

Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form
All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.
Appeals and supporting documentation should be submitted to housing@scaq.ca.gov.
Late submissions will not be accepted.

Date: _____ Jurisdiction Subject to This Appeal Filing:
(to file another appeal, please use another form)

Filing Party (Jurisdiction or HCD)

Filing Party Contact Name _____ Filing Party Email: _____

APPEAL AUTHORIZED BY:

Name: _____

PLEASE SELECT BELOW:

- Mayor
- Chief Administrative Office
- City Manager
- Chair of County Board of Supervisors
- Planning Director
- Other: _____

BASES FOR APPEAL

- Application of the adopted Final RHNA Methodology for the 6th Cycle RHNA (2021-2029)
- Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
 - Existing or projected jobs-housing balance
 - Sewer or water infrastructure constraints for additional development
 - Availability of land suitable for urban development or for conversion to residential use
 - Lands protected from urban development under existing federal or state programs
 - County policies to preserve prime agricultural land
 - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
 - County-city agreements to direct growth toward incorporated areas of County
 - Loss of units contained in assisted housing developments
 - High housing cost burdens
 - The rate of overcrowding
 - Housing needs of farmworkers
 - Housing needs generated by the presence of a university campus within a jurisdiction
 - Loss of units during a state of emergency
 - The region's greenhouse gas emissions targets
 - Affirmatively furthering fair housing
- Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

FOR STAFF USE ONLY:

Date _____ Hearing Date: _____ Planner: _____

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All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.
Appeals and supporting documentation should be submitted to housing@scaq.ca.gov.
Late submissions will not be accepted.

Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):

Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.

Brief Description of Appeal Request and Desired Outcome:

Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):

Reduced _____ Added _____

List of Supporting Documentation, by Title and Number of Pages
(Numbers may be continued to accommodate additional supporting documentation):

- 1.
- 2.
- 3.
- 4.

FOR STAFF USE ONLY:

Date _____ Hearing Date: _____ Planner: _____



CITY OF NEWPORT BEACH

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Newport Beach, California 92660
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Mayor

Will O'Neill

Mayor Pro Tem

Brad Avery

Council Members

Joy Brenner

Diane Brooks Dixon

Marshall "Duffy" Duffield

Jeff Herdman

Kevin Muldoon

October 13, 2020

Mr. Kome Ajise, Executive Director
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90017

Subject: City of Newport Beach Appeal of the Sixth Cycle Draft Regional Housing Needs Assessment (RHNA) Allocation

Dear Mr. Ajise:

On behalf of our residents, and in accordance with applicable California Government Code ("Government Code") Section 65584.05, the City of Newport Beach ("City") hereby submits this appeal to the Southern California Association of Governments (SCAG) of the Draft Regional Housing Needs Assessment (RHNA) Allocation ("Draft RHNA Allocation"), received September 11, 2020, for the Sixth Housing Element Cycle (2021-2029) (referred to herein as the Sixth Cycle).

A revision to the Draft RHNA Allocation is necessary to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d). In addition, this appeal is consistent with, and not to the detriment of, the development pattern in the applicable Sustainable Communities Strategy (SCAG's Connect SoCal Plan) developed pursuant to Government Code Section 65080(b)(2) as explained herein. This appeal is based on the following grounds:

- 1) **Local Planning Factors** - SCAG failed to adequately consider the information previously submitted by the City of Newport Beach that articulated a variety of local factors that directly influence housing production.
 - a. Specifically, this information includes lands preserved or protected from urban development under federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis; and
 - b. Availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.
- 2) **Methodology** - SCAG failed to determine the share of the regional housing need in accordance with the information described in and the methodology established pursuant to Government Code Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in Government Code Section 65584(d); and
- 3) **Changed Circumstances** - A significant and unforeseen change in circumstances has occurred that supports revisions to the information submitted pursuant to Government Code Section 65584.04(b).

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Grounds for the City of Newport Beach Appeal

| | | |
|---|-------------------------------|---|
| 1(a) | Local Planning Factors | <i>SCAG failed to adequately consider the information submitted pursuant to Section 65584.04(b).</i> |
| <i>Lands Preserved or Protected from Urban Development Under Federal or State Programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis</i> | | |

The City has several major constraints on existing lands that severely limit or totally restrict the City's ability to accommodate growth to the extent identified in the Draft RHNA Allocation. SCAG provided the City with Regional Housing Needs Assessment (RHNA) Local Planning Factor Survey, dated April 29, 2019. This Survey is required by law for SCAG to allow jurisdictions to identify local planning factors (formerly known as "AB 2158 Factors") prior to the development of a proposed RHNA methodology, per Government Code Section 65584.04(b). Information collected from the survey is required to be included as part of the proposed RHNA methodology.

The City submitted responses to the Local Planning Factors Survey, provided herein as Attachment A. These responses indicate the planning factors that demonstrate severe limitations in the City's ability to accommodate the Draft RHNA Allocation. Additionally, the City also provided testimony before SCAG and submitted additional written correspondence to SCAG during the RHNA Methodology process which articulated these concerns (Attachment B).

The City of Newport Beach has a number of legitimate and justifiable claims to demonstrate SCAG's failure to adequately consider prior information submitted. The failure to adequately address these local factors further undermines Government Code Section 65588(d).

The following factors, pursuant to Government Code Section 65584.04(e), are relevant to determine the City of Newport Beach's ability to accommodate growth and were not adjusted for in the Draft RHNA Allocation.

(a) Local Factor: Coastal Zone Limitations Not Considered in Methodology

Although SCAG is not permitted to limit its considerations of suitable housing sites to a jurisdiction's existing zoning and land use policies, and the cities should consider other opportunities for development such as the availability of underutilized land or infill development with increased residential densities, SCAG should consider a city's ability to rezone or increase densities for residential development when subject to jurisdiction of other agencies and regulations, such as the California Coastal Commission and Executive Order N-82-20, signed by Governor Newsom on October 7, 2020 that sets the goal of conserving at least 30 percent of California's land and coastal waters by the year 2030. For Newport Beach, over 63 percent of the City, as shown in ***Exhibit A: Coastal Zone Boundary***, is within the Coastal Zone and subject to the oversight by the California Coastal Commission.

A major goal of the California Coastal Act and the City's adopted Local Coastal Program is to assure the priority for coastal-dependent and coastal-related development over other development in the Coastal Zone, which is a constraint on residential development, particularly in areas on or near the shoreline.



Exhibit A
Coastal Zone Boundary

In 1972, California voters passed Proposition 20, the Coastal Zone Conservation Act. The purposes of the Coastal Zone Conservation Act are to protect public access to the coast, promote visitor-serving uses and limit residential development and speculation along the coast. The Coastal Act was subsequently adopted in 1976 and the California Coastal Commission ("Coastal Commission") was formed to administer the Coastal Act.

The Coastal Act is an umbrella legislation designed to encourage local governments to create Local Coastal Programs (LCPs) to govern decisions that determine the short- and long-term conservation and use of coastal resources. The City of Newport Beach's LCP is considered the legislative equivalent of the City's General Plan for areas within the Coastal Zone. Local Coastal Programs are obligated by statute to be consistent with the policies of the Coastal Act and protect public access and coastal resources.

The Coastal Land Use Plan contains restrictions applicable to twelve (12) sensitive habitat areas that limit potential residential development areas and that control and

regulate locations on new buildings and structures to ensure preservation of unique natural resources and to minimize alteration of natural land forms along bluffs and cliffs. It should be noted that residential development is not considered a coastal-dependent use according to the Coastal Commission, and re-use of properties that result in the reduction of coastal-dependent commercial uses are discouraged. New development is also required to avoid hazardous areas and minimize risks to life and property from coastal and other hazards. The shoreline height limit further restricts heights within the Coastal Zone to a maximum of 35 feet, and only when impacts to public coastal views are not created.

Therefore, the extraordinarily high Draft RHNA Allocation for Newport Beach would necessitate pursuing new, significantly high-density, multi-family housing within the Coastal Zone and would require Coastal Commission approval of a comprehensive amendment of the City's certified Local Coastal Program. Such an amendment would include rezoning to allow higher density residential uses in commercial and visitor-serving zones, increasing height, floor area ratio, and density allowances, and reductions in off-street parking standards that would directly undermine the Coastal Act's requirements for coastal access, coastal views, and protection of visitor-serving uses.

While SCAG is permitted to consider Newport Beach's ability to change its zoning, it cannot require members to violate other laws to do so.

As identified in the City's adopted and certified 2014-2021 Housing Element, the City identified Banning Ranch as the only remaining vacant site available to accommodate future growth. On July 23, 2012, the City adopted a Master Development Plan for the site that included 1,375 dwelling units, including an affordable housing component. Unfortunately, on September 7, 2016, the California Coastal Commission denied a coastal development permit for the project due to its potential impact to environmentally sensitive habitat areas and coastal resources. As a result of this Coastal Commission action, the Newport Beach City Council adopted Ordinance No. 2017-17 on December 12, 2017, which repealed all approvals for the Banning Ranch project.

The Banning Ranch project is a clear example of outside agency constraints and how the additional Coastal Commission jurisdiction severely limits the City's ability to increase densities and rezone land to accommodate the Draft RHNA Allocation. The City spent four (4) years reviewing the application and approving the project for up to 1,375 residential units, only to have the California Coastal Commission spend another four (4) years of review and ultimate denial of the project.

(b) Local Factor: Sea Level Rise and Storm Inundation

Newport Beach is exposed to a variety of coastal hazards including beach erosion, bluff erosion, and coastal flooding due to sea level rise (SLR) and storm inundation. As a coastal community with the one of the largest pleasure craft harbors in the United States, the City has a significant amount of land directly adjacent to surface water that is directly affected by sea level rise and storm inundation. This exposure has unique risks to the

City of Newport Beach and has profound implications when analyzing the realistic growth potential of these lands.

The effects of SLR on coastal processes, such as shoreline erosion, storm-related flooding and bluff erosion, have been evaluated using a Coastal Storm Modeling System (CoSMoS), a software tool and multi-agency effort led by the United States Geological Survey (USGS), to make detailed predictions of coastal flooding and erosion based on existing and future climate scenarios for Southern California. The modeling system incorporates state-of-the-art physical process models to enable prediction of currents, wave height, wave runup, and total water levels. The mapping results from CoSMoS provide predictions of shoreline erosion (storm and non-storm), coastal flooding during extreme events, and bluff erosion for the City in community-level coastal planning and decision-making.

As shown in ***Exhibit B: 100-Year Storm Hazards***, a significant portion of the City's coastal adjacent land appropriate for development is at risk of tidal flooding. Land along the coast is vulnerable to shoreline retreat, which is predicted to accelerate with Sea Level Rise. Long-term shoreline retreat coupled with storm-induced beach erosion has the potential to cause permanent damage to buildings and infrastructure in these hazard zones. Beach loss threatens structures and also has the potential to impact the diverse range of coastal assets dependent on the sandy beaches of Newport Beach. The public access, recreational opportunities, habitat, visual, and cultural assets that contribute to the City's vibrant beach town culture are all valuable to the locals that live in Newport Beach and its visitors.

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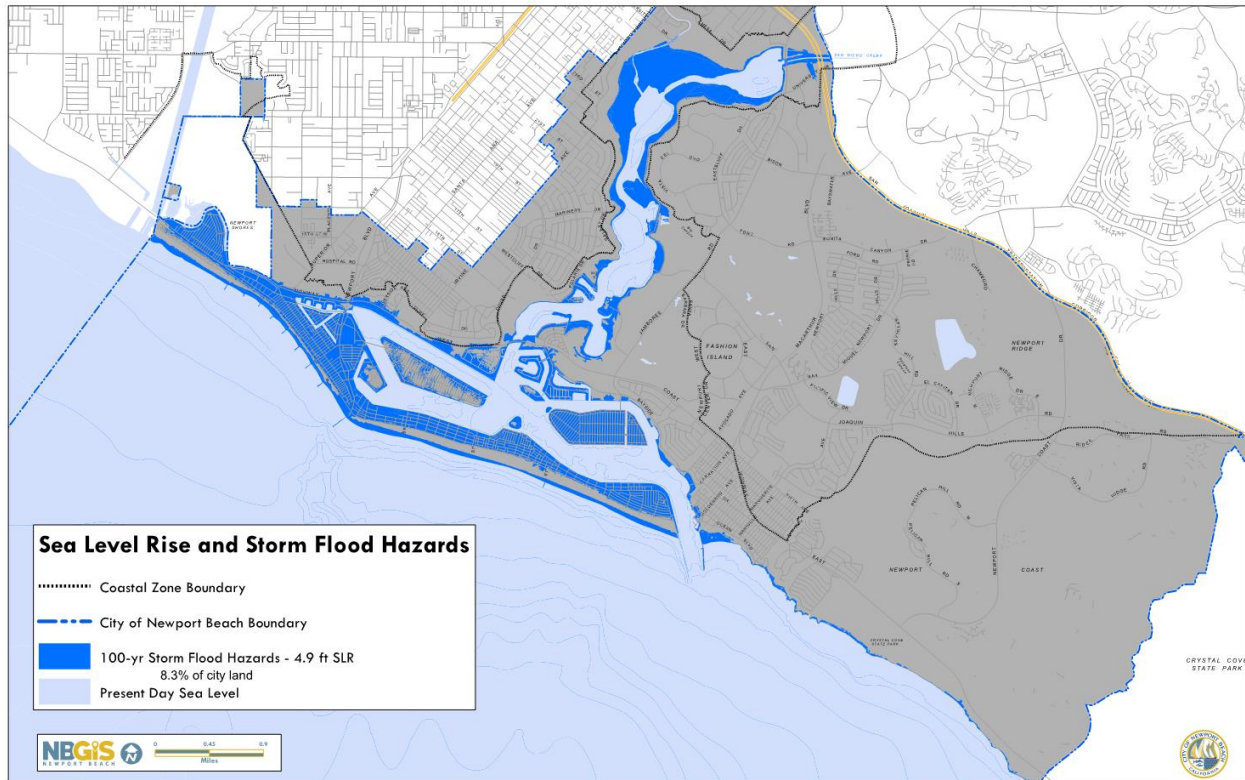


Exhibit B
100-Year Storm Hazards

On November 7, 2018, the California Coastal Commission released an update to the Sea Level Rise Policy Guidance. The Coastal Commission provides direct guidance on how the City of Newport Beach addresses future land use in consideration of sea level rise. According to the California Coastal Commission Sea Level Rise Policy Guidance¹, local jurisdictions can “Minimize Coastal Hazards through Planning and Development Standards” through the following measures applicable to Newport Beach:

- *“Design adaptation strategies according to local conditions and existing development patterns, in accordance with the Coastal Act.” (Page 37)*
- *“Avoid significant coastal hazard risks to new development where feasible.” (Page 39)*
- *“Minimize hazard risk to new development over the life of the authorized development.” (Page 39)*
- *“Minimize coastal hazard risks and resource impacts when making redevelopment decisions.” (Page 39)*

¹ California Coastal Commission Sea Level Rise Policy Guidance, 2018 Science Update

- *“Account for the social and economic needs of the people of the state include environmental justice, assure priority for coastal-dependent and coastal-related develop over other development” (Page 30)*

The Coastal Commission has also prepared a Draft Coastal Adaptation Planning Guidance: Residential Development (dated March 2018), which will serve as the Coastal Commission’s policy guidance on sea level rise adaptation for residential development to help facilitate planning for resilient shorelines while protecting coastal resources in LCPs. Section 6(B) Model Policy Language (Avoid Siting New Development and/or Perpetuating Redevelopment in Hazard Areas) included in the guidance confirms the Coastal Commission’s stance on new development and likely denial of any land use changes in hazardous areas, such as lands subject to future sea level rise and flooding. Policy B.9 (Restrict Land Division in Hazardous Areas) serves to prohibit land divisions in areas vulnerable to coastal hazards.

Furthermore, on September 21, 2018, the Federal Emergency Management Agency (FEMA) issued a final determination revising Flood Insurance Rate Maps (FIRMs) for the City that expanded the designation of areas most prone to flooding or affected by waves from the coastline (***Exhibit C: FEMA Flood Zones***). This determination created a new flood zone in the City called Coastal High Hazard Area, which is considered one of the highest risk depicted on FIRMs. Specifically, Zone VE is designated where wave hazards are expected to be particularly strong and have the potential to cause dramatic structural damage. To address the added wave hazard, more stringent building practices are required in Zone VE, such as elevating a home on pilings so that waves can pass beneath it, or a prohibition to building on fill, which can be easily washed away by waves. These practices are intended to improve the chance of a home safely weathering a storm but add significant construction costs.

Although the Housing Element planning period is from 2021-2029, the City of Newport Beach must consider long-term consequences of growth and development in the Coastal Zone. Therefore, the selection of sites must consider these constraints not just for the eight (8)-year RHNA housing cycle, but for the 75- to 100-year lifecycle of a residential development project. It would be irresponsible, and in conflict with State guidance, for Newport Beach to not consider the long-term impacts of coastal hazards when planning for future residential development. Much of the land in the Coastal Zone is considered built out and no vacant land is available for development. Therefore, future housing unit growth must consider the implications of these coastal hazards and will directly limit the type and extent of development that can occur in the future.



Exhibit C
FEMA Flood Zones

(c) Local Factor: Airport Environs Land Use Plan (AELUP)

The City's Airport Area is identified as one of the City's greatest opportunities in the community to create new residential neighborhoods through the replacement of existing uses and new construction on underutilized parking lots. However, lands located within the Airport Planning Area for the John Wayne Airport and subject to the development restrictions of the John Wayne Airport Environs Land Use Plan (AELUP) limit the ability to develop residential units. Any amendment to the City's General Plan or zoning, including the rezoning for residential use, requires review by the Orange County Airport Land Use Commission (ALUC).

