

RESPONSES TO COMMENTS

THE CITY OF NEWPORT BEACH GENERAL PLAN HOUSING IMPLEMENTATION PROGRAM PROGRAM ENVIRONMENTAL IMPACT REPORT

(STATE CLEARINGHOUSE NO. 2023060699)
PA2022-0245

Prepared for | City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, California 92660

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APRIL 2024

Kimley»Horn

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1.0 INTRODUCTION

1.1 Introduction

The purpose of this document is to present public comments and responses to comments received on the Draft Program Environmental Impact Report (EIR) (State Clearinghouse Number 2023060699) for the City of Newport Beach General Plan Housing Implementation Program (Project) located in the City of Newport Beach. The Draft Program EIR was released for public review and comment by the City of Newport Beach for a 45-day review period that occurred between February 12, 2024 and March 28, 2024.

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Newport Beach, as the Lead Agency, has evaluated all substantive comments received on the Draft Program EIR, and has prepared written responses to these comments. This document has been prepared in accordance with CEQA and represents the independent judgment of the Lead Agency.

1.2 Format

The Final Program EIR for the Newport Beach General Plan Housing Implementation Program consists of the Draft Program EIR and its technical appendices; the Responses to Comments included herein; other written documentation prepared during the EIR process; and those documents which may be modified by the City Council at the time of consideration of certification of the Final Program EIR. The City Council would also consider adoption of a Mitigation Monitoring and Reporting Program (MMRP), a Statement of Findings of Fact, and a Statement of Overriding Considerations as part of the approval process for the Project.

This Response to Comments document is organized as follows:

- Section 1** Provides a brief introduction to this document.
- Section 2** Identifies the Draft Program EIR commenters.
- Section 3** Provides responses to substantive comments received on the Draft Program EIR. Responses are provided in the form of individual responses to comment letters received. Comment letters are followed immediately by the responses to each letter.
- Section 4** Presents clarifications to the Program EIR, identifying revisions to the text of the document.

1.3 CEQA Requirements Regarding Comments and Responses

CEQA Guidelines Section 15204(a) directs persons and public agencies to focus their review of a Draft EIR be “on the sufficiency of the document in identifying and analyzing possible impacts on the environment and ways in which significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible. ...CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.”

CEQA Guidelines Section 15204(c) further advises, “Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to CEQA Guidelines Section 15064, an effect shall not be considered significant in the absence of substantial evidence.” Section 15204(d) states, “Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency’s statutory responsibility.” CEQA Guidelines Section 15204(e) states, “This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.”

CEQA Guidelines Section 15088(a) states that the “The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The lead agency shall respond to comments raising significant environmental issues received during the noticed comment period and any extensions and may respond to late comments.” Section 15088(c) notes “The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice. The level of detail contained in the response, however, may correspond to the level of detail provided in the comment (i.e., responses to general comments may be general). A general response may be appropriate when a comment does not contain or specifically refer to readily available information, or does not explain the relevance of evidence submitted with the comment.”

In accordance with CEQA, Public Resources Code Section 21092.5, copies of the written responses to public agencies will be forwarded to those agencies at least ten days prior to certifying the EIR by the Newport Beach City Council.

2.0 LIST OF RESPONDENTS

In accordance with the State CEQA Guidelines Section 15132, the following is a list of public agencies, organizations, and individuals and businesses that submitted comments on the Draft Program EIR received as of close of the public review period on March 28, 2023. Comments have been numbered and responses have been developed with corresponding numbers.

Letter Reference	Commenter	Date of Correspondence	Page No.
Agencies (A)			
A1	California Department of Transportation, District 12	March 28, 2024	6
A2	County of Orange, John Wayne Airport	March 28, 2024	16
A3	Airport Land Use Commission for Orange County	March 28, 2024	31
Organizations (B)			
B1	California Cultural Resource Preservation Alliance, Inc., Patricia Martz, PhD	February 19, 2024	35
B2	Coastal Corridor Alliance	March 23, 2024	37
Individuals and Businesses (C)			
C1	James Lawson	March 20, 2024	42
C2	Jim Mosher	March 28, 2024	46

3.0 RESPONSES TO ENVIRONMENTAL COMMENTS

This section is formatted so that the respective comment letters are followed immediately by the corresponding responses. Comment letters and specific comments are given letters and numbers, respectively, for reference purposes. Where sections of the Draft Program EIR are excerpted in this document, the sections are shown indented. Changes to the EIR text are shown in underlined text for additions and ~~strikeout~~ for deletions.

Comment Letters and Responses: Agencies (A)

Letter A1 **California Department of Transportation, District 12**
Scott Shelley, Branch Chief
March 28, 2024

Comment Letter A1

CALIFORNIA STATE TRANSPORTATION AGENCY

GAVIN NEWSOM, GOVERNOR

California Department of Transportation

DISTRICT 12
1750 EAST 4TH STREET, SUITE 100
SANTA ANA, CA 92705
PHONE (657) 328-6000
FAX (657) 328-6522
TTY 711
www.dot.ca.gov/caltrans-near-me/district12



March 28, 2024

Mr. Benjamin Zdeba
Principle Planner
City of Newport Beach
100 Civic Center Drive; Bay B
Newport Beach, CA. 92660

File: LDR/CEQA
SCH: 2023060699
12-ORA-2024-02483

Dear Mr. Zdeba,

Thank you for including the California Department of Transportation (Caltrans) in the review of the Draft Program Environmental Impact Report (EIR) for the Newport Beach Housing Element Implementation Project. The City's 2021-2029 Housing Element was adopted in September 2022 as part of the statewide 6th Cycle Housing Element process and was subsequently certified by the State of California Department of Housing and Community Development (HCD) on October 5, 2022. The City's Regional Housing Needs Assessment (RHNA) allocation is 4,845 housing units, including 1,456 very low-income units and 930 low-income units. In addition to the 6th Cycle RHNA allocation, 2021-2029 Housing Element accounts for additional housing units as a buffer to address future "no net loss" if it becomes necessary to identify replacement sites during the 6th Cycle implementation period. Only a portion of these sites will be necessary to accommodate the City's planning obligation. The Project does not propose any site development on any of the housing sites. Future housing development would occur over time depending upon numerous factors such as market conditions, and economic and planning considerations, and at the individual property owners' discretion.

A1-1

The mission of Caltrans is to provide a safe and reliable transportation network that services all people and respects the environment. Caltrans is a responsible agency on this project and has the following comments:

"Provide a safe and reliable transportation network that serves all people and respects the environment"

City of Newport Beach
March 28, 2024
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1. Caltrans supports projects which provide a diversity of housing choices and destinations accessible by Active Transportation (i.e. bicycle and pedestrian) and transit users. Please consider improving multimodal connections to housing which will encourage future residents, visitors, and workers in the city to utilize all modes of transportation. Increasing multimodal transportation will lead to a reduction to congestion, Vehicle Miles Traveled, and improve air quality.

A1-2
2. Caltrans seeks to promote safe, accessible, multimodal transportation. Please consider methods to reduce pedestrian and bicyclist exposure to vehicles by lessening the time that the user is in the likely path of a motor vehicle.

A1-3
3. Caltrans encourages the design of Complete Streets that include high-quality pedestrian, bicycle, and transit facilities that are safe and comfortable for users of all ages and abilities. This may include safety measures such as physically separated sidewalks and bike lanes, pedestrian-oriented LED lighting, high-visibility continental crosswalk striping, raised crosswalks, refuge islands, wayfinding signage, and safe connections to existing and proposed bicycle facilities. Complete Streets improvements promote regional connectivity, improve air quality, reduce congestion, and increase safety for all modes of transportation. (see Caltrans' Director's Policy on Complete Streets here <https://dot.ca.gov/-/media/dot-media/programs/esta/documents/dp-37-complete-streets-all.pdf>)

A1-4
4. During future construction, please ensure appropriate detours, signage, and safety measures are planned that prioritize and ensure the safety and mobility of pedestrians, bicyclists, and transit users.

A1-5
5. Ensure that truck parking, ingress and egress, and staging will not interfere with vehicle parking, pedestrian paths, or bicycle lanes/bicycle parking. Work with community representatives to mitigate any truck traffic routing onto residential streets or conflicting with other road users, including and especially bicyclists and pedestrians.

A1-6
6. Please identify the existing transit services for local and regional bus services including the connectivity to rail services from the nearest train stations provided by Metrolink and/or Amtrak Pacific Surfliner. Also, please provide adequate wayfinding signage to transit stops within all the project vicinity and local roadways.

A1-7
7. Consider how many individual packages will be delivered daily to individual residences within the areas identified for increased housing production. Shared drop-off locations can help reduce the amount of driving done by delivery

A1-8

"Provide a safe and reliable transportation network that serves all people and respects the environment"

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trucks and can increase the efficiency of deliveries in densely developed areas. Similarly, high-density residential developments should consider automated parcel systems (i.e., Amazon Lockers) so that deliveries can be made with one truck stop instead of multiple stops to individual residences.

A1-8

8. Consider accounting for off-street truck parking to help free up on-street space for other modes, such as city traffic, walking, and bicycling. Similarly, utilize alley space or similar areas, if available, to reduce the need for on-street parking which may conflict with highway/street flows.

A1-9

9. If truck parking (i.e., for home deliveries) is to be on-street, ensure the width of the parking lane is wide enough for freight trucks without encroaching on bicycle lanes or street lanes.

A1-10

10. Please consider designated on-street freight-only parking and delivery time windows to reduce the need for double parking. This strategy also helps prevent street traffic congestion.

A1-11

11. Creation of emergency plans, that include emergency routes and paths, can alleviate congestion in the event of an emergency and allow Emergency Medical Services to easily access the site.

A1-12

12. Please note that this project should not present adverse impacts to the overall transportation system including: traffic circulation and the local State Highway Systems (SHS). Caltrans is requesting a Traffic Impact Analysis (TIA) that focuses on the State facilities that would be impacted by future developments.

13. The TIA will also need to include existing and future average daily traffic volumes, traffic generation including peak hour, traffic distribution, Highway Capacity Manual (HCM) intersection analysis along with current and projected capacities of local street, and state highways or freeways including ramps that might be impacted.

A1-13

14. A section of the TIA will also need to focus on existing and future average daily traffic volumes, traffic generation including peak hour, traffic distribution HCM intersection analysis, and current and projected capacities for SR 1.

15. When analyzing the proposed projects potential short- and long-term traffic impacts with respect to regional vehicle miles traveled (VMT's), please use the Governor's Office of Planning and Research Guidance to identify VMT related impacts and add the analysis results to the TIA.

A1-14

"Provide a safe and reliable transportation network that serves all people and respects the environment"

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16. Any project work proposed in the vicinity of the State Right-of-Way (ROW) would require an encroachment permit and all environmental concerns must be adequately addressed. If the environmental documentation for the project does not meet Caltrans's requirements for work done within State ROW, additional documentation would be required before approval of the encroachment permit. Please coordinate with Caltrans to meet requirements for any work within or near State ROW. For specific details for Encroachment Permits procedure, please refer to the Caltrans's Encroachment Permits Manual at: <http://www.dot.ca.gov/hq/traffops/developserv/permits/>

A1-15

17. Additional information regarding encroachment permits may be obtained by contacting the Caltrans Permits Office at (657) 328-6553 or D12.permits@doct.ca.gov. Early coordination with Caltrans is strongly advised for all encroachment Permits. For specific details on Caltrans Encroachment Permits procedure and any future updates regarding the application process and permit rates, please visit the Caltrans Encroachment Permits homepage at <https://dot.ca.gov/programs/traffic-operations/ep>.

Caltrans' mission is to provide a safe, sustainable, equitable, integrated, and efficient transportation system to enhance California's economy and livability. Please continue to coordinate with Caltrans for any future developments that could potentially impact State transportation facilities. If you have any questions, please do not hesitate to contact Julie Lugaro at Julie.lugaro@dot.ca.gov.

A1-16

Sincerely,

for 
Scott Shelley
Branch Chief,
LDR-Climate Change-Transit Planning
Caltrans, District 12

"Provide a safe and reliable transportation network that serves all people and respects the environment"

Response A1-1

This comment provides an introduction to the letter from the California Department of Transportation (Caltrans). The comment is introductory in nature and does not raise a specific issue with the adequacy of the Draft Program EIR or raise any other CEQA issue. Therefore, no further response is required.

Response A1-2

The commenter notes that Caltrans supports projects which provide a diversity of housing choices and destinations accessible by Active Transportation (i.e. bicycle and pedestrian) and transit users. Caltrans requests that the City consider improving multimodal connections to housing which will encourage future residents, visitors, and workers in the City to use all modes of transportation.

As identified in Section 3.0: Project Description, of the Draft Program EIR, there are 247 housing sites of which only 21 are vacant. Therefore, the majority of potential housing sites would be considered infill developments because the majority of the sites are developed and/or adjacent to existing development and therefore are adjacent to an existing roadway network including roadways that have existing pedestrian sidewalks. With respect to bikeway facilities, according to the City of Newport Beach Bicycle Master Plan (2014), the City has approximately 93 miles of bicycle facilities. The City has off-street bike paths primarily along parts of Coast Highway, Irvine Avenue, University Drive, Jamboree Road, Spyglass Hill Road, San Joaquin Hills Road, and in the San Diego Creek Channel along Newport Bay and through Buffalo Hills Park (see Figure 4.15-2 in the Draft Program EIR). The City is in the process of updating its 20-year Bicycle Master Plan.

The Orange County Transportation Authority (OCTA) provides fixed route bus service and on-demand paratransit service (such as the one at the Oasis Senior Center provided for seniors) to Orange County, inclusive of Newport Beach. OCTA operates six routes through the City (see Figure 4.15-1 in the Draft Program EIR).

The General Plan Circulation Element include goals and policies related to development and transportation options. All goals and policies are included in the General Plan Circulation Element. General Plan goals and policies that have been adopted by the City for the purpose of avoiding or mitigating an environmental effect that are applicable to future development projects associated with the proposed Project include but are not limited to:

- **Policy CE 1.1.1 Comprehensive Transportation System.** Provide a diverse transportation system that provides mobility options for the community.
- **Policy CE 1.1.2 Integrated System of Multiple Modes.** Provide an integrated transportation system that supports the land use plan set forth in the Land Use Element.
- **Policy CE 5.2.6 Pedestrian Improvements in New Development Projects.** Require new development projects to include safe and attractive sidewalks, walkways, and bike lanes in accordance with the Master Plan, and, if feasible, trails.
- **Policy CE 5.2.7 Linkages to Citywide Trail System and Neighborhoods.** Require developers to construct links to the planned trail system, adjacent areas, and communities where appropriate.
- **Policy CE 7.1.4 Alternative Transportation Modes and Practices.** Promote and encourage the use of alternative transportation modes, such as ridesharing, carpools, vanpools, public transit, bicycles, walking, and telecommuting programs, through the planning and development of a Complete Streets master plan and design guide.

- **Policy CE 7.1.5 Support Facilities for Alternative Modes.** Require new development projects to provide facilities commensurate with development type and intensity to support alternative modes, such as preferential parking for carpools, bike racks, bike stations, bicycle lockers, showers, commuter information areas, rideshare vehicle loading areas, water transportation docks, and bus stop improvements.
- **Policy CE 7.1.7 Project Site Design Supporting Alternative Modes.** Encourage increased use of public transportation by requiring project site designs that facilitate the use of public transportation and walking.

As addressed in Section 4.15: Transportation, and Appendix F of the Draft Program EIR, the proposed Project VMT/Service Population (SP) is lower in comparison to the General Plan Buildout Land Use VMT/SP. The VMT/SP for the Buildout Land Use is 32.2, which is more than the proposed Project's VMT/SP. The proposed Project decreases the amount of travel per individual that is forecast to occur in comparison to the Buildout Land Use. The Project would place more housing near to where the employment is located, reducing Citywide VMT/SP in comparison to the Buildout Land Use. This is because the proposed Project would develop more housing proximate to where employment is located, reducing Citywide VMT/SP in comparison to the 2006 General Plan Baseline (Buildout Land Use).

Generally, in areas with a mix of residential and employment uses, VMT/SP is generally lower than in areas that have more uniform land uses. For example, a reduction in VMT can be attributed to the introduction of housing units within areas that are currently characterized by predominantly office uses, resulting in a more balanced land uses. In other areas, VMT/SP increases due to a change from no residents (existing non-residential land uses) to a residential population greater than employment in the TAZ.

As future land use projects are proposed, their VMT generation characteristics may incorporate Transportation Demand Management (TDM) programs which could include telecommuting and working from home incentives, accommodations for pedestrians and bicyclists, and transit service availability. These measures would be evaluated against established thresholds.

The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-3

As acknowledged by Caltrans, no site development is proposed on the housing sites as a part of the proposed Project. Future housing projects would be subject to the City's development review process during which time potential pedestrian and bicycle conflicts with vehicles can be addressed.

General Plan goals and policies that have been adopted by the City for the purpose of avoiding or mitigating an environmental effect that are applicable to future development projects associated with the proposed Project include but are not limited to:

- **Policy CE 2.2.5 Driveway and Access Limitations.** Limit driveway and local street access on arterial streets to maintain a desired quality of traffic flow and limit hazards to active transportation modes. Wherever possible, consolidate and/or reduce the number of driveways and implement access controls during redevelopment of adjacent parcels.
- **Policy CE 5.2.6 Pedestrian Improvements in New Development Projects.** Require new development projects to include safe and attractive sidewalks, walkways, and bike lanes in accordance with the Master Plan, and, if feasible, trails.

- **Policy CE 5.4.1 Pedestrian Street Crossings.** Continue to implement improved pedestrian crossings, such as lighted crosswalk installations, in key high-volume areas such as Corona Del Mar, Mariners' Mile, West Newport, Airport Area, Newport Center/Fashion Island, and the Balboa Peninsula.
- **Policy CE 5.4.2 Overhead Pedestrian Street Crossings.** Consider overhead pedestrian crossings in areas where pedestrian use limits the efficiency of the roadway or signalized intersection and/or where an overhead crossing provides for improved pedestrian safety.
- **Policy CE 5.4.6 Bicycle and Pedestrian Safety.** Provide for the safety of bicyclists and pedestrians through provision of adequate facilities, including review of locations where sidewalk use by bicyclists is appropriate, consideration of separate facilities for e-bikes or other semi-motorized modes, and maintenance and construction of extra sidewalk width where feasible.

The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-4

On October 25, 2022, the Newport Beach General Plan Circulation Element was adopted by the City Council to comply with State law mandates including "Complete Streets" and Vehicle Miles Traveled (VMT) legislation. The updated Circulation Element includes new and revised goals and policies to provide for a balanced transportation network that will support and encourage walking, bicycling, and transit ridership. Please also refer to the response to Comment A1-3. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-5

Prior to issuance of any building permit, an applicant would be required to submit for City of Newport Beach Community Development Director and Traffic Engineer review and approval of a Construction Management Plan for housing project. The Construction Management Plan would identify construction phasing and address traffic control for any temporary street closures, detours, or other disruptions to traffic circulation and public transit routes. It would also identify the routes that construction vehicles shall use to access the site, the hours of construction traffic, traffic controls and detours, construction materials and vehicle staging areas, and temporary parking arrangements for the construction workers.

The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-6

Regarding truck parking, ingress/egress, and staging, no housing development is currently proposed on any of the potential 247 sites; therefore, information regarding these noted issues is not available. However, future developments would include parking facilities that would be reviewed by the City as part of its Development Review process to address the potential conflict between loading areas and bicycle lanes and parking. Please also refer to the responses to Comments A1-2 and A1-3. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-7

As addressed in the response to Comment A1-2, OCTA provides fixed route bus service and on-demand paratransit service (such as the one at the Oasis Senior Center provided for seniors) to Orange County, inclusive of Newport Beach. OCTA operates six routes through the City (see Figure 4.15-1 in the Draft Program EIR):

- Route 1 - Long Beach to San Clemente via Pacific Coast Highway
- Route 47 - Fullerton to Balboa via Anaheim Boulevard/Fairview Street
- Route 55 – Santa Ana to Newport Beach via 17th Street, Dover, Pacific Coast Highway, Newport Center
- Route 57 – Brea to Newport Beach via Jamboree Road and Newport Center Drive
- Route 71 - Yorba Linda to Newport Beach via Newport Boulevard
- Route 79 – Tustin to Newport Beach via Ford Road and San Miguel Drive

OCTA occasionally revises their service schedule based on increased or decreased public transportation use on routes. OCTA's iShuttle Route 400A and 400 B operates weekdays and includes multiple stops in Newport Beach to the Tustin Metrolink Station. Stops include John Wayne Airport and locations along Michelson Drive, Von Karman Avenue, and Jamboree Road in the Airport Area.

With respect to wayfinding signage to transit stops, no development is currently proposed on the housing sites. The City promotes and encourages the use of alternative transportation mode. The inclusion of wayfinding signage, as appropriate and needed, can be considered during the City's development review process as future housing projects are proposed.

The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-8

As previously addressed, no site-specific development is proposed as a part of the Project. Future projects can consider shared drop-off locations and automated parcel systems designs, which would be reviewed as a part of the City's development review process. It should also be noted that only 21 of the 247 housing sites are vacant. As such, it is reasonable to assume that the existing land uses on these developed sites receive and send packages through delivery services. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-9

As previously addressed, no site-specific development is proposed as a part of the Project. While it is not stated, it is assumed that the commenter is referring to short-term truck deliveries because the proposed future projects would be housing developments. Future projects can consider providing opportunities for off-street truck parking, which would be reviewed as a part of the City's development review process. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-10

As previously addressed, no site-specific development is proposed as a part of the Project. Where on-street parking is allowed for deliveries, loading zone parking is regulated by the City of Newport Beach Municipal Code Chapter 12.48. On-street short-term parking associated with future housing projects would be reviewed as a part of the City's development review process. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-11

Regarding freight and truck parking and delivery times, no specific housing projects are proposed as a part of the Project; thus, no exact features and details regarding freight truck parking exist. However, the need and location for freight truck parking would be considered as a part of the City's development review process for future proposed developments. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-12

As addressed in Section 4.15: Transportation, of the Draft Program EIR, the City has adopted the California Fire Code under Municipal Code Chapter 9.04, which applies to all proposed development. Municipal Code Section 9.04.110-160 includes compliance with emergency access design standards as part of new construction of roads to provide sufficient access for emergency equipment. The Fire Code also sets minimum standards for road dimension, design, grades, and other fire safety features. Additionally, more stringent California Building Code (CBC) standards also apply regarding new construction and development of emergency access issues associated with earthquakes, flooding, and other natural hazards. Future housing development would be required to comply with applicable building and fire safety regulations required for the design of new housing and emergency access; and would be required to adhere to applicable State and local requirements.

The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-13

Although a Level of Service (LOS) traffic study is no longer required for the purpose of CEQA, the City has prepared the *Housing Element Transportation Analysis* as a reference document to provide additional information regarding potential traffic conditions related to the implementation of the City's Housing Element. The reference document is available [here](#).

Based on the intersection LOS performance criteria, all study area intersections experience acceptable operations for Existing Conditions. The following intersections are estimated to experience unacceptable operations during peak hours for both 2006 General Plan Baseline (Buildout Land Use) and the proposed Project using existing lanes:

- Superior Avenue at Coast Highway (AM)
- **Riverside Avenue at Coast Highway (AM/PM)**
- Tustin Avenue at Coast Highway (AM)
- Irvine Avenue at University Drive (AM/PM)
- **SB Newport Boulevard Off-Ramp at West Coast Highway (AM)**

Anticipated "General Plan Planned Improvements" improve 3 of the 5 deficient intersections to acceptable levels. The two locations displayed in bold in the list above represent a deficiency which remains after defined General Plan improvements are added to the proposed Project (if there are General Plan improvements at that location).

One additional intersection is forecast to operate at unacceptable levels of services associated with the proposed Project using existing lanes:

- **Orange at Coast Highway (AM)**

The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-14

As addressed in Appendix F of the Draft Program EIR, based on OPR's Technical Advisory, the City of Newport Beach has adopted *VMT Significance Criteria and Thresholds* and *Newport Beach City SB 743 VMT Implementation Guide*, which together provide the City's Guidelines. The EIR VMT analysis has been prepared based on the adopted City Guidelines approved by the City Council on June 9, 2020, which are

consistent with the VMT analysis methodology recommended by OPR. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-15

Should any future housing project require improvements within Caltrans' right-of-way, the City acknowledges that an encroachment permit would be required and the potential environmental impacts associated with activities within the Caltrans' right-of-way would need to be addressed. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response A1-16

The comment is noted. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Letter A2 **County of Orange, John Wayne Airport**
Charlene V. Reynolds, Airport Director
March 27, 2024

Comment Letter A2



March 28, 2024

Mr. Benjamin Zdeba, AICP Principal Planner
City of Newport Beach
Community Development Department, Planning Division
100 Civic Center Drive, Bay B
Newport Beach, CA 92660

Subject: Comments on the Draft Program Environmental Impact Report for the Housing Implementation Program (PA2022-0245) (SCH No. 2023060699)

Dear Mr. Zdeba:

Thank you for the opportunity to review the Draft Program Environmental Impact Report (DPEIR) for the City of Newport Beach (City) Housing Implementation Program. The following comments on the DPEIR are submitted by the County of Orange acting in its capacity as the airport owner and operator of John Wayne Airport, Orange County (JWA) (SNA).

The Housing Implementation Program (the Project) outlines the actions the City proposes to achieve its share of the 2021-2029 Regional Housing Needs Allocation (RHNA). The DPEIR analyzes 247 housing opportunity sites within six Focus Areas located in the City. Three of these focus areas fall within the Airport Planning Area/Notification for JWA: Airport Area, Dover/Westcliff, and Newport Center.

A2-1

JWA provided comments on the noise-related amendments to the General Plan, Zoning Code, and Specific Plans required for implementation of the Housing Element. The Airport's letter, dated October 9, 2023, is attached and hereby incorporated as part of the Airport's comments on the DPEIR.

Project Description

The presentation of the Project Description in the DPEIR is difficult to follow because defining elements of the Project are not clearly being presented in Section 3, Project Description or elsewhere in the document. Although the CEQA Guidelines do not require the project description to be exhaustive, it should supply the necessary detail for project evaluation. The EIR is a Program EIR and the City will not be implementing the actual development; therefore, specific details on design and building placement is not known. However, the project description makes it difficult to understand the level of development proposed at the sites and the assumptions used in the analysis. Recommended changes that would strengthen the DPEIR are:

A2-2

- *Elimination of Sites where Housing is not Reasonable or Feasible*--A review of the sites makes it clear that a number of the sites are not suitable for residential development because of existing environmental factors or existing development, which is unlikely to be

Charlene V. Reynolds (949) 252-5171 3160 Airway Avenue
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displaced. Specifically, the County has expressed concern about the 28 sites within the 65 dB CNEL contour adjacent to the Airport. These sites should not be included as housing opportunity because of known noise impacts associated with Airport operations. Inclusion of these sites goes against the nearly four decades of efforts by the County and City to protect residential uses from noise levels in excess of State regulations.

A2-2

- *Vague Project Description and Lack of Detail For Airport Focus Area*--The document states the intent is that the Airport Focus Area would support a density between 30 and 50 dwelling units per acre. However, the DPEIR identifies a projected build-out of 2,577 units for the Airport Focus Area. Given the DPEIR identified 176 buildable acres in the Airport Focus Area, the average number of units could be as low as 15 units per acre and still meet the housing target for the Focus Area (2,577 units divided by 176 acres). Even at a Program level, a more refined Project Description would be feasible based on known constraints, such as consideration of restrictions in the Airport Safety Zones. This would provide a better understanding of the City's assumptions on the number of units that would or could be constructed on each site. The Airport is particularly interested in the number of units assumed in the 65 dB CNEL contour or in each of the designated Airport Safety Zones.

A2-3

- *Criteria for Implementing Housing in the 65 dB CNEL*--The DPEIR does not explain how the City would determine that sites in the 65 dB CNEL contour are needed to meet their RHNA allocation. Since development of sites in the 65 dB CNEL contour would only be allowed if the City determines that these sites would be required to satisfy the City's RHNA mandate, the development of housing in the 65 dB CNEL should be delayed to allow the opportunity for the other sites identified in the Housing Element to be developed. The DPEIR should identify what type of substantial evidence would be required to show that development in the 65 dB CNEL is required or the City will not meet their RHNA allocation, especially given that the City purports to be providing sites that could accommodate nearly double the needed area number of units. It is also recommended that the City limit the number of residential units in the Airport Focus Area to the 2,577 units (i.e., if 2,577 units are constructed no more units would be allowed in the Airport Focus Area).

A2-4

The Project Description should better identify the assumptions for each of the sites, including the Airport Focus Area to enable the reader to better understand the potential impacts associated with the housing opportunities provided by the Housing Element. A caveat can be given that the actual number of units would be determined at the time that the development approval is processed. This would also allow the City decisionmakers and the public to understand if the subsequent submittals for development are consistent with the analysis in this DPEIR.

A2-5

Lack of Detailed Analysis

Section 15168 of the CEQA Guidelines recommends that a Program EIR "deals with the effects of the program as specifically and comprehensively as possible." The following are examples of areas that require more analysis.

- *Land Use and Planning*-- Threshold 4.1-2 does not apply just to the City's land use plans, policies, or regulations, but to "any land use plan, policy or regulation adopted for the

A2-6

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purpose of avoiding or mitigating an environmental effect." This would include Federal and State regulations established to protect noise sensitive uses. The analysis of the Project's consistency with applicable plans and policies is insufficient because it does not address applicable plans and policies by other jurisdictions (i.e., State requirements) that have been adopted to avoid environmental impacts.

A2-6

- *Noise* --Threshold 4.11-3 reads, "For a Project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the project area to excessive noise levels?" The DPEIR makes a finding of less than significant although the Project proposes construction of new housing in the 65 to 70 dB CNEL contour, knowing that these locations exceed the State standard for exterior noise levels for sensitive land uses.

A2-7

Conclusion

The Airport and the City of Newport Beach have worked cooperatively since 1985 to reasonably protect the environmental interests and concerns of persons residing in the vicinity of JWA. Cooperatively, the County and City have been able to balance the competing interests of the air transportation and aviation community and local residents living in the vicinity of the Airport. The Airport would like to continue the dialogue with the City to balance the City's need for providing housing to meet their RHNA allocations, while minimizing potential land use incompatibility with the Airport. The additional analysis and detail requested will greatly facilitate additional informed discussions between the City and the County.

A2-8

Sincerely,


Charlene V. Reynolds
Airport Director

Attachments: Letter from the County of Orange to the City of Newport Beach, dated October 9, 2023, signed by Charlene V. Reynolds and directed to Rosalinh Ung (incorporated into this comment letter)

cc: Frank Kim, County Executive Officer
Lilly Simmering, Deputy County Executive Officer
Leon Page, County Counsel
Nicole Walsh, Senior Assistant County Counsel



October 9, 2023

Rosalinh Ung, Principal Planner
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, California 92660
rung@newportbeachca.gov

RE: Newport Beach Housing Element Implementation Noise-Related Amendments

Dear Ms. Ung:

This letter provides comments on behalf of the County of Orange (County), acting in its capacity as the owner and operator of John Wayne Airport, Orange County (SNA) (JWA or Airport), to the City of Newport Beach's (City) proposed noise-related amendments to its Land Use Element, Noise Element, Zoning Code, Newport Place Planned Community, and Newport Airport Village Planned Community (collectively, Housing Element Noise Update or Update). We understand that this Update is intended to accommodate the City's proposed residential sites located within the Airport's 60 and 65 decibel (dB) Community Noise Equivalent Level (CNEL) noise contours that were included in the Housing Element Update that was approved by the City in September 2022.

The Airport has a number of serious concerns relating to this proposed Housing Element Noise Update including, but not limited to, land use, noise, safety and airspace compatibility issues, compliance with the 2006 Cooperative Agreement between the County and the City, and compliance with the California Environmental Quality Act (CEQA) (Pub. Res. Code § 21000 *et seq.*) and the State CEQA Guidelines (Guidelines) (Cal. Code Regs. Tit. 14, § 15000 *et seq.*). Our concerns are addressed in detail below.

Background

As you know, the City recently submitted the Housing Element Noise Update to the County's Airport Land Use Commission (ALUC) for a consistency determination. In August 2023, the ALUC found the City's Update to be inconsistent with the Airport Environs Land Use Plan (AELUP) for JWA due to noise, safety and land use incompatibility issues. The City has indicated that it plans to overrule ALUC's most recent inconsistency determination and adopt the Housing Element Noise Update. Our understanding is that the ALUC will submit a separate comment letter relating to the AELUP overrule and the sufficiency of the City's findings for that overrule. Therefore, this comment letter will not address those important ALUC and findings issues. Rather, our comment letter focuses on the important land use, noise, safety and airspace compatibility issues relating to the City's Housing Element Noise Update, as well as issues relating to the 2006 Cooperative Agreement and the City's compliance with CEQA and the CEQA Guidelines.

A2-9

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Land Use, Noise, Overflight, and Safety Compatibility Issues

The City's proposed Housing Element Noise Update identifies approximately twenty-eight (28) new sites for potential residential development within the 65 dB CNEL noise contour and twenty-three (23) new sites for potential residential development within the 60 dB CNEL noise contour. In addition, the 2021 Housing Element Update removed a policy that was included in previous Housing Elements prohibiting residential uses within the 65 dB CNEL noise contour, and the City is now proposing to revise or remove similar policies from the Housing Element Noise Update. Our understanding is that the City's proposal identifies sites that can achieve the City's assigned 2021 Regional Housing Needs Assessment (RHNA) for the 2021-2029 planning period. However, many of these sites are now located within the 65 dB CNEL noise contour, which was formerly prohibited by the City's own policies.

Noise is one of the most basic land use compatibility concerns. Federal and state statutes and regulations establish the basis for ensuring land use compatibility in areas around airports. Specifically, both the Federal Aviation Administration (FAA) and the California Department of Transportation, Division of Aeronautics (Caltrans) have adopted noise and land use compatibility standards for residential land uses, schools, and other noise sensitive uses. (See, e.g., 49 U.S.C. § 47502, Pub. Util. Code § 21669, Cal. Code Regs. § 5000 *et seq.*) These standards generally establish a maximum exterior noise level of 65 dB CNEL for private outdoor living areas and an interior noise level of 45 dB CNEL for residential and other sensitive land uses. As indicated in Section 5006 of the California Code of Regulations (Title 21, Division 2.5, Chapter 6):

"The level of noise acceptable to a reasonable person residing in the vicinity of an airport is established as a community noise equivalent level (CNEL) value of 65 dB for purposes of these regulations. This criterion level has been chosen for reasonable persons residing in urban residential areas where houses are of typical California construction and may have windows partially open. It has been selected with reference to speech, sleep, and community reaction."

A2-9

Because the City's proposed Housing Element Noise Update could result in new residential development being exposed to excessive noise levels outside these standards, we request that the Housing Element Noise Update be revised to reflect only non-residential uses within the 65 dB CNEL noise contour to ensure compliance with these important state and federal noise standards.

In addition to the FAA and Caltrans standards for noise compatibility, general plan guidelines relating to noise compatibility are provided in the California Government Code. (See, e.g., Cal. Gov. Code §65302.) These code provisions require noise contours to be used as a guide for establishing a pattern of land uses that minimizes the exposure of community residents to excessive noise. The Housing Element Noise Update, which potentially would expose residents to excessive noise impacts, is not consistent with these general plan guidelines. We therefore, also request that the City revise its Housing Element Noise Update to, at a minimum, locate any new residential development outside the 65 dB CNEL noise contour and, preferably, locate any new residential development outside the 60 dB CNEL noise contour in order to minimize the exposure of community residents to excessive noise.

Adding new residential sites within the 65 dB CNEL noise contour would not only subject future residents to excessive aircraft noise due to the proximity of the Airport but would also increase

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the amount of incompatible land use within the 65 dB CNEL noise contour. If the City does not revise its Update to eliminate all residential sites within the 60 and 65 dB CNEL noise contours, specific noise mitigation requirements should be implemented for any future residences located within these noise contours, including appropriate avigation easement and sound attenuation as required under Cal. Code Regs. Tit. 21 §5037. These requirements could be accomplished through an overlay zone in the Housing Element Noise Update that notifies planners processing projects in the airport environs that avigation easements and appropriate sound attenuation requirements must be met. This type of overlay zone will minimize the risk to both the City and County relating to future sound attenuation requirements and/or noise litigation.

The proposed residential sites also include properties that fall beneath the approach and transitional obstruction imaginary surfaces for JWA. Therefore, potential future residents would be exposed to significant aircraft overflight annoyance as approaching aircraft fly overhead. In the past, residential land uses located under aircraft approach corridors have generated a significant number of noise complaints from affected residents. Therefore, it is important that the City ensures that appropriate overflight notification requirements be put in place relating to these potential residential sites. Again, this type of notification requirement can be implemented through a Housing Element Noise Update overlay zone or through the CEQA process discussed further below.

There are also safety concerns related to proposed residential sites which are located within the AELUP Safety Zones for JWA. The comment letter from the ALUC provides more specifics on this issue, but it is important to note that the proposed residential sites within the Airport environs have been identified in Safety Zone 6: Traffic Pattern Zone and Safety Zone 4: Outer Approach/Departure Zone. As provided in the AELUP's Basic Safety Compatibility Qualities Table (page 9-45), within Safety Zone 4, "[i]n undeveloped areas, limit residential uses to very low densities (if not deemed unacceptable because of noise); if alternative uses are impractical, allow higher densities as infill in urban areas." In this instance, locating residential uses within Safety Zone 4 would place future residents within close proximity to the Airport and locate residential development directly under a general aviation, low-altitude, primary flight corridor. It is important that the City recognize these safety issues in the context of the Housing Element Noise Update and make adjustments and modifications to eliminate, where possible, these safety concerns.

A2-9

Further, there are numerous flights over the proposed residential sites in the Airport environs, with a concentration of flights over the primary approach corridor and proposed sites east of the Airport within Safety Zone 6 and the transitional surface for JWA. The location and number of proposed new residential sites within Safety Zones 4 and 6, with some directly under the flight path of commercial and general aviation flights, again suggests that these new residential land uses would be incompatible with the operations at JWA and subject the future residents to not only excessive noise but also safety risks.

In addition to the land use, noise, overflight, and safety compatibility issues identified above, many of the residential sites included in the Housing Element Noise Update are in the Approach Surface, Transitional Surface, and Horizontal Surface of the Federal Aviation Regulation (FAR) Part 77 Obstruction Imaginary Surfaces for JWA. (See, e.g., 49 U.S.C. § 44718, 49 U.S.C. § 46301.) Although no height increases are proposed at this time, and with approximate ground elevations of 46 to 53 feet, the City's existing maximum building heights for the sites would not penetrate the Obstruction Imaginary Surfaces, the City has indicated that proposals for changes

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to the existing height limits may be considered in the future. Therefore, it is important that the City is aware of this issue and the importance of compliance with the FAR Part 77 surfaces for JWA.

Cooperative Agreement Between the City and County

In addition to the land use, noise, safety, and airspace compatibility issues identified above, if the City moves forward with approving the Housing Element Noise Update which places new residential sites within the 65 dB CNEL noise contour, such actions will undermine the goals set forth in the Cooperative Agreement between the City and County of Orange, dated November 1, 2006. In that Agreement, the City and County agreed to "expand their longstanding efforts to promote compatibility between operations at John Wayne Airport...and land uses within and in proximity to the City."

Furthermore, the City agreed to become a "consistent" agency with respect to residential land uses within the airport vicinity and to preserve certain longstanding land use plans, such as the Santa Ana Heights Specific Area Plan (SAHSAP) that were designed to harmonize land uses in Santa Ana Heights with air carrier operations at JWA. The City agreed to retain this consistent agency status through the term of the Agreement provided that the AELUP CNEL contour is not expanded in comparison to that which is in the AELUP as of the effective date. Importantly, the noise contours that the City proposed to utilize for the ALUC Update consistency determination are smaller than those provided in the AELUP. In addition, the City agreed not to repeal/modify the SAHSAP without County consent. The proposed Housing Element Noise Update would require changes to the City Zoning Code, which in turn requires an amendment to the SAHSAP. Consistent with the 2006 Cooperative Agreement, the City is required to obtain County consent prior to any amendments to the SAHSAP.

A2-9

CEQA Compliance

With respect to CEQA compliance, because the City's Housing Element Noise Update submittal allows new residential sites within the 65 dB CNEL noise contour, there is a significant land use and noise impact for purposes of CEQA. In addition, and as discussed in detail above, there are also significant safety, airspace protection, and related environmental issues that must be addressed in the CEQA context.

The City has mistakenly indicated that the proposed Housing Element Noise Update is exempt from CEQA pursuant to Guidelines section 15183. (See City of Newport Beach Planning Commission Staff Report, dated August 3, 2023, Agenda Item No. 4, Housing Element Implementation, Noise-Related Amendments (PA2022-0201), pp. 1, 10-11; City of Newport Beach Resolution No. 2023-52, Section 6.) However, the referenced CEQA provision does not apply to projects otherwise consistent with a General Plan's development density parameters where it is "necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." (Guidelines, §15183(a).) As described throughout this comment letter, the proposed Housing Element Noise Update would facilitate the future development of residential land uses in a geographic area that is subject to potentially significant aviation-related noise, airspace, overflight and safety environmental concerns. Guidelines section 15183 does *not* provide a CEQA compliance pathway that permits the City to abdicate its duty to evaluate, disclose and mitigate these "peculiar" environmental concerns that are unique to the airport environs. (Guidelines, §15183(b).)

