

4.7 Hazards and Hazardous Materials

This section of the EIR describes the potential hazards (other than geologic and flood hazards) associated with the project site, infrastructure, activities, and materials that could impact human health and the environment. The analysis in this section is based on the *Phase I Environmental Site Assessment*, prepared by EEI Geotechnical & Environmental Solutions (EEI, 2017) which is included as Appendix G of this EIR.

4.7.1 REGULATORY SETTING

The management of hazardous materials and hazardous waste is regulated by various federal, State, and local agencies. Programs are administered through federal agencies including the USEPA, and State agencies within the California Environmental Protection Agency (CalEPA) including the California Department of Toxic Control (DTSC).

Federal

Toxic Substances Control Act/Resource Conservation and Recovery Act/Hazardous Solid Waste Act

The federal Toxic Substances Control Act of 1976 and Resource Conservation and Recovery Act (RCRA) established a program administered by the USEPA that regulates generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA was amended in 1984 by the Hazardous and Solid Waste Act, which affirmed and extended the “cradle to grave” system of regulating hazardous wastes, meaning that all hazardous wastes are tracked and strictly regulated from generation to disposal. Hazardous waste generators are required to report use or transport of hazardous wastes to the USEPA. Hazardous waste generators range from small producers such as dry cleaners and automobile repair facilities to larger producers such as hospitals and manufacturing operations.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)/Superfund Amendments and Reauthorization Act

The federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the Superfund Act, was enacted by Congress on December 11, 1980. This law (U.S. Code Title 42, Chapter 103) provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA establishes requirements concerning closed and abandoned hazardous waste sites; provides for liability of persons responsible for releases of hazardous waste at these sites; and establishes a trust fund to provide for cleanup when no responsible party can be identified. The project site is not a Superfund site.

Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) and the National Priorities List

The USEPA also maintains the Comprehensive Environmental Response Compensation (CERCLIS) and Liability Information System list. This list contains sites that are either proposed to be or on the National Priorities List (NPL), as well as sites that are in the screening and assessment phase for possible inclusion on the NPL. The NPL is a list of the worst hazardous waste sites that have been identified by Superfund. There are no NPL sites on the project site.

Emergency Planning and Community Right-to-Know Act

The federal Emergency Planning and Community Right-To-Know Act (EPCRA) was enacted to inform communities and residents of chemical hazards in their area. Businesses are required to report the locations and quantities of chemicals stored on site to both State and local agencies. EPCRA requires the USEPA to maintain and publish a digital database list of toxic chemical releases and other waste management activities reported by certain industry groups and federal facilities. This database, known as the Toxic Release Inventory, gives the community more power to hold companies accountable for their chemical management.

Hazardous Materials Transportation Act

The U.S. Department of Transportation (DOT) receives authority to regulate the transportation of hazardous materials from the Hazardous Materials Transportation Act, as amended and codified (49 U.S.C. 5101 et seq.). The DOT is the primary regulatory authority for the interstate transport of hazardous materials and establishes regulations for safe handling procedures (i.e., packaging, marking, labeling and routing).

In California, Section 31303 of the California Vehicle Code states that any hazardous material being moved from one location to another must use the route with the least travel time. This, in practice, means major roads and highways, although secondary roads are permitted to be used for local delivery. These policies are enforced by both the California Highway Patrol and the California Department of Transportation (Caltrans).

Occupational Safety and Health Administration (OSHA)

Congress passed the Occupational and Safety Health Act (OSHA) to ensure worker and workplace safety. Their goal was to make sure employers provide their workers a place of employment free from recognized hazards to safety and health, such as exposure to toxic chemicals, excessive noise levels, mechanical dangers, heat or cold stress, or unsanitary conditions. To establish standards for workplace health and safety, OSHA also created the National Institute for Occupational Safety and Health as the research institution for the Occupational Safety and Health Administration. The Administration is a division of the U.S. Department of Labor that oversees the administration of OSHA and enforces standards in all states. OSHA standards are listed in Title 29 CFR Part 1910.

OSHA's Hazardous Waste Operations and Emergency Response Standard applies to five groups of employers and their employees. This includes any employees who are exposed or potentially exposed to hazardous substances (including hazardous waste) and who are engaged clean-up operations; corrective actions; voluntary clean-up operations; operations involving hazardous wastes at treatment, storage, and disposal facilities; and emergency response operations.

