



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

AGENDA ITEM 1

January 17, 2019

TO: Commissioners/Alternates

FROM: Kari A. Rigoni, Executive Officer

SUBJECT: City of Newport Beach: Request for consistency review of Harbor Pointe Senior Living Project

Background

The City is proposing development of a three-story, 85,000-square-foot senior convalescent and congregate care facility (i.e., memory care and assisted living as a State-licensed Residential Care Facility for the Elderly [RCFE]). The proposed development would contain 101 assisted living and memory care units (120 beds), ancillary uses, and subsurface parking. The units would consist of 42 assisted living studios, 27 assisted living one-bedroom units, 12 assisted living two-bedroom units, 13 memory care one-bedroom units, and 7 memory care two-bedroom units. Additionally, the proposed facility would include living rooms, dining rooms, grill, fitness room, spa/salon, theater, library, roof garden, community store, computer lab, activity room, medication rooms, and support uses such as offices, lab, mail room, laundry, and maintenance facilities. Separate interior courtyards would offer seating, outdoor dining, and landscaping for the assisted living and memory care residents.

An existing approximately 8,800-square-foot, single-story restaurant building (Kitayama) will be demolished to accommodate the development. The proposed Harbor Pointe Senior Living maximum building height is 39 feet, 6 inches (including mechanical equipment) from finished grade. The maximum allowable height limit for the proposed project area is 45 feet (35 feet for building and an additional 10 feet to accommodate and screen mechanical equipment). The project site is approximately 1.5 acres and is located at the corner of Bristol Street and Bayview Place. It is generally bounded by Bayview Place to the east, Bristol Street to the north, residential and nonresidential properties within the Santa Ana Heights Specific Plan Area to the west, and the Baycrest residential community to the south. To the north, beyond Bristol Street, is the 73 Freeway. The proposed project is approximately .7-mile southeast of JWA. See Attachment 1 to view the project vicinity map and Attachment 2 to view the exhibit of surrounding land uses.

The project is being referred to your Commission because the project requires a General Plan Amendment and Zone Change. Development of the proposed project requires the following approvals from the City of Newport Beach:

General Plan Amendment (GPA): To change the land use designation for the property from General Commercial Office (CO-G) to Private Institutions (PI), and to amend Anomaly No. 22 to replace the existing allowed development limits of 8,000 square feet for restaurant or 70,000 square feet for office with 85,000 square feet for a RCFE.

Planned Community (PC) Development Plan Amendment (Zoning): To change the allowed land uses and amend development standards in the Bayview Planned Community (PC-32) Zoning District for the proposed facility. No changes to the allowed height limit are proposed. The current and proposed height limitation is 35 feet and an additional 10 feet height extension is permitted only to accommodate and screen mechanical equipment.

The City of Newport Beach has scheduled public hearings on the proposed project as follows:

December 6, 2018	City of Newport Beach Planning Commission (recommended approval)
February 12, 2019	City of Newport Beach City Council

JWA AELUP Issues

Aircraft Noise Impacts:

The proposed project site is located within the 60 decibels (dB) Community Noise Equivalent Level (CNEL) Noise Contour for John Wayne Airport (JWA). See Attachment 3 to view the noise impact zones for JWA.

The *Airport Environs Land Use Plan (AELUP) for JWA* recommends that residential units be limited or excluded from the 60 dB CNEL noise contour unless sufficiently sound attenuated. Per the *AELUP*, the residential use interior sound attenuation requirement shall be a CNEL value not exceeding an interior level of 45 dB.

The EIR for the Harbor Pointe Senior Living Project includes the following mitigation measure which addresses noise:

MM NOI-4 Prior to the issue of the building permit for the proposed Project, the Applicant shall submit an acoustical analysis acceptable to the City of Newport Beach Community Development Director or Building Official, that demonstrates that the proposed architectural design would provide an interior noise level of 45 dBA CNEL or less (based on buildout traffic noise conditions) in all habitable rooms of the proposed plans and specifications showing that:

- All residential units facing Bristol Street and Bayview Place shall be provided with a means of mechanical ventilation, as required by the California Building Code for occupancy with windows closed.

The *AELUP for JWA* also recommends that designated outdoor common or recreational areas within the 60 dB CNEL noise contour provide outdoor signage informing the public of the presence of operating aircraft.

JWA Height Restrictions:

The proposed project area is within the Notification Area and the Federal Aviation Regulation (FAR) Part 77 Obstruction Imaginary Surfaces for JWA. See Attachments 4 and 5.

The proposed project penetrates the notification surface for JWA. The proposed building height of approximately 40' plus the ground elevation of 51' Above Mean Sea Level (AMSL) equates to a building height of 91' AMSL. The notification surface would be penetrated at 84.4' AMSL. The project applicant filed FAA Form 7460-1 and received a Determination of No Hazard to Air Navigation. The FAA Aeronautical Study No. 2018-AWP-208-OE is included as Attachment 6.

Attachment 5 shows that the proposed project is located within the horizontal surface for JWA which would be penetrated at 206' AMSL. The proposed maximum building height of 91' AMSL falls below this surface and will not impact areas reserved for air navigation.

Safety Zone Restrictions:

The proposed project falls within Safety Zone 6 for JWA. See Attachment 7 to view the safety zones for JWA. Per the California Airport Land Use Planning Handbook (October, 2011), residential uses are normally allowed, outdoor stadiums and similar uses with very high intensities should be avoided, and uses such as children's schools, large care centers, hospitals, and nursing homes are limited. The handbook defines limited as: a use is acceptable only if density/intensity restrictions are met. Figure 4G of the planning handbook shows that for Safety Zone 6 there is no limit to the average number of dwelling units per gross acre (density) for urban residential uses and also no limit to number of people per gross acre (intensity) for nonresidential urban uses. However, the Handbook guidance notes that "Noise and overflight should be considered." See Attachment 8 to view the Safety Zone 6 Traffic Pattern Zone Figure 4G.

The EIR for the proposed project also discusses that the project does not fit the definition of a nursing home. The project is defined as a Residential Care Facility for the Elderly (RCFE) and is licensed by the California Department of Social Services, whereas a nursing home is licensed by the Department of Public Health.

AE LUP for Heliports Issues

The development of heliports is not part of the proposed project and is not included within the Bayview PC Development Plan and Development Standards. Heliports are not a permitted use within the City of Newport Beach without the prior approval and issuance of a conditional use permit which establishes the maintenance and operation of such a use. The Newport Beach General Plan includes language that states proposals to develop new heliports must be submitted through the City to the ALUC for review and action pursuant to Public Utilities Code Section 21661.5 and includes the requirement that proposed heliport projects must comply fully with the State permit procedure provided by law and with all conditions of approval imposed or recommended by FAA, by the ALUC for Orange County and by Caltrans/Division of Aeronautics.

Environmental Compliance

An Environment Impact Report (EIR) was prepared as the CEQA documentation to analyze the potential impacts of the project. ALUC staff provided comments on the DEIR related to height restrictions, noise and filing Form 7460-1 with the Federal Aviation Administration (FAA). See Attachment 9 to view the comment letter.

Conclusion

Attachment 10 to this report contains the project submittal package received from the City of Newport Beach which includes a draft of the Bayview Planned Community Development Plan and Development Standards for your reference.

With regard to noise, ALUC staff recommends that the City amend the proposed mitigation measure as follows:

MM NOI-4 Prior to the issue of the building permit for the proposed Project, the Applicant shall submit an acoustical analysis acceptable to the City of Newport Beach Community Development Director or Building Official, that demonstrates that the proposed architectural design would provide an interior noise level of 45 dBA CNEL or less (based on buildout traffic noise conditions **and in compliance with the AELUP for JWA**) in all habitable rooms of the proposed plans and specifications showing that:

- All residential units facing Bristol Street and Bayview Place shall be provided with a means of mechanical ventilation, as required by the California Building Code for occupancy with windows closed.

Staff also recommends that the City adopt a condition of approval for projects located within the 60 dBA CNEL noise contour for JWA, requiring that signage be provided for designated outdoor common or recreational areas informing the public of the presence of operating aircraft.

ALUC staff has reviewed this project with respect to compliance with the *JWA AELUP*, and the *AELUP for Heliports* including review of appropriate height restrictions, imaginary surfaces, noise and environmental compliance. Based upon staff's review of the proposed project and with the modification of the proposed mitigation measure above and addition of the outdoor signage condition, staff concludes that the proposed project and PC Amendment would be Consistent with the Commission's *AELUP for JWA* and *AELUP for Heliports*.

Recommendation:

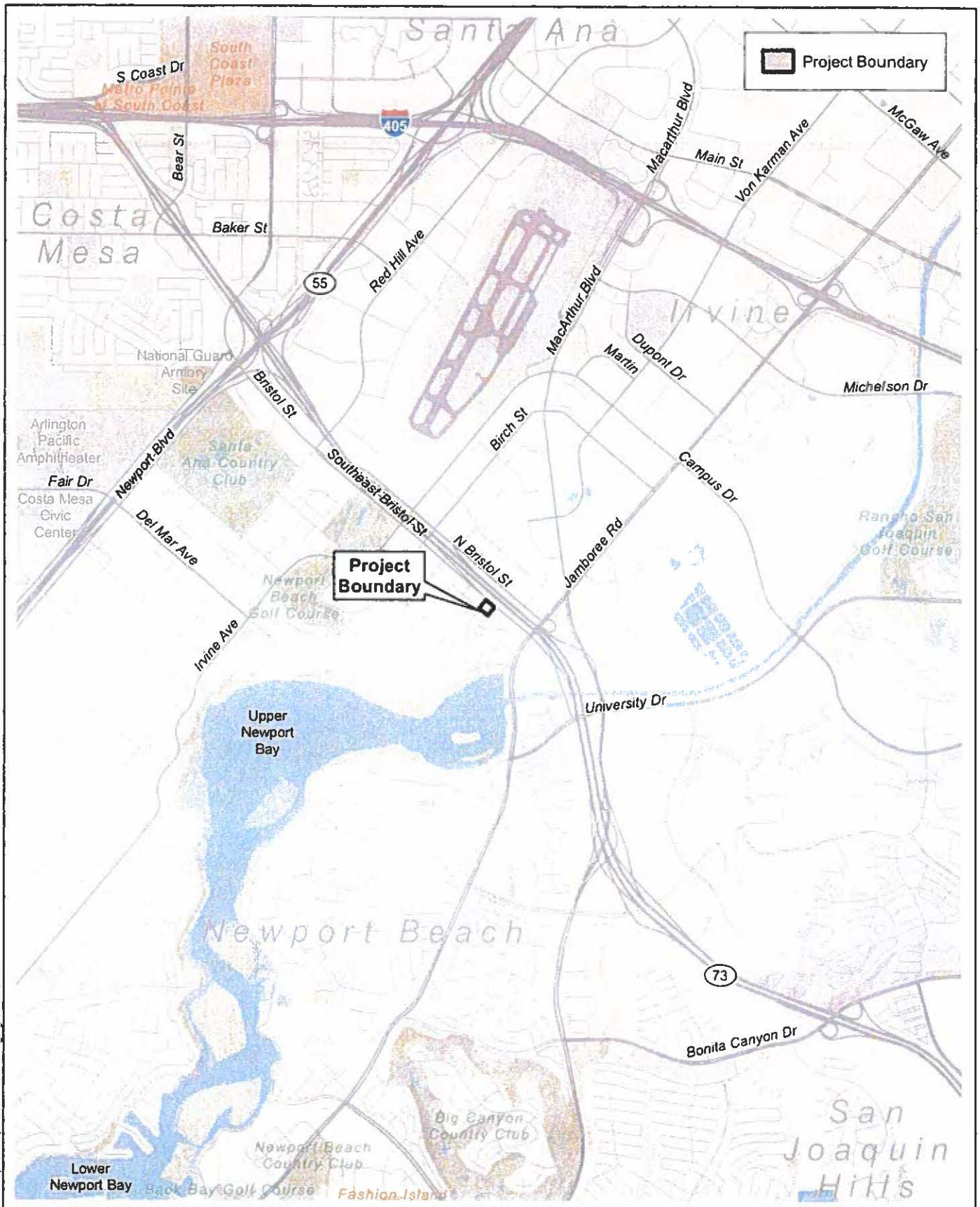
1. That the Commission find the City of Newport Beach Harbor Pointe Senior Living Project to be Consistent with the *AELUP for JWA* and the *AELUP for Heliports* with the modification of noise mitigation measure NOI-4, and addition of the proposed condition of approval requiring outdoor signage informing the public of the presence of operating aircraft.