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The City additionally has indicated that the proposed Housing Element Noise Update is not subject to further environmental review based on the erroneous premise that its impacts were fully analyzed in Final Environmental Impact Report (FEIR) 617, which was prepared for the amendments to the 1985 Settlement Agreement entered into by and between the County and the Orange County Board of Supervisors, the City of Newport Beach, Stop Polluting Our Newport, and the Airport Working Group of Orange County, Inc., (the Settlement Amendment) (see, Board of Supervisors Resolution No. 14-084 [September 30, 2014] and Board of Supervisors Resolution No. 14.088 [September 30, 2014]). (See City of Newport Beach Planning Commission Staff Report, dated August 3, 2023, Agenda Item No. 4, Housing Element Implementation, Noise-Related Amendments (PA2022-0201), pp. 1, 10-11; City of Newport Beach Resolution No. 2023-52, Section 6.) FEIR 617, however, did not analyze the potentially significant environmental impacts of future residential land uses within the 65 dB CNEL noise contour. This is because, at the time that FEIR 617 was prepared, the City's policies did not allow residential land uses within the 65 dB contour and none were proposed. (See, e.g., FEIR 617, Table 4.5-10 [Goals and Policies Consistency Analysis], City of Newport Beach General Plan Policy 6.15.3: Airport Compatibility ["Require that ... residential development be located outside of the 65 dBA CNEL noise contour specified by the 1985 JWA Master Plan."]) Therefore, the City cannot rely on FEIR 617 for CEQA compliance because it does not analyze the potentially significant land use compatibility, noise, overflight, and safety impacts, among other impacts, of locating future residential development within the 65 dB CNEL noise contour. (See, e.g., CEQA Guidelines §§15006(f) and 15153 [permitting a lead agency to reuse a prior EIR for another project only when it "adequately addresses the proposed project" and where it can be demonstrated that "such projects are essentially the same in terms of environmental impact"]; see also CEQA Guidelines §15162 [providing that a subsequent EIR shall be prepared where "substantial changes" to the project are proposed which trigger the involvement of new significant environmental effects].)

A2-9

Also, and importantly, CEQA is the vehicle not only for the discussion and analysis of potentially significant impacts, but also for the imposition of appropriate mitigation, including, but not limited to, avigation easements and sound attenuation. (See, e.g., Guidelines §15002(a)(1)-(3).) The City must prepare and certify adequate CEQA analysis, including approval of adequate mitigation for significant environmental impacts, prior to considering approval and adoption of the Housing Element Noise Update.

Due to the proposed policy amendments which now would allow residential uses within the 65 dB CNEL noise contour, CEQA compliance is required *prior* to approval of the Housing Element Noise Update. The City cannot wait for a future residential project proposal. CEQA prohibits this type of deferral and piecemealing of the analysis of impacts. (See, e.g., Guidelines §15004 [CEQA compliance "should be prepared as early as feasible in the planning process"]; Guidelines §15378 [the "project" is the "whole of an action" and includes activities "directly undertaken by any public agency including ... the adoption and amendment of local General Plans or elements thereof"].)¹

¹ It is noted that, on June 27, 2023, the City published a Notice of Preparation (NOP) for preparation of a Program EIR relating to its proposed Housing Implementation Program. In the NOP's "Project Summary," the City explains that its Program EIR will "evaluate the potential environmental effects of the implementing actions associated with the 2021-2029 Housing Element," including the housing sites identified in the so-called "Airport Area" (see, e.g., Figure 2E therein) and corresponding revisions to the City's General Plan Land Use Element and Zoning Code. It is unclear how the City's proposed Housing Implementation Program relates to the City's proposed Housing Element Noise Update that is the subject of this comment letter. Absent additional explanation, it appears that the City is improperly piecemealing the CEQA review of the totality of the City's efforts to implement its 2021-2029 Housing Element. (The

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Conclusion

In conclusion, the City's proposed Housing Element Noise Update has the potential to increase incompatible land use within the 65 dB CNEL noise contour, which could result in significant land use compatibility, noise, safety, and overflight impacts and additional encroachment of incompatible land uses within the airport environs. As indicated above, the City must comply with CEQA requirements to adequately analyze these potentially significant environmental impacts prior to considering approval of this Update. In addition, the City's proposed Housing Element Noise Update is inconsistent with the 2006 Cooperative Agreement entered into between the City and the County. Revisions are required to the Update to remove any residential uses within the 65 and 60 dB CNEL noise contours to ensure continued compliance with this important Agreement.

A2-9

We continue to appreciate our close relationship with the City and will make ourselves available to discuss the issues identified in this letter at your convenience. Our hope is that we can continue to work cooperatively to ensure land use compatibility surrounding the Airport.

Sincerely,



Charlene V. Reynolds
Airport Director

Cc: Frank Kim, County Executive Officer
Lilly Simmering, Deputy County Executive Officer
Leon Page, County Counsel
Nicole Walsh, Senior Assistant County Counsel

referenced NOP for the proposed Housing Implementation Program is available on the City's website at [Notice of Preparation and Scoping Meeting 062723.pdf \(newportbeachca.gov.\)](#)

Response A2-1

This comment provides an introduction to the letter from the County of Orange, John Wayne Airport. The comment also references its comment letter dated October 9, 2023 and notes that these comments are to be addressed as a part of John Wayne Airport's comments on the Draft Program EIR. With respect to John Wayne Airport's October 9, 2023 letter related to amendments to the General Plan Land Use Element and Noise Element related to airport noise, please refer to the response to Comment A2-9.

Response A2-2

The City respectfully disagrees with the commenter contending that there are housing sites near John Wayne Airport that are not suitable for residential development due to "existing environmental factors" or existing development. The commenter asserts that these sites should be eliminated due to noise associated with airport operations.

Consistent with the 2021-2029 Housing Element, the Draft Program EIR identifies housing sites located within the 65-70 dBA CNEL noise contour for John Wayne Airport (see Figure 4.11-1 in the Draft Program EIR). The Airport Environs Land Use Plan (AELUP) for John Wayne Airport does not prohibit residential uses in the 65 dBA to 70 dBA CNEL noise contour. Section 3.2.3 of the AELUP requires residential uses be developed with advanced insulation systems to bring the sound attenuation to no more than 45 dB interior. Typical building construction reduces indoor noise levels 28 dBA below outdoor levels¹, which would reduce exterior levels of 70 dBA to 42 dBA indoors (i.e., below the 45 dBA interior standard). In addition, residential uses within the 65 dBA CNEL noise contour area are required to be "indoor-oriented" to preclude noise impingement on outdoor living areas.

As addressed in Section 4.11: Noise, of the Draft Program EIR and as set forth in the General Plan Noise Element and Land Use Element and in the City's Municipal Code, any future residential development would be required to follow all applicable General Plan policies. Project compliance with City General Plan policies N 1.5, N 1.5A, N2.2, N3.1, N3.2, LU 6.15.3, and Municipal Code Section 20.30.080(F) would result in less than significant impacts with respect to housing development proximate to John Wayne Airport.

Municipal Code Section 20.30.080(F) (Residential Use Proximate to John Wayne Airport) incorporates AELUP requirements. The Municipal Code allows for residential uses on parcels wholly or partially outside the John Wayne Airport 65 dBA CNEL noise contour and provides several conditions including preparation of noise studies, noise attenuation standards, separation of sensitive uses from noise generating uses within a project site, and provisions for indoor amenities for projects. The specific requirements, to allow for residential development within the 60 dBA CNEL noise contour, or higher, are as follow:

- Noise studies shall be prepared by a City-approved qualified acoustical consultant and submitted to the Community Development Director for approval prior to the issuance of any building permit;
- All new residential structures or the residential units within a mixed-use development shall be attenuated to provide an interior noise level of 45 dBA CNEL or less;
- The design of the residential portions of mixed-use projects and residential developments shall have adequate noise attenuation between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code;

¹ Barbara Locher, et. al., *Differences between Outdoor and Indoor Sound Levels for Open, Tilted, and Closed Windows*, January 2018.

- New mixed-use developments shall incorporate designs with loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development;
- Use of walls, berms, interior noise insulation, double paned windows, advance insulation systems, or other noise mitigation measures, as deemed appropriate shall be incorporated in the design of new residential to bring interior sound attenuation to 45 dBA CNEL or less;
- Residential uses shall be indoor-oriented to reduce noise impingement on outdoor living areas;
- On-site indoor amenities, such as fitness facilities or recreation and entertainment facilities shall be encouraged; and
- Advanced air filtration systems for buildings shall be considered to promote cleaner air.

As stated in the Project Description and throughout the Draft Program EIR, no development is proposed as a part of the Project. It is speculative to which of the housing sites will be developed. Future use would occur on these sites over time depending upon numerous factors such as market conditions, and economic and planning considerations, and at the individual property owners' discretion. Future development projects would require a site-specific noise analysis to determine project-specific impacts including noise and land use compatibility. Future development project would be required to reduce noise effects to acceptable levels.

Response A2-3

As described in the 2021-2029 Housing Element and in the proposed Project's Draft Program EIR, the Regional Housing Needs Assessment (RHNA) identified the projected number of dwelling units needed to accommodate estimated future growth during the 6th Cycle planning period (2021-2029) at specified levels of affordability. The City's 6th Cycle RHNA allocation is 4,845 housing units, including 1,456 Very-Low-Income units and 930 Low-Income units. The City's 2021–2029 Housing Element demonstrates compliance with its RHNA obligations including the identification of housing sites. In addition to the 6th Cycle RHNA allocation, the Draft Program EIR analysis accounts for additional housing units as a buffer to address future "no net loss" to preclude the need to identify replacement sites during 6th Cycle implementation. Although future housing applicants are not required to meet affordability goals, the City is obligated to ensure there is no net loss when future housing projects are developed such that there are adequate opportunities for the City to meet its RHNA obligations, particularly in order to demonstrate that Low-Income and Very-Low-Income units are being constructed. Therefore, the proposed Project assumes a total development capacity of 9,914 units including future development capacity of up to 9,649 units on 247 housing sites, 25 units of pipeline projects, and 240 units of anticipated accessory dwelling units (ADUs).

The commenter states that the projected buildout in the Airport Area can be met assuming 15 dwelling units per acre (176 acres x 15 units per acre = 2,640 units). This assertion is flawed. First, the City is not constructing housing; future use would occur on these sites over time depending upon numerous factors such as market conditions, and economic and planning considerations, and at the individual property owners' discretion. The City cannot mandate the location of future housing or the affordability level of that housing. While the City must identify opportunities throughout the City to meet its RHNA in the various affordability obligations, individual housing applicants are not required to provide for Low-Income and Very-Low-Income housing. While the identified housing sites were determined by the City, as a part of the 2021-2029 Housing Element, as feasible future housing sites, only 21 of the 247 sites are vacant.

Every housing site in the Airport Area is currently developed. It is not reasonable to assume that every housing site in the Airport Area will be redeveloped and will provide housing in the Low-Income and Very-Low-Income categories. Where a housing site is in the Airport Area Housing Opportunity Overlay Zoning District, which identifies housing ranging in density between 20 to 50 du/ac, exclusive of density bonuses, the property owner is not obligated to construct housing based on the Overlay Zone and can instead develop a site based on the base zoning district. As addressed in the Project Description of the Draft Program EIR for the Airport Area, “Although the sites have the capacity to accommodate approximately 8,483 housing units (at an assumed unit yield of 50 dwelling units per acre [du/ac]), the assumed buildout is projected at 2,577 units, including 773 units of which are projected to be developed for Low- and Very-Low-Income households, taking into account development history, economic factors, and Affirmatively Furthering Fair Housing (AFFH) requirements...” This total number of units is not based on dwelling units per acre. Rather it is based on the expected number of housing units that may be developed in the Airport Area taking into consideration the factors noted in this response.

With respect to safety zones associated with John Wayne Airport, please refer to Section 4.8: Hazards and Hazardous Materials, of the Draft Program EIR. Table 4.8-3 and Figure 4.8-2 in Section 4.8 identify which housing sites are within the safety zones identified in the AELUP for John Wayne Airport. All of the housing sites are in the Airport Area. For Medium General Aviation Runways, of the 100 housing sites identified in Table 4.8-3, there are 90 housing sites in Safety Zone 6, 1 housing site in Safety Zone 4, 2 housing sites in Safety Zone 3, 3 housing sites in both Safety Zones 4 and 6, and 4 housing sites in both Safety Zones 3 and 6. Because the safety zones for Short General Aviation Runways are smaller, all of the housing sites are either in Safety Zone 6 or outside of a safety zone.

Consistent with the AELUP for John Wayne Airport, residential uses in Safety Zone 6 are allowed. For those housing sites exclusively in Safety Zone 4, the AELUP for John Wayne Airport states that higher densities as infill in urban areas if alternative uses are impractical. In Safety Zone 3, limited to very low density residential development is considered acceptable “if not deemed unacceptable because of noise.” As identified in the Draft Program EIR, there are four housing sites – 70, 360, 363, and 367 – that are partially within Safety Zone 3; no sites are exclusively in Safety Zone 3; these sites are in Safety Zones 6 and 3. Should housing be proposed on any of these four housing sites, housing development in Safety Zone 3 would be limited to low-density residential uses as identified in the R-1 zoning district; no multi-unit residential uses would be permitted. Additionally, approximately 630 dwelling units could potentially be located in the 65 dB CNEL contour. This represents approximately 24 percent of the potential dwelling units in the Airport Area Focus Area. It should be noted that 10 housing sites are only partially within the 65 dB CNEL contour. Conservatively, all of the dwelling units associated with those sites are included in the 630 total dwelling units within the 65 dB CNEL contour. Of those 630 dwelling units, 19 dwelling units are located in Airport Safety Zone 3 and 240 dwelling units are in Airport Safety Zone 4. It should be noted that these estimates conservatively include three sites (12 dwelling units) that are partially within Airport Safety Zone 3 and two sites (164 dwelling units) that are partially within Airport Safety Zone 4.

Response A2-4

As stated in Policy N 1.5A, the City has committed to determining whether housing sites wholly within the John Wayne Airport 65 dBA CNEL noise contour would be considered based on substantial evidence. As noted in the responses and the Program EIR, no housing development is proposed as a part of the Project. The criteria for considering housing in within this noise contour is not required at this time. The comment does not address impacts in accordance with CEQA; no further response is required.

Response A2-5

The project evaluated in the Draft Program EIR is the implementing actions, both General Plan policies and Municipal changes, that would be applicable to future housing projects. The Project Description identifies each housing site; identifies the existing General Plan and zoning for each site; identifies the development standards set forth in the proposed Housing Opportunity Sites Housing Overlay Districts for five of the sites including sites within the Coastal Zone; existing and proposed modifications/new General Plan policies including those that would serve as mitigation/conditions of approval for future housing projects; identifies the draft Objective Design Standards; and identifies discretionary actions associated with the Project. The Development Standards for the Housing Opportunity Overlay Zones identifies factors including but are not limited to development limits, lot areas, setbacks, building heights, floor area ratios, landscaping, and parking. The Draft Program EIR addresses potential impacts based on the Project Description General Plan and Municipal Code changes that are proposed. The Draft Program EIR evaluates the housing sites at a programmatic level because no site-specific development is proposed at this time as a part of the Project.

The Project Description identifies that future housing projects may tier from the Program EIR or a finding may be made that sufficient environmental clearance occurred with this Program EIR (State CEQA Guidelines §§15152, 15162 and 15168). This Program EIR comprehensively considers a series of related projects with the intent to streamline subsequent review of future housing development projects consistent with the 2021–2029 Housing Element’s intent. Future development facilitated by the 2021–2029 Housing Element would be subject to subsequent site development review by the City. For purpose of this Program EIR “site development review” or “development review process” refers to review by the City for both ministerial and discretionary housing projects.

Response A2-6

The comment incorrectly states that the Draft Program EIR is insufficient because it does not address consistency with applicable federal and State noise regulations. Federal and State noise regulations are identified in the Draft Program EIR Section 4.11: Noise. Specifically, Draft Program EIR page 4.11-1 states that the Department of Housing and Urban Development’s standards define Ldn at below 65 dBA for outdoors as acceptable for residential areas. Outdoor levels up to 75 dBA day-night noise level (Ldn) may be made acceptable through the use of insulation in buildings (Department of Housing and Urban Development, 2009).

As also discussed on Draft Program EIR page 4.11-1, California Code of Regulations, Section 65302(f) establishes 60 to 70 dBA CNEL as conditionally acceptable for high-density residential use, transient lodging, churches, and educational and medical facilities (conditionally acceptable indicates that additional noise attenuation or special study may be required).

Further, Draft Program EIR page 4.11-2 summarizes the State’s building code noise standards. The California Building Code (Title 24: Part 1, Building Standards Administrative Code, and Part 2, California Building Code) indicates that project-specific acoustical studies are required in areas with exterior noise levels of 65 dBA CNEL or higher. The acceptable interior noise limit for new construction is 45 dBA CNEL.

These regulations are consistent with the City’s Land Use and Noise Compatibility standards (see Draft Program EIR Table 4.11-1), as analyzed in the Draft Program EIR. The Draft Program EIR shows that residential uses are normally compatible up to 65 dBA CNEL and mixed uses are clearly compatible up to 65 dBA CNEL. The City’s Land Use and Noise Compatibility standards do not prohibit residential

development in areas above 65 dBA CNEL. However, if new construction or development does proceed, a detailed analysis of noise reduction requirements must be made and needed noise insulation features included in the design.

Response A2-7

Refer to the response to Comment A2-6, above. As discussed previously, the City’s noise standards are consistent with federal and State noise standards. The comment incorrectly states that new housing in the 65 to 70 dBA CNEL contour exceeds the State standards for exterior noise levels for sensitive land uses. As noted above (and on Draft Program EIR page 4.11-1), the California Code of Regulations, Section 65302(f) establishes 60 to 70 dBA CNEL as conditionally acceptable for high-density residential use (additional noise attenuation may be required for conditionally acceptable locations). The State’s building code (Title 24) noise standards require acoustical studies in areas with exterior noise levels of 65 dBA CNEL or higher. These State standards are consistent with General Plan Policy N 1.2, Policy N 1.5A, and Policy N 2.2. As described in Draft Program EIR page 4.11-30 to page 4.11-31, Policy N 1.2 requires a noise study for developments exposed to exterior 65-70 dBA CNEL or greater to ensure acceptable interior levels can be achieved. Policy N 1.5A allows infill residential projects proximate to John Wayne Airport to have a higher exterior noise level (65-70 dBA CNEL). The exterior noise standards apply to outdoor living areas and includes patios and balconies. In accordance with the General Plan Policies discussed above, these areas are allowed to be located within the 60-65 dBA CNEL contour. The interior standard of 45 dBA CNEL is still required to be enforced, consistent with Title 21 of the CCR. Policy N 2.2 requires the use of walls, berms, interior noise insulation, double paned windows, advance insulation systems, or other noise measures, as appropriate, in the design of new residential developments to attenuate noise levels to not exceed 45 dBA CNEL interior. Consistent with State standards, these policies allow development in the 65-70 dBA CNEL contour only if interior standards can be met. Therefore, the City’s noise standards and the Draft Program EIR noise analysis is consistent with State noise standards (California Code of Regulations, Section 65302(f) and Title 24).

Response A2-8

The commenter’s request for continued “dialogue with the City” is noted.

Response A2-9

John Wayne Airport submitted a letter dated October 9, 2023 to the City of Newport Beach related to the City’s consideration of noise-related amendments to the City’s General Plan Noise Element and Land Use Element and Municipal Code revisions. Please note that the currently proposed City of Newport Beach General Plan Housing Implementation Program is not the same project for which the October 9, 2023 letter was sent to the City. The City Council Staff Report dated November 14, 2023 responds to the airport’s letter. The City Council approved the amendments to the General Plan on November 14, 2023; the second reading for the ordinances occurred on November 28, 2023, effective 30 days after action by the City Council.

In summary, the City took action to:

- Adopt updated noise contours to reflect the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 (EIR No. 617);
- Update Land Use and Noise Element Policies, Land Use Element Figures LU11, LU22, and LU23, Title 20, PC-11, and PC-60 to modify and incorporate the updated noise contours identified by EIR

No. 617 and to implement additional noise attenuation measures for future housing units proximate to John Wayne Airport; and

- Allow residential units identified by the certified 2021-2029 Sixth Cycle Newport Beach Housing Element to be located within the 65 dBA CNEL noise contour area as identified in the updated noise contour maps analyzed in EIR No. 617. Parcels bisected by the updated 65 dBA CNEL noise contour could support future housing; whereas parcels located wholly within the updated 65 dBA CNEL noise contour could support housing, if deemed necessary to satisfy the Regional Housing Needs Assessment (RHNA) mandate.

The comment does not address the Draft Program EIR; no further response is required.

Letter A3 **Airport Land Use Commission for Orange County**
Lea U. Choum, Executive Officer
March 28, 2024

Comment Letter A3



AIRPORT LAND USE COMMISSION
FOR ORANGE COUNTY
3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

March 28, 2024

Ben Zdeba, AICP Principal Planner
City of Newport Beach
Community Development Department, Planning Division
100 Civic Center Drive, Bay B
Newport Beach, CA 92660

Subject: Comments on the Draft Program Environmental Impact Report for the Housing Implementation Program (PA2022-0245) (SCH No. 2023060699)

Dear Mr. Zdeba:

Thank you for the opportunity to review the Draft Program Environmental Impact Report (DPEIR) for the City of Newport Beach (City) Housing Implementation Program in the context of the Airport Land Use Commission's *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)*.

The Housing Implementation Program (the Project) outlines the actions the City proposes to achieve its share of the 2021-2029 Regional Housing Needs Allocation (RHNA). The DPEIR analyzes 247 housing opportunity sites within six Focus Areas located in the City. Three of these focus areas fall within the Airport Planning Area/Notification for JWA: Airport Area, Dover/Westcliff, and Newport Center.

The City is located within the AELUP Notification Area for JWA. On August 17, 2023, the ALUC for Orange County found the proposed Housing Element Implementation - Noise Related Amendments to be inconsistent with the *AELUP for JWA* on a 4-0 vote. The inconsistent finding was based on AELUP Sections 2.1.1, 2.1.2, and 2.1.4. and PUC Sections 21674(a) and 21674(b). The City overruled the ALUC's inconsistent finding on November 14, 2023.

As the DPEIR states, on November 28, 2023, the City Council adopted changes to the General Plan and Municipal Code to reflect the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment EIR No. 617 as well as updated General Plan Land Use and Noise Element policies and additional noise attenuation measures for future housing units proximate to John Wayne Airport. The City also amended the Noise Element to allow for residential development in the 65 dBA CNEL.

Pursuant to Section 1.2 of the *AELUP for JWA*, the purpose of the AELUP is to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the AELUP seeks to protect the public from the adverse

A3-1

ALUC Comments
DPEIR for Housing Element Implementation
3.28.2024
Page 2

effects of aircraft noise to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace.

A3-1

At the August 17, 2023, ALUC meeting, and included in the ALUC staff report for Item 1: Housing Implementation/Noise-Related Amendments, "the AELUP continues to reflect the EIR 508 noise contours for purposes of determining whether a project is consistent with the AELUP noise policies and provisions. Therefore, for purposes of the AELUP consistency analysis, the City and ALUC are required to utilize the noise contours that are provided in the AELUP. Neither the City nor the ALUC can provide a consistency analysis based on different and updated noise contours unless and until those noise contours have been included in the AELUP. Rather, any submittal must be based on the policies and contours currently in the existing AELUP." Including the EIR No. 617 noise contours in the General Plan and the DPEIR is not supported by ALUC and should be removed.

A3-2

Specifically, regarding *Criteria for Implementing Housing in the 65 dB CNEL*, the DPEIR does not explain how the City would determine that sites in the 65 dB CNEL contour are needed to meet their RHNA allocation. Since development of sites in the 65 dB CNEL contour would only be allowed if the City determines that these sites would be required to satisfy the City's RHNA mandate, the development of housing in the 65 dB CNEL should be delayed to allow the opportunity for the other sites *identified* in the Housing Element to be developed. The DPEIR should identify what type of substantial evidence would be required to show that development in the 65 dB CNEL is required or the City will not meet their RHNA allocation, especially given that the City purports to be providing sites that could accommodate nearly double the needed

A3-3

area number of units, It is also recommended that the City limit the number of residential units in the Airport Focus Area to the 2,577 units (i.e., if 2,577 units are constructed no more units would be allowed in the Airport Focus Area).

A3-4

Thank you for the opportunity to provide these comments.

Sincerely,



Lea U. Choum
Executive Officer

Response A3-1

This comment provides an introduction to the letter from the Airport Land Use Commission for Orange County (ALUC). The comment is introductory in nature and does not raise a specific issue with the adequacy of the Draft Program EIR. Reference is made to approvals made by the City of Newport Beach in 2023 to adopt noise-related amendments to the City's General Plan Noise Element and Land Use Element and Municipal Code revisions, which is not the currently proposed Project. On November 28, 2023, the City Council adopted changes to the General Plan and Municipal Code to reflect the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment EIR No. 617, as well as updated General Plan Land Use and Noise Element policies and additional noise attenuation measures for future housing units proximate to John Wayne Airport.

Response A3-2

The City acknowledges ALUC's continued use of the AELUP noise contours. For submittals that require ALUC consistency review, the City's submittal includes consistency analyses with both noise contours in the AELUP, as well as the City's adopted noise contours within the Noise Element.

Response A3-3

As stated in Policy N 1.5A, the City has committed to determining whether housing sites wholly within the John Wayne Airport 65 dBA CNEL noise contour would be considered based on substantial evidence. As noted in the responses and the Program EIR, no housing development is proposed as a part of the Project. The criteria for considering housing in within this noise contour is not required at this time. The comment does not address impacts in accordance with CEQA; no further response is required.

Response A3-4

As addressed in Section 3.0: Project Description, there is a development limit of 2,577 housing units in the Airport Area Focus Area. No further response is required.

Comment Letters and Responses: Organizations (B)

Letter B1 **California Cultural Resource Preservation Alliance, Inc.**
Patricia Martz, Ph.D.
February 19, 2024

Comment Letter B1



P.O. Box 54132
Irvine, CA 92619-4132

California Cultural Resource Preservation Alliance, Inc.
An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.

February 19, 2024

Benjamin Zdeba, AICP, Principal Planner
City of Newport Beach
Community Development Department, Planning Division
100 Civic Center Drive, Bay B
Newport Beach, CA 92660

Via Email

RE: Draft Program Environmental Impact Report for City of Newport Beach General Plan Housing
Implementation Program (PA2022-0245) (SCH No. 2023060699)

Dear Mr. Zdeba:

Thank you for the opportunity to comment regarding the above-mentioned Draft Program Environmental Impact Report (DPEIR). I have reviewed the cultural resources section of the DPEIR including the City's policies, conditions and municipal code regarding the protection and preservation of archaeological, historic, and cultural properties. They are comprehensive and I concur that upon compliance with the regulatory requirements, General Plan policies, and standard conditions/mitigation measures, the environmental impacts will be less than significant.

B1-1

I did not see a mention of Traditional Cultural Properties Per AB 52. Perhaps this should be addressed.

B1-2

Sincerely,

Patricia Martz, Ph.D.
President

Response B1-1

The commenter's concurrence with the analysis and findings in the Draft Program EIR regarding cultural resources is noted. No further response is required.

Response B1-2

As a point of clarification, Traditional Cultural Properties are not addressed under CEQA. It is assumed that the commenter is referencing Tribal Cultural Resources. In compliance with SB 18 and AB 52, the City sent letters to 19 Native American tribal representatives identified by the Native American Heritage Commission. The City received one response but no requests for consultation. No tribal cultural resources were identified by any of the 19 Native American tribal representatives.

Letter B2 **Coastal Corridor Alliance**
Terry Welsh, M.D.
March 23, 2024

Comment Letter B2



March 23, 2024

Comments submitted via email to: BZdeba@newportbeachca.gov and Paul.McDougall@hcd.ca.gov

Benjamin Zdeba, AICP
Principal Planner
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Paul McDougall
Senior Program Manager
Dept. Housing and Community Development
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833

Subject: Draft Environmental Impact Report for Newport Beach's Housing Implementation Program

Dear Mr. Zdeba and Mr. McDougall,

The Coastal Corridor Alliance (CCA), formerly Banning Ranch Conservancy, would like to offer the following comments on the Draft Environmental Impact Report (DEIR) for the Newport Beach Housing Implementation Program.

Background

BRC led the decades-long effort to protect and create a permanent public open space of the 400-acre Banning Ranch property. In December 2022, escrow closed on a conservation transaction, permanently protecting 387 acres of the property. The \$97 million real estate deal was negotiated and completed by The Trust for Public Land and made possible by an extremely generous private donation from Frank and Joan Randall through a pledge agreement. The title of the property was immediately transferred to the Mountains Recreation and Conservation Authority (MRCA), a local Joint Powers Authority (JPA) that manages over 75,000 acres of parkland in Southern California. The property is now known as the Frank and Joan Randall Preserve/Genga [Tribal Name to be Determined] (Randall Preserve). Efforts to create a Resource Management Plan, Tribal Access and Engagement Plan, Coastal Resilience Strategy, and Public Access Plan for Randall Preserve are underway and in their early stages.

B2-1

General Plan Comments

MRCA submitted a letter to the City of Newport Beach on July 14, 2023 outlining the permanent protected status of the Randall Preserve. In the letter MRCA also noted that the site will not be available for any future housing based on the Randall Pledge and subsequent grant restrictions from the State of California. The letter from MRCA states:

B2-2

P.O. Box 15333 • Newport Beach, CA 92659 • (949) 216-0880 • CoastalCorridor.org

"This letter formally confirms that the property is no longer available for any housing based on the grant restrictions which run with the property in perpetuity. For reference, we have included a copy of the grant deed, which includes the following habitat and open space focused language:

"...the Property conveyed hereby shall, in perpetuity, be used only for open space, public access, recreational purposes, habitat restoration and management..."

We request these restrictions be noted in the City's Housing Element and Housing Implementation Program.

B2-2

Housing Implementation Program DEIR Comments

CCA recommends removing from the Housing Implementation Program DEIR any mention of Randall Preserve serving as an "additional dwelling unit opportunity," for the following reasons:

1. **Randall Preserve is protected open space.** Randall Preserve is a permanently protected open space. Rare habitat and cultural resources will be protected, and the remaining areas planned for passive uses.
2. **State and federal acquisition grants prohibit housing.** Funding from both state and federal sources require grant agreements with conditions prohibiting housing in perpetuity. This language was included in the grant deed, which as noted above, runs with the property in perpetuity. No housing will ever be built on the Randall Preserve.
3. **Randall Pledge for acquisition prohibits housing.** Finally, the extremely generous donation for the permanent preservation of Banning Ranch from Frank and Joann Randall includes a clause that also expressly prohibits any housing on the site if it is conserved.

B2-3

General Plan Updates: Other Associated Elements

As it relates to other required elements of the Newport Beach General Plan update, we recommend depicting the Randall Preserve as permanent parkland. To this end, all relevant elements, including but not limited to: Land Use, Housing, Recreation, and Natural Resources should depict the Randall Preserve as parkland when Newport Beach updates its General Plans wholly or in part.

B2-4

Should you have questions, I can be reached at (714) 719-2148.

P.O. Box 15333 • Newport Beach, CA 92659 • (949) 216-0880 • CoastalCorridor.org

Sincerely,



Terry Welsh, M.D.
President

Attachments: Letter from MRCA to the City of Newport Beach dated July 13, 2023

Response B2-1

The commenter notes that the Banning Ranch property (387 acres) has been acquired and the title of the property has been transferred to the Mountains Recreation and Conservation Authority. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response B2-2

The commenter references a letter to the City dated July 14, 2023 noting the protected status of Banning Ranch (herein referred to as the Randall Preserve) and grant restrictions on the property from the State of California. The commenter request that these restrictions be included in the 2021-2029 Housing Element and in the City of Newport Beach General Plan Housing Implementation Program (Project).

“...the Property conveyed hereby shall, in perpetuity, be used only for open space, public access, recreational purposes, habitat restoration and management...”

The Banning Ranch is included in the 2021–2029 Housing Element’s sites inventory but is not assumed in order to accommodate the City’s 2021–2029 RHNA growth need. Banning Ranch is considered as additional dwelling unit opportunity beyond that needed to accommodate the RHNA. As such, the Banning Ranch Focus Area remains in the proposed Project Program EIR and the 2021–2029 Housing Element. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response B2-3

The recommendation of the commenter is noted and can be considered by the Project’s decision-makers. Please refer to the response to Comment B2-2. The comment does not address the adequacy of the Draft Program EIR.

Response B2-4

The commenter request that the General Plan reference Randall Preserve as permanent parkland. As a separate project, the City of Newport Beach is currently preparing a comprehensive update to the General Plan. The City will consider this request as part of the General Plan update process.

Attachments to Comment Letter B2 are included in Appendix A to this Responses to Comments report.

Comment Letters and Responses: Individuals and Businesses (C)

Letter C1 **James Lawson**
March 20, 2024

Comment Letter C1

From: James Lawson <jamesmlawsonaicp@gmail.com>
Sent: March 20, 2024 3:19 PM
To: Zdeba, Benjamin <bzdeba@newportbeachca.gov>
Subject: General Plan Housing Implementation Program DEIR

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello Ben,

Thank you for the opportunity to comment on the Draft Program Environmental Impact Report for the City of Newport Beach General Plan Housing Implementation Program. While it appears thorough and exhaustive in many respects, I make the following suggested revisions.

C1-1

Section 4.10.2
In providing the Existing Regulatory Setting regarding the City of Newport Beach General Plan, this section does not discuss the mandate that all General Plans must be internally consistent pursuant to Government Code 65300.5 ("In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.") "A general plan is internally inconsistent when one required element impedes or frustrates another element." (South Orange County Wastewater Authority v. City of Dana Point (2011) 196 Cal.App.4th 1604, 1619.) This section should be revised to include discussion that the current General Plan is internally inconsistent in that the current Land Use Element is impeding the implementation of the current Housing Element, a conflict that can only be realistically remedied by adoption of the proposed Land Use Element and Housing Opportunity Overlay Zoning Districts.

C1-2

Section 4.12.2
In providing the Existing Regulatory Setting regarding City Charter Section 423, this section accurately describes certain amendments to the Newport Beach General Plan that require voter approval. However, it does not describe those amendments to the Newport Beach General Plan that do *not* require voter approval. Charter Section 423 ends with "This section shall not apply if state or federal law precludes a vote of the voters on the amendment. (Added effective December 15, 2000) The City's website clearly states "To comply with state law, the City must now implement the planning strategy by:

- (1) updating the General Plan Land Use Element; and
- (2) providing appropriate zoning that will allow for the housing opportunity sites identified in the Housing Element to be redeveloped with housing units.

This implementation must be made effective no later February (sic) 2025.

C1-3

<https://www.newportbeachca.gov/government/departments/community-development/planning-division/general-plan-codes-and-regulations/general-plan-update/6th-cycle-housing-element-implementation>

This section should discuss the very real possibility that implementation of the project is exempt from Charter Section 423. Courts have repeatedly held that the electorate is not entitled to create a land use scheme that is inconsistent with the General Plan or state land use laws. (*deBottari v. City Council* (1985) 171 Cal.App.3d 1204, *City of Irvine v. Irvine Citizens Against Overdevelopment* (1994) 25 Cal.App.4th 868) Such inconsistency is exactly what the result would be if the electorate failed to approve the project. As the court stated in *Mission Springs Water Dist. v. Verjil* (2013) 218 Cal.App.4th 892, 920, 160 Cal.Rptr.3d 524, 545, "[i]f the state Legislature has restricted the legislative power of a local governing body, that restriction applies equally to the local electorate's power of initiative. . . . If the rule were otherwise, the voters of a city, county, or special district could essentially exempt themselves from statewide statutes."

This preemption on matters of statewide concern (the provision of housing) was recently reinforced by the passage of Senate Bill 713 (See attached Senate Floor Analysis and the Letter of Technical Assistance from the California Department of Housing and Community Development (HCD) to which it refers) and is especially relevant regarding the State Density Bonus Law. Should the electorate fail to approve the project in November 2024, it could be argued that density bonus applications for sites identified in the Housing Opportunity Overlay Zoning Districts would still be entitled to approval, given the State preemption on matters of statewide concern. HCD has determined that local voter initiatives that impede Housing Element compliance "are in conflict with state law and should be voided." (See attached letter from HCD to the City of Alameda) The preemption also applies to charter cities. (*Anderson v. City of San Jose*, 42 Cal. App. 5th 683, 658–59, 255 Cal. Rptr. 3d 654 (6th Dist. 2019)

C1-3

Section 4.12.2

In providing the Regulatory Setting, this section should include a discussion on the recently enacted Senate Bill 713.

Section 6.4.1

This section states "The No Project Alternative is the circumstance under which the actions required to implement the Housing Element would not occur. Although the City would continue to have an approved and certified Housing

Element,...." This is not a valid assumption. Should actions required to implement the Housing Element not occur, there

C1-4

is a serious risk that HCD could decertify the Housing Element pursuant to Government Code Section 65585(i) and the violation referred to the Attorney General pursuant to Government Code Section 65585(j).

Again, thank you for the opportunity to comment.

Sincerely,

—

James M. Lawson, AICP

Response C1-1

The comment is introductory in nature and does not raise a specific issue with the adequacy of the Draft Program EIR or raise any other CEQA issue. Therefore, no further response is required or provided.

Response C1-2

The comments are noted regarding the requirement that General Plan elements be internally consistent. The following clarifications are provided to Section 4.10: Land Use and Planning, of the Program EIR.

Page 4.10-1 of Section 4.10.2: Existing Regulations, has been modified and is included in the Final EIR as follows:

California Planning Law and General Plan Guidelines

California planning law requires cities and counties to prepare and adopt a “comprehensive, long-range general plan” to guide development (Government Code §65300). “In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency (Government Code §65300.5)”. To successfully guide long-range development, general plans require a complex set of analyses, comprehensive public outreach and input, and public policy covering a broad range of topics. The general plan serves as a broad policy framework and guide for future development and must contain seven mandated elements addressing land use, circulation, housing, conservation, open space, noise, and safety. All other land use regulations, including specific plans, ordinances, and land use decisions within the jurisdiction must be consistent with the general plan. The *City of Newport Beach General Plan 2006 Update* is the City’s General Plan.

The last paragraph of page 4.10-5 has been modified and is included in the Final EIR as follows:

A general plan functions as a guide for the type of community that is desired for the future and provides the means to achieve it. The General Plan contains the following elements: Land Use, Harbor and Bay, Housing, Historical Resources, Circulation, Recreation, Arts and Cultural, Natural Resources, Safety, and Noise. Amendments to the Land Use Element are proposed as a part of the Project to provide for internal consistency between the General Plan elements.

The commenter has not raised an issue that would render the EIR deficient or require recirculation.

Response C1-3

The opinions of the commenter are noted regarding whether the Project is subject to voter approval as set forth in City Charter 423. The City’s position is that the Project is subject to City Charter 423. The comment does not address the adequacy of the Draft Program EIR; no further response is required.

Response C1-4

The first paragraph on page 6-3 of Section 6.0: Alternatives, has been revised and is included in the Final EIR as follows:

The proposed Project’s housing sites inventory is intended to accommodate future housing development on identified properties, consistent with the 2021-2029 Housing Element. The No Project Alternative is the circumstance under which the actions required to implement the Housing Element would not occur. ~~Although the City would continue to have an approved and~~

~~certified Housing Element~~ The City would be in noncompliance, which could lead to decertification of the 2021-2029 Housing Element by HCD. Additionally, the City would not provide adequate opportunities to implement the 2021-2029 Housing Element because the City would not approve and/or amend (1) General Plan goals and policies; (2) Housing Opportunity Overlay zoning districts for the focus areas, including housing sites in the Coastal Zone; and (3) Local Coastal Program policies. Following certification by HCD, the City is required to ensure the continued and effective implementation of the Housing Element programs including, but not limited to, the provision of sufficient adequately zoned land to accommodate its share of the regional growth and its required share of lower income dwelling units consistent with the General Plan and RHNA obligations.

The commenter has not raised an issue that would render the EIR deficient or require recirculation.

Attachments to Comment Letter C1 are included in Appendix B to this Responses to Comments report.

