Harbor Pointe Senior Living Project

Draft Environmental Impact Report

(PA2015-210) SCH No. 2016071062

Volume 1

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Prepared by

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August 2018

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1.0 EXECUTIVE SUMMARY

1.1 INTRODUCTION

The environmental impact report (EIR) process, as defined by the California Environmental Quality Act (CEQA), requires the preparation of an objective, full-disclosure document in order to (1) inform agency decision makers and the general public of the direct and indirect potentially significant environmental effects of a proposed action; (2) identify feasible or potentially feasible mitigation measures to reduce or eliminate potential significant adverse impacts; and (3) identify and evaluate a reasonable range of alternatives to the proposed project. In accordance with Section 15168 of the State CEQA Guidelines (California Code of Regulations [CCR], Title 14, Chapter 3, Sections 15000, et seq.), this EIR addresses the potential environmental impacts associated with the proposed Project, as described herein, through the adoption and implementation of the Harbor Pointe Senior Living Project ("Project").

This EIR includes a detailed description of the proposed Project and the potential physical environmental impacts associated with the implementation of the Project. The City of Newport Beach made a determination that the scope of this EIR should cover all environmental topics, and issued a Notice of Preparation (NOP) on July 22, 2016. The NOP and the comments received during the public review of the NOP are included in Appendix A to this EIR.

The environmental topics analyzed in detail in Section 4.0 of this EIR describe: 1) the physical conditions that existed at the approximate time this EIR's NOP was filed with the California State Clearinghouse (July 2016); 2) disclose the type and magnitude of potential environmental impacts resulting from Project planning, construction, and operation; and 3) if warranted, recommend feasible mitigation measures that would reduce or avoid significant adverse environmental impacts that the proposed Project may cause. A summary of the proposed Project's significant environmental impacts and the mitigation measures imposed by the City of Newport Beach on the Project to lessen or avoid those impacts are included in this Executive Summary as Table 1-1. The City of Newport Beach applies mitigation measures which it determines (1) are feasible and practical for project applicants to implement; (2) are feasible and practical for the City of Newport Beach to monitor and enforce; (3) are legal for the City to impose; (4) have an essential nexus to the Project's impacts; and (5) would result in a benefit to the physical environment. CEQA does not require the Lead Agency to analyze an exhaustive list of every imaginable mitigation measure, or measures that are duplicative of mandatory regulatory requirements.

1.2 PROJECT LOCATION

The 1.5-acre Project site is located in the City of Newport Beach, Orange County, California. It is located southwest of State Route (SR) 73, less than one-half mile from the intersection of Jamboree Road and Bristol Street. Specifically, the subject property is immediately bound by Bristol Street and SR-73 on the northeast, Bayview Place and a six-story office building complex on the southeast, Baycrest condominiums on the southwest, and a three-story office building with parking below and the Santa Ana Heights residential neighborhood to the northwest. The current address of the site is 101 Bayview Place, Newport Beach, California 92660. The

assessor's parcel number (APN) is 442-283-05. The Regional Location, Local Vicinity, and Aerial Photograph are shown in Section 1.0, Executive Summary as Exhibits 1-1, 1-2, and 1-3, respectively.

1.3 PROJECT DESCRIPTION SUMMARY

The Project site consists of 1.5 acres of developed land bound by Bristol Street and SR-73 on the northeast, Bayview Place and a six-story office building complex on the southeast, Baycrest condominiums on the southwest, and a three-story office building with parking below and the Santa Ana Heights residential neighborhood to the northwest.

The Project involves demolition and removal of the existing approximate 8,800-square-foot, single-story restaurant, associated parking, and improvements on the site; preparation of the site for redevelopment; and construction of a three-story building with a proposed gross floor area of 84,517 square feet, containing 101 assisted living and memory care units¹ (120 beds), ancillary uses, and subsurface parking. The units would consist of 42 assisted living studios, 27 assisted living one-bedroom units, 12 assisted living two-bedroom units, 13 memory care onebedroom units, and 7 memory care two-bedroom units. Additionally, the proposed facility would include living rooms, dining rooms, grill, fitness room, spa/salon, theater, library, roof garden, community store, computer lab, activity room, medication rooms, and support uses such as offices, lab, mail room, laundry, and maintenance facilities. Separate interior courtyards would offer seating, outdoor dining, and landscaping for the assisted living and memory care residents. The building height is 33 feet at the top of the roof and 39 feet and 6 inches at the highest point, which includes mechanical equipment screening. This is within the height limits for the site in the existing Bayyiew Planned Community text. Landscaping, drive aisles, and passenger drop-off would also be provided on the property. Exhibit 3-1, Site Plan, shows the location of the proposed building, access, and drive aisles; and Exhibits 3-2a through 3-2d show floor plans for each of the floors and the basement of the proposed three-story facility.

Construction is expected to take 12 to 14 months. Building excavation would require the removal of approximately 10,300 cubic yards, of which 10,200 cubic yards would be exported and 100 cubic yards would be used for site fill.

1.4 PROJECT OBJECTIVES

Section 15124(b) of the State CEQA Guidelines requires "[a] statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and would aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project". Not only is a project analyzed

¹ The proposed designation of the Project site is PI (Private Institutions), which allows for congregate care homes and convalescent facilities. NBMC Chapter 2070 (Definitions) defines convalescent facilities as establishments that provide care on a 24-hour basis for persons requiring regular medical attention. In this case, the convalescent facility is in the form of 20 memory care units, consisting of 13 one-bedroom units and 7 two-bedroom units. Congregate care is defined as housing built specifically for the elderly and provides services, such as on-site meal program, housekeeping, laundry, social activities, and transportation. In this case, there will be a total of 81 assisted living units, consisting of 42 studios, 27 one-bedroom units, and 12 two-bedroom units, with various shared amenities and services provided. It should be noted that the proposed units are referred to as assisted living and memory care throughout this EIR.



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in light of its objectives, compatibility with project objectives is one of the criteria used in selecting and evaluating a reasonable range of project alternatives. Clear project objectives simplify the selection process by providing a standard against which to measure project alternatives.

The following objectives have been identified for the Project:

- 1. Develop a high quality and safe senior living facility that would respond to the growing demand for senior housing and cater to the needs of the local elderly population.
- 2. Create a self-sufficient facility that would provide services and amenities to enhance livability for the onsite resident population.
- 3. Create a mix of assisted living and memory care units that that would cater to the specific needs of the resident population.
- 4. Construct and operate a use that is compatible with and respectful to the surrounding land uses, physically and aesthetically.
- 5. Create appropriate landscaping buffers to protect privacy of adjoining neighbors and enhance the Project and community.
- 6. Implement a Project consistent with the Bayview Planned Community Development Plan (PC-32) requirements and standards (e.g., height limit, setbacks).
- 7. Implement a land use that would result in fewer vehicular trips than the existing use onsite or the permitted land uses in the Bayview Planned Community Development Plan (PC-32).

1.5 PROJECT ALTERNATIVES

Section 15126.6(a) of the State CEQA Guidelines requires that "an EIR describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives". Five alternatives have been evaluated. These alternatives are summarized below and discussed and depicted graphically in Section 5.0, Alternatives to the Proposed Project, of this EIR.

The alternatives were developed to avoid or minimize impacts associated with implementation of the proposed Project. The summaries of each alternative identify the potentially significant impacts associated with each alternative. Table 5-1, Compatibility Comparison of Alternatives With Project Objectives, provides the compatibility of the alternatives with the proposed Project, and Table 5-2, Comparison of Project Alternatives Impacts to Proposed Project Impacts, provides a summary of alternative impacts compared to the proposed Project.

1.5.1 ALTERNATIVE 1 – NO PROJECT ALTERNATIVE

This alternative assumes the site would continue to remain in its current state. The existing restaurant on the site, Kitayama, would continue its operations. The existing site improvements would remain unchanged.

This alternative would avoid potentially significant impacts, albeit mitigable, of the proposed Project associated with Air Quality, Cultural Resources, Geology and Soils, Greenhouse Gas (GHG) Emissions, Hazards and Hazardous Materials, and Land Use and Planning. However, Hydrology and Water Quality and Transportation/Traffic impacts of this alternative would be greater than the proposed Project. The No Project Alternative would not meet four of the seven Project Objectives.

1.5.2 ALTERNATIVE 2 – OFFICE DEVELOPMENT ALTERNATIVE

This alternative assumes that the site would be redeveloped with a three-story, 70,000-square-foot office building, as permitted, subject to a use permit, under the Bayview Planning Community Development Plan (PC-32).

This alternative would not avoid potentially significant impacts, albeit mitigable, of the proposed Project associated with Geology and Soils, Land Use and Planning, and Noise and would have similar impacts related to Aesthetics, Hazards and Hazardous Materials, Hydrology and Water Quality, and Noise. However, it would avoid potential impacts related to Land Use and Planning, as the office development is a permitted use, and no amendments to the General Plan or the Planned Community Development Plan (PC-32) would be required. However, this alternative would result in greater impacts associated with Air Quality, Cultural Resources, GHG, Transportation/Traffic, and Tribal Cultural Resources. The Office Development Alternative would not meet four of the seven Project Objectives and would only partially meet one objective.

1.5.3 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The No Project Alternative (Alternative 1) would have the least impact to the environment because it would not involve any construction or demolition activities, nor would it result in any environmental impacts. This alternative would avoid potentially significant impacts, albeit mitigable, of the proposed Project associated with Air Quality, Cultural Resources, Geology and Soils, Greenhouse Gas (GHG) Emissions, Hazards and Hazardous Materials, and Land Use and Planning. Hydrology and Water Quality and Transportation/Traffic impacts of this alternative would be greater than the proposed Project. In addition, this alternative would not meet any of the Project Objectives.

Consistent with the requirements of CEQA, the remaining alternative was compared to the proposed Project when recommending the environmentally superior alternative. When evaluating the proposed Project compared to Alternative 2, Office Development Alternative, it may result in reduced impacts in some areas; however, it would result in increased impacts in other areas and does not satisfy four of the seven Project Objectives.

Based solely on the potential environmental impacts, Alternative 1, No Project Alternative, would have the greatest reduction in environmental impacts and would be deemed the environmentally superior alternative. However, as discussed above, this alternative would not meet any of the Project objectives. Therefore, as part of the alternative selection process, the City Council will need to balance the environmental impacts and ability to meet Project Objectives. Additionally, it should be noted that based on Section 15126.6(e)(2) of the State CEQA Guidelines, "If the environmentally superior alternative is the 'no project' alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives." In light

of this and based on detailed analysis in Section 5.0, Alternatives, of the Draft EIR, the proposed Project would be the next environmentally superior alternative. For further comparison of the alternatives and identification of the environmentally superior alternative, see Section 5.4.

1.6 ENVIRONMENTAL IMPACT REPORT FOCUS AND EFFECTS FOUND NOT TO BE SIGNIFICANT

In accordance with Section 15063 of the State CEQA Guidelines, the City prepared a Notice of Preparation (NOP) for the proposed Project and distributed it to responsible and interested agencies and to key interest groups. The NOP was distributed to agencies and individuals for a 30-day review period beginning on July 22, 2016. In addition, notices regarding the availability of the NOP were distributed to all property owners and occupants of businesses within 300 feet of the Project site. The NOP was also posted on the City website.

A Scoping Meeting was held on August 15, 2016, from 6 p.m. to 8 p.m. at the Civic Center Community Room, 100 Civic Center Drive, in Newport Beach. City staff were available to answer any questions about the proposed Project. A handout that provided an overview of the proposed Project, the scope of the EIR, and Project schedule was distributed. Comment cards were available for attendees to submit at the meeting or to mail to City staff. Although more than 50 people were in attendance, a total of 26 attendees signed the sign-in sheet.

A summary of the issues raised in the NOP comment letters is provided in Section 2.3 of this EIR. Copies of the NOP, its distribution list, comments received on the NOP, and the handouts made available at the Scoping Meeting are included in Appendix A of this EIR. A total of 19 comment letters were received during the 30-day NOP review period.

The City of Newport Beach has determined that the EIR address the following environmental topics as stand-alone sections.

- Aesthetics
- Air Quality
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality

- Land Use and Planning
- Noise
- Public Services
- Transportation/Traffic
- Tribal Cultural Resources
- Utilities and Service Systems

Section 2.3 provides an overview of the EIR review process and a summary of the environmental topics and threshold questions within topical areas that will not receive detailed evaluation in the EIR.

1.7 AREAS OF CONTROVERSY/ISSUES TO BE RESOLVED

Section 15123(b)(3) of the State CEQA Guidelines requires that an EIR identify issues to be resolved, including the choice among alternatives and whether or how to mitigate the Project's significant effects on the environment. With respect to the proposed Project, as part of the notice

of preparation process, a number of concerns, which have been addressed and/or resolved, were expressed by the surrounding residents:

- The height of the facility (five-story), as originally proposed, was a concern to the surrounding uses. This issue was taken into consideration, and the City encouraged the applicant to redesign the proposed facility. As a result, the height of the structure was reduced from five stories to three stories, as defined and analyzed in this EIR. Therefore, this issue has been resolved.
- Shadows cast from the five-story structure was expressed as a potential issue for the adjacent residential units. As indicated above, the previously proposed five-story height was reduced to three stories. A shade and shadow study was conducted and extensively analyzed in Section 4.1, Aesthetics of the EIR and concluded that the proposed three-story structure would not result in significant impact pertaining to shade and shadow onto the adjacent uses. Additionally, a visual simulation study was prepared comparing the "before" and "after" conditions and determined that potential visual and shade and shadow impacts would be less than significant. Therefore, this issue has been resolved.
- The traffic and trips associated with the proposed Project was also of concern to the existing residents in the area. Traffic trips related to multiple employee shifts, ambulance trips, and delivery truck trips as well as safety associated with the trips were among the issues of concern. However, as analyzed in Section 4.11, Transportation/Traffic of the EIR, the proposed facility would result in reduced trips compared to the existing restaurant use. As a result, it is determined that the impacts would be less than significant.

While the above issues have been resolved through redesign of the proposed facility and/or addressed through the detailed analyses in this Draft EIR, the issue of appropriateness of the proposed use in this location is an area of potential controversy. As part of the approval process, the City Council would need to balance the previously stated concerns of the adjacent residential uses pertaining to potential environmental impacts with the need to provide facilities that would serve the full spectrum of the City's population. The redesign of the Project has minimized a number of the potential environmental impacts to a less than significant level, which as a result should lessen the level of controversy raised as part of the initial outreach effort. However, the extent that the use is still an area of potential controversy will be better known after the public review of the Draft EIR.

Section 15125 of the State CEQA Guidelines requires that the analysis in the EIR compare the potential impacts against the existing conditions. Therefore, the analysis has been conducted with the baseline of the current operations at the Kitayama Restaurant. However, it should be noted that the owner/operator of the existing restaurant, Kitayama, has indicated his intent to cease operations and close the existing restaurant. In the future, the current use could be replaced with another restaurant or use permitted in the Bayview Planned Community Development Plan (PC-32). The permitted uses are included in Section 3.6, under Planned Community Development Plan discussion.

1.8 SUMMARY OF SIGNIFICANT EFFECTS AND MITIGATION PROGRAM

Table 1-1 presents a summary of the potential environmental effects of the Project; measures to mitigate impacts to the extent feasible; and expected status of effects following implementation of the mitigation measures. The more detailed evaluation of these issues is presented in Sections 4.1 through 4.13. The level of significance provided in the 'Project Impact' columns denotes the level of significance prior to mitigation. There is also an indicator in the column identified as 'Level of Significance After Mitigation,' which makes a determination if the mitigation measures would reduce the impact to a level of less than significant.

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Threshold of Significance	Project Impacts	M	litigation Program		
Section 4.1 - Aesthetics					
Threshold 4.1-1 Have a substantial adverse effect on a scenic vista.	The City of Newport Beach has not officially designated any scenic vistas in the City. Even though three significant vistas and two "view parks" are within a mile of the Project site, intervening development and topography would prevent views of the Project site. Therefore, the proposed demolition of the existing restaurant and construction of the proposed Project would not result in significant impacts on a scenic vista.	No mitigation is required			
Threshold 4.1-2 Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.	No scenic resources, rock outcroppings, or historic buildings are on or around the Project site. The closest potential scenic highway (SR-1) is located 3.23 miles to the south of the site. Therefore, no impacts are anticipated.	No mitigation is required			
Threshold 4.1-3 Substantially degrade the existing visual character or quality of the site and its surroundings.	While the proposed Project would alter the existing visual character of the Project site and views from surrounding vantage points, this change would not be considered a significant degradation of the Project site or its surroundings. The proposed Project would be compatible with the surrounding use; the mass and scale of the proposed structure would be consistent with existing buildings along Bristol Street; and the height would not exceed the height limit of PC-32 text. A less than significant impact would be related to change in visual character and quality.	No mitigation is required.			
Threshold 4.1-4 Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area.	The proposed Project would include new exterior light sources that would generate light at levels sufficient for safety and visibility. The new light sources would increase lighting levels at the Project site but would be consistent with the ambient and nighttime lighting in the area surrounding the Project site. All light fixtures would be shielded to direct light down and to minimize light spillover on surrounding properties. In terms of glare, the proposed building would be constructed with primarily non-reflective materials such as stone veneer and stucco on the exterior of the building and concrete or composition shingle roofing. The use of glass in windows would not generate noticeable glare that would affect surrounding uses. Therefore, the Project would not create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area resulting in significant impact.	No mitigation is required.			
Section 4.2 – Air Quality	1				
Threshold 4.2-1 Conflict with or obstruct implementation of the applicable air quality plan.	Based on the analysis presented, the Project would not contribute to the exceedance of any air pollutant concentration standards. While the Project would involve a change in the land use designation of the site, it would result in a reduction in trip generation compared to the existing use. Therefore, the Project would not exceed the growth emissions assumptions in the AQMP. Therefore, impacts would be less than significant.	No mitigation is required.			
Threshold 4.2-2 Violate any air quality standard or contribute substantially to an existing or projected air quality violation.	Construction mass (regional) criteria pollutant emissions and local construction emissions would not exceed SCAQMD CEQA significance thresholds and would be less than significant. Operational mass (regional) criteria pollutant emissions would not exceed the SCAQMD CEQA significance thresholds for all emissions and would be less than existing emissions for NOx and, PM ₁₀ . Therefore, impacts would be less than significant.	No mitigation is required.			

Level of Significance After Mitigation
Less Than Significant
Less Than Significant
Less Than Significant

TABLE 1-1 SUMMARY OF POTENTIAL IMPACTS, MITIGATION MEASURES AND LEVEL OF SIGNIFICANCE

Threshold of Significance	Project Impacts	Mitigation Program
Threshold 4.2-3 Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).	Long-term operational and short-term construction emissions of nonattainment pollutants and their precursors would not be cumulatively considerable. Therefore, impacts would be less than significant.	No mitigation is required.
Threshold 4.2-4 Expose sensitive receptors to substantial pollutant concentrations.	The proposed Project would not increase congestion or result in a significant impact related to CO hotspots. There would be relatively few pieces of off-road, heavy-duty diesel equipment in operation, and the construction period would be relatively short when compared to a 30 or 70-year exposure period. Additionally, combined with the highly dispersive properties of diesel PM and additional reductions in particulate emissions from newer construction equipment, as required by USEPA and CARB regulations, construction emissions of TACs would not expose sensitive receptors to substantial emissions of TACs. Also, the proposed Project would not have the potential to expose sensitive receptors to substantial TACs from stationary or mobile sources. Therefore, impacts would be less than significant.	No mitigation is required.
Section 4.3 – Cultural Resources		
Threshold 4.3-1 Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.	The Project has a low potential to cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 due to existing development on the site. The Project would comply with the Paleontological and Archaeological Resource Protection Guidelines contained in the City Council Policy K-5 pertaining to preservation of paleontological and archaeological resources (RR CULT- 1) in addition to relevant General Plan policies. Therefore, impacts would be less than significant.	RR CULT-1 If archaeological or paleontological resource construction, all construction activities in discovery shall be temporarily halted until the by a qualified monitor, retained by the Deve recommend next steps (i.e., additional preservation, etc.).
Threshold 4.3-2 Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	The Project has a potential to disturb paleontological resources as a result of excavation for the subterranean parking. However, the Project would comply with the Paleontological and Archaeological Resource Protection Guidelines contained in the City Council Policy K-5 pertaining to preservation of paleontological and archaeological resources in addition to relevant General Plan policies. MM CULT-1 is also proposed to reduce the potential impact to paleontological resources to less than significant level. Additionally, due to lack of unique geologic features on the site, no impacts to such features would occur, and no mitigation is required.	MM CULT-1 Prior to the issuance of the grading permit provide written evidence to the City of New Development Department that an Or professional Paleontologist has been ret potential impacts to paleontological ress duration of any ground-disturbing activitie paleontologist shall review the Project's fina implement a Paleontological Mitigation PI the following minimum elements:
		 All earthmoving activities 8-feet or a surface shall be monitored ful paleontological monitor.
		 If fossils are discovered, the paleonter authority to temporarily divert work to allow recovery of the fossils and locality.
		 Fossil localities shall require do stratigraphic columns and samples f analyses and for dating.

	Level of Significance After Mitigation
	Less Than Significant
	Less Than Significant
ces are discovered during n the general area of the the resource is examined reloper. The monitor shall al excavation, curation,	Less Than Significant
it, Project Applicant shall export Beach Community Drange County-certified etained to monitor any sources throughout the ses at the Project site. The nal plans and develop and Plan, which shall include	Less Than Significant with Mitigation
r more below the current ılltime by a qualified	
tological monitor has the ork, as deemed necessary, d evaluation of the fossil	
locumentation including for micropaleontological	

Threshold of Significance	Project Impacts	Mitigation Program	Level of Significance After Mitigation
		 Fossils shall be prepared to the point of identification prior to being donated to an appropriate repository. The final report shall interpret any paleontological resources discovered in the regional context and provide the catalog and all specialists' reports as appendices. 	
Threshold 4.3-3 Disturb any human remains, including those interred outside of formal cemeteries.	Project activities are not expected to disturb human remains. However, if human remains are encountered during grading activities, the protocol in Section 7050.5 of the California Health and Safety Code would be followed (RR CULT-2). Impacts would be less than significant.	RR CULT-2 In the event that human remains are unearthed during excavation and grading activities, all activity shall cease immediately. Pursuant to <i>California Health and Safety Code</i> Section 7050.5, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to <i>California Public Resources Code</i> Section 5097.98. If the remains are determined to be of Native American descent, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall then contact the most likely descendant of the deceased Native American, who shall serve as consultant on how to proceed with the remains.	Less Than Significant
Section 4.4 – Geology and Soils			
 Threshold 4.4-1 Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: Strong seismic ground shaking? Seismic-related ground failure, including liquefaction? Threshold 4.4-3 Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. Threshold 4.4-4 Be located on expansive soils, as defined in Table 18-1-B of the California Building Code (1994), creating substantial risks to life or property.	The Project site is in a seismically active area that would likely experience strong ground shaking during the life of any project developed thereon. However, compliance with existing regulations (2016 CBC) and implementation of MM GEO-1 would reduce potentially significant impacts associated with seismic shaking and seismic ground failure in the form of liquefaction, seismically induced settlement, and lateral spreading to a less than significant level. The Geotechnical Evaluation concludes that the Project is feasible from a geotechnical standpoint, provided the recommendations in the evaluation are incorporated into the design and construction of the proposed Project (MM GEO-1). Additionally, Project construction would be required to comply with Chapter 15.10, Excavation and Grading, of the City's Municipal Code and other applicable building standards. Therefore, the Project's impacts related to unstable soils would be less than significant with implementation of MM GEO-1 and compliance with City regulations. Based on the Preliminary Geotechnical Investigation (Ninyo & Moore 2016), soil on the Project site has high expansion potential. Implementation of MM GEO-1 would ensure impacts associated with expansive soils would be less than significant.	 MM GEO-1 Site preparation and building design specifications shall follow the recommendations in the Geotechnical Evaluation prepared by Ninyo & Moore (dated December 2015, revised April 2016): Earthwork. Earthwork shall be performed in accordance with the requirements of the applicable agencies and recommendations of the Geotechnical Evaluation. Seismic Design Considerations. Design of the proposed improvements shall be performed in accordance with the requirements of governing jurisdictions and applicable seismic design criteria in the California Building Code (CBC) and the City's Building Code. Foundations. Foundations shall be designed in accordance with structural considerations and the geotechnical recommendations in the Geotechnical Evaluation. Requirements of the governing jurisdictions, practices of the Structural Engineers Association of California, and applicable building codes shall also be considered in the design of the structures. Sidewalks. Sidewalks shall be designed in accordance with agency standards. Corrosivity. Due to the presence of corrosive soils in the Project area, corrosion protection for the Project shall be designed by a Corrosion Engineer. Concrete Placement. Recommendations regarding the type of cement and concrete cover necessary for the site shall be implemented. 	Less Than Significant with Mitigation

TABLE 1-1 SUMMARY OF POTENTIAL IMPACTS, MITIGATION MEASURES AND LEVEL OF SIGNIFICANCE

Threshold of Significance	Project Impacts	Mitigation Program
		 Preliminary Pavement Design Recommendations regarding prelim shall be implemented.
		 Drainage. Recommendations regardrainage shall be implemented.
		Landscaping. Recommendations reg drought-tolerant plants shall be imple
		The construction specifications shall be r Newport Beach Building Official prior to permit.
Threshold 4.4-2 Result in substantial soil erosion or the loss of topsoil.	Grading activities would increase the potential for soil erosion and loss of top soil. With the incorporation of construction BMPs as described in Section 4.7, Hydrology and Water Quality of this EIR and compliance with applicable laws and regulations (e.g., NPDES Construction General Permit and WDRs, Orange County MS4 Permit, DAMP, Model WQMP and TGD, and Newport Beach Water Quality regulations) Project impacts on soil erosion and loss of topsoil would be less than significant.	No mitigation is required.
Section 4.5 – Greenhouse Gas Emissions		
Threshold 4.5-1 Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment (comparable to State CEQA Guidelines, Section 15064.4[b][1–2]).	There would be an overall reduction in GHG emissions with implementation of the proposed Project compared to continuing the existing operations. The Project would not generate GHG emissions, either directly or indirectly, resulting in a significant impact on the environment. Therefore, impacts would be less than significant.	No mitigation is required.
Threshold 4.5-2 Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases (comparable to State CEQA Guidelines, Section 15064.4[b][3]).	The proposed Project would be developed in compliance with the requirements of all applicable regulations. The Project would be consistent with and would not conflict with regulations and policies adopted for the purpose of reducing GHG emissions. Therefore, impacts would be less than significant.	No mitigation is required.

	Level of Significance After Mitigation
n Recommendations. ninary pavement design	
rding adequate surface	
garding landscaping and emented.	
reviewed by the City of o issuance of a grading	
	Less Than Significant
	Less Than Significant
	Less Than Significant

Threshold of Significance	Project Impacts	Mitigation Program	Level of Significance After Mitigation
Section 4.6 – Hazards and Hazardous Materials			
Threshold 4.6-1 Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	Construction and operation of the proposed Project would involve handling of hazardous materials in limited quantities and typical to urban environments. Through compliance with RR HAZ-1, less than significant impacts would be associated with the transport, use, or disposal of hazardous materials during construction or operation of the proposed Project.	RR HAZ-1 Demolition shall be conducted in accordance with the remediation and mitigation procedures established by all federal, State, and local standards, including those of the federal and State Occupational Safety and Health Administrations (OSHA and CalOSHA) and South Coast Air Quality Management District (SCAQMD) regulations for the excavation, removal, and proper disposal of asbestos-containing materials (SCAQMD Regulation X – National Emission Standards For Hazardous Air Pollutants, Subpart M – National Emission Standards For Asbestos). The materials shall be disposed of at a certified asbestos landfill. The Asbestos-Abatement Contractor shall comply with notification and asbestos-removal procedures outlined in SCAQMD Rule 1403 to reduce asbestos-containing materials. These requirements shall be included on the contractor specifications and verified by the City of Newport Beach's Community Development Department in conjunction with the issuance of a Demolition Permit.	Less Than Significant
Threshold 4.6-2 Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	Existing and past use of hazardous materials in the Project site would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Through compliance with RR HAZ-2, less than significant impacts would be associated with the handling and disposal of lead-based paint.	RR HAZ-2 Contractors shall comply with the requirements of Title 8 of the <i>California Code of Regulations</i> (Section 1532.1), which sets exposure limits, exposure monitoring, respiratory protection, and good working practices by workers exposed to lead. Lead-contaminated debris and other wastes shall be managed and disposed of in accordance with the applicable provisions of the <i>California Health and Safety Code</i> .	Less Than Significant
Threshold 4.6-3 For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area.	The Project site is located within the AELUP for JWA. With adherence to the requirements of the AELUP, the proposed Project would not result in a safety hazard to people residing or working on the site or in the Project area. Compliance with RR HAZ-3 and RR HAZ-4 is required per the FAA determination of No Hazard and for compliance with PUC Section 21676(b) requirement. There would be a less than significant impact.	 RR HAZ-3 Federal Aviation Administration Form 7460-2, Notice of Actual Construction or Alteration, shall be filed electronically within five days after the construction reaches its greatest height. This shall be verified by the City of Newport Beach's Community Development Department. RR HAZ-4 Prior to the amendments to the General Plan and the Bayview Planned Community Development Plan Amendment (PC-32), the City of Newport Beach Community Development Department shall refer the proposed actions to the Airport Land Use Commission (ALUC). The referral shall be submitted by the City and agendized by the ALUC staff between the City's expected Planning Commission and City Council hearings (since the ALUC meets on the third Thursday afternoon of each month, submittals must be received in the ALUC office by the first of the month to ensure sufficient time for review, analysis, and agendizing). 	Less Than Significant

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Threshold of Significance	Project Impacts	Mitigation Program	Level of Significance After Mitigation	
Section 4.7 – Hydrology and Water Quality				
Threshold 4.7-1 Violate any water quality standards or waste discharge requirements. Threshold 4.7-6 Otherwise substantially degrade water quality.	With the implementation of the proposed structural and non-structural BMPs in the Project's WQMP and the construction BMPs in the SWPPP, the Project would not violate any water quality standards and waste discharge requirements, nor would it otherwise substantially degrade water quality. The water quality-related impacts would be less than significant. Additionally, compliance with the City's regulations and the Santa Ana RWQCB's WDR would ensure impacts to receiving waters from non-storm water flows are less than significant.	No mitigation is required.	Less Than Significant	
Threshold 4.7-2 Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted).	The Project would increase impervious surfaces on the site and would reduce the potential for long-term erosion. The Project would also implement erosion and sediment control BMPs in the SWPPP and comply with erosion control measures in the City's Grading Code. Thus, the Project would not substantially alter the existing drainage pattern of the site or area and would not result in substantial erosion or siltation on or off site during construction. Impacts would be less than significant.	No mitigation is required.	Less Than Significant	
Threshold 4.7-3 Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site.	The Project would increase impervious surfaces on the site and would reduce the potential for long-term erosion. The Project would also implement erosion and sediment control BMPs in the SWPPP and comply with erosion control measures in the City's Grading Code. Thus, the Project would not substantially alter the existing drainage pattern of the site or area and would not result in substantial erosion or siltation on or off site during construction. Impacts would be less than significant.	No mitigation is required.	Less Than Significant	
 Threshold 4.7-4 Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site. Threshold 4.7-5 Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. 	With the construction of the on-site storm drain system, including implementation of BMPs outlined in the City-approved WQMP, the Project would not alter the existing drainage pattern of the site or area; substantially increase the rate or amount of surface runoff; would not result in flooding on or off site; would not exceed the capacity of the existing storm water drainage system; and would not generate additional sources of polluted runoff. Impacts would be less than significant.	No mitigation is required.	Less Than Significant	
Section 4.8 – Land Use and Planning				
Threshold 4.8-1 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.	The Project would introduce an assisted living and memory care facility on a previously developed site, in a well-developed area, surrounded by office, commercial, and residential uses. The Project design, height, and massing would be compatible with the surrounding uses. In addition, sufficient buffer (i.e., setbacks, walls, and landscaping) exists along the Project site's perimeter that would enhance compatibility with the adjacent land uses. Hence, the impacts would be less than significant as it pertains to consistency with land use plans.	No mitigation is required.	Less Than Significant	

Threshold of Significance	Project Impacts		Mitigation Program	Level of Significance After Mitigation
Section 4.9 – Noise				
Threshold 4.9-1 Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. [Short-Term] Threshold 4.9-4 A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	Noise-generating construction activities would be limited to the hours specified in the City of Newport Beach Municipal Code, and the impact would be less than significant. Construction activities have the potential to generate substantial increases over ambient noise levels at nearby sensitive receptors. Impacts would be less than significant with the implementation of MM NOI-1 and MM NOI-2.	MM NOI-1	Prior to the issue of demolition, grading, or building permits, the Applicant shall provide evidence acceptable to the City of Newport Beach Public Works Director and/or Community Development Director, that construction plans and specifications require temporary noise barriers to be installed on the northwestern and southwestern project boundaries. The noise barriers shall be 10 feet high, shall be solid from the ground to the top of the barrier, and have a weight of at least 2.5 pounds per square foot, which is equivalent to ³ / ₄ -inch thick plywood.	Less Than Significant with Mitigation
		MM NOI-2	Prior to the start of grading, the Applicant shall provide evidence acceptable to the City of Newport Beach Community Development Director that construction plans and specifications require:	
			a. All construction vehicles or equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers; mufflers shall be equivalent to or of greater noise reducing performance than manufacturer's standard.	
			b. Stationary equipment, such as generators, cranes, and air compressors, shall be located as far from local residences as feasible. Stationary equipment shall be equipped with appropriate noise reduction measures (e.g., silencers, shrouds, or other devices) to limit the equipment noise at the nearest sensitive residences to 65 dBA L _{eq} .	
			c. Equipment maintenance, vehicle parking, and material staging areas shall be located as far away from local residences as feasible.	
			d. The Applicant shall provide a qualified "Noise Disturbance Coordinator." The Disturbance Coordinator shall be responsible for responding to any local complaints about construction noise. When a complaint is received, the Disturbance Coordinator shall notify the City within 24 hours of the complaint and determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall implement reasonable measures to resolve the complaint, as deemed acceptable by the Community Development Department. The contact name and the telephone number for the Disturbance Coordinator shall be clearly posted on-site.	
			e. Construction activities shall not take place outside the allowable hours specified by NBMC Section 10.28.040 (7:00 a.m. and 6:30 p.m. on weekdays, 8:00 a.m. and 6:00 p.m. on Saturdays; construction is prohibited on Sundays and/or federal holidays.	

TABLE 1-1 SUMMARY OF POTENTIAL IMPACTS, MITIGATION MEASURES AND LEVEL OF SIGNIFICANCE

Threshold of Significance	Project Impacts	Mitigation Program
Threshold 4.9-2 Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.	Vibration-generating construction activities could occur within 50 feet of existing nearby residences and have the potential to exceed the vibration impact threshold. Impacts would be less than significant by implementation of MM NOI-3, which requires large vibration-producing equipment not be used within 150 feet of occupied residences.	MM NOI-3 Prior to the issue of demolition, grading, of Applicant shall provide evidence acceptable Beach Community Development Director tha specifications require that large bulldozer vibratory rollers (operated in static mode), ca similar large equipment not be used withi residences and that jackhammers not be occupied residences.
Threshold 4.9-1 Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. [Long-Term] Threshold 4.9-3 A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.	Exterior noise levels could potentially expose future residents of the Project to interior and exterior noise levels that would be incompatible with the limits in the City of Newport Beach General Plan and interior noise levels that would exceed the limit specified in the State Building Code. With the incorporation of MM NOI-4 into the Project, the impact would be less than significant (Threshold 4.9-1). The Project would generate less traffic than the existing restaurant use. Thus, Project-generated traffic would not substantially increase existing ambient noise levels and the impact would be less than significant (Threshold 4.9-4). Project-generated on-site noise levels would be compliant with the City of Newport Beach Municipal Code and would also be anticipated to be less than the existing on-site noise levels. Thus, Project on-site activity would not substantially increase existing ambient noise levels and the impact the existing on-site noise levels. Thus, Project on-site activity would not substantially increase existing ambient noise levels and the impact the existing on-site noise levels. Thus, Project on-site activity would not substantially increase existing ambient noise levels and the impact would be less than significant (Threshold 4.9-4).	 MM NOI-4 Prior to the issue of the building permit for the Applicant shall submit an acoustical analysis Newport Beach Community Development Official, that demonstrates that the propose would provide an interior noise level of 45 d on buildout traffic noise conditions) in all proposed building facing Bristol Street of Applicant shall also submit plans and specific shall be provided with a means of merequired by the California Building Cowindows closed.
Threshold 4.9-5 For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels.	The Project Site is within the 2016 or projected future 60 dBA CNEL noise contours for John Wayne Airport. However, the Project would not expose people residing in the project area to excessive aircraft noise levels. The impact would be less than significant.	No mitigation is required.
Section 4.10 – Public Services		
Threshold 4.10-1 Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: (i) Fire protection.	The Project would create the typical range of service calls for a project of this nature and size, including structural fires and emergency medical and rescue services, and hazardous materials inspections and response. No new or physically altered fire facilities that would result in substantial adverse physical impacts would be required as a result of the Project. Therefore, the impact is less than significant.	No mitigation is required.
Threshold 4.10-1Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:(ii)Police protection.	The Project would not result in an increased demand for police protection services nor result in a significant impact to police response. The Project would replace an existing use that is generating demand for police protection services. The Project would not result in the need for construction of new or physically altered police facilities to maintain adequate levels of service. Therefore, the impact is considered less than significant.	No mitigation is required.

	Level of Significance After Mitigation
or building permits, the e to the City of Newport at construction plans and rs, large loaded trucks, aisson drilling, and other in 150 feet of occupied used within 60 feet of	Less Than Significant with Mitigation
he proposed Project, the acceptable to the City of t Director or Building sed architectural design IBA CNEL or less (based habitable rooms of the or Bayview Place. The cations showing that: reet and Bayview Place echanical ventilation, as ode for occupancy with	Less Than Significant with Mitigation
	Less Than Significant.
	Less Than Significant
	Less Than Significant

Threshold of Significance	Project Impacts	Mitigation Program
Section 4.11 – Transportation/Traffic		
Threshold 4.11-1 Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.	The proposed Project would develop an assisted living and memory care facility. Project construction and operation would not result in a significant impact. Based on the above evaluation, with compliance with the Construction Management Plan and City requirements, Project construction impacts would be less than significant (RR TRAN-1). Additionally, as the Project is replacing an existing use, the Project would result in reduced number of trips. Therefore, the potential operation impact would be less than significant.	RR TRAN-1 Prior to issuance of any building perm prepare a Construction Management approval by the Community Development Departments. The Plan shall identify com address traffic control for any temporary or other disruptions to traffic circulation routes. The Plan shall identify the rouvehicles shall use to access the site, the traffic, traffic controls and detours, vehi parking areas for the Project. Emergency the area's business and the general pub advance of any disruptions that may occup provided at least two weeks prior to di Newport Beach Public Works Department operations. A staging area shall be do construction equipment and supplies construction.
Threshold 4.11-2 Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). Threshold 4.11-3 Result in inadequate emergency access.	Primary vehicular access to the proposed Project would be provided by an entry driveway off Bayview Place, which is consistent with the current configuration of the entry into the existing use. Internal access and circulation would meet the width and turnaround requirements of the City and Newport Beach Fire Department. No hazard as a result of a design feature or inadequate emergency access would occur and no mitigation is required.	No mitigation is required.
Section 4.12 – Tribal Cultural Resources		
 Threshold 4.12-1 Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1 (k), or A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. 	The Project has a low potential to cause a substantial adverse change in the significance of a tribal cultural resource, as defined by Section 21074 of the Public Resources Code. Given the disturbed nature of the site and the limited resources identified to date and the lack of evidence of known resources onsite, the impacts would be less than significant and no mitigation is required. However, the Native American tribes could access the Project site on a volunteer basis during construction activities to monitor grading and excavation.	No mitigation is required.

	Level of Significance After Mitigation
nit, the Applicant shall Plan for review and nent and Public Works onstruction phasing and y lane closures, detours, tion and public transit putes that construction hicle staging areas, and y service providers and blic shall be notified in cur. This notice shall be disruptions. The City of nent shall monitor haul designated on site for to be stored during	Less Than Significant
	Less Than Significant
	Less Than Significant

Threshold of Significance	Project Impacts	Mitigation Program	Level of Significance After Mitigation
Section 4.13 – Utilities and Service Systems			
 Threshold 4.13-1 Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental impacts. Threshold 4.13-4 Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. 	The Project would require water (potable and nonpotable) and wastewater service from the IRWD. IRWD has indicated that sufficient wastewater service and water (potable and nonpotable) exist to serve the Project; and construction of new water or wastewater treatment facilities or expansion of existing facilities would not be required. Therefore, impacts would be less than significant.	No mitigation is required.	Less Than Significant
Threshold 4.13-2 Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.	As discussed in Section 4.7, Hydrology and Water Quality, construction of new storm drain facilities associated with the proposed Project would result in a less than significant impact.	No mitigation is required.	Less Than Significant
Threshold 4.13-3 Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed.	The Project would require water supplies from IRWD. The IRWD has indicated that available water supplies (potable and nonpotable) would be adequate to serve the Project. Therefore, impacts would be less than significant.	No mitigation is required.	Less Than Significant
Threshold 4.13-5 Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	The existing landfills have sufficient solid waste disposal capacity to meet the Project's solid waste disposal needs. Therefore, Project impacts to landfill capacity would be less than significant.	No mitigation is required.	Less Than Significant
Threshold 4.13-6 Comply with federal, state, and local statutes and regulations related to solid waste?	The proposed Project would comply with applicable solid waste statutes and regulations, including waste diversion programs. Impacts to solid waste statutes and regulations would be less than significant.	No mitigation is required.	Less Than Significant

1.9 References

- Newport Beach, City of. 2006a (November 7). *City of Newport Beach General Plan.* Newport Beach, CA: the City.

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2.0 INTRODUCTION, PROJECT HISTORY, AND SETTING

2.1 PURPOSE OF THIS ENVIRONMENTAL IMPACT REPORT

The California Environmental Quality Act (CEQA) (*California Public Resources Code* [PRC] Section 21002.1) states that the purpose of an environmental impact report (EIR) is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which those significant impacts can be mitigated or avoided. A detailed description of the proposed Harbor Pointe Senior Living Project (the Project) is provided in Section 3.0, Project Description, of this EIR.

For purposes of complying with CEQA, the City of Newport Beach (City) is the Lead Agency for the Project. The City is also the approving body for the Project's discretionary actions.

In accordance with Section 15121(a) of the State CEQA Guidelines, this EIR is an informational document that will inform public agency decision makers and the general public of (1) the significant environmental effects of the proposed Project, (2) possible ways to minimize the significant effects, and (3) reasonable alternatives to the proposed Project. Decisionmakers are required to consider the information in the EIR in determining whether to approve, deny, or modify the proposed Project.

2.2 Type of Environmental Impact Report and Standards of Adequacy under the California Environmental Quality Act

This EIR has been prepared in accordance with CEQA (PRC Section 21000 et seq.) and the State CEQA Guidelines (Title 14, *California Code of Regulations* [CCR] Section 15000 et seq.). Section 15151 of the State CEQA Guidelines defines the standards of adequacy for an EIR as follows:

An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

This Draft EIR is intended to serve as a project EIR under CEQA. Section 15161 of the State CEQA Guidelines states, "the most common type of EIR examines the environmental impacts of a specific development project. This type of EIR should focus primarily on the changes in the environment that would result from the development project. This EIR shall examine all phases of the project including planning, construction, and operation."
Under CEQA, "The purpose of the Environmental Impact Report is to identify the significant effects of a project on the environment, to identify alternatives to the proposed project, and to indicate the manner in which significant environmental effects can be mitigated or avoided" (PRC Section 21002.1(a)). An EIR is the most comprehensive form of environmental documentation identified in CEQA and the State CEQA Guidelines, and provides the information needed to assess the environmental consequences of a proposed project, to the extent feasible. EIRs are intended to provide an objective, factually supported, full disclosure analysis of the environmental consequences associated with a proposed project that has the potential to result in significant, adverse environmental impacts.

An EIR is also one of the various decision-making tools used by a Lead Agency to consider the merits and disadvantages of a project that is subject to its discretionary authority. Prior to approving a proposed project, the Lead Agency must consider the information contained in the EIR, determine whether the EIR was properly prepared in accordance with CEQA and the State CEQA Guidelines; determine that the EIR reflects the independent judgment of the Lead Agency, adopt findings concerning the project's significant environmental impacts and alternatives, and adopt a Statement of Overriding Considerations if the project would result in significant impacts that cannot be avoided.

City staff has reviewed all submitted drafts, technical studies, and consistency with City regulations and policies and has commissioned the preparation of this EIR to reflect its own independent judgment, including reliance on applicable City technical personnel and review of all technical subconsultant reports.

2.3 ENVIRONMENTAL REVIEW PROCESS

2.3.1 REVIEW OF AN EIR

The City, as the Lead Agency (and Project proponent) that has the principal authority for approving the proposed Project, along with other public agencies with direct interest in the Project (e.g., responsible and trustee agencies including the Regional Water Quality Control Board, the Irvine Ranch Water District [IRWD], and other agencies, as appropriate), may use this EIR in their decision-making or permitting processes and will consider the information in this EIR in combination with other information that may be presented during the CEQA process. In addition, this EIR provides the analysis in support of the Mitigation Program that will be implemented as part of the Project if approved.

In accordance with CEQA, public agencies are required to make appropriate findings for each potentially significant environmental impact identified in the EIR if they decide to approve a project. If the EIR identifies significant environmental impacts that cannot be mitigated to a less than significant level through the adoption of mitigation measures or Project alternatives, the Lead Agency (and responsible agencies using this CEQA document for their respective permits or approvals) must decide whether the benefits of the proposed project outweigh any identified significant environmental effects that cannot be mitigated to below a threshold of significance. If the agency decides that the project benefits outweigh the unavoidable impacts then the agency (i.e., Lead Agency or responsible agency) is required to adopt a Statement of Overriding Considerations, which states the reasons that support its actions. The proposed Project would

not result in any significant and unavoidable impacts, for which a Statement of Overriding Consideration would be adopted.

The Lead Agency's actions involved in implementation of the proposed Project are described in Section 3.0, Project Description. Other agencies that may have discretionary approval over the Project, or components thereof, including responsible and trustee agencies, are also described in the Project Description.

2.3.2 ISSUES TO BE ADDRESSED IN THE EIR

The City of Newport Beach made a determination that the Project may have a significant effect on the environment; as such, an EIR is required for the Project.

In compliance with Section 15082 of the State CEQA Guidelines, the City oversaw preparation of the Notice of Preparation (NOP) of the Draft EIR for the Project, which was distributed on July 22, 2016, to the State Clearinghouse and other public agencies for the required 30-day review and comment period. Additionally, a Scoping Meeting was held on August 15, 2016, to facilitate agency public review and comment on the Project. City staff members were available to answer any questions about the proposed Project. Notices were sent to the adjacent property owners and adjacent cities. The comments received on the NOP by the City and the handout made available at the Scoping Meeting are included in Appendix A of this EIR.

A total of 21 comment letters (including the confirmation letter from the State Clearinghouse), were received during the 30-day NOP review period. Table 2-1 provides a summary matrix of the issues raised in the NOP comment letters.

	Comment Category												
Agency/Individual (Date)	Project Description/Process	Aesthetics/Light and Glare/Shade and Shadow	Air Quality/Health Risk	Cultural/Tribal Resources	Hazardous Materials	Land Use/Planning	Noise	Employment	Transportation/Traffic	Public Services/Utilities	Property Values	Oppose the Project	Miscellaneous
State Agencies													
Governor's Office of Planning and Research, State Clearinghouse and Planning Unit (July 22, 2016) *													
Native American Heritage Commission (July 26, 2016)				Х									
Department of Toxic Substances Control (August 1, 2016)					Х								
Depart of Transportation (August 22, 2016)			Х	Х					Х	Х			
Regional Agencies													
South Coast Air Quality Management District (August 11, 2016)													
The Metropolitan Water District (August 11, 2016)										Х			
<i>Local Agencies</i>													
Irvine Ranch Water District (August 22, 2016)										Х			
Airport Land Use Commission (August 11, 2016)					Х	Х	Х						
Orange County Public Works (August 22, 2016)													
Organizations													
California Cultural Resource Preservation Alliance, Inc. (July 25, 2016)				Х									
PRES Companies (August 22, 2016)	Х					Х			Х				
Gabrieleno Band of Mission Indians-Kizh Nation (August 26, 2016)													

TABLE 2-1SUMMARY MATRIX OF NOTICE OF PREPARATION COMMENTS

	Comment Category												
Agency/Individual (Date)	Project Description/Process	Aesthetics/Light and Glare/Shade and Shadow	Air Quality/Health Risk	Cultural/Tribal Resources	Hazardous Materials	Land Use/Planning	Noise	Employment	Transportation/Traffic	Public Services/Utilities	Property Values	Oppose the Project	Miscellaneous
Individuals													
Pat Westerman (July 16, 2016)	Х		Х			Х	Х		Х			Х	
The Gibsons (August 11, 2016)	Х											Х	
Cheryl Schmitz (August 14, 2016)	Х					Х							
David and Karen Dalmann (August 15, 2016)	Х	Х				Х			Х	Х	Х		Х
Jim and Kay Furuyama (August 16, 2016)	Х	Х				Х		Х	Х				Х
Jim and Kay Furuyama (August 17, 2016)	Х					Х							х
Charlotte Miller (August 19, 2016)	Х					Х	Х		Х		Х		Х
Sam Hoelscher (August 22, 2016)	Х					Х			Х		Х		х
Whit and Michele Latimer (August 22, 2016)		Х				Х							
* The letter from the Governor's Office of Planning and Research, State Clearinghouse and Planning Unit verified receipt of the Notice of Preparation and provided a listing of the agencies to which the document was forwarded.													

 TABLE 2-1

 SUMMARY MATRIX OF NOTICE OF PREPARATION COMMENTS

The scope of the EIR is based on the findings of the technical studies, determination by the City, and input received from the agencies and the public as part of the scoping process. Based on the City's determination, the EIR addresses all environmental topics with potential to result in significant effects. Although an Initial Study was not prepared for the Project, the environmental topics and issues within the topics with no potential for impact are identified in this section of the EIR and focused out from further analysis in the body of the EIR.

Based on the City's determination and the comments received by the City on the NOP, this EIR analyzes the following environmental topics:

- Aesthetics
- Air Quality
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality

- Land Use and Planning
- Noise
- Public Services
- Transportation/Traffic
- Tribal Cultural Resources
- Utilities and Services Systems

Using the City's Environmental Checklist Form, the following issues are assessed as "No Impact" or "Less Than Significant Impact." Therefore, in accordance with Section 15128 of the State CEQA Guidelines, these are identified as topical areas or issues within topical areas that would not receive further evaluation in this EIR:

Agricultural and Forest Resources

- Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
- Conflict with existing zoning for agricultural use, or a Williamson Act contract?
- Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220[g]), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104[g])?
- Result in the loss of forest land or conversion of forest land to non-forest use?
- Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Based on review of the Orange County Important Farmland 2014 by the California Department of Conservation, Farmland Mapping and Monitoring Program, no lands in the City of Newport Beach are designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (FMMP 2014). The Project site and surrounding areas are designated as Urban and Built-Up Land. The Project site is located in an urbanized area with primarily commercial, office, and residential land uses. No agricultural uses are on or near the Project site. Therefore, the proposed Project would not convert farmland to non-agricultural uses. Neither Agricultural zones nor associated Williamson Act contracts are present in the City of Newport Beach; therefore, the proposed Project would not conflict with existing zoning for agricultural use or a Williamson Act contract. No mitigation is required.

Additionally, the Project site is not located in or near any forest. The nearest forest is the Cleveland National Forest, which is approximately 12 miles north of the Project site. No designated forestland, timberland, or timberland zoned "Timberland Production" occurs

in the City of Newport Beach. Therefore, the proposed Project would not result in the loss of forestland or the conversion of forestland to non-forest use. No impact would occur, and no mitigation is required. This topic (Agricultural and Forest Resources) will not be further analyzed in this EIR.

Air Quality

• Create objectionable odors affecting a substantial number of people?

According to the South Coast Air Quality Management District's (SCAQMD's) CEQA Air Quality Handbook (SCAQMD 1993), land uses associated with odor complaints typically include agricultural uses, wastewater treatment plants, food processing plants, chemical plants, composting, refineries, landfills, dairies, and fiberglass molding.

The proposed Project does not include any uses identified by the SCAQMD as being associated with odors and, therefore, would not produce objectionable odors. The potential odor emitted during construction would be associated with construction equipment exhaust and the application of asphalt and architectural coatings. However, construction-related odors would be temporary and sporadic in nature and would stop with completion of Project construction.

Odors emitted long-term would include solid waste storage. However, these materials would be stored in compliance with Municipal Code Section 20.30.120 (Solid Waste and Recyclable Materials Storage). Therefore, the proposed Project would have no significant impact in regard to objectionable odors, and no mitigation is required. This issue will not be further analyzed in Section 4.2, Air Quality of this EIR.

Biological Resources

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

The Project site is within an urban area and surrounded by commercial, office, and residential uses. The proposed Project would retain the existing mature carrotwood and Brisbane box trees along the southwest and northwest property lines, as well as some Brisbane box trees and palm trees (queen palms and Mexican fan palms) along the northeast property line. No natural habitat or undeveloped areas are present in the immediate vicinity of the proposed Project, and all existing vegetation consists of ornamental landscaping. Although no wildlife species were observed on the Project site, common animal species typically found in urban and developed areas, such as small mammals, birds, small reptiles, and insects, have the potential to be present. No natural or sensitive biological resources are present on the Project site; and the proposed Project would not impact any candidate, sensitive, or special status species, as identified in the local or regional plans, policies, or regulations by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS). No impact would occur, and no mitigation is required.

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

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

The Project site is currently developed and does not contain riparian habitat, sensitive natural vegetation communities, wetlands as defined by Section 404 of the Clean Water Act (CWA), or other areas under the jurisdiction of the CDFW or U.S. Army Corps of Engineers (USACE). Additionally, based on the Newport Beach General Plan EIR, the area does not include sensitive biological resources, including riparian habitat. As described above, the Project site is in an urbanized area, is developed with a restaurant and related site improvements, and supports ornamental landscaping. The Project site does not support any sensitive habitats. No impact to riparian habitats or sensitive natural vegetation communities would occur, and no mitigation is required.

• Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Due to the presence of trees and vegetation on the Project site, birds protected by the Federal Migratory Bird Treaty Act (MBTA) have potential to nest at the site. The MBTA makes it illegal to take, possess, buy, sell, purchase, or barter any migratory bird listed in the *Code of Federal Regulations* (Title 50, Part 10), including feathers, nests, eggs, or other avian products. This includes the active nests of all bird species, including common species. However, the proposed Project would retain the existing mature carrotwood and Brisbane box trees along the southwest and northwest property lines, as well as some of Brisbane box trees and palm trees (queen palms and Mexican fan palms) along the northeast property line. No disturbance to the potential nesting trees would occur, as none would be removed. Therefore, impacts to migratory birds would be less than significant, and no mitigation is required.

• Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

The proposed Project would retain the existing mature carrotwood and Brisbane box trees along the southwest and northwest property lines, as well as some of Brisbane box trees and palm trees (queen palms and Mexican fan palms) along the northeast property line. In addition to a variety of shrubs and groundcovers, the Project proposes to plant additional trees, such as bottle tree (*Brachychiton populneus*), loquat tree (*Eriobotrya japonica*), western redbud (*Cercis occidentalis*), king palm (*Archontophoenix cunninghamiana*), and date palm (*Phoenix dactylifera*), to enhance the landscaping on the site.

Additionally, the Project would not conflict with Chapter 7.26 of the City's Municipal Code, Protection of Natural Habitat for Migratory and Other Waterfowl, as the site is developed in an urbanized area and does not contain any habitats. Moreover, as shown on Figures NR 1, Biological Resources, and NR-2, Environmental Study Areas, of the

Newport Beach General Plan, the Project does not contain any biological resources that require protection and does not fall within or adjacent to any Newport Beach Environmental Study Areas. As no sensitive or rare terrestrial or marine resources occur on site, the proposed Project would not conflict with General Plan Goal NR 10 (protection of sensitive and rare terrestrial and marine resources from urban development). In light of preservation of the existing mature trees on the site, the Project would not conflict with City regulations pertaining to the preservation of trees and protection of natural habitats. No impact would result, and no mitigation is required.

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

The Orange County Central-Coastal Natural Community Conservation Plan (NCCP) and Habitat Conservation Plan (HCP) covers a 208,000-acre area at the central and coastal portions of Orange County and does not include the Project site and surrounding areas. The Orange County Southern Subregion HCP covers the southeastern portion of Orange County and also does not include land in the vicinity of the Project site. No conflict with these NCCPs/HCPs would occur with the proposed Project. The Project area is not within or adjacent to any additional HCPs, NCCPs, or other approved State, regional, or local HCPs. No impacts would occur, and no mitigation is required.

This topic (Biological Resources) will not be further analyzed in this EIR, as no impacts are anticipated.

Cultural/Scientific Resources

• Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?

Based on the literature review, the Project site, existing restaurant (constructed in 1989), and adjacent structures are not listed in the California Register of Historical Resources (CRHR), the National Register of Historic Places (NRHP), California Historical Landmarks, or California Points of Historical Interest lists. Additionally, the Project site is not identified as a historic resource (refer to Figure 4.4-1, Historic Resources, of the City of Newport Beach General Plan EIR); and no historical resources or districts are located near the Project site. Thus, the demolition of the restaurant and associated site improvements and redevelopment of the Project site with a three-story building containing 101 assisted living and memory care units, ancillary uses, and subsurface parking would not cause any direct or indirect impact to historic resources, nor would it adversely affect the historic significance of historical resources in the City. No impact would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.3, Cultural Resources of the EIR.

Geology and Soils

- Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
 - Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?

The Peninsular Ranges is a geomorphic province in Southern California that is characterized by northwest-southeast-trending mountain ranges with intervening valleys and fault-block complexes that extend from the Transverse Ranges on the north to Baja California, Mexico, on the south. The Project site is located on the northern edge of the Coyote Hills in the northern portion of the Peninsular Ranges. Ground rupture occurs when movement on a fault breaks through the surface. The State has established Earthquake Fault Zones for the purpose of mitigating the hazard of fault rupture by prohibiting the location of most human occupancy structures across the traces of active faults.

The Project site is not located within the Alquist-Priolo Earthquake Fault Zone, and no known faults underlie the site. The nearest fault to the Project site is the San Joaquin Hills Blind Thrust, located approximately 2.4 miles from the Project site. Additionally, the Newport-Inglewood Fault is located approximately 4.8 miles south of the Project site (Ninyo & Moore 2015). As such, the Project site would not be exposed to fault rupture during a seismic event. Therefore, the proposed Project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault. No impact would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.4, Geology and Soils of this EIR.

- Landslides?

Earthquake-induced landslides occur in areas where previous landslides have occurred and in areas where the topographic, geologic, geotechnical, and subsurface groundwater conditions are conducive to permanent ground displacements. The Project site and surrounding area is located in a generally flat, well developed portion of the City. The elevation of the Project site ranges from approximately 56 feet above mean sea level (msl) to 57 feet above msl (Ninyo & Moore 2015). According to Figure 4.5-2 of the Newport Beach General Plan EIR, the Project site is not located in an area with landslide potential (Newport Beach 2006b). Therefore, no impact related to landslides would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.4, Geology and Soils of this EIR.

• Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

The Project is currently served by the City's municipal sewer system and would connect to the municipal sewer system for the disposal of wastewater. The Project would not use septic tanks or alternative wastewater disposal systems; and no impact pertaining to soils incapable of adequately supporting use of alternative wastewater disposal systems would occur; therefore, no mitigation is required. This issue will not be further analyzed in Section 4.4, Geology and Soils of this EIR.

Hazards and Hazardous Materials

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

No existing or proposed school facilities are located within a quarter-mile radius of the Project site. The nearest school is Eastbluff Elementary School, located approximately 1.1 miles southwest of the Project site. Therefore, the Project would not result in a significant impact related to hazardous emissions within a quarter-mile radius of an existing or proposed school. No impact would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.6, Hazards and Hazardous Materials of this EIR.

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

According to the results of the Phase I Environmental Site Assessment (ESA) and a review of the California Environmental Protection Agency's (CalEPA's) <u>Cortese List Data</u> <u>Resources</u>, the Project site is not included on a list of hazardous materials sites compiled pursuant to *California Government Code* Section 65962.5 (CalEPA 2016). Therefore, the Project does not have the potential to create a significant hazard to the public or the environment due to presence of an existing hazardous materials site. No impact would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.6, Hazards and Hazardous Materials of this EIR.

• For a project within the vicinity of a private airstrip, would the Project result in a safety hazard for people residing or working in the project area?

The Project site is not located within the vicinity of a private airstrip and would not result in a safety hazard for people residing or working in the project area. No impact would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.6, Hazards and Hazardous Materials of this EIR.

• Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The City of Newport Beach's Emergency Operations Plan (EOP) provides guidance for the City's response to extraordinary emergency situations associated with natural disasters, technological incidents, and national security emergencies in or affecting the City of Newport Beach. The EOP does not identify the Project site as part of an evacuation route or identify any emergency planning requirements specific to the Project site. Jamboree Road is the nearest designated tsunami evacuation route identified in the City's Emergency Operations Plan (Newport Beach 2011).

Temporary lane closures on surrounding streets may be required during the short-term construction period in order to connect the proposed Project to the existing utility facilities within the roadways; however, temporary lane closure would not result in full closure of any public or private streets or roadways during construction. Therefore, the Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. No impact would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.6, Hazards and Hazardous Materials of this EIR.

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

The Project is located in an urbanized area of the City. Based on review of Figure S4, Wildfire Hazards, of the Safety Element of the *City of Newport Beach General Plan*, the Project site is not located within a high fire hazard area (Newport Beach 2006a). Implementation of the proposed Project would not expose people or structures to a significant risk of wildland fires. No impact would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.6, Hazards and Hazardous Materials of this EIR.

Hydrology and Water Quality

- Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?
- Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

The Project site is located within the Federal Emergency Management Agency's (FEMA's) Flood Zone "X" or areas of minimal flood hazard, which includes areas outside the 100-year and the 500-year floodplains where projects could redirect flood flows. Additionally, as shown in Figure S3, Flood Hazards, of the Safety Element of the *City of Newport Beach General Plan*, the Project site is not located within a Special Flood Hazard Area inundated by the 100-year flood and 500-year flood, nor is it within the coastal flood zone (Newport Beach 2006a). The proposed Project would not place the proposed building within the 100-year floodplain or expose future residents of the Project to flood hazards. No impacts would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.7, Hydrology and Water Quality of this EIR.

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

As discussed above, flood flows would not result in significant safety risk to people or structures on the Project site. The Project site is located within FEMA's Flood Zone X or areas of minimal flood hazard, which is an area outside the 0.2-percent annual chance floodplain (FEMA 2009). Therefore, the Project would not expose future residents to a significant risk of loss, injury, or death as a result of flooding. No impacts would occur, and no mitigation is required.

Portions of the City of Newport Beach occur within the flood inundation areas for Prado Dam, Santiago Creek Reservoir, Villa Park Reservoir, San Joaquin Reservoir, Big Canyon Reservoir, and Harbor View Reservoir. The San Joaquin Reservoir, located approximately 2.9 miles southeast of the site, is the closest dam to the Project site. As identified in the Dam Failure Inundation Map in the City of Newport Beach Emergency Operations Plan, the Project site is not located within a dam inundation area (Newport Beach 2011). Additionally, the City's General Plan EIR does not identify the Project location as being within an area subject to potential flooding due to dam or levee failure (Newport Beach 2006b). Accordingly, the Project would not expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding from the failure of a levee or dam. No impacts would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.7, Hydrology and Water Quality of this EIR.

• Expose people or structures to inundation by seiche, tsunami, or mudflow?

A seiche is the resonant oscillation of a body of water (waves) caused by earthquake shaking. Seiche hazards exist where ground shaking can cause water to splash out of the body of water and inundate nearby areas and structures. The Upper Newport Bay is located approximately less than 0.5 mile to the south of the Project site; however, existing intervening developments are between the Project site and the bay, creating a buffer.

Tsunamis are seismic sea waves generated by undersea earthquakes or landslides. The City of Newport Beach is located along the coast; and, as mentioned, the site is located approximately 0.5 mile to the north of Upper Newport Bay. However, the site is not adjacent to the shoreline and open body of water. According to Figure S-1, Coastal Hazards, of the Safety Element of the *City of Newport Beach General Plan*, the site is not located within the Tsunami Inundation at Extreme High Tide for both the 100-year as well as the 500-year zones (Newport Beach 2006a). The Tsunami Inundation Map for Emergency Planning (Newport Beach Quadrangle) also does not identify the Project site as being within the Tsunami Inundation Area.

The Project site is not located near the shoreline nor is it lower than 50 feet above sea level; thus, the tsunami hazard at the Project site is low. No hillside areas are on site or in the surrounding area that could generate mudflow. As a result, no impacts would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.7, Hydrology and Water Quality of this EIR.

Land Use and Planning

• Physically divide an established community?

The Project site is currently developed with a restaurant and associated surface parking and site improvements. The Project site is bordered by Bayview Place on the southeast and Bristol Street on the northeast. SR-73 runs against and parallel to Bristol Street. The Project site is surrounded by residential and commercial land uses. The Project proposes to redevelop the site with private institution uses, which would be similar to existing land uses surrounding the Project site. The proposed Project would not divide or disrupt the physical arrangement of an established community, as it would be located on an existing legal lot surrounded by public roads and sidewalks. Therefore, no impact would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.8, Land Use and Planning of this EIR.

• Conflict with any applicable habitat conservation plan or natural community conservation plan?

The proposed Project is within the Orange County Central-Coastal NCCP/HCP, but it is not identified for conservation. The site is fully developed with a restaurant and associated surface parking and site improvements. The site includes ornamental landscaping and vegetation but does not contain any habitat for any sensitive plants or animal species included in the NCCP/HCP. Therefore, impact related to conflict with the NCCP/HCP has no potential to occur. No impact would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.8, Land Use and Planning of this EIR.

Mineral Resources

- Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?
- Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

The California Geological Survey identifies three classes of MRZs. MRZ-1 is an area with no significant mineral deposits, while MRZ-2 is an area with significant mineral deposits, and MRZ-3 is an area containing known mineral occurrences of undetermined mineral significance. As identified in Section 4.5.6 of the City of Newport Beach General Plan EIR, the City includes both MRZ-1 and MRZ-3 areas. The project site is located in an area designated MRZ-3. However, no mining activities or mineral extraction uses occur near the Project site. Further, as discussed in Appendix A of the General Plan EIR, no active mining, other than for gas and oil, occurs within the City.

Oil wells in the City are concentrated in the Newport Oil Field and the West Newport Oil Field. The Project site is not underlain by an oilfield; and the nearest well to the Project site is a plugged oil and gas well west of the San Joaquin Hills Transportation Corridor, approximately 0.80 mile southeast of the project site (DOGGR 2015). The proposed Project would not result in adverse impacts to any regionally or locally significant mineral resources, and no mitigation is required.

This topic (Mineral Resources) will not be further analyzed in this EIR, as no impacts are anticipated.

<u>Noise</u>

• For a project within the vicinity of a private airstrip, would the Project expose people residing or working in the project area to excessive noise levels?

As indicated above, the Project site is not within the vicinity of a private airstrip; therefore, no impacts would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.9, Noise of this EIR.

Population and Housing

- Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
- Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

The proposed Project includes a total of 101 assisted living and memory care units (120 beds), which would equate to a 120-resident population. According to the City of Newport Beach General Plan Housing Element, many senior persons residing in Newport Beach are long-time residents; however, there are also many seniors who move to the City later in life for retirement. For the long-time residents, seniors are more often living in houses purchased before real estate prices increased and would be unable to afford the houses in which they are currently living. Their houses may no longer match their housing needs with respect to space, maintenance, and proximity to community facilities. Senior residents may retain their houses only because they wish to remain in the community; however alternative living arrangements in the community, such as smaller units close to commercial and transportation facilities with some congregate services, would better serve the housing needs of this population segment. The proposed Project offers a living environment for seniors and provides amenities and services that cater to the needs of this segment of the population (Newport Beach 2013). In terms of direct population growth, the 120-resident population is an insignificant number in relationship to the overall City population. Additionally, some Project residents may already be residents of the City of Newport Beach. The proposed assisted living and memory care facility would not result in indirect population growth, as the Project would not extend infrastructure beyond the boundaries of the Project site that would facilitate growth. Therefore, the proposed Project would not result in direct or indirect population growth in the area, and no impacts would occur and no mitigation is required.

The proposed Project would result in the demolition of the existing restaurant, surface parking, and associated site improvements. No existing housing or residents would be displaced by the proposed Project; and, therefore, the Project would not be required to develop replacement housing elsewhere. No impact would occur, and no mitigation is required.

This topic (Population and Housing) will not be further analyzed in this EIR, as no impacts are anticipated.

Public Services

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

- Schools?

The proposed Project involves the development of an assisted living and memory care facility and would not generate any school-aged children due to the age of the resident population. Therefore, the proposed Project would not require the construction of new school facilities and would not result in physical impacts associated with the provision of new or physically altered school facilities. No impacts would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.10, Public Services of this EIR.

• Parks?

As further discussed below under Recreation, the nearest parks to the Project site are Bayview Park and Upper Newport Bay State Marine Park, both located approximately 0.3 mile southwest of the Project site. Other nearby parks include Bonita Creek Park and Eastbluff Park. The use of these existing public park facilities would not substantially increase with the proposed Project, which is an assisted living and memory care facility. The facility would include recreational amenities for use by the residents. Therefore, with no increase in demand for parks, the Project would not require new or physically altered public park facilities. No impacts would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.10, Public Services of this EIR.

- Other Public Facilities?

The Newport Beach Public Library provides library services to the City of Newport Beach through the Central Library, Balboa Branch Library, Mariners Branch Library, and Corona Del Mar Branch Library. The nearest public library to the Project site is the Mariners Branch Library (1300 Irvine Avenue), located approximately 2.6 miles southwest of the Project site.

In addition to other amenities within the proposed assisted living and memory care facility, a library would be available for use by the resident population of the facility. The Project would not generate additional demand for libraries beyond what would be provided within the facility or existing libraries. The Project would not result in the need for the construction of new or expanded facilities. No impacts would occur, and no mitigation is required.

The proposed convalescent and congregate care facility would generate some demand for emergency medical services, as it would not include emergency medical facilities on the premises. However, it is assumed that the potential demand has been anticipated for this type of use and planned for as part of the planning and development of the proposed Project. No increased demand beyond what is anticipated would occur that would result in a significant impact to emergency services. No impacts would occur and no mitigation is required.

These issues (i.e., library and emergency medical services) will not be further analyzed in Section 4.10, Public Services of this EIR.

Recreation

- Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

The City of Newport Beach currently has a total of 73 parks and recreational facilities (Newport Beach 2016). Based on the Newport Beach General Plan, three parks are in the immediate vicinity of the Project site. Bayview Park, the Upper Newport Bay Nature Preserve, and the Upper Newport Bay Ecological Reserve are all located within 0.3 mile southwest of the Project site. Other nearby parks and recreational facilities include the Newport Beach Golf Course, Bonita Creek Park, and Eastbluff Park. The nearest recreational trail to the Project site is the Bayview Trail, located approximately 0.3 mile from the Project site and which is accessible to pedestrians, equestrians, and bicyclists.

The proposed assisted living and memory care Project would not substantially increase the use of existing neighborhood and regional parks or other recreational facilities due to the nature of the use and the age of the resident population. On-site recreational amenities would be provided to meet the needs of the residents. Therefore, no impacts would occur, and no mitigation is required.

Additionally, the provisions of Chapter 19.52, Park Dedication and Fees, of the Newport Beach Municipal Code (NBMC), which discusses the parkland dedication requirements, only apply to residential subdivisions. Therefore, the proposed Project as an institutional use is not required to comply with the said provisions or provide parkland (Newport Beach 2018). Nevertheless, the proposed facility would provide a number of active and passive recreation amenities, including a fitness room, spa, and interior courtyards for the assisted living and memory care residents that would cater to the needs of the resident population. Therefore, the recreation needs of the residents would be met on site, and the proposed Project would not result in a substantial increased demand for recreational facilities the construction of which would adversely affect the environment. No impacts would occur, and no mitigation is required.

This topic (Recreation) will not be further analyzed in this EIR, as no impacts are anticipated.

Transportation/Traffic

• Conflict with the applicable Orange County Transportation Authority's (OCTA's) Congestion Management Plan (CMP) level of service standards and travel demand?

In accordance with the OCTA's CMP, which is the applicable CMP for the City of Newport Beach, a project would result in significant impact to traffic if it causes the level of service (LOS) of any CMP highway system intersections to degrade to below LOS E or if it generates sufficient traffic that contributes to an already failing facility.

The proposed Project would result in 426 fewer trips per day with approximately 23 AM peak-hour trips and 31 PM peak-hour trips, compared to the existing restaurant at the Project site. The only CMP highway intersection in the vicinity of the Project is the Jamboree Road and MacArthur Boulevard Intersection. The 2017 CMP identifies this intersection in the PM peak hour as operating at LOS C. Therefore, the Project would not result in impacts to any CMP Highway System intersection causing it to degrade below LOS E. Additionally, the Project would not contribute a significant amount of traffic to any CMP Highway System intersection already operating below LOS E under existing conditions. Although the CMP sets forth travel demand measures that promote the use of alternative modes of transportation, none of the travel demand measures (i.e., carpools, vanpools, transit, bicycles, park-and-ride lots, flexible work hours, telecommuting, parking management programs, and parking cash-out programs) specified in the CMP would be applicable to the Project (OCTA 2015). Accordingly, the Project would not conflict with the OCTA CMP's LOS standards or travel demand measures. No impact would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.11, Transportation/Traffic of this EIR.

• Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks?

The proposed Project site is located approximately 0.7 mile to the southeast of John Wayne Airport (JWA). In accordance with the Airport Environs Land Use Plan (AELUP) for JWA, the Project site is located within the AELUP Part 77 Notification Area for JWA. As indicated in Section 4.6, Hazards and Hazardous Materials, of this EIR, Form 7460-1 (Notice of Proposed Construction or Alteration), as part of Obstruction Evaluation/ Airport Airspace Analysis (OE/AAA) was filed electronically with the Federal Aviation Administration (FAA) (OCALUC 2008) on January 12, 2018; and no substantial short- and long-term safety risks were identified.

Additionally, the nature of the Project and the limited scale of the development would not result in a substantial increase in demand for air traffic. No impacts would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.11, Transportation/Traffic of this EIR.

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

Due to the nature of the proposed Project, a number of Newport Beach General Plan goals and policies regarding public transit, bicycle, or pedestrian facilities would not be relevant to the Project. Below are a few policies regarding parking that would be applicable to the proposed Project.

Policy CE 7.1.1 Required Parking. Require that new development provide adequate, convenient parking for residents, guests, business patrons, and visitors.

Chapter 20.40.040 of the City of NBMC requires one parking space per three beds for convalescent facilities; and, therefore, the proposed Project would be required to provide a total of 40 (39.6) standard parking spaces. However, the Project would include a total of 53 parking spaces, which is 10 spaces or approximately 19 percent more than the City requirement. Of the proposed 53 parking spaces, 49 would be standard and 4 would be accessible or barrier-free.

Policy CE 7.1.8 Parking Configuration. Site and design new development to avoid use of parking configurations or management programs that are difficult to maintain and enforce.

The Project proposes a total of 53 subterranean parking spaces, which exceeds the minimum requirements of 40 standard parking spaces, resulting in a surplus of 10 spaces. The proposed subterranean parking and configuration of parking spaces would be in accordance with City requirements and specifications.

The remaining Circulation Element policies related to public transit, bicycle, and pedestrian facilities are either directed at the City staff and/or decision makers or are otherwise not applicable to the proposed Project. Accordingly, the Project would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities. No impacts would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.11, Transportation/Traffic of this EIR.

Utilities and Service Systems

• Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

The Irvine Ranch Water District (IRWD) would provide sanitary sewer service to the Project site. The Santa Ana Regional Water Quality Control Board (RWQCB) is the applicable RWQCB for the City of Newport Beach. The IRWD's treatment plant was developed to ensure that adequate levels of treatment would be provided for the wastewater flows emanating from all land uses within its service area. Wastewater from the proposed Project would consist of sewage flows and wastewater from the kitchens and bathrooms of the proposed assisted living and memory care Project and would ultimately be treated by treatment facilities owned and operated by the IRWD. The IRWD

complies with the wastewater discharge requirements (WDR) issued by the SWRCB for their facilities, including the Michelson Water Recycling Plant (MWRP) in Irvine, which would treat wastewater from the Project site. The WDR ensures that adequate levels of treatment are provided to wastewater flows emanating from all land uses in the IRWD's service area. The wastewater from the proposed Project would not require treatment beyond that provided to existing similar uses in the City of Newport Beach and the surrounding cities by IRWD's reclamation plants and would not exceed established treatment requirements in the WDR. Additionally, the Project would be required to follow all federal and State regulations pertaining to wastewater discharge, including the requirements established by the Santa Ana RWQCB under the National Pollutant Discharge Elimination System (NPDES) permit. No impacts would occur, and no mitigation is required. This issue will not be further analyzed in Section 4.13, Utilities and Service Systems of this EIR.

2.3.3 EIR REVIEW AND APPROVAL PROCESS

This Draft EIR was prepared under the direction and supervision of the City of Newport Beach, Community Development Department and will be circulated for a 45-day public review and comment period, as mandated by the State CEQA Guidelines (14 CCR 15105). At any time during the public review period, written comments concerning the adequacy of the document can be submitted by interested public agencies and members of the public to:

> City of Newport Beach, Community Development Department Attention: Benjamin Zdeba, AICP 100 Civic Center Drive Newport Beach, CA 92660 or via email to bzdeba@newportbeachca.gov

After the public review comment period, written responses to all written comments received during the public review period pertaining to environmental issues will be prepared as part of the Final EIR. As required by CEQA, responses to comments submitted by responsible public agencies will be distributed to those agencies for review at least ten days prior to consideration of the Final EIR by the Newport Beach City Council. A public hearing before the Newport Beach City Council will be held to consider the Project and the adequacy of the Final EIR, at which time public testimony will be received.

The Newport Beach City Council is the decision-making body for the Project. The City Council will consider whether to certify the Final EIR and to adopt findings relative to the Project's environmental effects. It will then consider whether to approve or deny the Project.

2.4 **PROJECT HISTORY**

As indicated above, a Notice of Preparation (NOP) of the Draft EIR for the Project was distributed on July 22, 2016, to the State Clearinghouse and other public agencies for the required 30-day review and comment period. Subsequently, a Scoping Meeting was held on August 15, 2016, to facilitate agency public review and comment on the Project. As a result of the concerns over the height and massing of the proposed assisted living and memory care facility, the process was halted by the City of Newport Beach until the design was modified to address the concerns.

The modified plan, which proposes a three-story structure versus the previously proposed fivestory structure was presented to the City and the CEQA process was reinitiated. The Project description and analyses contained in this EIR document reflect the modified Project. Please refer to Exhibits 2-1a and 2-1b, Building Elevations Comparison, which depict the proposed three-story building elevations in comparison to the previously proposed five-story building elevations.

2.5 PLANNING CONTEXT

2.5.1 ON-SITE GENERAL PLAN AND ZONING DESIGNATIONS

Under existing conditions, the Project site is designated by the *City of Newport Beach General Plan* for CO-G land uses. This designation is intended to "provide for administrative, professional, and medical offices with limited accessory retail and service uses. Hotels, motels, and convalescent hospitals are not permitted" (Newport Beach 2006a). The Project site is part of the existing Bayview Planned Community Development Plan (PC-32).

2.5.2 SURROUNDING GENERAL PLAN AND ZONING DESIGNATIONS

Newport Beach General Plan designations in the vicinity of the Project site include Multiple-Unit Residential (RM) to the south, Single-Unit Residential Detached (RS-D) to the south and west, and CO-G to the east and west. The Project site is located in the northwest corner of the Bayview Planned Community Development Plan (PC-32); and, as such, the areas to the east and south of the site are zoned PC-32. The Santa Ana Heights Specific Plan (SP-7) is located to the west and southwest of the Project site.

2.5.3 AIRPORT ENVIRONS LAND USE PLAN FOR JOHN WAYNE AIRPORT

The Project site is located approximately 0.7 mile southeast of the southernmost JWA runway. The Project site is located within Noise Impact Zone "2" – Moderate Noise Impact (60 decibels [dB] Community Noise Equivalent Level [CNEL] or greater, less than 65 dB CNEL) as shown in the Airport Environmental Land Use Plan for John Wayne Airport (AELUP)¹ and falls within JWA Safety Zone 6 (Traffic Pattern Zone), where the likelihood of an accident is low. The zone allows for residential uses and most nonresidential uses; however, uses such as schools, stadiums, and health care facilities should be avoided (OCALUC 2008). As indicated in the AELUP for JWA, the Project site is located within the AELUP Part 77 Notification Area for JWA. Within the Notification Area boundary, the Airport Land Use Commission (ALUC) must be notified of any proposed construction or structural alterations involving a land use or legislative amendment in the

¹ It should be noted the AELUP uses a policy implementation line for the noise contours which was adopted by the Orange County Board of Supervisors in 1985. This line is based on the highest noise level at a given location utilizing noise projections from both the 1990 and 2005 project case contours developed as part of the 1985 John Wayne Airport Master Plan and are used as the basis for planning in the vicinity of JWA. Based on the noise technical report prepared for the County of Orange in April 2014, as part of Final Environmental Impact Report 617, the site is outside both the 2015 60 CNEL contour and the projected 2030 60 CNEL contour. However, as stated, the policy implementation line is used for planning purposes.



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AELUP Planning Area, development that exceeds 200 feet above ground level, and all heliports or helistops. Additional criteria for notification include development in proximity to an airport exceeding the slope ratio; development involving construction of a traverseway (i.e., highway, railroad, waterway) and exceeding a standard of 77.9(a) or (b) once adjusted upward with the appropriate vertical distance; development emitting frequencies and not meeting the conditions of the Federal Aviation Administration (FAA) Co-location Policy; development being in an instrument approach area and potentially exceeding Part 77 Subpart C; and development being in proximity to a navigation facility and potentially impacting the assurance of navigation signal reception. In addition, to promote air safety, projects that meet the above criteria must also file Form 7460-1 (Notice of Proposed Construction or Alteration) as part of OE/AAA with the FAA (OCALUC 2008). The FAA Form 7460-1 was filed electronically on January 12, 2018. Determinations of No Hazard to Air Navigation for the proposed structure and temporary structure (i.e., construction equipment boom lift) were issued separately on January 30, 2018. The determination of No Hazard for the proposed structure stated that the structure would not exceed obstruction standards and would not be a hazard to air navigation; however, it required that the FAA Form 7460-2, Notice of Actual Construction or Alteration, be filed electronically within five days after the construction reaches its greatest height. The determination of No Hazard for the temporary construction equipment indicated that the temporary structure (i.e., construction equipment boom lift) would not exceed obstruction standards and would not be a hazard to air navigation. Both determinations stated that while marking and lighting are not necessary, should they be included, they would be installed and maintained in accordance with the FAA Advisory circular 70/7460-1 L. The FAA determinations are provided in Appendix D-2.

2.6 Environmental Setting

The Project site is currently developed with a single-story 8,800-square-foot slab-on-grade restaurant located in the northeast portion of the site and associated asphalt-paved surface parking lot.² Parking stalls are arranged around the perimeter of the lot, and two rows of parking spaces are located in the middle of the site. The site also contains ornamental trees and landscaping around the perimeter and within the surface parking area. Landscaping provides a dense buffer around the two sides of the restaurant abutting Bristol Street to the northeast and Bayview Place to the southeast. The southwestern and northwestern perimeters are bound by block walls; the northeastern and southeastern perimeters are bound by a combination of block wall and wrought iron fencing.

The Project site is located in an urbanized and fully developed portion of the City of Newport Beach with primarily residential, commercial, retail, health care, and office uses. As shown in Exhibit 2-1, the Project site is bordered by Bristol Street and SR-73 to the northeast, Bayview Place and a six-story office building to the southeast, Baycrest multi-family residential development to the southwest, and Santa Ana Heights single-family residential neighborhood and a three-story office building to the northwest. This portion of the City is characterized by a concentration of commercial and office uses along Bristol Street and residential development adjacent and behind the commercial uses.

