

February 2019 | Mitigation Monitoring and Reporting Program  
State Clearinghouse No. 2017101067

# NEWPORT CROSSINGS MIXED USE PROJECT

for City of Newport Beach

*Prepared for:*

**City of Newport Beach**

Contact: Jaime Murillo, Senior Planner  
100 Civic Center Drive  
Newport Beach, California 92660  
949.644.3209

*Prepared by:*

**PlaceWorks**

Contact: JoAnn Hadfield, Principal, Environmental Services  
3 MacArthur Place, Suite 1100  
Santa Ana, California 92707  
714.966.9220  
info@placeworks.com  
www.placeworks.com



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# 1. Mitigation Monitoring and Reporting Program

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## 1.1 PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program has been developed to provide a vehicle by which to monitor mitigation measures and conditions of approval outlined in the Newport Crossings Mixed Use Project Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2017101067. The Mitigation Monitoring and Reporting Program (MMRP) has been prepared in conformance with Section 21081.6 of the Public Resources Code and City of Newport Beach Monitoring Requirements. Section 21081.6 states:

- (a) When making findings required by paragraph (1) of subdivision (a) of Section 21081 or when adopting a mitigated negative declaration pursuant to paragraph (2) of subdivision (c) of Section 21080, the following requirements shall apply:
  - (1) The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.
  - (2) The lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.

The State CEQA Guidelines Section 15097 provides clarification of mitigation monitoring and reporting requirements and guidance to local lead agencies on implementing strategies. The reporting or monitoring program must be designed to ensure compliance during project implementation. The City of Newport Beach is the lead agency for the Newport Crossings Mixed Use project and is therefore responsible for implementing the MMRP. The MMRP has been drafted to meet the requirements of Public Resources Code Section 21081.6 as a fully enforceable monitoring program.

The MMRP consists of the mitigation program and the measures to implement and monitor the mitigation program. The MMRP defines the following for the mitigation measure outlined in Table 1, *Mitigation Monitoring Requirements*:

- **Definition of Mitigation.** The mitigation measure contains the criteria for mitigation, either in the form of adherence to certain adopted regulations or identification of the steps to be taken in mitigation.

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- **Responsible Party or Designated Representative.** Unless otherwise indicated, the project applicant is the responsible party for implementing the mitigation, and the City of Newport Beach or a designated representative is responsible for monitoring the performance and implementation of the mitigation measures. To guarantee that the mitigation measure will not be inadvertently overlooked, a supervising public official acting as the Designated Representative is the official who grants the permit or authorization called for in the performance. Where more than one official is identified, permits or authorization from all officials shall be required.
- **Time Frame.** In each case, a time frame is provided for performance of the mitigation measure or review of evidence that mitigation has taken place. The performance points selected are designed to ensure that impact-related components of project implementation do not proceed without establishing that the mitigation is implemented or ensured. All activities are subject to the approval of all required permits from local, state, and federal agencies with permitting authority over the specific activity.

The numbering system in Table 1 corresponds with the numbering system used in the DEIR. The last column of the MMRP table will be used by the parties responsible for documenting when implementation of the mitigation measure has been completed. The ongoing documentation and monitoring of mitigation compliance will be completed by the City of Newport Beach. The completed MMRP and supplemental documents will be kept on file at the City of Newport Beach Community Development Department Planning Division.

### 1.2 PROJECT LOCATION

The approximately 5.69-acre project site is in the northern end of the City of Newport Beach (City). The project site is in the City's "Airport Area" planning subarea, which is bounded by Campus Drive to the north and west, SR-73 to the south, and Jamboree Road to the east. Within the Airport Area are established planned community development plans. The project site is in the Newport Place Planned Community. The site 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 approximately 0.2 mile east of John Wayne Airport.

The project site is pentagonal-shaped area comprising three legal lots; four Assessor Parcel Numbers (APNs): 427-172-02, -03, -05, and -06. Given the odd shape of the property, it does not have a definable width or depth.

### 1.3 PROJECT SUMMARY

The site is currently improved with the 58,277-squarefoot MacArthur Square shopping center, which was built in 1974. The shopping center consists of eight single-story commercial/retail buildings, surface parking, and various landscape (e.g., ornamental trees, shrubs) and hardscape improvements. MacArthur Square is characterized as an aging, underutilized, and underperforming shopping center that supports a variety of retail and commercial business, including restaurants and retail shops. Current tenants include several restaurants, a dance studio, retail stores, and professional and medical offices.

