top facade divisions shall be consistent with the underlying floor plate heights.
 - i. Density of less than 30 dwellings per acre — combining, omitting, increasing or decreasing the base or middle facade division height along building frontages shall be prohibited.
 - ii. Density of greater than 30 dwellings per acre— increasing the base and decreasing the middle facade division height shall be permitted for any building facade greater than 60 feet in length. Stepping of plate heights shall be limited to no more than 1/3 of any total facade frontage length.



Less than 30 Dwelling unit per acre minimum base density buildings (townhome)



30+ Dwelling unit per acre minimum base density buildings (apartment)

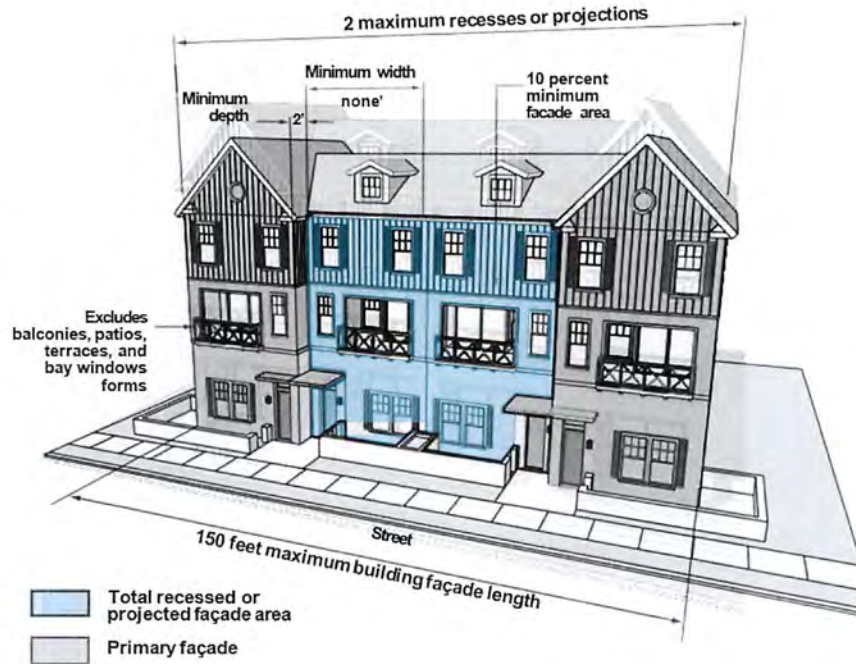
R. Horizontal Modulation

The intent of the standards is to shorten the perceived length and mass of a building by providing facade recesses and projections that break up the horizontal thrust of a building. The modulation provides opportunities to accentuate and draw visual attention to key building features such as stairwells, elevators, lobbies, and entries, and create usable open spaces such as courtyards. Horizontal modulation is intended to be complemented and strengthened by accompanying application of different facade materials, color, and fenestration; and layering of additional recessed and projected architectural elements such as bays, balconies, and patios.

1. Building Standards for Developments with Density of less than 30 dwelling per acre

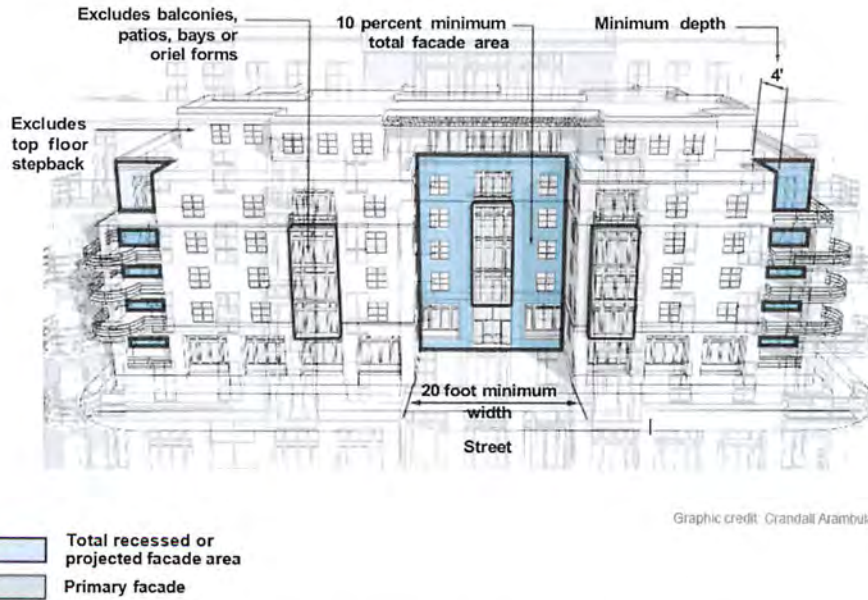
- a. Maximum building length. No building shall be greater than 150 feet in length.

- b. Required minimum modulation area. A minimum of 10 percent of the total facade area shall be horizontally modulated.
 - c. Minimum depth. All recesses or projections shall be a minimum of 2 feet in depth.
 - d. Maximum number. No facade shall have no more than 2 total recesses or projections per facade.
2. Building Standards for Development with Density of 30 dwellings per acre or greater.
- a. Maximum façade length. Buildings in excess of 200 feet shall have a horizontal massing break of no less than 20 feet with a depth of 15 feet for every 200 feet of additional overall length.
 - b. Required minimum modulation area. A minimum of 10 percent of the total facade area shall be horizontally modulated.
 - c. Minimum depth. All recesses or projections shall be a minimum of 4 feet in depth.
 - d. Minimum width. All recesses or projections shall be a minimum of 20 feet in width.
 - e. Maximum number. No facade shall have no more than 4 total recesses or projections per facade.



Graphic credit: Crandall Arambula

Less than 30 Dwelling unit per acre minimum base density buildings



Graphic credit: Crandall Arambula

30+ Dwelling unit per acre minimum base density buildings

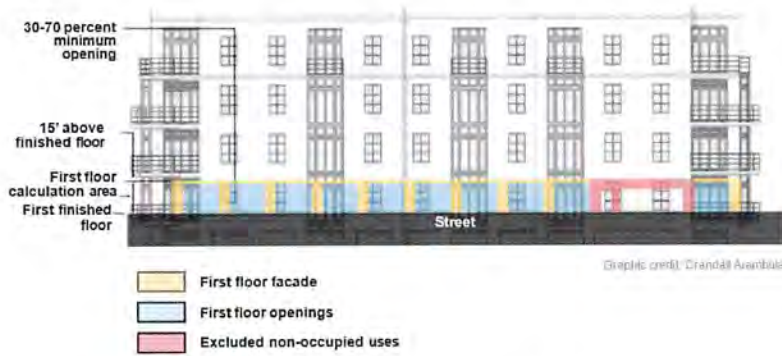
S. First Floor Opening and Transparency Standards

The standards are intended to foster passive 'eyes on the street' surveillance of the public realm by providing an adequate number of clear and direct sightlines between first floor residences and adjacent public realm sidewalks and common areas without compromising residential livability, privacy, and security. For multi-unit buildings with commercial first floor uses, the standards are intended to provide a greater amount of visibility of merchant goods and services for potential walking, rolling, or driving-by clients or customers. For all buildings, the standards apply only to portions of the first floor that contain residential or commercial conditioned/occupied floor areas fronting streets and open common open space.

1. Building Standards for Developments with Density of less than 30 dwellings per acre.
 - a. Minimum Opening Standard. For any at-grade or above-grade residential first floor unit fronting a street or paseo, the building frontages shall be comprised of a minimum 20 percent transparent glazed door and window openings.
2. Building Standards for Developments with Density of 30 dwellings per acre or greater
 - a. Minimum Opening Standard. First floor multi-unit building frontages shall be comprised of transparent glazed door and window openings as follows:
 - i. 25 percent - for any at-grade or above-grade residential first floor unit fronting a street or paseo.
 - ii. 50 percent - for any mixed use multi-unit building with a first floor commercial use fronting a street, courtyard or paseo.



Less than 30 Dwelling unit per acre minimum base density buildings



30+ Dwelling unit per acre minimum base density buildings

T. First floor Entry Standards

The intent of the standard is to locate building individual unit and lobby entries along street frontages to foster pedestrian neighborhood access and street-oriented activity. Unobstructed sight lines and pedestrian access from the public sidewalk shall be provided. The standards do not apply to service and loading entrances.

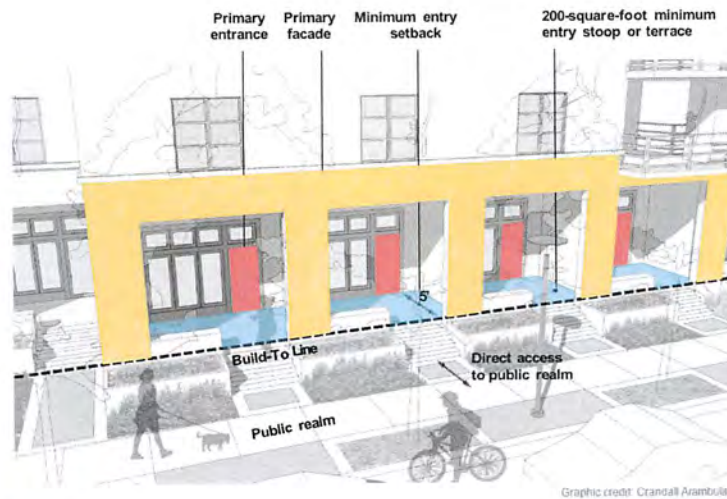
1. Individual Residential Unit Entrances

- a. Residential Front Door Standards. At-grade or above-grade first floor individual residential units' entrances shall be accessed directly adjacent public realm or common area unless determined not feasible by the Director or due to site topographic considerations.
 - i. Minimum entry to sidewalk width — walkway, ramp, and stairs connecting to the public sidewalk shall be a minimum of 5 feet in width.
 - ii. Entry stoop, terrace and patio area — if proposed, entry terraces and patio areas shall be a minimum of 40 square feet. If proposed, entry stoops shall be a minimum of 20 square feet excluding any required stairs or ramp area.

2. Lobby Entrances

- a. Standards. Lobby entrances shall be located at-grade, unless determined not feasible by the Director. Residential and commercial lobby entrances shall be accessed directly from the adjacent public realm or PAOS.
 - i. No lobby door setback is required.
 - ii. Minimum entry sidewalk width – where entries are setback, walkway width connecting to the sidewalk zone shall be a minimum of 6 feet.

- iii. Entry landing area – shall be a minimum of 60 square feet.
- iv. Prohibited – lobby entrance primary entries are prohibited from driveways, at-grade parking lots, parking structures, or alleys unless required due to topographic conditions.



- Primary facade
- Stoop, terrace or patio
- Primary entrance

Individual residential unit front door standards



Lobby entrances shall be accessed directly from the street

Attachment E

Resolution No. 2024-52 Authorizing Submittal
of the Local Coastal Program Amendment

RESOLUTION NO. 2024- 52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF A LOCAL COASTAL PROGRAM AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION TO AMEND THE CITY OF NEWPORT BEACH COASTAL LAND USE PLAN AND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO THE IMPLEMENTATION OF THE HOUSING ELEMENT (PA2022-0245)

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

WHEREAS, California Government Code Section 65580 *et seq.* ("State Housing Element Law") requires each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing;

WHEREAS, Section 30500 of the California Public Resources Code requires each county and city to prepare a Local Coastal Program ("LCP") for that portion of the coastal zone within its jurisdiction;

WHEREAS, the California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City added Title 21 (Local Coastal Program Implementation Plan) ("Title 21") to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit issuing authority on January 30, 2017;

WHEREAS, the City's General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating as necessary for consistency with other General Plan elements;

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment (“RHNA”) allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted by an ad-hoc committee called the Housing Element Update Advisory Committee (“HEUAC”) formed and appointed by the City Council;

WHEREAS, after several meetings with the State Department of Housing and Community Development (“HCD”) and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City’s 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the “fair share” of regional housing need and demand, by planning for units within the following site groupings or “focus areas” that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City’s RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 (“6th Cycle Housing Element Implementation”), which requires the following amendments and actions:

- General Plan Amendment (“GPA”) - To revise the necessary goals and/or policies within the City’s Land Use Element to support housing production in the focus areas identified by the 6th Cycle Housing Element;
- Amendment to Title 20 (Planning and Zoning) (“ZCA”) - To implement the Land Use Element’s policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;
- Local Coastal Program Amendment (“LCPA”) - To revise and create new policies within the City’s Coastal Land Use Plan and update Title 21 (Local Coastal Program Implementation Plan) of the NBMC to support housing production in the focus areas identified by the 6th Cycle Housing Element that are within the Coastal Zone; and
- Program Environmental Impact Report (“PEIR”) (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act (“CEQA”) related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report (“Draft PEIR”), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to \$600,000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City’s zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

WHEREAS, City staff worked closely with the community through the City Council-appointed General Plan Advisory Committee (“GPAC”) and General Plan Update Steering Committee (“GPUSC”) from March 2023 to August 2023 to draft Land Use Element goals and policies that support 6th Cycle Housing Element Implementation;

WHEREAS, the draft GPA that was supported by the GPAC and the GPUSC was posted online on August 30, 2023, with additional public comments and participation at the Planning Commission Study Session on September 21, 2023, and the City Council Study Session on February 13, 2024;

WHEREAS, the draft GPA was revised and reposted online on January 16, 2024, and March 28, 2024, based on the public’s input;

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”), Chapter 20.62 (Public Hearings) and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by the Planning Commission at this hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code (“CPUC”) Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation to the Orange County Airport Land Use Commission (“ALUC”) to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan (“AELUP”);

WHEREAS, on May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with the AELUP;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on May 28, 2024, and adopted Resolution No. 2024-32 (7 ayes, 0 nays), to notify the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding and on May 29, 2024, the City issued the Notice of Intent to Override ALUC's determination and received two comments in response;

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing; and

WHEREAS, pursuant to Section 13515 of the California Code of Regulations Title 14, Division 5. 5, Chapter 8 ("Section 13515"), drafts of the LCPA were made available and a Notice of Availability was distributed on April 15, 2024, at least six weeks prior to the anticipated final action date.

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

Section 1: The City Council finds amendments to the LCP are legislative acts. Neither Title 21 nor State Planning Law set for any required findings for either approval or denial of such amendments. Notwithstanding the foregoing, the LCPA is consistent with the corresponding GPA and ZCA.

Section 2: The City Council does hereby make the findings attached hereto as Exhibit "A" and incorporated by reference and authorizes staff to submit this LCPA to amend portions of the Coastal Land Use Plan and Title 21, as set forth in Exhibits "B" and "C," which are attached hereto and incorporated by reference, to the California Coastal Commission for review and approval.

Section 3: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the “Project”) in compliance with the California Environmental Quality Act (“CEQA”) as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations (“CEQA Guidelines”), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-____, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the LCPA was considered within the PEIR. Resolution No. 2024-____ is hereby incorporated by reference.

Section 4: This LCPA shall not become effective until voter approval set forth in Section 8 below followed by approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City of Newport Beach.

Section 5: This LCPA, if approved, will be carried out fully in conformity with the California Coastal Act.

Section 6: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 7: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**EXHIBIT “A”
Findings for Approval**

General Finding:

An amendment to the City’s Local Coastal Program is a legislative act. Neither Title 21 (Planning and Zoning) of the NBMC nor California Government Code Section 65000 *et seq.*, set forth any required findings for approval of such amendments. Notwithstanding the foregoing, the following amendments to the Local Coastal Program will create internal consistency with the certified 6th Cycle Housing Element:

Facts in Support of Finding:

1. The Local Coastal Program (“LCP”), including the Coastal Land Use Plan and the Implementation Plan (Title 21) are designed to implement the General Plan within the Coastal Zone in furtherance of the California Coastal Act. Since the 6th Cycle Housing Element Implementation involves an amendment to the General Plan and Title 20 (Planning and Zoning) affecting several properties within the Coastal Zone, it is necessary to also amend the LCP to achieve the goals and policies.

2. The LCP Amendment (“LCPA”), attached to this resolution as Exhibits “B” and “C” incorporated herein, including the Housing Opportunity (HO) Overlay Coastal Zoning Districts with associated development standards, are consistent with the implementation program in the Housing Plan of the Housing Element, as discussed in Resolution No. 2024-____ under the Findings for the General Plan Amendment. The LCPA will enable the implementation of the Housing Element’s key objective, which is to accommodate the development of housing projects to fulfill City’s “fair share” of regional housing need and demand.

EXHIBIT “B”
Amendment to Coastal Land Use Plan

Policy 2.1.2-1 of the CLUP is revised as follows:

Development in each district and corridor shall adhere to policies for land use type and density/intensity contained in Table 2.1.1-1, except as modified in Sections 2.1.3 to 2.1.8, and 2.1.11.

Policy 2.1.10-1 of the CLUP is revised as follows:

Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations, except as modified by all Policies in the 2.1.11 series.

New Policy 2.1.11-1 is inserted and reads as follows:

Accommodate housing opportunities through the adoption of housing opportunity overlay coastal zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element’s focus areas. Properties within each overlay coastal zoning district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites may be identified in the future through rezoning unless precluded by state law. The City will reserve 25% of allocated dwelling units within the Coastal Zone until such a time as the City’s Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6th Cycle Housing Element. Following the City’s Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone. The goal is to ensure an adequate number of sites Citywide to accommodate the City’s allocation of the Regional Housing Needs Assessment:

- **Airport Environs:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.
- **West Newport Mesa:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.
- **Newport Center:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.
- **Dover / Westcliff:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.

New Policy 2.1.11-2 is inserted and reads as follows:

Residential use of any property included within an established housing opportunity overlay coastal zoning district is allowed regardless of and in addition to the underlying land use category or density limit established herein. An amendment to the Coastal Land Use Plan is not required to develop a residential use within an established housing opportunity zoning overlay coastal zoning district. The maximum density specified for the various overlay coastal zoning districts specified in Policy 2.1.11-1 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 2.1.11-1 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units do not include units identified as pipeline units or units permitted pursuant to State density bonus law.

New Policy 2.1.11-3 is inserted and reads as follows:

Residential opportunities are in addition to existing uses allowed by the Coastal Land Use Plan. Properties within the established overlay coastal zones are not required to be developed for mixed-use or residential. Existing uses may continue to operate provided they are legally established and consistent with policies and regulations related to legal nonconforming uses. The adoption of housing opportunity overlay coastal zoning districts shall not affect existing rights to use the property.

New Policy 2.1.11-4 is inserted and reads as follows:

If residential or mixed-use projects pursuant to a housing opportunity overlay coastal zoning district are developed, projects shall be consistent with applicable overlay coastal zoning district or Implementation Plan requirements unless modified consistent with an established procedure to grant relief from standards (e.g., Coastal Modification or Variance, or the application of Density Bonus regulations).

EXHIBIT “C”
Amendment to Title 21 (Local Coastal Program Implementation Plan)

Chapter 21.28 (Overlay Coastal Zoning Districts) of the NBMC is amended to include a new Section 21.28.070 (Housing Opportunity [HO] Overlay Coastal Zoning District) as follows:

Chapter 21.28

OVERLAY COASTAL ZONING DISTRICTS (MHP, PM, B, C, H, AND HO)

Sections:

- 21.28.010 Purposes of Overlay Coastal Zoning Districts.**
- 21.28.020 Mobile Home Park (MHP) Overlay Coastal Zoning District.**
- 21.28.030 Parking Management (PM) Overlay District.**
- 21.28.040 Bluff (B) Overlay District.**
- 21.28.050 Canyon (C) Overlay District.**
- 21.28.060 Height (H) Overlay District.**
- 21.28.070 Housing Opportunity (HO) Overlay Coastal Zoning Districts.**

Section 21.28.010 (Purposes of Overlay Coastal Zoning Districts) is amended to include a new Subsection (F) as follows:

F. HO (Housing Opportunity) Overlay Coastal Zoning Districts. The HO Overlay Coastal Zoning Districts are intended to accommodate housing opportunities consistent with the Housing Element’s focus areas and to ensure the City can meet its allocation of the Regional Housing Needs Assessment (RHNA). The specific areas are identified in Part 8 of this title (Maps).

New Section 21.28.070 (Housing Opportunity [HO] Overlay Coastal Zoning Districts) is incorporated into the Chapter as follows:

21.28.070 Housing Opportunity (HO) Overlay Coastal Zoning Districts.

A. Applicability. This section applies to properties located in one of the Housing Opportunity (HO) Overlay Coastal Zoning Districts, as identified in Part 8 of this title. This includes the following subareas:

1. HO-1 - Airport Area Environs Area – The Airport Area Environs Area is located north of the Upper Newport Bay Nature Reserve, primarily around the John Wayne Airport.
2. HO-2 - West Newport Mesa Area – The West Newport Mesa Area is located near the southwest corner of the City and primarily consists of industrial properties along 16th Street, Production Place, and 15th Street.
3. HO-3 - Dover-Westcliff Area – The Dover-Westcliff Area includes property on both sides of West Coast Highway and the west of Dover Drive. Properties in the Lido Village area are included.
4. HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.

The above listed are general descriptions of each subarea and additional properties may be included with the subarea. To be eligible for the provisions of this chapter, the property must be listed on the HO area map as an "Opportunity Site".

B. Uses Allowed. The following uses shall be permitted in the Housing Opportunity (HO) Overlay Coastal Zoning Districts:

1. Any use that is permitted or conditionally permitted in the base zone;
2. Multiple-unit development that meets the density requirements set forth in this section;
3. Mixed-use development that includes a residential component which complies with the minimum density set forth in this section; and
4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.

C. Subarea Development Standards.

1. Development Standards. The following development standards shall apply to any residential or mixed-use project permitted pursuant to this section. Unless otherwise modified by this section, all applicable development standards, including any adopted objective design standards, shall apply.

**TABLE 21.28-1
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES**

Development Feature	Housing Opportunity Subareas			
	HO-1	HO-2	HO-3	HO-4
Lot Size/Dimension	Per Base Zone			
Lot area required per unit (sq. ft.) ¹	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)		
Setbacks				
Front	0 ft. ⁽²⁾	10 ft. ⁽²⁾	10 ft. ⁽²⁾⁽³⁾	0 ⁽²⁾
Rear	0	20 ft.	20 ft.	0
Side	0' ⁽⁴⁾			
Street Side	0 ⁽²⁾	10 ft. ⁽²⁾	10 ft. ⁽²⁾	0 ft. ⁽²⁾
Height	Per Base Zone unless otherwise identified on the map	65 ft.	65 ft. ⁽⁵⁾	Per Base Zone ⁽⁶⁾
Building Separation	10 ft.			
Floor Area Ratio (FAR)	No restriction ⁽⁶⁾			
Common Open Space ⁽⁷⁾	Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)			
Private Open Space	5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)			
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Section 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).			
Lighting	See Section 21.30.070 (Outdoor Lighting).			
Parking	See Subsection (D)(2) below and Chapter 21.40 (Off-Street Parking).			
Signs	See Chapter 21.30.065 (Sign Standards).			

- (1) Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units.
- (2) Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way.
- (3) Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway.
- (4) The combined total from both sides shall be 15 feet.
- (5) The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1.
- (6) The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable.
- (7) For purposes of this section, common and private open space in HO-1 may include enclosed shared amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility, children's playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director.

2. Airport Area Environs Area (HO-1). The following development standards shall only apply to projects with the Airport Area Environs Area:

- a. Sound Mitigation. The interior ambient noise level of all new residential dwelling units shall meet applicable standards of the Section 10.26.030 (Interior Noise Standards). An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the interior noise standard. The residential units shall be constructed, and noise attenuated in compliance with the report.
- b. Advanced Air Filtration. The design of all new residential and mixed-use residential developments shall include advanced air filtration systems to promote cleaner air within living environments.
- c. Notification to Owners and Tenants. A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment adjacent to an airport and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment (e.g., noise from planes, commercial activity on the site and vehicles streets) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.

3. West Newport Mesa Area (HO-2). The following development standards shall only apply to projects with the West Newport Mesa Area:

- a. West Newport Mesa Streetscape Master Plan. Any residential or mixed-use residential development shall implement applicable components of the adopted West Newport Mesa Streetscape Master Plan.

D. General Development Standards. The following development standards shall apply to all projects within the Housing Opportunity zone, regardless of subarea:

1. Landscaped Setbacks. All front and street side setbacks shall be landscaped, except for areas that provide vehicle and pedestrian access to the right-of-way.
2. Residential Off-Street Parking Requirements. Residential parking requirements for projects within the Housing Opportunity Overlay Zones shall be provided in accordance with Table 21.28-2 below. Parking for all other uses not included in this table shall be provided in accordance with Chapter 21.40 (Off-Street Parking Requirements) of the NBMC.

**TABLE 21.28-2
RESIDENTIAL OFF-STREET PARKING FOR HOUSING OPPORTUNITY COASTAL OVERLAY
ZONES**

Land Use	Subtype	Parking Requirement
Residential (Rental)	Studio	1.1 spaces per dwelling unit
	1 Bedroom	1.5 spaces per dwelling unit
	2 Bedrooms	1.8 spaces per dwelling unit
	3 Bedrooms	2.0 spaces per dwelling unit
	Visitor Parking	0.3 spaces per dwelling unit
Residential (Ownership)	Studio	1.4 spaces per dwelling unit
	1 Bedroom	1.8 spaces per dwelling unit
	2 Bedrooms	1.8 spaces per dwelling unit
	3 Bedrooms	2.0 spaces per dwelling unit
	Visitor Parking	0.3 spaces per dwelling unit

Part 8. Maps, Chapter 20.80 (Maps) is amended to include new Section 21.80.032 (Housing Opportunity Overlay Districts Maps) as follows:

Chapter 21.80

MAPS

Sections:

- 21.80.010 Area Maps.**
- 21.80.020 Bluff Overlay.**
- 21.80.025 Canyon Overlay.**
- 21.80.030 Height Limit Areas.**
- 21.80.032 Housing Opportunity Overlay Districts Maps.**
- 21.80.035 Parking Management Overlay District Maps.**
- 21.80.040 Setback Maps.**

21.80.055 Planned Community Site Plans.

21.80.065 Planned Community Land Use Maps.

Section 21.80.032 (Housing Opportunity Overlay Zoning Districts Maps) is added in its entirety to include an indexing of maps as follows:

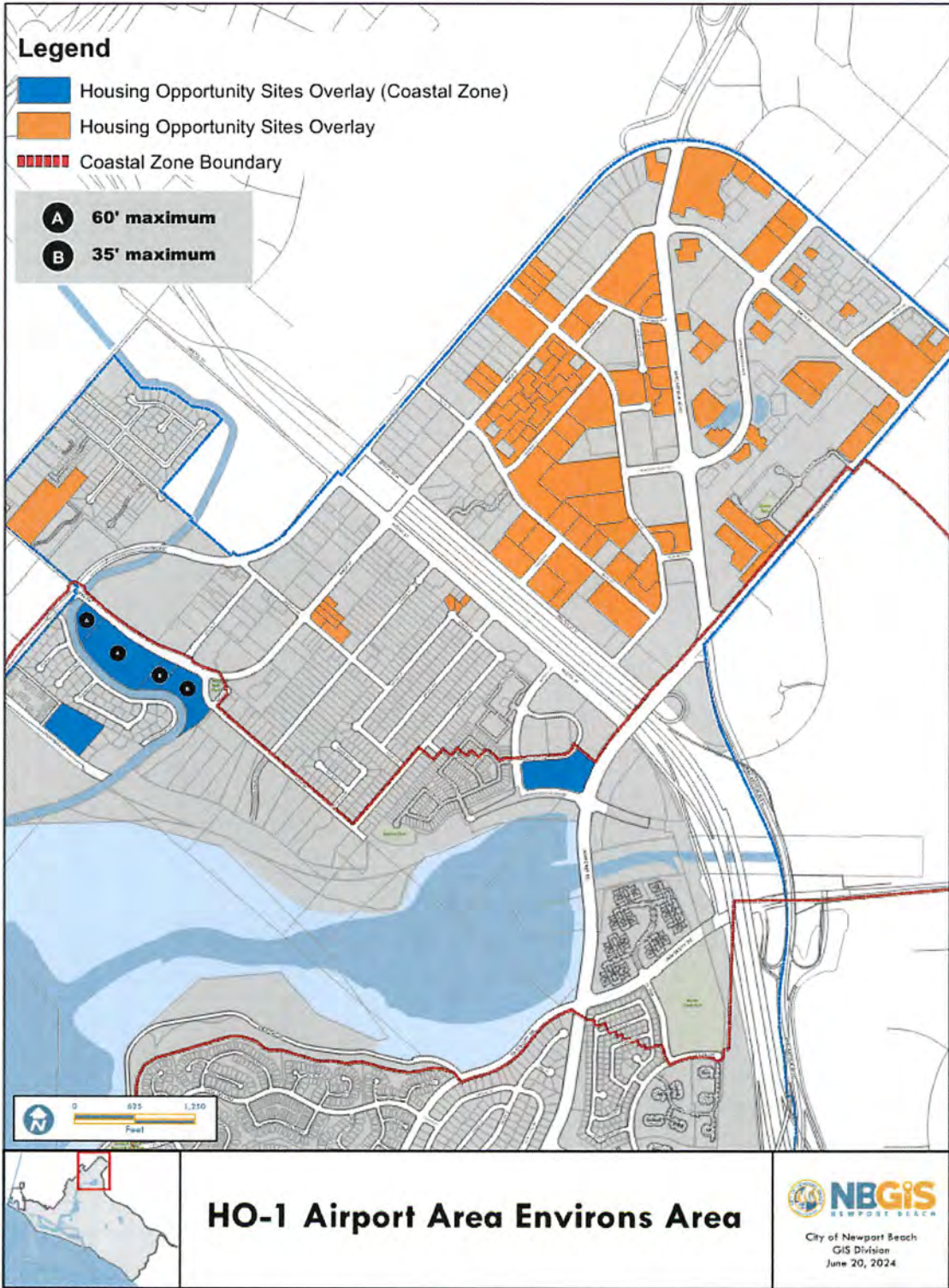
HO-1 - Airport Area Environs Area (PDF)

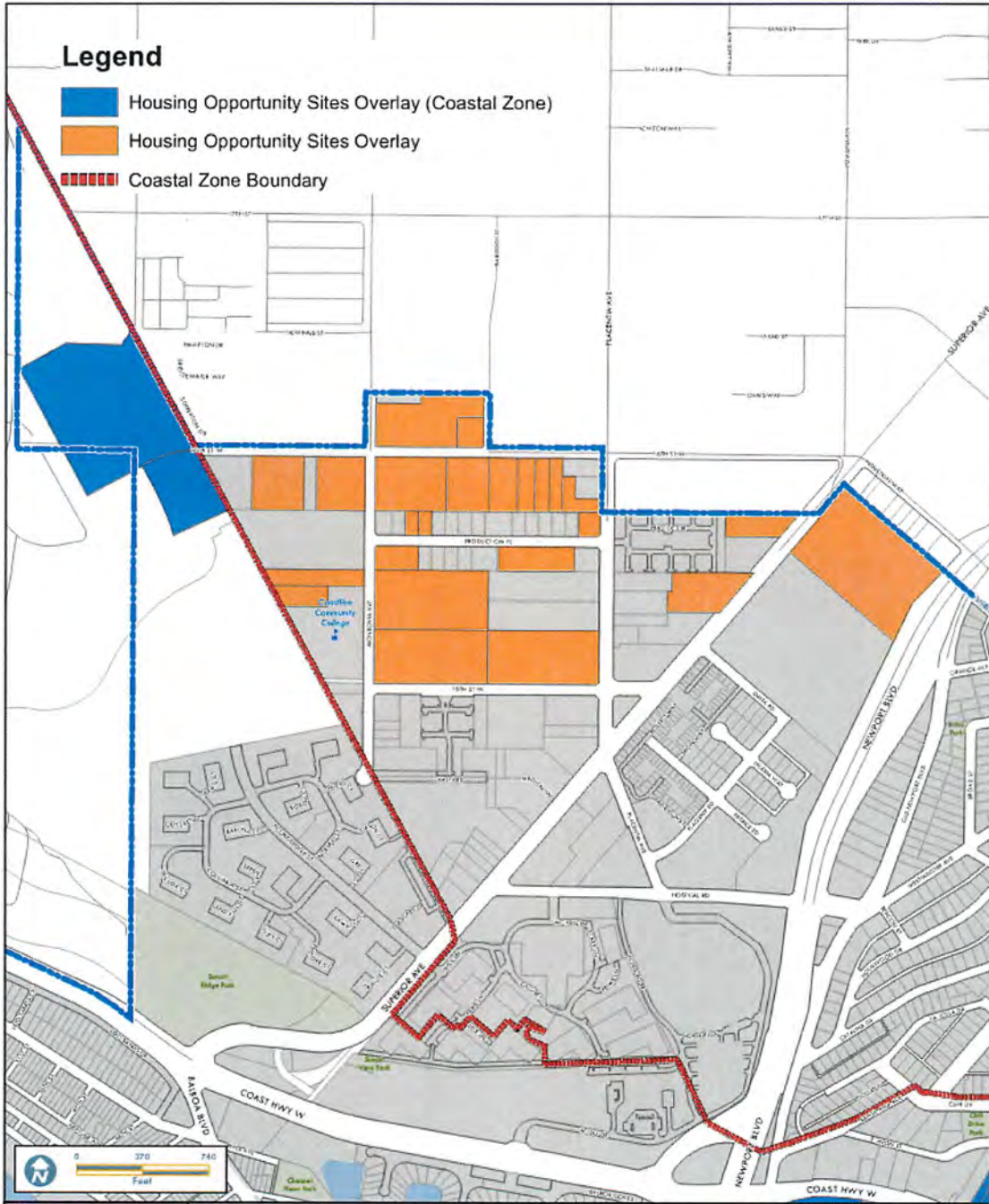
HO-2 - West Newport Mesa Area (PDF)

HO-3 - Dover-Westcliff Area (PDF)

HO-4 - Newport Center Area (PDF)

The corresponding maps for each of the Housing Opportunity Overlay Coastal Zoning Districts, as indexed in Section 21.80.032 and linked as a PDF, are to be in a similar format to the following series of maps beginning on the next page:





Legend

- Housing Opportunity Sites Overlay (Coastal Zone)
- Housing Opportunity Sites Overlay
- Coastal Zone Boundary

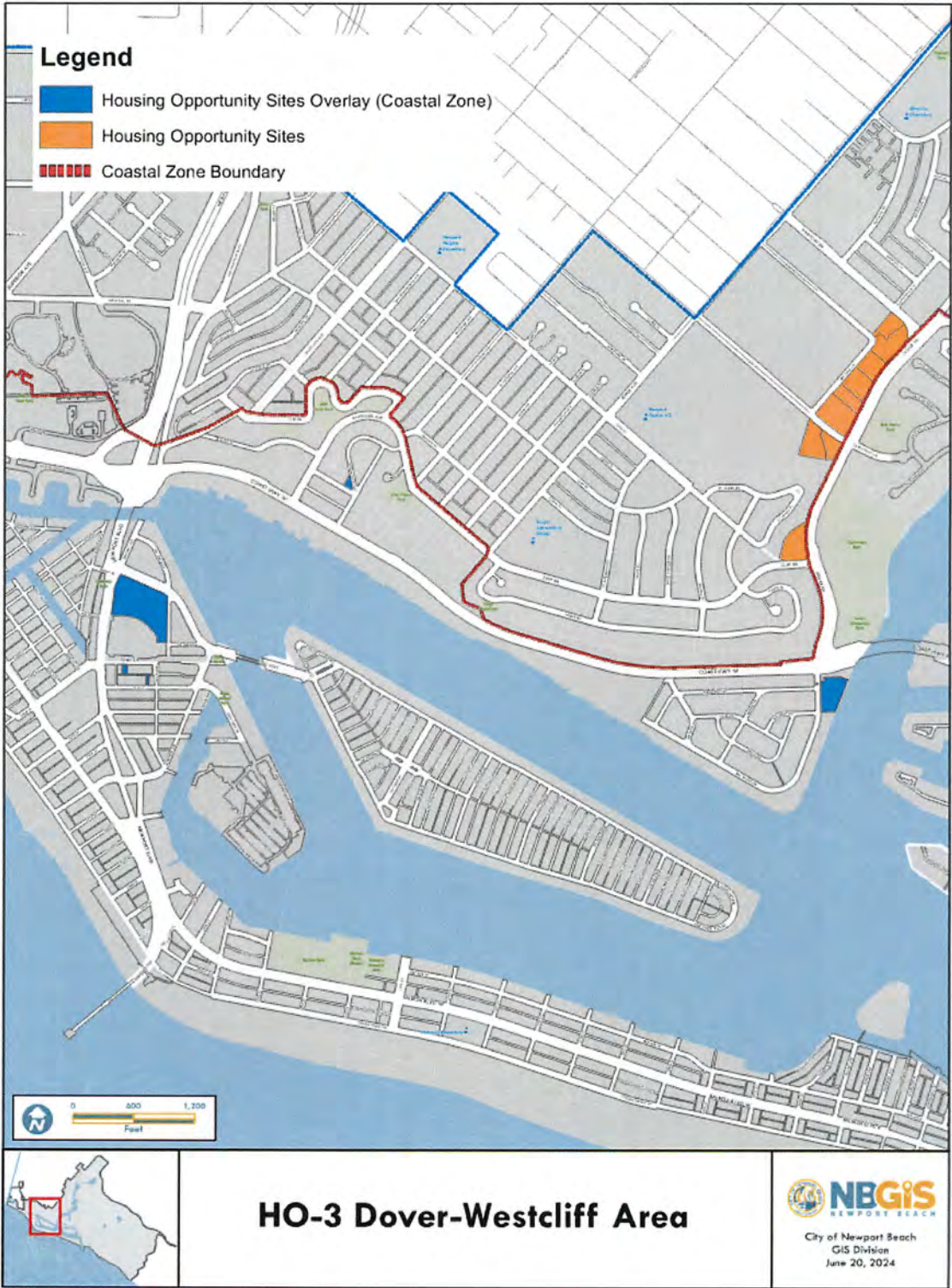


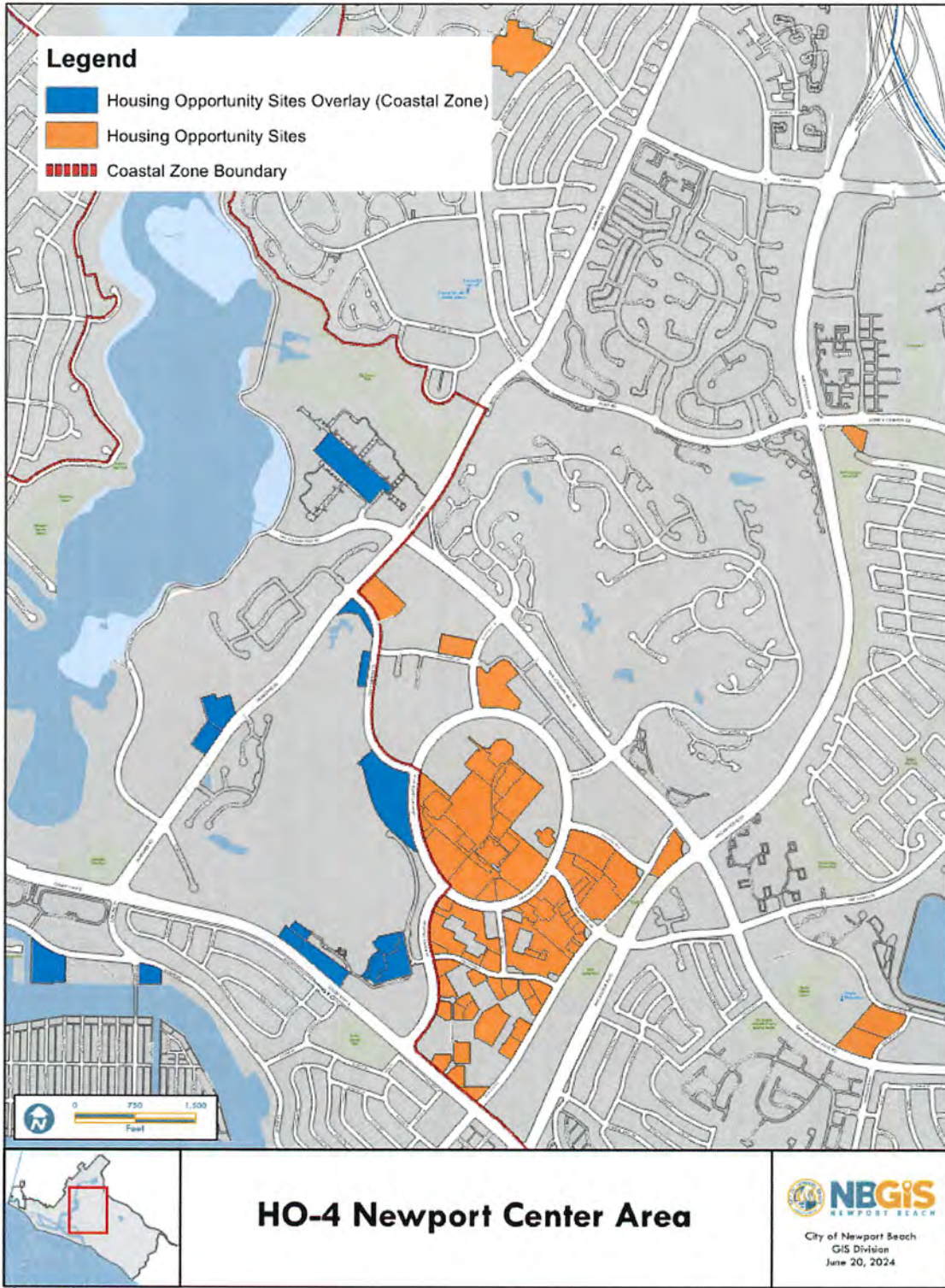
HO-2 West Newport Mesa Area



City of Newport Beach
GIS Division
June 20, 2024

HO-2 West Newport Mesa Area.mxd





Attachment F

Resolution No. 2024-53 Overruling ALUC

RESOLUTION NO. 2024- 53

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, FINDING THE HOUSING ELEMENT IMPLEMENTATION AMENDMENTS CONSISTENT WITH THE PURPOSES OF THE STATE AERONAUTICS ACT AND OVERRIDING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION OF INCONSISTENCY WITH THE 2008 JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN (PA2022-0245)

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

WHEREAS, California Government Code Section 65580 *et seq.* ("State Housing Element Law") requires each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing;

WHEREAS, the City's General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating as necessary for consistency with other General Plan elements;

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment ("RHNA") allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted by an ad-hoc committee called the Housing Element Update Advisory Committee (“HEUAC”) formed and appointed by the City Council;

WHEREAS, after several meetings with the State Department of Housing and Community Development (“HCD”) and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City’s 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the “fair share” of regional housing need and demand, by planning for units within the following site groupings or “focus areas” that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City’s RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during implementation.

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 (“6th Cycle Housing Element Implementation”), which requires the following amendments and actions:

- General Plan Amendment (“GPA”) - To revise the necessary goals and/or policies within the City’s Land Use Element to support housing production in the focus areas identified by the 6th Cycle Housing Element;

- Amendment to Title 20 (Planning and Zoning) (“ZCA”) - To implement the Land Use Element's policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;
- Local Coastal Program Amendment (“LCPA”) - To revise and create new policies within the City’s Coastal Land Use Plan and update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6th Cycle Housing Element that are within the Coastal Zone; and
- Program Environmental Impact Report (“PEIR”) (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act (“CEQA”) related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report (“Draft PEIR”), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to \$600,000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing development projects to bypass the City’s zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

WHEREAS, City staff worked closely with the community through the City Council-appointed General Plan Advisory Committee (“GPAC”) and General Plan Update Steering Committee (“GPUSC”) from March 2023 to August 2023 to draft Land Use Element goals and policies that support 6th Cycle Housing Element Implementation;

WHEREAS, the draft GPA that was supported by the GPAC and the GPUSC was posted online on August 30, 2023, with additional public comment and participation at the Planning Commission Study Session on September 21, 2023, and City Council Study Session on February 13, 2024;

WHEREAS, the draft GPA was revised and reposted online on January 16, 2024, and March 28, 2024, based on the public’s input;

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”), Chapter 20.62 (Public Hearings) and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by the Planning Commission at this hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code (“CPUC”) Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation to the Orange County Airport Land Use Commission (“ALUC”) to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan (“AELUP”);

WHEREAS, on May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with portions of the AELUP, as provided in ALUC’s determination attached as Exhibit “A,” and incorporated herein by reference;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council may, after a public hearing, propose to overrule ALUC with a two-thirds vote, if it makes specific findings that the Project is consistent with the purpose of Section 21670 of the CPUC to protect the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses;

WHEREAS, a public hearing was held by the City Council on May 28, 2024, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b) and the Ralph M. Brown Act. Evidence both written and oral, was presented to, and considered by, the City Council at this hearing;

WHEREAS, at the conclusion of this hearing, the City Council adopted Resolution No. 2024-32 by a unanimous vote (7 ayes, 0 nays) to notify the ALUC and State Department of Transportation Aeronautics Program ("Aeronautics Program") of the City's intent to override ALUC's inconsistency finding;

WHEREAS, notice of the City's intent to override the ALUC inconsistency determination, along with Resolution No. 2024-32 was sent via certified mail and emailed to the ALUC and the Aeronautics Program on May 29, 2024;

WHEREAS, the City received two comments in response to the notice of the City's intent to override the ALUC inconsistency determination from the Aeronautics Program and ALUC in accordance with CPUC Section 21676, which are attached hereto as Exhibits "B" and "C" respectively, and incorporated herein by reference; and

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing.

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

Section 1: The City Council has evaluated the comments provided as Exhibits “B” and “C” from the reviewing agencies, and does hereby make the findings necessary to override the ALUC’s determination attached hereto as Exhibit “D,” and incorporated herein by reference.

Section 2: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the “Project”) in compliance with the California Environmental Quality Act (“CEQA”) as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations (“CEQA Guidelines”), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-____, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the GPA was considered within the PEIR. Resolution No. 2024-____ is hereby incorporated by reference.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.