State of California***California Environmental Protection Agency***

CalEPA has jurisdiction over hazardous materials and wastes at the State level. DTSC is the department of CalEPA responsible for implementing and enforcing California's own hazardous waste laws, which are known collectively as the Hazardous Waste Control Law. DTSC regulates hazardous waste in California

primarily under the authority of the federal RCRA and the California Health and Safety Code (primarily Division 20, Chapters 6.5 through 10.6, and Title 22, Division 4.5). Although similar to RCRA, the California Hazardous Waste Control Law and its associated regulations define hazardous waste more broadly and regulate a larger number of chemicals. Hazardous wastes regulated by California but not by the USEPA are called “non-RCRA hazardous wastes. Other laws that affect hazardous waste are specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning. Government Code Section 65962.5 (commonly referred to as the Cortese List) includes DTSC-listed hazardous waste facilities and sites, Department of Health Services lists of contaminated drinking water wells, sites listed by the State Water Resources Control Board (SWRCB) as having underground storage tank leaks and have had a discharge of hazardous wastes or materials into the water or groundwater, and lists from local regulatory agencies of sites that have had a known migration of hazardous waste/material.

The enforcement of directives from DTSC is handled at the local level, in this case the Orange County Health Care Agency, Environmental Health Division (OCHCA-EH). The Santa Ana Regional Water Quality Control Board (RWQCB) also has the authority to implement regulations regarding the management of soil and groundwater investigation.

Unified Hazardous Waste and Hazardous Materials Management Regulatory Program

The Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (Unified Program) requires the administrative consolidation of six hazardous materials and waste programs (Program Elements) under one agency: a Certified Unified Program Agency (CUPA). The Program Elements consolidated under the Unified Program are: (1) Hazardous Waste Generator and On-site Hazardous Waste Treatment Programs (Tiered Permitting); (2) Aboveground Petroleum Storage Tanks (Spill Prevention Control and Countermeasure Plan [SPCC]); (3) Underground Storage Tank (UST) Program; (4) Hazardous Materials Release Response Plans and Inventory Program (Hazardous Materials Disclosure or “Community-Right-To-Know”); (5) California Accidental Release Prevention Program (Cal ARP); and (6) Uniform Fire Code Plans and Inventory Requirements.

The Unified Program is intended to provide relief to businesses complying with the overlapping and sometimes conflicting requirements of formerly independently managed programs. The Unified Program is implemented at the local government level by CUPAs. The CUPA with jurisdiction over the City of Newport Beach is the OCHCA-EH (CalEPA, 2017).

California Occupational Safety and Health Administration

The California Occupational Safety and Health Administration (CalOSHA) is the primary agency responsible for worker safety in the handling and use of chemicals in the workplace. CalOSHA standards are generally more stringent than federal regulations. The employer is required to monitor worker exposure to listed hazardous substances and notify workers of exposure (8 CCR §§ 337-340). The regulations specify requirements for employee training, availability of safety equipment, accident-prevention programs, and hazardous substance exposure warnings.

California Fire Code

The 2016 California Fire Code (CCR Title 24 Part 9) sets forth requirements including those for building materials and methods pertaining to fire safety and life safety, fire protection systems in buildings, emergency access to building, and handling and storage of hazardous materials.

Regional and Local***General Plan Safety Element***

The primary goal of the Safety Element is to reduce the potential risk of death, injuries, property damage, and economic and social dislocation resulting from natural and human-induced hazards. The Safety Element recognizes and responds to public health and safety risks that could cause exposure to the residents of Newport Beach. This element specifically addresses coastal hazards, geologic hazards, seismic hazards, flood hazards, wildland and urban fire hazards, hazardous materials, aviation hazards, and disaster planning. The consistency of the Project with applicable General Plan goals and policies is provided in Section 4.9, *Land Use and Planning*.

City of Newport Beach Fire Code

The 2016 California Fire Code sets forth requirements including those for building materials and methods pertaining to fire safety and life safety, fire protection systems in buildings, emergency access to buildings, and handling and storage of hazardous materials. The City of Newport Beach adopted the 2016 California Fire Code with certain amendments, additions, and deletions, as Chapter 9.04 of the Newport Beach Municipal Code.