Respectfully submitted,


Kari A. Rigoni *for*
Executive Officer

Attachments:

1. Project Vicinity Map
2. Exhibit of Surrounding Land Uses
3. JWA Impact Zones (Noise Contours)
4. FAR Part 77 AELUP Notification Area for JWA
5. FAR Part 77 JWA Obstruction Imaginary Surfaces for JWA
6. FAA Aeronautical Study No. 2018-AWP-208-OE
7. John Wayne Airport Safety Zone Reference Map
8. Safety Zone 6 Traffic Pattern Zone Figure 4G
9. ALUC comments on the DEIR
10. City of Newport Beach Submittal Package



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Local Vicinity

Exhibit 1-2

Harbor Pointe Senior Living Project



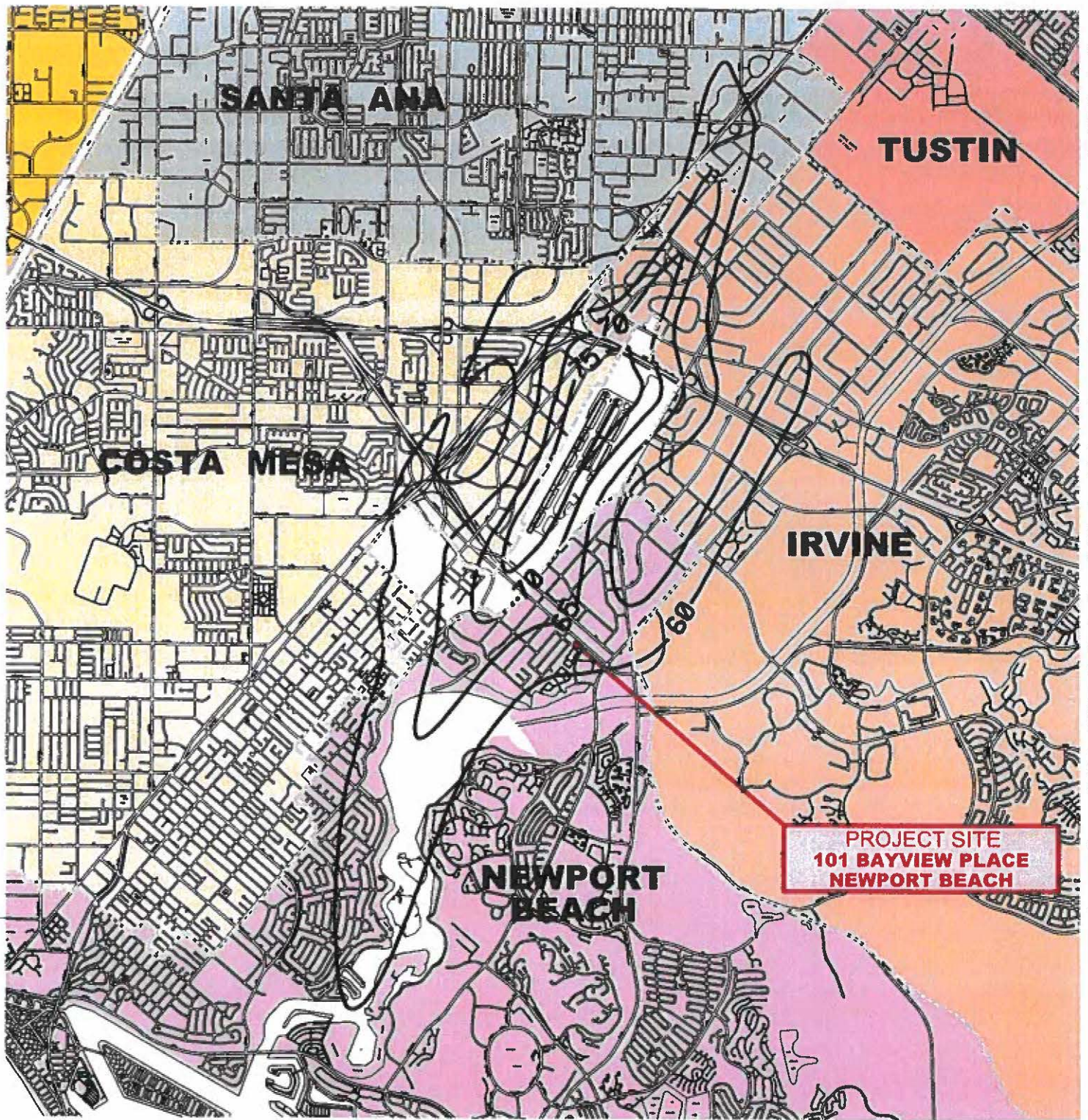
(Rev 01-12-2018 MMD) R Projects\NEW\3\NEW\603100\Graphics\EIR\es_lv.pdf



Surrounding Land Uses - Harbor Point
PA2015-210
101 Bayview Place



City of Newport Beach
 GIS Division
 December 17, 2018



Note: County Unincorporated areas are shown in white.

John Wayne Airport Impact Zones

LEGEND

- 65— CNEL CONTOUR
- - - - RUNWAY PROTECTION ZONE
- · · · · CITY BOUNDARIES
- AIRPORT BOUNDARIES



Composite contour from
John Wayne Airport Project
Case-1990 and 2005
(see section 2.2.1)

CERTIFICATION

Adopted by the Airport Land Use Commission for Orange County

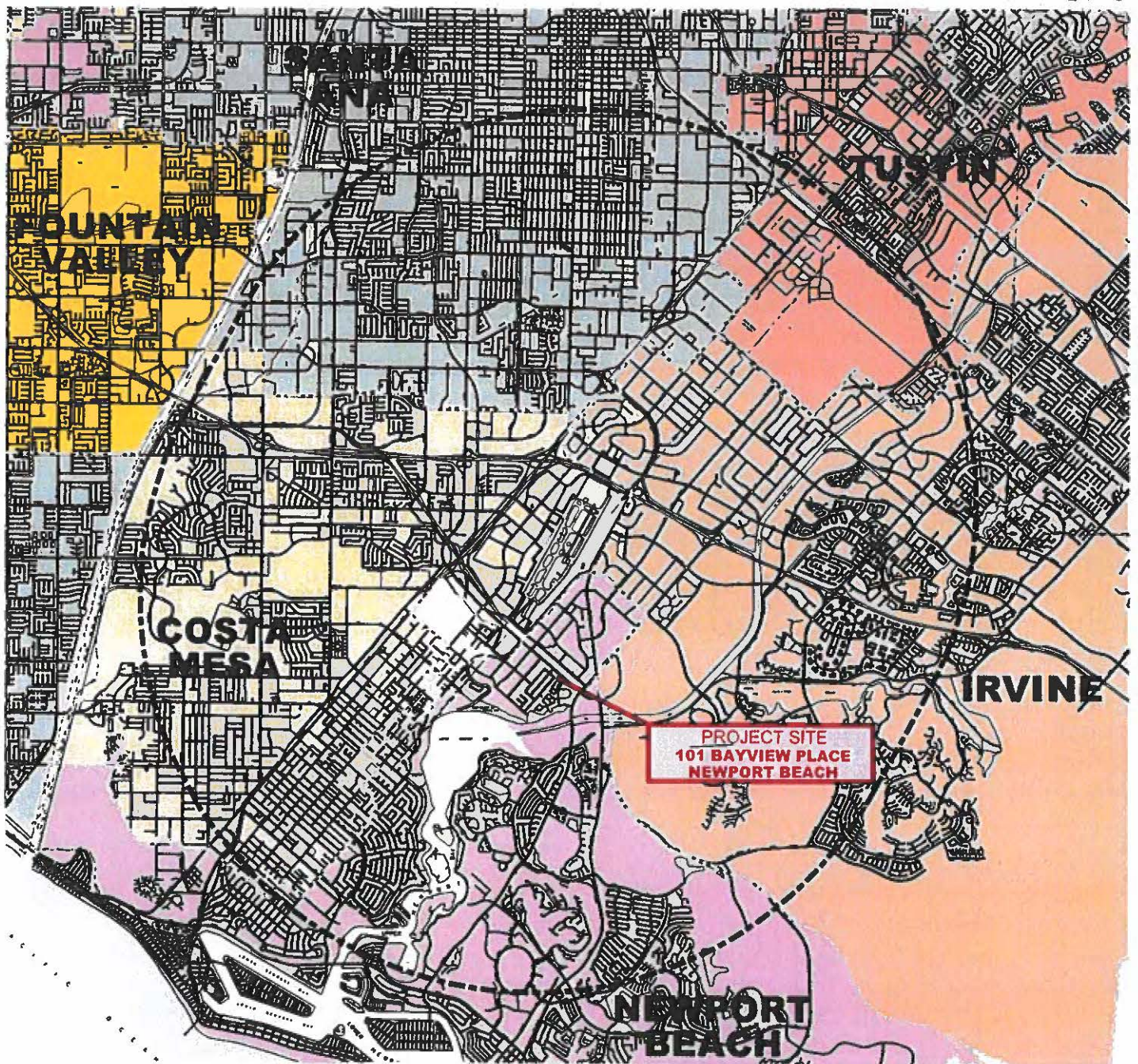
ATTACHMENT 3

Kari A. Rigoni, Executive Officer

Date

AELUP Notification Area for JWA

ATTACHMENT 3



Note: County Unincorporated areas are shown in white.

FAR PART 77

Notification Area for John Wayne Airport: 20,000' Radius at 100:1 Slope

LEGEND

- 20,000 Radius
- ... CITY BOUNDARIES
- AIRPORT BOUNDARIES



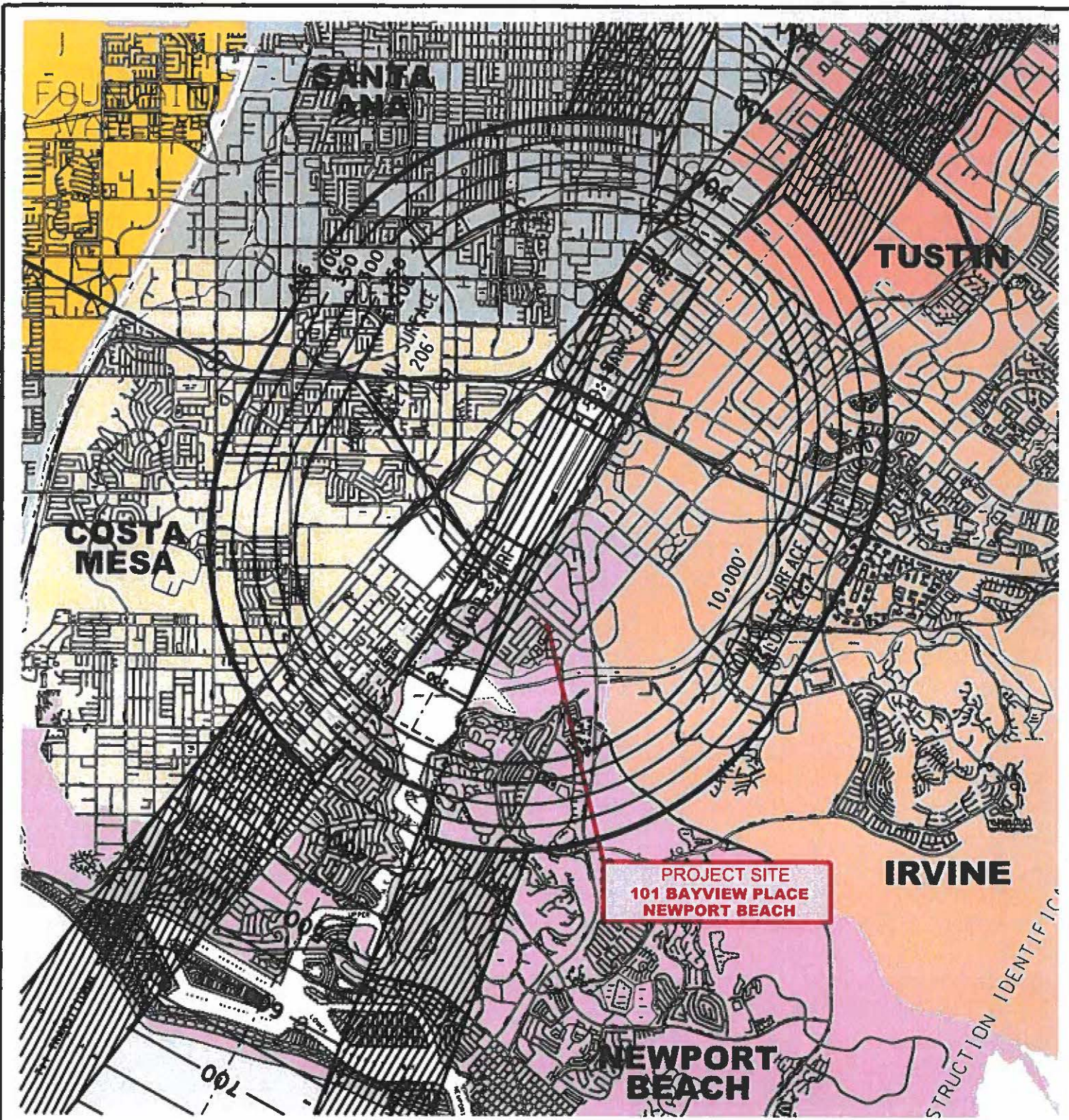
CERTIFICATION

Adopted by the Airport Land Use Commission for Orange County

ATTACHMENT 4

Kari A. Rigoni, Executive Officer

Date



Note: County Unincorporated areas are shown in white.