ADOPTED this 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment(s): Exhibit "A" – Orange County Airport Land Use Commission Inconsistency Determination dated May 23, 2024
Exhibit "B" – Comment Letter from California Department of Transportation Aeronautics Program dated June 21, 2024
Exhibit "C" – Comment Letter from Orange County Airport Land Use Commission dated June 28, 2024
Exhibit "D" – Findings to Override ALUC's Determination

EXHIBIT "A"
Orange County Airport Land Use Commission
Inconsistency Determination dated May 23, 2024



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

May 23, 2024

Ben Zdeba, Principal Planner
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: ALUC Determination for Housing Element Implementation Program Amendments (Proposed Amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program

Dear Mr. Zdeba:

During the public meeting held on May 16, 2024, the Airport Land Use Commission (ALUC) for Orange County considered the subject item. The matter was duly discussed, and with a 7-0 vote, the Commission found the Housing Element Implementation Program Amendments (Proposed Amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program to be Inconsistent with the Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA) per:

1. Section 2.1.1 Aircraft Noise that the "aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport."
2. Section 2.1.2 Safety Compatibility Zones in which "the purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA."
3. Section 2.1.4, and PUC Section 21674 which state that the Commission is charged by PUC Section 21674(a) "to assist local agencies in ensuring compatible land uses in the vicinity of ...existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses," and PUC Section 21674(b) "to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare."
4. 3.2.1 General Policy of the *AELUP* which states that the General Land Use policy of the Airport Land Use Commission for Orange County shall be "Within the boundaries of the *AELUP*, any land use may be found to be Inconsistent with the *AELUP* which... places people so that they are affected adversely by aircraft noise..."

Please contact me if you have any questions regarding this proceeding. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Julie Fitch". The signature is written in a cursive style with a large initial 'J'.

Julie Fitch
Interim Executive Officer

cc: ALUC

EXHIBIT "B"
Comment Letter from California Department of Transportation
Aeronautics Program dated June 21, 2024

CALIFORNIA STATE TRANSPORTATION AGENCY

GAVIN NEWSOM, GOVERNOR

California Department of Transportation

AERONAUTICS PROGRAM
DIVISION OF TRANSPORTATION PLANNING
P.O. BOX 942873, MS-40 | SACRAMENTO, CA 94273-0001
(916) 654-4959
www.dot.ca.gov



June 21, 2024

Ben Zdeba, AICP, Principal Planner
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, CA 92660-3267

Electronically Sent
<bzdeba@newportbeachca.gov>

Dear Mr. Zdeba:

The Aeronautics Program (Program) at the California Department of Transportation (Caltrans) thanks the City of Newport Beach (City) for providing the Notice of Intent, dated May 29, 2024, to overrule a determination of the Orange County Airport Land Use Commission (ALUC). The ALUC has reported that the Housing Element Implementation Program Amendments Project (Project) is inconsistent with the Airport Environs Land Use Plan (AELUP) for the John Wayne Airport (JWA). The Notice of Intent concerns the City's Resolution (No.) 2024-32 (Resolution), and specific "Facts in Support" related to the AELUP. In advance of a public hearing on the Resolution to consider overruling the ALUC's determination, the Program is providing the following comments pursuant to California Public Utilities Code (PUC) section 21676. The Program supports the position of the ALUC in noting that the City has provided insufficient support for an Overrule.

The ALUC has noted the following reasons this Project update is incompatible with the AELUP:

1. Section 2.1.1, Aircraft Noise that the "aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport."
2. Section 2.1.2, Safety Compatibility Zones in which "the purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA."
3. Section 2.1.4, and PUC Section 21674 which state that the Commission is charged by PUC Section 21674(a) "to assist local agencies in ensuring compatible land uses in the vicinity of ... existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses," and PUC Section 21674(b) "to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare."
4. Section 3.2.1, General Policy of the AELUP which states that the General Land Use policy of the Airport Land Use Commission for Orange County shall be "Within the

"Provide a safe and reliable transportation network that serves all people and respects the environment"

Ben Zdeba, Principal Planner
June 21, 2024
Page 2

boundaries of the AELUP, any land use may be found to be Inconsistent with the AELUP which ... places people so that they are affected adversely by aircraft noise..."

The Program notes that the intent of the Handbook guidance aims to ensure the safety of both the aviation community and the community members surrounding an airport. Within this framework, the ALUC has determined that the City has inadequately addressed the safety concerns related to the proposed significant increase of housing density within airport safety zones.

The Project also proposes to raise the allowed height of structures in close proximity to JWA. The Program emphasizes that many, if not all, of the proposed height increases will require a Federal Aviation Administration (FAA) obstruction analysis to ensure that structures will not penetrate Federal Aviation Regulation (FAR) Part 77 surfaces, or the evaluation may specify obstruction mitigation.

Lastly, the Program notes that many proposed housing sites are within the 65 CNEL noise contour. The Program strongly recommends that the Lead Agency or authority having jurisdiction require developers to adequately design structures to ensure interior noise levels below 45 dB and to hold final permitting until the developer can demonstrate adequate interior noise attenuation.

The Program concurs with the ALUC's determination that the Housing Element Implementation Program Amendments Project is inconsistent with the Airport Environs Land Use Plan for John Wayne Airport. This conclusion is based on insufficient findings by the City and the safety concerns for public health and welfare posed by allowing housing in incompatible safety zones and noise contours.

In addition, Section 21675.1(f) provides: If a city or county overrules the commission pursuant to subdivision(d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit.

Please note: The Program comments are to be included in the public record of any decision to overrule the ALUC. If you have questions or if we may be of further assistance, please contact me by email at jonathan.huff@dot.ca.gov or call (916) 879-6528.

Sincerely,

Originally signed by

Jonathan Huff
Associate Transportation Planner
Caltrans Aeronautics

c: Lea U. Choum, Executive Officer, Orange County Airport Land Use Commission
<ALUCinfo@ocair.com>; Matthew Friedman, Chief of Aviation Planning, Caltrans Aeronautics
<matthew.friedman@dot.ca.gov>

bc: Lan Zhou, Deputy District Director, District 12; <lan.zhou@dot.ca.gov>

"Provide a safe and reliable transportation network that serves all people and respects the environment"

EXHIBIT "C"
Comment Letter from Orange County Airport Land Use Commission
dated June 28, 2024

DocuSign Envelope ID: 5EDE1164-950E-4778-BDB0-896DD6903582



AIRPORT LAND USE COMMISSION
FOR ORANGE COUNTY
3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

June 28, 2024

Ben Zdeba, AICP, Principal Planner
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, CA 92660

Subject: Response to Notice of Intent to Overrule the Airport Land Use Commission for Orange County Determination on Housing Element Implementation Program Amendments

Dear Mr. Zdeba,

We are in receipt of the City of Newport Beach (City) letter dated May 29, 2024, and City Council Resolution No. 2024-32 notifying the Airport Land Use Commission (ALUC) for Orange County of the City's intent to overrule the ALUC's inconsistency determination on the proposed Housing Element Implementation Program Amendments including proposed amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program. In accordance with Section 21676 of the Public Utilities Code, the ALUC submits the following comments addressing the proposed overrule findings for the above-referenced project. These comments shall be included in the public record of a final decision to overrule the ALUC.

Please be advised that California Public Utilities Code (PUC) Section 21678 states: "With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation."

Background

On August 17, 2023, the City submitted Housing Element Implementation - Noise Related Amendments for a consistency review. The proposed amendments included amendments to the General Plan including the replacement of the *AELUP* noise contours with more narrow noise contours which were included in 2014 Settlement Agreement EIR 617. ALUC found the Noise-Related Amendments to be inconsistent with the *AELUP for JWA*, and the City overruled that determination and adopted the Amendments.

On May 16, 2024, the ALUC for Orange County found the proposed Housing Element Implementation Program Amendments to be inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)* on a 7-0 vote. The inconsistent finding was based on *AELUP* Sections 2.1.1, 2.1.2, 2.1.4, and 3.2.1. Pursuant to Section 1.2 of the *AELUP for JWA*, the purpose of the *AELUP* is to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the *AELUP* seeks to protect the public from the adverse effects of aircraft noise to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace.

Additionally, Section 2.1.4 of the *AELUP for JWA* and PUC Section 21674 charge the Commission to coordinate at the local level to ensure compatible land use planning. Therefore, because of the City's proposed amendments allowing for residential uses within Community Noise Equivalent Levels (CNEL) 60 and 65, and Safety Zones 4 and 6, which include exposure to significant risks, noise and aircraft overflight, the City's proposed actions are inconsistent with the *AELUP*.

ALUC has the following additional comments regarding the findings and facts of support included in Resolution No. 2024-32:

Response to Finding and Fact in Support A - Regarding Noise Standards:

Pursuant to *AELUP* Section 2.1.1, “. . . aircraft noise emanating from airports may be incompatible with the general welfare of the inhabitants within the vicinity of an airport. . .” As noted in the City's discussion, the CNEL standards are set forth in the *AELUP*. The proposed Housing Element Implementation Program Amendments would further allow residential uses within the JWA 65 dBA and 60 dBA CNEL noise contours. The ALUC believes that these residential units would be highly affected by airport noise due to the close proximity to the airport (some within less than one mile from the runway end and others directly across the street from the airport), regardless of which noise contours are utilized.

Response to Fact in Support B - Regarding Safety:

Pursuant to *AELUP* Section 2.1.2, “[s]afety and compatibility zones depict which land uses are acceptable and which are unacceptable in various portions of airport environs. The purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working, or recreating near JWA.”

The housing sites in the Housing Element Update, the Noise-Related Amendments, and the Housing Element Implementation Program Amendments include property located in Safety Zone 4 – Outer Approach/Departure Zone, and Safety Zone 6 – Traffic Pattern Zone 6. Many of the sites located in Safety Zones 4 and 6 are also located in the 65 dB CNEL contour. According to the California Airport Land Use Planning Handbook, noise and overflight should be considered in Safety Zone 6 and residential uses should be limited to low density in Safety Zone 4. Flight tracks for the property were included in the ALUC staff report and are attached

to this letter. Considering the proposed densities, proximity to JWA and the number of flights over the property, Housing Element Implementation Program Amendments are inappropriate.

Response to Fact in Support C - Regarding "Intent of the AELUP":

By virtue of being clearly stated in *AELUP for JWA* Sections 1.2 "Purpose and Scope" and 2.0 "Planning Guidelines," the ALUC understands the complex legal charge to protect public airports from encroachment by incompatible land use development, while simultaneously protecting the health, safety and welfare of citizens who work and live in the airport's environs. To this end, and as also statutorily required, ALUC proceedings are benefited by several members having expertise in aviation. Based upon careful consideration of all information provided, and input from ALUC members with expertise in aviation, the ALUC unanimously found the proposed Housing Element Implementation Program Amendments to be Inconsistent with the *AELUP for JWA*.

We urge the City Council to take ALUC's concerns into consideration in its deliberations prior to deciding whether to overrule ALUC. In the event the City overrules ALUC's determinations, ALUC requests that individual projects within the airport influence area are submitted to ALUC for review. Thank you for the opportunity to provide these comments.

Sincerely,

DocuSigned by:

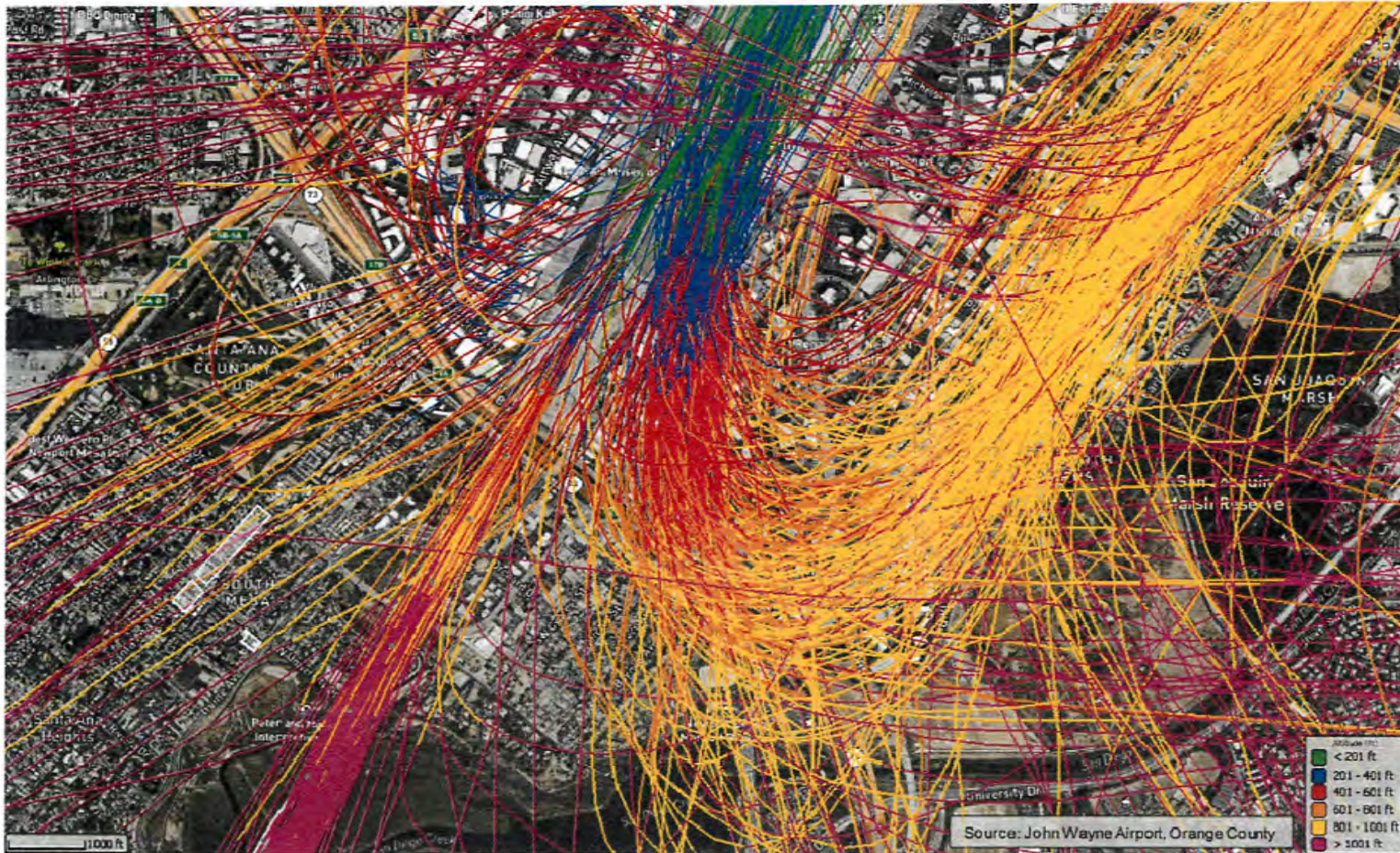
84DEC9F4FAB84DE
Gerald A. Bresnahan
Chairman

Attachment: John Wayne Airport Flight Tracks

cc: Members of Airport Land Use Commission for Orange County
Johnathan Huff, Caltrans/Division of Aeronautics



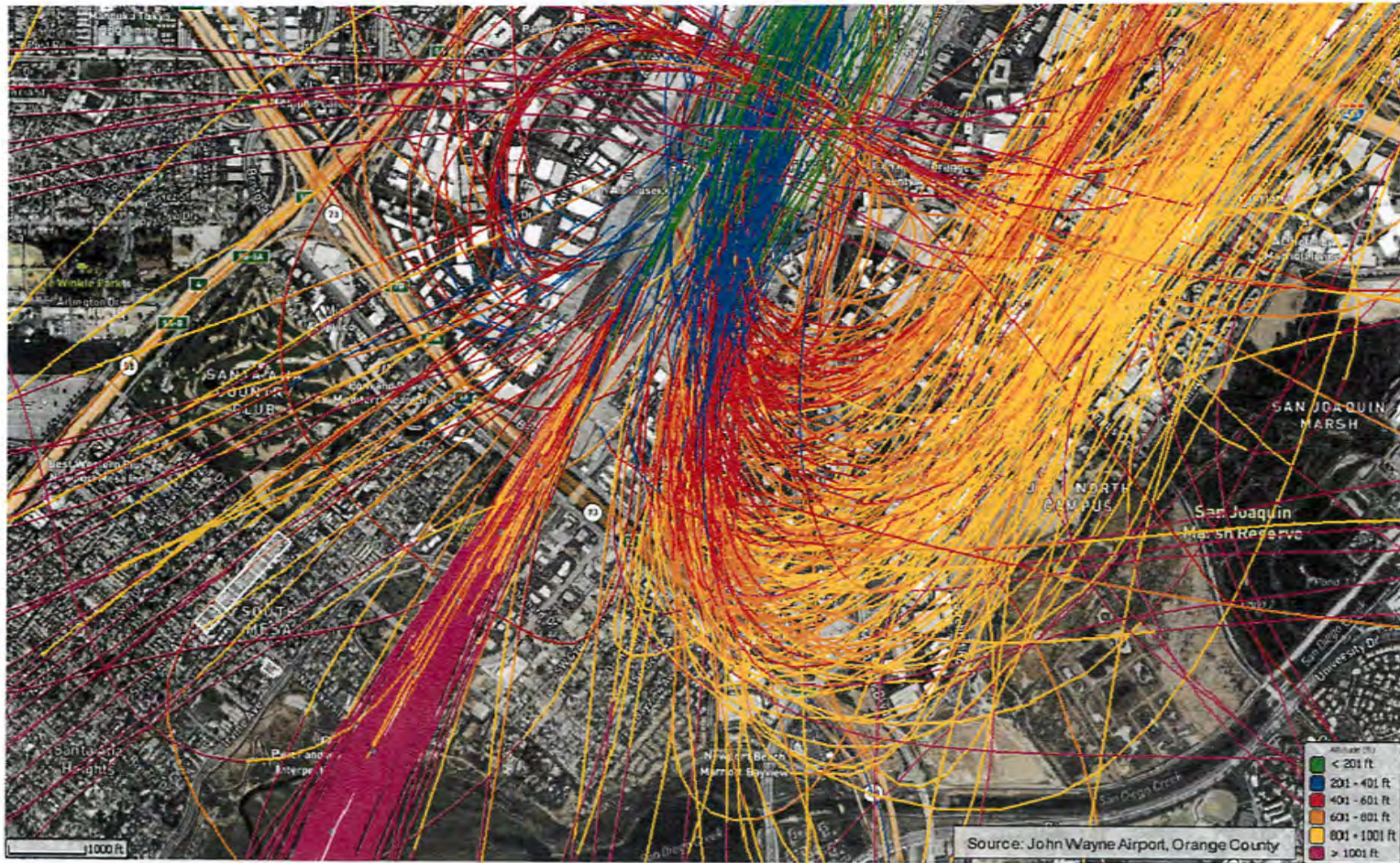
John Wayne Airport Altitude Analysis
629 Operations
Tuesday, April 2, 2024



DocuSign Envelope ID: 5EDE1164-950E-4778-BDB0-896DD6903582



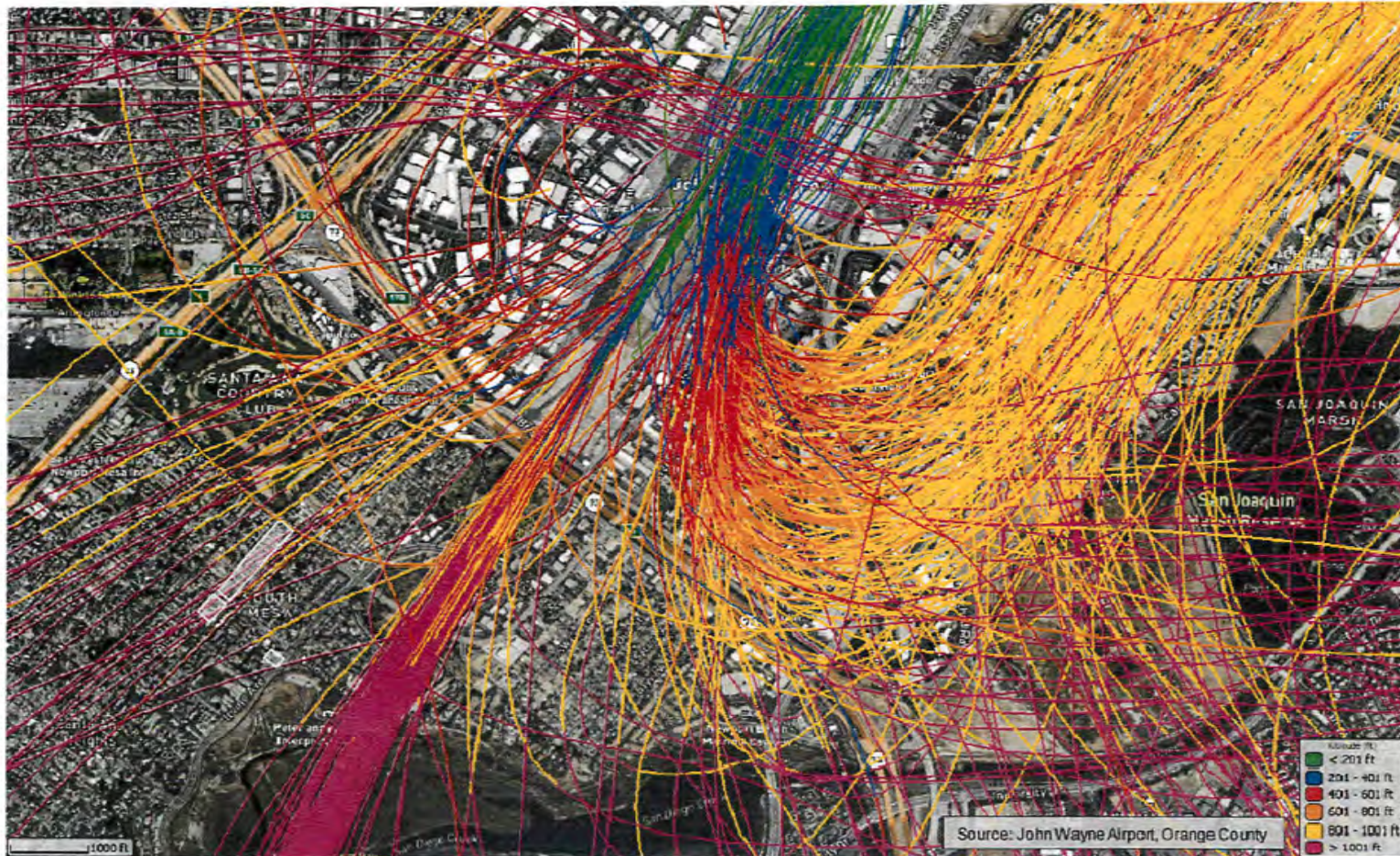
John Wayne Airport Altitude Analysis
589 Operations
Thursday, April 4, 2024



DocuSign Envelope ID: 5EDE1164-950E-4778-BDB0-896DD6903582



John Wayne Airport Altitude Analysis
561 Operations
Saturday, April 6, 2024



DocuSign Envelope ID: 5EDE1164-950E-4779-80B0-896DD6903582

EXHIBIT “D”
Findings to Override ALUC’s Determination

The City Council does hereby find that the 6th Cycle Housing Element Implementation is consistent with the purposes of Section 21670 of the CPUC and the AELUP of protecting the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

Findings and Facts in Support of Findings:

- A. *The 6th Cycle Housing Element Implementation is consistent with the noise standards of the AELUP.*

The AELUP guides development proposals to provide for the orderly development of John Wayne Airport and the surrounding area through implementation of the standards in Section 2 (Planning Guidelines) and Section 3 (Land Use Policies) of the AELUP. Implementation of these standards are intended to protect the public from the adverse effects of aircraft noise, ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable airspace.

Section 2.1.1 of the AELUP sets forth the CNEL standards. A total of 75 new housing opportunity sites are identified in the Airport Area. Of those sites, 56 are located wholly or partially outside the updated 65 dBA CNEL contour boundary as identified by the 2014 John Wayne Airport Settlement Agreement Environmental Impact Report (EIR No. 617). Only 19 new housing opportunity sites are located wholly within the updated 65 dBA CNEL contour boundary. As proposed, residential development would be limited to parcels wholly or partially outside the updated 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its 6th Cycle Housing Element RHNA mandate.

Sections 3.2.3 and 3.2.4 of the AELUP define the noise exposure in the 60 dBA to 65 dBA CNEL noise contour (Noise Impact Zone 2) as “Moderate Noise Impact” and in the 65 dBA to 70 dBA CNEL noise contour (Noise Impact Zone 1) as “High Impact.” Section 3, Table 1 (Limitations on Land Use Due to Noise) of the AELUP identifies residential uses as “conditionally consistent” in the 65 dBA CNEL noise contour and “normally inconsistent” in the 70 dBA CNEL noise contour. However, residential uses are not outright prohibited. Instead, Section 3.2.3 of the AELUP

requires residential uses be developed with advanced insulation systems to bring the sound attenuation to no more than 45 dB inside. In addition, residential uses within the 65 dBA CNEL noise contour area are required to be “indoor-oriented” to preclude noise impingement on outdoor living areas. This is further substantiated and supported by the proposed specific development standards for the Airport Area Environs Area (HO-1), which include enhanced sound mitigation and the allowance of interior amenities that satisfy open space requirements.

The existing CNEL noise contours of the AELUP Master Plan date back to 1985 (“1985 AELUP Master Plan”). However, advances in technology warrant an adjustment to the noise contours. Specifically, the Noise Chapter of EIR No. 617, for the 2014 John Wayne Airport Settlement Agreement Amendment, described how the dBA CNEL noise contours have decreased in size compared to the 1985 AELUP Master Plan CNEL noise contours. The 1985 AELUP Master Plan CNEL noise contours are considerably larger than the existing noise contours presented in the 2014 John Wayne Airport Settlement Agreement Amendment largely due to a quieter fleet of existing commercial aircraft and a dramatic reduction in the number of general aviation operations. The noise contours in EIR No. 617 are based on more contemporary noise modeling programs, as EIR No. 617 explained that “one of the most important factors in generating accurate noise contours is the collection of accurate operational data.” Airport noise contours generated in the Noise Study for EIR No. 617 used the Integrated Noise Model (“INM”) Version 7.0d which was released for use in May 2013, and is the state-of-art in airport noise modeling.

The 6th Cycle Housing Element Implementation is required to ensure the continued and effective implementation of the 6th Cycle Housing Element programs including, but not limited to, the provision of sufficient adequately zoned land to accommodate the City’s share of the regional growth and its required share of lower income dwelling units consistent with the RHNA required of the City under State Law. Additionally, by providing uniform and concise conditions of approval identified in the proposed amendments to Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC, the City has taken actions to address potential environmental constraints in the Airport Area and ensure continued feasibility of sites, to meet its RHNA obligation.

- B. *The proposed 6th Cycle Housing Element Implementation is consistent with the safety standards of the AELUP.*

Section 2.1.2 (Safety Compatibility Zones) of the AELUP sets forth zones depicting which land uses are acceptable in various portions of JWA environs. Most of the housing opportunity sites, except for portions of six properties, are all within Safety Zone 6. Allowed uses in Safety Zone 6 include residential and most nonresidential uses, except outdoor stadiums and similar uses with very high intensities. Uses that should be avoided include children's schools, large day-care centers, hospitals, and nursing homes. Risk factors associated with Safety Zone 6 generally include a low likelihood of accident occurrence. The Newport Beach Golf Course and the Young Men's Christian Association properties are included as housing opportunity sites in the 6th Cycle Housing Element. Portions of those properties are within Safety Zone 4 with the remaining portions lying in Safety Zone 6. Safety Zone 4 limits residential uses to very low density (if not deemed unacceptable because of noise) and advises to avoid nonresidential uses having moderate or higher usage intensities. Three small properties along Bristol Street and Zenith Avenue have also been included at the request of the property ownership. Two of these properties are wholly within Safety Zone 3 with the remainder being bisected by both Safety Zones 3 and 6. Safety Zone 3 limits residential uses to very low densities (if not deemed unacceptable due to noise). Given the smaller size of these properties and intervening nonconforming single-unit residential development, a very low-density project is most likely to occur at these sites.

The City's General Plan Safety Element Policy S8.6 demonstrates that the City acknowledges the importance of the JWA Safety Zones:

"S8.6 John Wayne Airport Traffic Pattern Zone - Use the most currently available John Wayne Airport (JWA) Airport Environs Land Use Plan (AELUP) as a planning resource for evaluation of land use compatibility and land use intensity in areas affected by JWA operations. In particular, future land use decisions within the existing JWA Clear Zone/Runway Protection Zone (Figure S5) should be evaluated to minimize the risk to life and property associated with aircraft operations."

In accordance with Policy S8.6, the 6th Cycle Housing Element Implementation does not include any housing opportunity sites in the JWA Clear Zone/Runway Protection Zone. Compliance with these policies and regulations will ensure that

future development within the JWA Airport Planning Area will follow the safety standards of the AELUP.

- C. *The 6th Cycle Housing Element Implementation is consistent with the purpose and intent of the AELUP and will not result in incompatible land uses adjacent to JWA.*

The standards and policies set forth in AELUP Sections 2 and 3 were adopted to prevent the creation of new noise and safety problems. As set forth above, any development on the proposed housing opportunity sites will comply with the noise criteria and safety standards established in Sections 2 and 3, consistent with policies contained in the amendments to General Plan Land Use Element, Coastal Land Use Plan, Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC, including the enhanced development standards related to noise mitigation and air quality. It is also important to emphasize that parcels bisected by the 65 dBA CNEL noise contour of the updated Noise Element could support future housing; whereas parcels located wholly within the 65 dBA CNEL noise contour could support housing, if deemed necessary to satisfy the RHNA mandate. Lastly, compliance with the AELUP and City standards will be also evaluated and demonstrated at the time development projects are proposed in the future.

Attachment G

Resolution No. 2024-54 Calling Election

RESOLUTION NO. 2024-54

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, CALLING FOR AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 5, 2024, FOR THE SUBMISSION OF A PROPOSED AMENDMENT TO THE LAND USE ELEMENT OF THE GENERAL PLAN

WHEREAS, under the provisions of Section 1000 of the City of Newport Beach Charter (“Charter”), a General Municipal Election shall be held in the City of Newport Beach on the first Tuesday after the First Monday of November in each even-numbered year for the election of officers and for such other purposes as the City Council may prescribe;

WHEREAS, on June 11, 2024, the City Council adopted Resolution No. 2024-33 calling a General Municipal Election to be held on Tuesday, November 5, 2024, for the purpose of the election of members of the City Council to represent the Second, Fifth and Seventh Districts, for a term of four years, which resolution is incorporated herein by this reference;

WHEREAS, Charter Section 423 and the Measure S Guidelines require voter approval of any amendment to the General Plan that exceeds certain thresholds;

WHEREAS, by adoption of this resolution, the City Council has determined that a proposed amendment to the Land Use Element of the General Plan should be submitted to the voters for approval pursuant to the provisions of Charter Section 423 and the Measure S Guidelines; and

WHEREAS, under the provisions of Charter Section 1000, the City Council of the City of Newport Beach desires to call and give notice of a General Municipal Election to be held on Tuesday, November 5, 2024, for the purpose of submitting to the voters a proposed amendment to the Land Use Element of the General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1: Pursuant to its right, title and authority under Charter Section 1000, there is hereby called and ordered to be held in the City of Newport Beach, California, on Tuesday, November 5, 2024, a General Municipal Election for the purpose of voting on a proposed amendment to the Land Use Element of the General Plan, as provided for in this resolution.

Section 2: The City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election on Tuesday, November 5, 2024, the following question:

<p>MEASURE ____</p> <p>CITY OF NEWPORT BEACH GENERAL PLAN - AMENDMENT</p> <p>Shall the General Plan’s Land Use Element be amended so the City of Newport Beach can avoid fines of up to \$600,000 per month, losing local control over land use decisions, suspension of authority to issue building permits, and access to state funding, by adding the following State of California mandated residential housing opportunity units in Coyote Canyon (1,530), Dover-Westcliff (521), West Newport Mesa (1,107), the Airport Area (2,577), and Newport Center (2,439)?</p>	<p>Yes</p>
	<p>No</p>

Section 3: The proposed ballot measure to be submitted to the voters consists of the revisions to the City’s General Plan Land Use Element (Policies LU 4.4. and LU 4.5) adopted as part of the Land Use Element Amendment to the General Plan, which are attached hereto as Exhibit 1 and incorporated herein by this reference.

Section 4: The vote requirement for the ballot measure to pass is a majority (50% +1) of the votes cast.

Section 5: The ballots to be used at the election shall be in form and content as required by law.

Section 6: The City Clerk is authorized, instructed, and directed to contract with the County of Orange Registrar of Voters to procure and furnish any and all services, official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary to properly and lawfully conduct the election.

Section 7: In accordance with the provisions of law governing Statewide General Election, including Elections Code Section 10418, the precincts, ballot drop box locations and hours of operations, vote center locations and hours of operations, vote-by-mail procedures and timing, the election officers, and all other services, staff, and procedures for the General Municipal Election shall be the same as those utilized by the County of Orange and in compliance with the Elections Code of the State of California.

Section 8: In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 9: Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law.

Section 10: The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Section 11: The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City of Newport Beach upon presentation of a properly submitted bill.

Section 12: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 13: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 14: The City Council finds the adoption of this resolution to submit to voters a ballot measure that amends the Land Use Element of the General Plan is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally, the Housing Element Implementation Program Amendments Final Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) addresses all environmental impacts associated with this action in compliance with CEQA as set forth in the Public Resources Code Sections 21000 *et seq.*, the CEQA Guidelines, and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). Specifically, Resolution No. 2024-____, which is hereby incorporated by reference, was adopted by the City Council on July 23, 2024, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City received two public comment letters during the statutory public comment period and the City responded to each comment and fully addressed all environmental impacts. Council hereby finds that the action to adopt this resolution was considered within the PEIR and no additional environmental review is required.

Section 15: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

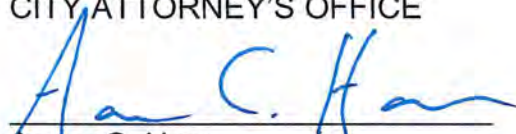
ADOPTED this 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment: Exhibit 1 - General Plan Land Use Element Policies LU 4.4 and 4.5

EXHIBIT 1

General Plan Land Use Element Policy LU 4.4 is added in its entirety as follows:

LU 4.4 Rezoning to Accommodate Housing Opportunities

Accommodate housing opportunities through the adoption of housing opportunity overlay zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element's focus areas. Properties within each overlay district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites or adjustments may be identified in the future through rezoning unless precluded by state law. The goal is to ensure an adequate number of sites Citywide to accommodate the City's overall allocation of the Regional Housing Needs Assessment:

- **Airport Environs:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the area.
- **West Newport Mesa:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the area.
- **Newport Center:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the area. units per gross acre.
- **Dover / Westcliff:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the area.
- **Coyote Canyon:** the intent is to allow a density between 20 and 60 dwelling units per gross acre of viable land to accommodate up to 1,530 total dwelling units within the area.

General Plan Land Use Element Policy LU 4.5 is added in its entirety as follows:

LU 4.5 Residential Uses and Residential Densities

Residential use of any property included within an established housing opportunity overlay zoning district is allowed regardless of and in addition to the underlying land use category or density limit established through Policy LU 4.1, Table LU 1 and Table LU 2, or any other conflict in the Land Use Element. A general plan amendment is not required to develop a residential use within an established housing opportunity zoning overlay district. The maximum density specified for the various overlay districts specified in Policy LU 4.2 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 4.4 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units identified in LU 4.4 do not include units identified as pipeline units or units permitted pursuant to State density bonus law.

Attachment H

Resolution No. 2024-55 Requesting Consolidation

RESOLUTION NO. 2024-55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2024, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE PURSUANT TO CALIFORNIA ELECTIONS CODE 10403 FOR THE PURPOSE OF SUBMITTING A BALLOT MEASURE FOR A PROPOSED AMENDMENT TO THE LAND USE ELEMENT OF THE GENERAL PLAN

WHEREAS, pursuant to Section 423 of the City of Newport Beach Charter (“Charter”), voter approval is required for any major amendment to the Newport Beach General Plan;

WHEREAS, the City Council of the City of Newport Beach, California, called a General Municipal Election to be held on Tuesday, November 5, 2024, for the purpose of submitting a proposed amendment to the Land Use Element of the General Plan to the voters;

WHEREAS, California Elections Code Section 10400 *et seq.* authorizes a municipality to consolidate its election with a statewide election to be held on the same day; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, vote center locations, ballot drop box locations, and election officers of the two elections be the same; the County Elections Department of the County of Orange canvass the returns of the General Municipal Election; and the election be held in all respects as if there were only one election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1: Pursuant to the requirements of California Elections Code Section 10403, the Board of Supervisors of the County of Orange is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 5, 2024, for the purpose of submitting proposed amendments to the Land Use Element of the General Plan.

Section 2: That a measure is to appear on the ballot as follows:

<p>MEASURE ____</p> <p>CITY OF NEWPORT BEACH GENERAL PLAN - AMENDMENT</p> <p>Shall the General Plan’s Land Use Element be amended so the City of Newport Beach can avoid fines of up to \$600,000 per month, losing local control over land use decisions, suspension of authority to issue building permits, and access to state funding, by adding the following State of California mandated residential housing opportunity units in Coyote Canyon (1,530), Dover-Westcliff (521), West Newport Mesa (1,107), the Airport Area (2,577), and Newport Center (2,439)?</p>	<p>Yes</p>
	<p>No</p>

Section 3: The County Election Department of the County of Orange is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regarding the Statewide General Election.

Section 4: The Board of Supervisors of the County of Orange is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

Section 5: The City of Newport Beach recognizes that additional costs will be incurred by the County of Orange by reason of this consolidation and agrees to reimburse the County of Orange for any costs.

Section 6: The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Orange.

Section 7: The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Section 8: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

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

Section 10: The City Council finds the adoption of this resolution to submit to voters a ballot measure that amends the Land Use Element of the General Plan is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally, the Housing Element Implementation Program Amendments Final Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) addresses all environmental impacts associated with this action in compliance with CEQA as set forth in the Public Resources Code Sections 21000 *et seq.*, the CEQA Guidelines, and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). Specifically, Resolution No. 2024-__, which is hereby incorporated by reference, was adopted by the City Council on July 23, 2024, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City received two public comment letters during the statutory public comment period and the City responded to each comment and fully addressed all environmental impacts. Council hereby finds that the action to adopt this resolution was considered within the PEIR and no additional environmental review is required.

Section 11: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment I

Resolution No. 2024-56 Filing Written Arguments and
Directing the City Attorney to Prepare an Impartial Analysis

RESOLUTION NO. 2024-56

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, in accordance with Article 4, Chapter 3, Division 9 of the California Elections Code, the City Council of the City of Newport Beach may file a written argument for or against any City measure; and

WHEREAS, a General Municipal Election is to be held in the City of Newport Beach, California, on Tuesday, November 5, 2024, at which there will be submitted to the voters the following measure:

MEASURE ____	Yes
CITY OF NEWPORT BEACH GENERAL PLAN - AMENDMENT	No
Shall the General Plan’s Land Use Element be amended so the City of Newport Beach can avoid fines of up to \$600,000 per month, losing local control over land use decisions, suspension of authority to issue building permits, and access to state funding, by adding the following State of California mandated residential housing opportunity units in Coyote Canyon (1,530), Dover-Westcliff (521), West Newport Mesa (1,107), the Airport Area (2,577), and Newport Center (2,439)?	

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1: That the City Council authorizes the following City Council Member(s) of its body:

_____ (In Favor)	_____ (Against),
_____ (In Favor)	_____ (Against),
_____ (In Favor)	_____ (Against),

to file a written argument not exceeding three hundred (300) words regarding the City measure as specified above, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the California Elections Code. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk. A direct argument may not be signed by more than five (5) authors.

The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the "Form of Statement to be Filed by Author(s) of Argument."

Section 2: The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure of no more than five hundred (500) words, pursuant to California Elections Code Section 9280.

Section 3: The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 6: The City Council finds the adoption of this resolution to submit to voters a ballot measure that amends the Land Use Element of the General Plan is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally, the Housing Element Implementation Program Amendments Final Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) addresses all environmental impacts associated with this action in compliance with CEQA as set forth in the Public Resources Code Sections 21000 *et seq.*, the CEQA Guidelines, and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). Specifically, Resolution No. 2024-____, which is hereby incorporated by reference, was adopted by the City Council on July 23, 2024, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City received two public comment letters during the statutory public comment period and the City responded to each comment and fully addressed all environmental impacts. Council hereby finds that the action to adopt this resolution was considered within the PEIR and no additional environmental review is required.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment J

Resolution No. 2024-57 Providing for the Filing of Rebuttal Arguments

RESOLUTION NO. 2024-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR THE CITY MEASURE SUBMITTED TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2024, PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 9285

WHEREAS, pursuant to California Elections Code Section 9282(b), the City Council and other interested parties are authorized to submit arguments for and against the City's proposed ballot measures; and

WHEREAS, pursuant to California Elections Code Section 9285, the City Council, by majority vote, is authorized to adopt provisions to provide for the filing of rebuttal arguments for direct arguments submitted under California Elections Code Section 9282(b).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1: Pursuant to California Elections Code Section 9285(a)(1), when the Elections Office has selected the arguments for and against the measure which will be printed and distributed to the voters, the Elections Official shall send a copy of the argument in favor of the measure to the authors of the argument against the measure and a copy of the argument against the measure to the authors of the argument in favor of the measure.

Pursuant to California Elections Code Section 9285, the author or a majority of the authors of an argument relating to a City measure may prepare and submit a rebuttal argument not exceeding two hundred fifty (250) words or may authorize, in writing, any other person or persons to prepare, submit or sign the rebuttal argument. A rebuttal argument may not be signed by more than five (5) authors.

The rebuttal argument(s) shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than ten calendar days after the final date for filing direct arguments. The rebuttal argument(s) shall be accompanied by the "Form of Statement to be Filed by Author(s) or Argument."

Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

Section 2: All previous resolutions providing for the filing of rebuttal arguments for City measures are hereby repealed.

Section 3: The rebuttal provisions provided herein shall apply only to the General Municipal Election to be held on Tuesday, November 5, 2024.

Section 4: The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 7: The City Council finds the adoption of this resolution to submit to voters a ballot measure that amends the Land Use Element of the General Plan is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally, the Housing Element Implementation Program Amendments Final Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) addresses all environmental impacts associated with this action in compliance with CEQA as set forth in the Public Resources Code Sections 21000 *et seq.*, the CEQA Guidelines, and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). Specifically, Resolution No. 2024-__, which is hereby incorporated by reference, was adopted by the City Council on July 23, 2024, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City received two public comment letters during the statutory public comment period and the City responded to each comment and fully addressed all environmental impacts. Council hereby finds that the action to adopt this resolution was considered within the PEIR and no additional environmental review is required.

Section 8: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment K

April 18, 2024 Planning Commission Staff Report (provided digitally due to size and accessible at the following link

<https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2954635&dbid=0&repo=CNB>),

Minutes Excerpts, and Resolution No. 2024-006

Satish Lion, representative of The Picerne Group, used a presentation to review The Residences at the Airport Village, thanked staff and partners, introduced the project team, and described The Picerne Group. Cory Bitting, Associate Principal at TCA Architects, provided an overview of the project design highlights by first presenting pictures of the current condition, then relaying the challenges and opportunities using a context map, ground level and podium level plans, and MacArthur, Birch & MacArthur, and Campus perspective elevations. Mike Meyers, Senior Principal at Lifescapes International, reviewed the overall landscaping plan and plans for the ground level, podium level, wellness pool, and pool. In closing, Mr. Lion shared letters of support, reiterated their commitment to the community, and agreed to the recommended conditions as stated in the report including the updates to numbers three and eight.

In response to Vice Chair Rosene’s question, Mr. Lion clarified that the easement by the southeast side against the existing medical facility which provides access to the parking area will be maintained during the construction period. Vice Chair Rosene suggested staff discuss Condition No. 21 regarding a deed notification.

In response to Chair Ellmore’s interest in noise cancellation efforts, Mr. Lion stated that the preliminary acoustical analysis revealed that the noise from the airport is less than the noise from MacArthur, noise within the courtyard is less than at the perimeter of the building, and that during design and development a more detailed analysis will be completed. He relayed that the determinations are consistent with other projects they have developed.

Jim Mosher thought there was a clash between luxury apartments in an anticipated workforce housing area, expressed concern for the noise environment and impact to the balconies facing MacArthur, and suggested measuring the noise level at that location.

Acting Deputy Community Development Director Murillo noted that the project is consistent with legislative approvals for the Newport Airport Village Planned Community approved by the City Council and General Plan Policy N1.5 allows higher exterior noise levels for infill projects and the project includes measures to ensure compliance with City noise standards.

Chair Ellmore closed the public hearing.

Commissioner Langford thought the project was thoughtful and thanked the staff. He expressed his inclination to vote in favor of the project. Vice Chair Rosene concurred.

Commissioner Salene thanked The Picerne Group and appreciated the extra parking being provided.

Motion made by Commissioner Barto and seconded by Commissioner Salene to approve the item as recommended by staff.

AYES: Barto, Ellmore, Langford, Rosene, and Salene
NOES: None
RECUSED: Lowrey and Harris
ABSENT: None

ITEM NO. 3 HOUSING ELEMENT IMPLEMENTATION PROGRAM AMENDMENTS (PA2022-0245)

Site Location: Citywide

Summary:

As required by state law, the City adopted the 6th Cycle Housing Element for the 2021-2029 planning period (Housing Element) on September 13, 2022, which was certified by the California Department of Housing and Community Development on October 5, 2022.

To implement the Housing Element, the Planning Commission will consider a recommendation to the City Council of the amendments and actions described below which must take effect by the statutory deadline of February 2025:

- **General Plan Amendment.** Amend the General Plan Land Use Element to support housing production in the focus areas identified by the Housing Element;
- **Zoning Code Amendment.** Amend Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC) to implement the Land Use Element's policy changes by allowing housing development through new Housing Opportunity (HO) Overlay Zoning Districts, establish appropriate development standards, and create objective design and development standards for multi-unit residential and mixed-use development projects; and
- **Local Coastal Program Amendment.** Amend the Newport Beach Coastal Land Use Plan and Title 21 (Local Coastal Program Implementation Plan) of the NBMC to include new Housing Opportunity (HO) Overlay Coastal Zoning Districts to support housing production in the focus areas identified by the Housing Element within the Coastal Zone.