Residential development in the Airport Area is restricted due to the noise impacts of John Wayne Airport. Much of the southwestern portion of the Airport Area is in the John Wayne Airport Environs Land Use Plan (AELUP) 65 dBA CNEL (Community Noise Equivalent Level) contour, which is unsuitable for residential and other "noise-sensitive" uses. As shown in **Exhibit D: John Wayne Airport CNEL Contours**, approximately 391 acres of land adjacent to John Wayne Airport have restrictions for residential development.

Additionally, there are building restrictions and height limitations imposed by the Airport Land Use Commission. According to the Airport Environs Land Use Plan for John Wayne

Airport², there are portions of Newport Beach that restrict or limit the development of any residential development. See **Exhibit E: Airport Safety Zones**.

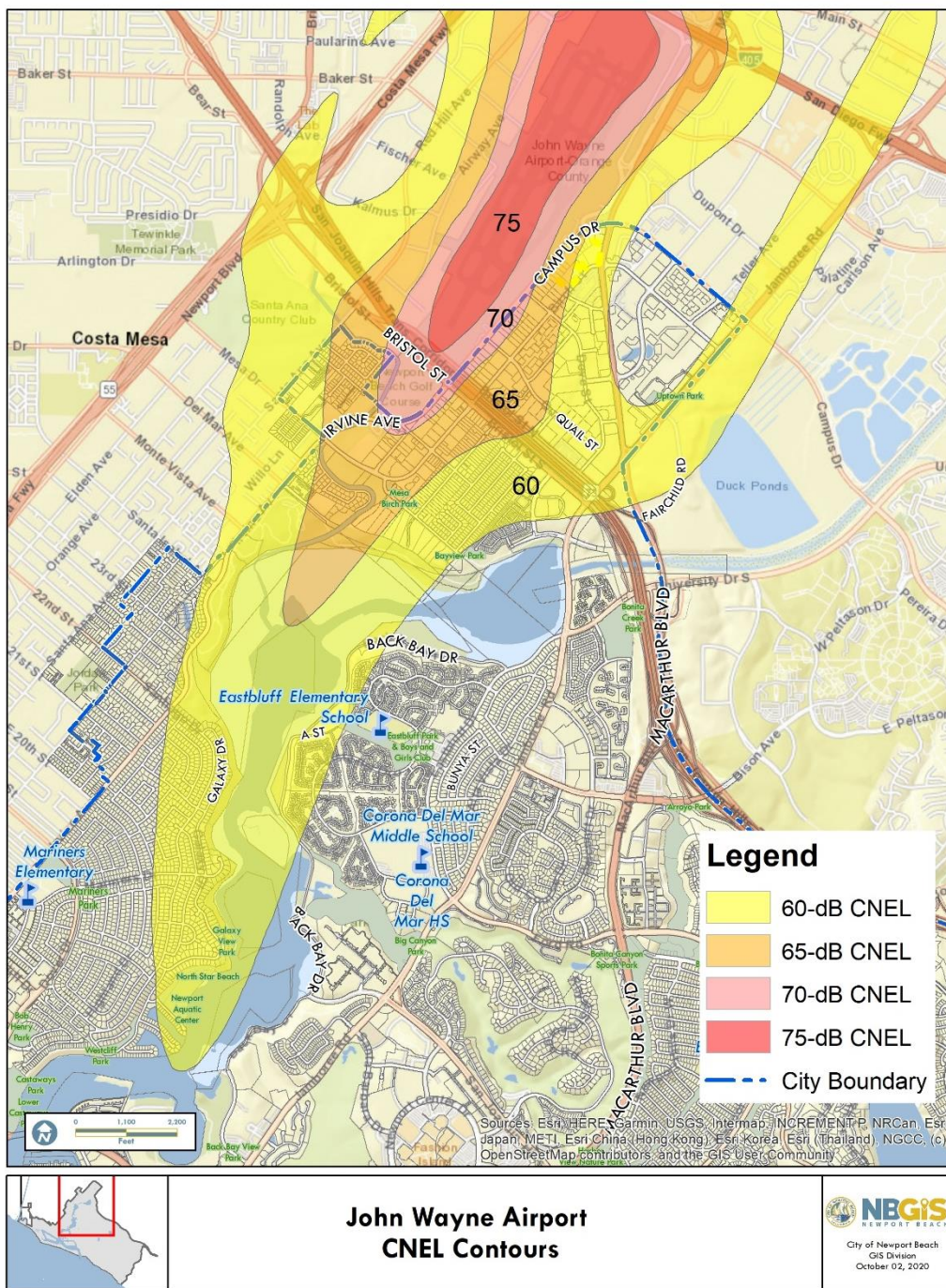


Exhibit D
John Wayne Airport CNEL Contours

² Airport Environs Land Use Plan for John Wayne Airport, amended April 17, 2008.

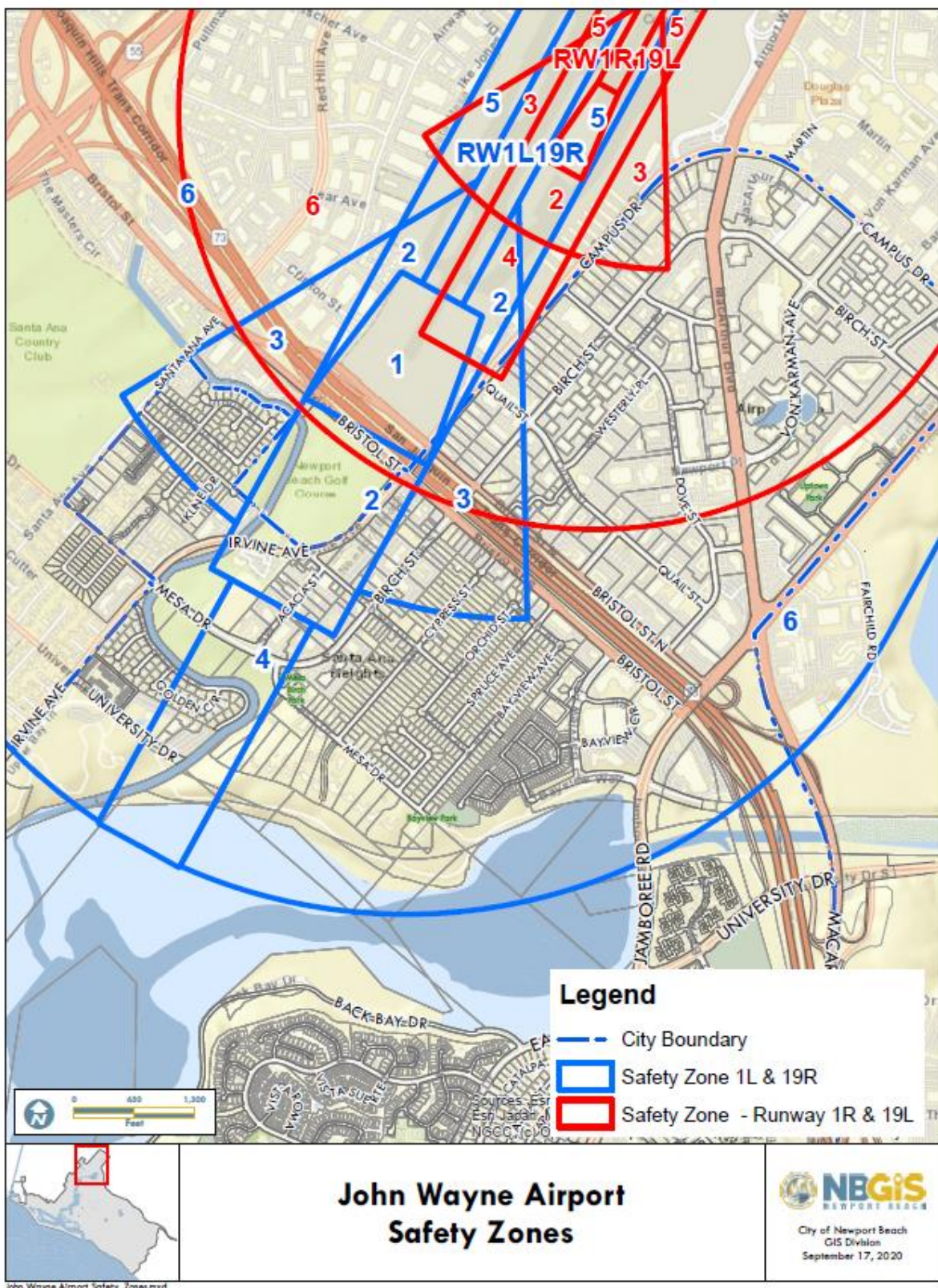


Exhibit E
John Wayne Airport Safety Zones

Requisite analysis for the Sixth Cycle housing elements will require review of adequacy of sites based upon known environmental factors, including noise and safety impacts. The limitation of the use of these sites further limit the ability for the City of Newport Beach to accommodate future residential growth.

The City anticipates the ALUC and the California Department of Transportation (Caltrans) Division of Aeronautics will oppose future rezoning efforts for increased residential development in the Airport Area based on recent experience with residential development projects designed consistent with the noise and safety requirements of the AELUP. In reviewing these recent projects, both ALUC and Caltrans found the projects to be inconsistent due to their proximity to John Wayne Airport and potential for complaints from future residents and safety impacts outside the identified safety zones.

(d) Local Factor: Lands Protected and/or Precluded From Development Activity

i. Protected Natural Lands

A majority of the City's remaining open space land is designated and protected as environmentally sensitive habitat areas and cannot be utilized for residential development. These areas are identified in ***Exhibit F: Natural Community Conservation Planning (NCCP) and Environmental Study Areas***.

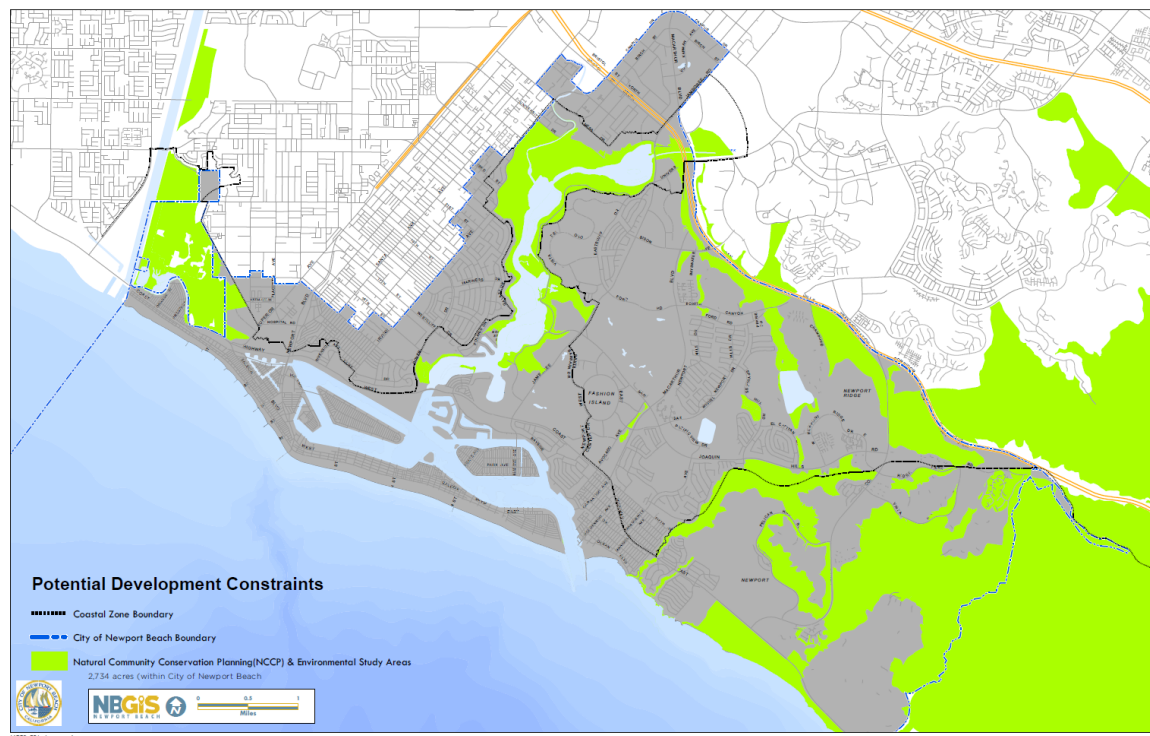


Exhibit F
Natural Community Conservation Planning (NCCP) and Environmental Study Areas

In July 1996, the City became a signatory agency in the Orange County Central-Coastal Subregion Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP). The plan covers nearly 38,000 acres in coastal southern California and is a collaboration of federal and state resource agencies, local governments, special districts, and private property owners. The NCCP uses a multi-species habitat conservation approach rather than a species-specific approach resulting in the preservation of some of the most valuable native habitats, while freeing other properties for development. As a signatory agency, the City is responsible for enforcing mitigation measures and other policies identified in the NCCP/Habitat Conservation Plan Implementation Agreement for properties located within the City limits that are part of the NCCP Sub-regional Plan.

Furthermore, Section 30107.5 of the Coastal Act defines “environmentally sensitive area” as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas (ESHAs) be protected against any significant disruption of habitat values. Only uses dependent on those resources are allowed within ESHAs and adjacent development must be sited and designed to prevent impacts that would significantly degrade the ESHA and must be compatible with the continuance of the ESHA.

Several of the natural communities that occur in Newport Beach are designated rare by the California Department of Fish and Wildlife (CDFW) and are easily disturbed or degraded by human activity and therefore are presumed to meet the definition of Environmental Sensitive Habitat Area (ESHA) under the Coastal Act.

ii. High Fire Severity Hazard Zones

Lands with high severity risk of fire and fuel modification areas further limit available land to develop residential units, in particular, higher density residential development. The areas identified in ***Exhibit G: High Fire Severity Zones*** are highly prone to wildfire.

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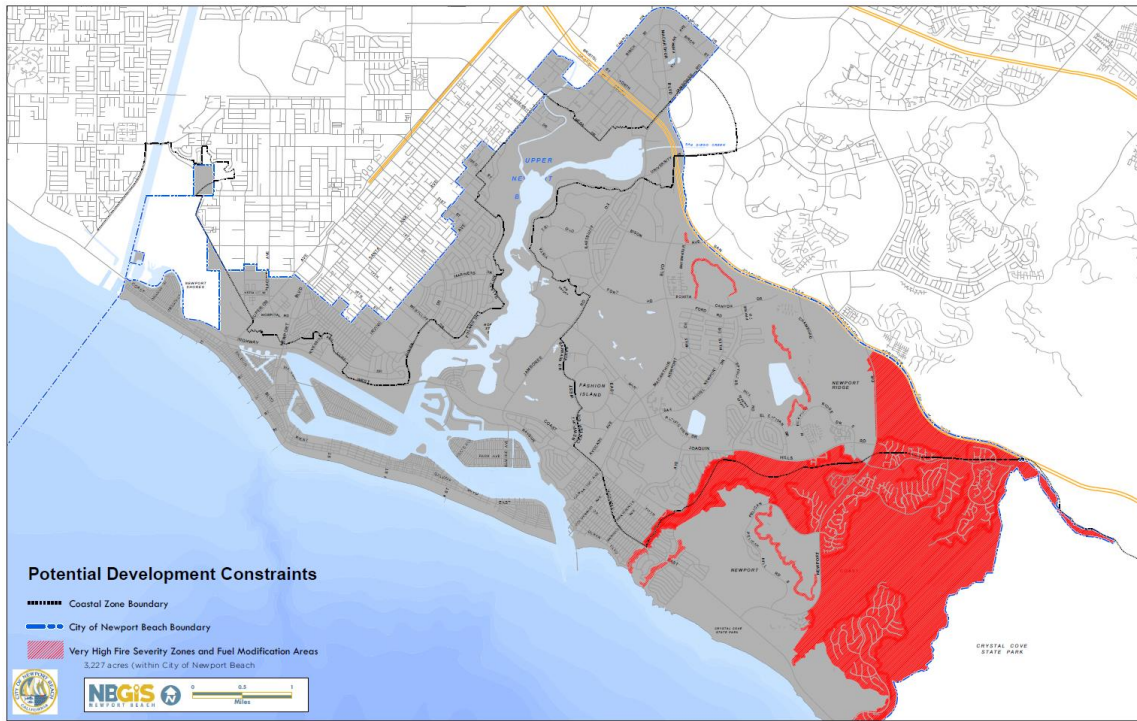


Exhibit G
High Fire Severity Zones

Additionally, these high fire severity zones are not compatible with development due to severe limitations of slope and natural features. As shown in **Exhibit H: Photo of Very High Fire Severity Zone**, these areas are characterized by natural slopes in excess of those that would contribute to feasible development. The considerable cost to modify landforms to provide access and provide infrastructure are significant factors contributing to the infeasibility of development within this area.



Exhibit H
Photo of Very High Fire Severity Zone

iii. Seismic Hazard Zones

Strong ground shaking can result in liquefaction. Liquefaction, a geologic process that causes ground failure, typically occurs in loose, saturated sediments primarily of sandy composition. Areas of the City susceptible to liquefaction and related ground failure (i.e. seismically induced settlement) include areas along the coastline, such as Balboa Peninsula, in and around the Newport Bay and Upper Newport Bay, in the lower reaches of major streams in Newport Beach, and in the floodplain of the Santa Ana River. It is likely that residential or commercial development will never occur in many of the other liquefiable areas, such as Upper Newport Bay, the Newport Coast beaches, and the bottoms of stream channels. However, other structures (such as bridges, roadways, major utility lines, and park improvements) that occupy these areas are vulnerable to damage from liquefaction if mitigation measures have not been included in their design.