Letter C2 **Jim Mosher**
March 28, 2024

Comment Letter C2

CNB Housing Implementation Program DPEIR Comments

The following comments on the City of Newport Beach General Plan Housing Implementation Program [Draft Program Environmental Impact Report \(SCH No. 2023060699, PA2022-0245\)](#) are submitted by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

General Comments

- | | |
|--|------|
| 1. These comments are based on a very brief and extremely incomplete reading of the DPEIR. | C2-1 |
| 2. I believe one of the fundamental purposes of the CEQA process is to ensure decision makers and the public are aware of a decision's potential impacts and ways to mitigate them, so they may be considered <i>before</i> a decision is made. In this case, the commitment to add future housing in the quantities and locations analyzed here seems to have been made when the Council adopted the General Plan's 6th Cycle Housing Element as Item 18 on its September 13, 2022, agenda. At the time, the Council and public were told the approval was exempt from CEQA review because it involved only "policies, programs, and actions" that did not approve the actual building of anything. | C2-2 |
| 3. In this DPEIR, we are told (for example, page 3-51) the Housing Implementation Program likewise involves actions that do not themselves approve the actual building of anything, yet it requires a Program EIR. The reason for the dramatically different conclusion, and especially why the 2022 decision could be made without any consideration of its impacts, remains unclear. | C2-3 |
| 4. The statement on page 3-52 of Section 3.7 (Intended Uses Of The Program EIR) that " <i>Future development facilitated by the 2021–2029 Housing Element would be subject to subsequent site development review by the City</i> " fails to clarify what, if any, additional CEQA review those actual projects may have. It would be helpful to provide an example of a future project whose approval will rely entirely on the final PEIR for CEQA review and one that would require additional analysis and the extent of that additional analysis. | C2-4 |
| 5. The DPEIR's analysis of "Banning Ranch" (now the "Randall Preserve") focus area is especially hard to follow. The citywide potential for 9,914 new housing units, whose impacts we are told the DPEIR analyzes, seems to include 1,475 units on "Banning Ranch." However, I believe the current Land Use Element allows, and prior to its adoption analyzed, 1,375 units on "Banning Ranch." So aren't only 100 units new? Analyzing 1,475 new units would seem inconsistent with the DPEIR's treatment of "5th Cycle sites," which we are told are not included because they had been previously analyzed, and the "pipeline projects," of which we are told only 25 had not previously been subjected to CEQA review and need to be considered. Also, page 3-17 says the "Banning Ranch Focus Area" " <i>includes 19 housing sites on 30 acres.</i> " This is hard to reconcile with the Figure 3-4 or the table on page 3-23, which show the 19 sites covering a much larger number of acres. How is the public supposed to know what 30 acres were analyzed? And surely the DPEIR has not concluded the submerged tidelands could be developed with housing with no impacts other than increased glare? | C2-5 |
| 6. The analysis of the "focus areas" in general, as if they were well-defined geographic areas, is difficult to understand and potentially misleading. For example, starting on page 4.1-16 | C2-6 |

(Visual Characteristics of Focus Areas), they are described as if they were cohesive units. Yet, from Figure 3-2, the "Airport Area Focus Area" includes sites south of the 73 Freeway, that are not at all similar to those to its north. The "Dover-Westcliff Focus Area" includes sites in Lido Village, along Bayside Drive and others. The "Newport Center Focus Area" includes even more far-flung sites, in areas not at all fitting the description of being occupied or surrounded "*primarily by commercial/ retail uses in Fashion Island and also includes office and high-density residential development.*"

C2-6

7. The DPEIR notes in the Project Description that it proposes a new Land Use Element Policy LU 4.7 (Redevelopment and Transfer of Development Rights), which means that at sites not currently vacant, instead of replacing the existing non-residential development, it can be added to or rebuilt elsewhere. I apologize for not reading the DPEIR carefully enough to know, but the extent to which the DPEIR assumes replacement versus relocation of existing development, and the potential impacts of that relocation, does not immediately leap out.

C2-7

8. The analysis of alternatives to the proposed project seems both vague and weak, including lack of specificity (compared to the main project description) as to exactly what is being analyzed in each. "Alternative C" (no buffer) appears to be a subset of "Alternative B," which could apparently implement any buffer between none and that of the project. "Alternative C" is said to be "environmentally superior" to the proposed project (which allows more than twice the 4,845 units required by the City's RHNA) but will likely require rezoning to satisfy "no net loss" requirements. It is not clear the preparer's have considered more creative alternatives to the project, as the public has requested, in which a large number of opportunity sites is initially made available, but capped by policy so that eligibility for redevelopment terminates when and if the citywide RHNA requirements are met.

C2-8

9. Conversely, in the absence of policies requiring development in the various income categories, the entire analysis of the recommended project, based on the assumption that a 5,069 unit buffer is adequate, seems flawed. The City's building history indicates the specific building applications submitted by the free market will produce very few units in the "moderate" and "low" income categories. As a result, won't meeting the RHNA mandates with less-than-anticipated production in those categories require rezoning just like Alternative C, leading to a much larger and more impactful project than that analyzed?

C2-9

10. In recommending mitigations, the DPEIR seems to rely almost entirely on General Plan and Coastal Land Use Plan policies. Isn't it primarily adherence to the more specific regulations in the City's Municipal Code (including its Local Coastal Program Implementation Plan chapter) that will be relied on for impact mitigation?

C2-10

11. The DPEIR makes many references to state legislation by bill number, such as "SB 18" and "AB 52." Since bill numbers are not unique, citing a number without stating the year of adoption makes it impossible for readers to know what is being referred to.

C2-11

12. Similarly, the DPEIR makes numerous references to "the General Plan EIR" without explaining what that is. It is particularly confusing since it could be a self-reference to the document itself. Presumably it is a reference to the EIR certified in connection with the comprehensive update of the General Plan in 2006, although it might include addenda.

C2-12

Specific Comments

The following comments result from mostly random examination of pages in the DPEIR:

1. **Page 1-2:** There are two pages numbered "1-2." On the second of those, it says that although "the City would not provide adequate opportunities to implement the 2021-2029 Housing Element," with the "No Project" alternative "the City would continue to have an approved and certified housing element." Wouldn't the state de-certify the Housing Element if the City does nothing to implement it?

C2-13

2. **Page 2-10:** The DPEIR refers in at least three places to the "Local Implementation Program" component of the City's Local Coastal Program. The correct name is "Local Coastal Implementation Program" (which is Title 21 of the Municipal Code).

C2-14

3. **Page 3-49:** In the "HO-4" column of the "Height" row of Table 3-19, footnote "6" appears intended to have been "5".

C2-15

4. **Page 4.4-16:** The second full paragraph says "Newport Heights and Corona del Mar were annexed in 1917." According to the City's [Annexations map](#), Corona del Mar was annexed in 1924.

C2-16

5. **Page 4.10-5:** In its Land Use and Planning analysis, the DPEIR mentions the County of Orange as an outside controlling agency only in terms of the Airport Land Use Commission and its Airport Environs Land Use Plan, which it mistakenly says includes not just John Wayne Airport, but also Fullerton Municipal Airport and the Joint Forces Training Base Los Alamitos. My understanding is that each airport has a [separate AELUP](#), with the one for JWA being the only one relevant to Newport Beach planning. In any event, the analysis appears to omit the 2002 [Pre-annexation Agreement](#) for Santa Ana Heights and the 2006 [Cooperative \("Spheres"\) Agreement](#) between the City and County. The former requires Board of Supervisors approval of any changes to the General Plan or Zoning affecting the annexed properties (some of which are identified as opportunity sites in the DPEIR).

C2-17

6. **Page 4.10-6:** The paragraph following the third heading from the end refers to the Historical Resources Element as "the Historic Resources Element." The same misspelling appears to occur in three other places in the DPEIR.

C2-18

7. **Page 4.11-26:** Do the preparers' have any insight into why the project's noise impact to the road segment on Campus Drive from MacArthur Boulevard to Von Karman Avenue is so anomalous (1.2 dB increase) compared to essentially all other road segments studied?

C2-19

8. **Page 5-1ff:** Section 5.0 (Long-Term Implications Of The Proposed Project) is difficult to correlate with the State CEQA Guidelines it purports to comply with because several of the references are misstated. For example, "Section 15126.2(b)" in the first paragraph should be "Section 15126.2(c)." Similarly, "Section 15126.2(d)" on pages 5-6 and 5-7 should be "Section 15126.2(e)."

C2-20

9. **Page 5-6:** The introduction to Section 5.3 (Growth Inducing Impacts) makes the purpose of this analysis confusing, as the entire purpose of the project is to foster and remove

C2-21

obstacles to population growth and encourage construction of additional housing. Apparently CEQA limits this required discussion to inducement of those things *outside* the project area.

C2-21

10. Page 7-1: The list of "Preparers and Contributors" indicates several have AICP certification (or are even merely candidates for it). I don't know about James Campbell, but City staff reports indicate Jaime Murillo has that title, as well – so it seems strange not to include that title after his name.

C2-22

(submitted: 3/28/2024)

Response C2-1

The commenter notes that the comments are provided based on a brief review of the Draft Program EIR. The comment is introductory in nature and does not raise a specific issue with the adequacy of the Draft Program EIR or raise any other CEQA issue. Therefore, no further response is required or provided.

Response C2-2

The commenter is correct that the City has already adopted the 6th Cycle Housing Element for 2021-2029. The Housing Element was adopted by the City Council on September 13, 2022, as part of the 6th Cycle Housing Element process and was subsequently certified by the State of California Department of Housing and Community Development on October 5, 2022. However, the necessary implementation actions required to facilitate the 2021-2029 were not considered by the City in 2022. The City of Newport Beach General Plan Housing Implementation Program (Project) EIR has been prepared to evaluate the potential environmental effects of the implementing actions associated with the adopted and certified 2021-2029 Housing Element for the 6th Cycle planning period. As addressed in Section 3.0: Project Description, of the Draft Program EIR, to fulfill the City's share of regional housing needs and facilitate the future development of housing on identified housing sites, the Project requires a General Plan Amendment and amendments to the Newport Beach Municipal Code (Municipal Code) and Local Coastal Program.

Response C2-3

The commenter is asking why adoption of the 2021-2029 Housing Element was exempt from CEQA while an EIR was prepared for the currently proposed Project. In 2022, the City determined the 2021-2029 Housing Element was exempt under State CEQA Guidelines Section 15061(b)(3) because the project only included policies and programs to update its Housing Element. Given its nature and scope, the 2021-2029 Housing Element programs and policies would not result in physical environmental impacts. The 2021-2029 Housing Element does not grant any development entitlements or authorize development beyond what is allowed under the City's current General Plan and Zoning Code (Municipal Code Title 20).

As noted in the response to Comment C2-2, the City must amend policies of the General Plan Land Use Element, the Municipal Code, and policies of the Local Coastal Program to implement the 2021-2029 Housing Element. These approvals will facilitate the future development of housing on the identified housing sites throughout the City. The City determined that these discretionary actions to allow for housing on these sites could result in significant environmental impacts and that an EIR was required.

Response C2-4

As a part of the City's review of a development application, the City identifies whether that project includes discretionary actions and would therefore be subject to CEQA. As addressed in Section 2.0: Introduction, of the Draft Program EIR:

In accordance with Section 15168 of the State CEQA Guidelines:

A Program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:

- (1) Geographically;
- (2) As logical parts in the chain of contemplated actions;
- (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or

- (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

Section 15162(a) of the State CEQA Guidelines, states that a subsequent Environmental Impact Report (EIR) or Negative Declaration is only required when:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Using this guidance from the CEQA Guidelines, City staff will review future housing projects to determine whether any of the factors identified in Section 15162(a) of the CEQA Guidelines would trigger the need for additional CEQA documentation. This determination is made on a case-by-case basis.

Response C2-5

With respect to the number of housing units associated with the Banning Ranch, the 2021-2029 Housing Element assumed 1,475 units, which is greater than assumed in the General Plan Land Use Element. The Draft Program EIR evaluates the potential environmental impacts of 1,475 units on 30 acres within the Banning Ranch. Consistent with CEQA, the EIR evaluates the potential environmental impacts of the Project compared to existing conditions. In this case, the potential development of housing on vacant property.

With respect to 5th Cycle sites, there are sites carried forward at their existing densities and others that were included as 6th Cycle sites. With respect to the 30 acres, the 30 acres were derived from re-evaluating the development potential of Banning Ranch and concentrating the development on less constrained

environmental areas near the terminus of 15th, 16th, and 17th Streets, as illustrated on the constraints map included in the Coastal Commission Staff Report, prepared September 2016.

With respect to potential impacts to Banning Ranch, the Draft Program EIR does not conclude that the only impact associated with development would be glare. The Draft Program EIR identifies significant impacts associated with the topics of Aesthetics, Air Quality, Biological Resources, Cultural Resources, Greenhouse Gas Emissions, Noise, Transportation, and Tribal Cultural Resources.

Response C2-6

The Draft Program EIR does not define the Focus Areas as “cohesive units.” The Focus Areas were defined by the Housing Element Update Advisory Committee as part of the identification of potential housing sites for consideration in the 2021-2029 Housing Element. The Draft EIR uses these Focus Areas.

With respect to the Newport Center Focus Area, of the 85 housing sites, there are 8 sites outside of Newport Center (San Joaquin Road to the north, Coast Highway to the south, MacArthur Boulevard to the east, Jamboree Road to the west).

The opinions of the commenter are noted; no further response is required.

Response C2-7

Proposed Land Use Element Policy LU 4.7 states:

Policy LU 4.7 – Redevelopment and Transfer of Development Rights (new)

Within an established housing opportunity overlay zone and notwithstanding Policy LU 6.15.5, the intensity of existing allowed uses of a site may be reconstructed on the site as part of a mixed-use development provided the gross floor area allowed by the General Plan is not increased, unless it is increased through a General Plan amendment or density bonus concession. The intensity of existing uses may be converted to other uses allowed by the underlying General Plan land use category provided that average daily trips and peak hour traffic trips are not increased above the trips from the existing allowed use. For example, office intensity may be converted to retail or service commercial, restaurants, or other nonresidential uses provided the General Plan land use category allows these uses. Nonresidential intensity not included as a component of a future residential project will remain within the General Plan allocations on a statistical area-wide basis. The City Council may transfer the intensity of a use to another site within the Statistical Area consistent with Policy LU 4.3 or Policy LU 6.15.3.

For the purpose of and as stated in the Draft Program EIR, the Program EIR analysis does not account for the removal and replacement of existing development to accommodate redevelopment of the sites for housing (no “net change”). This conservative analytical approach was taken because the City cannot foresee with certainty which housing sites will be developed, the number of units developed on each site, or the mix of uses on the sites. Because of this uncertainty, the Draft Program EIR also does not evaluate the potential for the transfer of the intensity of a use to another site within the same Statistical Area. On a project-by-project basis, future housing applicants will be required to comply with the applicable General Plan policies and Municipal Code regulations applicable to the proposed development.

Response C2-8

Section 15126.6(a) and (b) of the State CEQA Guidelines states that “an EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” The range of alternatives provided in the Draft Program EIR complies with the State CEQA Guidelines.

The commenter responded to the Notice of Preparation and suggested the following alternatives could be considered:

- A smaller buffer. Alternative B: RHNA with Reduced Buffer is addressed in Section 6.0: Alternatives to the Proposed Project.
- Increased reliance on ADUs. The City of Newport Beach believes that ADUs present a viable option as part of the overall strategy to develop housing at all income levels during the 2021-2029 6th Cycle Housing Element planning period. While the City supports the production of ADUs, the number of ADUs identified in the Draft Program EIR Project Description reflects the assumptions in the 2021-2029 Housing Element. The California Department of Housing and Community Development’s (HCD) approach to counting ADUs is called the Safe Harbor Approach and uses historical trends to forecast a yearly average of production over the course of the planning period. During preparation of the 2021-2029 Housing Element, ADU production in the City was approximately 25 units per year. Therefore, reliance on an increased number of ADUs to meet the City’s RHNA was determined to not facilitate compliance with the adopted and certified 2021-2029 Housing Element.
- Housing Overlay Options:
 - a. Allow new housing in substitution for existing entitlements (net change). Please refer to the response to Comment C2-7.
 - b. Apply the Housing Overlay to all parcels within a geographically mapped focus area. It was unclear to the City what the purpose of this option would be other than to identify substantially more sites than are needed to meet the RHNA. The selection process of sites during preparation of the 2021-2029 Housing Element, explicitly identifies sites that have a favorable chance of redevelopment in the planning period. As part of the site selection process, letters of interest were sent out to all property owners within each Focus Area. Property owners were consulted to help the City better understand potential future housing growth on candidate housing sites within the City. Additionally, some property owners contacted the City requesting to be added and other requested their removal from consideration. This identification process used by the City is described in Appendix B of the 2021-2029 Housing Element.
 - c. Apply the Housing Overlay to parcels “with certain existing land use designations...” The commenter did not identify with land use designations should be considered or the purpose to limiting future housing sites in this matter.
 - d. Apply the Housing Overlay citywide. The commenter’s comparison of a citywide Housing Opportunity Overlay Zoning District to a cap on short-term lodging permits is not applicable. Applying an overlay across an entire municipality is not an acceptable process to HCD.

- Government Code Section 65583(a)(3) requires local governments to prepare an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites. That inventory must identify specific sites or parcels that are available for residential development. Because not every site in the City is appropriate for housing, this alternative is not appropriate.
- e. Cap the maximum number of housing units in the City to the RHNA. As addressed in Section 3.0: Project Description, the RHNA quantifies the housing need within each jurisdiction for all economic segments of the community in four income categories: Very-Low, Low, Moderate, and Above-Moderate. Each jurisdiction must demonstrate that its Housing Element can accommodate its RHNA allocation at all income levels. Both the 2021-2029 Housing Element and the proposed Project's Draft Program EIR assume a buffer to address "no net loss" because of obligations for and often difficulties in providing Low-Income and Very-Low-Income units. Second, the City has not historically and does not currently propose to "cap" the total number of housing units that can be built throughout the City based on a RHNA.
 - f. Rezone sites rather than an overlay. The City is proposing zoning overlays, which provides an option for housing, rather than a requirement based on the rezone to residential. Rezoning 247 housing sites to residential is not needed to meet the RNHA and to provide options for property owners.

The commenter has not raised an issue that would render the EIR deficient or require recirculation.

Response C2-9

The commenter is correct that the City does not mandate applicants provide housing in different income categories. Recognizing that every future housing site may provide affordable housing units, the City did identify a large buffer. The City feels that the housing sites identified can accommodate its RHNA in the four income categories: Very-Low, Low, Moderate, and Above-Moderate. As addressed in the Draft Program EIR, should the City have an insufficient number of remaining sites to meet its RHNA obligations in the income categories resulting in a net loss, the City has 120 days to provide rezoning that accommodates the net loss. The City does not anticipate the need to rezone because it is proactively including a large buffer and believes that the Program EIR adequately addresses the potential impacts of the Project. The commenter has not raised an issue that would render the EIR deficient or require recirculation.

Response C2-10

Throughout the Draft Program EIR sections 4.1 through 4.18, applicable policies of the General Plan and LCP that can serve as mitigation for future housing projects are identified and which are identified in the Mitigation Monitoring and Reporting Program. Regulations of the Municipal Code also are identified and compliance with the Municipal Code regulations is required. Compliance with mandatory regulations is required irrespective of an impact identified in a CEQA document. Compliance with regulations, whether they are set forth in the Municipal Code or other documents such as, for example, the NPDES Construction General Permit program, can serve to avoid and/or mitigate for a potential impact. Regulations are not typically characterized as mitigation measures. It is also noted that future housing projects will be subject to the City's development review process, which would include a determination of whether additional CEQA review is needed.

Response C2-11

The comment is noted that bill numbers are not unique and the inclusion of the date associated with each noted bill in the Draft Program EIR would be helpful. References to the bills is accompanied by a discussion of the respective Senate Bills and Assembly Bills. For example, AB 52 (2014) and SB 18 (2002), which apply to Native American tribal consultation are described in Section 4.16: Tribal Cultural Resources, of the Draft EIR. The commenter has not raised an issue that would render the EIR deficient or require recirculation.

Response C2-12

As a point of clarification to the commenter, the General Plan EIR is the *City of Newport Beach General Plan 2006 Update Program Environmental Impact Report*, as amended, inclusive of subsequent amendments (herein referred to collectively as the General Plan EIR).

Response C2-13

The commenter notes correctly that the page numbering in Section 1.0: Executive Summary, includes two pages numbered 1-2. With respect to the comment regarding the No Project Alternative, the narrative has been revised and is included in the Final EIR as follows:

Following certification by HCD, the City is required to ensure the continued and effective implementation of the 2021-2029 Housing Element programs including, but not limited to, the provision of sufficient adequately zoned land to accommodate its share of the regional growth and its required share of lower income dwelling units consistent with the General Plan and RHNA obligations. The No Project Alternative is the circumstance under which the actions required to implement the 2021-2029 Housing Element would not occur. ~~Although the City would continue to have an approved and certified housing element, The City would be in noncompliance, which could lead to decertification of the 2021-2029 Housing Element by HCD. Additionally,~~ the City would not provide adequate opportunities to implement the 2021-2029 Housing Element because the City would not approve and/or amend (1) General Plan goals and policies; (2) Housing Opportunity Overlay zoning districts for the focus areas, including housing sites in the Coastal Zone; and (3) Local Coastal Program policies.

The commenter has not raised an issue that would render the EIR deficient or require recirculation.

Response C2-14

Section 2.0: Introduction in the Program EIR has been revised to correct references to the Local Coastal Program's Local Implementation Program to Local Coastal Program Implementation Program and is included in the Final EIR as follows:

The City of Newport Beach has a certified Local Coastal Program, which is divided into two components:

1. Coastal Land Use Plan
2. Local Coastal Program Implementation ~~Program Plan....~~

The Local Coastal Program Implementation ~~Program Plan~~ (Newport Beach Municipal Code Title 21) is the primary tool used by the City to carry out the goals, objectives, and policies of the Coastal Land Use Plan. It is intended that all provisions of this Local Coastal Program Implementation Plan be consistent with the Coastal Land Use Plan and that any development, land use, or subdivision approved in compliance with these regulations will also be consistent

with the Coastal Land Use Plan. Documents pertaining to the City’s Local Coastal Program are available for viewing at:

- [Local Coastal Program Implementation Plan | City of Newport Beach \(newportbeachca.gov\)](http://newportbeachca.gov)

The commenter has not raised an issue that would render the EIR deficient or require recirculation.

Response C2-15

Table 3-19 has been corrected and is included in the Final EIR as follows:

Table 3-19: Coastal Zone – Development Standards for Housing Opportunity Overlay Zones				
Development Feature	Housing Opportunity Subarea			
	HO-1	HO-2	HO-3	HO-4
Lot Size/Dimension	Per Base Zone			
Lot area required per unit (sq. ft.) ¹	Minimum: 1,452 2,178 (320 /ac) Maximum: 871 (50 du/ac)		Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)	
Setbacks				
Front	0 ft ²	10 ft ²	10 ft ^{2,3}	0 ²
Rear	0	20 ft	20 ft	0
Side	0 ft ⁴			
Street Side	0 ²	10 ft ²	10 ft ²	0 ft ²
Height	Per Base Zone unless otherwise identified on the map	65 ft	65 ft ⁵	Per Base Zone ^{6,5}

Response C2-16

The General Plan Historical Resources Element states “Newport Heights and Corona del Mar were annexed in 1917.” The commenter is correct that City’s Annexation Map identifies that Newport Heights was annexed into the City in 1917 and that Corona del Mar was annexed in 1924. The commenter has not raised an issue that would render the EIR deficient or require recirculation.

Response C2-17

Page 4.10-5 of Section 4.10: Land Use and Planning, has been clarified and is included in the Final EIR as follows:

In 1975, the Airport Land Use Commission (ALUC) of Orange County adopted an Airport Environs Land Use Plan (AELUP, amended April 17, 2008) ~~that includes for~~ John Wayne Airport. ~~There is a separate AELUP for Fullerton Municipal Airport and the Joint Forces Training Base Los Alamitos. There is also an AELUP for Heliports.~~ The AELUP is a land use compatibility plan that is intended to protect the public from adverse effects of aircraft noise; to ensure the people and facilities are not concentrated in areas susceptible to aircraft accidents; and to ensure that no structures or activities adversely affect navigable space. The

AELUP identifies standards for development in the airport's planning area based on noise contours, accident potential zone, and building heights and identifies safety and compatibility zones that depict which land uses are acceptable and unacceptable in various portions of AELUP Safety Zones 1 through 6. ALUC is an agency authorized under State law to assist local agencies in ensuring compatible land uses near airports. Primary areas of concern for ALUC are noise, safety hazards, and airport operational integrity.

The City is not proposing to change the underlying zoning and land use designations for properties within the Santa Ana Heights Specific Plan Area. Instead, identified properties within the Santa Ana Heights Specific Plan Area are being afforded an additional land use opportunity to allow residential development. No further action is required.

Response C2-18

Page 4.10-6 has been revised and is incorporated into the Final EIR as follows:

Historical Resources Element. The Historical Resources Element addresses the protection and sustainability of Newport Beach's historical and paleontological resources. Goals and policies presented within this element are intended to recognize, maintain, and protect the community's unique historical, cultural, and archaeological sites and structures. Preserving and maintaining these resources helps to create an awareness and appreciation of the City's history.

Any reference in the Program EIR to the "Historic Resources Element" rather than the "Historical Resources Element" does not raise an issue that would render the EIR deficient or require recirculation.

Response C2-19

The 1.2 dB traffic noise level increase on Campus Drive from MacArthur Boulevard to Von Karman Avenue is due to the increase in average daily traffic (ADT). As shown in Draft Program EIR Table 4.11-9, the Without Project ADT along this segment is 21,100, while the With Project ADT is 27,800, which is an increase of 6,700 ADT (an approximately 32% increase). For comparison, Jamboree Road from Santa Barbara Drive to Back Bay Drive has the next largest increase in ADT. The Without Project ADT along this segment is 35,400 and With Project ADT is 40,600 (an approximately 15% increase). The Campus Drive traffic increase results in a greater noise increase than Jamboree Road because there is a greater increase in traffic along this segment, but also because the Without Project traffic volumes are lower on Campus Drive. Therefore, the Campus Drive traffic contribution results in a greater noise level increase.

As noted on Draft Program EIR page 4.11-13, except in carefully controlled laboratory experiments, a 1.0-dBA change cannot be perceived by humans. Outside the laboratory, a 3.0-dBA change is considered a just-perceivable difference. Therefore, although an impact under the City's thresholds, a traffic noise level increase of 1.2 dBA is a relatively minor increase and would not be perceivable in an environmental setting (i.e., outdoors/outside of a laboratory).

Response C2-20

Page 5-1 of Section 5.0: Long-Term Implications of the Proposed Project, has been corrected and incorporated into the Final EIR as follows:

Section 15126.2(b)(c) of the State CEQA Guidelines requires that the EIR describe any significant impacts, including those that can be mitigated but not reduced to less than significant levels.

The environmental effects of the proposed Project are addressed in Sections 4.1 through 4.18 of this Program EIR. Implementation of the proposed Project would result in potentially significant impacts for the following topical issues:

Page 5-6 has been corrected and incorporated into the Final EIR as follows:

State CEQA Guidelines Section 15126.2(~~de~~) requires that EIRs include a discussion of ways in which a project could induce growth. The State CEQA Guidelines identify a project as “growth-inducing” if it fosters economic or population growth or if it encourages the construction of additional housing either directly or indirectly in the surrounding environment. New employees from commercial or industrial development and new population from residential development represent direct forms of growth. These direct forms of growth have a secondary effect of expanding the size of local markets and inducing additional economic activity in the area. The project would therefore have a growth-inducing impact if it would:

Page 5-7 has been corrected and incorporated into the Final EIR as follows:

The following analyzes the Project’s potential growth-inducing impacts for the criteria outlined above, in accordance with State CEQA Guidelines Section 15126.2(~~de~~). Potential growth-inducing effects are examined through analysis of the following questions:

The commenter has not raised an issue that would render the EIR deficient or require recirculation.

Response C2-21

The City respectfully disagrees with the opinion of the commenter. The Program EIR does not state or imply that “growth inducement” applies to factors external to the City nor does the EIR suggest that this is how CEQA defines it. Section 5.3, Growth-Inducing Impacts, provides an extensive discussion of this topic and the Draft Program EIR evaluates the potential environmental impacts associated with additional development in the City associated with accommodating the City’s 6th Cycle RHNA. The commenter has not raised an issue that would render the EIR deficient or require recirculation.

Response C2-22

Section 7.0: Preparers and Contributors, has been updated and is incorporated into the Final EIR as follows:

Jaime Murillo, AICP

Acting Deputy Community Development Director

Kiana Graham, AICP-Candidate

Environmental Analyst

4 CLARIFICATIONS AND REVISIONS

This section includes recommended clarifications and revisions to the Program EIR. This section is organized by respective sections of the EIR. Deleted text is shown as strikeout and new text is underlined.

Section 1.0: Executive Summary

As revised, page 1-3 regarding the No Project Alternative has been revised and is included in the Final EIR as follows:

Following certification by HCD, the City is required to ensure the continued and effective implementation of the 2021-2029 Housing Element programs including, but not limited to, the provision of sufficient adequately zoned land to accommodate its share of the regional growth and its required share of lower income dwelling units consistent with the General Plan and RHNA obligations. The No Project Alternative is the circumstance under which the actions required to implement the 2021-2029 Housing Element would not occur. Although the City would continue to have an approved and certified housing element, The City would be in noncompliance, which could lead to decertification of the 2021-2029 Housing Element by HCD. Additionally, the City would not provide adequate opportunities to implement the 2021-2029 Housing Element because the City would not approve and/or amend (1) General Plan goals and policies; (2) Housing Opportunity Overlay zoning districts for the focus areas, including housing sites in the Coastal Zone; and (3) Local Coastal Program policies.

Section 2.0: Introduction

Section 2.0: Introduction in the Program EIR has been revised to correct references to the Local Coastal Program's Local Implementation Program to Local Coastal Program Implementation Program and is included in the Final EIR as follows:

The City of Newport Beach has a certified Local Coastal Program, which is divided into two components:

3. Coastal Land Use Plan
4. Local Coastal Program Implementation ~~Program Plan~~....

The Local Coastal Program Implementation ~~Program Plan~~ (Newport Beach Municipal Code Title 21) is the primary tool used by the City to carry out the goals, objectives, and policies of the Coastal Land Use Plan. It is intended that all provisions of this Local Coastal Program Implementation Plan be consistent with the Coastal Land Use Plan and that any development, land use, or subdivision approved in compliance with these regulations will also be consistent with the Coastal Land Use Plan. Documents pertaining to the City's Local Coastal Program are available for viewing at:

- [Local Coastal Program Implementation Plan | City of Newport Beach \(newportbeachca.gov\)](http://newportbeachca.gov)

Section 3.0: Project Description

Modifications have been made to the Project Description to address the following issues:

- Acreage assumptions for housing sites and total acres within a Focus Area. These corrections were required to correct data inputs but do not change the number of units within a Focus Area or the total future housing assumptions in the Program EIR. No changes to the findings of the environmental evaluations set forth in the Program EIR are affected by these corrections.
- A 0.2-acre parcel for Housing Site E was inadvertently excluded from the exhibit for Newport Center. Figure 3-6 has been revised.
- Changes to proposed General Plan and Local Coastal Program policies. These corrections have been made based on input provided by the community since original preparation of the Project Description.
- Modifications have been made to the proposed development standards for the Housing Opportunity Overlay Zones. These modifications have been made based on input provided by the community since original preparation of the Project Description.
- Table 3-19 has been corrected (a footnote reference for HO-4) in response to Comment C2-15.
- The Draft *City of Newport Beach Multi-Unit Objective Design Standards* were updated subsequent to the release of the Draft Program EIR for public review. The updated draft is dated March 29, 2024 and is attached as Appendix C to this Responses to Comments report.

Table 3-5: Focus Area Strategies on Page 3-9 has been revised and is incorporated into the Final EIR as follows:

Focus Area	Housing Sites	Inventory Area (buildable acres)	Redevelopment Percentage ¹	Assumed Density (du/ac)
Airport Area	100	176	30%	50
West Newport Mesa	26	47	55%	50
Dover-Westcliff	15	20	59%	50
Newport Center	85	230 <u>178</u>	24%	50
Coyote Canyon	2	34	58%	60
Banning Ranch	19	30	100%	50
Total	247	537	-	-

du/ac = dwelling units per acre

¹ Redevelopment percentages reflect redevelopment assumptions from the 2021–2029 Housing Element and the most recent assumptions for the 5 housing sites identified subsequent to adoption of the 2021–2029 Housing Element.

Page 3-9 has been revised and is incorporated into the Final EIR as follows:

Newport Center Focus Area

As depicted in **Figure 3-6: Newport Center Focus Area Sites**, the Newport Center Focus Area is in the central portion of the City, north of Coast Highway. This Focus Area is generally bordered by San Joaquin Hills Road, MacArthur Boulevard, Coast Highway, and Jamboree Road and is characterized primarily by commercial/retail uses in Fashion Island, but includes office and high-density residential development. This Focus Area includes 85 housing sites on approximately 178 ~~230~~ acres.

Table 3-9: Newport Center Focus Area				
Buildable Acres	Net Units			
	Low and Very Low	Moderate	Above Moderate	Total
230 <u>178</u> acres	732 units	224 units	1,463 units	2,439 units

Figure 3-6: Newport Center Focus Area Sites on Page 3-15 has been revised and is incorporated into the Final EIR as follows:

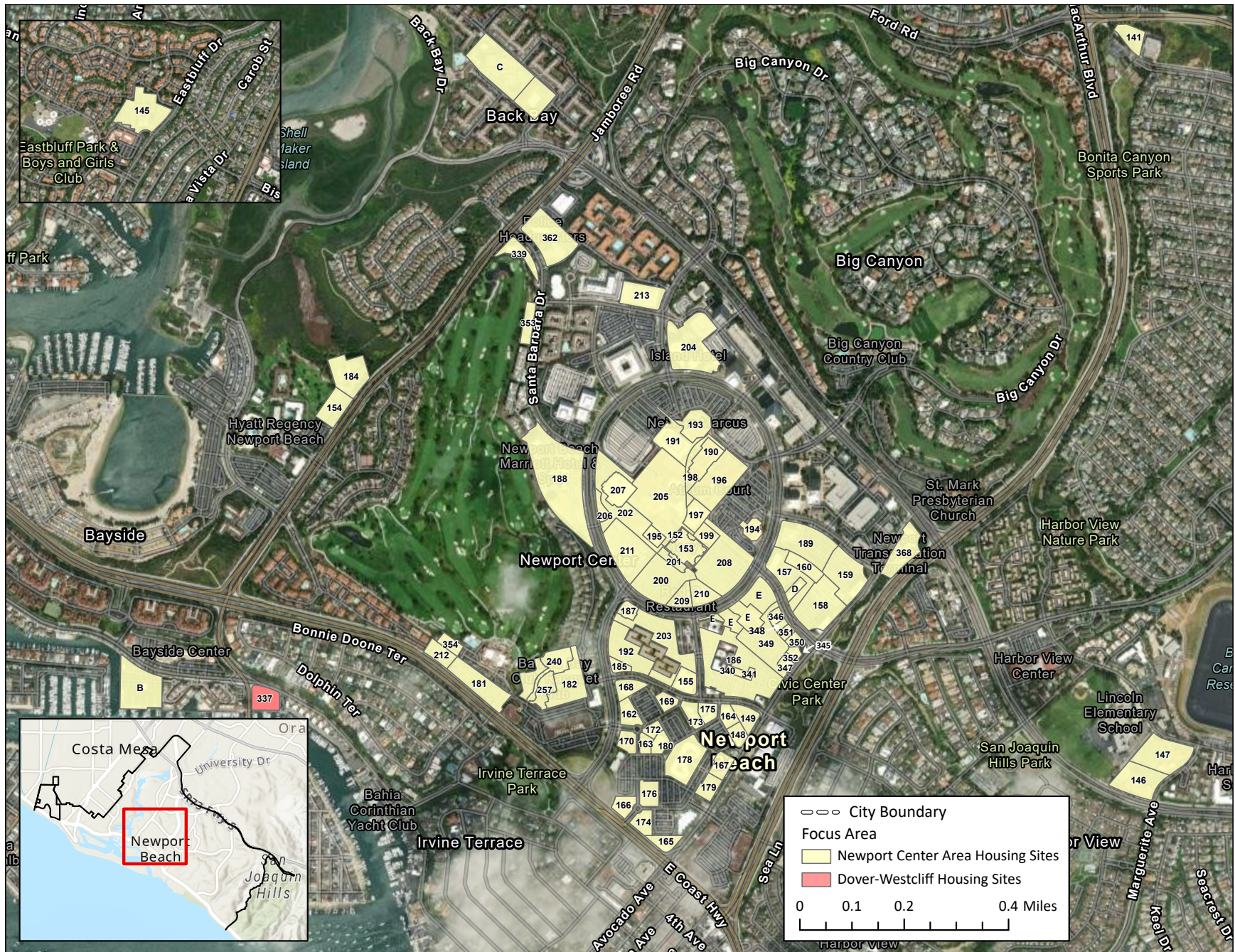


Figure 3-6: Newport Center Focus Area Sites
 City of Newport Beach General Plan Housing Implementation
 Program Environmental Impact Report

Table 3-12: Housing Sites Inventory on Page 3-18 through Page 3-23 has been revised and is incorporated into the Final EIR as follows:

Table 3-12: Housing Sites Inventory				
ID	APN	Acres	Existing General Plan Category	Existing Zoning District
Airport Area Focus Area (Figure 3-3)				
17	439 241 20	5.88	RM	SP-7
18	427 121 24	0.67	AO	OA
19	427 121 24	0.67	AO	OA
20	445 121 17	0.91	CO-G	PC
21	445 161 03	0.69	MU-H2	PC
22	445 161 03	1.04	MU-H2	PC
23	119 300 17	1.38	PR	SP-7
24	119 310 04	3.70	PR	SP-7
25	119 300 15	1.52	PR	SP-7
26	119 300 16	7.30	PR	SP-7
27	427 131 16	0.67	AO	OA
28	427 121 01	0.73	AO	OA
29	427 131 14	0.67	AO	OA
30	427 121 02	0.67	AO	OA
31	427 131 15	0.67	AO	OA
32	445 131 26	1.10	MU-H2	PC
33	445 122 13	0.71	MU-H2	PC
34	445 133 06	0.75	MU-H2	PC
35	445 131 21	1.19	MU-H2	PC
36	445 121 11	1.38	CG	PC
38	445 131 23	0.53	MU-H2	PC
39	445 131 15	2.01	MU-H2	PC
40	445 122 05	0.80	MU-H2	PC
41	445 131 18	1.61	MU-H2	PC
42	445 131 19	2.30	MU-H2	PC
44	445 122 12	1.17	MU-H2	PC
45	445 151 09	1.35	MU-H2	PC
46	445 122 09	1.03	MU-H2	PC
47	445 131 31	2.58	MU-H2	PC
49	445 121 05	0.74	CO-G	PC
50	445 131 09	0.66	MU-H2	PC
52	445 151 01	7.78	MU-H2	PC
53	445 121 14	7.81	CO-G	PC
54	445 121 18	2.65	CG	PC
55	445 161 04	1.69	MU-H2	PC
56	445 141 04	0.26	MU-H2	PC
58	445 122 17	1.95	MU-H2	PC
59	445 121 09	1.00	CG	PC
60	445 122 19	0.51	MU-H2	PC
61	427 121 27	1.41	AO	OA
62	427 173 01	1.00	MU-H2	PC

ID	APN	Acres	Existing General Plan Category	Existing Zoning District
63	427 332 02	2.38	CO-G	PC
64	427 332 04	1.70	CO-G	PC
65	427 332 03	1.41	CO-G	PC
66	427 221 14	1.50	MU-H2	PC
67	427 181 01	1.45	MU-H2	PC
68	427 241 13	3.95	CG	PC
69	427 221 13	1.00	MU-H2	PC
70	427 174 04	6.32	MU-H2	PC
71	427 221 01	3.99	MU-H2	PC
72	427 181 08	0.72	MU-H2	PC
73	427 222 05	0.90	MU-H2	PC
74	427 222 06	1.56	MU-H2	PC
75	427 221 10	1.71	MU-H2	PC
76	427 221 11	1.52	MU-H2	PC
77	427 221 06	3.59	MU-H2	PC
78	427 174 06	0.94	MU-H2	PC
79	427 181 07	1.10	MU-H2	PC
80	427 181 03	2.49	MU-H2	PC
81	427 221 09	1.51	MU-H2	PC
82	427 221 02	1.46	MU-H2	PC
83	427 174 05	1.50	MU-H2	PC
84	427 342 02	3.70	MU-H2	PC
85	427 342 01	1.97	MU-H2	PC
86	427 221 16	4.76	CO-G	PC
87	439 401 01	4.03	PF	PF
88	427 221 07	1.75	MU-H2	PC
89	427 221 15	1.47	MU-H2	PC
90	427 141 14	0.64	CO-G	PC
91	936 790 44	0.97	CO-G	PC
92	936 790 50	0.86	CO-G	PC
93	427 141 04	0.52	CO-G	PC
94	427 141 11	0.52	CO-G	PC
95	936 790 48	0.72	CO-G	PC
96	427 141 07	0.58	CO-G	PC
97	427 141 08	0.51	CO-G	PC
98	427 141 16	8.61	CO-G	PC
100	445 134 22	0.67	MU-H2	PC
103	445 141 11	0.29	MU-H2	PC
104	445 141 12	0.48	MU-H2	PC
105	445 141 13	0.29	MU-H2	PC
106	427 171 02	1.20	CG	PC
107	427 221 03	1.46	CO-G	PC
108	427 171 03	1.40	CG	PC
109	936 790 46	0.97	CO-G	PC
335	427 221 17	6.46	CO-G	PC

