

### 5.8 LAND USE AND PLANNING

This section of the Draft Environmental Impact Report (DEIR) evaluates the potential impacts to land use in the City of Newport Beach from implementation of the Hyatt Regency Newport Beach expansion (proposed project). Land use impacts can be either direct or indirect. Direct impacts are those that result in land use incompatibilities, division of neighborhoods or communities, or interference with other land use plans, including habitat or wildlife conservation plans. This section focuses on direct land use impacts. Indirect impacts are secondary effects resulting from land use policy implementation, such as an increase in demand for public utilities or services, or increased traffic on roadways. Indirect impacts are addressed in other sections of this DEIR.

#### 5.8.1 Environmental Setting

##### 5.8.1.1 Existing Land Use

###### Project Site

The 25.7-acre project site is currently developed with the Hyatt Regency Newport Beach, a resort-style hotel. Current improvements include 403 hotel rooms (keys) and associated hotel lobby, restaurants, a banquet facility that consists of a 3,190-square-foot ballroom and meeting space (Terrace Ballroom), the Plaza Ballroom, an amphitheatre, a nine-hole golf course, three swimming pools, and maintenance and housekeeping sheds. The hotel rooms are located throughout four buildings. The site has extensive landscaping, including a broad assortment of palm tree species.

The existing buildings are one and two stories. The maximum structure height, exclusive of the ornamental tower of the main building, is 26 feet.

###### Surrounding Land Uses

The project site is surrounded by a variety of land uses. The Palisades Tennis Club abuts the project site along the northeastern boundary. The remainder of the site's northern boundary abuts open space within the Newporter North Environmental Study Area, which contains various biological resource areas, including native coastal sage scrub, marsh, and riparian areas. North of the preserve is the existing gated residential community of Harbor Cove, which is on a bluff across the preserve. Jamboree Road abuts the project site along the eastern boundary. East of Jamboree is the residential community of Sea Island. Back Bay Drive abuts the project site along the southern and western boundaries. South of Back Bay Drive is the senior apartment community of Bayview Landing. Southeast of the project site is the residential community of Villa Point. Southwest and west of Back Bay Drive are the Back Bay Science Center (Shellmaker Island), Newport Dunes, and Upper Newport Back Bay, which consist of a private beach area, vehicle and boat parking areas, docks, and boating areas. These surrounding land uses are shown in previous Figure 3-3, *Aerial Photograph*.

##### 5.8.1.2 Applicable Plans

Regional and local laws, regulations, plans, or guidelines that are potentially applicable to the proposed project are summarized below.



## *5. Environmental Analysis*

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### LAND USE AND PLANNING

#### **Local Plans**

##### ***City of Newport Beach General Plan***

Future development of all land in the City of Newport Beach is guided by the City's General Plan. The City's General Plan Update was approved by the City Council on July 25, 2006, and approved by voters in accordance with City Charter Section 423 on November 7, 2006. City Charter Section 423 requires voter approval for amendments that exceed specific development thresholds.

The General Plan consists of a series of state-mandated and optional elements to direct the City's physical, social, and economic growth. Elements within the City of Newport Beach General Plan include Land Use, Harbor and Bay, Housing, Historical Resources, Circulation, Recreation, Arts and Cultural, Natural Resources, Safety, and Noise.

##### *Land Use Element*

The land use element provides guidance regarding the ultimate pattern of development for Newport Beach at buildout. It is based on and correlates the policies from all elements into a set of coherent development policies, which serve as the central organizing element for the City's General Plan as a whole. Cumulatively, the Land Use Element's policies directly affect the establishment and maintenance of the neighborhoods, districts, corridors, and open spaces that distinguish and contribute to Newport Beach's livability, vitality, and image. Policies related to urban form are also contained in the Land Use Element.

The Land Use Element of the City's General Plan designates the project site as Visitor Serving Commercial (CV). The existing resort use is consistent with this designation, which is intended to provide for accommodations, goods, and services to primarily service visitors to the City of Newport Beach. As shown on Figure LU-1, General Plan Overview Map, of the Newport Beach General Plan, the project site is within General Plan Statistical Area K1 and is designated as anomaly location No. 52, which identifies precise development limits for the project site. General Plan Table LU2, Anomaly Locations, specifies that the project site has a development limit of 479 hotel rooms.

##### *Harbor and Bay Element*

The goals and policies pertaining to harbor issues are intended to guide the content of regulations related to development of and the activities conducted on the water. Additional goals and policies recognize the important component of land use decisions related to waterfront property around Newport Harbor. The aim of the Harbor and Bay Element goals and policies is preserve the diversity and charm of existing uses without unduly restricting the rights of the waterfront property owner. Goals and policies within the Harbor and Bay Element have been organized to address both water- and land-related issues, provision of public access, water quality and environmental issues, visual characteristics, and the administration of the Harbor and Bay.

##### *Housing Element*

Development of housing in the City of Newport Beach is guided by the goals, objectives, and policies of the Housing Element. The 2000–2008 Housing Element is an update and revision of the 1992 Element, and consists of new technical data, revised goals, updated policies, and a series of programs and implementing measures. The Element is designed to facilitate attainment of the City's Regional Housing Needs Allocation, and to foster the availability of housing affordable to all income levels to the extent possible, given Newport Beach's constraints.

## 5. *Environmental Analysis*

### LAND USE AND PLANNING

#### *Historical Resources Element*

This Element addresses the protection and sustainability of Newport Beach's historical and paleontological resources. Goals and policies presented within this element are intended to recognize, maintain, and protect the community's unique historical, cultural, and archeological sites and structures. Preserving and maintaining these resources helps to create an awareness and appreciation of the City's rich history.

#### *Circulation Element*

The Circulation Element of the General Plan governs the long-term mobility system of the City of Newport Beach. The goals and policies in this element are closely correlated with the Land Use Element and are intended to provide the best possible balance between the City's future growth and land use development, roadway size, traffic service levels, and community character. The Circulation Element of the General Plan also contains new policies related to water transportation services and waterfront walkways.

The project site is located in the vicinity of two major roadways: Jamboree Road and Pacific Coast Highway. According to the General Plan, Jamboree Road is a north-south divided major arterial with three lanes in each direction. Pacific Coast Highway, which is located 0.2 mile south of the project site, runs east-west with a raised median and three lanes in each direction between MacArthur Boulevard and Jamboree Road. Between Jamboree Road and Dover Drive, Pacific Coast Highway is an eight-lane roadway. Back Bay Drive, which forms the project's southern and western boundaries, is a four-lane undivided secondary arterial roadway.

#### *Recreation Element*

The primary purpose of the Recreation Element is to ensure that the provision of parks and recreation facilities is appropriate for the residential and business population of Newport Beach. Specific recreational issues and policies contained in the Recreation Element include: parks and recreation facilities, recreation programs, shared facilities, coastal recreation and support facilities, marine recreation, and public access. The Recreation Element also contains policies that encourage the provision and maintenance of marine-recreation-related facilities that enhance the enjoyment of the City's natural resources and the provision and maintenance of public access for recreational purposes to the City's coastal resources.

#### *Arts and Cultural Element*

The goals and policies of the Arts and Cultural Element are intended to be a guide for meeting the future cultural needs of the community. Future challenges in Newport Beach require maximizing the community's cultural arts potential by coordinating with various community groups, businesses, agencies, citizens, and the City to create active and cohesive cultural and arts programs. The goals and policies in this element are intended to serve as a mechanism for integrating these resources to provide improved and expanded arts and cultural facilities and programs to the community.

#### *Natural Resources Element*

The primary objective of the Natural Resources Element is to provide direction regarding the conservation, development, and utilization of natural resources. It identifies Newport Beach's natural resources and policies for their preservation, development, and wise use. This element addresses: water supply (as a resource) and water quality (includes bay and ocean quality, and potable drinking water), air quality, terrestrial and marine biological resources, open space, archaeological and paleontological resources, mineral resources, visual resources, and energy.



## 5. Environmental Analysis

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### LAND USE AND PLANNING

#### *Safety Element*

The primary goal of the Safety Element is to reduce the potential risk of death, injuries, property damage, and economic and social dislocation resulting from natural and human-induced hazards. The Safety Element recognizes and responds to public health and safety risks. The element specifically addresses coastal hazards, geologic hazards, seismic hazards, flood hazards, wildland and urban fire hazards, hazardous materials, aviation hazards, and disaster planning. The element also includes policies and programs that minimize potential impacts from hazards.

The project site is not located within an Alquist-Priolo Special Study Zone and no known faults traverse the project site (Kleinfelder 2005). However, the project site is located within seismically active southern California (Seismic Zone 4, encompassing most of Southern California). The Newport-Inglewood fault is considered to be the most significant active fault with respect to the project site. Additionally, the project site is located within the height restriction overlay zone of the Airport Environs Land Use Plan (AELUP) for John Wayne Airport.