(e) Summary of Land Use Constraints

When the City of Newport Beach compiles all lands exhibiting constraints that severely limit or restrict residential development within its jurisdiction, a considerable amount of land is not available to accommodate the Draft RHNA Allocation of 4,834 units for the 2021-2029 planning period. ***Exhibit I: Summary of Development Constraints*** illustrates the lands subject to these constraints.

The current methodology does not permit the consideration of hazards and a criterion for identifying the availability of land to accommodate growth. There is precedent that permits the consideration of constraints in determining available land. In the Draft Methodologies for the Association of Bay Area Governments (ABAG), a 10 percent adjustment factor is permitted to accommodate the consideration of hazards into the determination of RHNA Allocations. The SCAG methodology does not, but should permit this factor as it results in an overstated Draft RHNA Allocation for the City of Newport Beach.

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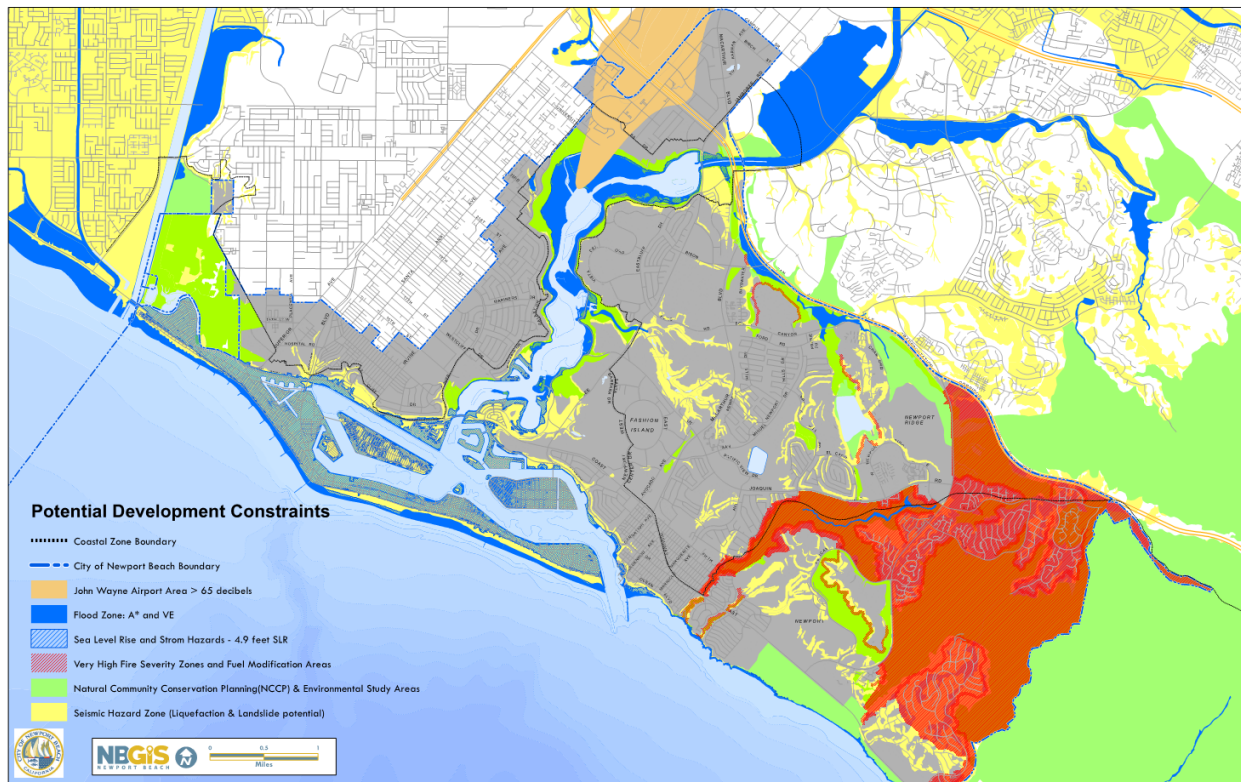


Exhibit I
 Summary of Development Constraints

Table A provides a statistical summary of the acreage subject to identified constraints, demonstrating the significant amount of land. Of the 29,361 legal parcels in the City of Newport Beach, approximately 50 percent of these parcels are subject to the constraints illustrated in this section.

Table A
 Statistical Summary of Land Use Constraints

| Land Use Constraint | Acreage | Key Constraint Factors |
|-------------------------|---------------------|-----------------------------|
| Sea Level Rise & Storm | 1,226 | Coastal Hazard Avoidance |
| Flood Zone | 479 | Flood Hazards/Insurance |
| Airport Restrictions | 391 | Noise Compatibility |
| NCCP Conservation Areas | 2,734 | Protected Lands Preclusions |
| High Fire Severity Zone | 3,227 | Fire Hazards/Insurance |
| Seismic Hazard | 4,107 | Seismic Hazards Preclusions |
| TOTAL | 8,418 ACRES* | |

**Note: Total acreage represents land area affected by one or more constraint layer; therefore, affected land area is only counted once.*

| | | |
|--|------------------------|--|
| 1(b) | Local Planning Factors | <i>SCAG failed to adequately consider the information submitted pursuant to Section 65584.04(b).</i> |
| <i>Availability of Land Suitable for Urban Development or for Conversion to Residential Use, the Availability of Underutilized Land, and Opportunities for Infill Development and Increased Residential Densities</i> | | |

In consideration of all local factors that limit the use of land to accommodate the City's Draft RHNA Allocation, future growth must be accommodated on lands not subject to identified constraints as identified in ***Exhibit I: Summary of Development Constraints***. These include all residential and non-residentially designated land including:

- Residential
- Commercial/Retail
- Mixed-Use
- Industrial

(a) Severe Limitations of Available Vacant Land

The City has little appropriate, available vacant land to accommodate future growth anticipated in the Draft RHNA Allocation. The only remaining land considered vacant are lands within the City's Sphere of Influence and cannot be considered when identifying adequate sites for residential development unless they are anticipated to be incorporated in the planning period.

Recently enacted AB 1397 modified Sections 65580, 65583 and 65583.2 of the Government Code. Generally, jurisdictions must demonstrate the following:

- *Land Inventory Sites Must Be "Available" and May Only Include Non-Vacant Sites with Realistic Development Potential (Government Code Section 65583).*
- *Sites in the Land Inventory Must Have Demonstrated Potential for Development (Government Code Section 65583(a)(3))*

This provision in State law requires the City to explicitly demonstrate the availability of vacant lands to accommodate future housing growth need.

Banning Ranch is the only remaining vacant site available to accommodate future growth (see ***Exhibit J: Housing Sites Precluded from Future Development - Banning Ranch***). However, as previously discussed, the City's efforts in approving the development of 1,375 dwelling units on the site, including a portion dedicated to affordable housing, was ultimately overturned by the California Coastal Commission in 2016 due to the potential impacts to environmentally sensitive habitat areas and coastal

resources. Development of the site is further complicated by the fact that a large portion of the site is in County of Orange's jurisdiction, although in City's Sphere of Influence

It should also be noted that recent guidance from the California Department of Housing and Community Development (HCD), pursuant to AB 1397 on the use of adequate sites, limits the identification of sites that are not located within the incorporated boundaries of a jurisdiction. Therefore, any sites intended to accommodate future growth must demonstrate they are either within corporate boundaries or anticipated to be incorporated into the City's boundaries during the planning period. Due to the Coastal Commission's prior denial of a viable residential project, the entitlement and incorporation of the approximately 400 acre Banning Ranch property is unlikely during the planning period.

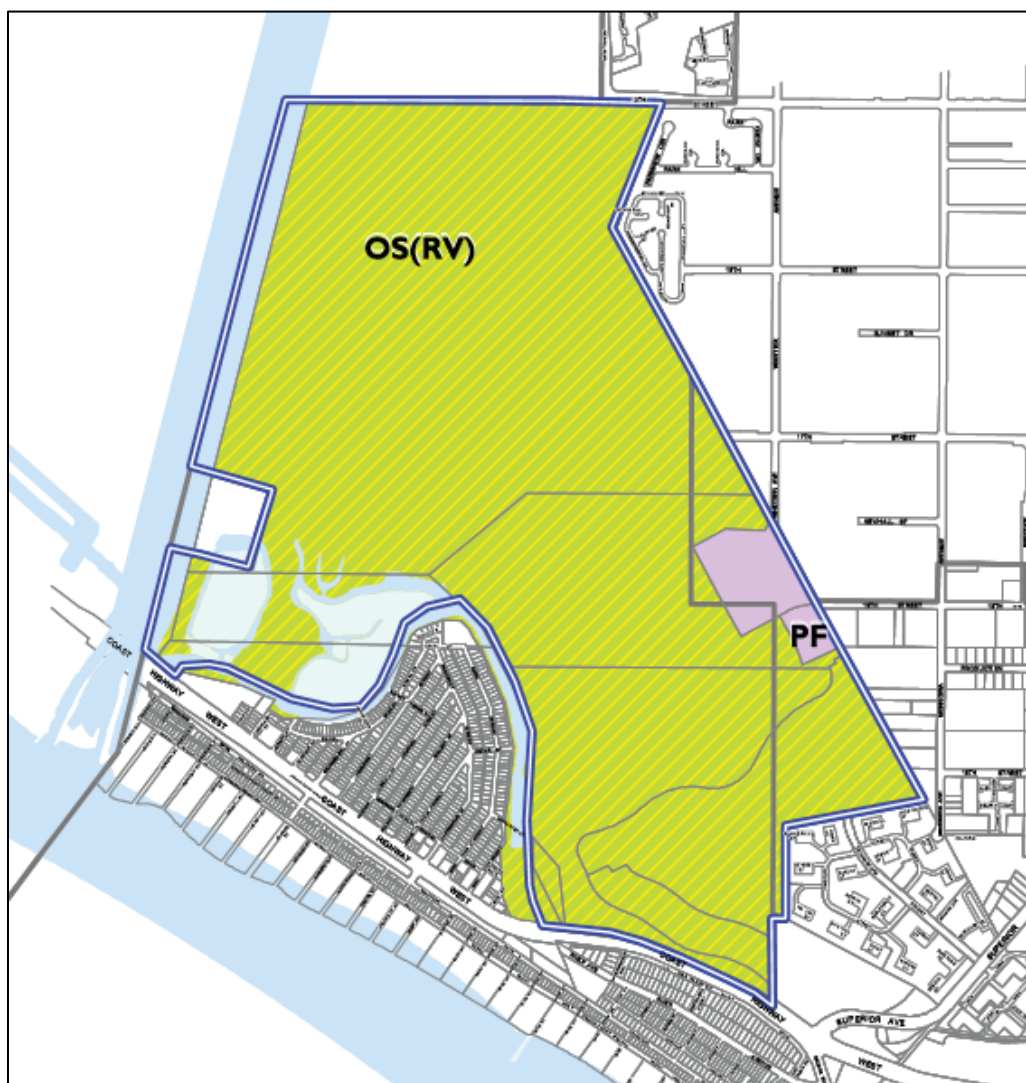


Exhibit J
Housing Sites Precluded from Future Development - Banning Ranch

The only other vacant land available for the 2014-2021 Housing Element to accommodate growth was a residentially zoned parcel located at 3928 East Coast Highway, as shown in **Exhibit K: Housing Sites Precluded from Development – 3928 East Coast Highway**. This site is currently under construction and will not be available to accommodate future growth during the Sixth Cycle.

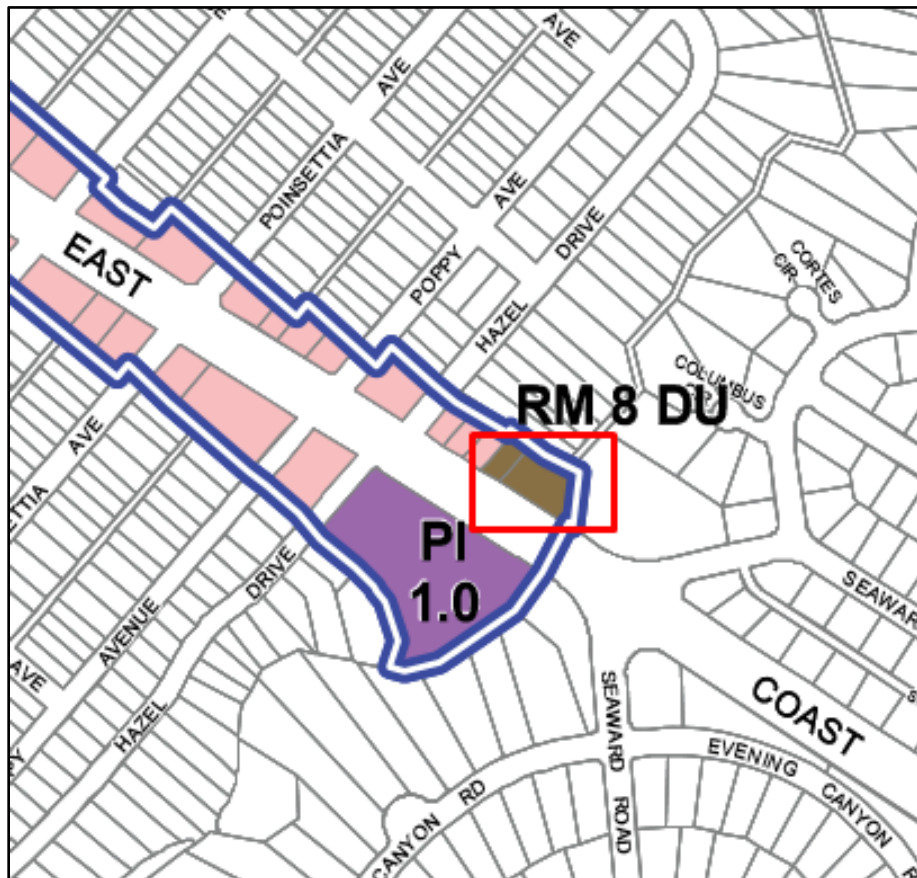


Exhibit K
Housing Sites Precluded from Development – 3928 East Coast Highway

(b) Existing Non-Vacant Residential Land

There are approximately 6,000 acres of residential land not subject to the constraints listed in **Table A**. As shown in **Exhibit L: Summary of Residential Land**, the majority of existing residential land consists of currently developed properties. There is no vacant residential land currently available to provide additional opportunities for residential development. Therefore, future residential development would have to be accommodated on infill, reuse and redevelopment of these existing residential properties.

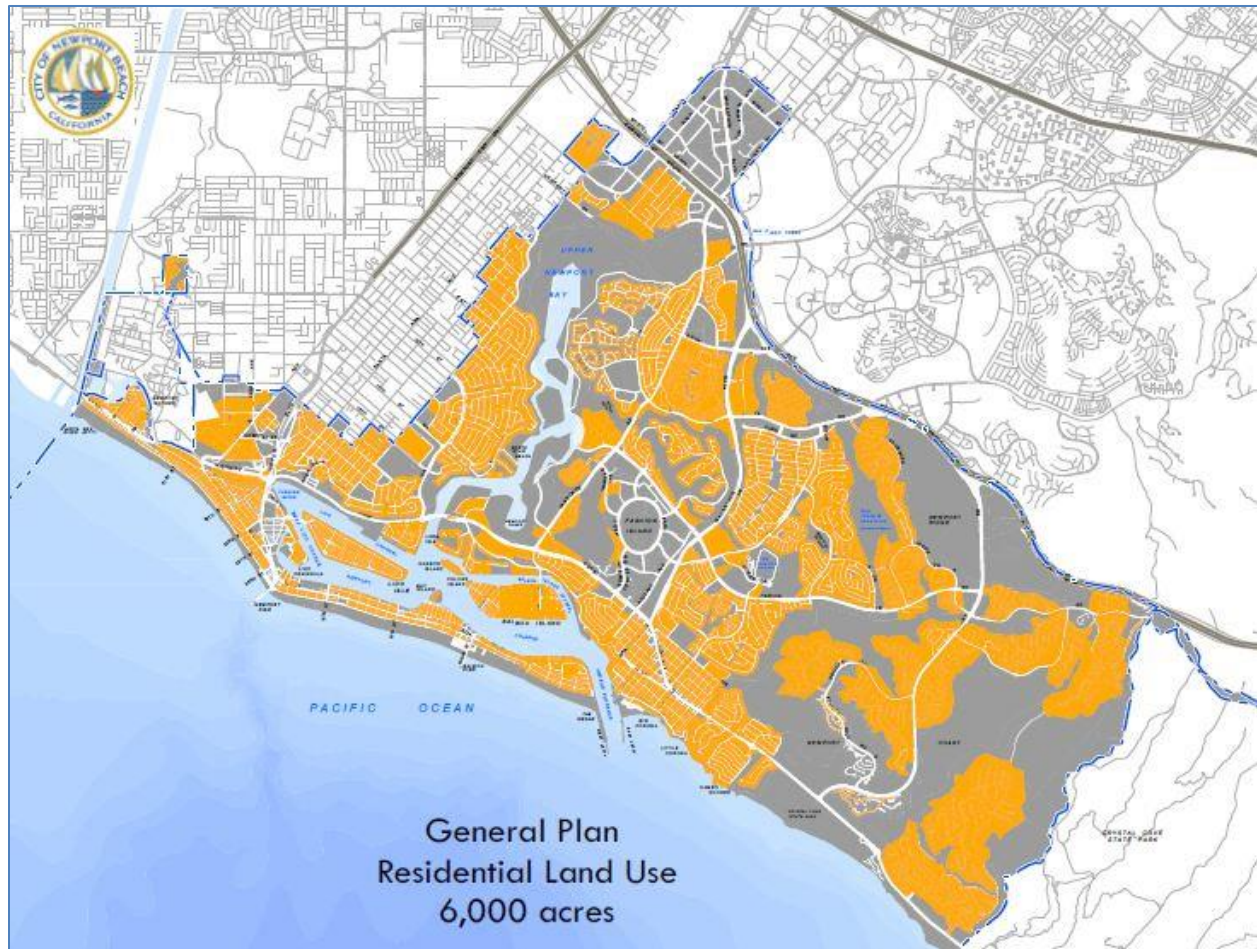


Exhibit L
Summary of Residential Land

(c) Existing Commercial/Retail Lands

There are approximately 922 acres of commercial/retail land not subject to the constraints listed in **Table A**. As shown in **Exhibit M: Summary of Commercial/Retail Land**, much of the existing commercial and retail land in the City is built out and highly utilized.