Table 3-12: Housing Sites Inventory				
ID	APN	Acres	Existing General Plan Category	Existing Zoning District
338	445 141 31	0.40	MU-H2	PC
343	427 181 09	0.72	MU-H2	PC
344	427 141 13	0.37	CO-G	PC
356	427 131 09	4.19	AO	OA
357	442 282 02	5.23	CV	PC
358	439 021 13	0.31	CO-G	SP-7
359	439 021 12	0.17	CO-G	SP-7
360	439 021 03	0.16	CO-G	SP-7
363	439 352 21	0.44	CO-G	SP-7
364	439 341 01	0.87	CO-G	SP-7
365	439 352 17	0.37	RS-D	SP-7
366	439 352 20	0.44	CO-G	SP-7
367	439 352 22	0.21	CO-G	SP-7
A	427 111 08	1.18	AO	OA
West Newport Mesa Focus Area (Figure 3-4)				
215*	114 170 51	11.56	OS(RV)	PF
216	424 141 17	0.23	IG	IG
217	424 141 17	0.23	IG	IG
218	892 080 02	4.34	RM	RM
219	424 151 01	4.77	IG	IG
220	892 090 55	4.27	RM	RM
221	892 109 03	1.90	RM	RM
222	114 170 82	3.05	OS(RV)	PC
223	424 401 12	2.00	PF	PF
224	425 171 01	7.95	PF	PF
225	424 111 05	0.55	IG	IG
226	424 141 06	0.52	IG	IG
227	424 111 06	3.23	IG	IG
228	424 401 04	1.86	IG	IG
229	424 141 01	2.73	IG	IG
230	424 142 14	0.74	IG	IG
231	424 141 04	0.69	IG	IG
232	424 141 05	0.53	IG	IG
233	424 131 16	1.07	CO-M	OM
234	424 141 03	1.08	IG	IG
235	424 142 11	1.31	IG	IG
236	424 401 06	1.14	OS(RV)	PC
237	424 141 02	1.61	IG	IG
238	424 401 08	0.76	OS(RV)	PC
239	424 141 09	0.56	IG	IG
342	424 141 10	0.37	IG	IG
Dover-Westcliff Focus Area (Figure 3-5)				
132	049 122 03	0.14	MU-H1	MU-MM
133	047 041 05	0.11	MU-H4	MU-CV/15 th St

Table 3-12: Housing Sites Inventory				
ID	APN	Acres	Existing General Plan Category	Existing Zoning District
134	047 041 25	0.06	MU-H4	MU-CV/15 th St
135	117 631 12	2.15	MU-H1	MU-DW
136	117 631 22	1.67	MU-H1	MU-DW
137	117 631 17	1.30	MU-H1	MU-DW
138	117 631 18	1.10	MU-H1	MU-DW
139	117 631 11	0.87	MU-H1	MU-DW
142	117 811 18	1.51	CO-G	OG
143	117 811 19	0.79	CO-G	OG
144	049 271 30	1.64	CO-G	OG
334	423 111 01	4.82	CG	CG
337	050 391 12	1.45	CM	CM
355	117 631 21	0.86	MU-H1	MU-DW
361	049 191 30	1.55	RM	RM
Newport Center Focus Area (Figure 3-6)				
141	458 361 10	1.29	PF	PF
145	440 281 02	7.60	PR	PC
146	458 341 02	3.03	PI	PI
147	458 341 01	3.60	PI	PI
148	442 271 30	0.75	CO-R	PC
149	442 271 30	1.08	CO-R	PC
152	442 021 47	0.54	CR	PC
153	442 021 47	1.76	CR	PC
154	440 132 40	1.79	PR	PR
155	442 231 08	1.17	CO-R	OR
157	442 082 11	2.72	CO-M	PC
158	442 082 14	4.05	CO-M	PC
159	442 082 08	3.46	CO-M	PC
160	442 082 12	1.17	CO-M	PC
162	442 271 17	1.04	CO-R	PC
163	442 271 23	0.55	CO-R	PC
164	442 271 12	0.76	CO-R	PC
165	442 271 05	0.89	CO-R	PC
166	442 271 03	0.89	CO-R	PC
167	442 271 32	0.98	CO-R	PC
168	442 271 16	1.02	CO-R	PC
169	442 271 15	0.68	CO-R	PC
170	442 271 01	0.84	CO-R	PC
172	442 271 34	0.51	CO-R	PC
173	442 271 14	0.88	CO-R	PC
174	442 271 04	0.97	CO-R	PC
175	442 271 13	0.76	CO-R	PC
176	442 271 19	1.13	CO-R	PC
178	442 271 31	3.00	CO-R	PC
179	442 271 33	0.98	CO-R	PC

Table 3-12: Housing Sites Inventory				
ID	APN	Acres	Existing General Plan Category	Existing Zoning District
180	442 271 24	0.70	CO-R	PC
181	442 011 53	2.98	CG	PC
182	442 011 64	2.96	MU-H3/PR	PC
184	440 132 48	2.80	PR	PR
185	442 231 09	0.51	CO-R	PC
186	442 161 17	7.17	CO-R	OR
187	442 231 13	0.61	CO-R	PC
188	442 491 02	9.54	CV	CV
189	442 082 05	4.10	CO-M	PC
190	442 021 28	1.74	CR	PC
191	442 021 26	2.50	CR	PC
192	442 231 11	2.83	CO-R	PC
193	442 021 13	1.73	CR	PC
194	442 021 08	0.80	CR	PC
195	442 021 32	0.63	CR	PC
196	442 021 29	4.09	CR	PC
197	442 021 30	1.24	CR	PC
198	442 021 27	1.17	CR	PC
199	442 021 40	0.87	CR	PC
200	442 021 46	4.11	CR	PC
201	442 021 35	0.56	CR	PC
202	442 021 33	4.03	CR	PC
203	442 231 14	4.10	CO-R	OR
204	442 101 27	5.37	MU-H3	PC
205	442 021 31	8.25	CR	PC
206	442 021 11	0.56	CR	PC
207	442 021 17	1.74	CR	PC
208	442 021 43	5.43	CR	PC
209	442 021 45	0.99	CR	PC
210	442 021 44	1.25	CR	PC
211	442 021 42	4.16	CR	PC
212	442 411 01	1.12	CG	PC
213	442 261 21	2.23	MU-H3	PC
240	442 011 65	1.72 2.84	MU-H3/PR	PC
257	442 011 65	1.18	MU-H3/PR	PC
339	442 011 37	1.21	CO-G	OG
340	442 161 06	0.33	CO-R	OR
341	442 161 07	0.20	CO-R	OR
345	442 091 06	0.32	CO-R	OR
346	442 091 01	0.44	CO-R	OR
347	442 091 08	0.39	CO-R	OR
348	442 091 02	0.25	CO-R	OR
349	442 091 15	3.54	CO-R	OR
350	442 091 04	0.38	CO-R	OR
351	442 091 03	0.36	CO-R	OR

Table 3-12: Housing Sites Inventory				
ID	APN	Acres	Existing General Plan Category	Existing Zoning District
352	442 091 07	0.13	CO-R	OR
353	442 011 52	0.84	PR	PC
354	442 011 52	0.72	PR	PC
362	442 261 07	3.99	PF	PF
368	442 014 22	2.43	PF	PC
B	050 442 05	4.03	RM	PC
C	440 251 05	6.00 7.27	RM	PC
D	442 082 13	0.50	CO-M	PC
E	442 091 12, 442-091-16; 442-161-16	4.72 4.16	CO-R	OR
Coyote Canyon Focus Area (Figure 3-7)				
131*	120-571-12	243.23 342.62	PR	PR
336	478-031-56	28.41	PI	PI
Banning Ranch Focus Area (Figure 3-4)				
110*	114 170 72	130.87	OS(RV)	PC
111*	114 170 52	74.64	OS(RV)	PC
112*	114 170 50	65.05	OS(RV)	PC
113*	114 170 52	51.00	OS(RV)	PC
114*	114 170 83	44.78	OS(RV)	PC
115*	114 170 71	41.20	OS	OS
116*	114 170 76	19.35	OS(RV)	PC
117*	No APN	15.76	OS(RV)	OS
118*	114 170 74	14.32	OS(RV)	PC
120*	114 170 78	11.48	OS(RV)	OS
121*	424 041 04	10.81	OS(RV)	PC
122*	114 170 43	6.52	OS(RV)	PC
123*	114 170 65	5.79	OS	OS
124*	114 170 80	3.86	OS(RV)	OS
126*	114 170 24	0.37	OS(RV)	PC
127*	114 170 81	5.33	OS(RV)	OS
128*	114 170 75	0.21	OS(RV)	PC
129*	114 170 49	1.10	OS(RV)	PC
130*	114 170 66	1.49	OS	OS
Pipeline Project				
8	425 471 27	9.5	MU-H1	MU-MM
Notes: Sites bolded are in the coastal zone. * Denotes the site is vacant. Total number of housing sites: 247 Total acreage of housing sites: 537 Total number of vacant sites: 21 Total coastal zone sites: 48				

Table 3-14: Proposed Land Use Element Policy Amendments on Page 3-29 through Page 3-38 has been revised and is incorporated into the Final EIR as follows:

Red text denotes the revised language from the Program EIR, as double underline and strikethrough was used in the Program EIR Project Description section to identify Proposed Land Use Element Policy Amendments.

Table 3-14: Proposed Land Use Element Policy Amendments	
Existing Goals and Policies	Revised Goals and Policies
<p>Goal LU 1 (no change) A unique residential community with diverse coastal and upland neighborhoods, which values its colorful past, high quality of life, and community bonds, and balances the needs of residents, businesses, and visitors through the recognition that Newport Beach is primarily a residential community.</p>	
<p>Policy LU 1.1 Unique Environment Maintain and enhance the beneficial and unique character of the different neighborhoods, business districts, and harbor that together identify Newport Beach. Locate and design development to reflect Newport Beach’s topography, architectural diversity, and view sheds. (Imp 1.1)</p>	<p>Policy LU 1.1 Unique Environment Maintain and enhance the beneficial and unique character of the different <u>villages,</u> neighborhoods, business districts, and harbor that together identify define Newport Beach <u>through neighborhood preservation.</u> Locate and design development to in a way that <u>reflects</u> Newport Beach’s topography, <u>and</u> architectural diversity, and view sheds <u>while emphasizing the City’s coastal orientation, including public views.</u> (Imp 1.1)</p>
<p>Policy LU 1.2 Citywide Identity While recognizing the qualities that uniquely define its neighborhoods and districts, promote the identity of the entire City that differentiates it as a special place within the Southern California region. (Imp 1.1)</p>	<p>Policy LU 1.2 Citywide Identity While recognizing Recognize <u>and support</u> the qualities that uniquely define its Newport Beach’s neighborhoods and districts, that promote the identity of the entire City that differentiates it as a special place within <u>a citywide identity unique to</u> the Southern California region. (Imp 1.1)</p>
<p>Policy LU 1.5 Economic Health Encourage a local economy that provides adequate commercial, office, industrial, and marine-oriented opportunities that provide employment and revenue to support high-quality community services. (Imp 1.1, 24.1)</p>	<p>Policy LU 1.5 Economic Health Encourage a <u>Support the</u> local economy that provides <u>through the identification and development of housing opportunities, as well as</u> adequate commercial, office, <u>medical,</u> industrial, and marine- oriented opportunities <u>uses</u> that provide employment and local revenue opportunities to support high- quality community services <u>for residents, businesses, and visitors.</u> (Imp 1.1, 24.1)</p>
<p>Goal LU 2 (no change) A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City’s diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.</p>	
<p>Policy LU 2.2 Complete Community Emphasize the development of uses that enable Newport Beach to continue as a self-sustaining community and minimize the need for residents to travel outside of the community for retail, goods and services, and employment. (Imp 1.1, 24.1)</p>	<p>Policy LU 2.2 Complete Community Emphasize <u>and support</u> the development of uses that enable <u>allow</u> Newport Beach to continue as a self-sustaining be a <u>complete</u> community and minimize the need for residents to travel outside of the community <u>that maintains the ability to provide locally accessible opportunities</u> for retail, goods and services, and employment. (Imp 1.1, 24.1)</p>

Table 3-14: Proposed Land Use Element Policy Amendments	
Existing Goals and Policies	Revised Goals and Policies
<p>Policy LU 2.5 Harbor and Waterfront Uses Preserve the uses of the Harbor and the waterfront that contribute to the charm and character of Newport Beach and provide needed support for recreational and commercial boaters, visitors, and residents, with appropriate regulations necessary to protect the interests of all users as well as adjoining residents. (Imp 1.1, 2.5, 5.1, 21.4, 24.1)</p>	<p>Policy LU 2.5 Harbor and Waterfront Uses Preserve the uses of the Harbor and the waterfront that contribute to the charm and character of Newport Beach and provide needed support for <u>residents, recreational and commercial</u> boaters, and visitors, and residents, with appropriate regulations necessary to protect the interests of all users as well as adjoining residents. (Imp 1.1, 2.5, 5.1, 21.4, 24.1)</p>
<p>Goal LU 3 A development pattern that retains and complements the City’s residential neighborhoods, commercial and industrial districts, open spaces, and natural environment.</p>	
<p>Policy LU 3.3 Opportunities for Change Provide opportunities for improved development and enhanced environments for residents in the following districts and corridors, as specified in Polices 6.3.1 through 6.22.7:</p> <ul style="list-style-type: none"> ▪ West Newport: consolidation of retail and visitor-serving commercial uses, with remaining areas developed for residential units ▪ West Newport Mesa: re-use of underperforming commercial and industrial properties for offices and other uses that support Hoag Hospital’s medical activities, improvement of remaining industrial properties adjoining the City of Costa Mesa, accommodation of nonwater marine-related industries, and development of residential in proximity to jobs and services ▪ Santa Ana Heights: use of properties consistent with the adopted Specific Plan and Redevelopment Plan ▪ John Wayne Airport Area: re-use of underperforming industrial and office properties and development of cohesive residential neighborhoods in proximity to jobs and services ▪ Fashion Island/Newport Center: expanded retail uses and hotel rooms and development of residential in proximity to jobs and services, while limiting increases in office development ▪ Balboa Peninsula: more efficient patterns of use that consolidate the Peninsula’s visitor-serving and mixed uses within the core commercial districts; encourage marine-related uses especially along the bay front; integrate residential with retail and visitor-serving uses in Lido Village, McFadden Square, Balboa Village, and along portions of the Harbor frontage; re-use interior parcels in Cannery 	<p>Policy LU 3.3 – Transition of Land Uses Provide <u>Support</u> opportunities for <u>improved-new</u> development and <u>enhanced-improved</u> physical environments for residents, <u>businesses, and visitors</u> in the following districts and corridors, as specified in Policies 6.3.1 through 6.22.7:</p> <ul style="list-style-type: none"> ▪ West Newport: <u>support</u> consolidation of retail and visitor-serving commercial uses, <u>with remaining areas developed for and new residential opportunities</u> ▪ West Newport Mesa: re-use of underperforming commercial and industrial properties for offices and other uses that support Hoag Hospital’s medical activities, improvement of remaining industrial properties adjoining the City of Costa Mesa, accommodation of nonwater marine-related industries, and development of residential in proximity to jobs and services ▪ Santa Ana Heights: use of properties consistent with the adopted Specific Plan and Redevelopment Plan <u>support continued implementation of the adopted Specific Plan and Redevelopment Plan.</u> ▪ John Wayne Airport Area: re-use of underperforming industrial and office properties and development of cohesive residential neighborhoods in proximity to jobs and services <ul style="list-style-type: none"> ▪ Fashion Island/Newport Center: <u>expanded support balanced expansion and enhancement of</u> retail uses, <u>and</u> hotel rooms, <u>and offices,</u> and development of residential uses in proximity to jobs and services, <u>while limiting increases in</u> office development ▪ Balboa Peninsula: <u>more efficient support</u> patterns of use that consolidate the Peninsula’s visitor-serving and mixed uses within the core commercial districts; encourage marine-related uses especially along the bay front; integrate residential with retail and visitor-serving uses in Lido Village, McFadden

Table 3-14: Proposed Land Use Element Policy Amendments	
Existing Goals and Policies	Revised Goals and Policies
<p>Village for residential and limited mixed-use and live/work buildings; and redevelop underperforming properties outside of the core commercial</p> <ul style="list-style-type: none"> ▪ Mariners' Mile: vitalization of underperforming properties for retail, visitor-serving, and marine-related uses, integrated with residential ▪ Corona del Mar: enhancement of public improvements and parking (Imp 1.1, 2.1, 5.1) 	<p>Square, Balboa Village, and along portions of the Harbor frontage; re-use interior parcels in Cannery Village for residential and limited mixed-use and live/work buildings; and redevelop underperforming properties outside of the core commercial along the Balboa Boulevard corridor for residential. Infill development shall be designed and sited to preserve historical and architectural fabric of these districts</p> <ul style="list-style-type: none"> ▪ Mariners' Mile: <u>support revitalization of underperforming existing properties</u> for retail, visitor-serving, and marine-related uses, integrated with residential ▪ Corona del Mar: <u>support</u> enhancement of public improvements and parking (Imp 1.1, 2.1, 5.1) <p><u>Study, create, and consider the adoption of specific plans or other appropriate land use guidance for the following areas:</u></p> <ul style="list-style-type: none"> ▪ West Newport Mesa: <u>This area is generally bounded by the City of Costa Mesa to the north, Banning Ranch to the west, State Route 55 to the east, and Hospital Road to the south. The area may be expanded if warranted subject to land use amendments (if required). The intent is to support a cohesive strategy that enhances existing land use or repurpose underperforming commercial and industrial uses or activities while facilitating new and varied housing, including workforce housing proximate to jobs, transportation, and services. Future land uses are intended to be appropriately located and sized to accommodate local community needs.</u> ▪ Airport Area: <u>This area is generally bound by Jamboree Road to the east, Campus Drive to the north and west, and State Route 73 to the south. Theis area may be expanded subject to land use amendments (if required). This area must support flexible land use planning for the reuse and repurposing of existing nonresidential uses while allowing for a variety of housing opportunities inclusive of workforce housing proximate to jobs, transportation, supporting commercial, and services. The intent is to support and provide neighborhood parks or other recreational opportunities, and other public services. Development in this area should contribute to a cohesive urban, mixed-use character where residents and visitors can live, work, shop, access services, and play.</u>

Table 3-14: Proposed Land Use Element Policy Amendments	
Existing Goals and Policies	Revised Goals and Policies
	<ul style="list-style-type: none"> ▪ <u>Coyote Canyon Landfill: This approximately 375-acre open space area is generally bound by Newport Coast Drive to the east, State Route 73 to the north, and the Newport Ridge Planned Community to the west and south. The intent for this area is to support a comprehensive vision that balances future land uses with environmental stewardship and public access. Future development should adapt the closed landfill as an area that supports a variety of outdoor recreational uses such as golf, hiking, and nature interpretation alongside housing opportunities with complementary nonresidential uses.</u>
<p>Goal LU 4 (existing goal) Management of growth and change to protect and enhance the livability of neighborhoods and achieve distinct and economically vital business and employment districts, which are correlated with supporting infrastructure and public services and sustain Newport Beach’s natural setting.</p> <p>Goal LU 4 (revised goal) Manage growth and change to:</p> <ul style="list-style-type: none"> ▪ Support the livability of existing neighborhoods. ▪ Support residential opportunities that accommodate the City’s share of the Regional Housing Needs Assessment. ▪ Promote new uses that are complimentary to already existing neighborhoods and uses. ▪ Achieve distinct and economically vital business and employment districts. ▪ Correlate with supporting infrastructure and public services. ▪ Sustain Newport Beach’s natural setting. 	
<p>Policy LU 4.1 Land Use Diagram Support land use development consistent with the Land Use Plan. Figure LU1 depicts the general distribution of uses throughout the City and Figure LU2 through Figure LU15 depict specific use categories for each parcel within defined Statistical Areas. Table LU1 (Land Use Plan Categories) specifies the primary land use categories, types of uses, and, for certain categories, the densities/intensities to be permitted. The permitted densities/intensities or amount of development for land use categories for which this is not included in Table LU1, are specified on the Land Use Plan, Figure LU4 through Figure LU15. These are intended to convey maximum and, in some cases, minimums that may be permitted on any parcel within the designation or as otherwise specified by Table LU2 (Anomaly Locations). The density/intensity ranges are calculated based on actual land area, actual number of dwelling units in fully developed residential areas, and development potential in areas where the General Plan allows additional development.</p>	<p>Policy LU 4.1 Land Use Diagram Support land use development consistent with the Land Use Plan. Figure LU1 depicts the general distribution of uses throughout the City and Figure LU2 through Figure LU15 depict specific use categories for each parcel within defined Statistical Areas. Table LU1 (Land Use Plan Categories) specifies the primary land use categories, types of uses, and, for certain categories, the densities/intensities to be permitted. The permitted densities/intensities or amount of development for land use categories for which this is not included in Table LU1, are specified on the Land Use Plan, Figure LU4 through Figure LU15. These are intended to convey maximum and, in some cases, minimums that may be permitted on any parcel within the designation or as otherwise specified by Table LU2 (Anomaly Locations). The density/intensity ranges <u>exclude increases allowed through the application of density bonus laws and</u> are calculated based on actual land area, actual number of</p>

Table 3-14: Proposed Land Use Element Policy Amendments	
Existing Goals and Policies	Revised Goals and Policies
<p>To determine the permissible development, the user should:</p> <ol style="list-style-type: none"> Identify the parcel and the applicable land use designation on the Land Use Plan, Figure LU4 through Figure LU15 Refer to Figure LU4 through Figure LU15 and Table LU1 to identify the permitted uses and permitted density or intensity or amount of development for the land use classification. Where densities/intensities are applicable, the maximum amount of development shall be determined by multiplying the area of the parcel by the density/intensity. For anomalies identified on the Land Use Map by a symbol, refer to Table LU2 to determine the precise development limits. For residential development in the Airport Area., refer to the policies prescribed by the Land Use Element that define how development may occur. (Imp 2.1, 5.1, 10.2) 	<p>dwelling units in fully developed residential areas, and development potential in areas where the General Plan allows additional development.</p> <p>To determine the permissible development, the user should:</p> <ol style="list-style-type: none"> Identify the parcel and the applicable land use designation on the Land Use Plan, Figure LU4 through Figure LU15 Refer to Figure LU4 through Figure LU15 and Table LU1 to identify the permitted uses and permitted density or intensity or amount of development for the land use classification. Where densities/intensities are applicable, the maximum amount of development shall be determined by multiplying the area of the parcel by the density/intensity. For anomalies identified on the Land Use Map by a symbol, refer to Table LU2 to determine the precise development limits. For residential development in the Airport Area. refer to the policies prescribed by the Land Use Element that define how development may occur. (Imp 2.1, 5.1, 10.2)
<p>None</p>	<p><u>Policy LU 4.24 – Rezoning to Accommodate Housing Opportunities (new)</u> <u>Accommodate housing opportunities through the adoption of housing opportunity overlay zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element’s focus areas. Properties within each overlay district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites may be identified in the future through rezoning unless precluded by state law. The goal is to ensure an adequate number of sites Citywide to accommodate the City’s allocation of the Regional Housing Needs Assessment:</u></p> <ul style="list-style-type: none"> ▪ <u>Airport Environs Area:</u> <u>the intent is to support a density between 320 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the area.</u> ▪ <u>West Newport Mesa:</u> <u>the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the area.</u> ▪ <u>Newport Center:</u> <u>the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the area. units per gross acre.</u>

Table 3-14: Proposed Land Use Element Policy Amendments	
Existing Goals and Policies	Revised Goals and Policies
	<ul style="list-style-type: none"> ▪ <u>Dover / Westcliff: the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the area.</u> ▪ <u>Coyote Canyon: the intent is to allow a density between 20 and 60 dwelling units per gross acre of viable land to accommodate up to 1,530 total dwelling units within the area.</u>
None	<p><u>Policy LU 4.45 – Residential Uses and Residential Densities (new)</u> <u>Residential use of any property included within an established housing opportunity overlay zoning district is allowed regardless of and in addition to the underlying land use category or density limit established through Policy LU 4.1, Table LU 1 and Table LU 2. A general plan amendment is not required to develop a residential use within an established housing opportunity zoning overlay district. The maximum density specified for the various overlay districts specified in Policy LU 4.2 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 4.2 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units identified in LU 4.2 do not include units identified as pipeline units or units permitted pursuant to State density bonus law.</u></p>
None	<p><u>Policy LU 4.65 – Continuation of Existing Development (new)</u> <u>Residential opportunities are in addition to existing uses allowed by the General Plan. Properties within the established overlay zones are not required to be developed for mixed-use or residential. Existing uses may continue to operate provided they are legally established and consistent with policies and regulations related to legal nonconforming uses. The adoption of housing opportunity overlay districts shall not affect existing rights to use the property.</u></p>
None	<p><u>Policy LU 4.6 – Consistency Required (new)</u> <u>If residential or mixed-use projects pursuant to a housing opportunity overlay district are developed, projects shall be consistent with applicable overlay or Zoning Code requirements unless modified consistent with an established procedure to grant relief from standards (e.g., Planned Development Permit, Variance, Conditional Use Permit, Modification Permit, or the application of Density Bonus regulations).</u></p>
None	<p><u>Policy LU 4.7 – Redevelopment and Transfer of Development Rights (new)</u> <u>Within an established housing opportunity overlay zone and notwithstanding Policy LU 6.15.5, the intensity of existing allowed uses of a site may be reconstructed on the site</u></p>

Table 3-14: Proposed Land Use Element Policy Amendments	
Existing Goals and Policies	Revised Goals and Policies
	<p><u>as part of a mixed-use development provided the gross floor area allowed by the General Plan is not increased, unless it is increased through a General Plan amendment or density bonus concession. The intensity of existing uses may be converted to other uses allowed by the underlying General Plan land use category provided that average daily trips and peak hour traffic trips are not increased above the trips from the existing allowed use. For example, office intensity may be converted to retail or service commercial, restaurants, or other nonresidential uses provided the General Plan land use category allows these uses. Nonresidential intensity not included as a component of a future residential project will remain within the General Plan allocations on a statistical area-wide basis. The City Council may transfer the intensity of a use to another site within the Statistical Area consistent with Policy LU 4.3 or Policy LU 6.15.3.</u></p>
None	<p><u>Policy LU 4.8 – Housing Opportunity Overlay Zones (new)</u> <u>The housing opportunity overlay zones identified in LU 4.2 shall accomplish the following:</u></p> <ul style="list-style-type: none"> ▪ <u>Allow owner-occupied and rental multifamily uses by right without discretionary review for developments in which 20 percent or more of the units are affordable to lower income households;</u> ▪ <u>Allow a minimum of 16 units per site;</u> ▪ <u>Require developments to include a minimum density of 20 units per acre;</u> ▪ <u>Require that at least 50 percent of the lower income need be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low income housing need, if those sites: to allow 100 percent residential use, and to require residential use occupy 50 percent of the total floor area of a mixed use project.</u>
<p>Goal LU 5.1 – Residential Neighborhoods (no change) Residential neighborhoods that are well-planned and designed contribute to the livability and quality of life of residents, respect the natural environmental setting, and sustain the qualities of place that differentiate Newport Beach as a special place in the Southern California region.</p>	
<p>Policy LU 5.1.3 Neighborhood Identification (All Neighborhoods) Encourage and support the identification of distinct residential neighborhoods. (Imp 1.1, 1.3)</p>	<p>Policy LU 5.1.3 Neighborhood Identification (All Neighborhoods) Encourage and support the identification of distinct residential neighborhoods. <u>identity through the establishment of objective design and development standards that will distinguish neighborhoods from others in the City.</u> (Imp 1.1, 1.3)</p>
<p>Goal LU 6.2 – Residential Neighborhoods (no change)</p>	

Table 3-14: Proposed Land Use Element Policy Amendments	
Existing Goals and Policies	Revised Goals and Policies
Residential neighborhoods that contain a diversity of housing types and supporting uses to meet the needs of Newport Beach’s residents and are designed to sustain livability and a high quality of life.	
<p>Policy LU 6.2.4 Accessory Units Permit conditionally the construction of one granny unit (accessory age-restricted units for one or two adult persons who are sixty years of age or older) per single-family residence within single-family districts, provided that such units meet set back, height, occupancy, and other applicable regulations set forth in the Municipal Code. (Imp 2.1)</p>	<p>Policy LU 6.2.4 Accessory <u>Dwelling</u> Units Permit conditionally the construction of one granny unit (accessory age-restricted units for one or two adult persons who are sixty years of age or older) per single-family residence within single-family districts, provided that such units meet set back, height, occupancy, and other applicable regulations set forth in the Municipal Code. <u>Support and promote the development of accessory dwelling units and junior accessory dwellings units in all zones that allow residential units, to provide a more affordable housing option that helps the City meet its housing production goals while minimizing the need to rezone for additional future capacity.</u> (Imp 2.1)</p>
<p>Goal LU 6.4– Banning Ranch (no change) If acquisition for open space is not successful, a high-quality residential community with supporting uses that provides revenue to restore and protect wetlands and important habitats.</p>	
<p>Policy LU 6.4.2 Residential Accommodate a maximum of 1,375 residential units, which shall consist of a mix of single-family detached, attached, and multi-family units to provide a range of choices and prices for residents. (Imp 2.1)</p>	<p>Policy LU 6.4.2 Residential Accommodate a maximum of 1,375 <u>1,475</u> residential units, which shall consist of a mix of single-family detached, attached, and multi-family units to provide a range of choices and prices for residents. (Imp 2.1)</p>
<p>Goal LU 6.6 – West Newport Center (no change) A medical district with peripheral medical services and research facilities that support the Hoag Hospital campus within a well-planned residential neighborhood, enabling residents to live close to their jobs and reducing commutes to outlying areas.</p>	
<p>Policy LU 6.6.2 Residential Types (West Newport Mesa) Promote the development of a mix of residential types and building scales within the densities permitted by the “RM” (Figure LU18, Sub-Area C) designation, which may include single-family attached, townhomes, apartments, flats, and comparable units. Residential densities may be increased on a property as a means of promoting a variety of housing types within Newport Mesa, provided that the overall average density of 18 units per acre is not exceeded. (Imp 2.1)</p>	<p>Policy LU 6.6.2 Residential Types (West Newport Mesa) Promote <u>Support</u> the development of a mix of residential types and building scales <u>within consistent with</u> the densities permitted by the “RM” <u>General Plan</u> (Figure LU18; Sub-Area C) designation, which may include single-family attached, townhomes, apartments, flats, and comparable units. Residential densities may be increased on a property as a means of promoting a variety of housing types within Newport Mesa, provided that the overall average <u>project</u> density of 18-30 <u>to 50 dwelling</u> units per acre is not exceeded (consistent with Policy LU 4.2). (Imp 2.1)</p>
<p>Goal LU 6.15 (no change) A mixed-use community that provides jobs, residential, and supporting services in close proximity, with pedestrian-oriented amenities that facilitate walking and enhance livability.</p>	

Table 3-14: Proposed Land Use Element Policy Amendments	
Existing Goals and Policies	Revised Goals and Policies
<p>Policy LU 6.15.4 Priority Uses (Airport Area – Mixed-Use Districts [Subarea C, “MU-H2” designation]) Accommodate office, research and development, and similar uses that support the primary office and business park functions such as retail and financial services, as prescribed for the “CO-G” designation, while allowing for the re-use of properties for the development of cohesive residential villages that are integrated with business park uses. (Imp 2.1)</p>	<p>Policy LU 6.15.4 Priority Uses (Airport Area – Mixed-Use Districts [Subarea C, “MU-H2” designation]) Accommodate office, research and development, and similar uses that support the primary office and business park functions such as retail and financial services, as prescribed for the “CO-G” designation, while allowing for the re-use of properties for the development of cohesive <u>mixed-use and residential villages developments</u> that are integrated with business park uses. (Imp 2.1)</p>
<p>Policy LU 6.15.28 Priority Uses (Airport Area – Commercial Nodes [“CG” designation Sub-Area C—part]) Encourage the development of retail, financial services, dining, hotel, and other uses that support the John Wayne Airport, the Airport Area’s office uses, and as developed, its residential neighborhoods, as well as automobile sales and supporting uses at the MacArthur Boulevard and Bristol Street node. (Imp 2.1, 24.1)</p>	<p>Policy LU 6.15.28 Priority Uses (Airport Area – Commercial Nodes [“CG” designation Sub-Area C—part]) Encourage the development of retail, financial services, dining, hotel, and other uses that support the John Wayne Airport, the Airport Area’s office uses and as developed <u>or redeveloped</u>, its residential neighborhoods, as well as automobile sales and supporting uses at the MacArthur Boulevard and Bristol Street node. (Imp 2.1, 24.1)</p>
<p>Policy LU 6.15.29 Priority Uses (Airport Area – Commercial Office District [“CO-G” designation Sub-Area C—part]) Encourage the development of administrative, professional, and office uses with limited accessory retail and service uses that provide jobs for residents and benefit adjoining mixed-use districts. (Imp 2.1, 24.1)</p>	<p>Policy LU 6.15.29 Priority Uses (Airport Area – Commercial Office District [“CO-G” designation Sub-Area C—part]) Encourage the development of administrative, professional, and office uses <u>that are proximate or adjacent to residential uses</u>; with limited accessory retail and service uses that provide jobs for residents and benefit adjoining mixed-use districts. (Imp 2.1, 24.1)</p>

Table 3-15: Proposed City of Newport Beach Local Coastal Program Policy Amendments on Page 3-40 through Page 3-42 has been revised and is incorporated into the Final EIR as follows:

Red text denotes the revised language from the Program EIR, as double underline and strikethrough was used in the Program EIR Project Description section to identify Proposed City of Newport Beach Local Coastal Program Policy Amendments.

Table 3-15: Proposed City of Newport Beach Local Coastal Program Policy Amendments	
Existing Policies	Revised Policies
<p>Policy LU 2.1.2-1 Development in each district and corridor shall adhere to policies for land use type and density/intensity contained in Table 2.1.1-1, except as modified in Sections 2.1.3 to 2.1.8.</p>	<p>Policy LU 2.1.2-1 Development in each district and corridor shall adhere to policies for land use type and density/intensity contained in Table 2.1.1-1, except as modified in Sections 2.1.3 to 2.1.8, <u>and 2.1.11.</u></p>
<p>Policy LU 2.1.10-1</p>	<p>Policy LU 2.1.10-1</p>

Table 3-15: Proposed City of Newport Beach Local Coastal Program Policy Amendments	
Existing Policies	Revised Policies
Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations.	Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations, <u>except as modified by all Policies in the 2.1.11 series.</u>
None	<p><u>Policy LU 2.1.11-1</u> <u>Accommodate housing opportunities through the adoption of housing opportunity overlay coastal zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element’s focus areas. Properties within each overlay coastal zoning district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites may be identified in the future through rezoning unless precluded by state law. The City will reserve 25% of allocated dwelling units within the Coastal Zone until such a time as the City’s Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6th Cycle Housing Element. Following the City’s Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone. The goal is to ensure an adequate number of sites Citywide to accommodate the City’s allocation of the Regional Housing Needs Assessment:</u></p> <ul style="list-style-type: none"> ▪ <u>Airport Environs:</u> the intent is to support a density between 230 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone. ▪ <u>West Newport Mesa:</u> the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone. ▪ <u>Newport Center:</u> the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone. ▪ <u>Dover / Westcliff:</u> the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.
None	<p><u>Policy LU 2.1.11-2</u> <u>Residential use of any property included within an established housing opportunity overlay coastal zoning district is allowed regardless of and in addition to the underlying land use category or density limit established herein. An amendment to the Coastal</u></p>

Table 3-15: Proposed City of Newport Beach Local Coastal Program Policy Amendments	
Existing Policies	Revised Policies
	<u>Land Use Plan is not required to develop a residential use within an established housing opportunity zoning overlay coastal zoning district. The maximum density specified for the various overlay coastal zoning districts specified in Policy 2.1.11-1 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 2.1.11-1 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units do not include units identified as pipeline units or units permitted pursuant to State density bonus law.</u>
None	<u>Policy LU 2.1.11-3</u> <u>Residential opportunities are in addition to existing uses allowed by the Coastal Land Use Plan. Properties within the established overlay coastal zones are not required to be developed for mixed-use or residential. Existing uses may continue to operate provided they are legally established and consistent with policies and regulations related to legal nonconforming uses. The adoption of housing opportunity overlay coastal zoning districts shall not affect existing rights to use the property.</u>
None	<u>Policy LU 2.1.11-4</u> <u>If residential or mixed-use projects pursuant to a housing opportunity overlay coastal zoning district are developed, projects shall be consistent with applicable overlay coastal zoning district or Implementation Plan requirements unless modified consistent with an established procedure to grant relief from standards (e.g., Coastal Modification or Variance, or the application of Density Bonus regulations).</u>

Page 3-45 has been revised and is incorporated into the Final EIR as follows:

To be eligible for the provisions of proposed Municipal Code Chapter 20.28.050, the property must be listed on the HO area map as an “Opportunity Site.” As proposed, the following uses are permitted in the Housing Opportunity (HO) Overlay Zoning Districts with the exception of HO-6 where only the base zoning standards apply:

- Any use that is permitted or conditionally permitted in the base zone;
- Multiple-unit development that meets the density requirements of Municipal Section 20.28.050;
- Mixed-use development that includes a residential component which complies with the minimum density requirements of Municipal Code Section 20.28.050;
- Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.

Table 3-17: Development Standards for Housing Opportunity Overlay Zones on Page 3-46 and Page 3-47 has been revised and is incorporated into the Final EIR as follows:

Table 3-17: Development Standards for Housing Opportunity Overlay Zones						
Development Feature	Housing Opportunity Subarea					
	HO-1	HO-2	HO-3	HO-4	HO-5	HO-6
Development Limit (units) ¹	2,577	1,107	458 521	2,374 2,439	1,530	N/A
Lot Size/Dimension	Per Base Zone					
Lot area required per unit (sf) ²	Minimum 1,452-2,178 (3 20 du/ac) Maximum: 871 (50 du/ac)	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)			Minimum: 2,178 (20 du/ac) Maximum: 726 (60 du/ac) ^{9,10}	All Standards Per Base- Zone
Setbacks						
Front	0 ft ²³	10 ft ²³	10 ft ^{2,3,4}	0 ft ²³	10 ft ²³	
Rear	0 ft	20 ft	20 ft	0 ft	20 ft	
Side	0 ft ⁴					
Street Side	0 ft ²³	10 ft ²³	10 ft ^{2,3,4}	0 ft ²³	10 ft ²³	
Height	Per Base Zone unless otherwise identified on the HO area map	65 ft	65 ft ⁵⁶	Per Base Zone ⁶⁷	65 ft	
Building Separation	10 ft					
Floor Area Ratio (FAR)	No restriction ⁷⁸					
Common Open Space ⁸²	Minimum 75 sf/du. (The minimum dimension [length and width] shall be 15 feet.)					
Private Open Space ²	5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 ft)					

Table 3-17: Development Standards for Housing Opportunity Overlay Zones	
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls)
Landscaping	See Chapter 20.36 (Landscaping Standards)
Lighting	See Section 20.30.070 (Outdoor Lighting)
Outdoor Storage/Display	See Section 20.48.140 (Outdoor Storage, Display, and Activities)
Parking	See Subsection (D)(3) 4011 of Municipal Code Chapter 20.28.050 and Chapter 20.40 (Off-Street Parking)
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities)
Signs	See Chapter 20.42 (Sign Standards)
<p><u>1.</u> Development limits are additional residential development opportunities beyond the base allowances in this Title or the General Plan. These limits shall not include density bonus units or units that are either identified as pipeline units in the 6th Cycle Housing Element (Table B-2) or units that were applied for and predate the effective date of the HO Overlay Zoning Districts. Furthermore, eligible units are only counted against the development limits when they are either entitled or are issued a building permit if allowed by right. However, 25% of the development limit within each HO Overlay Zoning District that includes properties within the Coastal Zone shall be reserved until such a time as the City's Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6th Cycle Housing Element. Following the City's Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone</p> <p>2. Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units.</p> <p>3. Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way.</p> <p>3-4. Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway.</p> <p>4-5. The combined total from both sides shall be 15 feet.</p> <p>5-6. The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1.</p> <p>6-7. "Base Zone" includes all height limitations established by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).</p> <p>7-8. The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable.</p> <p>8-9. For purposes of this section, common and private open space in HO-1 may include enclosed shared amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility children's playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director.</p> <p>9-10. This density is intended for the former Coyote Canyon Landfill site only. The Sage Hill School site is limited to a maximum of 20 dwelling units.</p> <p>10-11. Subsection (D)(3) outlined in Table 3-18 below.</p> <p>Source: Draft Municipal Code Section 20.28.050.</p>	

Table 3-19: Coastal Zone – Development Standards for Housing Opportunity Overlay Zones on Page 3-50 has been revised and is incorporated into the Final EIR as follows:

Table 3-19: Coastal Zone – Development Standards for Housing Opportunity Overlay Zones				
Development Feature	Housing Opportunity Subarea			
	HO-1	HO-2	HO-3	HO-4
Lot Size/Dimension	Per Base Zone			
Lot area required per unit (sq. ft.) ¹	Minimum: 1,452 2,178 (3 20/ac) Maximum: 871 (50 du/ac)		Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)	

Table 3-19: Coastal Zone – Development Standards for Housing Opportunity Overlay Zones				
Development Feature	Housing Opportunity Subarea			
	HO-1	HO-2	HO-3	HO-4
Setbacks				
Front	0 ft ²	10 ft ²	10 ft ^{2, 3}	0 ²
Rear	0	20 ft	20 ft	0
Side	0 ft ⁴			
Street Side	0 ²	10 ft ²	10 ft ²	0 ft ²
Height	Per Base Zone unless otherwise identified on the map	65 ft	65 ft ⁵	Per Base Zone ^{6,5}
Building Separation	10 ft			
Floor Area Ratio (FAR)	No Restriction ⁶			
Common Open Space ⁷	Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)			
Private Open Space	5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)			
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Section 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).			
Lighting	See Section 21.30.070 (Outdoor Lighting).			
Parking	See Subsection (D)(2) below and Chapter 21.40 (Off-Street Parking).			
Signs	See Chapter 21.30.065 (Sign Standards).			
<ol style="list-style-type: none"> 1. Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units. 2. Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way. 3. Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway. 4. The combined total from both sides shall be 15 feet. 5. The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1. 6. The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable. 7. For purposes of this section, common open space in HO-1 may include enclosed amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility, children’s playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director. 				
Source: Draft Municipal Code Section 21.28.070.				