#### *Noise Element*

The Noise Element of the General Plan is a tool for including noise control in the planning process to maintain compatible land use with environmental noise levels. This Noise Element identifies noise-sensitive land uses and noise sources, and defines areas of noise impact for the purpose of developing policies to ensure that Newport Beach residents will be protected from excessive noise intrusion.

The major noise sources in the project area include traffic from Jamboree Road and takeoffs and landings at John Wayne Airport.

#### **City of Newport Beach Zoning Code**

The City of Newport Beach Zoning Code, Title 20 of the Municipal Code, ensures consistency between the City's General Plan and proposed development. The Zoning Code identifies land use categories, boundaries, and development standards. Existing regulations specifically applicable to the proposed project include the following chapters of the City's Zoning Code:

##### *Chapter 20.15 Commercial Districts*

This chapter includes provisions for the Retail and Service (RSC) District. The project site is designated as RSC. The RSC zoning classification provides areas that are predominantly retail in character but that allow some service office uses. The RSC zone identifies "hotels, motels and time-shares" as allowed land uses requiring a Use Permit.

##### *Chapter 20.65 Height Limits*

This chapter includes the methodology to measure building height, a map of height limitation zones, and exceptions to height limits. As shown on Figure 5.1-1, *General-Plan Designated Coastal Views*, the project site is located within an area designated as the Shoreline Height Limitation Zone. The following height limitations apply to the proposed project:

**Section 20.65.040, Height Limitation Zones, (C) 26/35 Foot Height Limitation Zone.** In the 26/35 Foot Height Limitation Zone, the height limit for any structure shall be 26 feet; however, a structure may exceed 26 feet up to a maximum of 35 feet through the adoption of a planned community district specific plan, or through the approval of a Use Permit. This height limitation zone shall apply to all zoning districts other than R-1, R-1.5, R-2, MRF and OS Districts, within the area known as the

Shoreline Height Limitation Zone established by Ordinance 92-3, and shown on Figure 5.8-1, *Height Limitation Zones*.

**Section 20.65.070, Exceptions to Height Limits, (A) Architectural Features.** Architectural features such as, but not limited to, cupolas, weathervanes, open protective railings for stairways, and other decorative roof-top features of an open nature, and solar equipment, but excluding parapet walls, may be permitted in excess of permitted height limits subject to the approval of a modification permit.

### *Chapter 20.84 Time Share Developments*

This chapter stipulates the provisions for the development of timeshare units. The Time Share Development ordinance concludes that timeshare projects differ from other transient visitor facilities in types of construction, forms of ownership, patterns of use and occupancy, and commercial management. The specific ordinance for these was adopted to protect the health, safety, peace, and welfare of the public by providing additional land use and property development regulations for timeshare developments. The ordinance specifies the application process and requirements for a Use Permit, including the submittal of a Sales Plan, Management Plan, and Contingency Plan for actions to be taken if the timeshare fails to sell 50 percent within two years of receiving a permit to occupy the first unit. Section 20.84.060, Development and Operation Regulations, of the Zoning Code stipulates that timeshare projects shall (1) comply with the property development regulations for the zoning district in which they are located, (2) require a minimum of 100 units unless they are converted in conjunction with a resort hotel complex of 300 or more units, (3) require parking at a ratio of 1.2 spaces per unit plus 1 per 50 square feet of banquet seating or meeting areas, and (4) be developed with substantial recreational amenities such as golf course, tennis courts, and swimming pools.

### *Chapter 20.93 Modification Permits*

This chapter provides administrative relief through a Modification Permit for certain development proposals where there is a practical difficulty or physical hardship. This article achieves the purposes of the Zoning Code by establishing procedures for approval, conditional approval, and disapproval for a Modification Permit. Provisions for tandem parking only apply for residential districts. In commercial districts, tandem parking requires the approval of a Modification Permit via the provision of Section 20.93.015(A), Modification Permits. The proposed project would require the approval of a modification permit for the proposed tandem valet parking that would serve the new 800-seat ballroom. Additionally, the proposed project would require a Modification Permit to exceed the allowed building-height limit for the ballroom tower feature and final architectural element.



## *5. Environmental Analysis*

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### LAND USE AND PLANNING

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# Height Limitation Zones



## *5. Environmental Analysis*

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### LAND USE AND PLANNING

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### **Local Coastal Plan**

#### *Overview*

The California Coastal Act (California State Public Resources Code, Division 20, Sections 30000 et seq.) directs each local government lying wholly or partly within the Coastal Zone, as defined by the Coastal Act, to prepare a Local Coastal Program for its portion of the Coastal Zone. More than 63 percent of the City of Newport Beach, including the project site, is located in the Coastal Zone. Local Coastal Programs are used by local governments to carry out the policies and requirements of the Coastal Act. Local Coastal Programs must be reviewed and certified by the California Coastal Commission before being implemented by a local government.

The Local Coastal Program is divided into two components: a coastal land use plan (CLUP) and an Implementation Program. The CLUP provides a technical synopsis of the resources located within the Coastal Zone. The document discusses resources in the context of a coastal zone overview; subarea description and land use plan; shoreline and coastal resource access; public recreational and visitor serving commercial facilities; visual resources; historic and cultural resources; water and marine resources; environmentally sensitive habitat; energy facilities; water, sewer and drainage facilities; and hazards. Issues, goals, objectives, and policies related to each of these areas are also provided. The Implementation Program provides the mechanism to implement each of the identified policies.

The Coastal Commission certified the City's CLUP on February 8, 2006. The next step in the certification process is the completion and adoption of the Implementation Plan. The City is preparing the Implementation Plan in conjunction with a comprehensive update of the Zoning Code. It is anticipated that it will be completed for City Council review by early 2008.

Since the General Plan was prepared in consideration of the approved CLUP, many of its policies were directly incorporated into the Land Use, Natural Resources, Recreation, and Public Safety Elements. The CLUP organizes the coastal resources planning and management policies under the following chapters: Land Use and Development, Public Access and Recreation, and Coastal Resource Protection. A brief summary of these CLUP components and their relationship to the Hyatt Regency project site follows.

#### *Chapter 2, Land Use and Development*

Chapter 2 of the CLUP was derived from the Land Use Element of the City's General Plan and is intended to identify the distribution of land uses in the coastal zone. It provides the Land Use Map, coastal development review process, and specific policies by development category.

The Coastal Land Use Plan Map designates the project site as Visitor-Serving Commercial B (CV-B). This designation is intended to provide for accommodations, goods, and services for visitors to Newport Beach. Development intensity for the "B" designation ranges from a floor area to land area ratio of 0.50 to 1.25. Development policies in this chapter include policies that encourage new overnight visitor accommodations development to provide a range of rooms and room prices to serve all incomes.

#### *Chapter 3, Public Access and Recreation*

Chapter 3 of the CLUP addresses policies for shoreline and coastal access, and information and policies related to recreation programs and events. Access to Upper Newport Bay (across Back Bay Drive west of the project site) is described. As noted, due to the steep coastal bluffs and high number of sensitive environmental resources within the marine park, access is more restricted than to other coastal areas. Access to and along Upper Newport Bay is provided by Back Bay Drive.



## 5. Environmental Analysis

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### LAND USE AND PLANNING

Provisions for temporary events are detailed in Section 3.1.7 of the CLUP. The City regulates temporary events by requiring special-event permits. Special-event applications are required to provide detail on event characteristics, including duration, event hours, estimated daily attendance, parking arrangements, traffic control, noise control, waste removal, etc.

#### *Chapter 4, Coastal Resource Protection*

Chapter 4 of the CLUP addresses biological resources, wetlands and deepwater areas, water quality, scenic and visual resources, and paleontological and cultural resources. The Coastal Act requires that Environmentally Sensitive Habitat Areas (ESHA) be protected against any significant disruption of habitat values. The Coastal Act criteria for determining whether an area qualifies as an ESHA are based on ecological importance, including the rarity or function of the habitat and the habitat's sensitivity. Terrestrial natural communities known to occur in the coastal zone of Newport Beach include dune, scrub, chaparral, riparian, and marsh habitats; southern coastal needlegrass grassland; vernal pools; freshwater seeps; and alkali meadows.

Section 4.4 of the CLUP includes scenic and visual resources policies, including coastal view protection, bulk and height limitations, natural landform protection, and sign and utility regulations. Where feasible, the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor, are to be protected. Coastal views from designated roadway segments are to be protected pursuant to Policy 4.4.1-6. Relative to the project site, public coastal views are to be protected from Back Bay Drive. Segments of Jamboree Road are also specified in this policy, but do not include the segment on which the project site fronts (between Back Bay Drive and Newport Center Drive).