Recommended Action:

1. Conduct a public hearing; and
2. Adopt Resolution No. PC2024-006 recommending City Council certify the Program Environmental Impact Report (EIR) identified by State Clearinghouse Number (SCH No.) 2023060699, including the Mitigation Monitoring and Reporting Program (MMRP), and approve the Housing Element Implementation Program Amendments all collectively referred to as "PA2022-0245".

Commissioners Langford and Rosene recused themselves due to business interest conflicts.

Principal Planner Zdeba utilized a presentation to review a brief background, why are we here, implementing action for the Land Use Element update and new policies, City Charter Section 423, vote related to traffic and density; implementing action for the overlay zoning and development standard, recent posting, and overlay zone maps; implementing action for the objective design standards; implementing action for the local coastal program amendment; and implementing action for the California Environmental Quality Act (CEQA) clearance, and program environmental impact report (EIR) topics and impacts. He noted the opportunity for public review of all documents, comment letters, expected next steps, accountability, and key takeaways.

Commissioner Barto suggested greater clarification of mitigation efforts in conflicting areas of the EIR and specifically noted Sections 4.2, 4.26 (table), 4.21, and 4.17. In response, Ace Malisos of Kimley Horn addressed the 3,000 metric ton threshold for greenhouse gas emissions, mitigation screening level to gauge further studies, conservative approach to analysis, and flexible threshold. He noted considerations for air quality consistency including a programmatic analysis, conservative approach, and specific analysis and mitigation requirements for future development projects, plan

consistency criteria, and water supply plans that will be included in the urban management plans in the next round.

In response to Commissioner Salene's question, Principal Planner Zdeba expected that the Airport Land Use Commission will not sign off on the plan due to a conflict with the provisions in the Airport Environs Land Use Plan that discourages residential in sensitive noise areas or safety zone areas.

In response to Secretary Harris' question, Principal Planner Zdeba noted the difficulty predicting the impact to the plan from legislative changes, the proposed policies in the General Plan are matching the housing elements implementation, and a General Plan amendment and zoning code amendment would be required to curtail this back.

Chair Ellmore opened the public comment.

Jim Mosher thought the amendment is not ready for adoption, noted his membership on the General Plan Advisory Committee (GPAC), relayed that the recommendation by the GPAC for the Land Use Element policy changes was not unanimous, stated the Land Use Element changes are the only part included in the vote, indicated areas not ready for adoption in the zoning implementation, and expressed concern for a permanent entitlement in the General Plan without a sunset provision, a plan not tailored to the Regional Housing Needs Assessment (RHNA), and restricting opportunities to a few sites.

In response to Chair Ellmore's inquiry, Principal Planner Zdeba relayed that there are statements relaying that the density bonus units are not being included explicitly in the analysis within the project description for the program EIR and can be clarified by staff in the findings from the EIR and will be provided to the City Council for consideration.

Chair Ellmore suggested replacing the word "parcel" with "sites" in the noise Section 4.11. In response, Acting Deputy Community Development Director Murillo relayed a change to the implementing section of Zoning Ordinance Section 20.30.80.F that clarifies that the intent is to look at the development site as a whole, including those consisting of multiple parcels, and the zoning ordinance language is clear.

Chair Ellmore closed the public hearing.

Commissioner Lowrey thought the City has done a good job on this matter and expressed support for the recommendation.

Secretary Harris thanked staff and volunteer groups and supported the recommendation.

Motion made by Secretary Harris and seconded by Chair Ellmore to approve the item as recommended by staff.

AYES: Barto, Ellmore, Lowrey, Harris, and Salene
NOES: None
RECUSED: Langford and Rosene
ABSENT: None

VIII. STAFF AND COMMISSIONER ITEMS

ITEM NO. 4 MOTION FOR RECONSIDERATION

None

ITEM NO. 5 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA

Acting Deputy Community Development Director Murillo noted that during the April 23 City Council meeting, the appeal of the Orange County Sanitation District Pump Station will be heard. He stated that a legislative approval and a variance are scheduled for the May 9 Planning Commission meeting and several items are expected for the May 23 meeting. Lastly, he congratulated Principal Planner Zdeba for winning the OC Real Estate Challenge.

ITEM NO. 6 REQUESTS FOR EXCUSED ABSENCES

None

IX. ADJOURNMENT – With no further business, the meeting was adjourned by Chair Ellmore at 7:21 p.m.

The agenda for the April 18, 2024, Planning Commission meeting was posted on Thursday, April 11, 2024, at 4:23 p.m. in the Chambers binder, on the digital display board located inside the vestibule of the Council Chambers at 100 Civic Center Drive, and on the City’s website on Thursday, April 11, 2024, at 4:53 p.m.



Curtis Ellmore, Chair



Tristan Harris, Secretary

RESOLUTION NO. PC2024-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING THE CITY COUNCIL CERTIFY AN ENVIRONMENTAL IMPACT REPORT, INCLUDING A MITIGATION MONITORING AND REPORTING PROGRAM AND A STATEMENT OF OVERRIDING CONSIDERATIONS WITH CEQA FINDINGS, AND AMENDMENT TO THE GENERAL PLAN, COASTAL LAND USE PLAN, AND TITLE 20 (PLANNING AND ZONING) AND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE TO IMPLEMENT THE GENERAL PLAN 6TH CYCLE HOUSING ELEMENT IN COMPLIANCE WITH STATE LAW (PA2022-0245)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. Every eight years, state law requires the City of Newport Beach (“City”) to update its Housing Element, one of the seven mandatory elements of the Newport Beach General Plan, which identifies and analyzes existing and projected housing needs within their jurisdiction.
2. Newport Beach was assigned a Regional Housing Needs Allocation (“RHNA”) allocation of 4,845 homes as its projected housing needs for the planning period covering 2021-2029.
3. As a result, the City prepared the 6th Cycle Housing Element, which covers the planning period from 2021-2029 (“6th Cycle Housing Element”) to plan for the 4,845 new housing units.
4. Preparation of the 6th Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted the Housing Element Update Advisory Committee (HEAUC), which was an ad-hoc committee formed and appointed by the City Council.
5. In accordance with state law, the 6th Cycle Housing Element for the 2021-2029 planning period was adopted by the City Council on September 13, 2022, and certified as statutorily compliant with state law by the State Department of Housing and Community Development (“HCD”) on October 5, 2022.
6. Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations based on the RHNA allocation of 4,845 new housing units, the “fair share” of regional housing need and demand.

-
7. The 6th Cycle Housing Element identifies the following site groupings or “focus areas” that are best suited to accommodate the City’s RHNA planning obligation:
- Airport Area Environs
 - West Newport Mesa
 - Newport Center
 - Dover/Westcliff
 - Coyote Canyon
8. The 6th Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City’s RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during the 6th Cycle implementation. Rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the Land Use Element of the General Plan and the Local Coastal Program.
9. To comply with state law, the City has been working diligently to implement the planning strategy outlined in Section 4 (Housing Plan) of the 6th Cycle Housing Element no later than February 2025. The implementing programs and strategies (“6th Cycle Housing Element Implementation”) include the following amendments and actions:
- **General Plan Amendment (“GPA”).** To revise the necessary goals and/or policies within the City’s Land Use Element to support housing production in the focus areas identified by the Housing Element;
 - **Amendment to Title 20 (Planning and Zoning) of the NBMC (“ZCA”).** To implement the Land Use Element’s policy changes by allowing housing development as an opportunity and establishing appropriate development standards create objective design and development standards for multi-unit residential and mixed-use development projects;
 - **Local Coastal Program Amendment (“LCPA”).** To revise and create new policies within the City’s Coastal Land Use Plan and to update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6th Cycle Housing Element and within the Coastal Zone; and
 - **Program Environmental Impact Report (SCH No. 2023060699).** To analyze potential environmental impacts under the California Environmental Quality Act (“CEQA”) related to the implementation of the 6th Cycle Housing Element through providing additional housing development capacity.
10. Certain components of the 6th Cycle Housing Element Implementation constitute a “Major Amendment” as defined in Section 423 (Protection from Traffic and Density) of Article IV

of the City's Charter; therefore, they individually and/or collectively require a majority vote of the electorate.

11. The 6th Cycle Housing Element Implementation must take effect by February of 2025 to avoid significant penalties authorized under by state law, including but not limited to:
 - Increased exposure to public and private litigation;
 - Loss of permitting authority;
 - Financial penalties, including monthly fines from \$10,000 to \$100,000;
 - Loss of eligibility for state and regional funding sources;
 - Court receivership;
 - Senate Bill 35 ("SB 35") streamlined ministerial approval process; and
 - Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD.
12. SB 35 provides for a "builder's remedy" that allows developers of affordable housing projects to bypass the zoning code and general plan of cities that are deemed non-compliant with state law by effectively ignoring height limits, density limits, and other regulations that make for thoughtfully planned development. Cities are effectively prohibited from denying a "builder's remedy" project except in unique circumstances, resulting in a loss of local control.
13. A public hearing was held on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 (Public Hearings) and 21.62 (Public Hearing) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. A draft program Environmental Impact Report (State Clearinghouse Number 2023060699) ("DEIR") has been prepared in compliance with the CEQA set forth in Public Resources Code Section 21000 *et seq.*, the State CEQA Guidelines set forth in 14 California Code of Regulations Section 15000 *et seq.*, and City Council Policy K-3.
2. The DEIR was circulated for a 46-day comment period beginning on February 12, 2024, and ending on March 28, 2024. The Environmental Impact Report ("EIR"), which includes the DEIR, comments, and responses to the comments as of the public hearing date, is being considered by the Planning Commission in its review of the 6th Cycle Housing Element Implementation.
3. The Planning Commission finds that the EIR has been prepared and completed in compliance with CEQA and City Council Policy K-3.
4. The Planning Commission finds that the EIR reflects the independent judgment and analysis of the City.

5. The Planning Commission reviewed and considered the information contained in the EIR prior to forwarding its recommendation on the amendments to the General Plan, NBMC, and Local Coastal Program.
6. Given the programmatic nature of the EIR, any one site within a focus area that exceeds a threshold of significance causes the need to explore mitigation for the corresponding topic area. Accordingly, the EIR discloses significant and unavoidable impacts relating to aesthetics, air quality, cultural resources, greenhouse gas (“GHG”) emissions, noise and utilities and service systems and potentially significant environmental impacts related to geology and soils, tribal cultural resources and wildfire that may directly or indirectly result from the project but would be reduced to a less than significant level of impact by the mitigation measures specified in the EIR.

SECTION 3. FINDINGS.

General Plan Amendment

An amendment to the City’s General Plan Land Use Element is a legislative act. Neither Title 20 (Planning and Zoning) of the NBMC nor California Government Code Section 65000 *et seq.*, set forth any required findings for either approval of such amendments. Notwithstanding the foregoing, the following amendments to the General Plan Land Use Element will create internal consistency with the certified 6th Cycle Housing Element:

Findings and Facts in Support of Finding:

1. According to General Plan Implementation Program 1.2, revisions and updates of the General Plan must be made in accordance with the Vision Statement. While it is being reviewed as part of the comprehensive General Plan update, as presently written, it is the City’s intention to be a residential community, balanced with supporting nonresidential uses, job opportunities, and visitor and recreational services and amenities. Furthermore, the Vision Statement calls for “a range of housing opportunities that allows people to live and work in the City.”
2. Implementation Program 1.2 further states that amendments to accommodate the City’s “fair share” of regional housing demand will be considered in context of these visions and the goals stipulated by the General Plan. Adoption of the proposed Amendment will support the 6th Cycle Housing Element adopted in the context of the visions and goals stipulated by the General Plan.
3. The proposed Amendment, attached to this resolution and incorporated herein, is in full compliance with the Section 4 of the 6th Cycle Housing Element as presented below:

6th Cycle Housing Element Implementation Measures	Amendments in Support of Housing Element’s Implementation Measures
<p>Housing Goal #1. Provision of adequate sites to accommodate projected housing unit growth needs within the following identified housing opportunity sites:</p> <ul style="list-style-type: none"> • Airport Area Environs • West Newport Mesa • Newport Center • Dover/Westcliff • Banning Ranch • Coyote Canyon <p>Housing Goal #2. Quality residential development and preservation, conservation, and appropriate redevelopment of housing stock.</p> <p>Housing Goal #3. A variety of housing types, designs, and opportunities for all social and economic segments.</p> <p>Housing Goal #4. Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.</p>	<p>Revised Policies LU 1.1 through LU 1.5 emphasize the goal of balancing the needs of residents, businesses, and visitors through the recognition that Newport Beach is primarily a residential community. The polices underscore the need to preserve and enhance residential neighborhoods. The identified sites direct new housing opportunities outside of established residential neighborhoods. The amended Policies ensure the continued recognition that Newport Beach is primarily a residential community.</p> <p>Revised Policies LU 2.2 and LU 2.5 call for supporting the development of uses that allow the City to be a complete community and indicate that harbor and waterfront uses contribute to the charm and character of the City and provide needed support for residents.</p> <p>Revised Policy 3.3 (Transition of Land Uses) calls for supporting residential opportunities in West Newport Mesa; residential infill development along Balboa Boulevard corridor and facilitating workforce housing in proximity to jobs, transportation and services in West Newport Mesa and the Airport Area; and providing for housing opportunities that complement nonresidential uses in the Coyote Canyon Landfill site.</p> <p>Revised Goal LU 4 Manage growth and change to:</p> <ul style="list-style-type: none"> • Support the livability of existing neighborhoods. • Support residential opportunities that accommodate the City’s share of the Regional Housing Needs Assessment. • Promote new uses that are complimentary to already existing neighborhoods and uses. • Achieve distinct and economically vital business and employment districts. • Correlate with supporting infrastructure and public services. • Sustain Newport Beach’s natural setting. <p>The above amendment supports Housing Goal #1 as it accommodates City’s share of RHNA.</p>

6th Cycle Housing Element Implementation Measures	Amendments in Support of Housing Element’s Implementation Measures
	<p>Revised Policy LU4.1 (Land Use Diagram) clarifies that density limits exclude increases allowed through the application of density bonus laws as stipulated also by state law.</p> <p>New Policies 4.4 (Rezoning to Accommodate Housing Opportunities); 4.5 (Residential Uses and Residential Densities); 4.6 (Continuation of Existing Development); and 4.7 (Redevelopment and Transfer of Development Rights) all support 6th Cycle Housing Element Implementation Measures. These policies stipulate that residential opportunities are to be established as overlay zones which allow for existing uses to continue. Opportunities for by-right development, when at least 20% or more units are affordable to lower-income households, ensures housing opportunities for all social and economic segments and ensures streamlined project review.</p> <p>Revised Policy LU 5.1.3 (Neighborhood Identification) calls for the establishment of objective design and development standards which ensures Implementation Goals 1 and 2 which stipulate quality design and variety of housing designs.</p> <p>Revised Policy LU 6.2.4 (Accessory Dwelling Units (ADUs)) supports and promotes the development of accessory dwelling units and junior accessory dwellings. This policy fulfills Implementation Goal #1 that calls for the City to aggressively support and accommodate the construction of at least 240 ADUs.</p> <p>Revised Policies LU 6.4.2 (Residential); LU 6.6.2 (Residential Types (West Newport Mesa)); LU 6.15.4 (Priority Uses (Airport Area – Mixed-Use Districts [Subarea C, “MU-H2” designation])); LU 6.15.28 (Priority Uses (Airport Area – Commercial Nodes]”CG” designation Sub-Area C-part]) and LU 6.15.29 (Priority Uses (Airport Area – Commercial Office District [“CO-G” designation Sub-Area C—part]) support housing development or redevelopment within the opportunity sites identified in the Housing Element.</p>

Charter Section 423 Analysis

1. Voter approval is required for any major amendment to the Newport Beach General Plan. A “major amendment” is one that significantly increases the maximum amount of traffic that allowed uses could generate, or significantly increases allowed density or intensity. “Significantly increases” means over 100 peak hour trips (traffic), or over 100 dwelling units (density), or over 40,000 square feet of floor area (intensity).
2. The thresholds apply to the total of: 1) Increases resulting from the amendment itself, plus 2) 80% of the increases resulting from other amendments affecting the same neighborhood and adopted within the preceding 10 years. As the proposed amendment is considered a major amendment, it will not take effect if City Council decides to approve it, unless it has been accessed to registered voters and has been approved by a majority of those voting on it.
3. Should the City not implement the 6th Cycle Housing Element by February 2025, the City may be considered non-compliant with State Housing Laws and developers of affordable housing projects will be entitled to have their residential projects approved as a “builder’s remedy” in accordance with Senate Bill 35, effectively ignoring height limits, density limits and other regulations designed to ensure development is consistent with the City’s Vision Statement of the General Plan.

Tribal Consultation

1. Pursuant to Senate Bill 18, the City requested a Sacred Lands File (SLF) search on the project location from the Native American Heritage Commission (NAHC) on March 5, 2023. On March 22, 2023, the NAHC responded that the findings of the search were positive and identified 19 Native American tribal representatives to contact for further information on potential tribal resources. To comply with both the requirements of SB 18 and Assembly Bill 52, the City mailed and emailed notices regarding the proposed project to all of the listed tribes. The City received a response from only one representative of the Gabrieleño Band of Mission Indians – Kizh Nation expressing no concerns on the project given its programmatic nature, but also expressing a desire to be consulted on future individual projects.

Zoning Code Amendment

An amendment to Title 20 (Planning and Zoning) of the NBMC is a legislative act. Neither Title 20 itself nor California Government Code Section 65000 et seq., set forth any required findings for either approval of such amendments. However, Section 20.66.040 of the NBMC requires the Planning Commission to make and file a report of its findings and recommendations with the Council.

Findings and Facts in Support of Finding:

1. The Zoning Code is a tool designed to implement the General Plan. Since the 6th Cycle Housing Element Implementation involves an amendment to the General Plan, it is necessary to also amend Title 20 (Planning and Zoning) to achieve its goals and policies.

2. The ZCA, attached to this resolution as Exhibits “B” and “C,” and incorporated herein, including the Housing Opportunity (HO) Overlay Zoning Districts with associated development standards, and the Multi-Unit Objective Design Standards, are consistent with the implementation program in the Housing Plan of the Housing Element, as discussed above under the Findings for the General Plan Amendment. The ZCA will enable the implementation of the Housing Element’s key objective, which is to accommodate the development of housing projects to fulfill City’s “fair share” of regional housing need and demand.

Local Coastal Program Amendment

An amendment to Title 21 (Local Coastal Program Implementation Plan) of the NBMC is a legislative act. Neither Title 21 of the NBMC itself nor California Government Code Section 65000 et seq., set forth any required findings for either approval of such amendments.

Findings and Facts in Support of Finding:

1. The 6th Cycle Housing Element includes the Housing Plan, which sets forth programs and strategies to facilitate and encourage the development of the City’s “fair share” of regional housing demand. Appendix B of the 6th Cycle Housing Element has identified several sites to be rezoned with the Housing Overlay (HO) Zoning District. A number of these sites are within the Coastal Zone. As the Zoning Code needs to be amended to add the new HO Overlay Zones, and the associated development standards, similarly, the Local Coastal Program needs to be amended to add the new Overlay Zones along with the development standards, for properties that are within the Coastal Zone.
2. The proposed amendments, attached to this resolution as Exhibit “D,” and incorporated herein, fulfill the Housing Plan, as the amendments will facilitate the development of housing consistent with the 6th Cycle Housing Element as shown below:

6th Cycle Housing Element Implementation Measures	Amendments to the Local Coastal Policy in Support of Housing Element’s Implementation Measures
<p>Housing Goal #1. Provision of adequate sites to accommodate projected housing unit growth needs within the following identified housing opportunity sites:</p> <ul style="list-style-type: none"> • Airport Area Environs • West Newport Mesa • Dover/Westcliff • Newport Center • Banning Ranch • Coyote Canyon <p>Housing Goal #2. Quality residential development and preservation, conservation and appropriate redevelopment of housing stock.</p>	<p>New Policy LU 2.1.11-1 calls for accommodating housing opportunities through the adoption of housing opportunity overlay zoning districts for the following opportunity sites:</p> <ul style="list-style-type: none"> • Airport Environs • West Newport Mesa • Newport Center • Dover/Westcliff <p>This new policy is consistent with Housing Goal #1.</p> <p>New Policies LU 2.1.11-2, LU 2.1.11-3 and LU 2.1.11-4 establish procedures regarding density</p>

6th Cycle Housing Element Implementation Measures	Amendments to the Local Coastal Policy in Support of Housing Element's Implementation Measures
<p>Housing Goal #3. A variety of housing types, designs, and opportunities for all social and economic segments.</p> <p>Housing Goal #4. Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.</p>	<p>limits and clarify that residential opportunities are in addition to existing uses allowed by the Coastal Land Use Plan and must be consistent with applicable overlay or implementation plan requirements unless modified consistent with established procedures to grant relief from standards (e.g. Coastal Modification or Variance or the application of Density Bonus regulations). These policies fulfill Housing Goals #1 and #2, as they set parameters for the overlay zones and allow for uses permitted by underlying zones.</p>

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The above recitals are true and correct and incorporate herein.
2. The Planning Commission declares that despite the potential for significant environmental effects that cannot be substantially lessened or avoided through the adoption of feasible mitigation measures or feasible alternatives, there exist certain overriding economic, social and other considerations for approving the proposed Project.
3. The Planning Commission hereby recommends the City Council certify the Final EIR (SCH#2023060699) attached as Exhibit "A," including the forthcoming draft findings.
4. The Planning Commission has read and considered the amendments to the General Plan, amendments to the Zoning Code, and the Local Coastal Program, as contained in Exhibits "B" through "E," as part of the consideration of the adopted 6th Cycle Housing Element implementation programs and recommends adoption of the General Plan Amendment, Zoning Code Amendments, and Local Coastal Program Amendment under PA2022-0245.

PASSED, APPROVED, AND ADOPTED THIS 18TH DAY OF APRIL, 2024.

AYES: Barto, Ellmore, Harris, Lowrey, and Salene

NOES: None

RECUSED: Langford and Rosene

ABSENT: None

BY: Curtis Ellmore
Curtis Ellmore, Chair

BY: Tristan Harris
Tristan Harris, Secretary

EXHIBIT “A”

**DRAFT ENVIRONMENTAL IMPACT REPORT
EIR (SCH#2023060699), INCLUDING RESPONSES TO COMMENTS AND THE
MITIGATION, MONITORING, AND REPORTING PROGRAM (MMRP)**

This Exhibit is attached digitally due to size and is available at www.newportbeachca.gov/CEQA within the folder entitled “Housing Element Implementation Program EIR (PA2022-0245).”

EXHIBIT "B"

**GENERAL PLAN AMENDMENT
LAND USE ELEMENT**

The General Plan Land Use Element would be amended as follows, currently shown in redline-strikeout format for ease of reference only:

This Exhibit is attached digitally due to size and is available at
<https://www.newportbeachca.gov/home/showpublisheddocument/73654/638473094744400000>.

EXHIBIT “C”**TITLE 20 (PLANNING AND ZONING) AMENDMENT
HOUSING OPPORTUNITY (HO) OVERLAY ZONING DISTRICTS**

Chapter 20.28 (Overlay Zoning Districts [MHP, PM, B, H]) of the Newport Beach Municipal Code (NBMC) would be amended as follows, currently shown in redline-strikeout format for ease of reference only:

**Chapter 20.28
OVERLAY ZONING DISTRICTS (MHP, PM, B, HO, H)**

Sections:

- 20.28.010 Purposes of Overlay Zoning Districts.**
- 20.28.020 Mobile Home Park (MHP) Overlay Zoning District.**
- 20.28.030 Parking Management (PM) Overlay District.**
- 20.28.040 Bluff (B) Overlay District.**
- 20.28.050 Housing Opportunity (HO) Overlay Zoning Districts.**
- 20.28.060 Height (H) Overlay District.**

20.28.010 Purposes of Overlay Zoning Districts.

The purposes of the individual overlay zoning districts and the manner in which they are applied are outlined below. An overlay district may be initiated as a Zoning Map amendment in compliance with Chapter [20.66](#) (Amendments). All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying zoning district in addition to the standards provided in this chapter, if any. In situations where an inconsistency occurs between the development standards of the underlying zoning district and the standards in this chapter, the standards of the overlay district shall prevail.

A. MHP (Mobile Home Park) Overlay Zoning District. The MHP Overlay Zoning District is intended to establish a mobile home district on parcels of land developed with mobile home parks. The regulations of this district are designed to maintain and protect mobile home parks in a stable environment with a desirable residential character.

B. PM (Parking Management) Overlay Zoning District. The PM Overlay Zoning District is intended to provide for areas where parking management plans are appropriate to ensure adequate parking.

C. B (Bluff) Overlay Zoning District. The B Overlay District is intended to establish special development standards for areas of the City where projects are proposed on identified bluff areas. The specific areas are identified in Part 8 of this title (Maps).

D. HO (Housing Opportunity) Overlay Zoning Districts. The HO Overlay Zoning Districts are intended to accommodate housing opportunities consistent with the Housing Element's focus areas and to ensure the City can meet its allocation of the Regional Housing Needs Assessment (RHNA). The specific areas are identified in Part 8 of this title (Maps).

E. H (Height) Overlay District. The H Overlay District is intended to establish standards for review of increased building height in conjunction with the provision of enhanced project design features and amenities.

20.28.050 Housing Opportunity (HO) Overlay Zoning Districts.A. Applicability. This section applies to properties located in one of the Housing Opportunity (HO) Overlay Zoning Districts, as identified in Part 8 of this title. This includes the following subareas:

1. HO-1 - Airport Area Environs Area – The Airport Area Environs Area is located north of the Upper Newport Bay Nature Reserve, primarily around the John Wayne Airport.
2. HO-2 - West Newport Mesa Area – The West Newport Mesa Area is located near the southwest corner of the City and primarily consists of industrial properties along 16th Street, Production Place, and 15th Street.
3. HO-3 - Dover-Westcliff Area – The Dover-Westcliff Area includes property on both sides of West Coast Highway and the west of Dover Drive. Properties in the Lido Village area are included.
4. HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.
5. HO-5 - Coyote Canyon Area – The Coyote Canyon Area is located on the south side of California State Route 73, at the junction of Newport Coast Drive.

The above listed are general descriptions of each subarea and additional properties may be included with the subarea. To be eligible for the provisions of this chapter, the property must be listed on the HO area map as an “Opportunity Site”.

6. HO-6 - 5th Cycle Housing Element Sites – Those sites that are identified as 5th Cycle Housing Element sites on Figure B-5 of the 6th Cycle Housing Element. See subsection 20.28.050(E) for alternative review process.

B. Uses Allowed. The following uses shall be permitted in the Housing Opportunity (HO) Overlay Zoning Districts with exception of HO-6 where only the base zoning standards apply:

1. Any use that is permitted or conditionally permitted in the base zone;
2. Multiple-unit development that meets the density requirements set forth in this section;
3. Mixed-use development that includes a residential component which complies with the minimum density set forth in this section; and
4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.

C. Subarea Development Standards.

1. Development Standards. The following development standards shall apply to any residential or mixed-use project permitted pursuant to this section. Unless otherwise modified by this section, all applicable development standards, including any adopted objective design standards, shall apply.

TABLE 2-16**DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES**

<u>Development Feature</u>	<u>Housing Opportunity Subareas</u>					
	<u>HO-1</u>	<u>HO-2</u>	<u>HO-3</u>	<u>HO-4</u>	<u>HO-5</u>	<u>HO-6</u>
<u>Development Limit (units)⁽¹⁾</u>	<u>2,577</u>	<u>1,107</u>	<u>521</u>	<u>2,439</u>	<u>1,530</u>	<u>N/A</u>
<u>Lot Size/Dimension</u>	<u>Per Base Zone</u>					
<u>Lot area required per unit (sq. ft.)⁽²⁾</u>	<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 871 (50 du/ac)</u>	<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 871 (50 du/ac)</u>		<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 726 (60 du/ac)⁽¹⁰⁾</u>		<u>All Standards Per Base Zone</u>
<u>Setbacks</u>						
<u>Front</u>	<u>0 ft.⁽³⁾</u>	<u>10 ft.⁽³⁾</u>	<u>10 ft.⁽³⁾⁽⁴⁾</u>	<u>0⁽³⁾</u>	<u>10 ft.⁽³⁾</u>	
<u>Rear</u>	<u>0</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>0</u>	<u>20 ft.</u>	
<u>Side</u>	<u>0⁽⁴⁾</u>					
<u>Street Side</u>	<u>0⁽³⁾</u>	<u>10 ft.⁽³⁾</u>	<u>10 ft.⁽³⁾</u>	<u>0 ft.⁽³⁾</u>	<u>10 ft.⁽³⁾</u>	
<u>Height</u>	<u>Per Base Zone unless otherwise identified on the map</u>	<u>65 ft.</u>	<u>65 ft.⁽⁶⁾</u>	<u>Per Base Zone⁽⁷⁾</u>	<u>65 ft.</u>	
<u>Building Separation</u>	<u>10 ft.</u>					
<u>Floor Area Ratio (FAR)</u>	<u>No restriction⁽⁸⁾</u>					
<u>Common Space⁽⁹⁾</u>	<u>Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)</u>					
<u>Private Open Space⁽⁹⁾</u>	<u>5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)</u>					
<u>Fencing</u>	<u>See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).</u>					
<u>Landscaping</u>	<u>See Chapter 20.36 (Landscaping Standards).</u>					
<u>Lighting</u>	<u>See Section 20.30.070 (Outdoor Lighting).</u>					
<u>Outdoor Storage/Display</u>	<u>See Section 20.48.140 (Outdoor Storage, Display, and Activities).</u>					
<u>Parking</u>	<u>See Subsection (D)(3) below and Chapter 20.40 (Off-Street Parking).</u>					
<u>Satellite Antennas</u>	<u>See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).</u>					
<u>Signs</u>	<u>See Chapter 20.42 (Sign Standards).</u>					

(1) Development limits are additional residential development opportunities beyond the base allowances in this Title or the General Plan. These limits shall not include density bonus units or units that are either identified as pipeline units in the 6th Cycle Housing Element (Table B-2) or units that were applied for and predate the effective date of the HO Overlay Zoning Districts. Furthermore, eligible units are only counted against the development limits when they are either entitled or are issued a building permit if allowed by right. However, 25% of the development limit within each HO Overlay Zoning District that includes properties within the Coastal Zone shall be reserved until such a time as the City's Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6th

- Cycle Housing Element. Following the City's Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone.
- (2) Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units.
 - (3) Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way.
 - (4) Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway.
 - (5) The combined total from both sides shall be 15 feet.
 - (6) The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1.
 - (7) "Base Zone" includes all height limitations established by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).
 - (8) The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable.
 - (9) For purposes of this section, common and private open space in HO-1 may include enclosed shared amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility, children's playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director.
 - (10) This density is intended for the former Coyote Canyon Landfill site only. The Sage Hill School site is limited to a maximum of 20 dwelling units.
2. Airport Area Environs Area (HO-1). The following development standards shall only apply to projects with the Airport Area Environs Area:
- a. Sound Mitigation. The interior ambient noise level of all new residential dwelling units shall meet applicable standards of the Section 10.26.030 (Interior Noise Standards). An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the interior noise standard. The residential units shall be constructed, and noise attenuated in compliance with the report.
 - b. Advanced Air Filtration. The design of all new residential and mixed-use residential developments shall include advanced air filtration systems to promote cleaner air within living environments.
 - c. Notification to Owners and Tenants. A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment adjacent to an airport and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment (e.g., noise from planes, commercial activity on the site and vehicles streets) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.
3. West Newport Mesa Area (HO-2). The following development standards shall only apply to projects with the West Newport Mesa Area:

- a. West Newport Mesa Streetscape Master Plan. Any residential or mixed-use residential development shall implement applicable components of the adopted West Newport Mesa Streetscape Master Plan.
- 4. Coyote Canyon Area (HO-5). The following development standards shall only apply to projects with the Coyote Canyon Area:
 - a. Public Park. Any future residential development within this subarea shall include a public park that is no less than 3.5 acres, in aggregate. As part of the review for the overall project, the developer shall provide a detailed description of the public park, including timing, dimensions, and location within the project site.
 - b. Public Trails. Any future residential development shall include public trails for the entire subarea that accommodate multiple modes of transit (i.e., walking and bicycling) and connect to nearby community resources, as well as the existing trail system. As part of the review for the overall project, the developer shall provide a detailed description of the trail system, including timing, dimensions, alignment, and location within the project site.

D. General Development Standards. The following development standards shall apply to all projects within the Housing Opportunity zone, regardless of subarea:

- 1. Mixed-use developments. All mixed-use developments shall comply with Section 20.48.130 (Standards for Mixed-Use Projects). In addition, a minimum of 50% of the floor area of mixed-use developments shall be dedicated to residential uses. For purposes of this section, floor area be defined as all enclosed floor space, but exclude parking garages/spaces, utility areas, and storage areas that are not directly accessible from the interior of a dwelling unit.
- 2. Landscaped Setbacks. All front and street side setbacks shall be landscaped, except for areas that provide vehicle and pedestrian access to the right-of-way.
- 3. Residential Off-Street Parking Requirements. Residential parking requirements for projects within the Housing Opportunity Overlay Zones shall be provided in accordance with Table 2-17 below. Parking for all other uses not included in this table shall be provided in accordance with Chapter 20.40 (Off-Street Parking Requirements) of the NBMC.

TABLE 2-17

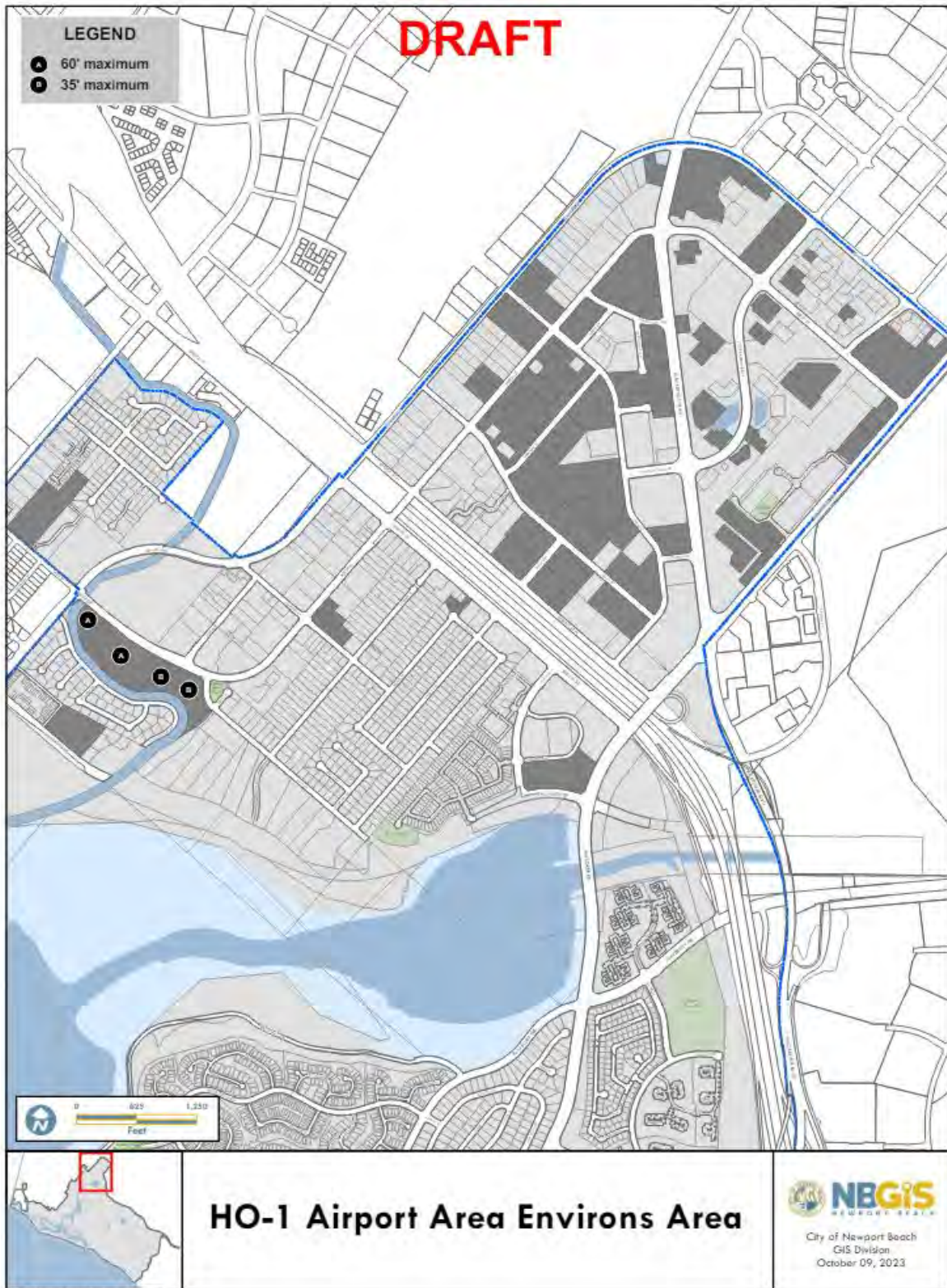
RESIDENTIAL OFF-STREET PARKING FOR HOUSING OPPORTUNITY OVERLAY ZONES

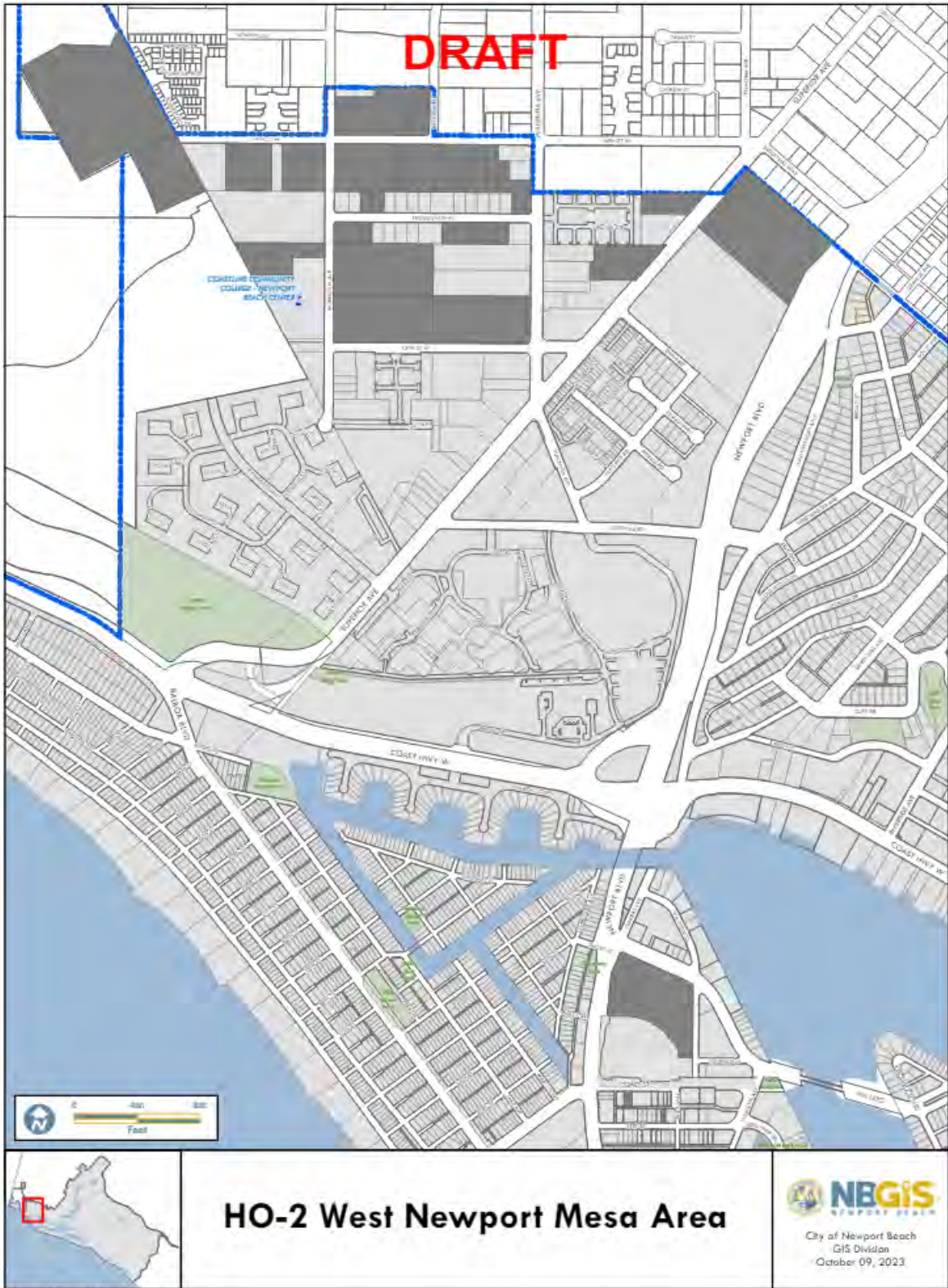
<u>Land Use</u>	<u>Subtype</u>	<u>Parking Requirement</u>
<u>Residential (Rental)</u>	<u>Studio</u>	<u>1.1 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.5 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>
<u>Residential (Ownership)</u>	<u>Studio</u>	<u>1.4 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.8 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>

E. Review Process. Notwithstanding Sections 20.48.130(A) and 20.52.080, any residential or mixed-use development in the HO Overlay Zones that includes a minimum of 20% of the units reserved for very-low- and low-income residents shall not require a Site Development Review, but shall require an affordable housing implementation plan (AHIP) and shall meet all the following criteria:

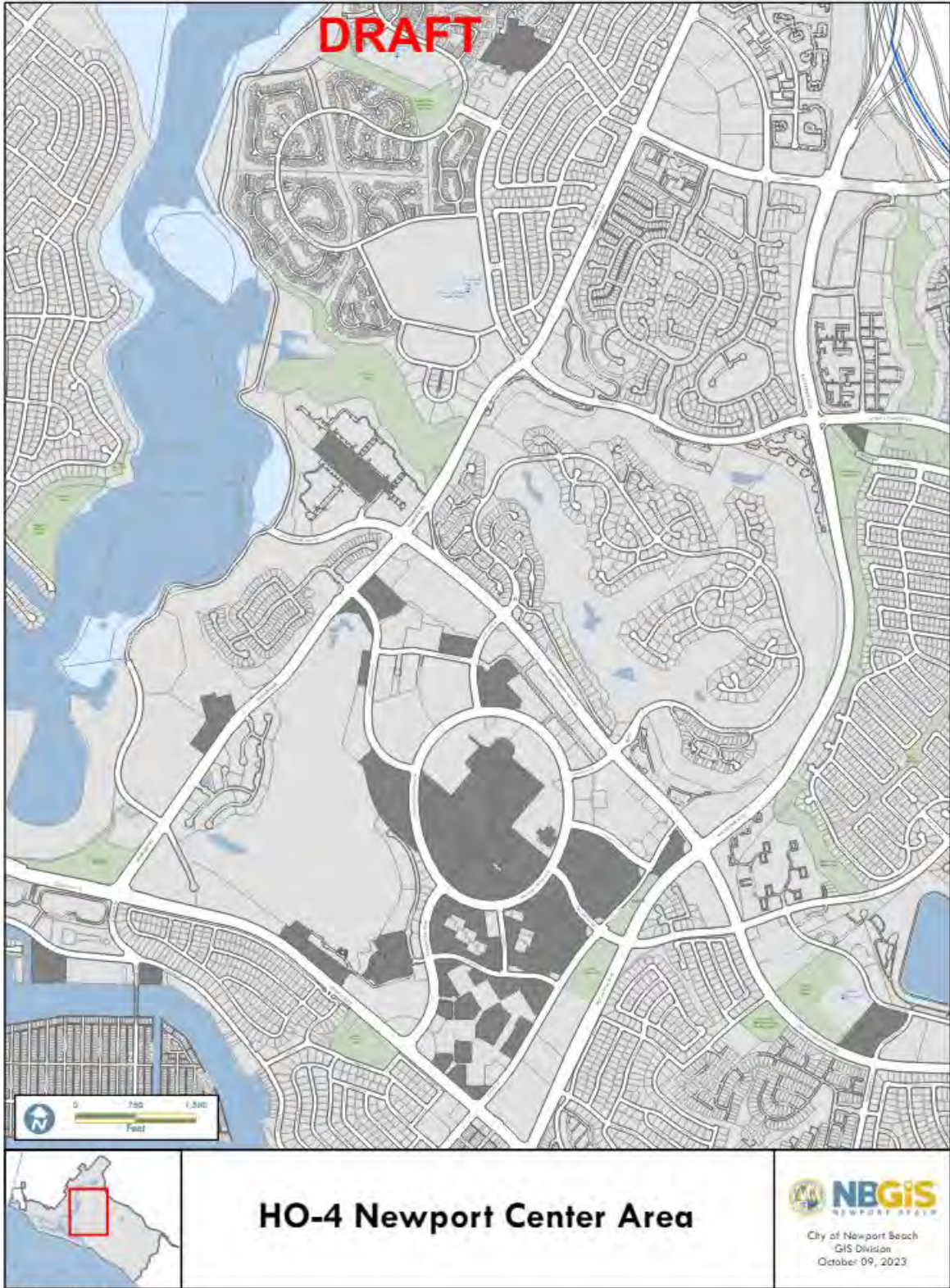
1. All units designated as affordable to very-low and/or low-income residents shall be subject to a minimum 30-year affordability covenant;
2. Affordable units shall reflect the range of numbers of bedrooms provided in the residential development project as a whole, but may be smaller and have different interior finishes and features than market-rate units;
3. Affordable units shall be comparable in the facilities provided (e.g., laundry, recreation, etc.) and in the quality of construction and exterior design to the market-rate units; and
4. Affordable units shall be dispersed throughout the residential development.