FAR PART 77 John Wayne Airport Obstruction Imaginary Surfaces



- LEGEND**
- CITY BOUNDARIES
 - AIRPORT BOUNDARIES

<p>CERTIFICATION</p> <p>Adopted by the Airport Land Use Commission for Orange County</p> <h3 style="text-align: center;">ATTACHMENT 5</h3>	
<p>Kari A. Rigoni, Executive Officer</p>	<p>Date</p>



Mail Processing Center
 Federal Aviation Administration
 Southwest Regional Office
 Obstruction Evaluation Group
 10101 Hillwood Parkway
 Fort Worth, TX 76177

Aeronautical Study No.
 2018-AWP-208-OE
 Prior Study No.
 2016-AWP-4679-OE

Issued Date: 01/30 2018

Carol McDermott
 Entitlement Advisors
 5000 Birch
 Suite 400 East Tower
 Newport Beach, CA 92660

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building Harbor Pointe Senior Living Project
 Location: Newport Beach, CA
 Latitude: 33-39-25.31N NAD 83
 Longitude: 117-52-07.44W
 Heights: 58 feet site elevation (SE)
 33 feet above ground level (AGL)
 91 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

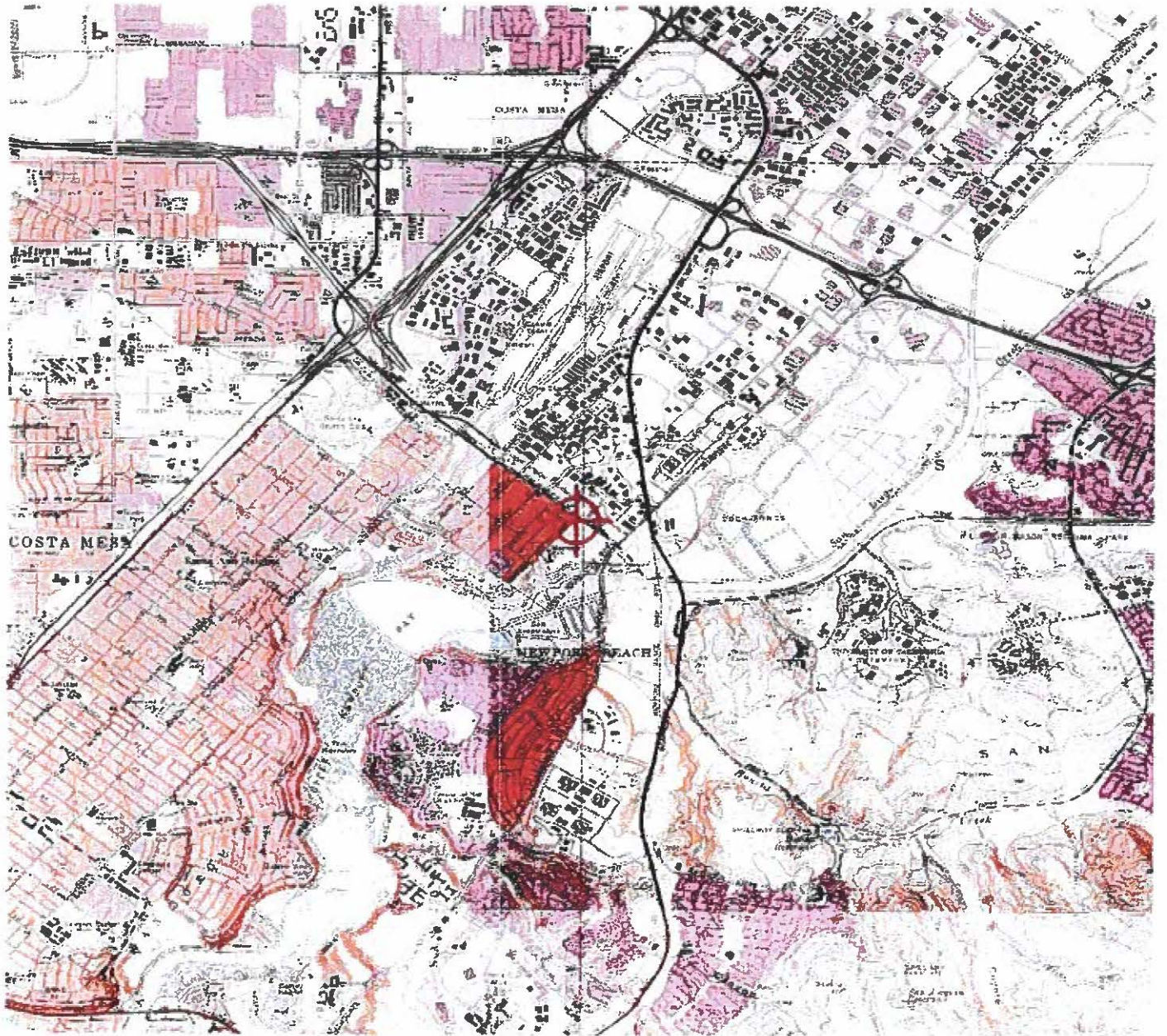
Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70-7460-1 I, Change 1

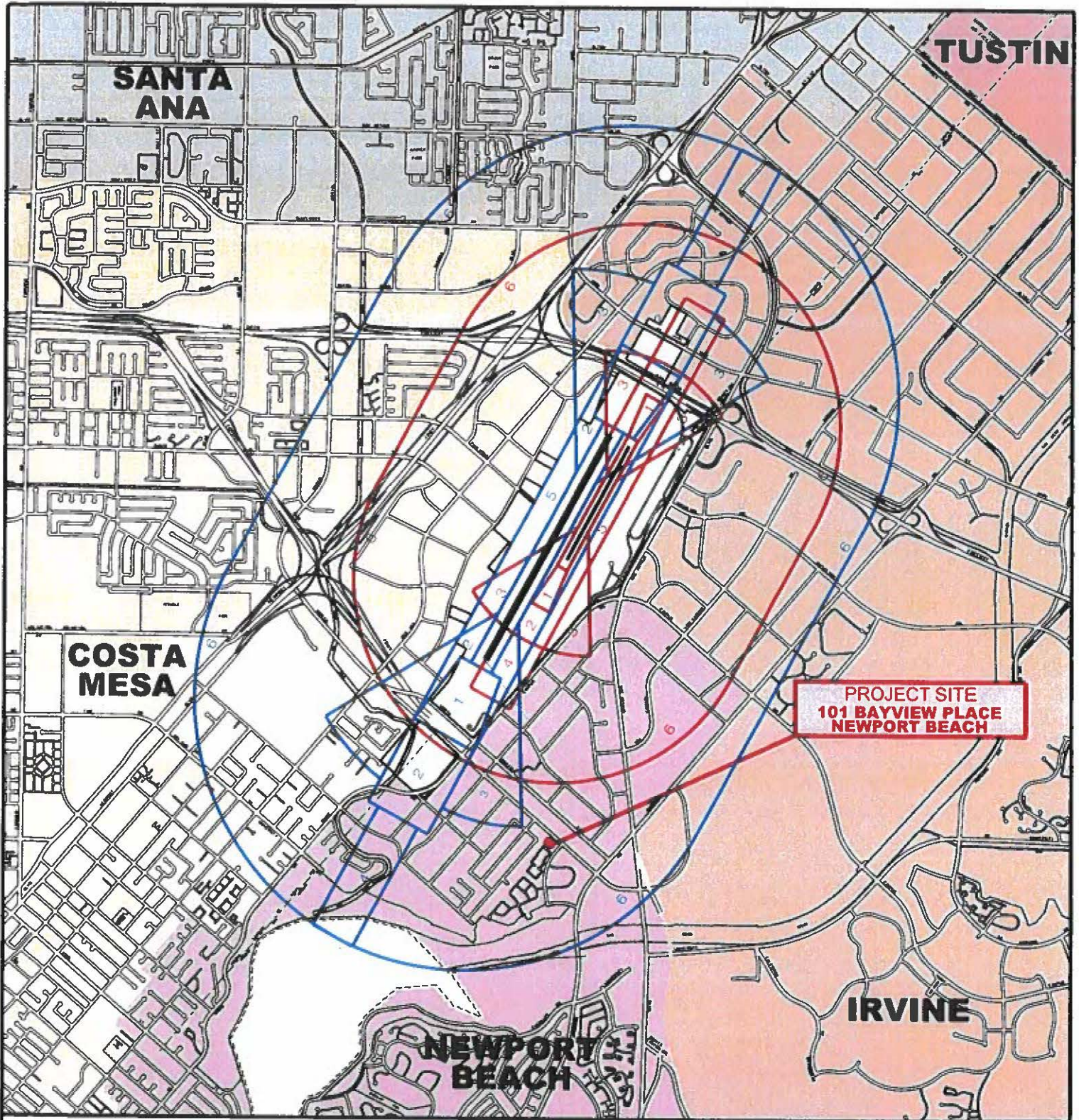
The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 07/30 2019 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.

TOPO Map for ASN 2018-AWP-208-OE





**PROJECT SITE
101 BAYVIEW PLACE
NEWPORT BEACH**

John Wayne Airport Safety Zone Reference Map

LEGEND

1. RUNWAY PROTECTION ZONE
2. INNER APPROACH / DEPARTURE ZONE
3. INNER TURNING ZONE
4. OUTER APPROACH / DEPARTURE ZONE
5. SLOPE ZONE
6. TRAFFIC PATTERN ZONE



SAFETY COMPATIBILITY ZONES FOR RUNWAY 2L & 20R (A MEDIUM GENERAL AVIATION RUNWAY AS DESCRIBED IN THE CALIFORNIA AIRPORT LAND USE PLANNING HANDBOOK JANUARY 2002 EDITION)



SAFETY COMPATIBILITY ZONES FOR RUNWAY 2R & 20L (A SHORT GENERAL AVIATION RUNWAY AS DESCRIBED IN THE CALIFORNIA AIRPORT LAND USE PLANNING HANDBOOK JANUARY 2002 EDITION)



Scale in Feet
0 100 200 300 400

CERTIFICATION

Adopted by the Airport Land Use Commission for Orange County

ATTACHMENT 7

Kari A. Rigoni, Executive Officer

Date

Nature of Risk

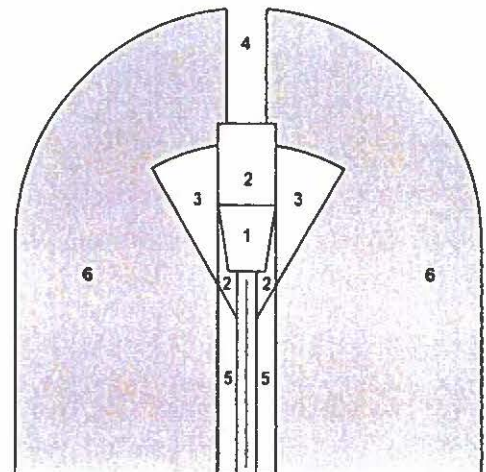
- Normal Maneuvers
 - Aircraft within a regular traffic pattern and pattern entry routes
- Altitude
 - Ranging from 1,000 to 1,500 feet above runway
- Common Accident Types
 - Arrival: Pattern accidents in proximity of airport
 - Departure: Emergency landings
- Risk Level
 - Low
 - Percentage of near-runway accidents in this zone: 18% - 29% (percentage is high because of large area encompassed)



IN TRAFFIC PATTERN

Basic Compatibility Policies

- Normally Allow
 - Residential uses (however, noise and overflight impacts should be considered where ambient noise levels are low)
- Limit
 - Children's schools, large day care centers, hospitals, and nursing homes
 - Processing and storage of bulk quantities of highly hazardous materials
- Avoid
 - Outdoor stadiums and similar uses with very high intensities
- Prohibit
 - None



Refer to Chapter 3 for dimensions

	Maximum Residential Densities	Maximum Nonresidential Intensities	Maximum Single Acre
	Average number of dwelling units per gross acre	Average number of people per gross acre	4x the Average number of people per gross acre
Rural	No Limit – See Note A	150 – 200	600 – 800
Suburban	No Limit – See Note A	200 – 300	800 – 1,200
Urban	No Limit – See Note A	No Limit – See Note B	No Limit – See Note B
Dense Urban	No Limit – See Note A	No Limit – See Note B	No Limit – See Note B

Note A: Noise and overflight should be considered.

Note B: Large stadiums and similar uses should be avoided.

FIGURE 4G

Safety Zone 6 – Traffic Pattern Zone



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

August 22, 2016

Benjamin Zdeba, Associate Planner
City of Newport Beach, Community Development Dept.
100 Civic Center Drive
Newport Beach, CA 92660

Subject: Harbor Pointe Senior Living Project NOP of DEIR

Dear Mr. Zdeba:

Thank you for the opportunity to review the initial for the proposed Harbor Pointe Senior Living Project in the context of the Airport Land Use Commission's (ALUC) *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)*. The proposed project consists of the demolition of an existing 8,800 square foot restaurant and development of a five-story 128-unit convalescent and congregate care facility and associated ancillary uses and subsurface parking.

The proposed project is located within the 60 dBA CNEL noise contour for JWA. The DEIR should discuss the project's location within Noise Impact Zone 2 and what sound attenuation requirements will be met by the proposed project. In addition, it is recommended that designated outdoor common or recreational areas within Noise Impact Zone 2 provide outdoor signage informing the public of the presence of operating aircraft.

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

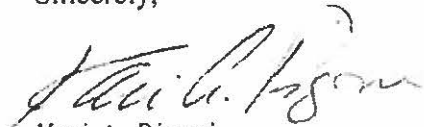
The proposed project is also located within the Obstruction Imaginary Surfaces for JWA. We recommend that the DEIR discuss what the maximum height will be for the site since a General Plan Amendment and a Planned Community Development Plan Amendment is

required from the City of Newport Beach. In addition, the proposed project is located within Safety Zone 6 for the long runway at JWA and is just outside Safety Zone 3. The DEIR should discuss the proposed project in relation to these safety zones.

A referral by the City to the ALUC may be required for this project due to the location of the proposal within an AELUP Planning Area and due to the nature of the required City approvals (i.e. General Plan Amendment and Planned Community Development Plan Amendment) under PUC Section 21676(b). In this regard, please note that the Commission wants such referrals to be submitted and agendized by the ALUC staff between the Local Agency's expected Planning Commission and City Council hearings. Since the ALUC meets on the third Thursday afternoon of each month, submittals must be received in the ALUC office by the first of the month to ensure sufficient time for review, analysis, and agendizing.

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

Sincerely,



Kari A. Rigoni
Executive Officer



CITY OF NEWPORT BEACH

100 Civic Center Drive
Newport Beach, California 92660

949 644 3200

newportbeach.ca.gov/communitydevelopment

December 19, 2018

Kari Rigoni, Executive Officer
Airport Land Use Commission for Orange County
John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA 92626

RE: Harbor Pointe Senior Living Project
101 Bayview Place, Newport Beach, CA 92660

Dear Ms. Rigoni:

Pursuant to Section 4.7 of the Airport Environs Land Use Plan (AELUP) for John Wayne Airport, the City of Newport Beach (City) requests that the Airport Land Use Commission (ALUC) review the proposed Harbor Pointe Senior Living project for consistency with the Airport Environs Land Use Plan (AELUP) at its January 17, 2019 meeting.