Section 4.10: Land Use and Planning

Page 4.10-1 of Section 4.10.2: Existing Regulations, has been modified and is included in the Final EIR as follows:

California Planning Law and General Plan Guidelines

California planning law requires cities and counties to prepare and adopt a “comprehensive, long-range general plan” to guide development (Government Code §65300). “In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency (Government Code §65300.5)”. To successfully guide long-range development, general plans require a complex set of analyses, comprehensive public outreach and input, and public policy covering a broad range of topics. The general plan serves as a broad policy framework and guide for future development and must contain seven mandated elements addressing land use, circulation, housing, conservation, open space, noise, and safety. All other land use regulations, including specific plans, ordinances, and land use decisions within the jurisdiction must be consistent with the general plan. The *City of Newport Beach General Plan 2006 Update* is the City’s General Plan.

Page 4.10-5 of Section 4.10: Land Use and Planning, has been clarified and is included in the Final EIR as follows:

In 1975, the Airport Land Use Commission (ALUC) of Orange County adopted an Airport Environs Land Use Plan (AELUP, amended April 17, 2008) ~~that includes~~ for John Wayne Airport. ~~There is a separate AELUP for Fullerton Municipal Airport and the Joint Forces Training Base Los Alamitos. There is also an AELUP for Heliports.~~ The AELUP is a land use compatibility plan that is intended to protect the public from adverse effects of aircraft noise; to ensure the people and facilities are not concentrated in areas susceptible to aircraft accidents; and to ensure that no structures or activities adversely affect navigable space. The AELUP identifies standards for development in the airport’s planning area based on noise contours, accident potential zone, and building heights and identifies safety and compatibility zones that depict which land uses are acceptable and unacceptable in various portions of AELUP Safety Zones 1 through 6. ALUC is an agency authorized under State law to assist local agencies in ensuring compatible land uses near airports. Primary areas of concern for ALUC are noise, safety hazards, and airport operational integrity.

The last paragraph of page 4.10-5 has been modified and is included in the Final EIR as follows:

A general plan functions as a guide for the type of community that is desired for the future and provides the means to achieve it. The General Plan contains the following elements: Land Use, Harbor and Bay, Housing, Historical Resources, Circulation, Recreation, Arts and Cultural, Natural Resources, Safety, and Noise. Amendments to the Land Use Element are proposed as a part of the Project to provide for internal consistency between the General Plan elements.

Page 4.10-6 has been revised and is incorporated into the Final EIR as follows:

Historical Resources Element. The Historical Resources Element addresses the protection and sustainability of Newport Beach’s historical and paleontological resources. Goals and policies presented within this element are intended to recognize, maintain, and protect the

community's unique historical, cultural, and archaeological sites and structures. Preserving and maintaining these resources helps to create an awareness and appreciation of the City's history.

Section 5.0: Long-Term Implications of the Proposed Project

Page 5-1 of Section 5.0: Long-Term Implications of the Proposed Project, has been corrected and incorporated into the Final EIR as follows:

Section 15126.2(~~bc~~) of the State CEQA Guidelines requires that the EIR describe any significant impacts, including those that can be mitigated but not reduced to less than significant levels. The environmental effects of the proposed Project are addressed in Sections 4.1 through 4.18 of this Program EIR. Implementation of the proposed Project would result in potentially significant impacts for the following topical issues:

Page 5-6 has been corrected and incorporated into the Final EIR as follows:

State CEQA Guidelines Section 15126.2(~~de~~) requires that EIRs include a discussion of ways in which a project could induce growth. The State CEQA Guidelines identify a project as "growth-inducing" if it fosters economic or population growth or if it encourages the construction of additional housing either directly or indirectly in the surrounding environment. New employees from commercial or industrial development and new population from residential development represent direct forms of growth. These direct forms of growth have a secondary effect of expanding the size of local markets and inducing additional economic activity in the area. The project would therefore have a growth-inducing impact if it would:

Page 5-7 has been corrected and incorporated into the Final EIR as follows:

The following analyzes the Project's potential growth-inducing impacts for the criteria outlined above, in accordance with State CEQA Guidelines Section 15126.2(~~de~~). Potential growth-inducing effects are examined through analysis of the following questions:

Section 6.0: Alternatives to the Proposed Project

The first paragraph on page 6-3 of Section 6.0: Alternatives, has been revised and is included in the Final EIR as follows:

The proposed Project's housing sites inventory is intended to accommodate future housing development on identified properties, consistent with the 2021-2029 Housing Element. The No Project Alternative is the circumstance under which the actions required to implement the Housing Element would not occur. ~~Although the City would continue to have an approved and certified Housing Element~~ The City would be in noncompliance, which could lead to decertification of the 2021-2029 Housing Element by HCD. Additionally, the City would not provide adequate opportunities to implement the 2021-2029 Housing Element because the City would not approve and/or amend (1) General Plan goals and policies; (2) Housing Opportunity Overlay zoning districts for the focus areas, including housing sites in the Coastal Zone; and (3) Local Coastal Program policies. Following certification by HCD, the City is required to ensure the continued and effective implementation of the Housing Element programs including, but not limited to, the provision of sufficient adequately zoned land to accommodate its share of the regional growth and its required share of lower income dwelling units consistent with the General Plan and RHNA obligations.

Section 7.0: Preparers and Contributors

Section 7.0: Preparers and Contributors, has been updated and is incorporated into the Final EIR as follows:

Jaime Murillo, AICP

Acting Deputy Community Development Director

Kiana Graham, AICP ~~Candidate~~

Environmental Analyst

CEQA Guidelines Section 15088.5 addresses recirculation of EIRs prior to certification. The section reads as follows:

A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term “information” can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. “Significant new information” requiring recirculation includes, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

“Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR” (CEQA Guidelines §15088.5(b)). The CEQA Guidelines do not require a lead agency to recirculate an EIR simply because, for example, new mitigation is provided, additional alternatives to a project are suggested, or proposed improvements to the project are developed in response to comments submitted on the EIR.

The final determination of whether recirculation might be warranted under these standards will ultimately be made by the City of Newport Beach decision-makers. However, City staff has reviewed the comments on the Draft Program EIR and the response to those comments and have not identified any significant new information in those comments or responses that would necessitate recirculation under the standards set forth in CEQA Guidelines Section 15088.5.

APPENDIX A

ATTACHMENTS TO COMMENT LETTER B1



MOUNTAINS RECREATION & CONSERVATION AUTHORITY
 Los Angeles River Center & Gardens
 570 West Avenue Twenty-six, Suite 100
 Los Angeles, California 90065
 Phone (323) 221-9944 Fax (323) 221-9934

July 14, 2023

Mr. Seimone Jurjis
 Community Development Director
 City of Newport Beach
 100 Civic Center Drive, Bay 1B
 Newport Beach, CA 92660
 via electronic mail to: sjurjis@newportbeachca.gov

**Request to Update Ownership Status of
 The Frank & Joann Randall Preserve**

Dear Mr. Jurjis,

The Mountains Recreation and Conservation Authority (MRCA) is providing this introductory letter to the City of Newport Beach about our agency and the recent preservation of the land formally known as Banning Ranch located at 1080 W. 17th Street Costa Mesa, CA 92627.

The MRCA is dedicated to the preservation and management of local open space and parkland, wildlife habitat, coastal access, watershed lands, and trails in both wilderness and urban settings, and to ensuring access to public parkland and coastal resources. As a Joint Powers Authority, MRCA's Governing Board is comprised of designated representatives of the Conejo Recreation and Park District, the Santa Monica Mountains Conservancy, the Rancho Simi Recreation and Park District, and one at-large Member appointed by the Governing Board. MRCA provides natural resources and scientific expertise, critical regional planning services, and education and leadership programs for thousands of youth each year.

On December 16, 2022, 387 acres were protected through a combination of one large private philanthropic gift and multiple public grants to conserve the coastal land now known as The Frank & Joann Randall Preserve (Randall Preserve). We are aware that the City of Newport Beach has included in its [Housing Element Update](#) the Randall Preserve as a potential opportunity site for affordable units to help the City meet its 6th Cycle Regional Housing Needs Allocation (RHNA).

This letter formally confirms that the property is no longer available for any housing based on the grant restrictions which run with the property in perpetuity. For reference, we have included a copy of the grant deed, which includes the following habitat and open space focused language:

“...the Property conveyed hereby shall, in perpetuity, be used only for open space, public access, recreational purposes, habitat restoration and management...”

Mr. Seimone Jurjis
July 14, 2023

Page 2

An amendment to this grant deed language would require agreement from five state and federal funding agencies as well as the estate of Frank and Joann Randall. Therefore, no amendments are anticipated in the near future.

We request the Randall Preserve be removed as a housing opportunity site now and in future RHNA cycles. To ensure consistency across the City's documents with the property's on the ground status, we request at the City's earliest convenience that the General Plan itself (and related elements such as Land Use, Housing, Natural Resources, etc.), and the City's Zoning for the site be updated to reflect the land's permanently protected status as Open Space.

For any questions, please reach out to Julien Buenaventura, MRCA Project Manager at (323) 221-9944 ext. 104 or via email at julien.buenaventura@mrca.ca.gov.

Sincerely,



Brian Baldauf
Deputy Executive Officer
Park Development and Watershed Planning

Attachment: Grant Deed, dated 12/16/22

cc: Jim Campbell, Deputy Community Development Director
(jcampbell@newportbeachca.gov)
Ben Zbeda, Principal Planner (bzdeba@newportbeachca.gov)
General Plan Advisory Committee

Recording Requested By:
First American Title Company
Homebuilder Services
Subdivision Department

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder



NO FEE

* \$ R 0 0 1 4 1 1 3 8 2 1 \$ *

2022000410380 10:57 am 12/16/22

90 CR-SC06 D10 23

0.00 0.00 0.00 20.00 66.00 0.00 0.000.000.00 0.00

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

The Trust for Public Land
101 Montgomery Street, Suite 900
San Francisco, CA 94104

Attn: Legal Department

MAIL TAX STATEMENTS TO SAME

ADDRESS AS ABOVE

0858808-PA

Space above this line for Recorder's Use Only

APN(s):

114-170-24 and 114-170-43 and 114-170-49 and 114-170-50 and 114-170-52 and 114-170-56 and
114-170-72 and 114-170-73 and 114-170-75 and 114-170-77 and 114-170-79 and 114-170-80 and 114-
170-83 and 424-041-04 TRA 55-051, 07-082, 07-024

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11922 OF THE CALIFORNIA REVENUE AND TAXATION CODE.

THIS DOCUMENT IS EXEMPT FROM THE PAYMENT OF A RECORDING FEE PURSUANT TO GOVERNMENT CODE SECTION 6103 AND 27383

The Frank and Joan Randall Preserve

Documentary transfer tax is \$ 0**

- () computed on full value of property conveyed, or
- () computed on full value less value of liens and encumbrances remaining at the time of sale.
- (x) Unincorporated area Orange County (x) City of Newport Beach
- () Realty not sold.

GRANT DEED *

For good and valuable consideration, the receipt of which is hereby acknowledged, Aera Energy LLC, a California limited liability company ("Aera"), and Cherokee Newport Beach LLC, a Delaware limited liability company (collectively, "Grantor"), does hereby grant and convey to **MOUNTAINS RECREATION AND CONSERVATION AUTHORITY**, a local public agency established pursuant to California Government Code Section 6500 *et seq.* ("Grantee"), all the real property situated in the County of Orange, State of California, described at Exhibit A attached hereto and incorporated herein by this reference.

This conveyance is subject to all: (i) all prior covenants, conditions restrictions, easements, rights, encumbrances and other exceptions and reservations of record; (ii) matters discoverable or that can be ascertained by physical inspection or correct survey of the Property; (iii) zoning ordinances and regulations and any other laws ordinances and governmental regulations restricting or regulating the use, occupancy, and enjoyment of the Property; (iv) all terms, conditions and reservations of this Grant Deed, (v) the Property conveyed hereby shall, in perpetuity, be used only for open space, public access, recreational purposes, habitat restoration and management, and any other uses approved, in writing, by the California Natural Resources Agency ("CNRA"), State Coastal Conservancy ("SCC"), California Department of Fish and Wildlife ("CDFW"), Wildlife Conservation Board ("WCB"), [and the U.S. Department of Interior, Fish and Wildlife Service ("USFWS")] pursuant to state [and federal] grant funding requirements which provided funding for Grantee's purchase of the real property (collectively, "Open Space Uses"), and (vi) for the rights reserved by Grantor as set forth below. The restrictions relating to the real property being permanently restricted to use for open space, public access, recreational purposes, habitat

Exempt from fee per GC 27388.1 (a)(2);
recorded concurrently "in connection with"
a transfer subject to the imposition
of documentary transfer tax (DTT)

restoration and management, and any other uses approved, in writing by CNRA, SCC, CDFW, WCB, [and USFWS] are for the benefit of the State of California, acting by and through CNRA, SCC, CDFW, and WCB, and their successors and assigns, and shall be binding upon Grantee, and its successors and assigns.

RESERVATION OF MINERAL RIGHTS

Grantor discloses the prior conveyance to Horizontal Development, LLC (“HDLLC”), of certain sub-surface rights underlying the land conveyed hereby pursuant to the following documents: Quitclaim With Reservation of Easement, recorded in Official Records of Orange County on 05/05/97 as Instrument No. 19970206789, and Quitclaim recorded in Official Records of Orange County on 12/20/05 as Instrument No. 2005001016861

Grantor hereby reserves, for the benefit of Aera, its successors and assigns, the following rights:

The right, but not the duty, to enter onto the Property, upon reasonable notice to Grantee, and perform habitat restoration and management, and investigation and remediation, if warranted, in accordance with applicable environmental laws in response to any assertion or claim that there exists on or under the Property any condition of the soil, surface waters, or groundwater that (i) requires investigatory, corrective or remedial measures, and/or (ii) comprises a basis for claims of and/or liabilities in respect of the ownership or operation of the Property. The agreed upon standard for any remediation shall be no more stringent than that which is required by applicable environmental laws and any government agency with jurisdiction to enforce such laws limited to use of the Property for Open Space Uses.

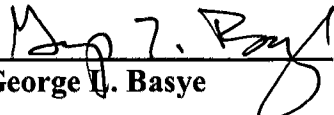
Provided, however, that except for the right of entry reserved in item above, the rights reserved for the benefit of Aera do not include the right to drill, mine, store, explore, or operate upon the surface of the Property.

DISCLOSURE PETROLEUM PRODUCING OPERATIONS

The Property for many years was used in connection with production of crude oil / petroleum from wells located on or near the Property. Natural, shallow deposits of petroleum exist in the soil on or near the Property as well as petroleum-related combustible gases. Petroleum production involves other facilities, also, such as tanks, pipelines, and production pits to store and transport oil that is produced. Petroleum production resulted in some releases of petroleum into the soil on or near the Property. Petroleum, naturally occurring deposits of petroleum, and petroleum-related combustible gases remain in the soil on or near the Property. Information concerning historical petroleum producing operations can be obtained from the California Department of Conservation, Division of Oil, Gas and Geothermal Resources.

IN WITNESS WHEREOF, Grantor has executed this instrument this 15th day of December, 2022.

AERA ENERGY LLC,
a California limited liability
company

By: 
George U. Basye

Its: Vice President

CHEROKEE NEWPORT BEACH, LLC
a Delaware limited liability company

COUNTERPART
By: _____
John A. Mazzarino

Its: Manager

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange

On December 15, 2022 before me, Holly McLemore
(insert name and title of the officer)

personally appeared George Basye
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

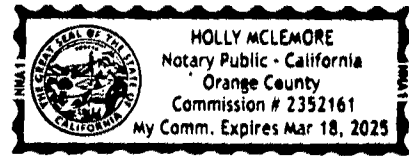
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Holly McLemore

(Seal)



IN WITNESS WHEREOF, Grantor has executed this instrument this 19th day of December, 2022.

AERA ENERGY LLC,
a California limited liability company

By: _____

COUNTERPART

Its: _____

CHEROKEE NEWPORT BEACH, LLC
a Delaware limited liability company

By: John Mazzarino
John Mazzarino

Its: Manager

Wake County
North Carolina

I certify that John Mazzarino personally appeared before me this day, December 12, 2022, acknowledging to me that he signed the foregoing document.

Kimberly D. Shaw

Kimberly D. Shaw
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires MAY 02, 2023

Exhibit "A"

Legal Description

Real property in the City of Costa Mesa, County of Orange, State of California, described as follows:

PARCEL 1:

A PORTION OF LOTS "B", "C" AND "D", ALL IN THE BANNING TRACT, AS SHOWN ON A MAP OF SAID TRACT FILED IN THE CASE OF HANCOCK BANNING AND OTHERS VS. MARY H. BANNING, FOR PARTITION, BEING CASE NO. 6385 UPON THE REGISTER OF ACTIONS OF THE SUPERIOR COURT OF LOS ANGELES COUNTY, CALIFORNIA, AND A PORTION OF RANCHO SANTIAGO DE SANTA ANA, DESCRIBED IN BOOK 3, PAGE 387 OF PATENTS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE BOUNDARY LINE BETWEEN LOTS "A" AND "B" OF SAID BANNING TRACT, WHICH POINT IS THE POINT OF INTERSECTION OF THE CENTER LINE OF NINETEENTH STREET AND THE NORTHWESTERLY LINE OF THE FIRST ADDITION TO THE NEWPORT MESA TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 8, PAGE 61 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE SOUTH 89 DEGREES 26' 55" WEST ALONG THE NORTHERLY LINE OF SAID LOT "B", 3315.29 FEET TO THE NORTHWESTERLY CORNER OF LOT "B" OF SAID BANNING TRACT; THENCE SOUTHERLY ALONG THE WESTERLY BOUNDARY LINE OF LOT "B" OF SAID BANNING TRACT, THE FOLLOWING COURSES AND DISTANCES: SOUTH 1 DEGREE 45' WEST 462.00 FEET; THENCE SOUTH 34 DEGREES 15' WEST 462.95 FEET; THENCE SOUTH 6 DEGREES 15' EAST 1058.48 FEET; THENCE SOUTH 19 DEGREES 45' WEST 529.21 FEET; THENCE SOUTH 34 DEGREES 30' WEST 463.08 FEET; THENCE SOUTH 42 DEGREES 45' WEST 397.00 FEET; THENCE SOUTH 4 DEGREES 45' WEST 462.00 FEET; THENCE SOUTH 21 DEGREES 15' WEST 198.50 FEET TO THE SOUTHWEST CORNER OF LOT "B", AS SHOWN ON SAID MAP OF THE BANNING TRACT, WHICH CORNER IS ALSO STATION NO. 149 OF THE BOUNDARY LINE OF RANCHO SANTIAGO DE SANTA ANA, AS DESCRIBED IN BOOK 3, PAGE 387 OF PATENTS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA; THENCE SOUTH 72 DEGREES 51' 36" EAST 807.47 FEET TO A POINT WHICH BEARS NORTH 20 DEGREES 32' 44" EAST 606.79 FEET FROM THE POINT OF INTERSECTION OF THE CENTER LINE OF THE SANTA ANA RIVER, AS SHOWN ON THE MAP FILED IN AND ANNEXED TO THE COMPLAINT IN THE CASE OF J. B. BANNING JR. VS. SMITH AND OTHERS, BEING CASE NO. 22797 OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR ORANGE COUNTY, A COPY OF THE JUDGMENT OF SAID CASE NO. 22797 HAVING BEEN RECORDED JULY 19, 1929 IN BOOK 297, PAGE 76 OF OFFICIAL RECORDS, WITH THE SOUTHEASTERLY LINE OF SUMMIT STREET, 30 FEET IN WIDTH, AS SHOWN ON A MAP OF EL MORO TRACT RECORDED IN BOOK 8, PAGE 75 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE EASTERLY, NORTHEASTERLY AND SOUTHEASTERLY, PARALLEL WITH THE SAID CENTER LINE OF THE SANTA ANA RIVER AND 600.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: SOUTH 78 DEGREES 02' EAST 486.60 FEET; THENCE SOUTH 66 DEGREES 42' 20" EAST 517.33 FEET; THENCE NORTH 20 DEGREES 06' 15" EAST 539.49 FEET; THENCE NORTH 51 DEGREES 48' EAST 405.76 FEET; THENCE NORTH 74 DEGREES 07' EAST 722.86 FEET; THENCE SOUTH 45 DEGREES 20' 28" EAST 740.97 FEET; THENCE SOUTH 27 DEGREES 46' EAST 498.37 FEET; THENCE SOUTH 13 DEGREES 35' 40" EAST 820.19 FEET; THENCE SOUTH 1 DEGREE 38' 25" WEST 871.22 FEET TO A POINT IN A LINE 600.00 FEET NORTHERLY OF AND PARALLEL WITH THE NORTHERLY LINE OF THE 100-FOOT RIGHT OF WAY OF THE CALIFORNIA STATE HIGHWAY, AS DESCRIBED IN DEED RECORDED APRIL 20, 1936 IN BOOK 822, PAGE 48 OF OFFICIAL RECORDS; THENCE SOUTHEASTERLY, PARALLEL WITH THE NORTHERLY AND NORTHEASTERLY LINE OF SAID CALIFORNIA STATE HIGHWAY, THE FOLLOWING COURSES AND

DISTANCES: THENCE SOUTH 83 DEGREES 18' EAST 328.62 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 1650.00 FEET AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 500.12 FEET; THENCE SOUTH 65 DEGREES 56' EAST, TANGENT TO SAID CURVE, 667.15 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 1650.00 FEET AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 48.34 FEET TO A POINT IN THE SOUTHERLY PROLONGATION OF THE EASTERLY LINE OF WHITTIER AVENUE (60 FEET IN WIDTH), AS SHOWN ON A MAP OF THE NEWPORT MESA TRACT RECORDED IN BOOK 5, PAGE 1 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, A RADIAL LINE FROM SAID POINT BEARS SOUTH 25 DEGREES 44' 43" WEST; THENCE NORTH 0 DEGREES 36' 01" WEST ALONG THE SAID PROLONGATION OF WHITTIER AVENUE, 3061.05 FEET TO A POINT IN THE SOUTHWESTERLY LINE OF SAID FIRST ADDITION TO NEWPORT MESA TRACT; THENCE NORTH 29 DEGREES 24' 45" WEST ALONG THE SOUTHWESTERLY LINE OF SAID FIRST ADDITION TO THE NEWPORT MESA TRACT, 2706.70 FEET TO THE MOST WESTERLY CORNER OF SAID FIRST ADDITION TO THE NEWPORT MESA TRACT; THENCE NORTH 19 DEGREES 01' 55" EAST ALONG THE NORTHWESTERLY LINE OF THE LAST MENTIONED TRACT, 1065.62 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION OF LOT "B" OF SAID BANNING TRACT DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE EASTERLY LINE OF THE 300-FOOT STRIP OF LAND FOR SANTA ANA RIVER CHANNEL, AS DESCRIBED IN THE DEED TO THE NEWBERT PROTECTION DISTRICT, RECORDED JUNE 22, 1911 IN BOOK 197, PAGE 300 OF DEEDS, ORANGE COUNTY, WHICH POINT IS NORTH 71 DEGREES 20' EAST 510.47 FEET FROM THE SOUTHWEST CORNER OF SAID LOT "B", WHICH LAST MENTIONED CORNER IS ALSO STATION 149 OF THE RANCHO SANTIAGO DE SANTA ANA; THENCE NORTH 13 DEGREES 25' EAST ALONG THE EASTERLY LINE OF SAID 300-FOOT STRIP OF LAND, 660 FEET; THENCE SOUTH 76 DEGREES 35' EAST 660 FEET; THENCE SOUTH 13 DEGREES 25' WEST 660 FEET; THENCE NORTH 76 DEGREES 35' WEST 660 FEET TO THE POINT OF BEGINNING, AS CONDEMNED BY THE CITY OF NEWPORT BEACH IN THE ACTION ENTITLED "CITY OF NEWPORT BEACH, A MUNICIPAL CORPORATION, PLAINTIFF VS. TOWNSEND LAND COMPANY AND OTHERS, DEFENDANTS", BEING CASE NO. 34747 OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR ORANGE COUNTY, A CERTIFIED COPY OF THE FINAL JUDGMENT HAVING BEEN RECORDED AUGUST 20, 1937 IN BOOK 910, PAGE 19 OF OFFICIAL RECORDS OF ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, THAT PORTION OF LOT "B" IN SAID BANNING TRACT CONVEYED BY THE TOWNSEND LAND COMPANY TO THE NEWBERT PROTECTION DISTRICT FOR A RIVER CHANNEL, 300 FEET WIDE, BY DEED RECORDED JUNE 22, 1911 IN BOOK 197, PAGE 300 OF DEEDS, ORANGE COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE SOUTHERLY LINE OF SAID LOT "B" OF THE BANNING TRACT, SOUTH 84 DEGREES 45' EAST 135.84 FEET DISTANT FROM THE SOUTHWESTERLY CORNER OF SAID LOT "B", WHICH CORNER IS ALSO STATION 149 OF THE RANCHO SANTIAGO DE SANTA ANA; THENCE NORTH 13 DEGREES 25' EAST ALONG THE WESTERLY SIDE OF SAID 300-FOOT RIGHT OF WAY, 946.75 FEET TO A POINT IN THE WESTERLY LINE OF SAID LOT "B"; THENCE ALONG THE WESTERLY LINE OF SAID LOT "B", NORTH 42 DEGREES 45' EAST 38.70 FEET TO AN ANGLE IN SAID WESTERLY LINE; THENCE NORTH 34 DEGREES 30' EAST 462.00 FEET TO AN ANGLE IN SAID WESTERLY LINE; THENCE NORTH 19 DEGREES 45' EAST 528.00 FEET TO AN ANGLE IN SAID WESTERLY LINE; THENCE STILL ALONG SAID WESTERLY LINE, NORTH 6 DEGREES 15' WEST 723.17 FEET TO A POINT IN THE WESTERLY LINE OF SAID 300-FOOT RIGHT OF WAY; THENCE NORTH 13 DEGREES 25' EAST ALONG THE WESTERLY LINE OF SAID RIGHT OF WAY, 607.27 FEET TO A POINT IN THE WESTERLY LINE OF SAID LOT "B"; THENCE ALONG THE WESTERLY LINE OF SAID LOT "B", NORTH 34 DEGREES 15' EAST 148.48 FEET TO AN ANGLE IN SAID LINE; THENCE NORTH 1 DEGREE 45' EAST 436.44 FEET TO THE NORTHWEST CORNER OF SAID LOT "B"; THENCE ALONG THE NORTHERLY LINE OF SAID LOT "B", NORTH 89 DEGREES 28' EAST 346.14 FEET TO A POINT IN THE EASTERLY LINE OF SAID 300-FOOT RIGHT OF WAY; THENCE SOUTH 13 DEGREES 25' WEST 3831.55 FEET TO THE SOUTHERLY LINE OF SAID LOT "B"; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT "B", NORTH 84 DEGREES 45' WEST 303.08 FEET TO THE POINT OF COMMENCEMENT.

ALSO EXCEPTING THEREFROM, THE PORTIONS THEREOF INCLUDED WITHIN A STRIP OF LAND 30 FEET IN WIDTH, THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT

WHERE THE EASTERLY BOUNDARY LINE OF THE RANCHO LAS BOLSAS BETWEEN STATIONS 78 AND 79 OF THE SAID BOUNDARY LINE IS INTERSECTED BY THE LINE WHICH BEARS NORTH 13 DEGREES 26' 30" EAST FROM THE POINT ON THE SOUTH LINE OF SECTION 18, TOWNSHIP 6 SOUTH, RANGE 10 WEST, SAN BERNARDINO BASE AND MERIDIAN, 2294.92 FEET NORTH 89 DEGREES 38' EAST FROM THE SOUTH QUARTER SECTION CORNER OF SAID SECTION, SAID BEGINNING POINT BEING ON THE SURVEYED CENTER LINE OF THE SANTA ANA-ANAHEIM JOINT OUTFALL SEWER; THENCE FROM SAID POINT OF BEGINNING, SOUTH 13 DEGREES 26' 30" WEST ALONG SAID CENTER LINE TO STATION 187+74.49, BEING THE POINT ON THE SOUTH LINE OF SAID SECTION 18, 2294.92 FEET NORTH 89 DEGREES 38' EAST FROM THE SOUTH QUARTER CORNER OF SAID SECTION; THENCE CONTINUING SOUTH 13 DEGREES 26' 30" WEST ALONG SAID SURVEYED CENTER LINE, 2795.66 FEET TO STATION 215+70.15; THENCE SOUTH 16 DEGREES 27' 30" WEST ALONG SAID CENTER LINE, 1050.35 FEET TO A POINT 15.30 FEET SOUTH 84 DEGREES 45' EAST FROM STATION 68 OF THE RANCHO LAS BOLSAS, TOGETHER WITH THE STRIP OF LAND OF VARYING WIDTHS LYING BETWEEN THE EASTERLY LINE OF THE ABOVE DESCRIBED 30-FOOT STRIP AND THE WESTERLY LINE OF THE RIGHT OF WAY OF THE SANTA ANA RIVER THROUGH THE NEWBERT PROTECTION DISTRICT, AS CONVEYED TO THE CITY OF SANTA ANA BY DEED RECORDED APRIL 14, 1934 IN BOOK 670, PAGE 147 OF OFFICIAL RECORDS, ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, THAT PORTION OF SAID LAND INCLUDED WITHIN A STRIP OF LAND 180 FEET WIDE, DESCRIBED AS PARCELS D3-121.1 AND D3-122.1 IN THE FINAL ORDER OF CONDEMNATION RENDERED JANUARY 26, 1962 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF ORANGE, IN THE ACTION ENTITLED "ORANGE COUNTY FLOOD CONTROL DISTRICT VS. CITY OF NEWPORT BEACH, AND OTHERS" (CASE NO. 77399), A CERTIFIED COPY OF WHICH DECREE WAS RECORDED JANUARY 30, 1962 IN BOOK 5993, PAGE 441 OF OFFICIAL RECORDS, ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, THAT PORTION OF SAID LAND INCLUDED WITHIN THE FOLLOWING DESCRIBED LAND:

THAT PORTION OF BLOCK C OF THE BANNING TRACT, AS SHOWN ON A MAP ATTACHED TO REPORT OF THE REFEREES FILED APRIL 14, 1890 IN CASE NO. 6385 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES, AND THAT PORTION OF LOTS 1111 AND 1112 AND PORTION OF SIXTEENTH STREET AND WHITTIER AVENUE ADJOINING, AS SHOWN ON THE MAP OF NEWPORT MESA TRACT RECORDED IN BOOK 5, PAGE 1 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF SAID SIXTEENTH STREET WITH THE SOUTHWESTERLY BOUNDARY LINE OF FIRST ADDITION TO NEWPORT MESA TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 8, PAGE 61 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE SOUTH 89 DEGREES 21' 50" WEST 16.50 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 500.00 FEET; THENCE WESTERLY ALONG SAID CURVE, THROUGH AN ANGLE OF 28 DEGREES 48' 33", A DISTANCE OF 251.41 FEET TO A LINE TANGENT; THENCE SOUTH 60 DEGREES 33' 17" WEST ALONG SAID LINE TANGENT, A DISTANCE OF 404.60 FEET; THENCE NORTH 29 DEGREES 26' 43" WEST 804.50 FEET; THENCE NORTH 60 DEGREES 33' 17" EAST 300.00 FEET; THENCE SOUTH 88 DEGREES 48' 26" EAST 316.57 FEET TO A POINT IN A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 50.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89 DEGREES 21' 50" EAST; THENCE NORTHERLY ALONG SAID CURVE, THROUGH AN ANGLE OF 44 DEGREES 24' 55", A DISTANCE OF 38.76 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 90.00 FEET; THENCE NORTHERLY ALONG SAID CURVE, THROUGH AN ANGLE OF 44 DEGREES 24' 55", A DISTANCE OF 69.77 FEET TO A LINE TANGENT; THENCE NORTH 0 DEGREES 38' 10" WEST ALONG SAID LINE TANGENT, A DISTANCE OF 11.11 FEET TO THE SAID SOUTHWESTERLY BOUNDARY LINE OF FIRST ADDITION TO NEWPORT MESA TRACT; THENCE SOUTH 29 DEGREES 26' 43" EAST ALONG SAID SOUTHWESTERLY BOUNDARY LINE, A DISTANCE OF 789.32 FEET TO THE POINT OF BEGINNING.

AS DESCRIBED IN THE FINAL ORDER OF CONDEMNATION RENDERED AUGUST 4, 1965 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF ORANGE, ENTITLED "COSTA MESA UNION SCHOOL DISTRICT OF ORANGE COUNTY, CALIFORNIA VS. SECURITY FIRST NATIONAL BANK, ETC., AND OTHERS" (CASE NO. 123141), A CERTIFIED COPY OF WHICH ORDER WAS

RECORDED AUGUST 5, 1965 IN BOOK 7620, PAGE 215 OF OFFICIAL RECORDS, ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, THAT PORTION DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT B OF THE BANNING TRACT, AS SHOWN ON A MAP FILED IN THE CASE OF HANCOCK BANNING AND OTHERS VS. MARY H. BANNING, FOR PARTITION, BEING CASE NO. 6385 UPON THE REGISTER OF ACTIONS OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR LOS ANGELES COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT B; THENCE SOUTHERLY ALONG THE WESTERLY BOUNDARY OF SAID LOT B, SOUTH 01 DEGREE 45' 00" WEST 462.00 FEET TO RANCHO LAS BOLSAS, STATION 75, AND SOUTH 34 DEGREES 15' 00" WEST 462.95 FEET TO RANCHO LAS BOLSAS, STATION 74, BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY BOUNDARY, SOUTH 06 DEGREES 15' 00" EAST TO THE WESTERLY LINE OF THE STRIP OF LAND DESCRIBED IN DEED TO THE CITY OF SANTA ANA, RECORDED APRIL 14, 1934 IN BOOK 670, PAGE 147 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE NORTHERLY ALONG SAID WESTERLY LINE TO THE INTERSECTION WITH THAT CERTAIN COURSE HEREINABOVE CITED AS "SOUTH 34 DEGREES 15' 00" WEST 462.95 FEET"; THENCE ALONG SAID CERTAIN COURSE, SOUTH 34 DEGREES 15' 00" WEST TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THOSE PORTIONS DESCRIBED AS PARCELS 100, 103, 106 AND 108 IN THE NOTICE OF LIS PENDENS, UNITED STATES DISTRICT COURT FOR THE CENTRAL JUSTICE OF CALIFORNIA CASE NO. CV 91-3991IH, A CERTIFIED COPY OF WHICH WAS RECORDED AUGUST 23, 1991 AS INSTRUMENT NO. 91-455338 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY, WHICH INCLUDES A DECLARATION OF TAKING.

ALSO EXCEPTING THEREFROM THAT PORTION INCLUDED WITHIN THE LAND DESCRIBED IN THE INTERLOCUTORY DECREE OF PARTITION, SUPERIOR COURT CASE NO. 22797, A CERTIFIED COPY OF WHICH WAS RECORDED JULY 19, 1929 IN BOOK 297, PAGE 76 OF SAID OFFICIAL RECORDS. ALSO EXCEPTING THEREFROM THAT PORTION INCLUDED WITHIN THE LAND DESCRIBED IN THAT CERTAIN ORDER, SUPERIOR COURT CASE NO. 13753, A CERTIFIED COPY OF WHICH WAS RECORDED APRIL 29, 1949 IN BOOK 1836, PAGE 429 OF SAID OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT B; THENCE SOUTHERLY ALONG THE WESTERLY BOUNDARY OF SAID LOT B, SOUTH 01 DEGREES 45'00" WEST 462.00 FEET TO RANCHO LAS BOLSAS STATION 75; THENCE SOUTH 34 DEGREES 15'00" WEST 462.95 FEET TO RANCHO LAS BOLSAS STATION 74; THENCE SOUTH 6 DEGREES 15'00" EAST 1056.00 FEET TO RANCHO LAS BOLSAS STATION 73; THENCE SOUTH 19 DEGREES 45'00" WEST 528.00 FEET TO RANCHO LAS BOLSAS STATION 72; THENCE SOUTH 34 DEGREES 30'00" WEST 462.00 FEET TO RANCHO LAS BOLSAS STATION 71; THENCE SOUTH 42 DEGREES 45'00" WEST 396.00 FEET TO RANCHO LAS BOLSAS STATION 70 AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY BOUNDARY, SOUTH 4 DEGREES 45'00" WEST 382.72 FEET TO THE WESTERLY LINE OF THE STRIP OF LAND DESCRIBED IN DEED TO THE CITY OF SANTA ANA RECORDED APRIL 14, 1934 IN BOOK 670, PAGE 147 OF SAID OFFICIAL RECORDS; THENCE NORTHERLY ALONG SAID WESTERLY LINE OF SAID DEED TO THE CITY OF SANTA ANA TO THE INTERSECTION WITH THAT CERTAIN COURSE HEREINABOVE CITED AS "SOUTH 42 DEGREES 45'00" WEST 396.00 FEET"; THENCE ALONG SAID CERTAIN COURSE SOUTH 42 DEGREES 45'00" WEST TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION LYING WITHIN SAID PARCEL 1 BEING A PORTION OF LOT "B" OF THE BANNING TRACT, AS SHOWN ON A MAP OF SAID TRACT FILED IN THE CASE OF HANCOCK BANNING AND OTHERS VS. MARY H. BANNING, FOR PARTITION, BEING CASE NO. 6385 UPON THE REGISTER OF ACTIONS OF THE SUPERIOR COURT OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY TERMINUS OF A COURSE IN THE CENTERLINE OF A 30.00 FOOT EASEMENT FOR SEWER AND ROAD PURPOSES PER SUPERIOR COURT CASE NO. 24763 SHOWN AS "NORTH 76°32'23" WEST 1596.18 FEET" ON A MAP FILED IN BOOK 65, PAGES 31 THROUGH 36 OF

RECORDS OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY;

THENCE NORTH 28°40'56" WEST 325.82 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 82°37'16" EAST 7.00 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 370.03 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 66°04'50" WEST;

THENCE NORTHEASTERLY 136.22 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°05'35" TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 214.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 48°19'12" WEST;

THENCE NORTHEASTERLY 58.86 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°45'35" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 238.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 32°33'37" EAST;

THENCE NORTHEASTERLY 33.64 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'52" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 60.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 40°39'29" WEST;

THENCE EASTERLY 54.14 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 51°41'45" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 53.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 11°02'16" WEST;

THENCE EASTERLY 28.31 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°36'35" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 452.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 19°34'19" WEST;

THENCE EASTERLY 169.39 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21°28'18" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 225.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 01°53'59" WEST;

THENCE EASTERLY 48.49 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°20'51" TO THE BEGINNING OF A COMPOUND CURVE, HAVING A RADIUS OF 34.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 10°26'52" EAST;

THENCE NORTHEASTERLY 37.91 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 63°53'17" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 190.00 FEET A RADIAL LINE TO SAID POINT BEARS NORTH 74°20'09" WEST;

THENCE NORTHEASTERLY 100.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°16'57";

THENCE NORTH 45°56'48" EAST 203.87 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 720.00 FEET:

THENCE NORTHEASTERLY 68.25 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°25'51" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 106.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 49°29'03" WEST;

THENCE NORTHEASTERLY 49.14 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°33'32";

THENCE NORTH 67°04'29" EAST 61.05 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 191.00 FEET;

THENCE NORTHEASTERLY 173.36 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 52°00'11";

THENCE NORTH 15°04'18" EAST 50.37 FEET;

THENCE NORTH 75°09'09" WEST 254.42 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 475.00 FEET A RADIAL LINE TO SAID POINT BEARS NORTH 87°35'07" EAST;

THENCE SOUTHERLY 159.68 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 19°15'41" TO THE BEGINNING OF A COMPOUND CURVE, HAVING A RADIUS OF 211.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 73°09'12" EAST;

THENCE SOUTHWESTERLY 261.71 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 71°03'58" TO THE BEGINNING OF A COMPOUND CURVE, HAVING A RADIUS OF 615.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 02°05'14" EAST;

THENCE WESTERLY 258.77 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24°06'29";

THENCE NORTH 67°58'45" WEST 85.44 FEET;

THENCE NORTH 14°50'32" EAST 165.94 FEET;

THENCE NORTH 75°09'09" WEST 204.52 FEET;

THENCE SOUTH 15°18'26" WEST 640.52 FEET;

THENCE SOUTH 34°59'06" EAST 199.12 FEET;

THENCE SOUTH 82°37'16" EAST 65.32 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM, THE TITLE AND EXCLUSIVE RIGHT TO ALL OF THE MINERALS, INCLUDING, BUT NOT LIMITED TO, ALL PETROLEUM, OIL, NATURAL GAS, AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS, UPON, OVER AND BENEATH THE SURFACE OF SAID LAND, AT ALL TIMES TO EXPLORE FOR, EXTRACT AND REMOVE ANY OF SAID MINERALS LOCATED BELOW A DEPTH OF 6200 FEET, BUT WITHOUT THE RIGHT TO USE THE SURFACE OF SAID LAND DOWN TO A DEPTH OF 500 FEET, AS RESERVED IN THE DEED EXECUTED BY HANCOCK BANNING JR. AND OTHERS, DATED AUGUST 1, 1958, RECORDED AUGUST 29, 1958 IN BOOK 4400, PAGE 532, AND RE-RECORDED OCTOBER 6, 1958 IN BOOK 4437, PAGE 228, AS AMENDED BY THE DEED AND AGREEMENT EXECUTED BY HANCOCK BANNING JR. AND OTHERS, RECORDED DECEMBER 27, 1961 IN BOOK 5957, PAGE 665, ALL IN OFFICIAL RECORDS, ORANGE COUNTY.