A new Section 20.80.036 (Housing Opportunity Overlay District maps) would be added to Part 8, Chapter 20.80 (Maps) of the NBMC to include the following:









HO-4 Newport Center Area.mxd



Section 20.48.130 (Mixed-Use Projects) of the NBMC would be amended as follows, currently shown in redline-strikeout format for ease of reference only:

20.48.130 Mixed-Use Projects.

This section provides standards and criteria for the development of mixed-use projects. The primary intent of these standards and criteria is to balance the needs of nonresidential uses for access, visibility, parking, loading, safety, and economic development with the needs of residential uses for privacy, security, and relative quiet.

A. Site Development Review Approval Required. Mixed-use projects shall require approval of a site development review in compliance with Section [20.52.080](#) (Site Development Reviews).

B. Development Standards. In addition to the development standards provided in this section, development standards for mixed-use projects are provided in:

1. Table 2-10 (Development Standards for MU-V; MU-MM; MU-DW; and MUCV/15th St.);
2. Table 2-11 (Development Standards for MU-W1 and MU-W2 Mixed-Use Zoning Districts);

3. ~~Table 2-16 (Development Standards for Housing Opportunity Overlay Zones); and~~

4. Other sections in this Part 4 for specific uses that may be part of the proposed mixed-use project.

C. Nonresidential Uses Required on Ground-Floor. All (i.e., one hundred (100) percent) of the ground floor street frontage of mixed-use structures shall be a minimum depth of twenty-five (25) feet and shall be occupied by retail and other compatible nonresidential uses except:

1. As specified otherwise by Table 2-10 or Table 2-11 in Part 2 of this title (Zoning Districts, Allowable Land Uses, and Zoning District Standards); or
2. For common/shared building entrances for residences on upper floors.

D. Open Space Areas. Open space areas shall be provided in compliance with Table 2-10 or Table 2-11 in Part 2 of this title (Zoning Districts, Allowable Land Uses, and Zoning District Standards).

1. Private Open Space. The private open space areas required for residential dwelling units (e.g., balconies, decks, porches, etc.) shall be designed to limit intrusion by nonresidents.
2. Common Open Space. The common open space areas required for residential dwelling units shall be separated from nonresidential uses on the site and shall be sited and designed to limit intrusion by nonresidents and customers of nonresidential uses. However, the sharing of common open space may be allowed by the review authority when it is clear that the open space will provide direct benefit to project residents. Common open space uses may be provided on rooftops for use only by the project residents.

E. Sound Mitigation. An acoustical analysis report, prepared by an acoustical engineer, shall be submitted to the Director describing the acoustical design features of the structure that will satisfy the exterior and interior noise standards. Projects shall be attenuated in compliance with the report. Mixed-use projects shall comply with the noise standards in Chapter [10.26](#).

F. Parking, Loading, and Access.

1. Type and Layout of Parking Facility. Parking facilities shall be physically separated for nonresidential uses and residential uses, except for residential guest parking. If enclosed parking is provided for an entire mixed-use complex, separate areas/levels shall be provided for nonresidential and residential uses with separate building entrances, whenever possible, subject to confirmation and approval by the review authority.

2. Loading Areas. Loading areas for nonresidential uses shall be located as far away as possible from residential uses and shall be completely screened from view from the residential portion of the project and public rights-of-way. Loading areas shall be compatible in architectural design and details with the overall project. The location and design of loading areas shall mitigate nuisances from odors when residential uses might be impacted.

3. Site Access Driveways. Separate site access driveways shall be provided, whenever possible, for nonresidential and residential uses. Site access driveways shall incorporate distinctive architectural elements, landscape features, and signs to help differentiate access to nonresidential parking areas from access to residential parking areas.

G. Buffering and Screening. Buffering and screening shall be provided in compliance with Section [20.30.020](#) (Buffering and Screening). Mixed-use projects shall locate loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development to the greatest extent feasible.

H. Notification to Owners and Tenants. Project applicants shall prepare a written disclosure statement prior to sale, lease, or rental of a residential unit in a mixed-use project or located within a mixed-use zoning district. The disclosure statement shall indicate that the occupants will be living in an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment and potential impacts based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. The project applicant shall covenant to include within all deeds, leases or contracts conveying any interest in a residential unit in a mixed-use project or located within a mixed-use zoning district (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.

I. Deed Notification. As a condition of project approval for a residential unit in a mixed-use project or in a mixed-use zoning district, applicants shall record a deed notification with the County Recorder's Office, the form and content of which shall be satisfactory to the City Attorney. The deed notification document shall state that the residential unit is located in a mixed-use project or in a mixed-use zoning district and that an owner may be subject to impacts, including inconvenience and discomfort, from

lawful activities occurring in the project or zoning district (e.g., noise, lighting, odors, high pedestrian activity levels, etc.). (Ord. 2010-21 § 1 (Exh. A)(part), 2010)

EXHIBIT “D”**TITLE 20 (PLANNING AND ZONING) AMENDMENT
MULTI-UNIT OBJECTIVE DESIGN STANDARDS**

Section 20.48.185 (Multi-Unit Objective Design Standards) would be added to Title 20 (Planning and Zoning) of the NBMC in its entirety, as follows with additional consideration given to formatting:

20.48.185 Multi-Unit Objective Design Standards

- A. Purpose. The purpose of the Objective Design Standards is to ensure the highest possible design quality and to provide a baseline standard for all new multi-unit development in Newport Beach. Multi-unit housing proposals must, at a minimum demonstrate compliance with all the standards contained herein. Proposals not consistent with any of these standards shall be required to seek approval through a discretionary site development review process as provided by Chapter 20.52.080 (Site Development Reviews). Applicants may request site development review to demonstrate that a project meets or exceeds the intent of the standards in this document by other means. The Objective Design Standards shall serve as the basis for evaluating proposed deviations; applicants using a discretionary review process shall refer to the Objective Design Standards to demonstrate how the proposal meets or exceeds the intent of the Newport Beach Development Code.
- B. Intent. The objective design standards are intended to result in quality design of multi-unit residential and mixed-use development. Review under these standards supports development that builds on context, contributes to the public realm, and provides high quality and resilient buildings and public spaces. These standards shall be applied uniformly and without discretion to enhance the built environment for both affordable and market-rate multi-unit residential development.
- C. Applicability. The standards shall be used for review of multi-unit development applications, including by-right and discretionary applications. The development standards in this subsection shall apply to residential and mixed-use development projects that include a residential density of a minimum of 20 dwelling units per acre, which is calculated as an average over a project site. When an applicant elects to deviate from these objective development standards, approval of site development review by the Planning Commission shall be required in compliance with Chapter 20.52.080. The Planning Commission may waive any of the design and development standards in this section upon finding that:
 1. The strict compliance with the standards is not necessary to achieve the purpose and intent of this section; and
 2. The project possesses compensating design and development features that offset impacts associated with the modification or waiver of standards.
- D. General Standards
 1. Multi-unit development orientation shall comply with the following standards:
 - a. Residential developments with more than 8 buildings shall provide a minimum of two (2) distinct color schemes. A single-color scheme shall be dedicated to no less than 30 percent of all residential buildings.
 - b. Residential developments with 30 or more buildings shall provide a minimum of three (3) distinct color schemes. The number of buildings in single style shall be no less than 30 percent.

- c. Pedestrian linkages to nearby neighborhoods, schools, parks, commercial projects, and parking areas shall be provided.
 - d. Visual interest shall be provided through architectural variety, especially where several new buildings face streets, such as by using different layouts and/ or architectural features. Abutting buildings shall have complimentary architectural styles.
 - e. Except for garage entrances, structured parking shall not be visible from the primary streets or any public open space, unless treated in an architectural manner subject to the approval of the Director.
 - f. Loading docks and service areas on a corner lot must be accessed from the side street.
 - g. In order to accommodate a minimum of one vehicle entering the facility, controlled entrances to parking facilities (gates, doors, etc.) shall be located a minimum of 18 feet from the back of sidewalk.
2. Mixed-use buildings orientation shall comply with all the standards mentioned above and the following standards:
- a. Commercial/office unit entrances shall face the street, a parking area, or an interior common space.
 - b. Entrances to residential units shall be physically separated from the entrance to the permitted commercial uses and clearly marked with a physical feature.

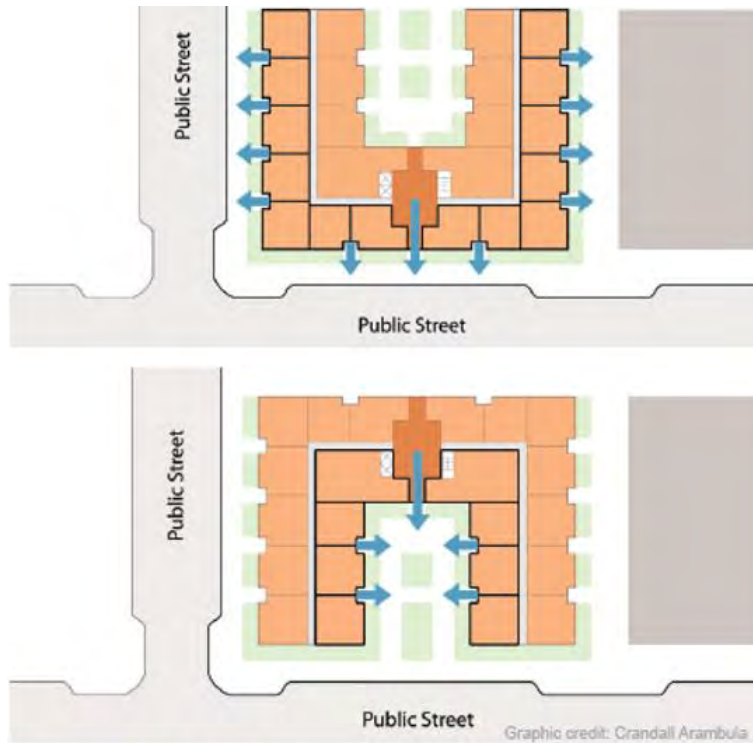


Buildings along streets and open space shall provide visual interest by using different form, color, and materials

E. Orientation

1. Building entries shall face the primary public street with direct pedestrian connections to the public sidewalks, unless determined to be infeasible due to topographic constraints by the Director. Pedestrian connections to the public sidewalks shall also be provided to parking areas and publicly accessible open space. For larger sites with multiple buildings, building entries may also be oriented to face internal open spaces, paseos, and recreation amenities.

2. Parking areas, covered and uncovered, shall be screened from public street frontages. Screening may be accomplished through building placement, landscaping, fencing, or some combination thereof.
3. For multi-unit projects located across the street from a single-unit family zoning district, parking lot areas and carports shall not be located along the single-unit neighborhood street frontages.
4. Buildings shall be arranged to provide functional common outdoors spaces (such as courtyards, paseos, or parks) for the use of residents.



Building entries shall face a public street, internal open space, or paseo

F. Parking Standards

1. Parking Lots. Parking shall comply with standards as specified in NBMC Section 20.40.070.

- a. Parking lots shall be placed to the side or rear of buildings. Parking lots shall be connected to building entrances by means of internal pedestrian walkways.
- b. In surface parking lots with 10 or more spaces, a minimum of 14 square feet of landscape area shall be provided per parking space. Landscaping may be provided in parking lot planters and/or for perimeter screening.



Parking lots shall be shielded from view from adjoining streets

2. Residential Garages

- a. Street-facing garage doors serving individual units that are attached to the structure must incorporate one or more of the following so that the garage doors are visually recessive and complementary to other building element:
 - i. Garage door windows or architectural detailing consistent with the main dwelling.
 - ii. Arbor or other similar projecting feature above the garage doors.

3. Parking Structures and Loading Bays

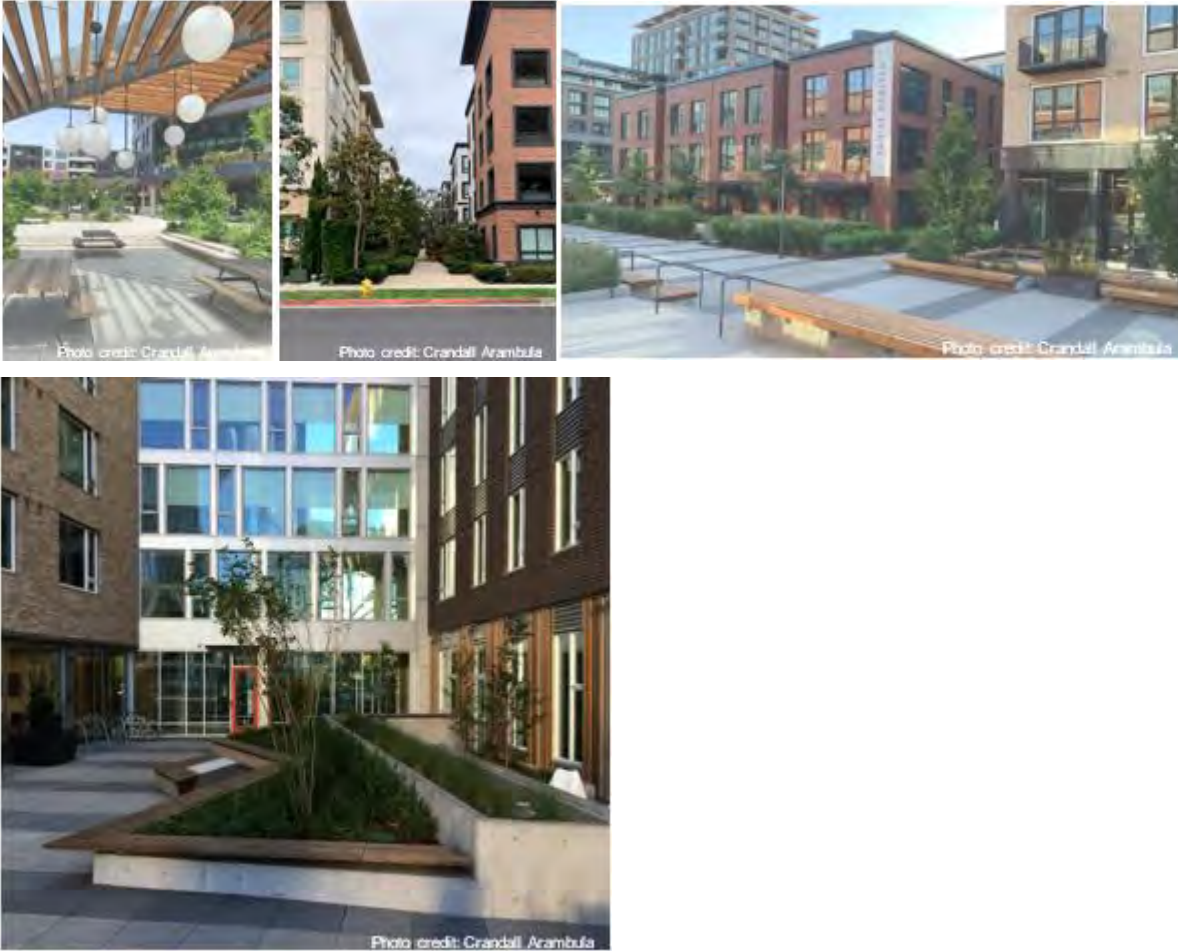
- a. Parked vehicles at each level within the structure shall be shielded from view from adjoining streets.
- b. The exterior elevations of parking structures shall be designed to minimize the use of blank concrete facades. This shall be accomplished through the use of decorative textured concrete, planters or trellises, or other architectural treatments.



Parking structures shall be shielded from view from adjoining streets

G. Common Open Space

1. The required front yard area shall not be counted toward satisfying the common recreation area requirement.
2. Residential unit entries shall be within a 1/4 mile walking distance of common open space.
3. Pedestrian walkways shall connect the common open space to a public right-of-way or building entrance.
4. Open space areas shall not be located directly next to arterial streets, service areas, or adjacent commercial development to ensure they are sheltered from the noise and traffic of adjacent streets or other incompatible uses. Alternatively, a minimum of ten (10) foot wide, dense landscaping area shall be provided as screening, but does not count towards the open space requirement.
5. An area of usable common open space shall not exceed an average grade of ten (10) percent. The area may include landscaping, walks, recreational facilities, and small decorative objects such as artwork and fountains.
6. All common open spaces shall include seatings and lighting.



H. Recreation Amenities

1. All play areas shall be located away from high automobile traffic and shall be situated for maximum visibility from the dwelling units.
2. Senior housing and/or housing for persons with disabilities shall be exempt from the requirement to provide play areas, but shall provide areas of congregation that encourage physical activity.
3. One common recreational amenity shall be provided for each 50 units or fraction thereof. Facilities that serve more people could be counted as two amenities. Examples of amenities that satisfy the recreational requirements include:
 - a. Clubhouse at a minimum of 750 square feet.
 - b. Swimming Pool at a minimum of 15x30 feet or equal surface area.
 - c. Tennis, Basketball or Racquetball court.
 - d. Children’s playground at a minimum of 600 square feet.
 - e. Sauna or Jacuzzi.
 - f. Day Care Facility.
 - g. Community garden.

h. Other recreational amenities deemed adequate by the Director.



- I. Landscaping. All landscaping shall comply with all standards as specified in Chapter 20.36.
 - 1. A minimum of 8 percent of the total site shall be landscaped. Required setbacks and parking lot landscaping may be counted toward this requirement.
 - 2. Landscaping materials shall comply with the following:
 - a. Ground cover instead of grass/turf; and/or

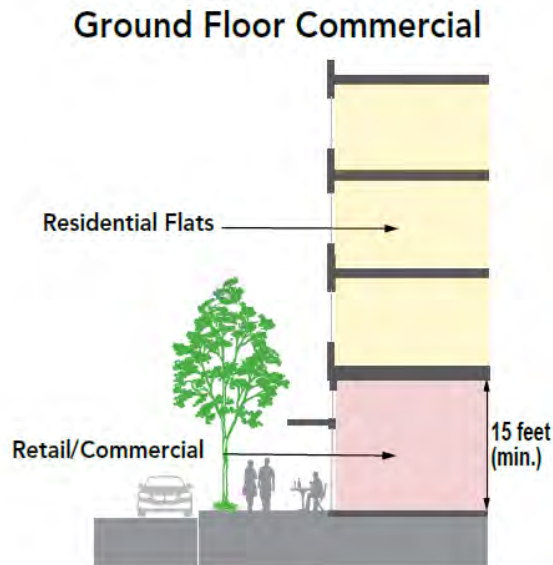
- b. Decorative nonliving landscaping materials including, but not limited to, sand, stone, gravel, wood or water may be used to satisfy a maximum of 25 percent of the required landscaping area.
 - c. Turf areas shall be placed in areas for recreational use only and must have a 10 foot minimum dimension.
3. Landscaping and irrigation shall follow local and regional requirements and guidance for approved plant lists to meet the needs of local conditions, where available. For plants and planting materials addressing water retention areas, recommended resources include the Low Impact Development Manual for Southern California prepared by the Southern California Stormwater Monitoring Coalition, State of California Model Water Efficient Landscape Ordinance (MWELo) or Newport Beach Municipal Code Chapter 14.17 (Water-Efficient Landscaping).



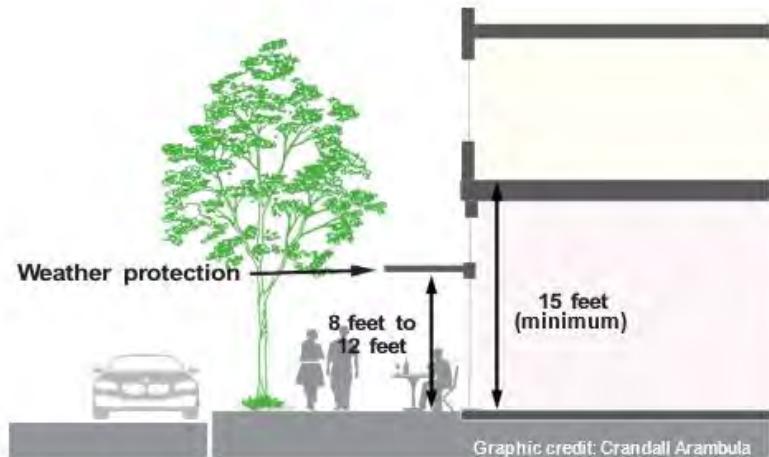
J. Frontage Types and Standards. Frontage is the side of a building facing a public street right-of-way.

1. Storefronts for ground floor commercial in mixed-use projects. A frontage that reinforces the commercial character and use of the ground floor of the building. The elevation of the ground floor is located at or near the grade of sidewalk to provide direct public access into the building.
 - a. The ground floor elevation shall be located at the elevation of the sidewalk to minimize the need for external steps and ramps at public entrances.
 - b. Entrance shall be emphasized and clearly recognizable from the street. One or more of the following methods shall be used to achieve this result:
 - i. Projecting non-fabric awnings or canopies above an entry (covered entry);
 - ii. Varied building mass above an entry, such as a tower that protrudes from the rest of the building surface;
 - iii. Special corner building entryway treatments, such as a rounded or angled facets on the corner, or an embedded corner tower, above the entry;
 - iv. Special architectural elements, such as columns, porticoes, overhanging roofs, and ornamental light fixtures;
 - v. Projecting or recessed entries or bays in the facade;

- vi. Recessed entries must feature design elements that call attention to the entrance such as ridged canopies, contrasting materials, crown molding, decorative trim, or a 45-degree cut away entry; or
- vii. Changes in roofline or articulation in the surface of the subject wall.
- c. Windows and/or glass doors shall cover not less than 50 percent of the first floor elevation along street frontages.
- d. At least 25 percent of the surface area of each upper floor facade shall be occupied by windows.
- e. Development with retail, commercial, community or public uses on the ground floor shall have a clear floor to floor height of at least 15 feet. Floor-to-floor height may be reduced on sloping sites.
- f. The minimum height for awnings or marquees is 8 feet above finished grade and the maximum height for awnings or marquees is 12 feet above finished grade; except as otherwise required in the Building Code approved by the City.

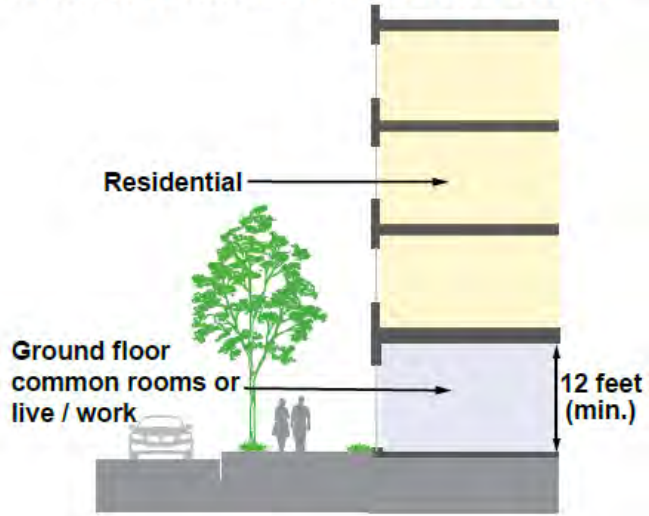






2. Live-work/office fronts. A frontage that reinforces both residential and work activities that can occur in the building. The elevation of the ground floor is located at or near the grade of sidewalk to provide direct public access to the building.
 - a. The ground floor elevation shall be located near the elevation of the sidewalk to minimize the need for external steps and ramps at public entrances.
 - b. All ground floor tenant spaces that have street frontage shall have entrances on a facade fronting a street. All other ground floor uses may have a common lobby entrance along the front facade or private entrances along other facades.
 - c. Entrances to upper floor units may be provided through a common lobby entrance and/or by a common entrance along a facade fronting a street.
 - d. At least 40 percent of the surface area of the ground floor facade shall be occupied by display windows or translucent panels.
 - e. At least 25 percent of the surface area of each upper floor facade shall be occupied by windows.
 - f. The ground floor shall have a clear floor-to-ceiling height of at least 12 feet.
 - g. The minimum height for awnings or marquees is 8 feet above finished grade and the maximum height for awnings or marquees is 12 feet above finished grade; except as otherwise required in the Building Code approved by the City.
 - h. If the front facade is set back from the public sidewalk, the setback shall be landscaped and/or improved as an extension of the public sidewalk.

Ground Floor Live - Work / Office





3. Residential fronts. A frontage that reinforces the residential character and use of the buildings. The elevation of the ground floor is typically elevated above the grade of the lot to provide privacy for residences by preventing direct views into the home from the sidewalk. Applicable to buildings with no commercial use on the ground floor.
 - a. Residential frontages reinforce the residential character and use of the building. The ground floor may be elevated a maximum of 36 inches above the grade of the nearest adjacent public or private sidewalk to provide privacy for residences by preventing direct views into the home.
 - i. Garages facing a public street shall not exceed 40 percent of the length of the building facade.
 - ii. Entrances to ground floor units that have street frontage may be provided through a common lobby entrance and/or by private entrances from the adjacent sidewalk.
 - iii. Entrances to upper floor units may be provided through a common lobby entrance and/or by a common entrance along a facade fronting a street.
 - iv. At least 20 percent of the surface area of the ground and upper floor facade shall be occupied by windows.
 - v. If the front facade is set back from the public sidewalk, the setback shall be landscaped (excluding stoops/front porches and paved paths to building entrances).



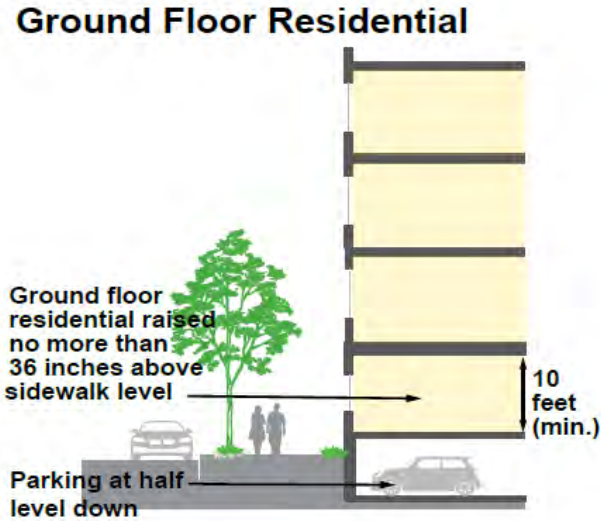
Photo credit: Crandall Arambula



Photo credit: Crandall Arambula



Photo credit: Crandall Arambula



Graphic credit: Crandall Arambula

K. Walls and Fences

1. Community perimeter or theme walls shall be solid decorative block walls.
2. Wall materials shall be brick, slump stone, tile, textured concrete, stucco on masonry, steel framing, or other material walls which require little or no maintenance. Plain concrete block walls (i.e. precision block) nor chain link fencing with inserts shall not be used as wall materials.
3. The style of the wall shall be the same or similar to the architectural style of the project.
4. All exterior perimeter walls located along public streets shall have an offset of a minimum of 5 feet deep for every 50 linear feet to 75 linear feet of the wall length, or be screened by a minimum of 2 feet of landscaping depth.
5. Retaining walls within a street facing setback and visible from the public sidewalk shall not exceed 4 feet in height and shall provide a minimum of 18 inches deep landscape in front of the wall.



L. Utilities

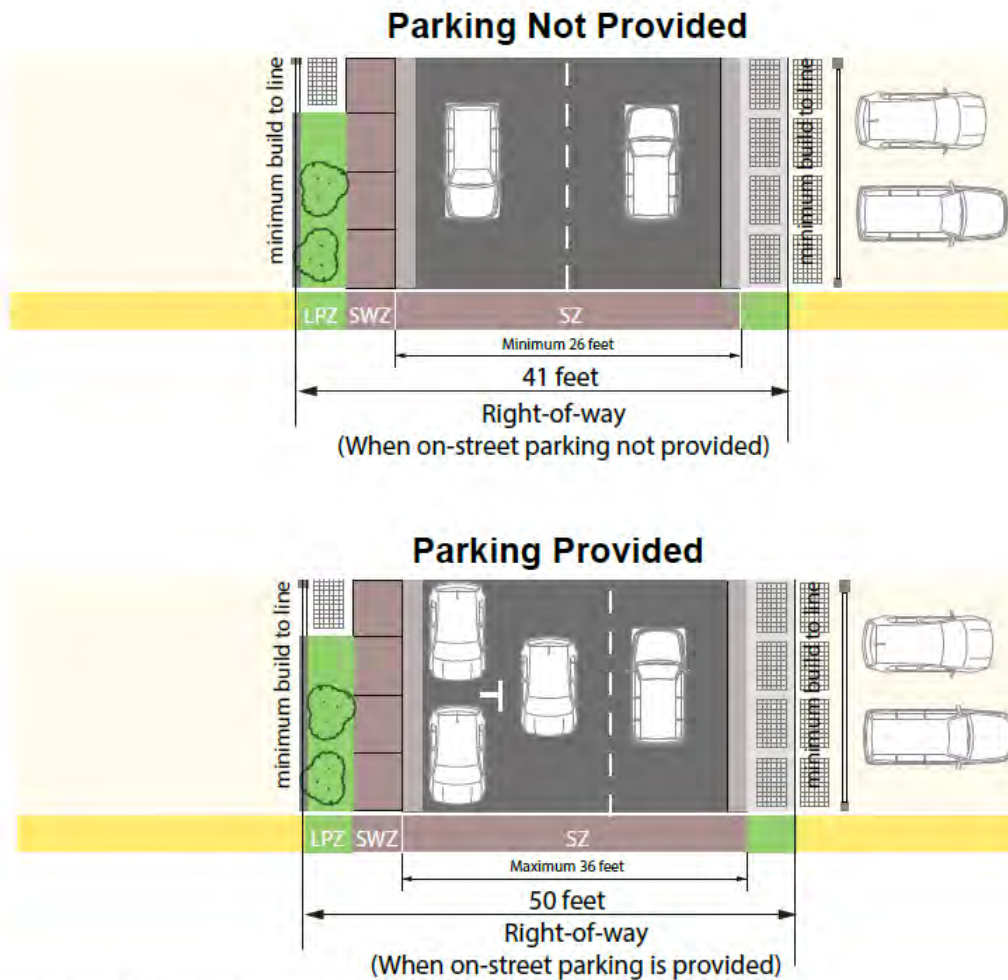
1. All utility equipment shall be located out of the pedestrian path of travel. All utility equipment shall be purposefully and aesthetically placed adjacent to alleyways, within parking areas, rear or side yards, or within building “notch outs” and screened from public view.
2. If the mechanical equipment cannot be placed in rear or side yards, it shall be either placed on the ground and screened with landscape, or placed on the roof and screened with architectural materials such as roof or parapet consistent with the overall architectural style.
3. All electrical utility equipment, electrical meters, and junction boxes shall be placed within a utility room. If a utility room is not feasible, then all utility equipment shall be purposefully designed as an integral part of the building development, placed adjacent to alleyways, within parking areas, or within rear or side yards, and screened from public view.



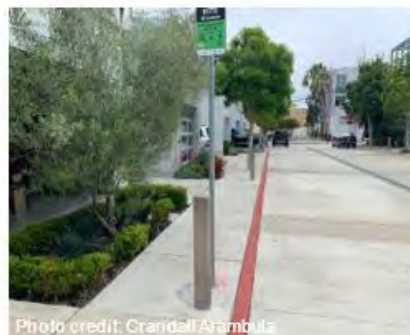
- M. Private Street Standards. The intent of Private Street realm standards is to foster a low speed, multi-modal internal site circulation network. Streets shall provide a limited amount of curbside parking for visitors, loading, service, and accessible ADA spaces. The streets shall be designed as an amenity for the site, including surface treatments and landscaping similar in character and quality to any paseos or common open space.

1. Private Street Right-of-Way. All new multi-unit development sites that provide private streets shall comply with a minimum width right-of-way standard.
 - a. When on-street parallel parking is not provided, the right-of-way width shall be 41 feet in width.
 - b. When on-street parallel parking is provided, the right-of-way width shall be 50 feet in width.
2. Private Street Zones. Three zones as described below comprise the right-of-way. Variations in width reflect the presence or absence of on-street parking:
 - a. Street Zone (SZ). Streets shall be 26-35 feet in width from curb-to-curb designed to provide motor vehicle and bicycle access. All Police and Fire emergency and maintenance vehicle access standards shall be met. Parallel curbside parking shall be permitted within roadways. Angled or head-in parking shall be prohibited.

- b. Sidewalk Zone (SWZ). A minimum of one SWZ, 5-foot-wide, shall be provided.. When on-street parking is provided, the SWZ shall be on the side of street with parking. Shrubs, ground cover, and street trees are prohibited in the zone.
- c. Landscaping and Paving Zone (LPZ). There shall be a minimum 5-foot Landscaping and Paving Zone. The zone is intended to provide a transition between the street and private residences. Landscaping shall comprise a minimum of 20 percent of the total building frontage(s) area. Landscape planting beds shall have a minimum width of 3 feet. Paving stone, brick or concrete unit pavers or poured in place concrete with integral color pigments is permitted in the Zone. Steps are permitted to above grade first floor entrances.

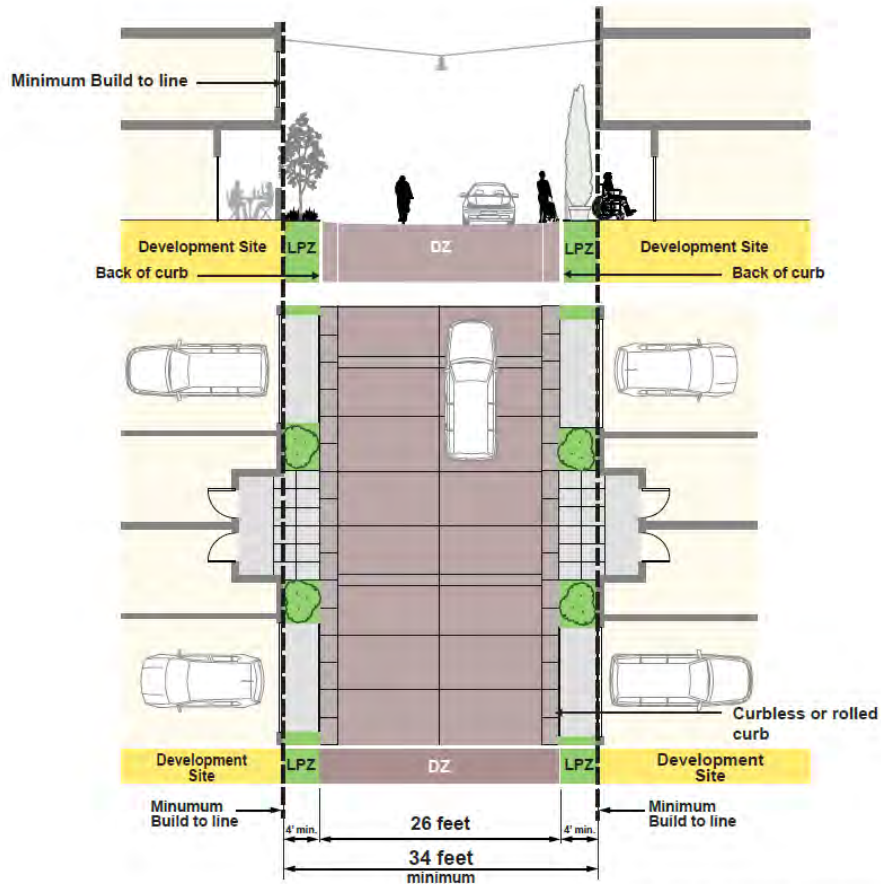


Graphic credit: Crandall Arambula



N. Private Driveway Standards. The intent of Driveway standards is to provide motor vehicle access to private garages and service areas, pedestrian access between residential garages and doors, and private or public street network.

1. Private Driveway Right-of-Way. All private driveways shall comply with a 26-foot minimum width fire apparatus access standard. No dead-end driveway shall exceed 150 feet in length.
2. Driveway Zones. Two zones described below comprise the driveway:
 - a. Driveway Zone (DZ). Paving shall be asphalt, stone, brick or concrete unit pavers or poured in place concrete with integral color pigment. Stamped concrete shall be prohibited.
 - b. Landscape and Paving Zone (LPZ). A 4-foot minimum width zone shall be provided. The Zone shall be landscaped a minimum of 20 percent of the total site abutting a building. A combination of vines, ornamental, grasses, shrubs, ground cover, and ornamental trees shall be provided. Landscaping in pots is permitted.



Graphic credit: Crandall Arambula



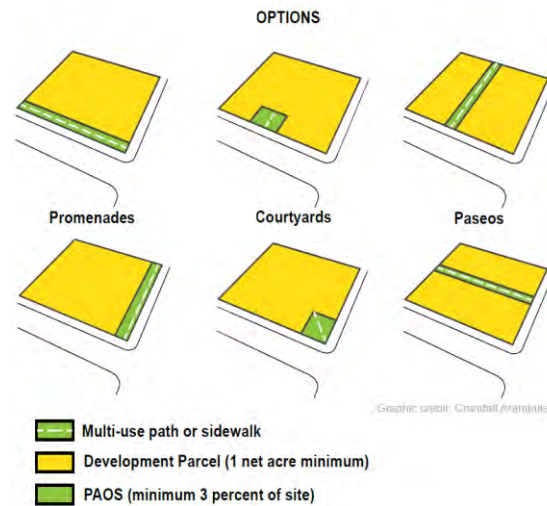
Photo credit: Crandall Arambula



Photo credit: Crandall Arambula

- O. Publicly Accessible Open Space (PAOS) Standards. PAOS is intended to serve as an amenity for multi-unit tenant and surrounding neighborhood residents, employees and visitors. The PAOS shall be configured as passive paseo or promenade mobility corridors that provide walking and biking connections through or along the development site, or more active courtyard gathering spaces that can be the focus for adjacent ground floor uses, especially where ground floor commercial is

provided. The PAOS shall be contiguous, universally accessible, and shall be connected directly to adjacent public realm. Development sites that meet all requirements for providing PAOS, shall include one of the options as specified.



Courtyard PAOS

1. Required PAOS. Development sites with a combined street frontage 200 feet or greater in width and a total development site area of 1 acre or greater shall provide a minimum of 3 percent PAOS of the net site area. All PAOS shall be in addition to all residential zoning common open space.
2. Site Area Calculations. The net site area shall be the total site area minus the following:
 - a. Public Easements. Total area measured between the right-of-way line to the build-to-line.
 - b. Utility Easements. The total area required easements for public utilities through the site.
3. PAOS Design Standards.
 - a. Minimum PAOS width. No paseo, promenade, or courtyard right-of-way shall be no narrower than 20 feet in width. If incorporated in a development plan, paseos or promenades shall include an 8-foot minimum width path; all courtyards shall include a minimum 6-foot minimum width path.
 - b. Access. All PAOS multi-use path access-ways shall be dedicated as a public easement subject to restrictions on hours of use.



Paseo Publicly Accessible Open Space



Promenade Publicly Accessible Open Space



P. Facade Modulation Standards.

The intent of the standards is to modulate the building's massing and volume— the external dimensions comprising of height, length, width, and depth in a manner that results in buildings that are in proportion to development site context and provides opportunities for applied facade plane and surface architectural visual interest. All multi-unit dwellings, or multi-unit components of mixed-use buildings shall be modulated both vertically and horizontally.

Modulation standards are provided for density ranges that correlate with multi-unit building typologies. Townhome buildings shall adhere to standards for buildings up to 30 dwelling units per acre and apartment buildings shall follow standards for buildings with greater than 30 dwelling units per acre. Applicants shall select a set of standards based upon the density of the building. Where development sites are of sufficient size to accommodate multiple building typologies with varying densities, the following Design Standards shall apply to each typology separately. Density allocations may be transferred within a contiguous property.

Q. Vertical Modulation

The intent of the standards is to minimize the perceived height of a building by visually organizing the facade in a manner that reflects the function of the underlying building floor(s) through the use of varied yet uniform application of height, form, material, and color articulation.

1. Components. All buildings shall be organized into an identifiable base, middle, and top to differentiate the first floor and upper function of the building. This tripartite articulation provides opportunities to create varied application of materials, color, and fenestration. Modern or contemporary building architecture may be approved at the discretion of the Director.
 - a. Base. For multi-story buildings, the first floor primary facade shall constitute the building's base.
 - b. Middle. The primary facade of floor(s) above the base and below the top shall constitute the middle.

- c. Top. The primary facade of the uppermost floor(s) to the parapet or ridge line of a building and any facade of a floor(s) that steps back shall constitute the building's top.



Buildings shall be vertically modulated with a base, middle, and top



Buildings shall be horizontally modulated with recesses or projections

2. Vertical Modulation Changes in Facade Material and/or Color

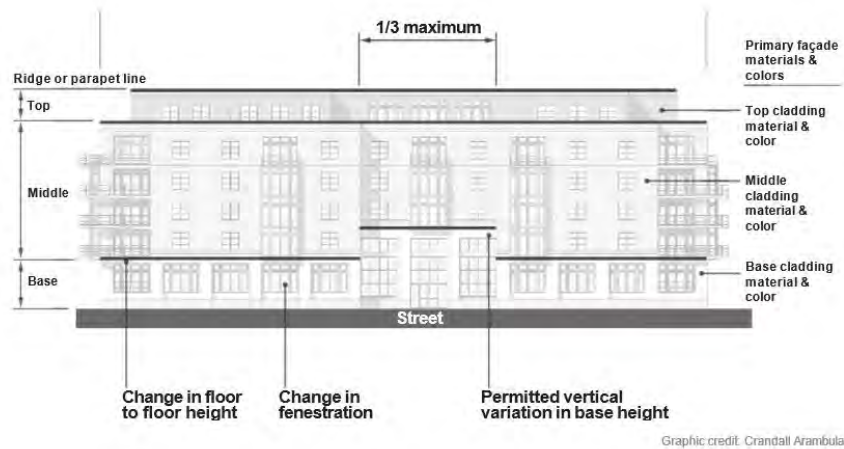
- a. Banding. Use of functional and/or decorative horizontal facade belt course, trim, or other projections or recesses at floor lines between the base, middle, and top. The projection or recess shall have a minimum height of 12 inches and a depth of 4 inches.
- b. Floor Heights. Change in floor-to-floor facade heights at the second floor or above. No middle or top floor-to-floor height shall be less than 10 feet.
- c. Fenestration. Changes in building window and door widths, heights, depths, materials, and colors. Changes in trim and inclusion or absence of shutters, mullions, muntins, transoms or other window components.
- d. Cladding Material. Buildings may express vertical modulation by providing a change of cladding materials to denote base, middle and top. Buildings using cladding material to provide vertical modulation are not required to provide banding. For buildings one hundred feet in height, a curtain wall system may be used above the building base.

3. Additional Vertical Modulation Standards

- a. **First Floor Height.** The minimum first finished floor to second finished floor plate elevation shall be:
- i. 10 feet – for buildings with density of less than 30 dwelling units per acre.
 - ii. 12 feet – for buildings with density greater than 30 dwelling units per acre, developed as residential only.
 - iii. 15 feet – for buildings with a density greater than 30 dwelling units per acre with commercial uses on the ground floor.
- b. **Vertical Variation.** Base, middle and top facade divisions shall be consistent with the underlying floor plate heights.
- i. Density of less than 30 dwellings per acre — combining, omitting, increasing or decreasing the base or middle facade division height along building frontages shall be prohibited.
 - ii. Density of greater than 30 dwellings per acre— increasing the base and decreasing the middle facade division height shall be permitted for any building facade greater than 60 feet in length. Stepping of plate heights shall be limited to no more than 1/3 of any total facade frontage length.



Less than 30 Dwelling unit per acre minimum base density buildings (townhome)

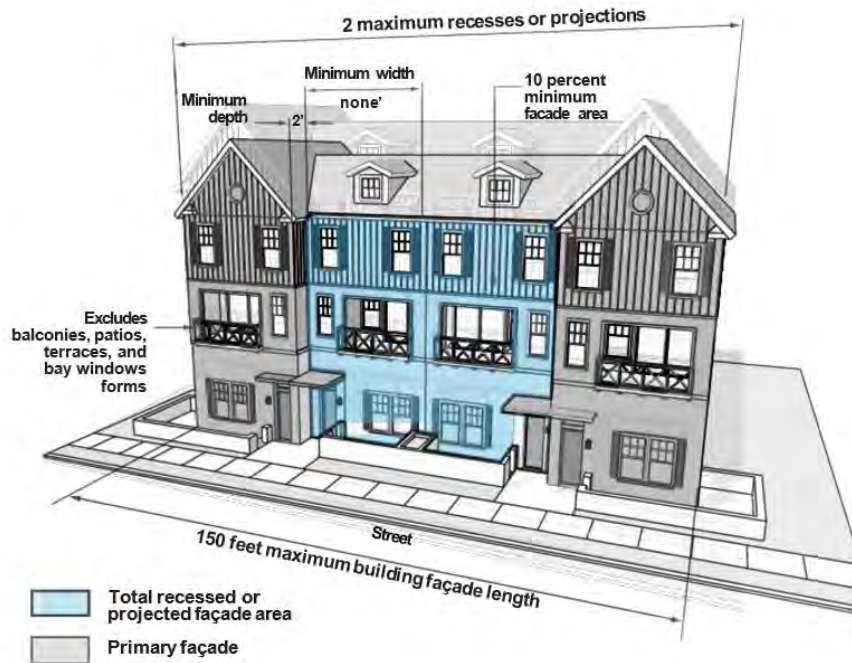


30+ Dwelling unit per acre minimum base density buildings (apartment)

R. Horizontal Modulation

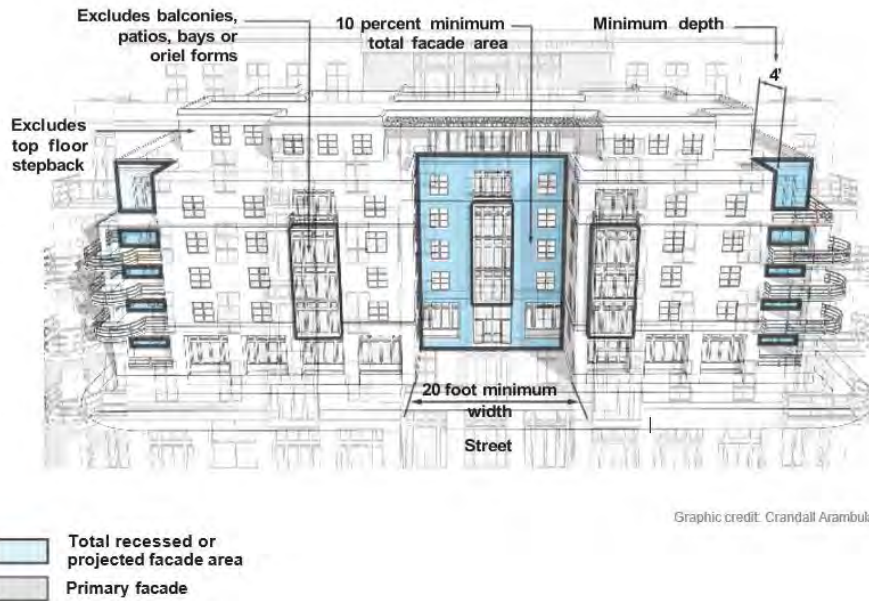
The intent of the standards is to shorten the perceived length and mass of a building by providing facade recesses and projections that break up the horizontal thrust of a building. The modulation provides opportunities to accentuate and draw visual attention to key building features such as stairwells, elevators, lobbies, and entries, and create usable open spaces such as courtyards. Horizontal modulation is intended to be complemented and strengthened by accompanying application of different facade materials, color, and fenestration; and layering of additional recessed and projected architectural elements such as bays, balconies, and patios.