Project Summary

The applicant proposes the demolition of an existing approximately 8,800-square-foot, single-story restaurant building (Kitayama) to accommodate the development of an approximately 85,000-square-foot, three-story senior convalescent and congregate care facility (i.e., memory care and assisted living as a State-licensed Residential Care Facility for the Elderly [RCFE]). The proposed building would be 39 feet, 6 inches to the highest point of the structure from finished grade. The project site is approximately 1.5 acres and is located at the corner of Bristol Street and Bayview Place. A vicinity map is attached as Attachment No. ALUC 1.

Required Approvals

Development of the proposed project requires the following approvals from the City:

Approval	Why is it required?
<i>General Plan Amendment (GPA)</i>	To change the land use designation for the property from General Commercial Office (CO-G) to Private Institutions (PI), and to amend Anomaly No. 22 to replace the existing allowed development limits of 8,000 square feet for restaurant or 70,000 square feet for office with 85,000 square feet for a residential care facility for the elderly (RCFE). See Attachment ALUC No. 2 for the GPA exhibit.

ATTACHMENT 10

<i>Planned Community Development Plan Amendment (Zoning)</i>	To change the allowed land uses and amend development standards in the Bayview Planned Community (PC-32) Zoning District for the proposed facility. No changes to the allowed height limit is proposed. See page 3 of this letter for additional building height information. Also, refer to Attachment No. ALUC 3 for the Proposed Amendment to the PC-32 Development Plan
<i>Major Site Development Review</i>	To ensure site development is in accordance with the applicable planned community and zoning code development standards and regulations pursuant to Newport Beach Municipal Code (NBMC) Section 20.52.080 (Site Development Reviews).
<i>Conditional Use Permit</i>	To allow the operation of a 120-bed Residential Care Facility for the Elderly (memory care and assisted living facility).
<i>Development Agreement</i>	The applicant has requested a development agreement, which will provide for public benefits as the project is implemented.
<i>Environmental Impact Report (EIR)</i>	To address reasonably foreseeable environmental impacts resulting from the legislative and project specific discretionary approvals pursuant to the California Environmental Quality Act (CEQA).

It should be noted that the City's Planning Commission voted unanimously (6 – 0) at its December 6, 2018 meeting to recommend the City Council certify the EIR and approve the project.

Project Location

The site is approximately 1.5 acres and is located at 101 Bayview Place (Assessor's Parcel Number 442-283-05). It is generally bounded by Bayview Place to the east, Bristol Street to the north, residential and nonresidential properties within the Santa Ana Heights Specific Plan Area to the west, and the Baycrest residential community to the south. To the north, beyond Bristol Street, is the 73 Freeway.

Latitude and Longitude

The table below includes latitude and longitude for the four corners of the property.

Corner	Latitude	Longitude
<i>Northwest Corner</i>	33.65719° N	117.86883° W
<i>Southwest Corner</i>	33.65667° N	117.86936° W
<i>Northeast Corner</i>	33.65672° N	117.86822° W
<i>Southeast Corner</i>	33.65620° N	117.86868° W

Surrounding Building Heights and Land Uses

Please refer to Attachment Nos. ALUC 4 and 5 to view the heights of buildings within a 1,000-foot radius of the subject property and land uses adjacent to the subject property.

FAA Filing

The applicant filed with the FAA on January 12, 2018. Determinations of No Hazard to Air Navigation for the proposed structure and temporary structure (i.e., construction equipment boom lift) were issued separately on January 30, 2018. (Attachment No. ALUC 6). The FAA Form 7460-2 (Notice of Actual Construction or Alteration) must be filed electronically within five (5) days after the construction reaches its greatest height. The determination of No Hazard for the temporary construction equipment indicated that the temporary structure (i.e., construction equipment boom lift) would not exceed obstruction standards and would not be a hazard to air navigation. Both determinations stated that while marking and lighting are not necessary, should they be included, the installation and maintenance would be in accordance with the FAA Advisory circular 70/7460-1 L.

JWA Related Information (Noise and Safety)

- **Noise Contours** – The proposed project is located within Noise Impact Zone "2" – Moderate Noise Impact (60 decibels [dB] Community Noise Equivalent Level [CNEL] or greater, less than 65 dB CNEL).
- **Runway Protection Zone (RPZ)** – The proposed project is not located in the RPZ.
- **Safety Zones** – The proposed project is within John Wayne Airport Safety Zone 6 (Traffic Pattern Zone), where the likelihood of an accident is low. See Attachment No. ALUC 7 for location of property relative to safety zones.
- **Draft EIR Analysis** – Please see Attachment No. ALUC 8 for (1) the Land Use section, which includes noise-related analysis and discussion; and (2) the Hazards and Hazardous Materials Section, which includes airport-related hazards analysis and discussion. Both sections include mitigation measures related to project's proximity to the airport, including exterior and interior noise related mitigation measures. The entire DEIR is included in electronic form on the attached flash drive.

Elevation of Property and Proposed Building Height

The property slopes approximately a half-foot from the front (northerly property line) to the edge of the drive aisle (southerly property line). The bulk of the property has elevations that range between 57.75 and 58.50 feet based on the North American Vertical Datum of 1988 (NAVD 88). The proposed finish floor is 59.50 feet (NAVD88). See the Preliminary Grading Plan, Sheet C-2 of the project plans (Attachment No. 9) for additional site topography information.

The current (and proposed) height limitation is 35 feet from finish grade to the topmost ceiling and an additional 10 feet for mechanical screening. The proposed building complies with this limitation. The topmost ceiling will be at 33 feet with the highest point of the roof at 39 feet, 6 inches. Building elevations are included in the project plans (Attachment No. 9).

Proposed Elevations:

- Finished Grade (NAVD88): 58.50 feet
- Top Of Roof (NAVD88): 98 feet

December 19, 2018

Project Plans and Environmental Impact Report

Attached for your review are the proposed plans. (Attachment No. ALUC 9). A draft environmental impact report (DEIR) has been prepared for the proposed project. The flash drive is included with this package contains the draft EIR, technical appendices and responses to comments document and an electronic version of the project plans. (Attachment No. ALUC 10).

Hearing/Meeting Schedule (Tentative)

Newport Beach Planning Commission – December 6, 2018 (Unanimously voted to recommend City Council approval)
Airport Land Use Commission (ALUC) – January 17, 2019
Newport Beach City Council – February 12, 2019

Should you have any questions concerning the preceding information, I can be reached by calling 949-644-3253 or via e-mail at bzdeba@newportbeachca.gov or in my absence, you may contact Gregg Ramirez, Principal Planner at 949-644-3219 or via email at gramirez@newportbeachca.gov.

Sincerely,



Gregg Ramirez
Principal Planner

For:
Ben Zdeba
Associate Planner

Attachments:

1. Vicinity Map
2. General Plan Amendment Exhibit
3. Proposed Amendment to the PC-32 Development Plan
4. Building Heights of Surrounding Structures Map
5. Adjacent Land Uses Map
6. FAA Determinations
7. JWA Safety Zones
8. Draft EIR – Land Use and Hazards and Hazardous Materials Section
9. Proposed Project Plans
10. DEIR (Flash Drive)

Attachment No. ALUC 1
Vicinity Map

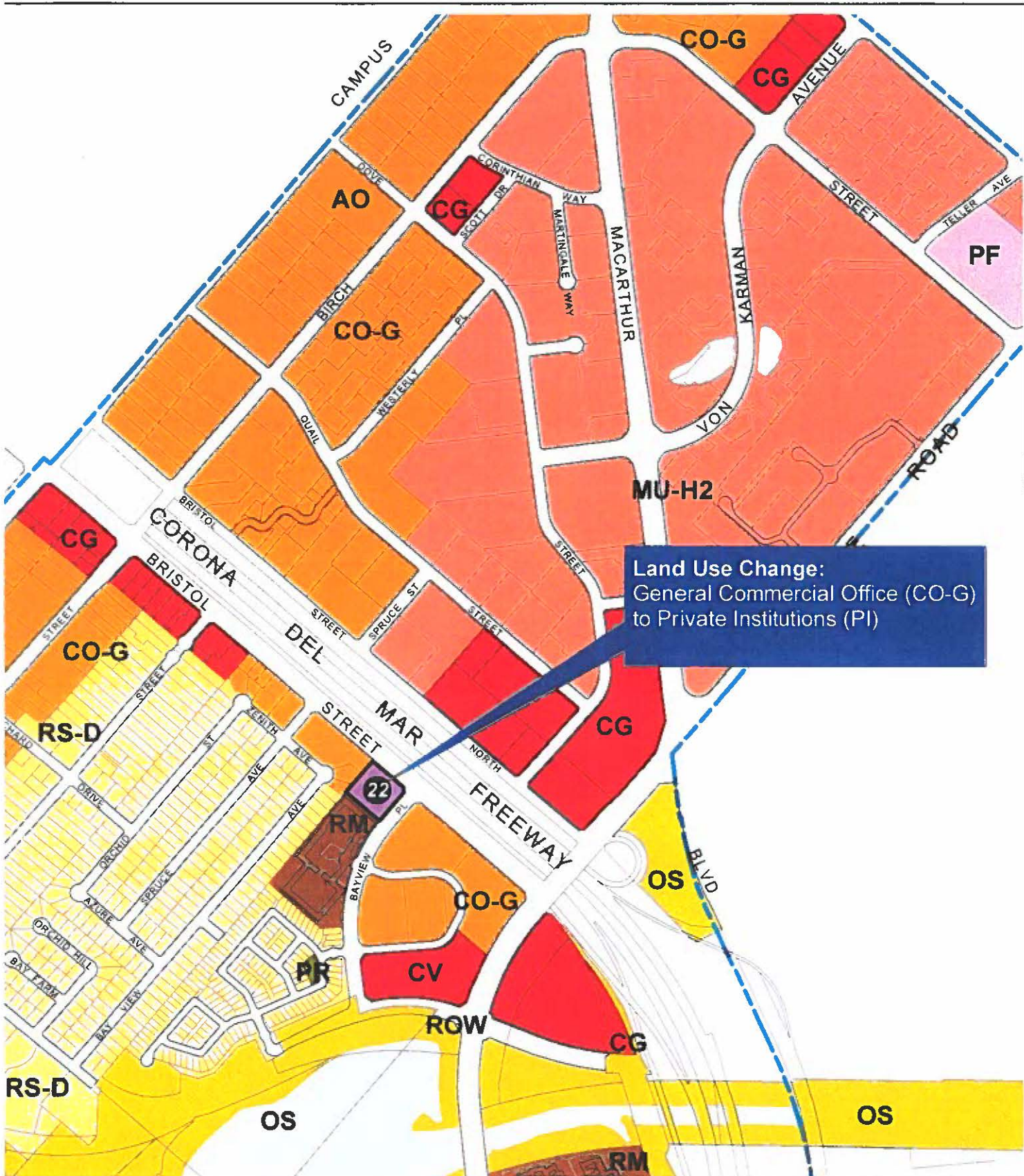


**Vicinity Map - Harbor Point
PA2015-210
101 Bayview Place**

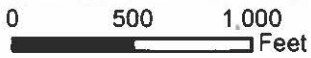


City of Newport Beach
GIS Division
December 17, 2018

Attachment No. ALUC 2
General Plan Amendment
Exhibit



Land Use Change:
 General Commercial Office (CO-G)
 to Private Institutions (PI)



GP2015-004 (PA2015-210)
General Plan Amendment
101 Bayview Place



Land Use Element

Table LU2 Anomaly Locations

Anomaly Number	Statistical Area	Land Use Designation	Development Limit (sf)	Development Limit (Other)	Additional Information
1	L4	MU-H2	460,095	471 Hotel Rooms (not included in total square footage)	
2	L4	MU-H2	1,052,880		
2.1	L4	MU-H2	18,810		11,544 sf restricted to general office use only (included in total square footage)
3	L4	CO-G	734,641		
4	L4	MU-H2	250,176		
5	L4	MU-H2	32,500		
6	L4	MU-H2	46,044		
7	L4	MU-H2	81,372		
8	L4	MU-H2	442,775		
9	L4	CG	120,000	164 Hotel Rooms (included in total square footage)	
10	L4	MU-H2	31,362	349 Hotel Rooms (not included in total square footage)	
11	L4	CG	11,950		
12	L4	MU-H2	457,880		
13	L4	CO-G	288,264		
14	L4	CO-G-MU-H2	860,884		
15	L4	MU-H2	228,214		
16	L4	CO-G	344,231		
17	L4	MU-H2	33,292	304 Hotel Rooms (not included in total square footage)	
18	L4	CG	225,280		
19	L4	CG	228,530		
21	J6	CO-G	687,000		Office: 660,000 sf; Retail: 27,000 sf
		CV		300 Hotel Rooms	
22	J6	PI	85,000		Residential Care Facility for the Elderly (RCFE)
23	K2	PR	15,000		
24	L3	IG	89,624		
25	L3	PI	84,585		
26	L3	IG	33,940		
27	L3	IG	86,000		
28	L3	IG	110,600		
29	L3	CG	47,500		
30	M6	CG	54,000		
31	L2	PR	75,000		
32	L2	PI	34,000		
33	M3	PI	163,680		Administrative Office and Support Facilities: 30,000 sf Community Mausoleum and Garden Crypts: 121,680 sf Family Mausoleums: 12,000 sf
34	L1	CO-R	484,348		
35	L1	CO-R	199,095		
36	L1	CO-R	227,797		

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Attachment No. ALUC 3
Proposed Amendment to the
PC-32 Development Plan

BAYVIEW
PLANNED COMMUNITY DEVELOPMENT PLAN
AND DEVELOPMENT STANDARDS

CITY OF NEWPORT BEACH

August 15, 1985

Amendment No. 644
Resolution No. 87-24
Adopted February 9, 1987

Amendment No. 825
Resolution No. 95-115
Adopted October 9, 1995

Planned Community Amendment No. PD2010-004(PA2010-062)
Ordinance No. 2010-12
Adopted July 6, 2010

Planned Community Amendment No. PD2015-005 (PA2015-210)
Ordinance No. 2019-
Adopted XXX X, 2019

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AREA 4. HOTEL SITE	15
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AREA 6. BUFFER	23

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INTRODUCTION

Location

The Bayview project site is located on the southwest corner of the intersections of Bristol Street South and Jamboree Road in the Santa Ana Heights area of unincorporated Orange County. To the north is Bristol Street South and the extension of the Corona del Mar Freeway. West of the site is a residential area of single-family homes. To the south is Upper Newport Bay.