PARCEL 2:

BEGINNING AT THE SOUTHWEST CORNER OF THAT CERTAIN LAND AS DESCRIBED IN PARCEL 1 IN DEED FROM HANCOCK BANNING JR. AND OTHERS, DATED AUGUST 1, 1958, RECORDED AUGUST 29, 1958 IN BOOK 4400, PAGE 532 OF OFFICIAL RECORDS, ORANGE COUNTY, AND RE-RECORDED OCTOBER 6, 1958 IN BOOK 4437, PAGE 228 OF OFFICIAL RECORDS, ORANGE COUNTY, ALSO BEING THE SOUTHWEST CORNER OF LOT "B" OF THE BANNING TRACT, AS SHOWN ON THE MAP ATTACHED TO THE REPORT OF THE REFEREES FILED APRIL 14, 1890 IN CASE NO. 6385 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES, CALIFORNIA, WHICH CORNER IS ALSO STATION 149 OF THE BOUNDARY LINE OF RANCHO SANTIAGO DE SANTA ANA, AS DESCRIBED IN BOOK 3, PAGE 387 OF PATENTS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 1, SOUTH 72 DEGREES 51' 36" EAST 807.47 FEET TO A POINT WHICH BEARS NORTH 20 DEGREES 32' 44" EAST 606.79 FEET FROM THE POINT OF INTERSECTION OF THE CENTER LINE OF THE SANTA ANA RIVER, AS SHOWN ON THE MAP FILED IN AND ANNEXED TO THE COMPLAINT IN THE CASE OF J. B. BANNING JR. VS. SMITH AND OTHERS, BEING CASE NO. 22797 OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR ORANGE COUNTY, A COPY OF THE JUDGMENT OF SAID CASE NO. 22797 HAVING BEEN RECORDED JULY 19, 1929 IN BOOK 297, PAGE 76 OF OFFICIAL RECORDS, WITH THE SOUTHEASTERLY LINE OF SUMMIT STREET, 30 FEET IN WIDTH, AS SHOWN ON A MAP OF EL MORO TRACT RECORDED IN BOOK 8, PAGE 75 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE

EASTERLY, NORTHEASTERLY AND SOUTHEASTERLY, PARALLEL WITH THE SAID CENTER LINE OF THE SANTA ANA RIVER AND 600.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: SOUTH 78 DEGREES 02' EAST 486.60 FEET; SOUTH 66 DEGREES 42' 20" EAST 517.33 FEET; NORTH 20 DEGREES 06' 15" EAST 539.49 FEET; NORTH 51 DEGREES 48' EAST 405.76 FEET; NORTH 74 DEGREES 07' EAST 722.86 FEET; SOUTH 45 DEGREES 20' 28" EAST 740.97 FEET; SOUTH 27 DEGREES 46' EAST 498.37 FEET; SOUTH 13 DEGREES 35' 40" EAST 820.19 FEET; SOUTH 1 DEGREE 38' 25" WEST 871.22 FEET TO A POINT IN A LINE 600.00 FEET NORTHERLY OF AND PARALLEL WITH THE NORTHERLY LINE OF THE 100-FOOT RIGHT OF WAY OF THE CALIFORNIA STATE HIGHWAY, AS DESCRIBED IN DEED RECORDED APRIL 20, 1936 IN BOOK 822, PAGE 48 OF OFFICIAL RECORDS, ORANGE COUNTY; THENCE SOUTHEASTERLY, PARALLEL WITH THE NORTHERLY AND NORTHEASTERLY LINE OF SAID CALIFORNIA STATE HIGHWAY, THE FOLLOWING COURSES AND DISTANCES: SOUTH 83 DEGREES 18' EAST 328.62 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 1650.00 FEET AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 500.12 FEET; THENCE SOUTH 65 DEGREES 56' EAST, TANGENT TO SAID CURVE, 667.15 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 1650.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 48.34 FEET TO A POINT IN THE SOUTHERLY PROLONGATION OF THE EASTERLY LINE OF WHITTIER AVENUE (60 FEET IN WIDTH), AS SHOWN ON A MAP OF THE FIRST ADDITION TO NEWPORT MESA TRACT RECORDED IN BOOK 8, PAGE 61 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, A RADIAL LINE FROM SAID POINT BEARS SOUTH 25 DEGREES 44' 43" WEST, WHICH POINT IS THE SOUTHEAST CORNER OF SAID PARCEL 1; THENCE SOUTH 0 DEGREES 36' 01" EAST ALONG THE SAID PROLONGATION OF WHITTIER AVENUE, 404.46 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF THAT CERTAIN STRIP OF LAND 250 FEET IN WIDTH, AS DESCRIBED IN PARCEL 1, ARTICLE II OF SAID DEED RECORDED AUGUST 29, 1958 IN BOOK 4400, PAGE 532 OF OFFICIAL RECORDS, ORANGE COUNTY, AND RE-RECORDED OCTOBER 6, 1958 IN BOOK 4437, PAGE 228 OF OFFICIAL RECORDS, ORANGE COUNTY, A RADIAL LINE FROM SAID INTERSECTION BEARS SOUTH 33 DEGREES 40' 54" WEST; THENCE ALONG THE NORTHEASTERLY, NORTHERLY, NORTHWESTERLY AND NORTHERLY LINE OF SAID PARCEL 1, ARTICLE II, THROUGH THE FOLLOWING COURSES AND DISTANCES: NORTHWESTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1300.00 FEET, THROUGH AN ANGLE OF 9 DEGREES 36' 54", A DISTANCE OF 218.16 FEET TO A LINE TANGENT THERETO; THENCE NORTH 65 DEGREES 56' WEST, TANGENT TO SAID CURVE, 667.15 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE WESTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 1300.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 394.04 FEET; THENCE NORTH 83 DEGREES 18' WEST, TANGENT TO SAID CURVE, 646.66 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT; THENCE WESTERLY ALONG A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 700.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 2.34 FEET TO A POINT IN A LINE PARALLEL WITH THE SAID CENTER LINE OF THE SANTA ANA RIVER, AND 250.00 FEET DISTANT EAST THEREFROM, MEASURED AT RIGHT ANGLES THERETO, A RADIAL LINE FROM SAID POINT BEARS NORTH 6 DEGREES 53' 29" EAST; THENCE NORTHERLY, NORTHWESTERLY AND SOUTHWESTERLY, PARALLEL WITH THE SAID CENTER LINE OF THE SANTA ANA RIVER, AND 250.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: NORTH 1 DEGREE 38' 25" EAST 1144.77 FEET; NORTH 13 DEGREES 35' 40" WEST 729.87 FEET; NORTH 27 DEGREES 46' WEST 400.76 FEET; NORTH 45 DEGREES 20' 28" WEST 482.58 FEET; SOUTH 74 DEGREES 07' WEST 449.53 FEET; SOUTH 51 DEGREES 48' WEST 237.37 FEET; SOUTH 20 DEGREES 06' 15" WEST 319.00 FEET TO A POINT IN A LINE PARALLEL WITH THE NORTHWESTERLY LINE OF TRACT NO. 772, AS SHOWN ON A MAP RECORDED IN BOOK 23, PAGES 5 AND 6 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, AND 250 FEET DISTANT WEST THEREFROM, MEASURED AT RIGHT ANGLES THERETO; THENCE SOUTHWESTERLY AND WESTERLY, PARALLEL WITH THE NORTHWESTERLY AND NORTHERLY LINE OF SAID TRACT NO. 772, AND 250.00 FEET DISTANT WESTERLY AND NORTHWESTERLY THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: SOUTH 29 DEGREES 06' WEST 258.16 FEET; SOUTH 42 DEGREES 06' WEST 131.37 FEET; SOUTH 72 DEGREES 45' WEST 158.65 FEET; NORTH 88 DEGREES 25' WEST 16.51 FEET TO A POINT IN A LINE PARALLEL WITH THE SAID CENTER LINE OF THE SANTA ANA RIVER AND 250.00 FEET DISTANT NORTHERLY THEREFROM, MEASURED AT RIGHT ANGLES THERETO; THENCE WESTERLY, PARALLEL WITH THE SAID CENTER LINE OF THE SANTA ANA RIVER AND 250.00 FEET DISTANT NORTHERLY THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: NORTH 66 DEGREES 42' 20" WEST 620.94 FEET; NORTH 78

DEGREES 02' WEST 504.69 FEET TO A POINT IN A LINE PARALLEL WITH THE NORTHERLY LINE OF BLOCK C, EL MORO TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 8, PAGE 75 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, AND 250.00 FEET DISTANT NORTHERLY THEREFROM, MEASURED AT RIGHT ANGLES THERETO; THENCE WESTERLY, PARALLEL WITH THE SAID NORTHERLY LINE OF BLOCK C, EL MORO TRACT, AND 250.00 FEET DISTANT NORTHERLY THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: NORTH 60 DEGREES 52' 34" WEST 120.39 FEET; NORTH 64 DEGREES 06' 50" WEST 216.59 FEET TO A POINT IN THE EASTERLY LINE OF THE EASEMENT FOR THE PURPOSE OF MAINTAINING A RIVER CHANNEL OVER A STRIP OF LAND 300 FEET WIDE, IN FAVOR OF NEWBERT PROTECTION DISTRICT, AS DESCRIBED IN THE INTERLOCUTORY DECREE OF PARTITION DATED JULY 19, 1929, A CERTIFIED COPY OF WHICH WAS RECORDED JULY 19, 1929 IN BOOK 297, PAGE 76 OF OFFICIAL RECORDS, ORANGE COUNTY, SAID POINT BEING THE MOST NORTHWESTERLY CORNER OF SAID PARCEL 1, ARTICLE II; THENCE SOUTH 13 DEGREES 25' WEST ALONG SAID EASTERLY LINE OF THE RIVER CHANNEL, 256.04 FEET TO THE MOST SOUTHWESTERLY CORNER OF SAID PARCEL 1, ARTICLE II; THENCE NORTH 64 DEGREES 06' 50" WEST ALONG THE NORTHERLY LINE OF SAID BLOCK C OF EL MORO TRACT, 16.02 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF THE 100-FOOT RIGHT OF WAY OF CALIFORNIA STATE HIGHWAY; THENCE NORTH 54 DEGREES 02' WEST ALONG SAID HIGHWAY RIGHT OF WAY LINE, 145.48 FEET TO THE CENTER LINE OF SAID 300-FOOT RIVER CHANNEL EASEMENT; THENCE NORTH 13 DEGREES 25' EAST ALONG SAID CENTER LINE, 390.57 FEET TO THE NORTHEAST CORNER OF LAND DESCRIBED IN DEED DATED DECEMBER 30, 1929 FROM JOSEPH BANNING JR. AND OTHERS, TO JAMES H. MACKLIN, RECORDED JANUARY 29, 1930 IN BOOK 356, PAGE 31 OF OFFICIAL RECORDS, ORANGE COUNTY; THENCE NORTH 74 DEGREES 17' WEST 289.47 FEET TO A POINT IN THE SOUTHERLY EXTENSION OF THE WESTERLY BOUNDARY LINE OF SAID RANCHO SANTIAGO DE SANTA ANA, WHICH POINT IS ALSO THE NORTHWEST CORNER OF SAID LAND DESCRIBED IN SAID DEED RECORDED IN BOOK 356, PAGE 31 OF OFFICIAL RECORDS, ORANGE COUNTY; THENCE NORTH 15 DEGREES 43' EAST ALONG THE SAID SOUTHERLY EXTENSION OF THE WESTERLY BOUNDARY LINE OF RANCHO SANTIAGO DE SANTA ANA, 119.00 FEET TO THE POINT OF BEGINNING.

EXCEPT ANY PORTION OR PORTIONS OF SAID ABOVE DESCRIBED LAND WHICH IS OR ARE NOT INCLUDED EITHER WITHIN THE EXTERIOR BOUNDARIES OF THE RANCHO SANTIAGO DE SANTA ANA, OR WITHIN THE EXTERIOR BOUNDARY LINES OF GOVERNMENT LOT 1, SECTION 19; GOVERNMENT LOT 1, SECTION 20; AND GOVERNMENT LOT 1, SECTION 29, ALL IN TOWNSHIP 6 SOUTH, RANGE 10 WEST, SAN BERNARDINO BASE AND MERIDIAN.

ALSO EXCEPTING THEREFROM, THAT PORTION OF SAID LAND INCLUDED WITHIN A STRIP OF LAND 180 FEET WIDE, DESCRIBED AS PARCEL D3-122.1 IN THE FINAL ORDER OF CONDEMNATION RENDERED JANUARY 26, 1962 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF ORANGE, IN THE ACTION ENTITLED "ORANGE COUNTY FLOOD CONTROL DISTRICT VS. CITY OF NEWPORT BEACH AND OTHERS" (CASE NO. 77399), A CERTIFIED COPY OF WHICH DECREE RECORDED JANUARY 20, 1962, BOOK 5993, PAGE 441, OFFICIAL RECORDS, ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THOSE PORTIONS DESCRIBED AS PARCELS 100, 103, 106 AND 108 IN THE NOTICE OF LIS PENDENS, UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA CASE NO. CV 91-3991-IH, A CERTIFIED COPY OF WHICH WAS RECORDED AUGUST 23, 1991 AS INSTRUMENT NO. 91-455338 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY, WHICH INCLUDES A DECLARATION OF TAKING.

ALSO EXCEPTING THEREFROM THAT PORTION INCLUDED WITHIN THE LAND DESCRIBED IN THE INTERLOCUTORY DECREE OF PARTITION, SUPERIOR COURT CASE NO. 22797, A CERTIFIED COPY OF WHICH WAS RECORDED JULY 19, 1929 IN BOOK 297, PAGE 76 OF SAID OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION INCLUDED WITHIN THE LAND DESCRIBED IN THAT CERTAIN ORDER, SUPERIOR COURT CASE NO. 13753, A CERTIFIED COPY OF WHICH WAS RECORDED APRIL 29, 1949 IN BOOK 1836, PAGE 429 OF SAID OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION LYING WITHIN SAID PARCEL 2 BEING A PORTION OF LOT "B" OF THE BANNING TRACT, AS SHOWN ON A MAP OF SAID TRACT FILED IN THE CASE OF HANCOCK BANNING AND OTHERS VS. MARY H. BANNING, FOR PARTITION, BEING CASE NO. 6385

UPON THE REGISTER OF ACTIONS OF THE SUPERIOR COURT OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY TERMINUS OF A COURSE IN THE CENTERLINE OF A 30.00 FOOT EASEMENT FOR SEWER AND ROAD PURPOSES PER SUPERIOR COURT CASE NO. 24763 SHOWN AS "NORTH 76°32'23" WEST 1596.18 FEET" ON A MAP FILED IN BOOK 65, PAGES 31 THROUGH 36 OF RECORDS OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY;

THENCE NORTH 28°40'56" WEST 325.82 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 82°37'16" EAST 7.00 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 370.03 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 66°04'50" WEST;

THENCE NORTHEASTERLY 136.22 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°05'35" TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 214.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 48°19'12" WEST;

THENCE NORTHEASTERLY 58.86 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°45'35" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 238.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 32°33'37" EAST;

THENCE NORTHEASTERLY 33.64 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°05'52" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 60.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 40°39'29" WEST;

THENCE EASTERLY 54.14 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 51°41'45" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 53.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 11°02'16" WEST;

THENCE EASTERLY 28.31 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°36'35" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 452.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 19°34'19" WEST;

THENCE EASTERLY 169.39 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21°28'18" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 225.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 01°53'59" WEST;

THENCE EASTERLY 48.49 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°20'51" TO THE BEGINNING OF A COMPOUND CURVE, HAVING A RADIUS OF 34.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 10°26'52" EAST;

THENCE NORTHEASTERLY 37.91 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 63°53'17" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 190.00 FEET A RADIAL LINE TO SAID POINT BEARS NORTH 74°20'09" WEST;

THENCE NORTHEASTERLY 100.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°16'57";

THENCE NORTH 45°56'48" EAST 203.87 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 720.00 FEET:

THENCE NORTHEASTERLY 68.25 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°25'51" TO THE BEGINNING OF A REVERSE CURVE, HAVING A RADIUS OF 106.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 49°29'03" WEST;

THENCE NORTHEASTERLY 49.14 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°33'32";

THENCE NORTH 67°04'29" EAST 61.05 FEET TO THE BEGINNING OF A CURVE CONCAVE

NORTHWESTERLY, HAVING A RADIUS OF 191.00 FEET;

THENCE NORTHEASTERLY 173.36 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 52°00'11";

THENCE NORTH 15°04'18" EAST 50.37 FEET;

THENCE NORTH 75°09'09" WEST 254.42 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 475.00 FEET A RADIAL LINE TO SAID POINT BEARS NORTH 87°35'07" EAST;

THENCE SOUTHERLY 159.68 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 19°15'41" TO THE BEGINNING OF A COMPOUND CURVE, HAVING A RADIUS OF 211.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 73°09'12" EAST;

THENCE SOUTHWESTERLY 261.71 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 71°03'58" TO THE BEGINNING OF A COMPOUND CURVE, HAVING A RADIUS OF 615.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 02°05'14" EAST;

THENCE WESTERLY 258.77 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24°06'29";

THENCE NORTH 67°58'45" WEST 85.44 FEET;

THENCE NORTH 14°50'32" EAST 165.94 FEET;

THENCE NORTH 75°09'09" WEST 204.52 FEET;

THENCE SOUTH 15°18'26" WEST 640.52 FEET;

THENCE SOUTH 34°59'06" EAST 199.12 FEET;

THENCE SOUTH 82°37'16" EAST 65.32 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION LYING WITHIN SAID PARCEL 2 BEING A PORTION OF LOT "D" OF THE BANNING TRACT, AS SHOWN ON A MAP OF SAID TRACT FILED IN THE CASE OF HANCOCK BANNING AND OTHERS VS. MARY H. BANNING, FOR PARTITION, BEING CASE NO. 6385 UPON THE REGISTER OF ACTIONS OF THE SUPERIOR COURT OF LOS ANGELES COUNTY, CALIFORNIA, A PORTION OF RANCHO SANTIAGO DE SANTA ANA, DESCRIBED IN BOOK 3, PAGE 387 OF PATENTS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHERLY TERMINUS OF THAT CERTAIN COURSE IN THE EXISTING NEWPORT BEACH CITY BOUNDARY SHOWN AS "SOUTH 4°31'33" EAST 439.65 FEET" ON A MAP FILED IN BOOK 65, PAGES 31 THROUGH 36 OF RECORDS OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE NORTHWESTERLY LINE OF PARCEL "A" AS DESCRIBED IN QUITCLAIM DEED TO THE CITY OF NEWPORT BEACH RECORDED APRIL 12, 1983 AS INSTRUMENT NO. 83-151675 OF OFFICIAL RECORDS OF ORANGE, COUNTY;

THENCE ALONG SAID NORTHWESTERLY LINE NORTH 77°00'03" EAST 17.10 FEET TO A POINT ON THE NORTHERLY LINE OF THAT CANAL OR BODY OF WATER SOMETIMES COMMONLY KNOWN AS "OXBOW LOOP", SAID OXBOW LOOP BEING A FORMER BED OF THE SANTA ANA RIVER, AS SAID NORTHERLY LINE IS DESCRIBED IN THAT INSTRUMENT TITLED "SETTLEMENT AND BOUNDARY LINE AGREEMENT, STATE AND CITY DEEDS AND CORPORATION DEED REGARDING CERTAIN LANDS IN THE COUNTY OF ORANGE, CALIFORNIA, BLA NO. 260", BETWEEN THE STATE OF CALIFORNIA AND CITY OF NEWPORT BEACH (AS TRUSTEE AND INDIVIDUALLY) AS ONE PARTY, AND MOBIL OIL CORPORATION AND RANCHO SANTIAGO PARTNERSHIP AS THE OTHER PARTY, DATED 28 FEBRUARY 1989 AND RECORDED 30 AUGUST 1989 AS DOCUMENT NO. 89-466419, OF OFFICIAL RECORDS OF ORANGE COUNTY SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION:

THENCE ALONG SAID AGREEMENT LINE SOUTH 5°07'00" EAST 3.34 FEET, SOUTH 2°00'00" WEST 60.00

FEET AND SOUTH 1°55'00" EAST 588.87 FEET TO A POINT IN THE NORTHERLY LINE OF PARCEL 73170-1 IN THAT CERTAIN FINAL DEGREE OF CONDEMNATION, SUPERIOR COURT CASE NO. 667539, A CERTIFIED COPY OF WHICH WAS RECORDED JANUARY 14, 1994 AS INSTRUMENT NO. 94-0032786 OF OFFICIAL RECORDS OF ORANGE COUNTY;

THENCE ALONG SAID NORTHERLY LINE SOUTH 83°25'55" EAST 322.37 FEET, SOUTH 6°42'45" WEST 5.00 FEET AND SOUTH 83°17'15" EAST 54.65 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY LINE OF SAID PARCEL "A";

THENCE ALONG SAID NORTHEASTERLY LINE AND ITS NORTHWESTERLY PROLONGATION NORTH 12°59'57" WEST 770.26 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY PROLONGATION OF SAID NORTHWESTERLY LINE OF PARCEL "A";

THENCE ALONG SAID PROLONGATION AND NORTHWESTERLY LINE SOUTH 77°00'03" WEST 224.34 FEET TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM, THE TITLE AND EXCLUSIVE RIGHT TO ALL OF THE MINERALS, INCLUDING, BUT NOT LIMITED TO, ALL PETROLEUM, OIL, NATURAL GAS AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, IN OR UNDER, OR PRODUCIBLE FROM SAID LAND AT ANY DEPTH OR DEPTHS 6200 FEET OR MORE BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE FREE AND UNLIMITED RIGHT TO MINE, DRILL, BORE, OPERATE AND REMOVE FROM BENEATH THE SURFACE OF SAID LAND, AT ANY LEVEL OR LEVELS 500 FEET OR MORE BELOW THE SURFACE OF SAID LAND, FOR THE PURPOSE OF DEVELOPMENT OR REMOVAL OF SAID RESERVED SUBSTANCES, AS RESERVED IN THE DEED AND AGREEMENT FROM HANCOCK BANNING JR. AND OTHERS, RECORDED DECEMBER 27, 1961 IN BOOK 5957, PAGE 665 OF OFFICIAL RECORDS, ORANGE COUNTY, SUBJECT TO CERTAIN LIMITATIONS AND CONTINGENCIES CONTAINED IN SAID DEED.

PARCEL 3:

A STRIP OF LAND 250 FEET WIDE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF BLOCK C OF EL MORO TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 8, PAGE 75 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, AND THE EASTERLY LINE OF THE EASEMENT FOR THE PURPOSE OF MAINTAINING A RIVER CHANNEL OVER A STRIP OF LAND 300 FEET WIDE, IN FAVOR OF NEWBERT PROTECTION DISTRICT, AS DESCRIBED IN THE INTERLOCUTORY DECREE OF PARTITION DATED JULY 19, 1929, A CERTIFIED COPY OF WHICH WAS RECORDED JULY 19, 1929 IN BOOK 297, PAGE 76 OF OFFICIAL RECORDS; THENCE SOUTH 64 DEGREES 06' 50" EAST, ALONG THE NORTHERLY LINE OF SAID EL MORO TRACT, 154.24 FEET; THENCE CONTINUING ALONG THE LAST MENTIONED NORTHERLY LINE, SOUTH 60 DEGREES 52' 34" EAST 151.04 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF SUMMIT STREET, 30.00 FEET IN WIDTH, AS SHOWN ON THE MAP OF SAID EL MORO TRACT, SAID POINT BEING IN THE CENTER LINE OF THE SANTA ANA RIVER, AS SHOWN ON A MAP FILED IN AND ANNEXED TO THE COMPLAINT IN CASE OF J. B. BANNING JR. VS. SMITH AND OTHERS, CASE NO. 22797 OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR ORANGE COUNTY, A COPY OF THE JUDGMENT OF SAID CASE NO. 22797 HAVING BEEN RECORDED JULY 19, 1929 IN BOOK 297, PAGE 76 OF OFFICIAL RECORDS, ORANGE COUNTY; THENCE SOUTH 78 DEGREES 02' EAST ALONG THE SAID CENTER LINE OF THE SANTA ANA RIVER, 517.61 FEET; THENCE CONTINUING ALONG THE SAID CENTER LINE OF THE SANTA ANA RIVER, SOUTH 66 DEGREES 42' 20" EAST 644.09 FEET TO A POINT IN THE NORTHERLY LINE OF TRACT NO. 772, AS SHOWN ON A MAP RECORDED IN BOOK 23, PAGES 5 AND 6 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE EASTERLY AND NORTHEASTERLY ALONG THE NORTHERLY AND NORTHWESTERLY LINE OF SAID TRACT NO. 772, THE FOLLOWING COURSES AND DISTANCES: SOUTH 88 DEGREES 25' EAST 105.91 FEET; NORTH 72 DEGREES 45' EAST 268.62 FEET; NORTH 42 DEGREES 06' EAST 228.36 FEET; NORTH 29 DEGREES 06' EAST 306.31 FEET TO A POINT IN THE SAID CENTER LINE OF THE SANTA ANA RIVER; THENCE ALONG THE SAID CENTER LINE OF THE SANTA ANA RIVER, THE FOLLOWING COURSES AND DISTANCES: NORTH 20 DEGREES 06' 15" EAST 267.71 FEET; NORTH 51 DEGREES 48' EAST 117.09 FEET; NORTH 74 DEGREES 07' EAST 254.30 FEET; SOUTH 45 DEGREES 20' 28" EAST 298.02 FEET; SOUTH 27 DEGREES 46' EAST 331.04 FEET; SOUTH 13 DEGREES 35' 40" EAST 665.36 FEET; SOUTH 1 DEGREE 38' 25" WEST 1205.19 FEET; SOUTH 10 DEGREES 47' 30" EAST 116.85 FEET TO A POINT IN

THE NORTHERLY LINE OF THE 100-FOOT RIGHT OF WAY OF THE CALIFORNIA STATE HIGHWAY, AS DESCRIBED IN DEED RECORDED APRIL 20, 1936 IN BOOK 822, PAGE 48 OF OFFICIAL RECORDS, ORANGE COUNTY, A RADIAL LINE FROM SAID POINT BEARS NORTH 19 DEGREES 20' 43" EAST; THENCE ALONG THE NORTHERLY AND NORTHEASTERLY LINE OF SAID CALIFORNIA STATE HIGHWAY, THE FOLLOWING COURSES AND DISTANCES: EASTERLY ALONG A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 950.00 FEET, A DISTANCE OF 209.67 FEET; SOUTH 83 DEGREES 18' EAST, TANGENT TO SAID CURVE, 646.66 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 1050.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 318.26 FEET; SOUTH 65 DEGREES 56' EAST, TANGENT TO SAID CURVE, 667.15 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 1050.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 216.09 FEET; SOUTH 54 DEGREES 08' 30" EAST 387.05 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 950.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 264.46 FEET; SOUTH 70 DEGREES 05' 30" EAST, TANGENT TO SAID CURVE, 527.80 FEET TO THE SOUTHEASTERLY BOUNDARY LINE OF LOT D OF THE BANNING TRACT, AS SHOWN ON THE MAP ATTACHED TO THE REPORT OF THE REFEREES FILED APRIL 14, 1980 IN CASE NO. 6385 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES, CALIFORNIA; THENCE LEAVING SAID CALIFORNIA STATE HIGHWAY, NORTH 39 DEGREES 43' 45" EAST, ALONG THE SOUTHEASTERLY BOUNDARY LINE OF SAID LOT D OF BANNING TRACT, 265.74 FEET TO A POINT, BEING 250.00 FEET NORTH, MEASURED AT RIGHT ANGLES FROM THE NORTHEASTERLY LINE OF SAID 100-FOOT RIGHT OF WAY OF THE CALIFORNIA STATE HIGHWAY; THENCE NORTH 70 DEGREES 05' 30" WEST, PARALLEL WITH THE NORTHEASTERLY LINE OF SAID STATE HIGHWAY, 49.03 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF THAT CERTAIN 2.7827-ACRE PARCEL OF LAND AS DESCRIBED IN DEED FROM FARMERS AND MERCHANTS NATIONAL BANK OF LOS ANGELES, TRUSTEE FOR ANNE O. BANNING AND OTHERS, TO A. E. S. CHAFFEY AND OTHERS, RECORDED MARCH 14, 1958 IN BOOK 4228, PAGE 191 OF OFFICIAL RECORDS, ORANGE COUNTY, A RADIAL LINE FROM SAID POINT BEARS NORTH 26 DEGREES 10' 42" WEST; THENCE ALONG THE BOUNDARY LINE OF THE LAST MENTIONED PARCEL OF LAND, THE FOLLOWING COURSES AND DISTANCES: SOUTHWESTERLY ALONG A CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 373.48 FEET, A DISTANCE OF 176.40 FEET TO THE MOST SOUTHERLY CORNER OF SAID PARCEL OF LAND, NORTH 5 DEGREES 44' 28" WEST 104.32 FEET TO A POINT IN A LINE PARALLEL WITH THE NORTHEASTERLY LINE OF SAID STATE HIGHWAY, AND 250.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO; THENCE NORTHWESTERLY, PARALLEL WITH THE SAID NORTHEASTERLY AND NORTHERLY LINE OF SAID STATE HIGHWAY, AND 250 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: NORTH 70 DEGREES 05' 30" WEST 376.41 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, NORTHWESTERLY ALONG A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 700.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 194.87 FEET; NORTH 54 DEGREES 08' 30" WEST, TANGENT TO SAID CURVE, 387.05 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, NORTHWESTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 1300.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 267.55 FEET; NORTH 65 DEGREES 56' WEST, TANGENT TO THE SAID CURVE, 667.15 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, WESTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 1300.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 394.04 FEET; THENCE NORTH 83 DEGREES 18' WEST, TANGENT TO SAID CURVE, 646.66 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, WESTERLY ALONG A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 700.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, A DISTANCE OF 2.34 FEET TO A POINT IN A LINE PARALLEL WITH THE SAID CENTER LINE OF THE SANTA ANA RIVER, AND 250.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO, A RADIAL LINE FROM SAID POINT BEARS NORTH 6 DEGREES 53' 29" EAST; THENCE NORTHERLY, NORTHWESTERLY AND SOUTHWESTERLY, PARALLEL WITH THE SAID CENTER LINE OF THE SANTA ANA RIVER, AND 250.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: NORTH 1 DEGREE 38' 25" EAST 1144.77 FEET; NORTH 13 DEGREES 35' 40" WEST 729.87 FEET; NORTH 27 DEGREES 46' WEST 400.76 FEET; NORTH 45 DEGREES 20' 28" WEST 482.58 FEET; SOUTH 74 DEGREES 07' WEST 449.53 FEET; SOUTH 51 DEGREES 48' WEST 237.37 FEET; SOUTH 20 DEGREES 06' 15" WEST 319.00 FEET TO A POINT IN A LINE PARALLEL WITH THE SAID NORTHWESTERLY LINE OF TRACT NO. 772, AND 250 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO; THENCE SOUTHWESTERLY AND WESTERLY, PARALLEL WITH

NORTHWESTERLY AND NORTHERLY LINE OF SAID TRACT NO. 772, AND 250.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: SOUTH 29 DEGREES 06' WEST 258.16 FEET; SOUTH 42 DEGREES 06' WEST 131.37 FEET; SOUTH 72 DEGREES 45' WEST 158.65 FEET; NORTH 88 DEGREES 25' WEST 16.51 FEET TO A POINT IN A LINE PARALLEL WITH THE SAID CENTER LINE OF THE SANTA ANA RIVER, AND 250.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO; THENCE WESTERLY, PARALLEL WITH THE SAID CENTER LINE OF THE SANTA ANA RIVER, AND 250.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: NORTH 66 DEGREES 42' 20" WEST 620.94 FEET; NORTH 78 DEGREES 02' WEST 504.69 FEET TO A POINT IN A LINE PARALLEL WITH THE SAID NORTHERLY LINE OF BLOCK C, EL MORO TRACT, AND 250.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO; THENCE WESTERLY, PARALLEL WITH THE SAID NORTHERLY LINE OF BLOCK C, EL MORO TRACT, AND 250.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: NORTH 60 DEGREES 52' 34" WEST 120.39 FEET, AND NORTH 64 DEGREES 06' 50" WEST 216.59 FEET TO A POINT IN THE EASTERLY LINE OF SAID EASEMENT 300.00 FEET WIDE, FOR PURPOSE OF MAINTAINING THE SANTA ANA RIVER CHANNEL; THENCE SOUTH 13 DEGREES 25' WEST ALONG SAID EASTERLY LINE OF THE RIVER CHANNEL, 256.04 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION THEREOF LYING GENERALLY SOUTHERLY OF THE AGREED BOUNDARY LINE DESCRIBED IN EXHIBIT "E" ATTACHED TO THAT CERTAIN SETTLEMENT AND BOUNDARY LINE AGREEMENT, STATE AND CITY DEEDS AND CORPORATION DEED REGARDING CERTAIN LANDS IN THE COUNTY OF ORANGE, CALIFORNIA, BLA. NO. 260 RECORDED AUGUST 30, 1989 AS INSTRUMENT NO. 89-466419 OF SAID OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM, THE PORTION OR PORTIONS OF SAID LAND WHICH IS OR ARE NOT INCLUDED EITHER WITHIN THE EXTERIOR BOUNDARIES OF THE RANCHO SANTIAGO DE SANTA ANA, THE PATENT FOR WHICH WAS RECORDED JUNE 28, 1884 IN BOOK 3, PAGE 387 OF PATENTS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, AND AS ESTABLISHED BY SAID HEREINABOVE DESCRIBED SETTLEMENT AND BOUNDARY LINE AGREEMENT, OR WITHIN THE EXTERIOR BOUNDARIES OF LOT 1 OF SECTION 19, TOWNSHIP 6 SOUTH, RANGE 10 WEST; LOT 1 OF SECTION 20, TOWNSHIP 6 SOUTH, RANGE 10 WEST; AND LOT 1 OF SECTION 29, TOWNSHIP 6 SOUTH, RANGE 10 WEST, SAN BERNARDINO BASE AND MERIDIAN, THE PATENT FOR WHICH LOTS WAS RECORDED APRIL 19, 1893 IN BOOK 1, PAGE 66 OF PATENTS, RECORDS OF ORANGE COUNTY, CALIFORNIA, OR WITHIN ACCRETIONS OF SAID RANCHO OR SAID LOTS.

ALSO EXCEPTING THEREFROM, THAT PORTION INCLUDED WITHIN THE PARCEL OF LAND DESCRIBED AS PARCEL D3-122.1 IN THE FINAL ORDER OF CONDEMNATION RENDERED JANUARY 26, 1962 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF ORANGE, IN THE ACTION ENTITLED "ORANGE COUNTY FLOOD CONTROL DISTRICT VS. CITY OF NEWPORT BEACH AND OTHERS" (CASE NO. 77399), A CERTIFIED COPY OF WHICH FINAL ORDER WAS RECORDED JANUARY 30, 1962 IN BOOK 5993, PAGE 441 OF OFFICIAL RECORDS, ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, THE PORTION INCLUDED WITHIN THE LAND DESCRIBED IN DEED TO THE STATE OF CALIFORNIA RECORDED FEBRUARY 14, 1966 IN BOOK 7839, PAGE 739 OF OFFICIAL RECORDS, ORANGE COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED AS PARCEL 73170-1 IN THAT CERTAIN FINAL DECREE OF CONDEMNATION, SUPERIOR COURT CASE NO. 667539, A CERTIFIED COPY OF WHICH WAS RECORDED JANUARY 14, 1994 AS INSTRUMENT NO. 94-0032786 OF SAID OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THOSE PORTIONS DESCRIBED AS PARCELS 100, 103, 106 AND 108 IN THE NOTICE OF LIS PENDENS, UNITED STATES DISTRICT COURT FOR THE CENTRAL JUSTICE OF CALIFORNIA CASE NO. CV 91-3991IH, A CERTIFIED OF WHICH WAS RECORDED AUGUST 23, 1991 AS INSTRUMENT NO. 91-455338 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY, WHICH INCLUDES A DECLARATION OF TAKING.

ALSO EXCEPTING THEREFROM THAT PORTION LYING WITHIN SAID PARCEL 3 BEING A PORTION OF LOT "D" OF THE BANNING TRACT, AS SHOWN ON A MAP OF SAID TRACT FILED IN THE CASE OF

HANCOCK BANNING AND OTHERS VS. MARY H. BANNING, FOR PARTITION, BEING CASE NO. 6385 UPON THE REGISTER OF ACTIONS OF THE SUPERIOR COURT OF LOS ANGELES COUNTY, CALIFORNIA, A PORTION OF RANCHO SANTIAGO DE SANTA ANA, DESCRIBED IN BOOK 3, PAGE 387 OF PATENTS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHERLY TERMINUS OF THAT CERTAIN COURSE IN THE EXISTING NEWPORT BEACH CITY BOUNDARY SHOWN AS "SOUTH 4°31'33" EAST 439.65 FEET" ON A MAP FILED IN BOOK 65, PAGES 31 THROUGH 36 OF RECORDS OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE NORTHWESTERLY LINE OF PARCEL "A" AS DESCRIBED IN QUITCLAIM DEED TO THE CITY OF NEWPORT BEACH RECORDED APRIL 12, 1983 AS INSTRUMENT NO. 83-151675 OF OFFICIAL RECORDS OF ORANGE, COUNTY;

THENCE ALONG SAID NORTHWESTERLY LINE NORTH 77°00'03" EAST 17.10 FEET TO A POINT ON THE NORTHERLY LINE OF THAT CANAL OR BODY OF WATER SOMETIMES COMMONLY KNOWN AS "OXBOW LOOP", SAID OXBOW LOOP BEING A FORMER BED OF THE SANTA ANA RIVER, AS SAID NORTHERLY LINE IS DESCRIBED IN THAT INSTRUMENT TITLED "SETTLEMENT AND BOUNDARY LINE AGREEMENT, STATE AND CITY DEEDS AND CORPORATION DEED REGARDING CERTAIN LANDS IN THE COUNTY OF ORANGE, CALIFORNIA, BLA NO. 260", BETWEEN THE STATE OF CALIFORNIA AND CITY OF NEWPORT BEACH (AS TRUSTEE AND INDIVIDUALLY) AS ONE PARTY, AND MOBIL OIL CORPORATION AND RANCHO SANTIAGO PARTNERSHIP AS THE OTHER PARTY, DATED 28 FEBRUARY 1989 AND RECORDED 30 AUGUST 1989 AS DOCUMENT NO. 89-466419, OF OFFICIAL RECORDS OF ORANGE COUNTY SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION:

THENCE ALONG SAID AGREEMENT LINE SOUTH 5°07'00" EAST 3.34 FEET, SOUTH 2°00'00" WEST 60.00 FEET AND SOUTH 1°55'00" EAST 588.87 FEET TO A POINT IN THE NORTHERLY LINE OF PARCEL 73170-1 IN THAT CERTAIN FINAL DEGREE OF CONDEMNATION, SUPERIOR COURT CASE NO. 667539, A CERTIFIED COPY OF WHICH WAS RECORDED JANUARY 14, 1994 AS INSTRUMENT NO. 94-0032786 OF OFFICIAL RECORDS OF ORANGE COUNTY;

THENCE ALONG SAID NORTHERLY LINE SOUTH 83°25'55" EAST 322.37 FEET, SOUTH 6°42'45" WEST 5.00 FEET AND SOUTH 83°17'15" EAST 54.65 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY LINE OF SAID PARCEL "A";

THENCE ALONG SAID NORTHEASTERLY LINE AND ITS NORTHWESTERLY PROLONGATION NORTH 12°59'57" WEST 770.26 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY PROLONGATION OF SAID NORTHWESTERLY LINE OF PARCEL "A";

THENCE ALONG SAID PROLONGATION AND NORTHWESTERLY LINE SOUTH 77°00'03" WEST 224.34 FEET TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM, AN UNDIVIDED 30% INTEREST IN AND TO THE TITLE AND EXCLUSIVE RIGHT TO ALL OF THE MINERALS, INCLUDING, BUT NOT LIMITED TO, ALL PETROLEUM, OIL, NATURAL GAS, AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED FROM SAID LAND LOCATED BELOW A DEPTH OF 6200 FEET, BUT WITHOUT THE RIGHT TO USE THE SURFACE OF SAID LAND DOWN TO A DEPTH OF 500 FEET, AS RESERVED IN THE DEED FROM HANCOCK BANNING JR. AND OTHERS, DATED AUGUST 1, 1958, RECORDED AUGUST 29, 1958 IN BOOK 4400, PAGE 532 OF OFFICIAL RECORDS, ORANGE COUNTY, AND RE-RECORDED OCTOBER 6, 1958 IN BOOK 4437, PAGE 228 OF OFFICIAL RECORDS, ORANGE COUNTY, AS AMENDED BY THE DEED DATED NOVEMBER 29, 1961 FROM HANCOCK BANNING JR. AND OTHERS, RECORDED DECEMBER 27, 1961 IN BOOK 5957, PAGE 665 OF OFFICIAL RECORDS, ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, AN UNDIVIDED 70% INTEREST IN AND TO THE TITLE AND EXCLUSIVE RIGHT TO ALL OF THE MINERALS, INCLUDING, BUT NOT LIMITED TO, ALL PETROLEUM, OIL, NATURAL GAS, AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, IN OR UNDER, OR PRODUCIBLE FROM SAID LAND AT ANY DEPTH OR DEPTHS 6200 FEET OR MORE BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE FREE AND UNLIMITED RIGHT TO MINE, DRILL, BORE, OPERATE AND REMOVE FROM BENEATH THE SURFACE OF SAID LAND, AT ANY LEVEL OR LEVELS 500 FEET OR MORE BELOW THE SURFACE OF SAID LAND, FOR THE PURPOSE OF DEVELOPMENT OR REMOVAL OF SAID RESERVED SUBSTANCES, AS RESERVED IN THE DEED AND AGREEMENT FROM

HANCOCK BANNING JR. AND OTHERS, RECORDED DECEMBER 27, 1961 IN BOOK 5957, PAGE 665 OF OFFICIAL RECORDS, ORANGE COUNTY, SUBJECT TO CERTAIN LIMITATIONS AND CONTINGENCIES CONTAINED IN SAID DEED.

