



NEWPORT BEACH

City Council Staff Report

October 28, 2025
Agenda Item No. 20

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Jaime Murillo, Acting Community Development Director - 949-644-3209, jmurillo@newportbeachca.gov

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TITLE: Resolution Nos. 2025-71 through 2025-74: Overriding Orange County Airport Land Use Commission's Determination of Inconsistency and Approving the Snug Harbor Surf Park at 3100 Irvine Avenue

ABSTRACT:

Back Bay Barrells, LLC seeks to redevelop the central portion of the privately owned and operated Newport Beach Golf Course (NBGC). The existing driving range, putting green, pro shop, restaurant and bar, and three holes of golf would be removed and replaced with a new surf-focused outdoor commercial recreation use (surf park). The site would be improved with approximately five acres of surfing lagoon surrounded by viewing platforms, seating, pools, a spa, restrooms, landscaping, and 351 surface parking spaces. The proposed hours of operation for the surf park are from 6 a.m. to 11 p.m., daily. The project includes the construction of a new three-story amenity clubhouse building and a two-story athlete accommodation building with 20 rooms. As golf operations are proposed to continue, existing access would be maintained to the NBGC holes identified as the "front six" and the "back nine."

For the City Council's consideration is the adoption of four resolutions to authorize the project by: 1) approving the General Plan Amendment; 2) approving the site development review, conditional use permit and modification permit; 3) certifying the Environmental Impact Report; and 4) overriding the August 7, 2025, Orange County Airport Land Use Commission (ALUC) determination that the project is inconsistent with the 2008 John Wayne Airport Environs Land Use Plan.

Pursuant to California Public Utilities Code Section 21676(b), approval of the project and the adoption of the resolution to override the ALUC requires a two-thirds majority vote of the City Council.

RECOMMENDATIONS:

- a) Conduct a public hearing;
- b) Adopt Resolution No 2025-71, *A Resolution of the City Council of the City of Newport Beach, California, Approving a General Plan Amendment for the Surf Park Project Located at 3100 Irvine Avenue (PA2024-0069)*;

- c) Adopt Resolution No 2025-72, *A Resolution of the City Council of the City of Newport Beach, California, Approving a Major Site Development Review, Conditional Use Permit, and Modification Permit to Authorize the Construction and Operation of the Surf Park with Ancillary Uses and Types 47 (On-Sale General Eating Place), 58 (Caterer), and 68 (Portable Bar) Alcoholic Beverage Control Licenses for the Property Located at 3100 Irvine Avenue (PA2024-0069)*;
- d) Adopt Resolution No 2025-73, *A Resolution of the City Council of the City of Newport Beach, California, Certifying Environmental Impact Report (State Clearinghouse SCH Number 2024110238), Including a Mitigation Monitoring and Reporting Program and Adopting Findings for the Surf Park Project Located at 3100 Irvine Avenue (PA2024-0069)*; and
- e) Adopt Resolution No 2025-74, *A Resolution of the City Council of the City of Newport Beach, California, Finding the Surf Park Project Located at 3100 Irvine Avenue 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 (PA2024-0069)*.

DISCUSSION:

As shown in Figure 1 on the next page, the Newport Beach Golf Course (NBGC) is separated into three physically distinct areas: the northern, central, and southern portions. The northern portion is mostly located outside of Newport Beach's boundaries and is owned by the County of Orange. The central and southern portions are owned by Newport Golf Club, LLC. The NBGC is not a City-owned or City-operated golf course. The project is proposed for the central portion, located at 3100 Irvine Avenue (Site).



Figure 1, Extent of NBGC with project site outlined in red

The Site is located within an urban area of the City that is considerably developed. Beginning to the north of the Site and moving clockwise, surrounding land uses include the “The Jetty” commercial center, holes 10-18 of the NBGC, multi-tenant office buildings, Newport Beach Fire Station No. 7, holes 3-8 of the NBGC, “The Ranch” retail shopping center, and multi-family residential. The Santa Ana Delhi Channel is located along the northwesterly Site boundary.

The Site is currently developed with a 38-bay, partially covered, synthetic turf driving range, an approximately 1,050-square-foot putting green, a one-story, approximately 8,975-square-foot clubhouse building, and three holes of the NBGC (holes 1, 2, and 9). The existing clubhouse includes a pro shop and a restaurant that seats 233 people, and a surface parking lot with 280 parking spaces.

Project Description

Back Bay Barrels, LLC (Applicant) proposes to remove all existing improvements on the central portion of the NBGC and redevelop the Site into a new surf-focused outdoor commercial recreation use (surf park). As shown below in Figure 2, the Site would be improved with approximately five acres of surfing lagoon surrounded by viewing platforms, seating, pools, restrooms and landscaping.



Figure 2, Project rendering looking south

The surf lagoon would be divided into two, 5.1-million-gallon, hydrologically separated, basins that would be up to 13 feet deep. Wave machinery would bisect the basins. Light poles 71 feet high would light the lagoon for evening use, focusing down onto the surf lagoon. Additional lagoon equipment, such as the heating equipment, would have a height of approximately 15 feet and would be located northeast of the surf lagoon, near the northernmost parking area. Hours of operation for the surf park are proposed from 6 a.m. to 11 p.m., daily. The project includes a robust open space and landscaping plan with roughly 20% of the total site, or 143,844 square feet, planted with drought tolerant ornamental landscaping. Nearly 35% of the site, or 235,650 square feet, will be provided as open space. Also included in the project is the relocation of an existing, undersized driveway on Mesa Drive, roadway striping, and a sewer line upgrade and relocation.

The project includes the construction of a new three-story, 50-foot tall, amenity clubhouse building which would provide a reception and lobby area, surf academy, fitness facility, yoga center, administrative offices, locker rooms, retail space, a restaurant, viewing suites, and a coffee and snack bar. The basement level would provide space for golf cart storage, along with surfboard storage, facility storage, and mechanical equipment. Alcohol service would be provided within the clubhouse and throughout the grounds through Type 47 (On-Sale General - Eating Place), Type 58 (Caterer License), and Type 68 (Portable Bar) Alcohol Beverage Control (ABC) Licenses. The project also includes construction of a two-story, 40-foot-high athlete accommodation building with 20 rooms. In total, the project would construct approximately 79,533 square feet of area; however, 19,761 square feet is excluded from the total development limit of the site as incidental building area consistent with Table LU1 (Land Use Plan Categories) of the General Plan for properties categorized as Parks and Recreation.

The surf park will be served by 351 parking spaces across two surface lots, partially covered by 14- to 18-foot-high solar canopies. These canopies, along with solar panels on the surf park buildings, will provide onsite renewable energy to help offset the project's operational power needs.

As part of its operation and as an amenity for locals and a regional destination for visitors, the surf park anticipates hosting approximately 12 surf events or competitions annually. These special events will be ticketed and similar in scale to other local sporting events.

Golf operations are proposed to continue, with existing access maintained to the front six and back nine holes of the golf course. The NBGC currently operates under Use Permit No. UP1594, which will remain in full force and effect. Importantly, access to the northern and southern portions of the NBGC will be maintained both during construction and operation, minimizing any disruptions to golf availability.

Construction would take approximately 18 months and includes demolition, site preparation, grading, installation of infrastructure and utilities, followed by building construction, pavement, and then architectural coatings.

The following approvals are required from the City to implement the project as proposed:

- **General Plan Amendment (GPA)** – To increase the development limit from 20,000 square feet to 59,772 square feet for Anomaly Number 58, as identified in Table LU 2 of the General Plan Land Use Element;
- **Major Site Development Review (SDR)** – To construct a nonresidential building larger than 20,000 square feet in area;
- **Conditional Use Permit (CUP)** – To allow the operation of an outdoor commercial recreation use, to authorize alcohol sales within the amenity clubhouse and throughout the grounds of the surfing lagoon, to establish the appropriate parking rate, and to allow the construction of buildings taller than 18 feet;
- **Modification Permit (Mod)** – To allow for the construction of retaining walls taller than 8 feet in height; and
- **Environmental Impact Report (EIR)** – To address reasonably foreseeable environmental impacts resulting from the legislative and project specific discretionary approvals.

General Plan Amendment (GPA)

The Site is designated as Parks and Recreation (PR) in the General Plan Land Use Element. Intended uses for PR designated properties include active and passive parks, golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private

recreation, and similar facilities. The Site is also identified as Anomaly Number 58 in Table LU2 and carries a development limit of 20,000 square feet.

While the Project is fully consistent with the intended development type described for the PR designation, it requires a GPA to increase the development limit by 39,772 square feet to 59,772 square feet. The Site's PR designation will remain unchanged. The updated Table LU2 for Anomaly Number 58 is provided as Exhibit C of Attachment A.

A complete consistency analysis of each applicable General Plan policy is included as Exhibit D of Attachment A. The analysis concludes that the project is consistent with the adopted goals and policies of the General Plan.

Charter Section 423 (Measure S) Analysis ("Greenlight")

Charter Section 423 requires voter approval for any major GPA. A major GPA is defined as one that significantly increases allowed density or intensity by 40,000 square feet of non-residential floor area, increases traffic by more than 100 peak hour vehicle trips (AM or PM), or increases residential dwelling units by 100 units. These thresholds apply to the total increase resulting from the amendment itself, plus 80% of the increases from other amendments affecting the same Statistical Area adopted within the preceding 10 years.

The Site is located within Statistical Area J-5. As required by Charter Section 423, prior amendments within statistical areas are cumulatively tracked for a period of 10 years at 80% of their initial values. One GPA within Statistical Area J-5 has been approved in the last 10 years. Trip generation for the purpose of the Charter Section 423 analysis was calculated using the blended rate for "public, semi-public, and institutional uses" as specified in City Council Policy A-18.

Table 1 below summarizes the calculations used to determine whether a vote is required. Notably, none of the thresholds outlined in Charter Section 423 are exceeded; therefore, no voter approval is required should the City Council choose to approve this GPA.

| Table 1, Charter Section 423, Measure S Analysis for Statistical Area J-5. | | | | |
|---|-------------------------------|---------------------------------|--------------------------------|-------------|
| Amendments | Increased Density (DU) | Increased Intensity (SF) | Peak Hour Trip Increase | |
| | | | A.M. | P.M. |
| PA2020-041 (Shvetz Subdivision) | 1 | NA | 0.75 | 1.01 |
| Total Prior Increases | 1 | NA | 0.75 | 1.01 |
| 80% of Prior Increases | .8 | NA | 0.60 | .81 |
| 100% of Proposed PA2024-0069 | 0 | 39,772 | 59.66 | 59.66 |
| Total | .8 | 39,772 | 60.26 | 60.26 |
| Threshold | 100 | 40,000 | 100 | 100 |
| Remaining | 99.2 | 228 | 39.74 | 39.74 |
| Vote Required? | No | No | No | No |

Tribal Consultation (Senate Bill 18 and Assembly Bill 52)

Pursuant to California Government Code Section 65352.3 (SB 18), 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.

The City requested a Sacred Lands File (SLF) search on May 31, 2024, for the Site from the NAHC. On June 18, 2024, the NAHC responded that the findings of the search were positive and identified 20 Native American tribal representatives to contact for further information on potential tribal resources. To comply with the requirements of SB 18 and Assembly Bill 52, the City mailed notices of the Project to all the listed tribes. The City received responses from the Gabrielino Tongva Indians of California (Gabrielino Tongva) and the Gabrieleño Band of Mission Indians - Kizh Nation (Kizh Nation). The City engaged in good faith effort consultation with both tribes. Ultimately, they requested monitoring for tribal resources during ground disturbances. During the consultation process, Kizh Nation requested to be the sole onsite monitor and asserted that the Gabrielino Tongva have no direct historical, ancestral, or cultural ties to Newport Beach. However, the Gabrielino Tongva tribe was identified in the SLF search for the Site as a tribe having traditional lands or cultural places in its vicinity, and the tribe further provided the City with substantial evidence identifying the Site as being within Ancestral Tribal Territory. Therefore, the City determined monitors from both tribes should be accommodated.

Major Site Development Review (SDR)

Approval of an SDR is required to construct a nonresidential building larger than 20,000 square feet. The required findings ensure the Project is a quality proposal that is consistent with the General Plan and Zoning Code, compatible with physical characteristics of the site and surroundings, and reduces or minimizes potential negative impacts.

The architectural style of the Project is a contemporary interpretation of Southern California's surf and beach culture, expressed through low-profile forms and natural materials. The material palette includes horizontal wood siding, exposed mass timber, architectural concrete, dark bronze metal accents, and glass. The proposed color palette includes earth tones such as driftwood browns, soft greys, sandy beige, and weathered whites. They are designed to blend into the environment and soften the built form against the natural backdrop. It incorporates harmonious building placement and a cohesive architectural theme, with curved structures that mirror the form of the surf lagoon, creating an integrated layout that minimizes conflicts with surrounding uses. Specific examples of intentional design include siting the clubhouse in a location that will help to shield any noise generated by the Project from the multi-family residential development located across Irvine Avenue.

The Project demonstrates compatibility with surrounding development in terms of bulk, scale, and visual character. Although it introduces more urbanized features compared to the current condition, it remains in scale with nearby commercial structures, which include multi-story commercial office buildings, and is designed to minimize public view impacts. Lighting, noise, and structural mass are managed through setbacks, landscape screening, and strategic orientation. The surf lagoon and supporting buildings are

designed with water-efficient landscaping, efficient irrigation systems, and extensive open space totaling over 235,000 square feet, contributing to the Site's environmental performance. Access and circulation are also thoughtfully designed, with driveways configured to ensure safe ingress and egress, queuing controls, and clear separation of surf park and golf course operations. Vehicular access from Irvine Avenue will be provided via a right-turn-in, left-turn-in, and right-turn-out only driveway. Vehicular access from Mesa Drive via the relocated driveway will be restricted to a right-turn-in and right-turn-out only configuration to help prevent conflicts with motorists queuing to turn left at the nearby signalized intersection.

Lastly, the Project is designed to protect any significant views from public rights-of-way in compliance with Section 20.30.100 (Public View Protection) of the NBMC. All development within the Site would be set back from adjacent streets and would not encroach on existing public views along the roadway corridors adjacent to the site. The closest designated public viewpoint is approximately 0.3-mile southwest of the Site, along Irvine Avenue and south of University Drive. The viewpoint provides views of the Upper Newport Bay Preserve. Bayview Park, adjacent to Upper Newport Bay Preserve, is also designated as a public viewpoint. The Site is located northwest of these points not within the coastal scenic viewshed from either of these viewpoints. Therefore, the Project does not have the potential to obstruct public viewpoints or corridors, as identified on General Plan Figure NR 3 (Coastal Views).

The Findings required to approve an SDR and the Facts in Support of Findings are provided in Exhibit C of Attachment B.

Conditional Use Permit (CUP)

The CUP provides a mechanism to evaluate uses that may be appropriate within a zoning district but require site-specific review to assess their potential impacts. Similar to an SDR, a CUP also considers whether the Project use is consistent with the General Plan, is permitted within the zoning district, and complies with all relevant provisions of the NBMC. A CUP also considers whether the design, location, size and operating characteristics of the Project are compatible with surrounding uses, and if the site is physically suitable to support the use, including access for public and emergency services, and whether the Project will be detrimental to the orderly growth of the City or pose a hazard to the public health, safety, or general welfare of nearby residents or businesses.

The Site is in the Open Space and Recreation (OSR) District of the Santa Ana Heights Specific Plan (SP-7). Golf courses and commercial recreation uses are permitted subject to the approval of a CUP. The Project also proposes to serve alcohol under a Type 47 (On-Sale General – Eating Place), Type 58 (Caterer License), and Type 68 (Portable Bar) ABC license. Therefore, the CUP must also evaluate consistency with Section 20.48.030 (Alcohol Sales) of the NBMC. Lastly, Chapter 20.40 (Off-Street Parking) of the NBMC does not specify a parking requirement for outdoor recreational uses. Instead, it allows the requirement to be established through a use permit and Section 20.90.050(E) (Site

Development Standards) of the NBMC requires approval of a CUP to construct a building taller than 18 feet.

Section 20.90.050(E) of the NBMC provides development standards for the Site, summarized below in Table 2:

| Table 2, Site Development Standards | |
|-------------------------------------|---|
| Building Site Area | One acre minimum |
| Building Height | 18 feet maximum, unless otherwise provided for by use permit |
| Building Setbacks | 20 feet minimum from all property lines |
| Off-Street Parking | Per Chapter 20.40 |
| Lighting | All lighting shall be designed and located so that direct light rays are confined to the premises |

The Project complies with the minimum building site area, required building setback, lighting standards, and is proposing a maximum building height of 50 feet above the existing grade for the amenity clubhouse and 40 feet above the existing grade for the visitor accommodation building. Existing grade for the purpose of measuring building height has been established pursuant to Section 20.30.050 (Grade Establishment) of the NBMC for properties where the slope of the lot is 5% or less. Parking for the Project was established in accordance with Chapter 20.40 (Off-Street Parking) of the NBMC. Furthermore, the Project proposes a trash enclosure consistent with section 20.30.120 (Solid Waste and Recyclable Materials Storage) of the NBMC.

Parking Requirement

To determine an appropriate parking rate, a Parking Demand Analysis was prepared by Gibson Transportation Consulting, Inc., dated July 14, 2025 (Attachment E). The analysis uses detailed program data from Wavegarden, an international surf park operator, including attendance projections, staffing, operational assumptions, and average vehicle ridership (AVR) ratios. The City Traffic Engineer reviewed and accepted the analysis.

- Visitors

Table 3 summarizes expected daily attendance during a typical high-season weekday. Although weekend activity was also analyzed, the weekend AVR ratios effectively resulted in the high season weekday activity analysis being the more conservative of the two scenarios.

Based on operational modeling, a maximum of 388 visitors would be onsite at one time. Assuming two visitors per vehicle, the parking requirement for visitors is 194 spaces.

| Table 3, Projected Attendance Levels | |
|--------------------------------------|--------------------|
| Surf Lagoon | 700 daily visitors |
| Surf Academy | 140 daily visitors |
| Restaurant | 280 daily visitors |

| | |
|-------------------------|-------------------------------|
| Shops | 70 daily visitors |
| Fitness/Yoga Facilities | 210 daily visitors |
| Total | 1,400 visitors per day |

- Employees

The Project will employ 70 employees; however, only 35 employees are expected to be onsite at any given time. The Parking Analysis assumes that each employee will arrive in their own vehicle, resulting in a parking requirement for employees of 35 spaces.

- Golf

The Parking Analysis uses Parking Generation, 6th Edition (Institute of Transportation Engineers, 2023) to estimate the parking demand of the remaining holes of golf, as golf patrons will park on the Site. The remaining 15 holes of golf have a parking requirement of 95 spaces.

- Total Parking Demand

The Project proposes 351 parking spaces, resulting in a surplus of 27 spaces. Notably, the analysis is conservative as it assumes all access is by private vehicle and does not account for alternative transportation modes such as transit, rideshare, biking, or walking.

Traffic

Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC provides a framework for analyzing and evaluating the traffic impacts of projects that generate 300 or more new average daily trips (ADTs). To determine whether the Project generates 300 or more new ADTs and if a Traffic Impact Analysis (TIA) would be required, a trip generation analysis (Trip Gen Analysis) was prepared by Gibson Transportation Consulting, Inc (Gibson), dated March 4, 2025, and is provided as Attachment F. Gibson estimated the ADTs for the surf lagoon and ancillary amenities on the same projected attendance and operational characteristics described in the parking section above. The Trip Generation Analysis includes the ADTs from retaining 15 holes of golf when estimating the ADTs for the Project. The Project is anticipated to generate 1,996 ADTs.

Using the Trip Generation Manual, 11th Edition (Institute of Transportation Engineers, 2021), the current configuration of the NBGC is estimated to have 1,810 ADTs.

As a result, the Project will generate 186 net new ADTs and is under the 300 new ADT threshold that would require a TIA to be prepared. The Trip Generation Analysis was reviewed and accepted by the City Traffic Engineer.

Special Events

Special events are contemplated as part of the Project's overall operations. The Conditions of Approval, provided in Exhibit B of Attachment B, establish limits on event capacity and hours under which events may occur without requiring notification to the City. Any event that exceeds these established thresholds, such as larger crowds, extended hours, or additional city resources, will require the Applicant to obtain a special events permit from the City in accordance with applicable regulations.

Utilities and Water Use

While the Project does not meet the thresholds established by SB 610 and SB 221 that would require preparation of a Water Supply Assessment, the EIR includes both a Water Demand Report (WDR) and a Water Supply Evaluation (WSE). The WDR assesses the Project's expected water use, while the WSE evaluates whether the City's existing water supplies are sufficient to meet that demand.

The WDR estimates the current water use of the Site, which includes three golf holes, the pro shop, clubhouse and restaurant, at approximately 19 acre-feet per year (AFY). Operation and maintenance of the proposed lagoon is expected to use approximately 70 AFY. This estimate accounts for draining, cleaning, evaporation and other losses. Additional amenities, including restrooms, warming pools, the clubhouse, and the visitor accommodation building, are projected to use another 19 AFY. Altogether, the total Project water demand is estimated at 89 AFY, which represents an increase of about 70 AFY over existing use. Currently, the golf course is primarily served by groundwater, while the Project will rely on potable water. Even with this change, the WSE concludes that the City has adequate water supplies to meet the Project's demand under a range of conditions, including normal years, single dry years, and multiple dry years.

The EIR also includes a Sewer Analysis, which determined that no upgrades to the existing Costa Mesa Sanitary District sewer mains are needed to serve the Project.

Noise

The EIR included a Noise Analysis to evaluate potential noise impacts on nearby sensitive receptors. The analysis examined potential noise increases at eight nearby locations, including the apartment building across Irvine Avenue, located approximately 170 feet from the Site boundary. The Noise Analysis concluded that there would be no significant impacts on sensitive receptors during either daytime or nighttime hours, demonstrating that the Project is appropriate for the site and is not expected to be detrimental to its surroundings.

CUP Summary

The Project has been reviewed and conditioned by all relevant City departments, including the Newport Beach Police Department, Newport Beach Fire Department, Utilities Department, building division, Recreation and Senior Services Department, and

Public Works Department, to help ensure compatibility with surrounding uses, including the mix of residential and commercial development. The consulted city departments have no objections to the Project, subject to the appropriate conditions of approval which are intended to ensure that the operation of the use will not pose a hazard to the public convenience, health, safety, or general welfare of those living or working in the neighborhood.

The Findings required to approve a CUP with alcohol sales, along with the Facts in Support of Findings are provided in Exhibit C of Attachment B.

Modification Permit

The Site features a significant grade differential of approximately 33 feet from the high point behind Fire Station No. 7 to the centerline of Irvine Avenue. The Project proposes multiple retaining walls to create a level building pad that minimizes the need to dispose of or import soil. While retaining walls along the westerly property line comply with the maximum 8 feet above finish grade height limit established by with Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the NBMC, the retaining walls along the easterly property line exceed the limit, with heights ranging from 9 feet, 11 inches above finish grade to 16 feet, 4 inches above finish grade and require the approval of a modification permit.

Terraced walls, which achieve compliance with height limits, have been incorporated where feasible; however full terracing consistent with Section 20.30.040 would reduce usable site area and would impact the Project's viability. The tallest walls are set back, behind the Delhi Channel, and far from the centerline of Irvine Avenue. The walls are softened with landscaping, minimizing visibility and ensuring compatibility with neighborhood character. Figure 3 and 4 on the following page provide views of the existing condition and the taller retaining walls.



Figure 3: Existing and proposed, as seen from the southwest corner of Irvine Avenue and Mesa Drive.



Figure 4: Existing and proposed, as seen from Irvine Avenue, near The Jetty commercial center

No feasible alternatives exist that would meet grading and access requirements while achieving compliance with the 8-foot maximum.

The Findings required to approve a Modification Permit and Facts in Support of Findings are provided in Exhibit C of Exhibit B.

Planning Commission Review and Recommendation

On September 4, 2025, the Planning Commission held a duly noticed public hearing to consider the requested applications. Twenty-two members of the public spoke during the hearing, and 195 individuals submitted written comments. At the conclusion of the hearing, the Planning Commission adopted Resolution No. PC2025-008 by a unanimous vote (6 ayes, 1 recusal), recommending that the City Council approve the Project. The Planning Commission staff report, meeting minutes and resolution are included as Attachment Nos. G, H and I. Public comments received prior to the preparation of this report are provided as Attachment J.

Airport Land Use Commission (ALUC) Override

The Site is located approximately 0.4 miles southwest of John Wayne Airport (JWA) and falls within the Notification Area of the 2008 Airport Environs Land Use Plan (AELUP). In accordance with Section 4.3 of the AELUP and Section 21676(b) of the California Public Utilities Code (CPUC), the City is required to submit GPAs to the ALUC for a consistency determination with the AELUP.

On August 7, 2025, ALUC held a public hearing to consider the Project and determined by a vote of 5 to 1 that the Project is inconsistent with the AELUP. ALUC cited concerns related to noise exposure, safety and the concentration of people in areas susceptible to aircraft accidents, building height, and aircraft overflights.

Following this determination and after the Planning Commission hearing, the City Council conducted a public hearing on September 9, 2025, and adopted Resolution No. 2025-60, formally notifying ALUC and the California Department of Transportation, Division of Aeronautics of the City's intent to override ALUC's finding, as permitted under CPUC Section 21676(b). Notice of the Council's action was mailed on September 11, 2025, initiating a 45-day comment period.

The City received written comments from ALUC on October 8, 2025 (Attachment K). In its letter, ALUC reaffirmed its concerns related to noise exposure, safety, the concentration of people in areas susceptible to aircraft accidents, building height, and aircraft overflights. At the time of this report's preparation, the City had not received comments from the Division of Aeronautics. However, the deadline to respond to the Notice of Intent is Sunday, October 26, 2025. Any comments received will be addressed and provided as additional materials.

Project Consistency with AELUP Standards

- Noise

The Project is consistent with the AELUP's noise standards. Most of the Site lies within the 65 dB CNEL noise contour as identified in both the 1985 Airport Master

Plan and the 2014 JWA Settlement Agreement Environmental Impact Report (EIR No. 617). While the Project does not fall squarely into a single AELUP land use category, it represents a hybrid of "Community Facilities" and "Commercial" uses. Both categories are deemed "Normally Consistent" with the 65 dB Community Noise Equivalent Level contour, provided standard construction methods are employed. The Project will comply with all applicable noise insulation requirements under state law and the NBMC. Although the AELUP does not prohibit outdoor recreational uses within this contour, it recommends signage to inform the public of aircraft activity. The Project will incorporate such signage.

- Safety Zones

The 15.4-acre Site is trisected by three safety zones (Zones 2, 4 and 6), each of which includes specific limitations on land use and occupancy. The Project has been designed to comply with these restrictions, maintaining occupancy levels for normal operating conditions well within the allowable thresholds established by the AELUP and the Caltrans Airport Land Use Planning Handbook.

- Height

On May 6, 2025, the Federal Aviation Administration (FAA) issued a Determination of No Hazard to Air Navigation under 14 CFR Part 77, confirming that the Project's proposed building heights do not exceed the applicable imaginary surfaces. Although an FAA determination does not automatically equate to AELUP consistency, no obstruction has been identified under AELUP Section 2.1.3. As such, the Project's height is consistent with both FAA and AELUP height limitations.

- Overflights

Aircraft overflights of the Site will remain unchanged from existing conditions. While visitors to the Site will generally notice departing aircraft, it will be the same as the aircraft operations currently noticed over the golf course.

As a final review authority on legislative acts, the City Council may choose to override ALUC's determination 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.

FISCAL IMPACT:

Pursuant to General Plan Implementation Program 12.1, a fiscal impact analysis for the Project was prepared by Keyser Marston Associates, Inc., dated October 1, 2025 (Attachment L). The analysis uses a fiscal model to estimate the public revenues typically generated by each land use type, including property taxes, sales taxes, other taxes, and

various user charges and fees. City service costs are estimated based on the number of persons served (employees and visitors). Public service costs are then deducted from the estimated revenues to determine the net fiscal impact to the City.

The Project is projected to generate approximately \$760,400 in annual revenue for the City, with estimated annual service costs of \$504,690. This results in a net positive fiscal impact of approximately \$256,000 per year. In comparison, the existing improvements on the Site currently result in a negative fiscal impact of approximately \$14,000 annually.

ENVIRONMENTAL REVIEW:

In accordance with the California Environmental Quality Act (CEQA) and City Council Policy K-3, an Environmental Impact Report (EIR), referenced as State Clearinghouse No. 2024110238, was prepared for the Project by the City's environmental consultant, Environmental Planning Development Solutions, Inc., doing business as EPD Solutions.

Before taking action on the requested applications, the City Council must first review, consider, and certify the EIR (SCH No. 2024110238).

Draft EIR (DEIR)

The DEIR evaluated the environmental impacts associated with the construction and operation of the proposed Project.

During the initial environmental analysis, the Project was determined to have no potential to result in impacts in the following four CEQA topic areas: Agriculture and Forestry Resources, Mineral Resources, Population and Housing, and Wildfire. As a result, these areas were not analyzed in detail in the DEIR.

The DEIR included detailed analysis of the following CEQA topic areas:

- | | |
|-----------------------------------|---------------------------------|
| • Aesthetics | • Hydrology and Water Quality |
| • Air Quality | • Land Use and Planning |
| • Biological Resources | • Noise |
| • Cultural Resources | • Parks and Recreation |
| • Energy | • Public Services |
| • Geology and Soils | • Transportation |
| • Greenhouse Gas Emissions | • Tribal Cultural Resources |
| • Hazards and Hazardous Materials | • Utilities and Service Systems |

The DEIR concluded that, with implementation of the proposed mitigation measures, there would be no significant and unavoidable impacts resulting from the Project. All potentially significant impacts can be reduced to a less-than-significant level through mitigation.

A Notice of Availability for the DEIR was circulated for a 45-day public review and comment period, beginning May 23, 2025, and ending July 7, 2025. A total of 126

comments were received, and responses to those comments are included in the Final EIR.

Final EIR (FEIR)

The FEIR consists of the Draft EIR dated May 2025, written comments received during the public review period along with written responses to those comments, revisions to the Draft EIR, and the Mitigation Monitoring and Reporting Program (MMRP). The MMRP includes mitigation measures related to Biological Resources, Cultural Resources and Tribal Cultural Resources to reduce potentially significant adverse impacts to less-than-significant levels. In compliance with Assembly Bill 52, Tribal Cultural Resources were addressed through consultation requests that were combined with the SB 18 consultation process described earlier in this report. The MMRP also requires compliance with various plans, programs, and policies to reduce potential impacts related to Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, and Hydrology and Water Quality to a level of no impact.

Based on the complete environmental record, the Project, with mitigation measures incorporated, will result in no project-level impacts or only less-than-significant impacts. There are no known significant and unavoidable environmental effects associated with the Project.

The EIR (including the FEIR, DEIR, and appendices) is available online at the City's website: <https://www.newportbeachca.gov/ceqa>.

NOTICING:

Notice of this hearing and availability of the FEIR was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant, agencies that provided comments on the DEIR, and posted on the subject property at least 10 days before the scheduled meeting. Additionally, the notice of hearing was emailed to the list of interested parties who had requested notice and all individuals that commented on the DEIR. Lastly, 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. 2025-71
Attachment B – Resolution No. 2025-72
Attachment C – Resolution No. 2025-73
Attachment D – Resolution No. 2025-74
Attachment E – Parking Demand Analysis
Attachment F – Gibson Trip Generation
Attachment G – Planning Commission Staff Report (September 4, 2025) (*Attachments Omitted*)
Attachment H – Planning Commission Meeting Minutes
Attachment I – Planning Commission Resolution No. 2025-018 (*Attachments Omitted*)
Attachment J – Correspondence
Attachment K – ALUC Comment Letters
Attachment L – Fiscal Impact Memorandum dated October 1, 2025
Attachment M – Project Plans

Attachment A

Resolution No. 2025-71

RESOLUTION NO. 2025-71

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A GENERAL PLAN AMENDMENT FOR THE SURF PARK PROJECT LOCATED AT 3100 IRVINE AVENUE (PA2024-0069)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), 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 City 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, an application was filed by CAA Planning, on behalf of Back Bay Barrels, LLC ("Applicant"), concerning property located at 3100 Irvine Avenue, and legally described in Exhibit "A," which is attached hereto and incorporated herein by reference ("Property");

WHEREAS, the Applicant is requesting to redevelop the central 15.38-acre parcel of the privately owned Newport Beach Golf Course by removing the existing driving range and putting green, pro-shop, restaurant and bar, and three holes of golf and replacing it with a new surf-focused outdoor commercial recreation use ("Project");

WHEREAS, the Project's site improvements include approximately five acres of surfing lagoons surrounded by viewing platforms, seating, pools, spa, restrooms, landscaping, clubhouse with amenities, athlete accommodation building with 20 overnight rooms, and two parking lots with 351 parking spaces;

WHEREAS, the Project will be constructed on approximately 79,533 square feet of area; however, 19,761 square feet will be excluded from the total development limit of the Property as incidental building areas which is consistent with Table LU1 (Land Use Plan Categories) of the City's General Plan ("General Plan") for properties categorized as Parks and Recreation;

WHEREAS, the following approvals are requested or required to implement the Project as proposed:

- General Plan Amendment ("GPA"): To increase the development limit from 20,000 square feet to 59,772 square feet for Anomaly Number 58, as identified in Table LU 2 of the Land Use Element of the General Plan;

- Major Site Development Review ("SDR"): To construct a nonresidential building larger than 20,000 square feet in area;
- Conditional Use Permit ("CUP"): To allow the operation of an outdoor commercial recreation use including a restaurant with alcohol sales, establish the appropriate parking rate, and allow the construction of buildings taller than 18 feet;
- Modification Permit: To allow for the construction of retaining walls taller than eight feet in height from finish grade; and
- Environmental Impact Report ("EIR"): To address reasonably foreseeable environmental impacts resulting from the legislative and project specific discretionary approvals;

WHEREAS, the Property is categorized as Parks and Recreation (PR) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan/Open Space and Recreation (SP-7/OSR) Zoning District;

WHEREAS, the Property is not located within the coastal zone, therefore, a coastal development permit is not required;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the Project 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, ALUC determined the Project to be inconsistent with the AELUP on August 7, 2025;

WHEREAS, a public hearing was held by the Planning Commission on September 4, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. 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"), and Chapter 20.62 (Public Hearings) of the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2025-018 by a unanimous vote (6 ayes, 1 recusal) recommending the City Council approve the Project;

WHEREAS, after the Planning Commission's decision and pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on September 9, 2025, and adopted Resolution No. 2025-60 (6 ayes, 1 absent) to notify ALUC and the State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding; and

WHEREAS, a public hearing was held by the City Council on October 28, 2025, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the Project. 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) of the NBMC, 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 "B," and incorporated herein by this reference, and approves the GPA, which is also attached hereto as Exhibit "C," and incorporated herein by this reference.

Section 2: An EIR (State Clearinghouse No. 2024110238) was prepared for the Project in compliance with the California Environmental Quality Act ("CEQA"), California Public Resources Code Sections 21000 *et seq.*, Section 15000 *et seq.* as set forth in 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) to ensure that the Project will not result in significant environmental impacts. Based on the entire environmental review record, the City Council having final approval authority over the Project, found that the Project, with mitigation measures, will have a less than significant impact on the environment and there are no known substantial adverse effects on human beings. By Resolution No. 2025-73, the City Council adopted and certified the Final EIR as complete and adequate and adopted the Mitigation Monitoring and Reporting Program including all findings contained therein, which is hereby incorporated by this reference.

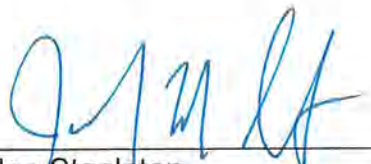
Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

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: The City Council finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

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 28th day of October, 2025.




Joe Stapleton
Mayor

ATTEST:



Lena Shumway
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment(s): Exhibit A - Legal Description
 Exhibit B - Findings for Approval
 Exhibit C - General Plan Amendment to Anomaly No. 58 of the
 Newport Beach General Plan Land Use Element
 Exhibit D - General Plan Consistency Analysis
 Exhibit E - Tribal Consultation Timeline

STATE OF CALIFORNIA
COUNTY OF ORANGE
CITY OF NEWPORT BEACH

}
} ss.
}

I, Lena Shumway, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing Resolution No. 2025-71 was duly adopted by the City Council of said City at a regular meeting held on the 28th day of October, 2025, by the following vote, to wit:

AYES: Mayor Joe Stapleton, Mayor Pro Tem Lauren Kleiman, Councilmember Noah Blom, Councilmember Michelle Barto, Councilmember Robyn Grant, Councilmember Sara J. Weber, Councilmember Erik Weigand

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29th day of October, 2025.



Lena Shumway
City Clerk
City of Newport Beach, California

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL NO. 1 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE NO. 94-2, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, RECORDED MAY 9, 1994 AS INSTRUMENT NO. 94-318607 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM, THAT PORTION OF SAID LAND DESCRIBED IN THE DEED TO THE COUNTY OF ORANGE, RECORDED SEPTEMBER 4, 1997 AS INSTRUMENT NO. 97-428866 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THOSE PORTIONS THEREOF CONVEYED IN FEE TO THE COUNTY OF ORANGE BY DEED RECORDED OCTOBER 21, 2014 AS INSTRUMENT NO. 2014-427814 OF OFFICIAL RECORDS.

APN: 119-200-38 & 119-200-41

EXHIBIT "B"

FINDINGS FOR APPROVAL

An amendment to the Newport Beach General Plan Land Use Element is a legislative act. Neither Title 20 (Planning and Zoning) nor California Government Code Section 685000 *et seq.*, set forth any required findings for either approval or denial of such amendments. Nonetheless, a full General Plan Consistency Analysis has been prepared for the Project, is attached hereto as Exhibit "D," and is incorporated herein by this reference. In summary, the Project is consistent with the following General Plan Goals and Policies:

Land Use Element

- Policy LU 1.6 (Public Views)
- Policy LU 2.1 (Resident-Serving Land Uses)
- Policy LU 2.2 (Sustainable and Complete Community)
- Policy LU 2.5 (Visitor Serving Uses)
- Policy LU 2.8 (Adequate Infrastructure)
- Policy LU 3.1 (Neighborhoods, Districts, Corridors, and Open Spaces)
- Policy LU 3.2 (Growth and Change)
- Policy LU 3.3 (Opportunities for Change – Santa Ana Heights)
- Policy LU 3.7 (Natural Resource and Hazardous Areas)
- Policy LU 3.8 (Project Entitlement Review with Airport Land Use Commission)
- Policy LU 4.1 (Land Use Diagram)
- Policy LU 5.6.2 (Form and Environment)
- Policy LU 5.6.3 (Ambient Lighting)

Historical Resources Element

- Policy HR 2.1 (New Development Activities)
- Policy HR 2.2 (Grading and Excavation Activities)
- Policy HR 2.3 (Cultural Organizations)
- Policy HR 2.4 (Paleontological or Archaeological Materials)

Circulation Element

- Policy CE 2.2.1 (Safe Roadways)
- Policy CE 7.1.1 (Vehicle Miles Traveled (VMT) Analysis)
- Policy CE 7.1.2 (VMT Mitigation Measures)
- Policy CE 7.1.5 (Support Facilities for Alternative Modes)
- Policy CE 7.1.7 (Project Site Design Supporting Alternative Modes)
- Policy CE 7.1.8 (Electric Vehicle (EV) Charging Stations)
- Policy CE 9.1.10 (Development Requirements)

Recreation Element

- Policy R 1.12 (Aircraft Overflight and Noise)
- Policy R 4.1 (Provision of Recreation Services)
- Policy R 4.2 (Compatible Recreation Activities)

- Policy R 4.3 (Variety of Programs)
- Policy R 4.5 (Variety of Adult Recreational Programs)

Natural Resources Element

- Policy NR 1.1 (Water Conservation in New Development)
- Policy NR 1.2 (Use of Water Conserving Devices)
- Policy NR 3.4 (Storm Drain Sewer System Permit)
- Policy NR 3.5 (Natural Water Bodies)
- Policy NR 3.9 (Water Quality Management Plan)
- Policy NR 3.10 (Best Management Practices)
- Policy NR 3.11 (Site Design and Source Control)
- Policy NR 3.12 (Reduction of Infiltration)
- Policy NR 3.14 (Runoff Reduction on Private Property)
- Policy NR 3.16 (Siting of New Development)
- Policy NR 3.17 (Parking Lots and Rights-of-Way)
- Policy NR 3.19 (Natural Drainage Systems)
- Policy NR 3.20 (Impervious Surfaces)
- Policy NR 4.3 (Restore Natural Hydrologic Conditions)
- Policy NR 4.4 (Erosion Minimization)
- Policy NR 6.1 (Walkable Neighborhoods)
- Policy NR 6.4 (Transportation Demand Management Ordinance)
- Policy NR 7.2 (Source Emission Reduction Best Management Practices)
- Policy NR 10.2 (Orange County Natural Communities Conservation Plan)
- Policy NR 10.3 (Analysis of Environmental Study Areas)
- Policy NR 10.4 (New Development Siting and Design)
- Policy NR 10.5 (Development in Areas Containing Significant or Rare Biological Resources)
- Policy NR 10.6 (Use of Buffers)
- Policy NR 10.7 (Exterior Lighting)
- Policy NR 18.1 (New Development)
- Policy NR 18.3 (Potential for New Development to Impact Resources)
- Policy NR 18.4 (Donation of Materials)
- Policy NR 20.1 (Enhancement of Significant Resources)
- Policy NR 20.2 (New Development Requirements)
- Policy NR 20.4 (Public View Corridor Landscaping)
- Policy NR 23.1 (Maintenance of Natural Topography)
- Policy NR 23.7 (New Development Design and Siting)
- Policy NR 24.2 (Energy-Efficient Design Features)
- Policy NR 24.3 (Incentives for Green Building Program Implementation)

Safety Element

- Policy S 4.7 (New Development)
- Policy S 5.1 (New Development Design within 100-year Floodplains)
- Policy S 5.2 (Facility Use or Storage of Hazardous Materials Standards)
- Policy S 5.3 (Minimization of Flood Hazard Risk)
- Policy S 7.1 (Known Areas of Contamination)

Policy S 7.2 (Development Design within Methane Gas Districts)
Policy S 7.4 (Implementation of Remediation Efforts)

Noise Element

Policy N 1.1 (Noise Compatibility of New Development)
Policy N 1.7 (Commercial/ Entertainment Uses)
Policy N 1.8 (Significant Noise Impacts)
Policy N 4.2 (New Uses)
Policy N 4.6 (Maintenance of Construction Activities)
Policy N 5.1 (Limiting Hours of Activity)

Tribal Consultation Finding:

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

Fact in Support of Finding Tribal Consultation Consistency:

The City received a response from the NAHC indicating that 20 tribal contacts should be provided notice regarding the GPA. SB 18 requires notification 90 days prior to Council action to allow tribal contacts to respond to the request to consult. To comply with both the requirements of SB 18 and Assembly Bill 52, the tribal contacts were provided notice on September 19, 2024. Two tribal contacts requested consultation: the Gabrieleno Band of Mission Indians - Kizh Nation ("Kizh Nation") and the Gabrielino Tongva Indians of California. The City engaged in a good faith effort for consultation for over a year with both tribes and both tribes requested monitoring for tribal resources during ground disturbances consisting of over 14 correspondence regarding mitigation measures to incorporate into the Project. A timeline of the tribal consultations is attached hereto as Exhibit "E" and incorporated herein by this reference. During the consultation process, the Kizh Nation requested to be the sole onsite monitor and asserted that the Gabrielino Tongva have no direct historical, ancestral, or cultural ties to Newport Beach. However, the Gabrielino Tongva tribe provided the City with substantial evidence identifying that the Property is within their Ancestral Tribal Territory. Furthermore, the Gabrielino Tongva tribe were identified by NAHC through a Sacred Lands File ("SLF") search establishing that the Property is within traditional lands or cultural places for the Gabrieleno Tongva. Therefore, the City incorporated mitigation measures into the Project allowing for tribal monitors from both tribes to address potential concerns regarding the protection of Tribal Cultural Resources.

Charter Section 423 Finding:

Pursuant to City Charter Section 423 and City Council Policy A-18, voter approval is required for any major amendment to the 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" is defined as increases 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 both: 1) increases directly caused by the subject GPA, and 2) eighty percent of the increases caused by previous GPAs within the area plus the subject GPA.

The subject GPA is within Statistical Area J-5. One amendment (PA2020-041) has been approved within the last 10 years and continues to be cumulatively tracked consistent with the provisions of Charter Section 423.

Facts in Support of Finding Charter Section 423 Consistency:

The following table illustrates the increases attributable to the subject GPA, prior GPAs, and the resulting totals. Trip generation for the purpose of implementing Charter Section 423 was calculated using the blended rate for "public, semi-public, and institutional uses," as provided in City Council Policy A-18. Notably, none of the thresholds specified by Charter Section 423 are exceeded, therefore no vote of the electorate is required should the City Council choose to approve this GPA.

| Charter Section 423, Measure S Analysis for Statistical Area J-5. | | | | |
|--|-------------------------------|---------------------------------|--------------------------------|-------------|
| Amendments | Increased Density (DU) | Increased Intensity (SF) | Peak Hour Trip Increase | |
| | | | A.M. | P.M. |
| PA2020-041 (Shvetz Residential Subdivision) | 1 | NA | 0.75 | 1.01 |
| Total Prior Increases | 1 | NA | 0.75 | 1.01 |
| 80% of Prior Increases | .8 | NA | 0.60 | .81 |
| 100% of Proposed PA2024-0069 | 0 | 39,772 | 59.66 | 59.66 |
| Total | .8 | 39,772 | 60.26 | 60.26 |
| Threshold | 100 | 40,000 | 100 | 100 |
| Remaining | 99.2 | 228 | 39.74 | 39.74 |
| Vote Required? | No | No | No | No |

Additionally, while the Project requires a GPA, major site development review, conditional use permit, and modification permit, only the GPA may be subject to an initiative. (Elections Code Section 9200 *et seq.*; *DeVita v. County of Napa* (1995) 9 Cal. 4th 763, 775)

EXHIBIT "C"

**GENERAL PLAN AMENDMENT TO ANOMALY NO. 58 OF TABLE LU2 OF THE
NEWPORT BEACH GENERAL PLAN LAND USE ELEMENT**

| Anomaly Number | Statistical Area | Land Use Designation | Development Limit (SF) | Development Limit (other) | Additional Information |
|---------------------------|-----------------------------|---------------------------------|-----------------------------------|--------------------------------------|-----------------------------------|
| 58 | J5 | PR | 59,772 | | |

EXHIBIT "D"

GENERAL PLAN CONSISTENCY ANALYSIS

| Relevant General Plan Policies | Project Consistency |
|---|--|
| Land Use Element | |
| <p>LU 1.6 Public Views. Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from public vantage points.</p> | <p>Consistent. As discussed in Section 5.1 of the EIR, <i>Aesthetics</i>, all development within the proposed Project site would be set back from adjacent streets and would not encroach on the existing public long-distance views. The proposed buildings would have a minimum setback 20 feet from Mesa Drive, and 20 feet from Irvine Avenue. These setbacks would protect, and the proposed landscaping along the roadways would enhance public views. Therefore, the Project is consistent with Policy LU 1.6.</p> |
| <p>LU 2.1 Resident-Serving Land Uses. Accommodate uses that support the needs of Newport Beach's residents including housing, retail, services, employment, recreation, education, culture, entertainment, civic engagement, and social and spiritual activity that are in balance with community natural resources and open spaces.</p> | <p>Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i>, the proposed Project would develop a commercial recreational facility including a surf lagoon, amenity clubhouse, and athlete accommodations. The proposed uses would provide employment, recreation, culture, entertainment, and social activity in balance with community natural resources and open spaces. Therefore, the Project is consistent with Policy LU 2.1.</p> |
| <p>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.</p> | <p>Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i>, the proposed Project would develop a commercial recreational facility including a surf lagoon, amenity clubhouse, and athlete accommodations that would provide retail goods and services, and employment. Therefore, the Project is consistent with Policy LU 2.2.</p> |
| <p>LU 2.5 Visitor Serving Uses. Provide uses that serve visitors to Newport Beach's ocean, harbor, open spaces, and</p> | <p>Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i>, the proposed Project would develop a</p> |

| Relevant General Plan Policies | Project Consistency |
|--|--|
| other recreational assets, while integrating them to protect neighborhoods and residents. | commercial recreational facility including a surf lagoon, amenity clubhouse, and athlete accommodations that would be integrated between golf course holes 10-8 to the north of the site across Irvine Avenue and holes 3-8 to the south of the site across Mesa Drive. The Project would be integrated into the existing development, between the existing roadways and the Santa Ana-Delhi Channel, along an arterial roadway near freeway access. Therefore, the Project is consistent with Policy LU 2.5. |
| <p>LU 2.8 Adequate Infrastructure. Accommodate the types, densities, and mix of land uses that can be adequately supported by transportation and utility infrastructure (water, sewer, storm drainage, energy, and so on) and public services (schools, parks, libraries, seniors, youth, police, fire, and so on).</p> | <p>Consistent. As discussed in Section 5.14 of the EIR, <i>Transportation</i>, the proposed Project would result in 186 net new vehicle trips that would be accommodated by the existing street system. As discussed in Section 5.16 of the EIR, <i>Utilities and Service Systems</i>, implementation of the proposed Project would not result in the need for expanded utility infrastructure or provision of services. The proposed Project would be served by the existing infrastructure that is adequate to serve the Project and surrounding areas. Also, as detailed in Section 5.12 of the EIR, <i>Public Services</i>, the proposed Project would not require expansion or construction of new public facilities to serve the Project along with other service needs. Therefore, the Project is consistent with Policy LU 2.8.</p> |
| <p>LU 3.1 Neighborhoods, Districts, Corridors, and Open Spaces. Maintain Newport Beach's pattern of residential neighborhoods, business and employment districts, commercial centers, corridors, and harbor and ocean districts.</p> | <p>Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i>, the proposed Project would develop a commercial recreational facility including a surf lagoon, amenity clubhouse, and athlete accommodations on the Project site, which would change the type of commercial recreation provided on the site. The Project would maintain and support the golf course holes 10-18 to the north of the site, across Irvine Avenue, and holes 3-8 to the south of the site across</p> |

| Relevant General Plan Policies | Project Consistency |
|--|--|
| | Mesa Drive. The Project would not modify the street system that surrounds the site and would not change the pattern of development within the area. Therefore, the Project is consistent with Policy LU 3.1. |
| <p>LU 3.2 Growth and Change. Enhance existing neighborhoods, districts, and corridors, allowing for re-use and infill with uses that are complementary in type, form, scale, and character. Changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach's share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service.</p> | <p>Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i>, the proposed Project would redevelop the site to provide a different type of commercial recreational use; changing the existing golf-related facilities to a surf lagoon, amenity clubhouse, and athlete accommodations that would result in approximately the same number of employees on the site (as detailed in Section 3.0, <i>Project Description</i>). Thus, unplanned growth would not occur. Also, as discussed in Sections 5.12, <i>Public Services</i>, and 5.14, <i>Transportation</i>, the proposed Project would not result in impacts related to the street system or public services. Therefore, the Project is consistent with Policy LU 3.2.</p> |
| <p>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:</p> <p>Santa Ana Heights: Support continued implementation of the adopted Specific Plan and Redevelopment Plan.</p> | <p>Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i>, the proposed Project would redevelop the existing golf-related facilities to a surf lagoon, amenity clubhouse, and athlete accommodations. As detailed within this section, the Project would implement the Santa Ana Heights Specific Plan land use designation for the site. The proposed Project would result in a new development with an improved physical environment and the facility would be available to residents and visitors, and would support local visitor and surf recreation related businesses. Therefore, the Project is consistent with Policy LU 3.3.</p> |
| <p>LU 3.7 Natural Resource and Hazardous Areas. Require that new</p> | <p>Consistent. The proposed Project is located on a site that is currently</p> |

| Relevant General Plan Policies | Project Consistency |
|--|--|
| development is located and designed to protect areas with high natural resource value and protect residents and visitors from threats to life or property. | developed and surrounded by developed urban uses. The Project is not located within or adjacent to areas of high resource value; and as detailed in Section 5.8 of the EIR, <i>Hazards and Hazardous Materials</i> , the Project would not result in threats to life or property. Therefore, the Project is consistent with Policy LU 3.7. |
| LU 3.8 Project Entitlement Review with Airport Land Use Commission. Refer the adoption or amendment of the General Plan, Zoning Code, specific plans, and Planned Community development plans for land within the John Wayne Airport planning area, as established in the JWA Airport Environs Land Use Plan (AELUP), to the Airport Land Use Commission (ALUC) for Orange County for review, as required by Section 21676 of the California Public Utilities Code. In addition, refer all development projects that include buildings with a height greater than 200 feet above ground level to the ALUC for review. | Consistent. As discussed in Section 5.8 of the EIR, <i>Hazards and Hazardous Materials</i> , because the Project site is located within the AELUP Notification area for SNA and within the SNA planning area boundary, and the Project proposes a General Plan Amendment, the City is required to refer the proposed Project to the ALUC for review, pursuant to the California Public Utilities Code Section 21676. Therefore, the Project is consistent with Policy LU 3.8. |
| 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 | Consistent. As discussed above, the proposed Project would be consistent with the site's current General Plan Land Use Designation of Parks and Recreation which permits parks (both active and passive), golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation, and similar facilities (City of Newport Beach, 2006). The proposed Project would require a General Plan Amendment in order to modify Anomaly Number 58 that currently limits the allowable increase in development on the site to 20,000 SF. With implementation of the General Plan Amendment, development of the proposed Project would be consistent with the General Plan development allowances for the site. Therefore, the Project is consistent with Policy LU 4.1. |

| Relevant General Plan Policies | Project Consistency |
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| <p>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.</p> <p>To determine the permissible development, the user should:</p> <ol style="list-style-type: none"> Identify the parcel and the applicable land use designation on the Land Use Plan, Figure LU4 through Figure LU15 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. 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. | |
| <p>Policy LU 5.6.2. Form and Environment. Require that new and renovated buildings be designed to avoid the use of styles, colors, and materials that unusually impact the design character and quality of their location such as abrupt changes in scale, building form, architectural style, and the use of surface materials that raise local temperatures, result in glare and excessive illumination of adjoining properties and open spaces, or adversely modify wind patterns.</p> | <p>Consistent. As discussed in Section 5.1 of the EIR, <i>Aesthetics</i>, the proposed two- and three-story buildings would be consistent with the two- to three-story high commercial office buildings that are located on Mesa Drive, Acacia, and Irvine Avenue to the northwest of the site; and the three-story fire training tower that is adjacent to the site. The proposed development provides the same type of modern visual character as surrounding</p> |

| Relevant General Plan Policies | Project Consistency |
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| | <p>residential, commercial, and office development that surrounds the site.</p> <p>In addition, the Project lighting would be required to comply with Municipal Code Section 21.30.070, Outdoor Lighting, through the City's permitting process to ensure that it would not result in glare and excessive illumination of adjoining properties. Therefore, the Project is consistent with Policy LU 5.6.2.</p> |
| <p>Policy LU 5.6.3. Ambient Lighting. Require that outdoor lighting be located and designed to prevent spillover onto adjoining properties or significantly increase the overall ambient illumination of their location.</p> | <p>Consistent. As discussed in Section 5.1 of the EIR, <i>Aesthetics</i>, the Project lighting would be required to comply with Municipal Code Section 21.30.070, Outdoor Lighting, through the City's permitting process to ensure that it would not result in glare and excessive illumination of adjoining properties. Therefore, the Project is consistent with Policy LU 5.6.3.</p> |

Historical Resources Element

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| <p>HR 2.1 New Development Activities. Require that, in accordance with CEQA, new development protect and preserve paleontological and archaeological resources from destruction, and avoid and mitigate impacts to such resources. Through planning policies and permit conditions, ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA.</p> | <p>Consistent. As discussed in Section 5.4 of the EIR, <i>Cultural Resources</i>, and Section 5.6, <i>Geology and Soils</i>, both archeological and paleontological resources studies were conducted (included as Appendix E and I to the EIR, respectively). Mitigation Measures CUL-1, CUL-2, and PAL-1 have been included to ensure that no significant impacts to either archeological or paleontological resources would occur. Therefore, the Project is consistent with Policy HR 2.1.</p> |
| <p>HR 2.2 Grading and Excavation Activities. Maintain sources of information regarding paleontological and archeological sites and the names and addresses of responsible organizations and qualified individuals, who can analyze, classify, record, and preserve paleontological or archeological findings. Require a qualified paleontologist/archeologist to monitor all</p> | <p>Consistent. As discussed in Section 5.4 of the EIR, <i>Cultural Resources</i>, and Section 5.6, <i>Geology and Soils</i>, both archeological and paleontological resources studies were conducted (included as Appendix E and I to the EIR, respectively). Mitigation Measures CUL-1, CUL-2, and PAL-1 have been included to provide for archeological and paleontological monitoring on the site</p> |

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| grading and/or excavation where there is a potential to affect cultural, archeological or paleontological resources. If these resources are found, the applicant shall implement the recommendations of the paleontologist/archeologist, subject to the approval of the City Planning Department. | during grading and excavation activities to ensure that significant impacts to archeological and paleontological resources would not occur. Therefore, the Project is consistent with Policy HR 2.2. |
| HR 2.3 Cultural Organizations. Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow representatives of such groups to monitor grading and/or excavation of development sites. | Consistent. In accordance with AB 52 and SB 18, the City sent letters to 20 Native American representatives identified by NAHC, notifying them of the proposed Project. Agency to agency consultation occurred between the City and two tribes who stated that they have cultural affiliation with the Project region. While none of the tribes presented substantial evidence indicating that tribal cultural resources are present on the site, Mitigation Measures TCR-1 through TCR-3 have been included to provide for Native American monitoring on the site during grading and excavation activities to ensure that significant impacts to tribal cultural resources would not occur. Therefore, the Project is consistent with Policy HR 2.3. |
| HR 2.4 Paleontological or Archaeological Materials. Require new development to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach, or Orange County, whenever possible. | Consistent. As discussed in Section 5.4 of the EIR, <i>Cultural Resources</i> , and Section 5.6 of the EIR, <i>Geology and Soils</i> , both archeological and paleontological resources studies were conducted (included as Appendix E and I to the EIR, respectively). Mitigation Measures CUL-1, CUL-2, and PAL-1 would ensure that there would be no significant impacts on either archeological or paleontological resources. Therefore, the Project is consistent with Policy HR 2.4. |
| Circulation Element | |
| CE 2.2.1 Safe Roadways. Provide for safe roadway conditions by adhering to nationally recognized improvement standards and uniform construction and maintenance practices. | Consistent. As discussed in Section 5.14 of the EIR, <i>Transportation</i> , the proposed Project does not include improvements to public roadways. However, the new driveways that would provide vehicular |

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| | access to the site and the onsite circulation would be required to adhere to the City's public works and engineering recognized improvement standards and uniform construction and maintenance practices that would be verified through the City's construction permitting process. Therefore, the Project is consistent with Policy CE 2.2.1. |
| CE 2.2.4 Traffic Control. Design traffic control measures to ensure City streets and roads function with safety and efficiency for vehicles, bicycles, and pedestrians. | Consistent. As discussed in Section 5.14 of the EIR, <i>Transportation</i> , the proposed Project does not include traffic control measures for public roadways. However, the new driveways that would provide vehicular access to the site and the onsite circulation would be required to adhere to the City's public works and engineering recognized traffic control standards that would be verified through the City's construction permitting process. Therefore, the Project is consistent with Policy CE 2.2.4. |
| CE 2.2.5 Driveway and Access Limitations. Limit driveway and local street access on arterial streets to maintain a desired quality of traffic flow and limit hazards to active transportation modes. Wherever possible, consolidate and/or reduce the number of driveways and implement access controls during redevelopment of adjacent parcels. | Consistent. As discussed in Section 5.14 of the EIR, <i>Transportation</i> , the proposed Project would provide two driveway locations to access the site from two sides. In addition, City permitting would ensure that ingress and egress is consistent with the City of Newport Beach General Plan Circulation Element and development standards. Therefore, the Project is consistent with Policy CE 2.2.5. |
| CE 2.2.7 Emergency Access. Provide all residential, commercial, and industrial areas with efficient and safe access for emergency vehicles. An emergency evacuation map shall be prepared as part of an updated Safety Element. | Consistent. As discussed in Section 5.14 of the EIR, <i>Transportation</i> , the proposed Project would provide two driveway locations to access the site from two sides. In addition, City permitting would ensure that ingress and egress is consistent with the requirements in Section 503 of the California Fire Code (Title 24, California Code of Regulations, Part 9). Therefore, the Project would provide efficient and safe access for emergency vehicles and would be consistent with Policy CE 2.2.7. |

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| <p>CE 5.2.6 Pedestrian Improvements in New Development Projects. Require new development projects to include safe and attractive sidewalks, walkways, and bike lanes in accordance with the Master Plan, and, if feasible, trails.</p> | <p>Consistent. As discussed in Section 5.14 of the EIR, <i>Transportation</i>, bike lanes and sidewalks currently exist adjacent to the Project site. The Project would provide onsite pedestrian walkways that would connect to the offsite sidewalks and bicycle parking facilities. Therefore, the Project provides onsite pedestrian and bicycle related improvements and is consistent with Policy CE 5.2.6.</p> |
| <p>CE 5.2.12 Bicycle Supporting Amenities. Require bicycle facilities such as bike racks, bike stations, or lockers according to national standards for long-term and short-term bicycle utilization on City property and with new development and encourage the addition of such bicycle facilities within existing development.</p> | <p>Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i>, and Section 5.14, <i>Transportation</i>, the proposed Project would include installation of both temporary and long-term bicycle parking areas. Therefore, the Project is consistent with Policy CE 5.2.12.</p> |
| <p>CE 7.1.1 Vehicle Miles Traveled (VMT) Analysis. Follow the analysis methodology for vehicle miles traveled according to the Newport Beach VMT thresholds policy and as required in Senate Bill 743 and the revised California Environmental Quality Act (CEQA) Guidelines.</p> | <p>Consistent. As detailed in Section 5.14 of the EIR, <i>Transportation</i>, the analysis of VMT for the proposed Project follows the City's VMT thresholds policy and as required in SB 743 and CEQA. Therefore, the Project is consistent with Policy CE 7.1.1.</p> |
| <p>CE 7.1.2 VMT Mitigation Measures. Require implementation of CEQA project related VMT mitigation measures when warranted and monitor reductions in VMT from new development.</p> | <p>Consistent. As discussed in Section 5.14 of the EIR, <i>Transportation</i>, the proposed Project would not result in a potentially significant impact related to VMT and mitigation measures are not warranted. Therefore, the Project is consistent with Policy CE 7.1.1.</p> |
| <p>CE 7.1.5 Support Facilities for Alternative Modes. Require new development projects to provide facilities commensurate with development type and intensity to support alternative modes, such as preferential parking for carpools, bike racks, bike stations, bicycle lockers, showers, commuter information areas, rideshare vehicle loading areas, water</p> | <p>Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i>, and Section 5.14 of the EIR, <i>Transportation</i>, the proposed Project supports alternative modes of travel and includes a drop-off and pick-up area for carpools and ride-shares, bicycle parking, and onsite pedestrian walkways that would complement the existing offsite sidewalks</p> |

| Relevant General Plan Policies | Project Consistency |
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| transportation docks, and bus stop improvements. | and bike paths. Therefore, the Project is consistent with Policy CE 7.1.5. |
| CE 7.1.7 Project Site Design Supporting Alternative Modes. Encourage increased use of public transportation by requiring project site designs that facilitate the use of public transportation and walking. | Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i> , and Section 5.14 of the EIR, <i>Transportation</i> , the proposed Project supports alternative modes of travel and includes onsite pedestrian walkways that would complement the existing offsite sidewalks on Irvine Avenue with bus stops for OCTA Bus Route 178. Therefore, the Project facilitates the use of public transportation and walking and is consistent with Policy CE 7.1.7. |
| CE 7.1.8 Electric Vehicle (EV) Charging Stations. Install additional EV charging stations on City properties, support existing private development to add new EV charging stations and develop incentives for the installation of EV charging stations and other alternative fuels systems as part of new development. | Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i> and Section 5.14 of the EIR, <i>Transportation</i> , the proposed Project includes installation of EV charging stations and EV parking spots on the Project site. Therefore, the Project is consistent with Policy CE 7.1.8. |
| CE 9.1.10 Development Requirements. Require development to provide the needed roadway improvements adjacent to a site, commensurate with project impact and in accordance with the Master Plan of Streets and Highways. | Consistent. As discussed in Section 5.14 of the EIR, <i>Transportation</i> , the proposed Project would not require or include any roadway improvements. However, the proposed driveways and onsite vehicular circulation would be required to adhere to the City's public works and engineering recognized traffic control standards that would be verified through the City's construction permitting process. Therefore, the Project is consistent with Policy CE 9.1.10. |

Recreation Element

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| R 1.12 Aircraft Overflight and Noise. Require that all public parks located within the noise impact zones as defined in the 1985 JWA Master Plan for John Wayne Airport be posted with a notification to users regarding aircraft overflight and noise. | Consistent. The proposed Project is a commercial recreation facility and would not be a public park. The Project site is located within the SNA 65 CNEL noise contour, which indicates that noise from aircraft on the Project site is 65 dB CNEL and is within the noise impact area related to SNA operations. However, as detailed in |
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| | Section 5.8 of the EIR, <i>Hazards and Hazardous Materials</i> , and Section 5.11 of the EIR, <i>Noise</i> , the AELUP for SNA states that community facilities and commercial land uses are “normally consistent” within the 65 CNEL contour. Therefore, the proposed Project would not result in an impact related to aircraft overflight and noise and would be consistent with Policy R 1.12. |
| R 4.1 Provision of Recreation Services. Provide high quality recreational services through professionally-trained recreational personnel to program participants. | Consistent. The proposed Project would provide high quality surf-related recreational services through professionally-trained recreational personnel to program participants. Therefore, the Project is consistent with Policy R 4.1. |
| R 4.2 Compatible Recreation Activities. Provide a variety of compatible recreational activities within a given location. | Consistent. The proposed Project would add to the variety of recreation activities in the area and the surfing activities would be compatible with the City’s location near the ocean. Therefore, the Project is consistent with Policy R 4.2. |
| R 4.3 Variety of Programs. Provide a variety of quality programs offered in safe and secure environments for the community’s youth that enhance and extend the learning day, promote health and wellness, encourage expansion of skills, and reinforce self-esteem, good character, and positive behavior. | Consistent. The proposed Project would provide surf-related recreational services in a safe and secure environment that would promote health and wellness, encourage expansion of skills, and reinforce self-esteem, good character, and positive behavior. Therefore, the Project is consistent with Policy R 4.3. |
| R 4.5 Variety of Adult Recreational Programs. Provide a variety of quality enrichment and recreational programs for the adult population that promote health and wellness; development and/or enhancement of skills and talents; extend learning opportunities; promote sportsmanship; and provide unique opportunities to engage in new activities. | Consistent. The proposed Project would provide surf-related recreational services in a safe and secure environment that would promote health and wellness, enhancement of skills, extend learning opportunities; promote sportsmanship; and provide unique opportunities to engage in a new activity. Therefore, the Project is consistent with Policy R 4.5. |
| Natural Resources Element | |
| NR 1.1 Water Conservation in New Development. Enforce water | Consistent. The proposed Project would be constructed according to Title 24 |

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| conservation measures that limit water usage, prohibit activities that waste water or cause runoff, and require the use of water-efficient landscaping and irrigation in conjunction with new construction projects. | requirements of the 2022 California administrative code for water conservation and landscaping would be implemented throughout the Project site, including implementation of bioretention basins that would limit runoff. BMPs for stormwater management would also be implemented to direct stormwater into landscape areas to use for irrigation. Therefore, the Project is consistent with Policy N 1.1. |
| NR 1.2 Use of Water Conserving Devices. Establish and actively promote use of water conserving devices and practices in both new construction and major alterations and additions to existing buildings. This can include the use of rainwater capture, storage, and reuse facilities. | Consistent. As discussed in Section 5.16 of the EIR, <i>Utilities and Service Systems</i> , the proposed Project would be required to implement the CALGreen Code for efficient use of water. Additionally, as discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i> , development and construction of the Project site would require preparation and adherence to a Stormwater Pollution Prevention Plan (SWPPP) and Water Quality Management Plan (WQMP). Therefore, the Project would use water conserving devices and would be consistent with Policy NR 1.2. |
| NR 3.4 Storm Drain Sewer System Permit. Require all development to comply with the regulations under the City's municipal separate storm drain system permit under the National Pollutant Discharge Elimination System. | Consistent. As discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i> , construction of the Project site and operation of the proposed Project would require preparation and adherence to a SWPPP and a WQMP. Therefore, the Project is consistent with Policy NR 3.4. |
| NR 3.5 Natural Water Bodies. Require that development does not degrade natural water bodies. | Consistent. As discussed in Section 5.3 of the EIR, <i>Biological Resources</i> , there are no natural bodies of water within the Project site. In addition, as discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i> , a SWPPP and WQMP would be required to be implemented to ensure that the Project would not degrade offsite natural water bodies. Therefore, the Project is consistent with Policy NR 3.5. |

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| <p>NR 3.9 Water Quality Management Plan. Require new development applications to include a Water Quality Management Plan (WQMP) to minimize runoff from rainfall events during construction and post-construction.</p> | <p>Consistent. As discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i>, construction of the Project site and operation of the proposed Project would require preparation and adherence to a SWPPP and a WQMP. Therefore, the Project is consistent with Policy NR 3.9.</p> |
| <p>NR 3.10 Best Management Practices. Implement and improve upon Best Management Practices (BMPs) for residences, businesses, development projects, and City operations.</p> | <p>Consistent. As discussed in Section 5.9, <i>Hydrology and Water Quality</i> of the EIR, the proposed Project would implement SWPPP and a WQMP, both of which would provide BMPs to reduce or eliminate soil erosion and pollution. During operation, onsite drainage features would include BMPs that have been designed to slow, filter, and slowly discharge stormwater into the offsite drainage system. Therefore, the Project is consistent with Policy NR 3.10.</p> |
| <p>NR 3.11 Site Design and Source Control. Include site design and source control BMPs in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality as required by the National Pollutant Discharge Elimination System (NPDES), structural treatment BMPs will be implemented along with site design and source control measures.</p> | <p>Consistent. As discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i>, the proposed Project would implement a WQMP that would be approved by the City and includes design and source control BMPs to protect water quality, which include landscaping and drainage features that have been designed to slow, filter, and slowly discharge stormwater into the offsite drainage system. Therefore, the Project is consistent with Policy NR 3.11.</p> |
| <p>NR 3.12 Reduction of Infiltration. Include equivalent BMPs that do not require infiltration, where infiltration of runoff would exacerbate geologic hazards. (Policy HB 8.12)</p> | <p>Consistent. As discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i>, infiltration is not feasible for the Project site. Thus, the Project would utilize modular wetland systems and bioretention basins which would collect flows, filter, and then direct runoff into the Santa Ana Delhi Channel, which is adjacent to the site. Therefore, the Project is consistent with Policy NR 3.12.</p> |
| <p>NR 3.14 Runoff Reduction on Private Property. Retain runoff on private property to prevent the transport of</p> | <p>Consistent. As discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i>, the proposed Project would implement a</p> |

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| pollutants into natural water bodies, to the maximum extent practicable. (Policy HB 8.14). | SWPPP and a WQMP that would provide BMPs to reduce or eliminate transport of pollutants into natural water bodies. Onsite drainage features would be installed that have been designed to slow and filter stormwater prior to discharge to reduce runoff and prevent transport of pollutants. Therefore, the Project is consistent with Policy NR 3.14. |
| NR 3.16 Siting of New Development. Require that development be located on the most suitable portion of the site and designed to ensure the protection and preservation of natural and sensitive site resources that provide important water quality benefits. (Policy HB 8.16). | Consistent. The Project site is a developed site that is used for golf-related recreation. The site does not contain a natural or sensitive site resource as detailed in Section 5.3 of the EIR, <i>Biological Resources</i> , and the site does not provide important water quality benefits. As discussed in Section 5.9, <i>Hydrology and Water Quality</i> , the proposed Project would require preparation and adherence to a SWPPP and a WQMP that would protect water quality. Therefore, the Project is consistent with Policy NR 3.16. |
| NR 3.17 Parking Lots and Rights-of-Way. Require that parking lots and public and private rights-of-way be maintained and cleaned frequently to remove debris and contaminated residue. (Policy HB 8.17) | Consistent. As discussed in the Preliminary WQMP (included as Appendix O to the EIR), operation of the Project shall include sweeping all onsite streets, drive aisles, and/or uncovered parking areas at minimum of a quarterly basis. Therefore, the Project is consistent with Policy NR 3.17. |
| NR 3.19 Natural Drainage Systems. Require incorporation of natural drainage systems and stormwater detention facilities into new developments, where appropriate and feasible, to retain stormwater in order to increase groundwater recharge. (Policy HB 8.19) | Consistent. As discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i> , infiltration and groundwater recharge is not feasible at the Project site. Thus, the Project would utilize modular wetland systems and bioretention basins which would collect flows, filter, and then direct runoff into the Santa Ana Delhi Channel, which is adjacent to the site. Therefore, the Project is consistent with Policy NR 3.19. |
| NR 3.20 Impervious Surfaces. Require new development and public | Consistent. As discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i> , |

| Relevant General Plan Policies | Project Consistency |
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| <p>improvements to minimize the creation of and increases in impervious surfaces, especially directly connected impervious areas, to the maximum extent practicable. Require redevelopment to increase area of pervious surfaces, where feasible. (Policy HB 8.20)</p> | <p>while the proposed Project would result in an increase of impervious surfaces, buildout of the proposed Project would result in a decrease the 100-year storm runoff flowrate by 11.1 percent and the proposed Project would maintain the existing drainage pattern by collecting runoff via roof drains, curbs, and area drains and conveying it to vegetated biotreatment systems utilizing permeable landscaping for treatment.</p> <p>Therefore, the Project is consistent with Policy NR 3.20.</p> |
| <p>NR 4.3 Restore Natural Hydrologic Conditions. Preserve, or where feasible, restore natural hydrologic conditions such that downstream erosion, natural sedimentation rates, surface flow, and groundwater recharge function near natural equilibrium states.</p> | <p>Consistent. As discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i>, infiltration and groundwater recharge is not feasible at the Project site. Thus, the Project would utilize modular wetland systems and bioretention basins which would collect flows, filter, and then direct runoff into the Santa Ana Delhi Channel, which is adjacent to the site. The Project would not impact hydrologic conditions, sedimentation, or erosion. Therefore, the Project is consistent with Policy NR 4.3.</p> |
| <p>NR 4.4 Erosion Minimization. Require grading/erosion control plans with structural BMPs that prevent or minimize erosion during and after construction for development on steep slopes, graded, or disturbed areas.</p> | <p>Consistent. As discussed in Section 5.6 of the EIR, <i>Geology and Soils</i>, the proposed Project would implement a SWPPP and provide BMPs to reduce or eliminate soil erosion and the loss of topsoil during construction. During operation, onsite drainage features would be installed that have been designed to slow, filter, and slowly discharge stormwater into the offsite drainage system. Therefore, the Project would minimize erosion and would be consistent with Policy NR 4.3.</p> |
| <p>NR 6.1 Walkable Neighborhoods. Provide for walkable neighborhoods to reduce vehicle trips by siting amenities such as services, parks, and schools in close proximity to residential areas.</p> | <p>Consistent. As discussed in Section 5.14 of the EIR, <i>Transportation</i>, existing sidewalks are located adjacent to the Project site, and the Project would install onsite walkways that would provide for pedestrian access to and from the site.</p> |

| Relevant General Plan Policies | Project Consistency |
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| | <p>The Project is located at the existing NB Golf Course, which is a commercial recreation land use that is located along an arterial roadway near the freeways, but also, in close proximity to retail services (across Irvine Avenue) and residential areas within the City. Therefore, the Project is consistent with Policy NR 6.1.</p> |
| <p>NR 6.4 Transportation Demand Management Ordinance. Implement the Transportation Demand Management (TDM) Ordinance, which promotes and encourages the use of alternative transportation modes and provides those facilities such as bicycle lanes that support such alternate modes.</p> | <p>Consistent. As discussed in Section 5.14 of the EIR, <i>Transportation</i>, bike lanes and sidewalks currently exist adjacent to the Project site. The Project would provide onsite pedestrian walkways that would connect to the offsite sidewalks and bicycle parking facilities. Therefore, the Project supports these alternative modes of transportation and is consistent with Policy NR 6.4.</p> |
| <p>NR 7.2 Source Emission Reduction Best Management Practices. Require the use of Best Management Practices (BMP) to minimize pollution and to reduce source emissions.</p> | <p>Consistent. As discussed in Section 5.2 of the EIR, <i>Air Quality</i>, construction of the Project would implement all related SCAQMD Rules for reduction of source emissions. Therefore, the Project is consistent with Policy NR 7.2.</p> |
| <p>NR 8.1 Management of Construction Activities to Reduce Air Pollution. Require developers to use and operate construction equipment, use building materials and paints, and control dust created by construction activities to minimize air pollutants.</p> | <p>Consistent. As discussed in Section 5.2 of the EIR, <i>Air Quality</i>, the proposed Project would implement SCAQMD Rule 403 regarding construction dust and Rule 1113 regarding the use of low VOC architectural coatings. Therefore, the Project is consistent with Policy NR 8.1.</p> |
| <p>NR 10.2 Orange County Natural Communities Conservation Plan. Comply with the policies contained within the Orange County Natural Communities Conservation Plan.</p> | <p>Consistent. As discussed in Section 5.3 of the EIR, <i>Biological Resources</i>, the proposed Project would be consistent with the Orange County Natural Communities Conservation Plan as the Project site is listed as a development site and is not located within a Habitat Reserve System. Therefore, the Project is consistent with Policy NR 10.2.</p> |
| <p>NR 10.3 Analysis of Environmental Study Areas. Require a site-specific survey and analysis prepared by a</p> | <p>Consistent. As discussed in Section 5.3 of the EIR, <i>Biological Resources</i>, a biological resources assessment was</p> |

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| <p>qualified biologist as a filing requirement for any development permit applications where development would occur within or contiguous to areas identified as ESAs.</p> | <p>conducted and is included as Appendix C to the EIR which included a survey for ESA listed species on the Project site. The Project site does not contain and is not adjacent to any ESAs. Therefore, the Project is consistent with Policy NR 10.3.</p> |
| <p>NR 10.4 New Development Siting and Design. Require that the siting and design of new development, including landscaping and public access, protect sensitive or rare resources against any significant disruption of habitat values.</p> | <p>Consistent. As discussed in Section 5.3 of the EIR, <i>Biological Resources</i>, the Project site does not include any sensitive or rare resources. However, the western yellow bat has a low potential to roost in ornamental trees, including palms, on the Project site. Also, the Project site provides suitable foraging, breeding, and roosting habitat for bird and raptor species. Therefore, Mitigation Measures BIO-1 and BIO-2 would ensure that there are no significant impacts to nesting birds or roosting bats onsite. Therefore, the Project is consistent with Policy NR 10.4.</p> |
| <p>NR 10.5 Development in Areas Containing Significant or Rare Biological Resources. Limit uses within an area containing any significant or rare biological resources to only those uses that are dependent on such resources, except where application of such a limitation would result in a taking of private property. If application of this policy would likely constitute a taking of private property, then a non-resource-dependent use shall be allowed on the property, provided development is limited to the minimum amount necessary to avoid a taking and the development is consistent with all other applicable resource protection policies. Public access improvements and educational, interpretative and research facilities are considered resource dependent uses.</p> | <p>Consistent. As discussed in Section 5.3 of the EIR, <i>Biological Resources</i>, the Project site does not include any significant or rare biological resources. However, the western yellow bat has a low potential to roost in ornamental trees, including palms, on the Project site. Also, the Project site provides suitable foraging, breeding, and roosting habitat for birds and raptor species. Therefore, Mitigation Measure BIO-1 and BIO-2 would ensure that there are no significant impacts to biological resources. Therefore, the Project is consistent with Policy NR 10.4.</p> |
| <p>NR 10.6 Use of Buffers. Maintain a buffer of sufficient size around significant or rare biological resources, if present, to ensure the protection of these resources. Require</p> | <p>Consistent. As discussed in Section 5.3 of the EIR, <i>Biological Resources</i>, the Upper Newport Bay Nature Preserve and Ecological Reserve ("Upper Newport</p> |

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| the use of native vegetation and prohibit invasive plant species within these buffer areas. | Bay”) is located approximately 0.3 miles south of the Project site. The area between the Project site and Upper Newport Bay contains a hill with existing recreational and residential land uses which provides a buffer. Therefore, the Project would not result in substantial drainage, lighting, or noise impacts to the Upper Newport Bay. Therefore, the Project is consistent with Policy NR 10.6. |
| NR 10.7 Exterior Lighting. Shield and direct exterior lighting away from significant or rare biological resources to minimize impacts to wildlife. | Consistent. While there are no significant or rare biological resources on or adjacent to the site, the proposed Project would shield and direct light away from potential offsite sensitive species through compliance with Municipal Code Section 20.30.070 (Outdoor Lighting). Therefore, the Project is consistent with Policy NR 10.7. |
| NR 18.1 New Development. Require new development to protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources in accordance with the requirements of CEQA. Through planning policies and permit conditions, ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA. | Consistent. As discussed in Section 5.4 of the EIR, <i>Cultural Resources</i> , and Section 5.6 of the EIR, <i>Geology and Soils</i> , both archeological and paleontological resource studies were conducted (included as Appendix E and I to the EIR, respectively). Mitigation Measures CUL-1, CUL-2, and PAL-1 were included to provide for monitoring during construction and excavation activities that would reduce potential impacts to archeological and paleontological resources to a less than significant level. Therefore, the Project is consistent with Policy NR 18.1. |
| NR 18.3 Potential for New Development to Impact Resources. Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow qualified representatives of such groups to monitor grading and/or excavation of development sites. | Consistent. In accordance with AB 52 and SB 18, the City sent letters to 20 Native American representatives identified by NAHC, notifying them of the proposed Project. Agency to agency consultation occurred between the City and two tribes. who stated that they have cultural affiliation with the Project region. While none of the tribes presented substantial evidence indicating that tribal cultural resources are present on the site, |

| Relevant General Plan Policies | Project Consistency |
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| | Mitigation Measures TCR-1 through TCR-3 have been included to provide for Native American monitoring on the site during grading and excavation activities to ensure that significant impacts to tribal cultural resources would not occur. Therefore, the Project is consistent with Policy NR 18.3. |
| <p>NR 18.4 Donation of Materials. Require new development, where on site preservation and avoidance are not feasible, to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible.</p> | <p>Consistent. As discussed in Section 5.4 of the EIR, <i>Cultural Resources</i>, and Section 5.6 of the EIR, <i>Geology and Soils</i>, Mitigation Measures CUL-1, CUL-2, and PAL-1 provide for archeological and paleontological monitoring on the site during grading and excavation activities, which includes potential donation of materials and curation at scientific institutions. Therefore, the Project is consistent with Policy NR 18.4.</p> |
| <p>NR 20.1 Enhancement of Significant Resources. Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from public vantage points, as shown in Figure NR3.</p> | <p>Consistent. As discussed in Section 5.1 of the EIR, <i>Aesthetics</i>, none of the adjacent roadways feature long range view of scenic vistas such as the Upper Newport Bay Preserve. The Upper Newport Bay Preserve can be seen from Irvine Avenue south of University Drive, as shown in General Plan Figure NR-3. The Project would not result in significant impacts to significant scenic and visual resources from public vantage points. Therefore, the Project is consistent with Policy NR 20.1.</p> |
| <p>NR 20.2 New Development Requirements. Require new development to restore and enhance the visual quality in visually degraded areas, where feasible, and provide view easements or corridors designed to protect public views or to restore public views in developed areas, where appropriate.</p> | <p>Consistent. As discussed in Section 5.1 of the EIR, <i>Aesthetics</i>, the proposed Project site is developed with the NB Golf Course and is mostly covered with both natural and artificial grasses and ornamental vegetation. The proposed Project would include landscaping that utilizes native draught tolerant vegetation and would provide new landscaping along the Irvine Avenue and Mesa Drive right-of-way. The proposed Project would not encroach upon public view corridors.</p> |

| Relevant General Plan Policies | Project Consistency |
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| | Therefore, the Project is consistent with Policy NR 20.2. |
| <p>Policy NR 20.4. Public View Corridor Landscaping. Design and site new development, including landscaping, on the edges of public view corridors, including those down public streets, to frame, accent, and minimize impacts to public views.</p> | <p>Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i> and Section 5.1, <i>Aesthetics</i>, the Project includes installation of new landscaping along the Irvine Avenue and Mesa Drive right-of-way and along both driveway entrances to the site. The new landscaping would frame and accent driveway entrances, and would screen views of the proposed parking areas, PV solar canopies, and proposed building structures to minimize impacts to public views. Therefore, the Project is consistent with Policy NR 20.4.</p> |
| <p>Policy NR 23.1 Maintenance of Natural Topography. Preserve cliffs, canyons, bluffs, significant rock outcroppings, and site buildings to minimize alteration of the site's natural topography and preserve the features as a visual resource.</p> | <p>Consistent. As discussed in Section 5.1 of the EIR, <i>Aesthetics</i>, the Project site does not include any cliffs, canyons, bluffs, significant rock outcroppings; and thus, these types of natural topographic features would not be impacted from implementation of the Project. The Project does involve grading of the site; however, as detailed in Section 5.1 of the EIR, <i>Aesthetics</i>, the natural southwestward slope of the site would as viewed from Mesa Drive would remain with implementation of the Project. Therefore, the Project is consistent with Policy NR 23.1.</p> |
| <p>Policy NR 23.7 New Development Design and Siting. Design and site new development to minimize the removal of native vegetation, preserve rock outcroppings, and protect coastal resources.</p> | <p>Consistent. As discussed in Section 5.1 of the EIR, <i>Aesthetics</i>, the Project site does not include any native vegetation, rock outcroppings, or coastal resources. The Project site is developed and contains ornamental vegetation, and no native vegetation, rock outcroppings, or coastal resources would be removed as part of the Project. Therefore, the Project is consistent with Policy NR 23.7.</p> |
| <p>NR 24.2 Energy-Efficient Design Features. Promote energy-efficient design features.</p> | <p>Consistent. As discussed in Section 5.5 of the EIR, <i>Energy</i>, the proposed Project would implement energy efficient practices</p> |

| Relevant General Plan Policies | Project Consistency |
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| | as outlined in Part 6 of Title 24 of the California Code of Regulations, adopted by the City in Municipal Code Chapter 15.17, which includes installation of solar panels on canopies in the parking areas and on building rooftops to maximize the use of renewable energy. Therefore, the Project is consistent with Policy NR 24.2. |
| NR 24.3 Incentives for Green Building Program Implementation. Promote or provide incentives for “Green Building” programs that go beyond the requirements of Title 24 of the California Administrative Code and encourage energy efficient design elements as appropriate to achieve “green building” status. | Consistent. As discussed in Section 3.0 of the EIR, <i>Project Description</i> , solar panels would be installed on building tops and solar canopies over portions of the parking areas to produce renewable energy to provide power to the proposed onsite operations. Therefore, the Project is consistent with Policy NR 24.2. |
| Safety Element | |
| S 4.7 New Development. Conduct further seismic studies for new development in areas where potentially active faults may occur. | Consistent. As discussed in Section 5.6 of the EIR, <i>Geology and Soils</i> , a Geotechnical Exploration was prepared for the Project site and is included as Appendix H to the EIR, which determined that there are no potentially active fault lines within 500 feet of the Project site. Therefore, the Project would be consistent with Policy S 4.7. |
| S 5.1 New Development Design within 100-year Floodplains. Require that all new development within 100-year floodplains incorporate sufficient measures to mitigate flood hazards including the design of onsite 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. | Consistent. The Project site is not located within a 100-year floodplain. The Federal Emergency Management Agency (FEMA) Flood Zone Map 06059C0267J identifies that the Project site is located in Flood Zone X, which are areas that are determined to be outside of the 0.2% annual chance of flooding. In addition, the proposed Project would install an onsite drainage system that would be connected to the existing drainage channel that is adjacent to the site. Therefore, the Project would be consistent with Policy S 5.1. |
| S 5.2 Facility Use or Storage of Hazardous Materials Standards. Require that all new facilities storing, using, or otherwise involved with | Consistent. As discussed in the previous response, the Project site is not located within a flood zone. Section 5.8 of the EIR, <i>Hazards and Hazardous Materials</i> , details |

| Relevant General Plan Policies | Project Consistency |
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| substantial quantities of onsite hazardous materials within flood zones comply with standards of elevation, anchoring, and flood proofing, and hazardous materials are stored in watertight containers. | that the proposed Project would not use or store substantial quantities of hazardous materials and would comply with all required standards regarding the use, storage, and transportation of the limited quantities of hazardous materials that would be used by the Project. Therefore, the Project would be consistent with Policy S 5.2. |
| S 5.3 Minimization of Flood Hazard Risk. Require stormwater detention basins, where appropriate, to reduce the potential risk of flood hazards. | Consistent. As discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i> , the Project would utilize modular wetland systems and bioretention basins which would collect flows, filter, and then direct runoff into the Santa Ana Delhi Channel, which is adjacent to the site. The Project would not result in a potential flood risk, and the Project is consistent with Policy S 5.3. |
| S 7.1 Known Areas of Contamination. Require proponents of projects in known areas of contamination from oil operations or other uses to perform comprehensive soil and groundwater contamination assessments in accordance with American Society for Testing and Materials standards, and if contamination exceeds regulatory action levels, require the proponent to undertake remediation procedures prior to grading and development under the supervision of the County Environmental Health Division, County Department of Toxic Substances Control, or Regional Water Quality Control Board (depending upon the nature of any identified contamination). | Consistent. As discussed in Section 5.8 of the EIR, <i>Hazards and Hazardous Materials</i> , a Phase II Environmental Site Assessment (Appendix L to the EIR) was conducted on the Project site, which included soils sampling, determined that there were no levels of herbicides, organochlorine pesticides, or Per- and polyfluoroalkyl substances (PFAS) detected above laboratory reporting limits. Therefore, the Project would be consistent with Policy S 7.1. |
| S 7.2 Development Design within Methane Gas Districts. Ensure that any development within identified methane gas districts be designed consistent with the requirements of the Newport Beach Municipal Code. | Consistent. As detailed in Section 5.8 of the EIR, <i>Hazards and Hazardous Materials</i> , the Project site is not located within the Methane Gas Mitigation District as defined and listed in Municipal Code Section 15.55.030. Therefore, the Project is consistent with Policy S 7.2. |

| Relevant General Plan Policies | Project Consistency |
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| S 7.4 Implementation of Remediation Efforts. Minimize the potential risk of contamination to surface water and groundwater resources and implement remediation efforts to any resources adversely impacted by urban activities. | Consistent. As discussed in Section 5.9 of the EIR, <i>Hydrology and Water Quality</i> , the proposed Project would implement a SWPPP and a WQMP that would provide BMPs to reduce or eliminate contamination to surface water or groundwater resources. Onsite drainage features would be installed that have been designed to slow and filter stormwater prior to discharge to reduce runoff and prevent transport of pollutants. Therefore, the Project is consistent with Policy S 7.4. |

| Noise Element | |
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| N 1.1 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 and exterior noise standards shown in Table N3. | Consistent. As discussed in Section 5.11 of the EIR, <i>Noise</i> , the proposed Project is compatible with the exterior noise environment and would not require implementation of mitigation measures. In addition, the City's development permitting process would ensure enforcement of the interior noise standards shown in Table N3. Therefore, the Project is consistent with Policy N 1.1. |
| N 1.7 Commercial/ Entertainment Uses. Limit hours and/or require attenuation of commercial/entertainment operations adjacent to residential and other noise sensitive uses in order to minimize excessive noise to these receptors. | Consistent. As discussed in Section 5.11 of the EIR, <i>Noise</i> , the Project site is not directly adjacent to sensitive receptors and would not result in excessive noise to sensitive receptors, would not exceed noise thresholds, and would not result in a substantial increase in ambient noise, as detailed in Section 5.11 of the EIR, <i>Noise</i> . Therefore, the Project is consistent with Policy N 1.7. |
| N 1.8 Significant Noise Impacts. Require the employment of noise mitigation measures for existing sensitive uses when a significant noise impact is identified. A significant noise impact occurs when there is an increase in the ambient CNEL produced by new development impacting existing sensitive uses. The CNEL increase is shown in the table below. | Consistent. As discussed in Section 5.11 of the EIR, <i>Noise</i> , the proposed Project would not result in significant impacts related to an increase in ambient noise. Table 5.11-10 and Table 5.11-11 identify that the Project would generate daytime ambient noise level increases ranging from less than 0.1 to 0.8 dBA Leq and nighttime noise level increases ranging from less than 0.1 to 2.0 dBA Leq at the |

| Relevant General Plan Policies | Project Consistency |
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| | nearby receiver locations, which are less than the thresholds. Therefore, noise impacts related to Project operations would be less than significant and the Project is consistent with Policy N 1.8. |
| <p>N 4.2 New Uses. Require that new uses such as restaurants, bars, entertainment, parking facilities, and other commercial uses where large numbers of people may be present adjacent to sensitive noise receptors obtain a use permit that is based on compliance with the noise standards in Table N3 and the City's Municipal Code.</p> | <p>Consistent. The Project site is not directly adjacent to sensitive receptors and would not result in an exceedance of noise thresholds or a substantial increase in ambient noise, as detailed in Section 5.11 of the EIR, <i>Noise</i>. In addition, the Project would be in compliance with the City's municipal code, as verified through the City's development review and permitting process, and would obtain use permits as required, per the detail in Section 3.0 of the EIR, <i>Project Description</i>. Therefore, the Project is consistent with Policy N 4.2.</p> |
| <p>N 4.6 Maintenance of Construction Activities. Enforce the Noise Ordinance noise limits and limits on hours of maintenance or construction activity in or adjacent to residential areas, including noise that results from in-home hobby or work related activities.</p> | <p>Consistent. As discussed in Section 5.11 of the EIR, <i>Noise</i>, construction of the proposed Project would comply with the City of Newport Beach Municipal Code Section 10.28.040 requiring construction activities to take place between 7:00 a.m. and 6:30 p.m. on weekdays and 8:00 a.m. and 6:00 p.m. on Saturdays. Therefore, the Project is consistent with Policy N 4.6.</p> |
| <p>N 5.1 Limiting Hours of Activity. Enforce the limits on hours of construction activity.</p> | <p>Consistent. As discussed in Section 5.1 of the EIR 1, <i>Noise</i>, construction of the proposed Project would comply with the City of Newport Beach Municipal Code Section 10.28.040 requiring construction activities to take place between 7:00 a.m. and 6:30 p.m. on weekdays and 8:00 a.m. and 6:00 p.m. on Saturdays. Therefore, the Project is consistent with Policy N 5.1.</p> |

EXHIBIT "E"

TRIBAL CONSULTATION TIMELINE

Snug Harbor Surf Park Tribal Consultation Timeline

June 2024 – City contacts the Native American Heritage Commission (NAHC) requesting a Sacred Lands File (SLF) records search and list of tribes to reach out to for SB 18 purposes.

June 18, 2024 – The NAHC responds with a consultation list of tribes with traditional lands or cultural places located in the Project. The letter states that the result of the Sacred Lands File (SLF) check was Positive and to contact the Gabrieleno/Tongva San Gabriel Band of Mission Indians for more information.

September 19, 2024 – Commence Tribal outreach process. The City has a completed Project application and the City sends all the tribes on its AB 52 list and those identified by the NAHC letters describing the Project and inviting tribes to request consultation per AB 52 / SB 18.

September 25, 2024 – The Gabrieleno Band of Mission Indians – Kizh Nation sends a letter in response stating that the Project location is within their Ancestral Tribal Territory; and the Tribal Government requests to schedule a consultation to discuss the Project and the surrounding location in further detail.

October 14, 2024 – The City responds to the Gabrieleno Band of Mission Indians – Kizh Nation request for consultation via email and sets a meeting for November 5, 2024 at 1:00 p.m.

November 4, 2024 – The City receives an email from the Gabrieleno Band of Mission Indians – Kizh Nation rescheduling the November 5, 2024, meeting due to Chairman illness, and states that the Tribal Chairman is unavailable for the rest of November. The City responds to email and agrees to an email consultation due to tribe unavailability and requests tribe to forward tribal information regarding the Project location or site.

January 9, 2025 – City emails Gabrieleno Band of Mission Indians – Kizh Nation follow up and requests tribal information and preferred mitigation. The tribe responded by providing their standard mitigation measures.

January 17, 2025 – City emails Gabrieleno Band of Mission Indians – Kizh Nation and accepts their recommended mitigation measures and closes consultation.

February 3, 2025 – Email received from Gabrielino Tongva Indians of California, forwarding an sent email sent on September 26, 2024 (that was not previously received by the City) requesting consultation.

February 18, 2025 – City has a consultation call with the Gabrielino Tongva Indians of California who assert ancestral ties to the Newport Beach and back bay area and the City requested that the tribe provide substantial evidence to meet AB 52 / SB 18 and CEQA criteria.

February 21, 2025 – City emails Gabrielino Tongva Indians of California proposed mitigation providing for consulting tribes to monitor excavation of native soils onsite. The Gabrielino Tongva

Indians of California agrees to proposed mitigation and provides substantial evidence of the Tongva Village site of Genga by Newport Bay and related tribal resources.

February 24, 2025 – City emails Gabrielino Tongva Indians of California acknowledges their agreement on the proposed mitigation measures for monitoring and closing consultation with the tribe.

May 16, 2025 – City emails the Gabrieleno Band of Mission Indians – Kizh Nation providing notification that as the Lead Agency, the City has modified the mitigation measures previously provided by the Kizh Nation in response to a request for consultation from another California Native American Tribe that is recognized by NAHC and eligible to engage in consultation for purposes of SB 18 and AB 52.

The Gabrieleno Band of Mission Indians – Kizh Nation responded to the City's email stating their objection and stating that determination of tribal ancestry is based on substantial evidence of traditional and cultural affiliation to the land in question and states that the Tongva have no direct historical, ancestral, or cultural ties to the Newport Beach.

June 4, 2025 – The City sends a response letter to Gabrieleno Band of Mission Indians – Kizh Nation responding to their objection stating that the Gabrielino Tongva Indians of California tribe provided the City with substantial evidence identifying that the Project area is within their Ancestral Tribal Territory. The SLF search completed for the Project by the NAHC resulted in a positive finding that the site is within traditional lands or cultural places for the Gabrieleno/Tongva San Gabriel Band of Mission Indians. As recently as 2023, the NAHC identified the Gabrielino Tongva Indians of California as a Native American Tribe that is traditionally or culturally affiliated with Orange County and the Project area. Therefore, in response to the findings of the SLF search and SB 18 and AB 52 consultation processes, which identify that more than one tribe may have resources within the Project area, the City as Lead Agency has determined that the mitigation measures that are modified from those provided previously by Kizh Nation shall be applicable to the Project. The letter further states that the City understands that the Kizh Nation would like to be the sole tribe monitoring the Project ground-disturbing activity. SB 18 and AB 52 simply prevent the City from feasibly reaching that conclusion given the information provided by the NAHC and the substantial evidence presented by Gabrielino Tongva Indians of California regarding that tribe's traditional and cultural affiliation to the Project site.

June 5, 2025 – City receives objection letter from the Gabrieleno Band of Mission Indians – Kizh Nation objecting to the response to the previous objection. The letter states that the City's recent unilateral actions to revise and dilute the agreed-upon significant mitigation measures constitute multiple legal violations under AB 52, SB 18, and CEQA. The letter states that it is not legally permissible to alter mitigation protocols in response to late letters from unrelated entities that offer no verifiable archaeological, historical, or ethnographic evidence of ancestral affiliation. The letter further states that The City's consideration of outside entities that have not been historically tied to the area is in violation of this statute.

June 23, 2025 – The City attorney sends a letter to the Gabrieleno Band of Mission Indians – Kizh Nation responding to the June 5 letter received stating that the City disputes allegations that the City is in violation of AB 52 and SB 18 and reiterates that the Kizh Nation is able to monitor ground disturbance and consult regarding any resources are discovered. The letter details the City's compliance with AB 52, SB 18, and the recent Koi Nation Decision.

September 3, 2025 – City receives an email from the Chairman of the Kizh Nation to City following up on June 5 correspondence stating that they have not received a response. The letter objects to any changes to the mitigation measures the tribe provided and stating that the changes are a violation of AB 52 and the tribe will request avoidance and oppose the Project.

September 4, 2025 – The City responds to the Gabrieleno Band of Mission Indians – Kizh Nation email from September 3 and re-sends the City's letter from June 23, 2025.

September 23, 2025 – City representative for Project calls tribe Chairman to discuss a potential monitoring agreement for the Project.

Attachment B

Resolution No. 2025-72

RESOLUTION NO. 2025- 72

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A MAJOR SITE DEVELOPMENT REVIEW, CONDITIONAL USE PERMIT, AND MODIFICATION PERMIT TO AUTHORIZE THE CONSTRUCTION AND OPERATION OF THE SURF PARK WITH ANCILLARY USES AND TYPES 47 (ON-SALE GENERAL EATING PLACE), 58 (CATERER) AND 68 (PORTABLE BAR) ALCOHOLIC BEVERAGE CONTROL LICENSES FOR THE PROPERTY LOCATED AT 3100 IRVINE AVENUE (PA2024-0069)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), 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 City 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, an application was filed by CAA Planning, on behalf of Back Bay Barrels, LLC ("Applicant"), concerning property located at 3100 Irvine Avenue, and legally described in Exhibit "A," which is attached hereto and incorporated herein by reference ("Property");

WHEREAS, the Applicant is requesting to redevelop the central 15.38-acre parcel of the privately owned Newport Beach Golf Course by removing the existing driving range and putting green, pro-shop, restaurant and bar, and three holes of golf and replacing it with a new surf-focused outdoor commercial recreation use ("Project");

WHEREAS, the Project's site improvements include approximately five acres of surfing lagoons surrounded by viewing platforms, seating, pools, spa, restrooms, landscaping, clubhouse with amenities, athlete accommodation building with 20 overnight rooms, and two parking lots with 351 parking spaces;

WHEREAS, the Project will be constructed on approximately 79,533 square feet of area; however, 19,761 square feet will be excluded from the total development limit of the Property as incidental building areas which is consistent with Table LU1 (Land Use Plan Categories) of the City's General Plan ("General Plan") for properties categorized as Parks and Recreation;

WHEREAS, the following approvals are requested or required to implement the Project as proposed:

- General Plan Amendment ("GPA"): To increase the development limit from 20,000 square feet to 59,772 square feet for Anomaly Number 58, as identified in Table LU 2 of the Land Use Element of the General Plan;
- Major Site Development Review ("SDR"): To construct a nonresidential building larger than 20,000 square feet in area;
- Conditional Use Permit ("CUP"): To allow the operation of an outdoor commercial recreation use including a restaurant with alcohol sales, establish the appropriate parking rate, and allow the construction of buildings taller than 18 feet;
- Modification Permit: To allow for the construction of retaining walls taller than eight feet in height from finish grade; and
- Environmental Impact Report ("EIR"): To address reasonably foreseeable environmental impacts resulting from the legislative and project specific discretionary approvals;

WHEREAS, the Property is categorized as Parks and Recreation (PR) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan/Open Space and Recreation (SP-7/OSR) Zoning District;

WHEREAS, the Property is not located within the Coastal Zone; therefore, a coastal development permit is not required;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the Project 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, the ALUC determined the Project to be inconsistent with the AELUP on August 7, 2025;

WHEREAS, a public hearing was held by the Planning Commission on September 4, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. 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"), and Chapter 20.62 (Public Hearings) of the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2025-018 by a unanimous vote (6 ayes, 1 recusal) recommending the City Council approve the Project;

WHEREAS, after the Planning Commission's decision and pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on September 9, 2025, and adopted Resolution No. 2025-60 (6 ayes, 1 absent) to notify ALUC and the State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding; and

WHEREAS, a public hearing was held by the City Council on October 28, 2025, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the Project. 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) of the NBMC, 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 considered the recommendation of the Planning Commission and determined that modifications to the Project made by the City Council, if any, are not major changes that require referral back to the Planning Commission for consideration and recommendation.

Section 2: The City Council hereby approves the Major Site Development Review, Conditional Use Permit, and Modification Permit, collectively filed as PA2024-0069, subject to the conditions of approval set forth in Exhibit "B," based on the required findings and facts to support said findings, as set forth in in Exhibit "C." Both Exhibits are attached hereto and incorporated herein by this reference. Additionally, the City Council hereby approves the Reduced Amenities Alternative analyzed in Appendix F of the EIR as a Project alternative that may be implemented at the Applicant's election in that it substantially conforms with the Major Site Development Review.

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: An EIR (State Clearinghouse No. 2024110238) was prepared for the Project in compliance with the California Environmental Quality Act ("CEQA") as set forth in Public Resources Code Sections 21000 *et seq.*, Section 15000 *et seq.* as set forth in 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) to ensure that the Project will not result in significant environmental impacts. Based on the entire environmental review record, the City Council having final approval authority over the Project, finds that the Project, with mitigation measures, will have a less than significant impact on the environment and there are no known substantial adverse effects on human beings. By Resolution No. 2025-73, the City Council adopted and certified the Final EIR as complete and adequate and adopted the Mitigation Monitoring and Reporting Program including all findings contained therein, which is hereby incorporated by this reference.

Section 6: The City Council finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

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 28th day of October, 2025.



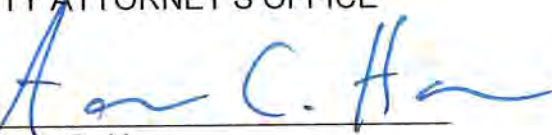
Joe Stapleton
Mayor

ATTEST:



Lena Shumway
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment(s): Exhibit A – Legal Description
 Exhibit B – Conditions of Approval
 Exhibit C – Findings and Facts in Support of Findings

STATE OF CALIFORNIA
COUNTY OF ORANGE
CITY OF NEWPORT BEACH

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}
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ss.

I, Lena Shumway, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing Resolution No. 2025-72 was duly adopted by the City Council of said City at a regular meeting held on the 28th day of October, 2025, by the following vote, to wit:

AYES: Mayor Joe Stapleton, Mayor Pro Tem Lauren Kleiman, Councilmember Noah Blom, Councilmember Michelle Barto, Councilmember Robyn Grant, Councilmember Sara J. Weber, Councilmember Erik Weigand

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29th day of October, 2025.



Lena Shumway
City Clerk
City of Newport Beach, California

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL NO. 1 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE NO. 94-2, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, RECORDED MAY 9, 1994 AS INSTRUMENT NO. 94-318607 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM, THAT PORTION OF SAID LAND DESCRIBED IN THE DEED TO THE COUNTY OF ORANGE, RECORDED SEPTEMBER 4, 1997 AS INSTRUMENT NO. 97-428866 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THOSE PORTIONS THEREOF CONVEYED IN FEE TO THE COUNTY OF ORANGE BY DEED RECORDED OCTOBER 21, 2014 AS INSTRUMENT NO. 2014-427814 OF OFFICIAL RECORDS.

APN: 119-200-38 & 119-200-41

EXHIBIT "B"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for the revocation of this approval.
4. *The Applicant shall comply with all project design features, mitigation measures, and standard conditions contained within the approved Mitigation Monitoring Reporting Program (MMRP) of EIR SCH No. 2024110238.*
5. *The Major Site Development Review, Conditional Use Permit Use Permit, and Modification Permit filed as PA2024-0069 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC unless an extension is otherwise granted.*
6. *The maximum height of the amenity clubhouse building shall be limited to 50 feet above the existing grade established pursuant to 20.30.050 (Grade Establishment) of the NBMC.*
7. *The maximum height of the visitor accommodation building shall be limited to 40 feet above the existing grade established pursuant to 20.30.050 (Grade Establishment) of the NBMC. Guests of the athlete accommodations shall also be guests of the surf park to ensure the accommodations remain ancillary to the principal use and do not operate as a separate and distinct use.*
8. *The storage areas exempt from development intensity limits, as identified on the plans, shall not be converted to useable space without an additional General Plan Amendment to Anomaly No. 58.*
9. *Hours of operation are limited to 6 a.m. to 11 p.m., daily.*

10. *A total of 324 parking spaces shall be made permanently available for use, including 229 for guests and employees of the surf park and 95 for Golf Course guests.*
11. *If actual parking demand exceeds anticipated parking demand, the Applicant will be required to work with public works staff to implement parking solutions.*
12. *Employees arriving by car shall park on site.*
13. *Prior to final of building permits, a nighttime lighting inspection shall be conducted to confirm lighting will not cause a nuisance to nearby residential properties.*
14. *Illumination shall not exceed 1-foot candle beyond the property line.*
15. *Illumination of the surfing lagoon shall be subject to a thirty (30) day review period, during which time the Community Development Director may determine that a reduction in illumination or turning off of illumination is necessary due to negative impacts on surrounding property or the community in general. In addition, and at any time, the Director may order the dimming or turning off of any illumination found to be excessively bright.*
16. *The Major Site Development Review, Conditional Use Permit Use Permit, and Modification Permit filed as PA2024-0069 may be modified or revoked by the City Council should they determine that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.*
17. *Prior to Certificate of Occupancy, the Applicant shall pay Development Impact Fees.*
18. *Prior to the issuance of a building permit, the Applicant shall pay San Joaquin Transportation Corridor Association fees in accordance with the fee schedule at time of building permit issuance.*
19. *Prior to the issuance of a building permit, the Applicant shall pay any applicable Traffic Fair Share fees at time of building permit issuance.*
20. *Changes in operational characteristics, expansion in the area, or other modification to the approved plans, shall require subsequent review by the Planning Division. Significant changes may require an amendment to this approval or the processing of a new approval.*

21. Prior to the issuance of a building permit, a copy of the Resolution, including the conditions of approval of Exhibit "B" shall be incorporated into the Building Division and field sets of plans before issuance of the building permits.
22. Prior to the issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the PA2024-0069 file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by PA2024-0069 and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
23. Prior to the issuance of a building permit, the Applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought-tolerant plants and water-efficient irrigation practices, and the plans shall be approved by the Planning Division.
24. Prior to final building permit inspection, an inspection shall be performed by Planning staff to confirm landscaping is installed per plan.
25. All landscape materials and irrigation systems shall be maintained by the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
26. All proposed signs shall be in conformance with Chapter 20.42 (Signs) of the NBMC.
27. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
28. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control), under Sections 10.26.025 (Exterior Noise Standards) and 10.26.030 (Interior Noise Standards), and other applicable noise control requirements of the NBMC.
29. Should the Property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or leasing agent.

30. Construction activities shall comply with Section 10.28.040 (Construction Activity—Noise Regulations) of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday, and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays, or Holidays.
31. *Operation of outdoor speakers shall cease by 10 p.m.*
32. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
33. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
34. The exterior of the business shall be always maintained free of litter and graffiti. The owner or operator shall provide for daily removal of trash, litter debris, and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
35. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
36. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10 p.m. and 7 a.m. on weekdays and Saturdays and between the hours of 10 p.m. and 9:00 a.m. on Sundays and Federal holidays unless otherwise approved by the Director of Community Development and may require an amendment to this Use Permit.
37. Storage outside of the building in the front or at the rear of the property shall be prohibited, except for the required trash container enclosure.
38. To the fullest extent permitted by law, the Applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Snug**

Harbor Surf Park including, but not limited to, PA2024-0069. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the Applicant, City, and/or the parties initiating or bringing the such proceeding. The Applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages that which City incurs in enforcing the indemnification provisions outlined in this condition. The Applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

Fire Department

39. *Fire department access shall comply with the 2022 California Fire Code ("CFC"), NBMC, and NBFD Guidelines C.01, C.02, C.03, and C.04.*
40. *Fire access lanes shall clearly be identified on the plans. Fire access lanes cannot be impeded by loading zones or other obstructions that would delay service response times.*
41. *The number and placement of fire hydrants shall comply with the CFC and Newport Beach Fire Department ("NBFD") Guideline B.01.*
42. *Structures shall be protected with an automatic fire sprinkler designed to the National Fire Protection Association ("NFPA") 13 standard.*
43. *The amenity clubhouse and any structures where the highest story floor level is located greater than 30 feet above the lowest level of fire department vehicles access shall have standpipes installed and designed to the NFPA 14 standard.*
44. *Fire alarm systems and smoke alarms shall be installed in R-1 occupancies. An automatic smoke detection system that activates the occupant notification system shall be installed throughout all interior corridors serving sleeping units.*
45. *Single- and multiple station smoke alarms shall be installed in accordance with Section 907.2.11 of the CFC*
46. *Emergency response communication system shall be installed throughout in accordance with the CFC and NBFD Guideline D.05.*
47. *Building shall be addressed in accordance with the NBMC.*
48. *At least one elevator shall be gurney sized and meet the requirements of the California Building Code ("CBC") 3002.4a.*

49. *Standby power shall be provided for elevators and platform life as required by Sections 604.3, 1009.4.1, and 1009.5 of the CBC.*
50. *Emergency power outlets shall be provided and installed according to NBMC 9.04.330.*
51. *A Type 1 hood shall be provided for the kitchen.*
52. *A fixed suppression system shall be installed and designed to NFPA 17A for cooking operations.*
53. *CO2 beverage dispensing exceeding 100 lbs. shall meet the requirements of the 2022 California Fire Code section 5307.3 for ventilation or gas detection.*
54. *A chemical inventory with storage locations shall be provided to the NBFD during plan check. The maximum allowable quantities of chemicals and the amount in use and storage will dictate the design of the chemical storage area, fire protections systems, and other fire and life safety requirements.*
55. *Knox boxes shall be provided and identified on the plans at all locations that would require fire department access.*
56. *Gates shall be provided with a knox gate switch and either an Opticom or Click2Enter system.*
57. *Occupant load and egress analysis for all assembly spaces shall be required during plan check.*

Building Division

58. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the approval of rough inspection.
59. The Applicant shall employ the following best available control measures to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave, apply dust control measures, or apply water four times daily to all unpaved parking or staging areas.

- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt, or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off-road equipment.
- Limit allowable idling to 5 minutes for trucks and heavy equipment.

Off-Site Impacts

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

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10% soil moisture content in the top 6-inch surface layer, subject to review/discretion of the geotechnical engineer.

60. Prior to the issuance of a grading permit, a Storm Water Pollution Prevention Plan ("SWPPP") and Notice of Intent ("NOI") to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project Applicant will provide the city with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.
61. Prior to the issuance of a grading permit, the Applicant shall prepare and submit a Water Quality Management Plan ("WQMP") for the Project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices ("BMPs") to ensure that no violations of water quality standards or waste discharge requirements occur.
62. A list of "good housekeeping" practices will be incorporated into the long-term post-construction operation of the Property to minimize the likelihood that pollutants will be used, stored, or spilled on the Property that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or

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

63. *Allowable building area, height, and story shall comply with Chapter 5 of CBC.*
64. *Orange County Health approval is required. The required number of shower and plumbing fixtures shall also comply with OC Health requirements.*
65. *Egress balcony shall comply with 1021 of CBC.*
66. *Exit access stairways shall comply with 1019 of CBC.*
67. *Exits shall comply with accessible means of egress per 1009 of CBC.*
68. *Emergency Escape Rescue for sleeping rooms shall comply with 1031 of CBC.*
69. *Assembly area shall comply with 1030 of CBC.*
70. *Occupancy load for spaces with 1 exit limited to 49. Spaces with one exit shall comply with Table 1006.2.1, Table 1006.3.4(1) & Table 1006.3.4(2) of CBC.*
71. *Required number of plumbing fixtures shall comply California Plumbing Code ("CPC) Table 422.1*
72. *Accessible path of travel is required from parking areas and public right of way. An accessible route to each pool and surf lagoon is required.*
73. *Exterior wall and opening protection between building and to property line shall comply with 705 of CBC.*
74. *Fire and sound separation at each sleeping room shall comply with 420.2 of CBC.*
75. *Circulation path shall be physically separated to the vehicular way. Show required detectable warning on plans 11B-250.1*
76. *A minimum of 5% or at least one of each type of seating area shall be accessible.*
77. *Required number of accessible restrooms for multiusers shall comply with 11B-213.2 of CBC.*
78. *Transient lodging shall comply with 11B-224 of CBC.*

79. *An accessible route to the second story of the visitor accommodations building is required. 11B-206.2.3 Exception 1.2 may apply if Applicant demonstrates during plan check that rooms on second level provide same experience as first level.*
80. *Design foundation for liquefaction mitigation pursuant to policy: <https://www.newportbeachca.gov/home/showpublisheddocument/2929/635682493202100000>*
81. *Bicycle parking shall comply with 5.106.4 of Cal Green.*
82. *EV Capable, EVSE and EV accessible parking shall comply with table 5.106.5.3.1 of Cal Green and Table 11B-228.3.2.1 of the CBC. Note that regular accessible parking shall be separated from EV accessible parking.*
83. *Top of adjacent slope and setback shall comply with 1808.7.3 of the CBC.*
84. *Property is located within a flood zone. If any building is proposed within the flood map, it shall comply with flood zone A finish floor requirements.*

Public Works Department

85. *Prior to the issuance of a building permit, a final Construction Management Plan shall be reviewed and approved by the Community Development Director and City Traffic Engineer.*
86. *Prior to the issuance of a building permit, a final hydrology report and storm drain plan shall be reviewed and approved by the City.*
87. *The Applicant shall reconstruct curb, gutter, and sidewalk per City standard along the Irvine Avenue and Mesa Drive frontages. The extent of reconstruction shall be determined by the Public Works inspector.*
88. *The proposed driveway along Mesa Drive shall be a right-turn in and right-turn out driveway. Final design of the driveway will be reviewed and approved as part of the plan check process.*
89. *The driveway along the Irvine Avenue frontage shall be a right-turn in, left-turn in, and right-turn out only driveway. Final design of the driveway will be reviewed and approved as part of the plan check process.*
90. *The Applicant shall install a new minimum 12-inch water main (final size of main to be determined during building plan check) connecting to the existing 24-inch water main within the Irvine Avenue right of way. Final design of the new water main and associated water services shall be reviewed and approved as part of the*

plan check process. Construction of the new water main and services shall be completed by a City approved contractor.

91. *The existing 6-inch water line shall be abandoned as part of the project.*
92. *Sewer service for the project site is provided by Costa Mesa Sanitary District ("CMSD"). Final CMSD approved sewer plans shall be included in the building plan check set.*
93. *A final parking management plan ("PMP") shall be reviewed and approved by the City prior to building permit issuance. The final PMP shall include planned valet operation and gate operation. The gated entry shall be accompanied by a dedicated turn around area prior to the gates. The Applicant shall prohibit vehicles from stacking within the public right of way.*
94. *The parking layout shall comply with City Standard 805. All dead-end drive aisles shall be accompanied by a designated turn around area and 5-foot minimum drive aisle extensions to accommodate vehicle turn around.*
95. *The driveways along Irvine Avenue and Mesa Drive shall be constructed per City Standard 161.*
96. *A minimum 4-foot-wide easement for sidewalk and pedestrian purposes shall be provided across the driveway.*
97. *Final design for any modifications to the Irvine Avenue driveway shall be reviewed and approved during Building plan check.*
98. *Driveways shall be designed to provide adequate sight distance per City Standard 105. Walls within the limited use area shall be limited to 30" in height and landscaping shall have a maximum growth characteristic of 24" in height.*
99. *Vehicles entering and exiting the project site driveways at the Mesa Drive and Irvine Avenue shall be prohibited from queuing into the public right-of-way and impacting the adjacent public sidewalk and streets.*
100. *All loading areas and service turnaround areas shall be located outside the required widths of the adjacent drive aisles.*
101. *The average number of vehicles for the project shall comply with the estimates from the approved Trip Generation Assessment and Parking Demand Assessment reports*
102. *Prior to the issuance of a building permit, County Sanitation District fees shall be paid.*

103. *Internal source separation must be considered for the facility, specifically for the restaurant/bar area and athlete accommodations. External three-container system are required and containers must fit within enclosure requirements listed in NBMC 20.30.120 (Solid Waste and Recyclable Materials).*
104. *Nineteen (19) offsite Brisbane box trees shall be planted at 30-foot on center spacing consistent with the proposed landscape plan and direction from Public Works Municipal Operations staff.*
105. *An air gap shall be included in the design. Air-gap separation" or "AG" means a physical vertical separation of at least 2 times the effective pipe diameter between the free-flowing discharge end of a potable water supply pipeline and the flood level of an open or non-pressurized receiving vessel, and in no case less than 1 inch.*

Police Department

106. *The Applicant shall comply with all federal, state, and local laws, and all conditions of the Type 47 (On-Sale General) Alcoholic Beverage License and any additional licenses. Material violation of any of those laws or conditions in connection with the use is a violation and may be cause for revocation of the use permit.*
107. *Alcohol service shall end no later than 11 p.m., daily unless approved under separate permit by the City of Newport Beach.*
108. *Food service must be available at all times that alcoholic beverages are being served or consumed on the premises.*
109. *There shall be no reduced priced alcoholic beverage promotions after 9 p.m.*
110. *No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.*
111. *There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.*
112. *The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined in Chapter 10.26 (Community Noise Control) of the NBMC, and other applicable noise control requirements, are not exceeded.*

113. *The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris, and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.*
114. *No alcoholic beverages shall be consumed on any property adjacent to the licensed premises and under the control of the licensee.*
115. *Petitioner(s) shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.*
116. *Any event or activity staged by an outside promoter or entity where the Applicant, operator, owner, his employees, or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.*
117. *All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training program must be updated every three years regardless of certificate expiration date. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City.*
118. *No person under the age of 21 shall sell or deliver alcoholic beverages, except as allowed by the Department of Alcoholic Beverage Control.*
119. *The sale of alcoholic beverages for consumption off the premises is prohibited.*
120. *Unsold alcoholic beverages in the park shall not be served or delivered to customers by individual ambulatory vendors, more commonly known as "hawkers".*
121. *No alcoholic beverages shall be permitted to be brought onto the licensed area by the public, nor shall any alcoholic beverages be permitted to be removed from the licensed area by the public.*
122. *All alcoholic beverages that will be sold or consumed within the lagoon and pool areas shall be served in containers which are distinctive in design and color, easily*

distinguishable from any other containers used in the service of beverages. All containers shall be non-glass, shatterproof containers.

123. *Alcoholic beverages shall be dispensed, sold and served in containers no larger than sixteen (16) ounces.*
124. *Petitioner(s) shall furnish keys, pass cards, or entry frequencies to the Newport Beach Police Department.*
125. *The Applicant shall maintain a security recording system with a 30-day retention and make those recordings available to police upon request.*
126. *Management shall maintain an operational log of daily activities related to the sale and service of alcoholic beverages, as well as any additional security actions. Management shall make this log available to the Police Department upon request.*

Special Events

127. *Special Event Level Defined. Level 1, 2, and 3 special events shall be defined as follows:*

"Level 1 Special Event" shall mean any event:

- a. With a duration of no more than one (1) day;*
- b. With an attendance of less than one thousand (1,000) persons;*
- c. Involves no public road or travel lane closures or detours;*
- d. Requires no traffic control, as determined by the City Traffic Engineer or the Police Department; and*
- e. Does not require the presence of City personnel, as determined by the Code Enforcement Supervisor or the Police Department.*

"Level 2 Special Event" shall mean any event:

- a. With a duration of up to four (4) consecutive days, including setup and breakdown; or*
- b. With an attendance of one thousand (1,000) to five thousand (5,000) persons over the course of the special event; or*
- c. Involves no public road or travel lane closures or detours;*
- d. Requires no traffic control, as determined by the City Traffic Engineer or the Police Department; and*
- e. Does not require the presence of City personnel, as determined by the Code Enforcement Supervisor or the Police Department.*
- f. If more than 2,500 people are anticipated on any one day, an off-site parking agreement shall be supplied to the City at least ten (10) days prior to the event. The off-site parking agreement shall include the following information:*
 - i. Anticipated daily parking demand*
 - ii. Location of off-site parking*

- iii. Number of off-site parking spaces available for special event use
- iv. Plan to convey attendees to site (e.g., shuttle bus or walking path).

"Level 3 Special Event" shall mean any event:

- a. any event lasting longer than, or with greater attendance than that defined above; or
- b. any event requiring public road, travel lane closures or detours, or traffic control; or
- c. any event requiring the presence of City personnel

- 128. The Project shall be allowed to conduct twelve permitted special events each year:
- 129. No Permit Required for Level 1 Special Events. Level 1 special events authorized by, and in compliance with the conditions of, this Conditional Use Permit shall be exempt from the permit requirements of Chapter 11.03 of the NBMC, or any successor statute.
- 130. A Special Event Permit shall be required for Level 2 and 3 events.
- 131. Advance Notice of Level 2 and Level 3 Special Events Requiring Off-Site Parking. The applicant shall notify the Community Development Department of all Level 2 and Level 3 special events authorized a minimum of 14 days prior to the special event. The off-site parking agreement shall be provided to the City Traffic Engineer for review and approval.
- 132. Quarterly Special Event Monitoring Report. The applicant shall submit a quarterly report of all Level 1 and 2 special events conducted on the project site to the Community Development Department to monitor the number of special events and verify compliance with the conditions of this permit. The report shall be submitted on or before the 15th day of the quarter in a form approved by the Community Development Department, which shall include the following information:
 - a. The special event title;
 - b. A general description of the special event;
 - c. The date, start time and duration of the special event.
 - d. The estimated daily attendance; and
 - e. A description of any sound amplification equipment outside of daily operations.
- 133. Hours of Operation for Level 1 Special Events. The use of amplified sound beyond typical operational characteristics shall not begin before 7:00 a.m. on weekdays or before 8:00 a.m. on weekends and federal holidays. The use of amplified sound beyond typical operational characteristics shall cease at the following times:

| Dates | Latest Amplified Sound End Time* | Latest Special Event End Time* |
|--|---|---------------------------------------|
| <i>Sunday through Thursday, except on NMUSD holidays and during NMUSD recesses**</i> | 10p.m. | |
| <i>Weekdays and Weekends on NMUSD holidays and during NMUSD recesses**</i> | 10 p.m. | |
| <i>Independence Day (July 4)</i> | 11 p.m. | 12:00 a.m. |
| <i>New Year's Eve (December 31)</i> | 12:30 a.m. on New Year's Day | 1:15 a.m. on New Year's Day |

** The special event end time shall mean the time when the special event activities have ceased, and all attendees have exited the site. The special event end time does not include post-event clean-up and breakdown.*

*** Newport Mesa Unified School District (NMUSD) holidays and recesses shall be determined by the current official calendar approved by the NMUSD Board of Education.*

134. *Any special event involving the use of amplified sound outside of time limits prescribed above shall require a Special Event Permit in accordance with Chapter 11.03 (Special Events) of the NBMC.*
135. *Sound Level Monitoring and Mitigation. The use of amplified sound shall comply with the Environmental Impact Report (SCH No. 2024110238), hereby incorporated by reference, to ensure that sound generated by the project site does not exceed the noise standards of Chapter 10.26 (Community Noise Control) of the NBMC.*
136. *City Monitoring. A City sound monitor shall be required at all special events involving amplified sound beyond typical operational characteristics, unless waived by the Community Development Director.*
137. *Professional Sound Monitoring and Reporting Services. The applicant shall enter into an agreement with City to reimburse the City for costs and expenses of providing professional sound monitoring and reporting services for special events involving the use of amplified sound beyond typical operational characteristics, if City Monitoring is deemed necessary. The form of the agreement shall be determined by the City Attorney's office.*
138. *Insurance. The applicant shall provide general liability insurance at the minimum amount required by City policy naming the City of Newport Beach as additionally insured.*
139. *Licenses. The applicant shall complete the Special Events Temporary Business License Application and collect the apportioned business license from each*

vendor, exhibitor or other service provider and remit the payments to the City prior to the special event date.

140. Permits and Inspections.

- a. The applicant shall obtain any applicable City permits and inspections for the installation of temporary structures, stands, platforms, stages and stage lighting rigs over thirty (30) inches in height from grade, all tents and temporary membrane structures having an area in excess of four hundred (400) square feet, and the use and storage of portable liquefied petroleum gas containers.
- b. The applicant shall provide plans, details and specifications with calculations, to the Building Division for plan review and approval, at least thirty (30) days prior to the special event. Such plans shall be stamped and signed by a licensed engineer in the State of California. The following note shall be provided on the plans: "Engineer shall perform site observations during the construction and shall provide a letter to the City building inspector stating the temporary buildings, stands, platforms, stages and stage lighting rigs are installed per code and satisfactory to be used for their intended purpose."
- c. The applicant shall allow City officials access for inspections in order to determine compliance with City codes, any approved permit and/or any conditions of approval.
- d. The applicant shall comply with all lawful orders and requirements of the principal building inspector.

141. Outside Agencies.

- a. Any food service to comply with Orange County Health Department requirements.
- b. Any alcoholic beverage service shall comply with Alcoholic Beverage Control requirements.

142. Special events shall comply with Chapter 6.06 (State Mandated Municipal Solid Waste Diversion) of the NBMC.

143. Permittee shall submit a plan to reduce waste, consistent with State law, to the Municipal Operations Department at least two weeks prior to the start of a permitted special event. The plan should address all types of waste materials generated.

144. *During Level 2 and 3 special events, no spectator areas shall be located within John Wayne Airport Safety Zone 2.*

EXHIBIT "C"

FINDINGS AND FACTS IN SUPPORT OF FINDINGS

Major Site Development Review

In accordance with Section 20.52.080(F) (Site Development Reviews – Findings and Decisions) of the NBMC, the findings and facts in support of such findings are set forth as follows:

Finding:

A. *The proposed development is allowed within the subject Zoning District.*

Facts in Support of Finding:

1. The Property is located within the Santa Ana Heights Specific Plan (SP-7), Open Space and Recreation (OSR) District. The SP-7/OSR District allows for local and buffer greenbelts by right, public and private utility buildings and structures subject to the approval of a minor use permit, and golf courses and commercial recreation subject to the approval of a CUP.
2. The purpose and intent of the SP-7/OSR District is to ensure the long-term use and viability of the Golf Course. The Project is not designed to replace the entirety of the Golf Course's operations, rather it includes components that will continue to support golf operations on the northern and southern portions. It will further introduce additional revenue generating activities and ancillary uses helping to ensure the future viability of the Golf Course.

Finding:

- B. *The proposed development is in compliance with all of the following applicable criteria:*
- i. *Compliance with this section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;*
 - ii. *The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design;*
 - iii. *The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*

- iv. *The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
- v. *The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
- vi. *The protection of significant views from public right(s)-of-way and compliance with NBMC Section 20.30.100 (Public View Protection).*

Facts in Support of Finding:

1. All Facts in Support of Finding A are hereby incorporated by reference.
2. The Property is categorized as Parks and Recreation (PR) by the Land Use Element of the General Plan. The proposed commercial recreational use is consistent with uses contemplated by the PR category, including private recreation.
3. The Project requires a GPA to increase the maximum development limit identified in Table LU2 as Anomaly Number 58; however, the underlying land use category of PR will remain. The Project is consistent with the General Plan as proposed to be amended.
4. The Project is in furtherance of several General Plan Goals and consistent with many General Plan Policies, as detailed in Resolution No. 2025-72, Exhibit "C", which is hereby incorporated by reference.
5. The Property is located within the Santa Ana Heights Specific Plan (SP-7), Open Space and Recreation (OSR) District. The SP-7/OSR District allows for local and buffer greenbelts by right, public and private utility buildings and structures subject to the approval of a minor use permit, and golf courses and commercial recreation subject to the approval of a CUP.
6. Subsection 20.90.050(E) (Site Development Standards) of the NBMC establishes minimum development standards for the Property, including setbacks and height. The SP-7/OSR District requires a minimum building setback of 20 feet from all property lines and establishes a maximum building height of 18 feet, unless otherwise provided for by use permit. The Project complies with the required building setback and is proposing a maximum building height of 50 feet above the existing grade for the amenity clubhouse and 40 feet above the existing grade for the visitor accommodations building.
7. The Project includes the removal of existing improvements on the Property and developing a surf park. The surfing lagoon would be divided into two, 5.1-million-gallon basins that would be hydrologically separated by wave making equipment, forming a

heart-shape lagoon up to 13 feet deep. The lagoon would be heated and surrounded by viewing platforms, seating, three warming pools and one spa ranging in size from 640 to 1,600 square feet, nine outdoor showers, restrooms, and lighting. The surf lagoon will be lighted for evening use by 71-foot-high light poles that would be located adjacent to the lagoon with lights focused down onto the surf lagoon. Additional mechanical equipment, such as the lagoon heating equipment, would have a height of approximately 15 feet and would be located northeast of the surf lagoon.

8. Ancillary uses include a three-story, 50-foot-tall, 50,341-square-foot amenity clubhouse building and a two-story, 40-foot-tall, 9,432-square-foot athlete accommodation building with 20 overnight rooms. The basement level of the clubhouse would provide staff areas, mechanical equipment, golf cart storage, surfboard storage, and storage space. The first floor of the clubhouse would contain a reception area as well as a surf academy area, changing rooms, storage lockers, and a surf themed retail store. There would also be a sit-down restaurant with a full-service bar in addition to a quick food service coffee bar/snack shack. The second floor would have a fitness facility, locker room, spa, and yoga room. The third floor would contain administrative offices, an operations center, and day use cabanas. Both the second and third floors would have a deck along the entire eastern frontage of the building, providing views of the surf lagoon. The athlete accommodation building would provide 20 overnight units, 10 on each floor.
9. To support the amenities, the Project includes freestanding restroom buildings throughout the Property.
10. The Project will have alcohol service within the amenity clubhouse and throughout the grounds of the surfing lagoon through a Type 47 (On-Sale General - Eating Place) Alcohol Beverage Control license ("ABC License"), a Type 58 (Caterer) ABC License, and a Type 68 (Portable Bar) ABC License.
11. The Project is proposed to be served by 351 parking spaces within two surface lots that are partially covered by 14-foot- to 18-foot-high solar canopies. These canopies, in conjunction with solar panels atop the surf park buildings, will provide onsite renewable energy to help offset the energy required to power its operations. The Project proposes 143,844 square feet of drought tolerant ornamental landscaping and would provide 235,650 square feet of open space.
12. Table 3-10 (Off-Street Parking Requirements) of Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC provides that the number of parking spaces required for a commercial recreation use shall be established by use permit. The July 14, 2025, Gibson Transportation Consulting, Inc. Parking Demand Analysis ("Parking Analysis") analyzed the Project and projected a maximum parking demand of 324 spaces. The estimated demand includes spaces to accommodate the golfing operations to be retained. The Parking Analysis has been reviewed and accepted by the City Traffic Engineer and supports the finding that 351 total spaces are adequate

to support the surf park and remaining golf course operations. While not relied upon in the Parking Analysis to establish parking demand, long-term bicycle parking will be provided onsite to support any guests arriving via the bike lanes on Irvine Avenue. Condition of Approval no. 10 requires a minimum of 324 spaces be permanently available and Condition of Approval no. 81 ensures bicycle parking is provided.

13. While the Project does not rely on valet parking to establish or satisfy parking requirements, Condition of Approval No. 93 requires a final parking management plan be reviewed and approved by the City to ensure voluntary valet operations and internal gate operations can be fully accommodated onsite and in accordance with city standards.
14. The portions of the golf course to the north of Irvine Avenue (holes 10-18) and south of Mesa Drive (holes 3-8) will remain. The existing golf cart path of travel between holes 3-8 and holes 10-18 will also remain. The Project will provide parking for the golf course, a starter shack for the golf course, and golf cart storage in the basement level of the amenity clubhouse.
15. The Project has been designed and sited efficiently with structures arranged on the Property to promote a harmonious relationship with onsite structures and to other adjacent developments. Curved buildings mirror the geometry of the surfing lagoon, reinforcing a unified and organic site layout. The amenity clubhouse is sited to shield noise and light from reaching the apartment complex located across Irvine Avenue.
16. A consistent architectural language across all structures, through shared materials, forms, and scale, ensures a cohesive identity.
17. The existing visual character of the area surrounding the properties are a mix of uses with no consistent architectural or visual theme. With implementation of the Project, the Property would change to provide a more urban and developed character compared to the existing condition. However, the bulk, scale, and aesthetic treatment are compatible with the adjacent commercial developments and public areas.
18. The Project is designed with adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces. The proposed driveway along Mesa Drive shall be a right-turn in and right-turn out driveway with the driveway along the Irvine Avenue frontage which shall be a right-turn in, left-turn in, and right-turn out only driveway. Queuing into the public right-of-way, which would impact the adjacent public sidewalk and streets, is prohibited.
19. The Project is designed with adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials.
20. The Project is designed to protect significant views from public rights-of-way and compliance with Section 20.30.100 (Public View Protection) of the NBMC. All

development within the Property would be set back from adjacent streets and would not encroach on existing public views along the roadway corridors adjacent to the site. The closest designated public viewpoint is approximately 0.3-mile southwest of the Property, along Irvine Avenue and south of University Drive. The viewpoint provides views of the Upper Newport Bay Preserve. Bayview Park, adjacent to Upper Newport Bay Preserve, is also designated as a public viewpoint. The Site is located northwest of these points not within the coastal scenic viewshed from either of these viewpoints. Therefore, the Project does not have the potential to obstruct public viewpoints or corridors, as identified on General Plan Figure NR 3 (Coastal Views).

Finding:

- C. *Not detrimental to the harmonious and orderly growth of the City, nor will it endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of person residing or working in the neighborhood of the proposed development.*

Facts in Support of Finding:

1. The Project will provide a new recreational opportunity, consistent with the General Plan and the Santa Ana Heights Specific Plan, in an area developed with existing recreation, commercial, office, and residential uses. The Project will reduce the number of holes, and the driving range will be removed; however, the Project will support the remaining golf course holes to the north and south of the Property by providing a starter shack, golf course parking, and golf cart storage.
2. The Project has been reviewed by all relevant City Divisions and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator of the Project is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the property and adjacent properties during business hours, if directly related to the patrons of the establishment.
3. The Project has been reviewed by the Newport Beach Police Department ("NBPD"). The NBPD does not object to the Project, subject to appropriate conditions of approval which have all been incorporated into Exhibit "B," which is attached hereto and incorporated herein by reference. Additionally, the Facts in Support of Finding I for Alcohol Sales below are hereby incorporated by reference.
4. To minimize disruptions to persons residing or working in the neighborhood, Condition of Approval No. 85 requires a final Construction Management Plan ("CMP") be reviewed and approved by the Community Development Director and City Traffic Engineer prior to building permit issuance.

5. The Project will incorporate green building measures, such as water efficiency, Low Impact Development ("LID"), and renewable energy sources to reduce energy demands and GHG emissions.
6. The Property is located approximately 0.4 miles from John Wayne Airport ("SNA") and within the SNA Airport Environs Land Use Plan ("AELUP"). The Property is trisected by Zones 2 (Inner Approach/Departure), Zone 4 (Outer Approach/Departure), and Zone 6 (Traffic Pattern Zone). The Project will comply with AELUP aviation, safety, aircraft noise, airspace protection and overflight criteria. The Project complies with the people per acre intensity limits of uses allowed within the AELUP and Caltrans Handbook Safety Zones 2, 4 and 6. The clubhouse and athlete accommodation buildings will have a maximum height of 50 feet ("92 feet AMSL") and 43 feet ("83 feet AMSL") and will not exceed the 14 CFR Part 77 construction notification imaginary surfaces over the Property.

Conditional Use Permit

In accordance with Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits) and Section 20.40.110 (Adjustments to Off-Street Parking Requirements) of the NBMC, the following findings and facts in support of the findings are set forth:

Finding:

D. The use is consistent with the General Plan and any applicable specific plan.

Fact in Support of Finding:

1. Facts 2 through 4 in Support of Finding B are hereby incorporated by reference.

Finding:

E. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.

Facts in Support of Finding:

1. All Facts in Support of Finding A are hereby incorporated by reference.
2. Facts 5 through 13 in Support of Finding B are hereby incorporated by reference.
3. Section 20.90.050(E)(2) of the NBMC establishes a maximum building height limit of 18 feet, unless otherwise permitted through an approved use permit. The Project proposes a 50-foot-tall amenity clubhouse and a 40-foot-tall athlete accommodation building. All other freestanding structures will comply with the 18-foot height limit. Potential impacts from the increased building heights are mitigated by the significant

distance between the proposed buildings and the adjacent public rights-of-way. On the west side of the Property, the Project is separated from Irvine Avenue by the Delhi Channel, which creates a visual buffer and reduces any perceived scale difference between the buildings and the public right-of-way. Although the southern edge of the Property along Mesa Drive does not benefit from this buffer, the tallest building, the 50-foot-tall amenity clubhouse, is set back at least 100 feet from the Mesa Drive public right-of-way. These generous setbacks create large open areas and help reduce any perceived height of the structures from public viewpoints. While the 40-foot-tall athlete accommodation building is not set back as far as the clubhouse, it is still set back 30 feet from Mesa Drive, exceeding the minimum setback required by code.

4. Architectural and structural elements on the amenity clubhouse and athlete accommodations building are thoughtfully designed for compatibility and visual interest, using natural materials, varied rooflines, recessed walls, and layered façades, while ensuring that building heights do not exceed surrounding tall elements like existing 80-foot net poles.
5. None of the proposed improvements will be taller than the existing poles at the driving range. The existing driving range is surrounded by approximately 40 net poles that range in height from 25 to 80 feet, depending on location. The poles and netting separating the driving range from the buildings to the east are approximately 80 feet tall while the poles and netting separating the driving range from the golf course on the west are approximately 50 feet tall and the poles and netting separating the driving range from Mesa Drive to the south are between 62 and 65 feet tall. Some of the poles are wood (telephone pole-like) while others are pipes.
6. Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC requires a Traffic Impact Analysis ("TIA") be prepared if a project generates greater than 300 new average daily trips ("ADT"). Due to the unique nature of the Project, a trip generation analysis was prepared by Gibson Transportation Consulting, Inc ("Gibson"), dated March 4, 2025. Gibson based the trip generation rate for the Project on the projected attendance and associated vehicular demand projections for a high season weekday scenario. Furthermore, the new net trip generation estimates reflect both the reduction of trips associated with the significant portions of existing golf facility being replaced and the addition of trips associated with the portions of the golf course to be retained. The Project is anticipated to generate 186 new ADT with a net reduction of 73 AM peak hour trips and a net reduction of 10 PM peak hour trips. The total number of new trips is below the 300-ADT threshold; therefore, the Project does not require a TIA.

Finding:

- F. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The Property is currently developed with a 38-bay, partially covered, synthetic turf driving range, 1,050-square-foot putting green, and one-story 8,975-square-foot clubhouse building. The existing clubhouse includes a pro shop and restaurant that seats 233 people, a surface parking lot with 280 parking spaces, and three holes of the existing Golf Course (holes 1, 2, and 9).
2. The proposed hours of operation for the surf lagoon are from 6 a.m. to 11 p.m., 7 days a week. The Project hours are extended slightly beyond the current allowable hours of operation for the existing golf course, which are from 7 a.m. to 10 p.m., daily, pursuant to UP1594. However, the proposed hours are not considered late hours pursuant to Chapter 20.70 (Definitions), which defines late hours as facilities that provide service after 11 p.m., any day of the week. By not proposing late hours, the Project is compatible with the allowed uses within the vicinity.
3. Condition of Approval No. 31 requires the outdoor speakers to cease operation by 10 p.m.
4. The surfing lagoon would operate on a reservation basis with the maximum number of participants at one time limited to 72 people. The average number of hourly users is expected at 35-45 people.
5. The Project would employ approximately 70 full-time and part-time employees with an average of approximately 35 employees onsite at any given time. All employees will be required to park onsite.
6. The facility is anticipated to host approximately 12 surf events/competitions per year. The special events would be ticketed events, similar in scale to other local sporting events. Conditions of Approval Nos. 127 through 143 are included to regulate the number of events, number of attendees, and hours of events.
7. The Project is compatible with the surrounding land uses, which include a mix of commercial, recreational, civic, and residential developments. Beginning to the north of the Property and moving clockwise, adjacent uses include "The Jetty" commercial center, holes 10-18 of the golf course, multi-tenant office buildings, Newport Beach Fire Station No. 7, holes 3-8 of the golf course, "The Ranch" retail shopping center, and multi-family residential housing. Additionally, the Santa Ana-Delhi Channel runs from the northwest to the southwest between the Property and Irvine Avenue, providing a natural buffer and visual separation from adjacent uses.
8. The Project has been designed to be harmonious with persons residing or working in the neighborhood by designing the clubhouse in a location that will shield noise from the multifamily residential located across Irvine Avenue, extensive landscaping onsite

and at the perimeter of the Property, providing sufficient parking and circulation, and roadway improvements.

Finding:

- G. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. Subsection E of 20.90.050 (Open Space and Recreation District) of the NBMC establishes minimum site development standards. It provides a one-acre minimum building site area, a maximum building height of 18 feet unless otherwise provided for by an approved use permit, a 20-foot minimum building setback from all property lines, and requires lighting be designed and located so that direct light rays are confined to the premises. It further states that parking shall comply with Chapter 20.40 (Off-Street Parking) of the NBMC. As designed and proposed, the Project is consistent with the development standards with exception of the requested modification for retaining wall height, discussed under the "Modification Permit" section below.
2. The Property is approximately 15 acres in area and exceeds the one-acre site minimum. The Project meets the minimum 20-foot setback from all property lines.
3. The Property will provide public and emergency vehicle access from a 26-foot-wide driveway along Irvine Avenue in the general location of the existing driveway. The Irvine Avenue access will allow turning in from both directions and only right-turn out. A second 26-foot-wide driveway will be located along Mesa Drive. The Mesa Drive access will only allow right-turn in and right-turn out.
4. The Project would upgrade the existing onsite 6-inch domestic water line to a 12-inch water line. Installation would occur within the Property and the public right-of-way, to connect to the existing 24-inch water line in Irvine Avenue. In addition, the Project would upgrade the existing onsite 6-inch sewer lateral that extends approximately 42.5 feet offsite to a 12-inch and connects to the sewer line in Mesa Drive.
5. A Water Demand Report dated December 2024, was prepared for the Project by Fuscoe Engineering. The Water Demand Report determined that the existing water infrastructure and fire flow is adequate to serve the Project and no new water facilities would be required. The Water Demand Report was reviewed and accepted by the Utilities Department Director.
6. A Sewer Analysis Report dated January 2025 was prepared for the Project by Fuscoe Engineering. The Sewer Analysis Report determined that under operational conditions, the flows from the Project would be within the capacity of the existing sewer

system. The Sewer Analysis Report was reviewed and accepted by the Utilities Department Director.

7. In addition to typical daily operational wastewater generating conditions, each of the basins would be drained every two years into the sewer system. Each year one of the basins would be drained; the timing of which would be coordinated with Costa Mesa Sanitary District ("CMSD") and approved by CMSD permitting.
8. The Property will be served by the Newport Beach Fire Department and the Newport Beach Police Department ("NBPD"). The Project would not significantly increase the need for public services in the Project area, in the cities surrounding the Property, or within the region, as fully demonstrated in the Public Services section of the DEIR.

Finding:

- H. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The architectural style of the Project is a contemporary interpretation of Southern California's surf and beach culture, expressed through low-profile forms and natural materials. The material palette includes horizontal wood siding, exposed mass timber, architectural concrete, dark bronze metal accents, and glass. The proposed color palette includes earth tones; driftwood browns, soft greys, sandy beige, and weathered whites. They are designed to blend into the environment and soften the built form against the natural backdrop.
2. All Facts in Support of Finding C are hereby incorporate by reference.

Alcohol Sales

In accordance with Section 20.48.030 (Alcohol Sales) of the NBMC, the Planning Commission shall consider the following findings prior to the approval of a new or amended alcohol sales establishment:

Finding

- I. *The use is consistent with the purpose and intent of NBMC Section 20.48.030 (Alcohol Sales).*

In finding that the Project is consistent with Section 20.48.030 (Alcohol Sales) of the NBMC, the following criteria must be considered:

i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City*

- a. The Property is in an area the NBPd designates as Reporting District ("RD") 33. RD 33 is irregularly shaped and encompasses the Santa Ana Heights neighborhood, portions of Upper Newport Bay, and extends north to the 73 freeway. RD 33 is abutted to the west by RD 31, to the south by RD 32, to the east by RD 36, and to the north by RD 34. RD 32 primarily encompasses the Upper Newport Bay and is not included in the comparison of crime rates.
- b. The NBPd is required to report offenses of Part One Crimes combined with all arrests for other crimes, both felonies, and misdemeanors (except traffic citations) to the California Department of Alcoholic Beverage Control ("ABC"). Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report: criminal homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson. RD 33 is not considered or reported to ABC as a higher crime area, as compared to other RDs within the city. The RD 33 crime count for 2024 is 110, which is 2% under the citywide average of 112 crimes per RD. The highest volume crime in RD 33 is theft/larceny.
- c. The NBPd has reviewed the Project and has no objection to the Project, subject to appropriate conditions of approval which have all been incorporated into Exhibit "B" of this Resolution. These conditions include provisions such as the requirement that all owners, managers, and employees selling alcoholic beverages shall undergo and complete a certified training program in responsible methods and skills for selling alcoholic beverages, all alcoholic beverages that will be sold or consumed in the lagoon and pool areas shall be served in containers which are distinctive in design and color, easily distinguishable from any other containers used in the service of beverages, and a prohibition of games or contests requiring or involving the consumption of alcoholic beverages.

ii. *The number of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*

- a. In 2024, RD 33 had a higher percentage of alcohol-related crimes than RD 31 and RD 36 but a lower percentage than RD 34. The higher number of alcohol-related crimes compared to RD 31 and RD 36 is expected, given that the crime figure includes driving under the influence, public intoxication, and liquor law violations. These alcohol-related crimes are typically associated with commercial establishments. RD 31 and RD 36 are primarily residential and are unlikely to have similar crime incidents. The difference in crime rate was not substantial enough to warrant objection from the NBPd.

iii. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors*

- a. There is an apartment complex less than 200 feet from the Property, across Irvine Avenue, two Montessori schools within a mile of the Property, and the nearest park, Mesa Birch Park, is approximately 670 feet east of the Property. The nearest church, OC Spiritual Center, is .7 miles to the north of the Property.

iv. *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*

- a. There are two active On-Sale ABC Licenses within the general vicinity of the Property: a Type 41 (On-Sale Beer and Wine - Eating Place) at Sgt. Pepperoni's Pizza and a Type 47 (On-Sale General - Eating Place) at Original Pizza. Sgt. Pepperoni's Pizza is located approximately 2,500 feet away from the Property. Original Pizza is located on the Property and will be removed as part of the Project.

- b. There are three active Off-Sale ABC Licenses within the general vicinity of the Property: two Type 20 (Off-Sale - Beer and Wine) and one Type 21 (Off-Sale - General).

| License Type | Address | Distance from the Property |
|----------------------------------|------------------|----------------------------|
| Type 20 (Off-Sale Beer and Wine) | 2121 Bristol St. | 1,300 feet |
| Type 20 (Off-Sale Beer and Wine) | 2100 Bristol St. | 1,550 feet |
| Type 21 (Off-Sale General) | 3530 Irvine Ave. | 1,200 feet |

- c. This location does not meet the legal criteria for undue concentration pertaining to crime (Business and Professions code section §23958.4) with a clear nexus to alcohol

v. *Whether or not the proposed amendment will resolve any current objectionable conditions.*

- a. There were 18 police dispatch events to the Property in 2024. None of the events resulted in arrests and there were no alcohol-related citations.

- b. There are no objectionable conditions presently occurring at the Property.

Modification Permit

In accordance with Section 20.52.050(E) (Modification Permits) of the NBMC, the following findings and facts in support of the findings are set forth:

Finding:

- J. *The requested modification will be compatible with existing development in the neighborhood;*

Facts in Support of Finding:

1. The Project includes multiple retaining walls to the south, west, and north of the surfing lagoon. The retaining walls range in height from 5.5 feet above finish grade to a maximum of 16.4 feet above finish grade. All retaining walls will have a 6-foot security fence above.
2. The general area surrounding the Property features undulating hills and pronounced changes in grade. Irvine Avenue slopes from a higher elevation north of the Property downward to the intersection of Irvine Avenue and Mesa Drive. Mesa Drive slopes downwards, toward Irvine Avenue. The intersection of Irvine Avenue and Mesa Drive is the low point in the area. There are existing retaining walls along portions of the perimeter of the Property, along Mesa Drive.
3. The Ranch commercial center, at the southwest corner of Irvine Avenue and Mesa Drive, is on an elevated building pad, approximately 17 feet higher than the sidewalk below. The apartment complex across Irvine Avenue is also constructed on an elevated building pad. The grade differential between the sidewalk and the building pad for the complex is substantial enough to require a staircase for accessing the Property.

Finding:

- K. *The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use;*

Facts in Support of Finding:

1. The high point of the Property occurs within the driving range, behind Fire Station No. 7. The Property slopes downward, toward the Santa Ana-Delhi Channel and Irvine Avenue beyond. There is an approximately 33-foot grade differential between the high point of the Property and the centerline of Irvine Avenue. The southern side of the Property is higher than the northern side.
2. The existing slope differential creates a physical hardship for maintaining adequate separation from the Santa Ana-Delhi channel and the Project. The height of the retaining wall extends for approximately 662 feet along Irvine Avenue and 70 feet along Mesa Drive. While that exceeds the maximum height, the remaining approximately 284 feet of the retaining wall along Irvine Avenue will not exceed the maximum height.

Finding:

- L. *The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code;*

Facts in Support of Finding:

1. The civil plans prepared for the Project are designed consistent with the recommendations of the Geotechnical Report prepared by Carl Kim Geotechnical, Inc., dated July 2024, including the proposed heights of the retaining walls.
2. The intent of the NBMC to limit the height of retaining walls when measured from finish grade is to prevent tall walls that are visible from public rights-of-way and neighboring properties. The tallest retaining wall near Irvine Avenue is located behind the Santa Ana-Delhi Channel, setback 17 feet from the property line and over 140 feet from the center line of Irvine Avenue.
3. Visible portions of retaining walls would be screened with landscaping, which would shield the mass and soften the view.

Finding:

- M. *There are no alternatives to the modification permit that could provide similar benefits to the Applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public;*

Facts in Support of Finding:

1. The surfing lagoon elevation and the finish floor of the buildings were designed with a goal of balancing the Property, avoiding the extra use of trucks for disposal or importing of soil, and maintaining access to the adjacent public streets.
2. The terracing of retaining consistent with Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the NBMC walls has been incorporated into the design where feasible. For example, at the high end of the property, two terraced walls with a maximum exposed height of 8-feet each are designed along the southeasterly property line.
3. Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the NBMC requires a minimum horizontal separation equal to the height of the tallest retaining wall be provided between retaining walls, except that the required separation shall not be more than 6 feet. Terracing for all retaining walls is not feasible as terraced retaining walls along the southern and western boundaries of the surfing lagoon would restrict the space available for the Project and would result in a reduced Project.

Finding:

- N. *The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code;*

Facts in Support of Finding:

1. The Property slopes toward the Delhi Channel. The retaining walls allow for back filling and leveling of an irregular site with varying topography, resulting in a level pad and sufficient depth for the surfing lagoon.
2. The Building Division has reviewed the Project and conditions of approval are included to ensure the Applicant is required to obtain all necessary permits and to demonstrate compliance with the California Building Code and other applicable codes.
3. Approval of any City permits, including this modification permit, does not relieve the Applicant of the legal requirement to observe, covenants, conditions, and restrictions that may be recorded against the property or to obtain community association approvals.

Attachment C

Resolution No. 2025-73

RESOLUTION NO. 2025- 73

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, CERTIFYING ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE SCH NUMBER 2024110238), INCLUDING A MITIGATION MONITORING AND REPORTING PROGRAM AND ADOPTING FINDINGS FOR THE SURF PARK PROJECT LOCATED AT 3100 IRVINE AVENUE (PA2024-0069)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), 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 City 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, an application was filed by CAA Planning, on behalf of Back Bay Barrels, LLC ("Applicant"), concerning property located at 3100 Irvine Avenue, and legally described in Exhibit "A," which is attached hereto and incorporated herein by reference ("Property");

WHEREAS, the Applicant is requesting to redevelop the central 15.38-acre parcel of the privately owned Newport Beach Golf Course by removing the existing driving range and putting green, pro-shop, restaurant and bar, and three holes of golf and replacing it with a new surf-focused outdoor commercial recreation use ("Project");

WHEREAS, the Project's site improvements include approximately five acres of surfing lagoons surrounded by viewing platforms, seating, pools, spa, restrooms, landscaping, clubhouse with amenities, athlete accommodation building with 20 overnight rooms, and two parking lots with 351 parking spaces;

WHEREAS, the Project will be constructed on approximately 79,533 square feet of area; however, 19,761 square feet will be excluded from the total development limit for the Property as incidental building areas which is consistent with Table LU1 (Land Use Plan Categories) of the City's General Plan ("General Plan") for properties categorized as Parks and Recreation;

WHEREAS, the following approvals are requested or required to implement the Project as proposed:

- General Plan Amendment ("GPA"): To increase the development limit from 20,000 square feet to 59,772 square feet for Anomaly Number 58, as identified in Table LU 2 of the Land Use Element of the General Plan;
- Major Site Development Review ("SDR"): To construct a nonresidential building larger than 20,000 square feet in area;
- Conditional Use Permit ("CUP"): To allow the operation of an outdoor commercial recreation use including a restaurant with alcohol sales, establish the appropriate parking rate, and allow the construction of buildings taller than 18 feet;
- Modification Permit: To allow for the construction of retaining walls taller than eight feet in height from finish grade; and
- Environmental Impact Report ("EIR"): To address reasonably foreseeable environmental impacts resulting from the legislative and project specific discretionary approvals;

WHEREAS, the Property is categorized as Parks and Recreation (PR) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan/Open Space and Recreation (SP-7/OSR) Zoning District;

WHEREAS, the Property is not located within the coastal zone, therefore, a coastal development permit is not required;

WHEREAS, pursuant to California Environmental Quality Act ("CEQA"), Public Resources Code Sections 21000 *et seq.*, Section 15000 *et seq.* as set forth in 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 Project could have a significant adverse effect on the environment, and thus warranted the preparation of an EIR;

WHEREAS, the City, as lead agency under CEQA ("Lead Agency"), issued a Notice of Preparation ("NOP") of the EIR on November 7, 2024, and mailed that NOP to responsible and trustee public agencies, organizations and persons likely to be interested in the potential impacts of the proposed project, including any persons who had previously requested notice in writing;

WHEREAS, the City held a public scoping meeting on November 20, 2024, to present the Project and to solicit input from interested individuals, organizations, and responsible and trustee public agencies regarding environmental issues that should be addressed in the EIR;

WHEREAS, pursuant to California Public Resources Code Section 21080.3.1 ("AB 52"), the City is required to consult with California Native American tribes that have requested in writing to be informed of projects in the geographic area that is traditionally and culturally affiliated with the tribe;

WHEREAS, pursuant to California Government Code Section 65352.3 ("SB 18"), 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, the City requested a Sacred Lands File ("SLF") search on the project location from the NAHC on May 31, 2024 in accordance with SB 18;

WHEREAS, on June 18, 2024, the NAHC identified 20 Native American tribal representatives to contact for further information on potential tribal resources;

WHEREAS, to comply with both the requirements of SB 18 and AB 52, the City mailed and emailed notices regarding the Project to all the listed tribes with the Gabrieleno Band of Mission Indians - Kizh Nation ("Kizh Nation") and Gabrielino Tongva Indians of California ("Gabrielino Tongva") requesting consultation;

WHEREAS, during the consultation process, the Kizh Nation requested to be the sole onsite monitor and asserted that the Gabrielino Tongva have no direct historical, ancestral, or cultural ties to Newport Beach;

WHEREAS, the Gabrielino Tongva tribe, however, provided the City with substantial evidence identifying that the Property is within their Ancestral Tribal Territory;

WHEREAS, furthermore, the Gabrielino Tongva tribe was identified by the NAHC through a SLF search establishing that the Property is within traditional lands or cultural places for the Gabrieleno Tongva; therefore, as the Lead Agency, the City incorporated mitigation measures into the Project allowing for tribal monitors from both tribes during ground disturbance activities to address potential concerns regarding the protection of Tribal Cultural Resources;

WHEREAS, a draft Environmental Impact Report ("Draft EIR") (State Clearinghouse No. 2024110238) was prepared in compliance with CEQA, State CEQA Guidelines, and City Council Policy K-3;

WHEREAS, the City determined that the Project would have no impact on Agriculture and Forestry Resources, Mineral Resources, Population and Housing, or Wildfire and no further detailed analysis of these topics was required in the Draft EIR;

WHEREAS, the Draft EIR analyzed the following CEQA topics in detail: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gases, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use, Noise, Public Services, Parks and Recreation, Transportation, Tribal Cultural Resources, and Utilities;

WHEREAS, a Notice of Availability of the Draft EIR was published on May 23, 2025, and the Draft EIR was circulated for a 45-day comment period ending on July 7, 2025;

WHEREAS, a study session was held on June 19, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California, to introduce the Project to the Planning Commission and the public, and to discuss the procedures for environmental review;

WHEREAS, the City reviewed all comments on the Draft EIR and provided written responses to comments;

WHEREAS, the Final Environmental Impact Report ("Final EIR"), consisting of the Draft EIR dated May 2025, written comments on the Draft EIR that were received during the public review period, written responses to those comments, changes to the Draft EIR, and the Mitigation Monitoring and Reporting Program ("MMRP") are attached as Exhibits "B," and "C," and incorporated herein by reference;

WHEREAS, the Final EIR includes mitigation measures related to biological resources, cultural resources, and tribal cultural resources to reduce any potentially significant adverse effects to a less than significant level;

WHEREAS, compliance with various plans, programs, and policies as identified in the MMRP, which is included in Exhibit "C," will attenuate potential impacts related to geology and soils, greenhouse gas emissions, hazards and hazardous materials, and hydrology and water quality;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the Project 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, the ALUC determined the Project to be inconsistent with the AELUP on August 7, 2025;

WHEREAS, a public hearing was held by the Planning Commission on September 4, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. 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"), and Chapter 20.62 (Public Hearings) of the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2025-018 by a unanimous vote (6 ayes, 1 recusal) recommending the City Council approve the Project;

WHEREAS, after the Planning Commission's decision and pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on September 9, 2025, and adopted Resolution No. 2025-60 (6 ayes, 1 absent) to notify the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding; and

WHEREAS, a public hearing was held by the City Council on October 28, 2025, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the Project. 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) of the NBMC, 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 of the City of Newport Beach hereby certifies Final EIR (SCH No. 2024110238), which is attached here to as Exhibit "B" and incorporated herein by this reference, consisting of the NOP, Draft EIR, Appendices, Responses to Comments, and Revisions to the Draft EIR. The City Council finds that the information added to the Final EIR prior to certification merely clarifies, amplifies, or makes insignificant modifications to the environmental document and any changes or alterations incorporated into the Final EIR, which substantially lessen or avoid one or more of the significant adverse environmental impacts, do not warrant recirculation of the Final EIR. Rather, all information added to the Final EIR after public notice of the availability of the Draft EIR for public review but before certification, merely clarifies, amplifies, or makes insignificant modifications to the Final EIR.


Section 2: Pursuant to California Public Resources Code Section 21081.6 and Section 15091 of the CEQA Guidelines, the City Council has reviewed, considered, and adopts the MMRP attached hereto as Exhibit "C" and incorporated herein by this reference. The City Council finds that based on the entire environmental record, the Project with mitigation measures incorporated into the Project will result in no project-level impacts or less-than-significant project-level impacts, and there are no known significant and unavoidable effects on the environment that would be caused by the Project.


Section 3: The City Council hereby adopts the CEQA Findings of Fact Regarding the Environmental Effects of the Approval of the Snug Harbor Surf Park Project pursuant to CEQA Section 21081, Section 15091 of the CEQA Guidelines, and Section 21081 of the California Public Resources Code, attached hereto as Exhibit "D," and incorporated herein by reference.


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 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.


Joe Stapleton
Mayor


Lena Shumway
City Clerk

CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

Attachment(s): Exhibit A – Legal Description
Exhibit B – Environmental Impact Report (SCH No. 2024110238)
Exhibit C – Mitigation Monitoring and Reporting Program (MMRP)
Exhibit D – CEQA Findings of Fact Regarding the Environmental Effects of the Approval of the Snug Harbor Surf Park Project

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Lena Shumway, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing Resolution No. 2025-73 was duly adopted by the City Council of said City at a regular meeting held on the 28th day of October, 2025, by the following vote, to wit:

AYES: Mayor Joe Stapleton, Mayor Pro Tem Lauren Kleiman, Councilmember Noah Blom, Councilmember Michelle Barto, Councilmember Robyn Grant, Councilmember Sara J. Weber, Councilmember Erik Weigand
NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29th day of October, 2025.



Lena Shumway
City Clerk
City of Newport Beach, California

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL NO. 1 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE NO. 94-2, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, RECORDED MAY 9, 1994 AS INSTRUMENT NO. 94-318607 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM, THAT PORTION OF SAID LAND DESCRIBED IN THE DEED TO THE COUNTY OF ORANGE, RECORDED SEPTEMBER 4, 1997 AS INSTRUMENT NO. 97-428866 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THOSE PORTIONS THEREOF CONVEYED IN FEE TO THE COUNTY OF ORANGE BY DEED RECORDED OCTOBER 21, 2014 AS INSTRUMENT NO. 2014-427814 OF OFFICIAL RECORDS.

APN: 119-200-38 & 119-200-41

EXHIBIT "B"

ENVIRONMENTAL IMPACT REPORT
SCH NO. 2024110238

File available via link due to size:

<https://ecms.newportbeachca.gov/WEB/Browse.aspx?id=3090933&dbid=0&repo=CNB&cr=1>

EXHIBIT "C"

MITIGATION MONITORING AND REPORTING PROGRAM

Table 4-1: Mitigation Monitoring and Reporting Program

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|--|---|---|---|---|
| BIOLOGICAL RESOURCES | | | | |
| <p>Mitigation Measure BIO-1: Pre-Construction Roosting Bat Surveys. Project plans and construction permitting, including tree removal permits, shall require that in order to avoid and/or minimize injury to roosting bats and avoid maternity roosts until the maternity roost is no longer in use, a qualified biologist shall conduct two pre-construction emergent bat surveys utilizing acoustic detection. The first survey shall be conducted no more than 14 days prior to site disturbance, and the second survey shall be conducted no more than three days prior to site disturbance. The emergent surveys shall begin 30 minutes before dusk and extend to one hour after dark.</p> <p>If the pre-construction survey determines that no active roosts are present, then trees/suitable habitat shall be removed within three days following the pre-construction survey. All potential roost trees shall be removed in a manner approved by a qualified bat biologist, which may include presence of a biological monitor.</p> <p>If roosting bats are detected onsite outside of the bat maternity season (outside of March 1 through August 31), the roost tree shall be removed in a manner to avoid and/or minimize injury to roosting bats. This may include using mechanical equipment to gently nudge the tree trunk multiple times prior to removal or for palm trees and other species, to de-frond or de-branch the tree using a mechanical lift and gently lower the cut fronds or branches to the ground. Regardless of the method, the fallen tree and/or material shall be left undisturbed overnight until at least the next morning to give roosting bats time to exit before site disturbance.</p> <p>If roosting bats are detected onsite during the maternity season (March 1 through August 31), the Project shall avoid the subject roost(s) and incorporate</p> | <p>In Project plans and construction permitting. Prior to ground disturbing activity.</p> | <p>City of Newport Beach Community Development Department</p> | <p>Project plans and construction permits shall include that roosting bat survey be completed as specified.</p> <p>If roosting bats are encountered, a biological monitoring report shall be submitted to the City of Newport Beach Planning Division and coordination with the California Department of Fish and Wildlife (CDFW) if special status species are identified.</p> | <p>Initials: _____</p> <p>Date: _____</p> |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|---|---------------------------------------|--|--|------------------------------------|
| an avoidance buffer (300 feet or as determined by the qualified biologist for roosts of special-status bat species, the buffer width shall be 300 feet or as determined by the qualified biologist in consultation with CDFW) until after the maternity season or until a qualified biologist determines no maternity roosting is occurring. The qualified biologist shall clearly delineate any bat maternity roosts and any required avoidance buffers, which shall be clearly marked with flags and/or fencing prior to the initiation of construction activities. All construction activity in the vicinity of an active roost shall be limited to daylight hours. Once the qualified biologist approves removal of the subject roost tree(s), the same tree removal procedures as outlined above shall be implemented prior to tree removal. | | | | |
| Mitigation Measure BIO-2: Pre-Construction Nesting Bird Survey. Project plans and construction permitting, including tree removal permits, shall state that vegetation removal should occur outside of the nesting bird season (generally between February 1 and August 31). If vegetation removal is required during the nesting bird season, the applicant shall conduct take avoidance surveys for nesting birds prior to initiating vegetation removal/clearing. Surveys shall be conducted by a qualified biologist(s) within three days of vegetation removal. If active nests are observed, a qualified biologist shall determine appropriate minimum disturbance buffers and other adaptive mitigation techniques (e.g., biological monitoring of active nests during construction-related activities, staggered schedules, etc.) to ensure that impacts to nesting birds are avoided until the nest is no longer active. At a minimum, construction activities shall stay outside of a 200-foot buffer around the active nests. The approved buffer zone shall be marked in the field with construction fencing, within which no vegetation clearing or ground disturbance shall commence until the qualified biologist and City of Newport Beach Planning Division verify that the nests | Prior to issuance of grading permits. | City of Newport Beach Community Development Department | Verify that nesting bird survey has been completed as specified. If nests are encountered, monitoring report shall be submitted to the City of Newport Beach Planning Division. | Initials: _____ Date: _____ |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
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| are no longer occupied, and the juvenile birds can survive independently from the nests. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, normal construction activities may occur. | | | | |
| CULTURAL RESOURCES | | | | |
| PPP CUL-1: Human Remains. 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 human remains are found during subsurface excavation. | Archaeological and Tribal Monitors, City of Newport Beach Community Development Department | Confirmation of coroner and NAHC contact and submittal of Report of Findings, if applicable. | Initials: _____ Date: _____ |
| Mitigation Measure CUL-1: Cultural Resources Monitoring Program. Prior to issuance of grading permits the applicant/developer shall provide evidence to the City of Newport Beach Planning Division that a qualified professional archeologist meeting the Secretary of Interior's PQS for Archaeology (as defined in the Code of Federal Regulations, 36 CFR Part 61) has been retained to prepare a Cultural Resource Monitoring Program (CRMP) and to conduct monitoring of rough grading activities. The CRMP shall be developed in | Prior to the issuance of grading permits. During construction. | City of Newport Beach Community Development Department | Verify that archaeologist has been retained and contracted for specified work. Verify that Native American tribal agreement has been signed. Submittal of Report of Findings. | Initials: _____ Date: _____ |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
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| coordination with the consulting tribe(s) and address the details of all activities and provides procedures that must be followed in order to reduce the impacts to cultural, tribal cultural and historic resources to a level that is less than significant as well as address potential impacts to undiscovered buried archaeological resources associated with this project. The Archaeologist shall conduct Cultural Resource Sensitivity Training, in conjunction with the Tribe(s) designated Tribal Representative. The training session shall focus on the archaeological and tribal cultural resources that may be encountered during ground-disturbing activities as well as the procedures to be followed in such an event. | | | | |
| Mitigation Measure CUL-2: Monitoring Report. A final monitoring report shall be prepared by the qualified archaeologist prior to issuance of any certificate of occupancy. The final monitoring report(s) created as a part of the Project (isolate records, site records, survey reports, testing reports, etc.) shall be submitted to the Lead Agency and Consulting Tribe(s) for review and comment. After approval of all parties, the final reports are to be submitted to the South Central Coastal Information Center, and the Consulting Tribe(s). | Prior to issuance of certificate of occupancy. | City of Newport Beach Community Development Department | Submittal of Monitoring Report to the City of Newport Beach Planning Division and Consulting Tribe(s). | Initials: _____ Date: _____ |
| ENERGY | | | | |
| PDF-1: Solar. The proposed Project includes installation of solar panels on the roofs of the buildings and on 14 to 18-foot-high solar canopies in portions of the parking areas to provide onsite renewable energy to provide power to the proposed Project. | Shown on building plans. Prior to certificates of occupancy, as applicable. | Project Applicant | | Initials: _____ Date: _____ |
| GEOLOGY AND SOILS | | | | |
| PPP GEO-1: CBC Compliance. The proposed Project is required to comply with the California Building Standards Code (CBC) as included in the City's Municipal Code as Chapter 15.04, to preclude significant adverse effects associated with seismic and soils hazards. As part of CBC compliance, CBC related | Prior to issuance of grading and building permits. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|---|--|--|---|------------------------------------|
| and geologist and/or civil engineer specifications for the proposed Project shall be incorporated into grading plans and building specifications as a condition of construction permit approval. | | | | |
| PPP WQ-1: NPDES/SWPPP. Prior to issuance of any grading or demolition permits, the applicant shall provide the City Building and Safety Division evidence of compliance with the NPDES (National Pollutant Discharge Elimination System) requirement to obtain a construction permit from the State Water Resource Control Board (SWRCB). The permit requirement applies to grading and construction sites of one acre or larger. The Project applicant/proponent shall comply by submitting a Notice of Intent (NOI) and by developing and implementing a Stormwater Pollution Prevention Plan (SWPPP) and a monitoring program and reporting plan for the construction site. | Prior to issuance of a demolition or grading permits. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |
| PPP WQ-3: WQMP. Prior to the approval of the Grading Plan and issuance of Grading Permits, a completed Water Quality Management Plan (WQMP) shall be submitted to and approved by the City Public Works Department. The WQMP shall identify all Post-Construction, Site Design, Source Control, and Treatment Control Best Management Practices (BMPs) that will be incorporated into the development project in order to minimize the adverse effects on receiving waters. | Prior to issuance of a grading permit. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |
| Mitigation Measure PAL-1: Prior to commencement of any grading activity on site, a paleontologist shall be retained to develop a Paleontological Resources Impact Mitigation Program (PRIMP) for this project. The PRIMP shall include the methods that will be used to protect paleontological resources that may exist within the project area as well as procedures for monitoring, fossil preparation and identification, curation into a repository, and preparation of a report at the conclusion of grading. The PRIMP shall be consistent with the guidelines of the Society of | Prior to the issuance of grading permits. During subsurface excavation. | City of Newport Beach Community Development Department | Verify that PRIMMP has been prepared and implemented. | Initials: _____ Date: _____ |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|---|---|-------------------|---------------------|---|
| <p>Vertebrate Paleontology (SVP) and include, but not be limited to, the following:</p> <ul style="list-style-type: none"> Excavation and grading activities in deposits with high paleontological sensitivity (Young Axial Channel Deposits below a depth of 10 feet and Old Paralac Deposits Overlain by Alluvial Fan Deposits) shall be monitored by a paleontological monitor following a PRIMP. No monitoring is required for excavations in deposits with no paleontological sensitivity (Artificial Fill). If paleontological resources are encountered during the course of ground disturbance, the paleontological monitor shall have the authority to temporarily redirect construction away from the area of the find in order to assess its significance. In the event that paleontological resources are encountered when a paleontological monitor is not present, work in the immediate area of the find shall be redirected and a paleontologist should be contacted to assess the find for significance. If determined to be significant, the fossil shall be collected from the field. Collected resources shall be prepared to the point of identification, identified to the lowest taxonomic level possible, cataloged, and curated into the permanent collections of a scientific institution. <p>At the conclusion of the monitoring program, a report of findings shall be prepared to document the results of the monitoring program.</p> | | | | |
| GREENHOUSE GAS EMISSIONS | | | | |
| <p>PDF-1: Solar. The proposed Project includes installation of solar panels on the roofs of the buildings and on 14 to 18-foot-high solar canopies in portions of the parking areas to provide onsite renewable energy to provide power to the proposed Project.</p> | <p>Shown on building plans.</p> <p>Prior to certificates of occupancy, as applicable.</p> | Project Applicant | | <p>Initials: _____</p> <p>Date: _____</p> |
| HAZARDS AND HAZARDOUS MATERIALS | | | | |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|---|--|--|---|------------------------------------|
| PDF-2: Vegetation. The proposed Project does not include landscaping or other vegetation that produces seeds, fruits, nuts, or berries, such as fruit bearing trees and shrubs. Likewise, Project site areas would be planted with seed mixtures that do not contain millet or any other large seed producing grass. | Shown on building plans. Prior to certificates of occupancy, as applicable. | Project Applicant | | |
| PPP HAZ-1: SCAQMD Rule 1403. Prior to issuance of demolition permits, the Project applicant shall submit verification to the City Building and Safety Division that an asbestos survey has been conducted at all existing buildings located on the Project site. If asbestos or asbestos containing material is found, the Project applicant shall follow all procedural requirements and regulations of the South Coast Air Quality Management District (SCAQMD) Rule 1403. Rule 1403 regulations require that the following actions be taken: notification of SCAQMD prior to construction activity, asbestos removal in accordance with prescribed procedures, placement of collected asbestos in leak-tight containers or wrapping, and proper disposal. | Prior to issuance of demolition permits. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |
| PPP HAZ-2: Lead. Prior to issuance of demolition permits, the Project applicant shall submit verification to the City Building and Safety Division that a lead-based paint survey has been conducted at all existing buildings located on the Project site. If lead-based paint is found, the Project applicant shall follow all procedural requirements and regulations for proper removal and disposal of the lead-based paint. CalOSHA has established limits of exposure to lead contained in dusts and fumes. Specifically, CCR Title 8, Section 1532.1 provides for exposure limits, exposure monitoring, and respiratory protection, and mandates good working practices by workers exposed to lead. | Prior to issuance of demolition permits. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |
| PPP WQ-1: NPDES/SWPPP. Prior to issuance of any grading or demolition permits, the applicant shall provide the City Building and Safety Division evidence of compliance with the NPDES (National Pollutant Discharge Elimination System) requirement to obtain a | Prior to issuance of a demolition or grading permits. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|---|---|--|---|------------------------------------|
| construction permit from the State Water Resource Control Board (SWRCB). The permit requirement applies to grading and construction sites of one acre or larger. The Project applicant/proponent shall comply by submitting a Notice of Intent (NOI) and by developing and implementing a Stormwater Pollution Prevention Plan (SWPPP) and a monitoring program and reporting plan for the construction site. | | | | |
| PPP WQ-3: WQMP. Prior to the approval of the Grading Plan and issuance of Grading Permits, a completed Water Quality Management Plan (WQMP) shall be submitted to and approved by the City Public Works Department. The WQMP shall identify all Post-Construction, Site Design, Source Control, and Treatment Control Best Management Practices (BMPs) that will be incorporated into the development project in order to minimize the adverse effects on receiving waters. | Prior to issuance of a grading permit. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |
| HYDROLOGY AND WATER QUALITY | | | | |
| PPP WQ-1: NPDES/SWPPP. Prior to issuance of any grading or demolition permits, the applicant shall provide the City Building and Safety Division evidence of compliance with the NPDES (National Pollutant Discharge Elimination System) requirement to obtain a construction permit from the State Water Resource Control Board (SWRCB). The permit requirement applies to grading and construction sites of one acre or larger. The Project applicant/proponent shall comply by submitting a Notice of Intent (NOI) and by developing and implementing a Stormwater Pollution Prevention Plan (SWPPP) and a monitoring program and reporting plan for the construction site. | Prior to issuance of a demolition or grading permits. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |
| PPP WQ-2: Groundwater Dewatering Permits. Prior to initiation of excavation activities, the Project applicant shall obtain coverage under the Santa Ana RWQCB General Waste Discharge Requirements for Discharges to Surface Waters Resulting from De Minimis Discharges or Groundwater Dewatering | Prior to issuance of a grading permit. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|---|--|--|--|------------------------------------|
| Operations, and/or Groundwater Cleanup/Remediation Operations at Sites within the Newport Bay Watershed Permit (Order No. R8-2019-0061, NPDES No. CAG918002), or any other subsequent permit for dewatering activities, and provide evidence of coverage to the City of Newport Beach designee. This shall include submission of a Notice of Intent (NOI) for coverage under the permit to the Santa Ana Regional Water Quality Control Board (RWQCB) at least 60 days prior to the start of excavation activities and anticipated discharge of dewatered groundwater to surface waters. Groundwater dewatering activities shall comply with all applicable provisions in the permit, including water sampling, analysis, treatment (if required), and reporting of dewatering-related discharges. Upon completion of groundwater dewatering activities, a Notice of Termination shall be submitted to the Santa Ana RWQCB. | | | | |
| PPP WQ-3: WQMP. Prior to the approval of the Grading Plan and issuance of Grading Permits, a completed Water Quality Management Plan (WQMP) shall be submitted to and approved by the City Public Works Department. The WQMP shall identify all Post-Construction, Site Design, Source Control, and Treatment Control Best Management Practices (BMPs) that will be incorporated into the development project in order to minimize the adverse effects on receiving waters. | Prior to issuance of a grading permit. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |
| TRIBAL CULTURAL RESOURCES | | | | |
| PPP CUL-1: Human Remains. 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 | If human remains are found during subsurface excavation. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|---|--|--|--|---|
| 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. | | | | |
| <p>Mitigation Measure TCR-1: Retain a Native American Monitors Prior to Commencement of Ground-Disturbing Activities</p> <p>A. The Project plans, specifications, and grading permits shall state that the Project applicant shall retain Native American monitor(s). The monitor(s) shall be retained prior to the commencement of any "ground-disturbing activity" for the Project (both onsite and any offsite locations that are included in the Project description and/or required in connection with the proposed Project, such as public improvement work). "Ground-disturbing activity" shall include, but is not limited to, demolition, pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling, and trenching.</p> <p>B. A copy of the executed monitoring agreement(s) shall be submitted to the Lead Agency prior to the earlier of the commencement of any ground-disturbing activity, or the issuance of any permit necessary to commence a ground-disturbing activity.</p> <p>C. The monitor(s) shall complete daily monitoring logs that shall provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, cultural-related materials, and</p> | <p>Prior to issuance of permits associated with ground-disturbing activities.</p> <p>Monitoring during ground-disturbing activities.</p> | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | <p>Initials: _____</p> <p>Date: _____</p> |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|--|-----------------------|-------------------|---------------------|-----------------------------|
| <p>any other facts, conditions, materials, or discoveries of significance to the tribe(s). Monitor logs shall identify and describe any discovered TCRs, including but not limited to, Native American cultural and historical artifacts, remains, places of significance, etc., (collectively, tribal cultural resources, or "TCR"), as well as any discovered Native American (ancestral) human remains and burial goods. Copies of monitor logs shall be provided to the Project applicant upon written request to the tribe(s).</p> <p>D. Onsite tribal monitoring shall conclude upon the earlier of the following (1) written confirmation to the monitoring tribe(s) from a designated point of contact for the Project applicant or Lead Agency that all ground-disturbing activities and phases that may involve ground-disturbing activities on the Project site or in connection with the Project are complete; or (2) a determination and written notification by the monitoring tribe(s) to the Lead Agency that no future, planned construction activity and/or development/construction phase at the Project site possesses the potential to impact TCRs.</p> | | | | |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|--|---|--|--|------------------------------------|
| Mitigation Measure TCR-2: Unanticipated Discovery of Tribal Cultural Resource Objects (Non-Funerary/Non-Ceremonial) A. Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by a Native American monitor in consultation with a qualified archaeologist. The monitoring tribe(s) shall recover and retain all discovered TCRs in the form and/or manner the tribe(s) deems appropriate, in the tribe(s) sole discretion, and for any purpose the tribe(s) deems appropriate, including for educational, cultural and/or historic purposes. | During ground disturbing activities. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |
| Mitigation Measure TCR-3: Unanticipated Discovery of Human Remains and Associated Funerary or Ceremonial Objects A. Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute. B. If Native American human remains and/or grave goods are discovered or recognized on the Project site, then Public Resource Code 5097.9 as well as Health and Safety Code Section 7050.5 shall be followed. C. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2). D. Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. | In construction plans and specifications. During all ground disturbing activities. | City of Newport Beach Community Development Department | Compliance with Project Conditions of Approval | Initials: _____ Date: _____ |

| Plan, Program, or Policy (PPP), Project Design Feature (PDF), or Mitigation Measure | Implementation Timing | Responsible Party | Verification Method | Date Completed and Initials |
|---|------------------------------|--------------------------|----------------------------|------------------------------------|
| E. Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance. | | | | |

EXHIBIT "D"

**CEQA FINDINGS OF FACT REGARDING THE ENVIRONMENTAL EFFECTS OF THE
APPROVAL OF THE SNUG HARBOR SURF PARK PROJECT**

File available via link due to size:

<https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=3187841&dbid=0&repo=CNB&cr=1>

Attachment D

Resolution No. 2025-74

RESOLUTION NO. 2025- 74

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, FINDING THE SURF PARK PROJECT LOCATED AT 3100 IRVINE AVENUE 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 (PA2024-0069)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), 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 City 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, an application was filed by CAA Planning, on behalf of Back Bay Barrels, LLC ("Applicant"), concerning property located at 3100 Irvine Avenue, and legally described in Exhibit "A," which is attached hereto and incorporated herein by reference ("Property");

WHEREAS, the Applicant is requesting to redevelop the central 15.38-acre parcel of the privately owned Newport Beach Golf Course by removing the existing driving range and putting green, pro-shop, restaurant and bar, and three holes of golf and replacing it with a new surf-focused outdoor commercial recreation use ("Project");

WHEREAS, the Project's site improvements include approximately five acres of surfing lagoons surrounded by viewing platforms, seating, pools, spa, restrooms, landscaping, clubhouse with amenities, athlete accommodation building with 20 overnight rooms, and two parking lots with 351 parking spaces;

WHEREAS, the Project will be constructed on approximately 79,533 square feet of area; however, 19,761 square feet will be excluded from the total development limit for the Property as incidental building areas which is consistent with Table LU1 (Land Use Plan Categories) of the City's General Plan ("General Plan") for properties categorized as Parks and Recreation;

WHEREAS, the following approvals are requested or required to implement the Project as proposed:

- General Plan Amendment ("GPA"): To increase the development limit from 20,000 square feet to 59,772 square feet for Anomaly Number 58, as identified in Table LU 2 of the Land Use Element of the General Plan;
- Major Site Development Review ("SDR"): To construct a nonresidential building larger than 20,000 square feet in area;
- Conditional Use Permit ("CUP"): To allow the operation of an outdoor commercial recreation use including a restaurant with alcohol sales, establish the appropriate parking rate, and allow the construction of buildings taller than 18 feet;
- Modification Permit: To allow for the construction of retaining walls taller than eight feet in height from finish grade; and
- Environmental Impact Report ("EIR"): To address reasonably foreseeable environmental impacts resulting from the legislative and project specific discretionary approvals;

WHEREAS, the Property is categorized as Parks and Recreation (PR) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan/Open Space and Recreation (SP-7/OSR) Zoning District;

WHEREAS, the Property is not located within the coastal zone, therefore, a coastal development permit is not required;

WHEREAS, the Property is located approximately 0.4-mile southwest of John Wayne Airport ("JWA") and is within the 2008 John Wayne Airport Environs Land Use Plan ("AELUP") Notification Area;

WHEREAS, the Property is trisected by Safety Zone 2 (Inner Approach/Departure Zone), Safety Zone 4 (Outer Approach/Departure Zone), and Safety Zone 6 (Traffic Pattern Zone) for the 2L/20R runway that is used by commercial aircraft;

WHEREAS, most of the Property is located within the 65 dB Community Noise Equivalent Level ("CNEL") contour pursuant to the 1985 Airport Master Plan Noise Contours and the northeast corner is located within the 70 dB CNEL contour;

WHEREAS, the City Council approved Resolutions 2023-72 and 2023-73 and Ordinances 2023-20 and 2023-21 on November 14, 2023, authorizing amendments to the Noise Element and Land Use Element of the General Plan and Title 20 (Planning and Zoning) of the Newport Beach Municipal Code ("NBMC") to update the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 ("EIR No. 617");

WHEREAS, a significant portion of the Property is located within the 65 dB CNEL contour and the southwest corner is located within the 60 dB CNEL, pursuant to the updated City noise contours;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the Project to the Orange County Airport Land Use Commission ("ALUC") to review for consistency with the AELUP;

WHEREAS, ALUC conducted a public hearing on August 7, 2025, and determined the Project is inconsistent with the following provisions of the AELUP (5 ayes and 1 nay) and detailed in Exhibit "B," which is attached hereto and incorporated herein by this reference:

- a. Section 2.1.2 (Safety Compatibility Zones), which provides "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";
- b. Section 2.1.3 (Building Height Restrictions), which states that a Determination of No Hazard to Air Navigation does not automatically equate to a Consistency determination of the ALUC and that the Commission may find a project Inconsistent based on an obstruction determination;
- c. Section 2.1.4 (Air Transportation) and CPUC Section 21674 which state that the Commission is charged by CPUC 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 CPUC 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."; and

- d. Section 3.2.1 (General Policy), which states that "within the boundaries of the AELUP, any land use may be found to be Inconsistent with the AELUP which permits structures of excessive height in areas which would affect adversely the continued operation of the airport; or permits activities or facilities that would affect adversely aeronautical operations";

WHEREAS, a public hearing was held by the Planning Commission on September 4, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. 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"), and Chapter 20.62 (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 hearing, the Planning Commission adopted Resolution No. PC2025-018 by a unanimous vote (6 ayes, 1 recusal) recommending the City Council approve the Project;

WHEREAS, after the Planning Commission's decision and pursuant to Sections 21670 and 21676 of the CPUC, the City Council may, after a public hearing, propose to overrule ALUC by a two-thirds vote, if it makes specific findings that the Project is consistent with the purpose of Section 21670 of the CPUC purpose 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 September 9, 2025, in the City Council Chambers, 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with Section 21676(b) of the CPUC 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 the hearing, the City Council adopted Resolution No. 2025-60 by a unanimous vote (6 ayes, 1 absent) to notify ALUC and the State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding;

WHEREAS, a notice of intent to override ALUC's inconsistency determination, along with Resolution No. 2025-60, was sent via email and certified mail to ALUC and the State Department of Transportation Aeronautics Program on September 11, 2025;

WHEREAS, the City received a timely comment in response to the City's notice of intent to override the ALUC inconsistency determination from ALUC in accordance with CPUC Section 21676, which is attached hereto as Exhibit "C," and incorporated herein by reference; and

WHEREAS, a public hearing was held by the City Council on October 28, 2025, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the Project. 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) of the NBMCA, 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 "C" and "D," from the reviewing agencies and does hereby make the findings necessary to override ALUC's determination attached hereto as Exhibit "E," and which is incorporated herein by this reference.

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: An EIR (State Clearinghouse No. 2024110238) was prepared for the Project in compliance with the California Environmental Quality Act ("CEQA"), Public Resources Code Sections 21000 *et seq.*, Section 15000 *et seq.* as set forth in 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) to ensure that the Project will not result in significant environmental impacts. Based on the entire environmental review record, the City Council having final approval authority over the Project, found that the Project, with mitigation measures, will have a less than significant impact on the environment and there are no known substantial adverse effects on human beings that would be caused. By Resolution No. 2025-73, the City Council adopted and certified the Final EIR as complete and adequate and adopted the Mitigation Monitoring and Reporting Program including all findings contained therein, which is hereby incorporated by reference.

Section 5: The City Council finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

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 28th day of October, 2025.



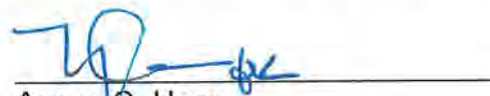
Joe Stapleton
Mayor

ATTEST:



Lena Shumway
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney



Attachment(s): Exhibit A - Legal Description
Exhibit B - Airport Land Use Commission Inconsistency Determination
dated August 11, 2025
Exhibit C - Comment Letter from Airport Land Use Commission dated
October 8, 2025
Exhibit D – Intentionally Left Blank
Exhibit E - Findings to Override ALUC's Determination

STATE OF CALIFORNIA
COUNTY OF ORANGE
CITY OF NEWPORT BEACH

ss.

I, Lena Shumway, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing Resolution No. 2025-74 was duly adopted by the City Council of said City at a regular meeting held on the 28th day of October, 2025, by the following vote, to wit:

AYES: Mayor Joe Stapleton, Mayor Pro Tem Lauren Kleiman, Councilmember Noah Blom, Councilmember Michelle Barto, Councilmember Robyn Grant, Councilmember Sara J. Weber, Councilmember Erik Weigand

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29th day of October, 2025.



Lena Shumway
City Clerk
City of Newport Beach, California

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL NO. 1 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE NO. 94-2, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, RECORDED MAY 9, 1994 AS INSTRUMENT NO. 94-318607 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM, THAT PORTION OF SAID LAND DESCRIBED IN THE DEED TO THE COUNTY OF ORANGE, RECORDED SEPTEMBER 4, 1997 AS INSTRUMENT NO. 97-428866 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THOSE PORTIONS THEREOF CONVEYED IN FEE TO THE COUNTY OF ORANGE BY DEED RECORDED OCTOBER 21, 2014 AS INSTRUMENT NO. 2014-427814 OF OFFICIAL RECORDS.

APN: 119-200-38 & 119-200-41

EXHIBIT “B”

AIRPORT LAND USE COMMISSION INCONSISTENCY DETERMINATION DATED
AUGUST 11, 2025

EXHIBIT "C"

COMMENT LETTER FROM AIRPORT LAND USE COMMISSION
DATED OCTOBER 8, 2025

EXHIBIT "D"

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EXHIBIT "E"

FINDINGS TO OVERRIDE ALUC'S DETERMINATION

The Project 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. The City Council's decision is based on the following findings and facts in support:

Findings and Facts in Support of Findings

A. The Project is consistent with the noise standards of the AELUP.

The AELUP guides development proposals to provide for the orderly development of JWA and the surrounding area through implementation of the standards in Section 2 (Planning Guidelines) and Section 3 (Land Use Policies). Implementation of these standards is intended 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.

Most of the Property is located within the 65 dB CNEL contour, under both the 1985 Airport Master Plan noise contours and the 2014 John Wayne Airport Settlement Agreement EIR No. 617.

Section 2.1.1 of the AELUP sets forth the CNEL standards, and Sections 3.2.3 and 3.2.4 of the AELUP define the noise exposure in the 65 dBA CNEL noise contour (Noise Impact Zone 2). Specifically, Table 1 of Section 3.2.3 identifies four different land use categories consisting of "Residential," "Community Facilities," "Commercial," and "Industrial" along with the decibel levels that are consistent for each particular use. In this case, the Project does not fit squarely within any of four land uses, but rather, is a hybrid between "Community Facilities" and "Commercial" land uses. In either land use category, a 65 dBA CNEL is "Normally Consistent" subject to the project including conventional construction methods as acceptable and without requiring any special noise reduction requirements. Section 3.2.3 further delineates the restrictions and construction requirements for each of the above land use categories within the 65 dB CNEL Noise Impact Zone 1. Specifically, residential is generally prohibited within Zone 1, however, commercial and recreational uses may be acceptable provided that commercial structures are sufficiently sound attenuated to allow normal work activities to be conducted. The Project will comply with the sound attenuation requirements for commercial and industrial structures as per the California Noise Insulation Standards, Title 21, 25, California Code of Regulations. Furthermore, EIR No. 617 requires all nonresidential structures to be sound attenuated consistent with the General Plan and Title 20 (Planning and Zoning) of the NBMC.

Finally, the Noise Analysis (Appendix Q of the Draft EIR) found that Airport Exposure for the Project would be less than significant and did not require further mitigation.

The Property encompasses approximately 15.4 acres with portions of the Project overlying three airport safety zones. A detailed description of the Project Area, along with the uses within each safety zone, is provided herein. In Safety Zone 2, the total Project Area is approximately 5.79 acres. The Project uses in Safety Zone 2 include 207 parking spaces (however, 95 parking spaces will be reserved for the off-site golf course use, leaving 112 parking spaces for Project uses in Safety Zone 2), heating equipment, equipment yard, maintenance buildings, wave making equipment, and 37.8 percent of the surf lagoon. In Safety Zone 4, the total Project Area is approximately 3.48 acres. The Project uses in Safety Zone 4 include 9,432 square feet of athlete accommodations (20 total overnight units), wave making equipment, pool area, restrooms, storage, and 41.2 percent of the surf lagoon. And in Safety Zone 6, the total Project Area is approximately 6.16 acres. The Project uses in Safety Zone 6 include 49,221 square feet of clubhouse space including staff area, restaurant, surf shop, fitness areas and related uses, 144 parking spaces, a drop off area, pool area, outdoor arcade, outdoor changing rooms, storage, mechanical/electrical/plumbing ("MEP") equipment areas, and 21.0 percent of the surf lagoon.

[illegible]

The ALUC applies the suburban intensity parameters to the Project and provided the following occupancy calculations: 254 people per acre in Safety Zone 2; 770 people per acre in Safety Zone 4; and 972 people per acre in Safety Zone 6.

The Project trip generation assessment ("Traffic Study") prepared for the Project EIR (Appendix R of the Draft EIR) includes a detailed trip generation assessment based on the uses and traffic flow for the Project that quantifies the anticipated number of individuals in each Safety Zone. Moreover, the City's Project Conditions of Approval require compliance with these use parameters. Specifically, the assessment includes the development of trip generation rates, time-of-day distributions and estimates for the Project based on detailed programmatic attendance information and operational modeling data provided by industry experts. The occupancy for the Project shall comply with the estimates from the approved Traffic Study, which estimates the following for daily activity: a) 1,400 visitors and surfers (comprised of 700 people in the surf lagoon, 140 people in the surf academy, 280 people in the restaurant, 70 people in the shops, 210 people in the yoga/fitness areas), and b) 70 employees. The maximum number of surfers in the lagoon is 72 at one time. The average number of people in the Project Area between the peak hour of 12:00 PM to 1:00 PM is 388 people. The average vehicle occupancy parameters assume visitor vehicles at 2.0 two people per vehicle, and employee vehicles at 1.0 people per vehicle.

Applying the parameters set forth in the Traffic Study, the anticipated number of individuals in each Safety Zone based on use and traffic flow are set forth herein. With respect to Safety Zone 2 which includes a portion of the surf lagoon, automobile parking and park maintenance facilities; a portion of the surf lagoon totaling 1.91 acres (37.8 percent of the total lagoon area), is the only area in Safety Zone 2 that would be steadily occupied by people and which yields an average potential of 27 people in the Safety Zone 2 lagoon area. There are also two proposed maintenance buildings totaling 2,000 square feet. The California Building Code assumes 300 square feet per person for maintenance uses, yielding seven employees potentially in Safety Zone 2. The combined occupancy of these uses in Safety Zone 2 totals 34 people over 5.79 acres or approximately six people per acre. Applying the Caltrans Handbook suburban limit of 40 to 60 people per acre in Safety Zone 2 would allow approximately 232 to 347 total people over a total of 5.79 acres. Thus, for Safety Zone 2, with a total of 34 people over 5.79 acres, the Project would comply with the maximum allowable occupancy for non-residential land uses for either an urban setting (347.4 to 463.2 people) or suburban setting (232 to 347 people).

With respect to Safety Zone 4, it is comprised of 20 rooms for athlete accommodations and a portion of the surf lagoon. At a maximum of four athletes per room, these accommodations would total 80 people. The portion of the surf lagoon in Safety Zone 4 is 2.08 acres (41.2 percent of the total lagoon area), which equates to an average potential of 30 people in the Safety Zone 4 lagoon area. The total combined occupancy in Safety Zone 4 is 110 people over 3.48 acres or approximately 32 people per acre. Applying the Caltrans Handbook suburban limit of 100 to 150 people/acre in Safety Zone 4 would allow 348 to 522 people based on a total of 3.48 acres. Thus, for Safety Zone 4, with a total of 110 people over 3.48 acres, the Project would comply with the

maximum allowable occupancy for non-residential land uses for either an urban setting (522 to 696 people) or suburban setting (348 to 522 people).

With respect to Safety Zone 6, it is comprised of a wider array of uses including a portion of the surf lagoon, the clubhouse area, beach areas and parking spaces spread over 6.16 acres. The portion of the Safety Zone 6 surf lagoon is 1.06 acres (21 percent of the total lagoon area), which equates to an average potential of 15 people in the Safety Zone 6 lagoon area. The Traffic Study noted 388 people during the peak hour from 12:00 pm to 1:00 pm. Subtracting out the total number of people in the lagoon area (72) equates to a potential of 316 visitors in Zone 6, which could be generally using the clubhouse area. If all 70 employees were also in Safety Zone 6, it would bring the total maximum number of people in the clubhouse area to 386. The combination of occupancy in Safety Zone 6 totals 458 people over 6.16 acres or approximately 75 people per acre. Applying the Caltrans Handbook suburban limit of 200 to 300 people/acre in Safety Zone 6 would allow 1,232 to 1,848 people based on a total of 6.16 acres. Thus, for Safety Zone 6, with a total of 458 people over 6.16 acres, the Project would comply with the maximum allowable occupancy for non-residential land uses for either an urban setting, which has no limit, or suburban setting (1,232 to 1,848 people).

The Project is anticipated to host approximately 12 surf events/competitions per year that would be ticketed events similar in scale to other local sporting events. While the number of persons within the safety zones will increase during these events, these increases are temporary in nature and not a part of the regular operation of the Project.

Lastly, the existing condition of the Project site experiences the highest concentration of persons at the restaurant and at driving range and putting range. These golf course components are within Safety Zone 2. Conversely, the Project places the highest concentration of persons into Safety Zone 6, within the amenity clubhouse building.

Based on the combined analysis from the Project Traffic Study and Project uses within each Safety Zone, the occupancy associated with each use area is within the Caltrans Handbook recommendations for each safety zone area using either the higher urban limits or the lower suburban limits.

C. The Project is consistent with the height standards of the AELUP

The Federal Aviation Administration ("FAA") has the sole responsibility for studying and determining airspace hazards. The Project complies with FAA notification, pursuant to 14 Code of Federal Regulations ("CFR"), Part 77, Safe, Efficient Use, and Preservation of the Navigable Airspace. On May 6, 2025, the FAA issued a Determination of No Hazard for Air Navigation. As the tallest proposed buildings on the Project site would not exceed the 14 CFR Part 77 construction notification imaginary surfaces over the Property, the Determinations of No Hazard applied to all aspects of the Project.

ALUC determined that a Determination of No Hazard to Air Navigation does not automatically equate to a Consistency determination by the ALUC and that the Commission may find a project Inconsistent based on an Obstruction determination pursuant to Section 2.1.3 of the AELUP. However, no Obstruction was found since the Project heights are lower than 130-feet above mean sea level ("AMSL"). Specifically, Part 77 Obstruction Imaginary Surfaces requires a height of less than 130 feet AMSL. In this case, the maximum height of the Project is 71 feet which is below the 130-foot maximum height restriction and, therefore, is not an Obstruction. In no event will the Project's height limits be inconsistent with the parameters outlined in Subsection 3.2.6 (Height Restriction Zone) of the AELUP and FAA standards.

D. The Project is consistent with the overflight standards of the AELUP

Overflights will be the same with the Project as with the existing golf course. There was a total of 302,654 aircraft operations in 2023 at JWA. Of the total, only 9.7 percent (29,353 aircraft operations) flew over the Property. Approximately 95 percent of these overflights would be departures south of JWA and the remainder would include a mix of JWA arrivals north, overflights to other airports in the vicinity and helicopter traffic at JWA and within the vicinity of the airport. The average daily total overflights of the Property are 80 to 88. While persons in the Project area will generally notice departing aircraft at lower altitudes, it will be the same as the aircraft operations currently noticed over the golf course.