² It should be noted that the owner/operator of the existing restaurant, Kitayama has indicated his intent to cease operations and close the existing restaurant. In the future the current use could be replaced with another restaurants or use permitted in the Bayview Planned Community Development Plan (PC-32). The permitted uses are included in Section 3.6, under Planned Community Development Plan.

Under existing conditions, the Project site is fully developed with minimal topographic variation. According to the Geotechnical Evaluation (Ninyo & Moore 2015), the site is relatively flat with an elevation of 56 to 57 feet above msl. The Project site slopes to the south. Under the existing conditions, drainage on site consists of a southeast flow, and sheet flow from the building and surface parking lot gathers in v-gutters and flows through a culvert at the curb face on Bayview Place. Behind the building wall, sheet flow drains through breaks in the wall and exits through a curb face drain on Bayview Place (Tait 2016). The collected water then discharges into the City of Newport Beach municipal storm water system and ultimately into Upper Newport Bay. According to mapping by FEMA, the Project site is designated within FEMA Flood Zone "X" (Other Areas)" unshaded, which indicates that the Project site is located outside the 0.2-percent annual chance flood area (FEMA 2016).

The Project area is within the Peninsular Ranges geomorphic province in Southern California. The geomorphic province encompasses an area that extends approximately 125 miles from the Transverse Ranges and the Los Angeles Basin south to the Mexican border and the tip of Baja California (Ninyo & Moore 2015). As with much of the Southern California region, the Project site is located in an area subject to seismic hazards; however, the Project site is not located within a State of California Earthquake Fault Zone (formerly known as the Alquist-Priolo Special Studies Zone). The Project site is located in a State of California Seismic Hazard Zone for liquefaction.

2.7 ORGANIZATION OF THE DRAFT EIR

This EIR is organized into eight sections, each containing its own references section. A list of the EIR sections and a brief description of their contents is provided below to assist the reader in locating information.

- **Section 1.0, Executive Summary:** This section provides summaries of the Project Description, alternatives to the proposed Project, environmental impacts, and mitigation measures.
- **Section 2.0, Introduction, Project History, and Setting:** This section briefly discusses the purpose of the EIR, describes the environmental review process, describes the environmental setting of the Project, and gives an overview of the EIR's organization.
- **Section 3.0, Project Description:** This section provides a detailed description of the Project characteristics and a statement of the Project Objectives.
- Section 4.0, Existing Conditions, Impact Analysis, Cumulative Impacts, and Mitigation Program: This section contains subsections 4.1, Aesthetics, through 4.12, Utilities and Service Systems. Each subsection includes discussions on the following topics: regulatory setting (if applicable), methodology, existing conditions, thresholds of significance, impact analysis, cumulative impacts, mitigation program (if any), level of significance after mitigation, and references.
- **Section 5.0, Alternatives:** This section considers four alternatives to the proposed Project, including the No Project Alternative. The alternatives were developed to mitigate or avoid the significant effects the Project may have on the environment. In addition, this section identifies the environmentally superior alternative.
- **Section 6.0, Long-Term Implications:** This section contains a summary discussion of issues such as the balance of long-term versus short-term impacts; potential growth-

inducing impacts; a discussion of energy (electricity and natural gas) in accordance with Appendix F of the State CEQA Guidelines; and any significant irreversible environmental changes that would be caused by the Project.

- Section 7.0, Persons and Organizations Consulted: This section lists the persons and organizations that were contacted to obtain data on the preparation of this EIR.
- **Section 8.0, Preparers:** This section lists the persons that directly contributed to preparation of this EIR.

Sections 1.0 through 8.0 are presented in one volume. Appendices A through G are provided on a CD.

2.8 References

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- South Coast Air Quality Management District (SCAQMD). 1993 (April). CEQA Air Quality Handbook.
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3.1 PURPOSE OF THE PROJECT DESCRIPTION

The purpose of the Project Description is to describe the proposed Project in a way that allows for meaningful review by the public, reviewing agencies, and decision makers. Section 15124 of the California Environmental Quality Act (CEQA) Guidelines requires that the project description for an environmental impact report (EIR) contain: (1) the precise location and boundaries of a proposed project; (2) a statement of objectives sought by the proposed project including the underlying purpose of the project; (3) a general description of the project's technical, economic, and environmental characteristics; and (4) a statement briefly describing the intended uses of the EIR, including a list of the agencies that are expected to use the EIR in their decision making; a list of the proposal required to implement the project; and a list of related environmental review and consultation requirements required by federal, State, or local laws, regulations, or policies. An adequate project description need not be exhaustive but should supply the detail necessary for project evaluation.

An EIR is the most comprehensive form of environmental documentation identified in CEQA and the State CEQA Guidelines. The following project description provides the information needed to assess the environmental effects associated with the development, construction, and operation of the proposed Project.

3.2 PROJECT LOCATION

The 1.5-acre Project site is located in the City of Newport Beach, Orange County, California. It is located southwest of State Route (SR) 73, less than one-half mile from the intersection of Jamboree Road and Bristol Street. Specifically, the subject property is immediately bound by Bristol Street and SR-73 on the northeast, Bayview Place and a six-story office building complex on the southeast, Baycrest condominiums on the southwest, and a three-story office building with parking below and the Santa Ana Heights residential neighborhood to the northwest. The current address of the site is 101 Bayview Place, Newport Beach, California 92660. The assessor's parcel number (APN) is 442-283-05.

Currently, the Project site is accessed by a driveway on Bayview Place, located along the southeastern Project boundary. Access to Bayview Place is provided by Bristol Street to the northeast and Bayview Way to the south. Jamboree Road, a major north-south thoroughfare, is approximately 0.20 mile east of the Project boundary and provides access to both Bristol Street and Bayview Place. SR-73 is located approximately 0.05 mile north of the Project site and provides access to Jamboree Road from Southbound SR 73.

The Regional Location, Local Vicinity, and Aerial Photograph are shown in Section 1.0, Executive Summary as Exhibits 1-1, 1-2, and 1-3, respectively.

3.3 PROJECT OBJECTIVES

Section 15124(b) of the State CEQA Guidelines requires "[a] statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop

a reasonable range of alternatives to evaluate in the EIR and would aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project." Not only is a project analyzed in light of its objectives, compatibility with project objectives is one of the criteria used in selecting and evaluating a reasonable range of project alternatives. Clear project objectives simplify the selection process by providing a standard against which to measure project alternatives.

The following objectives have been identified for the Project:

- 1. Develop a high quality and safe senior living facility that would respond to the growing demand for senior housing and cater to the needs of the local elderly population.
- 2. Create a self-sufficient facility that would provide services and amenities to enhance livability for the onsite resident population.
- 3. Create a mix of assisted living and memory care units that that would cater to the specific needs of the resident population.
- 4. Construct and operate a use that is compatible with and respectful to the surrounding land uses, physically and aesthetically.
- 5. Create appropriate landscaping buffers to protect privacy of adjoining neighbors and enhance the Project and community.
- 6. Implement a Project consistent with the Bayview Planned Community Development Plan (PC-32) requirements and standards (e.g., height limit, setbacks).
- 7. Implement a land use that would result in fewer vehicular trips than the existing use onsite or the permitted land uses in the Bayview Planned Community Development Plan (PC-32).

3.4 PROJECT PROCESSING

The City of Newport Beach, as the lead agency, required and supervised preparation of this Draft EIR, which reflects the independent judgement of the City. The Newport Beach City Council is the decision-making body for the Project. The City Council will consider whether to certify the Final EIR and to adopt findings relative to the Project's environmental effects. It will then consider whether to approve or deny the Project.

3.5 DEVELOPMENT PROPOSAL

The Project consists of applications for a General Plan Amendment (GP2015-004), Planned Community Development Plan Amendment (PD2015-005) for the Bayview Planned Community, Major Site Development Review (SD2015-007), and a Conditional Use Permit (UP2015-047). Approval of these applications would allow for the demolition and removal of an existing restaurant, Kitayama, surface parking lots, and associated site improvements and redevelopment of the property by the construction of a three-story building containing 101 assisted living and memory care units (120 beds), ancillary uses, and subsurface parking. Landscaping, drive aisles, and passenger drop-off would also be provided on the property. The

owner of the Kitayama restaurant intends to cease his restaurant operations with the proposed Project or an alternative to the Project.

3.5.1 PROPOSED LAND USES

The Project involves demolition and removal of the existing approximate 8,800-square-foot, single-story restaurant, associated parking, and improvements on the site; preparation of the site for redevelopment; and construction of a three-story building with a proposed gross floor area of 84,517 square feet, containing 101 assisted living and memory care units (120 beds), ancillary uses, and subsurface parking. The units would consist of 42 assisted living studios, 27 assisted living one-bedroom units, 12 assisted living two-bedroom units, 13 memory care onebedroom units, and 7 memory care two-bedroom units. Additionally, the proposed facility would include living rooms, dining rooms, grill, fitness room, spa/salon, theater, library, roof garden, community store, computer lab, activity room, medication rooms, and support uses such as offices, lab, mail room, laundry, and maintenance facilities. Separate interior courtyards would offer seating, outdoor dining, and landscaping for the assisted living and memory care residents. The building height is 33 feet at the top of the roof and 39 feet, 6 inches at the highest point, which includes mechanical equipment screening. This is within the height limits in the Bayview Planned Community text. Landscaping, drive aisles, and passenger drop-off would also be provided on the property. The proposed facility would have a total of approximately 10 to 20 employees with a maximum of approximately 30 employees at the busiest time (i.e., change of day and night shifts). Exhibit 3-1, Site Plan, shows the location of the proposed building, access, and drive aisles; and Exhibits 3-2a through 3-2d show floor plans for each of the floors and the basement of the proposed three-story facility.

Construction is expected to take 12 to 14 months. Building excavation would require the removal of approximately 10,300 cubic yards, of which 10,200 cubic yards would be exported and 100 cubic yards would be used for site fill. In addition, 1,294 tons of demolition debris would be exported from the site. Although in compliance with the California Green Building Standards Code (CALGreen Code), 50 percent of the demolition debris would need to be recycled, reused, and/or salvaged, it is anticipated that up to a total of 75 percent of the Project's construction and demolition debris would be recycled.

Building Articulation and Massing, Setbacks, and Height

The modified building height and the proposed setbacks are designed to provide compatibility with the adjacent uses. The proposed building is uniformly three stories, or 33 feet, at the top of the roof, and 39 feet, 6 inches at the highest point, which includes mechanical equipment screening. This is within the height limits in the Bayview Planned Community (PC-32) text. Increased setbacks and ample landscaping are incorporated near the southwest property line, adjacent to Baycrest condominiums, to create a buffer and enhance compatibility. Additionally, varied textures and colors, recesses, articulation, and design accents on the elevations would be integrated in order to enhance the building's architectural style. Exhibit 3-3, Project Renderings, shows the proposed building from the south (Bayview Place) looking north and from the north (Bristol Street) looking south.

The building facade is designed to be compatible with the surrounding developments in the Bayview area. The building materials include stone veneer and stucco at the exterior of the













Looking North at the Project Entry



Looking South at Emergency Drive and Gate

Project Renderings

Harbor Pointe Senior Living Project

Source: Douglas Pancake Architects 2017



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building, stainless steel metal panels at accent areas, glass windows, and concrete or composition shingle roofing. Exhibits 3-4a and 3-4b, Building Elevations, show the building elevations from four sides, and Exhibit 3-4c depicts the proposed building height in comparison to the adjacent Baycrest Court condominiums.

The building as located on the Project site exceeds the minimum required setbacks identified in the Planned Community (PC) text, as summarized below:

- 41-foot setback from the southwest property line, near the Baycrest condominiums (the PC requires 20 feet between commercial and residential uses)
- 41-foot setback from the office building and residential uses to the northwest (the PC requires 0 feet to the office and 20 feet to the residential uses)
- 15-foot setback from Bristol Street (the PC requires 10 feet)
- 11-foot setback from Bayview Place (the PC requires 10 feet)

The building would cover approximately 40 percent of the site and would have a floor area ratio (FAR) of 1.29.

Unit Mix and Ancillary Uses at the Facility

The first floor of the facility would house the 20 memory care units, which consist of 13 onebedroom units and 7 two-bedroom units. The one-bedroom units would be approximately 400 square feet in size, and the two-bedroom units would range in size from 480 to 625 square feet. Additionally, there would be a total of 5 assisted living studios of 400 square feet or 480 square feet. The first floor would also include the main lobby, memory care lobby, living rooms, dining rooms, private dining area, kitchen, courtyards, library, copy room, grille, resident care rooms, care offices, quiet room, support facility, administrative offices, mail room, and restroom facilities.

The second floor includes assisted living studios, assisted living one-bedroom units, and assisted living two-bedroom units. The 19 assisted living studios are 400 square feet and 480 square feet in size; the 14 assisted living one-bedroom units range in size between 600 and 695 square feet; and the 6 assisted living two-bedroom units range in size from 667 to 870 square feet. In addition, this floor includes lobbies, computer lab, activity room, support facility, housekeeping, storage, standard residential laundry, and administrative office space.

The third floor includes assisted living studios, assisted living one-bedroom units, and assisted living two-bedroom units. The 18 assisted living studios are 400 square feet and 480 square feet in size; the 13 assisted living one-bedroom units range in size between 600 and 695 square feet; and the 6 assisted living two-bedroom units range in size from 667 to 870 square feet. In addition, this floor includes lobbies, computer lab, support facilities, housekeeping, storage, standard residential laundry, assisted living roof garden, and restroom facilities.

The basement includes 53 parking spaces, lobbies, theater, ticket booth, theater concession, community store, storage, fitness room, spa, salon, staff breakroom, restroom facilities, maintenance, mechanical room, commercial laundry, and electric room.



VIEW FROM SE BRISTOL ST



VIEW FROM BAYVIEW PL

Building Elevations

Harbor Pointe Senior Living Project



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VIEW FROM CONDOMINIUMS



VIEW FROM SANTA ANA HEIGHTS

Harbor Pointe Senior Living Project



Source: Douglas Pancake Architects 2017







Building Height Comparison

Harbor Pointe Senior Living Project



Exhibits 3-2a through 3-2d show the location of the units and other uses on each floor. Table 3-1, Summary of Uses by Floor, identifies the floors, unit types, number and square footage of units, and other uses on each floor.

Floor/GFA	Unit Type	Number of Units	Unit Size (Square Feet)	Other Uses
Basement 5,566 GFA	No units		No residential square footage	53 parking spaces, lobbies, theater, ticket booth, theater concession, community store, storage, fitness room, spa, salon, staff breakroom, restroom facilities, maintenance, mechanical room, commercial laundry, and electric room
First Floor	Memory Care – One-Bedroom Memory Care – Two-Bedroom Assisted Living - Studios	13 7 5	5,203 sq. ft. 3,599 sq. ft. 2,160 sq. ft.	Lobbies, living rooms, dining rooms, private dining, kitchen, server, courtyards, library, copy room, grille, resident care rooms,
26,287 GFA		25	10,962 sq. rt.	facility, admin offices, mail room, and restroom facilities
Second Floor 26,917 GFA	Assisted Living – Studio Assisted Living – One-Bedroom Assisted Living – Two-Bedroom	19 14 6 39	7,840 sq. ft. 9,055 sq. ft. <u>4.716 sq. ft.</u> 21,611 sq. ft.	Lobbies, computer lab, activity room, support facility, housekeeping, storage, standard residential laundry, and admin office
Third Floor	Assisted Living – Studio Assisted Living – One-Bedroom Assisted Living – Two-Bedroom	18 13 6 37	8,400 sq. ft. 8,455 sq. ft. 4,716 sq. ft. 21.571 sq. ft.	lobbies, computer lab, support facilities, housekeeping, storage, standard residential laundry, assisted living roof garden, and restroom facilities
GFA: gross floc Source: Douald	ı or area; sq. ft.: square feet. as Pancake Architects, 2017.			

TABLE 3-1 SUMMARY OF USES BY FLOOR

Conceptual Landscape Plan

The Project proposes to retain the existing mature landscaping and further enhance it with additional trees and planting along the property line. In addition to trees around the perimeter of the site, the proposed structure would be surrounded by a concrete walk and trees/plantings. Approximately 33 percent of the site would be landscaped upon completion. Exhibits 3-5a, 3-5b, 3-5c, Conceptual Landscape Plan and Details and Plant Palette, depict the proposed conceptual landscape plan and details of the landscape components.

Based on the Conceptual Landscape Plan, the existing mature carrotwood and Brisbane box trees along the southwest and northwest property lines, as well as some Brisbane box trees and palm trees (queen palms and Mexican fan palms) along the northeast property line would be retained. In addition to a variety of shrubs and groundcovers proposed, the following trees would be planted to enhance the landscaping on the site: bottle tree (*Brachychiton populneus*), loquat tree (*Eriobotrya japonica*), western redbud (*Cercis occidentalis*), king palm (*Archontophoenix*)



CONCEPTUAL IRRIGATION:

ALL LANDSCAPE PLANS AND INSTALLATIONS SHALL COMPLY WITH CITY OF NEWPORT BEACH DESIGN GUIDELINES, CODES AND REGULATIONS.

LOW VOLUME DISTRIBUTION IRRIGATION SYSTEM WITH WEATHER BASED AUTOMATIC IRRIGATION CONTROLLER SHALL BE USED IN COMPLIANCE WITH THE CITY WATER EFFICIENT LANDSCAPE GUIDELINES.

RAINBIRD SQ, STREAM BUBBLER, DRIP BUBBLER, AND HUNTER MP ROTATOR NOZZLES SHALL BE USED FOR LOW VOLUME IRRIGATION WATER DISTRIBUTION.

IRRIGATION SYSTEM WILL BE EQUIPPED WITH MASTER VALVE AND PRESSURE REGULATOR TO PREVENT WATER WASTE.

SPRINKLER HEADS SHALL BE EQUIPPED WITH PRESSURE REGULATOR AND CHECK VALVE TO PREVENT MISTING AND HEAD DRAINAGE.

TREES SHALL BE IRRIGATED SEPARATELY FROM SHRUBS AND GROUND COVERS.

SPRINKLER HEADS SHALL BE INSTALLED IN LOCATIONS WHERE IRRIGATION WATER IS CONTAINED WITHIN PERVIOUS SURFACE.

QUICK COUPLING VALVE SHALL BE LOCKING TYPE.

IRRIGATION SYSTEM SHALL BE MONITORED FOR LEAKS AND BREAKAGE WEEKLY.

WATERING SCHEDULE SHALL BE REVIEWED QUARTERLY.

68% OR MORE PLANT MATERIAL SHALL BE LOW OR VERY LOW WATER USE MATERIAL.



Harbor Pointe Senior Living Project

 Source: Conceptual Design & Planning Company, 2017





Conceptual Landscape Plan and Detail

FOUNTAIN

DECORATIVE WALL WITH CAP

Harbor Pointe Senior Living Project

BENCH



COURTYARD PAVING OPTIONS



WAITING AREA PAVING OPTION



PAVING COLOR OPTIONS - DRIVEWAY





PLANTER POT OPTIONS





DECORATIVE GUARDRAIL



WATER FEATURE WITH COBBLE BASIN

Source: Conceptual Design & Planning Company, 2017



PLANT PALETTE	BOTANICAL NAME	COMMON NAME	WUCOLS	<u>SIZE</u>	QUANTITY	<u>symbol bo</u> Shrubs Ane Main Entry
TREES			REGION 3			AE
	CERCIS OCCIDENTALIS	WESTERN REDBUD	LOW	36" BOX	2	AC AL C/
	ERIOBOTYA JAPONICA	Loquat tree	MOD	48" BOX	1	
	BRACHYCHITON POPULNEUS	BOTTLE TREE	MOD	36" BOX	17	M' Pil SA
<u>symbol</u> PALMS	BOTANICAL NAME	COMMON NAME	WUCOLS REGION 3	SIZE	QUANTITY	ST
	ARCHONTOPHOENIX CUNNINGHAMIANA	KING PALM	MOD	16' BTH	3	WI
	PHOENIX DACTYLIFERA 'DEGLET NOOR'	DATE PALM	LOW	18' BTH	22	
						CI
	CUPPANIOPSIS ANACARDIOIDES TRISTANIA CONFERTA	CARROTWOOD TREE BRISBANE BOX				Di Gi IRI LA LIC
TO BE REMOVED						SA
(\emptyset)	TRISTANIA CONFERTA	BRISBANE BOX				VINE LC
						PERENNIALS
EXISTING PALMS - PROTECT I	N PLACE					
						C
	SYAGRUS ROMANZOFFIANUM	QUEEN PALM				CI
AN END	WASHINGTONIA ROBUSTA	MEXICAN FAN PALM				EC
EL VE						PH
						SA

SYMBOL SHRUBS A	BOTANICAL NAME ND GROUNCOVERS	COMMON NAME	WUCOLS REGION 3	SIZE
MAIN EN				
	AEONIUM A. 'ZWARTKOP'	BLACK ROSE AEONIUM	LOW	5 GAL.
	AGAVE SPECIES	AGAVE	LOW	5 GAL.
	ALOE SPECIES	ALOE	LOW	5 GAL.
	CARISSA M. 'GREEN CARPET'	DWARF NATAL PLUM	MOD	5 GAL.
	DIETES VEGETA	FORTNIGHT LILY	MOD	5 GAL.
	LANTANA 'NEW GOLD'	NEW GOLD LANTANA	LOW	5 GAL.
	MYOPORUM PARVIFOLIUM	MYOPORUM	LOW	1 GAL.
	MYRTUS COMMUNIS 'COMPACTA'	DWARF MYRTLE	LOW	5 GAL.
	PITTOSPORUM TOBIRA	MOCK ORANGE	MOD	5 GAL.
	Salvia SPP	SAGE	LOW	5 GAL.
	SENECIO S. 'BLUE CHALKSTICKS'	BLUE CHALKSTICKS	LOW	1 GAL.
10.10	STELITZIA NICOLAI	GIANT BIRD OF PARADISE	MOD	15 GAL.
	STELITZIA REGINAE	GIANT BIRD OF PARADISE	MOD	5 GAL.
	WESTRINGIA 'BLUE GEM'	BLUE GEM COAST ROSEMARY	LOW	5 GAL.
	DECORATIVE ROCK/ COBBLE			
MEMORY	CARE AND ASSISTED LIVING	COURTYARD		
100	ACHILLEA M. 'PAPRIKA'	YARROW	LOW	1 GAL.
3.35	CARPENTERIA CALIFORNICA	BUSH ANEMONE	LOW	5 GAL.
62.24	CLIVIA MINIATA	NATAL LILY	LOW	1 GAL.
	DIGITALIS PURPUREA	COMMON FOXGLOVE	MOD	1 GAL.
No.	GARDENIA JASMINIODES 'VEITCHII'	EVERBLOOMING GARDENIA	MOD	5 GAL.
200	IRIS DOUGLASIANA	DOUGLAS IRIS	LOW	5 GAL.
9.5	LAVANDULA A. 'BUENA VISTA'	LAVENDER BUENA VISTA	LOW	5 GAL.
	LIGUSTRUM JAPONICA 'TEXANUM'	TEXAS PRIVET	MOD	5 GAL.
2.5	LOMANDRA L. 'BREEZE'	DWARF MAT RUSH	LOW	1 GAL.
1. N.	SALVIA CLEVELANDII	CALIFORNIA BLUE SAGE	LOW	5 GAL.
2.3	STACHYS BYZANTINA	LAMB'S EARS	MOD	5 GAL.
VINE				
的高	LONICERA JAPONICA	JAPANESE HONEYSUCKLE	LOW	5 GAL.
PERENNIA	ALS FOR POTS			
<u></u>	AGAVE ATTENUATA 'KARA STRIPES'	VARIEGATED AGAVE	LOW	5 GAL
- A M	AFONIUM 'SUNBURST'		LOW	1 GAL
			LOW	5 GAI
			LOW	1 GAI
			LOW	1 GAI
			MOD	
				5 GAL
				J GAL.
		DOM/CO3 TAIL	LOW	I GAL.
NOTES:				

PLANT MATERIAL NOT LISTED MAY BE USED, SUBJECT TO APPROVAL BY THE CITY.

ALL LANDSCAPE PLANS AND INSTALLATIONS SHALL ADHERE TO CITY DESIGN GUIDELINES, CODES AND REGULATIONS.

ALL LANDSCAPE AREAS SHALL RECEIVE AUTOMATIC IRRIGATION SYSTEM.

ALL LANDSCAPE INSTALLATION SHALL BE PERMANENTLY MAINTAINED.

TREES / PALMS



cunninghamiana populneus



Occidentalis





'Coppertone'



dactylifera





Source: Conceptual Design & Planning Company, 2017

Exhibit 3-5c

Harbor Pointe Senior Living Project

Plant Palette

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cunninghamiana), and date palm (*Phoenix dactylifera*). The palette consists of 68 percent or more types of plant material of low or very low water use.

The Project proposes two interior courtyards, separated by a decorative stone wall with cap, for the assisted living and memory care residents and their guests. The assisted living courtyard would include outdoor dining tables and chairs; lounge seating area with trellis, fire element, and wood paving; a water feature; large specimen tree in a raised planter; decorative pots with accent planting; and pedestal paving. The memory care courtyard would include bench seating, planting area, small accent trees in raised planters, water feature, decorative pots with accent planting, and enhanced concrete paving. See Exhibit 3-5b for details.

The entry to the facility would be marked by a roundabout with center island/planting and enhanced concrete paving area. Beyond the roundabout would be the passenger drop-off and waiting area surrounded by planting areas, decorative pots with accent planting, accent palm trees, and tiered water feature walls with cobble basins on both sides of the entry. A vehicular sliding gate with Knox Box¹ would separate the roundabout from the main entry to the site from Bayview Drive. See Exhibit 3-5b for details.

All landscape plans and installations would comply with the City of Newport Beach design guidelines, codes, and regulations. Additionally, the irrigation system to be used on site would be in compliance with the City's Water Efficient Landscape Ordinance (Newport Beach 2016).

Project Access/Parking

An entrance driveway is proposed with direct access from Bayview Place, along the southeastern boundary of the Project site. The passenger drop-off area and entry to the lobby is immediately visible from the entrance driveway. Access to the underground parking is off the main entry, and an exit-only emergency drive to Bristol Street is on the northwest corner of the site. The emergency exit to Bristol Street would include an emergency gate with a Knox-Box. A drive aisle is also provided on the southwest and northwest sides of the building.

Section 20.40.040 (Off-Street Parking Spaces Required) of the City of Newport Beach Municipal Code (NBMC) requires one parking space per three beds for convalescent facilities; therefore, the proposed Project would be required to provide a total of 40 parking spaces (36 standard and 4 accessible or barrier-free). However, the proposed Project includes 53 parking spaces, which is 13 spaces or approximately 33 percent more than the City requirement. Of the proposed 53 parking spaces, 49 would be standard and 4 would be accessible or barrier-free. See Exhibit 3-2d, Basement Plan, which shows the subterranean parking locations.

3.5.2 INFRASTRUCTURE

The Project includes various infrastructure improvements to facilitate the development. These improvements include, but are not limited to, the installation of potable and recycled water lines, storm water detention and conveyance systems, electrical lines, phone lines, gas lines, and sanitary sewers. Proposed locations for infrastructure improvements are identified; however,

¹ A Knox-Box, known officially as the KNOX-BOX Rapid Entry System, is a small, wall-mounted safe that holds building keys for fire departments, emergency medical services, and sometimes police to retrieve in emergency situations. Local fire companies can hold master keys to all boxes in their response area.

alternate locations may be implemented as part of the final design process and coordination with the service providers.

The Irvine Ranch Water District (IRWD) has issued a Conditional Water and Sewer Will Serve Letter, indicating that the IRWD would have adequate domestic water supplies to accommodate the Project subject to the Sub Area Master Plan updated. Two points of connection would be required to IRWD's water system and may necessitate street trenching or underground boring. The letter also states that the IRWD would provide sewer service to the proposed Project subject to the Sub Area Master Plan update (IRWD 2018).

3.5.3 PROJECT'S TECHNICAL CHARACTERISTICS

Demolition

Implementation of the proposed Project would include demolition of the existing restaurant, surface parking, and related site improvements. A total of 1,294 tons of demolition debris would be exported from the site. Demolition activities are planned to begin in spring 2019 and are expected to occur over an approximate one-month period. As indicated above, although in compliance with the California Green Building Standards Code (CALGreen Code), 50 percent of the demolition debris would need to be recycled, reused, and/or salvaged, it is anticipated that up to a total of 75 percent of the Project's construction and demolition debris would be recycled. Any hazardous materials encountered during demolition would be handled and disposed per governing regulations and best practices. Materials that could not be recycled would be transported to a local landfill per governing regulations and best practices.

Grading

The Preliminary Grading Plan (Exhibit 3-6) depicts the proposed grading for the site. According to the Preliminary Grading Plan, an estimated 10,300 cubic yards of cut and fill, including subterranean parking, would be associated with site preparation and development of a building pad. Of the total 10,300 cubic yards, 10,200 cubic yards would be exported, and 100 cubic yards would be used on site as fill. All grading-related work would comply with Chapter 15 of the NBMC, Building and Construction (Newport Beach 2018).

Grading and excavation for the subterranean garage and building foundations would follow the demolition phase and would occur over an approximate two-month period.

Construction

Project construction is anticipated to occur in a single phase over a period of 12 to 14 months, including the demolition and grading phases, with completion planned for summer 2020. The building phase of the construction would continue for approximately 11 months. Project construction is anticipated to use standard construction equipment, including earth-moving equipment, trucks, cranes, and forklifts. A Construction Management Plan would be prepared and submitted for approval to ensure that construction traffic would not impact public roadways in the site vicinity. Construction activities would occur within the Project's site boundaries, and travel along adjacent roadways would be maintained at all times.



Preliminary Grading Plan

Project construction would include approximately three full-time employees (i.e., Project Manager, Project Engineer, and Project Supervisor) on site at all times during construction activities. Various subcontractors would be on and off the site at various times over the course of the Project construction, including laborers from multiple fields, ranging in size between a minimum of 2 and a maximum of 50 workers.

Off-Site Improvements

Off-site improvements would include modifications to the City of Newport Beach sidewalks at the vehicular drives to comply with access requirements and potential utilities improvements in Bayview Place, including connections to the existing utilities.

3.6 PROPOSED DISCRETIONARY APPROVALS

General Plan Amendment No. GP2015-004

The City of Newport Beach General Plan assigns land uses to all areas of the City. Under the existing General Plan, the site is designated for CO-G (General Commercial Office) land uses. As stated in the General Plan, the CO-G land use designation allows uses such as administrative, professional, and medical offices with limited accessory retail and service uses; and hotels, motels, and convalescent hospitals are not permitted uses (Newport Beach 2006a).

Proposed General Plan Amendment No. GP2015-004 would change the existing land use designation of the Project site from CO-G to PI (Private Institutions). As stated in the General Plan, the PI land use designation allows land uses such as privately-owned facilities that serve the public, including places for religious assembly, private schools, health care, cultural institutions, museums, yacht clubs, congregate homes, and comparable facilities (Newport Beach 2006a). This proposal would also increase the development allocation in the anomaly table from 70,000 square feet to 85,000 square feet.

<u>Planned Community Development Plan Amendment No. PD2015-005</u>

The proposed Project would include an amendment to the existing Bayview Planned Community Development Plan (PC-32; Newport Beach 1985) to allow for congregate care/convalescent and private institution uses and amend the land use and development standards for the Project site. The proposed revisions to the PC-32 text are discussed below.

- Increase in floor area from 8,000 square feet for restaurant use or 70,000 square feet for office use to 85,000 square feet for congregate care/convalescent and public institution uses.
- According to Chapter 20.40.040 of the NBMC, the parking requirement for convalescent facilities is one space per three beds; with 120 beds, the Project would be required to provide a total of 40 parking spaces (36 standard and 4 accessible or barrier-free). The Project proposes 53 spaces. Of the proposed 53 parking spaces, 49 would be standard and 4 would be accessible or barrier-free. PC-32 would be amended to reflect the applicable parking requirements.

• Alterations to the uses in Area 5 of the Bayview Planned Community Development Plan, which would involve removing the commercial uses currently allowed and providing for privately owned facilities that serve the public, including congregate homes, convalescent facilities, health care services, assisted living facilities, and comparable uses.

Under the proposed amendment, permitted uses subject to a Conditional Use Permit include congregate care homes, convalescent facilities, assisted living facilities, memory care services, and retail and service businesses, as included with a congregate and/or convalescent care facility only if considered as ancillary uses.

Land Uses in Area 5. The existing land use designations for Area 5, the Project site, are restaurant, professional, and administrative offices; these uses are also noted on the Bayview Site Statistics Table. The proposed amendment would replace these land uses with congregate care/convalescent and private institutions. Specifically, the intent of the congregate care/convalescent or private institution designation is to provide "... areas for privately owned facilities which serve the public including congregate care homes, convalescent facilities, health care services, assisted living facilities, and comparable facilities."

The existing permitted use for the site, restaurants, bars, and theater/nightclubs, would be deleted from the PC-32 text, as would most of the commercial uses that are permitted subject to a Use Permit. The proposed permitted uses subject to a Conditional Use Permit would include congregate care homes, convalescent facilities, assisted living facilities, and memory care facilities, as well as retail and service businesses, as included within a congregate care and/or convalescent care facility only if considered as ancillary uses. In addition, automobile parking lots and structures, accessory structures and uses necessary and incidental to these uses, and other uses are also permitted. Changes in temporary uses permitted include deletion of commercial coaches and the addition of modular buildings during construction. Under permitted accessory uses, on-site liquor sales would be deleted.

Development Standards in Area 5. The development standards subject to the proposed amendment in the PC-32 text include maximum square footage and off-street parking. An amendment to the maximum height limits would not be required, as the proposed building height of 39 feet and 6 inches, including screening, is within the height limits in PC-32 text. The changes are as follows:

- *Maximum square footage.* The existing square footage allowed in the PC-32 text is 8,000 square feet for a restaurant use or 70,000 square feet for an office use. The PC-32 text would be amended to allow for 85,000 square feet of congregate care/convalescent or private institution uses.
- *Off-street parking.* The current parking requirement in the PC-32 text, which is based on the restaurant use, is a total of 90 spaces. The proposed amendment would reduce the number of parking spaces required in the PC-32 text to 53 spaces (a reduction of 37 spaces). Per Chapter 20.40.040 of the NBMC, the proposed Project would be required to provide one space per three beds or a total of 40 parking spaces (36 standard and 4 accessible or barrier-free). The Project would provide an additional 13 spaces or approximately 33 percent over the City's parking requirements for the proposed use.

Major Site Development Review No. SD2015-007

Major Site Development Review No. SD2015-007 is required pursuant to Section 20.52.080 (Site Development Reviews) of the NBMC to allow the construction of over 19,999 square feet of nonresidential gross floor area. The purpose of the Site Development Review is to review the Project plans for compliance with the proposed revisions to the PC-32 text. As part of Site Development Review No. SD2015-007, the City would review the amended PC-32 text and plans to ensure the following objectives are met:

- 1. Ensure consistency with General Plan policies related to preservation of existing community character and development of a high-quality facility
- 2. Respect the physical and environmental characteristics of the site
- 3. Ensure safe and convenient access and circulation for pedestrians and vehicles
- 4. Allow for and encourage individual identity for specific uses and structures
- 5. Encourage the maintenance of a distinct neighborhood and/or community identity
- 6. Minimize or eliminate negative or undesirable visual impacts
- 7. Ensure protection of significant view(s) from public right(s)-of-way in compliance with Section 20.30.100 (Public View Protection)
- 8. Allow for differing levels of review depending on the significance of the development project

Conditional Use Permit No. UP2015-047

The amended Bayview Planned Community Development Plan (PC-32) would require a Conditional Use Permit (CUP) approval. Therefore, the proposed Project is required to obtain a CUP to allow the establishment of a 120-bed senior assisted living and memory care facility.

3.7 INTENDED USES OF THE EIR

Pursuant to Section 15121 of the State CEQA Guidelines, an EIR is primarily an informational document intended to inform the public agency decision makers and the general public of the potentially significant environmental effects of a project. Prior to taking action on the proposed Project, the City, as the lead agency, must consider the information in this EIR and certify the Final EIR.

Section 15367 of the State CEQA Guidelines defines Lead Agency as follows:

"Lead Agency" means the public agency which has the principal responsibility for carrying out or approving a project. The Lead Agency will decide whether an EIR or Negative Declaration will be required for the project and will cause the document to be prepared.

Responsible Agencies are public agencies that have a level of discretionary approval over some component of the Project. Section 15381 of the State CEQA Guidelines defines Responsible Agency as follows:

"Responsible Agency" means a public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term "Responsible Agency" includes all public agencies other than the Lead Agency which have discretionary approval power over the project.

A Trustee Agency is defined in Section 15386 of the State CEQA Guidelines as "a state agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California." For this Project, as the site does not contain any natural resources, no Trustee Agencies have been identified.

Responsible agencies may rely upon the EIR prepared by the Lead Agency (See Section 15096 of the State CEQA Guidelines). Permits and other approvals required to implement the Project are identified. As noted above, it is the intent that this EIR be used by agencies in their consideration of approval of required subsequent permits and approvals. The anticipated approvals associated with the Project are listed further below.

3.7.1 CITY OF NEWPORT BEACH

The City, as the Lead Agency, is responsible for the actions listed below as a part of Project approval and implementation. The anticipated approvals would occur after certification of the Final EIR.

- Drainage/Erosion Control Plan
- Water Quality Management Plan
- Grading Permit
- Storm Drainage, Sewer, Water, and Dry Utility Plans
- Landscaping Plans
- Building Permit
- Construction Management Plan

3.7.2 **RESPONSIBLE AND TRUSTEE AGENCIES**

The Final EIR would also provide environmental information to responsible agencies and other public agencies that may be required to grant approvals and permits or to coordinate with the City as a part of Project implementation. These agencies include, but are not limited to, those listed below. The anticipated order of permits and approvals is also noted.

- Irvine Ranch Water District. Approval of any water and sewer line connections and the Sub Area Master Plan update
- **Regional Water Quality Control Board.** Issuance of a National Pollutant Discharge Elimination System permit

3.8 References

- Newport Beach, City of. 2017. Newport Beach Municipal Code, Chapter 15, Building and Construction. Newport Beach, CA: the City. http://www.codepublishing.com/CA/NewportBeach/html/NewportBeach15/Newport Beach15.html
- ------. 2016 (February). Design Standards for Implementation of the Water Efficient Landscape Ordinance. Newport Beach, CA: the City.

———. 2006a (November 7). *City of Newport Beach General Plan*. Newport Beach, CA: the City.

———. 1985 (August 15, amended July 6, 2010). Bayview Planned Community Development Plan and Development Standards. Newport Beach, CA: the City.

4.0 IMPACT ANALYSIS INTRODUCTION

In accordance with Sections 15125 and 15126(a) to (c) of the California Environmental Quality Act (CEQA) Guidelines, this section of the Environmental Impact Report (EIR) analyzes those environmental topics where the Project could result in "potentially significant impacts." The City of Newport Beach (City) has determined that the EIR addresses all environmental topics with potential to result in significant effects. Although an Initial Study was not prepared for the Project, the environmental topics and issues within the topical areas with no potential for impact are identified in Section 2.0 of the EIR and focused out from further analysis in the body of the EIR. Based on the City's determination and the comments received by the City on the Notice of Preparation (NOP), this EIR analyzes the following environmental topics:

- Aesthetics
- Air Quality
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Public Services
- Transportation/Traffic
- Tribal Cultural Resources
- Utilities and Service Systems

Each topical section includes the following information: description of applicable regulations; information on the existing setting; identification of methodology used for the analysis presented in the section; identification of thresholds of significance; analysis of potential Project effects and identification of significant impacts; cumulative impacts; identification of mitigation measures, if required, to reduce the impacts; level of significance after mitigation; and a list of references used to complete the analysis.

Section 15064.7 of the State CEQA Guidelines addresses thresholds of significance and encourages each public agency to develop thresholds of significance through a public review process. The City of Newport Beach has not formally adopted thresholds of significance. In accordance with CEQA and the CEQA Guidelines, the analysis and significance thresholds used in this EIR have been derived from several sources, including the General Plan standards and applicable regulatory standards.

In evaluating the potential impacts associated with the Project, the EIR, in addition to the Mitigation Program in the EIR, identifies a number of components that will serve to avoid or minimize impacts. These measures have been incorporated into the Mitigation Program

presented in this EIR and will be tracked in the Mitigation Monitoring and Reporting Program (MMRP) that would be adopted in conjunction with the Project approval.¹

Where a potentially significant environmental effect has been identified, applicable Projectspecific mitigation measures have been included where feasible. Any mitigation measure, and timing thereof, is subject to the approval of the City. The two components of the Mitigation Program are described below.

- **Mitigation Measures.** Where a potentially significant environmental effect has been identified and is not reduced to a level considered less than significant through the application of regulatory requirements, Project-specific mitigation measures have been identified.
- **Regulatory Requirements.** These regulatory requirements are based on local, State, or federal regulations or laws that are frequently required independently of CEQA review and also serve to offset or prevent specific impacts. Typical regulatory requirements include compliance with the provisions of the California Building Code, South Coast Air Quality Management District Rules, local agency requirements, and other regulations and standards. The City of Newport Beach does not have an adopted set of standard conditions; however, they may impose additional conditions during the approval process, as appropriate. These requirements may be specific to the proposed Project or standard to all projects.

4.0.1 CUMULATIVE IMPACT ASSUMPTIONS

Discussion of the cumulative impacts of the proposed Project is provided in Sections 4.1 through 4.13, relative to each CEQA topical issue evaluated herein. The following is an overview and introduction to the cumulative analysis per the State CEQA Guidelines. This avoids the undue repetition of CEQA requirements relative to cumulative analysis within individual sections.

In requiring the State Office of Planning and Research to develop guidelines for the implementation of CEQA, Section 21083(b) of the *Public Resources Code* (PRC) requires that the guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The criteria shall require a finding that a project may have a "significant effect on the environment" if one or more of the following conditions exist:

- (1) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.
- (2) The possible effects of a project are individually limited but cumulatively considerable. As used in this paragraph, "cumulatively considerable" means that the

¹ The California Public Resources Code Section 21081.6 (AB 3180) requires that a lead or responsible agency adopt a MMRP when approving or carrying out a project where an environmental document, either an EIR or a mitigated negative declaration, has identified measures to reduce potential adverse environmental impacts. The MMRP identifies the mitigation measure; the method by which the adopted measure will be implemented; the responsible party for verifying the measure has been satisfactorily completed; the method of verification; and the appropriate time or phase for the implementation of each mitigation measure. The MMRP is formally adopted by the City Council in conjunction with the certification of the EIR.

incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(3) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

This directive has been carried forth in Section 15064 of the State CEQA Guidelines, which establishes the criteria for determining the significance of environmental effects caused by a project. Subsection 15064(h)(1) directs the preparation of an EIR in the following circumstance:

[I]f the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Section 15355 of the State CEQA Guidelines defines cumulative impacts as:

Two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

- (a) The individual effects may be changes resulting from a single project or a number of separate projects.
- (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Pursuant to Section 15130(b) of the State CEQA Guidelines:

The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact.

<u>Methodology</u>

A project's cumulative impact is an impact to which that project contributes and to which other projects contribute as well. The project must make some contribution to the impact; otherwise, it cannot be characterized as a cumulative impact of that project.

Section 15130(b) of the State CEQA Guidelines indicates:

The following elements are necessary to an adequate discussion of significant cumulative impacts:

- (1) Either:
 - (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or
 - (B) A summary of projections contained in an adopted local, regional, or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect. Such plans may include: a general plan, regional transportation plan, or plans for the reduction of greenhouse gas emissions. A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information such as a regional modeling program. Any such document shall be referenced and made available to the public at a location specified by the lead agency.

To provide an evaluation of the potential cumulative impacts for the proposed Project, the list approach (Section 15130(b)(A)) to the analysis has been used. Therefore, this cumulative evaluation includes specific projects that, because of their size or proximity to the Project site, have the potential to cause cumulative impacts ("related projects").

While the projects listed in Table 4-1 have been considered in the analysis, not all related projects would contribute to significant cumulative impacts for each topical area. The cumulative impact analyses in each topical area provides an evaluation of the cumulative projects that would contribute to that particular environmental topic's cumulative impacts. Some impacts are site-specific and would not compound the impacts associated with the proposed Project. Additionally, in certain cases, short-term impacts would not contribute to cumulative impacts because the construction of the cumulative projects and the development of the Project would not occur within the same time frame or in proximity to each other.

Table 4-1 lists the pending and approved projects within the City of Newport Beach, which have been identified as potentially cumulative and have been used in the cumulative impact analysis. The locations of the projects listed in Table 4-1 are shown on Exhibit 4-1.



 Cumulative Projects - City of Newport Beach
 Exhibit 4-1

 Harbor Pointe Senior Living Project
 •



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Project	Proposed Land Uses	Location and Approximate Distance from Project Site	Determination/Status
Projects Pending Coast	al Commission Review	110,000 0100	200011111101011/000000
1. Newport Crossings	Development of a mixed-use residential project consisting of 350 rental units and 7,500 square feet of retail use on a 5.7-acre property known as MacArthur Square. The application includes requests for building height adjustment and a Tentative Tract Map for future condominium purposes.	1701 Corinthian Way; 4251, 4253 & 4255 Martingale Way; 4200, 4220 & 4250 Scott Drive; and 1660 Dove Street Approximately 0.63 mile	Application submitted on May 31, 2017. Under review for application completeness. EIR preparation is underway
2. Koll Newport Residential (PA2015-024)	Development of mixed-use residential of up to 260 units, 3,000 sf. retail, and 1-acre park.	4400 Von Karman Avenue Approximately 0.67 mile	Application submitted and deemed complete. DEIR is completed and circulated. Anticipated PC consideration mid- to late-2018.
3. Marine Square (PA207-248)	Site Development Review, Tentative Tract Map, and Modification Permit to allow the demolition of an existing 114- unit residential apartment complex and redevelopment of the site with a new 92-unit residential condominium complex. The application includes a request to establish grade and allow the residential units facing Irvine Avenue to encroach 2 feet into the 20-foot front setback with portions of the upper levels for architectural relief and articulation.	1244 Irvine Avenue Approximately 2.8 miles	Application submitted November 21, 2017. Under review for completeness.
4. Newport Dunes Hotel (PA2016-175)	A 275-room, 201,498-square-foot, hotel on 14.3 acres. Amenities include a coffee shop, gift/sundry shop, business center, function rooms, spa/fitness facilities, restaurant, pool, tennis courts, sand volleyball courts, and picnic area.	West side of the Newport Dunes Resort Swimming Lagoon at 1131 Back Bay Drive Approximately 3.1 miles	Application incomplete.
5. Back Bay Landing (PA2011-216)	Request for legislative approvals to accommodate the future redevelopment of a portion of the property with a mixed-use waterfront project. The Planned Community Development Plan would allow for the development of a new enclosed dry stack boat storage facility for 140 boats, 61,534 square feet of visitor-serving retail and recreational marine facilities, and up to 49 attached residential units.	300 E. Coast Highway Generally located at the northwesterly corner of east Coast Highway and Bayside Drive Approximately 3.2 miles	The project was approved by City Council on February 11, 2014. The Coastal Land Use Plan Amendment for the project was approved by the California Coastal Commission on December 10, 2015. Site Development Review and Coastal Development Permit anticipated to be filed in 2018.

Project	Proposed Land Uses	Location and Approximate Distance from Project Site	Determination/Status
6. Balboa Marina Expansion (PA2012-103) (PA2015-113)	City of Newport Beach Public Access and Transient Docks and Expansion of Balboa Marina. The project proposes development of 24 boat slips, 14,252-sf restaurant, and 664-sf marina restroom.	201 E. Coast Highway Approximately 3.4 miles	IS/MND was approved by City Council on November 25, 2014. SDR and CUP were approved by the City in February 2016. The CDP was approved by the CCC in February 2017.
7. Newport Village	A conditional use permit, traffic study, tentative tract map, site development review and coastal development permit for the demolition of all structures on- site and the construction of 240,650 square feet of nonresidential uses (retail, office, and food service), 175 multi-family dwelling units in 356,350 square feet, and subterranean parking garages with 1,347 parking spaces. The project includes a new public boardwalk along the waterfront and a new marina with 77 slips and additional slips for Duffy boat rentals. All buildings proposed would be constructed to a maximum of 35 feet in height from the established grade for the purpose of measuring height.	2200-2244 West Coast Highway and 2001- 2507 West Coast Highway Newport Village Approximately 3.9 miles	Application submitted on December 4, 2017. Under review for Completeness.
8. ExplorOcean (PA2014-069)	Demolition of an existing one-story, 26,219-sf commercial building and a 55-space subterranean parking garage; and the construction of a 70,295-sf, four-story ocean literacy facility located on the 600 East Bay parcel; removal of a 63-metered space surface parking lot (aka: Palm Street Parking Lot) located on the 209 Washington Street, 600 and 608 Balboa Avenue, and 200 Palm parcels and the construction of a 388- space, 141,000-sf, five-level off-site parking structure; and a 6,500-sf floating classroom to be located on the waterside of the project.	600 East Bay, 209 Washington Street, 600 and 608 Balboa Avenue, and 200 Palm Approximately 4.1 miles	Application submitted April 22, 2014. On hold per applicant's request.

Project	Proposed Land Uses	Location and Approximate Distance from Project Site	Determination/Status
9. Newport Harbor Yacht Club (PA2012-091)	Demolition of the approximately 20,500-sf yacht club facility and construction of a new 23,163-sf facility. The yacht club use will remain on the subject property.	720 West Bay Avenue, 800 West Bay Avenue, 711-721 West Bay Avenue, and 710-720 Balboa Boulevard Approximately 4.2 miles	Project approved by the City February 2014. Coastal Land Use Plan Amendment application withdrawn from California Coastal Commission in September 2015. Coastal Commission considers a Coastal Development Permit for the replacement yacht club on March 10, 2016. Under construction.
10. Ullman Sail Lofts (PA2017-059)	A conditional use permit, minor site development review, tentative tract map, and coastal development permit to demolish an existing 9,962-sf commercial building and construct a new mixed-use structure with 1,171 sf of retail floor area and one 2,347-sf dwelling unit on Lot 17 and construct three residential dwelling units ranging from 2,484 square feet to 2,515 square feet over Lots 18 and 19.	410 and 412 29th Street Approximately 4.5 miles	Application submitted on March 9, 2017. Incomplete status. Anticipated Class 32 CEQA Exemption.
Capital Improvement P	rojects (CIP) with CEQA Review		
11. Little Corona Infiltration (PA2015- 096) (15X14)	Installation of a diversion and infiltration device on a public beach area.	Little Corona Beach Approximately 4.5 miles	Final MND adopted on March 22, 2016. Project is on hold due to difficulties presented at Coastal Commission review. Working to get project on Coastal Commission agenda as of December 5, 2017.
12. Old Newport Blvd./West Coast Hwy Widening (15R19)	Widening the westbound side of West Coast Highway at Old Newport Boulevard to accommodate a third through lane, a right turn pocket and a bike lane.	Intersection of Old Newport Boulevard and West Coast Highway Approximately 4.2 miles	Consultant was selected for project design in March of 2016. Negative Declaration draft is completed. City is requesting lead agency status from Cal Trans.
13. Lower Sunset View Park Bridge, Parking Lot and Park (15R09)	Possible pedestrian overcrossings, parking and park uses for Lower Sunset View Park.	Intersection of West Coast Highway and Superior Avenue Approximately 4.7 miles	An RFP for design services was sent in December of 2015. CEQA determination TBD.

Duciant	Dropogod Land Uson	Location and Approximate Distance from	Determination (Status
14. Arches Storm Drain Diversion (16X11)	Arches drain outlet is the endpoint for two large storm drains that collect and deliver runoff from neighboring areas to Newport Harbor. The west storm drain collects runoff from Hoag Hospital and areas upstream and the east storm drain runs along Old Newport Boulevard and into Costa Mesa upstream of 15th Street. A conceptual plan to divert dry weather flows from these two subwatersheds to the sanitary sewer system has been prepared.	Newport Boulevard north of Coast Highway Approximately 3.7 miles	Project initiated in 2015. CEQA determination TBD (exemption?). Anticipated project start date, September 2016.
15. Bayview Heights Drainage Treatment (15X11)	Restoring a drainage reach subject to erosion and creates a wetland at the end of the reach to benefit environmental water quality.	Headlands area of Upper Bay downstream of Mesa Drive Approximately 0.7 miles	City Council authorized project in May of 2015. Agency permit applications were submitted March of 2016. CEQA determination TBD (exemption?)
16. Big Canyon Rehab Project (15X12)	Diverting about one third of the dryweather flow from the creek into a bioreactor. The bioreactor strips selenium and other impurities from the flow. Clean flow is returned to the creek to reduce the concentration of pollutants within the stream by 30-35 percent. Storm flows from Jamboree Road also will be directed to the top level of this bioreactor/wetlands to strip roadway pollutants from the flow before the flow rejoins the creek. Partial streambed and canyon restoration are components of this project.	Big Canyon, downstream of Jamboree Road and south of Big canyon Creek Approximately 1.9 miles	Resource agency applications submitted March of 2016. Draft MND issued for public comment March 4, 2016.
17. Bay Crossings Water Main Replacement (16W12)	Replacing deteriorating water transmission mains pursuant to the Water Master Plan and Bay Crossing Water Transmission Study.	Newport Harbor Approximately 3.8 miles	A consultant has been selected for the project design. CEQA TBD
Discretionary Projects	with CEQA Review and Traffic Study Appr	roved by the City and Per	cent Occupied
18. ENC Preschool (PA2015-079)	Environmental Nature Center Preschool	745 Dover Drive Approximately 3.2 miles	Planning Commission Approved 01/21/2016. Class 32 CEQA Exemption. Building permit was issued and project is under construction.
19. Park Avenue Bridge Replacement (PA2014-135)	Demolishing and replacing Park Avenue bridge that connects Balboa Island and Little Balboa Island.	Balboa Island Approximately 3.7 miles	MND adopted/approved by City Council November 25, 2014. Under construction

Project	Proposed Land Uses	Location and Approximate Distance from Project Site	Determination/Status
20. Birch Newport Executive Center (PA2014-121)	The project includes the re-subdivision of four lots into three lots for commercial development and for condominium purposes, and the construction of two, 2-story medical office buildings totaling 64,000 square feet in gross floor area and a 324-space surface parking lot.	20350 & 20360 Birch Street (Formerly 20352 – 20412 Birch St) Approximately 0.4 miles	Application submitted on 08/05/2014. Application and Addendum to MND approved by Planning Commission on 02/19/2015. Rough grading permits issued February 25, 2016.
21. Ebb Tide (PA2014-110)	The project includes a Tentative Tract Map application to subdivide a 4.7-acre site for 83 residential lots and a Site Development Review application for the construction of 83 single-unit residences, private streets, common open space, and landscaping. The Planned Community Development Plan is proposed to establish guidelines for development of the project site consistent with the General Plan. The Code Amendment is proposed to amend the Zoning Map to change the Zoning District from Multiple-Unit Residential (RM) to Planned Community (PC).	1560 Placentia Drive Approximately 3.9 miles	Application submitted on 06/20/2014. An MND was prepared. The project was approved and the MND was adopted by the Planning Commission on August 6, 2015. Under construction. Completion of initial phases anticipated in late 2017 or early 2018.
22. Lido House Hotel at the former city hall complex (PA2013-217)	General Plan Amendment, Coastal Land Use Plan Amendment, and Zoning Amendment to change site from Public Facilities to Visitor serving commercial and increase the allowable building height. Demolition of former city hall buildings and the construction of a 130- room upscale hotel. Fire Station #2 to remain at current location.	3300 Newport Boulevard and 475 32nd Street Approximately 4.3 miles	Project approved by the City September 2014. Coastal Development Permit issued February 2016. Demolition complete and new construction underway. Completion of construction anticipated by summer of 2018.
23. Westcliff Medical (PA2013-154)	Construction of two building and a three-level parking structure, an addition to an existing building, and the demolition of 25,339 square feet of building area. The project would result in four buildings totaling 73,722 square feet. The total amount of off-street parking would be 382 spaces.	2011, 2043, 2121, and 2131 Westcliff Drive. Bounded by Westcliff Drive, Irvine Avenue, and Sherington Place. Approximately 3.0 miles	Class 32 CEQA exemption. June 19, 2014: Planning Commission Approved. Demolition complete and construction underway. Completion by the end of 2018.

Project	Proposed Land Uses	Location and Approximate Distance from Project Site	Determination/Status
24. Lido Villas (DART) (PA2012-146)	Request for the demolition of an existing church and office building and legislative approvals for the development of 23 attached three story townhome condominiums.	3303 and 3355 Via Lido Generally bounded by Via Lido, Via Oporto, and Via Malaga. Approximately 4.3 miles	Building permits have expired and require a new plan check submittal and updates to the Building Code. Discretionary applications are still valid since tract map was submitted to Public Works for recordation. Application approved November 12, 2013. CLUP Amendment approved by CCC on March 12, 2014. CDP application Approved by CCC on 10/09/2014.
25. Villas Fashion Island (Formerly San Joaquin Plaza Apartments) (PA2012-020)	Amendment to the North Newport Center Planned Community (NNCPC), which is the zoning document that establishes land uses, development standards, and procedures for development within seven sub-areas of the Newport Center Area of the City. Primarily the request involves increasing the residential development allocation within the NNCPC from 430 dwelling units to a total of 524 dwelling units (increase of 94 units) and allocating the units to the San Joaquin Plaza sub-area.	1101 San Joaquin Hills Road Approximately 2.3 miles	The project was approved by the City Council on August 14, 2012. Construction completed late 2017.
26. Uptown Newport Mixed Use Development (PA2011-134)	Development of 1,244 residential units and 11,500 sf. of commercial retail	4311 & 4321 Jamboree Rd Approximately 0.6 miles	EIR, Tentative Tract Map, Traffic Study, and AHIP were approved by City Council on 2/26/2013. The PC Development Plan and Development Agreement were approved on 3/12/2013. Construction for Phase 1 development is underway
27. MacArthur at Dolphin-Striker Way (PA2010-135)	Demolition of a 7,996-sf restaurant and development of 12,351 sf commercial retail.	4221 Dolphin-Striker Way Approximately 0.5 miles	Approved by the City Council on October 25, 2011. PC Development Plan approved on November 22, 2011. The project is completed. The freestanding building pad is constructed but not occupied.

Project	Proposed Land Uses	Location and Approximate Distance from Project Site	Determination/Status
28. 10 Big Canyon (PA2010-092)	Mitigated Negative Declaration for rough grading for development of a single-family residence.	10 Big Canyon Approximately 2.1 miles	IS/MND approved 12/20/2011. Project has not been constructed.
29. D.I.S.C. 3501 Jamboree Rd and 301 Bayview Circle (PA2010-062)	Amendment to Bayview Planned Community (PC-32) text to add outpatient surgery and medical office as permitted uses and to add a parking requirement of 1/200 square feet for such uses. Includes Traffic study pursuant to TPO for conversion of 38, 759 square feet of general office and retail to outpatient surgical center.	3501 Jamboree Rd. and 301 Bayview Circle Approximately 0.1 miles	On June 22, 2010 City Council approved Resolution No. 2010-070 finding that Traffic Study No. TS2010-002 complies with the TPO and on July 6, 2010 approved Ordinance No. 2010-12 approving Planned Community Amendment No. PD2010-004.
30. Plaza Corona del Mar (PA2010-061)	Hoag Memorial Hospital Presbyterian Master Plan Update Project (PA2007- 073)	3900-3928 East Coast Highway Approximately 4.3 miles	Building permits for residential portion issued 03/17/2017. Commercial portion submitted for plan check June 30, 2014. Application approved by Planning Commission on 1/03/13. Staff Approval No. SA2013-015 (A2013- 245) approved December 10, 2013 and Staff Approval No. SA2014- April 10, 2015 to allow the reconstruction of Gallo's and reduction of commercial scope. CEQA Class 32 exemption.
31. Old Newport GPA Project (PA2008-047)	Demolition of 3 existing buildings to construct a new 25,000-sf medical office building.	328, 332, and 340 Old Newport Blvd Approximately 4.0 miles	IS/MND and project approved on March 9, 2010. Under construction, completion anticipated end of 2018.
32. Hoag Memorial Hospital Presbyterian Master Plan Update Project (PA2007-073)	Reallocation of up to 225,000 sf of previously approved (but not constructed) square footage from the Lower Campus to the Upper Campus.	1 Hoag Dr.; northwest of West Coast Hwy and Newport Blvd Approximately 4.1 miles	Final EIR certified and project approved on May 13, 2008. No new major development has been constructed or is planned in the near future.

Project	Proposed Land Uses	Location and Approximate Distance from Project Site	Determination/Status
33. AERIE Project (PA2005-196)	Residential development including the following: (a) the demolition of the existing residential structures on the 1.4-acre site; (b) the development of 8 residential condominium units; and (c) the replacement, reconfiguration, and expansion of the existing gangway platform, pier walkway, and dock facilities on the site.	201–207 Carnation Ave and 101 Bayside Pl; southwest of Bayside Drive between Bayside Pl and Carnation Ave, Corona del Mar Approximately 4.0 miles	Final EIR was certified and project approved by the City on July 14, 2009. A CDP has been approved by the Coastal Commission. Project is under construction with completion anticipated by mid-2018.
34. Newport Marina – ETCO Development (PA2001-210)	A mixed use development consisting of 27 residential units and approximately 6,000 square feet of retail and office uses	2300 Newport Boulevard Approximately 4.6 miles	FEIR certified in February 2006. Tentative Tract Map extended in October 2010. The project is under construction and is anticipated to be complete by summer 2017.
35. Mariner's Pointe (PA2010-114)	A 19,905-sf, two-story commercial building and a three-story parking structure.	100 West Coast Highway Approximately 3.5 miles	An IS/MND was released for public review on April 11, 2011. The MND was certified and the project approved by the City Council on August 9, 2011. Construction completed on October 30, 2014, and tenants are beginning to occupy suites. (43% occupied, 23% TI in process, 34% vacant).
36. Newport Business Plaza Project (PA2008- 164)	Demolition of 2 existing connected buildings to construct a new 46,044 gross square foot business plaza.	4699 Jamboree Road and 5190 Campus Drive Approximately 1.0 miles	The City Council approved the project on January 25, 2011. The project has not been constructed.
37. PRES Office Building B Project (PA2007-213)	Increase the maximum allowable entitlement by 11,544 gross sf; increase the maximum allowable entitlement in office suite B by 9,917 net sf to allow for development of a new 2-level office building over a ground-level parking structure.	4300 Von Karman Ave Approximately 0.6 miles	An IS/MND was released for public review on May 19, 2010. The MND was certified and the project approved by the City Council on February 22, 2011. Project has not been constructed.

Project	Proposed Land Uses	Location and Approximate Distance from Project Site	Determination/Status	
38. Saint Mark Presbyterian Church (PA2003-085)	Church complex with sanctuary, fellowship hall, administration building and pre-school. Total square footage is 33,867 square feet.	2200 san Joaquin Hills Road Approximately 2.7 miles	EIR was released for 45 day public released on July 21, 2004. Project approved by City Council October 12, 2004. Preschool not entirely constructed.	
AELUP: Airport Environs Land Use Plan; CDP: Coastal Development Permit; CUP: Conditional Use Permit; cy: cubic yards; DA: Development Agreement; DTSP: Downtown Specific Plan; EIR: Environmental Impact Report; FAA: Federal Aviation Administration; GPA: General Plan Amendment; gsf: gross square feet; HBGS: Huntington Beach Generating Station; I- 405: Interstate 405 freeway; IBC: Irvine Business Complex; IS: Initial Study; ITC: Irvine Technology Center; LAFCO: Local Agency Formation Commission; LCP: Local Coastal Program; MCAS: Marine Corps Air Station; MND: Mitigated Negative Declaration; ND: Negative Declaration; PA: Planning Area; PC: Planned Community; sf: square foot/feet; SP: Specific Plan; SR-73: State Route 73; TDR: transfer of development rights; TPM: Tentative Parcel Map; TTM: Tentative Tract Map; VTTM: Vesting Tentative Tract Map; ZC: Zone Change				

Source: City of Newport Beach, 2018

4.0.2 REFERENCES

- Newport Beach, City of. 2006a (November 7). *City of Newport Beach General Plan.* Newport Beach, CA: the City.
 - —. 2006b (April). Draft Environmental Impact Report: General Plan 2006 Update. Newport Beach, CA: the City. http://www.newportbeachca.gov/government/departments/communitydevelopment/planning-division/general-plan-codes-and-regulations/generalplan/general-plan-environmental-impact-repor

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4.1 **AESTHETICS**

This section describes the existing aesthetic character of the Harbor Pointe Senior Living Project site and visual resources in the vicinity of the site. The potential visibility of the site and proposed development has been determined, and the potential visual changes resulting from Project implementation are addressed.

4.1.1 REGULATORY SETTING

<u>State</u>

California Department of Transportations (Caltrans)

The California Scenic Highway Program, created in 1963 by the California legislature, is managed by the California Department of Transportation (Caltrans). The goal of the program is to preserve and protect scenic highway corridors from changes that would negatively impact the aesthetic quality of lands that are adjacent to highways. Caltrans defines a scenic highway as any freeway, highway, roadway, or other public right-of-way that passes through an area of valuable scenic quality. Qualification for designation as a State Scenic Highway is based on vividness, intactness, and unity.

Although currently no designated scenic highways are in the City of Newport Beach (City), the City has identified that State Route (SR) 1, or Pacific Coast Highway, is eligible for State Scenic Highway designation. According to the Caltrans' Scenic Highway Program, SR-1 is still eligible but has not been officially designated a State Scenic Highway since the approval of the Newport Beach General Plan (Caltrans 2016).

<u>Local</u>

City of Newport Beach General Plan

The *City of Newport Beach General Plan* is the long-range guide for growth and development in the City. On July 25, 2006, the General Plan was adopted and the Final Environmental Impact Report (EIR) was certified by the Newport Beach City Council (Newport Beach 2006a, 2006b).

The *City of Newport Beach General Plan* contains ten elements, one of which is the Natural Resources Element with the objective to provide direction regarding the conservation, development, and use of natural resources. It identifies the City's natural resources, including aesthetics and visual 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. The proposed Project's consistency analysis with the applicable visual resources goals and policies are included in Table 4.8-1 in Section 4.8, Land Use and Planning of the EIR.

Bayview Planned Community Development Plan (PC-32)

The City of Newport Beach identifies 56 Planned Community (PC) Districts within the City's boundaries. Each PC has a corresponding development plan which identifies allowable land uses within the PC and provides development standards for these uses. The Project site falls within PC-32, Bayview. The *Bayview Planned Community Development Plan and Development Standards*, which was adopted in August 1985 and last amended in July 2010, is the long-range guide for growth and development within PC-32. The Bayview Planned Community Development Plan includes six "Areas" with specified land uses. The proposed Project site is within Area 5, Restaurant Professional and Administrative Offices. The development standards in PC-32 include maximum height limits (35 feet plus an additional 10 feet to screen mechanical equipment); maximum square footage for restaurant and office uses (8,000 and 70,000 square feet, respectively); building site area (no specifications for minimum building site area); and off-street parking (in accordance with the Pre-Annexation Agreement) (Newport Beach 1985).

City of Newport Beach Municipal Code

As PC-32 does not include any standards pertaining to light and glare, the provisions of the City of Newport Beach Municipal Code (NBMC) would be relevant and applicable to the Project. These provisions help minimize aesthetic and light and glare impacts associated with new development projects (Newport Beach 2017).

<u>Chapter 20.30 (Property Development Standards), Section 20.30.070 (Outdoor Lighting)</u>

- A. General Outdoor Lighting Standards
 - 1. All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties and to not produce glare onto adjacent properties or roadways. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures.

The lighting standards of this section for parking lots are not relevant and applicable, as parking is subterranean and no surface parking lot is proposed as part of this Project.

Additionally, the provisions pertaining to outdoor lighting for buildings and landscaping are not relevant and applicable, as the Project would not use spotlighting or floodlighting to illuminate the building, signage, landscaping, or other objects.

Section 20.30.100 (Public View Protection) includes regulations to protect significant visual resources from public view points and corridors. These provisions do not protect views from private property. As there are no public view points in the vicinity of the Project site that could be impacted during construction or operation of the Project, it is not subject to these regulations.

4.1.2 METHODOLOGY

The aesthetics analysis in this section is based on field reconnaissance, site photographs, and evaluation of the proposed Project in the context of surrounding existing and planned land uses.

Those areas that would have direct views of the Project improvements were considered in defining the study area. Because of the flat topography, Project views are mostly limited to those uses adjacent to the Project site. This also defines the viewer groups (those with views of the site) that would be exposed to the changes in the visual character of the site. Viewers are currently limited to the users at the adjacent residential developments, including the Baycrest Court condominium development to the southwest and the Santa Ana Heights single-family units to the northeast of the site; the motorists on Bristol Street and SR-73 on the northeast and Bayview Place on the southeast; and the employees of the office building to the southeast, across Bayview Place.

Visual impacts are determined by defining the visual quality of the area, the expected change as a result of the Project, and the sensitivity of the users to those changes. The sensitivity of users is associated with the length of exposure to the changed views and the context of the views. For example, residential viewers would be more sensitive to changes in the visual quality than workers in nearby offices because residents have a greater connection with the visual character of their neighborhood than people who are passing through or employed in an area.

The CEQA thresholds of significance require an evaluation of whether the Project would substantially degrade the existing visual character or quality of the Project site and its surroundings. The determination of whether the changes in the visual quality of a site would degrade an area or its surroundings, to result in a significant impact, is highly subjective and dependent on the viewer's perspective. In determining whether the Project would degrade the visual character factors such as the viewer groups of the site, the extent to which the Project would create a visually cohesive environment were evaluated.

Additionally, it is important to recognize that the site is located in a larger urban/developed context consisting of a mix of residential (multi- and single-family), office, and heath care development. As discussed in Section 4.1, Aesthetics, no officially designated scenic highways or scenic vistas are within the Project study area that would be affected by demolition, construction, and operation at the Project site.

4.1.3 EXISTING CONDITIONS

Under existing conditions, the Project site is fully developed with minimal topographic variation. The site is relatively flat with an elevation of approximately 57 feet (NAVD88). The Project site slopes to the south.

Visual Character of the Site and Surrounding Areas

The Project site is currently developed with a single-story 8,800-square-foot, slab-on-grade restaurant located in the northeast portion of the site and associated asphalt-paved surface parking lot. Parking stalls are arranged around the perimeter of the lot; and two rows of parking spaces are located in the middle of the site, separated by a planter planted with trees. The site

Aesthetics

also contains ornamental trees, hedges, and landscaping around the perimeter block walls and within the surface parking area. Landscaping provides a dense buffer around the two sides of the restaurant abutting Bristol Street to the northeast and Bayview Place to the southeast. The southwestern and northwestern perimeters are bound by 8-foot and 6-foot block walls, respectively; the northeastern and southeastern perimeters are bound by a combination of block walls and wrought iron fencing.

As shown on the aerial photograph in Exhibit 2-1, the combination of block walls and trees provide a buffer between the Project site and the multi-family residences to the southwest of the Project site and single-family residences to the northwest of the site.

Exhibits 4.1-1a through 4.1-1d include site photographs that demonstrate the existing visual character of the Project site as seen from its surroundings. It should be noted that the Project site is not open to public view from the southwest and northwest, as those views are limited by the existing block walls. The existing Baycrest Court condominiums to the southwest and two single-family homes in the Santa Ana Heights development to the northwest have private views of the Project site. The following views, as described below, depict public views from Bayview Place to the southeast and Bristol Street to the northeast.

Views 1 through 4. These views on Exhibits 4.1-1a and 4.1-1b are taken from the Bayview Place median and depict a full panoramic view of the southeastern property line, which interfaces Bayview Place and the adjacent commercial/office building. The views show the southeastern property line, which is composed of a combination of an 8-foot block wall and wrought iron fencing, which includes an access gate to the Project site. The views transition from the surface parking lot to the restaurant building in the northeastern corner of the site. The visual prominence of the mature trees and vegetation along the block walls, within the parking lot, and around the restaurant building are depicted in all views. Views 1 and 2, Exhibit 4.1-1a, also show the entrance to the site that is controlled by a wrought iron gate. As depicted in Views 3 and 4, Exhibit 4.1-1b, the entrance to the restaurant building is obscured by the existing landscaping and mature trees.

Views 5 through 7. These views on Exhibits 4.1-1c and 4.1-1d are from vantage points along the Bristol Street sidewalk. Views 5 and 6, Exhibit 4.1-1c, are from Bristol Street sidewalk looking south toward the restaurant building; and View 7, Exhibit 4.1-1d, is taken from the terminus of Bayview Place and Bristol Street looking north. These views, as seen by motorists on Bristol Street, depict the northeastern boundary of the site, composed of a combination of an 8-foot block wall and wrought iron fencing. Mature trees and vegetation along the public right-of-way obscure the views into the property. View 6, Exhibit 4.1-1c, also partially depicts the back of the restaurant and the adjacent trash enclosure.

4.1.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the County's Environmental Analysis Checklist and Appendix G of the State CEQA Guidelines, the Project would result in a significant impact to aesthetics if it would:

Threshold 4.1-1 Have a substantial adverse effect on a scenic vista.

Threshold 4.1-2Substantially damage scenic resources, including, but not limited to, trees,
rock outcroppings, and historic buildings within a state scenic highway.



View 1 - View West from Bayview Place Median



View 2 - View Northwest from Bayview Place Median

Views from Bayview Place

Harbor Pointe Senior Living Project



PSOMAS

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View 3 - View North from Bayview Place Median



View 4 - View Northeast from Bayview Place Median

Views from Bayview Place

Harbor Pointe Senior Living Project

Exhibit 4.1-1b



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View 5 - View South from Bristol Street Sidewalk



View 6 - View South from Bristol Street Sidewalk

Views from Bristol Street

Harbor Pointe Senior Living Project

Exhibit 4.1-1c

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View 7 - View North from Bristol Street Sidewalk

Views from Bristol Street

Harbor Pointe Senior Living Project

Exhibit 4.1-1d



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- **Threshold 4.1-3** Substantially degrade the existing visual character or quality of the site and its surroundings.
- **Threshold 4.1-4** Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area.

4.1.5 IMPACT ANALYSIS

Threshold 4.1-1

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

Even though the City of Newport Beach has no officially designated "scenic vistas," and the General Plan does not identify any within the City boundaries (Newport Beach 2006a), "significant vistas" which include prominent coastal view locations within the City of Newport Beach from public view points and coastal view roads are identified in the General Plan. The General Plan and General Plan EIR identify public coastal views from 30 roadway segments throughout the City. The following three roadway segments are in the vicinity of the Project:

- Eastbluff Drive from Jamboree Road to Back Bay Drive
- Jamboree Road from Eastbluff Drive/University Drive to Bayview Way
- State Route (SR-) 73 from Bayview Way to the eastern City limit

Of the three closest designated roadway segments to the Project site, Eastbluff Drive from Jamboree Road to Back Bay Drive is approximately 0.65 mile (from its closest point) to the south of the Project site across Upper Newport Bay; Jamboree Road from Eastbluff Drive/University Drive to Bayview Way is 0.30 mile (from its closest point) to the south/southeast of the Project site; and SR-73 from Bayview Way to the eastern City limit is approximately 0.50 mile (from its closest point) to the southwest of the Project site. Although these segments are in proximity to the Project site, intervening development and topography would prevent views of the Project site. Therefore, the Project's short-term construction and long-term operation would not have any impacts on public views from these roadway segments.

Additionally, the City has identified 12 parks as "view parks" in the Newport Beach General Plan. View parks are generally located on coastal bluffs and were created due to their unique view of the ocean or the bay (Newport Beach 2006a). Two such parks—Bayview Park and the Upper Newport Bay Nature Preserve—are within a mile of the Project site.

Bayview Park is approximately 0.4 mile to the southwest of the Project site, and Upper Newport Bay Nature Preserve is approximately 0.3 mile to the west of the site. Although these two view parks are in proximity to the Project site, due to the presence of intervening development and topography, the Project site is not visible from these parks. Therefore, construction or operation of the Project would not have any significant impacts on views from these parks.

Based on the above, the proposed demolition of the existing restaurant and construction of the proposed Project would have no impact on a scenic vista, and no mitigation is required.

Impact Conclusion: The City of Newport Beach has not officially designated any scenic vistas in the City. Even though three significant vistas; two "view parks"; and three View Road segments are within a mile of the Project site, intervening development and topography would prevent views of the Project site. Therefore, the proposed demolition of the existing restaurant and construction of the proposed Project would not result in significant impacts on a scenic vista, pursuant to Threshold 4.1-1. No mitigation is required.

Threshold 4.1-2

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

The *City of Newport Beach General Plan* does not officially designate any scenic highways within the City boundaries. However, the City has identified that SR-1, or Pacific Coast Highway, is eligible for State Scenic Highway designation. According to the California Department of Transportation's (Caltrans') Scenic Highway Program, SR-1 is still eligible but has not been officially designated a State Scenic Highway since the approval of the Newport Beach General Plan (Caltrans 2016).

The Project site is approximately 3.23 miles to the north of SR-1; however, due to the distance and intervening development and topography, the Project site is not visible from SR-1. Therefore, neither the Project's short-term demolition and construction activities nor its long-term built condition would have any significant impacts on views from SR-1.

Additionally, the Project site is currently developed with a single-story restaurant, surface parking lot, and associated improvements and does not contain any scenic resources, including rock outcroppings or historic buildings listed or eligible for the National Register of Historic Places. Existing trees on the site, though ornamental and typical for this type of use, would be preserved.

Therefore, the Project would not result in any significant impacts to scenic resources within a State Scenic Highway, and no mitigation is required.

Impact Conclusion: No scenic resources, rock outcroppings, or historic buildings are on or around the Project site. The closest potential scenic highway (SR-1) is located 3.23 miles to the south of the site. Therefore, no impacts are anticipated, pursuant to Threshold 4.1-2, and no mitigation is required.

Threshold 4.1-3

Would the Project substantially degrade the existing visual character or quality of the site and its surroundings?

The aerial photograph presented previously on Exhibit 1-3 shows the Project site's relationship to the other uses that surround the site on all sides. Due to the developed nature and flat topography of the Project area, the presence of mature trees, and existing walls, views of the Project site are limited to immediately adjacent vantage points, as further described below.

Visual Changes

During demolition and construction activities at the Project site, viewers would see construction equipment, ongoing demolition and construction activities, short-term stockpiles of building materials and debris, and haul trucks delivering building materials and to removing debris. This visual change would be less than significant because of the temporary nature of the construction and because the views would be typical of construction sites in an urban environment. Additionally, it should be noted that the site, as depicted in site photos (Exhibits 4.1-1a through 4.1-1d), is well-buffered by the existing lush and mature landscaping, which would be retained and help screen the views of the construction activity.

Implementation of the proposed Project would alter views of the Project site by replacing the existing approximately 8,800-square-foot, single-story restaurant and surface parking lot with a three-story building with a proposed gross floor area of 84,517 square feet, including 101 assisted living and memory care units (120 beds), ancillary uses, and subsurface parking.

The building height and the proposed setbacks, described in Section 3.0, Project Description, of this EIR, are designed to provide compatibility with the adjacent uses. The proposed building is uniformly three stories, or 33 feet, at the top of the roof and 39 feet and 6 inches at the highest point, which includes screening (first and second floors have heights of 11 feet and 22 feet, respectively). This is within the height limits in the Bayview Planned Community text (PC-32).

Increased setbacks and ample landscaping are incorporated near the southwest property line, adjacent to Baycrest Court condominiums, to create a buffer and enhance compatibility. Additionally, varied textures and colors, recesses, articulation, and design accents on the elevations would be integrated in order to enhance the building's architectural style. See Exhibit 3-3, Project Renderings, in Section 3.0 of the EIR.

The proposed building, as situated on the Project site, exceeds the minimum required setbacks identified in the PC-32 text, as summarized below:

- 41-foot setback from the southwest property line, near the Baycrest Court condominiums (the PC-32 requires 20 feet between commercial and residential uses)
- 41-foot setback from the office building and residential to the northwest (the PC-32 requires 0 feet to the office and 20 feet to the residential uses)
- 15-foot setback from Bristol Street (the PC-32 requires 10 feet)
- 11-foot setback from Bayview Place (the PC-32 requires 10 feet)

In order to visualize the alterations to the Project site and assess the changes from the surrounding uses and public vantage points, five View Simulations were prepared demonstrating the "before" and "after" views of the proposed Project from strategic vantage points with most potential to be impacted by the altered views of the Project site. The viewer groups would include the users at the adjacent residential developments, including the Baycrest Court condominium development to the southwest and the Santa Ana Heights single-family units to the northeast of the site; the motorists on Bristol Street and SR-73 on the northeast and Bayview Place on the southeast; and the employees of the office building to the southeast, across Bayview Place. It should be noted that private views from adjacent residential uses are not

protected; however, the spatial relationship, including distance and height, from the existing uses have been considered in the design.

In addition, a shade and shadow analysis has been prepared to assess the potential impacts related to shade and shadow cast onto the adjacent uses, particularly the adjacent single-family units, by the proposed structure.

Visual Simulation

Exhibit 4.1-2a, View Simulation 1. This is a view from the back alley (Baycrest Court) of the adjacent Baycrest Court condominiums abutting the Project site on the southwest. The view shows the single-story garages and the block wall that create a buffer between the Project site and the condominium buildings. Existing landscaping and mature trees within both sites create additional buffer between the uses. In light of Project modifications and reducing the height of the facility to three stories, the proposed structure would hardly be visible behind the garages. The existing landscaping and trees would screen the view; and, with the additional trees proposed to enhance the buffer, the structure would not be highly visible from this vantage point. Additionally, the existing condominium buildings are turned away from the site boundary and the main living areas face inward within the Baycrest Court development, and as such some may only have views of the proposed facility from their kitchen windows. Residents of Baycrest Court condominiums driving to park in the back alley parking spaces or garages would have this particular view of the proposed development, which would be minimally visible. While views of the site from this vantage point may be slightly altered as a result of the Project, this view is not considered a public view, as Baycrest Court is not a public street.

Exhibit 4.1-2b, View Simulation 2. This is also a view from the back alley of the adjacent Baycrest Court condominiums abutting the Project site on the southwest. The view is from the parking spaces between the garages on the left and right of the photograph. Existing 6-foot block wall and landscaping within both sites are visible and prominent in this view. When completed, the third story of the proposed structure would be visible from this vantage point but would not fill the existing opening. The additional trees proposed to enhance the landscaping buffer along this property boundary, would significantly screen the views of the structure from this vantage point. Moreover, only residents of Baycrest Court parking their cars would see this particular view of the proposed development, as the condominium buildings are turned away from the Project site, and the main living areas face inward within the Baycrest Court development. Lastly, as indicated above, while views of the site from this vantage point may be altered as a result of the Project, this view is not considered a public view, as Baycrest Court is not a public street.

Exhibit 4.1-2c, View Simulation 3. This is also a view from the back alley of the adjacent Baycrest Court condominiums abutting the Project site on the southwest. This view is also a private view from the north end of Baycrest Court looking toward the Project site, behind the garages. A portion of the existing 6-foot block wall and landscaping within both sites are visible in this view. Only a small upper portion of the third floor of the proposed structure would be visible from behind the garages in the "after" condition, as the garages and existing and future trees would significantly buffer the view of the facility. Residents driving on Baycrest Court would see this particular view of the proposed development. The condominium buildings are turned away from the Project site, and the main living areas face inward within the Baycrest Court development.



View 1 - View North from Baycrest entry (before).



View 1 - View North from Baycrest Entry (after).



Exhibit 4.1-2a

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Harbor Pointe Senior Living Project

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View 2 - View North-East from Baycrest Garages (before).



View 2 - View North-East from Baycrest Garages (after).



View Simulation

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View 3 - View East from Baycrest garages (before).



View 3 - View East from Baycrest garages (after).



Exhibit 4.1-2c

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Harbor Pointe Senior Living Project

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Exhibit 4.1-2d, View Simulation 4. This is a view of the proposed Project site from Bayview Avenue within the Santa Ana Heights development. The view shows the only two single-family, single-story homes that are immediately adjacent to the northwest boundary of the site with their backyards facing the Project site. Of the two homes, the one directly facing the street corner has an open view toward the Project site. Although the proposed facility would alter the view and fill the open space when completed, the existing block wall between the two uses and existing mature trees would provide a buffer. Additionally, the height of the proposed structure, which is within the height limit of the PC-32 text, would be significantly screened by the existing 6-foot block wall and the existing trees/landscaping along the boundary of the Project site and the single-family residences. Furthermore, it should be noted that while consideration is given to how the Project would alter the views for the adjacent residential uses, these are private views and are not protected by any City code or policy. From a public view perspective, the proposed structure is not considered "out of character" in the area, as similar existing developments/structures are adjacent and to the north of the single-family residential and to the south of the proposed Project along Bristol; and the proposed facility would not exceed the height limit of PC-32. Therefore, the proposed Project would not significantly affect the public view from Bayview Avenue.