PARCEL 4:

THOSE PORTIONS OF LOTS C AND D OF THE BANNING TRACT, AS SHOWN ON THE MAP ATTACHED TO THE REPORT OF THE REFEREES FILED APRIL 14, 1890 IN CASE NO. 6385 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES, BEING ALSO A PORTION OF LOT 1 OF TRACT NO. 463, AS SHOWN ON A MAP RECORDED IN BOOK 32, PAGES 2 AND 3 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, AND A PORTION OF TRACT NO. 2250, AS SHOWN ON A MAP RECORDED IN BOOK 104, PAGES 6 AND 7 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF TRACT NO. 15, AS SHOWN ON A MAP RECORDED IN BOOK 9, PAGE 19 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, WHICH CORNER IS IN THE CENTER LINE OF SUPERIOR AVENUE, FORMERLY NEWPORT AVENUE, AS SAID NEWPORT AVENUE IS SHOWN ON SAID MAP OF TRACT NO. 15, AND ALSO IN THE SOUTHEASTERLY LINE OF SAID LOT D IN THE BANNING TRACT; THENCE NORTH 29 DEGREES 24' 45" WEST ALONG THE NORTHEASTERLY LINE OF SAID TRACT NO. 15, AND ALONG THE SOUTHWESTERLY LINE OF FIRST ADDITION TO NEWPORT MESA TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 8, PAGE 61 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, 3691.50 FEET TO A POINT IN THE EASTERLY LINE OF WHITTIER AVENUE, 60 FEET IN WIDTH, AS SHOWN ON SAID MAP OF FIRST ADDITION TO NEWPORT MESA TRACT; THENCE SOUTH 0 DEGREES 36' 01" EAST ALONG THE SOUTHERLY PROLONGATION OF THE SAID EASTERLY LINE OF WHITTIER AVENUE, SAID PROLONGATION BEING THE EASTERLY LINE OF PARCEL 1 AS DESCRIBED IN DEED EXECUTED BY HANCOCK BANNING JR. AND OTHERS, DATED AUGUST 1, 1958, RECORDED AUGUST 29, 1958 IN BOOK 4400, PAGE 532 OF OFFICIAL RECORDS, ORANGE COUNTY, AND RE-RECORDED OCTOBER 6, 1958 IN BOOK 4437, PAGE 228 OF OFFICIAL RECORDS, ORANGE COUNTY, 3465.51 FEET, MORE OR LESS, TO AN INTERSECTION WITH A LINE ON A CURVE CONCAVE TO THE SOUTHWEST, 250.00 FEET NORTHEASTERLY OF AND PARALLEL WITH THE NORTHEASTERLY LINE OF THE 100-FOOT RIGHT OF WAY OF THE CALIFORNIA STATE HIGHWAY, AS DESCRIBED IN DEED RECORDED APRIL 20, 1936 IN BOOK 822, PAGE 48 OF OFFICIAL RECORDS, ORANGE COUNTY, A RADIAL LINE FROM SAID POINT OF INTERSECTION BEARS SOUTH 33 DEGREES 40' 54" WEST; THENCE SOUTHEASTERLY, PARALLEL WITH THE NORTHEASTERLY LINE OF SAID STATE HIGHWAY, AND 250.00 FEET DISTANT THEREFROM, MEASURED AT RIGHT ANGLES THERETO, THE FOLLOWING COURSES AND DISTANCES: THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 1300.00 FEET, 49.39 FEET; THENCE SOUTH 54 DEGREES 08' 30" EAST, TANGENT TO SAID CURVE, 387.05 FEET TO BEGINNING OF CURVE TO THE LEFT; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 700.00 FEET, AND TANGENT TO THE LAST MENTIONED COURSE, 194.87 FEET; THENCE SOUTH 70 DEGREES 05' 30" EAST, TANGENT TO SAID CURVE, 376.41 FEET TO A POINT IN THE WESTERLY LINE OF THAT CERTAIN 2.7827-ACRE PARCEL OF LAND AS DESCRIBED IN DEED FROM THE FARMERS AND MERCHANTS NATIONAL BANK OF LOS ANGELES, TRUSTEE FOR ANNE O. BANNING AND OTHERS, TO A. E. S. CHAFFEY AND OTHERS, RECORDED MARCH 14, 1958 IN BOOK 4228, PAGE 191 OF OFFICIAL RECORDS, ORANGE COUNTY; THENCE ALONG THE WESTERLY, NORTHERLY AND NORTHEASTERLY BOUNDARY LINE OF SAID 2.7827-ACRE PARCEL, THE FOLLOWING COURSES AND DISTANCES: NORTH 5 DEGREES 44' 28" WEST 160.43 FEET TO THE MOST WESTERLY CORNER OF SAID 2.7827-ACRE PARCEL, FROM WHICH A RADIAL LINE BEARS NORTH 20 DEGREES 20' 15" WEST; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 450.00 FEET, 235.10 FEET; THENCE NORTH 39 DEGREES 43' 45" EAST, TANGENT TO THE LAST MENTIONED CURVE, 75.42 FEET TO THE MOST NORTHERLY CORNER OF SAID 2.7827-ACRE PARCEL, FROM WHICH A RADIAL LINE BEARS SOUTH 29 DEGREES 30' 33" WEST; THENCE SOUTHEASTERLY ALONG A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 730.00 FEET, A DISTANCE OF 130.21 FEET; THENCE SOUTH 50 DEGREES 16' 15" EAST, TANGENT TO THE LAST MENTIONED CURVE, 122.00 FEET TO A POINT IN THE NORTHWESTERLY LINE OF SUPERIOR AVENUE, 60 FEET IN WIDTH, FORMERLY NEWPORT AVENUE, AS SAID NEWPORT AVENUE IS SHOWN ON SAID MAP OF TRACT NO. 15, WHICH POINT BEARS NORTH 39 DEGREES 43' 45" EAST 35.24 FEET FROM THE MOST EASTERLY CORNER OF LOT 1 IN BLOCK 1 OF SAID TRACT NO. 15; THENCE SOUTH 50 DEGREES 16' 15" EAST 30.00 FEET TO THE CENTER LINE OF SAID SUPERIOR AVENUE; THENCE ALONG

THE CENTER LINE OF SAID SUPERIOR AVENUE, NORTH 39 DEGREES 43' 45" EAST 705.55 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION INCLUDED WITHIN THE FOLLOWING DESCRIBED LAND: THAT PORTION OF BLOCK C OF THE BANNING TRACT, AS SHOWN ON A MAP ATTACHED TO THE REPORT OF THE REFEREES FILED APRIL 14, 1890 IN CASE NO. 6385 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES, AND THAT PORTION OF LOTS 1111 AND 1112 AND PORTION OF SIXTEENTH STREET AND WHITTIER AVENUE ADJOINING, AS SHOWN ON THE MAP OF NEWPORT MESA TRACT RECORDED IN BOOK 5, PAGE 1 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF SAID SIXTEENTH STREET WITH THE SOUTHWESTERLY BOUNDARY LINE OF FIRST ADDITION TO NEWPORT MESA TRACT, AS SHOWN ON A MAP RECORDED IN BOOK 8, PAGE 61 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; THENCE SOUTH 89 DEGREES 21' 50" WEST 16.50 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 500.00 FEET; THENCE WESTERLY ALONG SAID CURVE, THROUGH AN ANGLE OF 28 DEGREES 48' 33", A DISTANCE OF 251.41 FEET TO A LINE TANGENT; THENCE SOUTH 60 DEGREES 33' 17" WEST ALONG SAID LINE TANGENT, A DISTANCE OF 404.60 FEET; THENCE NORTH 29 DEGREES 26' 43" WEST 804.50 FEET; THENCE NORTH 60 DEGREES 33' 17" EAST 300.00 FEET; THENCE SOUTH 88 DEGREES 48' 26" EAST 316.57 FEET TO A POINT IN A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 50.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89 DEGREES 21' 50" EAST; THENCE NORTHERLY ALONG SAID CURVE, THROUGH AN ANGLE OF 44 DEGREES 24' 55", A DISTANCE OF 38.76 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 90.00 FEET; THENCE NORTHERLY ALONG SAID CURVE, THROUGH AN ANGLE OF 44 DEGREES 24' 55", A DISTANCE OF 69.77 FEET TO A LINE TANGENT; THENCE NORTH 0 DEGREES 38' 10" WEST ALONG SAID LINE TANGENT, A DISTANCE OF 11.11 FEET TO THE SAID SOUTHWESTERLY BOUNDARY LINE OF FIRST ADDITION TO NEWPORT MESA TRACT; THENCE SOUTH 29 DEGREES 26' 43" EAST ALONG SAID SOUTHWESTERLY BOUNDARY LINE, A DISTANCE OF 789.32 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM, THAT PORTION INCLUDED WITHIN THE FOLLOWING: THAT PORTION OF LOT 1 AND ALL OF LOT 2 OF TRACT NO. 463 AS SHOWN ON A MAP RECORDED IN BOOK 32, PAGES 2 AND 3 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF FIFTEENTH STREET WITH THE CENTER LINE OF MONROVIA AVENUE, AS SHOWN ON A MAP RECORDED IN BOOK 65, PAGES 31 THROUGH 36 INCLUSIVE OF RECORD OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA; THENCE SOUTH 0 DEGREES 37' 24" EAST, ALONG THE CENTER LINE OF SAID MONROVIA AVENUE, 440.93 FEET TO THE NORTHEASTERLY LINE OF SAID TRACT NO. 463; THENCE NORTH 29 DEGREES 26' 43" WEST ALONG SAID NORTHEASTERLY LINE, 272.61 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 29 DEGREES 26' 43" EAST ALONG SAID NORTHEASTERLY LINE, 1288.43 FEET TO THE CENTER LINE OF SUPERIOR AVENUE; THENCE SOUTH 39 DEGREES 41' 15" WEST, ALONG SAID CENTER LINE OF SUPERIOR AVENUE, 705.55 FEET; THENCE NORTH 50 DEGREES 18' 45" WEST, ALONG THE NORTHEASTERLY LINE OF THE LAND DESCRIBED IN A DEED TO A. E. S. CHAFFEY AND OTHERS, RECORDED IN BOOK 4228, PAGE 191 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY, AND THE SOUTHEASTERLY PROLONGATION THEREOF, 152.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 730.00 FEET; THENCE NORTHWESTERLY 130.21 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 10 DEGREES 13' 12" TO A POINT IN THE NORTHEASTERLY LINE OF PARCEL 1, AS DESCRIBED IN A DEED RECORDED IN BOOK 7839, PAGE 739 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY; THENCE ALONG SAID NORTHEASTERLY LINE, NORTH 63 DEGREES 11' 16" WEST 1160.70 FEET TO A POINT IN A LINE PARALLEL WITH AND DISTANT 100.00 FEET EASTERLY, AS MEASURED AT RIGHT ANGLES FROM THE WESTERLY LINE OF THE LAND DESCRIBED IN ANNEXATION NO. 54 TO THE CITY OF NEWPORT BEACH, DECEMBER 30, 1963; THENCE ALONG SAID PARALLEL LINE, NORTH 0 DEGREES 38' 10" WEST 734.93 FEET TO A LINE THAT BEARS SOUTH 77 DEGREES 45' 00" WEST FROM THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID PARALLEL LINE, NORTH 77 DEGREES 45' 00" EAST 1110.58 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

ALSO EXCEPTING THEREFROM, THAT PORTION INCLUDED WITHIN THE LAND DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED FEBRUARY 14, 1966 IN BOOK 7839, PAGE 739 OF OFFICIAL RECORDS, ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, ANY PORTION INCLUDED WITHIN WHITTIER AVENUE AND SIXTEENTH STREET, AS SHOWN ON THE MAP OF NEWPORT MESA TRACT RECORDED IN BOOK 5, PAGE 1 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THAT PORTION INCLUDED WITHIN THE LAND DESCRIBED IN THE DEED TO THE CITY OF NEWPORT BEACH RECORDED JUNE 6, 1995 AS INSTRUMENT NO. 95-0237652 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM, THE TITLE AND EXCLUSIVE RIGHT TO ALL OF THE MINERALS, INCLUDING, BUT NOT LIMITED TO, ALL PETROLEUM, OIL, NATURAL GAS AND OTHER HYDROCARBON SUBSTANCES AND PRODUCTS DERIVED THEREFROM, IN OR UNDER, OR PRODUCIBLE FROM SAID LAND, AT ANY DEPTH OR DEPTHS 6200 FEET OR MORE BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE FREE AND UNLIMITED RIGHT TO MINE, DRILL, BORE, OPERATE AND REMOVE FROM BENEATH THE SURFACE OF SAID LAND AT ANY LEVEL OR LEVELS 500 FEET OR MORE BELOW THE SURFACE OF SAID LAND, FOR THE PURPOSE OF DEVELOPMENT OR REMOVAL OF SAID RESERVED SUBSTANCES, AS RESERVED IN THE DEED AND AGREEMENT FROM HANCOCK BANNING JR. AND OTHERS, RECORDED DECEMBER 27, 1961 IN BOOK 5957, PAGE 665 OF OFFICIAL RECORDS, ORANGE COUNTY, SUBJECT TO CERTAIN LIMITATIONS AND CONTINGENCIES CONTAINED IN SAID DEED.

ALSO EXCEPTING THEREFROM ALL THE MINERALS, INCLUDING WITHOUT LIMITATION ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN, ON OR UNDER THE HEREINAFTER DESCRIBED LAND LYING 500 VERTICAL FEET BELOW THE SURFACE OF SAID LAND WHICH WAS QUITCLAIMED TO ARMSTRONG PETROLEUM CORPORATION, A CALIFORNIA CORPORATION BY AN INSTRUMENT RECORDED MAY 5, 1997 AS INSTRUMENT NO. 19970206789 OF OFFICIAL RECORDS AND FURTHER QUITCLAIMED TO HORIZONTAL DEVELOPMENT, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY BY AN INSTRUMENT RECORDED DECEMBER 20, 2005 AS INSTRUMENT NO. 2005001016861 OF OFFICIAL RECORDS.

A.P.N.: 114-170-24 (Portion), 114-170-43, 114-170-49, 114-170-50, 114-170-52 (Portion), 114-170-56, 114-170-72 (Portion), 114-170-73, 114-170-75, 114-170-77 (Portion), 114-170-79 (Portion), 114-170-83 and 424-041-04


CERTIFICATE OF ACCEPTANCE

This is to certify that the MOUNTAINS RECREATION AND CONSERVATION AUTHORITY, a local joint exercise of powers agency, established pursuant to Section 6500, et seq., of the Government code, ("MRCA"), hereby accepts the Grant Deed executed by Aera Energy LLC, a California limited liability company, and Cherokee Newport Beach LLC, a Delaware limited liability company on December 15, 2022, in favor of the Mountains Recreation and Conservation Authority, to which Grant Deed this Certification of Acceptance is attached.

This acceptance is made pursuant to the authority conferred by Resolution No. 22-113 adopted on August 3, 2022 and the Mountains Recreation and Conservation Authority consents to the recordation of the Grant Deed and this Certificate of Acceptance.

Dated: December 12, 2022

MOUNTAINS RECREATION AND CONSERVATION AUTHORITY,
a local joint exercise of powers agency

BY: 

Cara Meyer
Deputy Executive Officer

APPENDIX B

ATTACHMENTS TO COMMENT LETTER C1

SENATE THIRD READING
SB 713 (Padilla)
As Amended September 7, 2023
Majority vote

SUMMARY

Clarifies that for purposes of state density bonus law "development standards" means those standards adopted by the local government or enacted by the local government's electorate exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the local government.

Major Provisions

- 1) Requires, cities and counties to grant a density bonus, based on a specified formula, when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least any one of the following:
 - a) Include at least 5% of the units affordable to very low-income households;
 - b) Include at least 10% of the units affordable to low-income households;
 - c) Include at least 10% of the units in a for-sale CID affordable to moderate-income households;
 - d) Be a senior housing development;
 - e) Include 10% of the total units for foster youth transitioning out of foster care, veterans with disabilities, or persons experiencing homelessness.
 - f) Include 20% of the total units for lower-income students in a student housing development.
 - g) 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households.
- 2) Provides that, in no case may a local government apply any development standard that will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by state density bonus law.
- 3) Defines a "development standard" to include a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, a minimum lot area per unit requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
- 4) Include provisions to avoid chaptering conflicts with AB 323 (Holden) and AB 1287 (Alvarez), both of the current legislative session.

COMMENTS

Local police power generally and state preemption: Local police power, even though recognized by common law, is set forth in the California Constitution, which confers on cities the power to "make and enforce within [their] limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." To that end, the California Supreme Court has held: "Under the police power granted by the Constitution, counties and cities have plenary authority to govern, subject only to limitation that they exercise this power with their territorial limits and *subordinate to state law*." (Emphasis added). Under California's Constitution, a city's ordinance cannot conflict with the state's general laws that preempt the subject matter. (Cal. Const. art. XI Section 7). Conversely, a city may not make or enforce a regulation that conflicts with state law. A conflict exists if the ordinance "duplicates, contradicts or enters an area fully occupied by general law, either expressly or by legislative implication."¹ For example, the Housing Accountability Act preempts a city's discretion to deny certain types of affordable housing projects. The scope of the preemption can be broad. For example, the Legislature has adopted health and safety policies and criteria for the establishment of certain residential uses that preempt local zoning. Courts have consistently held that the Legislature can preempt local initiatives that conflict with state law, which also applies to local voter initiatives.

San Diego Coastal Height Limit Overlay Zone and Density Bonus Law: A developer sought to build a 100% affordable project (60 units) in the City of San Diego in a zone that, by a local voter initiative (San Diego Coastal Height Limit Overlay Zone), imposed a 30 foot height limit. The developer sought to utilize state DBL and receive a height increase of up to an additional three stories, or 33 feet. The city and the developer asked HCD to provide technical assistance and answer whether Density Bonus Law preempts local voter initiatives, in this case the local height limit imposed. HCD responded in the affirmative – that state law preempts a local voter initiative.

Density bonus law: Density bonus law was originally enacted in 1979 as an incentive to encourage housing developers to produce affordable units at below market-rates. In return for including a certain percentage of affordable units, housing developers receive the ability to add additional units for their project above the jurisdiction's allowable zoned density for the site (thus the term "density bonus"). In order to qualify for a density bonus a developer of multifamily housing (5+ units) must agree to build housing that includes at least one of the following:

- 1) 10% of all units for lower-income households;
- 2) 5% of all units for very low-income households,
- 3) Provide a senior-only housing development;
- 4) 10% of all units in a CID for moderate income individuals and families;
- 5) 10% of all units for transition age foster youth, disabled veterans, or individuals experiencing homelessness; or

¹ *Viacom Outdoor, Inc. v. City of Arcata*, 140 Cal.App 4th 230, 236 (2006).

6) 20% of all units for lower-income students within in student housing development.

The affordability requirements for units built via density bonus run for a minimum of 55 years. Additionally, density bonus law specifies concessions and incentives around development standards (e.g., architectural, height, setback requirements) and reductions in vehicle parking requirements that projects can receive to offset the cost of building affordable units. Both market rate and 100% affordable housing projects can use the provisions and all local governments are required to adopt a density bonus ordinance. However, failure to adopt an ordinance does not exempt a local government from complying with state density bonus law.

Development standards: Under density bonus law, in no case may a local government apply any development standard (e.g. height restriction, floor area ratio, setback, or similar standard) that will have the effect of physically precluding the construction of a development permitted by state density bonus law. The author and sponsors point to several local voter initiatives across the state that impose height limits, in addition to the one in effect in San Diego, predominantly in wealthier, exclusionary coastal communities. While it is quite clear that state law preempts these local voter initiatives due to the inherent conflict with state law, these initiatives have had the impact of slowing down both affordable and mixed income housing developments from moving forward.

This bill would clarify in state density bonus law that regardless of how it was adopted – including if the standard was adopted by the electorate through local initiative or referendum power – a local government cannot apply any development standard that precludes the development seeking a density bonus. This clarification is consistent with settled law governing state preemption. This clarification will provide greater clarity for local governments approving density bonus projects and greater certainty for the housing developers state DBL.

According to the Author

"California is in the midst of a housing crisis. Every step is vital as we work to bridge the gap between housing supply and demand. This measure would clearly articulate state law as developers and cities collaborate and seek to build new units of housing that are compliant with state law. SB 713 codifies a recent technical assistance memorandum from the Department of Housing and Community Development that explicitly re-states existing law, that local governments cannot impose standards that stop state density bonus projects from moving forward. This greater certainty allows developers to proceed with confidence to develop more housing, faster."

Arguments in Support

According to supporters, this bill would help to clarify that density bonus law supersedes locally passed height restrictions and clear the way for more affordable housing.

Arguments in Opposition

None on file.

FISCAL COMMENTS

None.

VOTES

SENATE FLOOR: 33-0-7

YES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener

ABS, ABST OR NV: Dahle, Grove, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk

ASM HOUSING AND COMMUNITY DEVELOPMENT: 7-0-1

YES: Wicks, Joe Patterson, Wendy Carrillo, Gabriel, Kalra, Quirk-Silva, Ward

ABS, ABST OR NV: Sanchez

ASM LOCAL GOVERNMENT: 6-0-2

YES: Aguiar-Curry, Pacheco, Ramos, Robert Rivas, Waldron, Wilson

ABS, ABST OR NV: Dixon, Boerner

UPDATED

VERSION: September 7, 2023

CONSULTANT: Lisa Engel / H. & C.D. / (916) 319-2085

FN: 0002065

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
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www.hcd.ca.gov



June 10, 2022

Elyse Lowe, Director
Development Services Department
City of San Diego
1222 First Avenue
San Diego, CA 92101

Dear Elyse Lowe:

RE: 2662 Garnet Avenue – Letter of Technical Assistance

The purpose of this letter is to provide technical assistance to the City of San Diego (City) regarding a proposed 100-percent affordable residential infill project to be located at 2662 Garnet Avenue (Project). The Project applicant submitted a request for technical assistance to the California Department of Housing and Community Development (HCD) on March 3, 2022, and the City subsequently asked for clarification on the relationship between State Density Bonus Law (SDBL) and the City's Coastal Height Limit Overlay Zone (CHLOZ) which was created via voter initiative. Specifically, the applicant wanted to know if the SDBL might permit a qualifying housing development to exceed the 30-foot building height limit established by the CHLOZ, given that the Project site is located outside of the State Coastal Zone (and is therefore not subject to the requirements of the Coastal Act or the City's Local Coastal Program).

Background

HCD understands the Project would create 60 deed-restricted units that would be affordable to low- and very low-income households. The Project would serve transitional aged youth, veterans experiencing homelessness, and low-income individuals. The ground floor would contain supportive services. HCD understands that the Project meets the criteria of Government Code section 65915, subdivision (b)(1)(G), and is located within one-half mile of a major transit stop. Therefore, pursuant to Government Code section 65915, subdivision (d)(2)(D), the project "shall . . . receive a height increase of up to three additional stories, or 33 feet."

The critical issue relates to the potential significance of the fact that the 30-foot height limit was established via voter initiative and not by City Council action (as local development standards are typically established). The City appears to believe that because its height restriction was created by a voter initiative, a state law like the SDBL cannot require the City to grant the height increase. Therefore, the question presented

is: Is a development standard created by voter initiative immune from the requirements of the State Density Bonus Law?

Brief Answer

No. The State Legislature can and does preempt local initiatives. “If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.” Sherwin-Williams Co. v. City of Los Angeles (1993) 4 Cal.4th 893, 897, 16 Cal.Rptr.2d 215, 217. It makes no difference that the local law was created by voter initiative. Courts have repeatedly held that the Legislature can preempt local initiatives that conflict with state law. See, for example, Building Industry Association v. City of Oceanside, (1994) 27 Cal.App.4th 744, 771-72, 33 Cal.Rptr.2d 137, 154-55 (local growth control initiative invalid because of facial conflict with state housing policy).

Analysis

Under the California Constitution, a city or county may make and enforce ordinances and regulations “not in conflict with general laws.” (Cal. Const., art. XI, section 7). Conversely, a city may not make or enforce a regulation that conflicts with state law. As noted above, “If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.” See, Sherwin-Williams Co. v. City of Los Angeles (1993) 4 Cal.4th 893, 897, 16 Cal.Rptr.2d 215, 217. The City of San Diego apparently interprets the development standard at issue here as disallowing the height increase guaranteed by SDBL. Accordingly, the development standard conflicts with SDBL and is void.

For purposes of preemption analysis, it makes no difference that the preempted local regulation was enacted by local voter initiative. California courts have repeatedly held that the Legislature can preempt local initiatives that conflict with state law. For example, in City of Watsonville v. State Department of Health Services (2005) 133 Cal.App.4th 875, 881, 35 Cal.Rptr.3d 216, 218, the court invalidated a local initiative prohibiting fluoridation of the water supply because the initiative conflicted with state law. Similarly, and especially relevant here, in Building Industry Association v. City of Oceanside, (1994) 27 Cal.App.4th 744, 771-72, 33 Cal.Rptr.2d 137, 154-55, the court struck down a local growth control initiative because it conflicted with state housing policy.¹

¹ The fact that San Diego is a charter city does not change this analysis. California courts have repeatedly held that housing is a matter of statewide concern and that state housing laws preempt conflicting local law. See, for example, Ruegg & Ellsworth v. City of Berkeley (2021) 63 Cal.App.5th 277, 277 Cal.Rptr.3d 649 (SB 35, codified as Government Code section 65913.4, preempts conflicting charter city ordinance) and Anderson v. City of San Jose (2019) 42 Cal.App.5th 683, 709–710, 255 Cal.Rptr.3d 654 (Surplus Land Act preempts conflicting charter city ordinance). See also, Buena Vista Gardens Apartments Association v. City of San Diego (1985) 175 Cal.App.3d 289, 306, 220 Cal.Rptr. 732, 742 (Housing Element Law applies in the charter city of San Diego. “[I]f a matter is of statewide concern, then charter cities must yield to the applicable general state laws regardless of the provisions of its charter.”).

The ability of state law to preempt conflicting local initiatives is necessary for the state to regulate areas of statewide concern. As the court stated in Mission Springs Water Dist. v. Verjil (2013) 218 Cal.App.4th 892, 920, 160 Cal.Rptr.3d 524, 545, “[i]f the state Legislature has restricted the legislative power of a local governing body, that restriction applies equally to the local electorate’s power of initiative. . . . If the rule were otherwise, the voters of a city, county, or special district could essentially exempt themselves from statewide statutes.”

Conclusion

HCD respects the challenges inherent in infill development and applauds the City’s commitment to the production of affordable housing. Based on maps provided to HCD by City staff, it appears that a substantial amount of land shares the same particular characteristics as the subject site (i.e., located outside of the Coastal Zone but inside the 30-foot height limit area of the CHLOZ). It is HCD’s hope that the determinations made in this letter might serve to further facilitate the production of affordable housing in these areas, especially insofar as the 30-foot height limit may have been a barrier to SDBL-enabled applications in the past. If you have questions or need additional information, please contact Brian Heaton, of our staff, at brian.heaton@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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November 29, 2021

Andrew Thomas, Director
Planning, Building and Transportation
City of Alameda
2263 Santa Clara Avenue, Room 190
Alameda, CA 95401

RE: City of Alameda Measure A Provisions and Housing Element Compliance

Dear Andrew Thomas:

Thank you for your correspondence, dated February 16, 2021, requesting guidance regarding state law and local provisions restricting multifamily uses and allowable densities. In developing this guidance, the California Department of Housing and Community Development (HCD) has reviewed the City of Alameda's staff report File Number 2021-1017, Item Number 7-B, and generally agrees with the pertinent analysis, including the resolution attached to that item. HCD offers this additional information to assist the City in its decision-making.

In 1973, the voters of Alameda approved an amendment to the City Charter that added Article 26 (Measure A). Measure A added Section 26-1 that states "[t]here shall be no multiple dwelling units built in the city of Alameda." Section 26-3 was adopted in 1991 by a subsequent ballot measure (also Measure A), which sets the maximum residential density of one housing unit per 2,000 square feet (21.78 dwelling units (du)/acre) throughout the City. Each of these provisions is problematic and compromise the City's ability to comply with State Housing Element Law. Collectively, the Measure A Provisions prevent the City from complying with State Housing Element Law and other housing laws, and potentially trigger consequences related to a lack of housing element compliance.

Specifically, HCD finds and agrees with the staff analysis that Alameda City Charter Article 26 conflicts with state housing law and is preempted and unenforceable. Among other things, Article 26 of the City Charter is preempted by Government Code sections 65583.2, subdivision (c), and section 65583, subdivision (c)(1), which require, among other things, zoning for a variety of housing types, including multifamily rental housing. HCD also finds that Article 26 conflicts with Government Code sections 8899.50 and 65583, subdivision (c)(10), in that Article 26 provisions deny fair housing choices and are fundamentally contrary to affirmatively furthering fair housing (AFFH). HCD offers this additional information to assist the City in its decision-making.

Housing Element Compliance Issues

The Measure A provisions create a conflict with state law and particularly State Housing Element Law, including, but not limited to, the following:

- **Zoning Appropriate to Accommodate Housing for Lower-Income Households:** Government Code section 65583.2, subdivision (c)(3), requires jurisdictions to demonstrate that adopted densities accommodate the regional housing need for lower-income households. This analysis must address, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower-income households. Alternatively, the statute deems specified densities (Default Density) appropriate to accommodate housing for lower-income households. Under these state law provisions, the default density for the City of Alameda is 30 units per acre. The Measure A Provisions cap allowable density at approximately 22 units per acre and, as a result, do not meet default densities. Further, given market demand, financial feasibility and other factors, the allowable densities of the Measure A Provisions would not be adequate to allow the City to demonstrate appropriate densities to accommodate housing for lower-income households. In turn, Alameda City would not be able to demonstrate adequate sites to accommodate housing for lower-income households and would not comply with State Housing Element Law.
- **Zoning for a Variety of Housing Types:** Government Code section 65583, subdivision (c)(1), requires jurisdictions to identify sites "...to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing." The Measure A Provisions explicitly prohibit multifamily housing, and as a result, the City of Alameda would not comply with this requirement and would not comply with State Housing Element Law.
- **Governmental Constraints:** Government Code section 65583, subdivision (a)(5), requires an analysis of potential constraints on housing, including the housing types listed above. (Gov. Code, § 65583, subd. (c)(1).) This analysis must address land use controls such as the Measure A Provisions and, among other provisions, must demonstrate efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need allocation (RHNA) in accordance with Government Code section 65584. Housing elements must address and remove, where appropriate and legally possible, identified constraints. (Gov. Code, § 65583, subd. (c)(3).) Constraints must be addressed regardless of demonstrating adequate sites to accommodate the regional housing need. The Measure A Provisions would be

deemed a constraint on development and without programs to address and remove the constraint, the housing element would not comply with State Housing Element Law.

- **Affirmatively Furthering Fair Housing:** Government Code section 8899.50 requires, among other provisions, all state and local agencies to ensure that their laws, programs, and policies affirmatively further fair housing. AFFH means “taking meaningful actions, in addition to combatting discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.” This provision is an independent duty for the City, but it has also been incorporated into State Housing Element Law. In this context, Government Code section 65583, subdivision (c)(10), requires an assessment of fair housing that includes various components, including analyzing socio-economic patterns and trends and identifying contributing factors to fair housing issues. The Measure A Provisions deny fair housing choices and as a result are fundamentally contrary to AFFH. Without significant action to overcome the patterns caused by the Measure A Provisions, the City of Alameda will not comply with these provisions of State Housing Element Law.

HCD understands Alameda has adopted some measures to attempt to address these concerns, including a density bonus ordinance and a Multifamily Residential Combining Zone, but Measure A provisions remain a significant constraint on housing choices, supply, and affordability and conflict with several provisions of State Housing Element Law.

Consequences of a Lack of Compliance with State Housing Element Law

Housing availability is a critical issue with statewide implications, and most housing decisions occur at the local level. Housing elements are essential to developing a blueprint for growth and are a vital tool to address California’s prolonged housing crisis. As such, state law has established clear disincentives for local jurisdictions that fail to comply with State Housing Element Law.

First, noncompliance will result in ineligibility or delay in receiving state funds that require a compliant housing element as a prerequisite, including, but not limited to, the following:

- Permanent Local Housing Allocation,
- Local Housing Trust Fund Program,
- Infill Infrastructure Grant Program,
- SB 1 Caltrans Sustainable Communities Grants, and
- Affordable Housing and Sustainable Communities Program.

Second, jurisdictions that do not meet their housing element requirements may face additional financial and legal ramifications. HCD may notify the California Office of the Attorney General, which may bring suit for violations of State Housing Element Law. Further, statute provides for court-imposed penalties for persistent noncompliance, including financial penalties. Government Code section 65585, subdivision (l)(1), establishes a minimum fine of \$10,000 per month and up to \$100,000 per month. If a jurisdiction continues to remain noncompliant, a court can multiply the penalties up to a factor of six. Other potential ramifications could include the loss of local land use authority to a court-appointed agent.

In addition to these legal remedies available in the courts, under the Housing Accountability Act (Gov. Code § 65589.5, subd. (d)), jurisdictions without a substantially compliant housing element cannot use inconsistency with zoning and general plan standards as reasons for denial of a housing project for very low-, low-, or moderate-income households.¹

Options for Complying with State Housing Element Law

The Measure A provisions are in conflict with state law and should be voided. In addition, the City should take actions, as noted in its resolution, to comply with State Housing Element Law and demonstrate adequate sites to accommodate the regional housing need. For example, the City could rezone sites at appropriate densities, similar to the City's multifamily overlay utilized in the 5th cycle update. These actions should be accompanied by additional and significant actions to address constraints on housing and to affirmatively further fair housing.

HCD appreciates the efforts taken to seek guidance and looks forward to working with the City to comply with State Housing Element Law and other state laws. For additional resources regarding these requirements, visit HCD's website at <https://hcd.ca.gov/community-development/housing-element>. If HCD can provide assistance, please contact me at paul.mcdougall@hcd.ca.gov.

Sincerely,



Paul McDougall
Senior Program Manager

¹ For purposes of the Housing Accountability Act, housing for very low-, low-, or moderate-income households is defined as having at least 20% of units set aside for low-income residents or 100% of units set aside for middle-income residents (Gov. Code § 65589.5, subd. (h)(3)).

APPENDIX C

DRAFT CITY OF NEWPORT BEACH MULTI-UNIT OBJECTIVE DESIGN STANDARDS

20.48.185 Multi-Unit Objective Design Standards

- A. Purpose. The purpose of the Objective Design Standards is to ensure the highest possible design quality and to provide a baseline standard for all new multi-unit development in Newport Beach. Multi-unit housing proposals must, at a minimum demonstrate compliance with all the standards contained herein. Proposals not consistent with any of these standards shall be required to seek approval through a discretionary site development review process as provided by Chapter 20.52.080 Site Development Reviews. Applicants may select Site Development Review to demonstrate that a project meets or exceeds the intent of the standards in this document by other means. The Objective Design Standards shall serve as the basis for evaluating proposed deviations; applicants using a discretionary review process shall refer to the Objective Design Standards to demonstrate how the proposal meets or exceeds the intent of the Newport Beach Development Code.
- B. Intent. The objective design standards are intended to result in quality design of multi-unit residential and mixed-use development. Review under these standards supports development that builds on context, contributes to the public realm, and provides high quality and resilient buildings and public spaces. These standards shall be applied uniformly and without discretion to enhance the built environment for both affordable and market-rate multi-unit residential development.
- C. Applicability. The standards shall be used for review of multi-unit development applications, including by-right and discretionary applications. The development standards in this subsection shall apply to residential and mixed-use development projects that include a residential density of a minimum of 20-30 dwelling units per acre, which is calculated as an average over a project site. When an applicant elects to deviate from these objective development standards, approval of site development review by the Planning Commission shall be required in compliance with Chapter 20.52.080. The Planning Commission may waive any of the design and development standards in this section upon finding that:
 - 1. The strict compliance with the standards is not necessary to achieve the purpose and intent of this section; and
 - 2. The project possesses compensating design and development features that offset impacts associated with the modification or waiver of standards.
- D. General Standards
 - 1. Multi-unit development orientation shall comply with the following standards:
 - a. Residential developments with more than 8 buildings shall provide a minimum of two (2) distinct color schemes. A single-color scheme shall be dedicated to no less than 30 percent of all residential buildings.

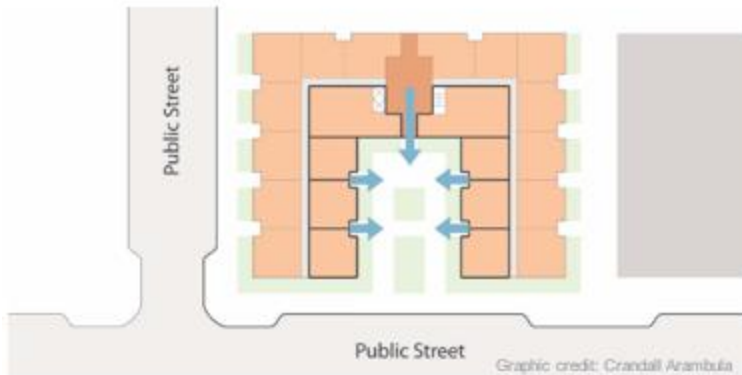
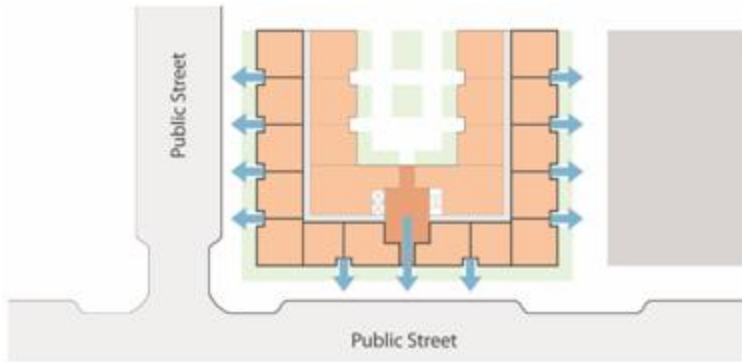
- b. Residential developments with 30 or more buildings shall provide a minimum of three (3) distinct color schemes. The number of buildings in single style shall be no less than 30 percent.
 - c. Pedestrian linkages to nearby neighborhoods, schools, parks, commercial projects, and parking areas shall be provided.
 - d. Visual interest shall be provided through architectural variety, especially where several new buildings face streets, such as by using different layouts and/ or architectural features. Abutting buildings shall have complimentary architectural styles.
 - e. Except for garage entrances, structured parking shall not be visible from the primary streets or any public open space, unless treated in an architectural manner subject to the approval of the Director.
 - f. Loading docks and service areas on a corner lot must be accessed from the side street.
 - g. In order to accommodate a minimum of one vehicle entering the facility, controlled entrances to parking facilities (gates, doors, etc.) shall be located a minimum of 18 feet from the back of sidewalk.
2. Mixed-use buildings orientation shall comply with all the standards mentioned above and the following standards:
- a. Commercial/office unit entrances shall face the street, a parking area, or an interior common space.
 - b. Entrances to residential units shall be physically separated from the entrance to the permitted commercial uses and clearly marked with a physical feature.