Newport Beach Fire Department Fire Prevention Guidelines and Standards

The Newport Beach Fire Department (NBFD) Life Safety Division has set forth certain Fire Prevention Guidelines and Standards, including guidelines and standards for fire flow, fire access, building construction, flammable and combustible liquids, and fire protection systems (NBFD, 2017).

City of Newport Beach Emergency Management Plan

The Emergency Management Plan provides guidance for Newport Beach's response to extraordinary emergency situations from natural disasters, technological incidents, and national security emergencies. This plan determines the actions to be taken by the City to prevent disasters where possible, reduce the vulnerability of residents to any disasters, protect citizens from the effects of disasters, respond effectively to the actual occurrence of disasters, and provide for recovery in the aftermath of an emergency. More specifically, the City has an approved Hazardous Materials Area Plan which describe procedures for the effective and efficient allocation response to a hazardous materials emergency. It establishes an emergency organization, assigns tasks, specifies policy and general procedures, and provides coordination of planning for all phases of emergency planning for a hazardous materials emergency.

4.7.2 ENVIRONMENTAL SETTING

Historical and Existing Land Uses

The approximately 13.16-acre project site was undeveloped land prior to 1972 but paved by 1977. The site of the free-standing parking structure was fully paved with parking and some landscaping by 1985.

Located within Koll Center Newport, the site is currently developed with surface parking and landscape areas. The site is bordered by Birch Street and Von Karman Avenue. The 4910 Birch Street office building is to the north, and the 4350 Von Karman Avenue and 5000 Birch Street office buildings are to the south. Additional office, commercial, and residential development has either been constructed or approved for development with Koll Center Newport. Most of the adjacent building were constructed in the 1970s and 1980s.

Previous Site Investigations

Previous site investigation activities have been conducted on the project site. In August 2006, a Phase I Environmental Site Assessment (ESA) Update was prepared. The Phase I ESA identified one REC as a solvent release to soil and groundwater associated with the adjacent property identified as Building 26, the Former Rockwell Facility (i.e., Conexant; currently the Uptown Newport development site). The Phase I ESA concluded that while it appears that the groundwater underlying the site has been impacted by the Former Rockwell Facility release, there is a low likelihood for the impacted groundwater to cause health hazards persons at or proximate to the project site.

An Updated Report of Findings for a Phase I ESA was prepared in March 2015. As a part of the March 2015 Phase I ESA, six soil borings were drilled to approximately 17 to 30 feet below the ground surface (bgs) to evaluate the potential of residual volatile organic compounds (VOC) contamination in the underlying soil, soil vapor, and groundwater stemming from the off-site release. The results of the investigation indicated that no concentrations of total petroleum hydrocarbons (TPH) gasoline or VOCs were detected above the laboratory reporting limit or screening levels in any of the soil or groundwater samples collected.

Other Environmental Concerns

Asbestos-Containing Materials (ACM)

Asbestos, a natural fiber used in the manufacturing of a number of different building materials, has been identified as a human carcinogen. Most friable (i.e., easily broken or crushed) asbestos-containing materials (ACM) were banned in building materials by 1978. By 1989, most major manufacturers had voluntarily removed non-friable ACM (i.e., flooring, roofing, and mastics/sealants) from the market. These materials, however, were not banned completely. The project site is currently paved parking and driving areas with landscaped planters; therefore, the presence of ACM is unlikely.

Lead-Based Paint

Lead-based paint has been identified by OSHA, the USEPA, and the Department of Housing and Urban Development (HUD) as being a potential health risk to humans, particularly children, based on its effects to the central nervous system, kidneys, and bloodstream. The risk of lead-based paint has been classified by HUD based upon the age and condition of the painted surface. The project site is currently paved parking and driving areas, with landscaped planters; therefore, the presence of lead-based paint is unlikely.