Exhibit 4.1-2e, View Simulation 5. This is a view from Bayview Avenue in Santa Ana Heights looking toward the end of the street before it turns northwest and becomes Zenith Avenue. The "before" view shows single-story, single-family homes with existing open views of the Project site behind the homes. In the "after" condition, the open view is partially filled with the proposed three-story structure. While the structure would be visible from behind the homes, it is not out of character, as similar uses and buildings exist in the area on both sides of the proposed building along Bristol Street; and the height of the facility would not exceed the height limit of PC-32. Moreover, the existing mature trees and landscaping provide a significant visual buffer and soften the views from this public vantage point. It should also be noted that, as discussed previously, the existing view is not considered a scenic or protected view; and, therefore, the Project would not significantly affect the public view from Bayview Avenue.

Shade and Shadow Analysis

The City of Newport Beach does not have standards, regulations, or ordinances governing shading of adjacent properties applicable to this area. Shade and shadow in urban settings is common where differences in building height occur among structures in adjacent or nearby development. Taller buildings have the potential to shade adjacent land uses; and, depending on the circumstances and duration of this shading, the effect may be regarded as adverse. A shade and shadow analysis was conducted for the proposed Project to determine if shadow-sensitive uses surrounding the proposed building would be impacted by shade or shadow effects. The computer-generated shade and shadow simulations were prepared by inputting building height, setbacks, geographic location, orientation, day of year, and time of day. Calculation and interpretation of this information provide the location of the sun over the earth, producing an accurate angle of the sun and the resulting shadows. The shade and shadow analysis included modeling the anticipated conditions at 9 a.m., 12 p.m., and 3 p.m. on June 21 (summer solstice) and December 21 (winter solstice), which represent the days of the year with the longest and shortest periods of daylight, respectively. The modeling also assessed the conditions at 9 a.m., 12 p.m., and 3 p.m. on March 21 (spring equinox). Since the conditions in fall equinox are identical to spring equinox, the modeling was not conducted for fall equinox. Exhibit 4.1-3a through Exhibit 4.1-3i depict the results of the shade and shadow analysis.



View 4 - View East from corner of Bayview and Zenith (before).



View 4 - View East from corner of Bayview and Zenith (after).



PSOMAS

Harbor Pointe Senior Living Project

View Simulation

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View 5 - View East from Bayview Avenue (before).



View 5 - View East from Bayview Avenue (after).



Exhibit 4.1-2e

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Harbor Pointe Senior Living Project

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Aesthetics

By analyzing the shade and shadow effects at multiple times of day, the Earth's rotation around the sun is illustrated. For example, during early morning hours (sunrise), the sun is positioned low in the sky and casts longer shadows. As the day progresses, shadow lengths become shorter as the sun approaches its highest point in the sky around midday (noon). From this point in the day, the sun's position in the sky becomes progressively lower, and the corresponding shadows become longer until the sun disappears beyond the horizon at sunset. As a rule, the longest shadows are cast during the winter months; and the shortest shadows are cast during the shortest shadows cast during the morning and afternoon hours and the shortest shadows cast during the noon hour. Based on review of existing uses surrounding the Project site, the primary and only shadow-sensitive uses appear to be the backyards of the two single-family residential units immediately adjacent and to the northwest of the Project site.

The proposed assisted living and memory care facility would cast shadow on the backyard of the adjacent single-family residence during spring equinox (March 21), fall equinox (given that spring equinox and fall equinox [September 21] conditions are identical), and winter solstice (December 21). Exhibits 4.1-3a through 4.1-3c depict spring equinox; Exhibits 4.1-3d through 4.1-3f depict summer solstice; and Exhibits 4.1-3g through 4.1-3i depict winter solstice. The shadow during the spring equinox (and fall equinox) would minimally cover a small portion of the backyard immediately adjacent to the block wall and farthest away from the main structure and the detached garage. During this time of the year, the shadow would last less than four hours (5:58 a.m. to 9:45 a.m.) with the peak occurring at 9 a.m. Even though the shadow would occur for approximately four hours, it would start early in the morning and recede by 9:45 a.m., leaving a majority of daylight hours without any shadow or shade cast by the proposed building on the adjoining yard. The shadow during winter solstice would cover a major portion of the backyard but would not cast shadow on the main structure and only slightly on the detached garage. During this time of the year, the shadow would last for approximately four and a half hours (6:52 a.m. to 11:35 a.m.) with the peak occurring at 9 a.m. While the shadow and shade would occur for approximately four and a half hours, it would start early in the morning and recede by 11:35 a.m., leaving a majority of daylight hours without any shadow or shade cast by the proposed building. As demonstrated in the shade and shadow simulations, in all other instances, no shadows or shade would be cast on the adjacent structures that would cause adverse impacts. Therefore, the proposed Project would result in less than significant shade and shadow impacts, and no mitigation would be required.

Spring Equinox (March 21st)	Summer Solstice (June 21 st)	Winter Solstice (December 21st)
(Exhibits 4.1-3a - 4.1-3c)	(Exhibits 4.1-3d - 4.1-3f)	(Exhibits 4.1-3g - 4.1-3i)
5:58 a.m. to 9:45 a.m.	No shade/Shadow	6:52 a.m. to 11:35 a.m.
Peak at 9 a.m.	No shade/Shadow	Peak at 9 a.m.

While the proposed Project would alter the existing visual character of the Project site and views from surrounding vantage points, this change would not be considered a substantial degradation of the Project site or its surroundings. This change includes the introduction of an assisted living and memory care project and associated improvements, which would be visually compatible with the existing uses in the surrounding area, especially given that the height of the structure would not exceed the height limits of the PC-32 text.

Impact Conclusion: While the proposed Project would alter the existing visual character of the Project site and views from surrounding vantage points, this change would not be considered a significant degradation of the Project site or its surroundings due to the flat topography of the area and lack of grade deferential and the compatibility with the adjacent uses. Based on the visual simulations and the analysis above, the changes of the views from the adjacent uses (i.e., Baycrest Court Condominiums and Santa Ana Heights single-family development) would not be substantial and adverse resulting in a significant impact. The proposed Project would be compatible with the surrounding use and not visually intrusive; the mass and scale of the proposed structure would be consistent with existing buildings along Bristol Street; and the height would not exceed the height limit of PC-32 text. Additionally, based on the Shade and Shadow analysis above, the proposed structure would not cast substantial shade and shadow onto the adjacent uses such that it would cause an adverse impact. A less than significant impact would be related to change in visual character and quality, pursuant to Threshold 4.1-3. No mitigation is required.

Threshold 4.1-4

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

The Project is located in an area that is already subject to ambient lighting from existing surrounding uses. The area is developed with commercial and office uses, residential development, and associated parking lots. Existing sources of light include street lights, vehicle headlights, interior and exterior lighting from existing buildings, and the multiple light poles providing nighttime lighting for the existing surface parking lot on the site. Consistent with existing conditions in the vicinity, the proposed Project would include new exterior light sources that would generate light at levels sufficient for safety and visibility.

As the Project includes subterranean parking, with no parking proposed at the ground level, exterior lighting, including light poles, would be limited to a small number. While the specific type of exterior lighting may not be known at this time, it is anticipated that lighting would include pole lighting, small light bollards, path lighting, minor accent lighting, and code-required egress lighting at exit doors. Pole lighting would be facing down and away from adjacent properties; small light bollards mainly installed around walkways would also be facing down toward the path and away from adjacent properties; and accent lighting installed for signage, trees, and building features would also be pointed down and away from the adjacent properties. Additionally, the interior courtyards would include path lighting, minor accent lighting, egress lighting, and potential strand lighting within the courtyards. All lighting would be light-emitting diode (LED).

The new light sources would increase lighting levels at the Project site but would be consistent with the ambient and nighttime lighting in the area surrounding the Project site. All light fixtures would be shielded to direct light down and to minimize light spillover onto surrounding properties. Additionally, the existing and enhanced landscaping and the existing perimeter block walls would provide additional screening. Due to the developed nature of the Project site and surrounding areas and due to existing lighting at and near the Project site, impacts associated

with new lighting from the proposed Project would be less than significant, and no mitigation is required.

Glare is a common daytime phenomenon in the Southern California area due mainly to the occurrence of a high number of days per year with direct sunlight and the highly urbanized nature of the region, which results in a large concentration of potentially reflective surfaces. Excessive glare not only restricts visibility but also increases the ambient heat reflectivity in a given area. Glare is caused by light reflections from pavement, vehicles, and building materials such as reflective glass and polished surfaces. During daylight hours, the amount of glare depends on intensity and direction of sunlight. Glare is also caused from lighting during the nighttime hours, and the amount of glare is dependent upon the intensity of lighting. Glare during daytime and nighttime can create hazards to motorists and nuisances for pedestrians and other viewers. However, as shown on the building elevations presented on Exhibits 4.1-3-4a and 4.1-3-4b, the proposed building would be constructed with primarily non-reflective materials such as stone veneer and stucco on the exterior of the building and concrete or composition shingle roofing. Besides the windows, the proposed facility would not have any reflective surfaces, such as glass or metal that would produce excessive glare. While glass in windows would generate some glare, similar to other structures in the area, the use of glass in windows is not such that would not generate substantial glare affecting surrounding uses. Additionally, during nighttime, the proposed lighting would not be more intense than the surrounding uses, and no lighting that is considered of high intensity such as high wattage security lighting is proposed that would cause substantial nighttime glare. Therefore, no significant impacts from glare during the daytime or nighttime would occur, and no mitigation is required.

The proposed Project would include new exterior light sources that would *Impact Conclusion:* generate light at levels sufficient for safety and visibility. The new light sources would increase lighting levels at the Project site but would be consistent with the ambient and nighttime lighting in the area surrounding the Project site. All light fixtures would be shielded to direct light down and to minimize light spillover on surrounding properties. In terms of glare, the proposed building would be constructed with primarily non-reflective materials such as stone veneer and stucco on the exterior of the building and concrete or composition shingle roofing. The use of glass in windows would not generate noticeable glare that would affect surrounding uses. Additionally, glare from lighting during nighttime would not be more intense than the surrounding uses and would not result in substantial glare during nighttime. Therefore, the Project would not create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area resulting in significant impact, pursuant to Threshold 4.1-4. No mitigation is required.

4.1.6 CUMULATIVE IMPACTS

When evaluating cumulative aesthetic impacts, a number of factors must be considered. In order for a cumulative aesthetic impact to occur, the proposed elements of the cumulative projects would need to be seen together or in proximity to each other. If the projects were not in proximity to each other, the viewer would not perceive them in the same scene. The context in which a project is being viewed would also influence the significance of the aesthetic impact. The contrast the Project presents with its surrounding environment may actually be reduced by the presence of other cumulative projects. If most of an area becomes urbanized, the contrast of the Project with the natural surrounding may be reduced since it would not stand out as much. As it pertains to aesthetic impacts, the key projects in terms of cumulative impacts analysis would be the projects in proximity to the site. However, the two closest projects to the Project site, Newport Crossings and Koll Newport Residential (Table 4-1 in Section 4.0), are both less than 1 mile to the north/northeast and yet are not within the same viewshed due to a significant number of intervening developments/freeway/roadways.

The Project site is located in a fully developed area of Newport Beach, and the Project would be aesthetically compatible with the surrounding uses. Existing development in the area has already resulted in changes to the visual character of the general area. Given the developed nature of the area, future developments would be in-fill and compatible with the existing uses. Additionally, for future projects, each development must also evaluate potential aesthetic impacts and demonstrate, to the extent feasible, that it would avoid or substantially lessen potentially significant aesthetic impacts through features such as building design (including height and bulk), lighting, and landscaping.

While the Project would contribute to an alteration of the visual character of the site, the overall cumulative effect would be less than significant, as the area is fully developed, and future developments would be in-fill and compatible with the general character of the area. In the overall context, the Project would be consistent in visual character with the cumulative projects and would not contribute to a substantial degradation of the existing visual character or quality of the Project site and its surroundings.

The proposed Project, in conjunction with other cumulative developments, could result in an increase in area-wide light and glare. However, given the developed nature of the area, higher levels of light and potential for glare would be expected. Additionally, like the Project, each development would be subject to lighting requirements that would reduce the amount of lighting emitted from proposed uses and avoid significant adverse impacts due to light and glare spillover to adjacent uses by confining direct rays to the premises. The light and glare associated with the Project, although increased over current levels when combined with the cumulative projects, would be consistent with the lighting associated with a developed setting. Therefore, the Project's contribution to cumulative impacts related to light and glare would be less than significant.

4.1.7 MITIGATION PROGRAM

Mitigation Measures

The proposed Project would not result in significant aesthetics and light and glare impacts; therefore, no mitigation measures are required.

4.1.8 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Project-specific and cumulative impacts to aesthetics associated with the Project would be less than significant, as shown in the visual simulation and shade and shadow analyses, above.

Potential Project-specific impacts related to light and glare would also be less than significant. No significant unavoidable impacts would occur.

4.1.9 REFERENCES

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4.2 AIR QUALITY

This section identifies and evaluates the proposed Project's potential to have adverse effects related to air quality during construction and operation. Emission calculations associated with this Project can be found in Appendix B of this EIR. Impacts from greenhouse gas (GHG) emissions are addressed in Section 4.5 of this EIR.

4.2.1 BACKGROUND

<u>Air Pollutants</u>

Criteria Pollutants

The U.S. Environmental Protection Agency (USEPA) and the California Air Resources Board (CARB) have established national ambient air quality standards (NAAQS) and California ambient air quality standards (CAAQS) for seven major pollutants (ozone [O₃], PM₁₀, PM_{2.5}, CO, nitrogen dioxide [NO₂], sulfur dioxide [SO₂], and lead), often referred to as criteria pollutants (CAP). CARB has also developed CAAQS for four additional pollutants: visibility reducing particles, sulfates, hydrogen sulfide, and vinyl chloride. Table 4.2-1, California and National Ambient Air Quality Standards, presents the State and national ambient air quality standards. A brief explanation of each criteria pollutant and their health effects is presented below. The Project site is located in the South Coast Air Basin (SoCAB). The SoCAB is composed of all of Orange County and parts of San Bernardino, Los Angeles, and Riverside Counties.

-		California	Federal Standards	
Pollutant	Averaging Time	Standards	Primary ^a	Secondary ^b
O ₃ c	1 Hour	0.09 ppm (180 μg/m ³)	-	-
	8 Hour	0.070 ppm (137 μg/m ³)	0.070 ppm (137 μg/m ³)	Same as Primary
PM10	24 Hour	50 μg/m ³	150 μg/m ³	Same as Primary
	AAM	20 μg/m ³	-	Same as Primary
PM2.5	24 Hour	-	35 μg/m ³	Same as Primary
	AAM	12 μg/m ³	12.0 μg/m ³	15.0 μg/m ³
CO	1 Hour	20 ppm (23 mg/m ³)	35 ppm (40 mg/m ³)	-
	8 Hour	9.0 ppm (10 mg/m ³)	9 ppm (10 mg/m ³)	-
	8 Hour (Lake Tahoe)	6 ppm (7 mg/m ³)	-	-
NO ₂	AAM	0.030 ppm (57 μg/m ³)	0.053 ppm (100 μg/m ³)	Same as Primary
	1 Hour	0.18 ppm (339 μg/m ³)	0.100 ppm (188 μg/m ³)	-
SO ₂	24 Hour	0.04 ppm (105 μg/m ³)	-	-
	3 Hour	-	-	0.5 ppm (1,300 μg/m ³)
	1 Hour	0.25 ppm (655 μg/m ³)	0.075 ppm (196 μg/m ³)	-

TABLE 4.2-1 CALIFORNIA AND NATIONAL AMBIENT AIR QUALITY STANDARDS

TABLE 4.2-1
CALIFORNIA AND NATIONAL AMBIENT AIR QUALITY STANDARDS

		California	Federal Star	ıdards
Pollutant	Averaging Time	Standards	Primary ^a	Secondary ^b
	30-day Avg.	1.5 μg/m ³	-	-
Lead	Calendar Quarter	-	1.5 μg/m ³	Course on Decimentary
	Rolling 3-month Avg.	-	0.15 μg/m ³	Same as Primary
Visibility Reducing Particles	8 hour	Extinction coefficient of 0.23 per km – visibility ≥ 10 miles (0.07 per km – ≥30 miles for Lake Tahoe)	No Federal Standards	
Sulfates	24 Hour	25 μg/m ³		
Hydrogen Sulfide	1 Hour	0.03 ppm (42 μg/m ³)		
Vinyl Chloride	24 Hour	0.01 ppm (26 μg/m³)		

 O_3 : ozone, ppm: parts per million, $\mu g/m^3$: micrograms per cubic meter, -: No Standard; PM₁₀: respirable particulate matter with a diameter of 10 microns or less, AAM: Annual Arithmetic Mean, PM_{2.5}: fine particulate matter with a diameter of 2.5 microns or less, CO: carbon monoxide, mg/m³: milligrams per cubic meter, NO₂: nitrogen dioxide, SO₂: sulfur dioxide, km: kilometer.

^a *National Primary Standards:* The levels of air quality necessary, within an adequate margin of safety, to protect the public health.

^b *National Secondary Standards:* The levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

Note: More detailed information in the data presented in this table can be found at the CARB website (www.arb.ca.gov). Source: CARB 2016a.

Emissions are discussed in terms of mobile, area, energy, and stationary sources. Mobile sources refer to motor vehicles, engines, and equipment that moves or can be moved from place to place and include vehicles that operate on roads and highways ("on-road" or "highway" vehicles), as well as off-road vehicles, engines, and equipment. Off-road vehicles include construction equipment. Area sources refer to dispersed sources of pollution that emit pollutants from a specified area; these include consumer products, fireplaces, landscaping maintenance equipment, and other sources associated with a particular land use. Energy sources are natural gas uses, typically for building heat and hot water. Stationary sources refer to any fixed emitter of air pollutants, such as fossil fuel-burning power plants, petroleum refineries, petrochemical plants, food processing plants, gas stations, emergency generators, central boilers, and other industrial and commercial sources. Stationary sources are typically required to obtain permits to operate from air pollution agencies.

<u>Ozone (03)</u>

 O_3 is a secondary pollutant; it is not directly emitted. O_3 is formed by chemical reactions between VOCs (also referred to as reactive organic gasses [ROGs]) and NOx, which occur only in the presence of bright sunlight. VOC/ROG emissions are generally unburned hydrocarbons that are a result of motor vehicle travel and other combustion sources. Nitrogen oxides are also a result of the combustion process, most notably due to the operation of motor vehicles. Sunlight and hot weather cause ground-level O_3 to form. (Not to be confused with the "ozone layer" which occurs

very high in the atmosphere and shields the planet from some ultraviolet [UV] rays.) As a result, O_3 is known as a summertime air pollutant. Ground-level ozone is the primary constituent of smog. Because ground-level ozone is formed in the atmosphere, high concentrations can occur in areas well away from sources of its constituent pollutants.

People with lung disease, children, older adults, and people who are active are the most sensitive when O_3 levels are unhealthy. Numerous scientific studies have linked ground-level O_3 exposure to a variety of health problems, including:

- lung irritation that can cause inflammation much like a sunburn;
- wheezing, coughing, pain when taking a deep breath, and breathing difficulties during exercise or outdoor activities;
- permanent lung damage to those with repeated exposure to O₃ pollution; and
- aggravated asthma, reduced lung capacity, and increased susceptibility to respiratory illnesses like pneumonia and bronchitis.

Ground-level O_3 can also have detrimental effects on plants and ecosystems. These effects include:

- interfering with the ability of sensitive plants to produce and store food, making them more susceptible to certain diseases, insects, other pollutants, competition, and harsh weather;
- damaging the leaves of trees and other plants, negatively impacting the appearance of urban vegetation, national parks, and recreation areas; and
- reducing crop yields and forest growth, potentially impacting species diversity in ecosystems.

Currently, the SoCAB is designated as a "Nonattainment Area" for the State and federal O_3 standards.

Particulate Matter (PM10, PM2.5, and UFP)

Particulate matter includes both aerosols and solid particles of a wide range of size and composition. Of particular concern are inhalable particulate matter, which are those particles equal to or smaller than 10 microns in size (PM_{10}); fine particulate matter, which are particles smaller than or equal to 2.5 microns ($PM_{2.5}$); and ultrafine particulate matter (UFP), which are particles less than 0.1 micron. The size of the particulate matter refers to the aerodynamic diameter of the particulate. Smaller particulates are of greater concern because they can penetrate deeper into the lungs than large particles. $PM_{2.5}$ is directly emitted in combustion exhaust and fugitive dust and is formed from atmospheric reactions between various gaseous pollutants, including NOx, SOx, and VOCs. PM_{10} is directly emitted as a result of mechanical processes that crush or grind larger particles or from the re-suspension of dusts most typically through construction activities and vehicular travels. $PM_{2.5}$ and PM_{10} can remain suspended in the atmosphere for days and/or weeks and can be transported long distances. Ultrafine particles are the smallest particles and are good indicators of any kind of fuel burning, from diesel engines to refinery operations.

The principal health effects of airborne particulate matter are on the respiratory and cardiac systems. According to the USEPA, some people are more sensitive than others to breathing fine particles (USEPA 2017). People with influenza, chronic respiratory and cardiovascular diseases, and the elderly may suffer worsening illness and premature death due to breathing these fine particles. People with bronchitis can expect aggravated symptoms from breathing in fine particles. Children may experience decline in lung function due to breathing in PM_{10} and $PM_{2.5}$. Other groups considered sensitive are smokers and people who cannot breathe well through their noses. Exercising athletes are also considered sensitive, because many breathe through their mouths. However, all people exposed to elevated levels of particulate matter may experience temporary health effects (USEPA 2016a).

Short-term exposure to high $PM_{2.5}$ levels is associated with premature mortality and increased hospital admissions and emergency room visits. Long-term exposure to high $PM_{2.5}$ levels is associated with premature mortality and development of chronic respiratory disease. Shortterm exposure to high PM_{10} levels is associated with hospital admissions for cardiopulmonary diseases, increased respiratory symptoms, and possible premature mortality. There are national and State 24-hour PM_{10} standards, but there is no annual long-term standard. With respect to long-term PM_{10} health effects, the USEPA concluded in a 2006 standards review that analysis of air quality data showed that the 24-hour PM_{10} standard generally resulted in annual average PM_{10} levels at or below the annual standard of 50 µg/m³ and that available evidence did not suggest an association between long-term exposure to PM_{10} at 2006 ambient levels and health problems. Based on this conclusion, the national PM_{10} annual standard was revoked (USEPA 2006). However, California maintains an annual PM_{10} standard.

No federal or State standards have been established for UFP. Currently, PM_{10} levels in the SoCAB is designated as "Nonattainment areas" for State standards and "Attainment/Maintenance areas" for federal standards. $PM_{2.5}$ levels in the SoCAB are designated as "Nonattainment areas" for State and federal standards.

Carbon Monoxide (CO)

CO is a colorless and odorless gas which, in the urban environment, is associated primarily with the incomplete combustion of fossil fuels in motor vehicles. CO combines with hemoglobin in the bloodstream and reduces the amount of oxygen that can be circulated through the body. High CO concentrations can lead to headaches, aggravation of cardiovascular disease, and impairment of central nervous system functions. Carbon monoxide concentrations can vary greatly over comparatively short distances. Relatively high concentrations are typically found near crowded intersections; along heavily used roadways carrying slow moving traffic; and at or near ground level. Even under the most severe meteorological and traffic conditions, high CO concentrations are limited to locations within a relatively short distance (i.e., up to 600 feet or 185 meters) of heavily traveled roadways. Overall, CO emissions are decreasing as a result of the Federal Motor Vehicle Control Program, which has mandated increasingly lower emission levels for vehicles manufactured since 1973.

Currently, CO levels in the SoCAB are in attainment for State and federal one-hour and eight-hour standards.

Nitrogen Dioxide (NO2)

Nitrogen gas, normally relatively inert (unreactive), comprises about 80 percent of the air. At high temperatures (i.e., in the combustion process) and under certain other conditions it can combine with oxygen to form several different gaseous compounds collectively called nitrogen oxides (NOx). NO is converted to $NO_{2,}$ a red-brown pungent gas, in the atmosphere. Motor vehicle emissions are the main source of NOx in urban areas.

 NO_2 is toxic to various animals and to humans. Its toxicity relates to its ability to form nitric acid with water in the eye, lung, mucus membrane, and skin. In animals, long-term exposure to NOx increases susceptibility to respiratory infections lowering their resistance to such diseases as pneumonia and influenza. Laboratory studies show susceptible humans, such as asthmatics, exposed to high concentrations of NO_2 can suffer lung irritation and, potentially, lung damage. Epidemiological studies have also shown associations between NO_2 concentrations and daily mortality from respiratory and cardiovascular causes and with hospital admissions for respiratory conditions.

NOx is primarily a combination of NO and NO₂. While the NAAQS and CAAQS only address NO₂, the total group of nitrogen oxides is of concern. NO and NO₂ are both precursors in the formation of O₃ and PM_{2.5}. Because of this and the fact that NO emissions largely convert to NO₂, NOx emissions are typically examined when assessing potential air quality impacts. Currently, NO₂ levels in the SoCAB are in attainment for State and federal standards.

Sulfur Dioxide (SO2)

Sulfur oxides (SOx) constitute a class of compounds of which SO₂ and sulfur trioxide (SO₃) are included. Ninety-five percent of pollution-related SOx emissions are in the form of SO₂. SOx emissions are typically examined when assessing potential air quality impacts of SO₂. Combustion of fossil fuels for generation of electric power is the primary contributor of SOx emissions. Industrial processes, such as nonferrous metal smelting, also contribute to SOx emissions. SOx is also formed during combustion of motor fuels. However, most of the sulfur has been removed from fuels, greatly reducing SOx emissions from vehicles.

 SO_2 combines easily with water vapor, forming aerosols of sulfurous acid (H₂SO₃), a colorless, mildly corrosive liquid. This liquid may then combine with oxygen in the air, forming the even more irritating and corrosive sulfuric acid (H₂SO₄). Peak levels of SO₂ in the air can cause temporary breathing difficulty for people with asthma who are active outdoors. Longer-term exposures to high levels of SO₂ gas and particles cause respiratory illness and aggravate existing heart disease. SO₂ reacts with other chemicals in the air to form tiny sulfate particles which are measured as $PM_{2.5}$. SO₂ is monitored at several sites in the SoCAB and is in attainment for the State and federal SO₂ standards.

<u>Lead</u>

Lead is a stable compound, which persists and accumulates both in the environment and in animals. In humans, it affects the blood-forming (or hematopoietic), the nervous, and the renal systems. In addition, lead has been shown to affect the normal functions of the reproductive, endocrine, hepatic, cardiovascular, immunological, and gastrointestinal systems, although there is significant individual variability in response to lead exposure. Since 1975, lead emissions have

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been in decline due in part to the introduction of catalyst-equipped vehicles and the decline in production of leaded gasoline. In general, an analysis of lead is limited to projects that emit significant quantities of the pollutant (e.g., lead smelters, battery manufacturers, and battery recyclers) and are not undertaken for transportation, residential, or commercial development projects. The SoCAB is in attainment for the State lead standard. The Los Angeles County portion of the SoCAB is classified nonattainment for the federal lead standard. Orange County is in attainment for the federal standard.

Visibility Reducing Particles

Visibility reducing particles consist of suspended particulate matter, which is a complex mixture of tiny particles that consist of dry solid fragments, solid cores with liquid coatings, and small droplets of liquid. These particles vary greatly in shape, size and chemical composition, and can be made up of many different materials such as metals, soot, soil, dust, and salt. The State standard is intended to limit the frequency and severity of visibility impairment due to regional haze. The SoCAB is "unclassified" for this pollutant. There are no federal standards for visibility reducing particulates.

Sulfates (SO₄)

Sulfates (SO₄) are the fully oxidized ionic form of sulfur. SO₄ occurs in combination with metal and/or hydrogen ions. In California, emissions of sulfur compounds occur primarily from the combustion of petroleum-derived fuels (e.g., gasoline and diesel fuel) that contain sulfur. This sulfur is oxidized to SO₂ during the combustion process and subsequently converted to sulfate compounds in the atmosphere. The conversion of SO₂ to SO₄ takes place comparatively rapidly and completely in California urban areas due to regional meteorological features.

The CARB's SO₄ standard is designed to prevent aggravation of respiratory symptoms. Effects of SO₄ exposure at levels above the standard include a decrease in respiratory function; aggravation of asthmatic symptoms; and an increased risk of cardiopulmonary disease. SO₄ is particularly effective in degrading visibility and, due to fact that it is usually acidic, can harm ecosystems and damage materials and property. The SoCAB in attainment for the State SO₄ standard.

<u>Hydrogen Sulfide (H₂S)</u>

 H_2S is a colorless gas with the odor of rotten eggs. It is formed during bacterial decomposition of sulfur-containing organic substances. It can also be present in sewer gas and some natural gas, and it can be emitted as the result of geothermal energy exploitation. Breathing H_2S at levels above the standard will result in exposure to a very disagreeable odor. In 1984, a CARB committee concluded that the ambient standard for H_2S is adequate to protect public health and to significantly reduce odor annoyance (CARB 2009). The SoCAB "unclassified" for this pollutant.

Vinyl Chloride (Chloroethene)

Vinyl chloride (chloroethene), a chlorinated hydrocarbon, is a colorless gas with a mild, sweet odor. Most vinyl chloride is used to make polyvinyl chloride (PVC) plastic and vinyl products. Vinyl chloride has been detected near landfills, sewage plants, and hazardous waste sites, due to microbial breakdown of chlorinated solvents.

Short-term exposure to high levels of vinyl chloride in air causes central nervous system effects, such as dizziness, drowsiness, and headaches. Long-term exposure to vinyl chloride through inhalation and oral exposure causes liver damage. Cancer is a major concern from exposure to vinyl chloride via inhalation. Vinyl chloride exposure has been shown to increase the risk of angiosarcoma, a rare form of liver cancer in humans. Vinyl chloride is not routinely measured in the SoCAB. California has a vinyl chloride standard, but there is no corresponding federal standard.

Toxic Air Contaminants

In addition to criteria air pollutants, toxic air contaminants (TACs) emitted from mobile and stationary sources must be taken into consideration for projects proposing new sources of TAC emissions. TACs are those pollutants that are known or suspected to cause cancer or other serious health effects (e.g., reproductive effects or birth defects) or adverse environmental effects.

Installation and operation of stationary equipment that emit TACs generally require permits from the applicable air district, and a Health Risk Assessment (HRA) of TAC emissions may be a requirement under the permitting process. Land uses that would result in a long-term increase in mobile TAC emissions (e.g., distribution centers with diesel emissions from delivery trucks) also may require the preparation of an HRA. The HRA evaluates the risks posed to sensitive receptors (e.g., residents, schools, hospitals, and parks) in the vicinity of proposed TAC source(s) and must not exceed significance thresholds. Significance thresholds have been established in terms of cancer risk and hazard index.

Carcinogenic risks (i.e., cancer risks) are estimated as the incremental probability that an individual will develop cancer over a lifetime as a direct result of exposure to potential carcinogens. The estimated risk is expressed as a probability (e.g., 10 in 1 million). Hazard indices (HIs) express the potential for chemicals to result in non-cancer health impacts, and non-carcinogenic chemicals should not be present at levels expected to cause adverse health effects (i.e., HI greater than one). HIs are expressed using decimal notation (e.g., 0.001). If there is a reference exposure level of greater than 1, then impacts would be considered potentially significant. The National Contingency Plan (NCP, in accordance with *Code of Federal Regulations* [CFR], Title 40, Part 300) is commonly cited as the basis for target risk and hazard levels. According to the NCP, lifetime incremental cancer risks posed by a site should not exceed the range of between 1 in 1 million and 100 in 1 million.

Diesel Particulate Matter

Diesel particulate matter (DPM) is part of a complex mixture that makes up diesel exhaust emitted from a broad range of diesel engines, including on-road diesel engines of trucks, buses, and cars and the off-road road diesel engines that include locomotives, marine vessels, and heavy-duty equipment. Diesel exhaust is composed of gas and particles. The gas phase is composed of many urban hazardous air pollutants, such as acetaldehyde, benzene, and formaldehyde. The particle phase includes categories of fine and ultra-fine particles that, when inhaled, can cause immunological effects including lung inflammation and cellular changes in the lung. Human epidemiological studies demonstrate an association between diesel exhaust exposure and increased lung cancer rates in occupational settings. In 1998, the California Office of Environmental Health Hazards (OEHHA) listed diesel PM as a TAC based on its potential to cause cancer and other adverse health effects. Under California regulatory guidelines, diesel exhaust, as a mixture, is identified as a known carcinogen.

4.2.2 REGULATORY SETTING

As noted above, the Project site is located in the SoCAB, which is composed of all of Orange County and parts of San Bernardino, Los Angeles, and Riverside Counties. Air quality in the SoCAB is regulated by the USEPA, CARB, and the South Coast Air Quality Management District (SCAQMD). Each of these agencies develops rules, regulations, policies, and/or goals to comply with applicable legislation. Although USEPA regulations may not be superseded, both State and local regulations may be more stringent. The Southern California Association of Governments (SCAG) is an important partner to the SCAQMD and produces estimates of anticipated future growth and vehicular travel in the basin that are used for air quality planning. The federal, State, regional, and local regulations for CAPs and TACs are discussed below.

<u>Federal</u>

The federal Clean Air Act (CAA) requires the adoption of NAAQS, which are periodically updated to protect the public health and welfare from the effects of air pollution. The USEPA is responsible for setting and enforcing the NAAQS for criteria pollutants. Primary standards set limits to protect public health, including the health of at-risk populations such as people with pre-existing heart or lung disease (such as asthmatics), children, and older adults. Secondary standards set limits to protect public welfare, including protection against visibility impairment as well as damage to animals, crops, vegetation, and buildings. Current federal standards are set for SO₂, CO, NO₂, O₃, PM₁₀, PM_{2.5}, and lead. NAAQS are shown above in Table 4.2-1.

The USEPA regulates emission sources that are under the exclusive authority of the federal government, such as aircraft, ships, and certain locomotives.

Specific geographic areas are classified as either "attainment" or "nonattainment" areas for each pollutant based upon the comparison of measured data with the NAAQS. Attainment areas have concentrations of the criteria pollutant that are below the NAAQS, and a Nonattainment classification indicates the criteria pollutant concentrations have exceeded the NAAQS. When an area has been reclassified from a nonattainment to an attainment area for a federal standard, the status is identified as "maintenance", and there must be a plan and measures that will keep the region in attainment for the following ten years. Areas designated as nonattainment are required to prepare regional air quality plans, which set forth a strategy for bringing an area into compliance with the standards. These regional air quality plans, which are developed to meet federal requirements, are included in an overall program referred to as the State Implementation Plan (SIP).

<u>State</u>

CARB, a part of the California Environmental Protection Agency (CalEPA), has also established the California Ambient Air Quality Standards (CAAQS) shown in Table 4.2-1, which are generally more restrictive than the NAAQS. CARB conducts research; compiles emissions inventories; develops suggested control measures; provides oversight of local programs; and prepares the SIP. For regions that do not attain the CAAQS, CARB requires the air districts to prepare plans for

attaining the standards. CARB establishes emissions standards for motor vehicles sold in California, consumer products (e.g., hair spray, aerosol paints, and barbecue lighter fluid), and various types of commercial equipment. It also sets fuel specifications to further reduce vehicular emissions.

Mobile Source Reductions

Assembly Bill (AB) 1493 ("the Pavley Standard" or "AB 1493") required CARB to adopt regulations by January 1, 2005, to reduce GHG emissions from non-commercial passenger vehicles and light-duty trucks for model years 2009 through 2016. While AB 1493 focuses on the reduction of GHG emissions, this regulation contributes to the reduction of some CAPs.

CARB's approach to passenger vehicles (cars and light trucks), under AB 1493, combines the control of smog-causing pollutants and GHG emissions into a single coordinated package of standards. This approach also includes efforts to support and accelerate the numbers of plug-in hybrids and zero-emission vehicles in California.

On April 1, 2010, the USEPA and the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) announced a joint Final Rulemaking establishing standards for 2012 through 2016 model year vehicles. This was followed up on October 15, 2012, when the agencies issued a Final Rulemaking with standards for model years 2017 through 2025. The rules require these vehicles to meet an estimated combined average emissions level of 295 grams of CO₂ per mile by 2012, decreasing to 250 grams per mile by 2016, and finally to an average industry fleet-wide level of 163 grams per mile in model year 2025. The 2016 standard is equivalent to 35.5 miles per gallon (mpg) and the 2025 standard is equivalent to 54.5 mpg if the levels were achieved solely through improvements in fuel efficiency. The agencies expect, however, that a portion of these improvements will occur due to air conditioning technology improvements (i.e., they will leak less) and due to the use of alternative refrigerants, which would not contribute to fuel economy. These standards would cut GHG emissions by an estimated 2 billion metric tons and 4 billion barrels of oil over the lifetime of the vehicles sold under the program (model years 2017–2025). The combined USEPA GHG standards and NHTSA Corporate Average Fuel Economy (CAFE) standards resolve previously conflicting requirements under both federal programs and the standards of the State of California and other states that have adopted the California standards (USEPA 2010; USEPA and NHTSA 2012).

However, it should be noted that the USEPA is currently (April 2018) proposing a rollback of the current fuel efficiency standards.

Title 24 Energy Efficiency Standards

The Energy Efficiency Standards for Residential and Nonresidential Buildings (Title 24, Part 6 of the *California Code of Regulations* [CCR]) were established in 1978 in response to a legislative mandate to reduce California's energy consumption. The current applicable standards are the 2016 Standards, which were published on July 1, 2016, and have been in effect since January 1, 2017 (CBSC 2016). The requirements of the energy efficiency standards result in the reduction of natural gas and electricity consumption. Since natural gas use produces criteria pollutant emissions, a reduction in natural gas consumption results in a related reduction in air quality
emissions.¹ The Energy Efficiency Standards are updated on an approximately three-year cycle. The 2019 Standards will go into effect on January 1, 2020.

Title 24 Green Building Standards

The 2016 California Green Building Standards Code (24 CCR 11), also known as the "CALGreen Code", contains mandatory requirements and voluntary measures for new residential and nonresidential buildings (including buildings for retail uses, office uses, public schools, and hospitals) throughout California (CBSC 2016). Development of the CALGreen Code is intended to (1) reduce GHG emissions from buildings; (2) promote environmentally responsible, cost-effective, healthier places to live and work; (3) reduce energy and water consumption; and (4) respond to the directives by the Governor. In short, the CALGreen Code is established to reduce construction waste; make buildings more efficient in the use of materials and energy; and reduce environmental impacts during and after construction.

The CALGreen Code provides standards for bicycle parking, carpool/vanpool/electric vehicle spaces, light and glare reduction, grading and paving, energy-efficient appliances, renewable energy, graywater systems, water efficient plumbing fixtures, recycling and recycled materials, pollutant controls (including moisture control and indoor air quality), acoustical controls, storm water management, building design, insulation, flooring, and framing, among others. Implementation of the CALGreen Code measures reduces energy consumption and vehicle trips and encourages the use of alternative-fuel vehicles which, in turn, reduces pollutant emissions. Additional discussion of the CALGreen Code is included in Section 4.7, Greenhouse Gas Emissions, of this EIR.

Beyond the mandatory standards, the CALGreen Code specifies voluntary measures for energy and water efficiency, material conservation, and other design features. The levels of participation are classified as Tier 1 and Tier 2. An example of Tier 1 requirements is 15 percent less energy use in residential construction than required by existing regulations. Tier 2 requires 30 percent less energy use in residential construction.

The City of Newport Beach requires new residential and nonresidential construction to comply with CALGreen.

<u>Regional</u>

South Coast Air Quality Management District and Southern California Association of Governments

In the SoCAB, the SCAQMD is the agency responsible for protecting public health and welfare through the administration of federal and State air quality laws, regulations, and policies. Included in the SCAQMD's tasks are the monitoring of air pollution; the preparation of the Air Quality Management Plan (AQMP) for the SoCAB; and the promulgation of rules and regulations.

¹ Because electricity is not generated on site, the emissions associated with electricity generation are not included in the emissions calculations.

In the Project area, SCAG is the federally designated Metropolitan Planning Organization and the State-designated transportation planning agency for six counties: Riverside, San Bernardino, Los Angeles, Ventura, Imperial, and Orange.

The SCAQMD and SCAG are jointly responsible for formulating and implementing the AQMP for the SoCAB. SCAG's Regional Mobility Plan and Growth Management Plan form the basis for the land use and transportation control portion of the AQMP.

Air Quality Management Plan

Air quality in Orange County is partially regulated by the SCAQMD, which is the agency principally responsible for comprehensive air pollution control in the SoCAB. The SCAQMD develops rules and regulations; establishes permitting requirements for stationary sources; inspects emissions sources; and enforces such measures through educational programs or fines, when necessary. The SCAQMD is directly responsible for reducing emissions from stationary (area and point), mobile, and indirect sources.

The Federal CAA requires the preparation of plans to demonstrate attainment of the NAAQS for which an area is designated as being in nonattainment. Furthermore, the CAA requires the revision of these plans every three years to address reducing pollutant concentrations that exceed the CAAQS. The SCAQMD and SCAG, in coordination with local governments and the private sector, develop the Air Quality Management Plan (AQMP) for the SoCAB to satisfy these requirements. The AQMP is the most important air management document for the SoCAB because it provides the blueprint for meeting State and federal ambient air quality standards.

On November 28, 2007, CARB submitted a State Implementation Plan (SIP) revision to the USEPA for O_3 , PM_{2.5} (1997 Standard), CO, and NO₂ in the SoCAB. This revision is identified as the "2007 South Coast SIP". The 2007 South Coast SIP demonstrates attainment of the federal PM_{2.5} standard in the SoCAB by 2014 and attainment of the federal 8-hour O_3 standard by 2023. This SIP also includes a request to reclassify the O_3 attainment designation from "severe" to "extreme". The USEPA approved the redesignation effective June 4, 2010. The "extreme" designation requires the attainment of the 8-hour O_3 standard in the SoCAB by June 2024. CARB approved PM_{2.5} SIP revisions in April 2011 and the O_3 SIP revisions in July 2011. The USEPA approved the PM_{2.5} SIP on September 25, 2013 and has approved 46 of the 61 1997 8-hour O_3 SIP requirements (USEPA 2018). On November 30, 2014, the USEPA proposed a finding that the SoCAB has attained the 1997 PM_{2.5} standards (USEPA 2014). On July 25, 2016, the USEPA determined that the SoCAB attained the 1997 annual and 24-hour PM_{2.5} NAAQS effective August 24, 2016 (USEPA 2018b)

On September 30, 2015, the USEPA proposed to approve elements of the South Coast 2012 $PM_{2.5}$ Plan and 2015 Supplement, which addresses Clean Air Act requirements for the 2006 $PM_{2.5}$ NAAQS, and proposed to reclassify the area as a 'serious' nonattainment area for the 2006 $PM_{2.5}$ standard. The reclassification is based on the determination that the area cannot practicably attain the 2006 $PM_{2.5}$ NAAQS by the moderate area attainment date (December 31, 2015). On December 22, 2015, the EPA reclassified the South Coast area as a "Serious" nonattainment area for the 2006 $PM_{2.5}$ standard. The final reclassification requires the State to submit a "serious area" plan that provides for attainment of the 2006 $PM_{2.5}$ NAAQS as expeditiously as practicable as and no later than December 31, 2019 (USEPA 2018b). The 2016 AQMP was adopted on March 3, 2017 by the SCAQMD Governing Board. The 2016 AQMP evaluates integrated strategies and measures to meet the following NAAQS (SCAQMD 2018):

- 8-hour O₃ (75 parts per billion [ppb]) by 2031²
- Annual $PM_{2.5}$ (12 micrograms per cubic meter [$\mu g/m^3$]) from 2021 to 2025
- 8-hour O₃ (80 ppb) by 2023
- 1-hour O₃ (120 ppb) by 2022
- 24-hour PM_{2.5} (35 μg/m³) by 2019

South Coast Air Quality Management District Rules

The Project will be required to comply with existing SCAQMD rules for the reduction of fugitive dust and criteria pollutant emissions. The following rules are most relevant to the proposed Project:

SCAQMD Rule 201 requires a "Permit to Construct" prior to the installation of any equipment "the use of which may cause the issuance of air contaminants ..." and Regulation II provides the requirements for the application for a Permit to Construct. Rule 203 similarly requires a Permit to Operate. Rule 219, Equipment not Requiring a Written Permit Pursuant to Regulation II, identifies "equipment, processes, or operations that emit small amounts of contaminants that shall not require written permits ..."

SCAQMD Rule 402, Nuisance, states that a project shall not "discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property".

SCAQMD Rule 403, Fugitive Dust, requires actions to prevent, reduce, or mitigate fugitive particulate matter emissions. These actions include applying water or chemical stabilizers to disturbed soils; managing haul road dust by applying water; covering all haul vehicles before transporting materials; restricting vehicle speeds on unpaved roads to 15 miles per hour (mph); and sweeping loose dirt from paved site access roadways used by construction vehicles. In addition, Rule 403 requires that vegetative ground cover be established on disturbance areas that are inactive within 30 days after active operations have ceased. Alternatively, an application of dust suppressants can be applied in sufficient quantity and frequency to maintain a stable surface. Rule 403 also requires grading and excavation activities to cease when winds exceed 25 mph.

SCAQMD Rule 445 has been adopted to reduce the emissions of particulate matter from woodburning devices and prohibits the installation of such devices in any new development.

² On October 1, 2015, the USEPA lowered the 8-hour O3 standard to 0.070 ppm (70 ppb). The SIP (or AQMP) for the 70 ppb standard will be due 4 years after the attainment/nonattainment designations are issued by the USEPA, which is expected in 2017. Thus, meeting the 70 ppb standard will be addressed in a 2021 AQMP.

SCAQMD Rule 1113 governs the sale of architectural coatings and limits the VOC content in paints and paint solvents. Although this rule does not directly apply to the Project, it does dictate the VOC content of paints available for use during building construction.

<u>Local</u>

City of Newport Beach General Plan

Air quality is addressed in the Natural Resources Element of the City of Newport Beach General Plan (Newport Beach 2006). The Goals and Policies section includes four air quality goals:

- NR 6 Reduced mobile source emissions
- NR 7 Reduced air pollutant emissions from stationary sources
- NR 8 Reduced air pollutant emissions from construction activities
- $NR\,9$ $\,$ Reduced air pollutant emissions from aircraft ground emissions at John Wayne Airport $\,$

Each goal has one or more policies and associated implementation measures. The policy applicable to the Project is

NR 8.1 **Management of Construction Activities to Reduce Air Pollution.** Require developers to use and operate construction equipment, use building materials and paints, and control dust created by construction activities to minimize air pollutants.

Implementation measure 7.1, Review Building and Construction Code for Consistency with General Plan, is specified for Policy NR 8.1. The part of Implementation measure 7.1 applicable to air quality states that "The City should also consider revisions of Title 15 to foster the use of "green-building" techniques that have not been traditionally used in the City, as well as other appropriate revisions to achieve the Plan's policy objectives."

As stated above, the City of Newport Beach requires new residential and nonresidential construction to comply with CALGreen. CALGreen compliance is demonstrated through construction documents, plans, specifications, builder or installer certification, and inspection reports (Newport Beach 2018).

4.2.3 METHODOLOGY

California Emission Estimator Model

Proposed Project emissions were calculated by using California Emissions Estimator Model (CalEEMod) version 2016.3.2 (CAPCOA 2016). CalEEMod is a computer program accepted by the SCAQMD that can be used to estimate criteria pollutant and GHG emissions associated with land development projects in California. CalEEMod has separate databases for specific Counties and air districts. The Orange County database was used for the Project. The model calculates emissions of CO, SO₂, PM₁₀, PM_{2.5}, and the O₃ precursors VOC and NOx. For this analysis, the results are expressed in pounds per day (lbs/day) and are compared with the SCAQMD mass daily thresholds described in Section 4.3.5 to determine impact significance.

Specific inputs to CalEEMod include land uses and acreages. Construction input data include, but are not limited to, (1) the anticipated start and finish dates of each Project construction activity (e.g., grading, building, and paving); (2) inventories of construction equipment to be used during each Project activity; (3) areas to be excavated and graded for development; (4) volumes of materials to be imported to and exported from the Project site; (5) areas to be paved; and (6) areas to be painted. The input data and assumptions are discussed in Section 4.2.6 below and are shown in notes on the CalEEMod data in Appendix B. The CalEEMod has the capability to calculate reductions in construction emissions from the effects of dust control, off-road dieselengine classifications, low-emission paints, and other selected measures. CalEEMod was developed using EMFAC 2014 and OFFROAD 2011 for calculating emissions from on-road vehicles and off-road construction equipment, respectively.

Operational inputs to CalEEMod include (1) the specific year for Project operations; (2) vehicle trip generation rates; (3) land use and location characteristics that contribute to reductions in VMT; and (4) Project criteria for energy use. Output operational emissions data are separated into energy use, area sources, and mobile sources. The area sources are landscape maintenance equipment, consumer products, and architectural coatings used for routine maintenance. Consumer products (e.g., household cleaners, air fresheners, automotive products, and personal care products) emit VOCs. Mobile sources are the vehicles used by residents, visitors, and vendors at the Project site. The CalEEMod also includes data to calculate emissions reductions based on Project-specific characteristics and resulting from the implementation of mitigation measures (MMs). The methodology for most emissions reductions is based on the California Air Pollution Control Officers Association's (CAPCOA's) 2010 publication entitled *Quantifying Greenhouse Gas Mitigation Measures, A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures* (CAPCOA 2010).

Local Concentrations of Criteria Pollutants from On-Site Sources

As part of the SCAQMD's environmental justice program, attention has focused on localized effects of air quality and the exposure of persons to criteria pollutants generated on a project site. The SCAQMD developed localized significance threshold (LST) methodology and mass rate look-up tables that public agencies can use to determine whether or not a project may generate significant adverse localized air quality impacts. In addition to the mass daily emissions for regional thresholds, the SCAQMD established California Environmental Quality Act (CEQA) significance thresholds for ambient air quality to address localized impacts. The localized impact analysis is based on the concentration of a pollutant at a receptor site. The concentration standard is either the same as the NAAQS or CAAQS or is based upon a health-based standard. It is possible for a pollutant to have a significant impact regional and local) to be significant or less than significant. The look-up tables allow the evaluation of impacts without the complex task of dispersion modeling.

The analysis is not performed for operations because there would be no substantial on-site stationary sources of criteria pollutants with the proposed Project. The LST methodology translates the concentration standards into emissions thresholds.

The LST methodology addresses NO_2 , CO, PM_{10} , and $PM_{2.5}$ emissions. SO_2 and lead are not included because these pollutants are generated in very small amounts in development projects. Ozone is not included because it is a secondary pollutant and local concentrations cannot be

estimated from precursor emissions. For NO_2 and CO, the one-hour standards are used and receptors that could be exposed for one hour are considered. For PM_{10} and $PM_{2.5}$, the 24-hour standards are used and the receptors of interest are those where persons could be exposed for 24 hours, such as residences. Because emissions are based on the AAQS, exceedance of the LST represents a potential health impact. As noted above, even if a standard is exceeded, the potential impact can be confirmed or found to be less than significant by a more detailed analysis.

4.2.4 EXISTING CONDITIONS

<u>Climate and Meteorology</u>

The Project site is located in the SoCAB, a 6,600-square-mile area bound by the Pacific Ocean to the west and the San Gabriel, San Bernardino, and San Jacinto Mountains to the north and east. The SoCAB is arid, with virtually no rainfall and abundant sunshine during the summer months. It has light winds and poor vertical mixing compared to the other large urban areas in the United States. The combination of poor dispersion and abundant sunshine, which drives the photochemical reactions that form pollutants (such as O_3) provide conditions especially favorable to the formation of smog. The SoCAB is bound to the north and east by mountains with maximum elevations exceeding 10,000 feet. The unfavorable combination of meteorology, topography, and emissions from the nation's second largest urban area results in the SoCAB having some of the worst air quality in the United States.

Sensitive Air Quality Receptors

Some members of the population are especially sensitive to air pollutant emissions and should be given special consideration when evaluating air quality impacts from projects. These people include children, the elderly, persons with pre-existing respiratory or cardiovascular illness, and athletes and others who engage in frequent exercise. The SCAQMD defines structures that house these persons or places where they gather (e.g., residences, schools, playgrounds, childcare centers, convalescent centers, retirement homes, and athletic fields) as "sensitive receptors".

The Project site is located in an area developed with residential, commercial, retail, health care, and office uses. Single- and multi-family residences are located to the northwest and southwest of the Project site, respectively. Office uses are to the northwest and southeast and SR-73 is located to the north/northeast. The nearby single- and multi-family residences are considered sensitive receptors. The residents of the proposed Project would also be sensitive receptors.

Existing Air Quality

Regional Attainment Status

As previously discussed, based on monitored air pollutant concentrations, the USEPA and CARB designate an area's status in attaining the NAAQS and CAAQS for the criteria pollutants. Based on monitored air pollutant concentrations, the U.S. Environmental Protection Agency (USEPA) and the California Air Resources Board (CARB) designate an area's status in attaining the National Ambient Air Quality Standards (NAAQS) and the California Ambient Air Quality Standards (CAAQS), respectively, for selected criteria pollutants. These attainment designations are shown in Table 4.2-2.

TABLE 4.2-2 ATTAINMENT STATUS OF CRITERIA POLLUTANTS IN THE SOUTH COAST AIR BASIN

Pollutant	State	Federal
O3 (1 hour)	Nonattainmant	No standard
03 (8 hour)	Nonattainment	Extreme Nonattainment
PM10	Nonattainment	Attainment/Maintenance ^a
PM _{2.5}	Nonattainment	Serious Nonattainment
СО	Attainment	Attainment/Maintenance
NO ₂	Attainment	Attainment/Maintenance
SO ₂	Attainment	Attainment
Lead	Attainment	Attainment/Nonattainment ^a
All others	Attainment/Unclassified	No standards

O₃: ozone; PM₁₀: particulate matter 10 microns or less in diameter; PM_{2.5}: particulate matter 2.5 microns or less in diameter; CO: carbon monoxide; NO₂: nitrogen dioxide; SO₂: sulfur dioxide; SoCAB: South Coast Air Basin; CARB: California Air Resources Board.

^a Los Angeles County is classified nonattainment for lead; the remainder of the SoCAB is in attainment of the State and federal standards.

^b "Unclassified" designation indicates that the air quality data for the area are incomplete and do not support a designation of attainment or nonattainment.

Source: SCAQMD, 2016.

Local Air Quality

The SCAQMD has divided the SoCAB into 38 source receptor (air monitoring) areas (SRAs), with a designated ambient air monitoring station representative of each area. The Project site is in the area represented by measurements made at the Costa Mesa-Mesa Verde Drive station located on 2850 Mesa Verde Drive east in Costa Mesa, the closest monitoring station, approximately 3.5 miles northwest of the Project site. The pollutants measured at the Costa Mesa Station include O_3 and NO_x . The monitored air quality data from 2014 to 2016, shown in Table 4.2-3, display that the national and State standards were exceeded in 2014 and 2015 for O_3 (8-hour) and State standards were exceeded in 2014 and 2015 for O_3 (noe hour). In 2016, no State or national O_3 standards were exceeded. The second nearest monitoring station to the Project site is the Mission Viejo Station, located on 26081 Via Pera in Mission Viejo, approximately eleven miles east of the Project site. The pollutants measured at the Mission Viejo Station include $PM_{2.5}$, and PM_{10} . The monitored air quality data from 2014 to 2016 displays that no national or State standards were exceeded in all three years for $PM_{2.5}$, or PM_{10} (CARB 2018).

TABLE 4.2-3 AIR POLLUTANT LEVELS MEASURED AT THE COSTA MESA AND MISSION VIEJO MONITORING STATIONS, 2014-2016

Station	Pollutant	California Standard	National Standard	Year	Max. Level ^a	Days State Standard Exceeded ^b	Days National Standard Exceeded ^b
				2014	0.096	1	0
	0_3	0.09 ppm	None	2015	0.099	1	0
	(1 nour)			2016	0.090	0	0
				2014	0.080	6	6/4 ^c
	0_3	0.070 ppm	0.070 ppm/	2015	0.080	2	2/1
Costa	(o nour)		0.075 ppm	2016 0.069	0.069	0	0/0
Mesa	NO			2014	60	0	0
	NO_2	180 ppb	180 ppb 100 ppb 2015 52 2016 59	2015	52	0	0
	(1 liour)			59	0	0	
NO2 (AAM)				2014	10	0	0
		30 ppb	53 ppb	2015	11	0	0
			2016	10	0	0	
	51/10			2014	40.0	0	0
	PM10 (24 hour)	(24 hour) 50 µg/m ³	150 μg/m ³	2015	48.0	0	0
	(24 11001)			2016	59.0	0	0
				2014	19.8	No	-
	PM10 (AAM)	10 20 μ g/m ³	None	2015	*	*	-
Mission	(AAM)			2016	*	*	-
Viejo PM2. (24 ho				2014	25.5	_	0
	PM2.5 (24 hour)	None	35 µg/m3	2015	31.5	_	0
	(24 Hour)			2016	24.7	_	0
				2014	*	*	No
	PM2.5	12 µg/m3	12 μg/m3	2015	7.0	No	No
	ניינאאן			2016	7.3	No	No

Max.: maximum; O₃: ozone; ppm: parts per million; ppb: parts per billion; PM₁₀: respirable particulate matter with a diameter of 10 microns or less; μ g/m³: micrograms per cubic meter; AAM: Annual Arithmetic Mean; -: No standard; *: Data Not Reported or insufficient data available to determine the value; PM_{2.5}: fine particulate matter with a diameter of 2.5 microns or less.

- ^a Where National and California data differ, California maximum levels were used.
- ^b For annual averaging times, a "yes" or "no" response is given if the annual average concentration exceeded the applicable standard.
- ^c The 2015 8-hour O₃ standard is 0.070 ppm; the 2008 standard is 0.075 ppm. Both standards and exceedances are shown because designations for the 2015 standard have not been established by the USEPA.

Source: CARB, 2018.

Existing Emissions

Existing On-Site Emissions

The Project site is currently occupied by a sit-down restaurant. As such, existing operations generate air pollutant emissions from a variety of sources such as the vehicle trips generated by the land use (mobile); natural gas used for heating and hot water; landscape and building maintenance equipment; and consumer products. Emissions were estimated using the California Emission Estimator Model (CalEEMod) version 2016.3.2 computer program described in Section 4.2.3. The CalEEMod input was based on the building area and CalEEMod default vehicle trip generation rate. Existing criteria pollutant emissions are shown in Table 4.2-4.

	Emissions (lbs/day)				
Phase (Year)	VOC	NOx	CO	PM10	PM2.5
Area sources	<0.5	<0.5	<0.5	0.0	0.0
Energy sources	<0.5	1	1	<0.5	<0.5
Mobile sources	1	5	14	3	1
Total Existing Operational Emissions	2	5	15	3	1
lbs/day: pounds per day; VOC: volatile organic compound; NOx: nitrogen oxides; CO: carbon monoxide; PM_{10} : respirable particulate matter with a diameter of 10 microns or less; $PM_{2.5}$: fine particulate matter with a diameter of 2.5 microns or less					
Values are higher of summer or winter.					
Some totals do not add due to rounding.					
Note: CalEEMod model data sheets are ir	ncluded in Ap	pendix A.			

TABLE 4.2-4EXISTING EMISSIONS

4.2.5 THRESHOLDS OF SIGNIFICANCE

In accordance with the City of Newport Beach Environmental Analysis Checklist and Appendix G of the State CEQA Guidelines, a project will normally have a significant adverse environmental impact on air quality if it will:

Threshold 4.2-1	Conflict with or obstruct implementation of the applicable air quality plan.

- **Threshold 4.2-2** Violate any air quality standard or contribute substantially to an existing or projected air quality violation.
- **Threshold 4.2-3** Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable Federal or State Ambient Air Quality Standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).
- **Threshold 4.2-4** Expose sensitive receptors to substantial pollutant concentrations.

The SCAQMD provides significance thresholds for both construction and operation of projects within the SCAQMD jurisdictional boundaries. The SCAQMD recommends that projects be evaluated in terms of the quantitative thresholds established to assess both the regional and localized impacts of Project-related air pollutant emissions. The City of Newport Beach uses the current SCAQMD thresholds to determine whether a proposed Project would have a significant impact. These SCAQMD thresholds are identified in Table 4.2-5.

TABLE 4.2-5 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT AIR QUALITY SIGNIFICANCE THRESHOLDS

Mass Daily Thresholds (lbs/day)						
Pollutant	Construction	Operation				
VOC	75	55				
NOx	100	55				
СО	550	550				
PM10	150	150				
PM _{2.5}	55	55				
Sox	150	150				
Lead	3	3				
SCAOND, South Coast Air Quality Management District lbg/day, pounds per day, VOC, valatile organic compound, NOv						

SCAQMD: South Coast Air Quality Management District; lbs/day: pounds per day; VOC: volatile organic compound; NOx: nitrogen oxides; CO: carbon monoxide; PM₁₀: respirable particulate matter with a diameter of 10 microns or less; PM_{2.5}: fine particulate matter with a diameter of 2.5 microns or less; and, SOx: sulfur oxides. *Source: SCAQMD, 2015.*

4.2.6 IMPACT ANALYSIS

Relevant elements of the proposed Project related to the analysis of potential air quality impacts include (1) demolition of on-site buildings and paving and excavation of soils resulting in the export of approximately 1,294 tons of demolition debris and 10,200 cubic yards of soils from the Project site (10,200 cubic yards of soil from grading would be exported and 100 cubic yards would be used for site fill); (2) construction of 101 care units (120 beds); and (3) the vehicle trips generated by the proposed Project.

Threshold 4.2-1

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

Pursuant to the SCAQMD CEQA Handbook, there are two key indicators of consistency:

- 1. Whether the Project will result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations or delay timely attainment of air quality standards or the interim emissions reductions in the AQMP.
- 2. Whether the Project will exceed the assumptions in the AQMP based on the year of Project buildout.

With respect to the first criterion, based on the air quality modeling analysis conducted for the proposed Project (see the discussion provided below under Threshold 4.2-2, construction and operation of the proposed Project would not result in significant impacts based on the SCAQMD thresholds of significance and, therefore, would not increase the frequency or severity of existing air quality violations. The proposed Project is not projected to contribute to the exceedance of any air pollutant concentration standards.

With respect to the second criterion, the proposed Project would involve a change in the land use designation for the Project site, and a potential increase of 120 residents. However, as discussed in Section 5.11, Transportation/Traffic, the proposed Project would result in a reduction in trip generation compared to the existing use. As such, the proposed Project would decrease vehicle emissions compared to the existing use and therefore would not exceed the assumptions in the AQMP and would not exceed SCAG's projected growth for the City and the region. This impact would be less than significant, and no mitigation is required.

Impact Conclusion: Based on the analysis presented, the Project would not contribute to the exceedance of any air pollutant concentration standards. While the Project would involve a change in the land use designation of the site, it would result in a reduction in trip generation compared to the existing use. Therefore, the Project would not exceed the emissions assumptions in the AQMP. The Project's impact pursuant to Threshold 4.2-1 would be less than significant and no mitigation is required.

Threshold 4.2-2

Would the Project violate any air quality standard or contribute substantially to an existing or projected air quality violation?

A project may have a significant impact where project-related emissions would exceed federal, State, or regional standards or thresholds, or where project-related emissions would substantially contribute to an existing or projected air quality violation.

Construction Emissions

The expected type and duration of construction activities associated with implementation of the proposed Project are as follows: demolition activities are planned to begin in Spring 2019 and are expected to occur over an approximate one-month period; grading and excavation for the subterranean garage and building foundations would follow for an approximate two-month period; building would continue for approximately 9 to 11 months, with completion planned for Spring 2020. Air pollutant emissions would occur from construction equipment exhaust; fugitive dust from demolition and site grading; exhaust and particulate emissions from trucks hauling demolition debris; soil and materials to and from the Project site and from vehicles driven to and from the Project site by construction workers; and volatile emissions from painting and asphalt paving operations.

A project with daily emission rates below the SCAQMD's established air quality significance thresholds (shown in Table 4.2-5) would have a less than significant effect on regional air quality. Emissions were estimated using CalEEMod. The CalEEMod model input was based on the Project's construction assumptions and are included in Appendix B.

Proposed Project construction would be required to comply with the following regulatory requirements (RR):

- **RR AQ-1** All construction activities shall be conducted in compliance with South Coast Air Quality Management District's Rule 403, Fugitive Dust, for controlling fugitive dust and avoiding nuisance. Compliance with this rule will reduce short-term particulate pollutant emissions. Contractor compliance with Rule 403 requirements shall be mandated in the contractor's specifications.
- **RR AQ-2** All construction activities shall be conducted in compliance with South Coast Air Quality Management District Rule 402, Nuisance, which states that a Project shall not "discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property".

Mass Emissions Thresholds – Maximum Daily Regional Emissions

Table 4.2-6 presents the estimated maximum daily emissions during construction of the proposed Project and compares the estimated emissions with the SCAQMD daily mass emission thresholds. As shown in Table 4.2-6, Project construction mass daily emissions would be less than the SCAQMD thresholds for all criteria air pollutants. Emissions from proposed construction would not violate any air quality standard or substantially contribute to an existing or projected air quality violation. Impacts would be less than significant; no additional mitigation is required.

Year	VOC	NOx	CO	SOx	PM ₁₀	PM _{2.5}
2019 ^a	3	33	17	<0.5	4	2
2020	22	25	26	<0.5	3	2
SCAQMD Thresholds (Table 4.2-5)	75	100	550	150	150	55
Exceeds SCAQMD Thresholds?	No	No	No	No	No	No

 TABLE 4.2-6

 ESTIMATED MAXIMUM DAILY CONSTRUCTION EMISSIONS (LBS/DAY)

lbs/day: pounds per day; VOC: volatile organic compound; NOx: nitrogen oxides; CO: carbon monoxide; SOx: sulfur oxides; PM₁₀: respirable particulate matter with a diameter of 10 microns or less; PM_{2.5}: fine particulate matter with a diameter of 2.5 microns or less; SCAQMD: South Coast Air Quality Management District.

^a Maximum daily construction emissions in 2019 were calculated assuming 16,900 cubic yards of export. The Project has been redesigned to require 10,200 cubic yards of export. Therefore, maximum daily emissions in 2019 would be less than shown in this table.

See Appendix A for CalEEMod model outputs.

Localized Significance Thresholds/Ambient Air Quality

In addition to the mass daily emissions thresholds established by the SCAQMD, short-term local impacts to nearby sensitive receptors from on-site emissions of NO₂, CO, PM₁₀, and PM_{2.5} are examined based on SCAQMD localized significance thresholds (LST) methodology. To assess local air quality impacts for development projects without complex dispersion modeling, the SCAQMD developed screening (lookup) tables to assist lead agencies in evaluating impacts.

The LST method is recommended to be limited to projects of five acres or less. For the purposes of an LST analysis, the SCAQMD considers receptors where it is possible that an individual could remain for 1 hour for NO_2 and CO exposure and 24 hours for PM exposure. The emissions limits in the lookup tables are based on the Ambient Air Quality Standards. The closest receptors to the Project site are the residences adjacent to its southwestern and northwestern boundaries.

Table 4.2-7 shows the maximum daily on-site emissions for construction activities compared with the SCAQMD LSTs with receptors at 25 meters (82 feet); the SCAQMD method prescribes the use of the 25-meter factor for all receptors within 25 meters.³ The Project site is approximately 1.5 acres in area; the thresholds shown are from the lookup tables that were interpolated between sites for 1 acre and sites that are 2 acres. As shown in Table 4.2-7, the local emissions from the proposed Project would be less than the thresholds, and no significant impacts would result. No mitigation is required.

	NOx	CO	PM10	PM2.5	
		Emission	s (lbs/day)		
Project maximum daily on-site emissions	23	15	2	1	
LST: 1.5-acre site	112	805	6	4	
Exceed threshold?	No	No	No	No	
NOx: nitrogen oxides; CO: carbon monoxide; PM ₁₀ : particulate matter with a diameter of 10 microns or less; PM _{2.5} : particulate matter with a diameter 2.5 microns or less; lbs/day: pounds per day; LST: localized significance threshold.					
Note: Data is for SCAQMD Source Receptor Area 18, North Coastal Orange County.					
Source: SCAQMD 2009 (thresholds). See Appendix A for CalEEMod model outputs.					

TABLE 4.2-7LOCAL SIGNIFICANCE THRESHOLD EMISSIONS

Operational Emissions

Operational emissions are comprised of area, energy, and mobile source emissions. The primary area source of VOC emissions associated with the proposed Project would result from the use of consumer products; the major area source of CO emissions would be landscaping equipment. Mobile source emissions are based on CalEEMod default trip generation rates. Emissions were calculated with the CalEEMod model. Estimated peak daily operational emissions are shown in Table 4.2-8, which also includes the existing emissions data to produce a resultant net change in long-term emissions attributable to the proposed Project.

As shown in Table 4.2-8, the operational emissions for the proposed Project would be less than the SCAQMD CEQA significance thresholds for all criteria pollutants, and less than existing emissions for NOx and PM_{10} . Therefore, the operational impact of the proposed Project on regional emissions would be less than significant and no mitigation is required.

³ The LST methodology uses the metric system for receptor distances.

	Emissions (lbs/day)				
Source	VOC	NOx	CO	PM ₁₀	PM _{2.5}
Area sources	2	< 0.5	10	< 0.5	< 0.5
Energy sources	<0.5	<0.5	<0.5	<0.5	<0.5
Mobile sources	1	2	8	2	1
Total Operational Emissions*	2	3	18	2	1
Less: Existing Emissions (Table 4.2- 4)	2	5	14	3	1
Net Increase in Emissions	0	-2	4	-1	0
SCAQMD Significance Thresholds (Table 4.2-5)	55	55	550	150	55
Significant Impact?	No	No	No	No	No

TABLE 4.2-8PEAK DAILY OPERATIONAL EMISSIONS

lbs/day: pounds per day; VOC: volatile organic compounds; NOx: nitrogen oxides; CO: carbon monoxide; PM_{10} : respirable particulate matter with a diameter of 10 microns or less; $PM_{2.5}$: fine particulate matter with a diameter of 2.5 microns or less.

Some totals do not add due to rounding.

Emissions are the higher of summer and winter.

Notes: SOx and lead emissions are not shown; these emissions would be negligible for the proposed Project. CalEEMod model data sheets are included in Appendix A.

Impact Conclusion: Pursuant to Threshold 4.2-2, construction mass (regional) criteria pollutant emissions and local construction emissions would not exceed SCAQMD CEQA significance thresholds and would be less than significant. Operational mass (regional) criteria pollutant emissions would not exceed the SCAQMD CEQA significance thresholds for all emissions and would be less than existing emissions for NOx and, PM₁₀. Impacts would be less than significant, and no mitigation is required.

Threshold 4.2-3

Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

As identified in Table 4.2-2, Orange County is a nonattainment area for O_3 , PM_{10} , and $PM_{2.5}$. The proposed Project would generate PM_{10} , $PM_{2.5}$, and O_3 precursors (NOx and VOC) during short-term construction and long-term operations.

Construction Activities

Construction activities associated with the proposed Project would result in less than significant construction-related regional and localized air quality impacts, as quantified above in Tables 4.2-6 and 4.2-7 respectively. Short-term cumulative impacts related to air quality could

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potentially occur if construction of the proposed Project and other projects in the surrounding area were to occur simultaneously. In particular, with respect to local impacts, the consideration of cumulative construction particulate (PM_{10} and $PM_{2.5}$) impacts is limited to cases when projects constructed simultaneously are within a few hundred yards of each other because of (1) the combination of the short range (distance) of particulate dispersion (especially when compared to gaseous pollutants) and (2) the SCAQMD's required dust-control measures, which further limit particulate dispersion from a project site.

The Project area is largely developed and there are no development projects in the vicinity of the Project site that could potentially be under construction concurrently with the proposed Project. As shown in Table 4-1 in Section 4.0 of the EIR, the closest cumulative projects are within 0.63 and 0.67 mile from the site. Therefore, local construction emissions would not be cumulatively considerable, and the impact would be less than significant.

Operational Activities

As shown in Table 4.2-8 net operational emissions of VOC, NOx, PM₁₀, and PM_{2.5} would be well below the SCAQMD CEQA significance thresholds and emissions of NOx and PM₁₀would be less than existing emissions. Therefore, the proposed Project would not contribute to a cumulatively considerable net increase of a pollutant for which the SoCAB is in nonattainment. Emissions of nonattainment pollutants or their precursors would not be cumulatively considerable and would be less than significant; no additional mitigation would be required.

Impact Conclusion: Pursuant to Threshold 4.2-3, long-term operational and short-term construction emissions of nonattainment pollutants and their precursors would not be cumulatively considerable and would be less than significant, and no mitigation is required.

Threshold 4.2-4

Would the Project expose sensitive receptors to substantial pollutant concentrations?

A significant impact may occur when a project would generate pollutant concentrations to a degree that would significantly affect sensitive receptors, which include populations that are more susceptible to the effects of air pollution than the population at large. Exposure of sensitive receptors is addressed for the following situations: CO hotspots; criteria pollutants and toxic air contaminants (TACs, specifically diesel particulate matter [diesel PM]) from on-site construction; exposure to off-site TAC emissions; and asbestos and lead-based paint during demolition. Operational, long-term TACs may be generated by some industrial land uses; commercial land uses (e.g. gas stations and dry cleaners); and diesel trucks on freeways. The proposed Senior Living facility would not generate substantial quantities of TACs and are therefore not addressed in this EIR.

Carbon Monoxide Hotspot

A CO hotspot is an area of localized CO pollution caused by severe vehicle congestion on major roadways, typically near intersections. As outlined in the Harbor Pointe Senior Living Traffic Memorandum (Urban Crossroads 2018), trips generation associated with the proposed Project would be less than the trips generation associated with the existing operation (restaurant).

Therefore, the proposed Project would not increase congestion or result in a significant impact related to CO hotspots.

<u>Criteria Pollutants from On-Site Construction</u>

Exposure of persons to construction period NO_2 , CO, PM_{10} , and $PM_{2.5}$ emissions is discussed in response to Threshold 4.2.2 above. There would be no significant impacts, and no additional mitigation is required.

<u>Toxic Air Contaminant (Diesel Particulate Matter) Emissions from</u> <u>On-Site Construction</u>

Construction activities would result in short-term, Project-generated emissions of diesel PM from the exhaust of off-road, heavy-duty diesel equipment used for site preparation (e.g., demolition, excavation, and grading); paving; building construction; and other miscellaneous activities. CARB identified diesel PM as a TAC in 1998. The dose to which receptors are exposed is the primary factor used to determine health risk. Dose is a function of the concentration of a substance or substances in the environment and the duration of exposure to the substance. Thus, the risks estimated for a maximally exposed individual (MEI) are higher if a fixed exposure occurs over a longer time period. According to the Office of Environmental Health Hazard Assessment, health risk assessments—which determine the exposure of sensitive receptors to TAC emissions—should be based on a 30 or 70-year exposure period; however, such assessments should be limited to the period/duration of activities associated with the Project.

There would be relatively few pieces of off-road, heavy-duty diesel equipment in operation,⁴ and the construction period (12 to 14 months) would be relatively short when compared to a 70-year exposure period. Combined with the highly dispersive properties of diesel PM and additional reductions in particulate emissions from newer construction equipment, as required by USEPA and CARB regulations, construction emissions of TACs would not expose sensitive receptors to substantial emissions of TACs. The impact would be less than significant, and no mitigation is required.

Exposure to Off-Site Toxic Air Contaminant Emissions

The CARB *Air Quality and Land Use Handbook: A Community Health Perspective* provides guidance concerning land use compatibility with TAC sources (CARB 2005). While not a law or adopted policy, the handbook offers advisory recommendations for siting sensitive receptors near uses associated with TACs (such as freeways and high-traffic roads, commercial distribution centers, rail yards, ports, refineries, dry cleaners, gasoline stations, and industrial facilities) to help keep children and other sensitive populations out of harm's way.

Projects of concern for mobile sources of TACs are typically those located within 500 feet of a freeway near urban roads with more than 100,000 vehicles per day or average daily trips (ADT), or rural roads with more than 50,000 ADT (CARB 2005). The Project site is approximately 150 feet to the south/southwest of SR-73, with a 2017 traffic volume of 194,000 ADT (OCTA 2018). The CARB studies quote data from urban interstate freeways with truck traffic of 10,000 to

⁴ The equipment assumed for the most intense phase, two months of grading, includes one grader, one excavator, one bulldozer, and one loader.

20,000 ADT. The SR-73 is a bypass road for I-5 and I-405, with a toll-required section, and some relatively steep grades. These factors result in a relatively small volume of heavy trucks on the SR-73. Historical data indicate that the total number of 3-, 4-, 5-, and 5+ axle trucks are less than 0.8 percent of the total vehicle ADT, which would be less than 1,600 truck ADT (Caltrans 2018). The CARB studies also note that cancer risk was much less on the upwind side of the freeway than on the downwind side. The prevailing coastal wind is westerly and therefore the Project site is upwind of SR-73. Based on the truck volume data and orientation of the Project site to the roadway, it is concluded that a quantitative health risk assessment is not necessary and the TAC impact to the Project site would be less than significant.

With respect to proximity to emissions from railroad sources, CARB recommends avoiding siting new sensitive land uses within 1,000 feet of a major service and maintenance rail yard; the Project site is not located within 1,000 feet of this type of facility.

CARB recommends avoiding siting residences within 300 feet of a large gas station or within 500 feet of dry cleaning operations with two machines using perchloroethylene. There are no dry cleaners within 500 feet or gas stations within 300 feet of the Project site.

The SCAQMD has developed the Facility Information Detail (FIND), a web tool that allows a search for SCAQMD-regulated facilities that are required to have a permit to operate equipment that releases pollutants into the air. According to FIND, there are no major sources of TACs within 1,000 feet of the Project site.

In summary, the proposed Project would not have the potential to expose sensitive receptors to substantial TACs from stationary or mobile sources. The impact would be less than significant and no mitigation is required.

Exposure to Asbestos and Lead Paint During Demolition

Exposure of persons to asbestos-containing materials (ACM) and lead-based paint (LBP) during demolition is addressed in Section 4.6, Hazards and Hazardous Materials, of this EIR. As identified, the building on site were built in 1989. Demolition of this structure is not anticipated to contain ACM and/LBP. However, the presence or absence of ACM and LBP would be confirmed prior to demolition activities, and if these materials are present that they be handled in accordance with applicable regulations (RRs HAZ-1 and HAZ-2). The impact would be less than significant and no mitigation is required.

Impact Conclusion: The proposed Project would not increase congestion or result in a significant impact related to CO hotspots. There would be relatively few pieces of offroad, heavy-duty diesel equipment in operation, and the construction period would be relatively short when compared to a 30 or 70-year exposure period. Additionally, combined with the highly dispersive properties of diesel PM and additional reductions in particulate emissions from newer construction equipment, as required by USEPA and CARB regulations, construction emissions of TACs would not expose sensitive receptors to substantial emissions of TACs. Also, the proposed Project would not have the potential to expose sensitive receptors to substantial TACs from stationary or mobile sources. Overall, pursuant to Threshold 4.2-4, impacts would be less than significant, and no mitigation is required.

4.2.7 CUMULATIVE IMPACTS

Air quality is generally a regional issue, determined by geography and meteorology. The geographic context for air quality impacts is the SoCAB. The USEPA and CARB use the SoCAB as the basis for attainment designations. SCAQMD considers the thresholds for project-specific impacts and cumulative impacts to be the same (SCAQMD 2003a).⁵ Therefore, if a project has a direct significant impact, it would also have a cumulative significant impact. Threshold 4.2.3 includes an analysis of the Project's impact on regional nonattainment pollutants. In that analysis, it is concluded that the long-term impact to regional O₃, NO₂, PM₁₀, and PM_{2.5} concentrations would be less than significant. Additionally, as shown in Table 4.2-8, the Project's net increase in emissions would range from a negligible fraction of the applicable SCAQMD threshold to less than existing emissions. It is therefore concluded that the cumulative impact of criteria pollutant emissions would be less than significant.

The Project's contribution to both regional and local TAC concentrations would be negligible, and no cumulative impacts would occur.

4.2.8 MITIGATION PROGRAM

Mitigation Measures

The proposed Project would not result in significant impacts to Air Quality; therefore, no mitigation measures are required.

4.2.9 LEVEL OF SIGNIFICANCE AFTER MITIGATION

The proposed Project would not contribute to the exceedance of any air pollutant concentration standards. Construction phase emissions, long-term operational emissions, and exposure of sensitive receptors to short-term and long-term criteria pollutant and TAC emissions from stationary or mobile sources would be less than significant. Additionally, the Project would not exceed the growth assumptions in the AQMP and would not result in impacts. The proposed Project would not increase congestion or result in a significant impact related to CO hotspots. Lastly, long-term operational and short-term construction emissions of nonattainment pollutants and their precursors would not be cumulatively considerable and would be less than significant. Overall, the proposed Project's short-term construction and long-term operation air quality impacts would be less than significant, and no mitigation is required.

⁵ The only exception is the hazard index significance threshold for toxic air contaminants.

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4.3 CULTURAL AND SCIENTIFIC RESOURCES

This section evaluates the Project's potential to have adverse effects on cultural resources, including historical, archaeological, and paleontological resources. Information in this section is based upon archaeological and paleontological record searches conducted by Psomas.

4.3.1 **REGULATORY SETTING**

<u>State</u>

California Public Resources Code (Sections 21083.2 and 21084.1)

The California Environmental Quality Act (CEQA) requires a lead agency to determine whether a project would have a significant effect that would cause a substantial adverse change in the significance of a historical resource or a unique archaeological resource. *California Public Resources Code* (PRC) Sections 21083.2 and 21084.1 deal with the definitions of unique and non-unique archaeological resources and historical resources.

As discussed in Section 2.3.2 of this EIR, based on the literature review, the Project site, existing restaurant (constructed in 1989), and adjacent structures are not listed in the California Register of Historical Resources (CRHR), the National Register of Historic Places (NRHP), California Historical Landmarks, or California Points of Historical Interest lists. Additionally, the Project site is not identified as a historic resource (refer to Figure 4.4-1, Historic Resources, of the City of Newport Beach General Plan EIR); and no historical resources or districts are located near the Project site. Therefore, the evaluation of the on-site structure as a historic resource was focused out of this EIR. However, pursuant to Section 21084.1, an archaeological site can be considered a historic resource. Therefore, the definition of historic resource is provided.

Unique Archaeological Resource

The CEQA statutes (PRC Section 21083.2 (g)) define a "unique archaeological resource" as an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- (1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information
- (2) Has a special and particular quality such as being the oldest of its type or the best available example of its type
- (3) Is directly associated with a scientifically recognized important prehistoric or historic event or person

Section 21083.2 directs the lead agency to determine whether the project may have a significant effect on unique archaeological resources. If the lead agency determines that the project may have a significant effect on unique archaeological resources, the environmental impact report shall address the issue of those resources. CEQA requires the lead agency to consider whether

the project will have a significant effect on unique archaeological resources and to avoid unique archaeological resources when feasible or mitigate any effects to less-than-significant levels per PRC 21083.2.

Historical Resource

CEQA requires a lead agency to determine whether a project would have a significant effect on one or more historical resources. According to Section 15064.5(a) of the State CEQA Guidelines, a "historical resource" is defined as a resource listed in or determined to be eligible for listing in the CRHR (PRC Section 21084.1); a resource included in a local register of historical resources (14 *California Code of Regulations* [CCR], Section 15064.5[a][2]); or any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant (14 CCR Section 15064.5[a][3]). In the State of California, fossil remains are considered to be limited, nonrenewable, and sensitive scientific resources and are included in CEQA. Paleontological resources are provided protection as historical resources, as discussed in State CEQA Guidelines Section 15064.5(a)(3), and as unique paleontological resources in the CEQA Environmental Checklist form, Appendix G, V. Cultural Resources (c).

Section 5024.1 of the PRC, Section 15064.5 of the State CEQA Guidelines, and Sections 21083.2 and 21084.1 of the CEQA Statutes were used as the basic guidelines for the cultural resources analysis. Section 5024.1 of the PRC requires evaluation of historical resources to determine their eligibility for listing in the CRHR. The purposes of the CRHR are to maintain listings of the State's historical resources and to indicate which properties are to be protected from substantial adverse change. The criteria for listing resources in the CRHR, which were expressly developed to be in accordance with previously established criteria developed for listing in the NRHP (per the criteria listed at 36 *Code of Federal Regulations* [CFR] Section 60.4) are stated below.

The quality of significance in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California is present in any object, building, structure, site, area, place, record, or manuscript that possesses integrity of location, design, setting, materials, workmanship, feeling and association and that:

- (a) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; or
- (b) Is associated with the lives of persons important in our past; or
- (c) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- (d) Has yielded, or may be likely to yield, information important in prehistory or history.

Section 5024.1 of the PRC, Section 15064.5 of the State CEQA Guidelines (14 CCR), and Sections 21083.2 and 21084.1 of the CEQA Statutes were used as the basic guidelines for the cultural resources study. PRC 5024.1 requires evaluation of historical resources to determine their eligibility for listing in the CRHR. The purposes of the CRHR are to maintain listings of the State's

historical resources and to indicate which properties are to be protected from substantial adverse change.

Substantial adverse change in the significance of a historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired.

The significance of a historical resource is materially impaired when a project:

- Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or
- Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources...unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
- Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.

California Health and Safety Code (Sections 7050.5, 7051, and 7054)

These sections of the *California Health and Safety Code* collectively address the illegality of interference with human burial remains (except as allowed under applicable sections of the *California Public Resources Code*). These sections also address the disposition of Native American burials in archaeological sites and protect such remains from disturbance, vandalism, or inadvertent destruction. Procedures to be implemented are established for (1) the discovery of Native American skeletal remains during construction of a project; (2) the treatment of the remains prior to, during, and after evaluation; and (3) reburial.

Section 7050.5 of the *California Health and Safety Code* specifically provides for the disposition of accidentally discovered human remains. Section 7050.5 states that, if human remains are found, no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the County Coroner (Coroner) has determined the appropriate treatment and disposition of the human remains.

California Public Resources Code (Section 5097.98)

Section 5097.98 of the PRC states that, if the Coroner determines that remains are of Native American origin, the Coroner must notify the NAHC within 24 hours which, in turn, must identify the person or persons it believes to be the most likely descended from the deceased Native American. The descendant(s) shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the property owner, the disposition of the human remains. This section of the *California Public Resources Code* has been incorporated into Section 15064.5(e) of the State CEQA Guidelines.

California Public Resources Code (Section 5097.5)

Section 5097.5 of the *California Public Resources Code* limits the excavating, removal, destruction or defacing of any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site situated on lands owned or under the jurisdiction of the State, or any city, county, district, authority or public corporation, or any agency thereof.

Local Regulations

City of Newport Beach Council Policy Manual Guidelines

The City of Newport Beach had adopted archaeological and paleontological guidelines that guide the evaluation of the said resources and developments within the City.

<u>City Council Policy K-5 – Paleontological and Archaeological Resource Protection</u> <u>Guidelines</u>

Development or redevelopment of lands within the City of Newport Beach are required to comply with Paleontological and Archaeological Resource Protection Guidelines, originally adopted separately for paleontological and archaeological resources in 1974 and 1975, respectively and most recently amended in 2017 and combined into City Council Policy K-5. Policy K-5 states that the City of Newport Beach will ensure the preservation of paleontological and archaeological resources through planning policies and permit conditions and require that the impact caused by any development be mitigated in accordance with the California Environmental Quality Act (Newport Beach 2017). In evaluating paleontological and archaeological resources, Policy K-5 provides procedures, which include an initial assessment of potential impacts; preparation of an investigation report; additional investigation work upon determination of impacts, and subsequent design modification and mitigation to address the impacts.

City of Newport Beach General Plan

The Historic Resources (HR) and Natural Resources (NR) Elements of the City's General Plan include goals and policies pertaining to conservation, development, and utilization of natural resources, including archeological and paleontological resources.

Goal HR-2 and its relevant policies are applicable to the Project:

- Policy HR 2.1: "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." (Newport Beach 2006a)
- Policy HR 2.3: "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." (Newport Beach 2006a)

• Policy HR 2.4: "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." (Newport Beach 2006a)

Goal NR-18 and its relevant policies are applicable to the Project:

- Policy NR 18.1: This policy is similar to HR 2.1, above.
- Policy NR 18.3: This policy is similar to HR 2.3, above.
- Policy NR 18.4: This policy is similar to HR 2.4, above.

4.3.2 METHODOLOGY

CEQA requires a lead agency to determine whether a project would have a significant effect that would cause a substantial adverse change in the significance of a historical resource or a unique archaeological resource. The cultural resource analysis in this section provides that documentation and is based on the record searches and a consideration of the issues described below.

Archaeological Records Search

An archaeological resources records search was conducted for the Project at the South Central Coastal Information Center (SCCIC) at California State University, Fullerton on April 18, 2016. The SCCIC is the designated branch of the California Historical Resources Information System (CHRIS) for the Project area and houses records concerning archaeological and historic resources in Los Angeles, Ventura, San Bernardino, and Orange Counties. The review consisted of an examination of the U.S. Geological Survey's (USGS's) Tustin 7.5-minute quadrangle to evaluate the Project area for any sites recorded or cultural resources studies conducted on the parcel and within a one-half mile radius. Data sources consulted at the SCCIC include the Historic Property Data File (HPDF) maintained by the California Office of Historic Preservation (OHP), archaeological records, Archaeological Determinations of Eligibility, and historic maps. The HPDF contains listings for the CRHR, NRHP, California Historical Landmarks, and California Points of Historical Interest.

Paleontological Literature Review

The literature review included an examination of the geologic maps for the Project site. The literature review encompasses the entire Project footprint and included a 1.0-mile buffer around the Project site. The review included previous geologic mapping of the area. In addition to the reviewed published geologic maps, technical reports provided the basis from which the regional and Project-specific geology was derived for this Project.

Relevant published literature and unpublished manuscripts regarding the geology and paleontology of central Orange County were also reviewed for this Project. In the process of conducting the background literature review, existing paleontological resource data (including such published resources as books, journals, and geologic maps, as well as information available via the internet on government websites) were consulted. Additionally, an online database

search was conducted to identify previous paleontological resource assessments conducted within the boundaries of the Project site and the surrounding areas.

Paleontological Resources Records Search

A paleontological resources records search and literature review was conducted by staff of the Los Angeles County Natural History Museum (LACNHM) on April 26, 2016.

4.3.3 EXISTING CONDITIONS

Prehistory

Several chronologies are generally used to describe the sequence of the later prehistoric periods of Southern California. William Wallace (1955) developed the first comprehensive California chronologies and defines four periods for the southern coastal region. Wallace's synthesis is largely "descriptive and classificatory, emphasizing the content of archaeological cultures and the relationships among them" (Moratto 1984:159). Wallace relies upon the concept of "cultural horizons," which are generally defined by the temporal and spatial distribution of a set of normative cultural traits, such as the distribution of a group of commonly associated artifact types. As a result, his model does not allow for much cultural variation within the same time period, nor does it provide precise chronological dates for each temporal division. Nonetheless, although now more than 50 years old, the Wallace chronology has provided a general framework for Southern California prehistory that remains valid today.

- Horizon I: Early Man or Paleo-Indian Period (9,000 BCE to 6,500 BCE¹). While initially termed Early Man Horizon (I) by Wallace (1955), this early stage of human occupation is commonly referred to as the Paleo-Indian Period today (Chartkoff and Chartkoff 1984:24). The precise start of this period is still a topic of considerable debate. At inland archaeological sites, the surviving material culture of this period is primarily lithic, consisting of large, extremely well-made stone projectile points and tools (e.g., scrapers and choppers). Encampments were probably temporary, located near major kills or important resource areas.
- Horizon II: Milling Stone Assemblages (6,500 BCE to 2,000 BCE). Encompassing a broad expanse of time, the Milling Stone Period was named for the abundant millingstone tools associated with sites of this period. These tools, the mano and metate, were used to process small, hard seeds from plants associated with shrub-scrub vegetation communities. An annual round of seasonal migrations was likely practiced, with movements coinciding with ripening vegetal resources and the periods of maximal availability of various animal resources. Along the coast, shell midden sites are common site types. Some formal burials, occasionally with associated grave goods, are also evident. This period of time is roughly equivalent to Warren's (1968) Encinitas Tradition. Warren (1968) suggests that, as millingstones are common and projectile points are comparatively rare during this period of time, hunting was less important than the gathering of vegetable resources.

¹ BCE stands for "Before Common Era" and CE stands for "Common Era". These alternative forms of "BC" and "AD", respectively, are used throughout this document.

More recent studies suggest that a diversity of subsistence activities, including hunting of various game animals, were practiced during this period (Koerper 1981; Koerper and Drover 1983). At present, little is known about cultural change during this time period in Southern California. While this lack of noticeable change gives the appearance of cultural stasis, almost certainly, many regional and temporal cultural shifts did occur. Future research that is focused on temporal change in the Milling Stone Period would greatly benefit the current understanding of Southern California prehistory.

• Horizon III: Intermediate Cultures (2,000 BCE to 200 CE). The Intermediate Period is identified by a mixed strategy of plant exploitation, terrestrial hunting, and maritime subsistence strategies. Chipped stone tools, such as projectile points, generally decrease in size but increase in number. Abundant bone and shell remains have been recovered from sites dating to these time periods. In coastal areas, the introduction of the circular shell fishhook and the growing abundance of fish remains in sites over the course of the period suggest a substantial increase in fishing activity during the Intermediate Horizon. It is also during this time period that mortar and pestle use intensified dramatically. The mano and metate continued to be in use on a reduced scale, but the greatly intensified use of the mortar and pestle signaled a shift away from a subsistence strategy based on seed resources to that of the acorn. It is probably during this time period that the acorn became the food staple of the majority of the indigenous tribes in Southern California. This subsistence strategy continued until European contact. Material culture became more diverse and elaborate and included steatite containers, perforated stones, bone tools, ornamental items, and asphalt adhesive.

While Warren (1968) recognized the start of the Campbell Tradition in the Santa Barbara region at roughly the beginning of the Intermediate Period, he did not see clear evidence of cultural change farther south. As a result, the Encinitas Tradition in Southern California encompasses both the Milling Stone and Intermediate Periods in Warren's chronology (1968:2, 4). However, the more recent chronology posited by Koerper and Drover (1983) clearly recognizes an Intermediate Period in Southern California. They suggest that Warren's inability to recognize an intermediate cultural stage was likely due to "the lack of conclusive data in 1968" (1983:26).

Horizon IV: Late Prehistoric Cultures (500 CE to Historic-Era). During the Late Prehistoric Period, exploitation of many food resources, particularly marine resources among coastal groups, continued to intensify. The material culture in the Late Prehistoric Horizon increased in complexity in terms of the abundance and diversity of artifacts being produced. The recovery and identification of a number of small projectile points during this period likely suggest a greater utilization of the bow and arrow, which was likely introduced near the end of the Intermediate Period. Shell beads, ornaments, and other elements of material culture continue to be ornate, varied, and widely distributed; the latter evidence suggests elaborate trade networks. Warren's (1968) scheme divides the late prehistoric period into several regional traditions. Western Riverside County, Orange County, and the Los Angeles Basin area are considered part of the "Shoshonean" tradition, which may be related to a possible incursion of Takic speakers into these areas during this period. The Late Prehistoric Period includes the first few centuries of early European contact (1542–1769 CE); it is also known as the Protohistoric Period as there was a low level of interaction between native Californians and Europeans prior to Portolá's overland expedition in 1769.

In the few centuries prior to European contact, the archaeological record reveals substantial increases in the indigenous population (Wallace 1955:223). Some village sites may have contained as many as 1,500 individuals. Apparently, many of these village sites were occupied throughout the year rather than seasonally. This shift in settlement strategy was likely influenced by improved food procurement and storage technology, which enabled population growth and may have helped stimulate changes in sociopolitical organization.

Resource Description

Archaeological Resources

According to the archaeological resources record search conducted on April 18, 2016, 30 cultural resources investigations have been conducted within one-half mile of the Project site. Of those, eight included at least a portion of the Project site. None of these studies resulted in the identification of any cultural resources on the Project site. Eight cultural resources sites have been previously recorded within one-half mile of the Project site. Of these, none was located within one-quarter mile of the Project site. Since the Project site is developed, and no cultural resource sites have been found on or near the site, the Project site is not considered archaeologically sensitive.

Paleontological Resources

The proposed Project area has surface exposures of marine older Quaternary terrace deposits, also described as Old Paralic Deposits, undivided (Qop) on USGS geologic map (Morton et al. 2004), although vertebrate fossil localities in this area almost always contain terrestrial fossil vertebrates. These deposits typically do not contain significant vertebrate fossils, at least in the uppermost layers, but they are usually underlain by older Quaternary deposits that frequently do contain significant vertebrate fossils. The closest vertebrate fossil locality from these deposits is LACM 4219, located west of the proposed Project area in a roadcut for the Newport Freeway near Santa Isabel Avenue, which produced fossil sea turtle (Cheloniidae) and camel (Camelidae) bones in coarse, poorly sorted, friable sands about 30 feet below the grade of Newport Boulevard. Further to the southwest of the proposed Project area, near the intersection of 19th Street and Anaheim Avenue, locality LACM 3267 produced a fossil specimen of undetermined elephant (Proboscidea). Located west-northwest of the proposed Project area, along Adams Avenue near the top of the mesa bluffs east of the Santa Ana River, locality LACM 1339 produced fossil specimens of mammoth (Mammuthus) and camel bones in sand approximately 15 feet below the top of the mesa that is overlain by shell-bearing silts and sands. Additionally, deposits have been found on the east side of Upper Newport Bay in a large number of localities from the marine and terrestrial Late Pleistocene terraces.

Site Geology

The Project site is underlain by middle to late Pleistocene-age marine terraces consisting of interfingered strandline, beach, estuarine, and alluvial deposits capped by thin, younger alluvium. Overlying the terrace deposits are fill soils encountered at depths of approximately 1.5 to 7.5 feet, consisting of dry to moist, medium dense, sandy silt, and clayey to silty sand, with firm to hard, sandy clay (Ninyo & Moore 2015).

Marine terraces are broad, gently sloping areas formed by a combination of eustatic sea level change and tectonic uplift (Hanson et al. 1990). As sea level regresses due to glaciation, terrestrial sedimentation extends over the current wave-cut platform toward the new coastline. Regional compressional forces cause rapid tectonic uplift of the platform. As sea level transgresses during the following interglacial stage, wave energy undercuts the base of the elevated platform and forms a sea cliff. Continued uplift during subsequent glacial and interglacial stages can cause a series of terraces to form in "stair-step" topography. However, if the amount of uplift is less than the amount of sea level transgression, the terrace will be not be preserved (Hanson et al. 1990). A combination of numerical and correlative methods is used to determine the age of marine terraces. Absolute dates can be derived by uranium series dating or amino acid ratios in fossils (Muhs et al. 1992). Past studies of Marine Oxygen Isotope Stages (MIS), in reference to global sea level fluctuation, are used to estimate the relative age at the base of each terrace. By calculating the height of each terrace and comparing with interglacial sea level highstands, a relative age can be determined. Marine terrace sediments are typically beach sand at the base, overlain by fluvial and alluvial sands, silts, and cobbles. The terrace underlying the Project site has been dated to 122,000 years before present (YBP) (Grant et al. 1999).

4.3.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Analysis Checklist and Appendix G of the CEQA Guidelines, the Project would result in a significant impact to cultural and scientific resources if it would:

Threshold 4.3-1	Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.
Threshold 4.3-2	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.
Threshold 4.3-3	Disturb any human remains, including those interred outside formal cemeteries.

4.3.5 IMPACT ANALYSIS

Threshold 4.3-1

Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section15064.5?

The Project site is located within a highly developed area that has been previously graded and is currently developed with an existing restaurant which was built in 1989. Thus, the likelihood of encountering archaeological resources on the Project site is minimal. The following highlights the results of the record search.

Record Search

An archaeological records search was conducted by Psomas Senior Archaeologist David M. Smith on April 18, 2016, at the South Central Coastal Information Center (SCCIC) at California State University, Fullerton. The SCCIC is the designated branch of the California Historical Resources Information System (CHRIS), one of ten Statewide repositories, which houses records of archaeological and historic resources in Orange, Los Angeles, San Bernardino, and Ventura Counties. The review consisted of an examination of the U.S. Geological Survey's (USGS's) Tustin 7.5-minute quadrangle to evaluate the Project area for any sites recorded or cultural resources studies conducted on the parcel and within a one-half mile radius. Data sources consulted at the SCCIC include the Historic Property Data File (HPDF) maintained by the California Office of Historic Preservation (OHP), archaeological records, Archaeological Determinations of Eligibility, and historic maps. The HPDF contains listings for the CRHR, NRHP, California Historical Landmarks, and California Points of Historical Interest.

The records search/literature review conducted for the site reveals that 30 cultural resources investigations have been conducted within a one-half mile of the Project site. Of those, eight included at least a portion of the Project site.

Eight cultural resource sites, listed in Table 4.3-1, have been previously recorded within a onehalf mile of the Project site. Of these, none was located within one-quarter mile of the Project site. Since the Project site is developed and no cultural resource sites have been found on or within one-quarter mile of the site, the Project site is considered minimally archaeologically sensitive.

Trinomial	Description	Within Project Area
CA-ORA-57	Lithic and shell scatter	No
CA-ORA-77	Lithic and shell scatter	No
CA-ORA-192	Lithic and shell scatter	No
CA-ORA-345	Lithic and shell scatter	No
CA-ORA-348	Lithic and shell scatter	No
CA-ORA-349	Lithic and shell scatter	No
CA-ORA-351	Lithic and shell scatter	No
CA-ORA-1223	Lithic and shell scatter	No

TABLE 4.3-1CULTURAL RESOURCES WITHIN ONE-HALF MILE OF THE PROJECT SITE

Since the Project site is developed with an existing restaurant, surface parking, and associated site improvements, any surficial archaeological resources that may have existed at one time on the Project site have likely been previously unearthed or disturbed during the construction of the existing site improvements.

As proposed, construction of the proposed Project includes excavation to depths of approximately 14 feet below ground surface (bgs) for subterranean parking. Underlying artificial fill (found in the upper 1.5 to 7.5 feet of soils) would have been imported or highly disturbed during previous grading activities. Thus, it is unlikely to contain significant archaeological resources. However, activities that would result in excavation into native soils (Pleistocene-age marine terraces and alluvial deposits below the upper 1.5 to 7.5 feet) have the potential for impacting undiscovered archaeological resources. The Project would be required

to comply with Paleontological and Archaeological Resource Protection Guidelines contained in the City Council Policy K-5 pertaining to preservation of paleontological and archaeological resources (see RR CULT-1, below). As indicated under the Regulatory Setting, the intent of the City Council Policy K-5 is to address any potential impacts to paleontological and archaeological resources that a public or private development may cause. It sets forth procedures (A through F) that would ensure avoidance or mitigation of potential impacts. The provisions of K-5 Policy pertaining to initial investigation/assessment have been met through an archaeological record search, which found no cultural resources sites on or within one-quarter mile of the site and determined the site to be minimally archaeological sensitive. The following RR CULT-1 focuses on potential discovery of resources during construction.

Additionally, the Project would comply with General Plan Historical Resources Element Goal HR 2, identification and protection of important archaeological and paleontological resources within the City, and Natural Resources Element Goal NR 18, protection and preservation of important paleontological and archaeological resources. Therefore, impacts would be less than significant, and no mitigation is required.

- **RR CULT-1** If archaeological or paleontological resources are discovered during construction, all construction activities in the general area of the discovery shall be temporarily halted until the resource is examined by a qualified monitor, retained by the Developer. The monitor shall recommend next steps (i.e., additional excavation, curation, preservation, etc.).
- Impact Conclusion: Pursuant to Threshold 4.3-1, the Project has a low potential to cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 due to existing development on the site. The Project would comply with the Paleontological and Archaeological Resource Protection Guidelines contained in the City Council Policy K-5 pertaining to preservation of paleontological and archaeological resources (RR CULT-1) in addition to relevant General Plan policies. Therefore, impacts would be less than significant, and no mitigation is required.

Threshold 4.3-2

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

The Project is fully developed and has already been disturbed. Still, the possibility exists that asyet unidentified paleontological sites could be present beneath the site.

Record Search

A paleontological records search was also requested at the Natural History Museum of Los Angeles County (LACM) (McLeod 2016) and results were provided on April 26, 2016. The results indicate that no vertebrate fossil localities are directly within the boundaries of the Project site; however, several recorded fossil-bearing localities are recorded near the Project site.

The proposed Project area has surface exposures of marine older Quaternary terrace deposits, although vertebrate fossil localities in this area almost always contain terrestrial fossil

vertebrates. These deposits typically do not contain significant vertebrate fossils, at least in the uppermost layers, but they are usually underlain by older Quaternary deposits that frequently do contain significant vertebrate fossils. The closest vertebrate fossil locality from these deposits is LACM 4219, located west of the proposed Project area in a roadcut for the Newport Freeway near Santa Isabel Avenue, which produced fossil sea turtle (*Cheloniidae*) and camel (*Camelidae*) bones in coarse, poorly sorted, friable sands about 30 feet below the grade of Newport Boulevard. Further to the southwest of the proposed Project area, near the intersection of 19th Street and Anaheim Avenue, locality LACM 3267 produced a fossil specimen of undetermined elephant (*Proboscidea*). Located west-northwest of the proposed Project area, along Adams Avenue near the top of the mesa bluffs east of the Santa Ana River, locality LACM 1339 produced fossil specimens of mammoth (*Mammuthus*) and camel bones in sand approximately 15 feet below the top of the mesa that is overlain by shell-bearing silts and sands. Additionally, deposits have been found on the east side of Upper Newport Bay in a large number of localities from the marine and terrestrial Late Pleistocene terraces.

The proposed depths of excavation would likely involve disturbance of native soils to create subterranean parking at the Project site, which could result in the disturbance and/or destruction of paleontological resources that may be present in Pleistocene-age marine terraces and alluvial deposits that underlie the Project site. The Project would be required to comply with Paleontological and Archaeological Resource Protection Guidelines contained in the City Council Policy K-5 pertaining to preservation of paleontological and archaeological resources (see RR CULT-1, above). Additionally, the Project would comply with General Plan Historical Resources Element Goal HR 2, identification and protection of important archaeological and paleontological resources within the City, and Natural Resources Element Goal NR 18, protection and preservation of important paleontological resources.

However, given the presence of paleontological resources in proximity to the Project site and the potential disturbance of native soils due to the proposed subterranean parking, mitigation measure MM CULT-1 is introduced to reduce the potential impacts to paleontological resources to less than significant. MM CULT-1 requires a paleontologist monitor to be present during grading and excavation activities. If fossil remains are discovered, the paleontologist would have the authority to temporarily divert work to allow recovery of the fossils.

Impact Conclusion: Pursuant to Threshold 4.3-2, the Project has a potential to disturb paleontological resources as a result of excavation for the subterranean parking. However, the Project would comply with the Paleontological and Archaeological Resource Protection Guidelines contained in the City Council Policy K-5 pertaining to preservation of paleontological and archaeological resources in addition to relevant General Plan policies. MM CULT-1 is also proposed to reduce the potential impact to paleontological resources to less than significant level. Additionally, due to lack of unique geologic features on the site, no impacts to such features would occur, and no mitigation is required.

Threshold 4.3-3

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

As identified in Section 4.4, Cultural Resources, of the City of Newport Beach General Plan EIR, archaeological materials, including human burials, have been found in the City. However, due to the level of past disturbance on the Project site, it is not anticipated that human remains, including those interred outside formal cemeteries, would be encountered during grading or excavation activities at the Project site.

Sections 7050.5–7055 of the *California Health and Safety Code* describe the general provisions for the handling of human remains. Specifically, Section 7050.5 of the *California Health and Safety Code* describes the protocols to be followed in the event that human remains are accidentally discovered during ground disturbance or excavation. If human remains are found during excavation, construction activities must stop in the vicinity of the find and in any area that is reasonably suspected to overlie adjacent remains until the County Coroner has been notified, the remains have been investigated, and appropriate recommendations have been made for the treatment and disposition of the remains. In addition, the requirements and procedures set forth in Section 5097.98 of the *California Public Resources Code* would have to be implemented. If the Coroner, with the aid of the qualified Archaeologist, determines that the remains are prehistoric, the Coroner will contact the NAHC. The NAHC shall be responsible for designating the most likely descendant (MLD), who will be responsible for the ultimate disposition of the remains.

Impacts pertaining to disturbance of human remains would be less than significant and no mitigation is required; however, the following regulatory requirement RR CULT-2 would apply to the Project.

- **RR CULT-2** In the event that human remains are unearthed during excavation and grading activities, all activity shall cease immediately. Pursuant to *California Health and Safety Code* Section 7050.5, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to *California Public Resources Code* Section 5097.98. If the remains are determined to be of Native American descent, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall then contact the most likely descendant of the deceased Native American, who shall serve as consultant on how to proceed with the remains.
- *Impact Conclusion:* Pursuant to Threshold 4.3-3, Project activities are not expected to disturb human remains. However, if human remains are encountered during grading activities, the protocol in Section 7050.5 of the California Health and Safety Code would be followed (RR CULT-2).

4.3.6 CUMULATIVE IMPACTS

Archaeological and paleontological resources impacts are site-specific with regard to any given resource. Impacts that may be considered cumulative simply relate to the loss of cultural resources in general over time throughout the region. The Project, in conjunction with cumulative development, could lead to accelerated degradation of previously unknown

archaeological, and paleontological resources. However, each development proposal would undergo environmental review and would be subject to similar resource protection requirements as the Project. If there is a potential for significant impacts on archaeological or paleontological resources, an investigation would be required to determine the nature and extent of the resources and to identify appropriate mitigation measures, including requirements such as those identified in this section. The Project includes measures to identify, recover, and/or record any archaeological and paleontological resource that may occur within the Project limits, resulting in less than significant impacts.

Discovery of human remains are also site-specific. Similar to archaeological and paleontological resources, all proposed developments would undergo the same resource protection requirements in case of discovery of human remains. Although unlikely to occur, potential impacts associated with human remains would be reduced to a less than significant level with adherence to existing State law.

Therefore, implementation of the Project would have no significant cumulative impacts associated with archaeological and paleontological resources as well as human remains.

4.3.7 MITIGATION PROGRAM

Mitigation Measures

- **MM CULT-1** Prior to the issuance of the grading permit, Project Applicant shall provide written evidence to the City of Newport Beach Community Development Department that an Orange County–certified professional Paleontologist has been retained to monitor any potential impacts to paleontological resources throughout the duration of any ground-disturbing activities at the Project site. The paleontologist shall review the Project's final plans and develop and implement a Paleontological Mitigation Plan, which shall include the following minimum elements:
 - All earthmoving activities 8-feet or more below the current surface shall be monitored fulltime by a qualified paleontological monitor.
 - If fossils are discovered, the paleontological monitor has the authority to temporarily divert work, as deemed necessary, to allow recovery of the fossils and evaluation of the fossil locality.
 - Fossil localities shall require documentation including stratigraphic columns and samples for micropaleontological analyses and for dating.
 - Fossils shall be prepared to the point of identification prior to being donated to an appropriate repository.
 - The final report shall interpret any paleontological resources discovered in the regional context and provide the catalog and all specialists' reports as appendices.

4.3.8 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Project-specific and cumulative impacts to archaeological resources associated with the Project would be less than significant. The Project would comply with the Paleontological and Archaeological Resource Protection Guidelines contained in the City Council Policy K-5 pertaining to preservation of paleontological and archaeological resources (RR CULT-1) in addition to RR CULT-2 and relevant General Plan Historical Resources and Natural Resources Elements. Additionally, MM CULT-1 is proposed to reduce the potential impacts to paleontological resources due to disturbance of native soils to less than significant levels.

4.3.9 REFERENCES

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4.4 GEOLOGY AND SOILS

This section of the Environmental Impact Report (EIR) describes existing geologic and soil conditions in the Project area, identifies associated potential geotechnical impacts related to development of the proposed assisted living and memory care facility, and sets forth measures designed to mitigate identified significant adverse impacts. Information in this section is based upon the *Geotechnical Evaluation, Center Pointe Senior Living 101 Bayview Place, Newport Beach, California*, prepared by Ninyo & Moore (April 2016). The report is included as Appendix C to this EIR.

4.4.1 REGULATORY SETTING

<u>Federal</u>

International Building Code

The International Building Code (IBC) is the national model building code providing standardized requirements for construction. The IBC replaced earlier regional building codes (including the Uniform Building Code) in 2000 and established consistent construction guidelines for the nation. The 2015 IBC is the most recent edition and was incorporated into the 2016 California Building Code that currently applies to all structures being constructed in California. The national model codes are therefore incorporated by reference into the building codes of local municipalities (e.g., the California Building Code discussed below). The California Building Code includes building design and construction criteria that take into consideration the State's seismic conditions.

<u>State</u>

California Building Code

The California Building Code (also known as the "California Building Standards Code" or CBC) is promulgated under the *California Code of Regulations* (CCR), Title 24 (Parts 1 through 12) and is administered by the California Building Standards Commission (CBSC). The national model code standards adopted into Title 24 apply to all occupancies in California except for modifications adopted by State agencies and local governing bodies. The 2016 CBC is the current CBC and is based on the 2015 IBC, discussed above. The California Building Code may be adopted wholly or with revisions by State and local municipalities.

Title 24, as adopted by the City of Newport Beach (City), sets forth the fire, life safety, and other building-related regulations applicable to any structure fit for occupancy statewide for which a building permit is sought. Title 24 establishes general standards for the design and construction of buildings, including provisions related to seismic safety. The CBC provides standards that must be met to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures in its jurisdiction. Chapter 18 of the California Building Code, Soils and Foundations, specifies the level of soil investigation required by law in California. Requirements in Chapter 18 apply to building and foundations systems and consider reduction of potential seismic hazards.

Alquist-Priolo Earthquake Fault Zoning Act of 1972

The Alquist-Priolo Earthquake Fault Zoning Act (Alquist-Priolo Act) was adopted by the State of California in 1972 in order to mitigate surface fault rupture hazards along known active faults (*California Public Resources Code* [PRC] Section 2621 et seq.). The purpose of the Alquist-Priolo Act is to reduce the threat to life and property—specifically from surface fault rupture—by preventing the construction of buildings used for human occupancy on the surface trace of active faults. Under the Alquist-Priolo Act, the California Geological Survey (CGS) has defined an "active" fault as one that has had surface displacement during the past 11,000 years (Holocene time). This law directs the State Geologist to establish Earthquake Fault Zones (known as "Special Studies Zones" prior to January 1, 1994) to regulate development in designated hazard areas. In accordance with the Alquist-Priolo Act, the State has delineated "Earthquake Fault Zones" along identified active faults throughout California. City and County jurisdictions must require a geologic investigation to demonstrate that a proposed development project, which includes structures for human occupancy, is adequately set back (generally at least 50 feet) from an active fault prior to permitting (CGS 2011).

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed in 1990 and directs the State of California Department of Conservation Division of Mines and Geology (CDMG) to identify and map areas subject to earthquake hazards such as liquefaction, earthquake-induced landslides, and amplified ground shaking (PRC Sections 2690–2699.6). Passed by the State legislature after the 1989 Loma Prieta Earthquake, the SHMA is aimed at reducing the threat to public safety and minimizing potential loss of life and property in the event of a damaging earthquake event. Seismic Hazard Zone Maps are a product of the resultant Seismic Hazards Mapping Program and are produced to identify Zones of Required Investigation; most developments designed for human occupancy in these zones must conduct site-specific geotechnical investigations to identify the hazard and to develop appropriate mitigation measures prior to permitting by local jurisdictions.

The SHMA establishes a statewide public safety standard for the mitigation of earthquake hazards. The CGS' Special Publication 117, *Guidelines for Evaluating and Mitigating Seismic Hazards in California*, provides guidance for the evaluation and mitigation of earthquake-related hazards for projects in designated zones of required investigations.

<u>Local</u>

City of Newport Beach General Plan

The *City of Newport Beach General Plan* is the long-range guide for growth and development in the City. On July 25, 2006, the General Plan was adopted and the Final EIR was certified by the Newport Beach City Council (Newport Beach 2006a, 2006b).

The *City of Newport Beach General Plan* contains ten elements, one of which is the Safety Element with the objective to reduce the potential risk of death, injuries, property damage, and economic and social dislocation resulting from natural and human-induced hazards. This element additionally includes provisions to address coastal hazards, geologic hazards, seismic hazards,

flood hazards, wildland and urban fire hazards, hazardous materials, aviation hazards, and disaster planning.

City of Newport Beach Municipal Code

Title 15, Buildings and Construction, Chapter 15.10, Excavation and Grading Code, of the Newport Beach Municipal Code (NBMC) includes regulations for grading, drainage, and hillside construction. Per Chapter 15.10 of Title 15, grading permits are required for all project sites requiring excavation, fills, and paving. This provision provides for the approval of grading and building plans and inspection of grading and construction, and drainage control for projects in compliance with the current Municipal Separate Storm Sewer System (MS4) Permit issued by the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana RWQCB), under the National Pollutant Discharge Elimination System (NPDES) permitting process. (Newport Beach 2017).

4.4.2 METHODOLOGY

The technical analysis supporting the impact conclusions in this section were completed by Ninyo & Moore as presented in the Geotechnical Evaluation. The Geotechnical Evaluation included site reconnaissance; review of published geologic and seismic data related to the Project area; and review of pertinent geotechnical reports for the Project site. Subsurface exploration consisted of drilling, logging, and sampling of seven hollow-stem auger borings and one hand-augered boring to depths of 5 to 50 feet below existing ground surface (bgs).

The data and conclusions from the Geotechnical Evaluation were compared to the Thresholds of Significance set forth below in Section 4.4.4 to determine potential significance impacts. The California Building Code and Chapter 15.10, Excavation and Grading, of the NBMC, provides the standards that need to be met to ensure impacts are reduced to less than significant. A significant impact would occur if through the recommendations of the Geotechnical Evaluation and sound construction practices, these standards could not be achieved.

4.4.3 EXISTING CONDITIONS

Site Topography

Under existing conditions, the Project site is fully developed with minimal topographic variation. According to the Geotechnical Evaluation (Ninyo & Moore 2016), the site is relatively flat with an elevation of approximately 57 feet (NAVD88). The Project site slopes to the south.

Geology and Seismicity

The Project site is within the Peninsular Ranges geomorphic province in Southern California. The geomorphic province encompasses an area that extends approximately 125 miles from the Transverse Ranges and the Los Angeles Basin south to the Mexican border and the tip of Baja California (Ninyo & Moore 2016). Soil on the site consists of a dry to moist, medium dense, sandy silt, and clayey to silty sand, with firm to hard, sandy clay fill. The fill overlay is an older alluvium of dry to wet, medium dense to very dense, sandy silt; clayey to silty sand; poorly graded sand and poorly graded sand with silt; and stiff to hard, silty to sandy clay. As with much of the

Southern California region, the Project site is located in an area subject to seismic hazards. The San Joaquin Hills Blind Thrust fault is located approximately 2.4 miles from the site, and the Newport-Inglewood fault system is located in the southwestern portion of Orange County, approximately 4.8 miles southwest of the Project site. However, the Project site is not located within a State of California Earthquake Fault Zone (formerly known as the Alquist-Priolo Special Studies Zone). The site is underlain by middle to late Pleistocene-age marine terraces consisting of interfingered strandline, beach, estuarine, and colluvial deposits capped by thin, younger alluvial fan deposits. The earth materials found at the site include fill soils overlying older alluvium. The Project site is located in a State of California Seismic Hazard Zone for liquefaction. For detailed information refer to the Geotechnical Evaluation in Appendix C of this document.

Groundwater

Groundwater was encountered in two of the seven borings (Borings B-4 and B-5) and was measured at approximately 36 feet deep approximately 16 hours after the drilling of Boring B-4 was completed. Although groundwater was measured at a depth of approximately 30 feet in Boring B-5 30 minutes after drilling, some water had been added to the boring during drilling due to heaving sand. Groundwater monitoring well data from the State of California Water Resources Control Board's GeoTracker website indicates that the depth to groundwater at monitoring wells located approximately 0.7 mile north of the site ranged from approximately 19 to 23 feet below the ground surface (Ninyo & Moore 2016). Based on a review of maps prepared by the California Division of Mines and Geology, the historic high depth to groundwater was reported to be 16 feet (Ninyo & Moore 2016).

4.4.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Analysis Checklist the Project would result in a significant impact to geology and soils if it would:

Threshold 4.4-1	Expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death involving:		
	(i)	Strong seismic ground shaking	
	(ii)	Seismic-related ground failure, including liquefaction	
Threshold 4.4-2	Result in substantial soil erosion or the loss of topsoil		
Threshold 4.4-3	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse		
Threshold 4.4-4	Be located on expansive soils, as defined in Table 18-1-B of the California Building Code (1994), creating substantial risks to life or property		

4.4.5 IMPACT ANALYSIS

Threshold 4.4-1

Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- i) Strong seismic ground shaking?
- *ii)* Seismic-related ground failure, including liquefaction?

The City of Newport Beach, similar to the rest of California, is located within a seismically active region. The local and regional faults that have the potential to affect the City are depicted on Exhibit 4.4-1, Fault Locations. The Geotechnical Evaluation indicates that seismic hazards at the Project site can be attributed to ground shaking resulting from seismic events on active faults. The Project area has experienced earthquake-induced ground shaking from past earthquakes and is expected to continue to experience ground shaking from future earthquakes in the region.

The Geotechnical Evaluation concludes that the proposed Project is feasible from a geotechnical standpoint, provided the recommendations contained in the Geotechnical Evaluation are incorporated into the design and construction of the proposed Project, as required by MM GEO-1. Additionally, compliance with applicable seismic design criteria in the CBC would reduce ground shaking-related hazards. Therefore, less than significant impacts related to strong seismic ground shaking would occur with implementation of MM GEO-1 and compliance with applicable seismic design criteria in the CBC.

Liquefaction is a phenomenon where cyclic stresses, which are produced by earthquake-induced ground motions, create excess pore pressures in cohesionless soil. As a result, the soils may acquire a high degree of mobility, which can lead to lateral spreading, consolidation, and settlement of loose sediments, ground oscillation flow failure, loss of bearing strength, ground fissuring, sand boils, and other damaging deformations.

According to Figure 4.5-2 of the Newport Beach General Plan EIR, the Project site is not located in an area with liquefaction potential (Newport Beach 2006b). However, subsurface exploration and laboratory testing conducted in preparation of the Geotechnical Evaluation indicates that relatively medium dense interbedded sand layers susceptible to liquefaction during a seismic event exist on site from approximately 36 feet bgs to 49 feet bgs. However, with compliance with the CBC and implementation of MM GEO-1, potential impacts associated with seismic-related ground failure, including liquefaction, would be less than significant.

Earthquake-induced landslides occur in areas where previous landslides have occurred and in areas where the topographic, geologic, geotechnical, and subsurface groundwater conditions are conducive to permanent ground displacements.

Impact Conclusion: The Project site is in a seismically active area that would likely experience strong ground shaking during the life of any project developed thereon. However, compliance with existing regulations (2016 CBC) and implementation of MM GEO-1 would reduce potentially significant impacts associated with seismic shaking and seismic ground failure in the form of



(01/26/2018 MMD) R:\Projects\NEW\3NEW003100\Graphics\EIR\Ex_Faults.pdf

liquefaction, seismically induced settlement, and lateral spreading to a less than significant level, pursuant to Threshold 4.4-1.

Threshold 4.4-2

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

The Project site is fully developed with a restaurant, surface parking lot, and associated site improvements and has a flat topography. During construction activities, temporary soil erosion may occur due to soil disturbance and the removal of impervious surfaces. In addition, soil erosion due to rainfall and wind may occur if unprotected soils are exposed during construction. As the Project site is over one acre of total land area, the Project Applicant must obtain an NPDES permit for construction activities. The NPDES permit is required for all projects that include construction activities, such as clearing, grading, and/or excavation that disturb at least one acre of total land area. Further, the proposed Project must comply with Chapter 15.10, Excavation and Grading, of the Newport Beach Municipal Code. Chapter 15.10 establishes the rules and regulations to control excavation, grading, drainage, and earthwork during construction. Additionally, as described in Section 4.7, Hydrology and Water Quality of this EIR, with incorporation of structural and nonstructural Best Management Practices (BMPs) in the Project's Preliminary Water Quality Management Plan (WQMP) and compliance with applicable laws and regulations ((e.g., NPDES Construction General Permit and waste discharge requirements (WDRs), Orange County MS4 Permit, Drainage Area Management Plan (DAMP), Model WQMP and Technical Guidance Document (TGD), and Newport Beach Water Quality regulations), construction-related soil erosion would be less than significant, and no mitigation is required.

With the incorporation of construction BMPs as described in Section 4.7, Hydrology and Water Quality and compliance with applicable laws and regulations (e.g., NPDES Construction General Permit and WDRs, Orange County MS4 Permit, DAMP, Model WQMP and TGD, and Newport Beach Water Quality regulations) the potential impacts would be less than significant.

The proposed Project would increase the amount of impervious surfaces at the Project site, resulting in less surface area exposed to potential erosion. Currently, the Project site is approximately 26 percent pervious and approximately 74 percent impervious. Following completion of the proposed Project, the site would be 21-percent pervious and 79-percent impervious (Tait 2018). Additionally, areas on the Project site with pervious surfaces would be landscaped. Thus, minimal areas of soils would be exposed following completion of the proposed Project, and no erosion would occur. Therefore, operations-related soil erosion would be less than significant, and no mitigation is required.

Impact Conclusion: Grading activities would increase the potential for soil erosion and loss of top soil. With the incorporation of construction BMPs as described in Section 4.7, Hydrology and Water Quality of this EIR and compliance with applicable laws and regulations ((e.g., NPDES Construction General Permit and WDRs, Orange County MS4 Permit, DAMP, Model WQMP and TGD, and Newport Beach Water Quality regulations) Project impacts on soil erosion and loss of topsoil would be less than significant, pursuant to Threshold 4.4-2.

Thresholds 4.4-3 and 4.4-4

Would the Project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

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

The Project site is underlain by middle to late Pleistocene-age marine terraces consisting of interfingered strandline, beach, estuarine, and alluvial deposits capped by thin, younger alluvium. Overlying the terrace deposits are fill soils, encountered at depths of approximately 1.5 to 7.5 feet, consisting of dry to moist, medium dense, sandy silt, and clayey to silty sand, with firm to hard, sandy clay. The Geotechnical Evaluation indicates that during Project construction, excavation of approximately 14 feet bgs for the subterranean parking is anticipated to expose varying soil types, including sandy silt, clayey to silty sand, poorly graded sand with silt, and silty to sandy clay alluvial soils at the planned subgrade for the slab-on-grade and spread footing foundations.

As discussed previously, the Project site is not located in a potential landslide area or a potential liquefaction area; however, the Geotechnical Evaluation indicates that soils between 36 feet bgs and 49 feet bgs could be susceptible to liquefaction. According to the Geotechnical Evaluation, post-earthquake settlement as a result of liquefaction would be up to 2 inches; and the on-site soils have an expansion index of 93 (high expansion potential) (Ninyo & Moore 2016).

The Geotechnical Evaluation concludes that the Project is feasible from a geotechnical standpoint, provided the recommendations in the evaluation are incorporated into the design and construction of the proposed Project (MM GEO-1). Additionally, Project construction would be required to comply with Chapter 15.10, Excavation and Grading, of the City's Municipal Code and other applicable building standards. Therefore, the Project's impacts related to unstable soils would be less than significant with implementation of MM GEO-1 and compliance with City regulations.

Impact Conclusion:Based on the Preliminary Geotechnical Investigation (Ninyo & Moore 2016),
soil on the Project site has high expansion potential. Implementation of MM
GEO-1 would ensure impacts associated with expansive soils would be less
than significant, pursuant to Threshold 4.4-4.

4.4.6 CUMULATIVE IMPACTS

Geology and soils impacts are generally site-specific and there is typically little, if any, cumulative relationship between the development of a project and development within a larger cumulative area (e.g., city-wide development). For example, development at the Project site would not alter geologic events or soil features/characteristics (such as ground shaking, seismic intensity, or settlement) at other locations; therefore, the proposed Project would not directly affect the level of intensity at which a seismic event or geologic hazard on an adjacent site is experienced. However, while development of the proposed Project, and more specifically change in land use from restaurant to assisted living and memory care, and future development in the City of

Newport Beach (City) may expose more persons to seismic hazards, compliance with all requirements and standards for seismic activity would reduce the potential impacts.

The Project and any other development projects would be required to comply with the applicable State and local agency grading manuals and ordinances. As with the Project, future development would also be required to have site-specific geotechnical investigations prepared to identify the geologic and seismic characteristics on a site and to provide recommendations for engineering design and construction to ensure the structural integrity of proposed development; these recommendations would be incorporated into project design. Compliance of individual projects with the recommendations of the applicable geotechnical investigation would prevent cumulatively significant hazards associated with seismic conditions, unstable soils, lateral spreading, liquefaction, soil collapse, expansive soil, soil erosion, and other geologic issues. Therefore, the Project's contribution to cumulative geology and soils impacts would be less than significant.

4.4.7 MITIGATION PROGRAM

Mitigation Measures

- **MM GEO-1** Site preparation and building design specifications shall follow the recommendations in the Geotechnical Evaluation prepared by Ninyo & Moore (dated December 2015, updated April 2016):
 - **Earthwork.** Earthwork shall be performed in accordance with the requirements of the applicable agencies and recommendations of the Geotechnical Evaluation.
 - Seismic Design Considerations. Design of the proposed improvements shall be performed in accordance with the requirements of governing jurisdictions and applicable seismic design criteria in the California Building Code (CBC) and the City's Building Code.
 - **Foundations.** Foundations shall be designed in accordance with structural considerations and the geotechnical recommendations in the Geotechnical Evaluation. Requirements of the governing jurisdictions, practices of the Structural Engineers Association of California, and applicable building codes shall also be considered in the design of the structures.
 - **Sidewalks.** Sidewalks shall be designed in accordance with agency standards.
 - **Corrosivity.** Due to the presence of corrosive soils in the Project area, corrosion protection for the Project shall be designed by a Corrosion Engineer.
 - **Concrete Placement.** Recommendations regarding the type of cement and concrete cover necessary for the site shall be implemented.
 - **Preliminary Pavement Design Recommendations.** Recommendations regarding preliminary pavement design shall be implemented.

- **Drainage.** Recommendations regarding adequate surface drainage shall be implemented.
- **Landscaping.** Recommendations regarding landscaping and drought-tolerant plants shall be implemented.

The construction specifications shall be reviewed by the City of Newport Beach Building Official prior to issuance of a grading permit.

4.4.8 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Direct and cumulative impacts to geology and soils associated with the Project would be less than significant with implementation of MM GEO-1. No significant unavoidable impacts would occur.

4.4.9 **REFERENCES**

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4.5 **GREENHOUSE GAS EMISSIONS**

This section addresses greenhouse gas (GHG) emissions anticipated from construction and operation of the proposed Project and its potential global climate change impacts. The Project's estimated construction and operational GHG emissions were calculated by using the California Emissions Estimator Model (CalEEMod, Version 2016.3.2); the inputs and data for the Project are included in Appendix B.

4.5.1 BACKGROUND

Global Climate Change and Greenhouse Gases

Climate change is a recorded change in the Earth's average weather measured by variables such as wind patterns, storms, precipitation, and temperature. Historical records show that global temperature changes have occurred naturally in the past, such as during previous ice ages. According to the National Aeronautics and Space Administration (NASA), the year 2017 ranks as Earth's second warmest year since 1880, second only to 2016 (NASA 2018). In a separate, independent analysis, scientists at the National Oceanic and Atmospheric Administration (NOAA) concluded that 2017 was the third-warmest year in their record. The minor difference in rankings is due to the different methods used by the two agencies to analyze global temperatures, although over the long-term the agencies' records remain in strong agreement. Both analyses show that the five warmest years on record all have taken place since 2010. The planet's average surface temperature has risen about 2 degrees Fahrenheit (a little more than 1 degree Celsius) during the last century or so, a change driven largely by increased carbon dioxide and other human-made emissions into the atmosphere. Last year was the third consecutive year in which global temperatures were more than 1.8 degrees Fahrenheit (1 degree Celsius) above late nineteenth-century levels. (NASA 2018).

The global atmospheric concentration of carbon dioxide (CO_2), measured at Mauna Loa, Hawaii, has increased from a pre-industrial (roughly 1750) value of about 280 parts per million (ppm) to a peak of 409.65 ppm in May 2017; the average concentration for the week beginning February 4, 2018 was 408.21 ppm (ESRL 2018).

Greenhouse Gases

GHGs are global pollutants and are therefore unlike criteria air pollutants such as ozone (O_3), particulate matter (PM10 and PM2.5), and toxic air contaminants (TACs), which are pollutants of regional and local concern (see Section 4.2, Air Quality, of this EIR). While pollutants with localized air quality effects have relatively short atmospheric lifetimes (generally on the order of a few days), GHGs have relatively long atmospheric lifetimes, ranging from one year to several thousand years. Long atmospheric lifetimes allow for GHGs to disperse around the globe. Therefore, GHG effects are global, as opposed to the local and/or regional air quality effects of criteria air pollutant and TAC emissions.

GHGs, as defined under California's Assembly Bill (AB) 32, include CO_2 , methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆.). GHGs vary widely in the power of their climatic effects; therefore, climate scientists have established a unit called global warming potential (GWP). The GWP of a gas is a measure of both

potency and lifespan in the atmosphere as compared to CO_2 . For example, as CH_4 and N_2O are approximately 25 and 298 times (respectively) more powerful than CO_2 in their ability to trap heat in the atmosphere, they have GWPs of 25 and 298, respectively (CO_2 has a GWP of 1). Carbon dioxide equivalent (CO_2e) is a quantity that enables all GHG emissions to be considered as a group despite their varying GWP. The GWP of each GHG is multiplied by the prevalence of that gas to produce CO_2e .

General Environmental Effects of Global Climate Change

Executive Order (EO) S-3-05 mandates the preparation of biennial science assessment reports on climate change impacts and adaptation options for California. EO S-13-08 directs the California Natural Resources Agency (CNRA) to develop a State Climate Adaptation Strategy and to provide State land use planning guidance related to sea level rise and other climate change impacts. Current reports resulting from these directed actions are the *Climate Action Team Report to the Governor and Legislature* and the *California Climate Adaptation Strategy* (CalEPA 2010; CNRA 2009). These studies report that global warming in California is anticipated to impact resources, including, but not limited to, those discussed below.

- **Public Health.** Many Californians currently experience the worst air quality in the nation, and climate change is expected to make matters worse. Higher temperatures would increase the frequency, duration, and intensity of conditions conducive to air pollution formation. If global background O₃ levels increase as predicted under some scenarios, it may become impossible to meet local air quality standards. Air quality could be further compromised by more frequent wildfires, which emit fine particulate matter that can travel long distances. Rising temperatures and more frequent heat waves would increase the risk of death from dehydration, heat stroke/exhaustion, heart attack, stroke, and respiratory distress. Climate change may also increase asthma rates and the spread of infectious diseases and their vectors, as well as challenge food and water supplies. Children, the elderly, people with chronic heart or lung disease, outdoor workers, people who exercise outdoors, and the economically disadvantaged would be particularly vulnerable to these changes. In addition, more frequent extreme weather events could also result in increased injuries and deaths from these phenomena.
- **Energy.** Increasing mean temperature and more frequent heat waves will drive up demand for cooling in summer; this new energy demand will only be partially offset by decreased demand for heating in winter. Hydropower, which currently provides 15 percent of in-state generation, would be threatened by declining snowpack, which serves as a natural reservoir for hydropower generation in the spring and summer. Winter storms, earlier snowmelt, and greater runoff may combine to cause flooding, which could, in turn, damage transmission lines and cause power outages.
- Water Resources. Rising temperatures, less precipitation, and more precipitation falling as rain instead of snow could severely diminish snowpack. Because the Sierra Nevada snowpack provides most of California's available water, this potential loss would increase the risk of summer water shortages and would hamper water distribution and hydropower generation. The diminished snowpack would also nearly eliminate all skiing and other snow-related recreation. Rising sea levels would push salt water into California's estuaries, wetlands, and groundwater aquifers, threatening the water quality and reliability in the Sacramento/San Joaquin River Delta—a major California fresh water supply. Extreme precipitation and flooding could also damage water quality by

creating sudden increases in runoff. Moreover, warming would increase evapotranspiration rates from plants, soil, and open water surfaces, which would result in greater demand for irrigation. Overall, climate change would reduce California's water supplies even as its growing population requires additional resources.

- Sea Level and Flooding. Sea level at California's coasts is expected to rise by 11 to 18 inches above 2000 levels by 2050 and by 23 to 55 inches by 2100. If realized, these increases would create more frequent and higher storm surges; would erode some coastal areas; and would increase pressure on existing levees. These increases would create a greater risk of flooding in previously untouched inland areas. Consequently, continued development in vulnerable coastal areas would put more people and infrastructure at risk.
- **Agriculture.** Although higher CO₂ levels can stimulate plant production and increase plant water-use efficiency, in the long-term, climate change would reduce the quantity and quality of agricultural products Statewide. As temperatures rise, farmers will face greater water demand for crops and a less reliable water supply, as well as increased competition from urban water users. Sea level rise may cause saltwater intrusion in the Delta region, making it difficult to raise certain crops. Rising temperatures will likely aggravate O₃ pollution, interfering with plant growth and making plants more susceptible to disease and pests. In addition, warming would reduce the number of colder hours needed for fruit and nut production; would shift pest and weed ranges; would alter crop-pollinator timing; and would increase the frequency of droughts, heat waves, and floods. Higher average temperatures would also increase mortality and decrease productivity in livestock.
- **Forestry.** California timber production has declined over the past few decades due, in part, to warming and increased wildfires. While further warming may increase production for some species in some locations, climate change is expected to reduce overall forest growth. Increasing average temperatures and drought frequency would result in more wildfires and greater burned areas, while less frequent and more intense rainfall would increase soil erosion and landslides. Higher temperatures and less water would force many tree species to shift their ranges; those that run out of livable habitat may die out. Pests, diseases, and invasive species may also colonize new areas, further challenging forest health and biodiversity.
- **Ecosystems.** Rising average temperatures would subject plants and animals to greater thermal stress, causing some species to adapt or shift their ranges, while others may face extinction. Invasive species may also shift their ranges, threatening native species. Changing temperatures would alter the timing of plant flowering and insect emergence, damaging species' abilities to reproduce. Changing precipitation patterns would impact aquatic and riparian ecosystems by reducing snow pack, stream flow, and groundwater, while increasing the frequency of droughts, floods, and wildfires. As sea levels rise, some coastal habitats may be permanently flooded or eroded, and saltwater intrusion into freshwater resources may threaten terrestrial species. Changes in ocean circulation and temperature, ocean acidification, and increased runoff and sedimentation would threaten pelagic species. In sum, continued global warming would alter natural ecosystems and threaten California's biological diversity.

4.5.2 REGULATORY SETTING

<u>Federal</u>

U.S. Environmental Protection Agency Findings

On December 7, 2009, the U.S. Environmental Protection Agency (USEPA) Administrator signed two distinct findings regarding GHGs under Section 202(a) of the Clean Air Act (CAA). The findings state:

- Endangerment Finding: The Administrator finds that the current and projected concentrations of the six key well-mixed greenhouse gases—carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆)—in the atmosphere threaten the public health and welfare of current and future generations.
- **Cause or Contribute Finding:** The Administrator finds that the combined emissions of these well-mixed greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution which threatens public health and welfare.

These findings do not themselves impose any requirements on industry or other entities. However, this action is a prerequisite to finalizing the USEPA's proposed GHG emission standards for light-duty vehicles (USEPA 2018). A light-duty vehicle is defined any motor vehicle with a gross vehicle weight of 6,000 pounds or less (CARB 2018a).

Light-Duty Vehicle Greenhouse Gas Emissions Standards and Corporate Average Fuel Economy Standards

The USEPA and the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) have been working together on developing a National Program of regulations to reduce GHG emissions and to improve the fuel economy of light-duty vehicles. On April 1, 2010, the USEPA and NHTSA announced a joint Final Rulemaking establishing standards for 2012 through 2016 model year vehicles. This was followed up on October 15, 2012, when the agencies issued a Final Rulemaking with standards for model years 2017 through 2025. The rules require these vehicles to meet an estimated combined average emissions level of 295 grams of CO₂ per mile by 2012, decreasing to 250 grams per mile by 2016, and finally to an average industry fleet-wide level of 163 grams per mile in model year 2025. The 2016 standard is equivalent to 35.5 miles per gallon (mpg) and the 2025 standard is equivalent to 54.5 mpg if the levels were achieved solely through improvements in fuel efficiency. The agencies expect, however, that a portion of these improvements will occur due to air conditioning technology improvements (i.e., they will leak less) and due to the use of alternative refrigerants, which would not contribute to fuel economy. These standards would cut GHG emissions by an estimated 2 billion metric tons and 4 billion barrels of oil over the lifetime of the vehicles sold under the program (model years 2017–2025). The combined USEPA GHG standards and NHTSA Corporate Average Fuel Economy (CAFE) standards resolve previously conflicting requirements under both federal programs and the standards of the State of California and other states that have adopted the California standards (USEPA 2010; USEPA and NHTSA 2012).

However, it should be noted that the USEPA is currently (April 2018) proposing a rollback of the current fuel efficiency standards.

<u>State</u>

The California Air Resources Board (CARB), a part of the California Environmental Protection Agency (CalEPA), is responsible for the coordination and administration of both federal and State air pollution control programs in California. There are numerous State plans, policies, regulations, and laws related to GHGs and global climate change. Following is a brief discussion of the plans, policies, and regulations most relevant to the Project.

Clean Car Standards (Assembly Bill 1493)

AB 1493, adopted September 2002, also known as Pavley I, requires the development and adoption of regulations to achieve the maximum feasible reduction of GHGs emitted by noncommercial passenger vehicles, light-duty trucks, and other vehicles used primarily for personal transportation in the State. Although setting emissions standards on automobiles is solely the responsibility of the USEPA, the CAA allows California to set State-specific emission standards on automobiles if the State first obtains a waiver from the USEPA. The USEPA granted California that waiver on July 1, 2009. The emission standards have become increasingly more stringent through the 2016 model year (CARB 2009). As described above, California and federal standard for continuing reductions through 2025 were adopted in 2012.

Executive Order S-3-05

On June 1, 2005, Governor Arnold Schwarzenegger signed EO S-3-05, which proclaims that California is vulnerable to the impacts of climate change. It declares that increased temperatures could reduce snowpack in the Sierra Nevada Mountains; could further exacerbate California's air quality problems; and could potentially cause a rise in sea levels. In an effort to avoid or reduce the impacts of climate change, EO S-3-05 establishes a goal of a reduction in GHG emissions to the year 2000 level by 2010, to year 1990 levels by 2020, and to 80 percent below 1990 levels by 2050.

The California Global Warming Solutions Act of 2006 (Assembly Bill 32)

In furtherance of the goals established in EO S-3-05, the California Legislature adopted the public policy position that global warming is "a serious threat to the economic well-being, public health, natural resources, and the environment of California" (*California Health and Safety Code,* Section 38501). Further, the State Legislature determined that:

the potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra Nevada snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious disease, asthma, and other human health-related problems. The State Legislature also stated that:

Global warming will have detrimental effects on some of California's largest industries, including agriculture, wine, tourism, skiing, recreational and commercial fishing, and forestry. It will also increase the strain on electricity supplies necessary to meet the demand for summer air-conditioning in the hottest parts of the State (*California Health and Safety Code*, Section 38501).

These public policy statements became law with the enactment of AB 32, the California Global Warming Solutions Act of 2006, signed by Governor Arnold Schwarzenegger in September 2006. AB 32 is now codified as Sections 38500 through 38599 of the *California Health and Safety Code*.

AB 32 requires that Statewide GHG emissions be reduced to 1990 levels by 2020. This reduction is to be accomplished through an enforceable Statewide cap on GHG emissions that was phased in starting in 2012. AB 32 directs CARB to establish this Statewide cap based on 1990 GHG emissions levels; to disclose how it arrived at the cap; to institute a schedule to meet the emissions cap; and to develop tracking, reporting, and enforcement mechanisms. Emissions reductions under AB 32 are to include carbon sequestration projects and best management practices that are technologically feasible and cost effective.

CARB has been assigned to carry out and develop the programs and requirements necessary to achieve the goals of AB 32. Under AB 32, CARB is also responsible for adopting regulations requiring the reporting and verification of Statewide GHG emissions to monitor and enforce compliance with the established standards. AB 32 allows CARB to adopt market-based compliance mechanisms to meet the specified requirements. Finally, CARB is ultimately responsible for monitoring compliance and enforcing any rule, regulation, order, emission limitation, emission reduction measure, or market-based compliance mechanism adopted.

The first action under AB 32 resulted in the adoption of a report listing early-action GHG emission reduction measures on June 21, 2007. The early actions include three specific GHG control rules. On October 25, 2007, CARB approved an additional six early-action GHG reduction measures under AB 32. The three original early-action regulations meeting the narrow legal definition of "discrete early action GHG reduction measures" consist of the following:

- 1. A low-carbon fuel standard to reduce the "carbon intensity" of California fuels
- 2. Reduction of refrigerant losses from motor vehicle air conditioning system maintenance to restrict the sale of "do-it-yourself" automotive refrigerants
- 3. Increased methane capture from landfills to require broader use of state-of-the-art methane capture technologies

The additional six early-action regulations, which were also considered "discrete early action GHG reduction measures", consist of the following:

- 1. Reduction of aerodynamic drag, and thereby fuel consumption, from existing trucks and trailers through retrofit technology
- 2. Reduction of auxiliary engine emissions of docked ships by requiring port electrification
- 3. Reduction of PFC emissions from the semiconductor industry

- 4. Reduction of propellants in consumer products (e.g., aerosols, tire inflators, and dust removal products)
- 5. Requirements that all tune-up, smog check, and oil change mechanics ensure proper tire inflation as part of overall service in order to maintain fuel efficiency
- 6. Restriction on the use of SF_6 from non-electricity sectors if viable alternatives are available

As required under AB 32, on December 6, 2007, CARB approved the 1990 GHG emissions inventory, thereby establishing the emissions limit for 2020. The 2020 emissions limit was set at 427 million metric tons (MMT) of CO₂e. In addition to the 1990 emissions inventory, CARB also adopted regulations requiring mandatory reporting of GHGs for the large facilities that account for 94 percent of GHG emissions from industrial and commercial stationary sources in California. About 800 separate sources fall under the new reporting rules and include electricity-generating facilities, electricity retail providers and power marketers, oil refineries, hydrogen plants, cement plants, cogeneration facilities, and other industrial sources that emit CO₂ in excess of specified thresholds. As discussed in more detail below, CARB has also adopted a GHG scoping plan and an update to the same.

Executive Order S-1-07

Issued on January 18, 2007, EO S-1-07 sets a declining Low Carbon Fuel Standard for GHG emissions measured in CO₂e grams per unit of fuel energy sold in California. The target of the Low Carbon Fuel Standard is to reduce the carbon intensity of California passenger vehicle fuels by at least 10 percent by 2020. The carbon intensity measures the amount of GHG emissions in the life cycle of a fuel, including extraction/feedstock production, processing, transportation, and final consumption, per unit of energy delivered. CARB adopted the implementing regulation in April 2009. The regulation is expected to increase the production of biofuels, including those from alternative sources, such as algae, wood, and agricultural waste. In addition, the Low Carbon Fuel Standard would drive the availability of plug-in hybrid, battery electric, and fuel-cell power motor vehicles. The Low Carbon Fuel Standard is anticipated to lead to the replacement of 20 percent of the fuel used in motor vehicles with alternative fuels by 2020.

Senate Bill 97 and Amendments to the California Environmental Quality Act Guidelines

SB 97 directed the CNRA to adopt amendments to the California Environmental Quality Act (CEQA) Guidelines that require evaluation of GHG emissions or the effects of GHG emissions by January 1, 2010. The CNRA has done so, and the amendments to the State CEQA Guidelines, in a new Section 15064.4, entitled Determining the Significance of Impacts from greenhouse gas emissions, provide that:

a) The determination of the significance of greenhouse gas emissions calls for a careful judgment by the lead agency consistent with the provisions in Section 15064. A lead agency should make a good-faith effort, based on available information, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project. A lead agency shall have discretion to determine, in the context of a particular project, whether to:

- 1) Use a model or methodology to quantify greenhouse gas emissions resulting from a project, and which model or methodology to use. The lead agency has discretion to select the model it considers most appropriate provided it supports its decision with substantial evidence. The lead agency should explain the limitations of the particular model or methodology selected for use; or
- 2) Rely on a qualitative analysis or performance-based standards.
- b) A lead agency should consider the following factors, among others, when assessing the significance of impacts from greenhouse gas emissions on the environment:
 - 1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;
 - 2) Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project;
 - 3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such requirements must be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

The guideline amendments also add a new Section 15126.4(c), Mitigation Measures Related to Greenhouse Gas Emissions.

The amended guidelines establish two new guidance questions regarding GHG emissions in the environmental checklist set forth in Appendix G of the State CEQA Guidelines:

- Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?
- Would the project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The adopted amendments do not establish a GHG emission threshold, instead allowing a lead agency to develop, adopt, and apply its own thresholds of significance or those developed by other agencies or experts. The CNRA also acknowledges that a lead agency may consider compliance with regulations or requirements implementing AB 32 in determining the significance of a project's GHG emissions Generally, this State CEQA Guidelines section requires lead agencies to consider feasible means—supported by substantial evidence and subject to monitoring or reporting—of mitigating the significant effects of GHG emissions. Potential measures to mitigate the significant effects of GHG emissions are identified, including examples such as those outlined in Appendix F, Energy Conservation, of the State CEQA Guidelines.

California Air Resources Board Climate Change Scoping Plan

In 2008, CARB approved a Climate Change Scoping Plan as required by AB 32. The Climate Change Scoping Plan proposes a "comprehensive set of actions designed to reduce overall carbon GHG emissions in California, improve our environment, reduce our dependence on oil, diversify our energy sources, save energy, create new jobs, and enhance public health" (CARB 2008). The Climate Change Scoping Plan has a range of GHG reduction actions that include direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions, market-based mechanisms such as a cap-and-trade system, and an AB 32 implementation regulation to fund the program.

The Climate Change Scoping Plan calls for a "coordinated set of solutions" to address all major categories of GHG emissions. Transportation emissions will be addressed through a combination of higher standards for vehicle fuel economy; implementation of the Low Carbon Fuel Standard; and greater consideration for reducing trip length and generation through land use planning and transit-oriented development. A California cap-and-trade program that links with other Western Climate Initiative partner programs would create a regional market system and caps sources contributing 85 percent of California's GHG emissions. Buildings, land use, and industrial operations will be encouraged and, sometimes, required to use energy more efficiently. Utility energy supplies will change to include at least 33 percent of renewable energy sources in the energy mix through implementation of the Renewables Portfolio Standard (RPS). This will be complemented with emphasis on local generation, including rooftop photovoltaics and solar hot water installations. Additionally, the Climate Change Scoping Plan emphasizes opportunities for households and businesses to save energy and money by increasing energy efficiency. It indicates that substantial savings of electricity and natural gas will be accomplished by "improving energy efficiency by 25 percent" (CARB 2008).

In the 2008 Scoping Plan, CARB also developed a forecast of 2020 emissions in a business-asusual scenario (2020 BAU), which is an estimate of the emissions expected to occur in the year 2020 if none of the foreseeable measures included in the Scoping Plan were implemented. This target was 596 million metric tons of carbon dioxide equivalent (MMTCO₂e). The 2020 GHG emissions target of 427 MMTCO₂e required the reduction of 169 MMTCO₂e, or about 28.5 percent from the 2020 BAU forecast.

The Climate Change Scoping Plan identifies a number of specific issues relevant to the Project, including those listed below (CARB 2008).

- The potential of using the green building framework as a mechanism that could enable GHG emissions reductions in other sectors (e.g., electricity, natural gas), noting that green buildings "exceed minimum energy efficiency standards, decrease consumption of potable water, reduce solid waste during construction and operation, and incorporate sustainable materials. Combined, these measures can also contribute to healthy indoor air quality, protect human health, and minimize impacts to the environment".
- The importance of increasing the supply and utilization of green power and lower carbon intensity energy sources. Broadly defined, this includes implementation of the utility-based RPS, which requires that, by 2017, 20 percent of the available energy supplies are from renewable energy sources, such as use of solar hot water heating;

support for the Million Solar Roofs Program; and increased use of combined heat and power.

- The importance of supporting the Department of Water Resources' work to implement the Governor's objective to reduce per capita water use by 20 percent by 2020. Specific measures to achieve this goal include water use efficiency, water recycling, and reuse of urban runoff. The Climate Change Scoping Plan notes that water use requires significant amounts of energy, including approximately 1/5 of Statewide electricity.
- Encouragement of local governments to set quantifiable emissions reduction targets for their jurisdictions and use their influence and authority to encourage reductions in emissions caused by energy use, waste and recycling, water and wastewater systems, transportation, and community design.

First Update to the Climate Change Scoping Plan

In 2014, CARB approved the First Update to the Climate Change Scoping Plan (First Update or 2013 Update) (CARB 2014). The First Update identifies opportunities to leverage existing and new funds to further drive GHG emission reductions through strategic planning and targeted low carbon investments; defines CARB's climate change priorities for the next five years; and sets the groundwork to reach California's long-term climate goals set forth in EO S-3-05 (CARB 2018b).

The First Update states that California is on track to meet the near-term 2020 GHG limit and is well-positioned to maintain and continue reductions beyond 2020 as required by AB 32. The set of actions the State is taking is driving down GHG emissions and is moving the State steadily in the direction of a cleaner energy economy.

The First Update identifies nine sectors and corresponding sector-specific actions. The sectors are energy; transportation, land use, fuels, and infrastructure; agriculture; water; waste management; natural and working lands; short-lived climate pollutants; green buildings; and cap-and-trade regulation.

As previously discussed, in the 2008 Scoping Plan, CARB established the 1990 Statewide GHG emissions level, which is also the 2020 GHG emissions target at 427 MMTCO₂e and forecasted 2020 BAU emissions to be 596 MMTCO₂e. Based on new information and analysis, the First Update recalculated the 2020 BAU condition at 509 MMTCO₂e and the 1990 emissions level at 431 MMTCO₂e.¹ Thus, under the First Update, achieving the recalculated 1990 emissions level of 431 MMTCO₂e will require a reduction of 78 MMTCO₂e or an approximately 15.3 percent reduction (compared to a 28.5 percent reduction as set forth in the 2008 Scoping Plan). Table 4.5-1 shows the expected reductions to meet the 2020 emissions target.

¹ In 2013, CARB revised GHG calculations to use the GWP values from the Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report (AR4). Previous calculations used the GWPs from the second assessment report (SAR).

Category	2020 (MMTCO2e)			
AB 32 Baseline 2020 Forecast Emissions (2020 BAU)	509			
Expected Reductions from Sector-Based Measures				
Energy	25			
Transportation	23			
High-GWP	5			
Waste	2			
Cap-and-Trade Reductions	23*			
2020 Limit	431			
MMTCO ₂ e: million metric tons of carbon dioxide equivalent; AB: Assembly Bill; 2020 BAU: 2020 business-as-usual; GWP: global warming potential.				
* Cap-and-Trade emission reductions depend on the emission forecast				
Source: CARB, 2014.				

TABLE 4.5-1MEETING THE 2020 EMISSIONS TARGET

As shown in Table 4.5-1, the Cap-and-Trade reduction is flexible. The estimated emission reductions attributed to the Cap-and-Trade Program depend on the emissions forecast. For example, if the emissions forecast increases, the reductions associated with the Cap-and-Trade Program will increase.

Scoping Plan Update to Reflect 2030 Target

On April 29, 2015, Governor Brown issued EO B-30-15 identifying a goal of establishing a midterm GHG reduction target for California of 40 percent below 1990 levels by 2030. CARB was directed to update the AB 32 Scoping Plan to reflect the 2030 target, and therefore, is moving forward with the update process. A kick-off public workshop in furtherance of the goal identified in EO B-30-15 was held in October 2015. On January 20, 2017, CARB completed a draft 2030 Target Scoping Plan Update for which an extended public comment process was scheduled for completion in April 2016 (CARB 2016). The Final Proposed 2017 Scoping Plan was published in November 2017, and the third public Board Meeting for the Proposed Scoping Plan was held on December 14, 2017, where the Final Proposed 2017 Climate Change Scoping Plan (2017 Scoping Plan) was adopted.

The 2017 Scoping Plan includes the new statutory GHG reduction requirements that were not included in the current Scoping Plan, including Senate Bill 32 (discussed below) which sets a 40 percent GHG reduction target below 1990 GHG levels to be achieved by 2030, SB 350 (which sets a 50 percent reduction in GHG emissions from electricity generation and other energy uses in existing structures, and a 50 percent renewable energy portfolio requirement), and SB 650 (which establishes priority GHG reduction targets for designated types of greenhouse gases such as methane) (CARB 2017). The key elements of the 2017 Scoping Plan proposal call for further GHG reductions from the refinery sector specifically, further reductions from other stationary sources through either a renewed and expanded cap and trade or carbon tax program, further reductions from other sectors such as transportation technologies and services, water and solid waste conservation and management, and land uses in both open space and urban areas.

Senate Bill 375

Signed September 30, 2008, SB 375 provides for a new planning process to coordinate land use planning and Regional Transportation Plans (RTPs) and funding priorities in order to help California meet the GHG reduction goals established in AB 32. SB 375 requires Metropolitan Planning Organizations (MPOs), including the Southern California Association of Governments (SCAG), to incorporate a Sustainable Communities Strategy (SCS) in their RTPs that will achieve GHG emission reduction targets set by CARB. There are two mutually important facets to SB 375: reducing vehicle miles traveled (VMT) and encouraging more compact, complete, and efficient communities for the future. SB 375 also includes provisions for exemptions from or streamlined CEQA review for projects classified as transit priority projects (SCAG 2012).

On September 23, 2010, CARB adopted most of the initial SB 375 targets for the regional MPOs, including the 2020 target for SCAG, the designated MPO for the Project site. On February 24, 2011, CARB adopted the 2035 target for SCAG. The targets are an 8 percent reduction in GHG emissions from automobiles and light trucks per capita by 2020 and a 13 percent reduction by 2035. In April 2016, SCAG updated the SCS with targets of an 8 percent reduction in GHG emissions from automobiles and light trucks per capita by 2020 and an 18 percent reduction by 2035. These targets were accepted by CARB on June 28, 2016 (CARB 2018c). See additional discussion of the SCAG plans under Regional Regulations.

Advanced Clean Cars

In January 2012, CARB approved the Advanced Clean Cars (ACC) program, an emissions-control program for model years 2017 through 2025. The program combines the control of smog, soot, and GHGs with requirements for greater numbers of zero-emission vehicles. By 2025, when the rules will be fully implemented, the new automobiles will emit 34 percent fewer global warming gases and 75 percent fewer smog-forming emissions (CARB 2015). The program also requires car manufacturers to offer for sale an increasing number of zero-emission vehicles (ZEVs) each year, including battery electric, fuel cell, and plug-in hybrid electric vehicles.

In December 2012, CARB adopted regulations allowing car manufacturers to comply with California's GHG emissions requirements for model years 2017 through 2025 through compliance with the USEPA GHG requirements for those same model years (CARB 2014b).

Executive Order B-30-15

On April 29, 2015, Governor Brown signed EO B-30-15, which establishes a goal of "[a] new interim statewide greenhouse gas emission reduction target to reduce greenhouse gas emissions to 40 percent below 1990 levels by 2030 . . . in order to ensure California meets its target of reducing greenhouse gas emissions to 80 percent below 1990 levels by 2050" (COOG 2015). As noted above, EO B-30-15 also directs CARB to update the *Climate Change Scoping Plan* to express the 2030 target in terms of million metric tons of carbon dioxide equivalent.

Senate Bill 350

SB 350, signed October 7, 2015, is the Clean Energy and Pollution Reduction Act of 2015. SB 350 implements some of the goals of EO B-30-15 and expands on the RPS established by Senate Bill X1 2 signed into law on April 12, 2011. The objectives of SB 350 are as follows:

- (1) To increase from 33 percent to 50 percent, the procurement of our electricity from renewable sources.
- (2) To double the energy efficiency savings in electricity and natural gas final end uses of retail customers through energy efficiency and conservation (California Legislative Information 2015).

The text of SB 350 sets a December 31, 2030, target for 50 percent of electricity to be generated from renewable sources.

Senate Bill (SB) 32

Senate Bill (SB) 32, signed into law on September 8, 2016, requires CARB to ensure that statewide greenhouse gas emissions are reduced to at least 40 percent below the 1990 statewide greenhouse gas level no later than December 31, 2030 (California Legislative Information 2015). Per SB 32, CARB is to achieve this 2030 GHG reduction target by "adopting rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions[.]" See Health & Safety Code Section 38566. The new SB 32 GHG reduction mandate is the same as the GHG reduction included in Executive Order B-30-15 of 40 percent below 1990 levels by 2030. As discussed above, CARB the 2017 Scoping Plan was adopted in December of 2017, which builds upon and leverages the framework for achieving California's GHG reduction mandate established in the initial Scoping Plan (2008 Scoping Plan) and its first update (2013 Scoping Plan Update), and to define the state's climate change priorities for the next 12 years and beyond.

Energy Efficiency Standards for Residential and Nonresidential Buildings

The Energy Efficiency Standards for Residential and Nonresidential Buildings (Title 24, Part 6 of the California Code of Regulations [CCR]) were established in 1978 in response to a legislative mandate to reduce California's energy consumption. The CEC adopted the 2008 changes to the Building Energy Efficiency Standards in order to (1) "Provide California with an adequate, reasonably-priced, and environmentally-sound supply of energy" and (2) "Respond to Assembly Bill 32, the Global Warming Solutions Act of 2006, which mandates that California must reduce its greenhouse gas emissions to 1990 levels by 2020". The current applicable standards are the 2016 Standards, effective January 1, 2017 (CBSC 2015). The 2016 code is at least 28 percent more efficient for than the 2013 Code for single family homes (CEC 2018). The requirements of the energy efficiency standards result in the reduction of natural gas and electricity consumption. Both natural gas use and electricity generation result in GHG emissions.

California Green Building Standards Code

The 2016 California Green Building Standards Code (24 CCR, Part 11), also known as the CALGreen code, contains mandatory requirements and voluntary measures for new residential

and nonresidential buildings (including buildings for retail, office, public schools and hospitals) throughout California (CBSC 2016). The development of the CALGreen Code is intended to improve public health, safety, and general welfare by enhancing the design and construction of buildings through the following construction practices: (1) planning and design; (2) energy efficiency; (3) water efficiency and conservation; (4) material conservation and resource efficiency; and (5) environmental quality (CBSC 2016). In short, the code is established to reduce construction waste; make buildings more efficient in the use of materials and energy; and reduce environmental impact during and after construction.

The CALGreen Code contains requirements for construction site selection, storm water control during construction, construction waste reduction, indoor water use reduction, material selection, natural resource conservation, site irrigation conservation, and more. The code provides for design options allowing the designer to determine how best to achieve compliance for a given site or building condition. The code also requires building commissioning, which is a process for the verification that all building systems, such as heating and cooling equipment and lighting systems, are functioning at their maximum efficiency.

The CALGreen Code provides standards for bicycle parking, carpool/vanpool/electric vehicle spaces, light and glare reduction, grading and paving, energy efficient appliances, renewable energy, graywater systems, water efficient plumbing fixtures, recycling and recycled materials, pollutant controls (including moisture control and indoor air quality), acoustical controls, storm water management, building design, insulation, flooring, and framing, among others.

California Air Pollution Control Officers Association

The California Air Pollution Control Officers Association (CAPCOA) is the association of Air Pollution Control Officers representing all 35 local air quality agencies throughout California. CAPCOA is not a regulatory body but has been an active organization in providing guidance in addressing the CEQA significance of GHG emissions and climate change as well as other air quality issues.

The August 2010 CAPCOA publication entitled *Quantifying Greenhouse Gas Mitigation Measures, A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures* provides guidance on the quantification of project-level mitigation of GHGs associated with land use, transportation, energy use, and other related project areas (CAPCOA 2010). The guidance includes detailed procedures about the approaches to assessing and calculating the GHG emissions reductions associated with project design features and mitigation measures. This publication's methods are used in the CalEEMod computer model that is used to calculate GHG emissions.

<u>Regional</u>

Southern California Association of Governments

As previously discussed, SB 375 specifically required MPOs, including SCAG, to incorporate an SCS in their RTPs that will achieve GHG emission reduction targets set by CARB. SCAG's first-ever SCS is included in its *2012–2035 Regional Transportation Plan/Sustainable Communities Strategy* (RTP/SCS). The document was adopted by SCAG in April 2012. The goals and policies of the RTP/SCS that reduce VMT focus on transportation and land use planning that include building

infill projects, locating residents closer to where they work and play and designing communities so there is access to high quality transit service. The 2012–2035 RTP/SCS was expected to reduce per capita transportation emissions by 9 percent by 2020 and by 16 percent by 2035. In June 2012, CARB accepted SCAG's determination that the Final RTP/SCS would meet the region's GHG reduction target.

SCAG's SCS is now included in its 2016–2040 RTP/SCS. The document was adopted by SCAG on April 7, 2016. The 2016–2040 RTP/SCS is expected to reduce per capita transportation emissions by 8 percent by 2020 and by 18 percent by 2035 (SCAG 2016).

South Coast Air Quality Management District

The Project site lies within the boundaries of the South Coast Air Quality Management District (SCAQMD). The SCAQMD is bound by the Ventura County/Los Angeles County border to the northwest, the Mojave Desert Air Basin to the north, the Riverside County border to the east, and the San Diego County-Riverside County border to the south.

The portion of the Project site under the jurisdiction of the SCAQMD lies within the South Coast Air Basin (SoCAB). The mission of the SCAQMD is to clean the air and protect the health of all residents in the South Coast Air District through practical and innovative strategies. (SCAQMD 2018).

Beginning in April 2008, the SCAQMD convened a Working Group to provide guidance to local lead agencies on determining significance for GHG emissions in their CEQA documents. The Working Group was scheduled to meet once per month. On December 5, 2008, the SCAQMD Governing Board adopted its staff proposal for an interim CEQA GHG significance threshold of 10,000 metric tons of CO₂ equivalent per year (MTCO₂e/year) for industrial projects where the SCAQMD is the lead agency. The policy objective for establishing this significance threshold is to capture projects that represent approximately 90 percent of GHG emissions from new sources and to avoid Environmental Impact Report (EIR)-level analysis for relatively small impacts (SCAQMD 2008).

In September 2010, the Working Group proposed extending the 10,000 MTCO₂e/year screening threshold currently applicable to industrial projects where the SCAQMD is the lead agency, described above, to other lead agency industrial projects. For all other projects, SCAQMD staff proposed a multiple tier analysis to determine the appropriate threshold to be used. The draft proposal suggests the following tiers: Tier 1 is any applicable CEQA exemptions, Tier 2 is consistency with a GHG reduction plan, Tier 3 is a screening value or bright-line, Tier 4 is a performance-based standard, and Tier 5 is GHG mitigation offsets.² According to the presentation given at the September 28, 2010, Working Group meeting, SCAQMD staff proposed a Tier 3 draft threshold of 1,400 to 3,500 MTCO₂e/year depending on whether the project was commercial, mixed use, or residential. For the Tier 4 draft threshold, SCAQMD staff presented a percent emission reduction target option but did not provide any specific recommendation for a numerical target; instead, it referenced the San Joaquin Valley Air Pollution Control District (SJVAPCD) approach. The percent reduction target is based on consistency with AB 32 as it was based on the same numeric reductions calculated in the Scoping Plan to reach 1990 levels by

² A bright-line is a single value, applicable to all projects of one type, regardless of size. Thus, a bright-line is different from performance standards or efficiency standards that are generally based on a per-unit basis.

2020. The second Tier 4 option is to utilize efficiency targets: 2020 targets are 4.8 MTCO₂e/year per service population (SP) for project-level thresholds where SP is project residents plus employees and 6.6 MTCO₂e/year per SP for a plan-level threshold (SCAQMD 2010). Targets for 2035 are 3.0 MTCO₂e/year per SP for project-level thresholds and 4.1 MTCO₂e/year per SP for plan-level thresholds. The Working Group has not convened since the fall of 2010. As of the publication of this EIR, the proposal to establish a GHG threshold for developments like the Project has not been considered or approved for use by the SCAQMD Board, but the methodology has been used by lead agencies to evaluate GHG impacts under CEQA.

City of Newport Beach

The City of Newport Beach is "committed to meeting the state mandate to reduce greenhouse emissions and energy consumption by 15 percent from a 2010 baseline for municipal facilities of 20,842,759 kWh before 2020" (Newport Beach 2018). While this program primarily addresses municipal facilities, residents are encouraged to reduce and conserve energy with improved lighting, pool heating, and air conditioning.

In July 2013 the City published the Energy Action Plan (EAP), which was adopted on September 24, 2013 by Council Resolution No. 2013-68. "The goal of the EAP is to provide a roadmap that the City can follow on our path to becoming a more sustainable community and reducing our energy consumption and greenhouse gas emissions" (Newport Beach 2018b). The EAP includes energy audits from the City's major facilities and identifies more energy efficiency opportunities.

The City has published City of Newport Beach Green Building Guidelines for new and existing buildings, directed primarily at residential buildings (Newport Beach 2012).

4.5.3 METHODOLOGY

Project GHG emissions were calculated by using CalEEMod Version 2016.3.2 (CAPCOA 2016).. CalEEMod is a computer program accepted by the SCAQMD that can be used to estimate criteria pollutant and GHG emissions associated with land development projects in California. CalEEMod has separate databases for specific Counties and air districts. The Orange County database was used for the proposed Project. The model calculates emissions of CO₂, CH₄, and N₂O and combines these emissions to calculate CO₂e. For this analysis, the results are expressed in MTCO₂e/year. Please see Section 4.2, Air Quality, of this EIR for discussion of the CalEEMod inputs, adjustments, outputs, and other characteristics.

4.5.4 EXISTING CONDITIONS

The Project site is currently occupied by an 8,800 square foot (sf) sit-down restaurant, which would be demolished. Existing operations generate GHG emissions from a variety of sources such as the vehicle trips generated by the land use (mobile); electricity consumption; the disposal of solid wastes; the conveyance of water consumed; and treatment of wastewater. Existing GHG emissions were estimated using the CalEEMod model described above and are shown in Table 4.5-2.

Source	Emissions (MTCO2e/year)		
Area	<0.5		
Energy	200		
Mobile	498		
Waste	26		
Water	12		
Total	737		
MTCO2e/year: Metric tons of carbon dioxide equivalent per year			
Notes: Totals may not add due to rounding variances.			
Detailed calculations in Appendix A.			

TABLE 4.5-2EXISTING GREENHOUSE GAS EMISSIONS

4.5.5 THRESHOLDS OF SIGNIFICANCE

Because the magnitude of global GHG emissions is extremely large when compared with the emissions of typical development projects, it is accepted as very unlikely that any individual development project would have GHG emissions of a magnitude to directly impact global climate change. CAPCOA's CEQA and Climate Change Report states, "GHG impacts are exclusively cumulative impacts; there are no non-cumulative GHG emission impacts from a climate change perspective" (CAPCOA 2008). As noted by the CNRA, "Due to the global nature of GHG emissions and their potential effects, GHG emissions will typically be addressed in a cumulative impacts analysis" (CNRA 2009b). Therefore, the analysis presented in this section represents the cumulative impact analysis for the Project related to GHG emissions.

Specifically, Section 15064.4 of the State CEQA Guidelines discusses the significance evaluation for GHG emissions. Section 15064.4(a) recognizes that the "determination of the significance calls for a careful judgment" by the lead agency that is coupled with lead agency discretion to determine whether to (1) use a model or methodology and/or (2) rely on a qualitative analysis or performance-based thresholds. Section 15064.4(b) further states that a lead agency should consider the following nonexclusive list of factors when assessing the significance of GHG emissions:

- 1. The extent to which the project may increase or reduce GHG emissions as compared to the existing environmental setting;
- 2. The extent to which project emissions exceed a threshold of significance that the lead agency determines applies to the project; and
- 3. The extent to which the project complies with regulations or requirements adopted to implement a Statewide, regional, or local plan for the reduction or mitigation of GHG emissions.

In accordance with the Appendix G of the State CEQA Guidelines, the Project would result in significant GHG impacts if it would:

- **Threshold 4.5-1**Generate greenhouse gas emissions, either directly or indirectly, that may
have a significant impact on the environment.
- **Threshold 4.5-2** Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

As described in Section 4.5.2, Regulatory Setting, there are no adopted applicable quantitative federal, State, regional, or local CEQA significance criteria for GHG emissions for residential or commercial development projects. The SCAQMD has proposed, but not adopted a threshold of 3,000 MTCO₂e per year for non-industrial land use projects. In its recent decision, *Center for Biological Diversity v. Department of Fish and Wildlife*, 62 Cal. 4th 204 (2015) (*Newhall*), the Court evaluated the California Department of Fish and Wildlife's (CDFW's) analysis of potential impacts caused by GHG emissions contained in the EIR for the proposed land development called Newhall Ranch (California 2015a). As shown below, the proposed Harbor Pointe Senior Living Project would result in a net *reduction* in GHG emissions when compared with existing conditions.

4.5.6 IMPACT ANALYSIS

Relevant elements of the proposed Project related to greenhouse gas (GHG) emissions include:

- 1. Demolition of on-site buildings and pavements and excavation of soils resulting in the export of approximately 1,294 tons of demolition debris and 10,200 cubic yards of soils from the Project site;
- 2. Construction of 101 care units (120 beds);
- 3. Vehicle trips generated by the proposed Project; and
- 4. Energy use by Project occupants.

Threshold 4.5-1

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

Future Greenhouse Gas Emissions

Based on the proposed construction activities as described in Section 4.2, Air Quality, of this EIR, the principal source of GHG emissions would be internal combustion engines of construction equipment, on-road construction vehicles, and workers' commuting vehicles. GHG emissions from construction activities were obtained from the CalEEMod model described in Section 4.2, Air Quality, of this EIR. The estimated construction GHG emissions for the proposed Project would be 564 MTCO2e, as shown in Table 4.5-3.

TABLE 4.5-3ESTIMATED GREENHOUSE GAS EMISSIONS FROM CONSTRUCTION

Year	Emissions (MTCO ₂ e)				
2019 ^a	381				
2020	183				
Total	564				
MTCO ₂ e: metric tons of carbon dioxide equivalent					
 ^a Construction GHG emissions in 2019 were calculated assuming 16,900 cubic yards of export. The Project has been redesigned to require 10,200 cubic yards of export. Therefore, construction GHG emissions in 2019 would be less than shown in this table. 					
Notes: Totals may not add due to rounding variances.					
Detailed calculations in Appendix A.					

Operational GHG emissions would result primarily from vehicle trips; other sources include electricity and water consumption; natural gas for space and water heating; solid waste disposal; and gasoline-powered landscaping and maintenance equipment. Estimated gross and net Project operational GHG emissions are shown in Table 4.5-4.

Because impacts from construction activities occur over a relatively short period of time, they contribute a relatively small portion of the overall lifetime Project GHG emissions. In addition, GHG emission reduction measures for construction equipment are relatively limited. Consequently, SCAQMD staff recommends that construction emissions be amortized over a 30-year project lifetime, so that GHG reduction measures address construction GHG emissions as part of the operational GHG reduction strategies (SCAQMD 2008). Therefore, construction and operational emissions are combined by amortizing the construction GHG emission over an assumed 30-year Project lifetime, as shown in Table 4.5-4.

To quantify the net Project GHG emissions, the emissions attributed to the proposed Project would be reduced by the existing GHG emissions from existing sit-down restaurant operations. Estimated net Project GHG emissions are also shown in Table 4.5-4.

Source	Emissions (MTCO2e/yr)		
Area	3		
Energy	210		
Mobile	430		
Waste	28		
Water	16		
Proposed Project Total Operations	687		
Construction Amortized	19ª		
Total Proposed Project Emissions	706		
Minus: Existing emissions (Table 4.5-2)	737		
Net decrease in GHG emissions	31		
MTCO ₂ e/yr: Metric tons of carbon dioxide equivalent per year; GHG: greenhouse gas			
^a Total derived by dividing construction emissions (see Table 4.5-3) by 30.			
Note: Detailed calculations in Appendix A			

TABLE 4.5-4 ESTIMATED GROSS AND NET ANNUAL GREENHOUSE GAS EMISSIONS FROM PROJECT OPERATION

As previously discussed, the SCAQMD has proposed, but not adopted a threshold of $3,000 \text{ MTCO}_2\text{e}$ per year for non-industrial land use projects. As shown, the estimated gross GHG emissions from the proposed Project, $706 \text{ MTCO}_2\text{e}$ per year, would be substantially less than this suggested threshold. Further, there would be an overall reduction in GHG emissions with implementation of the proposed Project compared to continuing the existing operations of the sit-down restaurant.

The SCAQMD and the City of Newport Beach have not adopted standards for the purpose of reducing GHG emissions. As discussed previously, the State policy and standards adopted for the purpose of reducing GHG emissions that are applicable to the proposed Project are Executive Order S-3-05, AB 32, SB 375, and EO B-30-15. The quantitative goal of these regulations is to reduce GHG emissions to 1990 levels by 2020, to 40 percent below 1990 levels by 2030, and to 80 percent below 1990 levels by 2050. Statewide plans and regulations (such as GHG emissions standards for vehicles, the Low Carbon Fuel Standard, Cap-and-Trade, and renewable energy) are being implemented at the statewide level, and compliance at a project level is not addressed. Therefore, the proposed Project does not conflict with these plans and regulations.

State regulations, plans, and polices adopted for the purpose of reducing GHG emissions that are directly applicable to the proposed Project include California Title 24 Energy Efficiency Standards for Residential and Nonresidential Buildings and the Title 24 California Green Building Standards Code (CALGreen Code). The proposed Project would be developed in compliance with the requirements of these regulations.

The SCAG 2016-2040 RTP/SCS includes goals for reducing vehicle miles traveled and encourages the building of infill projects. The proposed Project is an infill project that would locate residents and staff close to community services and to OCTA bus service including east-west service on

Bristol Street and north-south service at Bristol Street and Jamboree Road. Thus, the proposed Project would be consistent with the SCAG 2016-2040 RTP/SCS.

The proposed Project would not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment, and would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. The impact would be less than significant, and no mitigation is required.

Impact Conclusion: Pursuant to Threshold 4.5-1, the Project would not generate GHG emissions, either directly or indirectly, resulting in a significant impact on the environment. No mitigation is required.

Threshold 4.5-2

Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The California Legislature adopted the public policy position that global warming is "a serious threat to the economic well-being, public health, natural resources, and the environment of California" (*California Health and Safety Code*, Section 38501). Further, the State Legislature has determined that:

The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra Nevada snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious disease, asthma, and other human health-related problems.

These public policy statements became law with the enactment of AB 32 in September 2006. AB 32 is now codified as Sections 38500–38599 of the *California Health and Safety Code*. Thus, the principal State plan and policy adopted for the purpose of reducing GHG emissions has been AB 32. However, as previously discussed, on September 8, 2016, SB 32 was signed into law. SB 32 identifies a new legislatively mandated target for GHG reductions. Unlike AB 32, implementing regulations and guidance specific to SB 32 does not yet exist. The quantitative goal of AB 32 is to reduce statewide GHG emissions to 1990 levels by the year 2020. Statewide plans and regulations, including but not limited to light duty vehicle GHG emissions standards, Advanced Clean Car standards. Low Carbon Fuel Standard, Renewable Portfolio Standards, Energy Efficiency Standards for Residential and Nonresidential Buildings, and California Green Building Standards, are being implemented. Further, as shown under Threshold 4.5-1, the proposed Project would not increase GHG emissions, and is estimated to result in a slight reduction in GHG emissions compared to the existing land use. Therefore, the proposed Project would not conflict with the goals of AB 32

SB 375 is being addressed at the State and regional level, and the principles of SB 375 are incorporated in the adopted SCAG 2016–2040 RTP/SCS. The proposed Project, as an infill project, is consistent with the compact and efficient land use development goals of SB 375 and the RTP/SCS and would not conflict with SB 375 or the policies proposed by SCAG. The goals of the 2016 RTP/SCS remain unchanged from those adopted in the 2012 RTP/SCS (SCAG 2016).

Greenhouse Gas Emissions

As discussed above, the principal overall State plan and policy adopted for the purpose of reducing GHG emissions is AB 32. The quantitative goal of AB 32 is to reduce GHG emissions to 1990 levels by 2020. CARB's Scoping Plan were developed to direct the State to reduce GHG emissions to 1990 levels. The measures from CARB's Scoping Plan are applicable to State, regional, and local agencies in the development of plans to reduce GHG emissions but are not applicable to each and every new general development project. However, strategies and measures have been implemented at the State level with the Title 24 Energy Efficiency Standards and the CalGreen Code and at the local level with the City's Energy Action Plan and Green Building Guidelines.

The 2016 Energy Efficiency Codes improvements for residential buildings include:

- High performance attics: extra insulation at the roof deck in addition to ceiling insulation will reduce the attic temperature by 35 degrees or more during hot summer days.
- High performance walls: builders can choose from many different assemblages to reduce heating and cooling needs in the home year-round.
- Lighting: installation of high quality lighting with controls that nearly halve the energy required for lights in new homes.
- Water heating: installation of tankless water heaters that reduce use by about 35 percent.

Implementation of these measures would result in additional GHG emissions reductions. In summary, the Project design and location, the fact that the Project must comply with the energy efficiency and CALGreen requirements established in the California Building Code would provide Project elements that are consistent with AB 32 and the implementing legislative and regulatory efforts.

CARB's Scoping Plan determined that implementing AB 32 in accordance with the Scoping Plan would put California on a path to meet the 2050 emissions goals of EO S-3-05 (CARB 2008). The 2017 Scoping Plan focuses on GHG reduction targets for 2030, as specified in EO B-30-15 and now SB 32, and the path to meet 2050 GHG emissions goals. As previously noted, SB 350 implements some of the 2030 targets in the areas of renewable energy and energy efficiency. At the time of preparation of this EIR, no plans, policies, or regulations that are specific to SB 32 and applicable to the Project have been adopted. Therefore, the Project would not conflict with EO S-3-05, EO B-30-15, SB 32, or SB 350.

It is concluded that the proposed Project would not conflict with applicable plans, policies, or regulations for the purpose of reducing the emissions of GHGs, including but not limited to AB 32, SB 32, SB 375, SCAG's 2016-2040 RTP/SCS, EO S-3-05, and EO B-30-15The impact would be less than significant; no mitigation is required.

Impact Conclusion: Pursuant to Threshold 4.5-2, the Project would be consistent with and would not conflict with regulations and policies adopted for the purpose of reducing GHG emissions. Impacts would be less than significant, and no additional mitigation is required.

4.5.7 CUMULATIVE IMPACTS

As discussed at the beginning of Section 4.5.5, it is accepted as very unlikely that any individual development project would have GHG emissions of a magnitude to directly impact global climate change. Therefore, the analysis presented in Section 4.5.6 represents the cumulative impact analysis for the Project related to GHG emissions. As concluded in Section 4.5.6, the Project would not generate GHG emissions, either directly or indirectly, resulting in a significant impact on the environment and the Project would be consistent with and would not conflict with regulations and policies adopted for the purpose of reducing GHG emissions.

4.5.8 MITIGATION PROGRAM

Mitigation Measures

The proposed Project would not result in significant impacts to GHG Emissions; therefore, no mitigation measures are required.

4.5.9 LEVEL OF SIGNIFICANCE AFTER MITIGATION

The analysis of Project GHG emissions shows that the Project would not generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment nor would the Project conflict with AB 32, SB 32, EO S-3-05, EO B-30-15 or other applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. Therefore, the Project's GHG emissions impacts would be less than significant and no mitigation is required.

4.5.10 REFERENCES

- California Air Resources Board (CARB). 2016 (May 12). iADAM: Air Quality Data Statistics. Sacramento, CA: CARB. http://www.arb.ca.gov/adam/.
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4.6 HAZARDS AND HAZARDOUS MATERIALS

This section analyzes the potential impacts of existing hazards that may adversely affect the Project and hazardous materials that may be introduced by the Project. Information presented in this section is derived from the Phase I Environmental Site Assessment, Center Pointe Senior Living, 101 Bayview Place, Newport Beach, California 92660 (Phase I ESA), prepared by Ninyo & Moore and included in Appendix D-1 of this EIR (Ninyo & Moore 2015). Federal Aviation Administration (FAA) determinations are included in Appendix D-2 (FAA 2018a and 2018b). Other referenced documents were also used in the preparation of this section.

Comment letters on the Notice of Preparation (NOP) submitted by the Department of Toxic Substances Control (DTSC) and the Airport Land Use Commission for Orange County (OCALUC) provided comments pertaining to hazardous materials and airport hazards, respectively.

4.6.1 **REGULATORY SETTING**

<u>Federal</u>

Federal Aviation Regulation Part 77

Part 77 of the Federal Aviation Regulations (FAR, Title 14 of the *Code of Federal Regulations*) addresses objects affecting navigable airspace. This regulation requires that the Federal Aviation Administration (FAA) be notified of any project that may encroach upon established navigable airspace. Once notified, the FAA is responsible for reviewing site and building plans to determine the effects of proposed construction on air navigation. Measures are then identified to ensure the continued safety of air navigation. The Project site is within the area subject to FAA notification and development review due to its proximity to the John Wayne Airport (JWA).

Hazardous Materials Transportation Act

The Hazardous Materials Transportation Act administered by the U.S. Department of Transportation governs the transport of hazardous materials, such as contaminated soil, asbestos, or lead-containing materials. The California Department of Transportation (Caltrans) implements the federal regulations published as Title 49 of the *Code of Federal Regulations* (CFR), which is known as the Hazardous Materials Transportation Act. The main purpose of the Hazardous Materials Transportation Act is to provide adequate protection against risks to life and property inherent in the transport of hazardous materials by improving the regulatory and enforcement authority of the Secretary of Transportation.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) was authorized by Congress in 1976. This law creates the framework for the proper management of hazardous and non-hazardous solid waste. The RCRA amended the Solid Waste Disposal Act of 1965 and has the following goals: (1) to protect human health and the environment from the potential hazards of waste disposal, (2) to conserve energy and natural resources, (3) to reduce the amount of waste generated, and (4) to ensure that wastes are managed in an environmentally sound manner.

Occupational Safety and Health Administration (OSHA)

The Occupational Safety and Health Act of 1970 (OSH Act) was passed to ensure that employers are responsible for providing a safe and healthful workplace. The Occupational Safety and Health Administration's (OSHA's) mission is to assure safe and healthful workplaces by setting and enforcing standards and by providing training, outreach, education, and assistance. Employers must comply with all applicable OSHA standards. Employers must also comply with the General Duty Clause of the OSH Act, which requires employers to keep their workplace free of serious recognized hazards. OSHA standards are listed in Title 29 CFR Part 1910.

<u>State</u>

California Hazardous Waste Control Act

The California Hazardous Waste Control Act (HWCA), as found in the *California Health and Safety Code* (see Division 20, Chapter 6.5, Article 2, Section 25100, et seq.) authorizes the California State Department of Toxic Substances Control (DTSC) and local Certified Unified Program Agencies (CUPA) to regulate facilities that generate or treat hazardous waste. The HWCA authorizes CUPAs to perform the following actions:

- Conduct inspections of any factory, plant, construction site, waste disposal site, transfer station, establishment, or any other place or environment where hazardous wastes are stored, handled, processed, disposed of, or being treated to recover resources
- Maintain records of compliance with the Hazardous Waste Control Act
- Require hazardous waste generators to pay inspection and administration fees to cover the costs of administering the provisions in the HWCA. Fees may include but shall not be limited to the costs of inspection, document development and processing, recordkeeping, enforcement activities, and informational materials development and distribution.
- Issue authorization for on-site treatment of hazardous waste to persons eligible to operate pursuant to permit-by-rule, conditional authorization, or conditional exemption
- Enforce against violations of the HWCA

Certified Unified Program Agency

In 1993, Senate Bill 1082 created the CUPA program to foster effective partnerships between local, State, and federal agencies. The Environmental Health Division was designated as the CUPA for the County of Orange by the State Secretary for Environmental Protection on January 1, 1997. The CUPA is the local administrative agency that coordinates the regulation

of hazardous materials and hazardous wastes in Orange County through the following six programs:

- Hazardous Materials Disclosure (HMD)
- Business Emergency Plan (BEP)
- Hazardous Waste (HW)
- Underground Storage Tank (UST)
- Aboveground Petroleum Storage Tank (APST)
- California Accidental Release Prevention Program (CalARP)

County and City Fire Agencies within Orange County have joined in partnership with the CUPA as Participating Agencies (PAs). In most Orange County cities, the Environmental Health Division administers all programs; however, the City of Newport Beach Fire Department is responsible for its Hazardous Materials and Business Emergency Plan Programs.

California Accidental Release Prevention Program

The California Accidental Release Prevention Program (CalARP), managed by the CUPA as noted above, is a merging of the Federal Accidental Release Prevention Program and State programs for the prevention of accidental release of regulated toxic and flammable substances. It replaced the California Risk Management and Prevention Program and was created to eliminate the need for two separate and distinct risk management programs. Stationary sources exceeding a threshold quantity of regulated substances are evaluated under this program to determine the potential for and impacts of accidental releases from the source. Depending on the potential hazards, the owner or occupant of a stationary source may be required to develop and submit a risk management plan.

California Occupational Safety and Health Administration

The Division of Occupational Safety and Health, better known as Cal/OSHA, protects and improves the health and safety of working men and women in California through setting and enforcing standards; providing outreach, education, and assistance; and issuing permits, licenses, certifications, registrations, and approvals. Employers are required to monitor worker exposure to listed hazardous substances and notify workers of exposure (8 *California Code of Regulations* [CCR] Sections 337-340). Cal/OSHA regulations specify employer requirements including employee training, provision of safety equipment, accident-prevention programs, and hazardous substance exposure warnings.

<u>Local</u>

Newport Beach General Plan 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 that could cause exposure to the residents of Newport Beach. This element specifically addresses coastal

hazards, geologic hazards, seismic hazards, flood hazards, wildland and urban fire hazards, hazardous materials, aviation hazards, and disaster planning.

4.6.2 METHODOLOGY

The Phase I ESA prepared by Ninyo & Moore (2015) was prepared in accordance with the Standard Practice for Environmental Site Assessment: Phase I ESA Process, American Society for Testing and Materials (ASTM) E 1527-13, and All Appropriate Inquiries (AAI) set forth in the *Code of Federal Regulations* (specifically, 40 CFR 312). The objective of a Phase I ESA is to identify recognized environmental conditions (RECs), historical recognized environmental conditions (HRECs), and/or controlled recognized environmental conditions (CRECs) that may be associated with the Project site. The scope of the Phase I ESA assessment included reconnaissance of the site and immediate vicinity; Environmental Data Resources (EDR) review of the data available from various regulatory agencies; interview with the maintenance supervisor and property manager; and review of historical aerial photographs, building records, city directory information, and Sanborn Fire Insurance Maps.

4.6.3 EXISTING CONDITIONS

Previous Uses of the Project Site

Based on historical aerial photography, the site was agricultural land from at least 1938 through 1977. By 1985, the Project site appeared to be no longer in use as agricultural and the site was developed with the current site building and parking areas in 1989 (Ninyo & Moore 2015). Based on the historical agricultural use of the property, commercial pesticides and herbicides have likely been applied to the site and site vicinity during the agricultural use of the land. Residual concentrations of these substances and/or their breakdown derivatives may be present in the site soils. A review of historical aerial photographs did not indicate the presence of buildings or other structures on the site where pesticides or herbicides may have been mixed or stored (Ninyo & Moore 2015). The fact that the site has been graded and paved, and the duration since pesticides may have been applied (greater than 30 years), indicates that the former agricultural usage of the site is considered a *de minimis* condition.

Current Uses of the Project Site

The Project site, currently occupied by Kitayama Restaurant, is developed with a single-story 8,800-square-foot slab-on-grade building located in the northeast portion of the site and associated asphalt-paved surface parking lot. Parking stalls are arranged around the perimeter of the lot, and two rows of parking spaces are located in the middle of the site. The site also contains ornamental trees and landscaping around the perimeter and within the surface parking area. There is additional landscaping around the two sides of the restaurant abutting Bristol Street to the northeast and Bayview Place to the southeast. The southwestern and northwestern perimeters are bound by block walls; the northeastern and southeastern perimeters are bound by a combination of block wall and wrought iron fencing.

Surrounding Land Uses

As further described in Section 4.8, Land Use and Planning, the Project site is located within a highly developed portion of the City of Newport Beach that includes residential, retail, health care, and office uses. The Project site is bordered by Bristol Street and State Route (SR-) 73 to the northeast, Bayview Place and a six-story office building to the southeast, Baycrest multi-family residential development to the southwest, and Santa Ana Heights single-family residential neighborhood and a three-story office building to the northwest. This portion of the City is characterized by a concentration of commercial and office uses along Bristol Street and residential development adjacent and behind the commercial uses.

Airport Environs Land Use Plan for John Wayne Airport

The Project site is located approximately 0.7 mile southeast of the southernmost John Wayne Airport (JWA) runway. The Project site is located within Noise Impact Zone "2" - Moderate Noise Impact (60 decibels [dB] Community Noise Equivalent Level [CNEL] or greater, less than 65 dB CNEL) as shown in the Airport Environmental Land Use Plan for John Wayne Airport (AELUP) and falls within JWA Safety Zone 6 (Traffic Pattern Zone), where the likelihood of an accident is low. The zone allows for residential uses and most nonresidential uses; however, uses such as schools and health care facilities should be avoided (OCALUC 2008). As indicated in the Airport Environs Land Use Plan (AELUP) for JWA, the Project site is located within the AELUP Part 77 Notification Area for JWA. Within the Notification Area boundary, the Airport Land Use Commission (ALUC) must be notified of any proposed construction or structural alterations involving a land use or legislative amendment in the AELUP Planning Area, development that exceeds 200 feet above ground level, and all heliports or helistops. Additional criteria for notification include development in proximity to an airport exceeding the slope ratio; development involving construction of a traverseway (i.e., highway, railroad, waterway) and exceeding a standard of 77.9(a) or (b) once adjusted upward with the appropriate vertical distance; development emitting frequencies and not meeting the conditions of the FAA Colocation Policy; development being in an instrument approach area and potentially exceeding Part 77 Subpart C; and development being in proximity to a navigation facility and potentially impacting the assurance of navigation signal reception. In addition, to promote air safety, projects that meet the above criteria must also file Form 7460-1 (Notice of Proposed Construction or Alteration) as part of Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) with the FAA (OCALUC 2008). The FAA Form 7460-1 was filed electronically on January 12, 2018.

4.6.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Analysis Checklist and Appendix G of the State CEQA Guidelines, the Project would result in a significant impact related to hazards and hazardous materials if it would:

Threshold 4.6-1Create a significant hazard to the public or the environment through the
routine transport, use, or disposal of hazardous materials.

- **Threshold 4.6-2** Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
- **Threshold 4.6-3** For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area.

4.6.5 IMPACT ANALYSIS

Threshold 4.6-1

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

Hazards to the environment or the public through the transport, use, or disposal of hazardous materials would typically occur with operation of nonresidential uses, such as industrial and some commercial uses.

Demolition and construction activities for the proposed Project would be relatively short-term (approximately 12 to 14 months); and the transport, use, and disposal of any hazardous materials as part of these activities would be temporary. Construction activities would involve the use of chemical substances such as solvents, paints, fuel for equipment, and other potentially hazardous materials. These materials are common for construction activities, would be used in limited quantities, and do not pose a significant hazard to the public or the environment. As part of the demolition activities the transport of demolition debris would also occur, which may potentially include hazardous materials. Impacts associated with the demolition activities are required to comply with existing regulatory requirements. The following regulatory requirement (RR) pertaining to the transport of potentially hazardous materials would be applicable to the Project:

RR HAZ-1 Demolition shall be conducted in accordance with the remediation and mitigation procedures established by all federal, State, and local standards, including those of the federal and State Occupational Safety and Health Administrations (OSHA and CalOSHA) and South Coast Air Quality Management District (SCAQMD) regulations for the excavation, removal, and proper disposal of asbestoscontaining materials (SCAQMD Regulation X – National Emission Standards For Hazardous Air Pollutants, Subpart M - National Emission Standards For Asbestos). The materials shall be disposed of at a certified asbestos landfill. The Asbestos-Abatement Contractor shall comply with notification and asbestosremoval procedures outlined in SCAQMD Rule 1403 to reduce asbestos-related health risks. SCAQMD Rule 1403 applies to any demolition or renovation activity and the associated disturbance of asbestos-containing materials. These requirements shall be included on the contractor specifications and verified by the City of Newport Beach's Community Development Department in conjunction with the issuance of a Demolition Permit.

Consistent with existing residential development in the vicinity of the Project site, once constructed, the proposed assisted living and memory care facility would use hazardous materials (e.g., paint, pesticides, cleansers, and solvents) for maintenance activities but any use would be in limited quantities. The proposed Project would not use, store, or generate hazardous materials or wastes in quantities that would pose a significant hazard to the public. Impacts would be less than significant, and no mitigation is required.

Impact Conclusion: Construction and operation of the proposed Project would involve handling of hazardous materials in limited quantities and typical to urban environments. Through compliance with RR HAZ-1, less than significant impacts would be associated with the transport, use, or disposal of hazardous materials during construction or operation of the proposed Project, pursuant to Threshold 4.6-1. No mitigation is required.

Threshold 4.6-2

Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

There is a potential to expose the public to hazardous substances through accidental releases during construction and operation. During construction, potential exists for the accidental release or spill of hazardous substances such as gasoline, oil, hydraulic fluid, diesel fuel, or other liquids associated with construction equipment operation and maintenance. However, use of these materials in limited quantities is typical during operation and maintenance of construction equipment and would be conducted in compliance with applicable State and local regulations. Additionally, the contractor would be required to use standard construction controls and safety procedures, which would avoid and minimize the potential for accidental release or spill of such substances into the environment. The level of risk associated with the accidental release of hazardous substances during construction is less than significant.

Based on research conducted as part of the Phase I ESA, the Project site was agricultural land between 1938 and 1977 and vacant land in 1985. The site was developed with the existing building and parking areas in 1989. The Phase I ESA does not identify any RECs in connection with the Project site; however, based on the historical agricultural use of the property, commercial pesticides and herbicides have likely been applied to the site and in the vicinity of the site during the agricultural use of the land. Residual concentrations of these substances and/or their breakdown derivatives may be present in soils on the site (Ninyo & Moore 2015).

The historical aerial photographs did not indicate the presence of buildings or other structures on the site where pesticides or herbicides may have been mixed or stored. Based on the fact that the site has been graded and paved, and that the duration since pesticides/herbicides may have been applied is likely greater than 30 years, former agricultural usage of the site is considered a *de minimis* condition. No impact would result, and no mitigation is required.

Additional results of the Phase I ESA are summarized below:

• Indications of release at the site, such as odors, stressed vegetation, leaks, pools of liquids, or spills, were not observed.

- The site was not listed on searched environmental databases. RECs were not identified for the site in the environmental database report.
- Wells, such as water supply wells and groundwater monitoring wells, were not observed on the site during the site reconnaissance.
- Although the Orange County Health Care Agency (OCHCA) and Newport Beach Fire Department (NBFD) have not responded to requests for a review of site records, the site was not listed on the environmental databases that were searched.
- Based on the historical research and results of the vapor encroachment screening matrix conducted as part of the Phase I ESA, a vapor encroachment condition does not currently exist beneath the site.
- Other off-site concerns were not observed.

As indicated above, the Phase I ESA revealed no evidence of RECs in connection with the Project site. No recommendations for further investigation are required at this time. However, as the existing restaurant would be demolished, compliance with the existing regulatory requirements and a hazardous building materials survey would be required. The following regulatory requirement pertaining to handling and disposal of lead-based paint [LBP] would be applicable to the Project:

- **RR HAZ-2** Contractors shall comply with the requirements of Title 8 of the *California Code of Regulations* (Section 1532.1), which sets exposure limits, exposure monitoring, respiratory protection, and good working practices by workers exposed to lead. Lead-contaminated debris and other wastes shall be managed and disposed of in accordance with the applicable provisions of the *California Health and Safety Code*.
- **Impact Conclusion:** Existing and past use of hazardous materials in the Project site would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Through compliance with RR HAZ-2, less than significant impacts would be associated with the handling and disposal of lead-based paint, pursuant to Threshold 4.6-2. No mitigation is required.

Threshold 4.6-3

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

John Wayne Airport (JWA), located approximately 0.7 mile northwest of the Project site, is the nearest public airport, serving both commercial as well as private aviation. As detailed in the AELUP for JWA, four boundaries are within the JWA Planning Area: (1) area within the 60-dB CNEL contour; (2) area within Runway Protection Zones; (3) area within Safety Zones; and (4) area that lies above or penetrates the 100:1 imaginary surface for notification. While the Project site is not located within the Runway Protection Zone, it falls within the other three boundaries. The Project site is located within Noise Impact Zone "2" – Moderate Noise Impact (60dB CNEL or

greater, less than 65 dB CNEL) as shown in the Airport Environmental Land Use Plan (AELUP) for John Wayne Airport. The Project site is located within Zone 6 (Traffic Pattern Zone), which allows for residential uses and most nonresidential uses. By applying the imaginary surface slope of 100:1, at this distance from the runway, the proposed Project does not penetrate the imaginary surface extending 100 feet outward and 1 foot upward (slope of 100:1) from the JWA runway at a height of 33 feet at the top of the roof and 39 feet and 6 inches at the highest point, which includes screening. Based on the AELUP, the Project would not result in a safety hazard for people residing or working in the area. No impact would result, and no mitigation is required. It should be noted that the proposed Project is located near, but not within, Zone 3 (Inner Turning Zone). This zone allows for limited residential uses of very low densities and recommends avoiding nonresidential uses with moderate to higher usage intensities. The proposed Project is not within Zone 3 and would not result in a safety hazard for people residing or working in the area.

As indicated in the AELUP for JWA, the Project site is located within the AELUP Part 77 Notification Area for JWA. Within the Notification Area boundary, ALUC must be notified of any proposed construction or structural alterations involving a land use or legislative amendment in the AELUP Planning Area, development that exceeds 200 feet above ground level, and all heliports or helistops. Additional criteria for notification include development in proximity to an airport exceeding the slope ratio; development involving construction of a traverseway (i.e., highway, railroad, waterway) and exceeding a standard of 77.9(a) or (b) once adjusted upward with the appropriate vertical distance; development emitting frequencies and not meeting the conditions of the FAA Co-location Policy; development being in an instrument approach area and potentially exceeding Part 77 Subpart C; and development being in proximity to a navigation facility and potentially impacting the assurance of navigation signal reception. In addition, to promote air safety, projects that meet the above criteria must also file Form 7460-1 (Notice of Proposed Construction or Alteration) as part of OE/AAA with the FAA (OCALUC 2008). The FAA Form 7460-1 was filed electronically on January 12, 2018. As indicated in Section 2.5.3, determinations of No Hazard to Air Navigation for the proposed structure and temporary structure (i.e., construction equipment boom lift) were issued separately on January 30, 2018. The determination of No Hazard for the proposed structure stated that the structure would not exceed obstruction standards and would not be a hazard to air navigation; however, it required that the FAA Form 7460-2, Notice of Actual Construction or Alteration, be filed electronically within five days after the construction reaches its greatest height. The determination of No Hazard for the temporary construction equipment indicated that the temporary structure (i.e., construction equipment boom lift) would not exceed obstruction standards and would not be a hazard to air navigation. Both determinations stated that while marking and lighting are not necessary, should they be included, they would be installed and maintained in accordance with the FAA Advisory circular 70/7460-1 L. The FAA determinations of No Hazard to Air Navigation for the proposed structure and temporary structure are provided in Appendix D-2.

The following regulatory requirement pertaining to the FAA determination of No Hazard would be applicable to the Project:

RR HAZ-3 Federal Aviation Administration Form 7460-2, Notice of Actual Construction or Alteration, shall be filed electronically within five days after the construction reaches its greatest height. This shall be verified by the City of Newport Beach's Community Development Department.

Additionally, in light of the required discretionary approvals (i.e., General Plan Amendment and Bayview Planned Community Development Plan Amendment [PC-32]), per the Public Utilities Code (PUC), Division 9, Aviation, Section 21676(b), the following regulatory requirement would be applicable to the Project:

RR HAZ-4 Prior to City Council's consideration of the amendments to the General Plan and the Bayview Planned Community Development Plan Amendment (PC-32), the City of Newport Beach Community Development Department shall refer the proposed actions to the Airport Land Use Commission (ALUC). The referral shall be submitted by the City and agendized by the ALUC staff between the City's expected Planning Commission and City Council hearings (since the ALUC meets on the third Thursday afternoon of each month, submittals must be received in the ALUC office by the first of the month to ensure sufficient time for review, analysis, and agendizing).

As stated, while the Project is located within 0.7 mile of JWA, the Project site is not subject to substantial risks from aviation hazards and would not result in a safety hazard. Therefore, impacts would be less significant impact and no mitigation is required.

Impact Conclusion: The Project site is located within the AELUP for JWA. With adherence to the requirements of the AELUP, the proposed Project would not result in a safety hazard to people residing or working on the site or in the Project area. Compliance with RR HAZ-3 and RR HAZ-4 is required per the FAA determination of No Hazard and for compliance with PUC Section 21676(b) requirement. There would be a less than significant impact pursuant to Threshold 4.6-3. No mitigation is required.

4.6.6 CUMULATIVE IMPACTS

The cumulative study area associated with hazardous materials is typically site-specific except where past, present, and/or proposed land uses would impact off-site land uses and persons or where past, present, or foreseeable future development in the surrounding area would cumulatively expose a greater number of persons to hazards (e.g., hazardous materials and/or waste contamination).

As discussed under Thresholds 4.6-1 and 4.6-2 past, existing, and proposed land uses would not result in an environmental hazard related to the transport, use, or disposal of hazardous materials or the potential for accidental release of hazardous materials. The proposed Project and cumulative development would be required to comply with applicable local, State, and federal requirements concerning hazardous materials, as identified in RRs HAZ-1 and HAZ-2. Therefore, the proposed project would not contribute to any potential significant cumulative hazardous materials impacts.

The cumulative study area for aviation hazards is defined as the Airport Influence Area (AIA) or Airport Planning Areas for JWA, as established in the AELUP (OCALUC 2008). As discussed under Threshold 4.6-3, the proposed Project would be implemented in compliance with the AELUP and therefore would result in a less than significant impact related to aviation hazards. Any proposed development within the AIA would also be required to comply with the AELUP, including but not limited to compliance with FAR 77, Subpart C, which discusses avigation easements, height

limitations, and notification of future development near the airport. As indicated under Threshold 4.6-3, the determination of No Hazard for the proposed structure stated that the structure would not exceed obstruction standards and would not be a hazard to air navigation; however, it required that the FAA Form 7460-2, Notice of Actual Construction or Alteration, be filed electronically within five days after the construction reaches its greatest height. This has been included as RR HAZ-3 as part of the proposed Project. Therefore, the proposed Project would not contribute to any potential significant cumulative impacts related to aviation hazards.

4.6.7 MITIGATION PROGRAM

Mitigation Measure

With incorporation of RR HAZ-1 through RR HAZ-4 into the proposed Project, no significant impacts related to hazards and hazardous materials would occur, and no mitigation is required.

4.6.8 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Impacts related to hazards and hazardous materials would be less than significant.

4.6.9 REFERENCES

- Federal Aviation Administration (FAA). 2018a (January 30). Determination of No Hazard to Air Navigation (an official Determination Letter from K. McDonald, Specialist, at the FAA to C. McDermott at Entitlement Advisors).
- OC Health Care Agency. 2016 (July 25, date accessed). CUPA Homepage. Santa Ana, CA: http://occupainfo.com/.
- Orange County Airport Land Use Commission (OCALUC). 2008 (April 17, amended). Airport Environs Land Use Plan for John Wayne Airport. Costa Mesa, CA: http://www.ocair.com/commissions/aluc/docs/JWA_AELUP-April-17-2008.pdf.
- Ninyo & Moore Geotechnical and Environmental Sciences Consultants. 2015 (November 10). Phase I Environmental Site Assessment, Center Pointe Senior Living, 101 Bayview Place, Newport Beach, California 92660. Irvine, CA: Ninyo & Moore.

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4.7 HYDROLOGY AND WATER QUALITY

This section discusses Project-related impacts to hydrology/drainage and water quality at the Harbor Pointe Senior Living Project site. The analysis in this section is based on the *Preliminary Water Quality Management Plan* (PWQMP) for the Project. The PWQMP was prepared by Tait & Associates, Inc. in January 2016 and revised in May 2018.

The PWQMP fulfills the requirements of the Orange County (County) Municipal Separate Storm Sewer System (MS4) Permit, Drainage Area Management Plan (DAMP; OC Public Works 2003, 2007), and Technical Guidance Document. The PWQMP is included in Appendix E.

4.7.1 REGULATORY SETTING

<u>Federal</u>

Clean Water Act

In 1972, the Federal Water Pollution Control Act ("Clean Water Act," CWA) was amended to require National Pollutant Discharge Elimination System (NPDES) permits for the discharge of pollutants to waters of the United States¹ from any point source.² Final regulations regarding storm water discharges were issued on November 16, 1990, and require that municipal separate storm sewer system (MS4) discharges and industrial (including construction) storm water discharges to surface waters be regulated by an NPDES permit. MS4s are a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) and are owned or operated by a public body that has jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes. The MS4s are designated or used for collecting or conveying storm water only (i.e., not wastewater or combined sewage).

Clean Water Act Section 303(d) and Total Maximum Daily Loads

Water bodies not meeting water quality standards are deemed "impaired" and, under CWA Section 303(d), are placed on a list of impaired waters for which a total maximum daily load (TMDL) must be developed for the impairing pollutant(s). For point sources, including storm water, the load allocation is referred to as a "Wasteload Allocation," whereas for non-point sources, the allocation is referred to simply as a "Load Allocation." Once established, the TMDL allocates the loads (or concentrations) among current and future pollutant sources to the water body.

The CWA requires that the State Water Resources Control Board (SWRCB) and RWQCBs conduct a Water Quality Assessment that addresses the condition of its surface waters (required in Section 305[b] of the CWA) and that provides a list of impaired waters (required in CWA Section 303[d]); this Water Quality Assessment is then submitted to the U.S. Environmental Protection Agency (USEPA) for review and approval. The Water Quality Assessment integrates the

¹ Waters of the United States include all waters that have, are, or may be used in interstate or foreign commerce (including sightseeing or hunting), including all waters subject to the ebb and flow of the tide and all interstate waters, including interstate wetlands (33 *Code of Federal Regulations* 328.3).

² Point sources are discrete water conveyances, such as pipes or man-made ditches.

requirements of Sections 305(b) and 303(d) of the CWA, and is referred to as the "Integrated Report." The 2014 and 2016 California Integrated Report and updated 303(d) list were approved by the SWRCB on October 3, 2017 (SWRCB 2017a). The SWRCB is currently working on the 2018 update. Table 4.7-1 below summarizes the pollutants affecting the water quality limited segments downstream of the proposed Project site, their TMDL requirement status, and potential pollutant sources, as provided on the current 303(d) list.

WATER BODY	POLLUTANT	TMDL REQUIREMENT STATUS	Potential Pollutant Sources
Newport Bay, Upper	Chlordane (pesticide)	5B (2013)	Pesticides
	Copper	5A (2007)	Marinas and recreational boating
	DDT (pesticide)	5B (2013)	N/A
	Indicator Bacteria	5B (2000)	Unknown
	Malathion	5A (2027)	Unknown
	Nutrients	5B (1999)	Unknown
	PCBs	5B (2013)	N/A
	Sedimentation/Siltation	5B (1999)	Agriculture, channel erosion, construction/land development and erosion/siltation
	Toxicity	5A (2027)	Unknown
	Chlordane (pesticide)	5B (2013)	N/A
	Copper	5A (2019)	Marinas and recreational boating
	DDT (pesticide)	5B (2013)	Pesticides
Newport Bay, Lower	Indicator Bacteria	5B (2000)	Unknown
	Nutrients	5B (1999)	Unknown
	PCBs	5B (2013)	Organics
	Toxicity	5A (2019)	Unknown
Source: SWRCB, 2017	a and 2018.		

TABLE 4.7-1SUMMARY OF 303(d) LIST FOR THE PROJECT RECEIVING WATER BODIES

State/Regional

California Porter-Cologne Act

California's Porter-Cologne Water Quality Control Act of 1970 ("Porter-Cologne Act") grants the SWRCB and the RWQCBs the power to protect surface water and groundwater quality and is the primary vehicle for implementing California's responsibilities under the Clean Water Act. The Porter-Cologne Act grants the SWRCB and the RWQCBs authority and responsibility to adopt plans and policies, to regulate discharges of waste to surface and groundwater, to regulate waste disposal sites, and to require cleanup of discharges of hazardous materials and other pollutants.

Each RWQCB must formulate and adopt a Water Quality Control Plan ("Basin Plan") for its region. The Basin Plan must conform to the policies set forth in the Porter-Cologne Act and established by the SWRCB in its State Water Policy. The Basin Plan establishes beneficial uses for surface and groundwater in the region and sets forth narrative and numeric water quality standards to protect those beneficial uses.

The RWQCBs are also authorized to enforce discharge limitations; to take actions to prevent violations of these limitations from occurring, and to conduct investigations to determine the status of the quality of any of the waters of the State. Civil and criminal penalties are also applicable to persons who violate the requirements of the Porter-Cologne Act or any SWRCB/RWQCB orders.

California Toxics Rule

The Clean Water Act also requires states to adopt water quality standards for receiving water bodies and to have those standards approved by the USEPA. Water quality standards consist of designated beneficial uses for a particular receiving water body (e.g., wildlife habitat, agricultural supply, fishing), along with the water quality criteria necessary to support those uses. Water quality criteria are prescribed concentrations, levels of constituents, or narrative statements that represent the quality of water that supports a particular use. Because the State of California was unable to develop these standards for priority toxic pollutants, the USEPA promulgated the California Toxics Rule (CTR) in 1992 (40 *Code of Federal Regulations* [CFR] 131.38), which fills this gap.

National Pollutant Discharge Elimination Program

As discussed above, the NPDES permit program is administered by the nine RWQCBs in the State. These boards have the mandate to develop and enforce water quality objectives and implementation plans within their regions. If discharges from industrial, municipal, and other facilities go directly to surface waters, those project applicants must obtain permits from the applicable RWQCB. An individual NPDES permit is specifically tailored to a facility. A general NPDES permit covers multiple facilities in a specific activity category, such as construction activities. The proposed Project is located within the jurisdiction of the Santa Ana RWQCB.

Municipal Separate Storm Sewer System Permit

In 2002, the Santa Ana RWQCB issued NPDES Permit Order No. R8-2002-0010 for discharges of urban runoff from public storm drains in northern Orange County. The Permittees are the County of Orange; the Orange County Flood Control District (OCFCD); and the northern Orange County cities, including the City of Newport Beach (collectively "the Co-Permittees"). To implement the requirements of the MS4 permit, the Co-Permittees developed the 2003 Drainage Area Management Plan (DAMP; OC Public Works 2003).

A revised Orange County MS4 permit was adopted on May 22, 2009 (Permit No. CAS618030, Order No. R8-2009-0030). The revised permit included several provisions for new development and redevelopment, including a requirement to revise the DAMP and Model WQMP. The MS4 Permit was subsequently reopened and revised for the limited purpose of extending deadlines for the preparation of the WQMP and related documents (Permit Order No. R8-2010-0062). Pursuant to these requirements, the Co-Permittees prepared and submitted a revised model

WQMP, Technical Guidance Document (TGD; Santa Ana RWQCB 2011a, 2011b), and supporting documents (collectively referred to as the "revised documents"), which were approved by the RWQCB on May 19, 2011, and became effective on August 17, 2011.³ The revised documents include guidance for the preparation of conceptual or preliminary WQMPs to more effectively ensure that water quality protection, including Low Impact Development (LID) principles, is considered in the earliest phases of a project. The revised documents incorporate the latest information on Best Management Practices (BMPs) and provide additional clarification regarding their effectiveness and applicability.

The Santa Ana RWQCB is in the process of updating the Orange County MS4 Permit, which began in 2014 but is yet to be finalized and adopted. The proposed Project would be subject to NPDES regulations in effect at the time of issuance of building permits for construction (RWQCB 2015, 2017)

Construction General Permit

Pursuant to Section 402(p) of the CWA, which requires regulations for permitting certain storm water discharges, the SWRCB issued a statewide general NPDES Permit for storm water discharges from construction sites.⁴ The SWRCB NPDES General Permit for Storm Water Discharges Associated with Construction Activity is referred to as the "Construction General Permit." Under this Construction General Permit, discharges of storm water from construction sites with a disturbed area of one or more acres are required to either obtain individual NPDES permits for storm water discharges or to be covered by the Construction General Permit.

Coverage under the Construction General Permit is accomplished by completing a construction site risk assessment to determine appropriate coverage level and by preparing a Storm Water Pollution Prevention Plan (SWPPP), including site maps, a Construction Site Monitoring Program (CSMP), and sediment basin design calculations. For projects located outside a Phase I or Phase II permit area, the Construction General Permit requires a post-construction water balance calculation for hydromodification controls and the completion of a Notice of Intent. All of these documents must be electronically submitted to the SWRCB for Construction General Permit coverage. The primary objective of the SWPPP is to ensure that the responsible party properly constructs, implements, and maintains BMPs to reduce or eliminate pollutants in storm water discharges and authorized non-storm water discharges from the construction site. The SWPPP also outlines the monitoring and sampling program required for the construction General Permit (RWQCB 2009).

³ The RWQCB is currently revising the MS4 permit. The comment period on the third draft Orange County MS4 Permit extended through December 7, 2015. It should be noted that, although the MS4 permit is beyond its five-year term, these permits remain in effect until a new permit is adopted. The Santa Ana RWQCB has prepared an Administrative Draft of a new MS4 permit, but there is no set time frame for adoption of a final version by the Board at this time.

⁴ NPDES No. CAS000002, Water Quality Order 2009-0009-DWQ, SWRCB NPDES General Permit for Storm Water Discharges Associated with Construction Activity (adopted by the SWRCB on September 2, 2009, and effective on July 1, 2010). This order was amended by 2010-0014-DWQ, which became effective on February 14, 2011, and by 2012-0006-DWQ, which became effective on July 17, 2012.

The Construction General Permit also includes post-construction requirements for projects to match pre-project runoff volume through the use of non-structural or structural measures. For sites larger than two acres, a project should also maintain the site's pre-project runoff rate.

General Waste Discharge Requirements for Construction Non-Storm Water Discharges

The Santa Ana RWQCB has adopted Order No. R8-2015-0004 (NPDES No. CAG998001), which includes updated general Waste Discharge Requirements (WDRs) for discharges to surface water that pose an insignificant (*de minimis*) threat to water quality. This order allows specific wastewater discharges, including construction dewatering wastes, to be disposed into surface waters, subject to the regulations in the Order. Specifically, if construction dewatering or discharges from other specific activities (e.g., dewatering from subterranean seepage, potable water system maintenance discharges, fire hydrant flushing) are required, a proposed project must comply with the requirements of Order. The general WDRs include provisions mandating notification, testing, and reporting of dewatering and testing-related discharges and contain numeric and performance-based effluent limits depending upon the type of discharge. The General WDRs authorize such construction-related activities so long as all conditions of the Order are fulfilled. If the proposed discharge is not eligible for coverage under this Order, an individual NPDES permit would be needed (RWQCB 2010).

Santa Ana River Basin Plan

The Water Quality Control Plan for the Santa Ana River Basin (Santa Ana River Basin Plan) identifies the beneficial uses and water quality objectives for the receiving water bodies in the Santa Ana River watershed. The receiving waters for runoff from the site, which include the Lower and Upper Newport Bay, and their associated beneficial uses are identified in Table 4.7-2.

Receiving Water	Existing Beneficial Uses	
	Water Contact Recreation	
	Non-Contact Water Recreation	
	Commercial and Sport Fishing	
	Preservation of Biological Habitats of Special Significance	
Upper Newport Bay	Wildlife Habitat	
	Rare, Threatened, or Endangered Species	
	Spawning, Reproduction, and Development	
	Marine Habitat	
	Shellfish Harvesting	
	Estuarine Habitat	
	Navigation	
	Water Contact Recreation	
	Non-Contact Water Recreation	
	Commercial and Sport Fishing	
Lower Newport Bay	Wildlife Habitat	
	Rare, Threatened, or Endangered Species	
	Spawning, Reproduction, and Development	
	Marine Habitat	
	Shellfish Harvesting	
Source: Santa Ana RWQCB 201	16	

TABLE 4.7-2BENEFICIAL USES FOR RECEIVING WATER BODIES

The Basin Plan provides quantitative and narrative criteria for a range of water quality constituents applicable to certain receiving water bodies within the Santa Ana Basin, including Upper and Lower Newport Bay. Specific criteria are provided for the larger, designated water bodies in the region in addition to general criteria or guidelines for ocean waters, bays and estuaries, inland surface waters, and groundwater. In general, the narrative criteria require that degradation of water quality does not occur due to increases in pollutant loads that will adversely impact the designated beneficial uses of a water body. Water quality criteria apply in receiving waters (as opposed to applying directly to runoff); therefore, water quality criteria from the Basin Plan are utilized as benchmarks for comparison in the quantitative assessments.

County of Orange

Drainage Area Management Plan (DAMP)

To implement the requirements of the Orange County MS4 Permit, the Co-Permittees developed the 2003 DAMP (OC Public Works 2003) to serve as the foundation of the model programs, local implementation plan, and watershed implementation plans. The DAMP provides a framework and a process for following the Orange County MS4 Permit requirements and incorporates watershed protection/storm water quality management principles into the Co-Permittees' General Plan process, the environmental review process, and the development permit approval process. Among others, the DAMP discusses the activities, practices, and programs being

implemented by the various municipalities for reducing pollutant discharges into the MS4s. It includes a public education program to encourage the prevention of storm water pollution at the source. The DAMP also defines requirements for construction sites and for project-specific planning, selection, and design of BMPs in new development or significant redevelopment projects. It also includes the water quality monitoring programs being implemented in the County.

The 2007 DAMP (OC Public Works 2007) was developed in response to the updated Orange County MS4 Permit. This DAMP addresses the same storm water quality programs related to municipal activities; public education; requirements for new development and significant redevelopment projects (including the Model WQMP), construction sites, and existing development; discharge prohibitions; and the water quality monitoring program.

WQMP and TGD

The MS4 permit requires that the Model WQMP be updated to incorporate new LID provisions and to address the impact of urbanization on downstream hydrology. The revised Model WQMP requires that new development and significant redevelopment projects that qualify as Priority Projects infiltrate, harvest and re-use, evapotranspire, or biotreat the 85th percentile storm event ("design capture volume"). Biotreatment may be considered only if infiltration, harvesting and reuse, and evapotranspiration cannot be feasibly implemented at a project site. Any portion of the design capture volume that is not infiltrated, harvested and re-used, evapotranspired, or biotreated on the project site by LID BMPs must be treated prior to discharge per specific conditions of the permit. The revised MS4 permit allows for alternatives and in-lieu programs for LID BMPs. If LID BMPS cannot be implemented to address the full design capture volume, inlieu programs must be considered. Waivers may be granted only where the cost of BMPs "greatly outweighs" benefits.

Priority Projects that must develop and implement a Conceptual or Preliminary WQMP and/or a final Project WQMP that includes LID and BMPs include:

- 1. New development projects that create 10,000 square feet or more of impervious surface
- 2. Automotive repair shops
- 3. Restaurants where the land area of development is 5,000 square feet or more including parking area
- 4. Hillside development greater than 5,000 square feet
- 5. Impervious surface of 2,500 square feet or more located within, directly adjacent to (within 200 feet), or discharging directly into receiving waters within Environmentally Sensitive Areas (ESAs)
- 6. Parking lots 5,000 square feet or more, including associated drive aisle, and potentially exposed to urban storm water runoff
- 7. Streets, roads, highways, and freeways
- 8. All significant redevelopment projects, defined as the addition or replacement of 5,000 or more square feet of impervious surface on an already developed site
- 9. Retail gasoline outlets

The TGD serves as a technical companion to the Model WQMP, providing guidance on how to prepare the Conceptual/Preliminary or Project WQMP.

Hydromodification and Flow Control

In compliance with the MS4 Permit, the Model WQMP requires Priority Projects to identify Hydrologic Conditions of Concern (HCOCs) associated with a project. An HCOC occurs when potential exists for increased runoff to cause significant impacts on downstream channels and aquatic habitats, alone or in conjunction with impacts of other projects. Such impacts are termed "hydromodification," which is defined as the alteration of natural flow characteristics and sediment supply in streams and channels due to urbanization. If HCOCs are identified, a project must implement BMPs to mitigate hydromodification. For Orange County municipalities within the Santa Ana RWQCB's jurisdiction, a project must implement on-site or regional hydromodification controls such that the following occur:

- 1. The post-development runoff volume for the two-year, 24-hour storm event is no greater than 5 percent of the pre-development condition
- 2. The time of concentration of post-development runoff for the two-year, 24-hour storm event is no greater than 5 percent of the pre-development condition

Where a project WQMP documents that the excess runoff volume from the two-year runoff event cannot feasibly be retained, the project must implement on-site or regional hydromodification controls to:

- 1. Retain the excess volume from the two-year runoff event to the maximum extent practicable (MEP)
- 2. Reduce the post-development runoff two-year peak flow rate to no greater than 110 percent of the pre-development runoff two-year peak flow rate

<u>City of Newport Beach</u>

Newport Beach Municipal Code

Chapter 14.36 (Water Quality) of the Newport Beach Municipal Code (NBMC; Newport Beach 2017) contains the City's regulations related to water quality, including the discharge of pollutants into the storm sewers. The regulations comply with the Orange County MS4 Permit and the DAMP by prohibiting specific discharges and illicit connections to the storm drain system. It requires new development and significant redevelopment to control urban runoff in accordance with the Model WQMP and gives the City authority to inspect private properties to conduct compliance assessments. It also requires discharge permits for the release of non-storm water discharges into the storm drainage system, subject to specific requirements and conditions.

NBMC Chapter 15.10 (Excavation and Grading Code) (Newport Beach 2017) requires drainage permits for existing or proposed construction may alter or has altered drainage conditions. The permit sets conditions to prevent or eliminate the adverse or dangerous conditions and require corrective work that will retain dry-weather runoff and minor rain events within the site

consistent with the City's MS4 Permit. The Code includes standards for cuts, fills, slope setbacks, drainage and terracing, protection of adjoining property, and erosion control.

4.7.2 METHODOLOGY

The Project's storm drain facilities (e.g., bio-filtration planters, storm drain lines, detention basin, and outlets) have been designed to conform to City of Newport Beach standards. A detention basin will be provided on site to ensure the post-development peak flow of the 25-year storm event will be equal to or less than the existing 25-year storm event peak flow. Additionally, the bio-filtration planters would fully retain flows from the two-year storm event, with the detention basin providing runoff detention for the excess flow from the two-year peak flow rate (flows not captured by the bio-filtration planters).

Within the Santa Ana RWQCB jurisdiction, the Orange County MS4 Permit has been adopted with specific requirements for storm water control by new development and significant redevelopment projects. Low impact development (LID) is a storm water management strategy that emphasizes conservation and use of existing site features integrated with distributed storm water controls that are designed to more closely mimic natural hydrologic patterns of undeveloped sites than traditional storm water management controls. LID best management practices (BMPs) must be selected based on a hierarchy of controls and sized to capture the maximum feasible portion of the Design Capture Volume (DCV) (e.g., on-site retention), before attempting to address the remaining volume with the next lower priority control (biotreatment). While the Project site is not located within an area determined to have erosion and habitat and physical stricture susceptibility, the Project has potential for a HCOC. LID solutions and treatment control measures would be used to detain runoff equal to the difference between the pre- and post-development runoff volume and flow rate.

Available options for on-site storm water retention include hydrologic source controls, infiltration BMPs, evapotranspiration and rainwater-harvesting BMPs, biotreatment BMPs, hydromodification control BMPs, and treatment control BMPs, in order of selection priority. These storm water retention options are occasionally deemed infeasible on a project-specific basis for a number of reasons, including the presence of perched groundwater, risk of groundwater pollution, geotechnical hazards, adjacent land uses, and site soil conditions, among others.

Biotreatment BMPs provide a variety of treatment mechanisms to remove both suspended and dissolved pollutants in urban storm water runoff. All biotreatment BMPs may be volume-based (storage as a key design component) and are designed to treat and discharge urban storm water runoff to a downstream conveyance system. Biotreatment BMPs can be designed to promote infiltration and evapotranspiration even though they are treat-and-release BMPs. If necessary to mitigate risks to structures, human health, or other concerns, a biotreatment BMP may also be lined to prevent infiltration of urban storm water runoff into underlying soils. Examples of biotreatment BMPs include bio-retention planters, filter strips, rain gardens, vegetated swales, constructed wetlands, a detention basin, and biotreatment systems.

Initial review of the proposed Project site suggests ground infiltration and on-site retention of storm water are not feasible for the site; therefore, a combination of biotreatment and hydromodification control BMPs will be used in the storm drainage design of the Project. The PWQMP provides further details regarding LID and BMP use and selection for the Project.

4.7.3 EXISTING CONDITIONS

Existing Topography and Facilities

The site is located in the Newport Bay watershed, which drains approximately 152.02 square miles of Orange County into Newport Bay and the Pacific Ocean (OC Public Works 2018). The Project site is developed with a restaurant building and largely paved (drive aisles, parking spaces, walkways), with 1.10 acres of the 1.50-acre site (or 73.6 percent) impervious. On-site ground surface elevations range from 56 to 60 feet above mean sea level. Although the topography of the Project site is relatively flat, there is a slight slope downward to the south and east. V-gutters direct storm water from the building roof and parking areas south and east across the site into a parkway culvert that discharges to the curb face on Bayview Place. Sheet flow behind the wall along Bayview Place drains through breaks of the wall or exits through curb face drains on Bayview Place.

Downstream Conditions

The parkway culvert and curb face drains discharge storm water from the site into the gutter on Bayview Place. Runoff flows southerly toward a catch basin at the intersection of Bayview Place and Bayview Circle. This catch basin is connected to the underground storm drain line in Bayview Place, Bayview Circle, Cormorant Circle, and Shearwater Place that discharges into Upper Newport Bay. Water in Upper Newport Bay flows into Lower Newport Bay and ultimately into the Pacific Ocean.

Hydrologic (Groundwater Conditions)

The Project site is underlain by the Coastal Plain of Orange County groundwater basin but is not located within the North Orange County Groundwater Protection Areas. This groundwater basin underlies the coastal alluvial plain in the northwestern portion of the County and is bound by consolidated rocks of the Puente and Chino Hills, the Santa Ana Mountains, and the San Joaquin Hills. The groundwater basin consist of the upper, middle, and lower aquifer systems, where sediments contain recoverable fresh water to about 2,000 feet in depth. Recharge of the basin occurs from percolation of Santa Ana River flow, infiltration of rainfall, and injection of recycled and imported water (DWR 2004).

Groundwater was encountered at depths as shallow as 30⁵ to 36 feet below the existing ground surface (bgs) in soil borings for the Geotechnical Investigation for the Project. Monitoring wells located 0.7 mile north of the site had groundwater levels 19 to 23 feet bgs, and the historic high depth of groundwater in the area is approximately 16 feet (Ninyo and Moore 2015).

Existing Drainage Patterns

Under existing conditions, site drainage consists of a southeast flow. Sheet flow from the building and parking lots gathers in V-gutters and exits through a parkway culvert at a curb face on

⁵ Groundwater was encountered at 30 feet in one boring but water was added to the boring during drilling.

Bayview Place. Sheet flow behind the wall along Bayview Place drains through breaks of the wall or exits through curb face drains on Bayview Place.

Runoff from the site discharges into the gutter on Bayview Place, where storm water flows southerly into a catch basin and underground storm drain lines discharge storm water into the Upper Newport Bay.

Existing Water Quality

Existing Project Site

The Project site is developed with a restaurant. Storm water at the site may include pollutants from the parking areas, drive aisles, and landscaped areas. These pollutants may include suspended solids/sediments, nutrients, heavy metals, bacteria and viruses, pesticides, oil and grease, toxic organic compounds, and trash and debris. No structural storm water treatment BMPs are known to exist at the site.

Receiving Waters

The Project site is within the Newport Bay watershed. The California Integrated Report includes a Section 303(d) list of impaired water bodies and/or those that have an associated TMDL (as discussed under Regulatory Setting). Impaired water bodies downstream of the site include the Upper and Lower Newport Bay. The impairment of these water bodies includes high levels of chlordane, copper, DDT, indicator bacteria, malathion, nutrients, PCBs, sedimentation/siltation, and toxicity. TMDLs for the Upper and Lower Newport Bay have been developed for chlordane, copper, DDT, indicator bacteria, nutrients, PCBs, and sedimentation/siltation.

Regional Water Quality

The pollutant impairments of the 303(d)-listed water bodies, as summarized in Table 4.7-1, Summary of 303(d) List for the Project Receiving Water Bodies, can be grouped into the following categories: pesticides, metals, pathogens, nutrients and other organics, and sediment. These are typical pollutants generated by an urban area with dense land development and a wide variety of land uses. It is noted that the existing and/or approved TMDLs for the pollutants identified for the impaired water bodies do not apply directly to discharges of urban runoff but rather apply within the specified receiving waters. The primary source of pollutants in the Project area is via storm water runoff, both from point (i.e., an outlet) and non-point sources.

4.7.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Analysis Checklist and Appendix G of the California Environmental Quality Act (CEQA) Guidelines, the Project would result in a significant hydrology and water quality impact if it would:

Threshold 4.7-1 Violate any water quality standards or waste discharge requirements.

Threshold 4.7-2 Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the

production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted).

- **Threshold 4.7-3** Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site.
- **Threshold 4.7-4** Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site.
- **Threshold 4.7-5** Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.
- **Threshold 4.7-6** Otherwise substantially degrade water quality.

4.7.5 IMPACT ANALYSIS

Thresholds 4.7-1 and 4.7-6

Would the Project violate any water quality standards or waste discharge requirements?

Would the Project otherwise substantially degrade water quality?

Short-Term Water Quality Impacts

Implementation of the proposed Project would involve demolition of the existing restaurant, surface parking lot, and associated site improvements in addition to excavation activities associated with construction of the proposed three-story building and site improvements, including the subterranean parking. Therefore, the Project has the potential to result in short-term construction impacts to surface water quality from demolition, grading, and other construction-related activities. Storm water runoff from the Project site during construction could contain soils and sediments from these activities. Spills or leaks from heavy equipment and machinery, construction staging areas, or building sites could also enter the runoff and typically include petroleum products such as fuel, oil and grease, and heavy metals. Building construction would also involve the use of hazardous materials (e.g., paints, solvents, cleansers) that if not properly handled may enter the storm water runoff.

As the City of Newport Beach falls within the jurisdiction of the Santa Ana RWQCB (Region 8), the Project would be subject to the requirements of the Santa Ana RWQCB and City of Newport Beach and would be required to obtain coverage under the NPDES Construction General Permit for the proposed construction activities. The NPDES permit is required of projects that would involve clearing, grading, and excavation activities disturbing at least one acre of land. In compliance with the NPDES permit in addition to the Santa Ana RWQCB's Santa Ana River Basin Water Quality Control Program, the Project would be required to develop a Storm Water

Pollution Prevention Plan (SWPPP) for construction-related activities prior to the start of demolition, grading, or construction. The primary objective of the SWPPP is to ensure that the responsible party properly constructs, implements, and maintains BMPs to reduce or eliminate pollutants in storm water discharges and authorized non-storm water discharges from the construction site. The SWPPP would include BMPs that would reduce storm water quality impacts by mitigating potential pollutants of concern, including sediments, through prevention, minimization, and treatment on site prior to being discharged. BMPs that are most often used during construction include watering exposed soils, covering stockpiles of soil, installing sand bags or gravel bag berms to minimize off-site runoff, creating temporary desilting basins, and timing grading and soil disturbance to avoid the rainy season (RWQCB 2017b).

The Project would also comply with the City's Grading Code regulations for cuts, fills, slope setbacks, drainage and terracing, protection of adjoining property, and erosion control. Excavation activities are not expected to extend into the underlying groundwater (estimated at 36 feet bgs); but, should groundwater be encountered during excavation activities for the building foundation, detention basin, and/or underground parking, the contractor would have to comply with the Santa Ana RWQCB's WDR for non-storm water discharges for the disposal of dewatering wastes into the storm drainage system. Compliance with the City's Grading Code and Santa Ana RWQCB's WDR would minimize the introduction of pollutants into the downstream water bodies (i.e., Upper and Lower Newport Bay).

The implementation of BMPs in the SWPPP for the proposed Project and compliance with City regulations and the Santa Ana RWQCB's WDR would reduce storm water quality impacts during construction. Compliance with applicable regulatory requirements would ensure that short-term, construction-related water quality impacts would be less than significant. No mitigation is required.

Long-Term Water Quality Impacts

The proposed Project would include the construction of a three-story structure with subterranean parking, drive aisles, and landscaped improvements on the site. Thus, the Project would result in the same sources of pollutants as the existing development on the site. As such, the same pollutants of concern would be generated by the Project: suspended solids/sediments, nutrients, heavy metals, bacteria and viruses, pesticides, oil and grease, toxic organic compounds, and trash and debris.

Upper Newport Bay (Ecological Reserve) receives storm water drainage flows generated within the Project site and the surrounding area. Water in the Upper Newport Bay goes into the Lower Newport Bay before discharge into the Pacific Ocean. As discussed above, when a particular receiving water body is being compromised by degraded water quality, Section 303(d) of the CWA requires identification and listing of that water body as "impaired." Once a water body has been deemed impaired, a TMDL must be developed for the impairing pollutants. A TMDL is an estimate of the total load of pollutants from point, nonpoint, and natural sources that a water body may receive without exceeding applicable water quality standards. Once established, the TMDL allocates the loads among current and future pollutant sources to the water body.

Per the PWQMP, the TGD indicates that there are no pollutants of concern for Upper Newport Bay (Ecological Reserve). However, Upper Newport Bay is classified as an impaired water body and has been placed on the CWA's Section 303(d) list of impaired waters, because of excessive concentrations of pollutants ("pollutants of concern"), including chlordane, copper, DDT, indicator bacteria, malathion, nutrients, PCBs, sedimentation/siltation, and toxicity. Lower Newport Bay is impaired for most of the same pollutants, except for malathion and sedimentation/siltation (see Table 4.9-1 above).

The proposed Project is a Priority Project under the 2011 Model WQMP, as it would create a total of 51,836 square feet of impervious surface exceeding the limit of 5,000 square feet of impervious surface replacement on a developed site; and, therefore, preparation of a project WQMP is required. The PWQMP (Appendix E) has been prepared to address storm water pollution from the proposed Project, and the Final WQMP would be approved by the City prior to issuance of the grading permit. The structural BMPs proposed by the PWQMP are depicted on Exhibit 4.7-1, which shows the location of bio-filtration planters, the underground detention basin, and storm drain lines, along with cross-section details of the bio-filtration planter, underground detention basin, and lift station pump.

As shown in the exhibit, the proposed on-site drainage would include three drainage management areas (DMAs), and each drainage area would sheet flow water to one of the three bio-retention planters, which would remove storm water pollutants (i.e., particulate organic matter, phosphorous, suspended solids, nitrogen, metals, and bacteria) through physical and biological processes. DMA A is primarily composed of north-west sheet flow runoff from the west drive aisle, with runoff from the landscaped area along Bristol Street going into landscape grates connected to a storm drain pipe that would convey storm water to the bio-retention planter located on the northwest edge of the Project site. DMA B is composed of south-west sheet flow runoff from the drive aisle and roof drains at the western portion of the proposed building, which would be conveyed by curb cuts to the bio-retention planter located on the drive aisle and roof drains at the would flow runoff from the drive aisle and roof drains the bio-retention planter located on the drive aisle and roof drains at the would be conveyed by curb cuts to the bio-retention planter located on the drive aisle and roof drains at the proposed building, which would be conveyed by curb cuts to the bio-retention planter located on the drive aisle and roof drains at the proposed building, which would be conveyed by curb cuts to the bio-retention planter located on the drive aisle and roof drains at the eastern portion of the proposed building, which would be conveyed by curb cuts to the bio-retention planter located on the drive aisle and roof drains at the eastern portion of the proposed building, which would be conveyed by curb cuts to the bio-retention planter located on the drive aisle and roof drains at the eastern portion of the proposed building, which would be conveyed by curb cuts to the bio-retention planter located on the southern edge of the Project site.

After storm water treatment at the bio-retention planters, treated storm water would flow into underdrains and would be intercepted by an underground storm drain network and piped to an underground detention basin, to be located in the drive aisle at the western portion of the Project site. Flows from the detention basin would then be pumped by a lift station near the main driveway up to the curb face to exit onto Bayview Place and would be subsequently captured by a catch basin at the northwest corner of Bayview Place and Bayview Circle intersection. The runoff would ultimately get discharged at Upper Newport Bay.

The proposed Project would increase impervious areas on the site (from 1.10 acres under existing conditions to 1.19 acres with the proposed Project) and could result in an increase in the runoff volume and peak flow over the pre-development conditions. This would be considered an HCOC. However, the proposed storm drainage system would reduce the off-site flows. On-site hydro-modification controls would be implemented such that the post-development runoff two-year peak flow rate is not greater than 110 percent of the pre-development runoff two-year peak flow rate. The underground detention basin, to be located at the western corner of the site, is designed to retain excess runoff from up to the 25-year storm in order to limit the proposed site runoff to match the existing 25-year site conditions. Two-year storms are anticipated to be fully retained by the bio-filtration planters. The detention basin would also retain excess runoff not captured by the bio-filtration planters (Appendix E).



Preliminary Water Quality Management Plan (WQMP)

Harbor Pointe Senior Living Project

Source: TAIT & Associates, Inc. 2016



PSOMAS

(02/05/2018 MMD) R:\Projects\NEW\3NEW003100\Graphics\EIR\ex_Prelim_WQMP.pdf

In addition, the Project would implement a number of non-structural source control BMPs that include:

- Education of owners, tenants, and occupants
- Activity restrictions
- Common area landscape maintenance
- BMP maintenance
- Title 22 CCR compliance for hazardous waste
- Hazardous material disclosure compliance
- Uniform Fire Code implementation for hazardous material requirements
- Common area litter control
- Employee training
- Common area catch basin inspection
- Sweeping of private streets and parking lots
- Trash and waste storage area design
- Efficient irrigation systems

The Project would also comply with the City's water quality regulations related to prohibited discharges and illicit connections. Thus, with compliance with the City's regulations and WQMP implementation during operation (including the construction of structural and non-structural BMPs, the Project's potential to generate substantial amounts of polluted runoff would be reduced to less than significant levels.

Therefore, the Project would not violate any water quality standards, would not substantially modify area runoff or create or contribute runoff water that would exceed the capacity of existing systems, and would not degrade water quality by contributing pollutants or discharge. Impacts would be less than significant and no mitigation is required.

Impact Conclusion: With the implementation of the proposed structural and non-structural BMPs in the Project's WQMP and the construction BMPs in the SWPPP, the Project would not violate any water quality standards and waste discharge requirements nor would it otherwise substantially degrade water quality, pursuant to Thresholds 4.7-1 and 4.7-6. The water quality-related impacts would be less than significant. Additionally, compliance with the City's regulations and the Santa Ana RWQCB's WDR would ensure impacts to receiving waters from non-storm water flows are less than significant.

Threshold 4.7-2

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

The Coastal Plain of Orange County Groundwater Basin underlies the northwestern section of Orange County within the lower Santa Ana River Watershed, which includes the Project site (Newport Beach 2006a). The Orange County Water District (OCWD) manages the groundwater basin. The recharge basins for the Orange County Groundwater Basin are located in and adjacent to the Santa Ana River and Santiago Creek, in the cities of Anaheim and Orange (not within the City of Newport Beach).

No groundwater wells are within the Project site, and none are proposed as part of the Project. The Project site offers limited opportunities for groundwater recharge because a majority of the site is currently developed with impervious surfaces and will remain largely impervious. The proposed Project would not involve direct withdrawals of groundwater, nor would it interfere with groundwater recharge such that it would result in a net deficit in aquifer volume or lowering of the local groundwater table levels. Domestic water service would be provided by the Irvine Ranch Water District (IRWD), as described in Section 4.13, Utilities and Service Systems, with water derived from local wells and imported water supplies. The increase in water demand from the Project would be limited to the difference between water use from the existing restaurant and the proposed senior living Project and the use of water-efficient plumbing fixtures and appliances required under current building codes. This increase in water demand would be minimal and would indirectly impact the groundwater resources of the Coastal Plain of Orange County Groundwater Basin.

As stated above, excavation activities are not expected to extend into the underlying groundwater (estimated at 36 feet bgs), but dewatering may be potentially required during construction. Any dewatering would be limited in quantity and would be short-term. Therefore, the proposed Project would not substantially deplete groundwater supplies or interfere with groundwater recharge. Impacts would be less than significant, and no mitigation is required.

Impact Conclusion: The Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge. Impacts would be less than significant, pursuant to Threshold 4.7-2. No mitigation is required.

Threshold 4.7-3

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

No streams or rivers are near the Project site, the course of which could be altered by implementation of the proposed Project in a manner that would result in substantial erosion on or off site. Under existing conditions, the developed site drains into V-gutters and the parkway culvert and curb face drains on Bayview Place.

With the Project, the site would remain largely paved, with 1.19 acres of the 1.50-acre site (or 79 percent) impervious. This is an increase of 0.09 acre of impervious surfaces on the site. As proposed, roof drains, landscape grates, and underground storm drain lines would direct storm water into bio-filtration planters, with storm water on the drive aisles sheet flowing into the bio-filtration planters through curb cuts. From the planters, treated storm water would be conveyed into an underground detention basin. Storm water from the detention basin would then be directed into a lift station pump near the entry driveway on Bayview Place, which would release storm water into two curb face drains in Bayview Place.

The proposed on-site drainage would consist of three drainage areas (Exhibit 4.7-1). Each of the three DMAs would sheet flow water through curb cuts to a bio-retention planter within each drainage area. After treatment, the storm water would enter a 6-inch under drain, where it would be intercepted by an underground storm drain network and piped to a detention basin and then pumped up to curb face to exit onto Bayview Place (Tait 2016). The storm water would then flow into a catch basin located approximately 250 feet south of the Project site at the northwest corner of the Bayview Place and Bayview Circle intersection. This catch basin is connected to underground storm drain lines that are part of the City's municipal system and that ultimately discharge storm water to the Upper Newport Bay (OCFCD 2012).

Changes in on-site drainage flows would be minimal, localized, and less than significant. Runoff will continue to be discharged into the gutter along Bayview Place. No change in off-site drainage patterns would occur. The Project would result in an increase in impervious surface, from approximately 73.6 percent to 79 percent; however, while flows would increase, the proposed detention basin would detain storm water on site and ensure off-site peak flows would not increase over existing conditions.

Since the Project would increase impervious surfaces on the site, the Project would not result in significant erosion or siltation on or off site that would alter the drainage pattern of the area. Additionally, the Project would implement erosion and sediment control BMPs in the SWPPP and comply with erosion control measures in the City's Grading Code. This would ensure that substantial erosion or siltation would not occur on or off site during construction or operation. Project impacts would be less than significant, and no mitigation is required.

Impact Conclusion: The Project would increase impervious surfaces on the site and would reduce the potential for long-term erosion. The Project would also implement erosion and sediment control BMPs in the SWPPP and comply with erosion control measures in the City's Grading Code. Thus, the Project would not substantially alter the existing drainage pattern of the site or area and would not result in substantial erosion or siltation on or off site during construction. Impacts would be less than significant, and no mitigation is required.

Thresholds 4.7-4 and 4.7-5

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

Would the Project create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?

Implementation of the proposed senior living project would not significantly alter the existing drainage pattern of the site compared to the existing condition. The site will remain largely paved, and runoff would still be discharged through curb drains on Bayview Place. With the proposed bio-filtration planters and detention basin, the proposed Project would maintain the runoff volume and peak flow rate as existing. As such, it would not substantially increase the rate of amount of surface runoff such that it would result in flooding on or off site. Additionally, no streams or rivers are in the vicinity of the Project site, the course of which could be altered by the Project. The proposed on-site drainage facilities would be subject to review and approval by the City to ensure that no on-site or off-site flooding would occur and to confirm the payment of the current City Drainage Fee as a condition of approval. Therefore, impacts would be less than significant, and no mitigation is required.

The proposed Project would continue to be served by the same storm water drainage system. While construction activities such as demolition, grading, and paving may introduce additional pollutants and sediment into water runoff and flow into nearby storm drains, a SWPPP would be prepared in compliance with the NPDES Construction General Permit requirements. In addition, the Project would implement the City-approved WQMP in compliance with the City' water quality regulations and the Orange County MS4 Permit. Projects that comply with these NPDES requirements would not result in a significant impact related to changes in the quantity, rate, or quality of storm water runoff from the site. Therefore, impacts would be less than significant, and no mitigation is required.

Currently, 73.6 percent of the Project site is covered with impervious surfaces, and the amount of impervious surface would increase to 79 percent with implementation of the proposed Project. As described above in the response to Thresholds a) and f), the Project site has been divided into three drainage management areas. Each of these DMAs would drain to a bio-retention planter where the Design Capture Volume (calculated to be a total of 3,048 cubic feet) would be treated before directing runoff into the underground detention basin for ultimate discharge onto Bayview Place. With the proposed system in place, the Project would not result in increased off-site flows and, therefore, would not have potential to exceed the capacity of existing drainage lines and facilities that serve the site. No off-site infrastructure improvements would be required.

As indicated above, the same pollutants are expected from the Project as those generated by the existing restaurant use. Additionally, the proposed BMPs included in the PWQMP would provide storm water treatment, where no treatment occurs under existing conditions. Thus, the proposed Project would not result in substantial additional sources of polluted runoff. This impact is less than significant, and no mitigation is required.

Impact Conclusion: With the construction of the on-site storm drain system, including implementation of BMPs outlined in the City-approved WQMP, the Project would not alter the existing drainage pattern of the site or area; substantially increase the rate or amount of surface runoff; would not result in flooding on or off site; would not exceed the capacity of the existing storm water drainage system; and would not generate additional sources of polluted runoff. Impacts would be less than significant, and no mitigation is required.

4.7.6 CUMULATIVE IMPACTS

With implementation of construction and operational BMPs by the proposed Project (i.e., SWPPP, bio-filtration planters, and non-structural BMPs), the anticipated quality of runoff would not contribute concentrations of pollutants of concern that would result in a violation of water quality standards and waste discharge requirements or the degradation of water quality in the Project's receiving waters. Therefore, the Project's incremental contribution to cumulative effects on surface water quality is not expected to be significant. In addition, the Project would include an underground detention basin to comply with the hydromodification control requirements in the Orange County MS4 Permit.

Any future development within the Newport Bay watershed must also comply with the NPDES Construction General Permit and Orange County MS4 Permit. Additionally, future developments in the City would conform with City regulations related to hydrology and water quality. Therefore, cumulative impacts on surface water quality and hydromodification impacts would be less than significant, and no mitigation is required.

The proposed Project and other future developments anticipated in the area would result in changes to on-site land uses, which would result in increased impervious surfaces and increases in the amount and velocity of surface runoff, along with decreases in the amount of natural groundwater recharge. However, all cumulative development projects in the City and the Newport Bay watershed, including the proposed Project, would be subject to the City's and the County of Orange's hydrology/drainage requirements. New development and significant redevelopment projects would also be required to prepare WQMPs that identify structural and non-structural BMPs that would maintain existing drainage runoff volumes and rates and drainage system improvements that would control project runoff and its contribution to cumulative runoff. The provision of the on-site drainage system would avoid the need for off-site storm drainage improvements and prevent Project-specific impacts. Thus, the Project would not have a cumulative impact on downstream drainage facilities. Additionally, individual project impacts related to potential erosion, siltation, and flooding on and off site would be reduced to less than significant levels. Compliance with these regulations would avoid cumulative impacts related to changes in drainage patterns, on-site and off-site flooding, capacity of storm drain systems, and the need for improvements to storm drainage infrastructure.

Future development would be served by the IRWD and would not require the installation of onsite groundwater wells. Future development would also not be located on the groundwater recharge basins of the OCWD. Thus, impacts on groundwater resources would be indirect, related to increases in water demands. Cumulative demand on water supplies is discussed in Section 4.13, Utilities and Service Systems. As indicated, cumulative impacts on water supplies would be less than significant; and individual projects would require approval from the IRWD for water service. The planning efforts of the IRWD as it relates to water services from groundwater and imported sources, along with the groundwater recharge and water conservation programs of the OCWD, would prevent significant cumulative adverse impacts on groundwater resources.

Cumulative impacts on hydrology and water quality would be less than significant, and no mitigation is required.

4.7.7 MITIGATION PROGRAM

Mitigation Measures

The proposed Project would not result in significant impacts to Hydrology and Water Quality; therefore, no mitigation measures are required.

4.7.8 LEVEL OF SIGNIFICANCE AFTER MITIGATION

The proposed Project includes on-site storm drainage facilities designed to maintain existing drainage patterns and runoff volumes and rates. No impacts on site and to downstream water bodies have been identified. No measures other than the above described compliance with applicable laws and regulations (e.g., NPDES Construction General Permit and WDRs, Orange County MS4 Permit, DAMP, Model WQMP and TGD, and Newport Beach Water Quality regulations) are required for the Project-specific and cumulative impacts. During the final design of the Project, additional drainage analysis would be conducted to determine maximum allowed discharge for the site. The implementation of the BMPs in the approved WQMP would include bio-filtration planters that would remove pollutants and improve storm water quality from the site over existing conditions and an underground detention basin that would maintain storm water runoff rates to match existing peak flow rates.

Short-term and long-term Project-specific and cumulative hydrology and water quality-related impacts would be less than significant.

4.7.9 **REFERENCES**

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4.8 LAND USE AND PLANNING

This section describes the existing land uses on site and in the Project's surrounding area and assesses the impact of the Project on these uses. Additionally, the section identifies the plans and policies of applicable planning documents and the Project's consistency with those policies.

4.8.1 **REGULATORY SETTING**

One aspect of land use planning considered under the California Environmental Quality Act (CEQA) is the consistency of the proposed Project with relevant planning documents, which include Southern California Association of Governments' (SCAG) *2016–2040 Regional Transportation Plan/Sustainable Communities Strategy* (RTP/SCS; SCAG 2016b) and the Regional Comprehensive Plan (RCP; SCAG 2008). The Project is also subject to the City of Newport Beach's (City's) land use authority and is required to be consistent with the City's General Plan (Newport Beach 2006), Zoning Ordinance, or other City imposed requirements.

<u>Regional</u>

Southern California Association of Governments

SCAG is the Metropolitan Planning Organization (MPO) for six counties: Orange, Los Angeles, San Bernardino, Riverside, Ventura, and Imperial. The SCAG region includes 191 cities in an area that encompasses more than 38,000 square miles. As the designated MPO, SCAG prepares plans for transportation, growth management, hazardous waste management, and air quality. Additionally, SCAG reviews environmental documents of projects of regional significance for consistency with regional plans. SCAG's responsibilities include the following:

- Maintaining a continuous, comprehensive, and coordinated planning process (the "3 Cs") resulting in a Regional Transportation Plan (RTP) and a Federal Transportation Improvement Program (FTIP)
- Developing a Sustainable Communities Strategy (SCS) to address greenhouse gas emissions as an element of the RTP
- Developing demographic projections
- Developing integrated land use, housing, employment, and transportation programs and strategies for the South Coast Air Quality Management Plan
- Serving as co-lead agency for air quality planning in the Central Coast and Southeast Desert air basin districts
- Developing and ensuring that the RTP and the FTIP conform to the purposes of the State Implementation Plans for specific transportation-related criteria pollutants, per the Clean Air Act
- Serving as the authorized regional agency for intergovernmental review of proposed programs for federal financial assistance and direct development activities
- Reviewing environmental impact reports for projects having regional significance to ensure they are in line with approved regional plans

- Developing an area-wide waste treatment management plan
- Preparing the Regional Housing Needs Assessment
- Along with the San Diego Association of Governments and the Santa Barbara County/Cities Area Planning Council, preparing the Southern California Hazardous Waste Management Plan (SCAG 2016a)

SCAG has developed a number of plans in compliance with its responsibilities. Those that are relevant to the Project are discussed below.

Regional Comprehensive Plan

SCAG's RCP provides a policy framework for regional planning in Southern California. The RCP calls for City and County involvement and coordination in addressing regional issues related to growth management and development. However, the RCP serves only as a voluntary "toolbox" to assist local jurisdictions in making their General and Specific Plans and individual projects more sustainable. As identified in Resolution No. 08-502-1 (Resolution of the Southern California Association of Governments Accepting the 2008 Regional Comprehensive Plan for the SCAG Region), given its advisory nature, the 2008 RCP is not used in SCAG's Inter-Governmental Review (IGR) process (SCAG 2008).

Regional Transportation Plan/Sustainable Communities Strategy

The RTP is a long-range transportation plan that is developed and updated by SCAG every four years. The RTP provides a vision for transportation investments throughout the region. The Sustainable Communities Strategy (SCS) is a newly required element of the RTP. The SCS component integrates land use and transportation strategies that would achieve California Air Resources Board (CARB) emissions reduction targets pursuant to Senate Bill (SB) 375.

The SCAG 2016-2040 RTP/SCS, which updates the 2012 RTP/SCS, was approved on April 7, 2016. The 2016 RTP/SCS highlights regional changes that have affected the development of the Plan since the 2012 RTP/SCS, including: the region's fluid and dynamic demographic and housing market; the passage of MAP-21; state legislation on transportation funding; the rapid advancement of new technologies such as real-time traveler information, on-demand shared mobility services enabled by smartphone applications or ridesourcing, car share and bike share; and the state's continued emphasis on reducing greenhouse gas emissions.

The 2016 RTP/SCS was also developed recognizing the progress the region has made since the last Plan. Progress has been made in many planning areas, ranging from transit, passenger rail, highways, regional high-occupancy vehicle (HOV) and Express Lane network, active transportation, goods movement, sustainability planning implementation, affordable housing, and public health.

The goals of the 2016 RTP/SCS have remained unchanged since the 2012 RTP/SCS; however, the 2016 RTP/SCS added two new policies focusing on transportation, which include investments and strategies to reduce non-recurrent congestion and demand for single-occupancy vehicle use, and investments that result in cleaner air, a better environment, and a more efficient transportation system (SCAG 2016b).

<u>Local</u>

City of Newport Beach General Plan

The *City of Newport Beach General Plan* is the long-range guide for growth and development in the City. On July 25, 2006, the General Plan was adopted, and the Final Environmental Impact Report (EIR) was certified by the Newport Beach City Council. At the General Municipal Election held on November 7, 2006, the City Electorate approved the land use plan of the General Plan, pursuant to City Charter Section 423.

A general plan functions as a guide for the type of community that is desired for the future and provides the means to achieve it. The *City of Newport Beach General Plan* contains the following ten elements: Land Use, Harbor and Bay, Housing, Historical Resources, Circulation, Recreation, Arts and Cultural, Natural Resources, Safety, and Noise. A discussion of the Project's land use consistency with applicable goals and policies in the Newport Beach General Plan is provided later in this section.

Land Use Element

The *City of Newport Beach General Plan's* Land Use Element presents goals and policies pertaining to how existing development is to be maintained and enhanced and how new development is to be implemented. The *City of Newport Beach General Plan* establishes goals and policies for land use development in the City as well as its Sphere of Influence. Land use policies determine how land is developed in the community and also guide and resolve many land use issues and constraints in order to define the quality of life in the City.

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 are to 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 the bay.

Housing Element

The Housing Element is a comprehensive statement of the City's housing policies and serves as a specific guide for implementation of these policies. It examines current housing needs; estimates future housing needs; and establishes goals, policies, and programs pertaining to those needs. Housing programs are responsive to current and future needs. They are also established within the context of available local, state, and federal economic and social resources and realistic quantified housing objectives.

Historical Resources Element

This element addresses the protection and sustainability of Newport Beach's historic and paleontological resources. Goals and policies 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 history.

Circulation Element

The Circulation Element 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.

Recreation Element

The primary purpose of the Recreation Element is to ensure that the provision of sufficient 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.

Arts and Cultural Element

Arts and cultural activities play an important role in community life and have been a valued component of Newport Beach for over 125 years. The City has a wide range of art and cultural organizations, resources, attractions, and activities that are a source of community pride and enrichment. 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. This element is intended to serve as a mechanism for integrating multiple resources in order 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 use of natural resources. It identifies the City'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.

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 that could cause exposure to the residents of Newport Beach. This Element specifically addresses coastal

hazards, geologic hazards, seismic hazards, flood hazards, wildland and urban fire hazards, hazardous materials, aviation hazards, and disaster planning. As discussed below, the type and location of hazards have been identified in the Safety Element, as well as policies and programs to minimize impacts.

<u>Noise Element</u>

The Noise Element of a General Plan is a tool for including noise control in the planning process in order 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 Noise Element follows the revised State guidelines in Section 46050.1 of the *California Health and Safety Code*. The Element quantifies the community noise environment in terms of noise exposure contours for both near and long-term levels of growth and traffic activity. The information contained in the Noise Element provides the framework to achieve compatible land uses and to provide baseline levels and noise source identification for local Noise Ordinance enforcement.

Bayview Planned Community Development Plan (PC-32)

The City of Newport Beach identifies 56 Planned Community (PC) Districts within the City's boundaries. Each PC has a corresponding development plan, which identifies allowable land uses within the PC and provides development standards for these uses. The Project site falls within PC-32 – Bayview. The *Bayview Planned Community Development Plan and Development Standards*, which was adopted in August 1985 and last amended in July 2010, is the long-range guide for growth and development within PC-32 (Newport Beach 1985). This document divides PC-32 into six "Areas" with specified land uses: Area 1, Multi-family Residential; Areas 1 and 2, Single-family Residential; Area 3, Professional and Administrative Office; Area 4, Hotel Site; Area 5, Restaurant Professional and Administrative Offices; and Area 6, Buffer. The Project site is located within Area 5 of PC-32.

City of Newport Beach Zoning Ordinance

The City of Newport Beach Zoning Ordinance, included as Chapter 20 of the City of Newport Beach Municipal Code (NBMC 2016), is the primary tool for implementing the City's General Plan. It provides Development Standards (e.g., setbacks, building height, site coverage, parking, and sign requirements), identifies allowable land uses, and specifies other regulations. Additionally, the Zoning Code provides detailed guidance for development based on, and consistent with, the land use policies established in the General Plan.

John Wayne Airport Environs Land Use Plan

The Airport Environs Land Use Plan (AELUP) identifies Land Use Policies, which are separated into General and Specific Policies. These policies are intended to guide new development within the planning area with regard to noise, safety, and height restriction standards. The Project site falls within the John Wayne AELUP Part 77 Notification Area; therefore, the Project must adhere to regulations set by the Airport Land Use Commission for Orange County (OCALUC) and the Federal Aviation Administration (FAA).

The Project site falls within the John Wayne AELUP planning area and is located approximately 0.7 mile southeast of the southernmost John Wayne Airport (JWA) runway. The Project site is located within Noise Impact Zone "2" - Moderate Noise Impact (60 decibels [dB] Community Noise Equivalent Level [CNEL] or greater, less than 65 dB CNEL) as shown in the AELUP and falls within JWA Safety Zone 6 (Traffic Pattern Zone), where the likelihood of an accident is low. The zone allows for residential uses and most nonresidential uses; however, uses such as schools, stadiums, and health care facilities should be avoided (OCALUC 2008). As indicated in the AELUP, the Project site is located within the AELUP Part 77 Notification Area. Within the Notification Area boundary, the Airport Land Use Commission (ALUC) must be notified of any proposed construction or structural alterations involving a land use or legislative amendment in the AELUP Planning Area, development that exceeds 200 feet above ground level, and all heliports or helistops. Additional criteria for notification include development in proximity to an airport exceeding the slope ratio, development involving construction of a traverseway (i.e., highway, railroad, waterway) and exceeding a standard of 77.9(a) or (b) once adjusted upward with the appropriate vertical distance, development emitting frequencies and not meeting the conditions of the FAA Co-location Policy, development being in an instrument approach area and potentially exceeding Part 77 Subpart C, and development being in proximity to a navigation facility and potentially impacting the assurance of navigation signal reception. In addition, to promote air safety, projects that meet the above criteria must also file Form 7460-1 (Notice of Proposed Construction or Alteration) as part of Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) with the FAA (OCALUC 2008).

4.8.2 METHODOLOGY

Information presented in this section is based on field reconnaissance, review of aerial photographs, and review of the relevant planning documents identified in this section. Project consistency with existing and planned land uses in the vicinity is evaluated through review of the land use goals and policies contained in the *City of Newport Beach General Plan* and planning programs prepared by SCAG (i.e., RTP/SCS Goals).

The threshold from the State CEQA Guidelines' Appendix G Checklist is focused on planning and policy consistency. As part of the land use analysis, the State CEQA Guidelines require an EIR to evaluate potential "conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project." A consistency analysis with the City's land use policies is presented in the Impact Analysis section. Although SCAG does not have direct approval authority over the Project, local agencies, including the City of Newport Beach, strive to achieve consistency with regional planning programs. Therefore, these plans and policies have been used as the basis of making a determination of a significant impact.

4.8.3 EXISTING CONDITIONS

The Project site is currently developed with a single-story 8,800-square-foot slab-on-grade restaurant located in the northeast portion of the site and associated asphalt-paved surface parking lot. Parking stalls are arranged around the perimeter of the lot, and two rows of parking spaces are located in the middle of the site. The site also contains ornamental trees and landscaping around the perimeter and within the surface parking area. Landscaping provides a dense buffer around the two sides of the restaurant abutting Bristol Street to the northeast and Bayview Place to the southeast. The southwestern and northwestern perimeters are bound by 8-foot and 6-foot block walls,

respectively; the northeastern and southeastern perimeters are bound by a combination of block walls and wrought iron fencing.

The Project is bound by Bristol Street and State Route (SR-) 73 to the northeast; Bayview Place and a six-story office building to the southeast; and multi-family and single-family residential to the southwest and northwest.

General Plan Designation and Zoning

The Project site is designated in the *City of Newport Beach General Plan* as General Commercial Office (CO-G). This designation is intended to "provide for administrative, professional, and medical offices with limited accessory retail and service uses. Hotels, motels, and convalescent hospitals are not permitted" (Newport Beach 2006). The Project site falls under Area 5 of PC-32, which allows restaurant, professional, and administrative office uses.

The City of Newport Beach Zoning Map identifies the Project site as PC-32 (Bayview Planned Community Development Plan). The Project site falls under Area 5 of PC-32, which allows restaurant, professional, and administrative office uses.

Surrounding Uses

The Project site is located in a fully developed portion of the City of Newport Beach with primarily residential, commercial, retail, health care, and office uses. As shown in Exhibit 2-1, the Project site is bordered by Bristol Street and SR-73 to the northeast, Bayview Place and the six-story Bayview North Tower office building to the southeast, the Baycrest Court condominiums to the southwest, and the Santa Ana Heights single-family residential neighborhood and a three-story office building to the northwest. This portion of the City is characterized by a concentration of commercial and office uses along Bristol Street and residential development adjacent and behind the commercial uses.

4.8.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Analysis Checklist and Appendix G of the State CEQA Guidelines, the Project would result in a significant land use impact if it would:

Threshold 4.8-1 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.

4.8.6 IMPACT ANALYSIS

Threshold 4.8-1

Would the Project 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?

The analysis of this threshold is broken down into two areas: (1) consistency with applicable planning documents and (2) compatibility with existing and planned land uses. A comparison of the Project with these programs is discussed in this section, and Tables 4.8-1 and 4.8-2 provide an analysis of consistency with specific goals and policies.

Comparison to Planning Documents

A number of regional and local planning programs such as Newport Beach General Plan, City of Newport Beach Zoning Code, Bayview Planned Community Development Plan (PC-32), Airport Environs Land Use Plan (AELUP), and SCAG's regional plans are relevant to the proposed Project. The consistency of these plans with the Project is analyzed in this section.

With respect to regional planning, SCAG is the MPO for the Los Angeles, Orange, San Bernardino, Riverside, Ventura, and Imperial Counties. As the designated MPO, SCAG is mandated by the federal government to prepare plans for growth management, transportation, air quality, and hazardous waste management. In addition, SCAG reviews EIRs for projects of regional significance for consistency with regional plans. The policies and strategies of SCAG's regional planning programs—including the RCP and RTP/SCS—are applicable to the proposed Project, because the Project is "of statewide, regional, or areawide significance," requiring a General Plan Amendment, as defined by Section 15206 of the CEQA Guidelines.

Local plans/programs relevant to the Project and the consistency of the proposed Project with these plans/programs are discussed below, including the *City of Newport Beach General Plan* and Zoning Code/Municipal Code.

City of Newport Beach General Plan

The Newport Beach General Plan was adopted on July 25, 2006, and is organized into ten elements, as described above. Each element contains the City's goal(s) and policies related to that element. It should be noted that the current *City of Newport Beach General Plan* Housing Element was adopted under a separate cover on September 24, 2013.

The Land Use Element in the Newport Beach General Plan identifies the allowable land uses throughout the City. The current land use designation for the Project site is CO-G (General Commercial Office). A General Plan Amendment to change the land use designation to PI (Private Institutions) is being requested as part of the proposed Project. The current land use designations for areas surrounding the Project site include Single Unit Residential Detached to the west, Multiple Unit Residential to the southwest, and General Office to the northwest and southeast.

The site is located along the Bristol Street corridor, mostly developed with commercial and office uses. The Project site has limited direct interface with the adjacent land uses. No elements of the Project or Private Institutions designation would conflict with the ongoing function of the surrounding uses. As discussed in Section 4.11, Transportation/Traffic, the proposed Project would not introduce substantial traffic into the adjacent residential areas and would, in fact, decrease the overall number of trips generated from the site. Additionally, the Private Institutions use would not result in excess noise that would be disruptive to the adjacent land uses (see Section 4.9, Noise). The proposed use would function as a transition from the commercial Bristol Street corridor to the residential uses located to the southwest and west. Similarly, it would not introduce a land use that would conflict with the ongoing General Commercial Office to the southeast. The orientation of the General Commercial Office uses is inward toward Bayview Circle. Therefore, the Private Institutions designation for the Project site would be compatible with the adjacent land use designations and would not interfere with the function of the surrounding uses.

The State's general rule for a General Plan consistency determination is that "an action, program, or project is consistent with the General Plan if, considering all its aspects, it will further the objectives and policies of the General Plan and not obstruct their attainment." The analysis below addresses the consistency of the proposed Project with relevant goals and policies outlined in the Newport Beach General Plan.

Table 4.8-1 compares the Project to the objectives and policies of the City's General Plan that are considered applicable to the Project.

TABLE 4.8-1 PROJECT COMPARISON TO APPLICABLE CITY OF NEWPORT BEACH GENERAL PLAN ELEMENTS

Applicable Goals and Policies	Compliance with Policy		
Land Use Element			
Goal LU 1: A unique residential community with diverse coastal and upland neighborhoods, which values its colorful pas high quality of life, and community bonds, and balances the needs of residents, businesses, and visitors through th recognition that Newport Beach is primarily a residential community.			
Policy LU 1.1: Unique Environment. Maintain and enhance the beneficial and unique character of the different neighborhoods, business districts, and harbor that together identify Newport Beach. Locate and design development to reflect Newport Beach's topography, architectural diversity, and view sheds. Policy LU 1.2: Citywide Identity. While recognizing the qualities that uniquely define its neighborhoods and districts, promote the identity of the entire City that differentiates it as a special place within the Southern California region.	Project Would Not Conflict The Project would maintain a land use compatible with the surrounding properties; the character of the Bay View Planned Community would not substantially change with the addition of the Project. Project design would also be compatible with the surrounding commercial and office developments and would follow design guidelines maintained by the City of Newport Beach.		
Goal LU 2: A living, active, and diverse environn	nent 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.

Applicable Goals and Policies	Compliance with Policy		
 Policy LU 2.1: Resident-Serving Land Uses. Accommodate uses that support the needs of Newport Beach's residents including housing, retail, services, employment, recreation, education, culture, entertainment, civic engagement, and social and spiritual activity that are in balance with community natural resources and open spaces. Policy LU 2.2: Sustainable and Complete Community. Emphasize the development of uses that enable Newport Beach to continue as a self-sustaining community and minimize the need for residents to travel outside of the community for retail, goods and services, and employment. 	Project Would Not Conflict The development of the proposed assisted living and memory care facility would cater to the needs of the senior segment of local population within the City of Newport Beach. The facility would provide full services to the resident population, in-house, without the need to travel outside for those services. Additionally, the Project would create employment opportunities for Newport Beach residents during both construction and operation. Since there are other restaurant or dining options in the vicinity of the Project, elimination of the restaurant on the site would not result in a lack of land use serving this need.		
Goal LU 3: A development pattern that retains industrial districts, open spaces, and natural env	and complements the City's residential neighborhoods, commercial and rironment.		
Policy LU 3.2: Growth and Change. Enhance existing neighborhoods, districts, and corridors, allowing for re-use and infill with uses that are complementary in type, form, scale, and character. Changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach's share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service.	Project Would Not Conflict The proposed Project would change the current land use designation from General Commercial Office to Private Institutions and would replace the current restaurant on site with a senior living project that would include assisted living and memory care units. Although the use would be different, development under the Project would be complementary in form, scale, and character to the surrounding existing uses. The Project would generate minimal population to the City, as some, if not the majority of resident population, may be existing residents of the City of Newport Beach. Additionally, the Project would provide a service that is currently limited in the City and surrounding area. The Project would accommodate the need of City residents to remain in the community as they age and their needs for additional assistance increase. Design of the Project would ensure adequate infrastructure and provision of public services. As analyzed in Sections 3.0, 4.10, and 4.13, the Project would not result in impacts related to infrastructure, public services, and utilities. Additionally, as indicated in Section 4.11, the Project would result in reduced trips compared to the existing restaurant use on site.		
residents, respect the natural environmental set a special place in the Southern California region.	ting, and sustain the qualities of place that differentiate Newport Beach as		
Policy LU 5.1.2: Compatible Interfaces. Require that the height of development in nonresidential and higher-density residential areas transition as it nears lower-density residential areas to minimize conflicts at the interface between the different types of development.	Project Would Not Conflict Uses immediately adjacent to the Project site include General Commercial Office uses to the northwest and southeast, Multiple-Unit Residential uses to the south/southwest, and Single-Unit Residential Detached to the west. As described in detail in this section of the EIR, the Project would not result in land use compatibility impacts with the surrounding uses. Increased setbacks and ample landscaping are incorporated to create a buffer and enhance compatibility with the existing residential uses. Additionally, the design of the structure has taken into account visual compatibility with the surrounding uses; and the height of the proposed facility is in compliance with the Bayview Planned Community (PC-32) standards. It is anticipated the facility would have lesser or similar		

Applicable Goals and Policies	Compliance with Policy		
	impacts than a 70,000 square foot office building as currently allowed by the general plan.		
Goal LU 5.6: Neighborhoods, districts, and corridors containing a diversity of uses and buildings that are mu compatible and enhance the quality of the City's environment.			
Policy LU 5.6.1: Compatible Development.	Project Would Not Conflict		
Require that buildings and properties be designed to ensure compatibility within and as interfaces between neighborhoods, districts, and corridors.	As described in detail in this section of the EIR, the Project would not result in land use compatibility impacts with the surrounding uses. Increased setbacks and ample landscaping are incorporated to create a buffer and enhance compatibility with the existing residential uses.		
Policy LU 5.6.2: Form and Environment. Require that new and renovated buildings be designed to avoid the use of styles, colors, and materials that unusually impact the design character and quality of their location such as abrupt changes in scale, building form, architectural style, and the use of surface	Additionally, the design of the structure has taken into account visual compatibility with the surrounding uses; and the height of the proposed facility is in compliance with the Bayview Planned Community (PC-32) standards. The proposed Project would comply with City of Newport Beach design requirements and recommendations associated with, scale, building form, architectural style, use of surface materials, and outdoor lighting.		
materials that raise local temperatures, result in glare and excessive illumination of adjoining properties and open spaces, or adversely modify wind patterns.	The architectural style, colors, and materials used on the exterior would complement and be compatible with the adjacent condominium residential and office uses. The height (35 feet plus appurtenances) of the building is lower than the adjacent t office buildings and consistent with		
Policy LU 5.6.3 Ambient Lighting. Require that outdoor lighting be located and designed to prevent spillover onto adjoining properties or significantly increase the overall ambient	the height of office and commercial buildings in the Santa Ana Heights area. Therefore, proposed building would not result in abrupt changes in scale, building form, and architectural style; and the surface materials will not result in excessive illumination of adjoining properties.		
illumination of their location.	The proposed Project would include new exterior light sources that would generate light at levels sufficient for safety and visibility. The new light sources would increase lighting levels at the Project site but would be consistent with the ambient and nighttime lighting in the area, surrounding the Project site. All light fixtures would be shielded to direct light down and to minimize light spillover on surrounding properties. In terms of glare, the proposed building would be constructed with primarily non-reflective materials such as stone veneer and stucco on the exterior of the building and concrete or composition shingle roofing. The use of glass in windows would not generate noticeable glare that would affect surrounding uses. Therefore, the Project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.		
Goal LU 6.1: A diversity of governmental service that are available for and enhance the quality o Beach's neighborhoods.	e, institutional, educational, cultural, social, religious, and medical facilities f life for residents and are located and designed to complement Newport		
Policy LU 6.1.2 Siting of New Development. Allow for the development of new public and institutional facilities within the City provided that the use and development facilities are compatible with adjoining land uses, environmentally suitable, and can be supported by transportation and utility infrastructure.	Project Would Not Conflict The proposed designation for the Project would be Public Institutional. Analysis contained in this EIR provides an assessment and determination of compatibility of adjoining land uses and environmental suitability of the Project supported by and without impacts to transportation and utility infrastructure. Please see the discussions in Section 4.10, Public Services and Section 4.11, Transportation/Traffic of the EIR.		

Applicable Goals and Policies	Compliance with Policy			
Historical Resources Element				
Goal HR 2: Identification and protection of impo	ortant archaeological and paleontological resources within the City.			
Policy HR 2.1: New Development Activities. Require that, in accordance with CEQA, new development protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize 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.	Project Would Not Conflict Even though this policy is a City-wide effort and enforced through planning polices and permit conditions, the Project would mitigate potential impacts pertaining to archeological and paleontological resources. The analysis in Section 4.3, Cultural Resources, concluded that Project-specific and cumulative impacts to archaeological and paleontological resources associated with the Project would be reduced to less than significant with implementation of MM CULT-1 through MM CULT-3. Additionally, City Council Policy K-5 would apply to the Project.			
Policy HR 2.3: Cultural Organizations. Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow representatives of such groups to monitor grading and/or excavation of development sites.	 Project Would not Conflict In accordance with Assembly Bill (AB) 52 and Senate Bill (SB) 18, th Native American Heritage Commission (NAHC) was contacted for Sacred Lands File search and a list of tribal representatives for SB 18 an subsequently, AB 52 coordination. Project notification letters were se out to the tribal representatives on these lists. As a result of this outread Native American monitoring of Project excavation activities has bee requested by the Gabrieleño Band of Mission Indians–Kizh Nation (plea see discussion in Section 4.12, Tribal Cultural Resources of the EIR). 			
Policy HR 2.4: Paleontological or Archaeological Materials. Require new development to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach, or Orange County, whenever possible.	Project Would not Conflict As indicated in Section 4.3, Cultural Resources, any fossil remains recovered during grading of native soils (for creation of subterranean parking), would be placed in an accredited scientific institution for the benefit of current and future generations (MM CULT-2).			
Circulation Element				
Goal CE 2.2: A safe and efficient roadway system	1.			
Policy CE 2.2.4: Driveway and Access Limitations. Limit driveway and local street access on arterial streets to maintain a desired quality of traffic flow. Wherever possible, consolidate driveways and implement access controls during redevelopment of adjacent parcels.	Project Would Not Conflict The proposed senior living Project is replacing the existing restaurant on the site. Primary vehicular access to the proposed Project would be provided by an entry driveway off Bayview Place, which is consistent with the current configuration of the entry into the existing use. As the entry maintains the existing location, additional vision clearance would not be needed. In addition, the location of driveway access points would comply with City of Newport Beach roadway standards for adequate sight distance. The Project would not include any off-site roadway and intersection improvements. No additional driveway and local street access, with the exception of the controlled access emergency exit on Bristol Street, is proposed.			

Applicable Goals and Policies	Compliance with Policy		
Goal CE 7.1: An adequate supply of convenient p	nt parking throughout the City.		
Policy CE 7.1.1: Required Parking. Require that new development provide adequate, convenient parking for residents, guests, business patrons, and visitors.	Project Would Not Conflict The proposed Project would provide 53 subterranean parking spaces for employees and guests, which would be accessible from the main entry to the Project site off Bayview Place. The City's Municipal Code requires 1 parking space per 3 beds for convalescent facilities; therefore, the proposed Project would be required to provide 40 parking spaces. The proposed Project would provide 53 parking spaces, which is approximately 33 percent more than the City requirement. Thus, the Project would provide convenient and adequate on-site parking.		
Natural Resources Element			
Goal NR 3: Enhancement and protection of wate harbors, and wetlands.	er quality of all natural water bodies, including coastal waters, creeks, bays,		
Policy NR 3.2: Water Pollution Prevention. Promote pollution prevention and elimination methods that minimize the introduction of pollutants into natural water bodies.	Project Would Not Conflict The Project would include the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP), which would reduce and/or eliminate pollutants in storm water discharges during construction activities on the site, in compliance with the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity. Additionally, the Project includes a Preliminary Water Quality Management Plan (WQMP) that identifies the structural and non-structural measures that would be implemented by the Project to reduce and/or eliminate pollutants in storm water during long-term operations.		
Policy NR 3.3: Ground Water Contamination. Suspend activities and implement appropriate health and safety procedures in the event that previously unknown groundwater contamination is encountered during construction. Where site contamination is identified, implement an appropriate remediation strategy that is approved by the City and the state agency with appropriate jurisdiction.	Project Would Not Conflict As discussed in Section 4.6, Hazards and Hazardous Materials, no land uses on or near the site are known to have resulted in soil or groundwater contamination that would affect the Project. In the unlikely event that contaminated groundwater is encountered at the site, compliance with existing regulations would be required. As discussed in Section 4.7, Hydrology and Water Quality, should groundwater be encountered during excavation activities, the contractor would have to comply with the Santa Ana Regional Water Quality Control Board's Waste Discharge Requirements (WDRs) for the disposal of dewatering wastes into the storm drain system.		
Policy NR 3.4: Storm Drain Sewer System Permit. Require all development to comply with the regulations under the City's municipal separate storm drain system permit under the National Pollutant Discharge Elimination System.	Project Would Not Conflict In compliance with the Orange County Municipal Separate Storm Sewer System (MS4) Permit, the Project has prepared a Preliminary WQMP that identifies the structural and non-structural measures that would be implemented by the Project to reduce and/or eliminate pollutants in storm water during long-term operations. Permanent treatment control best management practices (BMPs) include bio-filtration planters that would treat storm water and an underground detention basin that would collect treated runoff to prevent increases in runoff volumes and rates.		

Applicable Goals and Policies	Compliance with Policy		
Policy NR 3.5: Natural Water Bodies. Require	Project Would Not Conflict		
that development does not degrade natural water bodies.	The Project would implement construction BMPs as outlined in the SWPPP and operational BMPs as outlined in the Preliminary WQMP to prevent pollutants from entering the City's storm drain system and Upper Newport Bay.		
Policy NR 3.9: Water Quality Management	Project Would Not Conflict		
Plan. Require new development applications to include a Water Quality Management Plan (WQMP) to minimize runoff from rainfall events during construction and post-construction.	As discussed in Section 4.7, Hydrology and Water Quality, the Project has prepared a Preliminary WQMP that identifies the structural and non- structural measures that would be implemented by the Project to reduce and/or eliminate pollutants in storm water during long-term operations. The Project would also prepare and implement a SWPPP, which would reduce and/or eliminate pollutants in storm water during construction activities.		
Policy NR 3.10: Best Management Practices.	Project Would Not Conflict		
Implement and improve upon Best Management Practices (BMPs) for residences, businesses, development projects, and City operations.	The Project would implement BMPs during the construction phase, as outlined in the SWPPP. The Project would also implement structural and non-structural BMPs, as outlined in the Preliminary WQMP, during long- term operations.		
Policy NR 3.11: Site Design and Source	Project Would Not Conflict		
Control. Include site design and source control BMPs in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality as required by the National Pollutant Discharge Elimination System (NPDES), structural treatment BMPs will be implemented along with site design and source control measures.	As discussed in Section 4.7, Hydrology and Water Quality, the Project would implement structural and non-structural BMPs, as outlined in the Preliminary WQMP. These include bio-filtration planters and an underground detention basin and a number of non-structural source control BMPs that would be implemented as part of long-term Project operations and maintenance activities.		
Policy NR 3.12: Reduction of Infiltration.	Project Would Not Conflict		
Include equivalent BMPs that do not require infiltration, where infiltration of runoff would exacerbate geologic hazards.	As discussed in Section 4.7, Hydrology and Water Quality, infiltration and retention are not feasible for the site; therefore, a combination of biotreatment and hydromodification control BMPs would be incorporated in the storm drainage design of the Project. This includes bio-filtration planters and an underground detention basin.		
Policy NR 3.14: Runoff Reduction on Private	Project Would Not Conflict		
Property. Retain runoff on private property to prevent the transport of pollutants into natural water bodies, to the maximum extent practicable.	The Project includes the construction of bio-filtration planters that would treat storm water and an underground detention basin that would collect treated runoff prior to its discharge into the storm drain line in Bayview Place.		
Policy NR 3.15: Street Drainage Systems.	Project Would Not Conflict		
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.	The Project does not require improvements to the existing street drainage system. Construction-related and operational storm water pollutants would be minimized on site to reduce and/or avoid impacts to the water quality in Upper Newport Bay per the preliminary WQMP.		

Applicable Goals and Policies	Compliance with Policy	
Policy NR 3.17: Parking Lots and Rights-of-Way. Require that parking lots and public and private rights-of-way be maintained and cleaned frequently to remove debris and contaminated residue.	Project Would Not Conflict The Preliminary WQMP for the Project outlines various non-structural source control BMPs, including the sweeping of private streets and parking lots, which would be implemented during Project operations.	
Policy NR 3.18: Water Quality Education.	Project Would Not Conflict	
Effectively communicate water quality education to residents and businesses, including the development of a water quality testing lab and educational exhibits at various educational facilities.	Although this policy is a City-wide effort, the Preliminary WQMP for the Project outlines various non-structural source control BMPs, including the education of owners, tenants, and occupants; activity restrictions; and employee training, which would be implemented during Project operations.	
Policy NR 3.20: Impervious Surfaces.	Project Would Not Conflict	
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.	The Project site is largely developed and paved and would remain developed with the Project. While an increase in impervious surfaces would occur due to the expanded footprint of on-site development, storm water would be directed into three bio-filtration planters, which would separate the impervious areas on the site. Additionally, an underground detention basin is proposed to maintain existing runoff volumes and rates.	
Goal NR 4: Maintenance of water quality standstandards.	dards through compliance with the total maximum daily loads (TMDLs)	
Policy NR 4.3: Restore Natural Hydrologic	Project Would Not Conflict	
Conditions. Preserve, or where feasible, restore natural hydrologic conditions such that downstream erosion, natural sedimentation rates, surface flow, and groundwater recharge function near natural equilibrium states.	The Project site is largely developed and paved and would remain developed with the Project. Although the Project would not restore the natural hydrologic conditions of the site, the Project would include bio- filtration planters and an underground detention basin to maintain existing runoff volumes and rates. This would prevent downstream erosion and maintain existing sedimentation rates, surface flows, and groundwater recharge.	
Policy NR 4.4: Erosion Minimization. Require	Project Would Not Conflict	
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.	As discussed in Section 4.7, Hydrology and Water Quality, the Project site is largely developed and would remain developed with the Project. Additionally, the Project would implement erosion and sediment control BMPs in the SWPPP during construction and in the Preliminary WQMP during long-term operation. The Project would also comply with erosion control measures in the City's Grading Code.	
Goal NR 8: Reduced air pollutant emissions from construction activities.		
Policy NR 8.1: Management of Construction Activities to Reduce Air Pollution. Require developers to use and operate construction equipment, use building materials and paints, and control dust created by construction activities to minimize air pollutants.	Project Would Not Conflict	
	The Project would comply with SCAQMD Rules 402 and 403 regarding fugitive dust control during construction activities (RR AQ-1 and RR AQ-2). The Project would also comply with other SCAQMD regulations, such as Rule 1113, regarding the volatile organic compound (VOC) content of architectural coatings. As discussed in Section 4.2, Air Quality, the Project's construction emissions would be below SCAQMD thresholds for all criteria air pollutants.	

Applicable Goals and Policies	Compliance with Policy	
Goal NR 18: Protection and preservation of important paleontological and archaeological resources.		
Policy NR 18.1: New Development. Require new development to protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources in accordance with the requirements of CEQA. Through planning policies and permit conditions, ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA.	Project Would Not Conflict This policy is similar to HR 2.1, above.	
Policy NR 18.3: Potential for New Development to Impact Resources. Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow qualified representatives of such groups to monitor grading and/or excavation of development sites.	Project Would Not Conflict This policy is similar to HR 2.3, above.	
Policy NR 18.4: Donation of Materials. Require new development, where on site preservation and avoidance are not feasible, to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible.	Project Would Not Conflict This policy is similar to HR 2.4, above.	
Noise		
Goal N 1: Noise Compatibility – Minimized land	d 8use conflicts between various noise sources and other human activities.	
Policy N 1.1: Noise Compatibility of New Development. Require that all proposed projects are compatible with the noise environment through use of Table N2, and enforce the interior and exterior noise standards shown in Table N3.	Project Would Not Conflict As indicated in Section 4.9, Noise of the EIR, MM NOI-4 requires the Applicant to demonstrate the Project will meet interior and exterior compatibility standards.	
Policy N 1.2: Noise Exposure Verification for New Development. Applicants for proposed projects that require environmental review and are, located in areas projected to be exposed to a CNEL of 60 dBA and higher, as shown on Figure N4, Figure N5, and Figure N6 may conduct a field survey, noise measurements or other modeling in a manner acceptable to the City to provide evidence that the depicted noise contours do not adequately account for local noise exposure circumstances due to such factors as, topography, variation in traffic speeds, and other applicable conditions. These	Project Would Not Conflict As discussed in Section 4.9, Noise of the EIR, noise monitoring was conducted to determine that noise exposure could equal or exceed 70 dBA CNEL on facades facing Bristol Street. Therefore, MM NOI-4 requires the Applicant to demonstrate the Project will meet interior and exterior compatibility standards.	

Applicable Goals and Policies	Compliance with Policy	
findings shall be used to determine the level of exterior or interior, noise attenuation needed to attain an acceptable noise exposure level and the feasibility of such mitigation when other planning considerations are taken into account.		
Policy N 1.3: Remodeling and Additions of	Project Would Not Conflict	
additions of structures comply with the noise standards shown in Table N3.	The Project proposed redevelopment of the site with a senior living facility. The Project would comply with all required standards and requirements for a new development. The analysis in Section 4.9, Noise of the EIR discusses the Project's potential noise impacts and mitigations that would reduce the impacts to less than significant levels.	
Policy N 1.4: New Developments in Urban	Project Would Not Conflict	
Areas. Require that applicants of residential portions of mixed-use projects and high density residential developments in urban areas (such as the Airport Area and Newport Center) demonstrate that the design of the structure will adequately isolate noise between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code.	The proposed Project is not a high density residential development. Nevertheless, the analysis of Threshold 4.9-5 in Section 4.9, Noise of the EIR demonstrates that exposure to aircraft noise would be less than significant.	
Policy N 1.5: Infill Projects. Allow a higher	Project Would Not Conflict	
exterior noise level standard for infill projects in existing residential areas adjacent to major arterials if it can be shown that there are no feasible mechanisms to meet the exterior noise levels. The interior standard of 45 dBA CNEL shall be enforced for any new residential project.	As indicated in Section 4.9, Noise of the EIR, MM NOI-4 requires the Applicant to demonstrate the Project will meet interior and exterior compatibility standards.	
Policy N 1.8: Significant Noise Impacts.	Project Would Not Conflict	
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.	The proposed Project would have less vehicle trip generation compared to the existing restaurant use on the site. As analyzed in Section 4.9, Noise of the EIR, Project is anticipated to have less on-site noise generation than the existing restaurant use. No significant long-term noise impacts were identified.	
CNEL dBA dBA increase		
75 1		
Over 75 Any increase is considered significant		
Source: Psomas, 2018.		

<u>City of Newport Beach Zoning Ordinance</u>

The Newport Beach Zoning Ordinance is the primary tool for implementing the Newport Beach General Plan. The Zoning Ordinance provides development standards (i.e., setbacks, building height, site coverage, parking, and sign requirements) for all areas in the City. In addition to guiding the land use, design, and site improvements of development projects, the Zoning Ordinance provides detailed guidance for development based on and consistent with the land use policies established in the Newport Beach General Plan.

The proposed Project is within Zoning District PC-32, which is the Bayview Planned Community Development Plan (PC-32), that provides for residential, recreational, commercial, professional, institutional, hotel, and office uses. The Project site is located in Area 5 of the Bayview Planned Community, which is intended for commercial uses, specifically facilities for shopping goods, convenience goods and services, food services, and recreation for the community. Permitted uses include restaurants, bars, theaters, and nightclubs. Permitted uses subject to a Conditional Use Permit include automobile washing; health clubs; helistops; mini-storage facilities; public utility exchanges and substations; retail businesses; service businesses; animal clinics and hospitals; administrative and professional offices; automobile parking lots and structures; commercial recreation; nurseries and garden supply stores; day nurseries; financial institutions; public/private utility buildings and structures; self-service laundry and dry cleaning facilities; accessory structures and uses necessary and customarily incidental to the above uses; and any other uses that, in the opinion of the City of Newport Beach Planning Commission, are of a similar nature.

The proposed Project would include an amendment to the existing Bayview Planned Community Development Plan (PC-32) to allow for congregate care/convalescent and private institution uses and amend the land use and development standards for the Project site. The proposed revisions include increasing the floor area from 8,000 square feet for restaurant use or 70,000 square feet for office use to 85,000 square feet for congregate care/convalescent and public institution uses; modifying the current parking requirement (for the restaurant use) from 90 to 53 spaces to reflect the applicable parking requirements for the proposed use; and altering the uses in Area 5 of PC-32, which would involve removing the commercial uses currently allowed and providing for privately owned facilities that serve the public, including congregate homes, convalescent facilities, health care services, assisted living facilities, and comparable uses. The provision of 53 spaces is based on NBMC Section 20.40.040 requirement of 1 space for every 3 beds, which equates to a total of 40 spaces for the Project (120 beds). The Project would provide an additional 13 spaces resulting in a total of 53 parking spaces (49 standard spaces and 4 accessible or barrier-free spaces).

Additionally, the development standards that would be subject to the proposed amendment in the PC-32 text include maximum square footage and off-street parking. An amendment to the maximum height limits would not be required, as the proposed building height of 39 feet and 6 inches (at the highest point), which includes mechanical equipment screening, is within the current height limits in the PC-32 text.

The proposed Project includes a request for a Planned Community Development Plan Amendment to increase the floor area allowance to 85,000 square feet and to change the land use limitations. The extra 15,000 square feet would be offset by efficient design and building placement. Planned Community Development Plan Amendment No. PD2015-005 proposes to amend PC-32 to allow for congregate care/convalescent and private institution uses. The Project also includes a request for a Use Permit to allow the establishment of a convalescent facility with congregate care (referred to as assisted living and memory care throughout the EIR) housing. With the proposed amendment, the Project would be compatible with the zoning designation, surrounding land uses, and requirements. Impacts would be less than significant, and no mitigation is required.

Airport Environs Land Use Plan

As previously discussed, the Project site is located approximately 0.7 mile southeast of JWA and falls within the JWA AELUP. The following presents the AELUP Land Use Policies that are applicable to the proposed Project, followed by an assessment of the Project's compatibility with the policy.

3.2.1 General Policy. Within the boundaries of the AELUP, any land use may be found to be inconsistent with the AELUP which:

- 1. Places people so that they are affected adversely by aircraft noise
- 2. Concentrates people in areas susceptible to aircraft accidents
- 3. Permits structures of excessive height in areas which would affect adversely the continued operation of the airport
- 4. Permits activities or facilities that would affect adversely aeronautical operations

The Project is located in Zone 6 of the JWA Safety Compatibility Zones. The JWA AELUP cites and includes Table 9B, Basic Safety Compatibility Qualities, from the California Airport Land Use Planning Handbook. This zone, identified as Traffic Pattern Zone for the Medium General Aviation Runway, identifies that the risk factor in this zone is generally low and residential and most nonresidential uses are allowed. Though not prohibited in Zone 6, the *California Airport Land Use Planning Handbook* recommends the avoidance of schools, large day care centers, hospitals, and nursing homes. It should be noted, that the Project does not fit the definition of a nursing home.¹ The Handbook provides discussion of the basic safety criteria when evaluating compatibility of land uses. Though the compatibility criteria applicable to each of the safety zones are held relatively constant among most airports, the qualitative descriptions in the Handbook provide an overview of general relative risks prevalent in each zone. It specifically states the types of variables not fully accounted for in the safety zones. The Handbook indicates more intensive development is often considered acceptable within urban areas in recognition of the costs associated with avoiding development. Table 9C of the Handbook presents a set of specific safety compatibility criteria formulated with this factor in mind. Table 9C does not identify a maximum residential density or non-residential intensity for Zone 6. The only condition is large stadiums and similar uses should be prohibited. The Project density is compatible with the surrounding

¹ The Project is defined as a Residential Care Facility for the Elderly (RCFE) and is licensed by the California Department of Social Services, whereas a nursing home is licensed by the Department of Public Health.

uses. Therefore, the Project would be consistent with the AELUP Safety Compatibility Zone requirements.

Consistency with height restrictions and compatibility with aeronautical operations are further discussed below under Policies 3.2.6 and 3.2.7.

3.2.4 Noise Impact Zone "2" - Moderate Noise Impact. Noise impact in this area is sufficient to require sound attenuation as set forth in the California Noise Insulation Standards, Title 25, *California Code of Regulations*. Single noise events in this area create serious disturbances to many inhabitants. Even though the Commission would not find residential units incompatible in this area, the Commission strongly recommends that residential units be limited or excluded from this area unless sufficiently sound attenuated. The residential use interior sound attenuation requirement shall be a CNEL value not exceeding an interior level of 45 dB. In addition, it is recommended that designated outdoor common or recreational areas within Noise Impact Zone "2" provide outdoor signage informing the public of the presence of operating aircraft.

The Project site is in the Noise Impact Zone "2", as designated in the AELUP. As previously noted, the AELUP uses a policy implementation line, which was adopted by the Orange County Board of Supervisors in 1985 for establishing the Noise Impact Zones. This line is based on the highest noise level at a given location utilizing noise projections from both the 1990 and 2005 project case contours developed as part of the 1985 John Wayne Airport Master Plan and are used as the basis for planning in the vicinity of JWA. At that time the site was within the 60-dB to 65-dB CNEL noise contour (County 1985). Though not currently or projected to be in the 60-dB CNEL contour, the site is subject to aircraft noise and is located in the typical 85 departure Single Event Noise Equivalent Level for several types of aircraft that operate at JWA (A300-600 and the 737-700). However, it should be noted, that based on the Noise Analysis Technical Report prepared for the John Wayne Airport Settlement Agreement Amendment Final EIR 617 (County 2014), in 2013 the "time above values" at 85 dBA at the closest monitoring station was an average of 0.6 minutes per day.² Building noise attenuation would ensure that the interior noise levels achieve the 45-dB standard (see MM NOI-4). The Project would not include public outdoor areas, although it would include common outdoor areas for Project residents. However, based on consistency with the AELUP policy requirements, notification of residents of the presence of operating aircraft is required. Therefore, in an abundance of caution, the Project has been identified as having a potential significant impact, which would be mitigated to less than significant with implementation of MM LU-1.

3.2.6 Height Restriction Zone. Any object, which by reason of its height or location would interfere with the established, or planned, airport flight procedures, patterns, or navigational systems, is unacceptable to the Commission. Similarly, any proposal which would cause a diminution in the utility of an airport is unacceptable to the Commission. The standards, criteria, and procedures promulgated by the FAA for the thorough evaluation of development projects are designed to ensure the safe and efficient use of the navigable airspace. The

Noise Monitoring Station 2S is the closest permanent noise monitoring station to the Project site. This monitoring station is located at 20162 Birch Street, Newport Beach, approximately 0.4 mile southeast of the Project site. Therefore, the noise levels at the Project site would be incrementally less than the noise levels calculated at the noise station.

application of these principles by the Commission will ensure the stability of local air transportation, as well as promote land uses that are compatible with the airport environs. However, any object which rises above the height of surrounding development, or which is located in close proximity to any of the various flight paths, must be clearly visible during hours of twilight or darkness and must not threaten, endanger, or interfere with aeronautical operations. Such objects, even if within the above height restrictions, are not acceptable to the Commission unless they are clearly marked or lighted according to FAA standards.

3.2.7 Airspace/Airport Inconsistency. In reviewing projects, the Commission will find any structure, either within or outside of the planning areas, inconsistent with this AELUP if it:

- 1. Is determined to be a "Hazard" by the FAA;
- 2. Would raise the ceiling or visibility minimums at an airport for an existing or planned instrument procedure (i.e., a procedure consistent with the FAA-approved airport layout plan or a proposed procedure formally on file with the FAA);
- 3. Would result in a loss in airport utility, e.g. in a diminution of the established operational efficiency and capacity of the airport, such as by causing the usable length of the runway (s) to be reduced; or
- 4. Would conflict with the VFR [visual flight route] air space used for the airport traffic pattern or enroute navigation to and from the airport.

As indicated in the AELUP for JWA, the Project site is located within the AELUP Part 77 Notification Area for JWA. Within the Notification Area boundary, the ALUC must be notified of any proposed construction or structural alterations involving a land use or legislative amendment in the AELUP Planning Area, development that exceeds 200 feet above ground level, and all heliports or helistops. As indicated in Section 2.5.3, The FAA Form 7460-1 was filed electronically on January 12, 2018. Determinations of No Hazard to Air Navigation for the proposed structure and temporary structure (i.e., construction equipment boom lift) were issued separately on January 30, 2018. The determination of No Hazard for the proposed structure stated that the structure would not exceed obstruction standards and would not be a hazard to air navigation; however, it required that the FAA Form 7460-2, Notice of Actual Construction or Alteration, be filed electronically within five days after the construction reaches its greatest height. The determination of No Hazard for the temporary construction equipment indicated that the temporary structure (i.e., construction equipment boom lift) would not exceed obstruction standards and would not be a hazard to air navigation. Both determinations stated that while marking and lighting are not necessary, should they be included, they would be installed and maintained in accordance with the FAA Advisory circular 70/7460-1 L. The FAA determinations are provided in Appendix D-2.

Based on the above consistency analysis, the Project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project. Impacts would be less than significant; however, implementation MM LU-1 is recommended.

Southern California Association of Governments

The fundamental goals of SCAG's RTP/SCS effort are to make the SCAG region a better place to live, work, and play for all residents regardless of race, ethnicity, or income class. Table 4.8-2, below, presents the Project's consistency with the relevant adopted 2016-2040 RTP/SCS goals. The adopted 2016-2040 RTP/SCS seeks to link the goal of sustaining mobility with the goals of fostering economic development; enhancing the environment; reducing energy consumption; promoting transportation-friendly development patterns; and encouraging fair and equitable access to residents impacted by socioeconomic, geographic, and commercial conditions. Implementation of the proposed Project would be consistent with the goals and the intent of the 2016-2040 RTP/SCS (SCAG 2016b).

The analysis of the Project's consistency with the 2016-2040 RTP/SCS goals is provided in Table 4.8-2, below.

TABLE 4.8-2

CONSISTENCY WITH REGIONAL TRANSPORTATION PLAN/ SUSTAINABLE COMMUNITIES STRATEGY GOALS

RTP/SCS GOAL	CONSISTENCY ANALYSIS		
Goal 1: Align the plan investments and policies with improving regional economic development and competitiveness.	Project Would Not Conflict The proposed Project involves the redevelopment of a site that is currently developed with a restaurant and surface parking. Although the current use provides job opportunities, operation of the proposed Project would also generate approximately 30 jobs upon Project implementation in addition to up to 50 construction jobs, thereby supporting regional economic development.		
Goal RTP/SCS G2: Maximize mobility and accessibility for all people and goods in the region.	Project Would Not Conflict This goal would be implemented at a regional level. Even though the Project proposes the construction and operation of an assisted living and memory care facility, it would not conflict with this goal. The Project is proposed as self-sufficient facility with recreation amenities that would encourage mobility for the resident population within the Project.		
Goal RTP/SCS G3: Ensure travel safety and reliability for all people and goods in the region.	Project Would Not Conflict Project implementation would not affect travel safety and reliability for people and goods, as the Project would use an existing circulation system consisting of roads and sidewalks in a setting near existing major transportation thoroughfares. Additionally, the Project is proposed as a self- sufficient facility with recreation amenities that would encourage mobility for the resident population within the Project with safety in mind. Additionally, it should be noted that the proposed Project would result in a reduction of vehicular trips compared to the existing restaurant use (see Section 4.11, Transportation/Traffic of the EIR).		
Goal RTP/SCS G4: Preserve and ensure a sustainable regional transportation system.	Project Would Not Conflict This goal would be implemented at a regional level. The Project proposes the construction and operation of an assisted living and memory care facility and would promote and encourage walking and mobility for the resident population within the facility. Regional transportation would not be impacted by the Project.		

TABLE 4.8-2 CONSISTENCY WITH REGIONAL TRANSPORTATION PLAN/ SUSTAINABLE COMMUNITIES STRATEGY GOALS

RTP/SCS GOAL	CONSISTENCY ANALYSIS		
Goal RTP/SCS G5: Maximize the productivity of our transportation system.	Project Would Not Conflict This goal would be implemented at a regional level. The Project proposes the construction and operation of an assisted living and memory care facility and would promote and encourage walking and mobility for the resident population within the facility. Local and regional transportation would not be impacted by the Project. Additionally, as indicated above, it should be noted that the proposed Project would result in a reduction of vehicular trips compared to the existing restaurant use (see Section 4.11, Transportation/Traffic of the EIR).		
Goal RTP/SCS G6: Protect the environment and health for our residents by improving air quality and encouraging active transportation (non- motorized transportation, such as bicycling and walking).	Project Would Not Conflict While this goal would be implemented at a city-wide and regional level, the Project, an assisted living and memory care facility, would not conflict with this goal. The Project seeks to create a self-sufficient facility with amenities that would promote and encourage walking and mobility for the resident population within the facility. Walkways and internal courtyards are proposed to cater to the needs of the future residents of the facility.		
Goal RTP/SCS G7: Actively encourage and create incentives for energy efficiency, where possible.	Project Would Not Conflict Section 6.0 discusses energy conservation and identifies how the Project would avoid and reduce inefficient, wasteful, and unnecessary consumption of energy during construction and operation.		
Goal RTP/SCS G8: Encourage land use and growth patterns that facilitate transit and non-motorized active transportation.	Project Would Not Conflict While this goal would be implemented at a city-wide and regional level, the Project, an assisted living and memory care facility, would not conflict with this goal. The Project seeks to create a self-sufficient facility with amenities that would promote and encourage walking and mobility for the resident population within the facility. Walkways and internal courtyards are proposed to cater to the needs of the future residents of the facility.		
Goal RTP/SCS G9: Maximize the security of the regional transportation system through improved system monitoring, rapid recovery planning, and coordination with other security agencies.	Project Would Not Conflict The proposed Project does not involve the construction or expansion of the regional transportation system. Therefore, security associated with regional transportation systems is not applicable to the proposed Project, and the Project would not conflict with it. The potential impact of the proposed Project to public services, including police and fire protection, is discussed in Section 4.10, Public Services, of this EIR.		
Source (2016 RTP/SCS Goals): SCAG 2016b.			

Impact Conclusion: Pursuant to Threshold 4.8-1, the Project would not conflict with any local applicable land use plan, policy, or regulation. The Project is located in the Noise Impact Zone "2" that recommends notification of operating aircraft in the area. MM LU-1 is recommended for compliance with the AELUP requirements and would reduce impacts to less than significant.

Compatibility with Surrounding Land Uses

Land use compatibility with existing adjacent land uses considers the impacts associated with locating different and incompatible land uses interfacing with each other. The proposed Project

would not conflict with existing land uses around the Project site. Existing uses would either be compatible with the proposed use and/or buffered by expanded setbacks, walls, and existing and enhanced landscaping.

The Project site is located in an urbanized and fully developed portion of the City of Newport Beach with a mix of residential, commercial, retail, health care, and office uses. As shown in Exhibit 2-1, the Project site is bordered by Bristol Street and SR-73 to the northeast, Bayview Place and a six-story office building to the southeast, Baycrest multi-family residential development to the southwest, and Santa Ana Heights single-family residential neighborhood and a three-story office building to the northwest. This portion of the City is characterized by a concentration of commercial and office uses along Bristol Street and residential development adjacent and behind the commercial uses. Bristol Street and Bayview Place provide sufficient buffer/right-of-way between the proposed use and the adjacent office uses across Bayview Place.

Additionally, the proposed building height and the proposed setbacks, described in Section 3.0, Project Description, of this EIR, are designed to provide compatibility with the adjacent uses. The proposed building is uniformly three stories, or 33 feet, at the top of the roof, and 39 feet and 6 inches at the highest point, which includes mechanical equipment screening. This is within the height limits in the Bayview Planned Community text (PC-32) and is hence compatible with the surrounding uses.

In terms of compatibility with the adjacent residential uses to the northwest and southwest, there are existing 6- and 8-foot walls in addition to the existing mature landscaping (to be further enhanced) along the northwest and southwest property boundaries. Furthermore, increased setbacks and enhanced landscaping are incorporated along the property lines adjacent to Baycrest Court condominiums and Santa Ana Heights single-family residential to create a buffer and enhance compatibility. The building, as situated on the Project site, exceeds the minimum required setbacks identified in the PC text, as summarized below:

- 41-foot setback from the southwest property line near the Baycrest Court condominiums (the PC requires 20 feet between commercial and residential uses)
- 41-foot setback from the office building and residential to the northwest (the PC requires 0 feet to the office and 20 feet to the residential)
- 15-foot setback from Bristol Street (the PC requires 10 feet)
- 11-foot setback from Bayview Place (the PC requires 10 feet)

Therefore, based on the above discussion, potential compatibility issues with the existing surrounding uses would be less than significant, and no mitigation is required.

No long-term direct or indirect impacts to surrounding uses would occur with the proposed Project. Potential short-term, construction-related compatibility issues related to air quality, noise, and aesthetics are discussed in separate sections of this EIR.

Impact Conclusion: The Project would introduce an assisted living and memory care facility on a previously developed site, in a well-developed area, surrounded by office, commercial, and residential uses. There is no predominant land use within this area of the City. The Project design, height, and massing would be

compatible with the surrounding uses. In addition, sufficient buffer exists along the Project site's perimeter that would enhance compatibility with the adjacent land uses. Hence, the impacts would be less than significant pursuant to Threshold 4.8-1 as it pertains to consistency with land use plans, and no mitigation is required.

4.8.7 CUMULATIVE IMPACTS

The Project is located within a well-developed area of Newport Beach. Given the developed nature of the area, other cumulative projects in proximity of the site (only two projects are within less than a mile from the site) are also in-fill redevelopment projects. Some of this redevelopment in underutilized lots would lead to an intensification of development in the area, as anticipated in City's General Plan and other planning documents. Therefore, the increased development as a result of the cumulative projects would not necessarily be considered adverse land use impacts because the proposed Project and the cumulative projects would not disrupt or divide established communities and would not result in the introduction of incompatible uses in the area. Moreover, the conversion of previously developed or underdeveloped land to urban uses is anticipated in the *City of Newport Beach General Plan;* therefore, growth would occur in areas of the City determined to be more suitable for more development.

Additionally, future development of cumulative projects would be evaluated for compatibility with the surrounding uses and for consistency with the local and regional jurisdictions' land use plans, policies, and regulations, including the General Plan and Zoning Ordinance. Each proposed development project would be subject to the development review and permit process, which would include determination of project conformity to applicable land use plans and policies. Thus, these projects would be approved in accordance with adopted land use plans and policies and would not lead to land use incompatibilities and conflict or inconsistency with the goals and policies. In light of the above, cumulative land use impacts and the Project's contribution to cumulative impacts would be less than significant.

4.8.8 MITIGATION PROGRAM

Mitigation Measures

The proposed Project would not result in significant impacts to land use and planning; however, to ensure consistency with the recommendations in the AELUP for projects in the Noise Impact Zone "2", MM LU-1 is recommended.

MM LU-1 Prior to issuance of certificates of use and occupancy, the Applicant shall produce evidence to the Community Development Director of a notice for prospective residents that this property is subject to over-flight, sight, and sound of aircraft operating from John Wayne Airport.

4.8.9 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Due to being located within Noise Impact Zone 2, MM LU-1 is recommended. Upon inclusion of MM LU-1, any potential land use planning impact would be reduced to less than significant.

4.8.10 REFERENCES

Newport Beach, City of. 2016 (access date July 18). Newport Beach Municipal Code (NBMC).Seattle,WA:CodePublishingCompany.http://www.codepublishing.com/CA/NewportBeach/?NewportBeachCH.html#04.423.

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4.9 Noise

This section discusses Project-related impacts to the human noise environment in the vicinity of the Project site. The noise analysis in this section provides background information on noise and community noise assessment criteria; presents existing noise levels at the Project site; and examines noise impacts that would potentially occur during construction and operation of the proposed Project. The complete noise monitoring results are included in Appendix F of this EIR.

4.9.1 BACKGROUND

Noise Basics and Terminology

"Sound" is a vibratory disturbance created by a moving or vibrating source and is capable of being detected. "Noise" is defined as a sound that is loud, unpleasant, unexpected, or undesired and may therefore be classified as a more specific group of sounds. Although the terms "sound" and "noise" are often used synonymously, perceptions of sound and noise are highly subjective (Caltrans 2013a). The effects of noise on people can include general annoyance; interference with speech communication; sleep disturbance; and, in the extreme, hearing impairment.

Decibels and Frequency

In its most basic form, a continuous sound can be described by its frequency or wavelength (pitch) and its amplitude (loudness). Frequency is expressed in cycles per second, or hertz. Frequencies are heard as the pitch or tone of sound. High-pitched sounds produce high frequencies; low-pitched sounds produce low frequencies. Sound pressure levels are described in units called the decibel (dB).

Decibels are measured on a logarithmic scale that quantifies sound intensity in a manner similar to the Richter scale used for earthquake magnitudes. A doubling of the energy of a noise source, such as doubling of traffic volume, would increase the noise level by 3 dB.

Perception of Noise and A-Weighting

A typical noise environment consists of a base of steady "background" noise that is the sum of many distant and indistinguishable noise sources. Superimposed on this background noise is the sound from individual local sources. The local sources can vary from an occasional aircraft or train passing by, to intermittent periods of sound (such as amplified music), to virtually continuous noise from, for example, traffic on a major highway.

Several rating scales (or noise "metrics") exist to analyze the effects of noise on a community. These scales include the equivalent noise level (L_{eq}) and the community noise equivalent level (CNEL). Average noise levels over a period of minutes or hours are usually expressed as A-weighted decibels (dBA) L_{eq} , which is the equivalent noise level for that period of time. The period of time averaging may be specified; $L_{eq(3)}$ would be a three-hour average. When no period is specified, a one-hour average is assumed. Noise of short duration (i.e., substantially less than the averaging period) is averaged into ambient noise during the period of interest. Thus, a loud noise lasting many seconds or a few minutes may have minimal effect on the measured sound level averaged over a one-hour period.

To evaluate community noise impacts, CNEL was developed to account for human sensitivity to evening and nighttime noise. CNEL separates a 24-hour day into three periods: daytime (7 a.m. to 7 p.m.), evening (7 p.m. to 10 p.m.), and nighttime (10 p.m. to 7 a.m.). The evening sound levels are assigned a 5 dBA penalty, and the nighttime sound levels are assigned a 10 dBA penalty prior to averaging them with daytime hourly sound levels.

Several statistical descriptors are also often used to describe noise, including L_{max} and L_{min} . L_{max} and L_{min} are respectively the highest and lowest A-weighted sound levels that occur during a noise event.

The human ear is not equally sensitive to all frequencies within the sound spectrum. To accommodate this phenomenon, the A-scale was devised; the A-weighted decibel scale (dBA or db[A]) approximates the frequency response of the average healthy ear when listening to most ordinary everyday sounds. When people make relative judgments of the loudness or annoyance of a sound, their judgments correlate well with the A-weighted sound levels of those sounds. Therefore, the "A-weighted" noise scale is used for measurements and standards involving the human perception of noise.

Human perception of noise has no simple correlation with acoustical energy. Due to subjective thresholds of tolerance, the annoyance of a given noise source is perceived very differently from person to person. The most common sounds vary between 40 dBA (very quiet) to 100 dBA (very loud). Normal conversation at 3 feet is approximately 60 dBA, while loud jet engine noises at 1,000 feet equate to 100 dBA, which can cause serious discomfort. Table 4.9-1 shows the relationship of various noise levels in dBA to commonly experienced noise events.

Common Outdoor Activities	Noise Level (dBA)	Common Indoor Activities
_	110	Rock Band
Jet Fly-over at 300 m (1,000 ft)	100	-
Gas Lawn Mower at 1 m (3 ft)	90	-
Diesel Truck at 15 m (50 ft) at 80 km/hr (50 mph)	80	Food Blender at 1 m (3 ft); Garbage Disposal at 1 m (3 ft)
Noisy Urban Area, Daytime Gas Lawn Mower at 30 m (100 ft)	70	Vacuum Cleaner at 3 m (10 ft)
Commercial Area, Heavy Traffic at 90 m (300 ft)	60	Normal Speech at 1 m (3 ft)
Quiet Urban Daytime	50	Large Business Office Dishwasher in Next Room
Quiet Urban Nighttime	40	Theater, Large Conference Room (Background)
Quiet Suburban Nighttime	30	Library
Quiet Rural Nighttime	20	Bedroom at Night, Concert Hall (Background)
_	10	Broadcast/Recording Studio
Lowest Threshold of Human Hearing	0	Lowest Threshold of Human Hearing
dBA: A-weighted decibels, m: meter, km/hr: kilometers per hour, ft: feet, mph: miles per hour. Source: Caltrans 2013a.		

TABLE 4.9-1 NOISE LEVELS FOR COMMON ACTIVITIES

Two noise sources do not "sound twice as loud" as one source. As stated above, a doubling of noise sources results in a noise level increase of 3 dBA. It is widely accepted that (1) the average healthy ear can barely perceive changes of a 3 dBA increase or decrease; (2) a change of 5 dBA is readily perceptible; and (3) an increase (or decrease) of 10 dBA sounds twice (or half) as loud (Caltrans 2013a). In community situations, noise exposure and changes in noise levels occur over a number of years, unlike the immediate comparison made in a field study situation. The generally accepted level at which changes in community noise levels become "barely perceptible" typically occurs at values greater than 3 dBA.

Noise Propagation

From the source to the receiver, noise changes both in level and frequency spectrum. The most obvious change is the decrease in noise level as the distance from the source increases. The manner in which noise reduces with distance depends on the factors described below.

Geometric Spreading from Point and Line Sources: Sound from a small localized source (approximating a "point" source) radiates uniformly outward as it travels away from the source in a spherical pattern. For point sources, such as Heating, Ventilation and Air Conditioning (HVAC) units or construction equipment, the sound level attenuates (or drops off) at a rate of 6 dBA for each doubling of the distance (i.e., if the noise level is 70 dBA at 25 feet, it is 64 dBA at 50 feet). Vehicle movement on a road makes the source of the sound appear to emanate from a line (line source) rather than a point when viewed over some time interval. The sound level attenuates or drops off at a rate of 3 dBA per doubling of distance for line sources.

Ground Absorption: To account for the ground-effect attenuation (absorption), two types of site conditions are commonly used in noise prediction: soft site and hard site conditions. Hard sites (i.e., sites with a reflective surface between the source and the receiver, such as parking lots or smooth bodies of water) receive no excess ground attenuation, and the changes in noise levels with distance (drop-off rate) are simply the geometric spreading of the source. Soft sites are sites that have an absorptive ground surface (e.g., soft dirt, grass, or scattered bushes and trees) and receive an excess ground attenuation value of 1.5 dBA per doubling of distance.

Atmospheric Effects: Wind speed will bend the path of sound to "focus" (increase) it on the downwind side and make a "shadow" (reduction) on the upwind side of the source. At short distances, the wind has minor influence on the measured sound level. For longer distances, the wind effect becomes appreciably greater. Temperature gradients create effects similar to those of wind gradients, except that they are uniform in all directions from the source. On a sunny day with no wind, temperature decreases with altitude, giving a shadow effect for sound. On a clear night, temperature may increase with altitude, focusing sound on the ground surface.

Shielding by Natural and Man-Made Features, Noise Barriers, Diffraction, and Reflection: A large object in the path between a noise source and a receiver can significantly attenuate noise levels at that receiver location. The amount of attenuation provided by this "shielding" depends on the size of the object and the frequencies of the noise levels. Natural terrain or landform features as well as man-made features (e.g., buildings and walls) can significantly alter noise levels. For a noise barrier to work, it must be high enough and long enough to block the view from the receiver to a road or to the noise source. Effective noise barriers can reduce outdoor noise levels at the receptor by up to 15 dB.

<u>Vibration</u>

Vibration is sound radiated through the ground. The ground motion caused by vibration is measured as peak particle velocity (ppv) in inches per second or as vibration decibels (VdB). The general human response to different levels of groundborne vibration velocity levels is described in Table 4.9-2, Human Response to Different Levels of Groundborne Vibration.

TABLE 4.9-2HUMAN RESPONSE TO DIFFERENT LEVELS OF GROUNDBORNE VIBRATION

Vibration Velocity Level	Human Reaction
65 VdB	Approximate threshold of perception for many people.
75 VdB	Approximate dividing line between barely perceptible and distinctly perceptible. Many people find that transportation-related vibration at this level is unacceptable.
85 VdB	Vibration acceptable only if there are an infrequent number of events per day.
VdB: vibration decibels	
Source: FTA 2006.	

Vibration of building components can also take the form of an audible low-frequency rumbling noise, which is referred to as groundborne noise. Typically, groundborne noise is a concern that occurs with railroad and similar transit sources. As there are no railroad or transit noise and vibration sources in the area, the impact of groundborne noise is not addressed in this EIR.

4.9.2 **REGULATORY SETTING**

<u>State</u>

California Noise Insulation Standards

Title 24 of the *California Code of Regulations*, also known as the California Building Standards Code or, more commonly, the California Building Code, Section 1207.4, Allowable Interior Noise Levels) requires that "Interior noise levels attributable to exterior sources shall not exceed 45 dB in any habitable room. The noise metric shall be either the day-night average sound level (Ldn) or the community noise equivalent level (CNEL), consistent with the noise element of the local general plan" (CBSC 2017). This standard applies to the proposed project.

City of Newport Beach

General Plan Noise Element

Table N2 of the City's Noise Element presents criteria used to assess the compatibility of proposed land uses are compatible with the noise environment. At different exterior noise levels, individual land uses are identified as "clearly compatible", "normally compatible", "normally incompatible", or "clearly incompatible". The residential land use noise compatibility zone is shown in Table 4.9-3.

TABLE 4.9-3LAND USE NOISE COMPATIBILITY MATRIX

Land Use Categories		Community Noise Equivalent Level (CNEL)						
Categories	Uses	<55	55-60	60-65	65-70	70-75	75-80	>80
Residential	Single Family, Two Family, Multiple Family	A	A	В	С	С	D	D
Zone A Clearly Compatible	Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction without any special noise insulation requirements.							
Zone B Normally Compatible	New construction or development should be undertaken only after detailed analysis of the noise reduction requirements are made and needed noise insulation features in the design are determined. Conventional construction, with closed windows and fresh air supply systems or air conditioning, will normally suffice.							
Zone C Normally Incompatible	New construction of development should generally be discouraged. If new construction of development does proceed, a detailed analysis of noise reduction requirements must be made and needed noise insulation features must be included in the design.							
Zone D Clearly Incompatible	New construction or development should generally not be undertaken.							
Source: Newport Beach 2006a.								

Noise Ordinance

Chapter 10.26 (Community Noise Control) of the City of Newport Beach Municipal Code is the City's Noise Ordinance.

Construction.

Section 10.26.035(D) exempts noise sources associated with construction, repair, remodeling, demolition, or grading of any real property from the quantitative Noise Ordinance standards. Construction activities are subject to the provisions of Chapter 10.28 (Loud and Unreasonable Noise), Section 10.28.040, which prohibits construction activities that generate loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity except during weekdays between the hours of 7 a.m. to 6:30 p.m., and Saturdays between the hours of 8 a.m. to 6 p.m. The Municipal Code does not set specific noise level limits on construction-related activities.

Non-Construction Noise from One Property to Another

Section 10.26.025 (Exterior Noise Standards) provides maximum exterior noise levels. Table 4.9-4 identifies the noise standards that, unless otherwise specifically indicated, shall apply to all property with a designated noise zone. If the ambient noise level exceeds the resulting standard, the ambient shall be the standard.

		Allowable Interior Noise Level (Leq)		
Noise Zone	Type of Land Use	7 AM to 10 PM	10 PM to 7 AM	
Ι	Single-, two-or multiple- family residential	55 dBA	50 dBA	
II	Commercial	65 dBA	60 dBA	
III	Residential portions of mixed-use properties	60 dBA	50 dBA	
IV	Industrial or manufacturing	70 dBA	70 dBA	
Source: Newport Beach 2017.				

TABLE 4.9-4ALLOWABLE EXTERIOR NOISE LEVELS

Section 10.26.030 (Interior Noise Standards) provides maximum interior noise levels. Table 4.9-5 identifies the noise standards that, unless otherwise specifically indicated, shall apply to all residential property within all noise zones.¹ If the ambient noise level exceeds the resulting standard, the ambient shall be the standard.

TABLE 4.9-5ALLOWABLE INTERIOR NOISE LEVELS

		Allowable Interior Noise Level (L _{eq})		
Noise Zone	Type of Land Use	7 AM to 10 PM	10 PM to 7 AM	
Ι	Residential	45 dBA	40 dBA	
III	Residential portions of mixed-use properties	45 dBA	40 dBA	
Source: Newport Beach 2017.				

Heating, Ventilation, and Air Conditioning (HVAC) Units

Noise generated by HVAC equipment is regulated by the City of Newport Beach Municipal Code, Section 10.26.045(A) requires the following:

New HVAC Equipment. New permits for heating, venting and air conditioning (HVAC) equipment in or adjacent to residential areas shall be issued only where installations can be shown by computation, based on the sound rating of the proposed equipment, not to exceed an A-weighted sound pressure level of fifty (50) DBA or not to exceed an A-weighted sound pressure level of fifty-five (55) dBA and be installed with a timing device that will deactivate the equipment during the hours of ten p.m. to seven a.m. The method of computation used shall be that specified in "Standard Application of Sound Rated Outdoor Unitary Equipment," Standard 275, Air conditioning and Refrigeration Institute, 1984 or latest revision thereof.

¹ Although the Project is not considered residential, for noise impact analysis purposes, the residential standards would apply under the California Building Code.

Section 10.28.045 of the Municipal Code limits the hours when persons performing real property maintenance, including landscape maintenance and trash collection, can "operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity." The hours of operation are limited to 7 a.m. to 6:30 p.m. Monday through Friday and, 8 a.m. to 6 p.m. Saturday, with no disturbing work on Sundays or federal holidays. Mechanical blowers are required to have noise levels that do not exceed 65 dBA at a distance of 50 feet.

Vibration

Neither the General Plan nor the Municipal Code include vibration regulation. Criteria used for vibration impact analysis are discussed in Section 4.9.6, Threshold 4.9.2, below.

4.9.3 METHODOLOGY

<u>Traffic Noise</u>

The noise levels for roadways in the Project traffic study area were estimated using the Federal Highway Administration's (FHWA's) Highway Traffic Noise Prediction Model (RD-77-108). The FHWA model determines a predicted noise level through a series of adjustments to a reference sound level. These adjustments account for traffic flows, speed, truck mix, varying distances from the roadway, length of exposed roadway, and noise shielding. The calculations do not take into account the effect of any noise barriers or topography that may affect ambient noise levels.

Point Source Noise

The distance from the noise source to a receptor is a primary consideration in determining the actual noise level experienced at the receptor. Most reference noise levels are specified at a distance of 50 feet from the source. The calculation of noise from a point source, such as construction or HVAC equipment, at other distances uses the equation below.

$$L_D = L_{50} - 20 \log (D/50)$$
, where

 L_{D} is the noise level at a distance D from the noise source, and

 $L_{\rm 50}$ is the noise level at a distance of 50 feet from the source.

The equation is the mathematical expression for a noise level being reduced by 6 dBA for each doubling of distance from the source.

Construction equipment can be considered to operate in two modes: stationary and mobile. Noise impacts from stationary equipment are assessed from the center of the equipment, while noise impacts for mobile construction equipment are assessed as emanating from the center of the equipment activity or construction site. For construction equipment, the average noise level, L_{eq} , is related to the maximum noise level, L_{max} , by the following equation:

 $L_{eq} = L_{max} + 10 \log (UF)$, where,

 L_{eq} is the average noise level from a piece of construction equipment at 50 feet,

 L_{max} is the maximum noise level from a piece of construction equipment at 50 feet, and

UF is the acoustic utilization factor, which is the fraction of time that a piece of construction equipment is typically at full power.

Groundborne Vibration

In contrast to airborne noise, groundborne vibration is not a common environmental problem. Some common sources of groundborne vibration are construction activities such as blasting, pile driving, and operating heavy earth-moving equipment. Trains and similar rail vehicles can also produce vibration. It is unusual for vibration from sources such as buses and trucks to be perceptible.

In quantifying vibration, the peak particle velocity (ppv) is most frequently used to describe vibration impacts and is typically measured in inches per second (in/sec). Vibration levels that may cause annoyance to humans are described using the vibration decibel (VdB). Typically, groundborne vibration generated by man-made activities attenuates rapidly with distance from the source.

Vibration propagation is calculated using the following formula:

$$Lv(D) = Lv (25ft) - 20 \log (D/25)$$
, where

Lv is the vibration level, in VdB, at any distance D from the vibration source (FTA 2006).

4.9.4 EXISTING CONDITIONS

The existing noise environment in the Project area is influenced by traffic noise on nearby roads and aircraft noise from John Wayne Airport departures. The roadways contributing the most noise to the Project site are Bristol Street along the northern/northeastern Project site boundary and Bayview Place along the eastern/southeaster Project site boundary; the south end of John Wayne Airport is approximately 0.70 mile northwest of the Project site. For the purpose of this noise analysis, the study area includes the Project site and the areas immediately adjacent to the Project site.

Psomas conducted ambient noise surveys on May 24, 2016. Noise level measurements were taken using a Larson Davis Laboratories Model 831 integrating sound level meter (LD 831). The LD 831 sound level meter and microphone were mounted on a tripod, five feet above the ground and equipped with a windscreen during all measurements. The LD 831 was calibrated before and after use with a Larson Davis Model CAL200 acoustical calibrator to ensure that the measurements would be accurate. The sound level meter was programmed to record noise levels in "slow" mode in A-weighted form. Meteorological conditions during all measurement periods were favorable, with clear skies; daytime temperatures during all measurements were approximately 68 degrees Fahrenheit (°F) and up to 15 miles per hour (mph) winds.

To evaluate the existing noise environment, noise level measurements were collected at 4 locations; ambient noise survey locations are shown in Exhibit 4.9-1, Noise Monitoring Locations. The noise level measurements were collected for 25 minutes at each location. The L_{eq} ,



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Feet
L_{max} , and L_{min} values taken at each ambient noise measurement location are presented in Table 4.9-6. The complete noise monitoring results are included in Appendix F.

		Start	Nois	e Levels (dBA)			
Measurement Number ^a	Location	Time, Duration	Leq	Lmax	Lmin	Primary Noise Source		
1	Western corner of the Project site, 10 ft from the property line	2:05 p.m., 25 min	56	73	49	Ambient environment; birds, wind through the trees. Two cars starting. Additional sources include four airplanes overhead and one helicopter overhead.		
2	Northeastern boundary of Project site, 60 ft from center of Bristol Street	2:40 p.m., 25 min	65	82	55	Traffic on Bristol Street including car horns and heavy trucks. Four airplanes overhead.		
3	Southeastern boundary of Project site, 55 ft from center of Bayview Place	3:10 p.m., 25 min	68	93	50	Traffic on Bayview Place including heavy trucks and motorcycles. Six airplanes overhead.		
4	Western corner of Bristol Street and Bayview Place, 70 feet from center of intersection	3:38 p.m., 25 min	66	86	54	Traffic from Bristol Street and Bayview Place including heavy trucks. Four airplanes overhead and one helicopter.		
dBA: A-weighted d	ecibels; L _{eq} : equivalen	t noise level; L	_{max} : maxim	am noise le	vel; L _{min} : m	iinimum noise level.		
^a See Exhibit 4.9-1 for measurement locations								

TABLE 4.9-6SUMMARY OF SHORT-TERM AMBIENT NOISE LEVEL MEASUREMENTS

As shown in Table 4.9-6 average daytime noise levels in the study area range from 56 to 68 dBA Leq. Traffic from Bristol Street and Bayview Place are the primary noise sources in the project area. Additional noise is contributed by departures from John Wayne Airport. It should be noted that traffic on SR-73, located approximately 175 feet north of the Project site, could not be heard during the ambient noise survey. For typical urban and suburban roads that have morning and evening peak traffic, the CNEL is estimated at approximately 2 dBA higher than the average daytime hourly noise level. Therefore, the existing noise level at the northwestern property line, based on measurement 2, is estimated at 67 dBA CNEL. The existing noise level at the southeastern property line, based on measurement 3, is estimated at 70 dBA CNEL. At the quietest part of the site, the western corner, the CNEL is estimated at 58 dBA.

Sensitive Noise Receptors

Noise-sensitive receptors are generally considered to be humans who are engaged in activities that may be subject to the stress of significant interference from noise. Activities usually associated with sensitive receptors include, but are not limited to, talking, reading, and sleeping.

According to The City of Newport Beach General Plan Update EIR, typical sensitive receptors include residences, schools, child care centers, hospitals, long-term health care facilities, convalescent centers, and retirement homes (Newport Beach 2006b). The nearest residences to the Project site include the Baycrest Court multi-family residential development adjacent to the Project site on the southwest and the Santa Ana Heights single-family residential neighborhood with homes adjacent to the Project site on the northwest. Future residents of the Harbor Pointe Senior Living facility would be considered sensitive receptors.

4.9.5 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Checklist and Appendix G of CEQA Guidelines, a Project would result in a significant impact to noise if it will:

- **Threshold 4.9-1** Result in exposure of persons to or generation of noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.
- **Threshold 4.9-2**Result in exposure of persons to or generation of excessive groundborne
vibration or groundborne noise levels.
- **Threshold 4.9-3**Result in a substantial permanent increase in ambient noise levels in the
project vicinity above levels existing without the project.
- **Threshold 4.9-4**Result in a substantial temporary or periodic increase in ambient noise
levels in the project vicinity above levels existing without the project.
- **Threshold 4.9-5** For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels.

4.9.6 IMPACT ANALYSIS

Relevant elements of the proposed project related to noise and vibration include (1) the use of diesel-powered and other heavy equipment during demolition and construction activities and (2) construction and occupancy of the proposed 120-unit project.

Threshold 4.9-1 and 4.9-4

Would the Project result in exposure of persons to or generation of noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies? [short-Term]

Would the Project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Demolition activities are planned to begin in spring 2019 and are expected to occur over an approximate one-month period. Grading and excavation for the subterranean garage and building foundations would follow for an approximate two-month period. Building would

continue for approximately 11 additional months, with completion planned for spring 2020. All construction activities would occur within the hours specified by the Noise Ordinance.

It is estimated that a total of approximately 1,294 tons of debris and 10,200 cubic yards of excavated soil would be exported off site during demolition and grading, respectively. During the demolition and grading activities, trucks are expected to enter and leave the Project site on a regular basis, but only during working hours. The number of truck trips traveling along the designated haul routes would vary daily depending on the nature of the activity. Demolition debris removal from the Project site would generate an estimated 3 round trips (6 one-way trips) on a peak day, and removal of excavated soils would generate an estimated 15 round trips (or 30 one-way trips) per day, an average of approximately 3 to 4 trips per hour.

During grading activities, which would generate the largest number of truck trips, trucks would enter and leave the Project site from the Bayview Place driveway to Bristol Street. Average daily traffic volumes (ADT) on Bristol Street exceed 30,000 vehicles per day, with an average daytime volume exceeding 1,500 vehicles per hour. The addition of six haul truck trips per hour would increase traffic noise levels by less than 0.5 dBA, which would be imperceptible. The impact of 6 haul truck trips per hour on Bayview Avenue, with an existing ADT greater than 4,500, would be a noise increase of approximately 1 dBA, which would be imperceptible. The impact would be less than significant.

In typical construction projects (such as the proposed Project), demolition and grading activities generate the highest noise levels since they involve the largest equipment. During demolition and grading, persons in the immediate vicinity would experience short-term noise impacts related to the operation of heavy construction equipment such as bulldozers, hoe-rams, excavators, and dump trucks. Noise levels would fluctuate depending on equipment type, duration of use, and distance between noise source and listener. The operation of heavy equipment may occur as close as 50 feet to the residences to the northwest and southwest of the Project site. Noise from localized point sources, such as construction equipment, decreases by approximately 6 dBA with each doubling of distance from the source to receptor. The loudest noise would be from heavy construction equipment, such as excavators and dump trucks that can reach maximum noise levels (L_{max}) of up to 85 dBA at 50 feet. Assuming the simultaneous operation of an excavator and a truck at the edge of the Project site, and no intervening noise barriers, the combined intermittent noise level at the nearest sensitive noise receptor may reach levels of up to 88 dBA L_{max} . However, the maximum noise level would occur only intermittently, when equipment is at full power.

Building demolition would occur on the northeastern part of the Project site, with paving demolition on the remainder of the Project site. Grading work would occur across the entire Project site. Therefore, average noise levels are calculated assuming equipment is at the center of the Project site. Assuming a maximum of four pieces of heavy equipment operating with the average distance being 125 feet from the center of the Project site to the nearest sensitive receptors and no reduction for intervening barriers, the average noise level at the receptors for the approximately one-month demolition phase would be approximately 79 dBA L_{eq} .

Demolition/grading equipment noise would be noticeable at the nearby residences, would be typical for construction and utility work, and may occasionally interfere with hearing a normal speaking voice. As previously described, construction activities that generate loud noise would be limited to weekdays between the hours of 7 a.m. to 6:30 p.m., and Saturdays between the

hours of 8 a.m. to 6 p.m., in compliance with the City of Newport Beach Municipal Code. During those hours, there are no prescribed quantitative limits to the construction noise. Although nearby residences would be exposed to construction noise, as described below, based on the applicable CEQA threshold, exposure of persons to or generation of noise in excess of standards would be less than significant (Threshold 4.9-1).

Construction noise increases at adjacent residences, without mitigation, could be substantial and potentially significant. Although currently there is a six-foot block wall along the southwest and northwest property line, which would serve to attenuate noise, to further reduce and minimize construction noise levels, mitigation measures (MM) NOI-1 and NOI-2 would be incorporated into the Project. MM NOI-1 requires 10-foot high temporary noise barriers to be installed on the northwest and southwest property boundaries. MM NOI-2 requires construction equipment to have properly operating and maintained mufflers; requires stationary equipment to be located and equipped to minimize noise; and requires staging areas shall be located as far away from local residences as feasible. With implementation of MM NOI-1 and MM NOI-2, temporary construction noise impacts to nearby sensitive receptors would not be substantial and would be less than significant (Threshold 4.9-4).

Impact Conclusion: Noise-generating construction activities would be limited to the hours specified in the City of Newport Beach Municipal Code, and the impact would be less than significant pursuant to Threshold 4.9-1. Construction activities have the potential to generate substantial increases over ambient noise levels at nearby sensitive receptors and would therefore be audible and potentially disturbing and annoying. Impacts would be less than significant, pursuant to Threshold 4.9-4, with the implementation of MM NOI-1, which requires 10-foot high temporary noise barriers to be installed on the northwest and southwest property boundaries reducing the construction noise at the receptors by at least 5 dBA and MM NOI-2, which requires construction equipment to have properly operating and maintained mufflers, stationary equipment to be located and equipped to minimize noise, and staging areas to be located as far away from local residences as feasible.

Threshold 4.9-2

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

There are no applicable City standards for structural damage from vibration. Therefore, the Federal Transit Administration (FTA) Ground-Borne Vibration Impact Criteria for General Assessment, as shown in Table 4.9-7, are used. These criteria are used in the City of Newport Beach General Plan Update EIR.²

² The FTA vibration impact criteria have been revised from the version used in the General Plan Update EIR.

TABLE 4.9-7GROUND-BORNE VIBRATION IMPACT CRITERIA FOR GENERAL ASSESSMENT

	GBV Impact Levels						
Land Use Category	Frequent Events ¹	Occasional Events ²	Infrequent Events ³				
Category 1 : Buildings where vibration would interfere with interior operations.	65 VdB ⁴	65 VdB ⁴	65 VdB ⁴				
Category 2 : Residences and buildings where people normally sleep.	72 VdB	75 VdB	80 VdB				
Category 3 : Institutional land uses with primarily daytime use.	75 VdB	78 VdB	83 VdB				
CRV. Cround horne vibration. VdR: Vibration decibels							

1. "Frequent Events" is defined as more than 70 vibration events of the same source per day. Most rapid transit projects fall into this category.

2. "Occasional Events" is defined as between 30 and 70 vibration events of the same source per day. Most commuter trunk lines have these many operations.

3. "Infrequent Events" is defined as fewer than 30 vibration events of the same kind per day. This category includes most commuter rail branch lines.

4. This criterion limit is based on levels that are acceptable for most moderately sensitive equipment such as optical microscopes. Vibration-sensitive manufacturing or research will require detailed evaluation to define the acceptable vibration levels. Ensuring lower vibration levels in a building often requires special design of the HVAC systems and stiffened floors.

Source: FTA 2006

The nearest structures to the Project site are the residences located approximately 50 feet to the northwest and southwest. In terms of the classifications in Table 4.9-7, these structures are Category 2: Residences and buildings where people normally sleep. The City of Newport Beach General Plan EIR applies the "frequent event" criterion to construction vibration; therefore, a significant impact would be a vibration level equal to or greater than 72 VdB.

Pile driving and blasting are generally the sources of the most severe vibration during construction; neither would be required for the proposed Project. Conventional construction equipment would be used for demolition, excavation and grading activities. Table 4.9-8 summarizes typical vibration levels measured during construction activities for various vibration-inducing pieces of equipment at a distance of 25 feet and calculated vibration levels at other distances.

	Approximate VdB						
Equipment	25 Feet	50 Feet	100 Feet	150 Feet			
Large Bulldozer	87	81	75	71			
Caisson drilling	87	81	75	71			
Loaded Trucks	86	80	74	70			
Jackhammer	79	73	67	63			
Small Bulldozer	58	52	46	42			
VdB: vibration decibels							
Source: FTA 2006.							

TABLE 4.9-8VIBRATION LEVELS FOR CONSTRUCTION EQUIPMENT

As shown in Table 4.9-8, vibration levels for large bulldozers, caisson drilling, loaded trucks, and jackhammers at a distance of 50 feet would exceed the 72 VdB impact threshold, and would be a potential significant impact. It is noted that "large" equipment is not defined by the FTA but is generally considered to be the equipment that would be used for mass grading on large undeveloped sites or for freeway construction. Large equipment would not be anticipated to be used to develop the Project site. To avoid a potential construction vibration impact, MM NOI-3 would be incorporated into the Project construction specifications. MM NOI-3 requires that large equipment and similar large vibration-producing equipment not be used within 150 feet of occupied residences and that jackhammers not be used on this site. Vibratory rollers, if used, can be operated in the static mode when within 150 feet of residences.

Impact Conclusion: Vibration-generating construction activities could occur within 50 feet of existing nearby residences and have the potential to exceed the vibration impact threshold. Impacts would be less than significant, pursuant to Threshold 4.9-2, by implementation of MM NOI-3, which requires large vibration-producing equipment not be used within 150 feet of occupied residences and that jackhammers not be used within 60 feet of occupied residences. Vibratory rollers, if used, can be operated in the static mode when within 150 feet of residences.

Threshold 4.9-1 and Threshold 4.9-3

Would the Project result in exposure of persons to or generation of noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies? [Long-Term]

Would the Project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Noise and Land Use Compatibility

As previously described, the existing noise level on the Project site is estimated at 58 to 70 dBA CNEL. Noise levels up to 70 dBA CNEL would be expected at the building facades facing Bristol

Street and Bayview Place. As shown in Table 4.9-3, the exterior noise level at these locations are in the Normally Incompatible range as identified in the City of Newport Beach General Plan Land Use Compatibility Matrix. To be consistent with the General Plan, a detailed analysis of noise insulation features must be included in the design. Further, as described in Section 4.9.2, the CBC requires that interior noise levels in habitable rooms subject to exterior noise not exceed 45 dBA CNEL Therefore, MM NOI-4 would be incorporated into the Project to ensure noise compatibility and compliance with the CBC. MM NOI-4 requires a noise analysis demonstrating (1) interior noise levels would be 45 dBA CNEL or less, and (2) mechanical ventilation would be provided to habitable rooms facing Bristol Street and Bayview Place.

As shown in Exhibits 3-1, Site Plan and 3-5b, Conceptual Landscape Plan and Detail, in Section 3.0 of this EIR, exterior use area would be internal courtyards. The buildings would attenuate traffic noise from SR-73, Bristol Street and Bayview Place. Exterior noise levels would not exceed 60 dBA CNEL, and would be in the Clearly Compatible range as shown in Table 4.9-3. No mitigation for exterior noise is required.

Noise Generated by Project Traffic

As discussed in Section 4.11, Transportation/Traffic, the proposed Project would result in a reduction in trip generation compared to the existing use. Thus, Project-generated traffic volumes on nearby streets with adjacent sensitive receptors would be less than the traffic generated by the existing restaurant use. Therefore, Project-generated traffic would not cause noise that would substantially increase the existing traffic noise levels. The impact would be less than significant and no mitigation is required.

Noise Generated by On-Site Sources

The primary noise sources generated by operation of the proposed Project would be heating, venting and air conditioning (HVAC) equipment, landscape maintenance, and trash collection. As stated in Section 4.9.2, noise generated by HVAC equipment is regulated by the City of Newport Beach Municipal Code, Section 10.26.045A, which requires new HVAC units adjacent to residences to not exceed sound levels that are deemed acceptable by the City. Noise calculations for HVAC equipment are reviewed for compliance with standards prior to the issuance of building permits.

As detailed in Section 4.9.2, Section 10.28.045 of the Municipal Code limits the hours and days when persons performing real property maintenance, including landscape maintenance and trash collection, can operate noisy equipment. The code also places sound level limits on mechanical blowers.

The proposed Project would be required to comply with the Municipal Code; the impact would be less than significant. Further, noise-generating Project site activity for the proposed senior living facility is anticipated to be less than the existing restaurant because there would be less on-site traffic and likely less mechanical equipment. Therefore, on-site sources would not generate noise that would substantially increase the existing on-site noise levels. The impact would be less than significant, and no mitigation is required.

Impact Conclusion: Exterior noise from vehicular traffic could potentially expose future residents of the Project to interior and exterior noise levels that would be

incompatible with the limits in the City of Newport Beach General Plan and interior noise levels that would exceed the limit specified in the California Building Code. With the incorporation of MM NOI-4 into the Project, the impact would be less than significant (Threshold 4.9-1). The Project would generate less traffic than the existing restaurant use. Thus, Projectgenerated traffic would not substantially increase existing ambient noise levels and the impact would be less than significant (Threshold 4.9-4). Project-generated on-site noise levels would be compliant with the City of Newport Beach Municipal Code and would also be anticipated to be less than the existing on-site noise levels. Thus, Project on-site activity would not substantially increase existing ambient noise levels and the impact would be less than significant (Threshold 4.9-4).

Threshold 4.9-5

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

As described above, the Project site is located approximately 0.7 mile south of John Wayne Airport and within the area covered by the Orange County ALUC Airport Environs Land Use Plan (AELUP) for John Wayne Airport (Orange County ALUC 2008). Aircraft noise is heard regularly at the Project site. In a 2016 response to the Notice of Preparation for this EIR, the Orange County Airport Land Use Commission stated the Project was reviewed "... in the context of the Airport Land Use Commission's (ALUC) Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA). Comments included, "The proposed project is located within the 60 dBA CNEL noise contour for JWA. The DEIR should discuss the project's location within Noise Impact Zone 2 and what sound attenuation requirements will be met by the proposed project." In making this assessment, it is assumed that the ALUC used the policy implementation line, which is noise contour reflected in the AELUP. These noise contours have been adopted by the Orange County Board of Supervisors in 1985 and is reflected in the JWA Settlement Agreement between the County of Orange, the City of Newport Beach, and two community groups. This line is based on the highest noise level at a given location utilizing noise projections from both the 1990 and 2005 project case contours developed as part of the 1985 John Wayne Airport Master Plan and are used as the basis for planning in the vicinity of JWA.

The John Wayne Airport 2016 noise contours, Exhibit 4.9-2, show that the 60 dBA CNEL noise contour is at the western portion of the Project site. Exhibit 4.9-3 reflects the projected noise contours calculated as part of the 2014 John Wayne Airport Settlement Agreement Amendment Final EIR 617 assuming the approved flight and passenger levels through 2030. As shown in Exhibit 4.9-3, the 60 dBA CNEL contour would be west of the 2016 contour and west of the Project site. It should be noted that since the certification of Final EIR 617, the County has installed new noise monitoring system that is more sensitive and the Federal Aviation Administration (FAA) has made minor changes to the departure flight path.³ As a result, the measured noise levels for 2016 are not directly comparable to data collected in prior years. The

³ Minor modifications were made to the departure patterns in May, October and December 2017. However, the FAA is reviewing for possible implementation of the City requested procedure that would utilize satellite guidance to more accurately direct aircraft along the middle of the Upper Newport Bay

Project site may be in the 60 dBA CNEL contour currently and in future years; however, the threshold for noise impacts to sensitive uses (65 dBA CNEL contour) would not be exceeded. Therefore, the Project would not expose people residing or working in the Project area to excessive noise levels. The impact would be less than significant. No mitigation is required.

Although the Project site is partially at the 2016 60 dBA CNEL noise contour, it is noted that MM NOI-4 requires the Project Applicant to demonstrate that interior noise levels would not exceed 45 dBA CNEL based on future traffic noise levels of 70 dBA CNEL or greater. Because the JWA aircraft noise of approximately 60 dBA CNEL is 10 dBA less than the traffic noise, the sum of the aircraft and traffic noise would be negligibly greater than the traffic noise alone. Therefore, MM NOI-4 would ensure adequate noise attenuation from aircraft noise as well as traffic noise.

Impact Conclusion: The Project Site is within the 2016 60 dBA CNEL noise contours for John Wayne Airport. However, the Project would not expose people residing in the project area to excessive aircraft noise levels. The impact would be less than significant, pursuant to Threshold 4.9-5.

4.9.7 CUMULATIVE IMPACTS

Cumulative Short term (Construction) Noise and Vibration Impact

Noise and vibration impacts during construction of the Project would be localized and would occur intermittently for varying periods of time throughout the construction period. Short-term cumulative impacts related to ambient noise and vibration levels could occur if construction associated with the proposed Project as well as surrounding current and future development were to occur simultaneously. Noise or vibration associated with construction of the proposed Project in combination with another project within approximately 500 feet of the Project site boundaries could adversely impact sensitive receptors in the vicinity of the Project with a cumulative noise level greater than the noise generated solely at the Project site. There are no identified projects within 500 feet of the Project site where construction would be occurring concurrently. As shown in Table 4-1 in Section 4.0 of the EIR, the closest cumulative projects are within 0.63 and 0.67 mile from the site. There would be no cumulative short-term noise and vibration impact.

Cumulative Long-Term (Operation) Noise Impact

As described above, Project-generated traffic would be less than the traffic generated by the existing restaurant use. Similarly, Project-generated on-site noise is anticipated to be less than the existing on-site noise generation. Therefore, the Project contribution to long-term cumulative noise impacts would not be cumulatively considerable and in fact would be beneficial. There would be no cumulative long-term noise and vibration impact.

4.9.8 MITIGATION PROGRAM

Mitigation Measures

MM NOI-1 Prior to the issue of demolition, grading, or building permits, the Applicant shall provide evidence acceptable to the City of Newport Beach Public Works Director









and/or Community Development Director, that construction plans and specifications require temporary noise barriers to be installed on the northwestern and southwestern project boundaries. The noise barriers shall be 10 feet high, shall be solid from the ground to the top of the barrier, and have a weight of at least 2.5 pounds per square foot, which is equivalent to ³/₄-inch thick plywood.

- **MM NOI-2** Prior to the start of grading, the Applicant shall provide evidence acceptable to the City of Newport Beach Community Development Director that construction plans and specifications require:
 - a. All construction vehicles or equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers; mufflers shall be equivalent to or of greater noise reducing performance than manufacturer's standard.
 - b. Stationary equipment, such as generators, cranes, and air compressors, shall be located as far from local residences as feasible. Stationary equipment shall be equipped with appropriate noise reduction measures (e.g., silencers, shrouds, or other devices) to limit the equipment noise at the nearest sensitive residences to 65 dBA L_{eq}.
 - c. Equipment maintenance, vehicle parking, and material staging areas shall be located as far away from local residences as feasible.
 - d. The Applicant shall provide a qualified "Noise Disturbance Coordinator." The Disturbance Coordinator shall be responsible for responding to any local complaints about construction noise. When a complaint is received, the Disturbance Coordinator shall notify the City within 24 hours of the complaint and determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall implement reasonable measures to resolve the complaint, as deemed acceptable by the Community Development Department. The contact name and the telephone number for the Disturbance Coordinator shall be clearly posted on-site.
 - e. Construction activities shall not take place outside the allowable hours specified by NBMC Section 10.28.040 (7 a.m. and 6:30 p.m. on weekdays, 8 a.m. and 6 p.m. on Saturdays; construction is prohibited on Sundays and/or federal holidays.
- **MM NOI-3** Prior to the issue of demolition, grading, or building permits, the Applicant shall provide evidence acceptable to the City of Newport Beach Community Development Director that construction plans and specifications require that large bulldozers, large loaded trucks, vibratory rollers (operated in static mode), caisson drilling, and other similar large equipment not be used within 150 feet of occupied residences and that jackhammers not be used within 60 feet of occupied residences.
- **MM NOI-4** Prior to the issue of the building permit for the proposed Project, the Applicant shall submit an acoustical analysis acceptable to the City of Newport Beach Community Development Director or Building Official, that demonstrates that the proposed architectural design would provide an interior noise level of 45 dBA CNEL or less (based on buildout traffic noise conditions) in all habitable rooms of the proposed

building facing Bristol Street or Bayview Place. The Applicant shall also submit plans and specifications showing that:

• All residential units facing Bristol Street and Bayview Place shall be provided with a means of mechanical ventilation, as required by the California Building Code for occupancy with windows closed.

4.9.9 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Project-specific and cumulative noise impacts would be less than significant. No significant unavoidable impacts would occur.

4.9.10 REFERENCES

- California Building Standards Commission (CBSC). 2017 (Accessed July 6). California Building Standards Code (California Code of Regulations, Title 24), 2016 Triennial Edition (effective January 1, 2017). Sacramento, CA: CBSC. www.bsc.ca.gov/codes.aspx. California Department of Transportation (Caltrans).
- ------. 2013a (September). *Technical Noise Supplement to the Traffic Noise Analysis Protocol.* Sacramento, CA: Caltrans. http://www.dot.ca.gov/hq/env/noise/pub/ TeNS_Sept_2013B.pdf.
- Newport Beach, City of (Newport Beach). 2017 (current through Ordinance 2017-17, passed December 12). Newport Beach Municipal Code. http://www.codepublishing.com/CA/NewportBeach/
- Orange County Airport Land Use Commission (Orange County ALUC). 2008 (Amended April 17). Airport Environs Lan Use Plan for John Wayne Airport. http://www.ocair.com/Commissions/ALUC/Docs/JWA_AELUP-April-17-2008.pdf
- U.S. Department of Transportation, Federal Transit Administration (FTA). 2006 (May). *Transit Noise and Vibration Impact Assessment, FTA-VA-90-1003-06* (prepared by Harris Miller Miller & Hanson, Inc.). Washington, D.C.: FTA. http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf.

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4.10 PUBLIC SERVICES

This section describes existing public services for the proposed Project and identifies and addresses potential Project impacts related to Fire and Police Protection.

4.10.1 REGULATORY SETTING

Fire Protection

Fire Code

As part of their review, the Newport Beach Fire Department (NBFD) utilizes the 2016 California Fire Code, which is based on the 2015 Edition of the International Fire Code (IFC). The IFC includes regulations for the protection of life and property from fire and explosion. The Project would need to comply with the IFC voluntarily, using the local amendments, as appropriate. Chapter 9.04 (Fire Code) of the City's Municipal Code (NBMC 2016b) provides the City's adopted amendments to the 2016 California Fire Code.

Newport Beach Fire Department Fire Prevention Guidelines and Standards

The Newport Beach Fire Department (NBFD) Life Safety Services Division provides services encompassing community education and preparedness, emergency planning, life safety code enforcement, fire inspections, vegetation management, and plan check services of new and tenant improvement construction projects. As part of this, Life Safety Services has set forth certain Guidelines and Standards, including guidelines and standards for fire and life safety, water supply for fire protection, fire access, building construction, flammable and combustible liquids, and fire protection systems (NBFD 2018).

Newport Beach General Plan Safety Element

The primary goal of the Safety Element of the Newport Beach General Plan (Newport Beach 2006a) 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 that could cause exposure to the residents of Newport Beach. This element specifically addresses coastal hazards, geologic hazards, seismic hazards, flood hazards, wildland and urban fire hazards, hazardous materials, aviation hazards, and disaster planning. Agencies and disciplines that can be expected to be part of an emergency response team include fire and rescue and police. The consistency of the Project with applicable General Plan goals and policies is provided in Section 4.8, Land Use and Planning.

Police Protection

Newport Beach General Plan Safety Element

As indicated above, the Newport Beach Police Department would also be an integral part of any emergency response team for any public health and safety risks in the City. As part of the City's

disaster preparedness, the City implements an Emergency Management Program. The Police Department is the lead department to coordinate all emergency management activities. Under

4.10.2 METHODOLOGY

Fire Protection

The NBFD was contacted to determine if the Project would significantly impact NBFD's ability to provide fire protection services. The analysis is based on information reviewed and provided by NBFD.

Police Protection

The Newport Beach Police Department (NBPD) was contacted to determine if the proposed Project would significantly impact its ability to provide services. The analysis is based on information and input reviewed by the NBPD.

4.10.3 EXISTING CONDITIONS

<u>Fire Protection</u>

Fire protection services in the City, including the Project site, are provided by the NBFD. The NBFD consist of five divisions, including Emergency Medical Services Division; Fire Operations Division; Life Safety Services Division; and Marine Operations Division in addition to a Fire Training section. Services provided by the NBFD include, but are not limited to, fire protection and medical emergencies, technical rescues, and traffic accidents.

The NBFD has established the following response time goals, adopted from the National Fire Protection Association (NFPA) Standard 1710, which are summarized below in Table 4.10-1:

	Fire Suppres	sion Incident	Emergency Medical Incident			
	First Arriving Engine CompanyInitial Full-Ala Assignmen		Basic Life Support	Advanced Life Support		
Turnout Time	80 seconds	80 seconds	60 seconds	60 seconds		
Travel Time ¹	240 seconds (4 minutes)	480 seconds (8 minutes)	240 seconds (4 minutes)	480 seconds (8 minutes) ²		
Total Response Time	se5 minutes 20 seconds9 minutes 20 seconds5 minutes		5 minutes	9 minutes		
¹ All travel time g ² Provide a first re <i>Source: NBFD, 2016.</i>	oals are maximums (i.e., 240 seponder with basic life supp	seconds means 240 seconds o ort capability arrives within 2	or less) 240 seconds.			

TABLE 4.10-1NEWPORT BEACH FIRE DEPARTMENT RESPONSE TIME GOALS

A total of eight fire stations are strategically located throughout the City of Newport Beach to provide fire suppression and emergency medical services. The NBFD has three paramedic rescue ambulances, eight fire engines, and two aerial ladder trucks and staff on duty 24 hours a day, seven days a week. Three NBFD fire stations are located in the City that are in the general vicinity of the Project area that would provide initial response to the Project site.

The nearest Newport Beach Fire Station is Station No. 7, located at 20401 Acacia Street, approximately 0.7 miles from the Project Site. At approximately 11,350 square feet, Station No. 7 provides fire prevention and protection, hazardous emergency response, and rescue and medic services and also includes a training facility and a 48-person training room and related improvements. The next nearest stations are Station No 3, located at 868 Santa Barbara Drive and Station No. 6, located at 1348 Irvine Avenue, approximately 2.4 and 2.5 miles from the Project Site, respectively. In addition to these three stations, resources and personnel may be dispatched from Fire Station Nos. 2, 4, and 8, as necessary, to respond to fire and emergency medical calls.

Fire Hazard Severity Zone (FHSZ) maps are created by the California Department of Forestry and Fire Protection (Cal Fire). The maps identify areas where a wildfire is more likely to occur. The Project site is located in a highly developed area and not located on or near an area designated as a Very High Fire Hazard Severity Zone (VHFHSZ; Newport Beach 2016a).

Police Protection

Police protection services for the City of Newport Beach, including the Project site, are provided by the NBPD. The NBPD is located at 870 Santa Barbara Drive. The NBPD, charged with enforcing Federal, State, and local laws and with protecting lives and property, consists of four divisions, including Chief of Police Division, Patrol/Traffic Division, Support Services Division, and Detective Division. The NBPD provides all services normally associated with a municipal law enforcement agency, including uniform patrol, investigations, crime analysis, crime prevention, K-9 patrol, Special Operations Unit, forensic investigations, accident investigation/traffic enforcement, Drug Abuse Resistance Education, and emergency management/disaster preparedness. The NBPD has access to contract helicopter service through the Huntington Beach Police Department. Mutual aid assistance agreements exist that provide support from other Orange County law enforcement jurisdictions and State and federal agencies (Fischbacher 2018).

The NBPD coordinates the City of Newport Beach Emergency Management Program. Focused on disaster preparedness and using the State of California Standardized Emergency Management System model, the NBPD maintains a written plan document and a trained citywide liaison group. When an emergency or disaster strikes, the NBPD activates an Emergency Operations Center to centralize City authorities and coordinate department activities to respond to various types of emergencies.

The NBPD is located approximately 2.7 miles from the Project site, and primary response to the Project site would be by patrol vehicles that are assigned geographically throughout the City. The Project site is located in the geographic Area 3, which includes the area of the City adjacent to JWA, and generally west of State Route (SR-) 73, east of Back Bay, west of MacArthur Boulevard, and north of the Peninsula. Response time to calls for service may vary depending upon their location at the time of dispatch; however, the response goal for Priority 1 or emergency calls is

to respond as immediate as possible. Average response times for Priority 1 calls were 3 minutes and 5 seconds (2017), 3 minutes and 8 seconds (2016), and 3 minutes and 42 seconds (2015) (Fischbacher 2018).

The current police facilities are adequate to handle the existing personnel and equipment that are employed and utilized by the department. The NBPD currently has 134 police officers and 78 full-time non-sworn personnel but can accommodate 146 police officers and 83 full-time non-sworn personnel (Fischbacher 2018).

Traffic laws on City streets and private streets within City jurisdiction are enforced by the NBPD, while traffic enforcement on freeways and streets in unincorporated Orange County is provided by the California Highway Patrol and the Orange County Sheriff's Department, respectively.

4.10.4 THRESHOLDS OF SIGNIFICANCE

The criterion used to determine the significance of impacts on fire protection services is based on the City's California Environmental Quality Act (CEQA) Environmental Checklist. The Project would result in a significant impact related to Public Services if it would:

- **Threshold 4.10-1** Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:
 - (i) Fire protection
 - (ii) Police protection

4.10.5 IMPACT ANALYSIS

Threshold 4.10-1(i)

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

(i) Fire protection?

The proposed Project would generate a 120-resident population at the site, which is a nominal increase to the City's 2015 population of 86,917 (CDR 2016) to be served by the Fire Department. Additionally, the proposed Project would replace an existing use, which currently generates demand for fire protection services. As noted under Existing Conditions, Fire Station No. 7 is approximately 0.7 mile from the Project site, which is in close enough proximity that the goal response time could be achieved. Based on the data from the NBFD pertaining to similar senior

living facilities in the City, it is estimated that the projected increase in the number of calls received by the NBFD, that is reasonably expected, would be 1.72 percent. Although this would increase the demand on the NBFD personnel and resources, the demand is not sufficient that it would require the construction of new or alteration of existing fire protection facilities (i.e., fire stations) to maintain an adequate level of fire protection service in the area. Because the proposed Project would not require any physical alterations to facilities, the impacts would be less than significant. However, this incremental increase in demand would contribute to a need for additional personnel and equipment at the existing facilities. This issue is discussed further under Cumulative Impacts (see Section 4.10.6).

Additionally, the proposed Project would be required to comply with all applicable codes, ordinances, and regulations (including the City of Newport Beach Municipal Code, which adopts by reference the California Fire Code and the California Building Code and all incorporated amendments, and the 2015 International Fire Code) regarding fire prevention and suppression measures, fire hydrants and sprinkler systems, emergency access, and other similar requirements. The proposed senior living facility would be fully sprinklered to the NFPA 13 requirements (NFPA 2016). This would also minimize demand for fire protection services. The plans would be subject to review and approval by the Newport Beach Building Division and Fire Department, which would ensure that adequate emergency access, fire hydrant availability, and sufficient capacity for fire flows would be provided in compliance with all applicable codes and standards. Thus, no physical impacts associated with the provision of fire protection services would occur as result of the Project, and no mitigation is required.

Impact Conclusion: The Project would create the typical range of service calls for a project of this nature and size, including structural fires and emergency medical and rescue services, and hazardous materials inspections and response. No new or physically altered fire facilities that would result in substantial adverse physical impacts would be required as a result of the Project. Therefore, the impact is less than significant, and no mitigation is required, pursuant to Threshold 4.10-1(i).

Threshold 4.10-1(ii)

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

(ii) Police protection?

Implementation of the Project would generate an increase in population of 120 residents and 30 employees. In comparison to the to the City's 2015 population of 86,917 persons and 2015 employment of 77,062 jobs (CDR 2016), the proposed Project would contribute a nominal increase to both population and employment. Typical response to a senior living facility is a medical aid request, responded to by the NBFD, or an unattended death report, which would be responded to by the NBPD (Fischbacher 2018).

Although the Project would result in an increase in population, due to the nature of the type of use as an assisted living and memory care facility, it would not generate the need for new sworn officers or increase NBPD response times to the Project site or surrounding area, such that it would require construction of new or physically altered police protection facilities to maintain an adequate level of service to the Project site and surroundings (Fischbacher 2018). Additionally, it should be noted that current service calls for the restaurant use located onsite are typically for petty theft and loitering but that the nature of calls for the proposed Project would be different, due to the nature of the use as an assisted living and memory care facility.

Additionally, upon implementation, Project plans would be reviewed and approved by the Newport Beach Community Development Department to ensure adequate safety and crime prevention measures are provided. The Project would comply with the City's discretionary review process and standard conditions of approval, which would ensure that Project implementation would result in a less than significant impact to police protection services. Therefore, no physical impacts associated with the provision of police protection services to the proposed Project would occur, and no mitigation is required.

Impact Conclusion: The Project would not result in an increased demand for police protection services or result in a significant impact to police response. The Project would replace an existing use that is generating demand for police protection services. The Project would not result in the need for construction of new or physically altered police facilities to maintain adequate levels of service. Therefore, the impact is considered less than significant, and no mitigation is required, pursuant to Threshold 4.10-1(ii).

4.10.6 CUMULATIVE IMPACTS

Fire Protection

The geographic area for the cumulative analysis of fire protection services is the service territory for the NBFD, which is the City of Newport Beach. Future development in the City—based on buildout of the City's General Plan and including other proposed development projects such as the proposed Project—are expected to increase demand for fire protection services and would contribute to the need for additional equipment and personnel to meet the demand. Funding for the hiring and training of additional firefighters and acquisition of new equipment is derived from increased property tax; however, development fees may be used. Based on the evaluation conducted by the NBFD, an adequate level of service can be provided to meet the long-range demand through the hiring of additional staff and providing additional equipment. No new or expanded facility is anticipated to be required. Additionally, new development in the City, including the proposed Project would be required to comply with all applicable codes, ordinances, and regulatory requirements, including the current edition of the California Fire Code regarding fire prevention and suppression measures, fire hydrants, automatic fire extinguishing systems, fire access, and water availability, among other measures.

However, although the Project's demand for fire protection services would not result in construction of new or expansion of existing facility, to meet the staffing demand of the proposed Project, as indicated above, MM FIRE-1 is proposed to address the cumulative impacts.

Police Protection

The geographic area for the cumulative analysis of police protection services is the service territory for the NBPD, which is the City of Newport Beach. As with fire protection services, future projects in the City, including the proposed Project, are expected to increase demand for police protection services and would contribute to the need to expand facilities and operate such services. Police staffing levels are in constant need of evaluation as the City population grows. Individual projects may not result in the need to increase staffing levels; however, combined developments may result in a cumulative increase in police protection service requirements. Through assessments of the City's capital improvement needs and annual budget review process, NBPD needs would be assessed; and budget allocations would be revised accordingly to ensure that adequate levels of police services—including police protection facilities, equipment, and/or personnel—are maintained throughout the City. New development, including the proposed Project, would contribute to the City's tax revenues, which would assist in financing additional facilities, equipment, and/or personnel as needed to meet additional police protection services would not result in a significant cumulative impact.

4.10.7 MITIGATION PROGRAM

Mitigation Measures

MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

4.10.8 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Project impacts on fire and police protection services would be less than significant and mitigation is not required. However, the Project's contribution to cumulative fire protection impacts would be less than significant with implementation of MM FIRE-1.

4.10.9 REFERENCES

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4.11 **TRANSPORTATION/TRAFFIC**

A Traffic Memorandum (trip generation evaluation) has been prepared under contract with the City by Urban Crossroads for the proposed Project to evaluate the net new trip generation associated with the proposed Project and determine if additional analysis is required pursuant to the City of Newport Beach's (City's) Traffic Phasing Ordinance (TPO) (Urban Crossroads 2018). Based on the City's TPO requirements, a Traffic Study would not be required if a project generates less than 300 net new average daily trips. The Project would not exceed this criterion; therefore, a full Traffic Study was not required to be prepared. The findings of the Harbor Pointe Senior Living Traffic Memorandum are incorporated in the following analyses, and the report is included as Appendix G to this EIR.

4.11.1 REGULATORY SETTING

Regional Regulations

Orange County Congestion Management Program

The Orange County (County) Congestion Management Program (CMP) was originally adopted in 1991 and updated in November 2017. The goals of the Orange County CMP are to support regional mobility and air quality objectives by reducing traffic congestion, to provide a mechanism for coordinating land use and development decisions that support the regional economy, and to determine gas tax fund eligibility. To meet these goals, the CMP contains a number of policies designed to monitor and address system performance issues. The Orange County Transportation Authority (OCTA) was designated as the Congestion Management Agency (CMA) for the County. As a result, the OCTA is responsible for developing, monitoring, and updating (biennially) Orange County's CMP (OCTA 2017).

A key element of the CMP's current Land Use Analysis Program is the preparation by local jurisdictions of a traffic impact analysis. The traffic impact analysis reports are designed to provide an improved basis for assessing the impacts of land use decisions on the regional transportation system, both within and outside the permitting jurisdiction, by providing a consistent format to identify impacts and mitigation and by evaluating mitigation costs. A CMP traffic impact analysis has additional requirements and evaluations compared to a typical traffic study. A traffic impact analysis report helps to determine appropriate mitigation measures and financial responsibilities for resolution of CMP system impacts and for developing appropriate mitigation for future development projects.

Local Regulations

City of Newport Beach General Plan Circulation Element

The General Plans for the local jurisdictions contain policies for providing a balanced land use and transportation network. The Project is in the city of Newport Beach and subject to the City's land use jurisdiction, including the City's General Plan, policies and regulations (Newport Beach 2006). The Circulation Element 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. A consistency analysis with the applicable policies of the Circulation Element is included in Table 4.8-1 in Section 4.8, Land Use and Planning, of this EIR.

City of Newport Beach Municipal Code

The following sections of the City of Newport Beach Municipal Code (NBMC) would be applicable to the Project:

Title 12 (Vehicles and Traffic), Chapter 12.62 (Temporary Street Closure). This chapter outlines the permit requirements and process for the temporary closure of public streets within the City (Newport Beach 2017a). Project construction may involve temporary closure of roadway lanes during construction.

Title 15 (Buildings and Construction), Chapter 15.38 (Fair Share Traffic Contribution Ordinance). This chapter has been established by the City Council to enable the City to raise revenues for construction of the required circulation system improvements. The ordinance establishes procedures for calculating the fair share amounts for residential projects, hotels/motels, and office/retail/commercial uses, which are adopted by City Council resolution. The provisions of this chapter will apply to all new development or any redevelopment or change of use of any existing buildings or parcels (Newport Beach 2017b).

Title 15 (Buildings and Construction), Chapter 15.40 (Traffic Phasing Ordinance). The City of Newport Beach has adopted a Traffic Phasing Ordinance (Municipal Code Title 15, Chapter 15.40, Traffic Phasing Ordinance) with the following objectives:

- A. To provide a uniform method of analyzing the traffic impacts of projects that generate a substantial number of average daily trips and/or trips during the morning or evening peak hour period
- B. To identify the specific and near-term impacts of a project's traffic as well as circulation system improvements that will accommodate project traffic and ensure that development is phased with identified circulation system improvements
- C. To ensure that project proponents make or fund circulation system improvements that mitigate the specific impacts of project traffic on primary intersections at or near the time the project is ready for occupancy
- D. To provide a mechanism for ensuring that a project's cost of mitigating traffic impacts is roughly proportional to project impacts

It should be noted, that per the requirements of the TPO, a Transportation Impact Analysis (TIA) is not required for the proposed Project, as the Project would not generate more than 300 net trips per day.

4.11.2 METHODOLOGY

The purpose of the Traffic Memorandum (trip generation evaluation) is to evaluate the net new trip generation associated with the proposed Project and determine if additional analysis is required pursuant to the City of Newport Beach's TPO.

Trip generation represents the amount of traffic which is both attracted to and produced by a development. The proposed Project would replace the existing 8,800-square-foot restaurant. Traffic generation rates for the existing use and proposed Project have been derived from Institute of Transportation Engineers (ITE) *Trip Generation Manual* (10th Edition, 2017).

Performance Criteria

The TPO Ordinance allows for trip credit to be applied to all existing uses on a site, and the trip generation credits are based on the square footage of the existing restaurant. Based on the City's TPO requirements, a TIA would not be required if a project generates no more than 300 net new average daily trips (ADTs).

4.11.3 EXISTING CONDITIONS

Regional and Local Access Routes

Regional access to the Project site is provided by State Route (SR-) 73 and Interstate (I-) 405. Access to SR-73 and I-405 is approximately 0.05 mile and 2.00 miles to the north and northwest of the Project site, respectively. Currently, the Project site is accessed by a driveway on Bayview Place, located along the southeastern Project boundary. Access to Bayview Place is provided by Bristol Street to the northeast and Bayview Way to the south. Jamboree Road, a major north-south thoroughfare, is approximately 0.20 mile east of the Project boundary and provides access to both Bristol Street and Bayview Place. SR-73 to the north of the Project site provides access to Jamboree Road.

Traffic Counts

The average daily traffic (ADT) counts for midblock arterial roadway segments in the study area were conducted on January 23 and 25, 2018 (see Exhibit 4.11-1). Daily traffic volumes based on the three-day count range from 4,512 to 4,887 daily trips on Bayview Place and from 31,473 to 32,593 daily trips on Bristol Street (see Attachment 1 of Harbor Pointe Senior Living Traffic Memorandum in Appendix G of this Environmental Impact Report [EIR]).

Existing Trips

The existing restaurant use is estimated to generate a total of 738 trips per day with six AM peakhour trips and 69 PM peak-hour trips. The proposed Project is anticipated to generate a total of 312 trips per day with approximately 23 AM peak-hour trips and 31 PM peak-hour trips.



LEGEND:

1,000		VEHICLES PER DAY (COUNT DATE: 1/23/18 TUESDAY)
1,000	=	VEHICLES PER DAY (COUNT DATE: 1/24/18 WEDNESDAY)
1,000		VEHICLES PER DAY (COUNT DATE: 1/25/18 THURSDAY)

Existing (2018) Average Daily Traffic

Harbor Pointe Senior Living Project

Source: Urban Crossroads, 2018

Exhibit 4.11-1

P S O M A S

(02/13/2018 MMD) R:\Projects\NEW\3NEW003100\Graphics\EIR\ex_Existing_AvgDailyTraffic.pdf

4.11.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Analysis Checklist and Appendix G of the California Environmental Quality Act (CEQA) Guidelines, the Project would result in a significant impact to transportation/traffic if it would:

- **Threshold 4.11-1** Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.
- **Threshold 4.11-2** Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).
- **Threshold 4.11-3** Result in inadequate emergency access.

4.11.5 IMPACT ANALYSIS

Thresholds 4.11-1

Would the Project conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system. Including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

Short-Term Construction-Related Traffic

Construction activities at the Project site would lead to new truck trips, construction equipment trips, and construction crew vehicle trips that would add to existing traffic volumes in the Project area. Construction vehicles are expected to enter and leave the Project site during the 12- to 14-month construction phase during working hours. As discussed in Section 3.5.3, Project's Technical Characteristics, Project construction would include approximately three full-time employees, and various subcontractors will be on and off the site at various times over the course of the Project construction. The labor force is expected to range in size between a minimum of 2 and a maximum of 50 workers.

Project construction activities would include three phases of demolition of the existing restaurant on site; excavation/grading for the new facility; and construction of the new building and site features. Large construction equipment such as bulldozers and loaders would be required during the three construction phases. A staging area would be designated on site to store construction equipment and supplies during construction.

Throughout construction, the size of the work crew each day varies depending on the construction phase and the construction activities taking place at the time. Parking for workers

would be provided on site during all phases of construction, and construction workers would not park on local streets.

Assuming the demolition and excavation phases last for six months, with a capacity of 18 cubic yards per truckload, demolition activities would require removal of approximately 712 truckloads of cut and fill. Assuming a two- to three-month period for the excavation/grading phases (approximately 21 workdays per month), this would equate to an average of 12 to 17 inbound and 12 to 17 outbound trucks per day for the duration. The duration of the construction phase (foundation and above ground) is estimated to be eight to ten months. It is estimated that up to four truck deliveries of construction materials would occur per day during the construction phase.

Heavy haul vehicles and delivery trucks would arrive and depart the site throughout the day during construction, whereas construction workers would arrive in the morning and depart in the evening. Construction traffic would be required to use arterial roadways (i.e., Bristol Street) to get to and from the site. No streets with direct residential access serve the Project site. While approach and departure routes for construction vehicles are assumed to be via Bristol Street, construction workers' vehicles may access the site via Bayview Place. Exhibit 4.11-2 shows the anticipated trip distribution of construction activity. Estimates of Project construction daily trips on adjacent roadway segments are shown on Exhibits 4.11-3 through 4.11-5. Construction-related traffic estimates for each phase are presented in Table 4.11-1.

Construction		Construction-Related	Daily Trips						
Phase	Duration	Vehicles	Inbound	outbound	Total				
Domolition	1 month	Debris Haul Trucks	6 - 7	6 - 7	12 - 14				
Demontion	1 monui	Workers	Inbound outbound Total Haul Trucks 6 - 7 6 - 7 12 - 14 rs 10 10 20 /Import Haul Trucks 12 - 17 12 - 17 24 - 34 rs 10 10 20 Al Delivery Trucks 2 - 3 2 - 3 4 - 6						
Execution (Creding	2 2 months	Export/Import Haul Trucks	12 - 17	12 – 17	24 - 34				
Excavation/Grading	2 - 3 months	Workers	10	10	20				
Construction	10 months	Material Delivery Trucks	2 - 3	2 - 3	4 - 6				
Construction	10 months	Workers	50	50	100				
Source: Urban Crossroad	Source: Urban Crossroads, 2018.								

TABLE 4.11-1CONSTRUCTION PHASE TRIP GENERATION

For each construction phase, the daily construction traffic volumes are anticipated to be less than the current site traffic that would be eliminated when the Project construction activity begins, and also less than the traffic to be generated by the proposed Project in the future. However, temporary delays in traffic would occasionally occur due to heavy vehicles traveling at lower speeds than general traffic. Such short delays would occur outside the peak hours on an occasional basis. These temporary delays are considered less than significant.

To facilitate the movement of construction traffic and to minimize potential disruptions, a Construction Management Plan would be prepared in accordance with the City requirements and followed during construction. See regulatory requirement (RR) TRAN-1, below. The Project construction traffic management plan would include measures such as requiring an encroachment permit for work in the public right-of-way, limiting heavy truck activity during









peak hours, using flaggers to manage short-term traffic control, requiring a formal traffic control plan for lane closures, limiting time and duration of closures, and/or requiring a minimum number of lanes to be open for travel during peak hours. With compliance with the Construction Management Plan and City requirements, the Project would not conflict with applicable plans, ordinance, or policy; and the Project's impact would be less than significant.

RR TRAN-1 Prior to issuance of any building permit, the Applicant shall prepare a Construction Management Plan for review and approval by the Community Development and Public Works Departments. The Plan shall identify construction phasing and address traffic control for any temporary lane closures, detours, or other disruptions to traffic circulation and public transit routes. The Plan shall identify the routes that construction vehicles shall use to access the site, the hours of construction traffic, traffic controls and detours, vehicle staging areas, and parking areas for the Project. Emergency service providers and the area's business and the general public shall be notified in advance of any disruptions that may occur. This notice shall be provided at least two weeks prior to disruptions. The City of Newport Beach Public Works Department shall monitor haul operations. A staging area shall be designated on site for construction equipment and supplies to be stored during construction.

Project Trip Generation

Trip generation represents the amount of traffic that is both attracted to and produced by a development. Traffic generation rates for the existing use on site and the proposed Project have been derived from the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition.

The existing restaurant use is estimated to generate a total of 738 trips per day with six AM peakhour trips and 69 PM peak-hour trips. The proposed Project is anticipated to generate a total of 312 trips per day with approximately 23 AM peak-hour trips and 31 PM peak-hour trips.

The proposed Project, with credit for existing trips, is anticipated to generate 426 fewer trips per day with approximately 17 net new AM peak-hour trips and 38 fewer PM peak-hour trips. A summary of the Project's trip generation is shown on Table 4.11-2. As shown in the table, the Project would not generate more than 300 net new average daily trips; and, therefore, a TIA is not required for the Project.

-	ITE LU		AM	I Peak H	our	PM Peak Hour			
Land Use	Code	Units	In	Out	Total	In	Out	Total	Daily
Project Trip Generation Rates ¹									
Quality Restaurant	931	TSF	0.365	0.365	0.73	5.23	2.57	7.80	83.84
Assisted Living	254	Beds	0.12	0.07	0.19	0.10	0.16	0.26	2.60

TABLE 4.11-2PROJECT TRIP GENERATION SUMMARY

			AM	- I Peak H	our	PM Peak Hour			
Land Use	Quantity	Units	In	Out	Total	In	Out	Total	Daily
	•	Exi	sting Tri	p Genera	ation				
Quality	8,800	TSF	3	3	6	46	23	69	738
Restaurant									
j	Existing Trip	Generation	3	3	6	46	23	69	738
		Pro	oject Tri	p Genera	tion				
Assisted Living	120	Beds	14	8	23	12	19	31	312
Differe	11	5	17	-34	-4	-38	-426		
ITE LU: Institute of applicable.	Transportation	Engineers Lar	nd Use; AM	1: morning	g; PM: even	ing; TSF: th	ousand sq	uare feet;	N/A: not
¹ Trip Generation So	ource: Institute	of Transportat	tion Engin	eers (ITE)	, Trip Gene	ration, Ten	th Edition	(2017).	
Note: For Quality Re has been used.	estaurant, Trip (Generation do	es not spe	cify direct	tional split	for the AM	peak hour	, so 50% o	utbound
Source: Urban Cros	sroads, 2018.								

Based on the above evaluation, and in light of the reduction in trips from 738 ADT to 426 ADT, the limited number of trips generated from the proposed assisted living and memory care facility would not cause significant impacts at the site and surrounding area. No conflict with an applicable plan, ordinance, or policy related to the circulation system would occur; and the Project would not impact the performance of circulation system components, including the surrounding intersections. Impacts would be less than significant, and no mitigation is required.

Impact Conclusion: The proposed Project would develop an assisted living and memory care facility. Project construction and operation would not result in a significant impact, pursuant to Threshold 4.11-1. Based on the above evaluation, with compliance with the Construction Management Plan and City requirements, Project construction impacts would be less than significant (RR TRAN-1). Additionally, as the Project is replacing an existing use, the Project would result in a reduced number of trips. Therefore, the potential operation impact would be less than significant, pursuant to Threshold 4.11-1, and no mitigation is required.

Thresholds 4.11-2 and 4.11-3

Would the Project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses?

Would the Project result in inadequate emergency access?

Primary vehicular access to the proposed Project would be provided by an entry driveway off Bayview Place, which is consistent with the current configuration of the entry into the existing use. As the entry maintains the existing location, additional vision clearance would not be needed. In addition, the location of driveway access points would comply with City of Newport Beach roadway standards for adequate sight distance.

The internal circulation system for the proposed Project has been reviewed and approved and determined to be adequate to accommodate service/delivery trucks, trash trucks, and fire trucks. The Project includes a passenger drop-off area as well as a roundabout with center island/planting, which would meet the width and turnaround requirements of the City and Newport Beach Fire Department. Access to the underground parking is off the main entry, and an exit-only controlled access emergency drive to Bristol Street is on the northwest corner of the site. The emergency exit to Bristol Street would include an emergency gate with a knox box. A drive aisle is also provided on the southwest and northwest sides of the building. As designed, the proposed Project would provide adequate emergency access.

The proposed Project would not interfere with access, circulation, or activities at the surrounding land uses, and the Project would not introduce an incompatible use that may create a hazard to surrounding residences. During construction, construction equipment would be staged on the Project site and would not block the streets and roadway surrounding the Project site. Construction on and obstruction of public rights-of-way associated with connection to existing water and sewer lines on Bayview Place would be made in accordance with applicable City regulations. Accordingly, temporary construction activities would not impede the use of surrounding roadways for emergencies or access for emergency response vehicles.

Additionally, as described in Section 3.0, Project Description, of this EIR, the proposed setbacks meet and exceed the required setbacks in the Bayview Planned Community Development Plan (PC-32). Review and approval of the Major Site Plan for the proposed Project would verify compliance (Newport Beach 1985).

Based on the above analysis, the Project would not create a hazard due to a design feature nor would it result in inadequate emergency access. No impacts would occur, and no mitigation is required.

Impact Conclusion: Primary vehicular access to the proposed Project would be provided by an entry driveway off Bayview Place, which is consistent with the current configuration of the entry into the existing use. Internal access and circulation would meet the width and turnaround requirements of the City and Newport Beach Fire Department. No hazard as a result of a design feature or inadequate emergency access would occur, pursuant to Thresholds 4.11-2 and 4.11-3, and no mitigation is required.

4.11.6 CUMULATIVE IMPACTS

As discussed above, the proposed Project would not result in any impacts to transportation/traffic and circulation in the area. Given the existing restaurant use on site and the nature of the proposed development, the Project would result in reduced traffic trips compared to the existing use. Similarly, given a reduction in trips, the Project would not contribute to cumulative impact to local and regional transportation facilities or circulation in the area. No cumulative impacts would result, and no mitigation is required.

Additionally, the Project does not propose relocation of the access or entry to the site such that it would create a design hazard. The Project would not result in any deviation from the City of Newport Beach standards. Therefore, no contribution to a cumulative physical impact pertaining to a hazard due to a design feature or inadequate emergency access would occur, and no mitigation is required.

4.11.7 MITIGATION PROGRAM

Mitigation Measures

The proposed Project would not result in significant impacts to transportation/traffic; therefore, no mitigation measures are required.

4.11.8 LEVEL OF SIGNIFICANCE AFTER MITIGATION

The proposed development would not result in any project-specific and cumulative impacts to transportation/traffic or circulation in the area. No impacts would occur, and no mitigation is required.

4.11.9 REFERENCES

Newport Beach, City of. 2017a. Newport Beach Municipal Code, Title 12, Vehicles and Traffic. Newport Beach, CA: the City. http://www.codepublishing.com/CA/NewportBeach/html/NewportBeach15/Newport Beach15.html.

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4.12 TRIBAL CULTURAL RESOURCES

This section evaluates the Project's potential to have adverse effects on Tribal Cultural Resources. The analysis in this section is based on the results of consultation with California Native American Tribes, conducted by the City of Newport Beach for the Project, as required by CEQA per the recent amendment by Assembly Bill 52 (AB 52).

4.12.1 REGULATORY SETTING

<u>State</u>

Native American Historic Resource Protection Act

Established in 2002, the Native American Historic Resource Protection Act, establishes a misdemeanor for unlawfully and maliciously excavating upon, removing, destroying, injuring, or defacing a Native American historic, cultural, or sacred site that is listed or may be eligible for listing in the California Register of Historic Resources (CRHR). The focus of this legislation was to provide additional legal protection for Native American historical and cultural sites, art, and other cultural artifacts found at those sites. The Act also encourages collaborative relationships for the protection of Native American cultural resources between Native Americans and landowners, funding and other state assistance should be encouraged for support of voluntary agreements to conserve, maintain, and provide physical access for Native Americans to these cultural resources.

Senate Bill 18 (SB18)

The State of California Governor's Office of Planning and Research developed guidelines in order to provide guidance to cities and counties on the process for consulting with Native American tribes during the adoption or amendment of local general plans or specific plans. Senate Bill (SB) 18 (*California Government Code*, Section 65352.3) incorporates the protection of California traditional tribal cultural places into land use planning for cities, counties, and agencies by establishing responsibilities for local governments to contact, refer plans to, and consult with California Native American tribes as part of the adoption or amendment of any general or specific plan proposed on or after March 1, 2005. SB 18 requires public notice to be sent to tribes listed on the Native American Heritage Commission's (NAHC's) SB 18 Tribal Consultation list within the geographical areas affected by the proposed changes. Tribes must respond to a local government notice within 90 days (unless a shorter time frame has been agreed upon by the tribe), indicating whether or not they want to consult with the local government. Consultations are for the purpose of preserving or mitigating impacts to places, features, and objects described in Sections 5097.9 and 5097.993 of the *California Public Resources Code* that may be affected by the proposed adoption or amendment to a general or specific plan.

Pursuant to the provisions of SB 18, the City of Newport Beach invited the applicable tribes to participate in consultation regarding the proposed Project in accordance with the requirements of SB 18.

Assembly Bill 52

AB 52 is applicable to projects that have filed a Notice of Preparation (NOP) of an Environmental Impact Report (EIR), or where a jurisdiction will adopt a Negative Declaration (ND) or Mitigated Negative Declaration (MND) on or after July 1, 2015. AB 52 requires that the tribes ask the lead agency to be contacted for consultation. Then, the lead agency must contact the tribes to initiate consultation with California Native American Tribes that are traditionally and culturally affiliated with the geographic area of the project and have requested such consultation prior to determining the type of CEQA documentation that is applicable to the project. AB 52 allows tribes 30 days after receiving notification to request consultation. The lead agency then has 30 days to initiate consultation. The legislation also directed "the Office of Planning and Research to prepare and develop, and the Secretary of the Natural Resources Agency to certify and adopt, guidelines for the implementation of CEQA that include, among other things, criteria for public agencies to follow in determining whether or not a proposed project may have a significant effect on the environment." The Natural Resources Agency incorporated Tribal Cultural Resources into the CEQA Environmental Checklist in September 2016.

California Health and Safety Code (Sections 7050.5, 7051, and 7054)

These sections of the *California Health and Safety Code* collectively address the illegality of interference with human burial remains (except as allowed under applicable sections of the *California Public Resources Code*). These sections also address the disposition of Native American burials in archaeological sites and protect such remains from disturbance, vandalism, or inadvertent destruction. Procedures to be implemented are established for (1) the discovery of Native American skeletal remains during construction of a project; (2) the treatment of the remains prior to, during, and after evaluation; and (3) reburial.

Section 7050.5 of the *California Health and Safety Code* specifically provides for the disposition of accidentally discovered human remains. Section 7050.5 states that, if human remains are found, no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the County Coroner (Coroner) has determined the appropriate treatment and disposition of the human remains.

California Public Resources Code (Section 5097.98)

Section 5097.98 of the PRC states that, if the Coroner determines that remains are of Native American origin, the Coroner must notify the NAHC within 24 hours which, in turn, must identify the person or persons it believes to be the most likely descended from the deceased Native American. The descendant(s) shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the property owner, the disposition of the human remains. This section of the *California Public Resources Code* has been incorporated into Section 15064.5(e) of the State CEQA Guidelines.

<u>Local</u>

City of Newport Beach General Plan

The Historic Resources (HR) and Natural Resources (NR) Elements of the City's General Plan include goals and policies pertaining to conservation, development, and utilization of natural resources, including archeological and paleontological resources.

The following policy of Goal HR-2 is applicable to the Project:

- Policy HR 2.3: "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." (Newport Beach 2006a)
- Policy NR 18.3 is similar to HR 2.3, above, and applicable to the Project.

4.12.2 METHODOLOGY

The Native American Heritage Commission (NAHC) conducted a Sacred Lands File (SLF) search for the Project. The search did not identify any sacred places or objects with cultural value to a California Native American tribe on the Project property. As part of the contact with the NAHC a list of tribal representatives for SB 18 was requested. The City of Newport Beach sent SB 18 consultation letters on April 19, 2016 to the following tribes; however, no response letters have been received to date:

- Juaneno Band of Mission Indians Acjachemen Nation (letters were sent to two tribal representatives)
- Gabrielino-Tongva
- Gabrielino Tongva Indians of California Tribal Council
- Gabrielino Tongva Nation
- Juaneno Band of Mission Indians
- Gabrieleno/Tongva San Gabriel Band of Mission Indians
- Soboba Band of Luiseno Indians

Consistent with requirements of AB 52, on April 19, 2016 the City of Newport Beach sent letters to tribes that have expressed an interest in being consulted regarding Native American resources for the projects being undertaken within the City. Letters were sent to the:

- Gabrielino Band of Mission Indians Kizh Nation
- Juaneño Band of Mission Indians Acjachemen Nation

The City received one response. Mr. Andrew Salas (Tribal Chair), for the Gabrielino Band of Mission Indians – Kizh Nation, responded on May 4, 2016. He indicated that the Harbor Pointe Senior Living Project site lies within an area where ancestral territories of Kizh Gabrielino Tribe

villages adjoined and overlapped, at least during the Late Prehistoric (before European contact) and Protohistoric Periods (Post-contact). Mr. Salas recommended that a certified Native American monitor be onsite during ground disturbing activities, including but not limited to pavement removal, post holing, auguring, boring, grading, excavation and trenching) to protect any cultural resources which may be affected during construction or development.

City staff spoke with Mr. Salas regarding his knowledge of known tribal cultural resources in the area. As a follow up to the discussion, on May 23, 2016, the City sent Mr. Salas exhibits of the Project site and offered to schedule an on-site meeting. Mr. Salas responded reiterating his interest in onsite monitoring. Further consultation was suspended to allow for redesign of the proposed Project to be more responsive to the concerns expressed by the community at the scoping meeting.

The City reached out to Mr. Salas on June 18, 2018, to provide him an update on the proposed Project and status of the process. The City had telephone conversations with Mr. Salas and Mr. Matthew Teutimez, the Tribal Biologist, and through a series of email correspondence, the City indicated due to the lack of presented evidence of known resources at the Project site, the City's assessment is that the impacts would be less than significant, and no mitigation measures are required. Mr. Salas provided reference to a 1985 EIR prepared for John Wayne Airport, which indicated that a general sensitivity for cultural resources in the area exists but did not provide documentation regarding specific resources.¹ Subsequently, the Tribal Biologist, Mr. Teutimez requested a mitigation measure and provided specific provisions in an attachment to an email, dated July 13, 2018 (Gabrieleno 2018).

4.12.3 EXISTING CONDITIONS

Section 4.4 of this EIR provides an evaluation of cultural resources, including archaeological and paleontological resources and human remains. As noted in that section, a cultural resources records search and literature review was conducted at the California Historical Resources Information System (CHRIS), which maintains records and literature regarding cultural resources within California. The CHRIS office for Orange County is located at California State University, Fullerton California. A total of 30 cultural resources investigations have been conducted within a half-mile of the Project site. Of those, eight included at least a portion of the Project site. However, none of these studies resulted in the identification of any cultural resources on the Project site. Additionally, eight cultural resources sites have been previously recorded within a half-mile of the Project site. Of these, none was located within a quarter-mile of the Project site is developed and no cultural resource sites have been found on or near the site, the Project site is not considered archaeologically sensitive.

Regional Ethnographies

Ethnography is a cultural anthropologic research method that strives to answer anthropological questions about different cultures' ways of life, and the following described the ethnographic setting of the Project site. The Orange County region, including the Project site, was a contact point between two separate ethnolinguistic groups immediately prior to the arrival of Euro-Americans in California. These groups include the Gabrielino/Tongva and the

¹ In 1985 tribal cultural resources was not an environmental topic evaluated under CEQA.

Juaneño/Acjachemen. These groups, while maintaining their own respective cultural identity, did have similar traditions, beliefs systems, and languages, which were a result of intertribal interactions over several centuries.

Another tribe that influenced the cultures of the region is the Luiseño/Payomkawichum. They, too shared similar linguistic and cultural traits like the Juaneño/Acjachemen and the Gabrielino/Tongva. However, the Luiseno/Payomkawichum territory is located just outside the shared territory of the Gabrielino/Tongva and Juaneño/Acjachemen, along the Northern San Diego County coastline and inland Riverside County. Therefore, this EIR focuses on the Gabrielino/Tongva and the Juaneño/Acjachemen.

Gabrielino/Tongva

At the time of Spanish contact, the Project site is believed to have been inhabited by the Gabrielino/Tongva (Kroeber 1925; Harrington 1933; Johnston 1962; Blackburn 1963; Heizer 1968; Bean and Smith 1978; McCawley 1996). The name "Gabrielino" identifies those people who came under the control of Mission San Gabriel Arcángel and included the inhabitants of most of current-day Los Angeles and Orange Counties and portions of Riverside and San Bernardino Counties. Today, many Gabrielino prefer to be known as *Tongva*. According to the ethnographic evidence, Gabrielino territory included the coastal plain of Los Angeles and Orange Counties, extending from Topanga Canyon in the north to Aliso Creek in the south and eastward of Mount Rubidoux in western Riverside County. Their territory also included Santa Catalina, San Clemente, and San Nicolas Islands.

Unfortunately, the Gabrielino are one of the least documented of the native peoples of California because they were one of the first groups to suffer the effects of foreign diseases brought by the Spanish and the subsequent migration of foreigners who arrived in the region (Bean and Smith 1978). However, ethnographic studies conducted by J.P. Harrington (1933), Alfred Kroeber (1925), and others in the early twentieth century provide some insight into the culture of the Gabrielino.

Linguists have determined that the Gabrielino language derived from one of the Cupan languages in the Takic family, a part of the Uto-Aztecan linguistic stock (Bean and Smith 1978). Linguistic evidence indicates that the Gabrielino or their ancestors migrated from the Great Basin area. Linguistic analysis suggests that at one time the entire Southern California coastal region was populated by Hokan speakers who were gradually separated and displaced by Takic-speaking immigrants from the Great Basin area (Bean and Smith 1978; Cameron 1999). The timing and extent of the migrations and their impact on indigenous peoples are not well understood, and any related data represents a valuable contribution to the understanding of local prehistory.

Gabrielino territory occupied one of the richest environmental habitats in all of California. The territory included four macro-environments: the Interior Mountains/Adjacent Foothills, the Prairie, the Exposed Coast, and the Sheltered Coast (Bean and Smith 1978). These diverse macro-environments and the resources contained within each enabled the Gabrielino to develop one of the most complex cultures of any of the native California groups. The abundance of resources provided many opportunities for the Gabrielino to exploit native plants and animals. This, in turn, allowed the population to settle in small villages throughout the territory.

Permanent villages evolved in resource-rich areas near rivers and streams and along the coast. It is estimated that 40 to 60 Gabrielino/Tongva villages were scattered throughout southern California, as depicted on Exhibit 2. Ethnographic (Morris et. Al 2016) and historical (Estrada 2008: 35) sources indicated that the Tongva village of Yaanga, which is shown on Exhibit 3, was originally located near the Pueblo of Los Angeles, near the west bank of Los Angeles River, approximately 1 mile to the southwest of the Project site.

Secondary, or satellite, villages were also established nearby. The Gabrielino traditionally constructed two types of dwellings: the subterranean pit house and the thatched lean-to. The pit house was constructed by excavating approximately 2 feet below the surface and constructing the walls and roof with wooden beams and earth around the excavation pit. The lean-to, or *wickiup*, was constructed of thatched walls and thatched roof surrounded by large, converging poles. A hearth located inside the structure provided warmth. Hearths used for cooking were located outside. Sweathouses, or *temescals*, were used as a meeting place for the men (Kroeber 1925; Bean and Smith 1978).

The material culture of the Gabrielino reflected an elaborately developed artistic style and an adaptation to the various environments within their territory. This artistic style was often manifested in elaborate shell bead and asphaltum ornamentation on many utilitarian items (e.g., bone awl handles, bowls, mortar rims). Spear and bow and arrow were used for hunting, while manos and metates, as well as mortars and pestles, were used for processing plant and animal material into food items. The Gabrielino were also known for the high quality of their basketry made from rush stems (*Juncus* sp.), native grass (*Muhlenbergia rigens*), and squawbush (*Rhus trilobata*) (Bean and Smith 1978:542).

Juaneño/Acjachemen

During the Late Prehistoric and Contact Periods, the Project area was located also within the Juaneño territory. As with the Gabrielino, whose name signifies their mission association, the name Juaneño designates those peoples that fell under the control of the Mission at San Juan Capistrano. Specifically, it denotes the indigenous Native Americans living in and near the San Juan and San Mateo Creek Drainages, who called themselves the Acjachemen.

During the Pre-Contact Period, the Acjachemen population is thought to have numbered upwards of 3,500. It is known that 1,138 local Native Americans, consisting primarily of Acjachemen but including Gabrielino, coastal and interior Luiseño, Serrano, and Cahuilla, resided at Mission San Juan Capistrano in the year 1810. The Mission's death register shows as many as 1,665 native burials in its cemetery by this time, a number in addition to those who died unrecorded at the remaining villages from natural causes and introduced infectious diseases.

Overall, the Acjachemen territory consisted of the eastern Santa Ana Mountains to the coast and southward to San Juan Capistrano. The majority of the known ethnographic village sites are located primarily in this region. To this day, the San Juan Capistrano area has seen continuous habitation by the Juaneño people.

The Juaneño lived in structured villages, populated variously by between 35 and 300 people, consisting of a single lineage to multiple clans in larger settings. While each village unit maintained economic and social ties to neighboring villages, they also maintained a well-defined resource area.

The Juaneño exploited a wide variety of resources for their dietary needs. These consisted primarily of plant foods, including seeds, nuts, fruits, tubers, and greens. Marine resources constituted the largest sources of meat and consisted mostly of shellfish and fish. Marine resources were collected from open water, bay, and estuary habitats. Birds and mammals made up most of the remainder of the diet. Many common bird species and most small rodents were exploited where available. Seasonal rounds of exploitation formed the basis for the successful procurement of various food types as evident by the settlement patterns still identifiable today from the remains of simple campsites to complex village sites.

4.12.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Analysis Checklist and Appendix G of the CEQA Guidelines, the applicable thresholds of significance with regard to Tribal Cultural Resources are below. The Project could have a significant impact if it would:

- **Threshold 4.12-1** Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1 (k), or
 - ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

4.12.5 IMPACT ANALYSIS

Threshold 4.12-1

Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
- *ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.*

For purposes of impact analysis, a Tribal Cultural Resource is considered a site, feature, place, cultural landscape, sacred place, or object which is of cultural value to a California Native American Tribe and is either eligible for the CRHR² or a local register. As indicated in Section 4.4, Cultural Resources of this EIR and indicated above, based on a record search there are no resources on the Project site that are currently listed on the CRHR. Eight cultural resources sites have been previously recorded within one-half mile of the Project site. Of these, none was located within a quarter-mile of the Project site and would not be affected by Project activities. Therefore, the Project would not have an impact on tribal cultural resources associated with an impact to a resource that is listed or eligible for listing on the CRHR.

The second component of this threshold is if the Project would impact "A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe." Subdivision (c) states:

A resource may be listed as an historical resource in the California Register if it meets any of the following National Register of Historic Places criteria:

- (1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
- (2) Is associated with the lives of persons important in our past.
- (3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- (4) Has yielded, or may be likely to yield, information important in prehistory or history.

Based on the record search at the SCCIC, there is no information available indicating that there are significant tribal resources on site, pursuant to criteria set forth in subdivision (c) of Public Resource Code Section 5024.1. However, as noted in the letter from Mr. Salas, Tribal Chair for the Kizh Gabrielino Tribe, "when the Native American Heritage Commission states there are 'no records of sacred sites in the project area' the NAHC will always refer lead agencies to the respective Native American Tribe because the NAHC is only aware of general information and are not the experts on each California Tribe." Based on coordination to date, Native American representatives have not provided information supporting that the site contains resources that are considered significant to a California Native American tribe. Although it is acknowledged that this portion of Orange County was inhabited by Native American tribes, to date a limited number of archaeological resources important to Native Americans have been identified near the Project site, and there is a lack of evidence of known resources on the site. Additionally, the site is heavily disturbed having been previously graded and the existing restaurant constructed. As discussed under Methodology, the Tribe has asserted that due to the sensitivity of the region, Native American monitoring of construction activity should be required. Given the lack of presented

² Section 5020.1 of the Public Resources Code established the California Register of Historic Resources, as "an authoritative guide in California to be used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change."

evidence of known resources at the Project site, the City's assessment is that the impacts would be less than significant, and no mitigation measures are required. Although no impact has been identified, in recognition of the tribe's concerns, during construction activities, if requested, the Project Applicant would be required to allow representatives of cultural organization, including Native American tribes (i.e., Gabrieleno Band of Mission Indian—Kizh Nation) to access the Project site on a volunteer basis to monitor grading and excavation activities.

Impact Conclusion: The Project has a low potential to cause a substantial adverse change in the significance of a tribal cultural resource, as defined by Section 21074 of the Public Resources Code. Given the disturbed nature of the site and the limited resources identified to date and the lack of evidence of known resources onsite, the impacts would be less than significant, pursuant to Threshold 4.12-1and no mitigation is required. However, the Native American tribes could access the Project site on a volunteer basis during construction activities to monitor grading and excavation.

4.12.6 CUMULATIVE IMPACTS

Although Tribal Cultural Resources impacts are site-specific with regard to any given resource (e.g. resources of important cultural value to Native Americans), impacts may be considered cumulative due to the loss of cultural resources in general over time throughout the region. There are no tribal cultural resources listed or determined eligible for listing, on the national, state, or local register of historical resources on the Project site. However, should buried resources be identified, the Project could contribute to the cumulative accelerated degradation of previously unknown tribal cultural resources.

Cumulative development associated with regional growth would have similar potential for impacts to unknown resources. However, each of these development proposals would undergo environmental review and would be subject to similar resource protection requirements as determined by the local lead agency. Therefore, the Project's contribution to cumulative impacts associated with tribal cultural resources would be less than significant.

4.12.7 MITIGATION PROGRAM

The proposed Project would not result in significant impacts to Tribal Cultural Resources; therefore, no mitigation measures are required.

4.12.8 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Project-specific and cumulative impacts to tribal cultural resources associated with the Project would be less than significant and no mitigation is required.

4.12.9 REFERENCES

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4.13 UTILITIES AND SERVICE SYSTEMS

This section discusses the potential impacts of the proposed Project on wet utilities, including water, wastewater, and solid waste disposal services. Existing conditions of the utilities are also described. The analysis in this section is based on existing regulatory documents and coordination and consultation with the utility providers. Analysis of storm drain facilities is provided in Section 4.7, Hydrology/Water Quality of this Environmental Impact Report (EIR). Additionally, the Irvine Ranch Water District (IRWD)'s Conditional Water and Sewer Will Serve Letter, dated July 20, 2018, is used in the analysis in this section and contained in Appendix H (IRWD 2018a).

Per Appendix F, Energy Conservation, of the California Environmental Quality Act (CEQA) Guidelines, a discussion of the proposed Project's impacts on electricity and natural gas is included in Section 6.0, Long Term Implications of the Project, of this EIR.

4.13.1 REGULATORY SETTING

<u>State</u>

Urban Water Management Planning Act

The California Urban Water Management Planning Act (*California Water Code*, Sections 10610–10656) requires urban water suppliers that provide over 3,000 acre-feet (af) of water annually or serve 3,000 or more connections to analyze the reliability of their water sources over a 20-year planning horizon. The Act requires urban water suppliers to prepare and update Urban Water Management Plans (UWMPs) that analyze the availability of water supplies to meet demands during normal, single-dry, and multiple-dry years as a way to encourage water conservation programs and create long-term planning obligations.

Water Conservation Act of 2009

The Water Conservation Act of 2009 or Senate Bill 7 (SB X7-7) was approved in November 2009. It set an intermin goal by requiring urban water retail suppliers in California to reduce per capita water use by at least 10 percent on or before December 31, 2015, set an ultimate goal to achieve a 20 percent reduction by December 31, 2020. In their 2010 UWMPs, urban retail water suppliers must include the baseline daily per capita water use, urban water use target, interim urban water use target, and compliance daily per capita water use, along with the bases for determining those estimates and references to the supporting data. Urban wholesale water suppliers must also include an assessment of present and proposed water conservation measures, programs, and policies needed to achieve the water use reductions required by this Act. While it does not require existing customers to undertake changes in product formulation, operations, or equipment that would reduce process water use, suppliers may provide technical assistance and financial incentives to those customers to implement efficiency measures for process water.

Urban retail water suppliers and agricultural water suppliers would not be eligible for State water grants or loans for surface water or groundwater storage, recycling, desalination, water

conservation, water supply reliability, and water supply augmentation unless they comply with the water conservation requirements established by this Act.

20x2020 Water Conservation Plan

The 20x2020 Water Conservation Plan, issued by the California Department of Water Resources (DWR) in 2010 pursuant to the Water Conservation Act of 2009 (SB X7-7), established a water conservation target of 20 percent reduction in water use by 2020 compared to 2005 baseline use.

Executive Orders for Drought State of Emergency

In January 2014, California Governor Jerry Brown declared a drought state of emergency and directed State officials to take all necessary actions to make water immediately available. The State Water Resources Control Board (SWRCB) was to consider petitions that could streamline water transfers and exchanges between water users and to notify water rights holders that they may be directed to cease or reduce water diversions based on water shortages. The SWRCB was also asked to modify requirements for releases of water from reservoirs or diversion limitations so that water may be conserved in reservoirs to protect cold water supplies for salmon, to maintain water supplies, and to improve water quality. The DWR and the SWRCB were directed to accelerate funding for projects that could enhance water supplies. The Governor also asked for a voluntary 20 percent reduction in water consumption.

In April 2014, the Governor proclaimed a continued state of emergency and asked that the State strengthen its ability to manage water and habitat effectively in drought conditions. He directed the DWR and SWRCB to expedite approvals of voluntary water transfers to assist farmers. He also directed the California Department of Fish and Wildlife (CDFW) to accelerate monitoring of drought impacts on winter-run Chinook salmon in the Sacramento River and its tributaries and to execute habitat restoration projects that will help fish weather the ongoing drought. In response to the increased threat of wildfire season, the Governor called for streamlined contracting rules for the Governor's Office of Emergency Services and the California Department of Forestry and Fire Protection (Cal Fire) to purchase equipment and allowed landowners to quickly clear brush and dead, dying, or diseased trees that increase fire danger.

The Governor also called on all Californians to redouble their efforts to conserve water and to take specific actions to avoid wasting water, including limiting lawn watering and car washing; he recommended that schools, parks, and golf courses limit the use of potable water for irrigation; and he asked that hotels and restaurants give customers options to conserve water by only serving water upon request as well as taking other measures. He also prevented homeowner associations from fining residents that limit their lawn watering.

In December 2014, Executive Order B-28-14 extended the Governor's January 2014 and April 2014 proclamations and extended the operation of the provisions in these proclamations to May 2016.

On April 1, 2015, in response to historically dry conditions, the Governor signed Executive Order B-29-15, which required a 25 percent reduction of urban potable water use throughout the State of California through February 28, 2016. The DWR was directed to lead a Statewide initiative, in partnership with local agencies, to collectively replace 50 million square feet of

lawns and ornamental turf with drought-tolerant landscapes, and the California Energy Commission was asked to implement a Statewide appliance rebate program to provide monetary incentives for replacing inefficient household devices. On November 13, 2015, the Governor signed Executive Order B-36-15 for additional actions to build on the State's ongoing response to record dry conditions and assist recovery efforts from 2015's devastating wildfires. On May 9, 2016, the Governor signed Executive Order B-37-16, which established a new water use framework for California that bolstered the state's drought resilience and preparedness by establishing longer-term water conservation measures. On April 7, 2017, the Governor signed Executive Order B-40-17, which ended the drought state of emergency in all California counties except Fresno, Kings, Tulare, and Tuolumne, where emergency drinking water projects will continue to help address diminished groundwater supplies. It maintains water reporting requirements and prohibitions on wasteful practices. The order was built on actions taken in Executive Order B-37-16, which remains in effect. In a related action, State agencies, including DWR, released a plan to continue making water conservation a way of life.

California Integrated Waste Management Act (Assembly Bill 939)

Sections 40050 to 40063 of the *California Public Resources Code* is the California Integrated Waste Management Act of 1989 (Assembly Bill [AB] 939), which created the Board now known as California Department of Resources Recycling and Recovery (CalRecycle) and accomplished the following: (1) it required each jurisdiction in the State to submit detailed solid waste planning documents for CalRecycle approval; (2) it set diversion requirements of 25 percent in 1995 and 50 percent in 2000; (3) it established a comprehensive Statewide system of permitting, inspections, enforcement, and maintenance for solid waste facilities; and (4) it authorized local jurisdictions to impose fees based on the types or amounts of solid waste generated. Jurisdictions select and implement the combination of waste prevention, reuse, recycling, and composting programs that best meets the needs of their community while achieving the diversion requirements.

Construction and Demolition Waste Diversion Requirements

In 2002, SB 1374 required CalRecycle, by March 1, 2004, to adopt a model ordinance suitable for adoption by any local agency to require 50 to 75 percent diversion of construction and demolition (C&D) waste materials from landfills. It required jurisdictions to summarize progress made in diversion of C&D waste materials in their annual progress reports to CalRecycle. In determining penalties for a jurisdiction's failure to implement its source reduction and recycling element or its household hazardous waste element, the bill required CalRecycle to determine if the jurisdiction has provided information on whether C&D waste materials are at least a moderately significant portion of the waste stream and, if so, whether the jurisdiction has adopted a local C&D ordinance, adopted CalRecycle's model ordinance, or implemented another C&D diversion program.

Solid Waste Disposal Measurement Act of 2008

The purpose of the Solid Waste Disposal Measurement Act of 2008 (SB 1016) is to make the process of goal measurement (as established by AB 939) simpler, more timely, and more accurate. SB 1016 builds on AB 939 compliance requirements by implementing a simplified measure of a jurisdiction's performance. It accomplishes this by changing to a disposal-based

indicator—the per capita disposal rate—which uses only two factors: (1) a jurisdiction's population (or in some cases employment); and (2) its disposal, as reported by disposal facilities.

Since 2008, CalRecycle calculates each jurisdiction's per capita (per resident or per employee) disposal rates each year. If business is the dominant source of a jurisdiction's waste generation, CalRecycle may use the per employee disposal rate. Each year's disposal rate will be compared to that jurisdiction's 50 percent per capita disposal target. As such, jurisdictions will not be compared to other jurisdictions or the Statewide average, but they will only be compared to their own 50 percent per capita disposal target. Among other benefits, per capita disposal is an indicator that allows for jurisdiction growth because, as residents or employees increase, report-year disposal tons can increase and still be consistent with the 50 percent per capita disposal target. A comparison of the reported annual per capita disposal rate to the 50 percent per capita disposal target will be useful for indicating progress or other changes over time.

Assembly Bill 341

On October 6, 2011, Governor Brown signed AB 341 establishing a State policy goal that no less than 75 percent of solid waste generated be source reduced, recycled, or composted by 2020 is now in effect. AB 341 also mandated that local jurisdictions implement commercial recycling by July 1, 2012. CalRecycle will review each jurisdiction's commercial recycling program every two to four years for compliance. Businesses and public entities generating 4 cubic yards (cy) of trash or more and multi-family residential dwellings with five or more units are required to establish and maintain recycling service under AB 341.

Title 24 Green Building Standards

The 2016 California Green Building Standards Code (Title 24, Part 11 of the *California Code of Regulations*) requires the use of green building principles and practices in site planning and building design to promote energy and water efficiency and conservation, material conservation and resource efficiency, and environmental quality. Also known as the CALGreen Code, the voluntary and mandatory standards in the Code apply to new low-rise residential buildings, privately owned nonresidential buildings (i.e., theaters, restaurants, banks, offices, daycare centers, industrial buildings, laboratories, department stores, storage and accessory buildings), State-owned buildings, public schools, medical facilities, and additions/alterations to existing nonresidential buildings.

Mandatory measures include storm water pollution prevention, water conservation, and recycling and/or salvage of at least 50 percent of nonhazardous construction and demolition wastes. The City adopts the CALGreen Code by reference, with specific amendments.

<u>Regional</u>

Orange County Water District Groundwater Management Plan

The Orange County Water District (OCWD) was formed in 1933 by the State Legislature to manage the region's groundwater basin, which provides approximately 75 percent of the water supply to 2.5 million residents in northern and central Orange County. Nineteen City water departments and water districts are member agencies of OCWD and pump groundwater from the basin, including IRWD, which serves the Project site.

The OCWD adopted the Groundwater Management Plan 2015 Update, which discusses groundwater resources in the basin; hydrogeology; groundwater producers; OCWD objectives; programs for water supply monitoring, recharge, and replenishment; seawater intrusion monitoring and barrier management, water quality protection, and sustainable basin management; and OCWD facilities and projects to protect groundwater resources while increasing its sustainable yield. Groundwater production from the basin for 2015-2016 is approximately 277,090 af per year (afy) (OCWD 2017).

Orange County Water District Long-Term Facilities Plan

OCWD has a Long Term Facilities Plan (LTFP) 2014 Update that identifies 65 potential projects that implement the Groundwater Management Plan and that would increase the groundwater basin's yield in a cost-effective manner and protect water quality. The LTFP includes existing and future water demands, current water supplies for groundwater recharge, and a list of projects. The projects are grouped into four categories: (1) water supply, (2) basin management, (3) recharge facilities, and (4) operational efficiency. The LTFP also discusses the selection process for prioritizing and focusing OCWD efforts on the most viable and beneficial projects. A total of 17 projects were identified for focused study and project benefits, project details, cost estimates, and proposed schedules. These projects are expected to be implemented within a 20-year planning period but may be refined during future reevaluations and LTFP updates.

Municipal Water District of Orange County 2015 Regional Urban Water Management Plan

The Municipal Water District of Orange County (MWDOC) has adopted the 2015 Regional Urban Water Management Plan (RUWMP) in compliance with the Urban Water Management Planning Act. Adopted on May 18, 2016, by the MWDOC Board of Directors, the 2015 RUWMP provides a comprehensive assessment of water demands in MWDOC's service area, provides a regional perspective on current and proposed programs, determines water supply reliability, promotes the use of recycled water and other local resource supplies that reduce the need for imported supplies, and provides public information and education on water conservation (MWDOC 2016).

Total retail water demand in fiscal year 2014-2015 was 499,120 afy and is projected to grow to 515,425 afy in 2040 or approximately 3.27 percent over the next 24 years. This increase in demand will be met by local groundwater, recycled water, surface water, and imported water from the Metropolitan Water District of Southern California (MWD) (MWDOC 2016). It has implemented demand management measures for water conservation and various programs and facilities to increase available supplies (e.g., recycled water and treated water). Water transfers and exchanges and ocean water desalination are also being considered by MWDOC to increase its long-term water supplies.

With the availability and reliability of imported water supply through MWD,¹ the 2015 RUWMP indicates that the MWDOC service area will have sufficient existing and planned water supplies to meet full service demands under every water-year hydrologic scenario from 2020 through 2040. The 2015 RUWMP includes a Water Shortage Contingency Plan that outlines the steps the

¹ MWD's 2015 Urban Water Management Plan indicates that MWD can maintain reliability in meeting firm demands under a normal hydrologic year, the single-dry year, and a series of multiple-dry years from 2020 through 2040 (MWD 2016).

MWDOC will take during water shortages due to variations in weather, natural disasters, or unanticipated situations. The allocation of imported water to its member (retail) water agencies would be based on MWD's Water Shortage Allocation Plan and any principles developed in consultation with the retail agencies (MWDOC 2016).

MWDOC; 28 of its member agencies; and the Cities of Anaheim, Fullerton, and Santa Ana have created the Orange County 20x2020 Regional Alliance in an effort to help these agencies meet the water use reduction targets required by SB x7-7. For this alliance, the interim regional target for Orange County would be 178 gallons per capita per day (gpcd) in 2015 and the final target is 158 gpcd in 2020. If the Regional Alliance meets its water use target on a regional basis, all agencies in the alliance are deemed compliant. If the Regional Alliance fails to meet its water use target, each individual supplier will have an opportunity to meet their water use targets individually. The actual 2015 gpcd achieved by the Regional Alliance is 125 gpcd, indicating that not only has the region met its 2015 target but that it is already well below its 2020 water use target.

Irvine Ranch Water District Urban Water Management Plan

The IRWD has adopted its 2015 UWMP in compliance with the Urban Water Management Planning Act. Adopted on June 27, 2016, the 2015 UWMP discusses the IRWD's water system; existing, current, and future water demands in its service area; available water supplies; supply reliability; and water shortage contingency planning (IRWD 2016b).

The IRWD's supplies include imported water, groundwater, recycled water, and surface water. System demands from 1991 to 2005 indicate a 15-year annual average of 214 gpcd and a 5-year average from 2004 to 2008 of 204 gpcd. Its interim target is 192 gpcd in 2015, and its final target is 171 gpcd in 2020 (IRWD 2016b).

The UWMP discusses IRWD's Water Shortage Contingency Plan that outlines actions and responses to specific levels of drought. It also mentions the Catastrophic Supply Interruption Plan, which identifies potential emergencies, causes, severity, and anticipated duration and IRWD's actions for alternative supplies and storage. In addition, the UWMP lists the demand management measures that IRWD is implementing to reduce water consumption and to promote conservation.

The 2015 UWMP indicates that IRWD will have adequate water supplies to meet demands during normal, single-dry, and multiple-dry years to 2035 (IRWD 2016b).

Irvine Ranch Water District Sewer System Management Plan

The IRWD's Sewer System Management Plan (SSMP) discusses the sewerage facilities, operations and maintenance, and programs for monitoring and inspection; rehabilitation/replacement; overflow emergencies; fats, oils, and grease control; spill response; prevention of illicit discharges; audits; and communication. Inspection activities have identified less than 1 percent of the sewer pipelines requiring near-term action, such as local repairs and sewer rehabilitation. The SSMP also identifies capital improvement projects needed to increase the capacities of several sewer mains and to improve system reliability through new interceptors, bypass, and relief lines.

4.13.2 METHODOLOGY

Information in this section is based on available site-specific facilities and consultation with affected public utility agencies, as applicable. Specific references are identified within the subsection for each respective issue.

4.13.3 EXISTING CONDITIONS

Potable (Domestic) and Nonpotable (Recycled) Water

Although the Project site is located in Newport Beach, water services to portions of Newport Beach, including the Project site, are provided by the Irvine Ranch Water District (IRWD), as indicated in IRWD's June 5, 2018 Conditional Water and Sewer Will Serve Letter (IRWD 2018a). The Will Serve Letter is provided in Appendix H. The IRWD has an extensive water system (potable and nonpotable) that includes system pipelines, wells, pumps, reservoirs, and pump stations. Currently, the Project site contains a 10-inch water line and an 8-inch sewer line along Bayiew Place.

Water Supply

IRWD's service area encompasses the City of Irvine; portions of unincorporated Orange County (north and south of Irvine); parts of and portions of the Cities of Orange, Tustin, Santa Ana, and Costa Mesa (west of Irvine); portions of the City of Newport Beach (south of Irvine); and portions of the City of Lake Forest (east of Irvine). The IRWD is a member agency of the OCWD and is the largest constituent agency of the MWDOC, a wholesale importer of water. MWDOC, in turn, is a member agency of the MWD, a consortium of 26 member public agencies (14 cities, 11 water districts, and one County water authority) that supplies imported water, including water from the State Water Project (SWP).

The IRWD prepares two planning documents to guide water supply decision making. IRWD's principal planning document is its Water Resources Master Plan (WRMP), which is a comprehensive document compiling data and analyses that IRWD considers necessary for its planning needs. The IRWD also prepares a UWMP, a document required by State statute. The UWMP is based on the WRMP but contains defined elements that are required by Sections 10631 et seq. of the *California Water Code* and, as a result, is more limited than the WRMP in the treatment of supply and demand issues. Therefore, the IRWD primarily relies on its most recent WRMP. The UWMP is required to be updated in years ending with "five" and "zero," and IRWD's most recent update to that document was adopted in June 2016 (IRWD 2016b).

Water supplies available to IRWD come from groundwater pumped from the Orange County Groundwater Basin (including the Irvine Subbasin), captured local (native) surface water, recycled wastewater from IRWD's water reclamation plants including the newly operational Baker Water Treatment Plan, and supplemental imported water supplied by MWD through the MWDOC.

Reliability of Long-Term Water Supply

The reliability of the IRWD's water supply currently depends on the reliability of both groundwater and imported water supplies, which are managed and delivered by the OCWD and MWD, respectively.

As indicated in MWD's Regional UWMP (MWD 2016), Southern California faces the challenge of satisfying its water demands and securing imported water supplies from the Sacramento/San Joaquin Delta (Delta). Increased environmental regulations and the collaborative competition for water from outside the region have resulted in reduced supplies of imported water. Major sources of uncertainty include Delta pumping restrictions, organism decline, climate change and sea level rise, and levee vulnerability to floods and earthquakes. To address the impacts of SWP cut back on MWD's water supply development targets, the MWD developed a long-term plan that established direction to address the range of potential changes in water supply planning, including uncertainties related to climate change and actions to protect endangered fisheries. Metropolitan has supply capabilities that would be sufficient to meet expected demands from 2020 through 2040 under single dry-year and multiple dry-year hydrologic conditions, as well as average year hydrologic conditions (MWD 2016). IRWD's diversified supply ensures a reliable water supply during times of drought, regulatory constraints, and other emergencies (IRWD 2018b).

Metropolitan Water District of Southern California

The MWD has a 5,200-square-mile service area and imports about half of the water used in Southern California. The other half of the water comes from local surface and groundwater supplies, recycled water, and water imported from the Owens Valley by the City of Los Angeles. Urban water demands use approximately 20 percent of California's developed water supply, and agricultural uses consume approximately 80 percent. The MWD imports water from the Colorado River and, through a contract with the State of California, from Northern California via the SWP. The SWP, MWD's Colorado River Aqueduct, and MWD's local water facilities and programs have many layers that provide reliability. The SWP includes the San Luis Reservoir, near the City of Los Banos in Central California, and, closer to Southern California, Pyramid and Castaic Lakes on the West Branch and Silverwood Lake and Lake Perris on the East Branch of the SWP. The MWD, in turn, has over one million af of surface water storage in Southern California, including the most recently constructed Diamond Valley Lake Reservoir near Hemet, in addition to other large groundwater storage projects (MWD 2017).

Orange County Water District

The primary source of groundwater for IRWD is the Orange County Groundwater Basin. The OCWD is responsible for protecting water rights to the Santa Ana River in Orange County and for managing and replenishing the Orange County Groundwater Basin. The OCWD manages production in the basin through financial incentives and establishes the Basin Production Percentage each water year.

Total water demand within OCWD's boundaries for the 2015-2016 water year (beginning July 1, 2015, and ending June 30, 2016) was 367,402 af (OCWD 2017).

Wastewater and Wastewater Treatment

The IRWD also provides wastewater treatment and collection services to the Project site. Currently, the Project site contains a 10-inch water line and an 8-inch sewer line along Bayiew Place. The IRWD sewer system conveys wastewater to the Michelson Water Recycling Plant (MWRP) in Irvine and the Los Alisos Water Recycling Plant (LAWRP) in Lake Forest. The MWRP has the capacity to treat 28 million gallons of wastewater per day (mgd), and the LAWRP has a capacity of 7.5 mgd. Treated wastewater is used for agriculture and landscape irrigation.

Solid Waste Collection and Disposal

In 2002, the Orange County Board of Supervisors adopted the Regional Landfill Options for Orange County (RELOOC) Strategic Plan which provided a 40-year plan to meet the waste disposal needs of Orange County (OC Waste & Recycling 2001). The strategies established in the 2002 RELOOC have been largely completely and a paradigm shift from landfill capacity alone to landfill capacity, waste disposal alternatgives, and rate stability has occurred. Therefore, it was determined that it was necessary to update the RELOOC to include new strategies responsive to the new paradigm. The new updated strategic plan, the OC Waste & Recycling Strategic Plan, was adopted in November 2016 and identified several strategies including obtaining permits and aprpvoals to extend the existing landfill system through full build-out, continue to implement best management/operational practices, and be a regional leader for waste reduction, reuse, and recycling.

OC Waste & Recycling is the government agency that owns and operates the local Orange County landfills, including the Frank R. Bowerman Landfill (FRB Landfill), which is located in the City of Irvine and accepts waste from the proposed Project.

4.13.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Analysis Checklist, the Project would result in a significant impact related to utilities and service systems if it would:

Threshold 4.13-1	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental impacts.			
Threshold 4.13-2 Require or result in the construction of new storm water dr facilities or expansion of existing facilities, the construction of would cause significant environmental effects.				
Threshold 4.13.3	Have insufficient water supplies available to serve the Project from existing entitlements and resources, or are new or expanded entitlements needed.			
Threshold 4.4.13-4	Result in a determination by the wastewater treatment provider, which serves or may serve the Project that it has inadequate capacity to serve the Project's projected demand in addition to the provider's existing commitments.			

Threshold 4.4.13-5 Be served by a landfill with insufficient permitted capacity to accommodate the Project's solid waste disposal needs?

Threshold 4.4.13-6 Not comply with federal, state, and local statutes and regulations related to solid waste.

4.13.5 IMPACT ANALYSIS

Thresholds 4.13-1 and 4.13-4

Would the Project require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental impacts?

Would the Project result in a determination by the wastewater treatment provider, which serves or may serve the Project that it has inadequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?

Water and wastewater services within the City of Newport Beach (City) are provided by the City, Irvine Ranch Water District (IRWD), and the Costa Mesa Sanitation District. As previously indicated, the proposed Project would be serviced by IRWD as stated in the Conditional Water and Sewer Will Serve Letter (IRWD 2018a). IRWD's MWRP in Irvine would treat wastewater generated from the proposed Project. This plant has a treatment capacity of 18 million gallons per day (mgd). However, the treatment capacity of the MWRP was expanded at the end of 2015 with the permitted capacity increasing from 18 mgd to 28 mgd.

Using IRWD's wastewater generation factor of 30 gallons/thousand square feet/day (gal/ksf/day) for institutional uses, the proposed Project would result in an estimated wastewater generation of approximately 2,536 gal/ksf/day on average (IRWD 2018b). Given the existing restaurant's wastewater generation of approximately 1,100 gal/ksf/day, the projected net increase in wastewater generation from the proposed Project would be approximately 1,436 gal/ksf/day. Based on correspondence from IRWD, this wastewater volume is within the existing wastewater capacity of the MWRP plant, and IRWD has sufficient capacity to meet the wastewater treatment demand of the proposed Project (IRWD 2018c). The Irvine Ranch Water District (IRWD) has issued a Conditional Water and Sewer Will Serve Letter, indicating that the IRWD would provide sewer service to the proposed Project subject to the Sub Area Master Plan Update (IRWD 2018a).

Using IRWD's water generation factor of 45 gallons/ksf/day, the proposed Project would result in an estimated water demand of approximately 3,803 gallons/ksf/day on average (IRWD 2018b). Given the existing restaurant's water use of approximately 1,232 gal/ksf/day, the projected net increase in water demand from the proposed Project would be approximately 2,571 gal/ksf/day. Based on correspondence from IRWD, the water demand of the proposed Project could be accommodated with the existing IRWD infrastructure, and IRWD has sufficient capacity to meet the water demand of the proposed Project (IRWD 2018c). Additionally, as indicated above, the IRWD has issued a Conditional Water and Sewer Will Serve Letter, indicating that the IRWD would have adequate domestic water supplies to accommodate the Project subject to the Sub Area Master Plan updated. The proposed Project would be required to have two points of connection to IRWD's water system and may necessitate street trenching or underground boring (IRWD 2018a).

Currently, the Project site contains a 10-inch water line and an 8-inch sewer line along Bayiew Place. The existing lines were designed to meet the restaurant's concentrated peak. As part of final design the sizing of the lines would be verified; however, as indicated above, with implementation of conditional improvements identified by IRWD in the Conditional Water and Sewer Will Serve Letter (IRWD 2018a), the potential impacts to water and wastewater treatment capacity would be less than significant.

Impact Conclusion: The Project would require water (potable and nonpotable) and wastewater service from the IRWD. IRWD has provided a Conditional Water and Sewer Will Serve Letter (July 20, 2018), which indicates that IRWD would provide water service to the Project subject to the Sub Area Master Plan update. In addition, for water service to the proposed Project, two points of connection would be required to IRWD's water system and may necessitate street trenching or underground boring. IRWD would also provide sewer service subject to the Sub Area Master Plan update. In update. In update to the Sub Area Master Plan update. It wastewater service and water (potable and nonpotable) exist to serve the Project; and construction of new water or wastewater treatment facilities or expansion of existing facilities would not be required. Therefore, impacts would be less than significant, and no mitigation is required, pursuant to Threshold 4.13-1 and 4.4.13-4.

Threshold 4.13-2

Would the Project require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which would cause significant environmental impacts?

Under the existing conditions, site drainage consists of a southeast flow. Sheet flow from the building and parking lots gather in V-gutters and exit through a parkway culvert at a curb face on Bayview Place. Sheet flow behind the wall along Bayview Place drains through breaks in the wall or exits through curb face drains on Bayview Place.

Runoff from the site discharges into the gutter on Bayview Place, where storm water flows southerly into a catch basin and underground storm drain lines that discharge storm water into the Upper Newport Bay. As identified under the analysis of Thresholds 4.1-4 and 4.7-5 in Section 4.7, Hydrology and Water Quality, of this EIR, the site would remain largely paved and storm water runoff would flow through curb cuts to a bio-retention planters. An underground storm drain network would pipe the water to a detention basin before depositing at the curb face on Bayview Place (Tait 2016). While the proposed Project would increase impervious areas on the site, the proposed storm drainage system would reduce the off-site flows through the use of on-site hydromodification controls and a proposed underground detention basin. Therefore, the proposed Project would not require construction of a new storm water drainage facility or expansion of existing facilities that would result in significant impacts.

The storm water runoff from the Project site would not exceed the capacity of the storm drain system, and no infrastructure improvements would be required beyond the installation of on-

site storm drain facilities. The construction of the proposed water quality Best Management Practices (BMPs) and storm drain lines within the Project site and off-site connections has the potential for temporary construction-related impacts. Since utility installations are within the construction impact limits identified for the proposed Project, the potential impacts associated with the construction of storm drain lines have been addressed in the respective sections of this EIR. No impacts would occur, and no mitigation is required.

Impact Conclusion: As discussed in Section 4.7, Hydrology and Water Quality, construction of new storm drain facilities associated with the proposed Project would result in a less than significant impact, pursuant to Threshold 4.13-2.

Threshold 4.13-3

Would the Project have sufficient water supplies available to serve the Project from existing entitlements and resources, or are new or expanded entitlements needed?

As previously stated, the Project site receives water from the IRWD. Using IRWD's water generation factor of 45 gallons/ksf/day, the proposed Project would result in an estimated water demand of approximately 3,803 gallons/ksf/day on average (IRWD 2018c). Given the existing restaurant's water use of approximately 1,232 gal/ksf/day, the projected net increase in water demand from the proposed Project would be approximately 2,571 gal/ksf/day. Based on correspondence from IRWD, the water demand of the proposed Project could be accommodated with the existing IRWD infrastructure, and IRWD has adequate domestica water supplies to meet the water demand of the proposed Project, subject to the Sub Area Master Plan update (IRWD 2018a and 2018c). In addition for the proposed Project, two points of connection must be made to IRWD's water system and may necessitate street trenching or underground boring.

The IRWD's 2015 Urban Water Management Plan (UWMP), adopted on June 27, 2016, serves as a long-range planning document for water supply and demand within IRWD's service area. The UWMP also identifies the water supplies that will meet future demand and current and planned conservation measures. The 2015 UWMP indicates that IRWD will have adequate water supplies to meet demands during normal, single-dry, and multiple-dry years to 2035 (IRWD 2016b).

The Project would comply with Sections 4.303 and 4.304 of the CALGreen Code, which require indoor and outdoor water conservation measures such as low flush toilets, aerators on sinks and shower heads, other water-efficient appliances, and water-efficient automatic irrigation system controllers.

The increase in water demand generated by the proposed Project would be minimal, can be accommodated by IRWD without impacting current water supplies, and is within the projected growth and increased water demand within IRWD's service area. The Project would also comply with the IRWD's water conservation measures. Therefore, the proposed Project would not significantly impact the IRWD's domestic water supply. Impacts would be less than significant, and no mitigation is required.

Impact Conclusion: The Project would require water supplies from IRWD. IRWD has provided a Conditional Water and Sewer Will Serve Letter (July 20, 2018), which indicates that IRWD would have adequate domestic water supply for the Project and would provide service to the Project subject to the Sub Area

Master Plan update. In addition for water service to the proposed Project, two points of connection would be required to IRWD's water system and may necessitate street trenching or underground boring. The IRWD has indicated that available water supplies (potable and nonpotable) would be adequate to serve the Project. Therefore, impacts would be less than significant, and no mitigation is required, pursuant to Threshold 4.13-3.

Threshold 4.13-5

Would the Project be served by a landfill with insufficient permitted capacity to accommodate the Project's solid waste disposal needs?

The Frank R. Bowerman Landfill, which is owned and operated by OC Waste & Recycling and is the closest landfill to the Project site, accepts a maximum of 11,500 tons per day (tpd) as of March 2015, with a remaining capacity of 205 million cubic yards. Closure of the landfill is anticipated in 2075 (OC Waste & Recycling 2018).

The proposed Project involves demolition of the existing structure and paved surfaces on the Project site, which would generate debris to be hauled off site. As indicated in Section 3.0, Project Description, although in compliance with the California Green Building Standards Code (CALGreen Code), 50 percent of the demolition debris would need to be recycled, reused, and/or salvaged, it is anticipated that up to a total of 75 percent of the Project's construction and demolition debris would be recycled. Additionally, even without diversion, the solid waste generated by construction of the proposed Project would only occur at one time and could be accommodated within the remaining capacity of the Frank R. Bowerman Landfill (OC Waste & Recycling 2018).

During operation of the Project, solid waste generation would require disposal at area landfills. The City of Newport Beach implements a number of waste diversion programs, including residential curbside residential drop-off, residential buy-back, commercial on-site pickup, and school recycling programs (CalRecycle 2017a). According to California Department of Resources Recycling and Recovery (CalRecycle), the City of Newport Beach had disposal rates of 6.6 pounds/person/day and 7.9 pounds/employee/day in 2015 (CalRecycle 2017b). Using this rate, the proposed Project's 120 residents and 30 employees would generate approximately 1,207.8 pounds of solid wastes per day (or 220.4 tons per year).² This solid waste volume (0.60 ton or 5.4 cubic yards per day) would be considered a negligible amount of the permitted daily capacity (11,500 tons) of the Frank R. Bowerman Landfill and its remaining capacity (181.8 million cubic yards as of June 30, 2017). OC Waste & Recycling has also indicated that the Orange County landfill system can accommodate the solid waste generated by the proposed Project (OC Waste & Recycling 2018). No significant impacts would occur, and no mitigation is required.

Impact Conclusion: The existing landfills have sufficient solid waste disposal capacity to meet the Project's solid waste disposal needs. Therefore, Project impacts to landfill capacity would be less than significant, pursuant to Threshold 4.13-5.

² Assuming 8.88 cubic yards per ton, the Project would generate 1,957.2 cubic yards of wastes per year.

Threshold 4.13-6

Would the Project comply with federal, state, and local statutes and regulations related to solid waste?

State, County, and local agencies with regulatory authority related to solid waste include CalRecycle, OC Waste & Recycling (County of Orange), and the City of Newport Beach. Regulations specifically applicable to the proposed Project include the California Integrated Waste Management Act of 1989 (AB 939) and Section 4.408 of the CALGreen Code.

AB 939, which requires every County and City in the State to prepare a Source Reduction and Recycling Element (SRRE) to its Solid Waste Management Plan, identifies how each jurisdiction will meet the State's mandatory waste diversion goal of 50 percent by and after the year 2000. The California Solid Waste Re-use and Recycling Access Act of 1991 (*California Public Resources Code*, Sections 42900–42911) directs the California Integrated Waste Management Board (CIWMB) to draft a "model ordinance" for the disposal of construction waste associated with development projects. On October 6, 2011, Governor Brown signed AB 341, establishing a State policy goal that no less than 75 percent of solid waste generated to be source reduced, recycled, or composted by 2020. The bill also mandates local jurisdictions to implement commercial recycling by July 1, 2012, for businesses and public entities generating 4 cubic yards of trash or more and multi-family residential dwellings with five or more units.

According to CalRecycle, the City of Newport Beach has disposal rate targets of 9.6 pounds/person/day and 11.5 pounds/employee/day. In 2015, the City had disposal rates of 6.6 pounds/person/day and 7.9 pounds/employee/day (CalRecycle 2017a). In compliance with State requirements, the City of Newport Beach is consistently diverting more than 50 percent of its waste stream.

Section 4.408 of the CALGreen Code requires preparation of a construction waste management plan that outlines ways in which the contractor would recycle and/or salvage for reuse a minimum of 50 percent of the nonhazardous construction and demolition debris. During the construction phase, the proposed Project would comply with the CALGreen Code through the recycling and reuse of at least 50 percent of the nonhazardous construction and demolition debris from the Project site.

As discussed in Section 4.6, Hazards and Hazardous Materials, hazardous wastes generated during demolition and construction would be disposed in accordance with existing regulations (including RR HAZ-1 for the handling of asbestos-containing material (ACM) wastes and RR HAZ-2 for the handling of lead-based paint). Similarly, hazardous material use during construction and occupancy of the proposed Project, including maintenance activities, would be conducted in compliance with applicable regulations.

No conflict with statutes and regulations related to solid waste would occur, and no mitigation is required.

Impact Conclusion: The proposed Project would comply with applicable solid waste statutes and regulations, including waste diversion programs. Impacts to solid waste statutes and regulations would be less than significant, pursuant to Threshold 4.13-6.

4.13.6 CUMULATIVE IMPACTS

Water Supply

The geographic scope for cumulative water supply analysis is IRWD's service area. The IRWD water supply and facilities planning is consistent with the General Plans of the land use jurisdictions that overlie the IRWD's service area. In addition to IRWD's existing water supplies, water supplies under development include several wells and additional reclaimed water that would provide additional water annually. Presuming future development is generally consistent with existing General Plans, the IRWD does not anticipate any problems supplying water to any current or future development in the City. IRWD manages its supply and demand with careful research and analysis regarding flow, diversions, climate, customer demand, and population estimates to ensure an adequate supply of clean, reliable water will be available well into the future (IRWD 2018b). Thus, cumulative impacts are considered less than significant.

Potable and Nonpotable Water

As discussed under Threshold 4.13-1, the existing water and nonpotable utility infrastructure that has been installed to serve the existing restaurant, would be sufficient to serve the proposed Project; and no off-site new or expanded utility infrastructure would be required. Additionally, connections to existing utility infrastructure would occur within or immediately adjacent to the Project site, and no physical environmental impacts beyond those addressed in this Draft EIR would occur. Through IRWD's planning efforts, the IRWD considers cumulative development projects in its planning. As a result, IRWD plans and implements potable and nonpotable water infrastructure as necessary to accommodate planned growth in its service area. The recently completed MWRP capacity expansion along with the current primary treatment capacity at the LAWRP (a combined total of 33.5 mgd) would be able to accommodate all wastewater discharges to satisfy IRWD's estimated demands for delivery of nonpotable water to its customers. In addition, the newly constructed Baker Treatment Plant provides additional treatment capacity to IRWD's service area. Therefore, the proposed Project would not have a cumulative impact related to water or nonpotable water.

<u>Wastewater</u>

As discussed under Thresholds 4.13-1 and 4.13-4, IRWD would provide water and wastewater service to the Project. IRWD has indicated that it has adequate capacity to provide water and wastewater service to the Project (IRWD 2018c). Through IRWD's planning efforts, the IRWD considers cumulative development projects in its planning; and, as a result, IRWD plans and implements wastewater treatment capacity and infrastructure as necessary to accommodate planned growth in its service area. As previously discussed, the recently completed MWRP capacity expansion along with the current primary treatment capacity at the LAWRP (a combined total of 33.5 mgd) would be able to accommodate all wastewater discharges to satisfy IRWD's estimated demands for delivery of nonpotable water to its customers. Therefore, the proposed Project's impacts with respect to wastewater would not be cumulatively considerable.

Solid Waste Disposal

The proposed Project, in combination with other projects in the County, would increase demand for landfills and solid waste services in Orange County. However, the Orange County Landfill System is required to have available disposal capacity for a projected period of 15 years. As discussed under Threshold 4.13-5, which is based on correspondence with OC Waste & Recycling, the Orange County Landfill System has capacity in excess of 50 years at the Frank R. Bowerman Landfill. The other two landfills in the Orange County Landfill System are the Prima Deshecha Landfill and the Olinda Alpha Landfill. The Prima Deshecha Landfill has capacity until 2021 (84 years), and the Olinda Alpha Landfill has capacity until 2030 (OC Waste & Recycling 2018). OC Waste & Recycling has confirmed that it can accommodate the solid waste generated by the proposed Project as well as that generated by cumulative development (OC Waste & Recycling 2018). Therefore, the proposed Project's impacts with respect to solid waste would not be cumulatively considerable.

4.13.7 MITIGATION PROGRAM

Mitigation Measures

The proposed Project would not result in significant impacts to Utilities and Service Systems; therefore, no mitigation measures are required.

4.13.8 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Project impacts associated with potable and nonpotable water, wastewater, and solid waste would be less than significant; and no mitigation is required.

4.13.9 REFERENCES

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5.0 Alternatives

5.1 INTRODUCTION

Sections 15126.6(a)–15126.6(b) of the State California Environmental Quality Act (CEQA) Guidelines (14 *California Code of Regulations* [CCR]) provides guidance on the range of alternatives to a proposed project that must be evaluated. The State CEQA Guidelines state the following:

- (a) Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternatives to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The Lead Agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.
- (b) Purpose. Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.

Pursuant to the State CEQA Guidelines, a range of alternatives to the proposed Project is considered and evaluated in this Environmental Impact Report (EIR). These alternatives were developed in the course of Project planning and environmental review. The discussion in this section provides:

- 1. A description of alternatives considered;
- 2. An analysis of whether the alternatives meet most of the objectives of the Project (as presented in Section 1.4 and 3.3 of this EIR and restated below); and
- 3. An analysis comparing the alternatives under consideration and the proposed Project. The focus of this analysis is to determine if the alternatives are capable of eliminating or reducing the significant environmental effects of the Project to a less than significant level.

5.2 CRITERIA FOR SELECTING ALTERNATIVES

Several criteria were used to select alternatives to the proposed Project. These criteria include the alternative's ability to achieve the Project Objectives; feasibility; and ability to eliminate or reduce significant impacts. Each of these are described below.

5.2.1 ABILITY TO ACHIEVE PROJECT OBJECTIVES

The ability of an alternative to meet most of a project's objectives is an important component when evaluating alternatives. When an alternative is selected, not only are the environmental impacts considered but so is the alternative's ability to meet a project's intended objectives. Section 15126.6(f) of the State CEQA Guidelines (14 CCR) states the following:

The range of alternatives required in an EIR is governed by a 'rule of reason' that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project.

The following objectives have been identified for the Project:

- 1. Develop a high quality and safe senior living facility that would respond to the growing demand for senior housing and cater to the needs of the local elderly population.
- 2. Create a self-sufficient facility that would provide services and amenities to enhance livability for the onsite resident population.
- 3. Create a mix of assisted living and memory care units that that would cater to the specific needs of the resident population.
- 4. Construct and operate a use that is compatible with the surrounding land uses, physically and aesthetically.
- 5. Create appropriate landscaping buffers to protect privacy of adjoining neighbors and enhance the Project and community.
- 6. Implement a Project with minimal deviation from the Bayview Planned Community Development Plan (PC-32) requirements and standards (e.g., height limit, setbacks).
- 7. Implement a land use that would result in fewer vehicular trips than the existing use onsite or the permitted land uses in the Bayview Planned Community Development Plan (PC-32).

5.2.2 FEASIBILITY

When developing alternatives for evaluation in an EIR, the feasibility of implementing the alternative must be considered. If a range of alternatives is developed but, due to regulatory restrictions, cannot be implemented, the analysis would not meet the CEQA intent to provide a reasonable range of feasible alternatives. Section 15126.6(f)(1) of the State CEQA Guidelines (14 CCR) states the following:

Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the

alternative site (or the site is already owned by the proponent). No one of these factors establishes a fixed limit on the scope of reasonable alternatives (*Citizens of Goleta Valley v. Board of Supervisors* [1990] 52 Cal.3d 553; see *Save Our Residential Environment v. City of West Hollywood* [1992] 9 Cal.App.4th 1745, 1753, fn. 1).

It has been recognized that, for purposes of CEQA, "feasibility" encompasses "desirability" to the extent that the latter is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors (*California Native Plant Society v. City of Santa Cruz* [2009] 177 Cal.App.4th 957, 1001). This balancing is harmonized with CEQA's fundamental recognition that policy considerations may render alternatives impractical or undesirable (Ibid.; see also *California Public Resources Code*, Section 21081; 14 CCR 15126.6[c] and 15364).

5.2.3 ELIMINATION/REDUCTION OF SIGNIFICANT IMPACTS

Section 15126.6(b) of the State CEQA Guidelines states that "[b]ecause an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly".

The proposed Project, evaluated in Sections 4.1 through 4.13 of this EIR, results in a range of impacts but no significant and unavoidable impacts are expected after mitigation. Therefore, the Alternatives evaluated in this section have been developed in an effort to reduce and/or eliminate one or more potentially significant impacts associated with the proposed Project. Although the level of impact may be the same for each alternative when compared to the CEQA Thresholds of Significance, the degree or severity of impact may be slightly different under each scenario.

The potentially significant adverse environmental impacts of the proposed Project, which require mitigation, are briefly summarized below.

Cultural Resources

Construction activities that would result in excavation into native soils (Pleistocene-age marine terraces and alluvial deposits below the upper 1.5 to 7.5 feet) have the potential for impacting undiscovered archaeological or paleontological resources. Mitigation Measures (MMs) CULT-1 and CULT-2, which require training construction personnel and providing measures to implement in the event of discovery of archaeological or paleontological resources, would reduce potential impacts to less than significant levels. Due to the level of past disturbance on the Project site, it is not anticipated that human remains would be encountered during grading or excavation activities. However, if human remains are found, the remains would require proper treatment in accordance with applicable laws, as outlined in MM CULT-3.

Geology and Soils

The proposed structures and infrastructure would be exposed to the on-site seismic and geologic characteristics, including seismic groundshaking, liquefaction, and soil expansion. Compliance

with the recommendations of the Geotechnical Evaluation (MM GEO-1) would ensure impacts associated with the underlying on-site soils would be less than significant.

Land Use and Planning

The site is subject to aircraft noise and is located in the typical 85 departure Single Event Noise Equivalent Level for several types of aircraft that operate at John Wayne Airport (JWA). Based on consistency with the JWA Airport Environs Land Use Plan (AELUP) policy requirements, notification of residents of the presence of operating aircraft is required and will be implemented as MM LU-1.

<u>Noise</u>

Demolition/grading equipment noise would be noticeable at the nearby residences and could be substantial and potentially significant. To reduce and minimize construction noise levels, MM NOI-1 requires 10-foot high temporary noise barriers on the northwest and southwest property boundaries and MM NOI-2 requires measures to reduce construction equipment noise. Vibration from large, heavy construction equipment could cause a significant impact at nearby residences. While it is not anticipated that large, heavy equipment would be used on the Project site, to avoid the impact, MM NOI-3 prohibits use of large, heavy equipment within 150 feet of occupied residences, and that jackhammers not be used within 60 feet of occupied residences. As indicated in Section 4.9, Noise of the Draft EIR, "large" equipment is not expected to be used on the site. Additionally, vibratory rollers, if used, can be operated in the static mode when within 150 feet of residences. During operation, the proposed Project would also expose habitable rooms to interior noise levels exceeding the City's noise compatibility standards. MM NOI-4 requires site design and building construction measures to meet interior noise standards.

The proposed Project would not result in potentially significant adverse impacts related to other environmental issues, including Aesthetics, Air Quality, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Public Services, Transportation/Traffic, and Utilities and Service Systems.

5.2.4 ALTERNATIVE SITE

Section 15126.6(f)(2) of the State CEQA Guidelines sets forth the following criteria for determining whether to identify an alternative site because "An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative" (14 CCR 15126.6[f][3]). Section 15126.6(f)(2) of the State CEQA Guidelines (14 CCR) states the following:

- (A) Key question. The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.
- (B) None feasible. If the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion, and should include the reasons in the EIR. For example, in some cases there may be no feasible alternative locations for a

geothermal plant or mining project which must be in proximity to natural resources at a given location.

(C) Limited new analysis required. Where a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for projects with the same basic purpose, the lead agency should review the previous document. The EIR may rely on the previous document to help it assess the feasibility of potential project alternatives to the extent the circumstances remain substantially the same as they relate to the alternative (*Citizens of Goleta Valley v. Board of Supervisors* [1990] 52 Cal.3d 553, 573).

Development of the Project on an alternative site was not carried forward for detailed consideration, as there are no vacant sites within the Bayview Planned Community (PC-32) that could be developed with an assisted living and memory care facility. Also, other areas within this planned community are already developed with office, hotel, and residential uses that are not suitable for redevelopment with an assisted living and memory care facility.

The City's Housing Element includes an inventory of vacant and underutilized sites in the City. This Element indicates that vacant sites in the City include Banning Ranch, where a development application has been filed, and the Corona del Mar Corridor, which is largely developed, except for a dirt lot where a new development has been approved. A number of infill/reuse opportunity areas are also available in the City for future development or redevelopment. However, the Project Applicant does not own any of the parcels that are vacant or underutilized in these areas of the City.

The 1.5-acre Project site is currently developed with a restaurant, surface parking, and associated improvements. As stated in Section 3.6, Proposed Discretionary Approval, the site has a land use designation of CO-G, which would be changed to PI with a General Plan Amendment to allow for development of the proposed Project, subject to a conditional use permit. Since the Project Applicant cannot be required to reasonably acquire, control, or have access to another site that could accommodate the proposed Project, an alternative site within the jurisdiction of the City of Newport Beach has been eliminated from further consideration.

5.3 ALTERNATIVES FOR ANALYSIS

In accordance with Section 15126.6(a) of the State CEQA Guidelines, the discussion in this section of the EIR focuses on a reasonable range of alternatives. The analysis provides a comparison of the alternatives' varying environmental effects and their merits and/or disadvantages in relation to the proposed Project and to each other; their feasibility and ability to achieve Project Objectives are also discussed.

The following alternatives are analyzed in this EIR:

- Alternative 1 No Project Alternative. This alternative assumes the site would continue to be utilized by the current restaurant use, as allowed under existing regulations.
- Alternative 2 Office Development Alternative. This alternative assumes that the site would be redeveloped with a three-story, 70,000-square-foot office building, as

permitted, subject to a use permit, under the Bayview Planning Community Development Plan (PC-32).

In accordance with Section 15126.6(a) of the State CEQA Guidelines, this EIR provides a comparison of the environmental effects and their merits and/or disadvantages of each alternative in relation to the proposed Project, as well as each alternative's ability to achieve the Project Objectives. To facilitate the readers' understanding, Table 5-1 provides a matrix that compares each alternative's ability to meet the Project Objectives. The level of environmental impact and ability to meet Project Objectives is considered in identifying the environmentally superior alternative, which is discussed in Section 5.4.

The site's existing environmental setting would be the same for the proposed Project and all alternatives. Additionally, unless specifically identified, it is assumed that the Mitigation Program identified for the Project would also be applicable for the alternatives, unless otherwise noted.

TABLE 5-1 COMPATIBILITY COMPARISON OF ALTERNATIVES WITH PROJECT OBJECTIVES

			Alternatives		
	Project Objective	Proposed Project	Alternative 1: No Project	Alternative 2: Office Develop.	
1.	Develop a high quality and safe senior living facility that would respond to the growing demand for senior housing and cater to the needs of the local elderly population.	•	0	0	
2.	Create a self-sufficient facility that would provide services and amenities to enhance livability for the on-site resident population	•	0	0	
3.	Create a mix of assisted living and memory care units that that would cater to the specific needs of the resident population.	•	0	0	
4.	Construct and operate a use that is compatible with the surrounding land uses, physically and aesthetically.	•	•	•	
5.	Create appropriate landscaping buffers to protect privacy of adjoining neighbors and enhance the Project and community.	•	•	-	
6.	Implement a Project consistent with the Bayview Planned Community Development Plan (PC-32) requirements and standards (e.g., height limit, setbacks).	•	•	•	
7.	Implement a land use that would result in fewer vehicular trips than the existing use onsite or the permitted land uses in the Bayview Planned Community Development Plan (PC-32).	•	ο	-	
Proposed Project: Development of a three-story building with 101 assisted living and memory care units, with 120 beds.					

Alternative 1 – No Project Alternative: No new development; operation of the existing restaurant will continue.

Alternative 2 – Office Development Alternative: Construction of a 70,000-square-foot office building to replace existing restaurant.

Legend:

• = Fully Implements

- = Partially Implements
- O = Does Not Implement

5.3.1 ALTERNATIVE 1 – NO PROJECT ALTERNATIVE

Section 15126.6(e) of the State CEQA Guidelines requires that an EIR evaluate a "No Project" alternative to allow decision makers to compare the impacts of approving a proposed project with the impacts of not approving that project. Section 15126.6(e)(3) of the State CEQA Guidelines describes the two general types of no project alternative: (1) when the project is the revision of an existing land use, regulatory policy, or ongoing operation, the no project alternative would be the continuation of that plan and (2) when the project is other than a land use/regulatory plan (e.g., a specific development on an identifiable property), the no project alternative is the circumstance under which that project is not processed (i.e., no development).
Under the No Project Alternative, existing site conditions and the environmental setting would remain unchanged. This Alternative assumes the site would continue to remain in its existing state without demolition of the existing structure and site improvements, and the continued use and operation of the existing Kitayama restaurant.

Impact Evaluation

Aesthetics

The No Project Alternative would not result in any construction activities or new development on the site. In the absence of demolition and construction activities, no changes in the visual quality of the site would occur. Additionally, there would be no new land use, buildings, and site improvements on the site. No changes in the sources of light and glare would occur that could potentially impact the surrounding uses. Thus, in the absence of the proposed Project, the site would remain in its existing condition, with the existing restaurant use in operation. This alternative would have less aesthetic impacts than those of the proposed Project. However, Project impacts on aesthetics would also be less than significant.

Air Quality

The No Project Alternative would not involve any demolition and construction activities (including grading and excavation) or new development on the site. In the absence of construction activities and new traffic generation, this alternative would not result in any significant air quality impacts. SCAQMD thresholds for construction-related and long-term operational emissions would not be exceeded. Therefore, this alternative would avoid short-term direct emissions, and short-term contribution to cumulative air quality impacts that may occur with implementation of the proposed Project. However, Project impacts on air quality would also be less than significant. As this Alternative generates more vehicle trips and the associated pollutant emissions than the proposed Project, NOx and PM₁₀ emissions of this alternative would be slightly greater than those of the proposed Project, while CO emissions would be slightly less than the proposed Project and VOC and PM_{2.5} emissions would be approximately the same as the proposed Project.

Cultural Resources

The existing restaurant building is not a historic structure and would not be demolished under this alternative. In the absence of any construction and demolition activities on the site, this Alternative would not result in the potential for impacts to unknown buried archaeological or paleontological resources and human remains that may be encountered during grading and excavation activities. As such, the potential for impacts to cultural resources for the No Project Alternative would be less compared to the proposed Project. However, Project impacts on cultural resources would be less than significant with implementation of mitigation measures.

Geology and Soils

The No Project Alternative would not involve any construction and/or demolition activities (including grading and excavation) or redevelopment of the site. Therefore, potential geology

and soils impacts identified for the proposed Project would not occur under the No Project Alternative. However, Project impacts would be less than significant with mitigation.

Greenhouse Gas Emissions

The No Project Alternative would not involve any demolition or construction activities (including grading and excavation) or redevelopment of the site. In the absence of construction activities and operation of new land uses (including new traffic generation), this alternative would not generate GHG emissions from new sources but will continue generating GHG emissions at the rate that it is currently producing. However, the Project's GHG emissions would also be less than significant and would be less than the GHG emissions of the existing restaurant due to the Project's reduced vehicular trips. Thus, the No Project Alternative would not result in lower overall GHG emissions than the proposed Project.

Hazards and Hazardous Materials

The No Project Alternative would not involve the use, transport, disposal, or emission of hazardous materials associated with construction of the proposed Project. As no demolition and construction activities are proposed under this alternative, no impacts related to the creation of hazards associated with the disturbance of asbestos-containing materials and lead-based paint and the use of hazardous materials would occur. Additionally, with the continued operation of the existing restaurant, hazardous material uses would be limited to small quantities of hazardous materials for building maintenance, such as cleansers, pesticides, solvents, and paints. The hazards and hazardous materials impacts associated with this alternative are considered to be less than those of the proposed Project; however, Project impacts would also be less than significant. Regulatory requirements would be applicable to the Project.

Hydrology and Water Quality

Under No Project Alternative, the existing hydrology patterns and hydrologic characteristics of the site would remain. Compared to the proposed Project, there would be no increase in the amount and velocity of surface runoff. While the proposed Project would increase the amount of impervious surfaces on the site, potentially increasing the amount of pollutants carried by storm water runoff, the Project would provide bio-filtration planters to treat stormwater and an underground detention basin to maintain existing runoff volumes and rates. Thus, the potential water quality impacts resulting from the Project would be less than significant with implementation of the proposed structural and non-structural Best Management Practices (BMPs) in the Project's Water Quality Management Plan (WQMP) and the construction BMPs in the SWPPP. The No Project Alternative would not change the amount of existing pervious surfaces on the site and would not increase the amount of pollutants in storm water runoff. At the same time, the existing site does not contain bio-filtration planters and other features to treat stormwater, thus the No Project Alternative would not provide permanent BMPs to reduce pollutants in the stormwater. Since no stormwater treatment would be provided by the No Project Alternative, the hydrology and water quality impacts under the No Project Alternative would be greater than the proposed Project.

Land Use and Planning

Under the No Project Alternative, there would be no change in the existing or planned land uses on the site. The site would remain in its current condition with the restaurant use in operation. There would be no need for amendments to the General Plan or the Planned Community Development Plan (PC-32) to allow for continued use of the existing restaurant on the site. The No Project Alternative remains consistent with the aforementioned plans. Overall, the land use impacts under the No Project Alternative would be less than the proposed Project. However, Project impacts would be less than significant with mitigation related to the recommendations in the AELUP for providing notice for prospective residents that this property is subject to overflight, sight, and sound of aircraft operating from John Wayne Airport (MM LU-1).

Noise

The No Project Alternative would continue the existing restaurant operations and would not involve any demolition, grading, or construction activities. Therefore, noise associated with the construction activities of the proposed Project would not occur under this alternative. All temporary noise impacts associated with implementation of the proposed Project can be mitigated to a level considered less than significant; however, no temporary noise impacts associated with this alternative would result, as no construction would occur under this alternative. Operationally, the Project would generate fewer vehicle trips than the No Project Alternative, resulting in a decrease in vehicle trip noise to and from the site.

Public Services

Under the No Project Alternative, the demands for public services (fire and police protection services) and facilities at the site would remain at existing levels. Because there would be no change in land use, increased demands on public services would not occur and the impact of the No Project Alternative relative to public services and facilities would be less than the proposed Project. However, the proposed Project's impacts on public services would also be less than significant.

Transportation/Traffic

The existing restaurant is estimated to be generating a total of 738 average daily trips (ADTs) and the proposed Project would generate a total of 312 ADTs, which is a decrease of 426 ADTs over existing conditions. Thus, while the No Project Alternative would have more operational trips than the Project, the No Project Alternative would have no impacts related to short-term construction since no construction would occur. However, the No Project Alternative would continue to have greater traffic impacts, compared to the proposed Project.

Tribal Cultural Resources

The No Project Alternative would not involve any construction and demolition activities on the site. Thus, this Alternative would not result in the potential for impacts to unknown and buried tribal cultural resources. The potential for impacts to tribal cultural resources for the No Project Alternative would be less than the proposed Project. However, Project impacts on tribal cultural

resources would be less than significant based on a lack of evidence for existence of such resources.

Utilities and Service Systems

The No Project Alternative would not result in a change in demand for utilities and service systems (water, wastewater treatment, and solid waste generation), as the operation of the existing restaurant use would continue under this alternative. Therefore, the demand for utilities and service systems would remain at the existing levels. The impact of the No Project Alternative relative to utilities and service systems would be less than the proposed Project. However, the Project impacts to utilities and service systems would be less than significant and no mitigation is required.

Conclusions

Would Alternative 1 Avoid or Substantially Lessen the Significant Impacts, Compared to the Project?

The proposed Project would not result in any significant and unavoidable impacts, but it would result in potentially significant impacts associated with Geology and Soils, Land Use and Planning, and Noise that can be mitigated. The No Project Alternative would maintain the site in its current condition with the existing restaurant. Thus, this alternative would avoid the above-mentioned mitigable impacts.

Because development of the proposed assisted living and memory care facility would not occur under the No Project Alternative, there would also be fewer impacts for the following environmental topics: Aesthetics, Cultural Resources, Hazardous and Hazardous Materials, Public Services, Tribal Cultural Resources, and Utilities and Service Systems. The Project's impacts for these topics are also less than significant.

However, the No Project Alternative would generate more operational vehicle trips than the proposed Project, resulting in greater Transportation/Traffic, Air Quality, Noise (long-term traffic and on-site noise generation), and GHG impacts compared to the Project. Additionally, as discussed above, this alternative would also not provide permanent BMPs to reduce water quality impacts over existing conditions, resulting in more impacts associated with Hydrology and Water Quality.

Would Alternative 1 Result in Attainment of Project Objectives, Compared to the Project?

By not developing the site with the proposed senior living Project, the No Project Alternative would only attain 3 of the 7 Project Objectives identified above in Section 5.2.1. Specifically, the No Project Alternative would not meet the objectives related to the development of a senior living, self-sufficient facility, and a mix of assisted living and memory care units. While the existing restaurant under this Alternative has been developed to be compatible with surrounding land uses; provides landscaping buffers; and complies with the Bayview Planned Community Development Plan, it would not create a land use that would reduce vehicle trips to

and from the site, since this Alternative would retain the existing restaurant, as allowed by the Development Plan.

5.3.2 ALTERNATIVE 2 – OFFICE DEVELOPMENT ALTERNATIVE

Alternative 2 assumes the redevelopment of the site with a 70,000-square-foot office building, as allowed under the Bayview Planned Community Development Plan (PC-32) for Area 5 and the General Commercial Office designation of the site in the Newport Beach General Plan. The designation of Restaurant/Professional and Administrative Office for this area would permit development of an administrative and professional office, subject to a use permit, with a maximum of 70,000 square feet in floor area and 35 feet in height. Other development standards such as building site area, off-street parking, setbacks, landscaping, and more are also provided for the Area 5 designation.

In compliance with these standards, Alternative 2 proposes an office building with 3 floors over 3 stories of subterranean parking garage. Each floor would be approximately 23,000 square feet. The parking required for the office building would be 1 space for every 300 square feet, requiring 240 parking spaces. There would be 57 surface parking spaces, and 183 parking spaces in the garage (240 total parking spaces). The building height above the ground surface grade would be 33 feet plus 10 feet for mechanical screens on the roof top. The building basement would be approximately 30 feet deep. Exterior façade would be glass and aluminum storefront, similar to other buildings in the area. Exhibit 5-1 depicts the conceptual site plan for this alternative.

As shown, the proposed office building would be constructed on the north/northeastern portion of the site along Bristol Street, with a surface parking lot on the south/southwestern portion of the site adjacent to the existing Baycrest Court condominium development.

Under the Office Development Alternative, the legislative actions including the General Plan and the Planned Community Development Plan Amendments under the proposed Project, would not be required. However, a Major Site Development Review, as well as a Use Permit would still be required as the Professional and Administrative Office is a permitted use, subject to a use permit.

Impact Evaluation

Aesthetics

The Office Development Alternative would result in demolition and construction activities on the site. Thus, temporary changes in the visual quality of the site would occur, which would be the same with the proposed Project. Additionally, with the construction of the new office building and site improvements on the site, permanent changes in visual quality would occur. Also, new sources of light and glare would be introduced. The proposed building under this alternative would have glass and aluminum exterior facades, which would have to be treated to reduce the potential for glare. However, this alternative would generally have the same aesthetic impacts as the proposed Project, as both structures would have the same height, but the proposed Project would be larger by 15,000 square feet. Alternative 2 and the proposed Project would have less than significant impacts on aesthetics and light and glare overall.



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Alternative 2

Harbor Pointe Senior Living Project



Alternate Design



Alternate Design

Source: Douglas Pancake Architects 2017





(02/09/2018 MMD) R:\Projects\NEW\3NEW003100\Graphics\EIR\Ex_Alt2.pdf

Air Quality

The Office Development Alternative would result in demolition and construction activities (including grading and excavation) for the proposed office development on the site. Grading activities would take longer and export more soil because the subterranean garage would be three levels as compared with one level for the proposed Project. Thus, short-term pollutant emissions generated by demolition and construction activities would be greater than the proposed Project. Compliance with SCAQMD regulations would reduce fugitive dust and nuisance impacts during construction. Maximum daily construction emissions for Alternative 2 would be greater than for the proposed Project for all pollutants except carbon monoxide (CO). Alternative 2 construction emissions would not exceed SCAQMD air quality significance thresholds; no mitigation would be required.

Long-term vehicle emissions would also be generated by vehicle trips to and from the office development, along with stationary emissions from on-site equipment and area sources. Because Alternative 2 would generate more vehicle trips and more vehicle miles travelled than the proposed Project, maximum daily gross operational emissions for Alternative 2 would be greater than the proposed Project for all pollutants except CO, which is less for Alternative 2 because the proposed Project would have more landscape maintenance than Alternative 2, and landscape maintenance equipment generates CO. No mitigation would be required for Alternative 2 or for the proposed Project.

Therefore, the Office Development Alternative would result in short-term, long-term, and a contribution to cumulative air quality impacts that would also occur with implementation of the proposed Project. While SCAQMD thresholds for short-term construction and long-term operational emissions would not be exceeded, the severity of potential air quality impacts of this alternative would be greater than those of the proposed Project (for all pollutants except CO). The air quality impacts of Alternative 2 and the Project would be less than significant.

Cultural Resources

Construction and demolition activities on the site under this alternative could result in similar potential impacts to unknown and buried archaeological or paleontological resources and human remains that may be encountered during grading and excavation activities. The potential impacts to cultural resources for the Office Development Alternative would be greater, because of a three-level subterranean garage (compared to one-level for the proposed Project), more native soils would be exposed and excavated, hence resulting in a higher potential for disturbing cultural resources. However, no additional measures beyond compliance with Policy K-5 and regulatory requirements would be needed. The impacts would be less than significant.

Geology and Soils

The Office Development Alternative would include demolition and construction activities (including grading and excavation) for the redevelopment of the site. Therefore, the same potential geology and soils impacts identified for the proposed Project would also occur under the Office Development Alternative. Compliance with geotechnical recommendations for the proposed office building (similar to the geotechnical measures under MM GEO-1 for the proposed Project) would also be required for this Alternative. The impacts of this Alternative and the Project would be less than significant with mitigation.

Greenhouse Gas Emissions

The Office Development Alternative would include demolition or construction activities (including grading and excavation) for the redevelopment of the site. Grading activities would take longer and export more soil because the subterranean garage would be three levels as compared with one level for the proposed Project. Construction activities would generate short-term GHG emissions. Construction GHG emissions for Alternative 2 were estimated using CalEEMod and compared with the proposed Project emissions in Section 4.5. Alternative 2 construction GHG emissions are estimated at 592 metric tons of carbon dioxide equivalent (MTCO₂e), which is greater than the 564 MTCO₂e estimated for the proposed Project.

Use and operation of the office building (including new traffic generation) under this alternative would also generate GHG emissions. This Alternative would generate more vehicle trips than the Project, resulting in greater mobile GHG emissions than the Project. Operational GHG emissions for Alternative 2 were estimated using CalEEMod and compared with the proposed Project GHG emissions in Section 4.5. Alternative 2 gross and net operational GHG emissions are estimated at 1,204 MTCO₂e/year and 487 MTCO₂e/year, respectively. Proposed Project gross and net operational GHG emissions are estimated at 687 MTCO₂e/year and 31 MTCO₂e/year, respectively. The increase in GHG emissions for Alternative 2, compared with the proposed Project would be attributed to more vehicle trips and greater energy and water use in an office building as compared with a senior living facility. Thus, long-term GHG emissions from Alternative 2 would add to the existing global GHG emissions while GHG emissions from the proposed Project would not add to the existing global GHG emissions as much as Alternative 2 and may be slightly less than existing GHG emissions. Nevertheless, this Alternative would result in GHG impacts that would be less than significant when compared with the SCAQMDrecommended significance threshold of 3,000 MTCO₂e/year for non-industrial development projects. Alternative 2 and Project impacts on GHG would be less than significant.

Hazards and Hazardous Materials

The Office Development Alternative would involve the use, transport, disposal, or emission of hazardous materials associated with demolition and construction activities, which would be the same as hazardous materials use with the proposed Project. Compliance with existing regulations related to the disturbance and disposal of asbestos-containing materials and lead-based paint (RR HAZ-1 and RR HAZ-2) and the use of hazardous materials would be required, similar to the Project. Additionally, the use and operation of the office building would require use of hazardous materials such as cleansers, pesticides, solvents, and paints for building maintenance. Due to the site's location near the John Wayne Airport, notification and clearance from the Federal Aviation Administration and Orange County Airport Land Use Commission (RR HAZ-3 and RR HAZ-4) would be required, similar to the Project. The hazards and hazardous materials impacts associated with this alternative are considered to be the same as those of the proposed Project. The impacts of this Alternative and the Project would be less than significant.

Hydrology and Water Quality

Under the Office Development Alternative, the existing hydrology patterns and hydrologic characteristics of the site would be altered. Compared to existing conditions, there would have to be no increase in the runoff volume and rate, as required by the Orange County MS4 Permit

and City regulations. This Alternative would increase the amount of impervious surface on the site, potentially increasing the amount of pollutants carried by storm water runoff. At the same time, this alternative would implement construction Best Management Practices (BMPs) in compliance with the NPDES Construction General Permit and would provide permanent BMPs to reduce pollutants in the stormwater. As with the proposed Project, potential water quality impacts resulting from this Alternative would be less than significant with implementation of construction and permanent BMPs. Overall, the hydrology and water quality impacts under the Office Development Alternative would be the same as those of the proposed Project. This Alternative and Project impacts on hydrology and water quality would be less than significant.

Land Use and Planning

Under the Office Development Alternative, although there would be a change in the existing land use on the site, the professional administrative office use is a permitted use for the site in the Bayview Planned Community Development Plan, subject to a use permit, similar to the existing restaurant. No amendments to the General Plan and Planned Community Development Plan (PC-32) would be required, while the Project would require amendments to both plans. Also, no resident population would be generated under this Alternative, and recommendations in the AELUP for providing notice for prospective residents would not be required. Additionally, given the office uses to the north and southeast of the site and retention of the approximate same setbacks (e.g., drive aisle and parking area on the northwestern and southwestern section portions of the site) to separate the proposed office building from adjacent residential uses, no land use compatibility issues would result. Additionally, from a General Plan policy perspective, this alternative would be consistent, as professional administrative office use is a permitted use in the Bayview Planned Community Development Plan, subject to a use permit. Overall, the land use impacts under the Office Development Alternative would be less than the proposed Project. However, Project impacts would be less than significant with mitigation.

Noise

The Office Development Alternative would result in short-term noise impacts from demolition, grading, and construction activities, which would be the same with the proposed Project. The noise levels associated with these construction activities under this alternative would be similar to those of the proposed Project and would require mitigation to ensure the impact would be less than significant. Noise from grading and excavation of this alternative would occur for a longer duration than for the proposed Project because the excavation for the three-level subterranean garage would be substantially greater than for the proposed Project. Vibration impacts for Alternative 2 and the proposed Project would be similar and would require mitigation to ensure the impact would be less than significant. The same mitigation measures would apply to this Alternative. Construction noise impacts would be greater under this Alternative than the proposed Project.

In terms of long-term operational noise, this Alternative would result in increased off-site traffic noise compared to the proposed Project due to an increased number of vehicle trips that would be generated. However, the off-site traffic noise would be essentially the same as the existing off-site traffic noise. On-site noise generated to adjacent residences may be slightly greater than the proposed Project because Alternative 2 would have surface parking (in addition to subterranean parking) and the proposed Project would have only subterranean parking. However, there would likely be minimal differences in long-term noise levels and both Alternative 2 and the proposed

Project would have mostly daytime on-site traffic noise as compared with the existing restaurant, which has evening on-site traffic noise.

Public Services

Under the Office Development Alternative, the demands for public services (fire and police protection services) and facilities at the site would change over existing levels, as the restaurant would be replaced by an office development. The change in land use could result in increased demands on public services, similar to the impacts of the proposed Project. However, with the elimination of public service demands from the existing restaurant, this Alternative and the proposed Project's impacts on public services would be less than significant.

Transportation/Traffic

The existing restaurant is estimated to generate a total of 738 ADTs and the proposed Project would generate a total of 312 ADTs. The Office Development Alternative is estimated to generate an average of 682 ADTs. Thus, the Office Development Alternative would generate more trips than the proposed Project but fewer than the existing restaurant. While construction traffic would be generated under this Alternative, no long-term impacts related to traffic and circulation would occur since the change from a restaurant use to an office use would result in slightly fewer vehicular trips than the existing condition. However, this Alternative would have greater traffic impacts than the proposed Project.

Tribal Cultural Resources

The Office Development Alternative would involve construction and demolition activities on the site, including grading and excavation. Thus, this Alternative would result in potential impacts to unknown and buried tribal cultural resources, which could also occur with the proposed Project. Given the depth of excavation for the three-level subterranean parking under this alternative, the potential for impacts to tribal cultural resources would be greater than the proposed Project. However, this Alternative and Project impacts on tribal cultural resources would be less than significant.

Utilities and Service Systems

The Office Development Alternative would result in a change in demand for utilities and service systems (water, wastewater treatment, and solid waste generation), as the existing restaurant is replaced with an office development under this alternative. The demand for utilities and service systems is expected to increase over existing levels and would be greater compared to the Project due to the nature of office uses. However, the impacts of the Office Development Alternative would be less than significant, similar to the impacts of the proposed Project.

Conclusions

Would Alternative 2 – Office Development Alternative Avoid or Substantially Lessen the Potentially Significant Impacts, as Compared to the Project?

The Office Development Alternative would replace the existing restaurant on the site with an office development. This Alternative would result in reduced impacts related to Land Use and Planning, as compared to the proposed Project.

Impacts related to Aesthetics, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Operational Noise, Public Services, Tribal Cultural Resources, and Utilities and Service Systems would be similar to those of the proposed Project. Impacts associated with Air Quality, GHG Emissions, Construction Noise, and Transportation/Traffic would be greater due to the (1) greater number of vehicle trips that would be generated by the office development under this Alternative compared to the proposed Project, (2) more excavation and soil export required for Alternative 2, and (3) greater energy and water use in Alternative 2.

Would Alternative 2 – Office Development Alternative Result in Attainment of Project Objectives, as Compared to the Project?

With the redevelopment of the site with an office building, this Alternative would meet 3 of the 7 Project Objectives identified above in Section 5.2.1. Specifically, the Office Development Alternative would not meet the objectives related to the development of a senior living, self-sufficient facility, and a mix of assisted living and memory care units. The proposed office under this Alternative could be designed and constructed to be compatible with surrounding land uses; could provide landscaping buffers; and could comply with the Bayview Planned Community Development Plan. While this Alternative would reduce vehicular trips to and from the site, as generated by the existing restaurant, it would not reduce vehicular trips from any other permitted land use in the Bayview Planned Community Development Plan since the proposed office use would have the same floor area as another permitted use in the Development Plan. Additionally, this Alternative would have increased vehicular trips compared to the proposed office use Project.

5.4 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

CEQA requires the identification of an environmentally superior alternative. Section 15126.6(e)(2) of the State CEQA Guidelines states that, if the No Project Alternative is the environmentally superior alternative, then the EIR shall also identify an environmentally superior alternative among the other alternatives.

As shown, Alternative 1 - No Project Alternative would retain existing site conditions and thus, would not result in any environmental impacts. However, it would not result in beneficial effects, such as the reduction of long-term impacts related to Air Quality, GHG Emissions, Hydrology and Water Quality, and Transportation/Traffic, which would occur under the proposed Project. Additionally, the No Project Alternative would meet only 3 out of 7 Project objectives.

Alternative 2 – Office Development Alternative would generally have the same impacts as the Project on most issues; with lesser impacts on Land Use and Planning but greater impacts than the Project in terms of Air Quality, GHG Emissions, Construction Noise, and Transportation/Traffic. Thus, it cannot be considered an environmentally superior alternative to the Project. In addition, this Alternative would only meet 3 of the 7 Project objectives.

Based on the detailed analyses in Section 5.3.1 (Alternative 1 – No Project Alternative) and Section 5.3.2 (Alternative 2 – Office Development Alternative) and the summaries above and in Table 5-2, the proposed Project is the next environmentally superior alternative to the No Project Alternative.

For ease of review of Table 5-2, below, please note these clarifications: **LTS**: Less than Significant Impact; **LTSM**: Less than Significant Impact with Mitigation; **G**: Greater Impact than the Proposed Project; (=): Same Impact as the Proposed Project; **L**: Less Impact than the Proposed Project.

		Alternatives	
Impact Category	Proposed Project Impact	Alternative 1: No Project	Alternative 2: Office Development
Aesthetics			
Threshold 4.1-1 Have a substantial adverse effect on a scenic vista	LTS	L	=
Threshold 4.1-2			
Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway	LTS	L	=
Threshold 4.1-3			
Substantially degrade the existing visual character or quality of the site and its surroundings.	LTS	L	=
Threshold 4.1-4			
Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area.	LTS	L	=
Air Quality			
Threshold 4.2-1			
Conflict with or obstruct implementation of the applicable air quality plan.	LTS	=	=
Threshold 4.2-2	Construction:	Construction:	Construction:
Violate any air quality standard or contribute substantially to an	LTS		L
existing or projected air quality violation.	Operation:	Operation:	Operation :
	LTS	G	G
Threshold 4.2-3			
Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).	LTS	=	G

-		Alternatives	
Impact Category	Proposed Project Impact	Alternative 1: No Project	Alternative 2: Office Development
Threshold 4.2-4 Expose sensitive receptors to substantial pollutant concentrations.	LTS	L	=
Cultural Resources			
Threshold 4.3-1 Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.	LTS	L	G
Threshold 4.3-2 Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	LTS	L	G
Threshold 4.3-3 Disturb any human remains, including those interred outside of formal cemeteries.	LTS	L	G
Geology and Soils			
Threshold 4.4-1Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:(i)Strong seismic ground shaking.(ii)Seismic-related ground failure, including liquefaction.	LTSM	L	=
Threshold 4.4-2 Result in substantial soil erosion or the loss of topsoil.	LTS	L	=
Threshold 4.4-3 Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.	LTSM	L	=

		Alternatives	
Impact Category	Proposed Project Impact	Alternative 1: No Project	Alternative 2: Office Development
Threshold 4.4-4			
Be located on expansive soils, as defined in Table 18-1-B of the California Building Code (1994), creating substantial risks to life or property.	LTSM	L	=
Greenhouse Gas Emissions			
Threshold 4.5-1	Construction:	Construction:	Construction:
Generate greenhouse gas emissions, either directly or indirectly,	LTS	L	G
that may have a significant impact on the environment.	<u>Operation:</u>	<u>Operation:</u>	<u>Operation:</u>
	LTS	G	G
Threshold 4.5-2			
Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.	LTS	G	=
Hazards and Hazardous Materials			
Threshold 4.6-1			
Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	LTS	L	=
Threshold 4.6-2			
Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	LTS	L	=
Threshold 4.6-3			
For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area	LTS	L	L

		Alternatives	
Impact Category	Proposed Project Impact	Alternative 1: No Project	Alternative 2: Office Development
Hydrology and Water Quality			
WATER QUALITY			
Threshold 4.7-1			
Violate any water quality standards or waste discharge requirements.	LTS	G	=
Threshold 4.7-6			
Otherwise substantially degrade water quality.			
Threshold 4.7-2			
Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted).	LTS	L	=
Threshold 4.7-3			
Substantially alter the existing drainage pattern of the site or area including the alteration of the course of a stream or river, in manner which would result in substantial erosion or siltation on- or off-site.	LTS	L	=
DRAINAGE			
Threshold 4.7-4			
Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.	LTS	L	=
Threshold 4.7-5			
Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.			

		Alternatives	
Impact Category	Proposed Project Impact	Alternative 1: No Project	Alternative 2: Office Development
Land Use and Planning			
Threshold 4.8-1 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.	LTSM	L	L
Noise			
Threshold 4.9-1 Result in exposure of persons to or generation of noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.	LTSM	L	=
Threshold 4.9-4 Result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.	LTSM	L	G
Threshold 4.9-2 Result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.	LTSM	L	=
Threshold 4.9-3 Result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.	LTSM	G	G
Threshold 4.9-5 For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels.	LTS	L	L

		Alternatives	
Impact Category	Proposed Project Impact	Alternative 1: No Project	Alternative 2: Office Development
Public Services			
Threshold 4.10-1			
Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:			
(i) Fire protection	LTS	L	=
(ii) Police protection	LTS	L	=
Transportation/Traffic			
Threshold 4.11-1			
Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.	<u>Construction:</u> LTS <u>Operation:</u> LTS	<u>Construction:</u> L <u>Operation:</u> G	<u>Construction:</u> G <u>Operation:</u> G
Threshold 4.11-2 Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) Threshold 4.11-3 Result in inadequate emergency access	LTS	L	=

		Altern	atives
Impact Category	Proposed Project Impact	Alternative 1: No Project	Alternative 2: Office Development
Tribal Cultural Resources			
Threshold 4.12-1			
Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:			
i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1 (k), or	LTS	L	G
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.			
Utilities and Service Systems		•	
Threshold 4.13-1			
Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental impacts. Threshold 4.13-4	LTS	L	=
Result in a determination by the wastewater treatment provider, which serves or may serve the Project that it has inadequate capacity to serve the Project's projected demand in addition to the provider's existing commitments.			

-		Alternatives	
Impact Category	Proposed Project Impact	Alternative 1: No Project	Alternative 2: Office Development
Threshold 4.13-2			
Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.	LTS	L	=
Threshold 4.13-3			
Have insufficient water supplies available to serve the Project from existing entitlements and resources, or if are new or expanded entitlements are needed.	LTS	L	=
Threshold 4.13-5			
Be served by a landfill with insufficient permitted capacity to accommodate the Project's solid waste disposal needs?	LTS	L	=
Threshold 4.13-6			
Not comply with federal, state, and local statutes and regulations related to solid waste.	LTS	L	=
Proposed Project: Development of 3-story building with 101 assis	sted living and memory care unit	ts, with 120 beds.	
Alternative 1 - No Project Alternative: No new development; operation of the existing restaurant will continue.			
Alternative 2 – Office Development Alternative: Construction of 70,000-square foot office building to replace existing restaurant.			
Proposed Project Impact: LTS - Less than significant impact; LTSM - Less than significant impact with Mitigation			
Comparison of Project Impacts: G – greater impacts than the proposed Project; = the same impacts as the proposed Project; L – less impacts than the proposed Project			

5.5 **References**

- Newport Beach, City of. 2013 (September). City of Newport Beach General Plan Housing Element. Newport Beach, CA: City of.
 - ——. 2010 (July 6). Bayview Planned Community Development Plan and Development Standards. Newport Beach, CA: City of.

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6.1 SIGNIFICANT ENVIRONMENTAL EFFECTS THAT CANNOT BE MITIGATED

The environmental effects of the Proposed Project and Alternatives 1 and 2 are addressed in Sections 4.1 through 4.13 and Section 5.0 of this EIR. Implementation of the Project would result in potential impacts for the following topical issues: Air Quality, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Noise, and Tribal Cultural Resources. However, as discussed in Sections 4.1 through 4.13 and summarized in Table 1-2, all potentially significant impacts are mitigated to less than significant levels. No significant and unavoidable impact would occur as a result of the proposed Project.

6.2 SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES THAT WOULD BE CAUSED BY THE PROJECT

Section 15126(c) of the State California Environmental Quality Act ("CEQA") Guidelines (14 California Code of Regulations ["CCR"]) requires that an EIR describe any significant irreversible environmental changes which would occur as a result of the proposed action should it be implemented. The environmental effects related to the implementation of the proposed Project are analyzed in Sections 4.1 through 4.13 of this EIR. Implementation of the proposed Project would convert an existing restaurant to proposed assisted living and memory care facility and associated ancillary uses with subsurface parking and related improvements. The proposed use is a redevelopment of the site, as site is already developed with a restaurant, surface parking, and associated improvements. Therefore, the proposed Project is not considered a new long-term commitment of land resources to the proposed use. Nevertheless. construction and long-term operation of the Project would require the commitment and reduction of nonrenewable and/or slowly renewable resources, including petroleum fuels, and natural gas (for vehicle emissions, construction, lighting, heating, and cooling of structures); and lumber, sand/gravel, steel, copper, lead, and other metals (for use in the building construction, piping, and roadway infrastructure). Other resources that are slow to renew and/or recover from environmental stresses would also be impacted by Project implementation, such as air quality through the combustion of fossil fuels and production of greenhouse gases; and water supply through the increased potable water demands for drinking, cooking, cleaning, landscaping, and general maintenance needs. An increased commitment of public services and utilities (e.g., police, fire, and sewer and water services) would also be required. Project development is an irreversible commitment of land, energy resources and public services. After the 50- to 75-year structural lifespan of the buildings is reached, it is improbable that the site would revert to its current use due to the large capital investment that will already have been committed. It should be noted again, that the site is not currently undeveloped; the current use of the site is a restaurant, surface parking, and associated improvements.

6.3 **GROWTH-INDUCING IMPACTS OF THE PROPOSED ACTION**

Pursuant to Sections 15126(d) and 15126.2(d) of the CEQA Guidelines, this section is provided to examine: (1) ways in which the Project could foster economic or population growth and (2) the construction of additional development, either directly or indirectly, in the surrounding environment. Per Section 15126.2(d) of the State CEQA Guidelines, growth-inducing effects are not necessarily beneficial, detrimental, or of little significance to the environment. This issue is presented to provide additional information on ways in which this Project could contribute to significant changes in the environment.

When considering growth-inducing impacts, it is important to consider the context and historical growth trends of the area. There are many factors that can affect the amount, location, and rate of growth in Orange County and the region in general. These factors include market demand for housing, employment, and commercial services; the acknowledged desirability of climate and living/working environment and commercial economy; the availability of other services/infrastructure; and the land use and growth management policies of local jurisdictions.

Orange County has experienced significant growth in population over the past 55 years. Population in the County has increased from 703,928 in 1960 to 3,153,190 in 2015 (CDR 2016). Concurrent with significant increases in population, the economic character of Orange County has dramatically changed. The predominately rural/agricultural character of Orange County has changed to a diversified commercial/industrial economy. High technology industries, biomedical facilities, retail commercial, light manufacturing, administrative and financial services, and tourism have become major components of the County's economy. In 1965, the employment-to-population ratio was 22 percent. By 2015, the ratio had increased to approximately 51 percent countywide (note this was down from 54 percent in 2008). Not only had the proportion of jobs to residents increased, but it was also based on a dramatically larger population. The growth in population and employment is projected to continue through 2040 and beyond. Based on the *Orange County Projections 2014-Modified*, developed by the CDR, between 2012 and 2040, an approximate 12.7 percent increase in population and a 24.4 percent increase in employment is projected to occur in Orange County (CDR 2016).

To address this issue, potential growth-inducing effects, identified in Section Guidelines Section 15126.2(d), are examined through analysis of the following questions:

1. Would this Project remove obstacles to growth (e.g., through the construction or extension of major infrastructure facilities that do not presently exist in the project area or through changes in existing regulations pertaining to land development)?

The proposed Project includes a total of 101 assisted living and memory care units (120 beds), which would equate to a 120-resident population. The Project would create temporary construction and permanent operation employment. During construction, the labor force is expected to range in size between a minimum of 2 and a maximum of 50 workers, including approximately three full-time employees. It is anticipated that a total of up to 30 will be employed at the senior living facility.

The proposed Project is an in-fill redevelopment of the site. In terms of direct population growth, while the 120-resident population is an insignificant number, some may already be residents of the City of Newport Beach. Existing backbone infrastructure would meet

the needs of the Project and no major extension of the infrastructure is anticipated to occur in the area. As indicated above, a General Plan Amendment, Planned Community Development Plan (PC-32) Amendment, Major Site Development Review, and Use Permit would be required to allow for development of the proposed Project, but those changes would be specific to the proposed Project and would not remove obstacles to growth for the surrounding area.

The proposed development is in line with the collective uses and growth within the area and part of the development that has been trending toward greater density development. This type of growth is consistent with the general uses in the area.

2. Would this Project result in the need to expand one or more public services to maintain desired levels of service?

The proposed Project is redevelopment of the site with a total of 101 assisted living and memory care units (120 beds), which would equate to a 120-resident population. The Project would nominally increase demand for public services given the nature of the development and the demand for public services by the existing restaurant use. The Project would not require physical improvements that would increase system-wide capacity, which could result in inducement of growth into currently undeveloped or under-served areas. Based on discussions with service providers, capacity exists and no additional facilities beyond those already planned for the area would be required as a result of the Project to maintain desired levels of service. This Project would not have any significant growth-inducing consequences with respect to public services.

3. Would this Project encourage or facilitate economic effects that could result in other activities that could significantly affect the environment?

Project construction would result in temporary construction employment. During construction, the labor force is expected to range in size between a minimum of 2 and a maximum of 50 workers, including approximately three full-time employees. This would provide economic stimulus in the area; however, these jobs are typically filled by existing residents of the region and would not be substantial enough to foster other activities (e.g. new-real estate development) that would have significant effects on the environment.

As discussed previously, the proposed Project would result in a 120-resident population, which would generate a total of up to 30 jobs in the area. The total population and jobs generated by the proposed Project are nominal and would not impact the jobs-housing balance locally and regionally.

Given the nature of the Project, it would be self-sufficient and not expected to generate economic activity to the level that would necessitate an expansion of resources and supporting industry that would have significant effects on the environment, such as development of additional non-residential uses in the area. Therefore, this Project would not result in significant impacts with regards to facilitating economic effect leading to additional growth with environmental consequences.

4. Would approval of this Project involve some precedent-setting action that could encourage and facilitate other activities that could significantly affect the environment?

The Project is redevelopment of the site with a total of 101 assisted living and memory care units (120 beds), which would equate to a 120-resident population. Creation of an assisted living and memory care facility is not unique, such that its approval would set a precedent, facilitating other activities and resulting in significant impacts to the environment.

6.4 ENERGY ANALYSIS

Section 21100(b)(3) of the *California Public Resources Code* and Appendix F to the State CEQA Guidelines require a discussion of potential energy impacts of proposed projects. Appendix F states:

The goal of conserving energy implies the wise and efficient use of energy. The means of achieving this goal include:

- (1) Decreasing overall per capita energy consumption,
- (2) Decreasing reliance on fossil fuels such as coal, natural gas and oil, and
- (3) Increasing reliance on renewable energy sources.

Appendix F of the State CEQA Guidelines also identifies that "EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy".

By design and by its nature, the development allowed by the proposed Project would be sustainable because of its density and in-fill location. The analysis in this section utilizes the data from air quality and gas emissions (GHG) analyses evaluated in Section 4.2, Air Quality and Section 4.5, Greenhouse Gas Emissions. Because the California Emissions Estimator Model (CalEEMod) program does not display the amount and fuel type for construction-related sources, additional calculations were conducted and are summarized below.

6.4.1 SHORT-TERM CONSTRUCTION

Project construction would require the use of construction equipment for grading, hauling and building activities; all off-road construction equipment is assumed to use diesel fuel. Construction also includes the vehicles of construction workers and vendors traveling to and from the Project site and on-road haul trucks for the export of materials from site, demolition, excavation, and grading.

Off-road construction equipment use was calculated from the equipment data (mix, hours per day, horsepower, load factor, and days per phase) provided in the CalEEMod construction output files included in Appendix B of this EIR. The total horsepower hours for the Project was then multiplied by fuel usage estimates per horsepower-hour included in Table A9-3-E of the SCAQMD's CEQA Air Quality Handbook.

Fuel consumption from construction worker, vendor, and delivery/haul trucks was calculated using the trip rates and distances provided in the CalEEMod construction output files. Total vehicle miles traveled (VMT) was then calculated for each type of construction-related trip and divided by the corresponding Orange County-specific miles per gallon factor using California Air Resources Board's (CARB's) EMFAC 2014 model. EMFAC provides the total annual VMT and fuel consumed for each vehicle type. Consistent with CalEEMod, construction worker trips were assumed to include 50 percent light duty gasoline auto and 50 percent light duty gasoline trucks. Construction vendor and delivery/haul trucks were assumed to be heavy-duty diesel trucks.

For dust control, it is estimated that 1,000 gallons of recycled water per day (gpd) would be used during demolition, 2,000 gpd, would be used during excavation and grading activities, and 500 gpd during the building phase, totaling approximately 228,000 gallons of water.

As shown in Table 6-1, approximate totals of 36,585 gallons of diesel fuel, 13,515 gallons of gasoline, and 0.48 MWh of electricity from water consumption are estimated to be consumed during Project construction. It should be noted that reclaimed water would be used for dust control to the extent feasible, resulting in an estimated 81 percent savings in electricity use as well as the savings of potable water.

Source	HP-hours	VMT	Diesel Fuel - gallons	Gasoline - gallons	MWh
Off-road Construction Equipment	567,784		28,389		
Worker commute		365,755		13,515	
Vendors		26,496	2,229		
On-road haul		44,800	7,967		
Water - dust control					0.48
Totals	567,784	427,051	36,585	13,515	0.48
HP-hrs: Horsepower hours; VMT: Vehicle miles traveled; MWh: Megawatt hours					

TABLE 6-1 ENERGY USE DURING CONSTRUCTION

Fuel energy consumed during construction would be temporary in nature, and there are no unusual Project characteristics that would necessitate the use of construction equipment that would be less energy-efficient than at comparable construction sites in other parts of the region or State. The proposed construction activities would not result in inefficient, wasteful, or unnecessary fuel consumption.

6.4.2 TRANSPORTATION

Currently, OCTA bus service operates Route 57 on Bristol Street adjacent to the Project site. Route 57 runs from Brea to the Newport Transportation Center including a stop at ARTIC, the regional transportation hub in Anaheim. The Route 57 bus provides an efficient alternative to passenger car transportation for employees and visitors to the proposed senior living facility. Project-generated vehicle trips would result in an estimated 1,075,000 VMT per year. Gasoline and diesel consumption rates were calculated using estimated miles per gallon factors derived from EMFAC2014 Orange County data for 2020. It is estimated that the Project-generated traffic would use 7,600 gallons of diesel fuel, and 38,243 gallons of gasoline per year. There would be additional reduced trips, VMT, and fossil fuel use with the use of bus transportation but the effectiveness of these modes is not reasonably quantified. Fuel consumption associated with vehicle trips generated by the proposed Project would be less than for the existing use and therefore would not be considered inefficient, wasteful, or unnecessary.

6.4.3 ENERGY DEMAND

As identified in Section 4.5, Greenhouse Gas Emissions, Title 24 of the *California Code of Regulations* (CCR, specifically, Part 6) is California's Energy Efficiency Standards for Residential and Non-residential Buildings. Title 24 was established by the California Energy Commission (CEC) in 1978 in response to a legislative mandate to create uniform building codes to reduce California's energy consumption and to provide energy efficiency standards for residential and non-residential buildings. The current applicable standards are the 2016 Standards, effective July 1, 2017. The 2016 standards are 28 percent more efficient for residential buildings than the previous 2013 code.

The 2016 California Green Building Standards Code (24 CCR, Part 11), also known as the CALGreen code, contains mandatory requirements for new residential and nonresidential buildings (including buildings for retail, office, public schools, and hospitals) throughout California. The development of the CALGreen Code is intended to (1) cause a reduction in GHG emissions from buildings; (2) promote environmentally responsible, cost-effective, healthier places to live and work; (3) reduce energy and water consumption; and (4) respond to the directives by the Governor. In short, the code is established to reduce construction waste; make buildings more efficient in the use of materials and energy; and reduce environmental impact during and after construction.

Based on the CalEEMod, the electricity demand from the Project would be approximately 601,000 kilowatt hours per year (kWh/year) and the natural gas consumption would be approximately 1,371 million British Thermal Units per year (MBTU/year) or 13,713 therms per year. Orange County's total electrical and natural gas consumption in 2016 was approximately 20,400 million KWh and 570 million therms (CEC 2018). At full build-out, Project's electricity use would be approximately 0.003 percent of the existing (2016) electricity use in Orange County and natural gas use would be approximately 0.002 percent of the existing (2016) natural gas use in Orange County. The proposed Project would not result in excessive long-term operational energy demand

In summary, the Project's proximity to public transit (i.e., public bus on Bristol Street adjacent to the site), and the proposed facility that would be built to the latest and most efficient energy codes would avoid inefficient, wasteful and unnecessary consumption of energy.

6.5 **References**

- California Energy Commission (CEC) 2018 (Accessed February 16). California Energy Consumption Database. http://www.ecdms.energy.ca.gov/
- Center for Demographic Research (CDR). 2016 (June 23, final approval). OCP-2014-Modified Report Data (City Tabs) (an Excel Spreadsheet). Fullerton, CA: CDR.

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7.0 PERSONS AND ORGANIZATIONS CONSULTED

7.1 AGENCY COORDINATION

7.1.1 CITY OF NEWPORT BEACH

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Kristin Thompson	EMS Division Chief, Newport Beach Fire Department
Angela VelazquezAc	lministrative Manager, Newport Beach Fire Department
Tom Fischbacher	Lieutenant, Newport Beach Police Department

7.1.2 OC WASTE & RECYCLING

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7.2.1 IRVINE RANCH WATER DISTRICT

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8.0 LIST OF PREPARERS

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