Project development includes demolition of approximately 58,277 square feet of existing buildings, surface parking for 462 vehicles, and hardscape improvements of MacArthur Square. Project development also requires removal of a number of ornamental trees and other landscape improvements.

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Upon clearing, the approximately 5.69-acre project site would be redeveloped with the proposed Newport Crossings Mixed Use project (proposed project). The proposed project would consist of the development of a multistory building that would house 350 apartment units, 2,000 square feet of “casual-dining” restaurant space, and 5,500 square feet of retail space. The project also includes the development of a 0.5-acre public park.

The established Newport Place Planned Community Development Standards (Residential Overlay) allow for a maximum residential density of 50 dwelling units per net acre; a minimum of 30 percent of the units in residential developments are required to be affordable to lower-income households. With a 30 percent allocation for lower-income households, the proposed project is entitled to the maximum 35 percent density bonus (91 additional units), increasing the total project density to 350 units.

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**Table 1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<b>5.1 AIR QUALITY</b>				
<p>AQ-1 The construction contractor shall implement the following measure to reduce construction exhaust emissions during rough grading and rough grading soil hauling activities:</p> <ul style="list-style-type: none"> <li>▪ Hauling of soil generated from rough grading activities shall be limited to a maximum of 269 trucks per day (538 one-way haul trips per day if 14-cubic-yard trucks are used) assuming a one-way haul distance of 20 miles. If the one-way truck haul distance for export of soil from rough grading activities is greater than 20 miles, as identified by the contractor(s), hauling shall be restricted to no more than 10,760 miles per day.</li> <li>▪ Rough grading and rough grading soil hauling activities shall not overlap with other construction activities (demolition, site preparation, utilities, etc.)</li> </ul> <p>These requirements shall be noted on all construction management plans and verified by the City of Newport Beach prior to issuance of any construction permits and during rough grading and rough grading soil hauling activities.</p>	<p>Project Applicant; Construction Contractor</p>	<p>During grading and construction</p>	<p>City of Newport Beach Community Development Department – Planning Division</p>	
<p>AQ-2 The construction contractor shall implement the following measure to reduce construction exhaust emissions during demolition and demolition debris material export activities:</p> <ul style="list-style-type: none"> <li>▪ Hauling of building demolition debris shall be limited to a maximum of 47 trucks per day (94 one-way haul trips per day if 18-cubic-yard trucks are used) assuming a one-way haul distance of 30 miles. If the one-way truck haul distance for export of building demolition debris is greater than 30 miles, as identified by the contractor(s), hauling shall be restricted to no more than 2,850 miles per day.</li> </ul>	<p>Project Applicant; Construction Contractor</p>	<p>During grading and construction</p>	<p>City of Newport Beach Community Development Department – Planning &amp; Building Division</p>	

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**Table 1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<ul style="list-style-type: none"> <li>▪ All demolition and demolition debris (building asphalt) hauling activities shall not overlap with other non-demolition construction activities (rough grading, site preparation, utilities, etc.).</li> </ul> <p>These requirements shall be noted on all construction management plans and verified by the City of Newport Beach prior to issuance of any construction permits and during demolition and demolition debris hauling activities.</p>				
<p>AQ-3 Construction contractors shall, at minimum, use equipment that meets the EPA's Tier 4 emissions standards for off-road diesel-powered construction equipment of 50 horsepower or greater for all phases of construction activities, unless it can be demonstrated to the City of Newport Beach Building Division with substantial evidence that such equipment is not available. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 emissions standards for a similarly sized engine, as defined by the California Air Resources Board's regulations.</p> <p>Prior to construction, the project engineer shall ensure that all construction (e.g., demolition and grading) plans clearly show the requirement for EPA Tier 4 emissions standards for construction equipment of 50 horsepower or greater for the specific activities stated above. During construction, the construction contractor shall maintain a list of all operating equipment in use on the construction site for verification by the City of Newport Beach. The construction equipment list shall state the makes, models, and numbers of construction equipment onsite. Equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations. Construction contractors shall also ensure that all nonessential idling of construction equipment is restricted to 5 minutes or less in compliance with Section 2449 of the California Code of Regulations, Title 13, Article 4.8, Chapter 9.</p>	<p>Project Applicant, Construction Contractor</p>	<p>Prior to construction</p>	<p>City of Newport Beach Community Development Department – Planning &amp; Building Division</p>	