Radon

Radon is a radioactive gas which has been identified as a human carcinogen. Radon gas is typically associated with fine grained rock and soil, and results from the radioactive decay of radium. Sections 307

and 309 of the Indoor Radon Abatement Act of 1988 (IRAA) directed the USEPA to list and identify areas of the U.S. with the potential for elevated indoor radon levels. USEPA's Map of Radon Zones (EPA 402 R 93 071) assigns each of the 3,141 counties in the U.S. to one of three zones based on radon potential:

- Zone 1 counties have a predicted average indoor radon screening level greater than 4 pCi/L.
- Zone 2 counties have a predicted average indoor radon screening level between 2 and 4 pCi/L.
- Zone 3 counties have a predicted average indoor radon screening level less than 2 pCi/L.

Based on such factors as indoor radon measurements, geology, aerial radioactivity, and soil permeability; the USEPA has identified Orange County as Zone 3 (i.e., a predicted average indoor radon screening level less than 2 pCi/L). Based on the radon potential in Orange County, radon is not considered to be an environmental concern for the Project.

Potential Hazardous Materials

Recognized Environmental Conditions (RECs)

RECs are defined under American Society for Testing and Materials (ASTM) E 1527-05 Standard Practice for Environmental Site Assessments (ESAs) as "the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substance or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property". Known or suspected RECs are defined as the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment. No known or suspected RECs were revealed during the preparation of the Phase I ESA.

Controlled RECs (CRECs) are defined as a REC resulting from a past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority (e.g., as evidenced by the issuance of a No Further Action letter or equivalent, or meeting risk based criteria established by regulatory authority), with hazardous substances or petroleum products allowed to remain in place subject to the implementation of required controls (e.g., property use restrictions, activity and use limitations [AUL], institutional controls, or engineering controls). No CRECs were revealed during the preparation of the Phase I ESA.

Historical RECs (HRECs) are defined as a past release of any hazardous substances or petroleum products that has occurred in connection with a property and has been addressed to the satisfaction of the applicable regulatory authority or meeting unrestricted residential use criteria established by a regulatory authority, without property restrictions (e.g., property use restrictions, AULs, institutional controls, or engineering controls). A former off-site leaking LUST at 4910 Birch Street, discussed below, is considered to HREC.

Vapor Encroachment Screen

A Vapor Encroachment Screening was conducted for the project site. The purpose of the screening is to determine whether a Vapor Encroachment Condition exists from chemicals of concern that may migrate as vapors onto a property because of contaminated soil and groundwater on or near the site. Based on a review of the regulatory database report and historical records, the historical use of two adjoining properties were considered to pose a potential Vapor Encroachment Condition at the project site.

- Koll Center Newport #4 (4910 Birch Street), reported a gasoline release to soil and groundwater in 1997. According to the information reviewed, a single 1,200-gallon gasoline UST was removed in 1993 resulting in a subsurface investigation which has included groundwater well monitoring. The case was closed by the OCHCA-EH in March 2002. Residual soil and groundwater impacts may remain beneath the site. A Tier 2 screening was performed on this site. As described in the section above, Previous Site Investigations, no VOC concentrations were detected in soil gas above the screening level values during investigations on February 3, 2015. Based on regulatory agency closure and results of the 2015 investigation, the Phase I ESA determined that no further assessment was warranted.
- Conexant Systems, Inc. (former Rockwell International Semi Conductor Division, also listed as Rockwell International Corp at 4311 Jamboree Road) is associated with a release of chlorinated solvents that was discovered in 1984 and resulted in soil and groundwater impacts. Residual soil and groundwater impacts may remain beneath the Conexant site. A Tier 2 screening was performed on this site. As of February 2016, groundwater beneath the Conexant facility appeared to be traveling towards the northwest (toward the project site) when not influenced by pump and treat remediation activities. Groundwater monitoring wells did not detect VOCs. Based on the February 2016 groundwater data, regulatory agency oversight and active remediation, along with the proposed future use of the site for the free-standing parking structure, the Phase I ESA determined that the Conexant facility does not pose a significant environmental concern and no further assessment was warranted.