One of the factors included within the methodology to determine future RHNA allocations is employment generation. Employment generation is based on the existing job base and the forecast potential for new job creation. Therefore, future employment growth is dependent upon the preservation and expansion of existing inventory of land suitable for employment-generating activities. The significant size of RHNA allocations will force the City to re-designate land for residential development. This effectively limits the City's ability to create jobs, thus reducing the employment demand factor in the RHNA methodology.

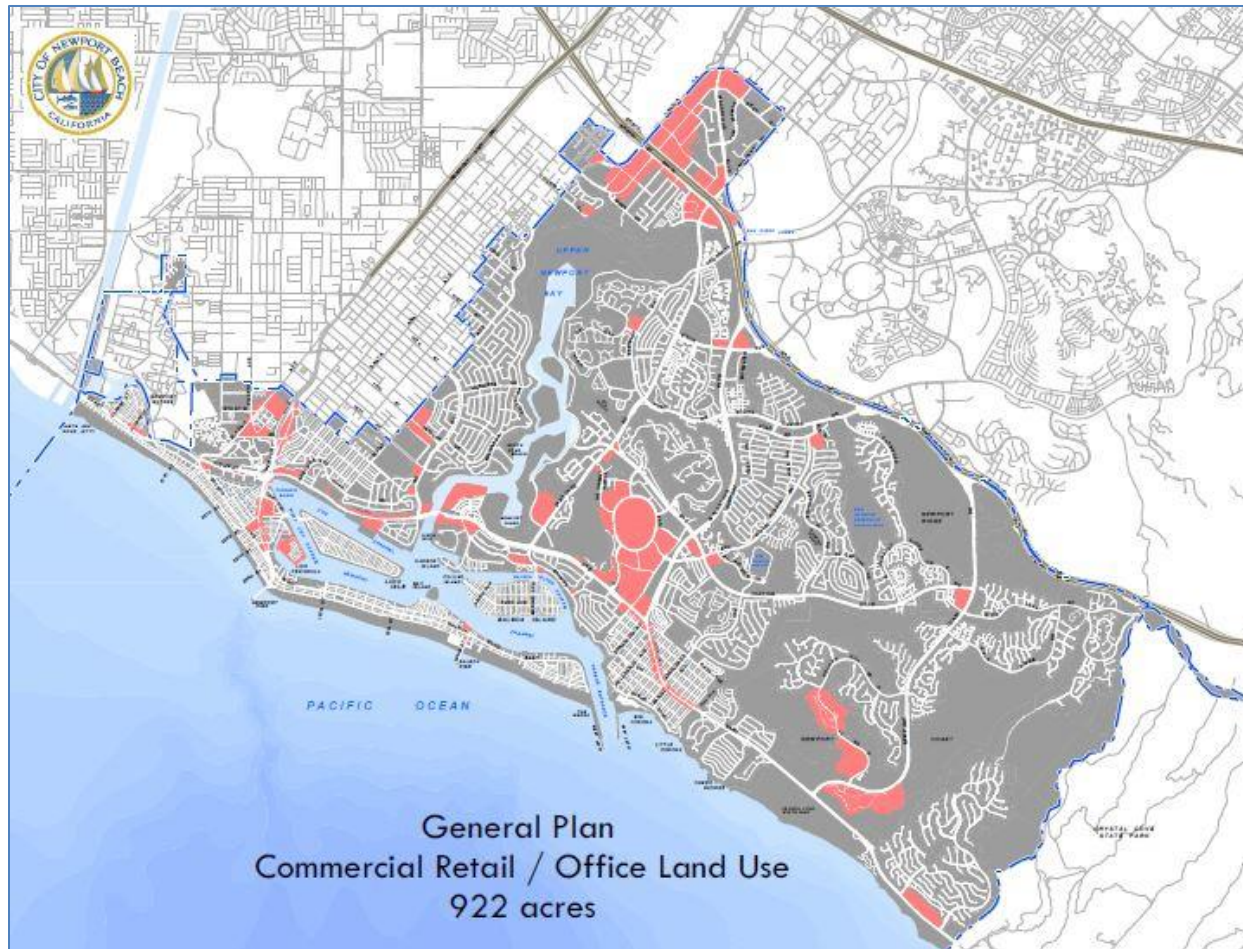


Exhibit M
Summary of Commercial/Retail Land

(d) Existing Industrial Lands

There are approximately 41 acres of industrial land not subject to the constraints listed in **Table A**. As shown in **Exhibit N: Summary of Industrial Land**, much of this land is located adjacent to Hoag Hospital where market conditions, including land costs and market demand for the expansion of medical and supportive uses, do not support the use of this land for residential use. Most of the remainder of this land is used for small scale service uses that should remain available for residents of the City.

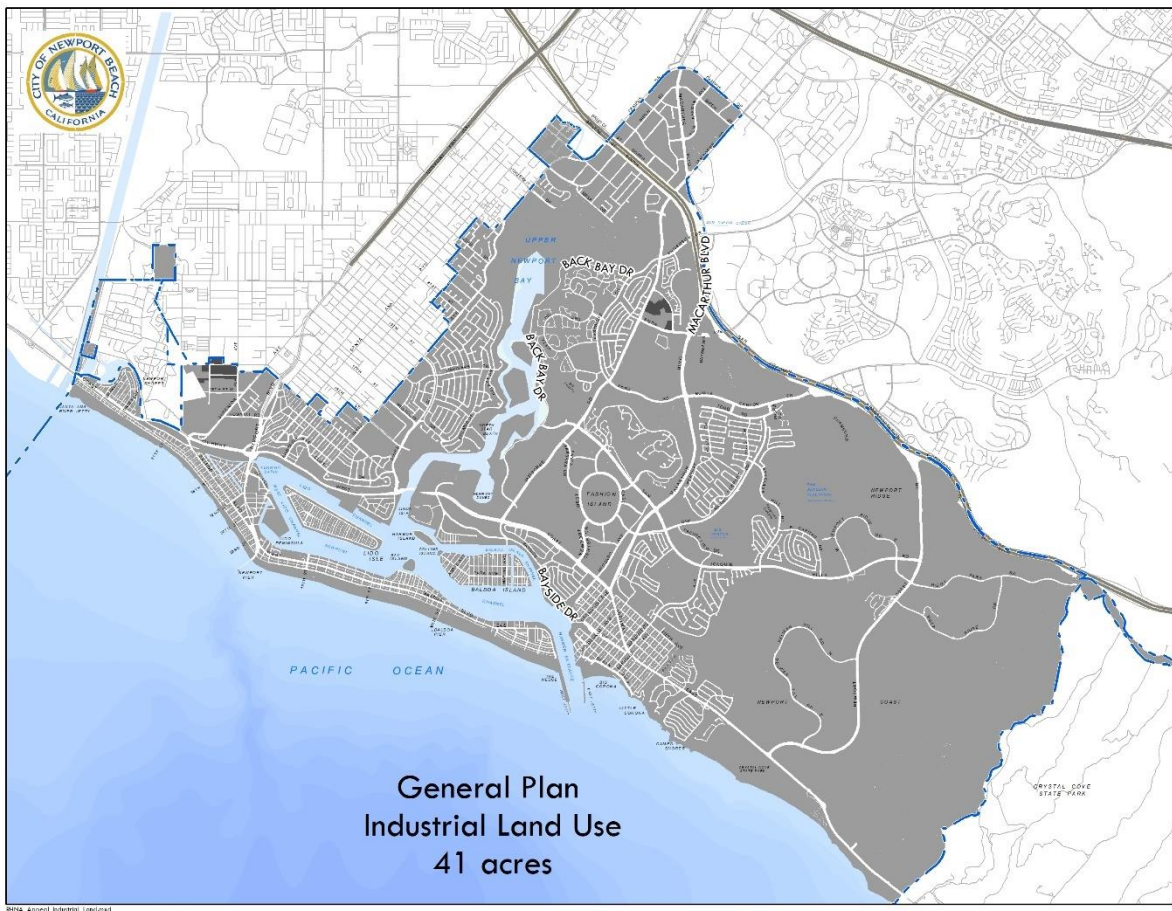


Exhibit N
Summary of Industrial Land

(e) Unavailability of Existing Commercial/Retail and Industrial Land for Housing Use.

The HCD Sites Inventory Guidebook requires the City to analyze property as either vacant or non-vacant. As noted above, there is next to no vacant land in the City; therefore, the City will need to meet its RHNA with non-vacant land. The HCD Guidebook states that when a City plans to accommodate more than 50 percent of the lower-income RHNA on non-vacant land, substantial evidence must be provided proving that the existing uses of the land will be discontinued during the planning period.

In the Draft RHNA allocation to the City, SCAG does not appear to have made an effort to determine if there is sufficient non-vacant land in the City that can satisfy the substantial evidence standard. The City will list as many sites as practicable, but in order to meet its RHNA, the City will need at least 161 acres of land, assuming a density of 30 units per acre. That means property owners of 161 acres of land in the City must conclude that a conversion of some, or all, of their land to a residential use is more advantageous than the land's current commercial use. But the reality is there is very little land in the City that contains obsolete commercial or industrial improvements or is underutilized due to high

property values and rents. As a highly attractive location for businesses and thus jobs (as SCAG acknowledges), inefficiently used commercial/industrial land is in very low supply in Newport Beach.

Because the City has little vacant land, and little commercial/industrial land with obsolete improvements or which is underutilized, the City will have tremendous difficulty in meeting the Draft RHNA that was assigned to the City without regard to whether or not enough physical locations for residential uses are economically feasible. Before assigning the City its Draft RHNA, SCAG should have included a reasonable level of analysis, or at least made direct inquiries, as to the availability of land upon which the City would be able to plan its RHNA.

If Newport Beach cannot facilitate enough landowners to make their land available for housing through various incentives, as described in HCD Guidebook, the City will have very limited alternatives. Therefore, inherent consequences of non-compliance will be forced upon the City if it fails to comply with a RHNA, when current land resources do not allow the City to comply. State law should therefore not punish the inability of the City to comply with a mandate due to the lack of land resources.

(f) Comparative Analysis of Density Needed to Accommodate RHNA Growth Analysis

As described in **Table B**, the City must transition up to 161 acres of existing, developed, high value land to accommodate future growth need. Therefore, the City must demonstrate that 4,834 units must be accommodated by transitioning existing development over the eight (8)-year planning period. It is unreasonable to assume the City will be able to justify this extent of sites, pursuant to the analysis required under AB 1397.

**Table B
Comparison of Densities Versus RHNA Growth Allocation**

| Density Range | RHNA Allocation | Acreage Needed to Accommodate Growth |
|-------------------------|------------------------|---|
| 30 Dwelling Units/Acre | 4,834 units | 161.0 acres |
| 60 Dwelling Units/Acre | 4,834 units | 80.5 acres |
| 100 Dwelling Units/Acre | 4,834 units | 48.3 acres |
| 150 Dwelling Units/Acre | 4,834 units | 32.2 acres |
| 200 Dwelling Units/Acre | 4,834 units | 24.1 acres |

(g) Density Considerations and Resiliency Planning

The unique land use conditions in Newport Beach have historically affected the ability for the City to effectively respond and recover from a variety of natural and man-made events. These include flood, fire, sea level rise, and public health. The City has conducted extensive analysis of threats and the proper mitigation of these threats through resiliency planning to identify, mitigate and respond to them.

In response to the recent COVID-19 pandemic, the City must consider contingency planning to ensure the health, safety, welfare and economic integrity of our residents, which can be addressed through appropriate land use considerations, such as density and land uses. To provide for local resiliency and effective response to future pandemics and the need for social distancing, considerations related to development design and open space will be critical factors in future contingency planning.

As social distancing should allow for residents, children and pets the ability to recreate, exercise and provide a level of social interaction and movement, the provision of adequate open spaces through parks, open space and urban spaces will have an effect on urban densities. Coupled with the need to accommodate 4,834 dwelling units within infill development, this will pose considerable challenges in designing development that meets appropriate criteria.

| | | |
|---|-------------|---|
| 2 | Methodology | <i>SCAG failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in Section 65584(d).</i> |
|---|-------------|---|

(a) The Methodology Fails to Consider Growth Projections Consistent with the SoCal Connect Plan

SCAG failed to adequately consider local household growth factors and utilized growth projections inconsistent with the Connect SoCal Plan.

Utilization of projected household growth consistent with the Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS) (Connect SoCal) is consistent with State law. However, the Draft RHNA Allocation would not be consistent with the development patterns projected in the Connect SoCal Plan. These forecasts are to be developed in conjunction with local input. As demonstrated in previous correspondence, the City of Newport Beach believes the profound inconsistency in forecasting growth demonstrates the failure of the methodology to consider local factors and future growth projections.

According to SCAG's *Connect SoCal Plan, Technical Reports - Demographics and Growth Forecast*³, the City of Newport Beach's household growth is forecast to reach 41,800 in 2045. Comparatively, the 2018 American Community Survey 5-Year Estimates show that the City of Newport Beach currently has 37,870 households.

As shown in **Table C** below, forecasts for households through 2045 are expected to be 41,800 according to the Connect SoCal Plan. If this is amortized over the forecast period (2016-2045), it equates to approximately 100 households per year of growth.

The City of Newport Beach's Draft RHNA Allocation is 4,834 units for the period of 2021 to 2029. If this is amortized over the planning period (2021-2029), it equates to approximately 604 households per year growth.

This demonstrates the unrealistic assumption that the City of Newport Beach would exceed its total 2045 forecast of household growth within 6.5 years of the 2021-2029 Housing Element planning period. More directly, the City of Newport Beach would reach the household estimate for 2045 approximately 17.5 years early.

³ Connect SoCal (2020 - 2045 Regional Transportation Plan/Sustainable Communities Strategy) Technical Reports - Demographics and Growth Forecast, Table 14.

Table C
Comparison of Household Growth Rates
Connect SoCal vs. RHNA

| Connect SoCal Forecast Growth | Connect SoCal Forecast Year | Average Per year growth rate 2016-2045 | RHNA Estimate Total Growth Need | RHNA Forecast Year | Average Per year growth rate 2021-2029 |
|-------------------------------|-----------------------------|--|---------------------------------|--------------------|--|
| 2,900 | 2045 | 100 HH/yr | 4,834 | 2029 | 604 HH/yr |

Source: Connect SoCal Plan; 2021-2029 Final Draft RHNA Allocations.

The City of Newport Beach contends that the household formation defined in the Draft RHNA Allocation far exceeds any reasonable projection for growth during the 2021-2029 Housing Element planning period. SCAG's own 2045 growth forecast, stated in the Connect SoCal Plan is inconsistent and directly undermines the validity of the assumptions in the Draft RHNA Allocation.

The discrepancy demonstrates the Draft RHNA Allocation undermines Government Code Section 65584(d)(1) by failing to provide the distribution of units in an equitable manner. This is demonstrated by the household growth rate increased by a factor of 504 percent above Connect SoCal forecasts. The City of Newport Beach contends that a realistic estimate of future growth need should be directly tied to realistic projections of household formation, consistent with SCAG's own projections in the Connect SoCal Plan.

(b) The Methodology of redistributing units from residual need calculation fails to be equitably distributed at a regional level, undermining objectives listed in Govt. Code Section 65584(d).

On November 7, 2019, the Regional Council approved a substitute motion removing the household growth factor and significantly modifying the Draft RHNA Allocation methodology to shift approximately 44,000 units of residual RHNA Allocation from lower-resourced jurisdictions (Anaheim, La Habra, Orange, Santa Ana and Stanton) to other higher-resourced jurisdictions in Orange County. As a result, Newport Beach and other Orange County communities not designated as lower-resourced must accommodate the residual need. This effectively increases the City's obligations not based on the City's demonstrated local needs, but based upon the residual need left by these jurisdictions. This has artificially allocated 1,506 units of growth need to Newport Beach, even when SCAG's own growth forecasts do not support this growth.

Further, the County of Orange is burdened with the redistribution of this residual need, when numerous other factors support the redistribution of the residual needs to areas not necessarily in the County. These factors include:

- **Failure to consider regional employment factors** – The methodology to redistribute housing growth is absent of regional factors in determining future growth. The methodology arbitrarily defines the county line rather than the regional influence of jobs to determine redistribution of units. This does not consider the influence of Los Angeles, Riverside, San Bernardino and San Diego counties when considering the proper distribution of these reallocated units.
- **Arbitrary reassignment of all need to Orange County jurisdictions only** - Newport Beach and other Orange County communities not designated as lower-resourced must accommodate the residual need. This effectively increases the City’s obligations not based on the City’s demonstrated local needs, but based upon the residual need left by these jurisdictions. This has artificially allocated 1,506 units of growth need to Newport Beach, even when SCAG’s own growth forecasts do not support this growth. Furthermore, the reassignment fails to consider adjacent communities not designated as lower-resourced that are located outside the boundaries of Orange County.

(c) The Final Draft RHNA Allocation for Newport Beach Directly Undermines Government Code Sections 65588(d)(1) and 65588(d)(2)

Government Code Section 65588(d) defines five (5) specific objectives the RHNA allocation plan shall further. In particular, Section 65588(d)(1) objective of “*Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households*” is dependent on the availability of suitable land to various location within the City.