Buildings along streets and open space shall provide visual interest by using different form, color, and materials

E. Orientation

1. Building entries shall face the primary public street with direct pedestrian connections to the public sidewalks, unless determined to be infeasible due to topographic constraints by the Director. Pedestrian connections to the public sidewalks shall also be provided to parking areas and publicly accessible open space. For larger sites with multiple buildings, building entries may also be oriented to face internal open spaces, paseos, and recreation amenities.
2. Parking areas, covered and uncovered, shall be screened from public street frontages. Screening may be accomplished through building placement, landscaping, fencing, or some combination thereof.
3. For multi-unit projects located across the street from a single family residential zone, parking lot areas and carports shall not be located along the single-family neighborhood street frontages.
4. Buildings shall be arranged to provide functional common outdoors spaces (such as courtyards, paseos, or parks) for the use of residents.



Building entries shall face a public street, internal open space, or paseo

F. Parking Standards

1. Parking Lots. Parking shall comply with standards as specified in NBMC Section 20.40.070.
 - a. Parking lots shall be placed to the side or rear of buildings. Parking lots shall be connected to building entrances by means of internal pedestrian walkways.

- b. In surface parking lots with 10 or more spaces, a minimum of 14 square feet of landscape area shall be provided per parking space. Landscaping may be provided in parking lot planters and/or for perimeter screening.



Parking lots shall be shielded from view from adjoining streets

2. Residential Garages

- a. Street-facing garage doors serving individual units that are attached to the structure must incorporate one or more of the following so that the garage doors are visually recessive and complementary to other building element:
 - i. Garage door windows or architectural detailing consistent with the main dwelling.
 - ii. Arbor or other similar projecting feature above the garage doors.

3. Parking Structures and Loading Bays

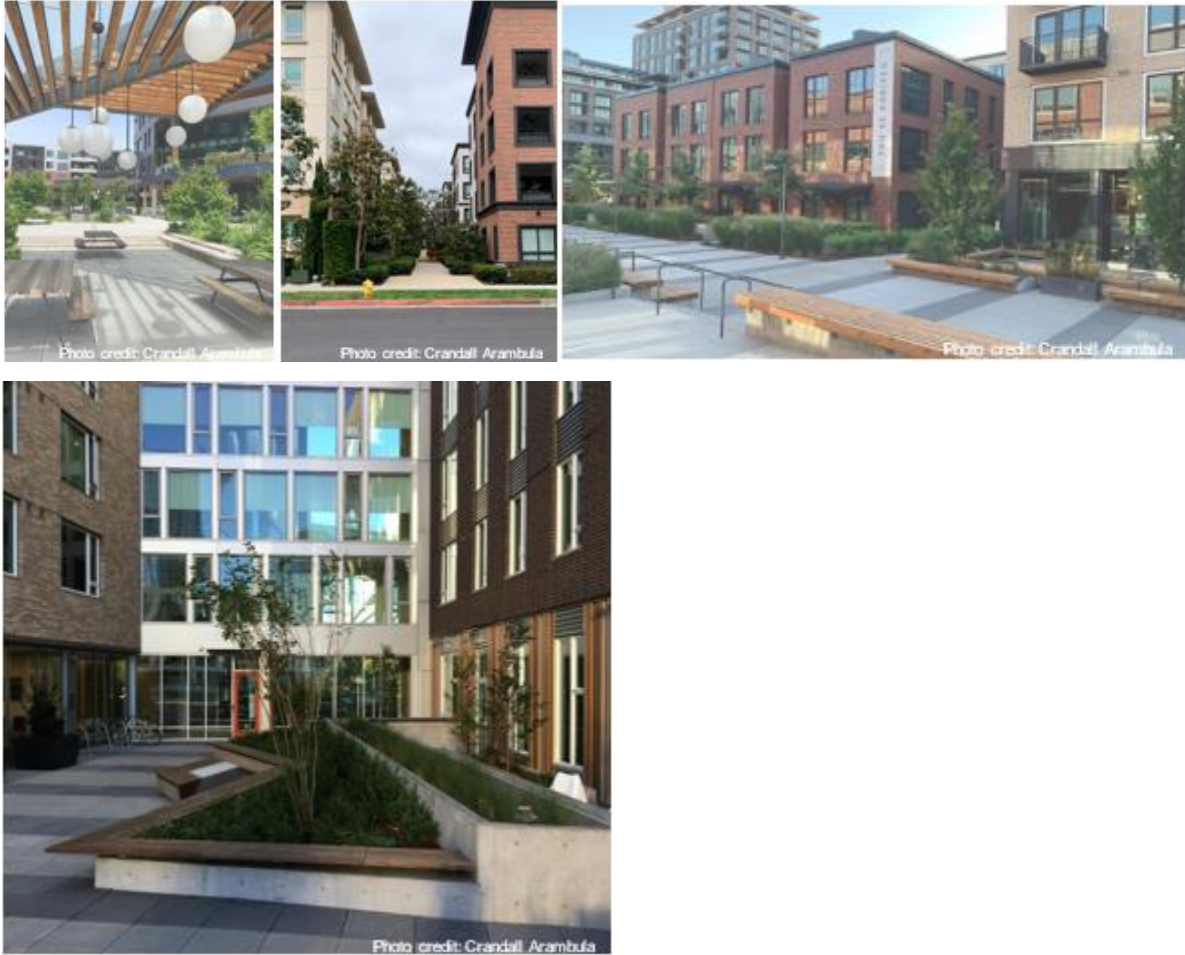
- a. Parked vehicles at each level within the structure shall be shielded from view from adjoining streets.
- b. The exterior elevations of parking structures shall be designed to minimize the use of blank concrete facades. This shall be accomplished through the use of decorative textured concrete, planters or trellises, or other architectural treatments.



Parking structures shall be shielded from view from adjoining streets

G. Common Open Space

1. Primary common open space located within the required setback areas shall not be counted towards the common open space requirements.
2. Residential unit entries shall be within a 1/4 mile walking distance of common open space.
3. Pedestrian walkways shall connect the common open space to a public right-of-way or building entrance.
4. Open space areas shall not be located directly next to arterial streets, service areas, or adjacent commercial development to ensure they are sheltered from the noise and traffic of adjacent streets or other incompatible uses. Alternatively, a minimum of ten (10) foot wide, dense landscaping area shall be provided as screening, but does not count towards the open space requirement.
5. An area of usable common open space shall not exceed an average grade of ten (10) percent. The area may include landscaping, walks, recreational facilities, and small decorative objects such as artwork and fountains.
6. All common open spaces shall include seatings and lighting.



H. Recreation Amenities

1. The required front yard area shall not be counted toward satisfying the common recreation area requirement.
2. All play areas shall be located away from high automobile traffic and shall be situated for maximum visibility from the dwelling units.
3. Senior housing and/or housing for persons with disabilities shall be exempt from the requirement to provide play areas, but shall provide areas of congregation that encourage physical activity.
4. One common recreational amenity shall be provided for each 50 units or fraction thereof. Facilities that serve more people could be counted as two amenities. Examples of amenities that satisfy the recreational requirements include:
 - a. Clubhouse at a minimum of 750 square feet.
 - b. Swimming Pool at a minimum of 15x30 feet or equal surface area.
 - c. Tennis, Basketball or Racquetball court.

- d. Children's playground at a minimum of 600 square feet.
- e. Sauna or Jacuzzi.
- f. Day Care Facility.
- g. Community garden.
- h. Other recreational amenities deemed adequate by the Director.



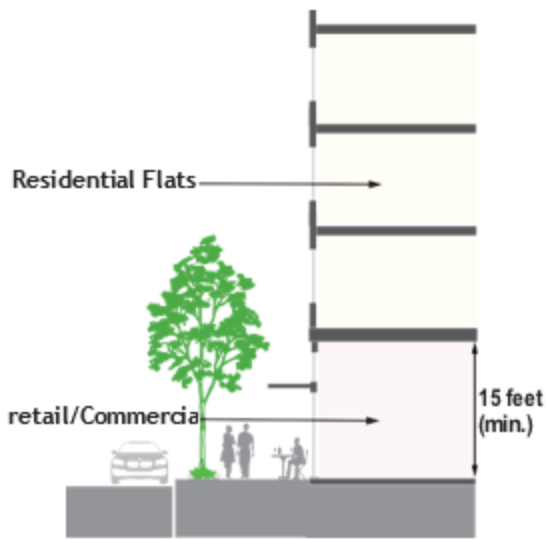
- I. Landscaping. All landscaping shall comply with all standards as specified in Chapter 20.36.
 1. A minimum of 8 percent of the total site shall be landscaped. Required setbacks and parking lot landscaping may be counted toward this requirement.
 2. Landscaping materials shall comply with the following:
 - a. Ground cover instead of grass/turf; and/or
 - b. Decorative nonliving landscaping materials including, but not limited to, sand, stone, gravel, wood or water may be used to satisfy a maximum of 25 percent of the required landscaping area.
 - c. Turf areas shall be placed in areas for recreational use only and must have a 10 foot minimum dimension.
 3. Landscaping and irrigation shall follow local and regional requirements and guidance for approved plant lists to meet the needs of local conditions, where available. For plants and planting materials addressing water retention areas, recommended resources include the Low Impact Development Manual for Southern California prepared by the Southern California Stormwater Monitoring Coalition, State of California Model Water Efficient Landscape Ordinance (MWELO) or Newport Beach Municipal Code Chapter 14.17 (Water-Efficient Landscaping).

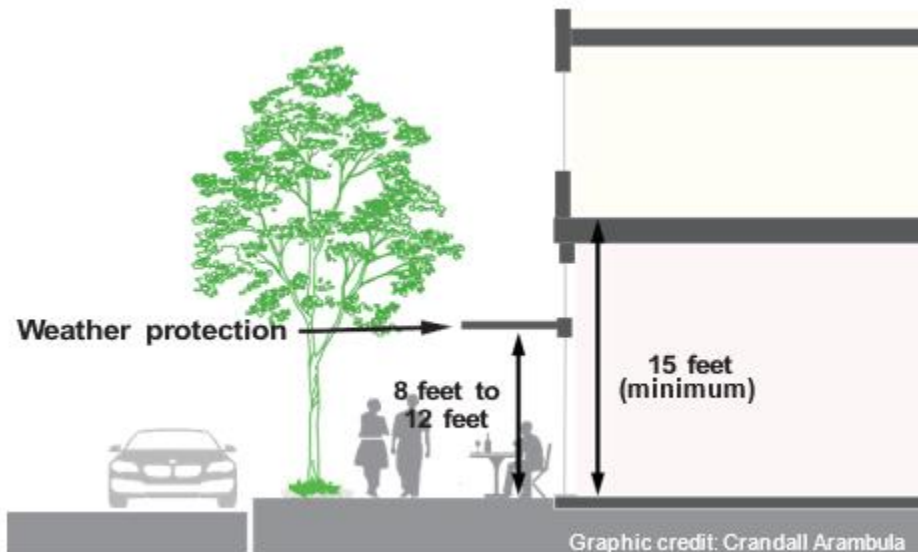


- J. Frontage Types and Standards. Frontage is the side of a building facing a public street right-of-way.
 1. Storefronts for ground floor commercial in mixed-use projects. A frontage that reinforces the commercial character and use of the ground floor of the building. The elevation of the ground floor is located at or near the grade of sidewalk to provide direct public access into the building.

- a. The ground floor elevation shall be located at the elevation of the sidewalk to minimize the need for external steps and ramps at public entrances.
- b. Entrance shall be emphasized and clearly recognizable from the street. One or more of the following methods shall be used to achieve this result:
 - i. Projecting non-fabric awnings or canopies above an entry (covered entry);
 - ii. Varied building mass above an entry, such as a tower that protrudes from the rest of the building surface;
 - iii. Special corner building entryway treatments, such as a rounded or angled facets on the corner, or an embedded corner tower, above the entry;
 - iv. Special architectural elements, such as columns, porticoes, overhanging roofs, and ornamental light fixtures;
 - v. Projecting or recessed entries or bays in the facade;
 - vi. Recessed entries must feature design elements that call attention to the entrance such as ridged canopies, contrasting materials, crown molding, decorative trim, or a 45-degree cut away entry; or
 - vii. Changes in roofline or articulation in the surface of the subject wall.
- c. Windows and/or glass doors shall cover not less than 50 percent of the first floor elevation along street frontages.
- d. At least 25 percent of the surface area of each upper floor facade shall be occupied by windows.
- e. Development with retail, commercial, community or public uses on the ground floor shall have a clear floor to floor height of at least 15 feet. Floor-to-floor height may be reduced on sloping sites.
- f. The minimum height for awnings or marquees is 8 feet above finished grade and the maximum height for awnings or marquees is 12 feet above finished grade; except as otherwise required in the Building Code approved by the City.

Ground Floor Commercial

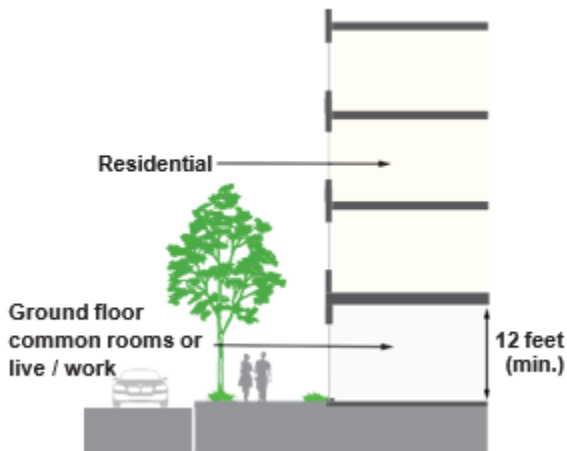




2. Live-work/office fronts. A frontage that reinforces both residential and work activities that can occur in the building. The elevation of the ground floor is located at or near the grade of sidewalk to provide direct public access to the building.
 - a. The ground floor elevation shall be located near the elevation of the sidewalk to minimize the need for external steps and ramps at public entrances.

- b. All ground floor tenant spaces that have street frontage shall have entrances on a facade fronting a street. All other ground floor uses may have a common lobby entrance along the front facade or private entrances along other facades.
- c. Entrances to upper floor units may be provided through a common lobby entrance and/or by a common entrance along a facade fronting a street.
- d. At least 40 percent of the surface area of the ground floor facade shall be occupied by display windows or translucent panels.
- e. At least 25 percent of the surface area of each upper floor facade shall be occupied by windows.
- f. The ground floor shall have a clear floor-ceiling height of at least 12 feet.
- g. The minimum height for awnings or marquees is 8 feet above finished grade and the maximum height for awnings or marquees is 12 feet above finished grade; except as otherwise required in the Building Code approved by the City.
- h. If the front facade is set back from the public sidewalk, the setback shall be landscaped and/or improved as an extension of the public sidewalk.

Ground Floor Live - Work / Office





3. Residential fronts. A frontage that reinforces the residential character and use of the buildings. The elevation of the ground floor is typically elevated above the grade of the lot to provide privacy for residences by preventing direct views into the home from the sidewalk. Applicable to buildings with no commercial use on the ground floor.
 - a. Residential frontages reinforce the residential character and use of the building. The ground floor, and unit entries and/or building lobbies are allowed to be elevated a maximum of 36 inches above the grade of the nearest adjacent public or private sidewalk to provide privacy for residences by preventing direct views into the home.
 - i. Garages shall not exceed 40 percent of the length of the building facade.
 - ii. Entrances to ground floor units that have street frontage may be provided through a common lobby entrance and/or by private entrances from the adjacent sidewalk.
 - iii. Entrances to upper floor units may be provided through a common lobby entrance and/or by a common entrance along a facade fronting a street.
 - iv. At least 20 percent of the surface area of the ground and upper floor facade shall be occupied by windows.
 - v. If the front facade is set back from the public sidewalk, the setback shall be landscaped (excluding stoops/front porches and paved paths to building entrances).



Photo credit: Crandall Arambula

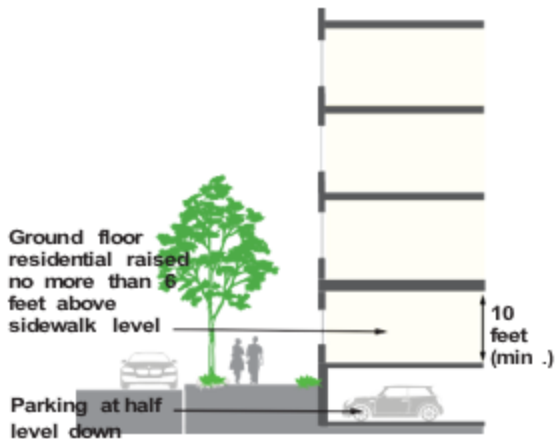


Photo credit: Crandall Arambula



Photo credit: Crandall Arambula

Ground Floor Residential



K. Walls and Fences

1. Community perimeter or theme walls shall be solid decorative block walls.
2. Wall materials shall be brick, slump stone, tile, textured concrete, stucco on masonry, steel framing, or other material walls which require little or no maintenance. Plain concrete block walls (i.e. precision block) nor chain link fencing with inserts shall not be used as wall materials.
3. The style of the wall shall be the same or similar to the architectural style of the project.
4. All exterior perimeter walls located along public streets shall have an offset of a minimum of 5 feet deep for every 50 linear feet to 75 linear feet of the wall length, or be screened by a minimum of 2 feet of landscaping depth.
5. Retaining walls within the front and/or side street setback or visible from the public sidewalk shall not exceed 4 feet in height and shall provide a minimum of 18 inches deep landscape in front of the wall.



L. Utilities

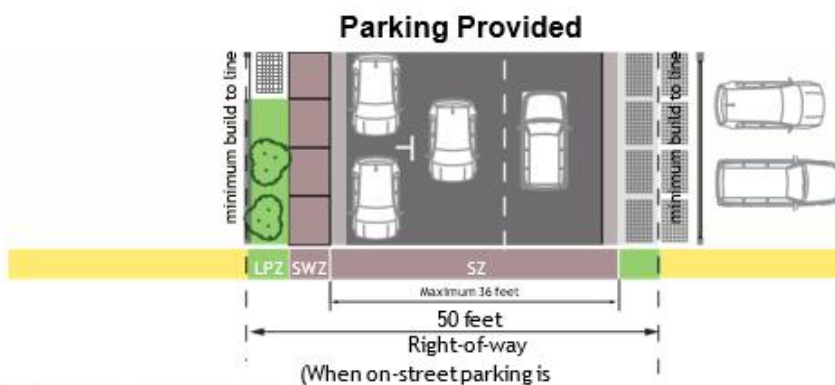
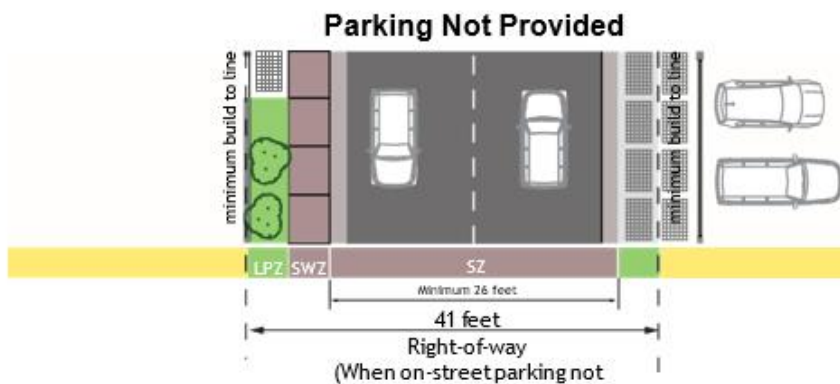
1. All utility equipment shall be located out of the pedestrian path of travel. All utility equipment shall be purposefully and aesthetically placed adjacent to alleyways, within parking areas, rear or side yards, or within building “notch outs” and screened from public view.
2. If the mechanical equipment cannot be placed in rear or side yards, it shall be either placed on the ground and screened with landscape, or placed on the roof and screened with architectural materials such as roof or parapet consistent with the overall architectural style.
3. All electrical utility equipment, electrical meters, and junction boxes shall be placed within a utility room. If a utility room is not feasible, then all utility equipment shall be purposefully designed as an integral part of the building development, placed adjacent to alleyways, within parking areas, or within rear or side yards, and screened from public view.



M. Private Street Standards. The intent of Private Street realm standards is to foster a low speed, multi-modal internal site circulation network. Streets shall provide a limited amount of curbside parking for visitors, loading, service, and accessible ADA spaces. The streets shall be designed as an amenity for the site, including surface treatments and landscaping similar in character and quality to any paseos or common open space.

1. Private Street Right-of-Way. All new multi-unit development sites that provide private streets shall comply with a minimum width right-of-way standard.
 - a. When on-street parallel parking is not provided, the right-of-way width shall be 41 feet in width.

- b. When on-street parallel parking is provided, the right-of-way width shall be 50 feet in width.
2. Private Street Zones. Three zones as described below comprise the right-of-way. Variations in width reflect the presence or absence of on-street parking:
 - a. Street Zone (SZ). Streets shall be 26-35 feet in width from curb-to-curb designed to provide motor vehicle and bicycle access. All Police and Fire emergency and maintenance vehicle access standards shall be met. Parallel curbside parking shall be permitted within roadways. Angled or head-in parking shall be prohibited.
 - b. Sidewalk Zone (SWZ). A minimum of one SWZ zone shall be provided when the street is less than 30 feet in width and two SWZ zone when the street is greater than 30 feet in width. The minimum width of a SWZ is 5 feet. Shrubs, ground cover, and street trees are prohibited in the zone.
 - c. Landscaping and Paving Zone (LPZ). There shall be a minimum 5-foot Landscaping and Paving Zone. The zone is intended to provide a transition between the street and private residences. Landscaping shall comprise a minimum of 20 percent of the total building frontage(s) area. Landscape planting beds shall have a minimum width of 3 feet. Paving stone, brick or concrete unit pavers or poured in place concrete with integral color pigments is permitted in the Zone. Steps are permitted to above grade first floor entrances.



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Photo credit: Crandall Arambula



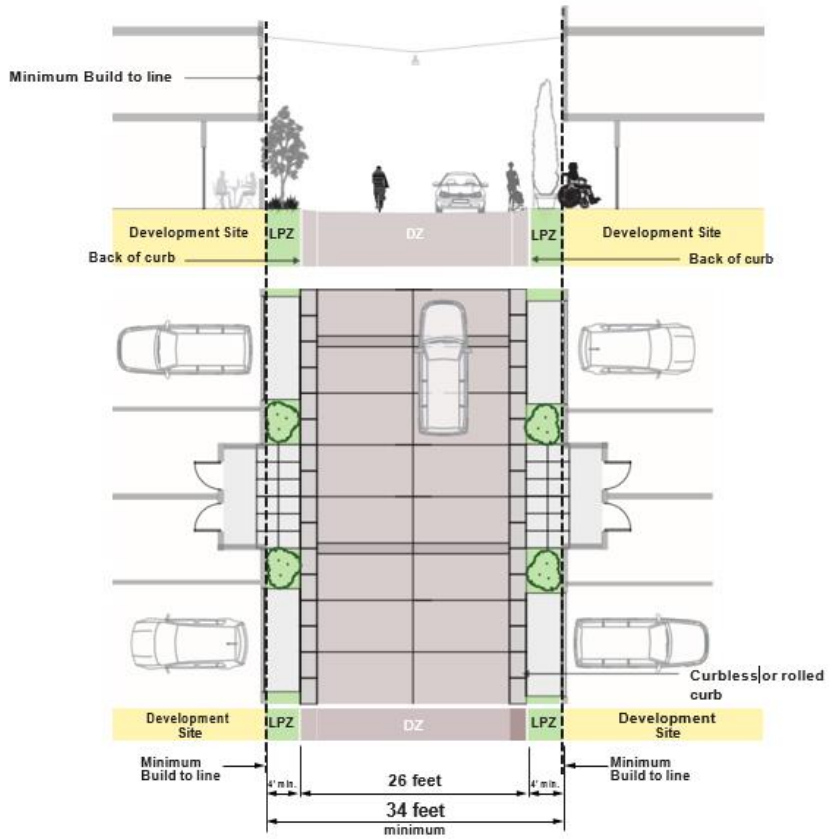
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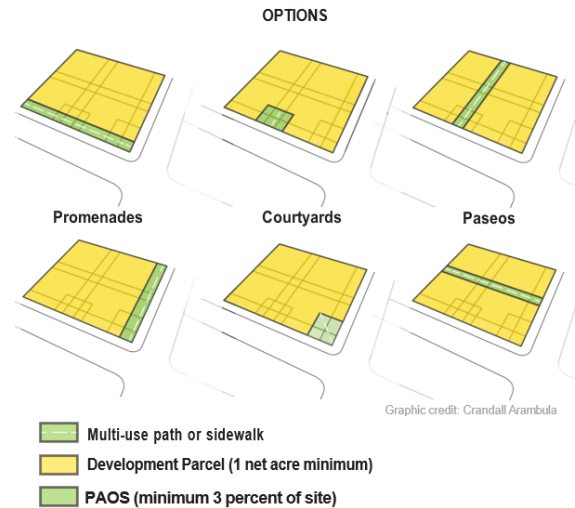
N. Private Driveway Standards. The intent of Driveway standards is to provide motor vehicle access to private garages and service areas, pedestrian access between residential garages and doors, and private or public street network.

1. Private Driveway Right-of-Way. All private driveways shall comply with a 26-foot minimum width fire apparatus access standard. No dead-end driveway shall exceed 150 feet in length.
2. Driveway Zones. Two zones described below comprise the driveway:
 - a. Driveway Zone (DZ). Paving shall be asphalt, stone, brick or concrete unit pavers or poured in place concrete with integral color pigment. Stamped concrete shall be prohibited.
 - b. Landscape and Paving Zone (LPZ). A 4-foot minimum width zone width shall be provided. The Zone shall be landscaped a minimum of 20 percent of the total site abutting a building. A combination of vines, ornamental, grasses, shrubs, ground cover, and ornamental trees shall be provided. Landscaping in pots is permitted.



- O. Publicly Accessible Open Space (PAOS) Standards. PAOS is intended to serve as an amenity for multi-unit tenant and surrounding neighborhood residents, employees and visitors. The PAOS shall be configured as passive paseo or promenade mobility corridors that provide walking and biking connections through or along the development site, or more active courtyard gathering spaces that can be the focus for adjacent ground floor

uses, especially where ground floor commercial is provided. The PAOS shall be contiguous, universally accessible, and shall be connected directly to adjacent public realm. Development sites that meet all requirements for providing PAOS, shall include one of the options as specified.



Courtyard PAOS

1. Required PAOS. Development sites with a combined street frontage 200 feet or greater in width and a total development site area of 1 acre or greater shall provide a minimum of 3 percent PAOS of the net site area. All PAOS shall be in addition to all residential zoning common open space.
2. Site Area Calculations. The net site area shall be the total site area minus the following:
 - a. Public Easements. Total area measured between the right-of-way line to the build-to-line.
 - b. Utility Easements. The total area required easements for public utilities through the site.
3. PAOS Design Standards.
 - a. Minimum PAOS width. No paseo, promenade, or courtyard right-of-way shall be no narrower than 20 feet in width. If incorporated in a development plan, paseos or promenades shall include an 8-foot minimum width path; all courtyards shall include a minimum 6-foot minimum width path.

- b. Access. All PAOS multi-use path access-ways shall be dedicated as a public easement subject to restrictions on hours of use.



Paseo Publicly Accessible Open Space



Promenade Publicly Accessible Open Space

P. Facade Modulation Standards.

The intent of the standards is to modulate the building’s massing and volume— the external dimensions comprising of height, length, width, and depth in a manner that results in buildings that are in proportion to development site context and provides opportunities for applied facade plane and surface architectural visual interest. All multi-unit dwellings, or multi-unit components of mixed-use buildings shall be modulated both vertically and horizontally.

Modulation standards are provided for density ranges that correlate with multi-unit building typologies. Townhome buildings shall adhere to standards for buildings up to 30 dwelling units per acre and apartment buildings shall follow standards for buildings with greater than 30 dwelling units per acre. Applicants shall select a set of standards based upon the density of the building. Where development sites are of sufficient size to accommodate multiple building typologies with varying densities, the following Design Standards shall apply to each typology separately. Density allocations may be transferred within a contiguous property.

Q. Vertical Modulation

The intent of the standards is to minimize the perceived height of a building by visually organizing the facade in a manner that reflects the function of the underlying building floor(s) through the use of varied yet uniform application of height, form, material, and color articulation.

1. Components. All buildings shall be organized into an identifiable base, middle, and top to differentiate the first floor and upper function of the building. This tripartite articulation provides opportunities to create varied application of materials, color, and fenestration. Modern or contemporary building architecture may be approved at the discretion of the Director.
 - a. Base. For multi-story buildings, the first floor primary facade shall constitute the building's base.
 - b. Middle. The primary facade... of floor(s) above the base and below the top shall constitute the middle.
 - c. Top. The primary facade of the uppermost floor(s) to the parapet or ridge line of a building and any facade of a floor(s) that steps back shall constitute the building's top.



Buildings shall be vertically modulated with a base, middle, and top



Buildings shall be horizontally modulated with recesses or projections

2. Vertical Modulation Changes in Facade Material and/or Color

- a. Banding. Use of functional and/or decorative horizontal facade belt course, trim, or other projections or recesses at floor lines between the base, middle, and top. The projection or recess shall have a minimum height of 12 inches and a depth of 4 inches.
- b. Floor Heights. Change in floor-to-floor facade heights at the second floor or above. No middle or top floor-to-floor height shall be less than 10 feet.
- c. Fenestration. Changes in building window and door widths, heights, depths, materials, and colors. Changes in trim and inclusion or absence of shutters, mullions, muntins, transoms or other window components.
- d. Cladding Material. Buildings may express vertical modulation by providing a change of cladding materials to denote base, middle and top. Buildings using cladding material to provide vertical modulation are not required to provide banding. For buildings one hundred feet in height, a curtain wall system may be used above the building base.

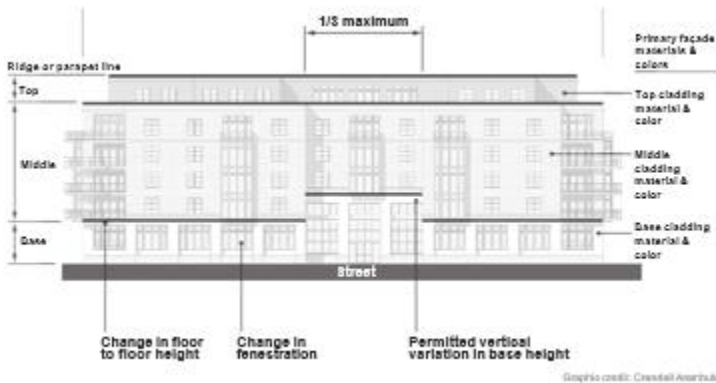
3. Additional Vertical Modulation Standards

- a. First Floor Height. The minimum first finished floor to second finished floor plate elevation shall be:
 - i. 10 feet – for buildings with density of less than 30 dwelling units per acre.
 - ii. 12 feet – for buildings with density greater than 30 dwelling units per acre, developed as residential only.
 - iii. 15 feet – for buildings with a density greater than 30 dwelling units per acre with commercial uses on the ground floor.

- b. Vertical Variation. Base, middle and top facade divisions shall be consistent with the underlying floor plate heights.
 - i. Density of less than 30 dwellings per acre — combining, omitting, increasing or decreasing the base or middle facade division height along building frontages shall be prohibited.
 - ii. Density of greater than 30 dwellings per acre or greater — increasing the base and decreasing the middle facade division height shall be permitted for any building facade greater than 60 feet in length. Stepping of plate heights shall be limited to no more than 1/3 of any total facade frontage length.



Less than 30 Dwelling unit per acre minimum base density buildings (townhome)

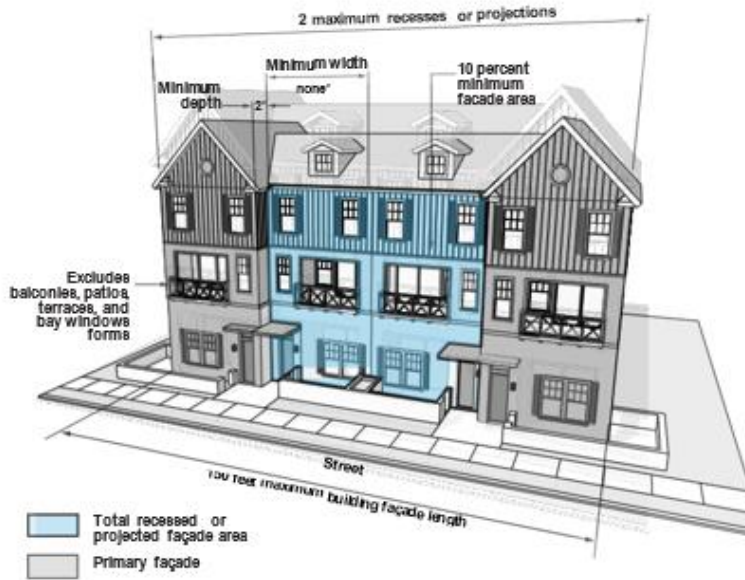


30+ Dwelling unit per acre minimum base density buildings (apartment)

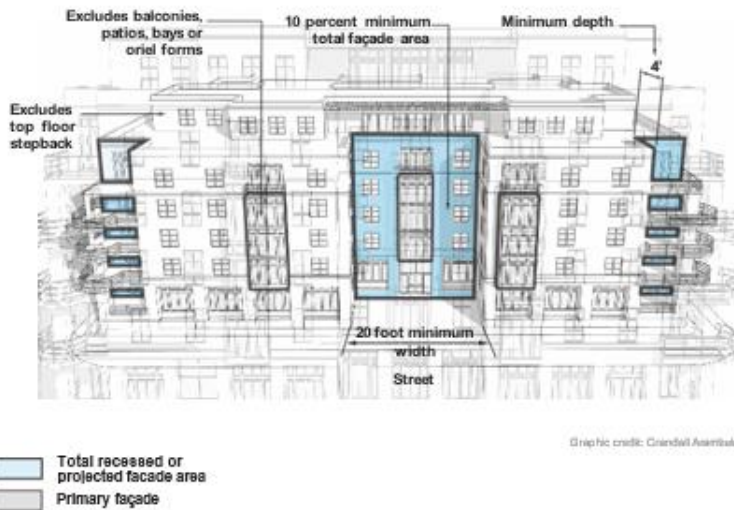
R. Horizontal Modulation

The intent of the standards is to shorten the perceived length and mass of a building by providing facade recesses and projections that break up the horizontal thrust of a building. The modulation provides opportunities to accentuate and draw visual attention to key building features such as stairwells, elevators, lobbies, and entries, and create usable open spaces such as courtyards. Horizontal modulation is intended to be complemented and strengthened by accompanying application of different facade materials, color, and fenestration; and layering of additional recessed and projected architectural elements such as bays, balconies, and patios.

1. Building Standards for Developments with Density of less than 30 dwelling per acre
 - a. Maximum building length. No building shall be greater than 150 feet in length.
 - b. Required minimum modulation area. A minimum of 10 percent of the total facade area shall be horizontally modulated.
 - c. Minimum depth. All recesses or projections shall be a minimum of 2-feet in depth.
 - d. Maximum number. No facade shall have no more than 2 total recesses or projections per facade.
2. Building Standards for Development with Density of 30 dwellings per acre or greater.
 - a. Maximum façade length. Buildings in excess of 200 ft shall have a horizontal massing break of no less than 20 ft with a depth of 15 ft for every 200 ft of additional overall length.
 - b. Required minimum modulation area. A minimum...
 - c. Minimum depth. All recesses of 10 percent of the total facade area shall be horizontally modulated.
 - d. Minimum width. All recesses or projections shall be a minimum of 4-feet in depth.
 - e. Maximum number. No facade shall shall have no more than 4 total recesses or projections per facade.



Less than 30 Dwelling unit per acre minimum base density buildings



30+ Dwelling unit per acre minimum base density buildings

S. First Floor Opening and Transparency Standards

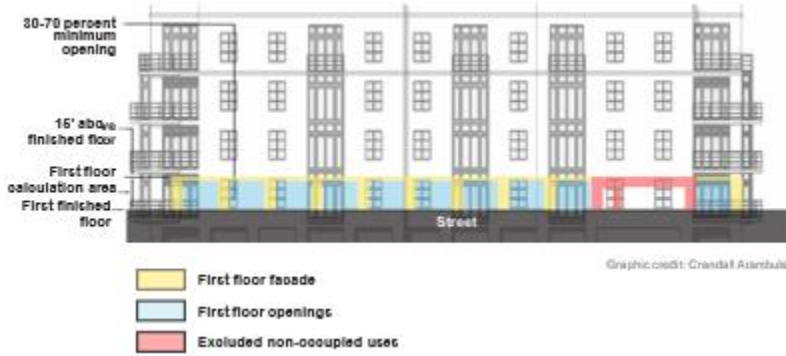
The standards are intended to foster passive ‘eyes on the street’ surveillance of the public realm by providing an adequate number of clear and direct sightlines between first floor residences and adjacent public realm sidewalks and common areas without compromising residential livability, privacy, and security. For multi-unit buildings with commercial first floor uses, the standards are intended to provide a greater amount of

visibility of merchant goods and services for potential walking, rolling, or driving-by clients or customers. For all buildings, the standards apply only to portions of the first floor that contain residential or commercial conditioned/occupied floor areas fronting streets and open common open space.

1. Building Standards for Developments with Density of less than 30 dwellings per acre.
 - a. Minimum Opening Standard. First floor multi-unit building frontages shall be comprised of transparent glazed door and window openings based frontage adjacency, and first floor use as follows:
 - i. 20 percent – for any at-grade or above-grade residential first floor unit fronting a street or paseo.
2. Building Standards for Developments with Density of 30 dwellings per acre or greater
 - a. Minimum Opening Standard. First floor multi-unit building frontages shall be comprised of transparent glazed door and window openings based public realm frontage adjacency and first floor use as follows:
 - i. 25 percent - for any at-grade or above-grade residential first floor unit fronting a street or paseo.
 - ii. 50 percent - for any mixed use multi-unit building with a first floor commercial use fronting a street, courtyard or paseo and would pertain to commercial spaces only.



Less than 30 Dwelling unit per acre minimum base density buildings



30+ Dwelling unit per acre minimum base density buildings

T. First floor Entry Standards

The intent of the standard is to locate building individual unit and lobby entries along street frontages to foster pedestrian neighborhood access and street-oriented activity. Unobstructed sight lines and pedestrian access from the public sidewalk shall be provided. The standards do not apply to service and loading entrances.

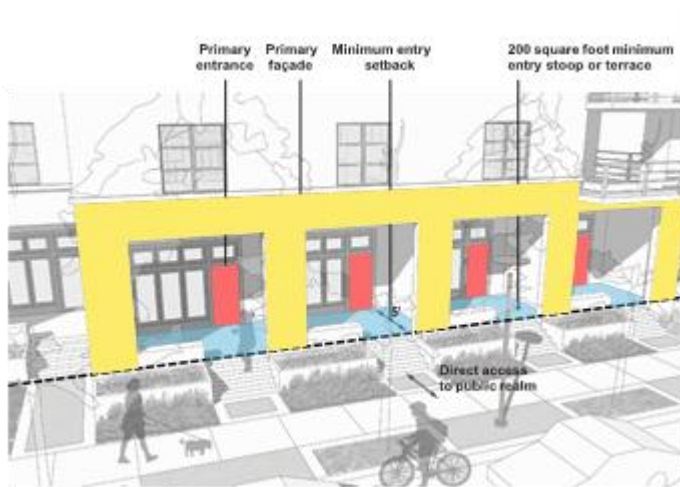
1. Individual Residential Unit Entrances

- a. Residential Front Door Standards. At-grade or above-grade first floor individual residential unit's entrances shall be accessed directly adjacent public realm or common area unless determined not feasible by the Director or due to site topographic considerations.
 - i. Minimum entry to sidewalk width — walkway, ramp, and stairs connecting to the public sidewalk shall be a minimum of 5 feet in width.
 - ii. Entry stoop, terrace and patio area — if proposed, entry terraces and patio areas shall be a minimum of 40 square feet. If proposed, entry stoops shall be a minimum of 20 square feet excluding any required stairs or ramp area.

2. Lobby Entrances

- a. Standards. Lobby entrances shall be located at-grade, unless determined not feasible by the Director. Residential and commercial lobby entrances shall be accessed directly from the adjacent public realm or PAOS.
 - i. No lobby door setback is required .
 - ii. Minimum entry sidewalk width - where entries are setback, walkway width connecting to the sidewalk zone shall be a minimum of 6 feet.

- iii. Entry landing area – shall be a minimum of 60 square feet.
- iv. Prohibited – lobby entrance primary entries are prohibited from driveways, at-grade parking lots, parking structures, or alleys unless required due to topographic conditions.



- Primary façade
- Stoop, terrace or patio
- Primary entrance

Individual residential unit front door standards



Lobby entrances shall be accessed directly from the street