Regulatory Database Search

Following is a list of databases that were reviewed in the preparation of the Phase I ESA:

- *Federal CERCLIS No Further Assessment Planned (NFRAP) site list.* Two listings were reported within a one-half-mile radius of the project site. Based on the relative distance, these sites are not considered to be an environmental concern.
- *Federal Resource Conservation Recovery Act (RCRA) Corrective Action Sites (CORRACTS) facilities List.* Two listings were reported within a one-mile radius of the project site. Based on the relative distance, these sites are not considered to be an environmental concern.
- *Federal RCRA non CORRACTS Treatment, Storage and Disposal (TSD) facility list (RCRA TSDf).* One listing was reported within a one-half-mile radius of the project site. Based on the relative distance, these sites are not considered to be an environmental concern.
- *Federal RCRA generators list.* Nine listings were reported within a one-quarter-mile radius of the project site, of which, two listings – Koll Co KCN 4 (4910 Birch Street) and Hotel Meridian (also listed as The Sutton Place Hotel at 4500 MacArthur Boulevard, 0.096 mile northwest) – are within

a one-eight-mile radius of the site and were reported as small quantity generators hazardous waste generator sites (i.e., generates less than 1,000 kilograms of hazardous waste during a month). Generator permits are not generally rationale for environmental concern, unless a release has occurred at the site. None of the listings were listed with a release on the LUST database or as having a documented release, and therefore are not considered to be an environmental concern.

- *Federal institutional controls/engineering controls (IC/EC) registries (US INST CONTROL); State and Tribal equivalent NPL sites; and CA DEED.* One listing was reported within a one-half-mile radius of the project site. Based on the relative distance, these sites are not considered to be an environmental concern.
- *State/Tribal equivalent CERCLIS (ENVIROSTOR) sites.* Nine listings were reported within a one-mile radius of the project site. Based on the relative distance, these sites are not considered to be an environmental concern.
- *A State and tribal leaking underground storage tank list (LUST).* Regarding two listings located within one-eighth-mile of the project site, the Phase I ESA reviewed the online database Geotracker®, which provides records on LUSTs and Cleanup Program Sites; it is maintained by the SWRCB. The following is a summary of the information reviewed:

Koll Center Newport #4 (4910 Birch Street, reported a gasoline release in 1997). According to the information reviewed, a single 12,000-gallon gasoline UST was removed from the site in 1993. An unauthorized release was identified, which resulted in site assessment and mitigation activities. The case was closed by the OCHCA-EH as of March 2002.

The final groundwater sample event, conducted prior to December 2001, included full scan EPA laboratory method 8260 to identify all VOCs, including fuel oxygenates. With the exception of maximum concentrations of naphthalene (600 parts per billion [ppb]) and 1,2,4 trimethylbenzene (350 ppb) detected in groundwater samples, other VOCs detected were below their respective California Drinking Water Action Levels. At the time of the preparation of the closure summary, California's Drinking Water Action Levels for naphthalene and 1,2,4 trimethylbenzene were 170 ppb and 330 ppb, respectively.

Several VOCs unrelated to the UST's operation were also detected in the groundwater. Tetrachloroethene and Trichloroethene (TCE) were detected with maximum concentrations of 10 ppb and 100 ppb, respectively. A health risk assessment was conducted using the site's former maximum levels of contamination. It was determined that residual VOC contamination beneath the site did not pose a health risk to occupants of the site's buildings, and prompted the Agency to recommend no further corrective action for the site.

Sanwa Bank Building: Koll Center Newport #9 (4400 MacArthur Boulevard, 0.087 mile west northwest) reported a diesel release in 1991 that was limited to soil. The case was closed by OCHCA-EH as of March 1993. Based on a soil only release, the case closure status, and that the site being located hydrologically down gradient from the project site, this site is not considered to be an environmental concern.

- *Spills, Leaks, Investigation and Cleanup (SLIC).* Four listings were reported within a one-half-mile radius of the project site. Each site is more than one-eighth-mile from the site and/or are situated

hydrologically cross to down gradient from the site. Based on the relative distance and/or inferred direction of groundwater flow, these sites are not considered to be an environmental concern.

- *State and tribal registered storage tank (CA UST) lists.* Ten listings were reported within a one-quarter mile radius of the subject property. Six of the sites are located more than one-eighth-mile from the subject property, and/or are situated hydrologically cross- to down-gradient from the property. Based on the relative distance and/or inferred direction of groundwater flow; these sites are not considered to be an environmental concern.