As discussed previously in this appeal letter, the City is very limited in appropriate and available vacant land and must accommodate almost all future growth need on infill parcels. Therefore, significant impact will occur to the City’s non-residential land uses as these sites must be used to accommodate the growth identified in the Draft RHNA Allocation. Even at residential densities far above historical averages, the amount of land necessary to accommodate residential growth at the levels identified in the Draft RHNA Allocation would require the City to sacrifice a significant percentage of job-creating uses, retail and industrial land. Furthermore, the majority of this land will not be justifiable as adequate sites pursuant to the strict requirements for adequate sites of AB 1397. Requisite analysis to determine if these sites are viable is stated on the State Department of Housing and Community Development’s “Building Blocks” website⁴. Considerations include:

- Existing Uses** – *“The housing element must demonstrate non-vacant and/or underutilized sites in the inventory that can be realistically developed with residential uses or more-intensive residential uses at densities appropriate to accommodate the*

⁴ <https://www.hcd.ca.gov/community-development/building-blocks/site-inventory-analysis/analysis-of-sites-and-zoning.shtml#realistic>

regional housing need (by income) within the planning period... The condition or age of existing uses and the potential for such uses to be discontinued and replaced with housing (within the planning period) are important factors in determining “realistic” development potential...”

It is the burden of the City of Newport Beach to demonstrate the realistic development potential of infill sites by income category. The ability to identify adequate acreage to rezone and permit new residential development on land that is “...*realistically developed with residential uses or more-intensive residential uses at densities appropriate to accommodate the regional housing need (by income) within the planning period....*” will be an insurmountable task that will be primarily influenced by current market conditions, the viability and health of existing non-residential uses, and the likelihood of existing investments to transition to new residential uses. Many of these existing non-residential lands are limited by constraints imposed by lease provisions, financing provisions and other encumbrances tied to the land that can negate the possibility of transition due to these circumstances.

ii. Development Trends – *“The inventory analysis should describe recent development and/or redevelopment trends in the community. The housing element should also include a description of the local government’s track record and specific role in encouraging and facilitating redevelopment, adaptive reuse, or recycling to residential or more-intense residential uses. If the local government does not have any examples of recent recycling or redevelopment, the housing element should describe current or planned efforts (via new programs) to encourage and facilitate this type of development (e.g. providing incentives to encourage lot consolidation or assemblage to facilitate increased residential-development capacity).”*

Development trends cannot be considered solely at the regional or state level. All development in Newport Beach is affected by the local market. Due to local market conditions, value of the land and construction costs, infill development transitioning to affordable housing is heavily influenced by existing development activity. The general costs to bring affordable residential development to the market does not generate the residual values to justify the transition of existing developed land. Newport Beach currently cannot demonstrate a consistent track record of transitioning viable existing commercial development into residential development projects.

Development activity in Newport Beach is also significantly influenced by the variety of approvals required by external agencies. These approvals in many cases can limit, or completely halt future development activity. The City of Newport Beach is therefore influenced by the decision of external agencies in the approval of projects. In particular the California Coastal Commission, Federal Aviation Administration (FAA), ALUC, and Caltrans, all have local jurisdiction for a large percentage of lands in the City. These agencies can preempt local decisions and deny the use of lands. This is demonstrated by the recent Coastal Commission denial of the Banning Ranch project, which was to provide significant opportunity to accommodate residential growth.

iii. Market Conditions – *“Housing market conditions also play a vital role in determining the feasibility or realistic potential of non-vacant sites and/or underutilized sites for residential development. The housing element should evaluate the impact of local market conditions on redevelopment or reuse strategies. For example, high land and construction costs, combined with a limited supply of available and developable land may indicate conditions ‘ripe’ for more-intensive, compact and infill development or redevelopment and reuse.”*

As required by statute, the City of Newport Beach must “...evaluate the impact of local market conditions on redevelopment or reuse strategies...”. Local market conditions include some of the highest land costs in the United States and they play a significant role in the feasibility of transitioning existing viable commercial uses to residential use. Financing costs are also subject to market forces and they affect the feasibility of projects. The combination of high construction costs, high land values, increased financing costs, and the scarcity of vacant land are all factors that are included in development pro-formas to justify whether to proceed with redevelopment. In addition, existing commercial/industrial leases or loans place severe limitations on the ability to redevelop existing commercial/industrial sites. Therefore, all these market factors significantly affect the ability to structure the complex, multi-tranche financing necessary to accommodate affordable housing. In the end, all of these factors result in almost insurmountable conditions.

The Final Draft RHNA Allocation fails to consider the implications of existing law governing Housing Elements. Specifically, the requirements of State law that Newport Beach will be subject to in determining the adequacy of housing sites to accommodate future housing growth directly conflict with the ability of the City to accommodate the current Draft RHNA Allocation. This creates a scenario where the City cannot accommodate the level of RHNA growth need based on the inability to justify these sites pursuant to statutory provisions.

In review of the Government Code’s Housing Element for compliance with State law, the following factors severely limit the sites that can be considered for future growth:

iv. Realistic Development Capacity - *Realistic development capacity calculation accounts for minimum density requirements, land use controls, site improvements, and typical densities of existing or approved projects at similar income levels, and access to current, or planned, water, sewer, and dry utilities (Government Code Sections 65583.2(c)(1) and (2)).*

The City of Newport Beach must demonstrate realistic development capacity for approximately a large percentage of existing viable land with existing stable land uses in the City. This is infeasible as the City would essentially have to consider a large portion of existing job-generating uses to transition to residential uses and must prove these sites are a viable to transition during the planning period.

v. Realistic Capacity of Non-Vacant Sites - *The realistic capacity methodology analyzes the extent the existing use may impede additional residential development, the jurisdiction’s past experience converting existing uses to higher density residential development, current market demand for the existing use, analysis of existing leases or other contracts that would perpetuate the existing use or prevent additional residential development, development trends, market conditions, and incentives or standards that encourage development (Government Code Section 65583.2(g)(1).*

Existing uses are a major impediment to the development of future residential use in Newport Beach to the extent identified in the Draft RHNA Allocation. This would require the City to analyze all private lease agreements and contracts to determine site feasibility. This is both impractical and infeasible. Additionally, market factors must consider the actual ability of the site to transition during the planning period. Many of the infill sites must be accommodated on existing commercial/industrial lands, which have long-term financing provisions with severe penalties if these provisions are compromised. Even with incentives, by-right development and other regulatory relief, a site could not redevelop due to these restrictions.

vi. “Substantial Evidence” Requirement - *If non-vacant sites accommodate 50 percent or more of the lower-income need, the housing element must describe “substantial evidence” that the existing use does not constitute an impediment for additional residential use on the site. Absent substantial evidence, the existing use is deemed an impediment to additional residential development during the planning period (Government Code Section 65583.2(g)(2)).*

As the City of Newport Beach has an extremely limited inventory of vacant lands available to accommodate growth, all future development will occur on sites identified as non-vacant sites. The substantial evidence requirement will be difficult, if not impossible to achieve. If more than 50 percent of the lower-income need is accommodated on sites currently in use, before the site could be identified as one available for housing, Newport Beach must overcome the presumption by showing: 1) past experience with converting the existing type of use to higher density residential development, 2) the current market demand for the current use will not impede redevelopment, and 3) existing leases or contracts would not legally prevent redevelopment of the site. Each of these criteria could not be currently met by the City.

| | | |
|----------|------------------------------|---|
| 3 | Changed Circumstances | <i>A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to Section 65584.04(b).</i> |
|----------|------------------------------|---|

The COVID-19 pandemic has had a demonstrable impact on Newport Beach’s economy. The pandemic was unforeseen during the development of regional RHNA methodology and will have lasting impacts to Newport Beach’s economy and housing market. Additionally, population growth trends in California have recently been revised to reflect a substantially lower rate of population growth in the region.

Prior to COVID-19, Newport Beach enjoyed a robust and diversified economy. With the restrictions imposed and ongoing during the pandemic, these restrictions have significantly impacted all aspects of Newport Beach's economy. With many job opportunities supportive to the tourist and hospitality industries now gone, it is estimated it will take years to return to pre-COVID levels. Because this was an unforeseen circumstance, the impacts to the economy of the City and consequently to the housing market are profound and should be a consideration when evaluating realistic development potential over the eight (8)-year RHNA planning period.

The State of California is experiencing population growth rates at historically low levels. Recent downward revisions by the Department of Finance illustrate the rate of population growth throughout California is slowing at a faster rate than previously anticipated. In the last three (3) years, the state has experienced the lowest population growth rates on record since 1900. Population growth is directly tied to household formation. The flattening of the population growth curve is contrary to the rate of growth identified in the Draft RHNA Allocation. Furthermore, according to Freddie Mac's February 2020 report, *The Housing Supply Shortage: State of the States*, their research indicates that "...California has a shortage of 820,000 housing units. But history suggests that California's shortage may be overestimated if interstate migration is considered."⁵

Summary of Contributing Factors Justifying Modifications to the City of Newport Beach's Draft RHNA Allocation

Based on the evidence provided herein, the Draft RHNA Allocation undermines Government Code Section 65584(d) by failing to support the goals identified therein. Further, the substantial growth need allocated to the City of Newport Beach, when applying current statutory requirements, will preclude the City from complying with law and be unfairly affected by the failure to enact these laws. The Draft RHNA Allocation and methodology used to develop it needs to be revised so that it fulfils the objectives identified in the Government Code.

The City of Newport Beach has compiled all development-contributing factors to summarize the severe limitations of the City to accommodate the Final RHNA Allocation. As shown in **Exhibit I: Summary of Development Constraints**, the City is severely limited in the availability of land to accommodate the unprecedented increase in growth from the Sixth RHNA cycle.

Remaining land available to accommodate growth will be limited to infill development on parcels with existing development, including existing residential zoned land and non-residential land that must be rezoned to accommodate residential development. **Exhibits J through M** demonstrate the only sites that can be used to accommodate residential growth in the future.

⁵ Freddie Mac, "The Housing Supply Shortage: State of the States" February 2020, Page 6.

The future growth of residential development will require the execution of the substantial evidence clause in State housing law to demonstrate the viability of infill sites. This evidence may include:

- Age of Existing Structures
- Developer Interest
- Past Experience in Developing Infill Property
- Existing Lease Provisions
- Environmental and Infrastructure Constraints

The City will not be able to justify the use of these infill sites in the Housing Element to accommodate the level of need shown in the Draft RHNA Allocation.

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CONCLUSION

The City of Newport Beach is committed to accommodating the existing and future needs of its residents. While the City is committed to contributing to the collective local, regional and State needs for housing, the City has demonstrated that the Draft RHNA Allocation is unrealistic, excessive and based on faulty assumptions that can have grave consequences to the City and its residents. Therefore, the City, respectfully objects to the Final Draft RHNA Allocation and methodology used and requests the RHNA Allocation be revised so that it fulfills the objectives identified in the Government Code.

Pursuant to Government Code Section 65584.05(b), the City of Newport Beach states the following revisions to the Final Draft RHNA Allocation are necessary to further the intent of the objectives stated in Government Code Section 65584(d). **Table D** illustrates these recommended modifications.

**Table D
Summary of RHNA Reductions**

| Government Code Requirements | RHNA Reduction |
|---|-----------------------|
| <p>Section 65584(d)(1) - <i>Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households.</i></p> <p>Reason- The Draft RHNA Allocation undermines this objective as it does not assign housing unit growth need in an equitable manner. The allocation is a marked increase in allocations from prior RHNA planning cycles and a disproportionately higher amount of lower income need to the community, based upon a flawed methodology that is inconsistent with regional growth forecasts at the regional, state and federal level.</p> | -902 |
| <p>Section 65584(d)(2) - <i>Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.</i></p> <p>Reason- The Draft RHNA Allocation undermines this objective as it does not properly consider lands that are designated for the protection of natural resources, protected lands precluded from development and lands subject to high fire severity. Furthermore, the use of these lands is not supportive of the efficient utilization of land to encourage and support efficient development patterns.</p> | -1506 |
| TOTAL | -2,408 |

Table E summarizes the City of Newport Beach's recommended RHNA allocation by income category:

Table E
Summary of Recommended RHNA Allocations for Newport Beach

| Income Category | SCAG September 3, 2020 Final Draft RHNA Allocation | Newport Beach Recommended RHNA Allocation |
|------------------------|---|--|
| Very Low | 1,453Units | 729 Units |
| Low | 928 Units | 466 Units |
| Moderate | 1,048 Units | 526 Units |
| Above Moderate | 1,405 Units | 705 Units |
| TOTAL | 4,834 Units | 2,426 Units |

Respectfully Submitted,



*Will O'Neill, Mayor
City of Newport Beach*

*cc: City Council Members, City of Newport Beach
Grace K. Leung, City Manager
Aaron C. Harp, City Attorney
Seimone Jurjis, Community Development Director*

Attachments:

*A - Local Planning Factors Survey
B - RHNA Methodology Correspondence*

Attachment A
Local Planning Factors Survey

Regional Housing Needs Assessment (RHNA) Local Planning Factor Survey

The RHNA process requires that SCAG survey its jurisdictions on local planning factors (formerly known as “AB 2158 factors”) prior to the development of a proposed RHNA methodology, per Government Code 65584.04 (b). Information collected from this survey will be included as part of the proposed RHNA methodology.

Between October 2017 and October 2018, SCAG included these factors as part of the local input survey and surveyed a binary yes/no as to whether these factors impacted jurisdictions. If your jurisdiction answered this part of the survey, your reply has been pre-populated in the table. Please review each factor and provide any information that may be relevant to the RHNA methodology. You may attach additional information to the survey. Please keep in mind that recent housing-related legislation has updated some of the factors listed, which were not included in the prior survey.

Per Government Code Section 65584.04 (g), there are several criteria that **cannot** be used to determine or reduce a jurisdiction’s RHNA allocation:

- (1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by the jurisdiction
- (2) Underproduction of housing units as measured by the last RHNA cycle allocation
- (3) Stable population numbers as measured by the last RHNA cycle allocation

The planning factors in the table below are abbreviated. For the full language used, please refer to Government Code Section 65584.04 (e) or the attached reference list.

Please review and submit the survey by 5 p.m. April 30, 2019 to housing@scag.ca.gov.

RHNA Methodology Local Planning Factor Survey

| | |
|--------------|--|
| Jurisdiction | |
| County | |

| Planning Factor | Impact on Jurisdiction |
|---|------------------------|
| Existing and projected jobs and housing relationship, particularly low-wage jobs and affordable housing | |
| Lack of capacity for sewer or water service due to decisions made outside of the jurisdiction's control | |
| Availability of land suitable for urban development | |

| | |
|---|--|
| <p>Lands protected from development under Federal or State programs</p> | |
| <p>County policies to preserve agricultural land</p> | |
| <p>Distribution of household growth assumed for regional transportation planning and opportunities to maximize use of public transportation</p> | |
| <p>Agreements between a county and cities to direct growth to incorporated areas of the county</p> | |

| | |
|--|--|
| Loss of low income units through contract expirations | |
| [NEW] Percentage of households that pay more than 30% and more than 50% of their income on rent | |
| [NEW] Rate of overcrowding | |
| Farmworker housing needs | |

| | |
|---|--|
| <p>Housing needs generated by the presence of a university campus within the jurisdiction</p> | |
| <p>[NEW] Loss of units during a declared state of emergency that have yet to rebuilt at the time of this survey</p> | |
| <p>[NEW] The region's greenhouse gas emission targets provided by the California Air Resources Board</p> | |
| <p>Other factors</p> | |

Affirmatively Furthering Fair Housing (AFFH) Survey

| | |
|-------------------------|--|
| Jurisdiction | |
| County | |
| Survey Respondent Name | |
| Survey Respondent Title | |

SCAG is surveying cities and counties on information related to affirmatively further fair housing* as part of its development of the Regional Housing Needs Assessment (RHNA) proposed methodology. Information related to AFFH may be obtained from local analysis for housing choice, housing elements, and other sources. Using your jurisdiction’s Analysis of Impediments to Fair Housing Choice, Assessment of Fair Housing, and/or local housing element, please answer the questions below about local issues, strategies and actions regarding AFFH and submit your answers no later than April 30, 2019 to housing@scag.ca.gov.

Data Sources

1a. Does your jurisdiction have an Analysis of Impediments to Fair Housing Choice or an Assessment of Fair Housing due to U.S. Department of Housing and Urban Development (HUD) requirements?

| | |
|-----|--|
| Yes | |
| No | |

2. When did your jurisdiction last update the General Plan?

| | |
|------|--|
| Year | |
|------|--|

3a. Does your General Plan have an environmental justice/social equity chapter or integrate environmental justice/social equity, per SB 1000?

| | |
|------------|--|
| Yes | |
| No | |
| In process | |

3b. If you answered yes or in process to question 3a, how does your General Plan integrate or plan to integrate environmental justice?

| | |
|--|--|
| A) An environmental justice chapter | |
| B) Throughout the General Plan in each chapter | |
| C) Both | |

* Per Government Code 65584(e), affirmatively furthering fair housing is defined as “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.”