1. Building Standards for Developments with Density of less than 30 dwelling per acre
 - a. Maximum building length. No building shall be greater than 150 feet in length.
 - b. Required minimum modulation area. A minimum of 10 percent of the total facade area shall be horizontally modulated.
 - c. Minimum depth. All recesses or projections shall be a minimum of 2-feet in depth.
 - d. Maximum number. No facade shall have no more than 2 total recesses or projections per facade.
2. Building Standards for Development with Density of 30 dwellings per acre or greater.
 - a. Maximum façade length. Buildings in excess of 200 feet shall have a horizontal massing break of no less than 20 feet with a depth of 15 feet for every 200 feet of additional overall length.
 - b. Required minimum modulation area. A minimum of 10 percent of the total facade area shall be horizontally modulated.
 - c. Minimum depth. All recesses or projections shall be a minimum of 4 feet in depth.
 - d. Minimum width. All recesses or projections shall be a minimum of 20 feet in width.
 - e. Maximum number. No facade shall have no more than 4 total recesses or projections per facade.



Graphic credit: Crandall Arambula

Less than 30 Dwelling unit per acre minimum base density buildings



Graphic credit: Crandall Arambula

30+ Dwelling unit per acre minimum base density buildings

S. First Floor Opening and Transparency Standards

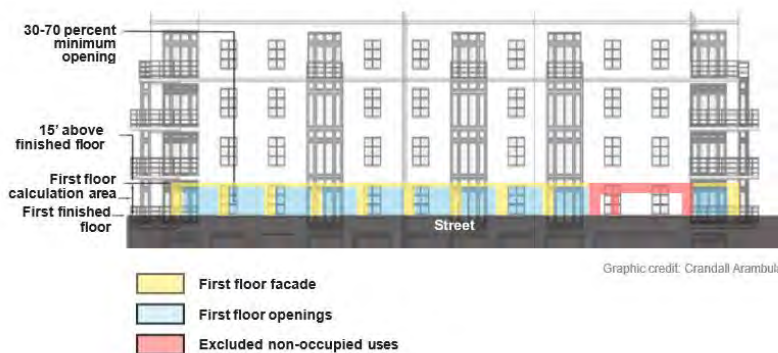
The standards are intended to foster passive ‘eyes on the street’ surveillance of the public realm by providing an adequate number of clear and direct sightlines between first floor residences and

adjacent public realm sidewalks and common areas without compromising residential livability, privacy, and security. For multi-unit buildings with commercial first floor uses, the standards are intended to provide a greater amount of visibility of merchant goods and services for potential walking, rolling, or driving-by clients or customers. For all buildings, the standards apply only to portions of the first floor that contain residential or commercial conditioned/occupied floor areas fronting streets and open common open space.

1. Building Standards for Developments with Density of less than 30 dwellings per acre.
 - a. Minimum Opening Standard. For any at-grade or above-grade residential first floor unit fronting a street or paseo, the building frontages shall be comprised of a minimum 20 percent transparent glazed door and window openings.
2. Building Standards for Developments with Density of 30 dwellings per acre or greater
 - a. Minimum Opening Standard. First floor multi-unit building frontages shall be comprised of transparent glazed door and window openings based public realm frontage adjacency and first floor use as follows:
 - i. 25 percent - for any at-grade or above-grade residential first floor unit fronting a street or paseo.
 - ii. 50 percent - for any mixed use multi-unit building with a first floor commercial use fronting a street, courtyard or paseo and would pertain to commercial spaces only.



Less than 30 Dwelling unit per acre minimum base density buildings



30+ Dwelling unit per acre minimum base density buildings

T. First floor Entry Standards

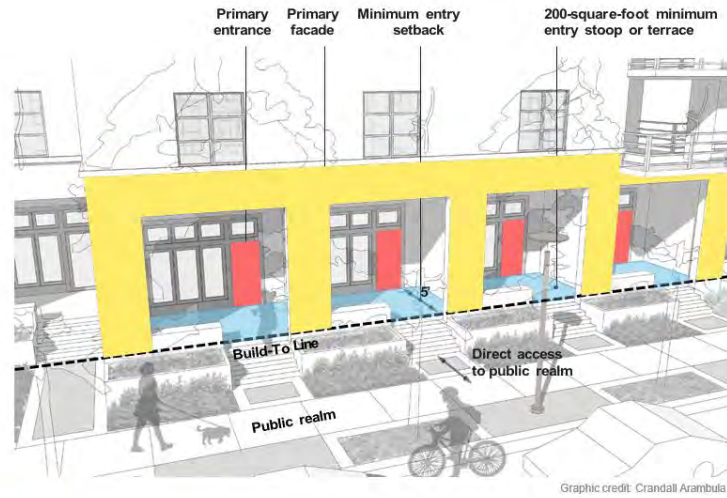
The intent of the standard is to locate building individual unit and lobby entries along street frontages to foster pedestrian neighborhood access and street-oriented activity. Unobstructed sight lines and pedestrian access from the public sidewalk shall be provided. The standards do not apply to service and loading entrances.

1. Individual Residential Unit Entrances

- a. Residential Front Door Standards. At-grade or above-grade first floor individual residential units' entrances shall be accessed directly adjacent public realm or common area unless determined not feasible by the Director or due to site topographic considerations.
 - i. Minimum entry to sidewalk width — walkway, ramp, and stairs connecting to the public sidewalk shall be a minimum of 5 feet in width.
 - ii. Entry stoop, terrace and patio area — if proposed, entry terraces and patio areas shall be a minimum of 40 square feet. If proposed, entry stoops shall be a minimum of 20 square feet excluding any required stairs or ramp area.

2. Lobby Entrances

- a. Standards. Lobby entrances shall be located at-grade, unless determined not feasible by the Director. Residential and commercial lobby entrances shall be accessed directly from the adjacent public realm or PAOS.
 - i. No lobby door setback is required .
 - ii. Minimum entry sidewalk width – where entries are setback, walkway width connecting to the sidewalk zone shall be a minimum of 6 feet.
 - iii. Entry landing area – shall be a minimum of 60 square feet.
 - iv. Prohibited – lobby entrance primary entries are prohibited from driveways, at-grade parking lots, parking structures, or alleys unless required due to topographic conditions.



- Primary facade
- Stoop, terrace or patio
- Primary entrance

Individual residential unit front door standards



Lobby entrances shall be accessed directly from the street

EXHIBIT “E”**LOCAL COASTAL PROGRAM AMENDMENT**

The Coastal Land Use Plan (CLUP) of the City’s Certified Local Coastal Program would be revised as follows, subject to California Coastal Commission review and approval:

Current Policy	Revised Policy
<p>Policy 2.1.2-1 Development in each district and corridor shall adhere to policies for land use type and density/intensity contained in Table 2.1.1-1, except as modified in Sections 2.1.3 to 2.1.8.</p>	<p>Policy 2.1.2-1 (revised) Development in each district and corridor shall adhere to policies for land use type and density/intensity contained in Table 2.1.1-1, except as modified in Sections 2.1.3 to 2.1.8, and 2.1.11.</p>
<p>Policy 2.1.10-1 Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations.</p>	<p>Policy 2.1.10-1 (revised) Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations, except as modified by all Policies in the 2.1.11 series.</p>
<p>N/A</p>	<p>Policy 2.1.11-1 (new) Accommodate housing opportunities through the adoption of housing opportunity overlay coastal zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element’s focus areas. Properties within each overlay coastal zoning district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites may be identified in the future through rezoning unless precluded by state law. The City will reserve 25% of allocated dwelling units within the Coastal Zone until such a time as the City’s Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6th Cycle Housing Element. Following the City’s Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone. The goal is to ensure an adequate number of sites Citywide to accommodate the City’s allocation of the Regional Housing Needs Assessment:</p> <ul style="list-style-type: none"> ▪ Airport Environs: the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone. ▪ West Newport Mesa: the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone. ▪ Newport Center: the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.

Current Policy	Revised Policy
	<ul style="list-style-type: none"> ▪ Dover / Westcliff: the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.
N/A	<p>Policy 2.1.11-2 (new) Residential use of any property included within an established housing opportunity overlay coastal zoning district is allowed regardless of and in addition to the underlying land use category or density limit established herein. An amendment to the Coastal Land Use Plan is not required to develop a residential use within an established housing opportunity zoning overlay coastal zoning district. The maximum density specified for the various overlay coastal zoning districts specified in Policy 2.1.11-1 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 2.1.11-1 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units do not include units identified as pipeline units or units permitted pursuant to State density bonus law.</p>
N/A	<p>Policy 2.1.11-3 (new) Residential opportunities are in addition to existing uses allowed by the Coastal Land Use Plan. Properties within the established overlay coastal zones are not required to be developed for mixed-use or residential. Existing uses may continue to operate provided they are legally established and consistent with policies and regulations related to legal nonconforming uses. The adoption of housing opportunity overlay coastal zoning districts shall not affect existing rights to use the property.</p>
N/A	<p>Policy 2.1.11-4 (new) If residential or mixed-use projects pursuant to a housing opportunity overlay coastal zoning district are developed, projects shall be consistent with applicable overlay coastal zoning district or Implementation Plan requirements unless modified consistent with an established procedure to grant relief from standards (e.g., Coastal Modification or Variance, or the application of Density Bonus regulations).</p>

Chapter 21.28 (Overlay Coastal Zoning Districts [MHP, PM, B, C, And H]) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC would be amended as follows, currently shown in redline-strikeout format for ease of reference only, and subject to California Coastal Commission review and approval:

**Chapter 21.28
OVERLAY COASTAL ZONING DISTRICTS (MHP, PM, B, C, ~~ANDH~~, AND HO)**

Sections:

- 21.28.010 Purposes of Overlay Coastal Zoning Districts.**
- 21.28.020 Mobile Home Park (MHP) Overlay Coastal Zoning District.**
- 21.28.030 Parking Management (PM) Overlay District.**
- 21.28.040 Bluff (B) Overlay District.**
- 21.28.050 Canyon (C) Overlay District.**
- 21.28.060 Height (H) Overlay District.**
- 21.28.070 Housing Opportunity (HO) Overlay Coastal Zoning Districts.**

21.28.010 Purposes of Overlay Coastal Zoning Districts.

The purposes of the individual overlay coastal zoning districts and the manner in which they are applied are outlined below. An overlay district may be initiated as a Coastal Zoning Map amendment in compliance with Chapter [21.14](#) (Coastal Maps). All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying coastal zoning district in addition to the standards provided in this chapter, if any. In situations where an inconsistency occurs between the development standards of the underlying coastal zoning district and the standards in this chapter, the standards of the overlay district shall prevail.

- A. MHP (Mobile Home Park) Overlay Coastal Zoning District. The MHP Overlay Coastal Zoning District is intended to establish a mobile home district on parcels of land developed with mobile home parks. The regulations of this district are designed to maintain and protect mobile home parks in a stable environment with a desirable residential character.
- B. PM (Parking Management) Overlay Zoning District. The PM Overlay Zoning District is intended to provide for areas where parking management plans are appropriate to ensure adequate parking.
- C. B (Bluff) Overlay Coastal Zoning District. The B Overlay District is intended to establish special development standards for areas of the City where projects are proposed on identified bluff areas. The specific areas are identified in Part 8 of this Implementation Plan (Maps).
- D. C (Canyon) Overlay Coastal Zoning District. The C Overlay District is intended to establish development setbacks based on the predominant line of existing development for areas that contain a segment of the canyon edge of Buck Gully or Morning Canyon. The specific areas are identified in Part 8 of this Implementation Plan (Maps).
- E. H (Height) Overlay District. The H Overlay District is intended to establish standards for review of increased building height in conjunction with the provision of enhanced project design features and amenities. (Ord. 2021-26 § 4, 2021; Ord. 2016-19 § 9 (Exh. A)(part), 2016)

F. HO (Housing Opportunity) Overlay Coastal Zoning Districts. The HO Overlay Coastal Zoning Districts are intended to accommodate housing opportunities consistent with the Housing Element's focus areas and to ensure the City can meet its allocation of the Regional Housing Needs Assessment (RHNA). The specific areas are identified in Part 8 of this title (Maps).

21.28.060 Housing Opportunity (HO) Overlay Coastal Zoning Districts.

A. Applicability. This section applies to properties located in one of the Housing Opportunity (HO) Overlay Coastal Zoning Districts, as identified in Part 8 of this title. This includes the following subareas:

1. HO-1 - Airport Area Environs Area – The Airport Area Environs Area is located north of the Upper Newport Bay Nature Reserve, primarily around the John Wayne Airport.
2. HO-2 - West Newport Mesa Area – The West Newport Mesa Area is located near the southwest corner of the City and primarily consists of industrial properties along 16th Street, Production Place, and 15th Street.
3. HO-3 - Dover-Westcliff Area – The Dover-Westcliff Area includes property on both sides of West Coast Highway and the west of Dover Drive. Properties in the Lido Village area are included.
4. HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.

The above listed are general descriptions of each subarea and additional properties may be included with the subarea. To be eligible for the provisions of this chapter, the property must be listed on the HO area map as an "Opportunity Site".

B. Uses Allowed. The following uses shall be permitted in the Housing Opportunity (HO) Overlay Coastal Zoning Districts:

1. Any use that is permitted or conditionally permitted in the base zone;
2. Multiple-unit development that meets the density requirements set forth in this section;
3. Mixed-use development that includes a residential component which complies with the minimum density set forth in this section; and
4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.

C. Subarea Development Standards.

1. Development Standards. The following development standards shall apply to any residential or mixed-use project permitted pursuant to this section. Unless otherwise modified by this section, all applicable development standards, including any adopted objective design standards, shall apply.

TABLE 21.28-1**DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES**

<u>Development Feature</u>	<u>Housing Opportunity Subareas</u>			
	<u>HO-1</u>	<u>HO-2</u>	<u>HO-3</u>	<u>HO-4</u>
<u>Lot Size/Dimension</u>	<u>Per Base Zone</u>			
<u>Lot area required per unit (sq. ft.)¹</u>	<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 871 (50 du/ac)</u>		<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 871 (50 du/ac)</u>	
<u>Setbacks</u>				
<u>Front</u>	<u>0 ft.⁽²⁾</u>	<u>10 ft.⁽²⁾</u>	<u>10 ft.⁽²⁾⁽³⁾</u>	<u>0⁽²⁾</u>
<u>Rear</u>	<u>0</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>0</u>
<u>Side</u>	<u>0'⁽⁴⁾</u>			
<u>Street Side</u>	<u>0⁽²⁾</u>	<u>10 ft.⁽²⁾</u>	<u>10 ft.⁽²⁾</u>	<u>0 ft.⁽²⁾</u>
<u>Height</u>	<u>Per Base Zone unless otherwise identified on the map</u>	<u>65 ft.</u>	<u>65 ft.⁽⁵⁾</u>	<u>Per Base Zone⁽⁶⁾</u>
<u>Building Separation</u>	<u>10 ft.</u>			
<u>Floor Area Ratio (FAR)</u>	<u>No restriction⁽⁶⁾</u>			
<u>Common Open Space⁽⁷⁾</u>	<u>Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)</u>			
<u>Private Open Space</u>	<u>5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)</u>			
<u>Fencing</u>	<u>See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).</u>			
<u>Landscaping</u>	<u>See Section 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).</u>			
<u>Lighting</u>	<u>See Section 21.30.070 (Outdoor Lighting).</u>			
<u>Parking</u>	<u>See Subsection (D)(2) below and Chapter 21.40 (Off-Street Parking).</u>			
<u>Signs</u>	<u>See Chapter 21.30.065 (Sign Standards).</u>			

- (1) Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units.
- (2) Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way.
- (3) Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway.
- (4) The combined total from both sides shall be 15 feet.
- (5) The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1.
- (6) The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable.
- (7) For purposes of this section, common and private open space in HO-1 may include enclosed shared amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility, children's playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director.

2. Airport Area Environs Area (HO-1). The following development standards shall only apply to projects with the Airport Area Environs Area:

- a. Sound Mitigation. The interior ambient noise level of all new residential dwelling units shall meet applicable standards of the Section 10.26.030 (Interior Noise Standards). An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the interior noise standard. The residential units shall be constructed, and noise attenuated in compliance with the report.
- b. Advanced Air Filtration. The design of all new residential and mixed-use residential developments shall include advanced air filtration systems to promote cleaner air within living environments.
- c. Notification to Owners and Tenants. A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment adjacent to an airport and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment (e.g., noise from planes, commercial activity on the site and vehicles streets) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.

3. West Newport Mesa Area (HO-2). The following development standards shall only apply to projects with the West Newport Mesa Area:

- a. West Newport Mesa Streetscape Master Plan. Any residential or mixed-use residential development shall implement applicable components of the adopted West Newport Mesa Streetscape Master Plan.

D. General Development Standards. The following development standards shall apply to all projects within the Housing Opportunity zone, regardless of subarea:

1. Landscaped Setbacks. All front and street side setbacks shall be landscaped, except for areas that provide vehicle and pedestrian access to the right-of-way.
2. Residential Off-Street Parking Requirements. Residential parking requirements for projects within the Housing Opportunity Overlay Zones shall be provided in accordance with Table 21.28-2 below. Parking for all other uses not included in this table shall be provided in accordance with Chapter 21.40 (Off-Street Parking Requirements) of the NBMC.

TABLE 21.28-2

RESIDENTIAL OFF-STREET PARKING FOR HOUSING OPPORTUNITY OVERLAY ZONES

<u>Land Use</u>	<u>Subtype</u>	<u>Parking Requirement</u>
<u>Residential (Rental)</u>	<u>Studio</u>	<u>1.1 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.5 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>
<u>Residential (Ownership)</u>	<u>Studio</u>	<u>1.4 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.8 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>

Attachment L

May 16, 2024, ALUC Staff Report and Corresponding Action Letter



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

AGENDA ITEM 3

May 16, 2024

TO: Commissioners/Alternates

FROM: Julie Fitch, Interim Executive Officer

SUBJECT: City of Newport Beach Housing Element Implementation Program Amendments- Proposed Amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program

Background

In September 2021, the City of Newport Beach submitted its 2021-2029 Housing Element Update (Housing Element) to the Airport Land Use Commission for Orange County (ALUC) for a consistency review. The City was assigned a Regional Housing Needs Allocation (RHNA) allocation of 4,845 units for the planning period 2021-2029, and identified five “focus areas” to accommodate the City’s RHNA planning obligation: Airport Area Environs; West Newport Mesa; Newport Center; Dover/Westcliff; and Coyote Canyon. See Attachment 1 for locations of Housing Element Focus Areas and a map and list of sites in the John Wayne Airport Area.

Your Commission found the Update to be inconsistent with the *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)* due to noise, safety and land-use incompatibility issues. The City overruled ALUC’s determination in February 2022, and adopted the Housing Element in September 2022. Since then, the City has made various amendments to its General Plan, Specific Plans and Zoning Code to implement the Update.

In August 2023, the City submitted noise-related amendments to its Land Use Element, Noise Element, Zoning Code, Newport Place Planned Community, and Newport Airport Village Planned Community to accommodate the residential “opportunity” sites located within the 65 dB CNEL contour that were included in the Housing Element. The Housing Element identified 28 new residential sites within the 65 dB CNEL and 23 new sites for residential development within the 60 dB CNEL. The Housing Element removed a policy that was included in previous Housing

Elements prohibiting residential uses within the 65 dB CNEL, and the City revised or removed similar policies from the Noise Element, Land Use Element, Newport Place Planned Community, Newport Airport Village Planned Community, and the Zoning Code. In addition, the City proposed to change the noise contours that the subject plans are based on to the contours that were included in the 2014 Settlement Agreement Amendment EIR 617. Your Commission found the noise-related amendments to be inconsistent with the AELUP for JWA due to noise, safety and land-use incompatibility issues. The City overruled ALUC’s determination and adopted the Housing Element Implementation Noise Related Amendments in November 2023.

Current Proposal

The City is now proposing further amendments to meet the requirements of the RHNA, which will impact areas within the Planning/Notification Area for John Wayne Airport as shown on Attachment 2.

General Plan Amendment (“GPA”). The proposed amendments to the Land Use Element include both revised policies and new policies to implement the Housing Element. The new Land Use Element Policies 4.4 through 4.7 serve to allow for potential residential development in areas that do not necessarily allow it currently. (See Attachment 3 for excerpts from the proposed Land Use Element). Each of the new policies are summarized in the table below, included in the City’s April 18, 2024, Planning Commission Staff Report Item #3, which can be found on the City’s website:

<https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2954635&dbid=0&repo=CNB>

Table 2, General Plan Land Use Element New Policies

Policy	Effect
LU 4.4 (Rezoning to Accommodate Housing Opportunities)	Supports the creation of the Housing Opportunity Overlay Zoning Districts and provides guidance on associated development limits for each focus area.
LU 4.5 (Residential Uses and Residential Densities)	Clarifies that residential use of identified properties is allowed regardless of and in addition to the underlying land use category or density. Identifies the maximum density in Policy 4.4 as an average across an entire property or project site. Furthermore, this Policy clarifies that development limits do not include units that are produced pursuant to state density bonus law or current pipeline units.
LU 4.6 (Continuation of Existing Development)	Reinforces that residential development opportunities are in addition to the existing uses allowed by the General Plan. The allowance for residential does not require development as residential nor does it create nonconforming conditions.

LU 4.7 (Redevelopment and Transfer of Development Rights)

Works in conjunction with current Policy 4.3 (Transfer of Development Rights) and allows the transfer of development rights within the same statistical area when a property is redeveloped. For example, removing an office building for a residential development would free up the net change in trips thereby allowing for additional nonresidential intensity on a neighboring site within the same statistical area. This condition will help to ensure the opportunity for adequate resident-serving commercial in newly development residential neighborhoods.

Amendment to Title 20 (Planning and Zoning) of the NBMC (“ZCA”). To implement the Land Use Element's policy changes the City must rezone identified properties to allow housing development as an opportunity and to establish appropriate development standards. The proposed amendment to Title 20 consists of two primary components. The first is the proposed Housing Opportunity (HO) Overlay Zoning Districts, which would be applied to the housing opportunity sites identified in the Housing Element. These sites generally include properties within the Airport Area (2,577 units), West Newport Mesa (1,107 units), Dover-Westcliff (531 units), Newport Center (2,439 units), and Coyote Canyon (1,530 units). The second component is the proposed Multi-Unit Objective Design Standards. See Attachment 4 for excerpts from the proposed Title 20 Planning and Zoning Amendment.

Local Coastal Program Amendment (“LCPA”). The proposed amendments would revise and create new policies within the City’s Coastal Land Use Plan and to update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6th Cycle Housing Element and within the Coastal Zone. The amendment would add the new Housing Opportunity (HO) Overlay Coastal Zoning Districts and related development standards. See Attachment 5 for excerpts from the proposed Local Coastal Program Amendment.

The City has held/scheduled the following public hearings:

April 18, 2024	Planning Commission (recommended approval)
July 23, 2024	City Council

Certain components of the proposed Housing Element Implementation Amendments constitute a “Major Amendment” in the City’s Charter, therefore they require a majority vote of the electorate. The City intends to move in the direction of putting the item(s) on the ballot in the coming months.

AELUP for JWA Issues

Regarding Aircraft Noise Impacts:

Section 3.2.3 of the AELUP Noise Impact Zone 1 – High Impact 65 dB and above, states “Noise impact in this zone is sufficient to warrant restrictions on residential uses and to require sound

attenuation measures on other uses. The ALUC does not support residential development within the 65 dB CNEL noise contour.” Section 3.2.1 of the AELUP states that the General Land Use policy of the Airport Land Use Commission for Orange County shall be, “within the boundaries of the AELUP, any land use may be found to be Inconsistent with the AELUP which... places people so that they are affected adversely by aircraft noise...” This section further states, “Adverse effects of aircraft noise are defined by the "reasonable person" concept presented in the Noise Standards for California Airports, Title 21 of the California Code of Regulations (Appendix G). Adverse effects of aircraft noise include single event noise disturbances to which people near airports are subjected.”

Attachment 6 is an exhibit showing the residential sites included in the Housing Element Update, which will also be impacted by the proposed amendments, in relation to the noise contours adopted by the ALUC and included in the *AELUP for JWA*. The proposed amendments will provide additional policies and land use designations and standards which serve to further support the City’s efforts to allow residential uses in the 65 CNEL. The City also included in its submittal (at the end of this packet), these same sites in relation to the City’s new adopted noise contours which were not approved by ALUC.

Regarding Height Restrictions:

Many of the residential sites included in the Housing Element are located in the Approach Surface, Transitional Surface, and Horizontal Surface of the Federal Aviation Regulation (FAR) Part 77 Obstruction Imaginary Surfaces for JWA (see Attachment 7). Height increases are proposed for two sites located on Newport Beach Golf Course property between Mesa Drive and Anniversary Lane (Housing Element Sites #25 and #26). These sites are proposed for an increase in height to 60’ Above Ground Level (AGL). With approximate ground elevations of 46 to 53 feet, these structures would penetrate the Notification Area of 102’ AMSL and Form 7460s would be required. The City’s maximum heights for these sites would not penetrate the Obstruction Imaginary Surfaces.

Regarding Flight Tracks and Safety Zones:

The Housing Element identified 58 new housing sites within Safety Zone 6-Traffic Pattern Zone, and four sites within Safety Zone 4-Outer Approach/Departure Zone, including one of the sites proposed for a height increase to 60’. (See Attachment 8). Many of the sites located in Safety Zones 4 and 6 are also located in the 65 dB CNEL contour. According to the California Airport Land Use Planning Handbook, noise and overflight should be considered in Safety Zone 6 and residential uses should be limited to low density in Safety Zone 4.

Attachment 9 illustrates flight tracks provided by the John Wayne Airport Noise Office for three separate days in April and in July of 2023. As shown on the exhibits, there are numerous flights over the housing sites in the Airport Area, with a concentration of flights over the primary approach corridor and sites east of the airport within Safety Zone 6 and the transitional surface for JWA. The location and number of residential sites within Safety Zones 4 and 6, with some directly under the flight path of commercial and general aviation flights, suggests that the

residential land uses would be incompatible with the operations at JWA and subject future residents to excessive noise and safety risks.

Regarding Heliports:

No heliports are proposed as part of the Noise-Related Amendments, therefore, consistency with the *AE LUP* for Heliports was not evaluated.

Conclusion

Attachment 10 to this report contains excerpts from the submittal received from the City of Newport Beach.

ALUC staff has reviewed the Housing Element Implementation Amendments, including amendments to the Land Use Element, Noise Element, Title 20 (Planning and Zoning Code), and the Local Coastal Program for compliance with the *AE LUP for John Wayne Airport (JWA)*, specifically for noise, safety and overflight. The recommendation below is based on the additional policies and land use designations and standards which serve to further allow residential uses within the 65 dB CNEL, and the location of these sites within the Safety Zones and under the approach/departure surface for JWA.

Recommendation:

That the Commission find the proposed Newport Beach Housing Element Implementation Program Amendments - Proposed Amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program inconsistent with the *AE LUP for JWA per:*

1. Section 2.1.1 Aircraft Noise that the “aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport.”
2. Section 2.1.2 Safety Compatibility Zones in which “the purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA.”
3. Section 2.1.4, and PUC Section 21674 which state that the Commission is charged by PUC Section 21674(a) “to assist local agencies in ensuring compatible land uses in the vicinity of ...existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses,” and PUC Section 21674(b) “to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare.”

4. 3.2.1 General Policy of the *AELUP* which states that the General Land Use policy of the Airport Land Use Commission for Orange County shall be “Within the boundaries of the *AELUP*, any land use may be found to be Inconsistent with the *AELUP* which... places people so that they are affected adversely by aircraft noise...”

Respectfully submitted,



Julie Fitch
Interim Executive Officer

Attachments:

1. Newport Beach Housing Element Focus Areas and Airport Area Sites
2. Sites within JWA Notification/Planning Area
3. Excerpts from the Land Use Element Update
4. Excerpts from the Planning and Zoning Code Amendment
5. Excerpts from the Local Coastal Program Amendment
6. Residential Sites with Adopted AELUP Noise Contours
7. Map of Obstruction Imaginary Surfaces and Notification Surface
8. Parcels in Safety Zones
9. Flight Track Exhibits
10. Excerpts from the City of Newport Beach Submittal Package

of the Housing Element no later than February 2025. The City is not required to build housing units to meet its RHNA allocation, only to establish the appropriate zoning designations and development standards to allow the private market to develop these units.

Of critical importance is that the City is required to ensure the continued and effective implementation of the Housing Element programs including, but not limited to, the provision of sufficient adequately zoned land to accommodate its share of the regional growth and its required share of lower income dwelling units consistent with the General Plan and RHNA obligations. The areas where rezoning is required are focused in five areas of the City, as displayed in Figure 1 below. Although Banning Ranch (now the Randall Preserve) was included as a housing opportunity due to existing development capacity in the current General Plan Land Use Element, it is not being considered as an opportunity site that counts towards meeting the City's RHNA allocation.



Figure 1, Focus Areas for Residential Development

PROJECT DESCRIPTION AND DISCUSSION

An in-depth and detailed project description has been prepared as Section 3.0 (Project Description) of the Draft Environmental Impact Report ("Draft EIR"), which is digitally attached to this staff report as Exhibit "A" to Attachment No. PC 1, due to size and made available online at www.newportbeachca.gov/CEQA.

ATTACHMENT 1

Figure B-3: Airport Area Environs – Sites Inventory

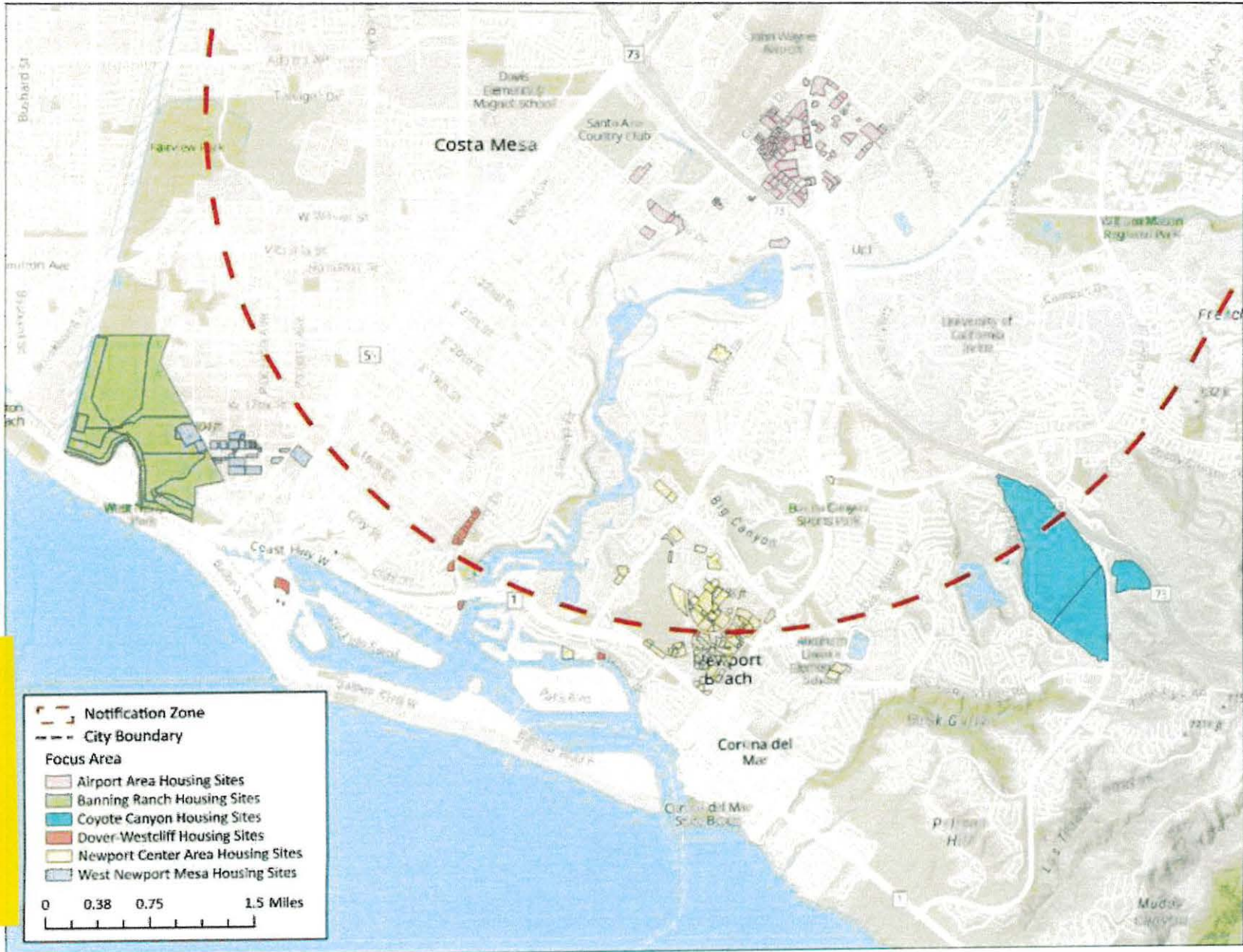


City of Newport Beach
2021-2029 HOUSING ELEMENT

Inventory/Map ID	Assessor Parcel Number	Existing Zoning	Existing General Plan Land Use	Existing/Proposed Allowable Height Limit	JWA Master Plan 1985 Noise Contour (CNEL)	2014 EIR No. 617 Noise Contour (CNEL)	Safety Zone
17	439 241 20	SP-7	RM	Base Zone	60-65 dB	60-65 dB	6
18	427 121 24	OA	AO		65-70 dB	65-70 dB	6
19	427 121 24	OA	AO		65-70 dB	65-70 dB	6
20	445 121 17	PC	CO-G		N/A	N/A	6
21	445 161 03	PC	MU-H2		60-65 dB	N/A	6
22	445 161 03	PC	MU-H2		60-65 dB	N/A	6
23	119 300 17	SP-7	PR	35 Feet	65-70 dB	65-70 dB	4
24	119 310 04	SP-7	PR	35 Feet	65-70 dB	65-70 dB	4
25	119 300 15	SP-7	PR	60 Feet	65-70 dB	60-70 dB	6
26	119 300 16	SP-7	PR	60 Feet	65-70 dB	60-70 dB	4/6
27	427 131 16	OA	AO	Base Zone	65-70 dB	65-70 dB	6
28	427 121 01	OA	AO		65-70 dB	65-70 dB	6
29	427 131 14	OA	AO		65-70 dB	65-70 dB	6
30	427 121 02	OA	AO		65-70 dB	65-70 dB	6
31	427 131 15	OA	AO		65-70 dB	65-70 dB	6
32	445 131 26	PC	MU-H2		60-65 dB	N/A	6
36	445 121 11	PC	CG		N/A	N/A	6
45	445 151 09	PC	MU-H2		60-65 dB	N/A	6
49	445 121 05	PC	CO-G		N/A	N/A	6
52	445 151 01	PC	PF		60-65 dB	N/A	6
53	445 121 14	PC	CO-G		60-65 dB	N/A	6
54	445 121 18	PC	CG		N/A	N/A	6
55	445 161 04	PC	MU-H2		60-65 dB	N/A	6
56	445 141 04	PC	MU-H2		N/A	N/A	6
59	445 121 09	PC	CG		N/A	N/A	6
61	427 121 27	OA	AO		65-70 dB	65-70 dB	6
62	427 173 01	PC	MU-H2		60-65 dB	60-65 dB	6
63	427 332 02	PC	CO-G		65-70 dB	60-65 dB	6
64	427 332 04	PC	CO-G		65-70 dB	60-65 dB	6
65	427 332 03	PC	CO-G		65-70 dB	60-65 dB	6
67	427 181 01	PC	MU-H2		60-65 dB	60-65 dB	6
70	427 174 04	PC	MU-H2		60-65 dB	60-65 dB	6
71	427 221 01	PC	MU-H2		60-65 dB	60-65 dB	6
73	427 222 05	PC	MU-H2		60-65 dB	N/A	6
74	427 222 06	PC	MU-H2		60-65 dB	N/A	6
77	427 221 06	PC	MU-H2		60-65 dB	60-65 dB	6
78	427 174 06	PC	MU-H2		60-65 dB	60-65 dB	6
80	427 181 03	PC	MU-H2		60-65 dB	60-65 dB	6
82	427 221 02	PC	CO-G		60-65 dB	60-65 dB	6
83	427 174 05	PC	MU-H2		60-65 dB	60-65 dB	6
85	427 342 01	PC	MU-H2		60-65 dB	60-65 dB	6
86	427 221 16	PC	CO-G		65-70 dB	65-70 dB	6
87	439 401 01	PF	PF		N/A	N/A	4/6
89	427 221 15	PC	MU-H2		60-65 dB	60-65 dB	6
90	427 141 14	PC	CO-G	65-70 dB	65-70 dB	6	
91	936 790 44	PC	CO-G	65-70 dB	65-70 dB	6	
92	936 790 50	PC	CO-G	65-70 dB	65-70 dB	6	
93	427 141 04	PC	CO-G	65-70 dB	65-70 dB	6	
94	427 141 11	PC	CO-G	65-70 dB	65-70 dB	6	
95	936 790 48	PC	CO-G	65-70 dB	65-70 dB	6	
96	427 141 07	PC	CO-G	65-70 dB	65-70 dB	6	
97	427 141 08	PC	CO-G	65-70 dB	65-70 dB	6	
98	427 141 16	PC	CO-G	65-70 dB	65-70 dB	6	
103	445 141 11	PC	MU-H2	N/A	N/A	6	
104	445 141 12	PC	MU-H2	N/A	N/A	6	
105	445 141 13	PC	MU-H2	N/A	N/A	6	
106	427 171 02	PC	CG	65-70 dB	65-70 dB	6	
107	427 221 03	PC	CO-G	65-70 dB	65-70 dB	6	
108	427 171 03	PC	CG	65-70 dB	65-70 dB	6	
109	936 790 46	PC	CO-G	60-65 dB	60-65 dB	6	
335	427 221 17	PC	MU-H2	60-65 dB	60-65 dB	6	
338	445 141 31	PC	MU-H2	N/A	N/A	6	
343	427 181 09	PC	CG	65-70 dB	65-70 dB	6	
344	427 141 13	PC	CO-G	65-70 dB	65-70 dB	6	
356	427 131 09	SP-7	AO	65-75 dB	65-70 dB	6	
357	442 282 02	PC	CV	60-65 dB	N/A	6	

Inventory/Map ID	Assessor Parcel Number	Existing Zoning	Existing General Plan Land Use	Existing/Proposed Allowable Height Limit	JWA Master Plan 1985 Noise Contour (CNEL)	2014 EIR No. 617 Noise Contour (CNEL)	Safety Zone
358	439 021 13	SP-7	CG	Base Zone	60-65 dB	60-65 dB	3
359	439 021 12	SP-7	CG		60-65 dB	60-65 dB	3
360	439 021 03	SP-7	CG		60-65 dB	60-65 dB	3/6
363	439 352 21	SP-7	CO-G		65-70 dB	65-70 dB	6
364	493 341 01	SP-7	RS-D		65-70 dB	65-70 dB	6
365	439 352 17	SP-7	CO-G		65-70 dB	65-70 dB	6
366	439 352 20	SP-7	CO-G		65-70 dB	65-70 dB	6
367	439 352 22	SP-7	CO-G		65-70 dB	65-70 dB	3/6

City of Newport Beach Housing Element Implementation Program Amendments
 ALUC Submittal, April 26, 2024
 EXHIBIT A – Notification Area/Planning Area

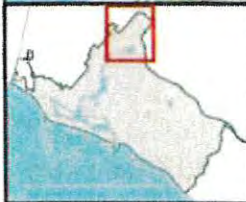
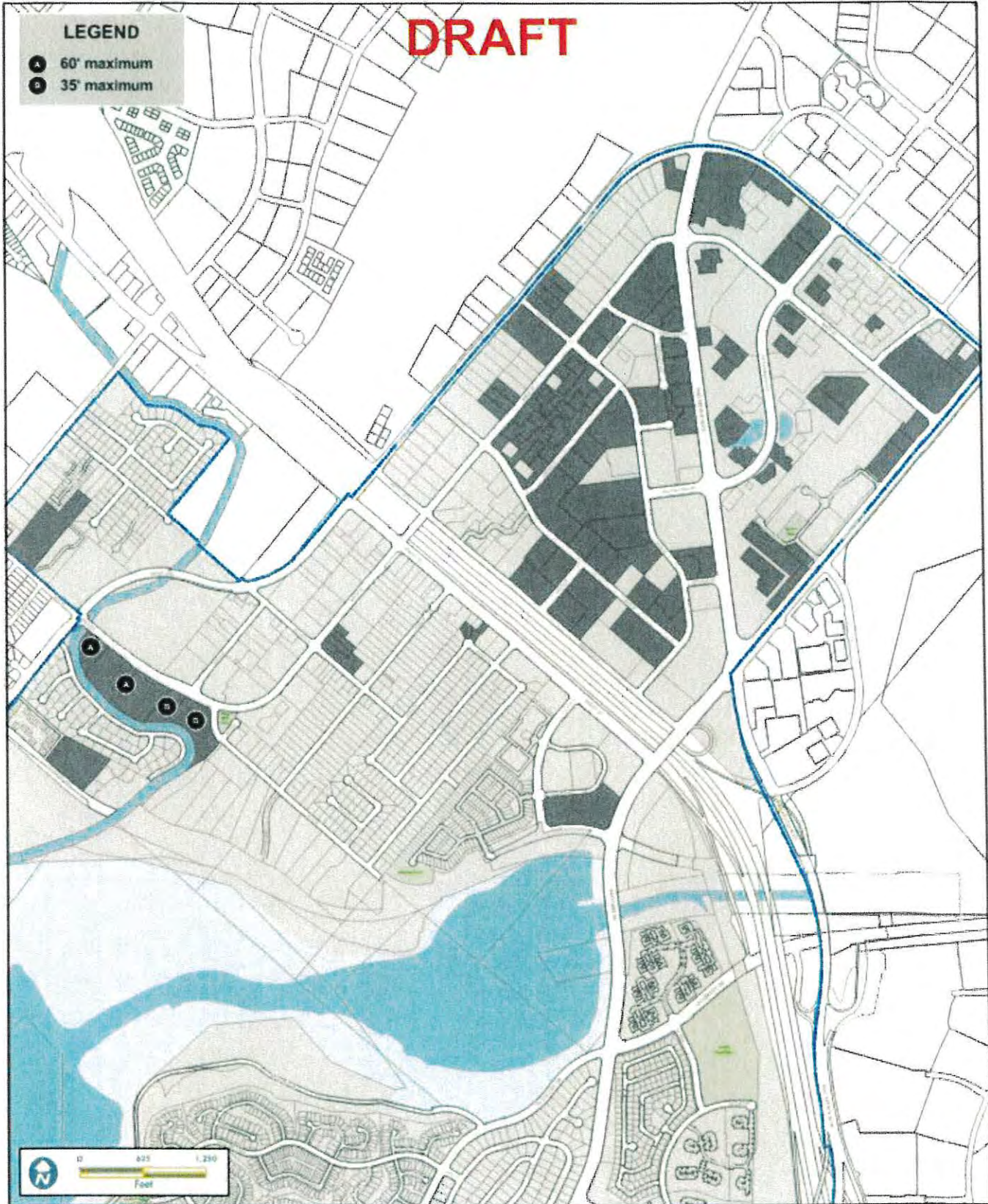


ATTACHMENT 2

DRAFT

LEGEND

- A** 60' maximum
- B** 35' maximum



HO-1 Airport Area Environs Area



City of Newport Beach
GIS Division
October 09, 2023

- b. The reduced density/intensity on the donor site provides benefits to the City such as, but not limited to, the (1) provision of extraordinary open space, public visual corridor(s), parking or other amenities; (2) preservation of a historic building or property or natural landscapes; (3) improvement of the area's scale and development character; (4) consolidation of lots to achieve a better architectural design than could be achieved without lot consolidation; and/or (5) reduction of local vehicle trips and traffic congestion;
- c. The increment of growth transferred to the receiver site complements and is in scale with surrounding development, complies with community character and design policies contained in this Plan, and does not materially degrade local traffic conditions and environmental quality.
- d. Transfer of Development Rights in Newport Center is governed by Policy 6.14.3 (*Imp 2.1, 5.1, 10.2*)

LU 4.4 Rezoning to Accommodate Housing Opportunities

Accommodate housing opportunities through the adoption of housing opportunity overlay zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element's focus areas. Properties within each overlay district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites may be identified in the future through rezoning unless precluded by state law. The goal is to ensure an adequate number of sites Citywide to accommodate the City's allocation of the Regional Housing Needs Assessment:

- **Airport Environs:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the area.
- **West Newport Mesa:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the area.
- **Newport Center:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the area. units per gross acre.
- **Dover / Westcliff:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the area.
- **Coyote Canyon:** the intent is to allow a density between 20 and 60 dwelling units per gross acre of viable land to accommodate up to 1,530 total dwelling units within the area.