Height limitations and massing are also addressed in Section 4.4.2, *Bulk and Height Limitation*, of Chapter 4 of the CLUP. Concern over the intensity of development around Lower Newport Bay led to the adoption of a series of ordinances in the early 1970s that established more restrictive height and bulk development standards around the bay. The intent was to regulate the visual and physical mass of structures consistent with the character and visual scale of Newport Beach. As shown on Figure 5.8-1, *Height Limitation Zones*, the Hyatt Regency site is located within the Shoreline Height Limitation Zone, where new development is limited to a height of 35 feet. Residential development is limited to a height of 24 to 28 feet and nonresidential development is limited to a height of 26 to 35 feet. Outside of the Shoreline Height Limitation Zone, heights up to 32 feet are permitted within the planned community districts through the adoption of a specific plan or approval of a use permit. Of particular application to the proposed project are the following policies:

- 4.4.2-1** Maintain the 35-foot height limitation in the Shoreline Height Limitation Zone.
- 4.4.2-2** Continue to regulate the visual and physical mass of structures consistent with the unique character and visual scale of Newport Beach.

#### ***CIOSA Development Agreement***

In 1993, the City of Newport Beach and The Irvine Company entered into the Circulation Improvement and Open Space Agreement (CIOSA). CIOSA pertains to 12 parcels and grants vested development rights for 11 projects. In consideration of the vested rights granted, The Irvine Company prepaid "fair share" road improvement fees, constructed road improvements, and granted the City of Newport Beach an interest-free loan. The value of these traffic improvement benefits totaled approximately \$20 million. In consideration of the vested right, approximately 140 acres of property were also conveyed to the City for open space and park purposes.

The Hyatt Regency site was one of the 11 sites that received vested entitlements under CIOSA. Specifically, it received the right to expand to 479 rooms, an increase in 68 rooms from the baseline 1992 condition (411 rooms). Other than the reference to additional rooms, the CIOSA did not specify provisions for expansion of the hotel use. Although CIOSA remains in effect, and full consideration for the vested rights granted (including the performance of required CIOSA mitigation measures) has been conveyed, the Hyatt Regency expansion has yet to be implemented. In addition, since approval of CIOSA, the number of rooms at the hotel was reduced by eight (bringing the current room count at the hotel to 403) through their conversion to other ancillary hotel uses, such as a fitness room. Under the proposed project, the demolition of 12 villas and construction of 88 new timeshare units, would result in expanding the hotel to the permitted 479 units.

### **Regional**

#### ***Southern California Association of Governments Regional Comprehensive Plan and Guide***

SCAG, which is the designated metropolitan planning organization for six Southern California counties (Ventura, Orange, San Bernardino, Riverside, Imperial, and Los Angeles), is federally mandated to develop plans for transportation, growth management, hazardous waste management, and air quality. SCAG has prepared the Regional Comprehensive Plan and Guide (RCPG) in conjunction with its constituent members and other regional planning agencies. The RCPG is intended as a framework to guide decision making with respect to the growth and changes that can be anticipated through the year 2015. The Plan consists of five core chapters that contain goals, policies, implementation strategies, and technical data that support three overarching objectives for the region: (1) improving the standard of living for all, (2) improving the quality of life for all, and (3) enhancing equity and access to government. Local governments are required to use the RCPG as the basis for their own plans and are required to discuss the consistency of projects of “regional significance” with the RCPG. Specific growth management, regional mobility, and air quality policies of the RCPG are discussed in the Impacts section of this chapter.



Only projects of potentially regionwide significance are subject to review of consistency with the RCPG. The criteria for projects of regional significance are outlined in the CEQA Guidelines, Sections 15125 and 15206. Regionally significant projects include residential projects of more than 500 units, shopping centers or businesses with 500,000 square feet or more of floor area, and hotel/motels with 500 rooms or more. The proposed project is not a project of regionwide significance and therefore does not require this DEIR to address the project’s consistency with the RCPG.

#### ***Orange County Airport Environs Land Use Plan***

The project site is located approximately 3.5 miles south of John Wayne Airport (JWA). In accordance with airport land use law, the AELUP for JWA regulates orderly growth for a 20-year span and for the airport and provides height and noise restrictions to minimize land use conflicts with the surrounding area. The project site is located within both the height restriction and the airport obstruction imaginary surface overlay zone of the AELUP for JWA.

### **5.8.2 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:

- LU-1     Physically divide an established community.

## 5. Environmental Analysis

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### LAND USE AND PLANNING

LU-2 Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

LU-3 Conflict with any applicable habitat conservation plan or natural community conservation plan.

The Initial Study, included as Appendix A, substantiates that impacts associated with the following thresholds would be less than significant: LU-1 and LU-3. These impacts will not be addressed in the following analysis.

#### 5.8.3 Environmental Impacts

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

**IMPACT 5.8-1: THE PROPOSED HYATT REGENCY EXPANSION IS CONSISTENT WITH APPLICABLE LOCAL PLANS, INCLUDING THE CITY OF NEWPORT BEACH GENERAL PLAN, ZONING CODE, AND LOCAL COASTAL PROGRAM LAND USE PLAN. [THRESHOLD LU-2]**

#### **Impact Analysis:**

##### **City of Newport Beach General Plan**

The proposed project is consistent with the General Plan's Visitor Servicing Commercial (CV) designation for the project site. As proposed, the project would provide a total of 479 rooms, which is consistent with the number of hotel rooms stipulated for the project site under General Plan Table LU2, *Anomaly Locations*. The proposed project would also comply with the specific policies outlined in the General Plan for commercial districts. As demonstrated in more detail in Section 5.1, *Aesthetics*, of this DEIR, the proposed project would be characterized by high-quality architectural design. Building masses, elevations, and rooflines would be modulated to promote visual interest and to compliment the existing architecture of the surrounding area. The proposed project would also be characterized by an extensive landscaping plan, which would include existing mature and proposed landscaping.

A detailed analysis of the proposed project's consistency with the applicable policies of the various elements of the Newport Beach General Plan is provided in Table 5.8-1, *General Plan Consistency Analysis*. The analysis concludes that the proposed project would be consistent with the applicable policies of the Newport Beach General Plan. Therefore, implementation of the proposed project would not result in significant land use impacts related to relevant Newport Beach General Plan policies.

## 5. Environmental Analysis

**Table 5.8-1**  
**General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
<b>Land Use Element</b>	
<b>Goal LU 2 – A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City’s diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.</b>	
<b>LU 2.4 Economic Development (page 3-7).</b> Accommodate uses that maintain or enhance Newport Beach’s fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents.	<p>The proposed project would enhance the City’s fiscal health through the expansion of the existing hotel uses, including a new 800-seat ballroom facility, 88 new timeshare units, and other ancillary amenities such as a new spa, fitness and swim facility, and a timeshare clubhouse. The proposed uses would attract additional visitors to the City by expanding the destination services and uses currently provided on-site and in the coastal areas of Newport. For example, the expansion of the hotel’s destination services and uses would provide a great means for visitors to take advantage of the hotel’s adjacency (south and southwest of the project site across Back Bay Drive) to the Upper Newport Bay and Newport Dunes.</p> <p>The proposed expansion would ensure that the quality of life for surrounding residents would be maintained and/or improved through the provision of high-quality architecture (see Figure 3-7, <i>Typical Timeshare Building Elevation</i>), a comprehensive landscape and lighting plan (see Figures 5.1-2 to 5.1-11, <i>Visual Simulations</i>, and Figure 5.1-12, <i>Lighting Plan</i>, respectively), and an on-site parking and circulation plan that would adequately serve the existing and proposed hotel uses (see Figure 3-4, <i>Site Plan</i>). For example, as discussed in Section 5.1, <i>Aesthetics</i>, of this DEIR, the existing parking area light poles shown on Figure 5.1-12, <i>Lighting Plan</i>, would be removed and replaced with modern light poles. The existing light poles are not designed with cutoff features that help cast light downward; therefore, they allow light spillage on- and off-site. The proposed parking area light poles would be designed with full cut-off designs (downcast) and oriented in a manner that would minimize light spillage or glare off of the project site. Additionally, the proposed light poles are dark-sky compliant and would only be located within the existing and proposed parking areas.</p>
<b>LU 2.6 Visitor Serving Uses (page 3-8).</b> Provide uses that serve visitors to Newport Beach’s ocean, harbor, open spaces, and other recreational assets, while integrating them to protect neighborhoods and residents.	See response to Policy LU 2.4.
<b>Goal LU 5.2 – Commercial centers and districts that are well designed and planned, exhibit a high level of architectural and landscape quality, and are vital places for shopping and socialization.</b>	
<b>LU 5.2.1 Architecture and Site Design (page 3-55).</b> Require that new development within existing commercial district centers and corridors complement existing uses and exhibit a high level of architectural and site design in consideration of the following principles: <ul style="list-style-type: none"> <li>Seamless connections and transitions with existing buildings, except where developed as a free-standing building</li> <li>Modulation of building masses, elevations, and rooflines to</li> </ul>	The proposed project would be designed and developed in a manner that would exhibit high-quality architecture and site design. For example, as shown on Figure 3-7, <i>Typical Timeshare Building Elevation</i> , and on the visual simulations provided on Figures 5.1-6 to 5.1-8, the timeshare buildings and ballroom facility would include modulated building masses and rooflines that would provide visual relief and aesthetically-pleasing building facades. The inclusion of architectural elements such as balconies, tower features (ballroom only), and ornamental windows and the variation in building elevations and protrusions would also enhance the visual quality of the buildings. The proposed lighting scheme would also provide a means for highlighting building details (see Figure

## 5. Environmental Analysis

### LAND USE AND PLANNING

**Table 5.8-1**  
**General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
<p>promote visual interest</p> <ul style="list-style-type: none"> <li>Architectural treatment of all building elevations, including ancillary facilities such as storage, truck loading and unloading, and trash enclosures</li> <li>Extensive on-site landscaping, including mature vegetation to provide a tree canopy to provide shade for customers</li> <li>Clearly delineated pedestrian connections between business areas, parking, and to adjoining neighborhoods and districts (paving treatment, landscape, wayfinding signage, and so on)</li> <li>Integration of building design and site planning elements that reduce the consumption of water, energy, and other nonrenewable resources</li> </ul>	<p>5.1-12, <i>Lighting Plan</i>). The proposed project would also include a comprehensive landscaping plan that would include existing mature and proposed trees, shrubs, and ornamental ground cover and a lighting plan for the highlighting of prominent landscape elements such as palm trees (see the visual simulation provided on Figures 5.1-1 to 5.1-11 and Figure 5.1-12, <i>Lighting Plan</i>, respectively).</p> <p>The proposed project would include a comprehensive pedestrian walkway system that would not only provide access between the various uses and areas within the project site, but also to the surrounding public sidewalks and uses. All pedestrian walkways and connections would be developed in accordance with Title 24 and all applicable City requirements and standards. The proposed project would utilize site-design measures such as the recycling of construction and demolition waste, the installation of water-efficient irrigation systems, the use of reclaimed water for irrigating landscape, and the installation of weather-signal or moisture-sensor irrigation controllers. Building-design measures would include the exceedance of Title 24 requirements by at least 5 percent (ballroom facility only), the use of roof products certified by Energy Star™ or the Cool Roof Rating Council (ballroom facility only), the installation of low-consumption water-efficient plumbing fixtures, the installation Energy Star appliances and fixtures, the use of low-E glazing systems in the timeshare buildings, interior paints and wood finishes with low volatile organic compounds, and the use of selective-recycled or rapidly-renewable construction materials.</p>
<p><b>LU 5.2.2 Buffering Residential Areas (page 3-56).</b> Require that commercial uses adjoining residential neighborhoods be designed to be compatible and minimize impacts through such techniques as:</p> <ul style="list-style-type: none"> <li>Incorporation of landscape, decorative walls, enclosed trash containers, downward focused lighting fixtures, and/or comparable buffering elements</li> <li>Attractive architectural treatment of elevations facing the residential neighborhood</li> <li>Location of automobile and truck access to prevent impacts on neighborhood traffic and privacy</li> </ul>	<p>The proposed project would be designed and developed in a manner that would be compatible with the surrounding residential uses to the north, east, and south. This would occur through the provision of high-quality architecture (see Figure 3-7, <i>Typical Timeshare Building Elevation</i>), a comprehensive landscape and lighting plan (see Figures 5.1-2 to 5.1-11, <i>Visual Simulations</i>, and Figure 5.1-12, <i>Lighting Plan</i>), and an access and circulation plan that would adequately serve the existing and proposed hotel uses on- and off-site (see Figure 3-4, <i>Site Plan</i>).</p> <p>As discussed in Section 5.1, <i>Aesthetics</i>, of this DEIR, the existing parking area light poles shown on Figure 5.1-12, <i>Lighting Plan</i>, would be removed and replaced with modern light poles. The existing light poles are not designed with cutoff features that help cast light downward; therefore, they allow light spillage on- and off-site. The proposed parking area light poles would be designed with full cut-off designs (downcast) and oriented in a manner that would minimize light spillage or glare off of the project site. Additionally, the proposed architecture would not only be of high-quality, but would also compliment the surrounding architecture, including the senior apartment community of Bayview Landing south of the project site across Backbay Drive (see visual simulations on Figures 5.1-6 to 5.1-10). Refer to Impact 5.1-1 of Section 5.1, <i>Aesthetics</i>, of this DEIR for a detailed analysis of the proposed project's compatibility with and less-than significant visual impacts on surrounding uses. Furthermore, as illustrated in the visual simulations provided on Figures 5.1-1 to 5.1-11, the proposed project would provide a comprehensive landscape plan that would include existing mature and proposed trees and shrubs. The dense landscaping components would adequately buffer buildings, structures, and parking areas from surrounding areas and roadways.</p>

**Table 5.8-1  
General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
<b>Goal LU 5.3 – Districts where residents and businesses are intermixed that are designed and planned to assure compatibility among the uses, that they are highly livable for residents, and are of high quality design reflecting the traditions of Newport Beach.</b>	
<b>LU 5.3.6 Parking Adequacy and Location (page 3-59).</b> Require that adequate parking be provided and is conveniently located to serve tenants and customers. Set open parking lots back from public streets and pedestrian ways and screen with buildings, architectural walls, or dense landscaping.	<p>As discussed in Section 5.11, <i>Transportation and Traffic</i>, of this DEIR, and as shown in Table 5.11-6, the provision of 912 parking spaces, including surface and structure parking, would meet the City's standards for parking for the uses of the proposed project. However, the valet parking component of the proposed project could result in an on-site parking impact. More specifically, parking impacts could occur on-site during special events such as conferences or weddings. Therefore, further review would be required by the City under a valet parking plan to determine the adequacy of the proposed valet parking component, as outlined in Mitigation Measure 5.11-4.</p> <p>As illustrated on Figure 3-4, <i>Site Plan</i>, the parking areas and new parking structure would be located in a manner that would be convenient to employees and patrons of the hotel. The main parking areas located in the southern and eastern project boundaries would provide easy and convenient access to the various hotel uses and areas. In addition to standard parking areas, the proposed hotel expansion would also include a tandem valet parking area that would serve special functions and events held in the new 800-seat ballroom facility. Furthermore, the timeshare units would exclusively be served by convenient on-street and subterranean parking areas.</p> <p>As illustrated in the visual simulations on Figures 5.1-8, 5.1-9, and 5.1-11, the proposed project would provide a comprehensive landscape plan that would include existing mature and proposed trees and shrubs. The dense landscaping components would adequately buffer the parking areas from surrounding areas and roadways.</p>
<b>Goal LU 5.6 – Neighborhoods, districts, and corridors containing a diversity of uses and buildings that are mutually compatible and enhance the quality of the City's environment.</b>	
<b>LU 5.6.3 Ambient Lighting (page 3-62).</b> Require that outdoor lighting be located and designed to prevent spillover onto adjoining properties or significantly increase the overall ambient illumination of their location.	As discussed under Impact 5.1-2 of Chapter 5.1, <i>Aesthetics</i> , of this DEIR, the lights associated with the hotel expansion would be directed toward the interior of the site so as not to create offsite impacts. All exterior lighting would be designed, arranged, directed, or shielded in such a manner as to contain direct illumination on-site, in accordance with Land Use Policy 5.6.3 of the City's General Plan and Standard Lighting Condition 1, thereby preventing excess illumination and light spillover onto adjoining land uses and/or roadways.
<b>Historical Resources Element</b>	
<b>Goal HR 2 – Identification and protection of important archeological and paleontological resources within the City.</b>	
<b>HR 2.1 New Development Activities (page 6-12).</b> 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.	As detailed in Section 5.4, <i>Cultural Resources</i> , the proposed project is not anticipated to result in significant impacts on archaeological or paleontological resources. However, given the potential to unearth either type of resources in the project area during excavation and grading activities, mitigation measures have been provided that require the project applicant to retain a qualified archaeologist and paleontologist that would assess any finds and develop a course of action to preserve the finds. Refer to Section 5.4, <i>Cultural Resources</i> , of this DEIR for a detailed analysis of the proposed project's potential impacts to archeological and paleontological resources and applicable mitigation measures.

## 5. Environmental Analysis

### LAND USE AND PLANNING

**Table 5.8-1**  
**General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
<b>HR 2.2 Grading and Excavation Activities (page 6-13).</b> Require a qualified paleontologist/archeologist to monitor all 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.	See response to Policy HR 2.1.
<b>HR 2.3 Cultural Organizations (page 6-13).</b> 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.	As detailed in Section 5.4, <i>Cultural Resources</i> , , the proposed project is not anticipated to result in significant impacts on cultural resources. However, given the potential to unearth cultural resources in the project area during excavation and grading activities, Mitigation Measure 5.4-1 provides the archaeological monitor the authority to halt grading activities until uncovered resources are evaluated and a determination of significance is made. If cultural resources are encountered, the mitigation measure states that a Native American monitor with a Tongva/Gabrielino lineage, the project applicant, and the City of Newport Beach shall evaluate the significance of the resources and, if appropriate, shall determine appropriate treatment and mitigation of the resources. If cultural artifacts are recovered, any eligibility testing and/or determination of additional mitigation should be done in consultation with the Native American monitor.
<b>HR 2.4 Paleontological or Archaeological Materials (page 6-13).</b> 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.	See responses to Policies HR 2.1 and HR 2.3.
<b>Circulation Element</b>	
<b>Goal 7.1 – An adequate supply of convenient parking throughout the City.</b>	
<b>CE 7.1.1 Required Parking (page 7-29).</b> Require that new development provide adequate, convenient parking for residents, guests, business patrons, and visitors.	See response to Policy LU 5.3.6.
<b>CE 7.1.8 Parking Configuration (page 7-30).</b> Site and design new development to avoid use of parking configurations or management programs that are difficult to maintain and enforce.	See response to Policy LU 5.3.6.
<b>Natural Resources Element</b>	
<b>Goal NR 3 – Enhancement and protection of water quality of all natural water bodies, including coastal waters, creeks, bays, harbors, and wetlands.</b>	
<b>NR 3.4 Storm Drain Sewer System Permit (page 10-19).</b> 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.	As discussed in Section 5.7, <i>Hydrology and Water Quality</i> , the City of Newport Beach is listed as a co-permittee for the Santa Ana Regional Water Quality Control Board's (SARWQCB) National Pollutant Discharge Elimination System (NPDES) permit and is bound to comply with all the aspects of the permit requirements. Therefore, the proposed project is under the jurisdiction of the SARWQCB. The City holds an NPDES permit to operate its municipal separate storm sewer systems (MS4s). Newport Beach's MS4 permit (adopted January



## 5. Environmental Analysis

### LAND USE AND PLANNING

**Table 5.8-1**  
**General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
	2002) directs it to keep pollutants out of its MS4s to the maximum extent practicable and to ensure that dry-weather flows entering recreational waters from the MS4s do not cause or contribute to exceedances of water quality standards. The proposed project would be required to comply with the City's NPDES permit requirements, including the submittal and implementation of a Storm Water Pollution Prevention Plan (SWPPP) and Best Management Practices (BMPs).
<b>NR 3.9 Water Quality Management Plan (page 10-20).</b> Require new development applications to include a Water Quality Management Plan (WQMP) to minimize runoff from rainfall events during construction and post-construction.	<p>As required by City of Newport Beach water quality ordinances and City Council Policies L-18 and L-22, at the time of submittal of an application for a new development or redevelopment, project applicants are required to submit a Water Quality Management Plan to the City of Newport Beach that outlines approved postconstruction BMPs including site-design and source- and treatment-control BMPs selected for the project to reduce pollutants in postdevelopment runoff to the best available technology economically achievable /best conventional pollutant control technology performance standards. Additionally, prior to the issuance of a grading permit by the City, project applicants are required to prepare a SWPPP that describes the BMPs to be implemented during the project's construction activities.</p> <p>As discussed in Section 5.7, <i>Hydrology and Water Quality</i>, the project applicant prepared a Water Quality Report (see Appendix I of this DEIR), which outlined a number of site-design, and source- and treatment-control BMPs (see Figure 3-8, <i>Drainage Concept Plan</i>). Refer to Section 5.7 for a detailed list of the proposed BMPs. Collectively, the BMPs outlined in the Water Quality Report and the required preparation of a SWPPP would address the anticipated and expected pollutants of concern from the operational and construction phases of the proposed project. Additionally, through the development-review process, the City of Newport Beach complies with various statutory requirements necessary to achieve regional water quality objectives and protect groundwater and surface waters from pollution by contaminated stormwater runoff. Stormwater runoff generated from within the project site would be managed in accordance with all applicable federal, state, and local water quality rules and regulations in order to effectively minimize the project's impact on water quality.</p>
<b>NR 3.10 Best Management Practices (page 10-20).</b> Implement and improve upon Best Management Practices (BMPs) for residences, businesses, development projects, and City operations.	See response to Policy NR 3.9.
<b>NR 3.11 Site Design and Source Control (page 10-20).</b> 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.	See response to Policies NR 3.4 and 3.9.

## 5. Environmental Analysis

### LAND USE AND PLANNING

**Table 5.8-1**  
**General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
<b>NR 3.14 Runoff Reduction on Private Property (page 10-20).</b> Retain runoff on private property to prevent the transport of pollutants into natural water bodies, to the maximum extent practicable.	See responses to Policies 3.9 and 3.19.
<b>NR 3.15 Street Drainage Systems (page 10-20).</b> Require all street drainage systems and other physical improvements created by the City, or developers of new subdivisions, to be designed, constructed, and maintained to minimize adverse impacts on water quality. Investigate the possibility of treating or diverting street drainage to minimize impacts to water bodies.	See response to Policy 3.9.
<b>NR 3.17 Parking Lots and Rights-of-Way (page 10-21).</b> Require that parking lots and public and private rights-of-way be maintained and cleaned frequently to remove debris and contaminated residue.	The hotel personnel would be required to comply with all applicable City codes and regulations regarding the maintenance and keeping of public and private rights-of-way. For example, Section 6.04.220, Persons Required to Clean Sidewalks, of the city's Municipal Code states that the occupant or tenant, or in the absence of an occupant or tenant, the owner, lessee, or proprietor of any real estate in the City in front of which there is a paved sidewalk shall cause said sidewalk to be swept or otherwise cleaned as frequently as necessary to maintain said sidewalks reasonably free of leaves, dirt, paper, litter, or rubbish of any kind. Sweepings from said sidewalk shall not be swept, or otherwise made or allowed to go into the street or gutter, but shall be disposed of by being placed in a refuse container by the person responsible for the cleanliness of said sidewalk.
<b>NR 3.19 Natural Drainage Systems (page 10-21).</b> 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.	As discussed in section 5.7, <i>Hydrology and Water Quality</i> , of this DEIR, the operational phase of the proposed project would include extensive landscaping, impervious surface coverage, and water quality design features including: <ul style="list-style-type: none"> <li>• Underground media filtration</li> <li>• Bioretention (rain garden)</li> <li>• Vegetated swale and sand filter treatment train</li> <li>• Media filtration</li> <li>• Permeable paving</li> <li>• Filtration trench</li> </ul> Implementation of these hydraulic and drainage design features would assist in the retention of stormwater and the recharge of groundwater.
<b>NR 3.20 Impervious Surfaces (page 10-21).</b> Require new development and public 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.	See response to Policy NR 3.19.

**Table 5.8-1**  
**General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
<b>Goal NR 4 – Maintenance of water quality standards through compliance with the total maximum daily loads (TMDLs) standards.</b>	
<b>NR 4.4 Erosion Minimization (page 10-22).</b> 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>As discussed in section 5.7, <i>Hydrology and Water Quality</i>, of this DEIR, the operational phase of the proposed project would include extensive landscaping, impervious surface coverage, and the project-related water quality design features. The permanent erosion and siltation treatment-control BMP features would include:</p> <ul style="list-style-type: none"> <li>• Underground media filtration</li> <li>• Bioretention (rain garden)</li> <li>• Vegetated swale and sand filter treatment train</li> <li>• Media filtration</li> <li>• Permeable paving</li> <li>• Filtration trench</li> </ul> <p>Collectively, implementation of the BMPs outlined in the SWPPP and the project's proposed water quality design features would address the anticipated and expected erosion impacts during the construction and operational phases of the proposed project.</p>
<b>Goal NR 10 – Protection of sensitive and rare terrestrial and marine resources from urban development.</b>	
<b>NR 10.2 Orange County Natural Communities Conservation Plan (page 10-26).</b> Comply with the policies contained within the Orange County Natural Communities Conservation Plan.	As discussed under Impact 5.3-6 of Chapter 5.3, <i>Biological Resources</i> , of this DEIR, the proposed project would not conflict with any local policies or ordinances and would comply with the provisions of the Central/Coastal HCP/NCCP.
<b>NR 10.3 Analysis of Environmental Study Areas (page 10.26).</b> Require a site-specific survey and analysis prepared by a qualified biologist as a filing requirement for any development permit applications where development would occur within or contiguous to areas identified as ESAs.	As a part of the proposed project, the project applicant's biological consultant prepared a fire protection plan and a biological survey and impact analysis (see Appendix D of this DEIR). See response to Policy S 6.3.
<b>NR 10.4 New Development Siting and Design (page 10.26).</b> 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.	See response to Policies S 6.3 and 6.4.

## 5. Environmental Analysis

### LAND USE AND PLANNING

**Table 5.8-1**  
**General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
<b>NR 10.5 Development in Areas Containing Significant or Rare Biological Resources (page 10.26).</b> 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.	See response to Policies S 6.3 and 6.4.
<b>NR 10.6 Use of Buffers (page 10.27).</b> Maintain a buffer of sufficient size around significant or rare biological resources, if present, to ensure the protection of these resources. Require the use of native vegetation and prohibit invasive plant species within these buffer areas.	See response to Policies S 6.3 and 6.4.
<b>NR 10.7 Exterior Lighting (page 10.27).</b> Shield and direct exterior lighting away from significant or rare biological resources to minimize impacts to wildlife.	<p>As discussed in Section 5.9, <i>Biological Resources</i>, of this DEIR, all exterior lighting would be required to be shielded and directed away from environmentally sensitive habitat areas (ESHAs) to minimize impacts to wildlife, in accordance with Policy 4.1.1-13 of Chapter 4, <i>Coastal Resource Protection</i>, of the Coastal Land Use Plan. Additionally, as outlined in Mitigation Measure 3-3, to ensure that project lighting along the northern perimeter of the site does not cause significant impacts to nesting gnatcatchers, the following measures shall be implemented:</p> <ul style="list-style-type: none"> <li>• All lighting within 100 feet of coastal sage scrub (CSS) shall be directed away from CSS habitat.</li> <li>• All lighting within 100 feet of CSS shall consist of the lowest intensities that still provide for adequate safety.</li> <li>• A qualified biologist shall review lighting plans prior to construction to ensure that the proposed lighting minimizes potential impacts on the California gnatcatcher.</li> </ul> <p>Furthermore, as discussed under Impact 5.1-2 of Chapter 5.1, <i>Aesthetics</i>, of this DEIR, the lights associated with the hotel expansion would be directed toward the interior of the site so as not to create off-site impacts. All exterior lighting would be designed, arranged, directed, or shielded in such a manner as to contain direct illumination on-site, in accordance with Land Use Policy 5.6.3 of the City's General Plan and Standard Lighting Condition 1, thereby preventing excess illumination and light spillover onto adjoining land uses and/or roadways.</p>

**Table 5.8-1  
General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
<b>Goal NR 18 – Protection and preservation of important paleontological and archaeological resources.</b>	
<b>NR 18.1 New Development (page 10-34).</b> 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.	See response to Policy HR 2.1.
<b>NR 18.3 Potential for New Development to Impact Resources (page 10-34).</b> 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.	See response to Policy HR 2.3.
<b>NR 18.4 Donation of Materials (page 10-34).</b> 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.	See response to Policy HR 2.4.
<b>Safety Element</b>	
<b>Goal S 6 – Protection of human life and property from the risks of wildfires and urban fires.</b>	
<b>S 6.3 New Development Design (page 11-27).</b> Site and design new development to avoid the need to extend fuel modification zones into sensitive habitats.	As a part of the proposed project, the project applicant's biological consultant prepared a fire protection plan (see DEIR, Appendix D ). As outlined in the fire protection plan and as discussed in Impact 5.3-1, the proposed project and related fuel modification would not remove any CSS, which is considered an ESHA, and would comply with the City's Coastal Act policies set forth to protect ESHAs. The project design would result in complete avoidance of off-site CSS. As shown on Figure 5.3-4, <i>Vegetation and Fuel Modification</i> , neither grading nor fuel modification activities would remove any CSS. In addition, project design includes a minimum 50-foot buffer between developed areas and off-site CSS to assure full compliance with the City's Coastal Land Use Policies.

## 5. Environmental Analysis

### LAND USE AND PLANNING

**Table 5.8-1**

**General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
<b>S 6.4 Use of City-Approved Plant List (page 11-27).</b> Use fire-resistive, native plant species from the City-approved plant list in fuel modification zones abutting sensitive habitats.	<p>As outlined in the fire protection plan (see Appendix D of this DEIR), fuel modification zones were created to provide a means for the installation and maintenance of landscaping along the projects northern boundary, which abuts CSS and other sensitive habitats(see Appendix C, Conceptual Fuel Modification Plan, of the Fire Protection Plan). The Special Treatment Zone for example would include the following provisions:</p> <ul style="list-style-type: none"> <li>• Allow 50 feet of fuel modification adjacent to the sensitive CSS habitat immediately north of the project site.</li> <li>• Maintained, irrigated landscaping is limited to ground cover material chosen from the approved Newport Beach Fire Department fire-resistive plant list. Ground cover is to be irrigated and maintained at a height of 8 inches or less and free of dead plant material.</li> <li>• Native Carex grass species (Carex spp.) are to be planted exclusively in the Special Treatment Zone and maintained at a height of 8 inches or less. Plant material shall be irrigated to maintain adequate fuel moistures.</li> </ul> <p>Fuel Modification Zones A to D would include requirements such as:</p> <ul style="list-style-type: none"> <li>• Irrigated ground cover selected from the fire-resistive plant list shall be maintained at a height not to exceed 8 inches.</li> <li>• Shrubs or trees proposed for planting in this zone shall be in accordance with planting guidelines and spacing standards established in the NBFDF Fuel Modification Standards. All combustible plant species shall be removed and the area shall be maintained free of dead and dying plant material</li> <li>• Maintenance shall include ongoing removal and/or thinning of undesirable combustible vegetation, replacement of dead/dying fire-resistant plantings, maintenance of the operations integrity, and programming of the irrigation system, and regular trimming to prevent ladder fuels.</li> <li>• Nonnative trees shall be treated to remove dead and dying limbs and trees and to create vertical separation of tree canopies from understory fuels.</li> </ul>
<b>S 6.5 Invasive Ornamental Plant Species (page 11-27).</b> Prohibit invasive ornamental plant species in fuel modification zones abutting sensitive habitats.	See response to Policy S 6.4.
<b>Noise Element</b>	
<b>Goal N 1 Noise Compatibility – Minimized land use conflicts between various noise sources and other human activities.</b>	
<b>N 1.1 Noise Compatibility of New Development (page 12-25).</b> 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.	As discussed in detail in Section 5.9, <i>Noise</i> , of this DEIR, the noise analysis demonstrates that the proposed project would comply with the requirements as outlined in the City of Newport Beach's noise standards. Refer to Section 5.9 for a detailed analysis on compatibility and compliance with noise standards.

**Table 5.8-1  
General Plan Consistency Analysis**

Applicable City of Newport Beach General Plan Goals and Policies		Project Consistency												
<p><b>N 1.8 Significant Noise Impacts (page 12-26).</b> 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.</p> <table><tr><th>CNEL dBA</th><th>dBA increase</th></tr><tr><td>55</td><td>3</td></tr><tr><td>60</td><td>2</td></tr><tr><td>65</td><td>1</td></tr><tr><td>75</td><td>1</td></tr><tr><td>Over 75</td><td>Any increase considered significant</td></tr></table>		CNEL dBA	dBA increase	55	3	60	2	65	1	75	1	Over 75	Any increase considered significant	<p>As discussed in detail under Impact 5.9-1 of Section 5.9, <i>Noise</i>, of this DEIR, the increase in traffic from operation of the proposed project would not significantly increase noise levels for surrounding noise-sensitive receptors.</p> <p>As discussed in detail under Impact 5.9-2 of Section 5.9, <i>Noise</i>, of this DEIR, new stationary noise sources from long-term operation of the proposed project would not substantially elevate noise levels in the vicinity of noise-sensitive land uses. Noise-sensitive residential uses within the vicinity of the proposed noise-generating uses are located a significant distance (greater than 340 feet) and therefore would not be exposed to noticeable levels of stationary noise generated at the project site. Additionally, as outlined in Chapter 10.28, Loud and Unreasonable Noise, of the City’s Municipal Code, stationary equipment or on-site facilities used in a manner that violates the City’s noise standards is defined as a public nuisance and is not permitted within the City.</p>
CNEL dBA	dBA increase													
55	3													
60	2													
65	1													
75	1													
Over 75	Any increase considered significant													
Goal N 2 – Minimized motor vehicle traffic and boat noise impacts on sensitive noise receptors.														
<p><b>N 2.1 New Development (page 12-26).</b> Require that proposed noise-sensitive uses in areas of 60 dBA and greater, as determined the analyses stipulated by Policy N1.1, demonstrate that they meet interior and exterior noise levels.</p>		<p>As discussed in detail in Section 5.9, <i>Noise</i>, of this DEIR, the noise analysis demonstrates that the proposed timeshare units would meet the city’s interior and exterior noise-compatibility policies. Refer to Section 5.9 for a detailed analysis on compatibility and compliance with noise standards.</p>												
Goal N 4 Minimization of Nontransportation-Related Noise – Minimized nontransportation-related noise impacts on sensitive noise receptors.														
<p><b>N 4.1 Stationary Noise Sources (page 12-29).</b> Enforce interior and exterior noise standards outlined in Table N3, and in the City’s Municipal Code to ensure that sensitive noise receptors are not exposed to excessive noise levels from stationary noise sources, such as heating, ventilation, and air conditioning equipment.</p>		<p>As outlined in Section 5.9, <i>Noise</i>, of this DEIR, equipment sound ratings of new heating, ventilation, and air conditioning (HVAC) equipment installed within the City of Newport Beach are reviewed during plan check and tested in the field after installation. According to Section 10.26.045 of the City’s Municipal Code, new permits for HVAC equipment in or adjacent to residential areas shall be issued only where the sound rating of the proposed equipment does not exceed 55 dBA and is installed with a timing device that will deactivate the equipment during the hours of 10 PM to 7 AM. Also see response to Policies N 1.8 and 2.1.</p>												

## 5. Environmental Analysis

### LAND USE AND PLANNING

**Table 5.8-1**  
**General Plan Consistency Analysis**

<b>Applicable City of Newport Beach General Plan Goals and Policies</b>	<b>Project Consistency</b>
<b>N 4.2 New Uses (page 12-29).</b> 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.	As noted in Section 3.5, <i>Intended Uses of the EIR</i> , of Chapter 3 of this DEIR, the proposed project would require a use permit to allow proposed building heights up to 35 feet, to permit the expansion of the hotel, and to allow the construction of the timeshare units. No other ancillary, recreational, or entertainment facilities or uses are proposed as a part of the hotel expansion that would require the approval of a use permit. If in the future a particular use or facility is proposed that would require the approval of a use permit as outlined in this policy, the project applicant would be required to submit and process such a permit in accordance with all applicable City standards, including the noise standards outlined in Table N3 and the City's Municipal Code. Additionally, as outlined Under Impact 5.9-2 of Section 5.9, <i>Noise</i> , of this DEIR, the Hyatt Regency Newport Beach hosts an annual outdoor jazz event. Operation of the annual jazz event requires a Special Events Permit in accordance with Chapter 11.03, Special Events, of the city's Municipal Code. Future jazz events and other similar events held within the expanded ballroom facilities would also require the approval of this type of permit. Furthermore, use of sound-amplifying equipment is prohibited outdoors between the hours of 8 PM and 8 AM. Also see response to Policy N 1.8.
<b>N 4.3 New Commercial Developments (page 12-29).</b> Require that new commercial developments abutting residentially designated properties be designed to minimize noise impacts generated by loading areas, parking lots, trash enclosures, mechanical equipment, and any other noise generating features specific to the development to the extent feasible.	See response to Policies N 1.8, 4.1, 4.2, and 4.6.
<b>N 4.6 Maintenance or Construction Activities (page 12-30).</b> 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.	As noted in Section 5.9, <i>Noise</i> , of Chapter 3 of this DEIR, the City realizes that the control of construction noise is difficult and therefore provides exemption for this type of noise. According to the City of Newport Beach Municipal Code Section 10.26.035, Exemptions, noise sources associated with construction, repair, remodeling, demolition, or grading of any real property are exempt from the noise level limits shown in the Table 5.9-4 of Section 5.9. Such activities shall instead be subject to the provisions of the City of Newport Beach Municipal Code Section 10.28.040, Construction Activity – Noise Regulations. According to this chapter, construction is permitted on weekdays between the hours of 7:00 AM and 6:30 PM and Saturdays between the hours of 8:00 AM and 6:00 PM. Construction is not permitted on Sundays or any federal holiday. Exceptions to these construction hours can be made when the maintenance, repair, or improvement is of a nature that cannot feasibly be conducted during normal business hours, as outlined in Section 10.28.040 of the City's Municipal Code. All construction activities proposed within the project site would be required to adhere to these standards. Additionally, any project-related maintenance activities would be required to adhere to the standard outlined in Section 10.28.045, Real Property Maintenance-Noise Regulations, of the City's Municipal Code. Also see response to Policy N 4.2.
<b>Goal N 5 – Minimized excessive construction-related noise.</b>	
<b>N 5.1 Limiting Hours of Activity (page 12-30).</b> Enforce the limits on hours of construction activity.	See response to Policy N 4.6.



### **Zoning Code**

#### **Land Use**

The project site is designated as RSC per the City's Zoning Code. As outlined in Chapter 20.15, Commercial Districts, of the Zoning Code, the RSC zoning classification provides areas that are predominantly retail in character but that allow some service office uses. The RSC zone identifies "hotels, motels and time-shares" as allowed land uses requiring a Use Permit. The proposed project would be consistent with the RSC zoning classification for the project site, as it would provide for the expansion and modification of the existing hotel uses, including 88 new timeshare units through the submittal and approval of a Use Permit.

#### **Timeshare Uses**

Per the provisions outlined in Chapter 20.84, Time Share Developments, of the Zoning Code, the proposed development of 88 timeshare units would require the submittal and approval of a Use Permit. As outlined in the ordinance, the project applicant would also be required to submit Sales, Management, and Contingency Plans for actions to be taken if the timeshare fails to sell 50 percent within two years of receiving a permit to occupy the first unit. Additionally, the ordinance requires a minimum of 100 timeshare units unless they are converted in conjunction with a resort or hotel complex of more than 300 units, as is the case with the Hyatt Regency, which has an existing 403 rooms. Furthermore, Section 20.84.060, Development and Operation Regulations, of the ordinance stipulates that timeshare projects shall be developed with substantial recreational amenities, such as golf courses, tennis courts, and swimming pools. The proposed project would provide sufficient recreational amenities, which include an existing tennis facility; a new timeshare clubhouse; two existing pools (Bay and Lido); a new spa, fitness, and pool facility in the central hotel area; and a new pool and spa adjacent to the timeshare clubhouse. Therefore, the proposed project would comply with the specific requirements of Chapter 20.84 of the Zoning Code.



#### **Height Limits**

The Use Permit is also required for the proposed building heights of up to 35 feet within the 26/35 foot height limitation that applies to the project site. Figure 3-6, *Site Sections*, depicts the height relationship of the proposed buildings and structures with existing and proposed grades. As shown on Figure 3-6, the proposed building heights would be in compliance with the 35-foot building height limit. Also as shown on Figure 3-6, the height to the top of the architectural ballroom tower would be 57 feet 6 inches and 62 feet 6 inches to the top of the finial (an ornamental termination of a pinnacle), which would be located on top of the arched metal roof of the tower. In addition to a Use Permit for the building heights of up to 35 feet, the height of the proposed ballroom tower and finial would require the approval of a Modification Permit to exceed the permitted 35-foot height limit, as outlined in Section 20.65.070, Exceptions to Height Limits, of the Zoning Code. This section of the code includes provisions on the allowance of architectural features to exceed the height limits subject to the approval of a Modification Permit. Therefore, the proposed project would comply with the specific requirements of Chapter 20.65, Height Limits.

#### **Parking**

As detailed in Table 5.11-6, *Hyatt Regency Off-Street Parking Summary*, of Section 5.11 of this DEIR, the proposed project, including existing uses, would require a total of 336 parking spaces to comply with specific hotel, timeshare units, and timeshare clubhouse/meeting facility parking requirements of the City's Zoning Code. The proposed project would provide a total of 912 parking spaces, and therefore, would provide parking that exceeds the minimum requirement. Additionally, Section 20.84.060, Development and Operation Regulations, of Chapter 20.84 of the Zoning Code stipulates that timeshare projects shall require

## 5. Environmental Analysis

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### LAND USE AND PLANNING

parking at a ratio of 1.2 spaces per unit plus 1 per 50 square feet of banquet seating or meeting areas. As shown in Table 3-1, *Existing and Proposed Uses*, of Chapter 3 of this DEIR, the proposed project would provide the required parking spaces for the timeshare uses as outlined in the ordinance. However, the proposed tandem valet parking to serve the 800-seat ballroom facility would require the approval of a Modification Permit to allow tandem valet parking. Provisions for tandem parking only apply for residential districts. In commercial districts, tandem parking requires the approval of a Modification Permit via the provision of Section 20.93.015(A), Modification Permits, of the Zoning Code.

#### **Coastal Land Use Plan**

Below is an analysis of the proposed project's consistency with the various components of the CLUP.

#### ***Land Use and Development***

As stated above, the CLUP Map designates the project site as Visitor-Serving Commercial B (CV-B). This designation is intended to provide for accommodations, goods, and services intended for visitors to Newport Beach. Development policies in the Land Use and Development chapter of the CLUP include policies that encourage new development that would provide overnight visitor accommodations. The proposed project would provide expanded hotel accommodations and services to Newport Beach. Expansion of the Hyatt Regency would include new ballroom facilities, 88 new timeshare units, and a new spa and fitness facility. Additionally, as noted in Section 3.4.1, *Proposed Site Plan*, of Chapter 3 of this DEIR, upon all demolition and expansion activities, the total gross square footage of the Hyatt Regency would be 374,104. The project site totals 25.7 gross acres, or 1,093,729 gross square feet. This would equate to a .34 floor are to land area ratio, which would be below the 0.50 to 1.25 ratio permitted under CLUP's CV-B designation of the project site. As such, the proposed project would be consistent with CLUP's land use designation of the project site.

#### ***Public Access and Recreation***

Chapter 3, *Public Access and Recreation*, of the CLUP addresses policies for shoreline and coastal access, and information and policies related to recreation programs and events. Access to and along Upper Newport Bay is provided by Back Bay Drive, which forms the projects southern and western boundaries. Development of the proposed project would not impede any vehicular or pedestrian access to and from the recreation areas within Upper Newport Bay. Additionally, no encroachments into the bay or shoreline would occur. As such, no impacts to and along the Upper Newport Bay would occur.

Provisions for temporary events are detailed in Section 3.1.7 of the CLUP. Any special events proposed within the Hyatt Regency facilities would require the issuance of a special-event permit per City requirements, which require detail on event characteristics, including duration, event hours, estimated daily attendance, parking arrangements, traffic control, noise control, waste removal, etc.

#### ***Coastal Resource Protection***

Chapter 4, *Coastal Resource Protection*, of the CLUP addresses biological resources, wetlands and deepwater areas, water quality, scenic and visual resources, and paleontological and cultural resources.

Section 5.3, *Biological Resources*, of this DEIR analyzes the proposed project's potential impacts on biological resources. As discussed in Section 5.3, the proposed project and related fuel modification plan would not impact any sensitive plant species or wildlife movement, and would not conflict with any local policies or ordinances. The proposed project could impact migratory birds and raptor foraging habitat and construction-related activities could have a temporary adverse impact on coastal California gnatcatchers

## 5. Environmental Analysis

### LAND USE AND PLANNING

nesting in preserved areas of coastal sage scrub adjacent to the site. However, the mitigation measures identified in Section 5.3 would reduce potential impacts associated with biological resources to a level that is less than significant.

Section 5.7, *Hydrology and Water Quality*, of this DEIR analyzes the proposed project's potential impacts on water quality. As discussed in Section 5.7, the proposed project would not violate any water quality standards or waste-discharge requirements, provided substantial additional sources of pollutant runoff, or otherwise degrade water quality.

Section 5.1, *Aesthetics*, of this DEIR analyzes the proposed project's potential impacts on scenic and visual resources. As discussed in Section 5.1, the proposed project would not have a substantial adverse effect on scenic vistas or substantially alter the visual appearance of the project site.

Section 5.4, *Cultural Resources*, of this DEIR analyzes the proposed project's potential impacts on cultural resources, including paleontological, historical and archeological resources. As discussed in Section 5.1, development of the proposed project could impact archaeological resources and paleontological resources or a unique geologic feature. Additionally, grading activities could result in the disturbance of human remains. However, the mitigation measures identified in Section 5.1 would reduce potential impacts associated with cultural resources to a level that is less than significant.

**IMPACT 5.8-2: IMPLEMENTATION OF THE PROJECT WOULD BE IN ACCORDANCE WITH THE VESTED ENTITLEMENT FOR THE PROJECT SITE UNDER THE 1993 CIOSA. [THRESHOLD LU-2]**

**Impact Analysis:** The proposed project is consistent with the existing development entitlement for the project site under the 1993 CIOSA. The proposed agreement authorizes the operation of additional hotel rooms, which the project applicant proposes to operate as timeshare units. Upon development, there will be a total of 479 rooms on the property. The CIOSA agreement is silent with respect to development of ancillary hotel facilities. The traffic study supporting the CIOSA, however, did utilize trip generation rates for the Hyatt Regency from the Newport Beach Traffic Analysis Model (NBTAM) that are comparable to the Institute of Transportation Engineers' (ITE) trip rate for hotels (Trip Code 310), which by definition included supporting facilities such as banquet/meeting rooms, recreational facilities and retail shops.

**IMPACT 5.8-3: THE PROPOSED HYATT REGENCY EXPANSION WOULD COMPLY WITH THE JOHN WAYNE AIRPORT AELUP. [THRESHOLD LU-2]**

**Impact Analysis:** The project site is located within the Height Restriction Zone and the Airport Obstruction Imaginary Surface Overlay Zone as designated in the AELUP for JWA (see Figure 5.6-2, *Height Restriction Zone*), which is overseen by the Orange County Airport Land Use Commission (ALUC). These zones trigger specific notification requirements for buildings exceeding 200 feet in height 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.

As of November 17, 2006, the City of Newport Beach was designated as a consistent agency per the ALUC (ALUC 2007). In accordance with the ALUC's *Referral Requirements for Consistent Cities*, which only apply to cities that have been found to be consistent with the AELUP, the criteria for submitting projects to the ALUC for consistency review include:



## 5. Environmental Analysis

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### LAND USE AND PLANNING

- Projects within an AELUP Airport Planning Area that require a general plan or specific plan amendment or the adoption or approval of a zoning ordinance or building regulation.
- Development projects that would exceed 200 feet above ground level.

Although the project site is included in the Height Restriction and Airport Obstruction Imaginary Surface Overlay Zones as designated in the AELUP, the proposed project does not include a general plan or specific plan amendment or the adoption or approval of a zoning ordinance or building regulation. As detailed in Section 3.5, *Intended Uses of the EIR*, of Chapter 3 of this DEIR, the proposed project would involve the approval of a Parcel Map, Use Permit, Modification Permit, and Development Agreement. Additionally, the proposed project's tallest structures would be the architectural ballroom tower and finial of the new 800-seat ballroom, at 57 feet 6 inches to the top of the tower and 62 feet 6 inches to the top of the finial (see Figure 3-6, *Site Sections*). The elevation of the site ranges from 7–20 feet above mean sea level. Based on this information, the proposed project would be consistent with the building height limitations set forth under the current civilian airport standards of the AELUP and would not require submittal to ALUC for consistency review.

#### 5.8.4 Cumulative Impacts

Related projects that would potentially combine with the proposed project to result in land use impacts are listed and graphically depicted in Table 4-1 and Figure 4-1, respectively. The Hyatt Regency is the only land use approved in the CIOSA project that remains to be fully developed. As detailed in Chapter 4 of this DEIR, related projects proximate to the project site that have been approved but not built include an additional 275 hotel rooms at the Newport Dunes and 192,846 square feet of additional commercial square footage at Fashion Island.

Land use compatibility is a combination of other impacts, including potential air quality, noise, traffic, and aesthetic impacts. Potential cumulative impacts associated with traffic generation and related air quality and noise impacts are addressed in those topical sections of this DEIR and include the cumulative projects detailed in Chapter 4. Potential project-related aesthetic impacts would not combine with any of the identified cumulative projects to restrict public views or otherwise result in significant cumulative aesthetic impacts. As with the proposed project, cumulative projects would be subject to compliance with the local and regional plans reviewed in this section. Implementation of these projects, therefore, would not combine with the Hyatt Regency expansion to result in cumulatively considerable impacts.

#### 5.8.5 Existing Regulations

Existing regulations specifically applicable to land use and planning for the proposed project include the following chapters of the City's Zoning Code, Title 20 of the Municipal Ordinance, as discussed above.

- Chapter 20.15, *Commercial Districts*, includes provisions for the Retail and Service (RSC) District.
- Chapter 20.65, *Height Limits*, Section 20.65.040, *Height Limitation Zones*, (C) 26/35 Foot Height Limitation Zone, includes specific requirements for the 26/35 Foot Height Limitation Zone in which the project site is located.
- Chapter 20.65, *Height Limits*, Section 20.65.070, *Exceptions to Height Limits*, (A) *Architectural Features*, includes a provision for architectural features to exceed permitted height limits subject to the approval of a modification permit.

- Chapter 20.84, *Time Share Developments*, includes specific definitions and requirements for proposed timeshare developments.
- Chapter 20.93, *Modification Permits*, includes procedures for approval, conditional approval and disapproval for a Modification Permit.

### **5.8.6 Level of Significance Before Mitigation**

Upon implementation of regulatory requirements, project-related and cumulative Land Use and Planning impacts of the proposed project would be less than significant.

### **5.8.7 Mitigation Measures**

Land Use and Planning impacts would be less than significant and would not require mitigation measures.

### **5.8.8 Level of Significance After Mitigation**

Project-related and cumulative Land Use and Planning impacts would be less than significant without mitigation.



## *5. Environmental Analysis*

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### LAND USE AND PLANNING

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