Fair Housing Issues

4. Describe demographic trends and patterns in your jurisdiction over the past ten years. Do any groups experience disproportionate housing needs?

| |
|--|
| |
|--|

5. To what extent do the following factors impact your jurisdiction by contributing to segregated housing patterns or racially or ethnically-concentrated areas of poverty?

| | |
|--|--|
| Land use and zoning laws, such as minimum lot sizes, limits on multi-unit properties, height limits, or minimum parking requirements | |
| Occupancy restrictions | |
| Residential real estate steerings | |
| Patterns of community opposition | |
| Economic pressures, such as increased rents or land and development costs | |
| Major private investments | |
| Municipal or State services and amenities | |
| Foreclosure patterns | |
| Other | |

6. To what extent do the following acts as determinants for fair housing and compliance issues in your jurisdiction?

| | |
|---|--|
| Unresolved violations of fair housing or civil rights laws | |
| Patterns of community opposition | |
| Support or opposition from public officials | |
| Discrimination in the housing market | |
| Lack of fair housing education | |
| Lack of resources for fair housing agencies and organizations | |

Fair Housing Strategies and Actions

7. What are your public outreach strategies to reach disadvantaged communities?

| | |
|--|--|
| Partnership with advocacy/non-profit organizations | |
| Partnership with schools | |
| Partnership with health institutions | |
| Variety of venues to hold community meetings | |
| Door-to-door interaction | |
| Increased mobile phone app engagement | |
| Other | |

8. What steps has your jurisdiction undertaken to overcome historical patterns of segregation or remove barriers to equal housing opportunity?

| |
|--|
| |
|--|

9. What steps has your jurisdiction undertaken to avoid, minimize, or mitigate the displacement of low income households?

| |
|--|
| |
|--|

Housing Unit Demolition Data Survey Form

Please complete and return the survey by April 30, 2019 to housing@scag.ca.gov.

City: Newport
 Beach
 County: Orange

| Report Year | Demolished Housing Units Lost | | | | | | | | | 2012&2018 Newly Constructed or Permitted Housing Units (on site of demolition) | | | | | | | Not Developed Nor Permitted for Housing Uses After the | | | | | |
|-------------|-------------------------------|----------|--------------|-------|----------------------|-----------|-------|------------------|-------------------------------------|--|----------|--------------|-------|----------------------|-----------|-------|--|-------------------------------------|---------------|-------|-----------------|-------|
| | Single Unit Structure | | | | Multi-unit Structure | | | Total units lost | Affordable units out of total units | Single Unit Structure | | | | Multi-unit Structure | | | Total units gained | Affordable units out of total units | Not Developed | | Land Use Change | |
| | Detached | Attached | Mobile Homes | Total | 2,3, or 4-plex | 5 or more | Total | | | Detached | Attached | Mobile Homes | Total | 2, 3, or 4-plex | 5 or more | Total | | | Parcels | Units | Parcels | Units |
| A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W |
| 2009 | | | | | | | | -83 | | | | | | | | | 80 | | | | | |
| 2010 | | | | | | | | -67 | | | | | | | | | 73 | | | | | |
| 2011 | | | | | | | | -75 | | | | | | | | | 66 | | | | | |
| 2012 | | | | | | | | -87 | | | | | | | | | 85 | | | | | |
| 2013 | | | | | | | | -119 | | | | | | | | | 120 | | | | | |
| 2014 | | | | | | | | -165 | | | | | | | | | 152 | | | | | |
| 2015 | | | | | | | | -186 | | | | | | | | | 148 | | | | | |
| 2016 | | | | | | | | -234 | | | | | | | | | 221 | | | | | |
| 2017 | | | | | | | | -174 | | | | | | | | | 173 | | | | | |
| 2018 | | | | | | | | -192 | | | | | | | | | 189 | | | | | |
| Total | | | | | | | | -1382 | | | | | | | | | 1307 | | | | | |

Directions

| | |
|------------|---|
| Column A-I | Confirm that the number of demolished units for each category is correct. |
| Column J | Enter the number of affordable housing units that were among the demolished housing units. |
| Column K-R | Enter the number of newly constructed or permitted housing units on the site of demolition. |
| Column S | Enter the number of affordable housing units among the newly constructed or permitted housing units on the site of demolition. |
| Column T-U | For sites that remained vacant after the demolition where zoning is designated for housing uses, enter the number of parcels and potential housing unit capacity on these sites |
| Column V-W | For sites that have been converted to non-housing units after the demolition or sites that have remained vacant after the demolition where zoning is designated for non-housing uses, enter the number of parcels and the potential loss of housing unit capacity from the changes. |

Attachment B

RHNA Methodology Correspondence



CITY OF NEWPORT BEACH

100 Civic Center Drive
Newport Beach, California 92660
949 644-3004 | 949 644-3039 FAX
newportbeachca.gov

March 3, 2020

Mayor

Will O'Neill

Mayor Pro Tem

Brad Avery

Council Members

Joy Brenner

Diane Brooks Dixon

Marshall "Duffy" Duffield

Jeff Herdman

Kevin Muldoon

Kome Ajise, Executive Director
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90017

RE: March 5, 2020, Community, Economic and Human Development (CEHD) Policy Committee and Regional Council Meetings Related to Regional Housing Needs Assessment (RHNA) Allocation Methodology

Dear Mr. Ajise:

The City of Newport Beach (City) appreciates the opportunity to provide written comments regarding the Regional Housing Needs Assessment (RHNA) methodology being considered for the 6th RHNA cycle. Like many other jurisdictions and stakeholders, the City has been heavily engaged and has participated in the numerous meetings held by the Southern California Association of Governments (SCAG) regarding the development of the Draft RHNA allocation methodology. Through much of the development process, SCAG staff has listened to recommendations and input provided by various jurisdictions, housing experts, and housing advocates to develop a fair and equitable RHNA methodology. The months of effort and public input resulted in a methodology recommended by SCAG staff and supported by the RHNA Subcommittee, as well as the Community, Economic and Human Development (CEHD) Committee. This recommended methodology incorporated a reasonable factor of household growth (50%) and appropriately responded to changes in State law to factor in job accessibility (25%) and proximity to transit (25%) within the existing need portion of the allocations. However, to our dismay, with very little warning and no reasonable opportunity for any detailed analysis and thoughtful public input, the Regional Council inappropriately approved a substitute motion on November 7, 2019, removing the household growth factor and significantly modifying the Draft RHNA methodology to shift approximately 75,000 additional housing units into Orange County. **Therefore, the City of Newport Beach respectfully requests that SCAG consider the following comments and incorporate the City of Cerritos proposal dated**

February 4, 2020, which recommends that household growth forecasts be reintroduced back into the calculations for the existing need as follows:

- **household growth (33.3%);**
- **job accessibility (33.3%); and**
- **population within high quality transit areas (33.3%).**

1. Reinstate household growth as a factor of existing need

As stated in previous comment letters, local input and projected household growth is part of the very foundation of SCAG's planning efforts and furthermore is required by State law.

State law requires that the determination of regional housing need:

*“... shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments.
[65584.01(b)]*

Incorporating local input of projected household growth would ensure greater consistency between RHNA and the Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS) (Connect SoCal) as required by State law. However, the draft RHNA allocation would not be consistent with the development patterns projected in the Connect SoCal Plan. For Newport Beach, approximately 2,900 households are projected to be formed through 2045, yet the current draft RHNA allocation assigns 4,832 new units to be constructed in the City in the next eight-year planning period.

Any RHNA methodology that does not consider local conditions, as expressed in local General Plans, would ignore more than a half-century of State and Federal planning policy requiring comprehensive planning. Local General Plans and their development policies and assumptions must reflect a wide range of issues. Newport Beach is an attractive city for residents and visitors alike, but subject to various legal and geographic constraints. Though relatively small compared to sprawling bedroom communities, Newport Beach:

- (1) neighbors an international airport;
- (2) oversees the largest recreational boating harbor west of the Mississippi River;
- (3) contains substantial Environmentally Sensitive Habitat Areas, as well as wetlands;
- (4) borders state lands that have been recently described as high-risk fire zones;
- (5) is home to a number of State parks and beaches; and
- (6) has a vacant landfill bordering a tolled highway system.

The above list is not comprehensive, but paints a complex picture of the challenges that are overlooked with the elimination of local input.

Furthermore, these environmental concerns are all governed by comprehensive state and federal laws and regulations with differing objectives that will constrain the City's ability to comply with state housing laws and achieve RHNA allocations. For example, in 2008, the City approved the Banning Ranch project, which would have allowed for the development of 1,375 residential units, including an Affordable Housing Implementation Plan, and 252 acres of permanent open space. However, the California Coastal Commission denied the project and the property remains fenced off. This places Newport Beach – and cities like it – in a perilous position of trying to comply with the housing allocations when other State and Federal agencies have competing programmatic agendas.

Finally, as SCAG staff has correctly noted in every RHNA staff report, State law required SCAG to conduct a survey of “local planning factors” to identify local conditions and explain how each of the factors are incorporated into the proposed methodology. A simple mathematical calculation of local housing allocations based only on jurisdictions' proximity to jobs or population within transit-rich areas without consideration for local development constraints would render the local planning factors survey completely meaningless and would be contrary to State law.

Incorporating the request from the City of Cerritos to reintroduce a component of household growth forecasts back into the calculations for the existing need at a reduced rate of 33.3%, instead of the SCAG staff's original recommended methodology of 50%, is a compromise that the City of Newport Beach fully supports. This would constitute a minor revision to the RHNA methodology that remains substantially consistent with HCD's January 13, 2020, review of the methodology. As supported in the SCAG staff-recommended RHNA methodology staff report for the November 7, 2019, Regional Council meeting, the reintroduction of household growth into the existing need would further the five objectives of state housing law.

2. Redistributed units from residual need calculation should be redistributed region wide as opposed to remaining within county

Orange County has five jurisdictions defined as the “extremely disadvantaged communities” (DACs), meaning they have over 50% of their population located in very low resource areas. As a result of their DAC designations, the draft RHNA allocation methodology caps their RHNA allocation to the jurisdiction's projected 2045 household growth to limit growth in very low resource jurisdictions. Despite the DAC jurisdictions proximity to transit and jobs, the “residual” share of their existing need above projected household growth is then redistributed to other Orange County cities. It is recommended that redistribution occur across the SCAG region for the following reasons:

- Each of the five DACs have jobs accessible via 30-minute commute that are located outside boundaries of Orange County. Therefore, county boundaries should not be a factor in redistribution.
- The existing need projection for the region is stated to be the result of low vacancies, high overcrowding rates, and high cost burdens across the State. As such, each jurisdiction in the region, not just the counties, must do its part to address the housing crisis.

3. SCAG should continue objections to Department of Housing and Community Development's (HCD) faulty regional determination of 1,341,827 housing units

The City of Newport Beach supports Orange County Council of Government's (OCCOG's) February 18, 2020, request to SCAG to continue to oppose the regional deamination provided by the HCD. SCAG should continue to assert that HCD did not follow statute when allocating the regional determination:

"If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region...." ... [Gov. Code § 65584.01(a)]

This sets a dangerous precedent not only for SCAG, but also for other metropolitan planning organizations across the State to have their projections cast aside capriciously in pursuit of political agendas not based in fact but in hyperbole. Additionally, as you are likely aware, the State Department of Finance recently updated its population projections, which show a significant decrease since their previous forecast. Furthermore, Governor Newsom has stated that his commitment to building 3.5 million homes by 2025 was a "stretch goal" and that the state would soon be releasing a more pragmatic estimate of the housing needs by region. The regional determination of 1.34 million housing units is therefore not only unsupported by statute, it is not a feasible allocation given recent housing projections. Combined with an inequitable RHNA methodology, we are fearful that local jurisdictions are being set up for failure to comply with state housing law.

The City of Newport Beach shares SCAG's goal to develop and adopt a RHNA methodology that represents the best in regional planning, developed collaboratively with local jurisdictions and stakeholders in a manner that is credible and defensible at all levels, and can be realistically implemented in an equitable manner.

We request that the CEHD Policy Committee and Regional Council consider these recommendations prior to the adoption of the Final RHNA methodology. We recognize that there are time constraints established by State law; however, the

RHNA will have significant impacts on jurisdictions over the next decade and beyond. Therefore, it is imperative that the RHNA be finalized in a way that is equitable, realistic and achievable to help ensure tangible results in responding to the housing crisis.

Sincerely,

A handwritten signature in black ink, appearing to read "Will O'Neill". The signature is fluid and cursive, with the first name "Will" being the most prominent.

Will O'Neill
Mayor

CC. City Council Members
Grace Leung, City Manager
Seimone Jurjis, Community Development Director



CITY OF NEWPORT BEACH

100 Civic Center Drive
Newport Beach, California 92660
949 644-3004 | 949 644-3039 FAX
newportbeachca.gov

February 21, 2020

Mayor

Will O'Neill

Mayor Pro Tem

Brad Avery

Council Members

Joy Brenner

Diane Brooks Dixon

Marshall "Duffy" Duffield

Jeff Herdman

Kevin Muldoon

Kome Ajise, Executive Director
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90017

RE: February 24, 2020, Regional Housing Needs Assessment (RHNA) Subcommittee, Comments Regarding Agenda Item 1 – Recommended Final RHNA Methodology

Dear Mr. Ajise:

The City of Newport Beach (City) appreciates the opportunity to provide written comments regarding the Regional Housing Needs Assessment (RHNA) methodology being considered for the 6th RHNA cycle. Like many other jurisdictions and stakeholders, the City has been heavily engaged and has participated in the numerous meetings held by the Southern California Association of Governments (SCAG) regarding the development of the Draft RHNA allocation methodology. Through much of the development process, SCAG staff has listened to recommendations and input provided by various jurisdictions, housing experts, and housing advocates to develop a fair and equitable RHNA methodology. The months of effort and public input resulted in a methodology recommended by SCAG staff and supported by the RHNA Subcommittee, as well as the Community, Economic and Human Development (CEHD) Committee. This recommended methodology incorporated a reasonable factor of household growth (50%) and appropriately responded to changes in State law to factor in job accessibility (25%) and proximity to transit (25%) within the existing need portion of the allocations. However, to our dismay, with very little warning and no reasonable opportunity for any detailed analysis and thoughtful public input, the Regional Council inappropriately approved a substitute motion on November 7, 2019, removing the household growth factor and significantly modifying the Draft RHNA methodology to shift approximately 75,000 additional housing units into Orange County. **Therefore, the City of Newport Beach respectfully requests that SCAG consider the following comments and incorporate the City of Cerritos proposal dated February 4, 2020, which recommends that household growth**

forecasts be reintroduced back into the calculations for the existing need as follows:

- **household growth (33.3%);**
- **job accessibility (33.3%); and**
- **population within high quality transit areas (33.3%).**

1. Reinstate household growth as a factor of existing need

As stated in previous comment letters, local input and projected household growth is part of the very foundation of SCAG's planning efforts and furthermore is required by State law.

State law requires that the determination of regional housing need:

“... shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. [65584.01(b)]

Incorporating local input of projected household growth would ensure greater consistency between RHNA and the Regional Transportation Plan (RTP)/Sustainable Communities Strategy (SCS) (Connect SoCal) as required by State law. However, the draft RHNA allocation would not be consistent with the development patterns projected in the Connect SoCal Plan. For Newport Beach, approximately 2,900 households are projected to be formed through 2045, yet the current draft RHNA allocation assigns 4,832 new units to be constructed in the City in the next eight-year planning period.

Any RHNA methodology that does not consider local conditions, as expressed in local General Plans, would ignore more than a half-century of State and Federal planning policy requiring comprehensive planning. Local General Plans and their development policies and assumptions must reflect a wide range of issues. Newport Beach is an attractive city for residents and visitors alike, but subject to various legal and geographic constraints. Though relatively small compared to sprawling bedroom communities, Newport Beach:

- (1) neighbors an international airport;
- (2) oversees the largest recreational boating harbor west of the Mississippi River;
- (3) contains substantial Environmentally Sensitive Habitat Areas, as well as wetlands;
- (4) borders state lands that have been recently described as high-risk fire zones;
- (5) is home to a number of State parks and beaches; and
- (6) has a vacant landfill bordering a tolled highway system.

The above list is not comprehensive, but paints a complex picture of the challenges that are overlooked with the elimination of local input.

Furthermore, these environmental concerns are all governed by comprehensive state and federal laws and regulations with differing objectives that will constrain the City's ability to comply with state housing laws and achieve RHNA allocations. For example, in 2008, the City approved the Banning Ranch project, which would have allowed for the development of 1,375 residential units, including an Affordable Housing Implementation Plan, and 252 acres of permanent open space. However, the California Coastal Commission denied the project and the property remains fenced off. This places Newport Beach – and cities like it – in a perilous position of trying to comply with the housing allocations when other State and Federal agencies have competing programmatic agendas.

Finally, as SCAG staff has correctly noted in every RHNA staff report, State law required SCAG to conduct a survey of “local planning factors” to identify local conditions and explain how each of the factors are incorporated into the proposed methodology. A simple mathematical calculation of local housing allocations based only on jurisdictions' proximity to jobs or population within transit-rich areas without consideration for local development constraints would render the local planning factors survey completely meaningless and would be contrary to State law.

Incorporating the request from the City of Cerritos to reintroduce a component of household growth forecasts back into the calculations for the existing need at a reduced rate of 33.3%, instead of the SCAG staff's original recommended methodology of 50%, is a compromise that the City of Newport Beach fully supports. This would constitute a minor revision to the RHNA methodology that remains substantially consistent with HCD's January 13, 2020, review of the methodology. As supported in the SCAG staff-recommended RHNA methodology staff report for the November 7, 2019, Regional Council meeting, the reintroduction of household growth into the existing need would further the five objectives of state housing law.

2. Redistributed units from residual need calculation should be redistributed region wide as opposed to remaining within county

Orange County has five jurisdictions defined as the “extremely disadvantaged communities” (DACs), meaning they have over 50% of their population located in very low resource areas. As a result of their DAC designations, the draft RHNA allocation methodology caps their RHNA allocation to the jurisdiction's projected 2045 household growth to limit growth in very low resource jurisdictions. Despite the DAC jurisdictions proximity to transit and jobs, the “residual” share of their existing need above projected household growth is then redistributed to other Orange County cities. It is recommended that redistribution occur across the SCAG region for the following reasons:

- Each of the five DACs have jobs accessible via 30-minute commute that are located outside boundaries of Orange County. Therefore, county boundaries should not be a factor in redistribution.
- The existing need projection for the region is stated to be the result of low vacancies, high overcrowding rates, and high cost burdens across the State. As such, each jurisdiction in the region, not just the counties, must do its part to address the housing crisis.