ATTACHMENT 3

LU 4.5 Residential Uses and Residential Densities

Residential use of any property included within an established housing opportunity overlay zoning district is allowed regardless of and in addition to the underlying land use category or density limit established through Policy LU 4.1, Table LU 1 and Table LU 2. A general plan amendment is not required to develop a residential use within an established housing opportunity zoning overlay district. The maximum density specified for the various overlay districts specified in Policy LU 4.2 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 4.4 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units identified in LU 4.2 do not include units identified as pipeline units or units permitted pursuant to State density bonus law.

LU 4.6 Continuation of Existing Development

Residential opportunities are in addition to existing uses allowed by the General Plan. Properties within the established overlay zones are not required to be developed for mixed-use or residential. Existing uses may continue to operate provided they are legally established and consistent with policies and regulations related to legal nonconforming uses. The adoption of housing opportunity overlay districts shall not affect existing rights to use the property.

LU 4.7 Redevelopment and Transfer of Development Rights

Within an established housing opportunity overlay zone and notwithstanding Policy LU 6.15.5, the intensity of existing allowed uses of a site may be reconstructed on the site as part of a mixed-use development provided the gross floor area allowed by the General Plan is not increased, unless it is increased through a General Plan amendment or density bonus concession. The intensity of existing uses may be converted to other uses allowed by the underlying General Plan land use category provided that average daily trips and peak hour traffic trips are not increased above the trips from the existing allowed use. For example, office intensity may be converted to retail or service commercial, restaurants, or other nonresidential uses provided the General Plan land use category allows these uses. Nonresidential intensity not included as a component of a future residential project will remain within the General Plan allocations on a statistical area-wide basis. The City Council may transfer the intensity of a use to another site within the Statistical Area consistent with Policy LU 4.3 or Policy LU 6.15.3.

Airport Area

The Airport Area encompasses the properties abutting and east of (JWA) and is in close proximity to the Irvine Business Complex and University of California, Irvine (UCI). This proximity has influenced the area's development with uses that support JWA and UCI, such as research and development, high technology industrial and visitor-serving uses, such as hotel and car rental agencies. A mix of low-, medium-, and high-rise office buildings predominate, with lesser coverage of supporting multi-tenant commercial, financial, and service uses. A number of buildings are occupied by corporate offices for industry and financial uses. Koll Center, at MacArthur Boulevard and Jamboree Road, was developed as a master planned campus office park. Manufacturing uses occupy a small percentage of the Airport Area. Three large hotels have been developed to take advantage of their proximity to JWA, local businesses, and those in the nearby Irvine Business Complex.

The area immediately abutting JWA, referred to as the "Campus Tract," contain a diverse mix of low intensity industrial, office, and airport-related uses, including a number of auto-related commercial uses including carwash, auto-detailing, rental, repair, and parts shops. In comparison to properties to the east, this area is underutilized and less attractive.



Office in Airport Area



Hotel in Airport Area

Development in the Airport Area is limited due to the safety restrictions and noise associated with John Wayne Airport. Additionally, building heights are restricted for aviation safety. Residential uses can be allowed in the Airport Area on parcels that are wholly or partially outside the 65 dBA CNEL contour as denoted in Figures N4 and N5 of the Noise Element. Figure N5 is largely derived from the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report (EIR No. 617). Residential uses may be approved in these areas provided interior living areas are protected from excessive noise by appropriate construction techniques that reduce the interior noise to 45 dBA CNEL, consistent with state law. (See Cal. Code Regs., tit. 21, § 5014, subd. (a)(1)-(4).) Parcels that are wholly within the John Wayne Airport 65 dB CNEL contour shown in Figure N5 (e.g., those identified as experiencing noise levels above 65 dB CNEL) are unsuitable for residential development unless and until the City determines, based on substantial evidence, that the site(s) wholly within the 65-70 dB CNEL contours are needed for the City to satisfy its Sixth Cycle RHNA mandate. Nonresidential uses are, however, encouraged on parcels located wholly within the 65 dBA CNEL contour area.

Recent development activity in the City of Irvine's Business Complex to the north has included the transfer of development rights, bringing more intense development closer to the Airport Area and resulting in the conversion of office to residential entitlement. This activity is changing the area to a mixed-use center.

Through the Visioning process and preparation of the General Plan, the public preferred revitalization of the Airport Area with income-generating land uses. Generally, a range of development types were acceptable as long as traffic is not adversely affected. However, a majority believed that the Airport Area is urban in character, different than other City neighborhoods. Additional density and traffic congestion were considered more acceptable here than other parts of the City. There was strong support for new hotels and broad consensus on mixed-use development with residential and revenue-generating uses.

Policy Overview

The General Plan provides for the development of office, industrial, retail, and airport-related businesses in the Airport Area, as well as the opportunity for housing and supporting services. The latter would be developed as clusters of residential villages centering on neighborhood parks and interconnected by pedestrian walkways. These would contain a mix of housing types and buildings that integrate housing with ground-level convenience retail uses and would be developed at a sufficient scale to achieve a "complete" neighborhood. Residential and mixed-use (commercial and residential) buildings would be restricted from areas exposed to exterior noise levels of John Wayne Airport 65 dBA CNEL and higher, based on the dBA CNEL contour boundaries shown in Figure N5 of the Noise Element of the General Plan, unless and until the City determines, based on substantial evidence that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate.

Goal

LU 6.15

A mixed-use community that provides jobs, residential, and supporting services in close proximity, with pedestrian-oriented amenities that facilitate walking and enhance livability.

Policies

URBAN FORM AND STRUCTURE [refer to Figure LU22]

LU 6.15.1 Land Use Districts and Neighborhoods

Provide for the development of distinct business park, commercial, and airport-serving districts and residential neighborhoods that are integrated to ensure a quality environment and compatible land uses. *(Imp 1.1, 2.1)*

LU 6.15.2 Underperforming Land Uses

Promote the redevelopment of sites with underperforming retail uses located on parcels at the interior of large blocks for other uses, with retail clustered along major arterials (e.g., Bristol, Campus, MacArthur, and Jamboree), except where intended to serve and be integrated with new residential development. *(Imp 2.1, 24.1)*

LU 6.15.3 Airport Compatibility

Require that all development be constructed in conformance with the height restrictions set forth by the Federal Aviation Administration (FAA), Federal Aviation Regulations (FAR) Part 77, and Caltrans Division of Aeronautics, and that residential development shall be allowed only on parcels with noise levels of less than John Wayne Airport 65 dBA CNEL noise contour area as shown in Figure

Land Use Element

N5 of the Noise Element of the General Plan, unless and until the City determines, based on substantial evidence, that the sites wholly within the 65 dBA CNEL noise contour shown in Figure N5 are needed for the City to satisfy its Sixth Cycle RHNA mandate. Nonresidential uses are, however, encouraged on parcels located wholly within the 65 dBA CNEL contour area. (*Imp 2.1, 3.1, 4.1, 14.3*)

EXHIBIT "C"

**TITLE 20 (PLANNING AND ZONING) AMENDMENT
HOUSING OPPORTUNITY (HO) OVERLAY ZONING DISTRICTS**

Chapter 20.28 (Overlay Zoning Districts [MHP, PM, B, H]) of the Newport Beach Municipal Code (NBMC) would be amended as follows, currently shown in redline-strikeout format for ease of reference only:

**Chapter 20.28
OVERLAY ZONING DISTRICTS (MHP, PM, B, HO, H)**

Sections:

- 20.28.010 Purposes of Overlay Zoning Districts.**
- 20.28.020 Mobile Home Park (MHP) Overlay Zoning District.**
- 20.28.030 Parking Management (PM) Overlay District.**
- 20.28.040 Bluff (B) Overlay District.**
- 20.28.050 Housing Opportunity (HO) Overlay Zoning Districts.**
- 20.28.060 Height (H) Overlay District.**

20.28.010 Purposes of Overlay Zoning Districts.

The purposes of the individual overlay zoning districts and the manner in which they are applied are outlined below. An overlay district may be initiated as a Zoning Map amendment in compliance with Chapter 20.66 (Amendments). All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying zoning district in addition to the standards provided in this chapter, if any. In situations where an inconsistency occurs between the development standards of the underlying zoning district and the standards in this chapter, the standards of the overlay district shall prevail.

A. MHP (Mobile Home Park) Overlay Zoning District. The MHP Overlay Zoning District is intended to establish a mobile home district on parcels of land developed with mobile home parks. The regulations of this district are designed to maintain and protect mobile home parks in a stable environment with a desirable residential character.

B. PM (Parking Management) Overlay Zoning District. The PM Overlay Zoning District is intended to provide for areas where parking management plans are appropriate to ensure adequate parking.

C. B (Bluff) Overlay Zoning District. The B Overlay District is intended to establish special development standards for areas of the City where projects are proposed on identified bluff areas. The specific areas are identified in Part 8 of this title (Maps).

D. HO (Housing Opportunity) Overlay Zoning Districts. The HO Overlay Zoning Districts are intended to accommodate housing opportunities consistent with the Housing Element's focus areas and to ensure the City can meet its allocation of the Regional Housing Needs Assessment (RHNA). The specific areas are identified in Part 8 of this title (Maps).

E. H (Height) Overlay District. The H Overlay District is intended to establish standards for review of increased building height in conjunction with the provision of enhanced project design features and amenities.

20.28.050 Housing Opportunity (HO) Overlay Zoning Districts.

A. Applicability. This section applies to properties located in one of the Housing Opportunity (HO) Overlay Zoning Districts, as identified in Part 8 of this title. This includes the following subareas:

1. HO-1 - Airport Area Environs Area – The Airport Area Environs Area is located north of the Upper Newport Bay Nature Reserve, primarily around the John Wayne Airport.
2. HO-2 - West Newport Mesa Area – The West Newport Mesa Area is located near the southwest corner of the City and primarily consists of industrial properties along 16th Street, Production Place, and 15th Street.
3. HO-3 - Dover-Westcliff Area – The Dover-Westcliff Area includes property on both sides of West Coast Highway and the west of Dover Drive. Properties in the Lido Village area are included.
4. HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.
5. HO-5 - Coyote Canyon Area – The Coyote Canyon Area is located on the south side of California State Route 73, at the junction of Newport Coast Drive.

The above listed are general descriptions of each subarea and additional properties may be included with the subarea. To be eligible for the provisions of this chapter, the property must be listed on the HO area map as an "Opportunity Site".

6. HO-6 - 5th Cycle Housing Element Sites – Those sites that are identified as 5th Cycle Housing Element sites on Figure B-5 of the 6th Cycle Housing Element. See subsection 20.28.050(E) for alternative review process.

B. Uses Allowed. The following uses shall be permitted in the Housing Opportunity (HO) Overlay Zoning Districts with exception of HO-6 where only the base zoning standards apply:

1. Any use that is permitted or conditionally permitted in the base zone;
2. Multiple-unit development that meets the density requirements set forth in this section;
3. Mixed-use development that includes a residential component which complies with the minimum density set forth in this section; and
4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.

C. Subarea Development Standards.

1. Development Standards. The following development standards shall apply to any residential or mixed-use project permitted pursuant to this section. Unless otherwise modified by this section, all applicable development standards, including any adopted objective design standards, shall apply.

TABLE 2-16

DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES

Development Feature	Housing Opportunity Subareas					
	HO-1	HO-2	HO-3	HO-4	HO-5	HO-6
<u>Development Limit (units)⁽¹⁾</u>	<u>2,577</u>	<u>1,107</u>	<u>521</u>	<u>2,439</u>	<u>1,530</u>	<u>N/A</u>
<u>Lot Size/Dimension</u>	<u>Per Base Zone</u>					
<u>Lot area required per unit (sq. ft.)⁽²⁾</u>	<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 871 (50 du/ac)</u>	<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 871 (50 du/ac)</u>		<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 726 (60 du/ac)⁽¹⁰⁾</u>		<u>All Standards Per Base Zone</u>
<u>Setbacks</u>						
<u>Front</u>	<u>0 ft.⁽³⁾</u>	<u>10 ft.⁽³⁾</u>	<u>10 ft.⁽³⁾⁽⁴⁾</u>	<u>0⁽³⁾</u>	<u>10 ft.⁽³⁾</u>	
<u>Rear</u>	<u>0</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>0</u>	<u>20 ft.</u>	
<u>Side</u>	<u>0⁽⁴⁾</u>					
<u>Street Side</u>	<u>0⁽³⁾</u>	<u>10 ft.⁽³⁾</u>	<u>10 ft.⁽³⁾</u>	<u>0 ft.⁽³⁾</u>	<u>10 ft.⁽³⁾</u>	
<u>Height</u>	<u>Per Base Zone unless otherwise identified on the map</u>	<u>65 ft.</u>	<u>65 ft.⁽⁶⁾</u>	<u>Per Base Zone⁽⁷⁾</u>	<u>65 ft.</u>	
<u>Building Separation</u>	<u>10 ft.</u>					
<u>Floor Area Ratio (FAR)</u>	<u>No restriction⁽⁸⁾</u>					
<u>Common Open Space⁽⁹⁾</u>	<u>Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)</u>					
<u>Private Open Space⁽⁹⁾</u>	<u>5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)</u>					
<u>Fencing</u>	<u>See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).</u>					
<u>Landscaping</u>	<u>See Chapter 20.36 (Landscaping Standards).</u>					
<u>Lighting</u>	<u>See Section 20.30.070 (Outdoor Lighting).</u>					
<u>Outdoor Storage/Display</u>	<u>See Section 20.48.140 (Outdoor Storage, Display, and Activities).</u>					
<u>Parking</u>	<u>See Subsection (D)(3) below and Chapter 20.40 (Off-Street Parking).</u>					
<u>Satellite Antennas</u>	<u>See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).</u>					
<u>Signs</u>	<u>See Chapter 20.42 (Sign Standards).</u>					

(1) Development limits are additional residential development opportunities beyond the base allowances in this Title or the General Plan. These limits shall not include density bonus units or units that are either identified as pipeline units in the 6th Cycle Housing Element (Table B-2) or units that were applied for and predate the effective date of the HO Overlay Zoning Districts. Furthermore, eligible units are only counted against the development limits when they are either entitled or are issued a building permit if allowed by right. However, 25% of the development limit within each HO Overlay Zoning District that includes properties within the Coastal Zone shall be reserved until such a time as the City's Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6th

Planning Commission Resolution No. PC2024-006
Page 16 of 62

- Cycle Housing Element. Following the City's Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone.
- (2) Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units.
 - (3) Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way.
 - (4) Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway.
 - (5) The combined total from both sides shall be 15 feet.
 - (6) The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1.
 - (7) "Base Zone" includes all height limitations established by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).
 - (8) The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable.
 - (9) For purposes of this section, common and private open space in HO-1 may include enclosed shared amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility, children's playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director.
 - (10) This density is intended for the former Coyote Canyon Landfill site only. The Sage Hill School site is limited to a maximum of 20 dwelling units.
2. Airport Area Environs Area (HO-1). The following development standards shall only apply to projects with the Airport Area Environs Area:
- a. Sound Mitigation. The interior ambient noise level of all new residential dwelling units shall meet applicable standards of the Section 10.26.030 (Interior Noise Standards). An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the interior noise standard. The residential units shall be constructed, and noise attenuated in compliance with the report.
 - b. Advanced Air Filtration. The design of all new residential and mixed-use residential developments shall include advanced air filtration systems to promote cleaner air within living environments.
 - c. Notification to Owners and Tenants. A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment adjacent to an airport and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment (e.g., noise from planes, commercial activity on the site and vehicles streets) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.
3. West Newport Mesa Area (HO-2). The following development standards shall only apply to projects with the West Newport Mesa Area:

- a. West Newport Mesa Streetscape Master Plan. Any residential or mixed-use residential development shall implement applicable components of the adopted West Newport Mesa Streetscape Master Plan.
- 4. Coyote Canyon Area (HO-5). The following development standards shall only apply to projects with the Coyote Canyon Area:
 - a. Public Park. Any future residential development within this subarea shall include a public park that is no less than 3.5 acres, in aggregate. As part of the review for the overall project, the developer shall provide a detailed description of the public park, including timing, dimensions, and location within the project site.
 - b. Public Trails. Any future residential development shall include public trails for the entire subarea that accommodate multiple modes of transit (i.e., walking and bicycling) and connect to nearby community resources, as well as the existing trail system. As part of the review for the overall project, the developer shall provide a detailed description of the trail system, including timing, dimensions, alignment, and location within the project site.

D. General Development Standards. The following development standards shall apply to all projects within the Housing Opportunity zone, regardless of subarea:

- 1. Mixed-use developments. All mixed-use developments shall comply with Section 20.48.130 (Standards for Mixed-Use Projects). In addition, a minimum of 50% of the floor area of mixed-use developments shall be dedicated to residential uses. For purposes of this section, floor area be defined as all enclosed floor space, but exclude parking garages/spaces, utility areas, and storage areas that are not directly accessible from the interior of a dwelling unit.
- 2. Landscaped Setbacks. All front and street side setbacks shall be landscaped, except for areas that provide vehicle and pedestrian access to the right-of-way.
- 3. Residential Off-Street Parking Requirements. Residential parking requirements for projects within the Housing Opportunity Overlay Zones shall be provided in accordance with Table 2-17 below. Parking for all other uses not included in this table shall be provided in accordance with Chapter 20.40 (Off-Street Parking Requirements) of the NBMC.

TABLE 2-17

RESIDENTIAL OFF-STREET PARKING FOR HOUSING OPPORTUNITY OVERLAY ZONES

<u>Land Use</u>	<u>Subtype</u>	<u>Parking Requirement</u>
<u>Residential (Rental)</u>	<u>Studio</u>	<u>1.1 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.5 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>
<u>Residential (Ownership)</u>	<u>Studio</u>	<u>1.4 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.8 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>

E. Review Process. Notwithstanding Sections 20.48.130(A) and 20.52.080, any residential or mixed-use development in the HO Overlay Zones that includes a minimum of 20% of the units reserved for very-low- and low-income residents shall not require a Site Development Review, but shall require an affordable housing implementation plan (AHIP) and shall meet all the following criteria:

1. All units designated as affordable to very-low and/or low-income residents shall be subject to a minimum 30-year affordability covenant;
2. Affordable units shall reflect the range of numbers of bedrooms provided in the residential development project as a whole, but may be smaller and have different interior finishes and features than market-rate units;
3. Affordable units shall be comparable in the facilities provided (e.g., laundry, recreation, etc.) and in the quality of construction and exterior design to the market-rate units; and
4. Affordable units shall be dispersed throughout the residential development.

EXHIBIT “E”

LOCAL COASTAL PROGRAM AMENDMENT

The Coastal Land Use Plan (CLUP) of the City’s Certified Local Coastal Program would be revised as follows, subject to California Coastal Commission review and approval:

Current Policy	Revised Policy
<p>Policy 2.1.2-1 Development in each district and corridor shall adhere to policies for land use type and density/intensity contained in Table 2.1.1-1, except as modified in Sections 2.1.3 to 2.1.8.</p>	<p>Policy 2.1.2-1 (revised) Development in each district and corridor shall adhere to policies for land use type and density/intensity contained in Table 2.1.1-1, except as modified in Sections 2.1.3 to 2.1.8, and 2.1.11.</p>
<p>Policy 2.1.10-1 Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations.</p>	<p>Policy 2.1.10-1 (revised) Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations, except as modified by all Policies in the 2.1.11 series.</p>
<p>N/A</p>	<p>Policy 2.1.11-1 (new) Accommodate housing opportunities through the adoption of housing opportunity overlay coastal zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element’s focus areas. Properties within each overlay coastal zoning district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites may be identified in the future through rezoning unless precluded by state law. The City will reserve 25% of allocated dwelling units within the Coastal Zone until such a time as the City’s Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6th Cycle Housing Element. Following the City’s Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone. The goal is to ensure an adequate number of sites Citywide to accommodate the City’s allocation of the Regional Housing Needs Assessment:</p> <ul style="list-style-type: none"> ▪ Airport Environs: the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone. ▪ West Newport Mesa: the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone. ▪ Newport Center: the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.

Current Policy	Revised Policy
	<ul style="list-style-type: none"> ▪ Dover / Westcliff: the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.
N/A	<p>Policy 2.1.11-2 (new) Residential use of any property included within an established housing opportunity overlay coastal zoning district is allowed regardless of and in addition to the underlying land use category or density limit established herein. An amendment to the Coastal Land Use Plan is not required to develop a residential use within an established housing opportunity zoning overlay coastal zoning district. The maximum density specified in Policy 2.1.11-1 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 2.1.11-1 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units do not include units identified as pipeline units or units permitted pursuant to State density bonus law.</p>
N/A	<p>Policy 2.1.11-3 (new) Residential opportunities are in addition to existing uses allowed by the Coastal Land Use Plan. Properties within the established overlay coastal zones are not required to be developed for mixed-use or residential. Existing uses may continue to operate provided they are legally established and consistent with policies and regulations related to legal nonconforming uses. The adoption of housing opportunity overlay coastal zoning districts shall not affect existing rights to use the property.</p>
N/A	<p>Policy 2.1.11-4 (new) If residential or mixed-use projects pursuant to a housing opportunity overlay coastal zoning district are developed, projects shall be consistent with applicable overlay coastal zoning district or Implementation Plan requirements unless modified consistent with an established procedure to grant relief from standards (e.g., Coastal Modification or Variance, or the application of Density Bonus regulations).</p>

Chapter 21.28 (Overlay Coastal Zoning Districts [MHP, PM, B, C, And H]) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC would be amended as follows, currently shown in redline-strikeout format for ease of reference only, and subject to California Coastal Commission review and approval:

**Chapter 21.28
OVERLAY COASTAL ZONING DISTRICTS (MHP, PM, B, C, ~~ANDH~~, AND HO)**

Sections:

- 21.28.010 Purposes of Overlay Coastal Zoning Districts.**
- 21.28.020 Mobile Home Park (MHP) Overlay Coastal Zoning District.**
- 21.28.030 Parking Management (PM) Overlay District.**
- 21.28.040 Bluff (B) Overlay District.**
- 21.28.050 Canyon (C) Overlay District.**
- 21.28.060 Height (H) Overlay District.**
- 21.28.070 Housing Opportunity (HO) Overlay Coastal Zoning Districts.**

21.28.010 Purposes of Overlay Coastal Zoning Districts.

The purposes of the individual overlay coastal zoning districts and the manner in which they are applied are outlined below. An overlay district may be initiated as a Coastal Zoning Map amendment in compliance with Chapter 21.14 (Coastal Maps). All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying coastal zoning district in addition to the standards provided in this chapter, if any. In situations where an inconsistency occurs between the development standards of the underlying coastal zoning district and the standards in this chapter, the standards of the overlay district shall prevail.

- A. MHP (Mobile Home Park) Overlay Coastal Zoning District. The MHP Overlay Coastal Zoning District is intended to establish a mobile home district on parcels of land developed with mobile home parks. The regulations of this district are designed to maintain and protect mobile home parks in a stable environment with a desirable residential character.
- B. PM (Parking Management) Overlay Zoning District. The PM Overlay Zoning District is intended to provide for areas where parking management plans are appropriate to ensure adequate parking.
- C. B (Bluff) Overlay Coastal Zoning District. The B Overlay District is intended to establish special development standards for areas of the City where projects are proposed on identified bluff areas. The specific areas are identified in Part 8 of this Implementation Plan (Maps).
- D. C (Canyon) Overlay Coastal Zoning District. The C Overlay District is intended to establish development setbacks based on the predominant line of existing development for areas that contain a segment of the canyon edge of Buck Gully or Morning Canyon. The specific areas are identified in Part 8 of this Implementation Plan (Maps).
- E. H (Height) Overlay District. The H Overlay District is intended to establish standards for review of increased building height in conjunction with the provision of enhanced project design features and amenities. (Ord. 2021-26 § 4, 2021; Ord. 2016-19 § 9 (Exh. A)(part), 2016)

F. HO (Housing Opportunity) Overlay Coastal Zoning Districts. The HO Overlay Coastal Zoning Districts are intended to accommodate housing opportunities consistent with the Housing Element's focus areas and to ensure the City can meet its allocation of the Regional Housing Needs Assessment (RHNA). The specific areas are identified in Part 8 of this title (Maps).

21.28.060 Housing Opportunity (HO) Overlay Coastal Zoning Districts.

A. Applicability. This section applies to properties located in one of the Housing Opportunity (HO) Overlay Coastal Zoning Districts, as identified in Part 8 of this title. This includes the following subareas:

1. HO-1 - Airport Area Environs Area – The Airport Area Environs Area is located north of the Upper Newport Bay Nature Reserve, primarily around the John Wayne Airport.
2. HO-2 - West Newport Mesa Area – The West Newport Mesa Area is located near the southwest corner of the City and primarily consists of industrial properties along 16th Street, Production Place, and 15th Street.
3. HO-3 - Dover-Westcliff Area – The Dover-Westcliff Area includes property on both sides of West Coast Highway and the west of Dover Drive. Properties in the Lido Village area are included.
4. HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.

The above listed are general descriptions of each subarea and additional properties may be included with the subarea. To be eligible for the provisions of this chapter, the property must be listed on the HO area map as an "Opportunity Site".

B. Uses Allowed. The following uses shall be permitted in the Housing Opportunity (HO) Overlay Coastal Zoning Districts:

1. Any use that is permitted or conditionally permitted in the base zone;
2. Multiple-unit development that meets the density requirements set forth in this section;
3. Mixed-use development that includes a residential component which complies with the minimum density set forth in this section; and
4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.

C. Subarea Development Standards.

1. Development Standards. The following development standards shall apply to any residential or mixed-use project permitted pursuant to this section. Unless otherwise modified by this section, all applicable development standards, including any adopted objective design standards, shall apply.

TABLE 21.28-1

DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES

Development Feature	Housing Opportunity Subareas			
	HO-1	HO-2	HO-3	HO-4
<u>Lot Size/Dimension</u>	<u>Per Base Zone</u>			
<u>Lot area required per unit (sq. ft.)¹</u>	Minimum: <u>2,178 (20 du/ac)</u> Maximum: <u>871 (50 du/ac)</u>		Minimum: <u>2,178 (20 du/ac)</u> Maximum: <u>871 (50 du/ac)</u>	
<u>Setbacks</u>				
<u>Front</u>	<u>0 ft.⁽²⁾</u>	<u>10 ft.⁽²⁾</u>	<u>10 ft.⁽²⁾⁽³⁾</u>	<u>0⁽²⁾</u>
<u>Rear</u>	<u>0</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>0</u>
<u>Side</u>	<u>0'⁽⁴⁾</u>			
<u>Street Side</u>	<u>0⁽²⁾</u>	<u>10 ft.⁽²⁾</u>	<u>10 ft.⁽²⁾</u>	<u>0 ft.⁽²⁾</u>
<u>Height</u>	<u>Per Base Zone unless otherwise identified on the map</u>	<u>65 ft.</u>	<u>65 ft.⁽⁵⁾</u>	<u>Per Base Zone⁽⁶⁾</u>
<u>Building Separation</u>	<u>10 ft.</u>			
<u>Floor Area Ratio (FAR)</u>	<u>No restriction⁽⁶⁾</u>			
<u>Common Open Space⁽⁷⁾</u>	<u>Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)</u>			
<u>Private Open Space</u>	<u>5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)</u>			
<u>Fencing</u>	<u>See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).</u>			
<u>Landscaping</u>	<u>See Section 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).</u>			
<u>Lighting</u>	<u>See Section 21.30.070 (Outdoor Lighting).</u>			
<u>Parking</u>	<u>See Subsection (D)(2) below and Chapter 21.40 (Off-Street Parking).</u>			
<u>Signs</u>	<u>See Chapter 21.30.065 (Sign Standards).</u>			

- (1) Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units.
- (2) Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way.
- (3) Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway.
- (4) The combined total from both sides shall be 15 feet.
- (5) The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1.
- (6) The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable.
- (7) For purposes of this section, common and private open space in HO-1 may include enclosed shared amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility, children's playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director.

2. Airport Area Environs Area (HO-1). The following development standards shall only apply to projects with the Airport Area Environs Area:
 - a. Sound Mitigation. The interior ambient noise level of all new residential dwelling units shall meet applicable standards of the Section 10.26.030 (Interior Noise Standards). An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the interior noise standard. The residential units shall be constructed, and noise attenuated in compliance with the report.
 - b. Advanced Air Filtration. The design of all new residential and mixed-use residential developments shall include advanced air filtration systems to promote cleaner air within living environments.
 - c. Notification to Owners and Tenants. A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment adjacent to an airport and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment (e.g., noise from planes, commercial activity on the site and vehicles streets) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.
3. West Newport Mesa Area (HO-2). The following development standards shall only apply to projects with the West Newport Mesa Area:
 - a. West Newport Mesa Streetscape Master Plan. Any residential or mixed-use residential development shall implement applicable components of the adopted West Newport Mesa Streetscape Master Plan.

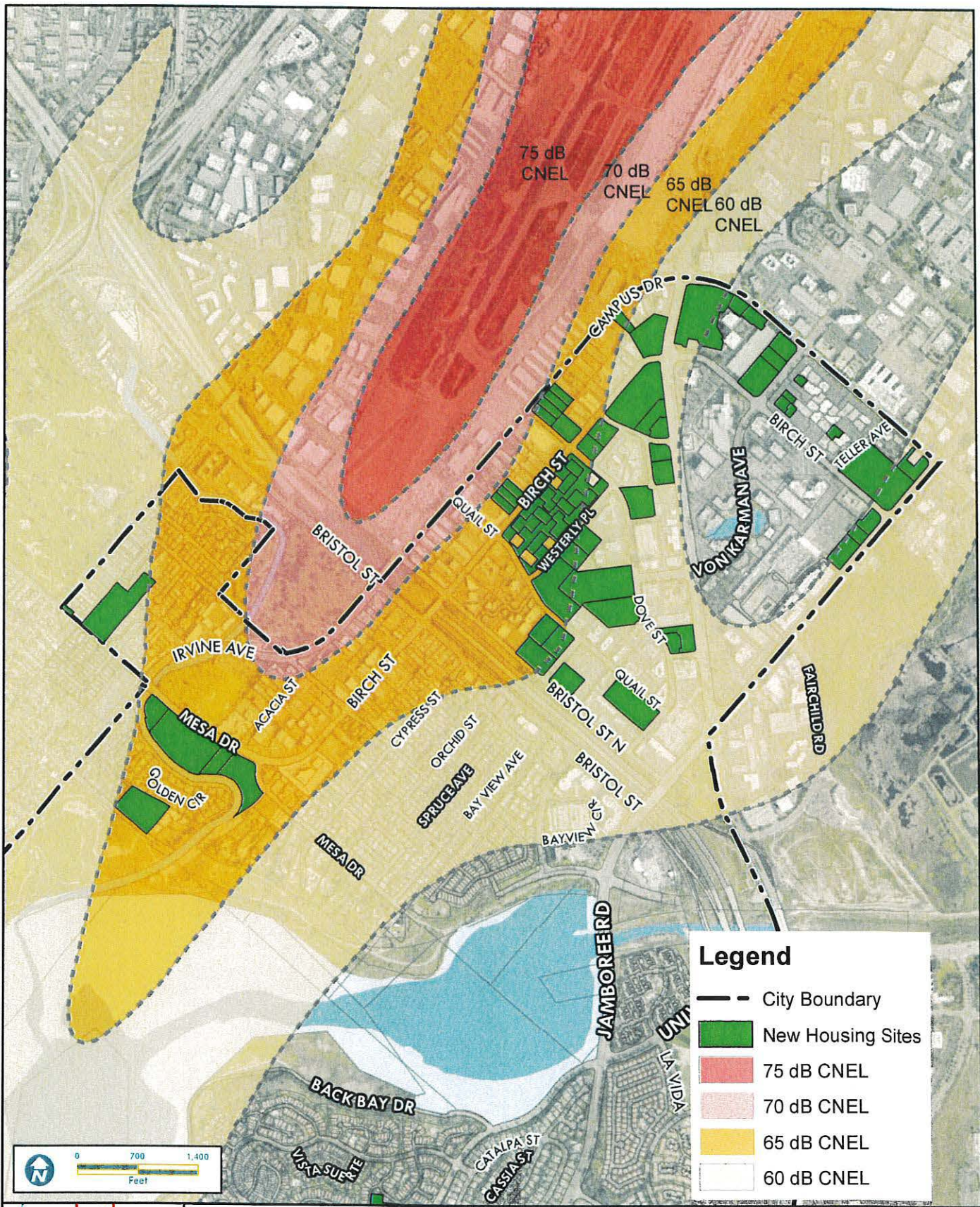
D. General Development Standards. The following development standards shall apply to all projects within the Housing Opportunity zone, regardless of subarea:

1. Landscaped Setbacks. All front and street side setbacks shall be landscaped, except for areas that provide vehicle and pedestrian access to the right-of-way.
2. Residential Off-Street Parking Requirements. Residential parking requirements for projects within the Housing Opportunity Overlay Zones shall be provided in accordance with Table 21.28-2 below. Parking for all other uses not included in this table shall be provided in accordance with Chapter 21.40 (Off-Street Parking Requirements) of the NBMC.

TABLE 21.28-2

RESIDENTIAL OFF-STREET PARKING FOR HOUSING OPPORTUNITY OVERLAY ZONES

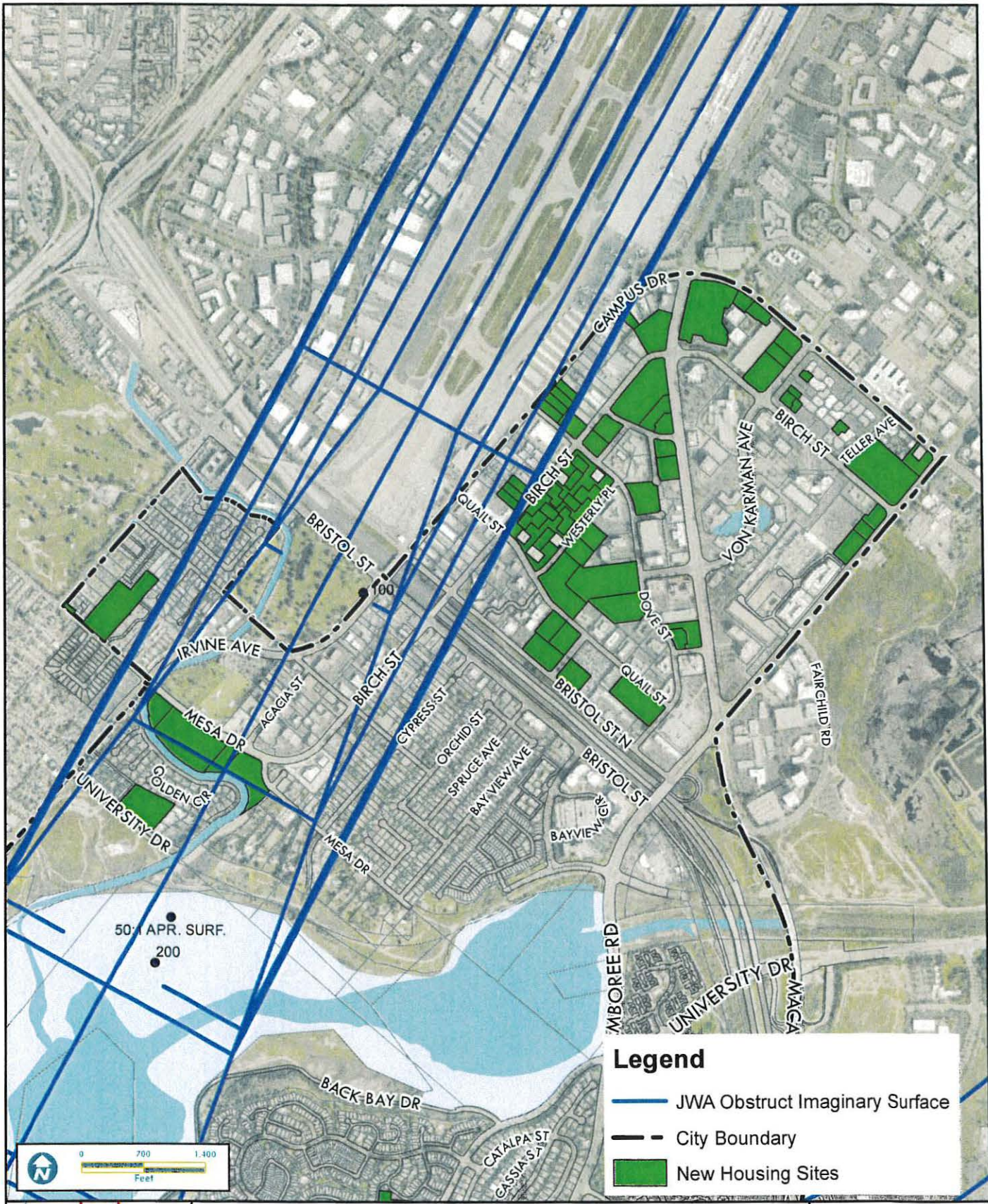
<u>Land Use</u>	<u>Subtype</u>	<u>Parking Requirement</u>
<u>Residential (Rental)</u>	<u>Studio</u>	<u>1.1 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.5 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>
<u>Residential (Ownership)</u>	<u>Studio</u>	<u>1.4 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.8 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>



Housing Sites Inventory (PA2017-141) JWA CNEL Noise Contours



City of Newport Beach



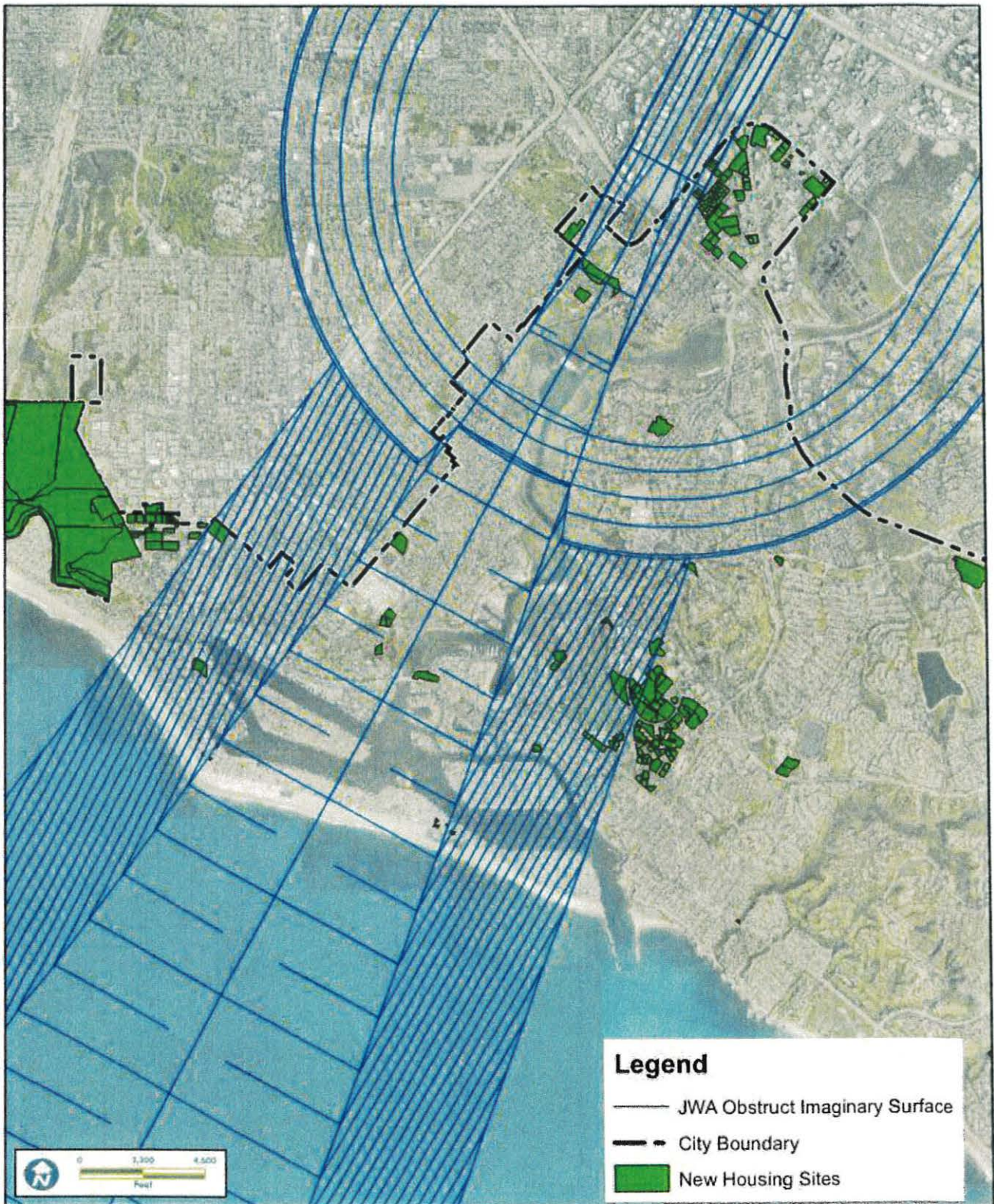
Housing Sites Inventory (PA2017-141)
 JWA Obstruction Imaginary Surface
 (Airport Area)

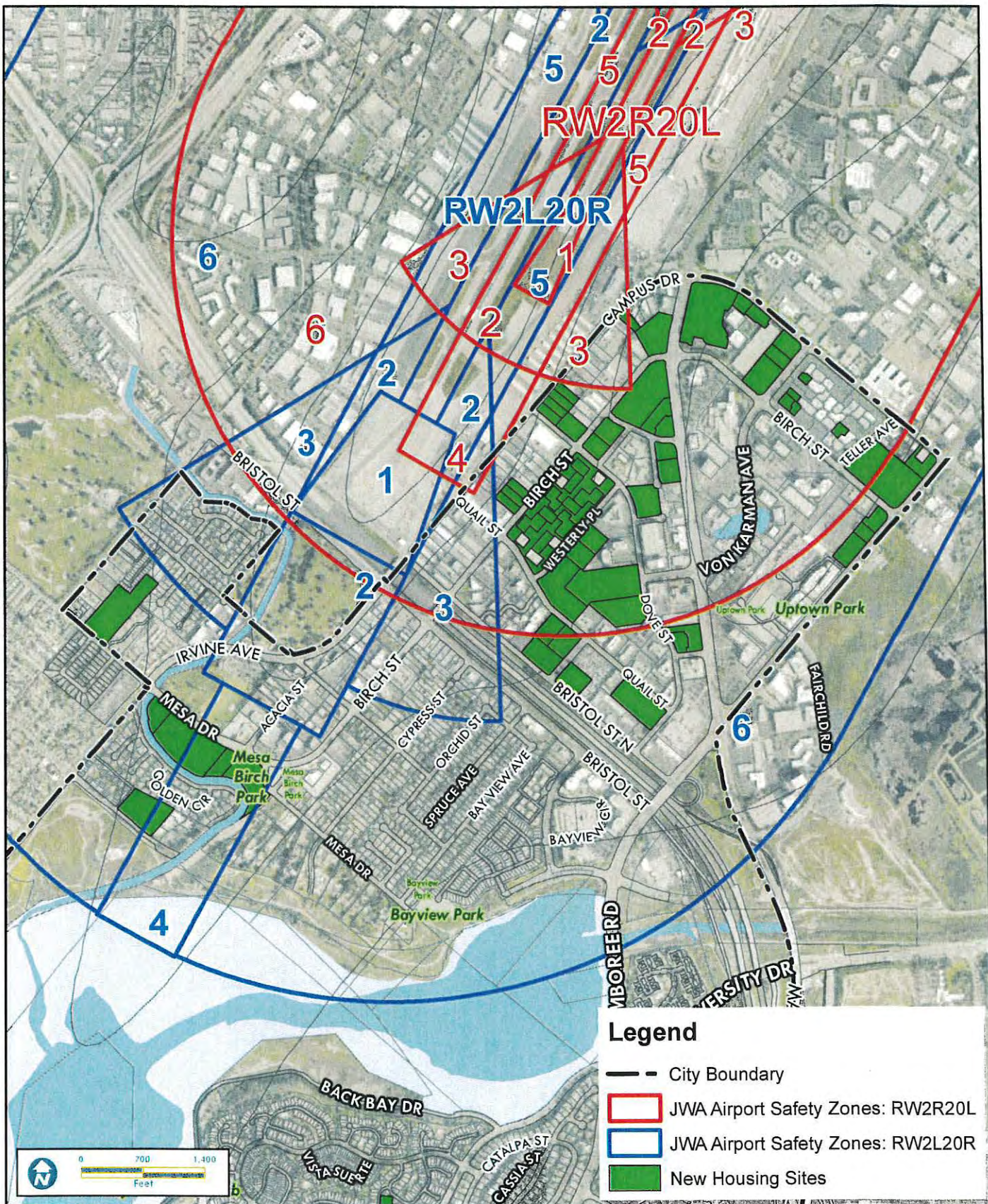


City of Newport Beach
 GIS Division
 August 24, 2021

ATTACHMENT 7

City of Newport Beach Housing Element Implementation Program Amendments
ALUC Submittal, April 26, 2024
EXHIBIT D – Obstruction Imaginary Surfaces





Legend

- City Boundary
- JWA Airport Safety Zones: RW2R20L
- JWA Airport Safety Zones: RW2L20R
- New Housing Sites