Four listings were reported within a one-eighth-mile of the subject property; Koll Center Newport #4 (4910 Birch Street, 0.062 mile north-northeast), was listed as having a 12,000-gallon gasoline UST. However, the UST was reported removed in 1993. The remaining sites include Koll Center Newport #11 (5000 Birch Street, 0.092 mile east), was listed within the database with no details pertaining to a registered UST; Koll Center Newport #9, also listed as Sanwa Bank Bldg. KCN (4400 MacArthur Boulevard, 0.087 mile west-northwest), was listed within the database with no details pertaining to a registered UST; The Sutton Place Hotel, also listed as Meridian Hotel (4500 MacArthur Boulevard, 0.096 mile northwest), was also listed within the database with no details pertaining to a registered UST. Based on regulatory status and/or lack of a documented release, these listings are not considered to be an environmental concern.”

- *Local Lists of Hazardous Waste/Contaminated Sites (CA HIST).* One listing was reported within a one-mile radius of the project site. Based on the relative distance, these sites are not considered to be an environmental concern.
- *CA FID UST and Statewide Environmental Evaluation and Planning System (SWEEPS) UST.* Six listings were reported within a one-quarter-mile radius of the project site. Four of the sites are more than one-eighth-mile from the site and/or are situated hydrologically cross to down gradient from the site. Based on the relative distance and/or inferred direction of groundwater flow; these sites are not considered to be an environmental concern. The other two listings, Koll Center Newport #4 and Meridian Hotel/Sutton Place Hotel, have been addressed; neither is considered to be an environmental concern.
- *RCRA Non Generator (NonGen/NLR) and Historical UST (Hist UST) database.* Two listings were reported within a one-quarter-mile radius of the project site. Based on the relative distance, these sites are not considered to be an environmental concern.
- *CA Drycleaners.* One listing was reported within a one-quarter-mile radius of the project site. The site is more than one-eighth-mile from the site and is situated hydrologically down gradient. Based on the relative distance and/or inferred direction of groundwater flow; this site is not considered to be an environmental concern.
- *CA HWP.* Two listings were reported within a one-mile radius of (but more than one-eighth mile from) the site, and are situated hydrologically cross gradient from the property. Based on the relative distance and/or inferred direction of groundwater flow; these sites are not considered to be an environmental concern.
- *Notify 65.* One listing was reported within a one-mile-radius of (but more than one-eighth-mile from) the project site, and is situated hydrologically cross gradient from the property. Based on

the relative distance and/or inferred direction of groundwater flow; this site is not considered to be an environmental concern.

- *CA HIST Cortese*. Nineteen listings were reported within a one-half-mile radius of the project site. Based on the location of 17 of the sites (i.e., more than one-eighth-mile and/or hydrologically cross gradient) and/or absence of a documented release; these sites are not considered to be an environmental concern. Two listings, Koll Center Newport #4 and Koll Center Newport #9 were reported within one-eighth-mile of the site, and were previously discussed and determined to not be of environmental concern.
- *EDR US Historical Auto Station list*. Six listings were reported within a one-eighth-mile radius of the property. The sites were reported as Koll Center Newport #11, Econo Lube N Tune, Inc. (4911 Birch Street, 0.059 mile north), 4621 Teller Avenue (0.073 mile north northeast), 4440 Von Karman Avenue, Mid Atlantic Lubes, Inc. (4343 Von Karman Avenue, 0.118 mile south/southwest), and the Sanwa Bank Building. Listings with a historic release were previously discussed and determined to not be an environmental concern. The remaining listings with an absence of a reported release are also not considered to be an environmental concern.

4.7.3 THRESHOLDS OF SIGNIFICANCE

The following significance criteria are from the City of Newport Beach Environmental Checklist. The Project would result in a significant impact if it would:

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| Threshold 4.7-1 | Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. |
| Threshold 4.7-2 | Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. |
| Threshold 4.7-3 | Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment. |
| Threshold 4.7-4 | Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. |

As addressed in Section 1.4, *Summary of Effects With No Impact*, the City has determined that the Proposed Project would not have a significant impact on the following thresholds for the reasons stated below, and that no further analysis was required:

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

There are no schools within 0.25 mile of the project site. No impact would occur.

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

There is no native habitat susceptible to burning in wildland fires on the site. Project development would not place buildings or structures at substantial risk from wildland fires, and impacts would be less than significant.

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

There are no private airstrips located immediately adjacent to or near the project site.