3. SCAG should continue objections to Department of Housing and Community Development's (HCD) faulty regional determination of 1,341,827 housing units

The City of Newport Beach supports Orange County Council of Government's (OCCOG's) February 18, 2020, request to SCAG to continue to oppose the regional deamination provided by the HCD. SCAG should continue to assert that HCD did not follow statute when allocating the regional determination:

"If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region...." ... [Gov. Code § 65584.01(a)]

This sets a dangerous precedent not only for SCAG, but also for other metropolitan planning organizations across the State to have their projections cast aside capriciously in pursuit of political agendas not based in fact but in hyperbole. Additionally, as you are likely aware, the State Department of Finance recently updated its population projections, which show a significant decrease since their previous forecast. Furthermore, Governor Newsom has stated that his commitment to building 3.5 million homes by 2025 was a "stretch goal" and that the state would soon be releasing a more pragmatic estimate of the housing needs by region. The regional determination of 1.34 million housing units is therefore not only unsupported by statute, it is not a feasible allocation given recent housing projections. Combined with an inequitable RHNA methodology, we are fearful that local jurisdictions are being set up for failure to comply with state housing law.

The City of Newport Beach shares SCAG's goal to develop and adopt a RHNA methodology that represents the best in regional planning, developed collaboratively with local jurisdictions and stakeholders in a manner that is credible and defensible at all levels, and can be realistically implemented in an equitable manner.

We request that the RHNA Subcommittee consider these recommendations prior to the adoption of the Final RHNA methodology. We recognize that there are time constraints established by State law; however, the RHNA will have significant

impacts on jurisdictions over the next decade and beyond. Therefore, it is imperative that the RHNA be finalized in a way that is equitable, realistic and achievable to help ensure tangible results in responding to the housing crisis.

Sincerely,



Will O'Neill
Mayor

CC. City Council Members
Grace Leung, City Manager
Seimone Jurjis, Community Development Director



November 6, 2019

Mr. Kome Ajise, Executive Director
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90017

Subject: November 7, 2019 Regional Council Agenda Item 4 - RHNA Methodology

Dear Mr. Ajise:

The City of Newport Beach offers the following comments regarding SCAG staff's RHNA methodology recommendations to the Regional Council:

1. Some participants continue to urge SCAG to eliminate or minimize the use of local input in the RHNA process. However, SCAG staff has correctly noted that it is a requirement by State statutes to consider local input, as reflected in the Connect SoCal RTP/SCS growth forecast, in the RHNA methodology.
2. The "substitute motion" alternative discussed in the Regional Council staff report would result in major changes to the RHNA distribution at the county and jurisdictional levels. For example, under the substitute alternative, the Newport Beach RHNA would increase from 2,751 units to 4,832 units. It would be highly inappropriate for the Regional Council to approve this alternative, or any substantial change to the staff recommendation, at the 11th hour without allowing additional time for analysis and comment.
3. We continue to be concerned that the additional social equity adjustment in "high resource areas" results in an unachievable RHNA that could set those cities up for failure. *For Newport Beach, the very-low- and low-income categories represent 50 percent of the total RHNA allocation.* The lack of sufficient affordable housing subsidy funds combined with initiatives by the State legislature to punish cities that do not achieve their RHNA allocations is a recipe for failure, and Sacramento continues to blame cities for "not building enough housing." SCAG staff has commented that most cities in the region have enough residential capacity to

accommodate the 2045 growth forecast; however, under Housing Element, law development capacity is stratified by income category and new State laws severely limit use of “underutilized” sites to accommodate the lower-income RHNA allocation. In fact, most housing development in the most highly urbanized areas of the region occurs on underutilized sites, and *some cities in the SCAG region have virtually no buildable vacant land*. This fact in combination with “no net loss” rules creates a major disconnect between the regional growth forecast, transportation planning, and housing capacity as determined by HCD during Housing Element reviews.

4. While we continue to share the concerns expressed by many other jurisdictions regarding the unrealistically high RHNA assigned by HCD, we encourage the Regional Council to adopt SCAG’s staff recommendation as a reasonable methodology given the constraints imposed by State housing mandates.

The City of Newport Beach appreciates your consideration of these comments and all the efforts of SCAG staff throughout the RHNA process.

Sincerely,



Seimone Jurjis,
Community Development Director

cc: City Council
Grace Leung, City Manager
Jaime Murillo, Senior Planner
Marnie Primmer, Orange County Council of Governments Executive Director



October 21, 2019

Mr. Kome Ajise, Executive Director
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90017

Subject: Community, Economic and Human Development Committee
October 21, 2019, Agenda Item 1 - Recommended Draft RHNA Methodology

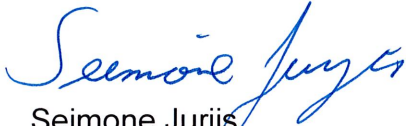
Dear Mr. Ajise:

As SCAG moves toward finalization of the RHNA methodology, the City of Newport Beach would like to offer the following recommendations.

1. Some housing advocacy organizations continue to urge SCAG to eliminate local input from consideration in the RHNA process. As your staff, subregional councils, and many jurisdictions have correctly noted, SCAG is required by State statutes to consider local input in developing the RHNA allocations, and any arguments to the contrary are a misrepresentation of the law.
2. We continue to be concerned that the additional social equity adjustment in “high resource areas” results in an unachievable RHNA that could set those cities up for failure. *For Newport Beach, the very-low- and low-income categories represent 50 percent of the total RHNA allocation.* The lack of sufficient affordable housing subsidy funds combined with initiatives by the State legislature to punish cities that do not achieve their RHNA allocations is a recipe for failure, and Sacramento continues to blame cities for “not building enough housing.” SCAG staff has commented that most cities in the region have enough residential capacity to accommodate the 2045 growth forecast; however, under Housing Element law development capacity is stratified by income category and new State laws severely limit use of “underutilized” sites to accommodate the lower-income RHNA allocation. This fact in combination with “no net loss” rules creates a major “disconnect” between the regional growth forecast, transportation planning and housing capacity as determined by HCD during Housing Element reviews.

While we continue to have great concern regarding the unrealistically high RHNA assigned by HCD, the City of Newport Beach appreciates your consideration of the comments provided in this letter and all the efforts of SCAG staff throughout the RHNA process.

Sincerely,

A handwritten signature in blue ink that reads "Seimone Jurjjs". The signature is written in a cursive style with a large initial 'S'.

Seimone Jurjjs,
Community Development Director

cc: City Council
Grace Leung, City Manager
Jaime Murillo, Senior Planner
Marnie Primmer, Orange County Council of Governments Executive Director



September 13, 2019

Mr. Kome Ajise, Executive Director
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90017

Subject: Comments on Proposed 6th Cycle RHNA Methodology

Dear Mr Ajise:

The City of Newport Beach appreciates the opportunity to provide written comments to SCAG regarding the draft Regional Housing Needs Assessment (RHNA) methodologies being considered for the 6th RHNA cycle. The City also recognizes the efforts of SCAG staff and the RHNA Subcommittee, CEHD Committee, and Regional Council members who devoted their time to participate in this important effort. The City remains committed to doing its part in addressing this housing crisis in compliance with Housing Element law (Government Code Sections 65580-65598.8) and respectfully requests that SCAG carefully consider the following comments related to the RHNA methodology options.

Overall, the City of Newport Beach supports Option 3, with recommended modifications below, as it is the only option based on local input grounded in the Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) process. Options 1 and 2 fail to consider limitations local agencies may have in being able to accommodate additional housing and allocation of housing largely based on population without regard to local input.

Opposition to Option 1

- **Redistribution of existing need would result in allocations and percent shares of income categories that are inconsistent with those provided in HCD's Regional Determination.** As noted in the Center for Demographic Research letter of August 23 ,2019 (Comments 3 and 4), we agree with redistribution of existing need above-moderate units to the very-low, low and moderate income categories is not consistent with the 6th cycle methodology adopted in other regions throughout the state and should be eliminated from SCAG's RHNA methodology. This redistribution proposal would result in allocations and percent shares of income categories that are inconsistent with those provided in HCD's Regional Determination.

- **For Newport Beach, existing need represents more than 90% of the total need in Option 1.** Option 1 is based upon local input for *projected need*, but *existing need* is based primarily (70%) on the jurisdiction's share of total regional population. This method of allocating existing need fails to acknowledge the fact that cities have different levels of vacancy, overcrowding and cost-burden, which are the primary components of existing need, or that cities have vastly different amounts of land (either vacant or underutilized) suitable for housing development.
- **Disaggregation of the existing regional "unmet" housing need based on a jurisdiction's population is inequitable and penalizes jurisdictions that have not contributed to the factors that are attributable to that "unmet" regional need.** Attachment 1 of the SCAG RHNA Subcommittee June 3, 2019, staff report, identifies each jurisdiction in the region and four factors that have contributed to the unmet housing needs. *In this attachment, the City of Newport Beach is not highlighted as having a pronounced problem in any of the four factors identified as contributing to the unmet existing housing need.* In particular, Newport Beach has issued building permits for new single-family and multi-family construction above the regional average. Additionally, Newport Beach maintains rates of overcrowding and cost-burden significantly below the regional average. Yet, as noted in the bullet above, utilizing Option 1, the *existing need* component assigned to Newport Beach is 9 times the *projected needs* for the City.
- **Disaggregation of the existing need based on population results in a social equity factor being applied twice.** Establishing existing housing needs for the region based on adjustment factors related to vacancy, overcrowding, and cost burden, and then redistributing the need based on a jurisdiction's percentage of the region's population will have the effect of disproportionately increasing housing need assessments to jurisdictions that experience higher vacancy rates and lower rates of overcrowding and cost burden, such as Newport Beach. Alternatively, jurisdictions that historically experienced lower vacancies and higher rates of overcrowding and cost burden, factors upon which unmet existing need is being calculated, will benefit from a lower proportionate assessment of this existing unmet need. Newport Beach understands that each jurisdiction must do its part to address the housing crisis and jurisdictions that are already overly burdened by these factors cannot be expected to take on the sole responsibility of addressing unmet housing needs, redistributing the unmet existing housing need based on population inherently implements a form of social equity. Therefore, the need for a subsequent social equity adjustment at the final RHNA allocation process will apply a social equity factor twice in the process. If disaggregation of existing need is approved based on population, then the final social equity adjustment (such as the currently proposed 150% adjustment) should not be removed.

Opposition to Option 2

- **Option 2 would completely disregard local input in determining RHNA allocations and would be inconsistent with both State law and long-standing SCAG practice.** Several comments submitted argue that local input should not be a

primary factor, or considered, in the RHNA methodology. However, local input is part of the very foundation of SCAG's planning efforts and furthermore is required by State law.

SB 375 of 2008, the landmark climate change legislation, integrated regional planning for transportation and housing, and includes the following key provisions:

Each metropolitan planning organization shall prepare a sustainable communities strategy ... including the requirement to utilize the most recent planning assumptions considering local general plans and other factors. The sustainable communities strategy shall ... identify the general location of uses, residential densities, and building intensities within the region, ... identify areas ... within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584, ... set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions ... to achieve, ... the greenhouse gas emission reduction targets approved by the state. [Government Code Sec. 65080(b)(2)(B)]

State law also requires that the determination of regional housing need:

"... shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. [65584.01(b)]

As noted in the first excerpt, the population forecast upon which the RTP/SCS is based utilizes planning assumptions grounded in local general plans. Therefore, it is clear that any RHNA methodology that does not consider local input would be contrary to the intent of the State Legislature.

Furthermore, any RHNA methodology that does not consider local conditions, as expressed in local General Plans, would ignore more than a half-century of State and Federal planning policy requiring comprehensive planning. Local General Plans and their development policies and assumptions must reflect a wide range of issues including sensitive environmental resources such as endangered species habitat, public safety hazards such as wildland fire zones, flood zones and geotechnical hazards, and infrastructure constraints such as water supply and the availability of wastewater treatment systems.

Finally, as SCAG staff has correctly noted in each RHNA staff report, State law required SCAG to conduct a survey of "local planning factors" to identify local conditions and explain how each of the factors are incorporated into the proposed methodology. A simple mathematical calculation of local housing allocations based only on jurisdictions' total population or population within transit-rich areas without consideration for local development constraints would render the local planning factors survey completely futile and be contrary to State law.

Since Option 2 would completely disregard local input in determining RHNA

allocations, it would be inconsistent with both State law and long-standing SCAG practice.

Support for Option 3 with Modifications

- **Population vs. household growth share.** Option 3 would allocate housing need based upon jurisdictions' shares of projected population growth rather than household growth. However, housing need is more closely correlated with households than population; therefore, it is more appropriate to use projected household growth in the RHNA methodology.
- **Replacement need should be based on net units lost, not on a per site basis.** Both Options 1 and 3 apply a *replacement need* component to the calculation for units demolished that were not replaced on the same site. This has the effect of requiring units demolished and not replaced on the same site to be replaced in the next planning period on a different site. What this methodology fails to address is that replacement may have already occurred on other sites in the same planning period as the demolition. In Newport Beach, new housing development has exceeded the prior RHNA allocation by more than the replacement need; therefore, the City recommends that the calculation of replacement need be based on total housing permits regardless of whether those units were built on the same sites where the demolition occurred.

General Comments

- **No alternative methodologies without additional public review.** The City recommends that SCAG not adopt an alternative RHNA methodology to Options 1, 2, or 3 until after HCD provides a final regional determination and additional public review time is afforded so that jurisdictions and the public will have the opportunity to fully assess how the alternative methodology will impact individual jurisdictions.
- **Local input should be used as the floor for any RHNA Allocation of projected need.** As noted in the Orange County Council of Governments (OCCOG) letter dated August 22, 2019, each jurisdiction has submitted projected housing development numbers to SCAG as part of the Connect SoCal process, which is linked with the RHNA process. The selected RHNA methodology therefore should ensure that any number assigned to a jurisdiction captures, at minimum, the number of units a jurisdiction identified through the local input process. For example, if a jurisdiction projected construction of 8,000 units, but the selected RHNA methodology only gives that jurisdiction 5,000 units, there should be an adjustment provided for the remaining 3,000 units to the jurisdiction, rather than distribute the 3,000 units to other jurisdictions. This respects local input, and ensures equity for other jurisdictions not to be overburdened.
- **Overestimating housing needs, when combined with new housing element law, may result in an unattainable RHNA and sets up local jurisdictions for failure.** It is essential that SCAG officials recognize the significance of the RHNA allocations to cities and counties. Combining an over estimation of existing need to a jurisdiction's RHNA with new State housing element law requirements, adopted in

Mr. Kome Ajise, Executive Director

September 13, 2019

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2017 that limit a jurisdiction's ability to "count" sites towards RHNA, may lead to widespread noncompliance throughout the State. The State Legislature has adopted new laws making it more difficult for sites to qualify for RHNA "credit," and HCD is proposing a RHNA allocation that is more than three times higher than the current Housing Element cycle. Despite the City of Newport Beach's efforts to identify a surplus of adequate sites in past housing element cycles, AB1397 will significantly increase the difficulty for jurisdictions to illustrate the adequacy of sites. Furthermore, SB 166 will require a jurisdiction to continually identify additional low-income housing sites when a developer chooses to develop market-rate housing on a site identified to accommodate low-income housing. The combination of these requirements would create a de-facto, State-mandated inclusionary requirement necessitating State funding.

The City of Newport Beach appreciates your consideration of the comments provided in this letter. The City of Newport Beach shares SCAG's goal to develop and adopt a RHNA methodology that represents the best in regional planning, developed collaboratively with local jurisdictions and stakeholders in a manner that is credible and defensible at all levels, and can be realistically implemented in an equitable manner. The City looks forward to working with SCAG to achieve this goal.

Sincerely,


Seimone Jurjis, PE, CBO
Community Development Director

cc: City Council
Grace Leung, City Manager
Jaime Murillo, Principal Planner
Marnie Primmer, Orange County Council of Governments Executive Director



June 5, 2019

Honorable Peggy Huang, Chair
Honorable Stacy Berry, Vice Chair
Community, Economic and Human Development Policy Community
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, California 90017

Subject: Draft Regional Housing Needs Assessment (RHNA) Consultation Package to the California Department of Housing and Community Development (HCD)

Honorable Chair Huang and Honorable Committee Members:

The City of Newport Beach appreciates the opportunity to provide written comments to the Southern California Association of Governments (SCAG) regarding the June 6, 2019 CEHD Agenda Item on the RHNA Consultation package to HCD. The City appreciates SCAG staff's efforts and the Committee members who sacrifice their time to participate in this important effort. The City remains committed to doing its part in addressing this housing crisis in compliance with Housing Element law (Government Code Sections 65580-65598.8).

It should be noted that in 2006, the City comprehensively updated its General Plan and identified several new residential housing opportunity areas. These opportunities were created as infill and replacement of previously permitted retail and office development capacity, with a realistic development capacity of approximately 3,200 new dwelling units. In 2011, the Airport Area was identified as the City's primary housing opportunity area to address the City's lower-income housing needs and a Residential Overlay was adopted to incentivize residential development that includes a minimum of 30% of the units affordable to lower-income households. Since then, the City has approved over 2,100 new multi-family dwelling units, including 91 very low-income units and 78 low-income units. While the City has been able to continue to build housing units to meet existing and projected need, available land within the sites inventory has been significantly reduced since the last RHNA cycle by changes to Housing Element Law. Extremely high land values in the City exacerbates the difficulty in developing housing affordable to lower-income households due to the high financial subsidies needed to make projects financially feasible. Therefore, the City of Newport Beach is concerned about the proposed methodology that SCAG is proposing for the 6th RHNA cycle that is above and beyond the projected growth in the Regional Transportation Plan/ Sustainable Communities Strategy (RTP/SCS) and will greatly impact the City's ability to remain compliant with state housing laws. Therefore, the City respectfully requests

that the Subcommittee carefully consider the following comments related to the proposed consultation package to HCD and the proposed RHNA Methodology.