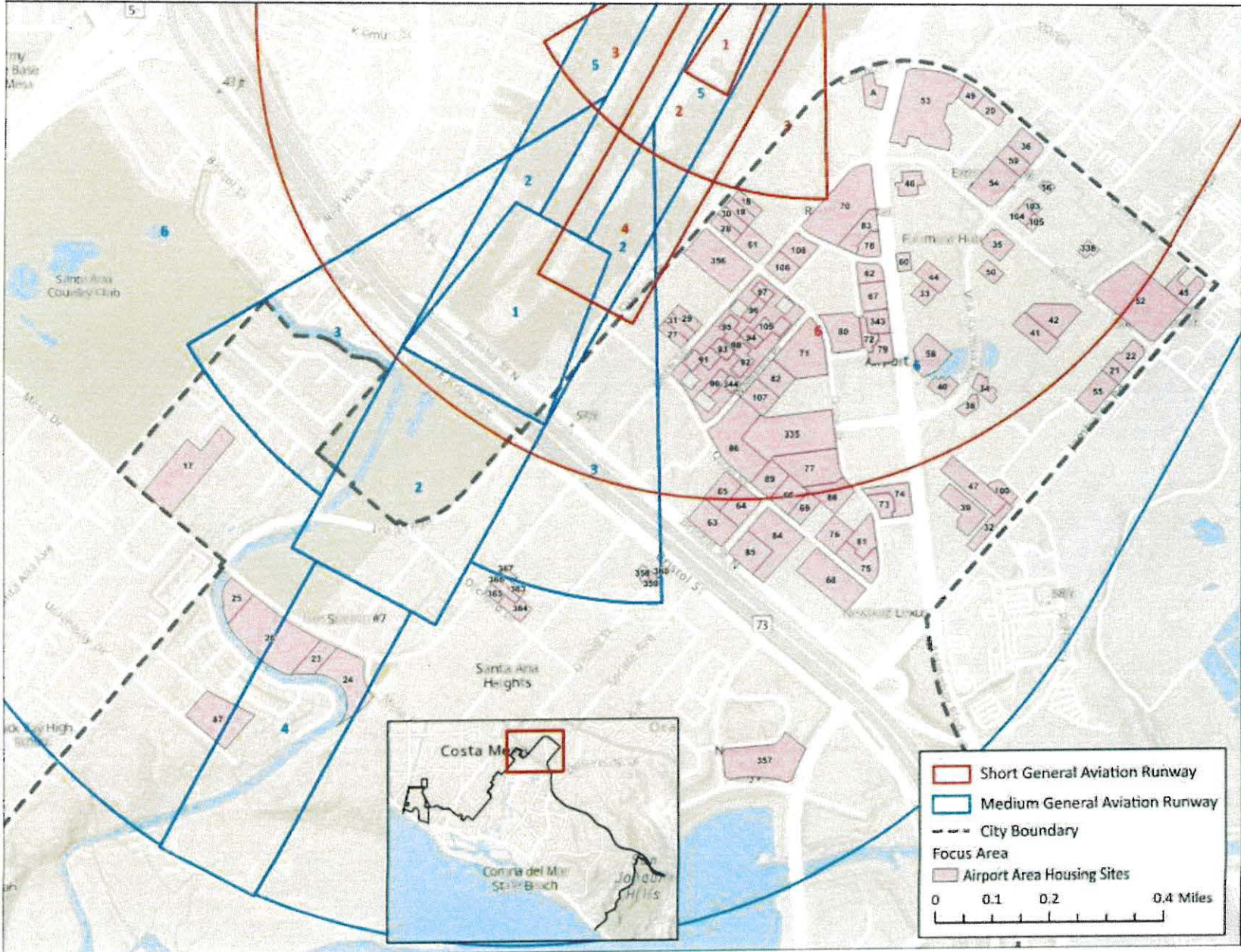
**Housing Sites Inventory (PA2017-141)
JWA Safety Zones**



City of Newport Beach
GIS Division
August 24, 2021

ATTACHMENT 8

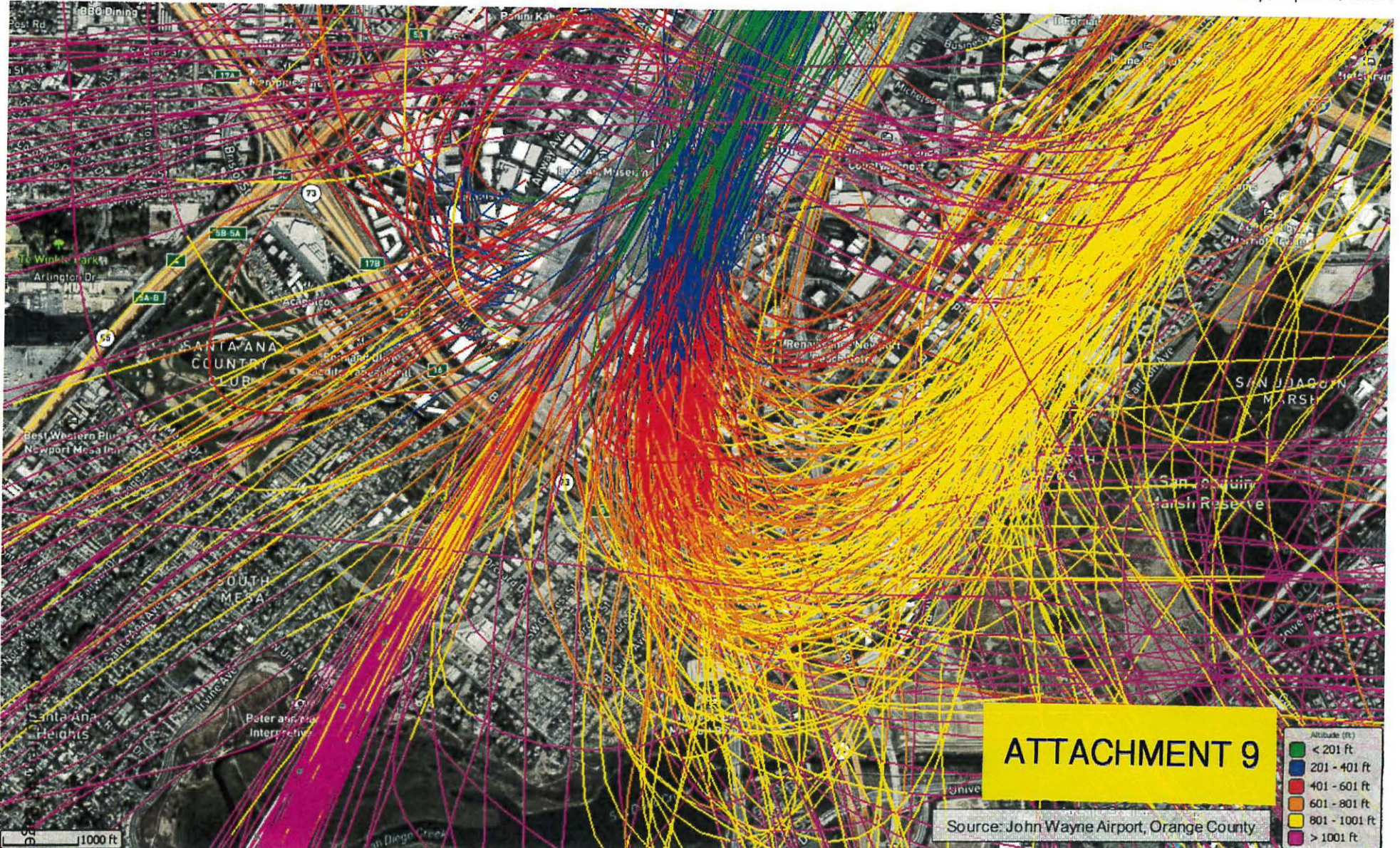
City of Newport Beach Housing Element Implementation Program Amendments
ALUC Submittal, April 26, 2024
EXHIBIT C – Airport Safety Zones



5.16.24 ALUC Item #3 Page 35

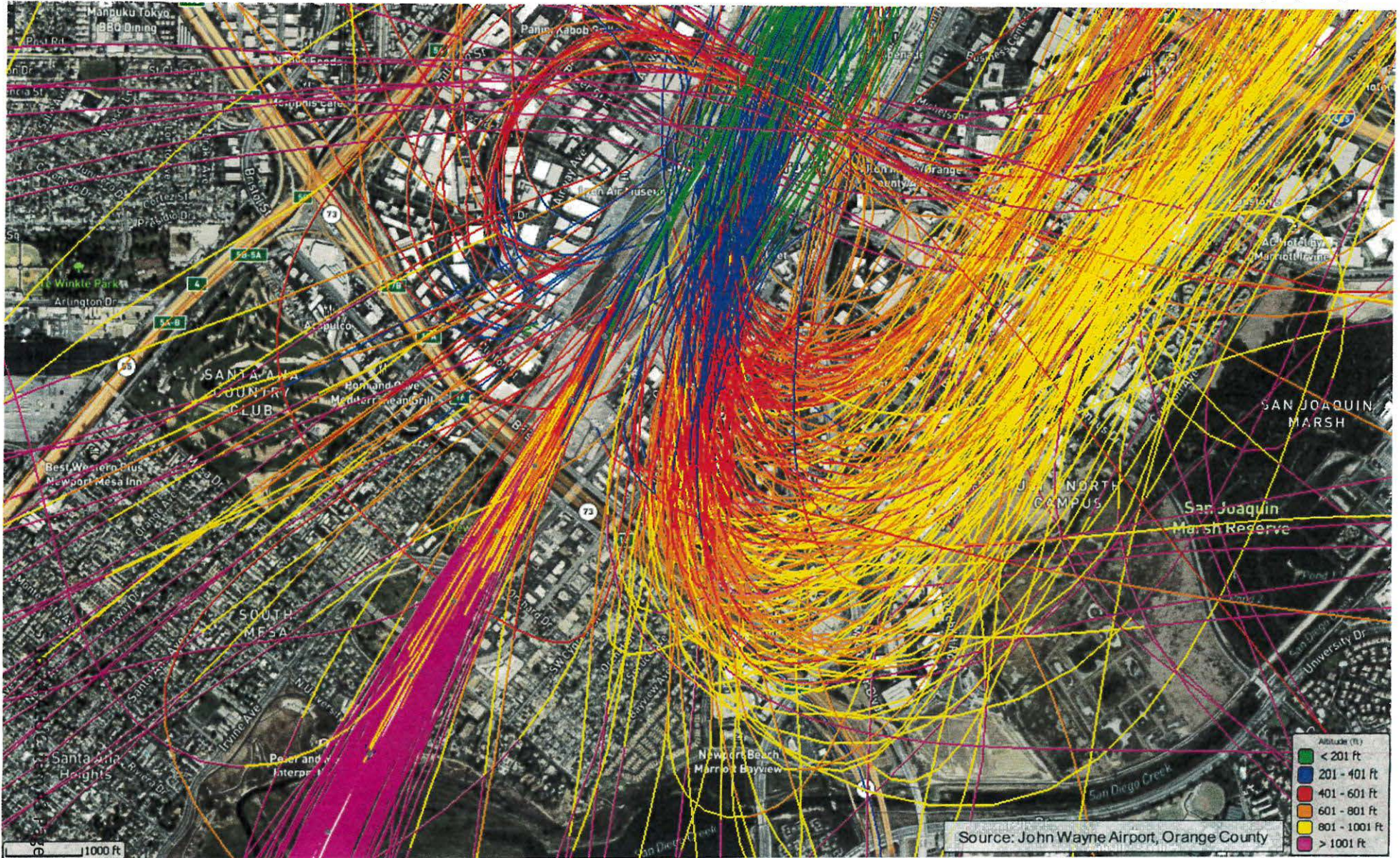


John Wayne Airport Altitude Analysis
629 Operations
Tuesday, April 2, 2024



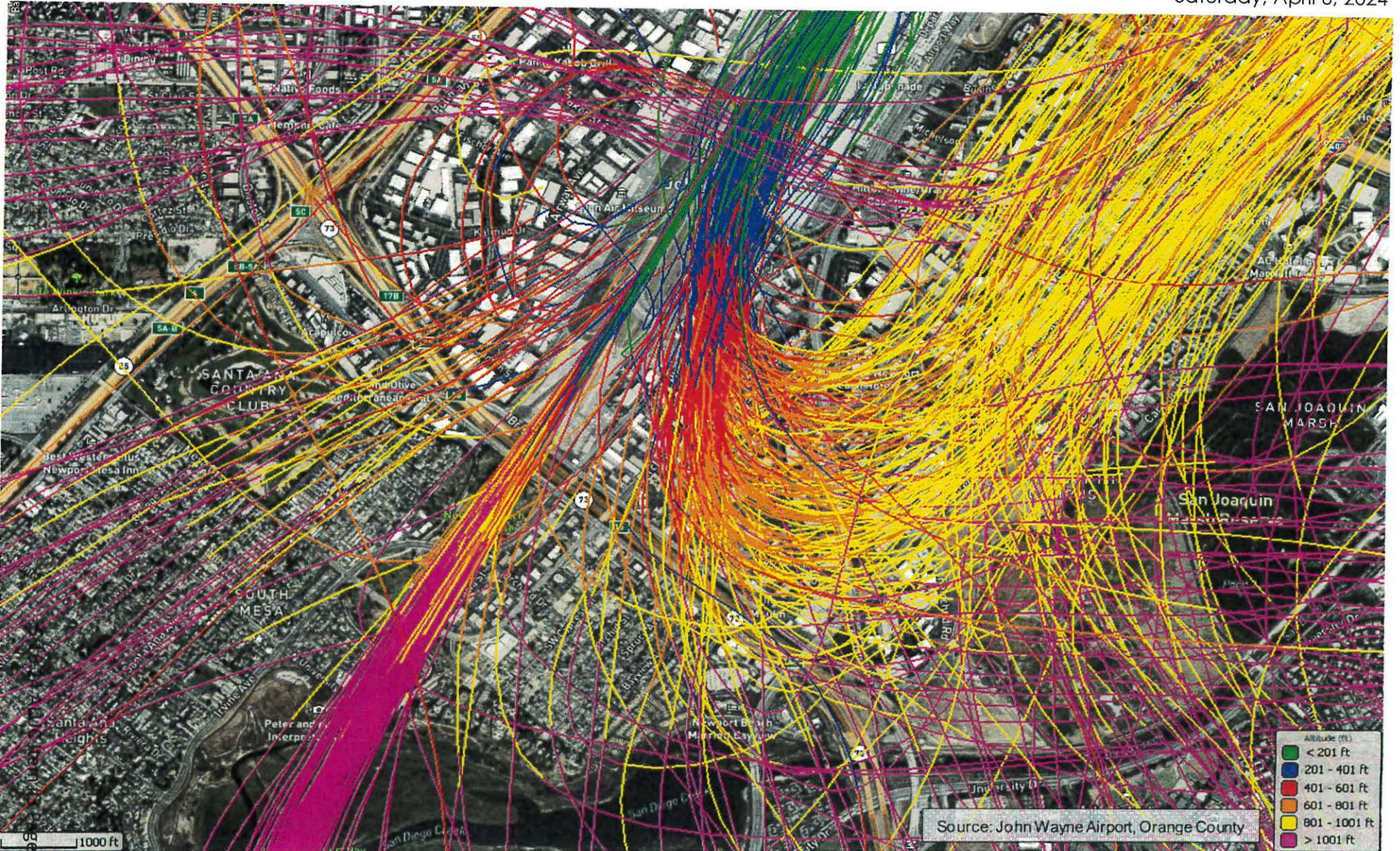


John Wayne Airport Altitude Analysis
589 Operations
Thursday, April 4, 2024





John Wayne Airport Altitude Analysis
561 Operations
Saturday, April 6, 2024





CITY OF NEWPORT BEACH

100 Civic Center Drive
Newport Beach, California 92660

949 644-3200

newportbeachca.gov/communitydevelopment

RECEIVED

APR 26 2024

AIRPORT LAND USE COMMISSION

April 26, 2024

Julie Fitch, Interim Executive Officer
Airport Land Use Commission for Orange County
3160 Airway Avenue
Costa Mesa, CA 92626

RE: City of Newport Beach Housing Element Implementation Program Amendments

Dear Ms. Fitch,

Pursuant to Section 4.3 (Amendments to General Plans and Specific Plans [Zoning]) of the Airport Environs Land Use Plan (AELUP) for John Wayne Airport, the City of Newport Beach (City) requests that the Airport Land Use Commission (ALUC) review the City's proposed amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program for consistency with the Airport Environs Land Use Plan (AELUP) at its meeting on May 16, 2024.

As you are aware, the State of California (State) is presently in and has been experiencing a housing crisis that is continuously evidenced through State mandates, like the Regional Housing Needs Assessment (RHNA), and legislative updates. Over the past four years, City staff has worked alongside the City's Housing Element Update Advisory Committee (HEUAC), the consultant team, the community, Planning Commission, and City Council, as well as ALUC, to prepare the 6th Cycle General Plan Housing Element update (Housing Element). In September 2022, the City Council adopted the Housing Element and in October 2022, the State Department of Housing and Community Development (HCD) certified the Housing Element and statutorily compliant.

It is notable that the City's 6th Cycle RHNA allocation of 4,845 new units represented a nearly 1,000-fold increase of its 5th Cycle RHNA allocation and further represented about a 10-percent increase of the City's current housing stock. Given this unprecedentedly high allocation and the City's numerous constraints identified in Housing Element Section 3 (Housing Constraints and Resources), the sites identified within Appendix B of the Housing Element were identified after a citywide search, with approximately 25 percent of all identified sites being within the Airport Area.

Please note, the amendments proposed with this submittal are simply carrying forward the implementing actions identified within Section 4 (Housing Plan) of the Housing Element, which was previously reviewed by ALUC on September 16, 2021. Under State law, the City must implement the Housing Element through rezoning no later than February 2025.

I believe the enclosed materials adequately address all the required information your office needs to evaluate and bring our application to hearing on May 16, 2024. Should this not be the case, please know

ATTACHMENT 10

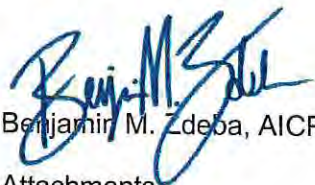
5.16.24 ALUC Item #3 Page 39

the City is committed to providing any additional information necessary to constitute a complete application and stands ready to provide such information at a moment's notice.

I can be reached at 949-644-3253 or via email at bzdeba@newportbeachca.gov. You may also reach out to Acting Deputy Community Development Director Jaime Murillo at 949-644-3209 or via email at jmurillo@newportbeachca.gov.

Thank you for your time and consideration of our application. The City looks forward to collaborating with ALUC and ALUC staff on this matter.

Sincerely,



Benjamin M. Zdeba, AICP, Principal Planner

Attachments:

- 1a. General Plan Amendment Submittal Form and Checklist
- 1b. Zoning Code Amendment Submittal Form and Checklist
- 1c. Local Coastal Program Amendment Submittal Form and Checklist
2. Planning Commission Resolution No. PC2024-006
3. April 18, 2024, Planning Commission Staff Report with Attachments
4. Strikethrough-Underline Versions or Matrices of All Revisions
5. AELUP and City Noise, Height, and Safety Consistency Analysis

Exhibits:

- A. Notification Area/Planning Area
- B1. 2008 AELUP Noise Contours
- B2. City Noise Element Noise Contours
- C. Airport Safety Zones
- D. Obstruction Imaginary Surfaces



AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

SUBMITTAL FORM: GENERAL PLAN · SPECIFIC PLAN · ZONING CODE

1. Name of City or County: Newport Beach
2. Contact Information - Name/Title Benjamin M. Zdeba, AICP, Principal Planner
Agency: City of Newport Beach
Address: 100 Civic Center Drive, Bay B, Newport Beach, CA 92660
Phone/email: 949-644-3253/bzdeba@newportbeachca.gov
3. Airport Planning Area(s):
 John Wayne Airport Fullerton Municipal Airport JFTB - Los Alamitos
4. Item being submitted for review (submit each item separately): General Plan Amendment
Name of General Plan Element, Specific Plan or Planned Community: Housing Element
Implementation Program Amendments
5. Scheduled date of Planning Commission Public Hearing: 4/18/2024
6. Tentative date of City Council/Board of Supervisors Public Hearing: 7/23/2024
7. Requested date of ALUC Review: May 18
(Complete submittals must be received by the first day of the month for the next meeting).
8. Does the item submitted propose a change of land use or heights within the airport
Notification/Planning Area*? No (skip items # 9-12). Yes (continue below).
9. Does the item propose a change of land use within the 60 CNEL or 65 CNEL noise
contours of the airport(s)*? Please attach an exhibit showing location(s) of the proposed
new uses in relation to noise contours.
10. Are noise policies or mitigation measures identified in the proposed item or elsewhere in the
General Plan? No Yes - Please attach pages with current (and proposed if applicable)
noise policies/mitigation measures highlighted.
11. Does the item submitted propose a change of land use within the Runway Protection Zone
(RPZ), Clear Zone (CZ), or Airport Safety Zones of the airport*? No Yes - Please attach
exhibit showing location(s) of proposed uses.
12. Does the item submitted propose a change of land use within the Obstruction Imaginary
Surfaces*? No Yes
13. Please indicate current N/A and proposed N/A maximum heights allowed.

SUBMITTAL CHECKLIST: General Plan · Specific Plan · Zoning Code

- Cover letter on City/County letterhead.
- Completed Submittal Form.
- Link to existing Land Use Element - https://www.newportbeachca.gov/PLN/General_Plan/04_Ch3_LandUse_web.pdf and proposed (Attachment 2) General Plan Element, Specific Plan or Zoning Code for this submittal.
- Attachment showing proposed changes to General Plan Element, Specific Plan or Zoning Code Section(s) with strikethrough/underline.
- Exhibit showing location(s) of proposed new uses within the Notification Area/Planning Area for airport(s).
- Exhibit showing location(s) of proposed new uses in relation to noise contours for airport(s).
- Exhibit showing location(s) of proposed new uses in relation to Airport Safety Zones.
- Exhibit showing location(s) of proposed new uses in relation to the Obstruction Imaginary Surfaces.
- Attachment showing current and proposed noise policies/mitigation measures.
- Explanation of how the General Plan, Specific Plan, or Zoning Code address the AELUP standards for noise impact, safety compatibility, and height restriction zones. See Attachment 3.
- Describe height and density changes in cover letter and attach pages of General Plan, Specific Plan and/or Zoning Code where maximum heights are specified.

*For airport planning/notification areas, noise contours, safety zones and obstruction imaginary surfaces see Appendix D of the applicable Airport Environs Land Use Plan (AELUP) at: <https://www.ocair.com/about/administration/airport-governance/commissions/airport-land-use-commission/>

Noise sensitive uses include but are not limited to community facilities such as: churches, libraries, schools, preschools, day-care centers, hospitals, and nursing/convalescent homes.

Mail or Email Submittal Form, Checklist and attachments to: Airport Land Use Commission for Orange County,
Attn: Executive Officer, 3160 Airway Avenue, Costa Mesa, CA 92626 / Phone: (949) 252-5170

ALUCinfo@ocair.com

5.16.24 ALUC Item #3 Page 42



AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

SUBMITTAL FORM: GENERAL PLAN • SPECIFIC PLAN • ZONING CODE

1. Name of City or County: Newport Beach
2. Contact Information - Name/Title Benjamin M. Zdeba, AICP, Principal Planner
Agency: City of Newport Beach
Address: 100 Civic Center Drive, Bay B, Newport Beach, CA 92660
Phone/email: 949-644-3253/bzdeba@newportbeachca.gov
3. Airport Planning Area(s):
 John Wayne Airport Fullerton Municipal Airport JFTB - Los Alamitos
4. Item being submitted for review (submit each item separately): Zoning Code Amendment
Name of General Plan Element, Specific Plan or Planned Community: Housing Element
Implementation Program Amendments
5. Scheduled date of Planning Commission Public Hearing: 4/18/2024
6. Tentative date of City Council/Board of Supervisors Public Hearing: 7/23/2024
7. Requested date of ALUC Review: May 18
(Complete submittals must be received by the first day of the month for the next meeting).
8. Does the item submitted propose a change of land use or heights within the airport
Notification/Planning Area*? No (skip items # 9-12). Yes (continue below).
9. Does the item propose a change of land use within the 60 CNEL or 65 CNEL noise
contours of the airport(s)*? Please attach an exhibit showing location(s) of the proposed
new uses in relation to noise contours.
10. Are noise policies or mitigation measures identified in the proposed item or elsewhere in the
General Plan? No Yes - Please attach pages with current (and proposed if applicable)
noise policies/mitigation measures highlighted.
11. Does the item submitted propose a change of land use within the Runway Protection Zone
(RPZ), Clear Zone (CZ), or Airport Safety Zones of the airport*? No Yes - Please attach
exhibit showing location(s) of proposed uses.
12. Does the item submitted propose a change of land use within the Obstruction Imaginary
Surfaces*? No Yes
13. Please indicate current N/A and proposed N/A maximum heights allowed.

SUBMITTAL CHECKLIST: General Plan · Specific Plan · Zoning Code

- Cover letter on City/County letterhead.
- Completed Submittal Form.
- Link to existing Zoning Code - <https://www.codepublishing.com/CA/NewportBeach/#!/NewportBeach20/NewportBeach20.html> and proposed Attachment 2 General Plan Element, Specific Plan or Zoning Code for this submittal.
- Attachment showing proposed changes to General Plan Element, Specific Plan or Zoning Code Section(s) with strikethrough/underline.
- Exhibit showing location(s) of proposed new uses within the Notification Area/Planning Area for airport(s).
- Exhibit showing location(s) of proposed new uses in relation to noise contours for airport(s).
- Exhibit showing location(s) of proposed new uses in relation to Airport Safety Zones.
- Exhibit showing location(s) of proposed new uses in relation to the Obstruction Imaginary Surfaces.
- Attachment showing current and proposed noise policies/mitigation measures.
- Explanation of how the General Plan, Specific Plan, or Zoning Code address the AELUP standards for noise impact, safety compatibility, and height restriction zones.
Attachment 3
- Describe height and density changes in cover letter and attach pages of General Plan, Specific Plan and/or Zoning Code where maximum heights are specified.

*For airport planning/notification areas, noise contours, safety zones and obstruction imaginary surfaces see Appendix D of the applicable Airport Environs Land Use Plan (AELUP) at: <https://www.ocair.com/about/administration/airport-governance/commissions/airport-land-use-commission/>

Noise sensitive uses include but are not limited to community facilities such as: churches, libraries, schools, preschools, day-care centers, hospitals, and nursing/convalescent homes.

Mail or Email Submittal Form, Checklist and attachments to: Airport Land Use Commission for Orange County,
Attn: Executive Officer, 3160 Airway Avenue, Costa Mesa, CA 92626 / Phone: (949) 252-5170

ALUCinfo@ocair.com

5.16.24 ALUC Item #3 Page 44

03.23

23-386



AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

SUBMITTAL FORM: GENERAL PLAN • SPECIFIC PLAN • ZONING CODE

1. Name of City or County: Newport Beach

2. Contact Information - Name/Title Benjamin M. Zdeba, AICP, Principal Planner
Agency: City of Newport Beach
Address: 100 Civic Center Drive, Bay B, Newport Beach, CA 92660
Phone/email: 949-644-3253/bzdeba@newportbeachca.gov

3. Airport Planning Area(s):
 John Wayne Airport Fullerton Municipal Airport JFTB - Los Alamitos

4. Item being submitted for review (submit each item separately): [Click here to choose.](#)
Name of General Plan Element, Specific Plan or Planned Community: (Local Coastal Program Amendment) Housing Element Implementation Program Amendments

5. Scheduled date of Planning Commission Public Hearing: 4/18/2024

6. Tentative date of City Council/Board of Supervisors Public Hearing: 7/23/2024

7. Requested date of ALUC Review: May 18
(Complete submittals must be received by the first day of the month for the next meeting).

8. Does the item submitted propose a change of land use or heights within the airport Notification/Planning Area*? No (skip items # 9-12). Yes (continue below).

9. Does the item propose a change of land use within the 60 CNEL or 65 CNEL noise contours of the airport(s)*? Please attach an exhibit showing location(s) of the proposed new uses in relation to noise contours.

10. Are noise policies or mitigation measures identified in the proposed item or elsewhere in the General Plan? No Yes - Please attach pages with current (and proposed if applicable) noise policies/mitigation measures highlighted.

11. Does the item submitted propose a change of land use within the Runway Protection Zone (RPZ), Clear Zone (CZ), or Airport Safety Zones of the airport*? No Yes - Please attach exhibit showing location(s) of proposed uses.

12. Does the item submitted propose a change of land use within the Obstruction Imaginary Surfaces*? No Yes

13. Please indicate current N/A and proposed N/A maximum heights allowed.

SUBMITTAL CHECKLIST: General Plan • Specific Plan • Zoning Code

- Cover letter on City/County letterhead.
- Completed Submittal Form.
- Link to existing CLUP - https://www.newportbeachca.gov/PLN/LCP/Internet%20PDFs/CLUP_Part%202_Land%20Use%20and%20Development.pdf and IP - <https://www.codepublishing.com/CA/NewportBeach/#!/NewportBeach21/NewportBeach21.html> and proposed Attachment 2 General Plan Element, Specific Plan or Zoning Code for this submittal.
- Attachment showing proposed changes to General Plan Element, Specific Plan or Zoning Code Section(s) with strikethrough/underline.
- Exhibit showing location(s) of proposed new uses within the Notification Area/Planning Area for airport(s).
- Exhibit showing location(s) of proposed new uses in relation to noise contours for airport(s).
- Exhibit showing location(s) of proposed new uses in relation to Airport Safety Zones.
- Exhibit showing location(s) of proposed new uses in relation to the Obstruction Imaginary Surfaces.
- Attachment showing current and proposed noise policies/mitigation measures.
- Explanation of how the General Plan, Specific Plan, or Zoning Code address the AELUP standards for noise impact, safety compatibility, and height restriction zones.
Attachment 3
- Describe height and density changes in cover letter and attach pages of General Plan, Specific Plan and/or Zoning Code where maximum heights are specified.

*For airport planning/notification areas, noise contours, safety zones and obstruction imaginary surfaces see Appendix D of the applicable Airport Environs Land Use Plan (AELUP) at: <https://www.ocair.com/about/administration/airport-governance/commissions/airport-land-use-commission/>

Noise sensitive uses include but are not limited to community facilities such as: churches, libraries, schools, preschools, day-care centers, hospitals, and nursing/convalescent homes.

Mail or Email Submittal Form, Checklist and attachments to: Airport Land Use Commission for Orange County,
Attn: Executive Officer, 3160 Airway Avenue, Costa Mesa, CA 92626 / Phone: (949) 252-5170

ALUCinfo@ocair.com

5.16.24 ALUC Item #3 Page 46

RESOLUTION NO. PC2024-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING THE CITY COUNCIL CERTIFY AN ENVIRONMENTAL IMPACT REPORT, INCLUDING A MITIGATION MONITORING AND REPORTING PROGRAM AND A STATEMENT OF OVERRIDING CONSIDERATIONS WITH CEQA FINDINGS, AND AMENDMENT TO THE GENERAL PLAN, COASTAL LAND USE PLAN, AND TITLE 20 (PLANNING AND ZONING) AND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE TO IMPLEMENT THE GENERAL PLAN 6TH CYCLE HOUSING ELEMENT IN COMPLIANCE WITH STATE LAW (PA2022-0245)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. Every eight years, state law requires the City of Newport Beach ("City") to update its Housing Element, one of the seven mandatory elements of the Newport Beach General Plan, which identifies and analyzes existing and projected housing needs within their jurisdiction.
2. Newport Beach was assigned a Regional Housing Needs Allocation ("RHNA") allocation of 4,845 homes as its projected housing needs for the planning period covering 2021-2029.
3. As a result, the City prepared the 6th Cycle Housing Element, which covers the planning period from 2021-2029 ("6th Cycle Housing Element") to plan for the 4,845 new housing units.
4. Preparation of the 6th Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted the Housing Element Update Advisory Committee (HEAUC), which was an ad-hoc committee formed and appointed by the City Council.
5. In accordance with state law, the 6th Cycle Housing Element for the 2021-2029 planning period was adopted by the City Council on September 13, 2022, and certified as statutorily compliant with state law by the State Department of Housing and Community Development ("HCD") on October 5, 2022.
6. Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations based on the RHNA allocation of 4,845 new housing units, the "fair share" of regional housing need and demand.

7. The 6th Cycle Housing Element identifies the following site groupings or “focus areas” that are best suited to accommodate the City’s RHNA planning obligation:
 - Airport Area Environs
 - West Newport Mesa
 - Newport Center
 - Dover/Westcliff
 - Coyote Canyon

8. The 6th Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City’s RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during the 6th Cycle implementation. Rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the Land Use Element of the General Plan and the Local Coastal Program.

9. To comply with state law, the City has been working diligently to implement the planning strategy outlined in Section 4 (Housing Plan) of the 6th Cycle Housing Element no later than February 2025. The implementing programs and strategies (“6th Cycle Housing Element Implementation”) include the following amendments and actions:
 - **General Plan Amendment (“GPA”).** To revise the necessary goals and/or policies within the City’s Land Use Element to support housing production in the focus areas identified by the Housing Element;
 - **Amendment to Title 20 (Planning and Zoning) of the NBMC (“ZCA”).** To implement the Land Use Element’s policy changes by allowing housing development as an opportunity and establishing appropriate development standards create objective design and development standards for multi-unit residential and mixed-use development projects;
 - **Local Coastal Program Amendment (“LCPA”).** To revise and create new policies within the City’s Coastal Land Use Plan and to update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6th Cycle Housing Element and within the Coastal Zone; and
 - **Program Environmental Impact Report (SCH No. 2023060699).** To analyze potential environmental impacts under the California Environmental Quality Act (“CEQA”) related to the implementation of the 6th Cycle Housing Element through providing additional housing development capacity.

10. Certain components of the 6th Cycle Housing Element Implementation constitute a “Major Amendment” as defined in Section 423 (Protection from Traffic and Density) of Article IV

of the City's Charter; therefore, they individually and/or collectively require a majority vote of the electorate.

11. The 6th Cycle Housing Element Implementation must take effect by February of 2025 to avoid significant penalties authorized under by state law, including but not limited to:
 - Increased exposure to public and private litigation;
 - Loss of permitting authority;
 - Financial penalties, including monthly fines from \$10,000 to \$100,000;
 - Loss of eligibility for state and regional funding sources;
 - Court receivership;
 - Senate Bill 35 ("SB 35") streamlined ministerial approval process; and
 - Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD.
12. SB 35 provides for a "builder's remedy" that allows developers of affordable housing projects to bypass the zoning code and general plan of cities that are deemed non-compliant with state law by effectively ignoring height limits, density limits, and other regulations that make for thoughtfully planned development. Cities are effectively prohibited from denying a "builder's remedy" project except in unique circumstances, resulting in a loss of local control.
13. A public hearing was held on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 (Public Hearings) and 21.62 (Public Hearing) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. A draft program Environmental Impact Report (State Clearinghouse Number 2023060699) ("DEIR") has been prepared in compliance with the CEQA set forth in Public Resources Code Section 21000 *et seq.*, the State CEQA Guidelines set forth in 14 California Code of Regulations Section 15000 *et seq.*, and City Council Policy K-3.
2. The DEIR was circulated for a 46-day comment period beginning on February 12, 2024, and ending on March 28, 2024. The Environmental Impact Report ("EIR"), which includes the DEIR, comments, and responses to the comments as of the public hearing date, is being considered by the Planning Commission in its review of the 6th Cycle Housing Element Implementation.
3. The Planning Commission finds that the EIR has been prepared and completed in compliance with CEQA and City Council Policy K-3.
4. The Planning Commission finds that the EIR reflects the independent judgment and analysis of the City.

5. The Planning Commission reviewed and considered the information contained in the EIR prior to forwarding its recommendation on the amendments to the General Plan, NBMC, and Local Coastal Program.
6. Given the programmatic nature of the EIR, any one site within a focus area that exceeds a threshold of significance causes the need to explore mitigation for the corresponding topic area. Accordingly, the EIR discloses significant and unavoidable impacts relating to aesthetics, air quality, cultural resources, greenhouse gas ("GHG") emissions, noise and utilities and service systems and potentially significant environmental impacts related to geology and soils, tribal cultural resources and wildfire that may directly or indirectly result from the project but would be reduced to a less than significant level of impact by the mitigation measures specified in the EIR.

SECTION 3. FINDINGS.

General Plan Amendment

An amendment to the City's General Plan Land Use Element is a legislative act. Neither Title 20 (Planning and Zoning) of the NBMC nor California Government Code Section 65000 *et seq.*, set forth any required findings for either approval of such amendments. Notwithstanding the foregoing, the following amendments to the General Plan Land Use Element will create internal consistency with the certified 6th Cycle Housing Element:

Findings and Facts in Support of Finding:

1. According to General Plan Implementation Program 1.2, revisions and updates of the General Plan must be made in accordance with the Vision Statement. While it is being reviewed as part of the comprehensive General Plan update, as presently written, it is the City's intention to be a residential community, balanced with supporting nonresidential uses, job opportunities, and visitor and recreational services and amenities. Furthermore, the Vision Statement calls for "a range of housing opportunities that allows people to live and work in the City."
2. Implementation Program 1.2 further states that amendments to accommodate the City's "fair share" of regional housing demand will be considered in context of these visions and the goals stipulated by the General Plan. Adoption of the proposed Amendment will support the 6th Cycle Housing Element adopted in the context of the visions and goals stipulated by the General Plan.
3. The proposed Amendment, attached to this resolution and incorporated herein, is in full compliance with the Section 4 of the 6th Cycle Housing Element as presented below:

6 th Cycle Housing Element Implementation Measures	Amendments in Support of Housing Element's Implementation Measures
<p>Housing Goal #1. Provision of adequate sites to accommodate projected housing unit growth needs within the following identified housing opportunity sites:</p> <ul style="list-style-type: none"> • Airport Area Environs • West Newport Mesa • Newport Center • Dover/Westcliff • Banning Ranch • Coyote Canyon <p>Housing Goal #2. Quality residential development and preservation, conservation, and appropriate redevelopment of housing stock.</p> <p>Housing Goal #3. A variety of housing types, designs, and opportunities for all social and economic segments.</p> <p>Housing Goal #4. Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.</p>	<p>Revised Policies LU 1.1 through LU 1.5 emphasize the goal of balancing the needs of residents, businesses, and visitors through the recognition that Newport Beach is primarily a residential community. The policies underscore the need to preserve and enhance residential neighborhoods. The identified sites direct new housing opportunities outside of established residential neighborhoods. The amended Policies ensure the continued recognition that Newport Beach is primarily a residential community.</p> <p>Revised Policies LU 2.2 and LU 2.5 call for supporting the development of uses that allow the City to be a complete community and indicate that harbor and waterfront uses contribute to the charm and character of the City and provide needed support for residents.</p> <p>Revised Policy 3.3 (Transition of Land Uses) calls for supporting residential opportunities in West Newport Mesa; residential infill development along Balboa Boulevard corridor and facilitating workforce housing in proximity to jobs, transportation and services in West Newport Mesa and the Airport Area; and providing for housing opportunities that complement nonresidential uses in the Coyote Canyon Landfill site.</p> <p>Revised Goal LU 4 Manage growth and change to:</p> <ul style="list-style-type: none"> • Support the livability of existing neighborhoods. • Support residential opportunities that accommodate the City's share of the Regional Housing Needs Assessment. • Promote new uses that are complimentary to already existing neighborhoods and uses. • Achieve distinct and economically vital business and employment districts. • Correlate with supporting infrastructure and public services. • Sustain Newport Beach's natural setting. <p>The above amendment supports Housing Goal #1 as it accommodates City's share of RHNA.</p>

6 th Cycle Housing Element Implementation Measures	Amendments in Support of Housing Element's Implementation Measures
	<p>Revised Policy LU4.1 (Land Use Diagram) clarifies that density limits exclude increases allowed through the application of density bonus laws as stipulated also by state law.</p> <p>New Policies 4.4 (Rezoning to Accommodate Housing Opportunities); 4.5 (Residential Uses and Residential Densities); 4.6 (Continuation of Existing Development); and 4.7 (Redevelopment and Transfer of Development Rights) all support 6th Cycle Housing Element Implementation Measures. These policies stipulate that residential opportunities are to be established as overlay zones which allow for existing uses to continue. Opportunities for by-right development, when at least 20% or more units are affordable to lower-income households, ensures housing opportunities for all social and economic segments and ensures streamlined project review.</p> <p>Revised Policy LU 5.1.3 (Neighborhood Identification) calls for the establishment of objective design and development standards which ensures Implementation Goals 1 and 2 which stipulate quality design and variety of housing designs.</p> <p>Revised Policy LU 6.2.4 (Accessory Dwelling Units (ADUs)) supports and promotes the development of accessory dwelling units and junior accessory dwellings. This policy fulfills Implementation Goal #1 that calls for the City to aggressively support and accommodate the construction of at least 240 ADUs.</p> <p>Revised Policies LU 6.4.2 (Residential); LU 6.6.2 (Residential Types (West Newport Mesa)); LU 6.15.4 (Priority Uses (Airport Area – Mixed-Use Districts [Subarea C, "MU-H2" designation])); LU 6.15.28 (Priority Uses (Airport Area – Commercial Nodes]"CG" designation Sub-Area C-part]) and LU 6.15.29 (Priority Uses (Airport Area – Commercial Office District ["CO-G" designation Sub-Area C—part]) support housing development or redevelopment within the opportunity sites identified in the Housing Element.</p>

1. Voter approval is required for any major amendment to the Newport Beach General Plan. A "major amendment" is one that significantly increases the maximum amount of traffic that allowed uses could generate, or significantly increases allowed density or intensity. "Significantly increases" means over 100 peak hour trips (traffic), or over 100 dwelling units (density), or over 40,000 square feet of floor area (intensity).
2. The thresholds apply to the total of: 1) Increases resulting from the amendment itself, plus 2) 80% of the increases resulting from other amendments affecting the same neighborhood and adopted within the preceding 10 years. As the proposed amendment is considered a major amendment, it will not take effect if City Council decides to approve it, unless it has been accessed to registered voters and has been approved by a majority of those voting on it.
3. Should the City not implement the 6th Cycle Housing Element by February 2025, the City may be considered non-compliant with State Housing Laws and developers of affordable housing projects will be entitled to have their residential projects approved as a "builder's remedy" in accordance with Senate Bill 35, effectively ignoring height limits, density limits and other regulations designed to ensure development is consistent with the City's Vision Statement of the General Plan.

Tribal Consultation

1. Pursuant to Senate Bill 18, the City requested a Sacred Lands File (SLF) search on the project location from the Native American Heritage Commission (NAHC) on March 5, 2023. On March 22, 2023, the NAHC responded that the findings of the search were positive and identified 19 Native American tribal representatives to contact for further information on potential tribal resources. To comply with both the requirements of SB 18 and Assembly Bill 52, the City mailed and emailed notices regarding the proposed project to all of the listed tribes. The City received a response from only one representative of the Gabrieleño Band of Mission Indians – Kizh Nation expressing no concerns on the project given its programmatic nature, but also expressing a desire to be consulted on future individual projects.

Zoning Code Amendment

An amendment to Title 20 (Planning and Zoning) of the NBMC is a legislative act. Neither Title 20 itself nor California Government Code Section 65000 et seq., set forth any required findings for either approval of such amendments. However, Section 20.66.040 of the NBMC requires the Planning Commission to make and file a report of its findings and recommendations with the Council.

Findings and Facts in Support of Finding:

1. The Zoning Code is a tool designed to implement the General Plan. Since the 6th Cycle Housing Element Implementation involves an amendment to the General Plan, it is necessary to also amend Title 20 (Planning and Zoning) to achieve its goals and policies.

2. The ZCA, attached to this resolution as Exhibits “B” and “C,” and incorporated herein, including the Housing Opportunity (HO) Overlay Zoning Districts with associated development standards, and the Multi-Unit Objective Design Standards, are consistent with the implementation program in the Housing Plan of the Housing Element, as discussed above under the Findings for the General Plan Amendment. The ZCA will enable the implementation of the Housing Element’s key objective, which is to accommodate the development of housing projects to fulfill City’s “fair share” of regional housing need and demand.

Local Coastal Program Amendment

An amendment to Title 21 (Local Coastal Program Implementation Plan) of the NBMC is a legislative act. Neither Title 21 of the NBMC itself nor California Government Code Section 65000 et seq., set forth any required findings for either approval of such amendments.

Findings and Facts in Support of Finding:

1. The 6th Cycle Housing Element includes the Housing Plan, which sets forth programs and strategies to facilitate and encourage the development of the City’s “fair share” of regional housing demand. Appendix B of the 6th Cycle Housing Element has identified several sites to be rezoned with the Housing Overlay (HO) Zoning District. A number of these sites are within the Coastal Zone. As the Zoning Code needs to be amended to add the new HO Overlay Zones, and the associated development standards, similarly, the Local Coastal Program needs to be amended to add the new Overlay Zones along with the development standards, for properties that are within the Coastal Zone.
2. The proposed amendments, attached to this resolution as Exhibit “D,” and incorporated herein, fulfill the Housing Plan, as the amendments will facilitate the development of housing consistent with the 6th Cycle Housing Element as shown below:

6th Cycle Housing Element Implementation Measures	Amendments to the Local Coastal Policy in Support of Housing Element’s Implementation Measures
<p>Housing Goal #1. Provision of adequate sites to accommodate projected housing unit growth needs within the following identified housing opportunity sites:</p> <ul style="list-style-type: none"> • Airport Area Environs • West Newport Mesa • Dover/Westcliff • Newport Center • Banning Ranch • Coyote Canyon <p>Housing Goal #2. Quality residential development and preservation, conservation and appropriate redevelopment of housing stock.</p>	<p>New Policy LU 2.1.11-1 calls for accommodating housing opportunities through the adoption of housing opportunity overlay zoning districts for the following opportunity sites:</p> <ul style="list-style-type: none"> • Airport Environs • West Newport Mesa • Newport Center • Dover/Westcliff <p>This new policy is consistent with Housing Goal #1.</p> <p>New Policies LU 2.1.11-2, LU 2.1.11-3 and LU 2.1.11-4 establish procedures regarding density</p>

6th Cycle Housing Element Implementation Measures	Amendments to the Local Coastal Policy in Support of Housing Element's Implementation Measures
<p>Housing Goal #3. A variety of housing types, designs, and opportunities for all social and economic segments.</p> <p>Housing Goal #4. Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.</p>	<p>limits and clarify that residential opportunities are in addition to existing uses allowed by the Coastal Land Use Plan and must be consistent with applicable overlay or implementation plan requirements unless modified consistent with established procedures to grant relief from standards (e.g. Coastal Modification or Variance or the application of Density Bonus regulations). These policies fulfill Housing Goals #1 and #2, as they set parameters for the overlay zones and allow for uses permitted by underlying zones.</p>

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The above recitals are true and correct and incorporate herein.
2. The Planning Commission declares that despite the potential for significant environmental effects that cannot be substantially lessened or avoided through the adoption of feasible mitigation measures or feasible alternatives, there exist certain overriding economic, social and other considerations for approving the proposed Project.
3. The Planning Commission hereby recommends the City Council certify the Final EIR (SCH#2023060699) attached as Exhibit "A," including the forthcoming draft findings.
4. The Planning Commission has read and considered the amendments to the General Plan, amendments to the Zoning Code, and the Local Coastal Program, as contained in Exhibits "B" through "E," as part of the consideration of the adopted 6th Cycle Housing Element implementation programs and recommends adoption of the General Plan Amendment, Zoning Code Amendments, and Local Coastal Program Amendment under PA2022-0245.

