

## Appendices

# **Appendix A      Notice of Preparation (NOP) and NOP Comment Letters**

## Appendices

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## Notice of Preparation and Scoping Meeting Newport Crossings Mixed Use Project Environmental Impact Report (PA2017-107)

**DATE:** November 1, 2017

**TO:** Reviewing Agencies and Other Interested Parties

**FROM:** City of Newport Beach, Community Development Department, 100 Civic Center Drive, Newport Beach, CA 92660

**PROJECT TITLE/SUBJECT:** Newport Crossings Mixed Use Project: Notice of Preparation of an Environmental Impact Report and Notice of Public Scoping Meeting

**PROJECT APPLICANT:** Starboard MacArthur Square LP

**NOTICE OF PREPARATION REVIEW PERIOD:** November 1, 2017, through November 30, 2017 (30 days)

**SCOPING MEETING:** Thursday, November 16, 2017, at 6:00 PM, OASIS Senior Center, 801 Narcissus Avenue, Corona Del Mar, CA 92625

Pursuant to Public Resources Code Section 21165 and the California Environmental Quality Act Guidelines (CEQA Guidelines) Section 15050, the City of Newport Beach (City) is the Lead Agency responsible for preparation of an Environmental Impact Report (EIR) addressing potential impacts associated with the proposed Newport Crossings Mixed Use Project.

### **REQUEST FOR COMMENTS ON THE SCOPE OF THE EIR**

The purpose of this Notice of Preparation (NOP) is to solicit comments and suggestions regarding the scope and content of the EIR and the environmental issues and alternatives to be addressed in the EIR (CEQA Guidelines § 15082). This NOP also gives notice of the public scoping meeting. The City, as Lead Agency, respectfully requests that any Responsible or Trustee Agency responding to this notice reply in a manner consistent with State CEQA Guidelines Section 15082(b). Comments and suggestions should identify the significant environmental issues, reasonable alternatives, and mitigation measures that should be explored in the EIR, in addition to whether the responding agency will be a responsible or trustee agency for the proposed project.

The attached summary of the proposed project's probable environmental effects and alternatives is not an analysis of the project or its impacts. The project summary information is intended to provide said agencies, interested parties, and organizations with sufficient information describing the proposed project and the environmental issues that will be addressed in the EIR so that meaningful responses and comments can be provided.

### **PROJECT LOCATION**

The 5.7-acre project site is located within the Newport Place Planned Community (PC-11) in the Airport Area of the City of Newport Beach (see Figure 1, *Regional Location*). It is generally bounded by Corinthian Way to the northeast, Martingale Way to the east, Scott Drive to the northwest, and Dove Street to the southwest. The site is currently improved with the 58,277-square-foot MacArthur Square shopping center built in 1974, which consists of eight retail/commercial buildings, surface parking, and ornamental trees (see Figures 2, *Local Vicinity*, and 3, *Aerial Photograph*).

The City of Newport Beach General Plan designation for the proposed project site is MU-H2 (Mixed-Use Horizontal 2) and the zoning is PC-11 (Planned Community 11, Newport Place). The site is also located within the limits of the Airport Area Planning Sub-area of the General Plan, and is located within the 60-decibel noise contour of the airport environs land use plan for John Wayne Airport.

## PROJECT DESCRIPTION

The proposed project would consist of 350 residential dwelling units, 2,000 square feet of “casual-dining” restaurant space, 5,500 square feet of commercial space, and a 0.5-acre public park. The proposed buildings would be approximately 55 feet for livable spaces, with limited ancillary structures to 77 feet for architectural features, elevator shafts, and mechanical equipment. A six-story parking structure (one level subterranean and five levels above ground) is proposed in the center of the site to be surrounded and screened from public views by the residential and commercial buildings on all sides.

A more detailed project description is provided in the attached project summary, which is intended to provide agencies and interested parties and organizations with sufficient information that meaningful comments can be provided to the City.

## RESPONDING TO THIS NOTICE

The City requests your careful review and consideration of this notice, and it invites input and comments from responsible and trustee agencies and interested persons and organizations regarding the preparation of the EIR. Pursuant to CEQA Section 21080.4, agencies must submit any comments in response to this notice no later than *30 days after receipt of this notice*. The City will accept comments from other parties regarding this notice through the close of business on November 30, 2017. If comments are submitted by e-mail with attachments, it is recommended that the attachments be delivered in writing. Virus protection measures and variety of formats for attachments can limit the ability for the attachments to be delivered. E-mail responses to this notice may be sent to [RUng@newportbeachca.gov](mailto:RUng@newportbeachca.gov).

All comments or other responses to this notice should be submitted in writing to:

Rosalinh Ung, Associate Planner  
City of Newport Beach  
Community Development Department  
100 Civic Center Drive  
Newport Beach, California 92660

The NOP is also available at the City of Newport Beach at the address and department noted above, and can also be accessed online at: <http://www.newportbeachca.gov/cegadocuments>. Additionally, copies of the document are also available for review at the following City of Newport Beach public libraries:

Central Library  
1000 Avocado Avenue  
Newport Beach, CA 92660

Mariners Branch  
1300 Irvine Avenue  
Newport Beach, CA 92660

Balboa Branch  
100 East Balboa Boulevard  
Newport Beach, CA 92660

Corona del Mar Branch  
420 Marigold Ave.  
Corona Del Mar, CA 92625

All parties that have submitted their names and mailing addresses will be notified of the availability of the Draft EIR. If you wish to be placed on the mailing list, have any questions, or need additional information, please contact the person identified above at (949) 644-3208.

## PUBLIC SCOPING MEETING

The City will hold a public scoping meeting to solicit comments on the scope of the EIR on **Thursday, November 16, 2017 at 6:00 p.m.** at the OASIS Senior Center, 801 Narcissus Avenue, Corona Del Mar, CA 92625. Questions regarding the scoping meeting should be directed to Rosalinh Ung.

## NEWPORT CROSSINGS MIXED USE PROJECT

As shown on Figure 4, *Proposed Site Plan*, the proposed project would consist of 350 residential dwelling units, 2,000 square feet of “casual-dining” restaurant space, 5,500 square feet of commercial space, and a 0.5-acre public park. The proposed buildings would be approximately 55 feet for livable spaces, with limited ancillary structures to 77 feet for architectural features, elevator shafts, and mechanical equipment. A six-story parking structure (one level subterranean and five levels above ground) is proposed in the center of the site to be surrounded and screened from public views by the residential and commercial buildings on all sides. The project would provide a total of 740 parking stalls for its residential and retail uses.

### Residential Development

The Newport Crossings residential portion of the project would be designed with contemporary architecture with landscaped setbacks along its perimeter. As shown on Figure 5, *Conceptual Landscape Plan*, outdoor residential amenity areas proposed include two interior courtyards, one park-facing courtyard with a pool and spa, and an 8,000-square foot rooftop deck. Other residential amenities include a club room and fitness facility.

- **Pool Courtyard:** The community pool and spa courtyard would be available to residents and their guests. The courtyard includes a clubroom, an outdoor terrace, barbecue grills, and an outdoor fireplace. Chaise lounges and cabanas provide for poolside seating, and the spa terrace would be developed with lounging on deck or synthetic turf with a fireplace. A round metal trellis at the south end of the pool courtyard is intended for hanging “pod” chairs with views back to the clubroom.
- **Entertainment Courtyard:** Intended for the passive user and bisected by the resident corridor, uses in the entertainment courtyard may include a fire pit, barbecue grills, soft seating, and overhead festival lights. Ground-level units surrounding the entertainment courtyard would have enlarged private patios.
- **Lounge Courtyard:** The lounge courtyard is intended for the passive user and bisected by the resident corridor. Uses in this courtyard may include a lounge cabana with fire pit, barbecue grills, communal dining tables, and soft seating. Ground-level units surrounding the lounge courtyard would have enlarged private patios.
- **Rooftop Terrace at Level 7:** Located on Level 7 on the north side of the proposed parking structure would be the rooftop terrace. The terrace would include a spa with a cabana and sunning furniture. A fireside lounge with a three-sided fireplace, group shade structure, lounge seating, and overhead festival lights would be developed at the center of the terrace. The rooftop would also include a dining terrace with barbecue grills, communal tables and outdoor kitchen, and a game lawn with synthetic turf, game tables, and overhead festival lighting.