- 1) Existing need already accounted in RTP/SCS - The City of Newport Beach encourages SCAG to propose a total regional determination of 429,926 for the 6th RHNA cycle, consistent with the RTP/SCS. The RTP/SCS growth forecast includes input from local jurisdictions that already incorporates existing need and future projected need. As such, all numbers, tables, and discussion regarding existing need as a separate calculation should be removed from discussion, since by adding a separate existing need, the proposed RHNA methodology would result in double counting the need.
- 2) Applying adjustment factors overestimates need - Beyond double counting the existing need as mentioned above, the additive approach of vacancy, overcrowding, and cost burden factors are additionally inappropriate due to the level of overlap between them. Although we commend SCAG staff for recognizing that cost burden may be an inappropriate factor to apply, the application of the remaining factors are still closely related and would result in overestimating unmet housing needs.
- 3) Phasing of existing need imperative beyond a single RHNA cycle - Although the City strongly disagrees with the proposed methodology of calculating existing housing needs, if HCD determines this calculation to be appropriate, it is imperative that this existing need be spread across the 6th, 7th, and 8th cycles of RHNA. It is unrealistic to assume that years of unmet housing needs “back log” can be addressed in an 8-year planning cycle. Housing construction typically lags behind RHNA targets, with affordable housing projects taking significantly longer to finance and develop. Spreading past unmet need across multiple cycles would allow jurisdictions to realistically plan and address for this additional growth that has not been included in the RTP/SCS. Additionally, it will allow jurisdictions to make a good-faith effort to accommodate this unmet need.
- 4) Consultation package should recognize that disaggregation of the proposed existing unmet housing need based on population results in a social equity factor being applied twice - Establishing existing housing needs for the region based on adjustment factors related to vacancy and overcrowding, and then redistributing the need based on a jurisdictions percentage of the region’s population will have the effect of disproportionately increasing housing need assessments to jurisdictions that experience higher vacancy rates and lower rates of overcrowding and cost burden, such as Newport Beach. Alternatively, jurisdictions that historically experienced lower vacancies and higher rates of overcrowding and cost burden, factors upon which unmet existing need is being calculated, will benefit from a lower proportionate assessment of this existing unmet need. While Newport Beach understands that each jurisdiction must do its part to address the housing crisis and jurisdictions that are already overly burdened by these factors cannot be expected to take on the sole responsibility of addressing unmet housing needs, redistributing the unmet existing housing need based on population inherently implements a form of social equity. Therefore, the need for a subsequent social equity adjustment at the final RHNA allocation process may be unnecessary and as it will apply a social equity factor twice in the process.

Honorable Peggy Huang, Chair

June 5, 2019

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5) Over estimating existing housing needs, when combined with new housing element law, may result in an unattainable RHNA and sets up local jurisdictions for failure -

Combining an over estimation of existing need to a jurisdiction's RHNA with new State housing element law requirements adopted in 2017 that limit a jurisdiction's ability to "count" sites towards RHNA, may lead to widespread noncompliance throughout the State. Despite the City of Newport Beach's efforts to identify a surplus of adequate sites in past housing element cycles, AB1397 will significantly increase the difficulty for jurisdictions to illustrate the adequacy of sites. Furthermore, SB 166 will require a jurisdiction to continually identify additional low-income housing sites when a developer chooses to develop market-rate housing on a site identified as being able to accommodate low-income housing.

The City of Newport Beach appreciates your consideration of the comments provided in this letter. The City of Newport Beach shares SCAG's goal to develop and adopt a RHNA methodology that represents the best in regional planning, developed collaboratively with local jurisdictions and stakeholders in a manner that is credible and defensible at all levels, and can be realistically implemented in an equitable manner. The City looks forward to working with SCAG to achieve this goal.

Sincerely,


Seimone Jurjis, PE, CBO
Community Development Director

cc: City Council
Grace Leung, City Manager
Jaime Murillo, Senior Planner
Marnie Primmer, Orange County Council of Governments Executive Director



June 3, 2019

Honorable Peggy Huang, Chair
RHNA Subcommittee
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, California 90017

Subject: Draft Regional Housing Needs Assessment (RHNA) Consultation Package to the California Department of Housing and Community Development (HCD) and Proposed RHNA Methodology Components

Honorable Chair Huang and Honorable Members of the RHNA Subcommittee:

The City of Newport Beach appreciates the opportunity to provide written comments to the Southern California Association of Governments (SCAG) on Item No. 5 and No. 6 of your June 3, 2019, meeting agenda. The City appreciates SCAG staff's efforts and the RHNA Subcommittee members who sacrifice their time to participate in this important effort. The City remains committed to doing its part in addressing this housing crisis in compliance with Housing Element law (Government Code Sections 65580-65598.8).

It should be noted that in 2006, the City comprehensively updated its General Plan and identified several new residential housing opportunity areas. These opportunities were created as infill and replacement of previously permitted retail and office development capacity, with a realistic development capacity of approximately 3,200 new dwelling units. In 2011, the Airport Area was identified as the City's primary housing opportunity area to address the City's lower-income housing needs and a Residential Overlay was adopted to incentivize residential development that includes a minimum of 30% of the units affordable to lower-income households. Since then, the City has approved over 2,100 new multi-family dwelling units, including 91 very low-income units and 78 low-income units. While the City has been able to continue to build housing units to meet existing and projected need, available land within the sites inventory has been significantly reduced since the last RHNA cycle by changes to Housing Element Law. Extremely high land values in the City exacerbates the difficulty in developing housing affordable to lower-income households due to the high financial subsidies needed to make projects financially feasible. Therefore, the City of Newport Beach is concerned about the proposed methodology that SCAG is proposing for the 6th RHNA cycle that is above and beyond the projected growth in the Regional Transportation Plan/ Sustainable Communities Strategy (RTP/SCS) and will greatly impact the City's ability to remain compliant with state housing laws. Therefore, the City respectfully requests that the Subcommittee carefully consider

the following comments related to the proposed consultation package to HCD and the proposed RHNA Methodology.

Comments on Agenda Item 5 (RHNA Consultation Package to HCD)

The City fully supports the comments raised in the Orange County Council of Governments (OCCOG) letter regarding the RHNA consultation package to HCD. In particular, the City of Newport Beach encourages SCAG to propose a regional determination of 429,926 for the 6th RHNA cycle, consistent with the RTP/SCS. The approach identified in the June 3, 2019, SCAG staff report to the RHNA Subcommittee to address *existing housing need* through certain adjustment factors such as vacancy, overcrowding, and cost burden is inappropriate for the following reasons:

- 1) Existing need already accounted in RTP/SCS - The RTP/SCS growth forecast includes input from local jurisdictions that already incorporates existing need and future projected need. As such, all numbers, tables, and discussion regarding existing need as a separate calculation should be removed from discussion, since by adding a separate existing need, the proposed RHNA methodology would result in double counting the need.
- 2) Applying adjustment factors overestimates need - Beyond double counting the existing need as mentioned above, the additive approach of vacancy, overcrowding, and cost burden factors are additionally inappropriate due to the level of overlap between them. Although we commend SCAG staff for recognizing that cost burden may be an inappropriate factor to apply, the application of the remaining factors are still closely related and would result in overestimating unmet housing needs.
- 3) Consultation package should recognize that disaggregation of the proposed existing unmet housing need based on population results in a social equity factor being applied twice - Establishing existing housing needs for the region based on adjustment factors related to vacancy and overcrowding, and then redistributing the need based on a jurisdiction's percentage of the region's population will have the effect of disproportionately increasing housing need assessments to jurisdictions that experience higher vacancy rates and lower rates of overcrowding and cost burden, such as Newport Beach. Alternatively, jurisdictions that historically experienced lower vacancies and higher rates of overcrowding and cost burden, factors upon which unmet existing need is being calculated, will benefit from a lower proportionate assessment of this existing unmet need. While Newport Beach understands that each jurisdiction must do its part to address the housing crisis and jurisdictions that are already overly burdened by these factors cannot be expected to take on the sole responsibility of addressing unmet housing needs, redistributing the unmet existing housing need based on population inherently implements a form of social equity. Therefore, the need for a subsequent social equity adjustment at the final RHNA allocation process will apply a social equity factor twice in the process. If disaggregation of existing need is approved based on population, then the final social equity adjustment should not be increased from the past practice of 110% and should arguably be removed.
- 4) Phasing of existing need imperative beyond a single RHNA cycle - Although the City strongly disagrees with the proposed methodology of calculating existing housing needs, if HCD determines this calculation to be appropriate, it is imperative that this existing need be spread across the 6th, 7th, and 8th cycles of RHNA. It is unrealistic to assume that years of unmet housing needs "back log" can be addressed in an 8-year planning cycle. Housing construction typically lags behind RHNA targets, with affordable housing projects taking significantly longer

to finance and develop. Spreading past unmet need across multiple cycles would allow jurisdictions to realistically plan and address for this additional growth that has not been included in the RTP/SCS. Additionally, it will allow jurisdictions to make a good-faith effort to accommodate this unmet need.

5) Over estimating existing housing needs, when combined with new housing element law, may result in an unattainable RHNA and sets up local jurisdictions for failure -

Combining an over estimation of existing need to a jurisdiction's RHNA with new State housing element law requirements adopted in 2017 that limit a jurisdiction's ability to "count" sites towards RHNA, may lead to widespread noncompliance throughout the State. Despite the City of Newport Beach's efforts to identify a surplus of adequate sites in past housing element cycles, AB1397 will significantly increase the difficulty for jurisdictions to illustrate the adequacy of sites. Furthermore, SB 166 will require a jurisdiction to continually identify additional low-income housing sites when a developer chooses to develop market-rate housing on a site identified as being able to accommodate low-income housing. The combination of these requirements would create a de-facto, State-mandated inclusionary requirement necessitating State funding.

Comments on Agenda Item 6 (Proposed RHNA Distribution Methodology)

Although this item is described as informational only, SCAG staff is requesting input and direction from the RHNA Subcommittee on the staff recommended approaches for distributing existing and projected need to jurisdictions along with the social equity adjustments. The City of Newport Beach respectfully requests the Subcommittee to consider the following comments and provide SCAG staff direction to address these concerns.

6) Multiple adjustments for Social Equity - As mentioned in Comment 3 above, if a separate existing need calculation is developed based on the adjustment factors of vacancy and overcrowding, and subsequently redistributed to jurisdictions based on population, a social equity adjustment is already included through this redistribution. As such, no additional social equity adjustment should be applied.

Furthermore, the application of a new proposed 150% social equity adjustment is inappropriate for the following reasons:

- As previously stated, the redistribution of existing need based on population already accounts for social equity adjustment.
- As illustrated in Attachment 1 of the staff report, the City of Newport Beach is not highlighted as having a pronounced problem in any of the four factors identified as contributing to the unmet existing housing need. In particular, Newport Beach has issued building permits for new single-family and multi-family construction above the regional average. Additionally, Newport Beach maintains rates of overcrowding and cost-burden significantly below the regional average. Therefore, the application of 150% adjustment factor is excessive in the case of Newport Beach, and when combined with the fact that Newport Beach would be disproportionately assigned an existing need based on factors of vacancy and overcrowding that are not identified as a problem locally. The increased adjustment factor is simply unwarranted.

- The application of a 110% social equity adjustment factor in past RHNA cycles is a historically accepted practice that has been manageable for jurisdictions to zone and provide adequate sites to meet increased lower-income housing need.

7) Insufficient data to analyze proposed 30% distribution for High Quality Transit Area (HQTAs)

Insufficient data has been provided to thoroughly analyze the effect of the proposed 30% distribution based on population with HQTAs. Although the current staff report now includes a weblink to SCAG's Open Data platform, there is a vast amount of documents and data available for review and it is not clear how to find jurisdiction-specific information. SCAG should provide each jurisdictions population in an excel table, similar to a table provided in Attachment 1, and jurisdiction-specific maps to allow transparent availability to the data.

8) HQTA maps may have significant errors that need to be addressed

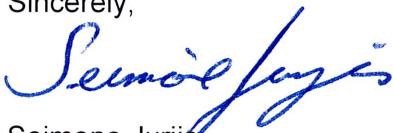
In reviewing both the 2014 and 2040 SCAG HQTA maps, it appears that the Catalina Flyer dock located in the City's historic Balboa Village is identified as a HQTA, when in reality, the ferry provides once-a-day recreational transportation to Catalina Island and does not connect to any significant bus and transit routes. The goal of encouraging growth around HQTAs will not be realized at this ferry location and assigning Newport Beach additional housing needs as a result is unwarranted.

9) Elimination of above-moderate income housing category from existing need allocation is not appropriate.

SCAG staff's current proposal to redistribute the existing need solely to lower- and moderate-income categories is not consistent with past practice, further increases the intensity of social equity adjustments being applied to jurisdictions, and will further set up jurisdictions for failure when attempting to development a compliant Housing Element as mentioned in Comment 6 above.

The City of Newport Beach appreciates your consideration of the comments provided in this letter. The City of Newport Beach shares SCAG's goal to develop and adopt a RHNA methodology that represents the best in regional planning, developed collaboratively with local jurisdictions and stakeholders in a manner that is credible and defensible at all levels, and can be realistically implemented in an equitable manner. The City looks forward to working with SCAG to achieve this goal.

Sincerely,



Seimone Jurjis,
Community Development Director

cc: City Council
Grace Leung, City Manager
Jaime Murillo, Senior Planner
Marnie Primmer, Orange County Council of Governments Executive Director

RESOLUTION NO. 2020-92

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING THE FILING OF AN APPEAL OF THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS FINAL DRAFT REGIONAL HOUSING NEEDS ASSESSMENT ALLOCATION FOR THE CITY OF NEWPORT BEACH SIXTH CYCLE HOUSING ELEMENT (PA2018-225)

WHEREAS, California Government Code Section 65580 *et seq.* requires that each city and county plan for existing and future housing needs in accordance with the Regional Housing Needs Assessment (“RHNA”) process;

WHEREAS, the Southern California Association of Governments (“SCAG”) is a joint powers authority encompassing Imperial, Los Angeles, Orange, Riverside, San Bernardino and Ventura counties that functions as a forum to address regional issues including allocation of residential units among SCAG member cities and counties;

WHEREAS, the City of Newport Beach (“City”) has worked diligently in partnership with other SCAG members and stakeholders for the Sixth Cycle Housing Element covering the planning period 2021 through 2029 (“Sixth Cycle”), reviewing draft methodologies and providing comments and recommendations to achieve a RHNA allocation that is fair, equitable, and in consideration of the unique circumstances and local planning factors inherent in our community;

WHEREAS, SCAG allocated 4,834 residential units (“RHNA Allocation”) to the City for the Sixth Cycle which is extraordinary, inequitable and based on flawed methodologies that do not fully consider constraints on the development of housing in the City as a result of a number of factors including, but not limited to, the City’s proximity to John Wayne Airport, the coastline, fire and flood zones;

WHEREAS, California Government Code Section 65584.05 authorizes a local government or the Department of Housing and Community Development (“HCD”) to appeal for a revision of the RHNA Allocation proposed for one or more local governments; and

WHEREAS, a revision to the City’s RHNA Allocation is necessary to further the intent of the statutorily mandated objectives listed in California Government Code Section 65584(d).

NOW, THEREFORE, the City Council resolves as follows:

Section 1: The City appeals the City's RHNA Allocation based upon the following three (3) criteria as authorized in California Government Code Section 65584.05(b):

- a. Local Planning Factors (Govt. Code § 65584.05(b)(1)). SCAG failed to adequately consider the information submitted pursuant to Section 65584.04(b). The City has several major unique constraints to the use of existing lands that severely limit or totally restrict the ability to accommodate growth to the extent identified.
- b. Methodology (Govt. Code § 65584.05(b)(2)). SCAG failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in Section 65584(d). The methodology fails to consider growth projections consistent with the SoCal Connect Plan, fails to equitably distribute residual units at a regional level, and fails to consider regional employment factors. The Final Draft Allocation for the City directly undermines Government Code Sections 65588(d)(1) and 65588(d)(2).
- c. Changed Circumstances (Govt. Code § 65584.05(b)(3)). A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to Section 65584.04(b). The COVID-19 pandemic has had a demonstrable impact on the City's economy, as well as the economy of the region. The pandemic was unforeseen during the development of RHNA methodology and will have lasting impacts to the economy and housing market. Additionally, population growth trends in California have recently been revised to reflect a substantially lower rate of population growth in the region.

Section 2: The Community Development Director, or his designee, is directed to file the appeal of the City's RHNA Allocation of the Sixth Cycle in substantial conformance with the City of Newport Beach Appeal of the Sixth Cycle RHNA Allocation, which is attached hereto and incorporated herein by reference, and take any additional actions necessary to further the City's appeal of the RHNA Allocation.

Section 3: This appeal is consistent with, and not to the detriment of, the development pattern in the applicable sustainable communities' strategy (SCAG's Connect SoCal Plan) developed pursuant to California Government Code Section 65080(b)(2).

Section 4: The City Council is a strong advocate of the development of housing, including affordable housing, and of local control as the best means to protect the City, its residents and business owners, and promote the goals and priorities of the community. While the City is committed to contributing to its collective local, regional and state needs for housing, the City has demonstrated that its RHNA Allocation is unrealistic, excessive and based on faulty assumptions that can have grave consequences to the City and its residents. Therefore, the City respectfully objects to the RHNA Allocation and methodology used.


Section 5: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 6: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 7: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.


Section 8. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 13th day of October, 2020.



Will O'Neill
Mayor


ATTEST:



Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

ATTACHMENT: City of Newport Beach Appeal of the Sixth Cycle Draft Regional Housing Needs Assessment (RHNA) Allocation