Existing Zoning

- PA/95 PD: Professional Administrative
- CC/90: Community Commercial
- CC/35: Community Commercial
- R1-2975 PD (2975): Single family, 2,975 square feet minimum lot size.
- R2-2, 400: Multi-family, 2,400 square feet minimum area per unit.

B1: Buffer.

The development standards set forth herein will provide for the development of the subject property, in accordance with these standards and those of the City of Newport Beach.

Land Uses

The Bayview development is designated for residential, recreational, commercial, professional, institutional, hotel, and office uses as shown on Exhibit 1.

GENERAL NOTES

1. Water service to the Planned Community District will be provided by the Irvine Ranch Water District or the City of Newport Beach.
2. Sewage Disposal service facilities to the Planned Community will be provided by the Irvine Ranch Water District.
3. Except as otherwise stated in this Planned Community text, the requirement of the Newport Beach Zoning Ordinance shall apply. Where a conflict exists, the Planned Community text shall supersede.
4. The contents of this text notwithstanding, all construction within the Planned Community boundaries shall comply with all provisions of the Uniform Building Code and the various mechanical codes related thereto except as noted in the Preannexation Agreement.
5. A pedestrian and bicycle trail system shall be provided as shown on the approved Tentative Map of Tract No. 12212. The system shall be reviewed and approved by the City of Newport Beach Public Works Department.
6. Affordable housing shall be provided as per the Bayview Preannexation Agreement.
7. Park dedication shall be provided as per the Bayview Preannexation Agreement.

Definitions

The following definitions shall apply to the development of Bayview Planned Community.

1. Gross Acreage shall mean the entire site area within the project boundary as shown on the approved Tentative Map of Tract 12212.
2. Parcel Map Net Area shall mean the entire area within the project boundary line excluding previously dedicated perimeter streets.
3. Building Acreage shall mean the entire site area within the project boundary excluding streets, park dedication, areas with existing natural slopes greater than 2:1, and natural floodplains.
4. Cluster Unit Development shall mean a combination or arrangement of attached or detached dwellings and their accessory structures on contiguous or related building sites where the yards and open spaces are combined into more desirable arrangements or open spaces and where the individual sites may have less than the required average of the district but the density of the overall development meets the required standard.
5. Conventional Subdivision on a Planned Community Concept shall mean a conventional subdivision of detached dwellings and their accessory structures on individual lots where the lot size may be less than the required average for the district but where open space areas are provided for the enhancement and utilization of the overall development.

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BAYVIEW SITE STATISTICS

	<u>Gross Acreage</u>	<u>Maximum D.U.</u>	<u>Maximum Hotel Rooms</u>	<u>Maximum Gross Sq.Ft.</u>
1 Multi-family Residential	6.1	88	-	-
2 Single family Residential	17.4	145	-	-
3 Professional Administrative Office	16.8	-	-	-
• Office	-	-	-	660,000
• Retail	-	-	-	27,500
4 Hotel Site	6.3	-	300	-
5 Residential Care Facility for the Elderly	1.6	-	-	85,000
-	-	-	-	-
6 Buffer	16	-	-	-
Total Gross Area	64.2			

Deleted: Restaurant Site* Professional* Administrative Office
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Deleted: Restaurant or* Prof. Adm. Office
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Deleted: -*
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Deleted: 3,000* 20,000* (subject to use permit)

AREA 1, MULTIFAMILY RESIDENTIAL

Intent

The inclusion of multi-family residential units in the Bayview Planned Community District provides quality housing opportunities to the general public.

Permitted Uses

1. Single-family dwellings attached or detached.
2. Noncommercial recreation facilities.
3. Duplexes.
4. Dwelling groups and multiple-family dwellings.
5. Residential condominium projects and community apartment projects.
6. Sewage lift stations.
7. Community care facilities service six or fewer persons.
8. Any other uses that in the opinion of the City of Newport Beach Planning Commission are of a similar nature.
9. Gated community with vehicular access control facilities.

Temporary Uses Permitted

1. Model homes, temporary real estate offices, and signs.
2. Temporary use of a mobile home residence during construction.
3. Real estate signs.

Accessory Uses Permitted

The following accessory uses and structures are permitted when customarily associated with and subordinate to a permitted principal use on the same building site.

1. Garages and carports.
2. Swimming pools and spas.
3. Fences and walls.
4. Signs.
5. Any other accessory use or structure which the Planning Commission finds to be of a similar nature.

Development Standards Attached Residential

1. **Maximum Height Limits**
All buildings shall not exceed an average of 35 feet.
2. **Setbacks**
A minimum setback of fifteen feet shall apply to all structures other than garages adjacent to public streets; except that balconies and patios may encroach six feet into the required setback.

Architectural features such as but not limited to cornices, eaves, and wingwalls may extend two and one-half (2-1/2) feet into the required setback from a public street.

Setbacks shall be measured from the ultimate right-of-way line.
3. **Setbacks from Other Property Lines and Structures**
 - a. A minimum of first-story front yard setback of five feet shall be required. This setback shall be measured from the back of curb or in the event that sidewalks are constructed, from back of sidewalk. The second story front may be constructed adjacent to the back of curb or in the event that sidewalks are constructed, adjacent to back of sidewalk.
 - b. All main residential structures shall be a minimum of eight feet apart. This shall be measured from face of finished wall to face of finished wall.

- c. Detached garages shall be separated from main residential structures a minimum of eight feet. This also shall be measured from face of finished wall to face of finished wall.
 - d. Garages with direct access from private streets shall be set back a minimum of five feet from back of curb, or in the event that sidewalks are constructed, from back of sidewalk.
 - e. A minimum five-foot setback shall occur from the most northerly property line of lots 5, 6, and 7 on the Tentative Map of Tract 1236.
4. Fences, Hedges and Walls
Fences shall be limited to a maximum height of eight feet.
5. Architectural Features
Architectural features, such as but not limited to cornices, eaves, and wing walls, may extend two and one-half (2-1/2) feet into any front, side or rear yard setback.
6. Parking
Two covered spaces per unit plus .36 guest parking spaces per unit will be required. 25% of all guest parking may be compact spaces. Guest parking shall be clustered with a minimum of two spaces per cluster.

AREAS 1 AND 2, SINGLE FAMILY RESIDENTIAL

Intent

The R1 designation is established to provide for the development of a medium density single family residential neighborhood. The area provides a method whereby land may be developed to utilize design features which take advantage of modern site planning techniques. The intent is to produce an integrated development project providing an environment of stable, desirable character which will be in harmony with existing and potential development of the surrounding neighborhood.

Permitted Uses

1. Single-family dwellings.
2. Noncommercial recreation facilities.
3. Sewage lift stations.
4. Any other uses that in the opinion of the City of Newport Beach Planning Commission are of a similar nature.
5. Gated community with vehicular access control facilities.

Temporary Uses Permitted

1. Model homes, temporary real estate offices, and signs.
2. Temporary use of a construction trailer.
3. Real estate signs.

Accessory Uses Permitted

The following accessory uses and structures are permitted when customarily associated with and subordinate to a permitted principal use on the same building site.

1. Garages and carports.
2. Swimming pools and spas.
3. Fences and walls.

4. Patio covers.
5. Any other accessory use or structure which the Planning Commission finds to be of a similar nature.

Development Standards

1. Maximum Height Limits
All buildings shall not exceed an average of 35 feet.
2. Building Site Area
The minimum building site area shall be 2,975 square feet.
3. Setbacks
 - a. Front Yard
 - (1) Where garages face the street, the front yard setback shall be a minimum of five feet from back of curb or in the event sidewalks are constructed, minimum of five feet from back of sidewalk.
 - (2) Where garages face the alley the front setback shall be a minimum of eight feet from back of curb or in the event sidewalks are constructed, minimum of eight from back of sidewalk.
 - b. Side Yard
 - (1) Minimum setback of four feet from property line with a ten foot minimum setback between buildings.
 - c. Rear Yard
 - (1) Where garages face the street, the rear yard setback shall be a minimum of eight feet.
 - (2) Where garages face the alley rear setback shall be a minimum of fifteen feet from centerline of alley.
4. Fences, Hedges, and Walls
Fences shall be limited to a minimum height of eight feet except within the front yard setback where fences, hedges and walls shall be limited to three feet.

5. Trellis

Open trellis and beam construction, and patio covers where reciprocal side yard easements exist, shall be permitted within six feet of a residential structure on adjacent property. Trellis and beam construction and patio covers shall be permitted to extend to within three feet of the residential dwelling on the adjacent property if the structure is open on three sides and the total area is 400 square feet or less. Where a corner dwelling exists adjacent to a private street or drive, open trellis and beam construction and patio covers shall be permitted to extend within three feet of a property line except in such cases where an intervening wall exists, such structure may not extend beyond said wall. Limited to 9' 0" in height

6. Parking

Parking for residential uses shall be in the form of not less than two (2) covered parking spaces on-site per dwelling unit.

7. Architectural Features

Architectural features, such as but not limited to cornices, eaves, fireplaces, bay windows and wingwalls, may extend two and one-half (2-1/2) feet into any front, side or rear yard setback.

8. Pools, Spas, Air Conditioning and Related Equipment

Where reciprocal easements exist, pools and spas may be located in the reciprocal easement; however, no pool, spa or air conditioning equipment shall be permitted in the reciprocal easement. All pool, spa and air conditioning equipment shall be sound attenuated in such a manner as to achieve a maximum sound level of 55dBA at the property line.

1. Equipment may not cross property line.
2. Pools or spas may cross property line up to easement line.

AREA 3. PROFESSIONAL AND ADMINISTRATIVE OFFICE

Intent

The intent is to provide areas for the development of professional and administrative offices and related uses in locations of close proximity to residential areas. These uses can conveniently serve the public and create a suitable environment for professional and administrative office buildings especially designed for this purpose. Uses in the area have been located on sites large enough to provide for landscaped open spaces and offstreet parking facilities.

The area is intended to be located on heavily traveled streets or adjacent to commercial or industrial districts. The land may be developed to utilize design features which take advantage of modern site planning techniques.

Permitted Uses

1. Professional offices.
2. Administrative offices.
3. Restaurants, bars, theater nightclubs and delicatessens.
4. Accessory structures and uses necessary and customarily incidental to permitted uses including dry cleaners, barber shops, copy centers, shoe repairs, photo finishing, stationers, convenience markets and onsite liquor sales.
5. Business and real estate signs.
6. Gas stations, auto services, and detailing in parking structures.
7. Health Club.
8. Offstreet parking structures.
9. Landscaped areas, parks, and open space areas when integrated into the development project.
10. Any other uses that in the opinion of the City of Newport Beach Planning Commission are of similar nature.
11. Medical Offices
12. Outpatient surgery facility

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Permitted Uses Subject to Use Permit

1. Helistop.

Development Standards

1. Maximum Height Limits

All buildings shall not exceed 95 feet in height. This height shall be measured from first floor elevation (excluding subterranean levels) to ceiling elevation of uppermost floor. An additional fifteen (15') feet height extension is permitted only to accommodate and screen mechanical equipment.

2. Building Site Area

The minimum building site area shall be 10,000 square feet.

Minimum Building Site Width: There is no restriction on building site width.

Minimum Building Site Depth: There is no restriction on building site depth.

Maximum Gross Floor Area: The total gross floor area of the combined two commercial office building structures shall not exceed 660,000 gross square feet.

There is no gross floor area or building coverage restrictions on individual buildings in cluster developments provided that the provisions stated above are met, adequate offstreet parking is provided, and provisions are made for the maintenance of common areas and access to individual building sites. This is subject to the review of the Director of Planning and the Director of Public Works.

3. Setbacks

Front, side, and rear yard setbacks shall each be ten feet from the property line. Distances between buildings shall be in compliance with the Uniform Building Code.

4. Streets and Driveways

Streets and driveways shall provide adequate vehicular circulation for service and emergency vehicles for the project and the area within which it is located. Required widths and improvements shall be established by the recorded Tract Map.

5. Offstreet Parking

Offstreet parking shall be provided in accordance with the approved parking plan and Preannexation Agreement.

6. Trash and Storage Area

All storage of cartons, containers, and trash shall be shielded from view within a building or within an area enclosed by a wall not less than six feet in height.

7. Landscaping

Detailed landscaping and irrigation plans shall be prepared by a licensed landscape architect, licensed landscaping contractor, or architect, and shall be reviewed by the Department of Parks, Beaches, and Recreation and approved by the Director of Planning and Director of Public Works.

AREA 4 HOTEL SITE

Intent

The Community Commercial designation provides areas for commercial uses which offer a wide range of goods and services including those facilities for overnight accommodations, shopping goods, convenience goods and services, and food services.

Permitted Uses

1. Hotels and motels
2. Ancillary structures and uses necessary and customarily incidental to hotels and motels including but not limited to:
 - Retail businesses.
 - Restaurants, bars and theater/nightclubs.
 - Service businesses.
 - Automobile parking lots and structures.
 - Recreation facilities.
 - Day nurseries.
 - Public and private parks and playgrounds.
 - Financial institutions.
 - Public/private utility buildings and structures.
 - Self-service laundry and dry cleaning facilities.
 - Any other uses that in the opinion of the City of Newport Beach Planning Commission are of a similar nature.

Temporary Uses Permitted

1. Commercial coaches.

Permitted Uses Subject to Use Permit

1. Automobile washing.
2. Health Clubs.
3. Helistops.
4. Mini-storage facilities.
5. Public utility exchanges and substations.
6. Any other use which the Planning Commission finds consistent with the purpose and intent of this area.

Permitted Accessory Uses

The following accessory uses and structures are permitted when customarily associated with and subordinate to a permitted principal use on the same building site, buildings.

1. Detached buildings.
2. Fences and walls.
3. Signs.
4. Accessory uses and structures which the Planning Commission finds to be of a similar nature.
5. Onsite liquor sales.

Prohibited Uses

1. Automobile repair garages, fender and body repair, and paint shops.
2. Automobile service stations.
3. Automobile wrecking, junk, and salvage yards.
4. Beverage bottling plants.
5. Cleaning, dyeing, and laundry plants.
6. Ice Production.

7. Rental and sales agencies for agricultural, industrial, and construction equipment.
8. Rental and sales agencies for trailers, boats, trucks, automobiles, and recreational vehicles.
9. Tire retreading.
10. Warehouses, contractor's storage yards, and work and fabricating areas.
11. Welding shops.
12. Wholesale bakeries.

Development Standards

1. Maximum Height Limits

Buildings shall not exceed 90 feet. This height shall be measured from first floor elevation (excluding subterranean levels) to ceiling elevation of uppermost floor. An additional fifteen (15') feet height extension is permitted only to accommodate and screen rooftop mechanical equipment.

2. Building Site Area

There are no specifications for minimum building site area.

3. Offstreet Parking

Offstreet Parking shall be provided in accordance with the and Preannexation Agreement. Any changes to said plan shall be approved by the City of Newport Beach Planning Director.

4. Structural Setbacks

Community Commercial uses which abut:

<u>Use</u>	<u>Front Yard</u>	<u>Side and Rear Yards</u>
Commercial	5 feet	0 feet
Residential	5 feet	20 feet
Professional Administrative	5 feet	0 feet

Street setbacks: Front, side and rear yard setbacks shall each be ten feet from the property line. Distances between buildings shall be in compliance with the Uniform Building Code.

5. Loading

All loading and unloading operations shall be performed on the site and loading platforms and areas shall be screened by a landscape or architectural feature.

6. Trash and Storage Area

All storage of cartons, containers and trash shall be shielded from view within a building or within an area enclosed by a wall not less than 6 feet in height.

7. Landscaping

Detailed landscaping and irrigation plans shall be prepared by a licensed landscape architect, licensed landscaping contractor, or architect, and shall be reviewed by the Department of Parks, Beaches, and Recreation and approved by the Director of Planning and Director of Public Works.

AREA 5 RESIDENTIAL CARE FACILITY FOR THE ELDERLY (RCFE)

Intent

The Residential Care Facility for the Elderly (RCFE) designation provides areas for facilities which serve seniors in need of assisted living, memory care and similar uses. The purpose of this designation is to support an "aging in place" development that offers a range of living arrangements for senior citizens that includes physical and programmed social connectivity, and supportive services.

Permitted Uses Subject to Use Permit

1. RCFE as defined by the State of California including assisted living facilities and memory care services serving the elderly.
2. Any other uses that in the opinion of the City of Newport Beach Planning Commission are of a similar nature.

Temporary Uses Permitted

1. Temporary uses are subject to the provisions of NBMC Section 20.52.040 (Limited Term Permits) or its successor section.

Permitted Accessory Uses

The following accessory uses are permitted when customarily associated with and subordinate to a permitted principal use on the same building site.

1. Retail businesses as an accessory use to the RCFE.
2. Service businesses as an accessory use to the RCFE.

Prohibited Uses

1. Any use specifically not listed as permitted or conditionally permitted.

Development Standards

1. Maximum Height Limits

Buildings shall not exceed 35 feet. This height shall be measured from first floor elevation (excluding subterranean levels) to ceiling elevation of uppermost floor. An additional ten (10') feet height extension is permitted only to accommodate and screen mechanical equipment.

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<=>The Restaurant Professional and Administrative Office designation provides areas for commercial uses which offer a wide range of goods and services including those facilities for shopping goods, convenience goods and services, food services, and recreation for the community. ¶

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¶

<=>Restaurants, bars and theater nightclubs ¶

¶

Temporary Uses Permitted ¶

¶

<=>Commercial coaches ¶

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Deleted: <=>Automobile washing ¶

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<=>Health Clubs ¶

¶

<=>Helistops ¶

¶

<=>Mini-storage facilities ¶

¶

<=>Public utility exchanges and substations ¶

¶

<=>Retail businesses ¶

¶

<=>Service businesses ¶

¶

<=>Animal clinics and hospitals ¶

¶

<=>Administrative and professional offices ¶

¶

<=>Automobile parking lots and structures ¶

¶

<=>Commercial recreation ¶

¶

<=>Nurseries and garden supply stores provided that all equipment, supplies, rentals, and merchandise other than

¶

Deleted: and structures

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Deleted: Detached buildings

¶

Deleted: Fences and walls

¶

Deleted: <=>Signs ¶

¶

<=>Accessory uses and structures which the Planning Commission finds to be of a similar nature ¶

¶

Deleted: Automobile repair garages, fender and body repair, and paint shops

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¶

<=>Automobile service stations ¶

¶

<=>Automobile wrecking, junk, and salvage yards ¶

2. Maximum Square Feet

Floor area limit is 85,000 sq. ft.

3. Building Site Area

Minimum building site area is 1.5 acres

4. Off-Street Parking

Off-street parking shall be provided at a ratio of not less than one space per three beds.

5. Setbacks

Front (Bayview Place): 10 feet

Right Side (Bristol Street): 15 feet

Left Side: 40 feet

Rear: 40 feet

6. Other Development Standards

Unless otherwise approved by the review authority, all other development standards including those related to signs, fences, walls, lighting, noise, solid waste and recycling and landscaping shall comply with the NBMC Title 20 (Planning and Zoning) and any other applicable titles of the NBMC.

7. Loading

All loading and unloading operations shall be performed on the site and loading platforms and areas shall be screened by a landscape or architectural feature.

8. Trash and Storage Area

All storage of cartons, containers and trash shall be shielded from view within a building or within an area enclosed by a wall not less than 6 feet in height.

9. Landscaping

Detailed landscaping and irrigation plans shall be prepared by a licensed landscape architect, licensed contractor, or architect, and shall be reviewed and approved by the Community Development Director,

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5 Offstreet parking⁶

Offstreet parking shall be provided in accordance with the and Preannexation Agreement. Any changes to said plan shall be approved by the City of Newport Beach Planning Director.⁶

Page Break

6 Structural Setbacks⁶

Community Commercial uses which abut⁶

Use and Rear Yards ⁶	Front Yard	Side
Commercial 0 feet ⁶	5 feet	
Residential 20 feet ⁶	5 feet	
Professional Administrative 0 feet ⁶	5 feet	

Street setbacks. Front, side and rear yard setbacks shall each be ten feet from the property line. Distances between

Deleted: by the Department of Parks, Beaches, and Recreation and

Deleted: Director of Planning

Deleted: and Director of Public Works

AREA 6, BUFFER

Intent

The Buffer designation is established to provide open space forth purpose of buffering two areas of use that are incompatible, preserving an area with unique or sensitive environmental features, linking other open space areas, or shaping urban form, and for reservation of potential road right-of-way.

Permitted Uses

1. Back Bay access.
2. Marine preserves.
3. Passive parks and greenbelts.
4. Riding and hiking trails.
5. Fences.
6. Viewpoints.
7. Wildlife corridors.
8. Any other use that in the opinion of the City of Newport Beach Planning Director is consistent with the above stated uses, purposes, and intent of the area.
9. Roadways.
10. Desilting basins and drainage facilities.
11. Active parks and playgrounds.
12. Overhead or underground utility facilities.
13. Walls or opaque fences over 3-1/2 feet in height.
14. Any other use which the Planning Commission finds consistent with the purpose and intent of this area.

Permitted Accessory Uses

Accessory uses and structures which are customarily associated with and subordinate to a permitted principal use on the same building site and which are consistent with the purpose and intent of this district are permitted.

Site Development Standards

1. **Building Site Area**
There is no minimum building site area.
2. **Building Height**
The maximum building height shall be 18 feet.
3. **Building Setbacks**
Building Setbacks shall be 20 feet from all property lines.
4. **Signage**
No signs shall exceed six square feet in area.

Attachment No. ALUC 4
Building Heights of
Surrounding Structures Map



Building Heights - Harbor Point PA2015-210 101 Bayview Place



City of Newport Beach
GIS Division
December 18, 2018

Attachment No. ALUC 5
Adjacent Land Uses Map



Surrounding Land Uses - Harbor Point
PA2015-210
101 Bayview Place



City of Newport Beach
 GIS Division
 December 17, 2018

Attachment No. ALUC 6
FAA Determinations



Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No.
2018-AWP-208-OE
Prior Study No.
2016-AWP-4679-OE

Issued Date: 01/30/2018

Carol McDermott
Entitlement Advisors
5000 Birch
Suite 400 East Tower
Newport Beach, CA 92660

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building Harbor Pointe Senior Living Project
Location: Newport Beach, CA
Latitude: 33-39-25.31N NAD 83
Longitude: 117-52-07.44W
Heights: 58 feet site elevation (SE)
33 feet above ground level (AGL)
91 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
 Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 L Change 1.

The structure considered under this study lies in proximity to an airport and occupants may be subjected to noise from aircraft operating to and from the airport.

This determination expires on 07/30/2019 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.

- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

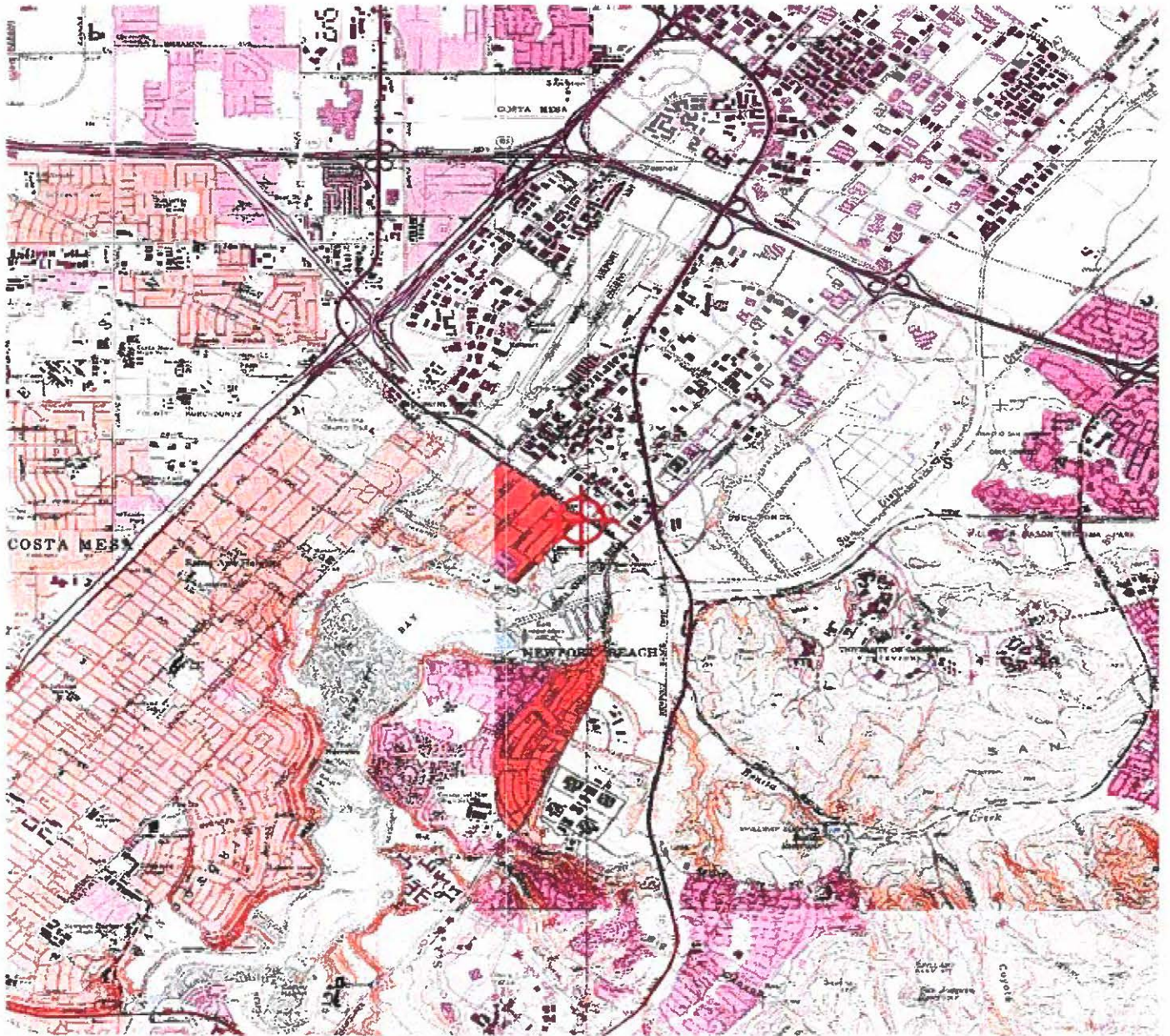
If we can be of further assistance, please contact our office at (310) 725-6557, or karen.mcdonald@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2018-AWP-208-OE.