The following threshold is addressed in Section 4.9, Land Use and Planning, of this EIR:

- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area.

4.7.4 ENVIRONMENTAL IMPACTS

This section analyzes the impacts associated with implementation of the Project related to the risk of upset due to potential hazardous substances, including hazardous materials and/or hazardous waste within the project site and the vicinity, as well as other hazards to public safety.

Threshold 4.7-1:	Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
Threshold 4.7-2:	Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Exposure of the public or the environment to hazardous materials can occur through transportation accidents; environmentally unsound disposal methods; improper handling of hazardous materials or hazardous wastes (particularly by untrained personnel); and/or emergencies, such as explosions or fires. The severity of these potential effects varies by type of activity, concentration and/or type of hazardous materials or wastes, and proximity to sensitive receptors.

The 2016 Phase I ESA included a review of local, State, and federal environmental record sources, standard historical sources, aerial photographs, fire insurance maps and physical setting sources, previous reports, a site reconnaissance of the site to review use and current conditions and to check for the storage, use, production or disposal of hazardous or potentially hazardous materials and interviews with persons and agencies knowledgeable about current and past site use.

The results of investigations performed to date indicate that no known or suspected RECs or controlled RECs were identified at the project site. Further, no evidence of contamination, distressed vegetation, petroleum hydrocarbon surface staining, waste drums, USTs, ASTs, illegal dumping, or improper waste storage/handling was noted during site reconnaissance.

As previously addressed, the free-standing parking structure site is adjacent to a former closed LUST. Based on previous site assessment and mitigation activities, the results of a health risk assessment and regulatory closure, and results of a soil, soil vapor and groundwater investigation in February 2015, a Vapor Encroachment Condition is not expected.

The project site is also located adjacent to the Conexant (currently Uptown Newport) site which includes a semi-conductor facility used by Jazz Semiconductor, Inc. Site assessment and mitigation associated with soil and groundwater impacts is ongoing. According to February 2016 monitoring data, chemicals of concern are present in groundwater beneath the Conexant site at concentrations above California Drinking Water Standards. However, groundwater monitoring wells were non-detect for VOCs. Based on recent groundwater trends, active remediation, regulatory oversight, and the use of the southern portion of the site as a parking structure, a Vapor Encroachment Condition is not likely to exist at the site.

While Vapor Encroachment Conditions are not likely, the Proposed Project includes excavation and construction activities for below-ground parking structures. It is possible that suspected contaminated soil or groundwater could be encountered during excavation and construction. To mitigate the risks associated with contaminated soil or groundwater, MM 4.7-1 requires suspected contaminated material be evaluated by an environmental professional. Impacts can be mitigated to a less than significant level.

Once the Project is constructed, material use could include cleaners, paints, solvents, and fertilizers and herbicides for site landscaping. The handling and transportation of all hazardous materials would be performed in accordance with applicable laws and regulations. Furthermore, the types and quantities of materials to be used and stored would not be of a significant quantity to create a reasonable foreseeable upset or accident. The Project would also be required to comply with State and local health and safety requirements, including the City's Fire Code and Fire Department Guidelines as identified in Standard Condition (SC) 4.7-1. Operation of the Proposed Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials and impacts would be less than significant.

Impact Summary: *Less Than Significant With Mitigation.* The Project could potentially create a hazard to the public or the environment through exposure to contaminated soil or groundwater during construction. This impact would be mitigated to a level considered less than significant with implementation of MM 4.7-1.

Threshold 4.7-3:	Would the Project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
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The project site is not identified on the Cortese List, which is the list of hazardous materials sites that is compiled pursuant to Section 65962.5 of the California Government Code. In addition to the Cortese List, the federal, State and local governmental agencies maintain other lists of sites where hazardous materials may be present or used. The Phase I ESA includes an EDR database search report, which is provided as an appendix to the Phase I ESA. Based on review of the EDR report, the Phase I ESA determined that the project site was not listed in any of the hazardous materials databases reviewed. As previously addressed, a number of listings were identified in the Regulatory Database Search that are proximate to the site but

were determined to not be considered an environmental concern. Impacts are therefore less than significant.

Impact Summary: *No Impact.* The project site is not identified on the Cortese List.