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**Table 1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<b>5.2 BIOLOGICAL RESOURCES</b>				
<p>BIO-1 Prior to the commencement of any proposed actions (e.g., site clearing, demolition, grading) during the breeding/nesting season (September 1 through February 15), a qualified biologist contracted by the project applicant shall conduct a preconstruction survey(s) to identify any active nests in and adjacent to the proposed project site no more than three days prior to initiation of the action. If the biologist does not find any active nests that would be potentially impacted, the proposed action may proceed. However, if the biologist finds an active nest within or directly adjacent to the action area (within 100 feet) and determines that the nest may be impacted, the biologist shall delineate an appropriate buffer zone around the nest using temporary plastic fencing or other suitable materials, such as barricade tape and traffic cones. The buffer zone shall be determined by the biologist in consultation with applicable resource agencies and in consideration of species sensitivity and existing nest site conditions, and in coordination with the construction contractor. The qualified biologist shall serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. Only specified construction activities (if any) approved by the qualified biologist shall take place within the buffer zone until the nest is vacated. At the discretion of the qualified biologist, activities that may be prohibited within the buffer zone include but not be limited to grading and tree clearing. Once the nest is no longer active and upon final determination by the biologist, the proposed action may proceed within the buffer zone.</p> <p>The qualified biologist shall prepare a survey report/memorandum summarizing his/her findings and recommendations of the preconstruction survey. Any active nests observed during the survey shall be mapped on a current aerial photograph, including documentation of GPS coordinates, and included in the survey report/memorandum. The completed survey report/memorandum shall be submitted to the City of Newport Beach Community</p>	<p>Project Applicant; Certified Biologist; Construction Contractor</p>	<p>Prior to commencement of any proposed actions (e.g., site clearing, demolition, grading)</p>	<p>City of Newport Beach Community Development Department – Planning Division</p>	

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**Table 1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
Development Department prior to construction-related activities that have the potential to disturb any active nests during the nesting season.				
<b>5.3 CULTURAL RESOURCES</b>				
CUL-1 Prior to the issuance of a grading permit by the City of Newport Beach, the project applicant shall retain a qualified archaeologist to periodically monitor ground-disturbing activities onsite and provide documentation of such retention to the City of Newport Beach Community Development Director. The archaeologist shall train project construction workers on the types of archaeological resources that could be found in site soils. The archaeologist shall periodically monitor project ground-disturbing activities. During construction activities, the project applicant shall allow representatives of cultural organizations, including traditionally-/culturally-affiliated Native American tribes (e.g., Gabrieleño Band of Mission Indians-Kizh Nation, Juaneno Band of Mission Indians Acjachemen Nation), to access the project site on a volunteer basis to monitor grading and excavation activities. If archaeological resources are encountered, all construction work within 50 feet of the find shall cease, and the archaeologist shall assess the find for importance and whether preservation in place without impacts is feasible. Construction activities may continue in other areas. If, in consultation with the City and affected Native American tribe (as deemed necessary), the discovery is determined to not be important, work will be permitted to continue in the area. Any resource that is not Native American in origin and that cannot be preserved in place shall be curated at a public, nonprofit institution with a research interest in the materials, such as the South Central Coastal Information Center at California State University, Fullerton.	Project Applicant; Certified Archaeologist; Construction Contractor	Prior to issuance of grading permits	City of Newport Beach Community Development Department – Planning & Building Division	

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**Table 1 Mitigation Monitoring Requirements**

	Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
CUL-2	<p>Prior to the issuance of a grading permit by the City of Newport Beach, the project applicant shall retain a qualified paleontologist to be available on-call during ground-disturbing activities onsite and provide documentation of such retention to the City of Newport Beach Community Development Director. If fossils are encountered, all construction work within 50 feet of the find shall cease, and the paleontologist shall assess the find for importance. Construction activities may continue in other areas. If, in consultation with the City, the discovery is determined to not be important, work will be permitted to continue in the area. Any resource shall be curated at a public, nonprofit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Cooper Center (a partnership between California State University, Fullerton and the County of Orange)..</p>	<p>Project Applicant; Certified Paleontologist; Construction Contractor</p>	<p>Prior to issuance of grading permits</p>	<p>City of Newport Beach Community Development Department – Planning Division</p>	
<b>5.4 HAZARDS AND HAZARDOUS MATERIALS</b>					
HAZ-1	<p>Before the City of Newport Beach issues a grading permit for the proposed project, the City of Newport Beach Chief Building Official or his/her designee shall verify that a passive ventilation system conforming to the following specifications has been included on project building plans. The City of Newport Beach Community Development Department shall verify that the ventilation system is built to such specifications during project construction.</p> <ul style="list-style-type: none"> <li>▪ <b>Subslab Ventilation System:</b> A subslab collection and ventilation system shall be installed under the residential building. The system shall consist of a series of PVC (polyvinyl chloride) gas collection pipes embedded in a permeable gravel layer. The collection pipes shall be networked together and vented to the atmosphere. The purpose of the vent system will be to prevent the buildup or accumulation of VOCs in the underlying soil; the gases instead are passively diverted into the venting system and safely discharged to the atmosphere away from occupied areas and air intake vents.</li> </ul>	<p>Project Applicant; Construction Contractor</p>	<p>Prior to issuance of grading permits</p>	<p>City of Newport Beach Community Development Department – Building Division</p>	

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**Table 1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<ul style="list-style-type: none"> <li>▪ <b>Membrane Barrier:</b> A horizontal synthetic membrane or a sprayed-on liner shall be placed over the granular collection layer. The membrane provides a barrier to the intrusion of subsurface gases.</li> <li>▪ <b>Utility Trench Dam and Conduit Seals:</b> Gas barriers shall be installed in the permeable backfill of utility trenches or the hollow spaces of electrical or cable conduit piping to prevent gases from migrating laterally into the soils beneath the building. The conduit seals can consist of polyurethane foam that is injected into the conduit piping at the point where the conduit enters the structure to prevent the infiltration of subsurface gases into interior space.</li> </ul>				
<p>HAZ-2 Prior to issuance of the first building permit, soil and soil vapor samples shall be collected from beneath the former Enjay Cleaners and soil samples shall be collected from beneath the proposed 0.5-acre public park site and tested for PCE and OCPs, respectively. The results shall be submitted to the Orange County Health Care Agency and City Building Official. In the event that soil concentrations exceed site-specific cleanup goals, affected soils shall be removed and properly treated/disposed of. Should soil vapor concentrations exceed site-specific cleanup goals, short-term soil vapor extraction and treatment shall be performed to reduce soil vapor concentrations.</p>	<p>Project Applicant; Construction Contractor</p>	<p>Prior to issuance of the first building permit</p>	<p>City of Newport Beach Community Development Department – Building Division</p>	

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**Table 1 Mitigation Monitoring Requirements**

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
<b>5.5 PUBLIC SERVICES</b>				
<p>PS-1 The project applicant/developer shall comply with the following measures related to fire protection and emergency services:</p> <ul style="list-style-type: none"> <li>▪ Prior to the issuance of a building permit, the project applicant/developer shall provide payment to the City of Newport Beach equivalent to 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. Because the cost of the ambulance exceeds the Project's pro rata contribution to its cumulative impact, the Project applicant shall be entitled to reimbursement from the City on a pro rata share basis, as determined by the City.</li> <li>▪ The project applicant/developer shall participate, on a pro-rata basis, in any City-approved funding program for up to an additional six firefighter/paramedic personnel, as may be needed to fund staff for the new paramedic unit. The funding program may be a community facilities district or other funding program. Prior to the issuance of a building permit, the project applicant/developer shall execute a written agreement with the City of Newport Beach to participate in such a funding program if the City determines one is necessary and forms it prior to the City's issuance of the Project's first Certificate of Occupancy.</li> </ul>	Project Applicant	Prior to issuance of building permits	City of Newport Beach Community Development Department – Planning Division	

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