The project will utilize a 35 percent density bonus, as permitted by Newport Beach Municipal Code Chapter 20.32, in order to achieve its 350 units. Of the 350 residential units, 29 would be studio units, 197 would be one-bedroom units, and 124 would be two-bedroom units. The project is also reserving 52 of its 350 residential units for low-income households, as required by the Newport Place Planned Community. An affordable housing in-lieu fee to the City is also proposed.

### Commercial/Retail Plaza

The public Retail Plaza would be located at the intersection of Corinthian Way and Martingale Way. A 5,500-square-foot commercial space is anticipated to contain a variety of retail uses and 2,000 square feet of restaurant space with outdoor dining to serve as the social hub for local office users and residents.

In addition to the planned retail spaces, an outdoor plaza is proposed to include fire pits, bike racks, a palm tree grove, soft furniture (i.e., chairs, loveseats, couches, tables and umbrellas), and overhead festival lighting. The plaza would be managed and operated by the apartment property management company.

### **Community Park**

The half-acre community park would be located in the southern portion of the project site with frontages on Dove Street and Martingale Way. It would be dedicated to the City of Newport Beach by the project applicant. The park is intended to serve the neighborhood as an activity center and respite from the existing office environment. Anticipated park amenities include a fenced dog park, central dining terrace with group shade structure, games terrace with outdoor ping pong and bocce court, multi-purpose lawn area, and one fenced pickleball court. An off-street parking lot for park users is also proposed. The public park would be landscaped with low-water-use plants and a tree hedge to screen the adjacent parking lot. Similar to the retail plaza, the public park would be managed and operated by the apartment property management company.

### **Demolition and Construction**

The existing MacArthur Square shopping plaza would be completely demolished prior to site grading and building construction. Demolition debris would be crushed onsite and hauled offsite to nearby OC Waste & Recycling landfill(s) serving the City, such as the Frank R. Bowerman landfill in Irvine, the Prima Deshecha landfill in San Juan Capistrano, or the Olinda Alpha Sanitary landfill in Brea. To grade the site appropriately, approximately 4,700 cubic yards of export would be required.

### **Alternatives to the Proposed Project**

CEQA Guidelines Section 15126.6(a) 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.” The anticipated range of alternatives to be addressed for the project will include alternatives that are specifically required by CEQA (i.e., No Project, No Action/No Development). Additional land use alternatives to be addressed could include a reduced development/reduced density alternative and a design alternative.

### **Discretionary Actions**

Development of the proposed project would require the following approvals from the City of Newport Beach:

- **Tentative Tract Map.** To allow future individual dwelling units to be sold separately as condominiums.
- **Site Development Review.** To ensure site development is in accordance with the applicable planned community and zoning code development standards and regulations pursuant to Section 20.52.080 (Site Development Reviews) of the Zoning Code and to allow an increase in the base height limit pursuant to Section 20.30.060.C (Height Limits and Exceptions) of the Zoning Code.
- **Traffic Study.** To study potential traffic impacts pursuant to the CEQA Guidelines (the City of Newport Beach Traffic Phasing Ordinance does not apply to this project).
- **Environmental Impact Report (EIR).** To address reasonably foreseeable environmental impacts resulting from the legislative and project-specific discretionary approvals pursuant to CEQA.

In addition to the approvals identified above, the proposed project would be subject to other discretionary and ministerial actions by the City as part of project implementation. Additional City approvals include but are not

limited to site development permits, grading permits, a Water Quality Management Plan and Stormwater Pollution Prevention Plan, use permits, sign permits, and building permits.

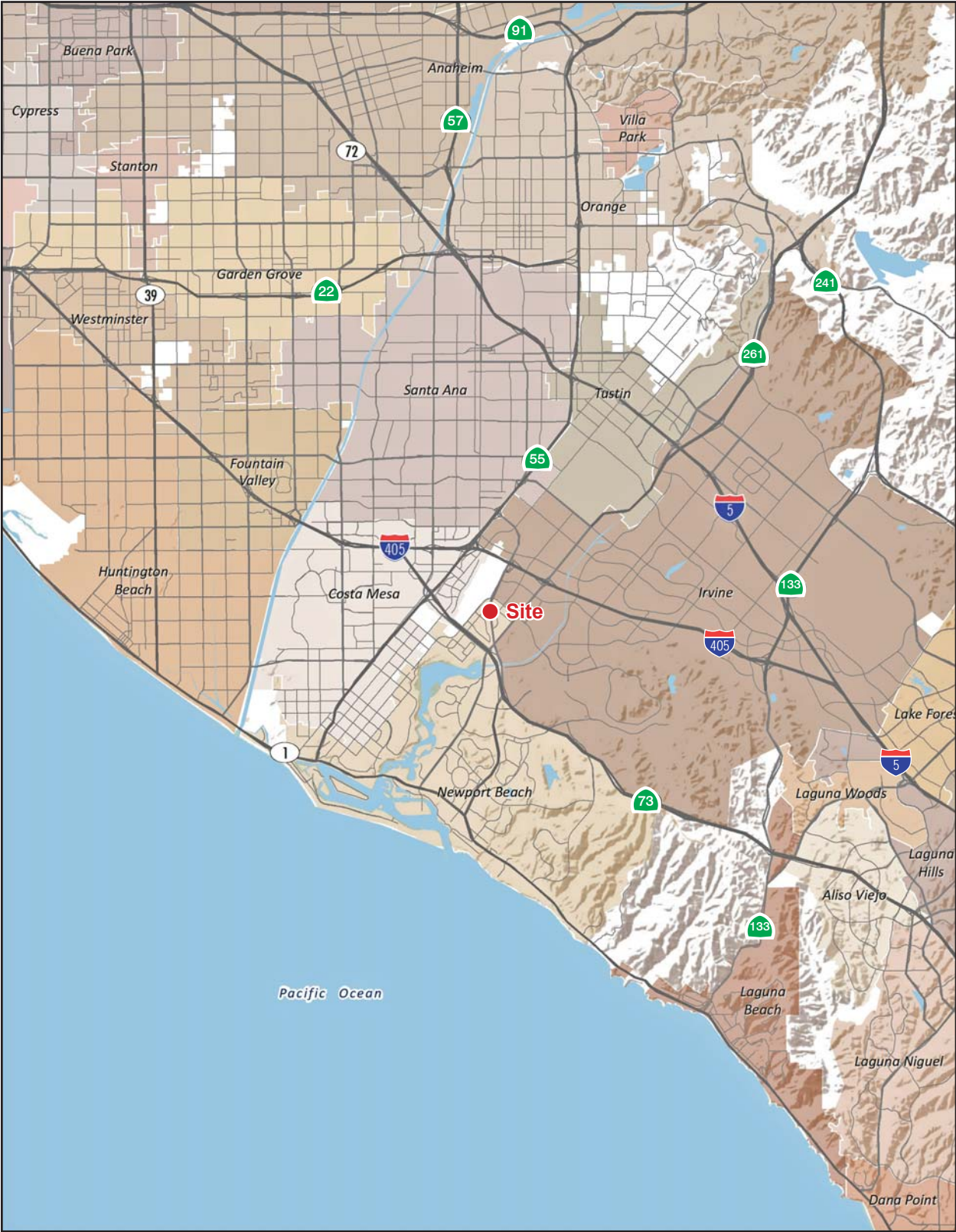
### **Probable Environmental Effects**

The City has determined that an EIR will be prepared for the proposed project in accordance with the requirements of the CEQA Statute and Guidelines, as amended. Based on the City's preliminary analysis of the project, the following environmental impact categories and their associated impact thresholds will be examined in the EIR:

- |                                      |                               |                             |
|--------------------------------------|-------------------------------|-----------------------------|
| ▪ Aesthetics                         | ▪ Greenhouse Gas Emissions    | ▪ Population/Housing        |
| ▪ Agriculture and Forestry Resources | ▪ Hazards/Hazardous Materials | ▪ Public Services           |
| ▪ Air Quality                        | ▪ Hydrology/Water Quality     | ▪ Recreation                |
| ▪ Biological Resources               | ▪ Land Use/Planning           | ▪ Transportation/Traffic    |
| ▪ Cultural Resources                 | ▪ Mineral Resources           | ▪ Tribal Cultural Resources |
| ▪ Energy                             | ▪ Noise                       | ▪ Utilities/Service Systems |
| ▪ Geology and Soils                  |                               |                             |

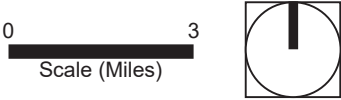
The EIR will also address the short- and long-term effects of the proposed project on the environment. Mitigation measures will be proposed for impacts that are determined to be significant, and a mitigation monitoring program will be developed as required by Section 15150 of the CEQA Guidelines.

Figure 1 - Regional Location



Note: Unincorporated county areas are shown in white.

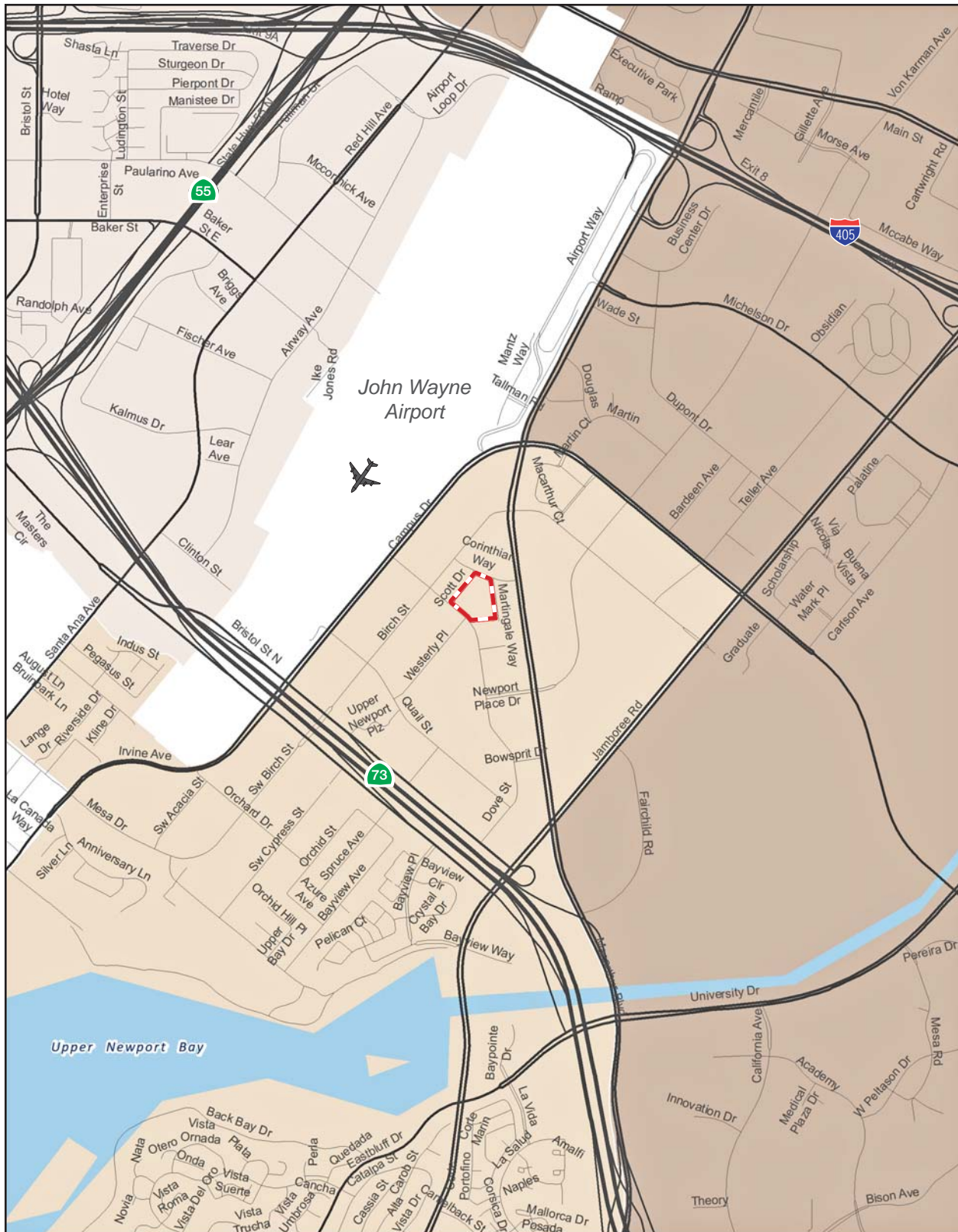
Source: ESRI, 2017



PlaceWorks



Figure 2 - Local Vicinity

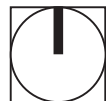


Note: Unincorporated county areas are shown in white.

--- Project Boundary

Source: ESRI, 2015

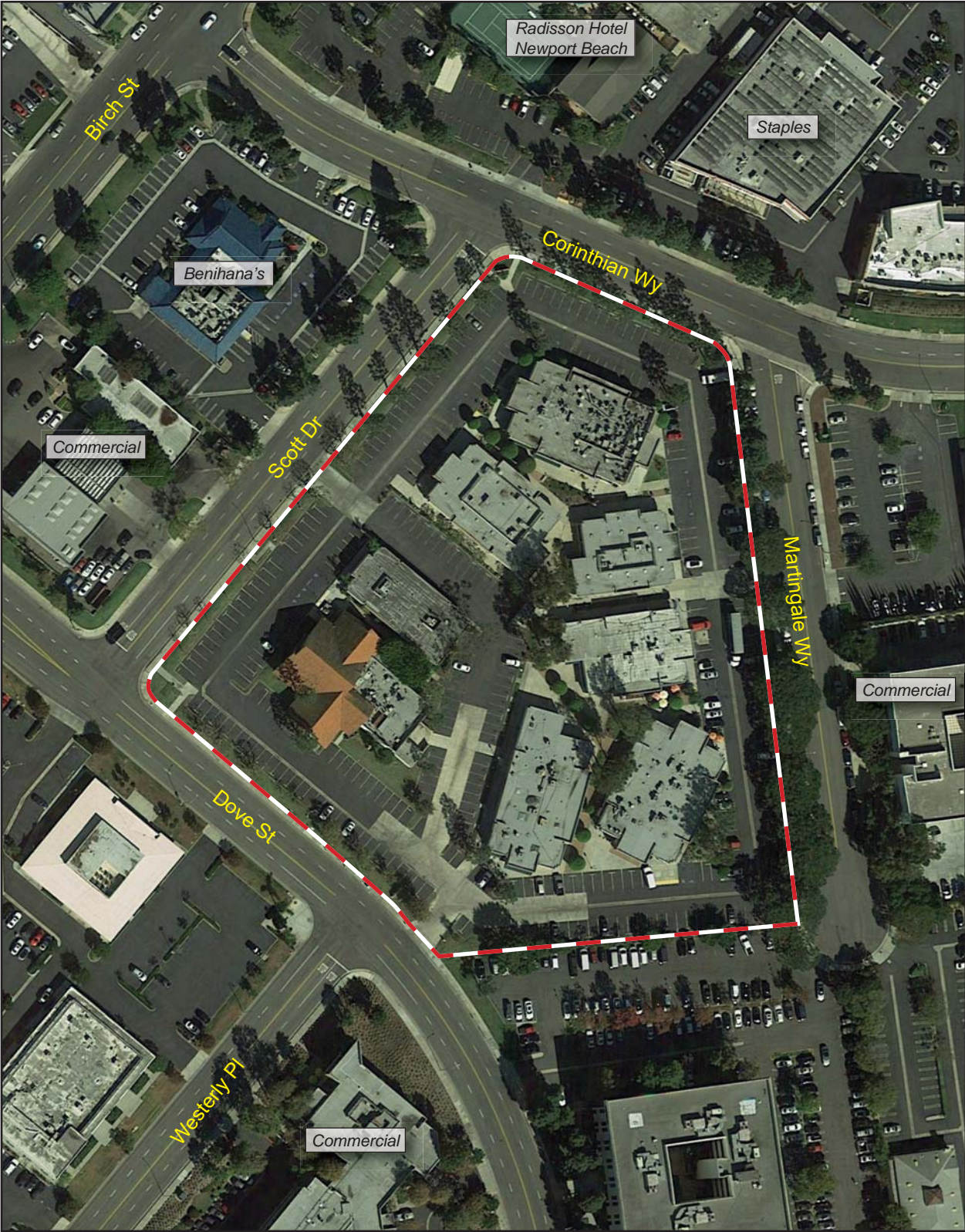
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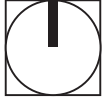


Figure 3 - Aerial Photograph



--- Project Boundary

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Source: Google Earth Pro, 2017

PlaceWorks



Figure 4 - Proposed Site Plan

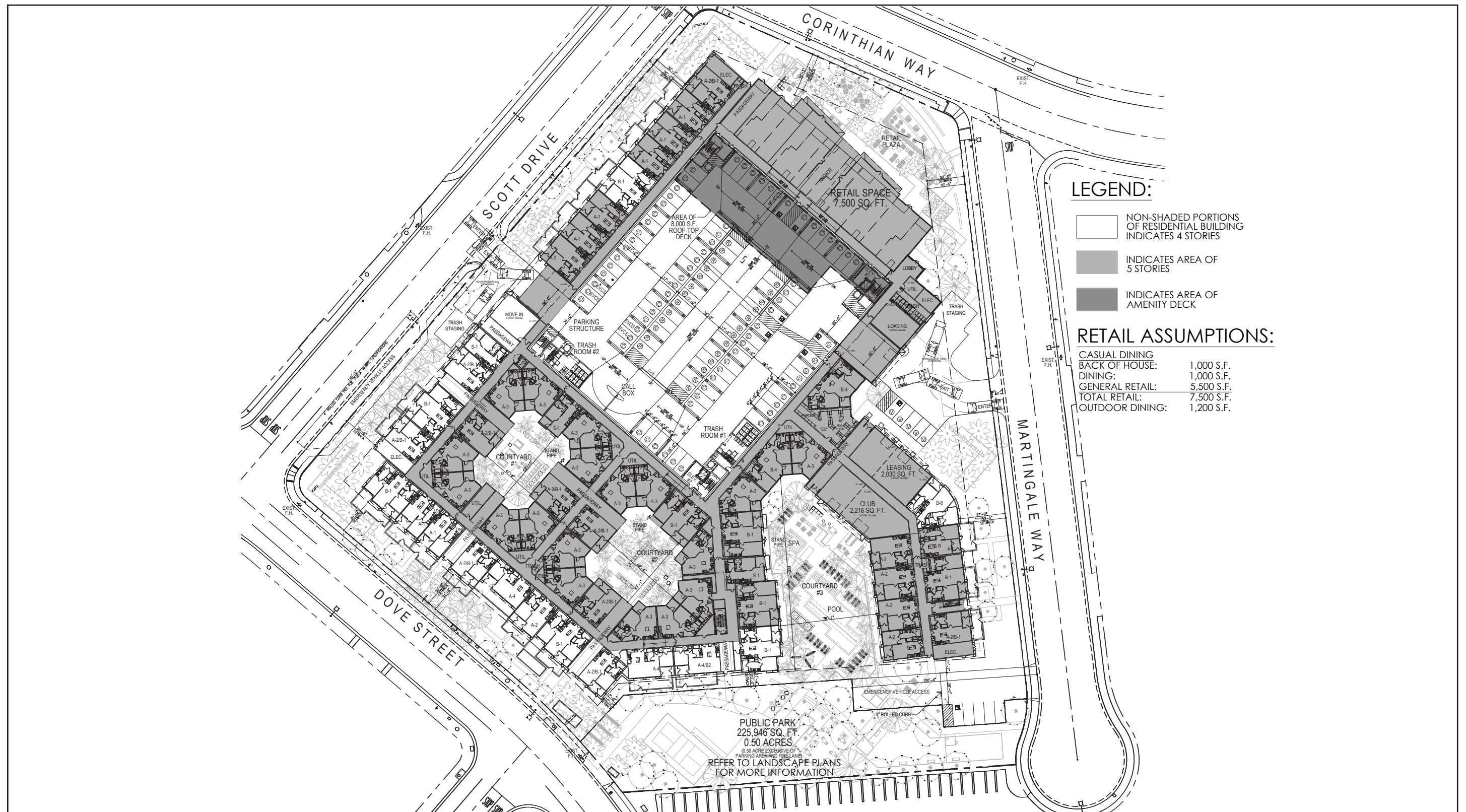




Figure 5 - Conceptual Landscape Plan



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Scale (Feet)





# AIRPORT LAND USE COMMISSION

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FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

November 16, 2017

Rosalinh Ung, Associate Planner  
City of Newport Beach  
Community Development Department  
100 Civic Center Drive  
Newport Beach, CA 92660

**Subject: NOP of DEIR for Newport Crossings Mixed Use Project**

Dear Ms. Ung:

Thank you for the opportunity to review the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the proposed Newport Crossings Mixed Use Project in the context of the Airport Land Use Commission's (ALUC) *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)*. The proposed project consists of 350 residential dwelling units, 2,000 square feet of casual-dining restaurant space, and 5,500 square feet of commercial space, and a 0.5-acre public park. Portions of the proposed project may be built to 77 feet. The proposed project is bounded by Corinthian Way to the northeast, Martingale Way to the east, Scott Drive to the northwest, and Dove Street to the southwest.

The proposed project is located within the Federal Aviation Regulation (FAR) Part 77 Notification Area for JWA. The DEIR should clearly state the proposed maximum building heights for the various uses. We recommend that the project proponent utilize the Notice Criteria Tool on the Federal Aviation Administration (FAA) website <https://oeaaa.faa.gov/oeaaa/external/portal.jsp> to determine if the proposed project penetrates the notification surface and requires filing Form 7460-1 Notice of Proposed Construction or Alteration with the FAA. The results from the Notice Criteria Tool should be included in the DEIR. Additionally, if the project requires Form 7460-1 filing, the resulting FAA airspace determination should be included in the project submittal package to ALUC.

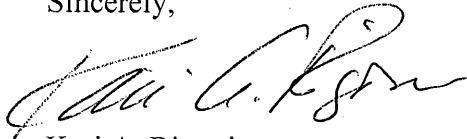
With respect to noise, the proposed project is located within the 60 dBA CNEL noise contour and is located within Safety Zone 6 for JWA which will subject the proposed project to overflight from general aviation operations. The DEIR should discuss how the proposed project will address noise and safety concerns.



A referral by the City to the ALUC may be required for this project due to the close proximity of the proposal to JWA. In this regard, please note that the Commission wants such referrals to be submitted and agendaized by the ALUC staff between the Local Agency'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 agendaizing.

Thank you again for the opportunity to comment on the NOP. Please contact Lea Choum at (949) 252-5123 or via email at [lchoum@ocair.com](mailto:lchoum@ocair.com) should you have any questions related to the Airport Land Use Commission for Orange County.

Sincerely,

A handwritten signature in black ink, appearing to read "Kari A. Rigoni". The signature is fluid and cursive, with a large loop at the end.

Kari A. Rigoni  
Executive Officer



November 21, 2017

Ms. Rosalinh Ung  
City of Newport Beach  
Community Development Department  
100 Civic Center Drive  
Newport Beach, CA 92660

**Subject: Notice of Preparation of an Environmental Impact Report  
for the Newport Crossings Mixed Use Project located in the City of  
Newport Beach**

Dear Ms. Ung:

City of Irvine staff reviewed the Notice of Preparation (NOP) for the Newport Crossings Mixed Use Project located within the Newport Place Planned Community in the Airport Area of the City of Newport Beach. The site is bounded by Corinthian Way to the northeast, Martingale Way to the east, Scott Drive to the northwest, and Drove Street to the southwest. The proposed project consists of 350 residential units, 2,000 square feet of casual dining restaurant space, 5,500 square feet of commercial space, and a 0.5-acre public park. Staff offers the following recommendations for the traffic study that will be prepared for this project:

- 1) Analyze the AM and PM peak periods as well as the average daily conditions for all study area locations.
- 2) As part of the study area, include the intersections and arterials located within the City of Irvine bounded by I-405 to the north, MacArthur to the west, and Jamboree to the east. Apply the City's IBC Vision Plan methodology and performance criteria along these arterial/intersections for the 2020, 2035 and post 2035 year scenarios (pending and approved projects). To confirm the land use and network data for the traffic modeling analysis, please contact Ali Banava, Senior Transportation Analyst, at 949-724-6425 or [ABanava@cityofirvine.org](mailto:ABanava@cityofirvine.org).
- 3) Provide an analysis of already approved projects (i.e., General Plan build-out) and a cumulative analysis that includes projects currently on file or concurrently being reviewed in each of our respective cities. To obtain the current list of projects, please contact Ali Banava, Senior Transportation Analyst, at 949-724-6425 or [ABanava@cityofirvine.org](mailto:ABanava@cityofirvine.org).

Ms. Rosalinh Ung  
November 21, 2017  
Page 2

If you have any questions, you may contact me at 949-724-6364 or by email at [jequina@cityofirvine.org](mailto:jequina@cityofirvine.org).

Sincerely,



Justin Equina  
Associate Planner

cc: Kerwin Lau, Manager of Planning Services  
Bill Jacobs, Principal Planner  
Farideh Lyons, Senior Transportation Analyst



**From:** Ung, Rosalinh  
**To:** [JoAnn Hadfield](#)  
**Cc:** [Frances Yau](#)  
**Subject:** FW: The Newport Crossing Mixed Use Project (PA2017-107)  
**Date:** Tuesday, November 21, 2017 7:28:23 AM  
**Attachments:** [image001.png](#)

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**ROSALINH UNG**  
**Community Development Department**  
Associate Planner  
[rung@newportbeachca.gov](mailto:rung@newportbeachca.gov)  
949-644-3208

**CITY OF NEWPORT BEACH**

[100 Civic Center Drive, First Floor Bay B, Newport Beach, California 92660](#) | [newportbeachca.gov](http://newportbeachca.gov)

**From:** Kerri Hirsch [<mailto:keljackea@gmail.com>]  
**Sent:** Tuesday, November 21, 2017 4:58 AM  
**To:** Ung, Rosalinh <[RUng@newportbeachca.gov](mailto:RUng@newportbeachca.gov)>  
**Subject:** The Newport Crossing Mixed Use Project (PA2017-107)

As a resident and registered voter in Newport Beach I strongly oppose this project. It is way too large and will most definitely increase car trips by over 150. Why isn't this a greenlight vote?

--

**Kerri Hirsch**  
949-533-4035



November 17, 2017

Rosalinh Ung, Associate Planner  
City of Newport Beach  
Community Development Department  
100 Civic Center Drive  
Newport Beach, CA 92660

**Re: Notice of Preparation – Newport Crossings Environmental Impact Report**

Dear Ms. Ung:

Irvine Ranch Water District (IRWD) has reviewed the Notice of Preparation (NOP) of the Environmental Impact Report (EIR) for the Newport Crossings Mixed Use Project in Newport Beach. IRWD has confirmed that this project is outside IRWD's service area. Therefore, it is IRWD's understanding that this project should have no impacts to IRWD. If this is not correct or if there are any future changes to the project which will impact IRWD, Newport Beach is required to notify IRWD so that IRWD may review and comment on the Draft EIR.

IRWD appreciates the opportunity to review the NOP for the Newport Crossings Mixed Use Project EIR. If you have any questions, please contact the undersigned or JoAnn Corey, Environmental Compliance Specialist at (949) 453-5326.

Sincerely,

A handwritten signature in black ink, appearing to read "Fiona M. Sanchez", is written over a light blue horizontal line.

Fiona M. Sanchez  
Director of Water Resources

cc: Jo Ann Corey, IRWD

## NATIVE AMERICAN HERITAGE COMMISSION

Environmental and Cultural Department  
1550 Harbor Blvd., Suite 100  
West Sacramento, CA 95691  
Phone (916) 373-3710



November 8, 2017

Rosalinh Ung  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

Sent via e-mail: [rung@newportbeachca.gov](mailto:rung@newportbeachca.gov)

RE: SCH# 2017101067; Newport Crossings Mixed Use Residential Project; Orange County, California

Dear Ms. Ung:

The Native American Heritage Commission has received the Notice of Preparation (NOP) for Draft Environmental Impact Report for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.), specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b) (CEQA Guidelines Section 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared. (Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd. (a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

**CEQA was amended significantly in 2014.** Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a **separate category of cultural resources**, "tribal cultural resources" (Pub. Resources Code § 21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment (Pub. Resources Code § 21084.2). Please reference California Natural Resources Agency (2016) "Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form," <http://resources.ca.gov/ceqa/docs/ab52/Clean-final-AB-52-App-G-text-Submitted.pdf>. Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code § 21084.3 (a)). **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. § 800 et seq.) may also apply.

The NAHC recommends **lead agencies consult with all California Native American tribes** that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments. **Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

## AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
  - a. A brief description of the project.
  - b. The lead agency contact information.
  - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code § 21080.3.1 (d)).
  - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code § 21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A **lead agency** shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code § 21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. (Pub. Resources Code § 21080.3.1(b)).
  - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18). (Pub. Resources Code § 21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
  - a. Alternatives to the project.
  - b. Recommended mitigation measures.
  - c. Significant effects. (Pub. Resources Code § 21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
  - a. Type of environmental review necessary.
  - b. Significance of the tribal cultural resources.
  - c. Significance of the project's impacts on tribal cultural resources.
  - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code § 21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code § 21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
  - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
  - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code § 21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
  - a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
  - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2 (b)).
8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code § 21082.3 (a)).
9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b). (Pub. Resources Code § 21082.3 (e)).
10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
  - a. Avoidance and preservation of the resources in place, including, but not limited to:
    - i. Planning and construction to avoid the resources and protect the cultural and natural context.
    - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
    - i. Protecting the cultural character and integrity of the resource.
    - ii. Protecting the traditional use of the resource.
    - iii. Protecting the confidentiality of the resource.
  - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
  - d. Protecting the resource. (Pub. Resource Code § 21084.3 (b)).
  - e. Please note that a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code § 815.3 (c)).
  - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code § 5097.991).
11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An environmental impact report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
  - a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
  - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
  - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code § 21082.3 (d)).

*This process should be documented in the Cultural Resources section of your environmental document.*

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)



## SB 18

SB 18 applies to local governments and requires **local governments** to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code § 65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf)

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code § 65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code section 65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction. (Gov. Code § 65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

## NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have been already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

- b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
3. Contact the NAHC for:
  - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
  - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

Sincerely,

Gayle Totton, M.A., PhD.  
Associate Governmental Program Analyst  
(916) 373-3714



EDMUND G. BROWN JR.  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT

RECEIVED BY  
COMMUNITY  
DEVELOPMENT



KEN ALEX  
DIRECTOR

Notice of Preparation

NOV 06 2017

October 31, 2017

CITY OF  
NEWPORT BEACH

To: Reviewing Agencies

Re: Newport Crossings Mixed Use Residential Project  
SCH# 2017101067

Attached for your review and comment is the Notice of Preparation (NOP) for the Newport Crossings Mixed Use Residential Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

**Rosalinh Ung**  
**City of Newport Beach**  
**100 Civic Center Drive**  
**Newport Beach, CA 92660**

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

  
Scott Morgan  
Director, State Clearinghouse

Attachments  
cc: Lead Agency



# Document Details Report

## State Clearinghouse Data Base

**SCH#** 2017101067  
**Project Title** Newport Crossings Mixed Use Residential Project  
**Lead Agency** Newport Beach, City of

**Type** NOP Notice of Preparation  
**Description** The proposed project would consist of 350 residential dwelling units, 2,000 square feet of 'casual dining' restaurant space, 5,500 square feet of commercial space, and a 0.5 - acre public park. A six-story parking structure (one level subterranean and five levels above ground) is proposed in the center of the site to be surrounded and screened from public views by the residential and commercial buildings on all sides. Outdoor residential amenities include pool, entertainment, and lounge courtyards and a rooftop terrace. A commercial /retail plaza would provide a social hub surrounding the retail and restaurant uses with fire pits, soft furniture, landscaping, and festival lighting. The community park would include a dog park, dining terrace, shade structures, games terrace, lawn area, pickleball courts, and a parking lot.

### Lead Agency Contact

**Name** Rosalinh Ung  
**Agency** City of Newport Beach  
**Phone** (949) 644-3208 **Fax**  
**email**  
**Address** 100 Civic Center Drive  
**City** Newport Beach **State** CA **Zip** 92660

### Project Location

**County** Orange  
**City** Newport Beach  
**Region**  
**Cross Streets** Dove Street/Scott Drive, Scott Drive/Corinthian Way. Corinthian Way/Martingale Way  
**Lat / Long** 33° 39' 57" N / 117° 51' 57" W  
**Parcel No.** various  
**Township** **Range** **Section** **Base**

### Proximity to:

**Highways** 73,55, I-405  
**Airports** John Wayne Airport  
**Railways**  
**Waterways** Newport Bay, San Diego Creek, Paularino Channel  
**Schools** Various  
**Land Use** GP Destination - MU H2 (Mixed Use Horizontal); Zoning - PC -11 (Planned Community 11, Newport Place)

**Project Issues** Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Toxic/Hazardous; Traffic/Circulation; Landuse; Other Issues

**Reviewing Agencies** Resources Agency; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Wildlife, Region 5; Native American Heritage Commission; Caltrans, District 12; State Water Resources Control Board, Division of Drinking Water; State Water Resources Control Board, Division of Financial Assistance; State Water Resources Control Board, Division of Water Quality; State Water Resources Control Board, Division of Water Rights; Regional Water Quality Control Board, Region 9

**Date Received** 10/31/2017 **Start of Review** 10/31/2017 **End of Review** 11/29/2017

**Notice of Completion & Environmental Document Transmittal**

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613  
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # **2017101067**

**Project Title:** Newport Crossings Mixed Use Residential ProjectLead Agency: City of Newport BeachContact Person: Rosalinh UngMailing Address: 100 Civic Center DrivePhone: (949) 644-3208City: Newport BeachZip: 92660County: Orange**Project Location:** County: Orange City/Nearest Community: City of Newport BeachCross Streets: Dove Street/Scott Drive, Scott Drive/Corinthian Way, Corinthian Way/Martingale Way Zip Code: 92660Longitude/Latitude (degrees, minutes and seconds): 33 ° 39 ' 57 " N / -117 ° 51 ' 57 " W Total Acres: 5.7 acresAssessor's Parcel No.: Various

Section: \_\_\_\_\_

Twp.: \_\_\_\_\_

Range: \_\_\_\_\_

Base: \_\_\_\_\_

Within 2 Miles: State Hwy #: 73, 55, I-405Waterways: Newport Bay, San Diego Creek, Paularino ChannelAirports: John Wayne AirportRailways: NoneSchools: Various**Document Type:**CEQA: ☒ NOP☐ Draft EIRNEPA: ☐ NOIOther: ☐ Joint Document☐ Early Cons☐ Supplement/Subsequent EIR☐ Draft EIS☐ Other Document☐ Neg Dec

(Prior SCH No.) \_\_\_\_\_

☐ FONSI

Other: \_\_\_\_\_

☐ Mit Neg Dec

Other: \_\_\_\_\_

OCT 31 2017

**Local Action Type:**☐ General Plan Update☐ Specific Plan☐ Rezone☐ Annexation☐ General Plan Amendment☐ Master Plan☐ Prezone☐ Redevelopment☐ General Plan Element☐ Planned Unit Development☐ Use Permit☐ Coastal Permit☐ Community Plan☒ Site Plan☐ Land Division (Subdivision, etc.)☐ Other: \_\_\_\_\_**Development Type:**☒ Residential: Units 350 Acres \_\_\_\_\_☐ Office: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_

Employees \_\_\_\_\_

☐ Transportation: Type \_\_\_\_\_☒ Commercial: Sq.ft. 7,500 Acres \_\_\_\_\_

Employees \_\_\_\_\_

☐ Mining: Mineral \_\_\_\_\_☐ Industrial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_

Employees \_\_\_\_\_

☐ Power: Type \_\_\_\_\_

MW \_\_\_\_\_

☐ Educational: \_\_\_\_\_☐ Waste Treatment: Type \_\_\_\_\_

MGD \_\_\_\_\_

☒ Recreational: 0.5-acre park☐ Hazardous Waste: Type \_\_\_\_\_☐ Water Facilities: Type \_\_\_\_\_

MGD \_\_\_\_\_

☐ Other: \_\_\_\_\_**Project Issues Discussed in Document:**☒ Aesthetic/Visual☐ Fiscal☒ Recreation/Parks☐ Vegetation☒ Agricultural Land☐ Flood Plain/Flooding☐ Schools/Universities☐ Water Quality☒ Air Quality☐ Forest Land/Fire Hazard☐ Septic Systems☐ Water Supply/Groundwater☒ Archeological/Historical☒ Geologic/Seismic☐ Sewer Capacity☐ Wetland/Riparian☒ Biological Resources☒ Minerals☐ Soil Erosion/Compaction/Grading☐ Growth Inducement☐ Coastal Zone☒ Noise☐ Solid Waste☒ Land Use☐ Drainage/Absorption☒ Population/Housing Balance☒ Toxic/Hazardous☐ Cumulative Effects☐ Economic/Jobs☒ Public Services/Facilities☒ Traffic/Circulation☒ Other: Energy, GHG**Present Land Use/Zoning/General Plan Designation:**GP Designation - MU-H2 (Mixed-Use Horizontal 2); Zoning - PC-11 (Planned Community 11, Newport Place)**Project Description:** (please use a separate page if necessary)

The proposed project would consist of 350 residential dwelling units, 2,000 square feet of 'casual-dining' restaurant space, 5,500 square feet of commercial space, and a 0.5-acre public park. A six-story parking structure (one level subterranean and five levels above ground) is proposed in the center of the site to be surrounded and screened from public views by the residential and commercial buildings on all sides. Outdoor residential amenities include pool, entertainment, and lounge courtyards and a rooftop terrace. A commercial/retail plaza would provide a social hub surrounding the retail and restaurant uses with fire pits, soft furniture, landscaping, and festival lighting. The community park would include a dog park, dining terrace, shade structures, games terrace, lawn area, pickleball courts, and a parking lot.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

# OP Distribution List

County: Orange

SCH#

2017101067

## Resources Agency

Nadell Gayou

Dept. of Boating & Waterways

Denise Peterson

California Coastal Commission

Alyson Hitt

Colorado River Board

Lisa Johansen

Dept. of Conservation

Crina Chan

Cal Fire

Dan Foster

Central Valley Flood Protection Board

James Herota

Office of Historic Preservation

Ron Parsons

Dept. of Parks & Recreation

Environmental Stewardship

S.F. Bay Conservation & Dev't. Comm.

Steve Goldbeck

Dept. of Water Resources

Nadell Gayou

Fish and Game

Depart. of Fish & Wildlife

Scott Flint

Environmental Services Division

Fish & Wildlife Region 1

Curt Babcock

Fish & Wildlife Region 1E

Laurie Hamsberger

Fish & Wildlife Region 2

Jeff Drongesen

Fish & Wildlife Region 3

Craig Weighman

Fish & Wildlife Region 4

Julie Vance

Fish & Wildlife Region 5

Leslie Newton-Reed

Habitat Conservation Program

Fish & Wildlife Region 6

Tiffany Ellis

Habitat Conservation Program

Fish & Wildlife Region 6 IM

Heidi Calvert

Inyo/Mono, Habitat Conservation Program

Dept. of Fish & Wildlife M

William Paznokas

Marine Region

Other Departments

California Department of Education

Lesley Taylor

OES (Office of Emergency Services)

Monique Wilber

Food & Agriculture

Sandra Schubert

Dept. of Food and Agriculture

Dept. of General Services

Cathy Buck

Environmental Services Section

Housing & Comm. Dev.

CEQA Coordinator

Housing Policy Division

Independent

Commissions, Boards

Delta Protection Commission

Erik Vink

Delta Stewardship Council

Keven Samsam

California Energy Commission

Eric Knight

Native American Heritage Comm.

Debbie Treadway

Public Utilities Commission

Supervisor

Santa Monica Bay Restoration

Guangyu Wang

State Lands Commission

Jennifer Deleong

Tahoe Regional Planning Agency (TRPA)

Cherry Jacques

Cal State Transportation Agency CalSTA

Caltrans - Division of Aeronautics

Philip Crimmins

Caltrans - Planning

HQ LD-IGR

Christian Bushong

California Highway Patrol

Suzann Ikeuchi

Office of Special Projects

Dept. of Transportation

Caltrans, District 1

Rex Jackman

Caltrans, District 2

Marcelino Gonzalez

Caltrans, District 3

Eric Federicks - South

Susan Zanchi - North

Caltrans, District 4

Patricia Maurice

Caltrans, District 5

Larry Newland

Caltrans, District 6

Michael Navarro

Caltrans, District 7

Dianna Watson

Caltrans, District 8

Mark Roberts

Caltrans, District 9

Gayle Rosander

Caltrans, District 10

Tom Dumas

Caltrans, District 11

Jacob Armstrong

Caltrans, District 12

Maureen El Harake

Cal EPA

Air Resources Board

Airport & Freight

Jack Wursten

Transportation Projects

Nesamani Kalandiyur

Industrial/Energy Projects

Mike Tollstrup

California Department of Resources, Recycling & Recovery

Sue O'Leary

State Water Resources Control Board

Regional Programs Unit

Division of Financial Assistance

State Water Resources Control Board

Cindy Forbes - Asst Deputy

Division of Drinking Water

State Water Resources Control Board

Div. Drinking Water #

State Water Resources Control Board

Student Intern, 401 Water Quality Certification Unit

Division of Water Quality

State Water Resources Control Board

Phil Crader

Division of Water Rights

Dept. of Toxic Substances Control

CEQA Tracking Center

Department of Pesticide Regulation

CEQA Coordinator

Regional Water Quality Control Board (RWQCB)

RWQCB 1

Cathleen Hudson

North Coast Region (1)

RWQCB 2

Environmental Document Coordinator

San Francisco Bay Region (2)

RWQCB 3

Central Coast Region (3)

RWQCB 4

Teresa Rodgers

Los Angeles Region (4)

RWQCB 5S

Central Valley Region (5)

RWQCB 5F

Central Valley Region (5)

Fresno Branch Office

RWQCB 5R

Central Valley Region (5)

Redding Branch Office

RWQCB 6

Lahontan Region (6)

RWQCB 6V

Lahontan Region (6)

Victorville Branch Office

RWQCB 7

Colorado River Basin Region (7)

RWQCB 8

Santa Ana Region (8)

RWQCB 9

San Diego Region (9)

Other

Conservancy

SENT VIA USPS AND E-MAIL:

November 17, 2017

[Rung@newportbeachca.gov](mailto:Rung@newportbeachca.gov)

Rosalinh Ung, Associate Planner  
City of Newport Beach  
Community Development Department  
100 Civic Center Drive  
Newport Beach, California 92660

**Notice of Preparation of an Environmental Impact Report for the  
Newport Crossings Mixed Use Project**

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to comment on the above-mentioned document. SCAQMD staff's comments are recommendations regarding the analysis of potential air quality impacts from the Proposed Project that should be included in the Environmental Impact Report (EIR). Please send SCAQMD a copy of the EIR upon its completion. Note that copies of the EIR that are submitted to the State Clearinghouse are not forwarded to SCAQMD. Please forward a copy of the EIR directly to SCAQMD at the address shown in the letterhead. **In addition, please send with the EIR all appendices or technical documents related to the air quality, health risk, and greenhouse gas analyses and electronic versions of all air quality modeling and health risk assessment files<sup>1</sup>. These include emission calculation spreadsheets and modeling input and output files (not PDF files). Without all files and supporting documentation, SCAQMD staff will be unable to complete our review of the air quality analyses in a timely manner. Any delays in providing all supporting documentation will require additional time for review beyond the end of the comment period.**

**Air Quality Analysis**

SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from SCAQMD's Subscription Services Department by calling (909) 396-3720. More guidance developed since this Handbook is also available on SCAQMD's website at: [http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/ceqa-air-quality-handbook-\(1993\)](http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/ceqa-air-quality-handbook-(1993)). SCAQMD staff also recommends that the Lead Agency use the CalEEMod land use emissions software. This software has recently been updated to incorporate up-to-date state and locally approved emission factors and methodologies for estimating pollutant emissions from typical land use development. CalEEMod is the only software model maintained by the California Air Pollution Control Officers Association (CAPCOA) and replaces the now outdated URBEMIS. This model is available free of charge at: [www.caleemod.com](http://www.caleemod.com).

SCAQMD has also developed both regional and localized significance thresholds. SCAQMD staff requests that the Lead Agency quantify criteria pollutant emissions and compare the results to

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<sup>1</sup> Pursuant to the CEQA Guidelines Section 15174, the information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR. Appendices to the EIR may be prepared in volumes separate from the basic EIR document, but shall be readily available for public examination and shall be submitted to all clearinghouses which assist in public review.

SCAQMD's CEQA regional pollutant emissions significance thresholds to determine air quality impacts. SCAQMD's CEQA regional pollutant emissions significance thresholds can be found here: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf>. In addition to analyzing regional air quality impacts, SCAQMD staff recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LSTs can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the Proposed Project, it is recommended that the Lead Agency perform a localized analysis by either using the LSTs developed by SCAQMD staff or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at: <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/localized-significance-thresholds>.

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the Proposed Project and all air pollutant sources related to the Proposed Project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, such as sources that generate or attract vehicular trips, should be included in the analysis.

In the event that the Proposed Project generates or attracts vehicular trips, especially heavy-duty diesel-fueled vehicles, it is recommended that the Lead Agency perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("*Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis*") can be found at: <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis>. An analysis of all toxic air contaminant impacts due to the use of equipment potentially generating such air pollutants should also be included.

In addition, guidance on siting incompatible land uses (such as placing homes near freeways) can be found in the California Air Resources Board's *Air Quality and Land Use Handbook: A Community Health Perspective*, which can be found at: <http://www.arb.ca.gov/ch/handbook.pdf>. CARB's Land Use Handbook is a general reference guide for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process. Guidance<sup>2</sup> on strategies to reduce air pollution exposure near high-volume roadways can be found at: [https://www.arb.ca.gov/ch/rd\\_technical\\_advisory\\_final.PDF](https://www.arb.ca.gov/ch/rd_technical_advisory_final.PDF).

### **Mitigation Measures**

In the event that the Proposed Project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize these impacts. Pursuant to CEQA Guidelines Section 15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed. Several resources are

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<sup>2</sup> In April 2017, CARB published a technical advisory, *Strategies to Reduce Air Pollution Exposure Near High-Volume Roadways: Technical Advisory*, to supplement CARB's *Air Quality and Land Use Handbook: A Community Health Perspective*. This technical advisory is intended to provide information on strategies to reduce exposures to traffic emissions near high-volume roadways to assist land use planning and decision-making in order to protect public health and promote equity and environmental justice. The technical advisory is available at: <https://www.arb.ca.gov/ch/landuse.htm>.

available to assist the Lead Agency with identifying potential mitigation measures for the Proposed Project, including:

- Chapter 11 of SCAQMD's CEQA Air Quality Handbook
- SCAQMD's CEQA web pages available here: <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mitigation-measures-and-control-efficiencies>
- SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook for controlling construction-related emissions and Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities
- SCAQMD's Mitigation Monitoring and Reporting Plan (MMRP) for the 2016 Air Quality Management Plan (2016 AQMP) available here (starting on page 86): <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2017/2017-mar3-035.pdf>
- CAPCOA's *Quantifying Greenhouse Gas Mitigation Measures* available here: <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>

### **Alternatives**

In the event that the Proposed Project generates significant adverse air quality impacts, CEQA requires the consideration and discussion of alternatives to the project or its location which are capable of avoiding or substantially lessening any of the significant effects of the project. The discussion of a reasonable range of potentially feasible alternatives, including a “no project” alternative, is intended to foster informed decision-making and public participation. Pursuant to CEQA Guidelines Section 15126.6(d), the EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the Proposed Project.

### **Permits**

In the event that the Proposed Project requires a permit from SCAQMD, SCAQMD should be identified as a responsible agency for the Proposed Project. For more information on permits, please visit SCAQMD webpage at: <http://www.aqmd.gov/home/permits>. Questions on permits can be directed to SCAQMD's Engineering and Permitting staff at (909) 396-3385.

### **Data Sources**

SCAQMD rules and relevant air quality reports and data are available by calling SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available at SCAQMD's webpage at: <http://www.aqmd.gov>.

SCAQMD staff is available to work with the Lead Agency to ensure that project air quality impacts are accurately evaluated and any significant impacts are mitigated where feasible. If you have any questions regarding this letter, please contact me at [lsun@aqmd.gov](mailto:lsun@aqmd.gov) or call me at (909) 396-3308.

Sincerely,

*Lijin Sun*

Lijin Sun, J.D.

Program Supervisor, CEQA IGR

Planning, Rule Development & Area Sources

LS  
ORC171103-02  
Control Number





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## OFFICERS

### PRESIDENT

Marko Popovich

November 30, 2017

### VICE PRESIDENT

Dorothy Kraus

City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

### TREASURER

Dennis Baker

Attn: Rosalinh Ung, Associate Planner

### SECRETARY

Allan Beek

Subject: Newport Crossings Mixed-Use Project  
Comments on Notice of Preparation for EIR (PA 2017-107)

## BOARD MEMBERS

Dear Ms. Ung:

Nancy Alston

Dennis Baker

Tom Baker

Bruce Bartram

Allan Beek

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Nancy Skinner

Jean Watt

Portia Weiss

Please include the following comments from SPON regarding the scope and content of the EIR and environmental issues and alternatives to be addressed in the EIR (CEQA Guidelines 15082) for the Newport Crossings Mixed Use project.

Thank you.

Sincerely,

*Marko Popovich*

President

cc: Seimone Jurjis, CNB Community Development Director  
Jim Campbell, CNB Community Development Principal Planner  
Leilani Brown, CNB City Clerk



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Rosalinh Ung

Newport Crossings Mixed-Use Project: Comments on Notice of Preparation for EIR (PA 2017-107)

## LAND USE/PLANNING

### 1. The General Plan Land Use Element, Airport Area Policy Overview states:

*"The General Plan provides for the development of office, industrial, retail, and airport-related businesses in the Airport Area, as well as the opportunity for housing and supporting services. The latter would be developed as clusters of residential villages centering on neighborhood parks and interconnected by pedestrian walkways. These would contain a mix of housing types and buildings that integrate housing with ground-level convenience retail uses and would be developed at a sufficient scale to achieve a "complete" neighborhood..."*

This project is not a part of an integrated plan for the Airport Area. Instead, it results in a stand-alone project with inadequate facilities to fulfill the neighborhood needs to create an area with limited need for car use.

**Please analyze this project in relation to the best-use and cutting edge practices for creating the desired "integrated" mixed-use neighborhoods.**

2. It appears that the rooftop facilities result in a significant increase in height close to the airport and directly under the flight-path of small airplanes including pilot training flights.

**Please analyze the impacts of noise and safety issues for residents using the rooftop facilities.**

3. Although the project allows for a 2,000 square foot dining facility, the 5,500 square feet of retail space which is not defined, is hardly consistent with an integrated mixed-use plan for the Airport Area as a whole as promised in the General Plan.

**Please analyze the other uses and proposed uses for the Airport Area and describe how these fulfill the need for an integrated neighborhood where people can carry on their daily routine with very limited use of a car.**



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Newport Crossings Mixed-Use Project: Comments on Notice of Preparation for EIR (PA 2017-107)

#### LAND USE/PLANNING

(cont'd)

4. “Complete Neighborhoods”: Throughout the General Plan there are policies that state the desire to implement goals to reduce emissions as required by State laws while at the same time providing the additional benefits of “livable, walkable” and “complete” neighborhoods. Recently the need to implement these goals has become more urgent. Governor Brown has set tough new targets to make sure California actually meets its climate goal of an 80% reduction in carbon emissions by 2050. The new interim target is 40% by 2030. “To reach that goal, we have to tackle transportation, the biggest source of carbon emissions.” Yet the Newport Crossings project makes no accommodation to incorporate retail uses of a sufficient scale to achieve a “complete” neighborhood to minimize the need for residents to travel outside of the community for retail, and goods and services.

**Please analyze the intent and interpretation of the commonly used term “complete neighborhood” and how this project fulfills the needs for such a goal.**

5. There is a lack of comprehensive planning for the Airport Area. With larger buildings, underground parking and parking structures proliferating, there is a significant change of character proposed to occur in the Airport Area. Prior on-ground parking availability is removed along with many of the at-grade retail opportunities that served area businesses. The area has no neighborhood cohesive plan calling for nearby amenities for residents such as a grocery store. The assumption seems to be that these new residents need very limited retail access and, among other missing facilities, there is no school available except in the Santa Ana School District.

**Please analyze the needs of proposed residents and how they will be met such as: access to schools; access to groceries, hardware stores, medical facilities and access to public transit. Please analyze the cost of proposed housing and how it meets the needs of job opportunities in the area.**



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Newport Crossings Mixed-Use Project: Comments on Notice of Preparation for EIR (PA 2017-107)

## RECREATION

The City of Newport Beach Park Dedication Ordinance calls for 5 acres/1,000 new residents. The 0.5 acre public park provided with this project does not meet that standard.

**Please analyze how the “integrated plan” for the Airport Area is to be fulfilled and how this project’s small park space fits into the whole picture. There are currently anticipated to be 2,200 units in the Airport Area with more because of density bonuses. Some of those will be occupied with one person, some with two, and some with three or more if including children. Using 4,400 as a conservative assumption of new residents in the area, that should result in a need for 22,000 acres of park space integrated into the whole area. Where and how are those park spaces going to occur?**

## AESTHETICS

It is stated that the project will have “contemporary architecture.” Aesthetics is becoming of more and more concern to residents of Newport Beach as they see the bulk, mass, density, and box-like buildings occurring in other cities.

**Please analyze and explain what the term “contemporary architecture” means and how it is planned to be used for this project.**

## ALTERNATIVES

Please analyze, at the very least, these additional alternatives:

- A project with more limited square footage per unit resulting in lower expected costs per resident as well as less bulk, mass, and height.
- A project without rooftop facilities for residents.
- A project with increased park space for residents of the “neighborhood” which should be at least 2.65 acres if using the assumption of 1 ½ residents per unit.

Thank you very much for the opportunity to comment on this EIR.



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