Threshold 4.7-4: Would the Project impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?

The Proposed Project would not impair or physically interfere with an adopted emergency response or evacuation plan, including the City of Newport Beach Emergency Operations Plan (EOP), which was approved in September 2011. The purpose of the EOP is to provide guidance for the City of Newport Beach's response to extraordinary emergency situations associated with natural disasters, technological incidents, and national security emergencies in or affecting the City of Newport Beach. The EOP identifies evacuation routes, emergency facilities, and City personnel and describes the overall responsibilities of federal, State, regional, Operational Area, and City entities. No revisions to the adopted EOP would be required as a result of the Proposed Project. Primary access to all major roads would be maintained during construction of the Project. Impacts would be less than significant. Emergency services and access is further described in Section 4.12, *Public Services*.

Impact Summary: *Less Than Significant.* The Proposed Project would not impair or physically interfere with an adopted emergency response or evacuation plan, including the City of Newport Beach Emergency Operations Plan (EOP).

4.7.5 CUMULATIVE IMPACTS

Impacts associated with hazardous materials are often site-specific and localized. The EIR evaluates RECs in connection with the project site and surrounding area. Regarding the off-site RECs, the database search documents the findings of various governmental database searches regarding properties with known or suspected releases of hazardous materials or petroleum hydrocarbons within a search radius of up to one mile from the site and serves as the basis for defining the cumulative impacts study area.

Although some of the cumulative projects and other future projects associated with buildout of the surrounding communities also have potential impacts associated with hazardous materials, the environmental concerns associated with hazardous materials are typically site specific.

Each project is required to address any issues related to hazardous materials or wastes. Projects must adhere to applicable regulations for the use, transport, and disposal of hazardous materials and implement mitigation in compliance with federal, State, and local regulations to protect against site contamination by hazardous materials. Compliance with all applicable federal, State, and local regulations related to hazardous materials would ensure that the routine transport, use, or disposal of hazardous materials would not result in adverse impacts. Any demolition activities associated with project that effects asbestos or lead based paint would also occur in compliance with SCAQMD Rule 1403 and the CalOSHA Construction Safety Orders, which would ensure that hazardous materials impacts would be less than significant. Additionally, site-specific investigations would be conducted at sites where contaminated soils or groundwater could occur to minimize the exposure of workers and the public to hazardous substances.

With adherence to applicable federal, State, and local regulations governing hazardous materials, the potential risks associated with hazardous wastes would be less than significant. The incremental effects of the Proposed Project related to hazards and hazardous materials, if any, are anticipated to be minimal, and any effects would be site-specific. Compliance with SC 4.7-1 and implementation of MM 4.7-1 are required. Therefore, the Proposed Project would not result in incremental effects to hazards with respect to the site's relationship to John Wayne Airport or hazardous materials that could be compounded or increased when considered together with similar effects from other past, present, and reasonably foreseeable probable future projects. The Project would not result in cumulatively considerable impacts to or from hazards or hazardous materials.

4.7.6 MITIGATION PROGRAM

Project Design Features

No project design features have been identified by the Applicant.

Standard Conditions

No standard conditions are applicable.

Mitigation Measures

MM 4.7-1 Prior to the issuance of a building, grading, or demolition permit, the Applicant shall prepare a soil management plan for all excavation projects conducted on the project site, to be implemented in the event that excavation occurs in an area that may contain contaminants and for situations when contaminants that were not previously identified are suspected or discovered. The plan shall identify appropriate measures to be followed if contaminants are encountered during excavation. The appropriate measures shall identify personnel to be notified, emergency contacts, and a sampling protocol. The excavation and demolition contractors shall be made aware of the possibility of encountering known and unknown hazardous materials, and shall be provided with appropriate contact and notification information. The plan shall include a provision stating at what point it is safe to continue with the excavation, and identify the person authorized to make that determination. Removal, transportation, and disposal of impacted soil or groundwater shall be performed in accordance with applicable federal, State, and local laws, regulations, and ordinances. The soil management plan shall be submitted for City of Newport Beach for review and approval.

4.7.7 LEVEL OF SIGNIFICANCE AFTER MITIGATION

With implementation of the Mitigation Program set forth in this section, potential impacts related to hazardous materials would be reduced to a level considered less than significant.