PASSED, APPROVED, AND ADOPTED THIS 18TH DAY OF APRIL, 2024.

AYES: Barto, Ellmore, Harris, Lowrey, and Salene

NOES: None

RECUSED: Langford and Rosene

ABSENT: None

BY: Curtis Ellmore
Curtis Ellmore, Chair

BY: Tristan Harris
Tristan Harris, Secretary

Explanation of Housing Element Implementation Program in Relation to AELUP

As discussed in the cover letter to this submittal, the very high Regional Housing Needs Assessment (RHNA) allocation of 4,845 new units has required the City to look citywide for new housing opportunity sites. While several sites have been identified in the Airport Area and its proximity, there are five other focus areas where most new housing opportunity sites are being listed: Banning Ranch, West Newport Mesa, Dover-Westcliff/Mariner's Mile, Newport Center, and Coyote Canyon. The complete breakdown is viewable in Section 4 and [Appendix B](#) of the adopted and certified Housing Element.

The City's Housing Element was reviewed by ALUC on September 16, 2021. The City Council adopted the Housing Element in February 2022; however, subsequent revisions were required based on feedback from HCD. After multiple iterations and responsive revisions, the City Council re-adopted a revised Housing Element on September 13, 2022. The adopted Housing Element was then certified as being statutorily compliant by HCD on October 5, 2022. Section 4 (Housing Plan) of the Housing Element is the City's strategy to meet the RHNA allocation and includes several policy actions for implementation. The proposed amendments serve to simply implement the City's adopted and certified Housing Element. The following sections further analyze the Housing Element Implementation Program Amendments' compatibility and consistency with the 2008 AELUP, as well as with the City's own adopted policies and ordinances. For ALUC's ease of review, the City is including a partial Housing Opportunity Sites Inventory that inventories the various sites, their noise exposure, and their safety zones, as Appendix A to this narrative.

Noise Policies and Mitigation

There are no proposed policies or mitigation measures related to this proposal that are related to noise from John Wayne Airport. Instead, the City relies on its General Plan Land Use Element and Noise Element to provide pertinent goals and policies. The City also relies on its Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC).

In November 2023, the City amended the Land Use and Noise Elements, as well as Title 20 of the NBMC to accommodate housing units identified by the adopted and certified 6th Cycle Housing Element, as follows:

- Adopted updated noise contours (shown in Noise Element Figures N4 and N5) to reflect the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 (EIR No. 617),
- Updated Land Use and Noise Element Policies, Land Use Element Figures LU11, LU22, and LU23, as well as Title 20 to modify and incorporate the updated noise contours identified by EIR No. 617 and to implement additional noise attenuation measures for future housing units proximate to John Wayne Airport; and
- Allowed residential units identified by the certified 6th Cycle Housing Element to be located within the 65 dBA CNEL noise contour area as identified in the updated noise contour maps identified by EIR No. 617. Parcels bisected by the updated 65 dBA CNEL noise contour could support future housing; whereas parcels located wholly within the updated 65 dBA CNEL noise contour could support housing, if deemed necessary to satisfy the Regional Housing Needs Assessment (RHNA) mandate.

The City's cited General Plan Policies and Title 20 regulations will help to ensure that appropriate noise considerations are made and that mitigation is included in the design. All current policies and regulations are all listed within Table 1 and Table 2 below.

TABLE 1, CITY OF NEWPORT BEACH GENERAL PLAN RELEVANT GOALS AND POLICIES TO PROTECT DEVELOPMENTS FROM UNDUE NOISE

Goal LU 6.15

A mixed-use community that provides jobs, residential, and supporting services in close proximity, with pedestrian-oriented amenities that facilitate walking and enhance livability.

Policy LU 6.15.3 (Current General Plan Page 3-101) – Airport Compatibility

Require that all development be constructed in conformance with the height restrictions set forth by the Federal Aviation Administration (FAA), Federal Aviation Regulations (FAR) Part 77, and Caltrans Division of Aeronautics, and that residential development shall be allowed only on parcels with noise levels of less than John Wayne Airport 65 dBA CNEL noise contour area as shown in Figure N5 of the Noise Element of the General Plan, unless and until the City determines, based on substantial evidence, that the sites wholly within the 65 dBA CNEL noise contour shown in Figure N5 are needed for the City to satisfy its Sixth Cycle RHNA mandate. Nonresidential uses are, however, encouraged on parcels located wholly within the 65 dBA CNEL contour area.

Goal N 1 (Current General Plan Page 12-25) – Noise Compatibility

Minimized land use conflicts between various noise sources and other human activities.

Policy N 1.1 (Current General Plan Page 12-26) – Noise Compatibility of New Development

Require that all proposed projects are compatible with the noise environment through use of Table N2 and enforce the interior noise standards shown in Table N3.

Policy N 1.2 (Current General Plan Page 12-26) – Noise Exposure Verification for New Development

Applicants for proposed residential or mixed-use projects located in areas projected to be exposed to 65-70 dBA CNEL or greater, as shown on Figure N5 must conduct a noise study to provide evidence that the depicted noise contours do not adequately account for local noise exposure circumstances due to such factors as, topography, variation in traffic speeds, and other applicable conditions. These findings shall be used to determine the level of exterior or interior noise attenuation needed to attain an acceptable noise exposure level and feasibility of such mitigation when other planning considerations are taken into account, consistent with Title 21 of the California Code of Regulations.

Policy N 1.3 (Current General Plan Page 12-26) – Remodeling and Additions of Structures

Require that all remodeling and additions of structures comply with the noise standards shown in Table N3.

Policy N 1.4 (Current General Plan Page 12-26) – New Development in Urban Areas

Require that applicants of residential portions of mixed-use projects and high-density residential developments in urban areas (such as the Airport Area and Newport Center) demonstrate that the design of the structure will adequately isolate noise between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code.

Policy N 1.5 (Current General Plan Page 12-26) – Infill Projects

Allow a higher (above 65 dBA CNEL) exterior noise level standard for infill projects in existing residential areas adjacent to major arterials if it can be shown that there are no feasible mechanisms to meet the exterior noise levels. The interior standard of 45 dBA CNEL shall be enforced for any new residential project or mixed-use project containing a residential component, consistent with Title 21 of California Code of Regulations.

Policy N 1.5A (Current General Plan Page 12-26) – Airport Area Infill Projects

Allow infill residential projects proximate to John Wayne Airport to have a higher exterior noise level standard (65-70 dBA CNEL) if it can be shown that there are no practical mechanisms or designs to meet the exterior noise levels. The interior standard of 45 dBA CNEL shall be enforced for any residential component of projects. No residential units may be located on parcels wholly within the John Wayne Airport 65 dBA CNEL noise contour area as shown in Figure N5, of the Noise Element of the General Plan, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate. Nonresidential uses are encouraged on parcels located wholly within the 65 dBA CNEL contour area, shown in Figure N5.

Policy N 1.6 (Current General Plan Page 12-27) – Mixed-Use Development

Encourage new mixed-use developments to site loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development.

Goal N 3 (Current General Plan Page 12-29)

Protection of Newport Beach residents from adverse noise impacts of commercial air carrier operations at John Wayne Airport as provide in the City Council Airport Policy.

Policy N 3.1 (Current General Plan Page 12-29) – New Development

Ensure new development is compatible with the noise environment proximate to John Wayne Airport by not allowing residential units on parcels located wholly within the John Wayne Airport 65 dBA CNEL noise contour, as shown in Figure N5 of the Noise Element of the General Plan, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate.

Policy N 3.2 (Current General Plan Page 12-29) – Residential Development

Require that residential development proximate to John Wayne Airport shall not be located on parcels wholly within the John Wayne Airport 65 dBA CNEL noise contour shown in Figure N5 of the Noise Element of the General Plan, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate. Require developers of residential or mixed-use land uses with a residential component to notify prospective purchasers or tenants of aircraft noise. Additionally, require outdoor common areas or recreational areas of residential or mixed-used developments to be posted with signs notifying users regarding the proximity to John Wayne Airport and the presence of operating aircraft and noise.

Policy N 3.3 (Current General Plan Page 12-29) – Avigation Easement

Consider requiring the dedication of avigation easements in favor of the County of Orange when noise sensitive uses are proposed in the JWA planning area, as established in the JWA Airport Environs Land Use Plan (AELUP).

TABLE 2, CITY OF NEWPORT BEACH GENERAL PLAN RELEVANT TITLE 20 (PLANNING AND ZONING) REGULATIONS TO PROTECT DEVELOPMENTS FROM UNDUE NOISE

20.30.080 (Noise)

F. Residential Use Proximate to John Wayne Airport. Residential uses, including mixed-use residential, shall be allowed on parcels or sites wholly or partially outside the John Wayne Airport 65 dBA CNEL noise contour as shown in Figure N5 of the Noise Element of the General Plan, as identified in the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report (EIR No. 617) and consistent with Title 21 of the California Code of Regulations, subject to the following conditions that apply to all residential projects within the John Wayne Airport 60 dBA CNEL or higher CNEL noise as shown in Figures N4 and N5 of the Noise Element of the General Plan:

1. Prior to the issuance of any building permits for such development, a noise study shall be prepared by a City-approved qualified acoustical consultant and submitted to the Community Development Director for approval;
2. All new residential structures or the residential units within a mixed-use development shall be attenuated to provide an interior noise level of 45 dBA CNEL or less;
3. The design of the residential portions of mixed-use projects and residential developments shall have adequate noise attenuation between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code;
4. New mixed-use developments shall incorporate designs with loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development;
5. Use of walls, berms, interior noise insulation, double-paned windows, advance insulation systems, or other noise mitigation measures as deemed appropriate shall be incorporated in the design of new residential to bring interior sound attenuation to 45 dBA CNEL or less;
6. Residential uses shall be indoor-oriented to reduce noise impingement on outdoor living areas;
7. On-site indoor amenities, such as fitness facilities or recreation and entertainment facilities, shall be encouraged;
8. Advanced air filtration systems for buildings shall be considered to promote cleaner air; and
9. Residential development shall be limited to parcels or sites wholly or partially outside the 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the parcels or sites wholly within such contour area are needed for the City to satisfy its 6th Cycle RHNA mandate. Nonresidential uses are encouraged on parcels or sites located wholly within the 65 dBA CNEL contour area.

Community Noise Equivalent Levels (CNEL) Compatibility

The adopted Section 4 (Housing Plan) and the Draft Program Environmental Impact Report (DEIR) include a total of 75 new sites within the area of the Noise Impact Zones using contours identified in the 1985 JWA Master Plan. Of those sites, 27 are proposed within the 60-to-65 dBA CNEL contour and 11 are proposed outside of a noise impact zone in areas less than 60 dBA CNEL. The remaining 37 new sites fall within the 65-to-70 dBA CNEL contours. As discussed in Subsection 3.2.3 (Noise Impact Zone “1” – High Noise Impact [65 dB CNEL and above]) and Subsection 3.2.4 (Noise Impact Zone “2” – Moderate Noise Impact [60 dB CNEL or greater, less than 65 dB CNEL]), residential units may be consistent with proper sound-attenuation and careful design considerations. For any residential sites and uses within Noise Impact Zone “1” or “2,” the City will ensure future development is consistent with the AELUP considerations and Noise Element policies cited above to ensure compatibility.

Table 1 (Airport Land Use Commission for Orange County Airport Environs Land Use Plan Limitations on Land Use Due to Noise) of the AELUP shows all types of residential land uses in this noise area as “Normally Inconsistent” *unless sound attenuated to ensure that the interior CNEL does not exceed 45 dB, and that all units are indoor oriented so as to preclude noise impingement on outdoor living areas.* This is further explained in Subsection 3.2.3 (Noise Impact Zone “1” – High Noise Impact [65 dB CNEL and above]). The City’s recent changes in November 2023, listed in Tables 1 and 2 above, will help to ensure that appropriate noise considerations are made and that mitigation measures are included in the design.

Despite the above mentioning of the proposed Housing Element Implementation Program Amendments’ consideration of the 1985 JWA Master Plan contours, the City believes that these existing noise contours identified in Appendix D of the ALEUP are no longer accurate. This is demonstrated in the technical analysis provided as part of the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 (2014 EIR No. 617) that was certified by the County of Orange. Furthermore, the identified noise contours, which were last reviewed in 2008, no longer reflect the best available science regarding noise impacts in the vicinity of the airport and do not reflect the actual levels of noise experienced by inhabitants at the property. Therefore, the City believes that the noise contours identified in Appendix D of the ALUEP are outdated and are no longer relevant for the basis of environmental analysis and consistency with the intent of the ALEUP. Nonetheless, the City has provided the enclosed Exhibit B1 showing the location of the sites in relation to the existing ALEUP identified noise contours, as well as Exhibit B2 showing the location of the sites in relation to the 2014 EIR No. 617 contours recognized by the City’s Noise Element.

Of the 75 new housing opportunity sites identified in the Airport Area, 56 are located wholly or partially outside the 65 dBA CNEL contour identified by the 2014 EIR No. 617. 19 new housing opportunity sites are located wholly within the updated 65-70 dBA CNEL contour area boundary.

It should be made clear that in no case is the City prioritizing housing within the 70-to-75 dBA CNEL contour or above.

Safety Compatibility

As part of the site selection process, the City made it a point to avoid sites in the following runway safety zones:

- Safety Zone 1 – Runway Protection Zone “RPZ”;
- Safety Zone 2 – Inner Approach/Departure Zone; and
- Safety Zone 5 – Sideline Zone

69 of the 75 new sites identified within the vicinity of JWA are completely within Safety Zone 6 – Traffic Pattern Zone with the remaining 6 being only *partially* within Safety Zones 3 – Inner Turning Zone or 4 – Outer Approach/Departure Zone.

As provided in Appendix D of the AELUP, Table 9B (Safety Compatibility Qualities), residential uses are allowed in Safety Zone 6. Residential uses are allowed in Safety Zone 4 as infill in urban areas and in Safety Zone 3 as a very low density use with special consideration for noise.

Zone 3: Inner Turning Zone

Risk Factors / Runway Proximity

- Zone primarily applicable to general aviation airports
- Encompasses locations where aircraft are typically turning from the base to final approach legs of the standard traffic pattern and are descending from traffic pattern altitude
- Zone also includes the area where departing aircraft normally complete the transition from takeoff power and flap settings to a climb mode and have begun to turn to their en route heading

Basic Compatibility Qualities

- Limit residential uses to very low densities (if not deemed unacceptable because of noise)
- Avoid nonresidential uses having moderate or higher usage intensities (e.g., major shopping centers, fast food restaurants, theaters, meeting halls, buildings with more than three aboveground habitable floors are generally unacceptable)
- Prohibit children's schools, large day care centers, hospitals, nursing homes
- Avoid hazardous uses (e.g. aboveground bulk fuel storage)

Zone 4: Outer Approach/Departure Zone

Risk Factors / Runway Proximity

- Situated along extended runway centerline beyond Zone 3
- Approaching aircraft usually at less than traffic pattern altitude
- Particularly applicable for busy general aviation runways (because of elongated traffic pattern), runways with straight-in instrument approach procedures, and other runways where straight-in or straight-out flight paths are common
- Zone can be reduced in size or eliminated for runways with very-low activity levels

Basic Compatibility Qualities

- In undeveloped areas, limit residential uses to very low densities (if not deemed unacceptable because of noise); if alternative uses are impractical, allow higher densities as infill in urban areas
- Limit nonresidential uses as in Zone 3
- Prohibit children's schools, large day care centers, hospitals, nursing homes

Zone 6: Traffic Pattern Zone

Risk Factors / Runway Proximity

- Generally low likelihood of accident occurrence at most airports; risk concern primarily is with uses for which potential consequences are severe
- Zone includes all other portions of regular traffic patterns and pattern entry routes

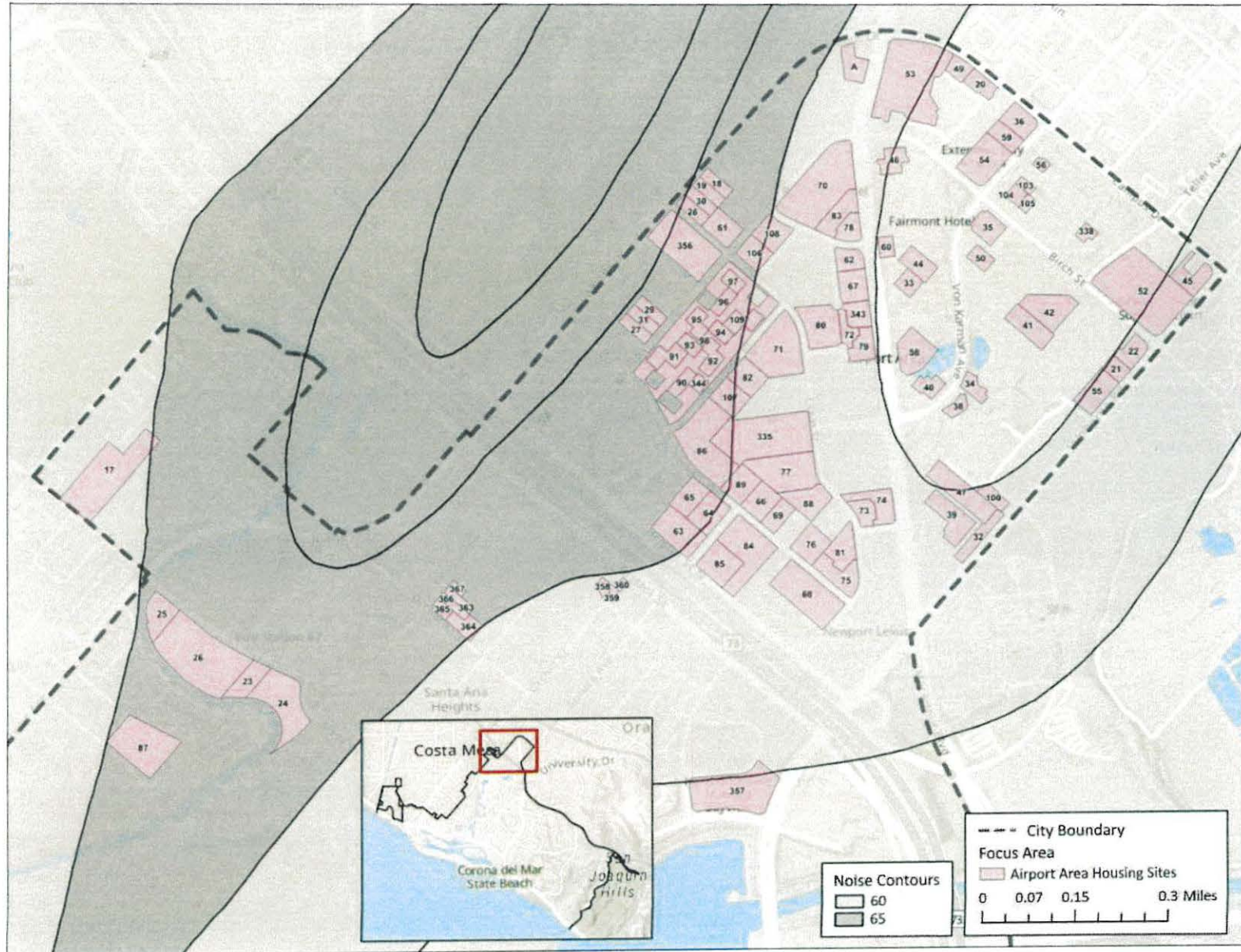
Basic Compatibility Qualities

- Allow residential uses
- Allow most nonresidential uses; prohibit outdoor stadiums and similar uses with very high intensities
- Avoid children's schools, large day care centers, hospitals, nursing homes

Height Restriction Zones

As presently drafted, all sites within the Housing Opportunity (HO) Overlay Zones will be subject to the current heights allowed by the base zoning district with exception of four parcels that are subject to an unduly restrictive 18-foot height limitation. These are being granted new heights of 35 and 60 feet. However, in no event will the City's rezoned height limits be inconsistent with the parameters outlined in Subsection 3.2.6 (Height Restriction Zone) of the AELUP and FAA standards. In addition, future updates to the Land Use Element and rezoning will be subject to future Airport Land Use Commission (ALUC) review, consistent with Public Utilities Code Section 21676. See the draft Housing Opportunity (HO) Overlay Zoning Map for HO-1 Airport Area Environs Area below.

City of Newport Beach Housing Element Implementation Program Amendments
 ALUC Submittal, April 26, 2024
 EXHIBIT B1 – 2008 AELUP Noise Contours





AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

May 23, 2024

Ben Zdeba, Principal Planner
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: ALUC Determination for Housing Element Implementation Program Amendments (Proposed Amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program

Dear Mr. Zdeba:

During the public meeting held on May 16, 2024, the Airport Land Use Commission (ALUC) for Orange County considered the subject item. The matter was duly discussed, and with a 7-0 vote, the Commission found the Housing Element Implementation Program Amendments (Proposed Amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program to be Inconsistent with the *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)* per:

1. Section 2.1.1 Aircraft Noise that the “aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport.”
2. Section 2.1.2 Safety Compatibility Zones in which “the purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA.”
3. Section 2.1.4, and PUC Section 21674 which state that the Commission is charged by PUC Section 21674(a) “to assist local agencies in ensuring compatible land uses in the vicinity of ...existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses,” and PUC Section 21674(b) “to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare.”
4. 3.2.1 General Policy of the *AELUP* which states that the General Land Use policy of the Airport Land Use Commission for Orange County shall be “Within the boundaries of the *AELUP*, any land use may be found to be Inconsistent with the *AELUP* which... places people so that they are affected adversely by aircraft noise...”

Please contact me if you have any questions regarding this proceeding. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Julie Fitch". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Julie Fitch
Interim Executive Officer

cc: ALUC

Attachment M

Minor Language Changes Since Planning Commission and ALUC Review

LU 3.3 Opportunities for Change

Support opportunities for new development and improved physical environments for residents, businesses, and visitors in the following districts and corridors, as specified in Policies 6.3.1 through 6.22.7:

West Newport: support consolidation of retail and visitor-serving commercial uses, and new residential opportunities

Santa Ana Heights: support continued implementation of the adopted Specific Plan and Redevelopment Plan

Fashion Island/Newport Center: support balanced expansion and enhancement of retail uses, hotel rooms, and offices, and development of residential in proximity to jobs and services

Balboa Peninsula: support patterns of use that consolidate the Peninsula's visitor-serving and mixed uses within the core commercial districts; encourage marine-related uses especially along the bay front; integrate residential with retail and visitor-serving uses in Lido Village, McFadden Square, Balboa Village, and along portions of the Harbor frontage; re-use interior parcels in Cannery Village for residential and limited mixed-use and live/work buildings; and redevelop underperforming properties outside of the core commercial districts along the Balboa Boulevard corridor for residential. Infill development shall be designed and sited to preserve the historical and architectural fabric of these districts

Mariners' Mile: support revitalization of existing properties for retail, visitor-serving, and marine-related uses, integrated with residential

Corona del Mar: support enhancement of public improvements and parking (Imp 1.1, 2.1, 5.1)

Study and consider the adoption of specific plans or other appropriate land use guidance for the following areas:

West Newport Mesa: This area is generally bounded by the City of Costa Mesa to the north, Banning Ranch to the west, State Route 55 to the east, and Hospital Road to the south. The area may be expanded if warranted. The intent is to support a cohesive strategy that enhances existing land use or repurpose underperforming commercial and industrial uses or activities while facilitating new and varied housing, including workforce housing proximate to jobs, transportation, and services. Future land uses are intended to be appropriately located and sized to accommodate local community needs.

Airport Area: This area is generally bound by Jamboree Road to the east, Campus Drive to the north and west, and State Route 73 to the south. [This area may be expanded subject to LU 4.4.](#) This area must support flexible land use planning for the reuse and repurposing of existing nonresidential uses while allowing for a variety of housing opportunities inclusive of workforce housing proximate to jobs, transportation, supporting commercial, and services. The intent is to support and provide neighborhood parks or other recreational opportunities, and other public services. Development in this area should contribute to a cohesive urban, mixed-use character where residents and visitors can live, work, shop, access services, and play.

Coyote Canyon Landfill: This approximately 375-acre open space area is generally bound by Newport Coast Drive to the east, State Route 73 to the north, and the Newport Ridge Planned Community to the west and south. The intent for this area is to support a comprehensive vision that balances future land uses with environmental stewardship and public access. Future development should adapt the closed landfill as an area that supports a variety of outdoor recreational uses such as golf, hiking, and nature interpretation alongside housing opportunities with complementary nonresidential uses.

LU 4.4 Rezoning to Accommodate Housing Opportunities

Accommodate housing opportunities through the adoption of housing opportunity overlay zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element's focus areas. Properties within each overlay district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites [or adjustments](#) may be identified in the future through rezoning unless precluded by state law. The goal is to ensure an adequate number of sites Citywide to accommodate the City's [overall](#) allocation of the Regional Housing Needs Assessment:

- **Airport Environs:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the area.
- **West Newport Mesa:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the area.
- **Newport Center:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the area. units per gross acre.
- **Dover / Westcliff:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the area.
- **Coyote Canyon:** the intent is to allow a density between 20 and 60 dwelling units per gross acre of viable land to accommodate up to 1,530 total dwelling units within the area.

LU 4.5 Residential Uses and Residential Densities

Residential use of any property included within an established housing opportunity overlay zoning district is allowed regardless of and in addition to the underlying land use category or density limit established through Policy LU 4.1, Table LU 1 and Table LU 2, [or any other conflict in the Land Use Element](#). A general plan amendment is not required to develop a residential use within an established housing opportunity zoning overlay district. The maximum density specified for the various overlay districts specified in Policy LU 4.2 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 4.4 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units identified in LU 4.4 do not include units identified as pipeline units or units permitted pursuant to State density bonus law.

**TABLE 2-16
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES**

Development Feature	Housing Opportunity Subareas						
	HO-1	HO-2	HO-3	HO-4	HO-5	HO-6	
Development Limit (units) ⁽¹⁾	2,577	1,107	521	2,439	1,530	N/A	
Lot Size/Dimension	Per Base Zone						
Lot area required per unit (sq. ft.) ⁽²⁾	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)			Minimum: 2,178 (20 du/ac) Maximum: 726 (60 du/ac) ⁽¹⁰⁾	All Standards Per Base Zone	
Setbacks							
Front	0 ft. ⁽³⁾	10 ft. ⁽³⁾	10 ft. ⁽³⁾⁽⁴⁾	0 ⁽³⁾	10 ft. ⁽³⁾		
Rear	0	20 ft.	20 ft.	0	20 ft.		
Side	0 ⁽⁴⁾						
Street Side	0 ⁽³⁾	10 ft. ⁽³⁾	10 ft. ⁽³⁾	0 ft. ⁽³⁾	10 ft. ⁽³⁾		
Height	Per Base Zone unless otherwise identified on the map	65 ft.	65 ft. ⁽⁶⁾	Per Base Zone ⁽⁷⁾	65 ft.		
Building Separation	10 ft.						
Floor Area Ratio (FAR)	No restriction ⁽⁸⁾						
Common Open Space ⁽⁹⁾	Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)						
Private Open Space ⁽⁹⁾	5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)						
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).						
Landscaping	See Chapter 20.36 (Landscaping Standards).						
Lighting	See Section 20.30.070 (Outdoor Lighting).						
Outdoor Storage/Display	See Section 20.48.140 (Outdoor Storage, Display, and Activities).						
Parking	See Subsection (D)(3) below and Chapter 20.40 (Off-Street Parking).						
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).						
Signs	See Chapter 20.42 (Sign Standards).						

- (1) Development limits are additional residential development opportunities beyond the base allowances in this Title ~~of the~~ and General Plan. ~~These limits shall not include density bonus units or units that are either, including projects approved under those base allowances and units~~ identified as pipeline units in the 6th Cycle Housing Element (Table B-2) ~~or units that were applied for and predate the effective date of the HO Overlay Zoning Districts. Development limits shall not include density bonus units.~~ Furthermore, eligible units are only counted against the development limits when they are either entitled or are issued a building permit if allowed by right. However, 25% of the development limit within each HO Overlay Zoning District that includes properties within the Coastal Zone shall be reserved until such a time as the City's Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6th Cycle Housing Element. Following the City's Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone.
- (2) Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units.
- (3) Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way.
- (4) Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway.
- (5) The combined total from both sides shall be 15 feet.
- (6) The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1.
- (7) "Base Zone" includes all height limitations established by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).
- (8) The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable.
- (9) For purposes of this section, common and private open space in HO-1 may include enclosed shared amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility, children's playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director.
- (10) This density is intended for the former Coyote Canyon Landfill site only. The Sage Hill School site is limited to a maximum of 20 dwelling units.

Attachment N

Fiscal Impact Analysis



KEYSER MARSTON ASSOCIATES

MEMORANDUM

ADVISORS IN:
Real Estate
Affordable Housing
Economic Development

BERKELEY
Debbie M. Kern
David Doezema

LOS ANGELES
Kathleen H. Head
Kevin E. Engstrom
Julie L. Romey
Tim R. Bretz

SAN DIEGO
Paul C. Marra
Linnie A. Gavino

EMERITUS
A. Jerry Keyser
Timothy C. Kelly

To: Ben Zdeba, Principal Planner
City of Newport Beach

From: Kevin Engstrom

Date: July 11, 2024

Subject: General Plan Housing Implementation Program – Program EIR Fiscal Impact

Pursuant to your request, Keyser Marston Associates, Inc. (KMA) evaluated the potential fiscal impact of the City of Newport Beach General Plan Housing Implementation Program – Draft Program Environmental Impact Report (Program EIR). The fiscal analysis considers the ongoing effects of the potential residential development on the General Fund for the City of Newport Beach (City). This overview is organized as follows:

1. Fiscal Impact Methodology
2. Program EIR Summary
3. Fiscal Impact Model Summary and Assumptions
4. Program EIR Fiscal Impact
5. Evaluation Summary

FISCAL IMPACT METHODOLOGY

The approach used in a fiscal analysis is to estimate public revenues based on specific parameters of the proposed development where appropriate (i.e. number and value of residential units, commercial square footage, value and sales per square foot for commercial uses) or based on the projected number of residents or employees for revenues that generally vary by population and/or employment. This analysis utilizes the unit projections found in the Program EIR and estimates the impact developing these units and their residents will have on City General Fund

revenues. City service costs are estimated based on the number of persons served (residents). The public service costs are deducted from the public revenues to derive the net benefit of the potential development to the City. Initial capital requirements and obligations are usually addressed through development impact fees or other project mitigations.

HOUSING IMPLEMENTATION PROGRAM – PROGRAM EIR

A summary of the project description found in Program EIR is below:

1. The Program EIR identified opportunity sites in five overlay zones plus the Banning Ranch area in the City. As shown in the table below, 247 sites totaling 537 acres were identified as candidate residential sites.

Focus Area Opportunities			
	Sites	Acres	Density (DU/Ac)
Airport Area	100	176	50
West Newport Mesa	26	47	50
Dover-Westcliff	15	20	50
Newport Center	85	230	50
Coyote Canyon	2	34	60
Banning Ranch	<u>19</u>	<u>30</u>	50
Total	247	537	

2. The Program EIR indicates the residential capacity of the opportunity sites is 9,630 units, which would include a mix of low, very low, moderate and above moderate-income units as summarized in the table below. The buildout assumptions in the Program EIR represent a “net” development capacity, adjusted to consider existing residential development on housing sites and input from developers.

Focus Area Development Capacity				
	Low/Very Low	Moderate	Above Moderate	Total
Airport Area	773	258	1,546	2,577
West Newport Mesa	332	111	664	1,107
Dover-Westcliff	156	52	312	521
Newport Center	732	224	1,463	2,439
Coyote Canyon	383	153	995	1,530
Banning Ranch	<u>443</u>	<u>148</u>	<u>885</u>	<u>1,476</u>
Total	2,819	946	5,865	9,630

3. The Program EIR identifies a total development capacity of 9,914 units, which includes the 9,630 units of future development capacity identified above, 25 units of pipeline projects and 240 ADUs.

These estimates provide the basis of the fiscal impact evaluation.

EXISTING MARKET CONDITIONS

The residential market conditions are summarized below in the table below: ¹

1. A summary of the key inventory and performance metrics for apartments in the City is shown below.

Apartment Market Summary				
	Unit Share	Sq. Feet	Rent	Rent PSF
Studio	14%	477	\$2,111	\$4.55
1-Bdr	36%	773	\$3,017	\$3.93
2-Bdr	44%	1,140	\$3,940	\$3.47
3-Bdr	6%	1,495	\$5,320	\$3.68

2. Consistent with market area and regional trends, one-bedroom and two-bedroom units account for the majority (80%) of the apartment units in the City.
3. Average unit sizes for studios are less than 500 square feet, with one and two-bedroom units averaging 773 and 1,140 square feet respectively.
4. For 2023, the average effective rent in the City across all unit types was \$3,520 (\$3.67/sf). Average rents per square foot range from \$4.55 for studios to \$3.68 for three-bedroom units.
5. The rental market has seen robust rent growth in recent years, with average rents increasing by 33.7% since 2018, from \$2.75 per square foot to \$3.67 per square foot.
6. The vacancy rate in the City was 2.5% in 2023, which was lower than the 10-year average of 5.1%.
7. Over the last 10 years, the median home sales price in the City increased 80.6%.

¹ Data Sources: CoStar Analytics, City of Newport Beach. CoStar Capital Market Report – Newport Beach-Multi-Family; Redfin Data Center; Applied Development Economics (ADE) City of Newport Beach Fiscal Impact Model

8. The average sales price of attached homes in the City was \$1.7 million in 2023. The average market value of 4-5 Star apartments was \$807,000 per unit in 2023, with values projected to increase to \$1.1 million in 2028.
9. Historic fiscal analyses prepared in the City rely on an established library of values based on recent transactions. These values include an average of \$1.35 million for the for-sale product, \$1.05 million for apartments and \$310,200 for affordable units.

FISCAL MODEL SUMMARY & ASSUMPTIONS

A summary of the key fiscal model inputs and assumptions is provided below.

PROPERTY TAX

Given the nature of the land use the majority of the City revenues will be generated by property taxes. The property tax assumptions include the following:

- Properties in California are taxed at a 1.0% general rate applied to the assessed value of the property.
- Traditionally, a city receives an allocated share of the 1% general property tax, with the balance going to other governmental agencies (e.g. County). The City receives 16.1% of the 1.0% general rate.
- Assessed values for residential can range considerably depending on product quality, unit size and other salient factors. The assessed value of for-sale units is based on sales price. For apartments, unit cost and/or unit value will be the determining factor.
- In addition to the base property tax, the City receives additional property taxes in lieu of Vehicle License Fees (VLF). The City's VLF funds are 10.0% of the basic levy.

SALES TAX

The sales tax projections are based on taxable retail spending by residents of new units in the City:

- The City's share of sales tax is 1.0% of taxable sales.
- To estimate household income levels, it is assumed that residents spend 30% of their income on rent and/or mortgage payment.
- Taxable retail sales are projected to account for approximately 20% of household incomes.

- It is assumed the City captures two-thirds of the taxable retail sales generated by households.²

OTHER CITY REVENUES

The Other City revenues include revenues such as business licenses, franchise fees, licenses & permits, charges for services and other miscellaneous revenues sources. The key assumptions include:

- The projections are based on a per capita basis. The average household size in the City is 2.07 residents per unit based on the California DOF E-5 report. After accounting for vacancies the average household size of all units is 1.84 persons.³
- The per capita revenues are based on line-items taken from the Fiscal Year 2023/24 City Budget.
- Based on the total per capita revenues in the City, a discount is assumed that reflects the likely impact of development on these revenue streams. The discount ranges from 0% to 100% depending on the fixed nature of the revenue stream and likely impact of the development. The analysis makes this adjustment for both franchise taxes and business licenses.

CITY OPERATING COSTS

The City operating costs assumptions are addressed below:

- City operating cost projections are made on a per capita basis.
- Consistent with the Other City revenues a discount is assumed for those Project costs that are considered fixed.
- Fire and Police estimates are based on the City's historic allocation of the cost for these services and constitute the bulk of City service costs.⁴

PROGRAM EIR FISCAL IMPACT

The fiscal impact of the Program EIR will ultimately be determined on a case-by-case basis as new developments are proposed. This is particularly important to note, as the bulk of the residential units are potentially in overlay zones, which would replace existing land uses. These existing uses may already have a negative impact on the City's general fund, thus mitigating the potential negative impact of the

² Source: ADE City of Newport Beach Fiscal Impact Model

³ Based on CA DOF E-5 estimates for the City which assume average household size of 2.17 person and 15.1% vacancy rate.

⁴ Source: ADE City of Newport Beach Fiscal Impact Model

residential units. In addition, there is a significant range of outcomes depending on the assessed value of the proposed units, projected rents/sales prices and resultant income levels. Finally, the assessed value of the proposed units is critically important, as property tax revenues account for approximately two-thirds of the City general fund revenues generated by residential projects. To provide context for the full buildout of the unit mix (market rate and affordable) in the Program EIR, the following assumptions were utilized:

- The estimated unit breakdown includes 8,923 apartments and 990 for sale units:

Unit Allocation⁵	
	Units
Apartment	8,923
For Sale	<u>991</u>
Total	9,914

- The analysis assumes the low/very low-income units will be in apartments, with the following unit distribution.⁶

Apartment Mix	
	Units
Low/Very Low	2,612
Moderate/Above Moderate	<u>6,311</u>
Total	8,923

- Based on a review of the available market data the average assessed values for the fiscal analysis are summarized below. The property tax assumptions are set forth above.

Average Assessed Value	
	Value/Unit
Affordable Apartments ⁷	\$310,200
Moderate/Market Apartments ⁸	\$1,100,000
For Sale Residential	\$1,700,000

⁵ Based on information provided by the City.

⁶ Unit income distribution derived from the Program EIR.

⁷ Includes low/very low apartments.

⁸ Includes moderate/above moderate apartments.

- The mix of apartment units by bedroom count is assumed to be consistent with the current City inventory, with average rents shown in the table below.

Average Apartment Rent	
	Avg. Rent
Affordable Apartments	\$1,250
Moderate/Market Apartments	\$3,800

- Sales tax is estimated based on the average per household income levels shown in the table below and the expenditure assumptions detailed above.

Average Household Income Levels	
	HH Income
Affordable Apartments	\$58,000
Moderate/Market Apartments	\$153,000
For Sale Residential	\$317,000

- The Other City revenues are estimated on a per capita basis. Assuming an average of 1.84 persons per household there would be 18,257 additional residents at buildout. The Other City revenues are based on the City budget and include franchise taxes; business licenses; other intergovernmental; charges for services; fines, penalties and forfeitures; licenses and permits; use of property; other revenue and interest income.⁹
- The City’s operating expenses are also estimated on a per capita basis assuming 18,257 residents. Based on the City budget, these costs include general government; police; fire; public works/utility; streets/transportation; community development; community services and net transfers out.
- Under these assumptions the net fiscal impact of the Program EIR is a negative \$8.3 million as shown in the table below.

⁹ Source: City of Newport Beach Fiscal Year 2023-24 Proposed Budget

General Fund Impact	
<u>General Fund Revenues</u>	
Property Tax	\$15,188,300
Property Tax in lieu of VLF	\$1,557,200
Sales Tax	\$1,763,200
Transient Occupancy Tax	\$0
Franchise Taxes	\$376,900
Business Licenses	\$116,300
Other Intergovernmental	\$255,700
Charges for Service	\$2,044,100
Fines, Penalties, and Forfeitures	\$424,300
Licenses and Permits	\$52,300
Use of Property	\$1,789,600
Other Revenue	\$398,400
Interest Income	\$138,000
General Fund Revenue	\$24,104,100
<u>General Fund Expenditures</u>	
General Government	\$3,321,900
Police	\$8,424,300
Fire	\$7,447,800
Public Works/Utilities	\$4,542,100
Streets/Transportation	\$1,109,100
Community Development	\$331,000
Community Services	\$5,509,500
Net Transfers Out	\$1,727,300
General Fund Expenditures	\$32,413,000
Net General Fund Impact	(\$8,308,900)

- The potential units would be developed over an extended period; consequently, the impact shown above would not occur at one time. The per unit fiscal impact is a negative \$840 as shown below:

Net General Fund Impact per Unit	
City Revenue	\$2,430
City Expenditures	(\$3,270)
Total	(\$840)

- The estimates shown above provide a high-level summary of the potential impact of the Program EIR; however, these may be mitigated due to the land use being replaced and/or the assessed value/household incomes of new development as it is proposed. For example, a fiscal analysis of the 1400 Bristol St. North Project was prepared in March 2024, which included a proposed apartment project replacing an existing office building. The analysis compared the fiscal impact of the proposed project to the existing office building and found that both developments had a negative impact on the City’s general fund with the office’s negative impact being about 40% of the residential impact. In addition, the negative impact on the general fund of the proposed project was less than \$500 per unit due to the affordability mix (10% affordable), assessed values and project rents.

General Fund Impact - 1400 Bristol St. North Project		
	Residential	Office
City Revenue	\$567,570	\$80,390
City Expenditures	<u>(\$673,870)</u>	<u>(\$123,970)</u>
Project Total	(\$106,300)	(\$43,580)
Per Unit/SF	(\$460)	(\$1.10)

EVALUATION SUMMARY

The Program EIR identified opportunity sites in five overlay zones plus the Banning Ranch area in the City. Many of the sites identified for potential residential developments are already improved with land uses; consequently, the overall fiscal impact of the Program EIR is highly speculative and will ultimately be determined on a case-by-case basis as new developments are proposed. Some key issues to consider:

- Rents, sales prices and assessed values in the City are all very high, benefiting General Fund revenues.
- Total buildout of all the potential residential would have a net negative impact on the City’s General Fund. This may be mitigated if projects continue to be developed at higher price points.
- The replacement of land uses that generate minimal public revenues can offset the negative impact of the residential. As the 1400 Bristol St. North project demonstrates, office development can have a net negative impact on the General Fund and higher rents/values can significantly reduce the residential impact.
- Cities will often adopt a development fee program, negotiate development agreements and pursue other methods to mitigate the fiscal impact of residential development. As KMA understands the situation, the City is currently preparing a development fee program, which could potentially offset some of the projected impact.

Attachment O

Resolution No. 2024-58 Initiating an Amendment to the 6th Cycle Housing Element

RESOLUTION NO. 2024- 58

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, INITIATING A NARROWLY FOCUSED AMENDMENT TO THE ADOPTED AND CERTIFIED 6TH CYCLE HOUSING ELEMENT TO REMOVE THE REFERENCE TO CHARTER SECTION 423 VOTER APPROVAL (PA2022-0245)

WHEREAS, City Council Policy K-1 (General Plan and Local Coastal Program) requires amendments to the City of Newport Beach (“City”) General Plan to be initiated by the City Council;

WHEREAS, California Government Code Section 65580 *et seq.* (“State Housing Element Law”) requires each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing;

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment (“RHNA”) allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted by an ad-hoc committee called the Housing Element Update Advisory Committee (“HEUAC”) formed and appointed by the City Council;

WHEREAS, after several meetings with the State Department of Housing and Community Development (“HCD”) and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City’s 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the “fair share” of regional housing need and demand, by planning for units within the following site groupings or “focus areas” that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City’s RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 (“6th Cycle Housing Element Implementation”), which requires the following amendments and actions:

- General Plan Amendment (“GPA”) - To revise the necessary goals and/or policies within the City’s Land Use Element to support housing production in the focus areas identified by the 6th Cycle Housing Element;
- Amendment to Title 20 (Planning and Zoning) (“ZCA”) - To implement the Land Use Element’s policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;
- Local Coastal Program Amendment (“LCPA”) - To revise and create new policies within the City’s Coastal Land Use Plan and update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6th Cycle Housing Element that are within the Coastal Zone; and

- Program Environmental Impact Report (“PEIR”) (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act (“CEQA”) related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report (“Draft PEIR”), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, Charter Section 423 is described as a possible constraint in Section 3 (Housing Constraints, Resources, and Affirmatively Furthering Fair Housing), and further discussed as an implementation action in Section 4 (Housing Plan) of the 6th Cycle Housing Element;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties, including monthly fines of up to \$600,000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City’s zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

WHEREAS, a study session was held on July 9, 2024, by the City Council to discuss whether a vote of the electorate should be required under Charter Section 423 due to the 6th Cycle Housing Element Implementation being mandated under State Housing Element Law and therefore precluding a vote under Charter Section 423;

WHEREAS, after public comments and City Council discussion, the City Council directed staff to return on July 23, 2024, with both options to proceed with a vote and to proceed without a vote;

WHEREAS, City staff has consulted with HCD to describe the narrowly focused amendment, which would remove the reference to a vote under Charter Section 423 as a constraint in Section 3 and as an implementing action in Section 4, and has been provided feedback that the proposed change would not result in a more expansive review of the 6th Cycle Housing Element and would not jeopardize the City's compliant status; and

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b) and the Ralph M. Brown Act. Evidence both written and oral, was presented to, and considered by, the City Council at this hearing.

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

Section 1: The City Council does hereby initiate a narrowly focused amendment to the adopted and certified statutorily compliant 6th Cycle Housing Element of the General Plan to remove the reference to a vote of the electorate pursuant to Charter Section 423 as a constraint or as an implementing action.

Section 2: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 3: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The City Council finds the adoption of this resolution is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 15262 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it involves feasibility or planning studies on possible future actions, which the agency, board, or commission has not approved or adopted.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

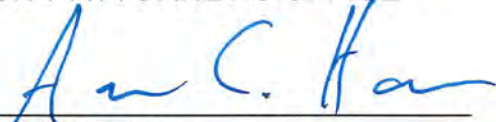
ADOPTED this 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney