5.6 HAZARDS AND HAZARDOUS MATERIALS

This section of the Draft Environmental Impact Report (DEIR) evaluates the potential for implementation of the Hyatt Regency Newport Beach (proposed project) to result in hazardous impacts in the project area and the City of Newport Beach. The analysis in this section is based in large part on the following information:

- *Radius Report, Hyatt Site, Newport Beach, California,* GeoSearch, November 30, 2006.
- *Historical Aerial Photographs, Hyatt Site, Newport Beach, California*, GeoSearch, November 29, 2006.
- *Historical Topographic Maps, Hyatt Site, Newport Beach, California*, GeoSearch, November 29, 2006.
- *Fire Protection Plan, Hyatt Regency Newport Beach*, Dudek, October 18, 2007.

Copies of this information are included in Appendix G of this DEIR. The Fire Protection Plan is included as Appendix H of this DEIR.

5.6.1 Environmental Setting

Regulatory Setting

Various federal and state regulations and programs regulate the use, storage, and transportation of hazardous materials. Several of the existing federal and state laws and programs are summarized in the following paragraphs.

Hazardous Materials

Comprehensive Environmental Response, Compensation and Liability Act

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) protects water, air, and soil resources from the risks created by former chemical-disposal practices. This law is also referred to as the Superfund Act and regulates sites on the National Priority List (NPL), which are referred to as "Superfund Sites."

Emergency Planning and Community Right-to-Know Act

The primary purpose of the federal Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 is to inform communities and citizens of chemical hazards in their areas. Section 311 and 312 of EPCRA require businesses to report the location and quantities of chemicals stored on-site to state and local agencies. Under section 313 of EPCRA, manufacturers are required to report chemical releases for more than 600 designated chemicals. In addition to chemical releases, regulated facilities are also required to report off-site transfers of waste for treatment or disposal at separate facilities, and implement pollution prevention measures and chemical recycling activities. The U.S. Environmental Protection Agency maintains the Toxic Release Inventory (TRI) database which documents the information that regulated facilities are required to report annually.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) is the principal federal law that regulates generation, management, and transportation of hazardous waste. Hazardous-waste management includes the treatment, storage, or disposal of hazardous waste.

Hazardous Materials Release Notification

Many state statutes require emergency notification of a hazardous chemical release. These statutes include:

- Health and Safety Codes §§ 25270.7, 25270.8, and 25507
- Vehicle Code § 23112.5
- Public Utilities Code § 7673 (PUC General Orders #22-B, 161)
- Government Code §§ 51018, 8670.25.5 (a)
- Water Codes §§ 13271, 13272
- California Labor Code § 6409.1 (b)10

Requirements for immediate notification of all significant spills or threatened releases cover owners, operators, persons in charge, and employers. Notification is required regarding significant releases from facilities, vehicles, vessels, pipelines, and railroads. In addition, all releases that result in injuries or harmful exposure to workers, must be immediately reported to the California Occupational Safety and Health Administration (Cal/OSHA) pursuant to the California Labor Code § 6409.1(b).

Hazardous Materials Disclosure Programs

The Unified Program administered by the State of California consolidates, coordinates, and makes consistent the administrative requirements, permits, inspections, and enforcement activities for environmental and emergency management programs, which include: Hazardous Materials Release Response Plans and Inventories (Business Plans), the California Accidental Release Prevention (CalARP) Program, and the Underground Storage Tank (UST) Program. The Unified Program is implemented at the local government level by Certified Unified Program Agencies (CUPAs). The CUPA with responsibility for the Newport Beach area is the Orange County Health Care Agency (OCHCA).

The OCHCA is designated by the State Secretary for Environmental Protection as the CUPA for the County of Orange in order to focus the management of specific environmental programs at the local government level. The CUPA is charged with the responsibility of conducting compliance inspections for regulated facilities in Orange County. These facilities handle hazardous material, generate or treat a hazardous waste, and/or operate a UST. The CUPA provides a comprehensive environmental management approach to resolve environmental issues.

Hazardous Materials Business Plans

Both the federal government (Code of Federal Regulations) and the State of California (Health and Safety Code) require businesses that handle more than a specified amount (reporting quantity) of hazardous material or extremely hazardous material to submit a Hazardous Material Business Plan to its CUPA.

Business plans must include an inventory of the hazardous materials at the facility. Businesses are required to update their plans at least once every three years and the chemical portion of their plans every year. Business plans are required to include emergency response plans and procedures to be used in the event of a significant or threatened significant release of a hazardous material. These plans need to identify the procedures to follow for immediate notification to all appropriate agencies and personnel in the event of a release. Also required are identification of local emergency medical facilities, contact information for all company emergency coordinators of the business, a listing and location of emergency equipment at the business, an evacuation plan, and a training program for business personnel.

Businesses that handle hazardous materials are required by law to provide an immediate verbal report of any release or threatened release of hazardous materials if there is a reasonable belief that the release or threatened release poses a significant present or potential hazard to human health and safety, property, or

the environment. The CUPA is charged with the responsibility of conducting compliance inspections of regulated facilities in Orange County.

California Accidental Release Prevention Program

CalARP became effective on January 1, 1997, in response to Senate Bill 1889. CalARP aims to be proactive and therefore requires businesses to prepare Risk Management Plans (RMPs), which are detailed engineering analyses of the potential accident factors present at a business and the mitigation measures that can be implemented to reduce this accident potential. This requirement is coupled with the requirements for preparation of Hazardous Materials Business Plans under the Unified Program, implemented by the CUPA.

Leaking Underground Fuel Tanks

Leaking USTs have been recognized since the early 1980s as the primary cause of groundwater contamination from gasoline compounds and solvents. In California, regulations aimed at protecting against UST leaks have been in place since 1983 (Health and Safety Code). This occurred one year before RCRA was amended to add Subtitle I, requiring UST systems to be installed in accordance with standards that address the prevention of future leaks. The State Water Resources Control Board (SWRCB) has been designated the lead California regulatory agency in the development of UST regulations and policy.

Older tanks are typically single-walled steel tanks. Many of these have leaked as a result of corrosion, punctures, and detached fittings. As a result, the State of California required the replacement of older tanks with new double-walled fiberglass tanks with flexible connections and monitoring systems. UST owners were given a ten-year period to comply with the new requirements. The deadline for compliance was December 22, 1998. However, many UST owners did not act by the deadline, so the state granted an extension for their replacement ending January 1, 2002. The SWRCB, in cooperation with the Office of Emergency Services, maintains an inventory of leaking underground fuel tanks in a statewide database.

Superfund Amendments and Reauthorization Act

In 1986, Congress passed the Superfund Amendments and Reauthorization Act. Title 5 of this regulation requires that each community establish a Local Emergency Planning Committee that is responsible for developing an emergency plan for preparing for and responding to a chemical emergency. The emergency plan is required to include the following information:

- An identification of local facilities and transportation routes where hazardous materials are present,
- The procedures for immediate response in case of an accident (this must include a community-wide evacuation plan),
- A plan for notifying the community that an incident has occurred,
- The names of response coordinators at local facilities, and
- A plan for conducting drills to test the plan.

The emergency plan is reviewed by the State Emergency Response Commission and publicized throughout the community. The CUPA is responsible for coordinating hazardous material and disaster preparedness planning and appropriate response efforts with city departments, as well as local and state agencies. The goal is to improve public- and private-sector readiness, and to mitigate local impacts resulting from natural or man-made emergencies.

South Coast Air Quality Management District

South Coast Air Quality Management District (SCAQMD) Rule 1403 governs the demolition of buildings containing asbestos materials. Rule 1403 specifies work practices with the goal of minimizing asbestos

emissions during building demolition and renovation activities, including the removal and associated disturbance of asbestos-containing material (ACM). The requirements for demolition and renovation activities include asbestos surveying, notification, ACM removal procedures and time schedules, ACM handling and clean-up procedures, storage, and disposal requirements for asbestos-containing waste materials (ACWM).

California Code of Regulations Title 22, Division 4.5

Title 22, Division 4.5 of the California Code of Regulations (CCR) sets forth the requirements for hazardous-waste generators, transporters, and owners or operators of treatment, storage, or disposal facilities. These regulations include requirements for packaging, storage, labeling, reporting, and general management of hazardous waste prior to shipment. The regulations also specify the requirements for transporting shipments of hazardous waste, including manifesting, vehicle registration, and emergency accidental discharges during transportation.

Airport Planning and Regulations

Airport Environs Land Use Plan (AELUP) for John Wayne Airport

The State Aeronautics Act (California Public Utilities Code, Section 21670 et seq.) establishes statewide requirements for airport land use compatibility planning. The AELUP for John Wayne Airport is one of several prepared for each of the airports in Orange County. It is a 20-year land use compatibility plan to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the plan seeks to protect the public from the adverse effects of aircraft noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace.

The California Department of Transportation's *California Airport Land Use Planning Handbook* is a technical resource providing guidelines, in part, to define aircraft noise standards and criteria, accident potential zones, building height zones, and designated planning areas. Planning areas are based on the following criteria:

- Areas that are within the 60 dB CNEL contour
- Areas that are within the Clear Zones/Runway Protection Zones or Accident Potential Zones
- Areas subject to building height restrictions

Additionally, other areas within the County are deemed to be within the airport planning area based on various criteria (large proposed populations, proposed structures exceeding 200 feet above ground level that may pose an adverse effect, and/or projects that could interfere with visual or electronic navigation systems).

Federal Air Regulations, Part 77

The Federal Aviation Administration (FAA) is charged with the review of construction activities that occur in the vicinity of airports. Their role in reviewing these activities is to ensure that new structures do not result in a hazard to navigation. The regulations in Federal Air Regulations (FAR) Part 77 are designed to ensure that no hazards are allowed to exist that would endanger the public. Proposed structures are also evaluated against Terminal En Route Procedures which ensure that a structure does not adversely impact flight procedures. Tall structures, including buildings, construction cranes, and cell towers, in the vicinity of an airport can be hazardous to the navigation of airplanes. FAR Part 77 identifies the maximum height at which a structure would be considered an obstacle at any given point around an airport. The extent of the off-airport coverage needing to be evaluated for tall-structure impacts can extend miles from an airport facility. In addition, Part 77 establishes standards for determining whether objects constructed near airports will be considered

obstructions in navigable airspace, sets forth notice requirements of certain types of proposed construction or alterations, and provides for aeronautical studies to determine the potential impacts of a structure on the flight of aircraft through navigable airspace.

Fire Risk Setting

The following site characteristics were excerpted from the Fire Protection Plan (FPP) prepared by Dudek for the proposed project. The purpose of the plan is to generate the fire safety requirements of the Newport Beach Fire Department (NBFD) and to serve as an implementation plan for preparation of final construction documents that shall incorporate detailed fire protection requirements. Additional detail regarding fire behavior modeling and inputs is included in the full FPP in Appendix H.

Site Characteristics

The 25.7-acre property is located northwest of the intersection of Jamboree Road and Back Bay Drive, just north of Pacific Coast Highway. Primary access to the project site is from Jamboree Road, north of its intersection with Back Bay Drive. Secondary access through the hotel parking lot is from Back Bay Drive, west of Jamboree Road. The project lies within a coastal location that is highly urbanized except for a vegetated area immediately north of the property adjacent to the Newport Back Bay. The fire authority with jurisdiction over this project site is the NBFD.

Topography

The developed project site is located atop a small bluff east of the Newport Back Bay. The site has varied topography, but generally drops in elevation from the east to the west. Steeper slopes are located along the western and northern edges of the property with slope gradients averaging between 20 and 25 percent. Of note are the slopes immediately north of the project site, dropping westward toward Back Bay Drive (22 percent) and northward toward undeveloped open space (25 percent). Elevations on-site range from 17 feet to approximately 70 feet (above mean sea level).

Vegetation

Site vegetation consists of nonnative ornamental vegetation associated with the existing hotel grounds and golf course, including numerous tree and shrub species and a significant area covered with irrigated turf. Immediately north of the project boundary lies undeveloped land characterized by coastal sage scrub (CSS), ruderal, and emergent wetland vegetation cover types.

Climate

The climate in the project area is a Mediterranean; that is, warm, dry summers and wetter winters. Precipitation typically occurs between December and March. The prevailing wind is an onshore flow with fall Santa Ana winds from the northeast that may gust to 50 mph or higher inland from this location. Because the project site is adjacent to the Back Bay and approximately 1.5 miles from the Pacific Ocean, higher humidity and subsequently higher vegetation moisture content than would be found inland are typical. The project area's climate has a large influence on the fire risk as drying vegetation (fuel moisture for one-hour fuels of less than 5 percent is possible) during the summer months becomes available fuel.

Fire Services

Initial response to the Hyatt Regency property is from Fire Station No. 3 at 868 Santa Barbara Drive. The fire station is approximately 0.75 mile from the Hyatt Regency project site. Apparatus includes a Type I fire

engine, a medic unit, and a responding truck. Backup response would be provided by Station No 2. at 124 Marine Avenue on Balboa Island, approximately 0.9 mile from the project site.

Based on the linear distance of roughly 4,000 feet from Station No. 3 to the midpoint of the Hyatt Regency project site, and an average response speed of 25 mph due to the in-City driving and intersections, the calculated response time would be approximately two minutes from Fire No. 3 and approximately 2.5 minutes from Fire Station No. 2. Ideal response time for most jurisdictions in urban areas is within four minutes.

5.6.2 Thresholds of Significance

According to Appendix G of the CEQA Guidelines, a project would normally have a significant effect on the environment if the project would:

H-1 Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

H-2 Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

H-3 Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

H-4 Be located on a site which is included on a list of hazardous materials compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment.

H-5 For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would result in a safety hazard for people residing or working in the project area.

H-6 For a project in the vicinity of a private airstrip, result in a safety hazard for people residing or working in the project area.

H-7 Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

H-8 Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to the urbanized areas or where residences are intermixed with wildlands.

The Initial Study, included as Appendix A, substantiates that impacts associated with the following thresholds would be less than significant: H-1, H-3, H-6, and H-7. The Initial Study also concluded that impacts associated with Threshold H-8 would be less than significant since the project site is designated as an area of low-to-no fire hazard in the Safety element of the City's General Plan. The potential fire hazards have been reconsidered, however, particularly since conventional fuel modification cannot be implemented without impacting the adjacent Environmental-Sensitive Habitat Area (see Section 5.3, *Biological Resources*, of this DEIR). Threshold H-8, therefore, is evaluated in the following section.

5.6.3 Environmental Impacts

The proposed Hyatt Regency expansion would include 88 new timeshare units, a timeshare clubhouse, a new 800-seat ballroom, a new spa, and a new two-level parking garage (see Figure 3-4, *Site Plan*). Implementation of the project would require the demolition of 12 villas and the existing 3,190-square-foot Terrace Ballroom. Additionally, the existing nine-hole golf course would be removed to accommodate the new timeshare units, parking areas, drive aisles, and other hardscape and landscape. The project would also require removal and reconfiguration of a recreational courtyard in the center of the main hotel complex, and associated hotel parking areas, hardscape, and landscape.

The volume of debris that is anticipated from demolition activities is estimated to be 233 cubic yards of structural debris and 9,500 cubic yards of concrete, asphalt, and base material from hardscaped areas. Debris from the structures would require an evaluation for lead-based paint and ACM. These materials would be characterized and classified for disposal purposes. It is anticipated that asbestos waste would be transported to the Azusa Land Reclamation Landfill in Azusa, Los Angeles County, California. The facility is permitted for direct land filling of ACWM, both friable and nonfriable, into a fully lined, RCRA Subpart D landfill unit. Lead waste that is classified as hazardous waste may be transported to the Chemical Waste Management, Inc., facility in Kettleman Hills, California. This facility is a CERCLA-approved, TSCA and RCRA permitted, Class I, II, and III landfill.

The majority of the hotel expansion project consists of redevelopment in the northern, northwestern, and southern portions of the project site. Other upgrades would also occur in the central portion of the project site. The total area for redevelopment is approximately 14 acres, or about 55 percent of the overall 25.7-acre project site.

Impact Analysis

The following impact analysis addresses thresholds of significance for potentially significant impacts. The applicable thresholds are identified in brackets after the impact statement.

IMPACT 5.6-1: THE PROPOSED PROJECT COULD CREATE A HAZARD TO THE PUBLIC OR THE ENVIRONMENT THROUGH REASONABLY FORESEEABLE UPSET AND ACCIDENT CONDITIONS INVOLVING THE RELEASE OF HAZARDOUS MATERIALS INTO THE ENVIRONMENT. A POSSIBILITY EXISTS THAT HAZARDOUS DEMOLITION DEBRIS CONTAINING ASBESTOS AND/OR LEAD-BASED PAINT MAY REQUIRE REMEDIATION AND OFF-SITE TRANSPORTATION. [THRESHOLD H-2]

Impact Analysis: Implementation of the project would require the demolition of 12 villas, the 3,190-square-foot Terrace Ballroom, and hardscape materials such as concrete and asphalt. Based on the type and age of the buildings, there is a potential for hazards involving the release of asbestos and lead-based paint as a result of the demolition of these structures. Without proper monitoring, removal, and disposal, lead-based paint chips and friable asbestos may be released to the environment, causing potential exposure to humans.

IMPACT 5.6-2: THE PROJECT SITE IS NOT INCLUDED ON A LIST OF HAZARDOUS MATERIALS SITES COMPILED PURSUANT TO GOVERNMENT CODE SECTION 65962.5 AND, AS A RESULT, DEVELOPMENT WOULD NOT BE EXPECTED TO CREATE A SIGNIFICANT HAZARD TO THE PUBLIC OR THE ENVIRONMENT. [THRESHOLD H-4]

Impact Analysis: Based on a review of the GeoSearch environmental database report, historical aerial photographs, and historical topographic maps, the project is not located on a site that is included on a list of

hazardous materials sites. Based on the aerial photograph analysis, the project site was historically vacant, undeveloped land prior to hotel construction in the 1970s. In addition, a 1938 aerial photograph appears to indicate dry-farming activities on and in the vicinity of the project site. Dry-farming activities do not typically require the use of pesticides. Furthermore, the farming activities in the site vicinity ceased sometime prior to 1947; that is, prior to the era of widespread organochlorine pesticide production and application. Based on these facts, it is unlikely that the property has been affected by the historical application of pesticides. The database search did not identify any hazardous substance releases on- or off-site that would be expected to have an impact on the project site.

IMPACT 5.6-3: ALTHOUGH THE PROJECT SITE IS LOCATED WITHIN THE BOUNDARIES OF AN AIRPORT LAND USE PLAN, IT IS 3.5 MILES FROM THE AIRPORT AND PROJECT IMPLEMENTATION WOULD NOT BE EXPECTED TO RESULT IN A SAFETY HAZARD FOR PEOPLE RESIDING OR WORKING IN THE PROJECT AREA. [THRESHOLD H-5]

Impact Analysis: The project site is approximately 3.5 miles south of the John Wayne Airport (JWA), which is overseen by the Airport Land Use Commission (ALUC). Accident Potential Zones have not been established in the AELUP for the John Wayne Airport. However, Clear Zones (also known as Runway Protection Zones) have been established at each end of the airport's runway. The project site is located well outside these zones.

The project site is located within both the height restriction and the airport obstruction imaginary-surface overlay zones of the AELUP for JWA. The project is required to comply with all standards and requirements as set forth by ALUC. Additionally, the project is required to comply with all standards and requirements as set forth by the FAA. This includes building height restrictions set forth by FAR Part 77.

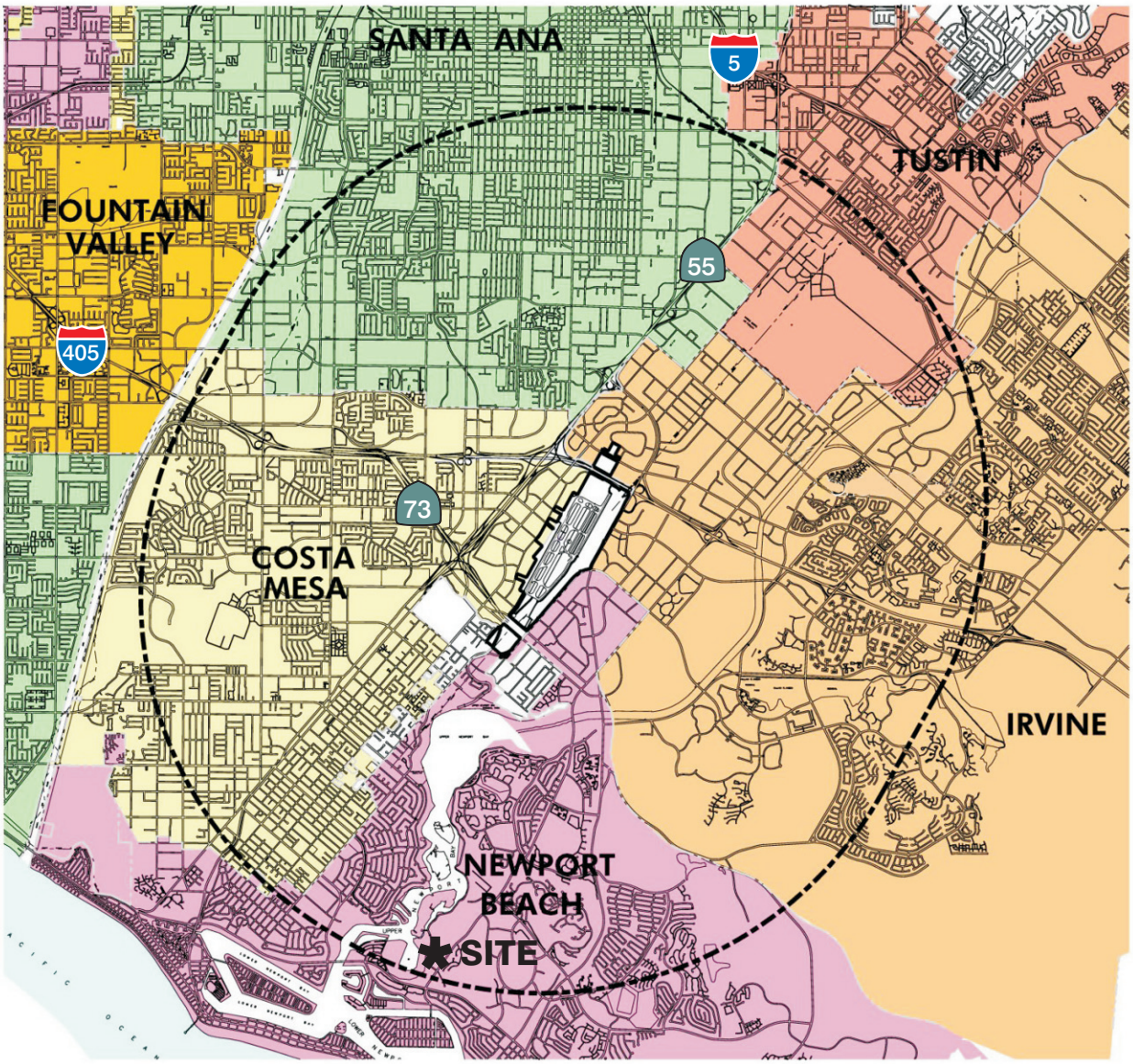
Potential Hazards to Aircraft in Flight

The AELUP incorporates FAR Part 77, Objects Affecting Navigable Airspace, as a guideline to describe the ultimate height of structures in terms of an "imaginary surface." This area is also known as the horizontal surface area. Structures should not exceed the elevations defined in FAR Part 77.25 unless, upon completion of an aeronautical study conducted by the FAA, the ALUC finds that the structure will not adversely affect aeronautical operations, including interference with navigational aids or published flight paths and procedures. The project site is within the AELUP Height Restriction Zone for JWA, as depicted in Figure 5.6-1, *John Wayne Airport Height Restriction Zone*. In addition, the project site is located within the FAR Part 77 JWA Airport Obstruction Imaginary Surfaces Zone. These zones trigger specific notification requirements for buildings exceeding 200 feet above ground level, and for construction of greater height than an imaginary surface extending outward and upward at a slope of 100 to 1 from a distance of 20,000 feet from the nearest point of the nearest runway.

Potential Hazards to People and Structures on the Ground

AELUP has not established Accident Potential Zones for JWA. However, Clear Zones (or Runway Protection Zones) have been established at each end of JWA's runway. The project site is located well outside of these zones. The project site is located within Safety Zone 6 Traffic Pattern Zone, as indicated in Caltrans, *California Airport Land Use Planning Handbook* (January 2002). Risk factors associated with Zone 6 generally include a low likelihood of accident occurrence. The main concern in Safety Zone 6 is related to uses for which potential consequences from a collision are severe,` such as with outdoor stadiums, children's schools, large day care centers, hospitals, and nursing homes. Allowed uses within this safety zone include residential and most nonresidential uses. The proposed project would create vacation dwellings that are intermittently occupied and would be expected to fall within the allowable nonresidential use category.

John Wayne Airport Height Restriction Zone



Note: County Unincorporated areas are shown in white.

LEGEND

- 20,000'Radius
- CITY BOUNDARIES
- AIRPORT BOUNDARIES

0 7,500
Scale (Feet)

Source: Airport Land Use Commission for Orange County

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The project is located within an Airport Influence Area, which is defined as the space surrounding an airport that can be affected by airport operations. Airport Influence Areas are based on airport flight patterns that generate noise and safety issues associated with aircraft overflights. Projects that are located an Airport Influence Area are required to comply with Assembly Bill (AB) 2776. The proposed project shall comply with AB 2776, which notifies prospective buyer/renters of the existence of an airport in the area.

IMPACT 5.6-4 DESIGN MEASURES AND MITIGATING ACTIONS DETAILED IN THE FIRE PROTECTION PLAN (FPP) WOULD MINIMIZE THE POTENTIAL RISKS TO PEOPLE AND/OR STRUCTURES TO LOSS, INJURY, OR DEATH.

Impact Analysis: The primary focus of the FPP was the building area atop the bluff in the northern portion of the property that drops down toward the Back Bay. Fire behavior modeling was conducted to document the type and intensity of fire given the topography, vegetation, and weather characteristics of this site. To objectively predict flame lengths and intensities, the BehavePlus 3.02 fire behavior fuel modeling system was applied using predominant fuel characteristics, slope percentages, and representative fuels observed on-site. Table 5.6-1 provides a detailed description of the input variables used in the BehavePlus calculations.

Table 5.6-1
BehavePlus Fire Behavior Inputs

Input Name	*Input Values*
1-hour Fuel Moisture	3%
10-hour Fuel Moisture	4%
100-hour Fuel Moisture	5%
Live Herbaceous Moisture	30%
Live Woody Moisture	60%
20-feet Wind Speed (mph)	10 mph (gusts to 20 mph)
Slope (%)	Variable (0, 22, 25%)

Source: Fire Protection Plan, Hyatt Regency Newport Beach, Table 1,Dudek, October 18, 2007.
Note: Weather data used in model inputs was derived from Las Flores RAWS (elevation 100 feet above mean sea level).

The results from BehavePlus fire behavior modeling are presented in Table 5.6-2. Modeling results for fire on the slopes represented by scrub vegetation (Fuel Model SCAL18) indicate flame lengths between 27.6 and 37.2 feet, depending on slope and wind speed. Spread rates in these areas ranged from 1.3 to 2.5 mph (depending on slope and wind speed).

Table 5.6-2
BehavePlus Fire Behavior Modeling Results for SCAL18 Model

Windspeed	BehavePlus Output	Slope Values		
		0%	22%	25%
10 mph	Surface Rate of Spread	1.29 mph	1.33 mph	1.34 mph
	Flame Length	27.6 feet	28.0 feet	28.1 feet
	Fireline Intensity	7,673 Btu/ft/s	7,914 Btu/ft/s	7,984 Btu/ft/s
20 mph	Surface Rate of Spread	2.41 mph	2.45 mph	2.47 mph
	Flame Length	36.8 feet	37.1 feet	37.2 feet
	Fireline Intensity	14,390 Btu/ft/s	14,631 Btu/ft/s	14,701 Btu/ft/s

Source: Fire Protection Plan, Hyatt Regency Newport Beach, Dudek, Table 2, October 18, 2007.

Given the climatic, vegetation, and topographic characteristics, along with the general lack of periodic fires in the area and fire behavior modeling results previously discussed in this FPP, the Hyatt Regency site is considered moderately vulnerable to wildfire. Under fall weather conditions, fire can move rapidly through sage scrub vegetation. The most likely type of fire anticipated in the vicinity of the project area is a wind-driven brush fire originating north of the project site and pushed southward by Santa Ana winds. Flame lengths in some areas could be over 35 feet. The rate of spread is moderate due to volatile fuels, wind, and moderately low fuel moisture. A typical cause is related to roadways, such as Back Bay Drive (tossed cigarette, vehicle accidents, or car fire).

5.6.4 Cumulative Impacts

The project is not anticipated to result in the storage or release of any significant amount of hazardous materials/waste. Likewise, surrounding properties were not identified as storing or releasing any significant amount of hazardous materials/waste. Furthermore, the use of hazardous material is controlled and permitted by the OCHCA, a state-recognized CUPA, whose responsibilities include, but are not limited to: inspecting hazardous material handlers and hazardous-waste generators to ensure compliance with laws and regulations; implementing CUPA programs for the development of accident prevention and emergency plans, proper installation, monitoring, and closure of underground tanks, and the handling, storage, transportation, and disposal of hazardous wastes; providing 24-hour response to emergency incidents involving hazardous materials or wastes; and conducting investigations and taking enforcement action as necessary against anyone who disposes of hazardous waste illegally or otherwise manages hazardous materials or wastes in violation of federal, state, or local laws and regulations. The hazardous materials control and safety programs and available emergency response resources of the OCHCA, along with periodic inspections to ensure regulatory compliance, reduce the potential risk of upset and exposure to hazardous materials associated with nearby businesses. Moreover, the proposed project would not result in an airport-related safety hazard and would not combine with other projects to result in a cumulatively considerable impact with respect to potential airport hazards. No adverse cumulative impacts related to hazardous substances or the creation of any health hazards are anticipated as a result of this project.

The project site is within an urban, developed area and the potential increase in fire hazard is limited to the northwestern portion of the site. Based on compliance with the FPP design measures and mitigation, project implementation would not result in cumulatively considerable fire hazard impacts.

5.6.5 Existing Regulations

Hazardous Materials

- SCAQMD Rule 1403 governs the demolition of buildings containing asbestos materials. Rule 1403 specifies work practices with the goal of minimizing asbestos emissions during building demolition and renovation activities, including the removal and associated disturbance of ACMs. The requirements for demolition and renovation activities include asbestos surveying, notification, ACM removal procedures and time schedules, ACM handling and clean-up procedures, and storage, disposal, and landfill disposal requirements for ACWM. Prior to demolition of the site, building materials will be carefully assessed for the presence of ACMs and removal, where necessary, will need to comply with state and federal regulations, including with Rule 1403. Prior to demolition of the site, building materials will also be carefully assessed for the presence of lead-based paint, and its removal, where necessary, will need to comply with state and federal regulations, including Occupational Safety and Health Administration (OSHA) Rule 29, Code of Federal Regulations (CFR) Part 1926. The OSHA rule establishes standards for occupational health and environmental controls for lead exposure. The standard also includes requirements addressing exposure assessment, methods of compliance, respiratory protection, protective clothing and equipment, hygiene facilities and practices, medical surveillance, medical removal protection, employee information and training, signs, recordkeeping, and observation of monitoring. Because 29 CFR Part 1926 is an existing regulation, federal law requires compliance with 29 CFR Part 1926 whether it is included in this EIR or not. Furthermore, Title 17, CCR, Division 1, Chapter 8, identifies procedures for accreditation, certification, and work practices for lead-based paint and lead hazards. Section 36100 specifically sets forth requirements for lead-based paint abatement of public and residential buildings.

- Title 22, CCR, Division 1, Chapter 12, identifies the standards applicable to generators of hazardous waste. These regulations include the requirements for packaging, storage, labeling, reporting, and general management of hazardous waste prior to shipment.

- Title 22, CCR, Division 1, Chapter 12, identifies the standards applicable to transporters of hazardous waste. These regulations include the requirements for transportation of hazardous waste. Manifesting and registration requirements are included in these regulations. Also included are procedures in case of accidental discharges during transportation.

Fire Hazard

- City of Newport Beach Fire Code (Chapter 9.04), among other requirements, specifies water supply, fire flow and hydrant requirements, fire department site access requirements, and fuel modification and maintenance conditions.

- 2007 California Building Code specifies structural requirements for buildings exposed to wildland vegetation.

5.6.6 Level of Significance Before Mitigation

Upon implementation of project design features, regulatory requirements, and standard conditions of approval, these impacts would be less than significant: 5.6-1, 5.6-2, and 5.6-3.

Without mitigation, the following impact would be **potentially significant:**

- Impact 5.6-4 The Hyatt Regency site is considered moderately vulnerable to wildfire and could expose people or structures to loss, injury, or death involving wildland fires.

5.6.7 Mitigation Measures

Impact 5.6-4

6-1 The project applicant or successor in interest shall comply with the provisions in the Fire Protection Plan (FPP) as reviewed and approved by the Newport Beach Fire Department (NBFD), including but not limited to the following specific provisions:

Water Supply and Fire Flow

- Fire hydrants and fire flow capacity shall be approved by the fire Chief. A reduction in required fire flow of up to 50 percent, as approved by the Fire Chief, may be allowed when the building is provided with an approved automatic sprinkler system. The resulting fire flow shall not be less than 1,500 gallons per minute.

Fire Access

- New driveway entrance areas shall be designed to City requirements with all-weather driving surface of A.C. paving over approved base and a capacity rating of at least 75,000 pounds, to accommodate fire apparatus. Approach/departure angles associated with development driveways shall not exceed 3 degrees.

- The minimum width of fire lanes shall be 26 feet.

- There are no planned traffic calming devices

- Adequate fire apparatus turnarounds shall be provided and approved by the NBFD (current plans include a minimum 28-foot turning radius adjacent to Building TS-7 and another turnaround located adjacent to Building TS-4/Clubhouse).

- Unobstructed firefighter access to all portions of the buildings via walkways, driveways, or trails shall be provided. A minimum of 3 feet for firefighter access shall be maintained along both sides of all structures adjacent to fuel modification zones.

- Roads and access components (gates, sign, etc.) shall be maintained in perpetuity by the property owner.

Building Fire and Ignition Resistance

- The project shall include ignition-resistant construction features consistent with current fire and building codes for the proposed structures exposed to wildland vegetation (buildings TS-1, TS-2, TS-3, and TS-4). Enhanced structural requirements shall be provided for the following as detailed in the FPP: roofing, fire-resistive walls, eaves protection, venting, glazing, skylights, insulation, gutters and downspots, appendages and projections, spark arrestors, exterior doors, and detached accessory structures.

Fire Protection Systems

- Buildings shall be fully sprinklered per the appropriate National Fire Protection Association sprinkler standard for the occupancy.

Defensible Space

- The Fuel Modification Plan (see details, Section 3.4.3 of this Draft EIR and the FPP, Appendix H) shall be reviewed and modified as appropriate to obtain approval by the NBFD. The approved final fuel modification plan shall be installed under the supervision of the NBFD. Brush removal must be completed prior to commencing any flammable construction, and final inspection and approval must be obtained prior to issuance of certificates of occupancy for any structures adjacent to the fuel modification area.

- Fuel Modification Zones shall be subject to an annual inspection conducted by a representative of the City in order to assure that zones are maintained in compliance with the applicable fuel modification requirements. The property owner shall maintain defensible space in accordance with the Fuel Modification Plan as approved.

Vegetation Management

The fuel modification area along the northern boundary of the project lies partially on the Hyatt Regency property, partially on property owned by the City of Newport Beach, and partially on property owned by the Irvine Company.

- The proposed landscape plan/fuel modification zone plant palette shall be reviewed and approved by the NBFD. Landscape plans shall comply with all landscaping requirements.

- Defensible space vegetation management responsibility is assigned to persons/company(ies) owning buildings or structures on this property.

- Maintenance of defensible spaces shall occur annually, prior to May 1, or more often, as determined by the NBFD. Maintenance of the defensible space shall include modifying or removing nonfire-resistive vegetation and keeping leaves, needles, and other dead vegetative material regularly removed from roofs of buildings and structures.

- Maintenance and funding for vegetation management shall be required and enforced by deed encumbrances, which are attached to the property. Such deed encumbrances shall be reviewed and approved by NBFD Chief.

- An agreement with the neighboring property owners (as described above), to be conveyed with deed, for permanent maintenance of landscape area that also serves as extended fuel modification area for Hyatt property.

- Vegetation management shall be completed prior to the start of and continue throughout the construction phase. Prior to site demolition, adequate fuel breaks shall be constructed between demolition areas and existing flammable vegetation.

- Vegetation maintenance includes ensuring operation of irrigation systems.

- Vegetation maintenance is required following wind and rain storms to remove combustible plant-related debris from fuel modification zones.

- Caution must be exercised on steep slopes to minimize erosion with the removal of vegetation and the addition of irrigation.

5.6.8 Level of Significance After Mitigation

Implementation of regulatory requirements and mitigation measures outlined above would reduce potential impacts associated with hazards and hazardous materials to less than significant. Therefore, no significant unavoidable adverse impacts relating to hazards have been identified.