Signature Control No: 352992918-355507083
Karen McDonald
Specialist

(DNE)

Attachment(s)
Map(s)

TOPO Map for ASN 2018-AWP-208-OE





Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No.
2018-AWP-209-OE
Prior Study No.
2016-AWP-4680-OE

Issued Date: 01/30/2018

Carol McDermott
Entitlement Advisors
5000 Birch
Suite 400 East Tower
Newport Beach, CA 92660

****DETERMINATION OF NO HAZARD TO AIR NAVIGATION FOR TEMPORARY STRUCTURE****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Construction Equipment Equipment Boom Lift
Location:	Newport Beach, CA
Latitude:	33-39-25.31N NAD 83
Longitude:	117-52-07.44W
Heights:	58 feet site elevation (SE) 50 feet above ground level (AGL) 108 feet above mean sea level (AMSL)

This aeronautical study revealed that the temporary structure does not exceed obstruction standards and would not be a hazard to air navigation provided the condition(s), if any, in this letter is (are) met:

****SEE ATTACHMENT FOR ADDITIONAL CONDITION(S) OR INFORMATION****

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of a structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination did not include an evaluation of the permanent structure associated with the use of this temporary structure. If the permanent structure will exceed Title 14 of the Code of Federal Regulations, part 77.9, a separate aeronautical study and FAA determination is required.

This determination concerns the effect of this temporary structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Aviation Administration Flight Procedures Office if the structure is subject to the issuance of a Notice To Airman (NOTAM).

If you have any questions, please contact our office at (310) 725-6557, or karen.mcdonald@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2018-AWP-209-OE

Signature Control No: 352992919-355507876
Karen McDonald
Specialist

(TMP)

Additional Condition(s) or Information for ASN 2018-AWP-209-OE

Proposal: To construct and/or operate a(n) Construction Equipment to a height of 50 feet above ground level, 108 feet above mean sea level.

Location: The structure will be located 1.12 nautical miles south of SNA Airport reference point.

Part 77 Obstruction Standard(s) Exceeded and Aeronautical Impacts, if any:

Preliminary FAA study indicates that the above mentioned structure would:

have no effect on any existing or proposed arrival, departure, or en route instrument/visual flight rules (IFR/VFR) minimum flight altitudes.

not exceed traffic pattern airspace

have no physical or electromagnetic effect on the operation of air navigation and communications facilities.

have no effect on any airspace and routes used by the military.

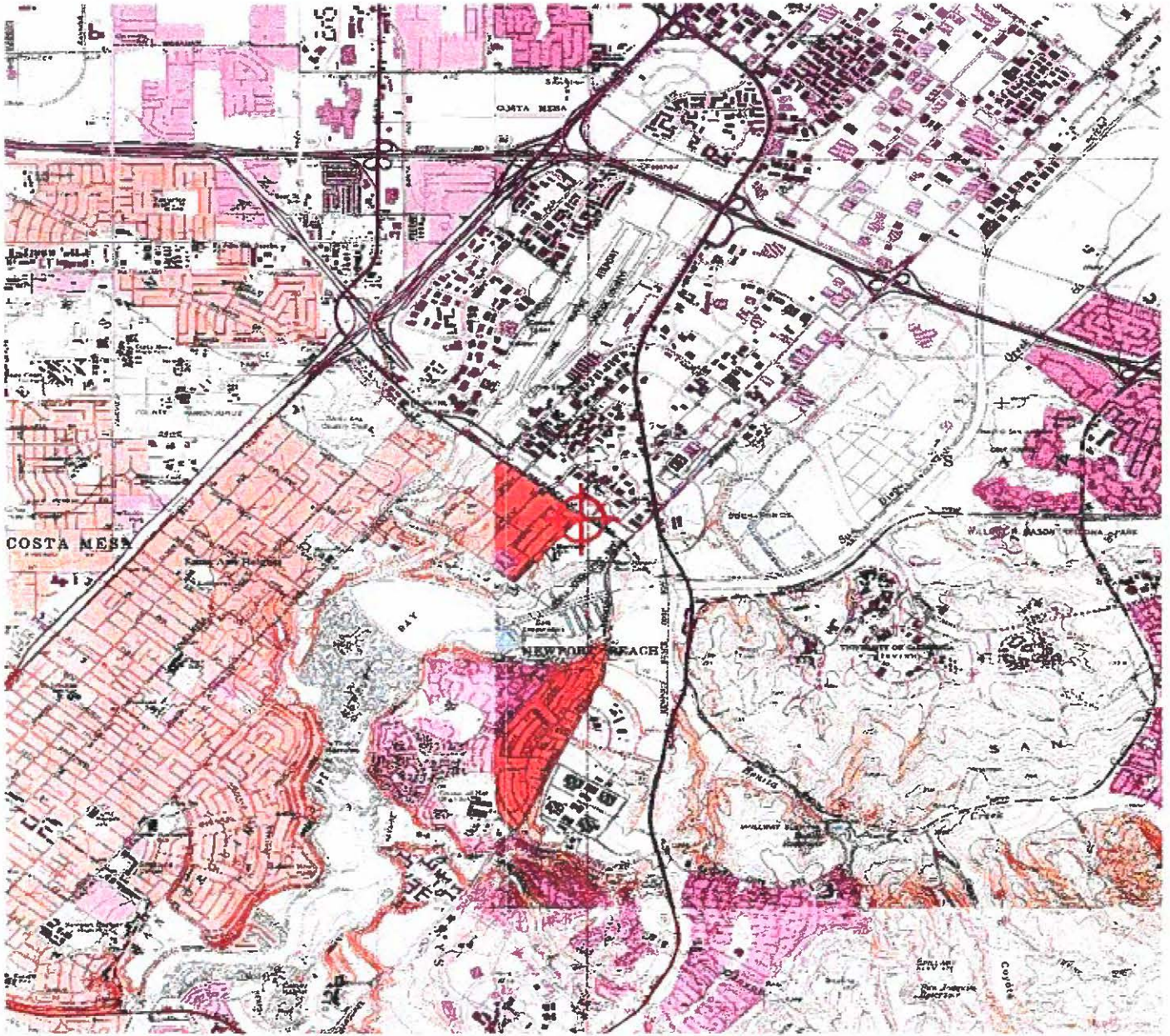
Based on this aeronautical study, the structure would not constitute a substantial adverse effect on aeronautical operations or procedures because it will be temporary. The temporary structure would not be considered a hazard to air navigation provided all of the conditions specified in this determination are strictly met.

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 L Change 1.

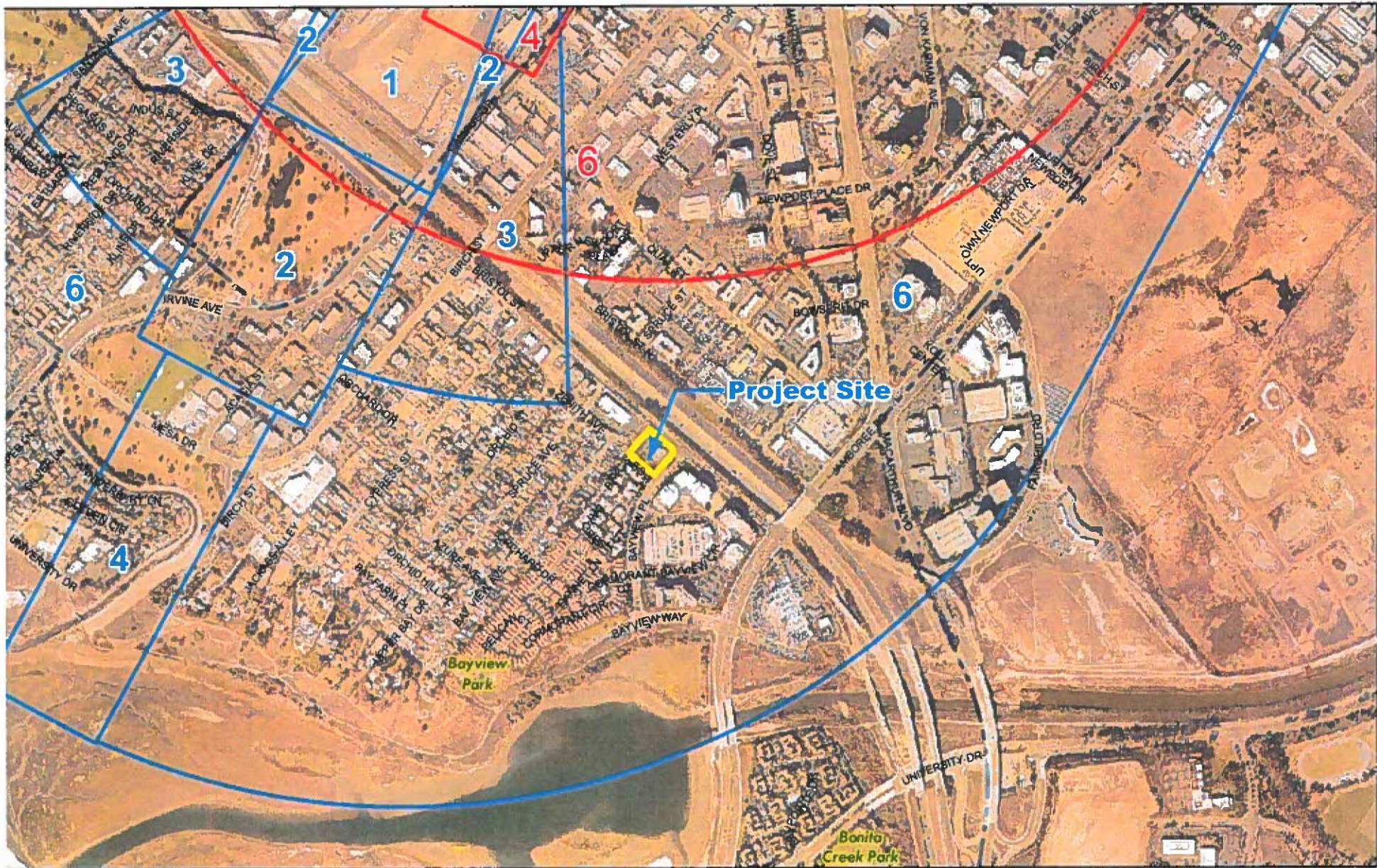
This determination expires on 07/30/2019 unless extended, revised, or terminated by the issuing office.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

TOPO Map for ASN 2018-AWP-209-OE



Attachment No. ALUC 7
JWA Safety Zones



John Wayne Airport Safety Zones - Harbor Point
PA2015-210
101 Bayview Place



City of Newport Beach
 GIS Division
 December 17, 2018

Attachment No. ALUC 8
Draft EIR – Land Use and
Hazards and Hazardous
Materials Section

4.8 LAND USE AND PLANNING

This section describes the existing land uses on site and in the Project's surrounding area and assesses the impact of the Project on these uses. Additionally, the section identifies the plans and policies of applicable planning documents and the Project's consistency with those policies.

4.8.1 REGULATORY SETTING

One aspect of land use planning considered under the California Environmental Quality Act (CEQA) is the consistency of the proposed Project with relevant planning documents, which include Southern California Association of Governments' (SCAG) *2016-2040 Regional Transportation Plan/Sustainable Communities Strategy* (RTP/SCS; SCAG 2016b) and the Regional Comprehensive Plan (RCP; SCAG 2008). The Project is also subject to the City of Newport Beach's (City's) land use authority and is required to be consistent with the City's General Plan (Newport Beach 2006), Zoning Ordinance, or other City imposed requirements.

Regional

Southern California Association of Governments

SCAG is the Metropolitan Planning Organization (MPO) for six counties: Orange, Los Angeles, San Bernardino, Riverside, Ventura, and Imperial. The SCAG region includes 191 cities in an area that encompasses more than 38,000 square miles. As the designated MPO, SCAG prepares plans for transportation, growth management, hazardous waste management, and air quality. Additionally, SCAG reviews environmental documents of projects of regional significance for consistency with regional plans. SCAG's responsibilities include the following:

- Maintaining a continuous, comprehensive, and coordinated planning process (the "3 Cs") resulting in a Regional Transportation Plan (RTP) and a Federal Transportation Improvement Program (FTIP)
- Developing a Sustainable Communities Strategy (SCS) to address greenhouse gas emissions as an element of the RTP
- Developing demographic projections
- Developing integrated land use, housing, employment, and transportation programs and strategies for the South Coast Air Quality Management Plan
- Serving as co-lead agency for air quality planning in the Central Coast and Southeast Desert air basin districts
- Developing and ensuring that the RTP and the FTIP conform to the purposes of the State Implementation Plans for specific transportation-related criteria pollutants, per the Clean Air Act
- Serving as the authorized regional agency for intergovernmental review of proposed programs for federal financial assistance and direct development activities
- Reviewing environmental impact reports for projects having regional significance to ensure they are in line with approved regional plans

Land Use and Planning

- Developing an area-wide waste treatment management plan
- Preparing the Regional Housing Needs Assessment
- Along with the San Diego Association of Governments and the Santa Barbara County/Cities Area Planning Council, preparing the Southern California Hazardous Waste Management Plan (SCAG 2016a)

SCAG has developed a number of plans in compliance with its responsibilities. Those that are relevant to the Project are discussed below.

Regional Comprehensive Plan

SCAG's RCP provides a policy framework for regional planning in Southern California. The RCP calls for City and County involvement and coordination in addressing regional issues related to growth management and development. However, the RCP serves only as a voluntary "toolbox" to assist local jurisdictions in making their General and Specific Plans and individual projects more sustainable. As identified in Resolution No. 08-502-1 (Resolution of the Southern California Association of Governments Accepting the 2008 Regional Comprehensive Plan for the SCAG Region), given its advisory nature, the 2008 RCP is not used in SCAG's Inter-Governmental Review (IGR) process (SCAG 2008).

Regional Transportation Plan/Sustainable Communities Strategy

The RTP is a long-range transportation plan that is developed and updated by SCAG every four years. The RTP provides a vision for transportation investments throughout the region. The Sustainable Communities Strategy (SCS) is a newly required element of the RTP. The SCS component integrates land use and transportation strategies that would achieve California Air Resources Board (CARB) emissions reduction targets pursuant to Senate Bill (SB) 375.

The SCAG 2016-2040 RTP/SCS, which updates the 2012 RTP/SCS, was approved on April 7, 2016. The 2016 RTP/SCS highlights regional changes that have affected the development of the Plan since the 2012 RTP/SCS, including: the region's fluid and dynamic demographic and housing market; the passage of MAP-21; state legislation on transportation funding; the rapid advancement of new technologies such as real-time traveler information, on-demand shared mobility services enabled by smartphone applications or ridesourcing, car share and bike share; and the state's continued emphasis on reducing greenhouse gas emissions.

The 2016 RTP/SCS was also developed recognizing the progress the region has made since the last Plan. Progress has been made in many planning areas, ranging from transit, passenger rail, highways, regional high-occupancy vehicle (HOV) and Express Lane network, active transportation, goods movement, sustainability planning implementation, affordable housing, and public health.

The goals of the 2016 RTP/SCS have remained unchanged since the 2012 RTP/SCS; however, the 2016 RTP/SCS added two new policies focusing on transportation, which include investments and strategies to reduce non-recurrent congestion and demand for single-occupancy vehicle use, and investments that result in cleaner air, a better environment, and a more efficient transportation system (SCAG 2016b).

Local

City of Newport Beach General Plan

The *City of Newport Beach General Plan* is the long-range guide for growth and development in the City. On July 25, 2006, the General Plan was adopted, and the Final Environmental Impact Report (EIR) was certified by the Newport Beach City Council. At the General Municipal Election held on November 7, 2006, the City Electorate approved the land use plan of the General Plan, pursuant to City Charter Section 423.

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 *City of Newport Beach General Plan* contains the following ten elements: Land Use, Harbor and Bay, Housing, Historical Resources, Circulation, Recreation, Arts and Cultural, Natural Resources, Safety, and Noise. A discussion of the Project's land use consistency with applicable goals and policies in the Newport Beach General Plan is provided later in this section.

Land Use Element

The *City of Newport Beach General Plan's* Land Use Element presents goals and policies pertaining to how existing development is to be maintained and enhanced and how new development is to be implemented. The *City of Newport Beach General Plan* establishes goals and policies for land use development in the City as well as its Sphere of Influence. Land use policies determine how land is developed in the community and also guide and resolve many land use issues and constraints in order to define the quality of life in the City.

Harbor and Bay Element

The goals and policies pertaining to harbor issues are intended to guide the content of regulations related to development of, and the activities conducted on, the water. Additional goals and policies recognize the important component of land use decisions related to waterfront property around Newport Harbor. The aim of the Harbor and Bay Element goals and policies are to preserve the diversity and charm of existing uses without unduly restricting the rights of the waterfront property owner. Goals and policies within the Harbor and Bay Element have been organized to address both water- and land-related issues, provision of public access, water quality and environmental issues, visual characteristics, and the administration of the harbor and the bay.

Housing Element

The Housing Element is a comprehensive statement of the City's housing policies and serves as a specific guide for implementation of these policies. It examines current housing needs; estimates future housing needs; and establishes goals, policies, and programs pertaining to those needs. Housing programs are responsive to current and future needs. They are also established within the context of available local, state, and federal economic and social resources and realistic quantified housing objectives.

Historical Resources Element

This element addresses the protection and sustainability of Newport Beach's historic and paleontological resources. Goals and policies are intended to recognize, maintain, and protect the community's unique historical, cultural, and archeological sites and structures. Preserving and maintaining these resources helps to create an awareness and appreciation of the City's history.

Circulation Element

The Circulation Element governs the long-term mobility system of the City of Newport Beach. The goals and policies in this element are closely correlated with the Land Use Element and are intended to provide the best possible balance between the City's future growth and land use development, roadway size, traffic service levels, and community character.

Recreation Element

The primary purpose of the Recreation Element is to ensure that the provision of sufficient parks and recreation facilities is appropriate for the residential and business population of Newport Beach. Specific recreational issues and policies contained in the Recreation Element include parks and recreation facilities, recreation programs, shared facilities, coastal recreation and support facilities, marine recreation, and public access.

Arts and Cultural Element

Arts and cultural activities play an important role in community life and have been a valued component of Newport Beach for over 125 years. The City has a wide range of art and cultural organizations, resources, attractions, and activities that are a source of community pride and enrichment. The goals and policies of the Arts and Cultural Element are intended to be a guide for meeting the future cultural needs of the community. This element is intended to serve as a mechanism for integrating multiple resources in order to provide improved and expanded arts and cultural facilities and programs to the community.

Natural Resources Element

The primary objective of the Natural Resources Element is to provide direction regarding the conservation, development, and use of natural resources. It identifies the City's natural resources and policies for their preservation, development, and wise use. This Element addresses water supply (as a resource) and water quality (includes bay and ocean quality, and potable drinking water), air quality, terrestrial and marine biological resources, open space, archaeological and paleontological resources, mineral resources, visual resources, and energy.

Safety Element

The primary goal of the Safety Element is to reduce the potential risk of death, injuries, property damage, and economic and social dislocation resulting from natural and human-induced hazards. The Safety Element recognizes and responds to public health and safety risks that could cause exposure to the residents of Newport Beach. This Element specifically addresses coastal

hazards, geologic hazards, seismic hazards, flood hazards, wildland and urban fire hazards, hazardous materials, aviation hazards, and disaster planning. As discussed below, the type and location of hazards have been identified in the Safety Element, as well as policies and programs to minimize impacts.

Noise Element

The Noise Element of a General Plan is a tool for including noise control in the planning process in order to maintain compatible land use with environmental noise levels. This Noise Element identifies noise-sensitive land uses and noise sources and defines areas of noise impact for the purpose of developing policies to ensure that Newport Beach residents will be protected from excessive noise intrusion. The Noise Element follows the revised State guidelines in Section 46050.1 of the *California Health and Safety Code*. The Element quantifies the community noise environment in terms of noise exposure contours for both near and long-term levels of growth and traffic activity. The information contained in the Noise Element provides the framework to achieve compatible land uses and to provide baseline levels and noise source identification for local Noise Ordinance enforcement.

Bayview Planned Community Development Plan (PC-32)

The City of Newport Beach identifies 56 Planned Community (PC) Districts within the City's boundaries. Each PC has a corresponding development plan, which identifies allowable land uses within the PC and provides development standards for these uses. The Project site falls within PC-32 – Bayview. The *Bayview Planned Community Development Plan and Development Standards*, which was adopted in August 1985 and last amended in July 2010, is the long-range guide for growth and development within PC-32 (Newport Beach 1985). This document divides PC-32 into six "Areas" with specified land uses: Area 1, Multi-family Residential; Areas 1 and 2, Single-family Residential; Area 3, Professional and Administrative Office; Area 4, Hotel Site; Area 5, Restaurant Professional and Administrative Offices; and Area 6, Buffer. The Project site is located within Area 5 of PC-32.

City of Newport Beach Zoning Ordinance

The City of Newport Beach Zoning Ordinance, included as Chapter 20 of the City of Newport Beach Municipal Code (NBMC 2016), is the primary tool for implementing the City's General Plan. It provides Development Standards (e.g., setbacks, building height, site coverage, parking, and sign requirements), identifies allowable land uses, and specifies other regulations. Additionally, the Zoning Code provides detailed guidance for development based on, and consistent with, the land use policies established in the General Plan.

John Wayne Airport Environs Land Use Plan

The Airport Environs Land Use Plan (AELUP) identifies Land Use Policies, which are separated into General and Specific Policies. These policies are intended to guide new development within the planning area with regard to noise, safety, and height restriction standards. The Project site falls within the John Wayne AELUP Part 77 Notification Area; therefore, the Project must adhere to regulations set by the Airport Land Use Commission for Orange County (OCALUC) and the Federal Aviation Administration (FAA).

The Project site falls within the John Wayne AELUP planning area and is located approximately 0.7 mile southeast of the southernmost John Wayne Airport (JWA) runway. The Project site is located within Noise Impact Zone "2" – Moderate Noise Impact (60 decibels [dB] Community Noise Equivalent Level [CNEL] or greater, less than 65 dB CNEL) as shown in the AELUP and falls within JWA Safety Zone 6 (Traffic Pattern Zone), where the likelihood of an accident is low. The zone allows for residential uses and most nonresidential uses; however, uses such as schools, stadiums, and health care facilities should be avoided (OCALUC 2008). As indicated in the AELUP, the Project site is located within the AELUP Part 77 Notification Area. Within the Notification Area boundary, the Airport Land Use Commission (ALUC) must be notified of any proposed construction or structural alterations involving a land use or legislative amendment in the AELUP Planning Area, development that exceeds 200 feet above ground level, and all heliports or helistops. Additional criteria for notification include development in proximity to an airport exceeding the slope ratio, development involving construction of a traverseway (i.e., highway, railroad, waterway) and exceeding a standard of 77.9(a) or (b) once adjusted upward with the appropriate vertical distance, development emitting frequencies and not meeting the conditions of the FAA Co-location Policy, development being in an instrument approach area and potentially exceeding Part 77 Subpart C, and development being in proximity to a navigation facility and potentially impacting the assurance of navigation signal reception. In addition, to promote air safety, projects that meet the above criteria must also file Form 7460-1 (Notice of Proposed Construction or Alteration) as part of Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) with the FAA (OCALUC 2008).

4.8.2 METHODOLOGY

Information presented in this section is based on field reconnaissance, review of aerial photographs, and review of the relevant planning documents identified in this section. Project consistency with existing and planned land uses in the vicinity is evaluated through review of the land use goals and policies contained in the *City of Newport Beach General Plan* and planning programs prepared by SCAG (i.e., RTP/SCS Goals).

The threshold from the State CEQA Guidelines' Appendix G Checklist is focused on planning and policy consistency. As part of the land use analysis, the State CEQA Guidelines require an EIR to evaluate potential "conflicts with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project." A consistency analysis with the City's land use policies is presented in the Impact Analysis section. Although SCAG does not have direct approval authority over the Project, local agencies, including the City of Newport Beach, strive to achieve consistency with regional planning programs. Therefore, these plans and policies have been used as the basis of making a determination of a significant impact.

4.8.3 EXISTING CONDITIONS

The Project site is currently developed with a single-story 8,800-square-foot slab-on-grade restaurant located in the northeast portion of the site and associated asphalt-paved surface parking lot. Parking stalls are arranged around the perimeter of the lot, and two rows of parking spaces are located in the middle of the site. The site also contains ornamental trees and landscaping around the perimeter and within the surface parking area. Landscaping provides a dense buffer around the two sides of the restaurant abutting Bristol Street to the northeast and Bayview Place to the southeast. The southwestern and northwestern perimeters are bound by 8-foot and 6-foot block walls,

respectively; the northeastern and southeastern perimeters are bound by a combination of block walls and wrought iron fencing.

The Project is bound by Bristol Street and State Route (SR-) 73 to the northeast; Bayview Place and a six-story office building to the southeast; and multi-family and single-family residential to the southwest and northwest.

General Plan Designation and Zoning

The Project site is designated in the *City of Newport Beach General Plan* as General Commercial Office (CO-G). This designation is intended to "provide for administrative, professional, and medical offices with limited accessory retail and service uses. Hotels, motels, and convalescent hospitals are not permitted" (Newport Beach 2006). The Project site falls under Area 5 of PC-32, which allows restaurant, professional, and administrative office uses.

The City of Newport Beach Zoning Map identifies the Project site as PC-32 (Bayview Planned Community Development Plan). The Project site falls under Area 5 of PC-32, which allows restaurant, professional, and administrative office uses.

Surrounding Uses

The Project site is located in a fully developed portion of the City of Newport Beach with primarily residential, commercial, retail, health care, and office uses. As shown in Exhibit 2-1, the Project site is bordered by Bristol Street and SR-73 to the northeast, Bayview Place and the six-story Bayview North Tower office building to the southeast, the Baycrest Court condominiums to the southwest, and the Santa Ana Heights single-family residential neighborhood and a three-story office building to the northwest. This portion of the City is characterized by a concentration of commercial and office uses along Bristol Street and residential development adjacent and behind the commercial uses.

4.8.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Analysis Checklist and Appendix G of the State CEQA Guidelines, the Project would result in a significant land use impact if it would:

- Threshold 4.8-1** Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

4.8.6 IMPACT ANALYSIS

Threshold 4.8-1

Would the Project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

The analysis of this threshold is broken down into two areas: (1) consistency with applicable planning documents and (2) compatibility with existing and planned land uses. A comparison of the Project with these programs is discussed in this section, and Tables 4.8-1 and 4.8-2 provide an analysis of consistency with specific goals and policies.

Comparison to Planning Documents

A number of regional and local planning programs such as Newport Beach General Plan, City of Newport Beach Zoning Code, Bayview Planned Community Development Plan (PC-32), Airport Environs Land Use Plan (AELUP), and SCAG's regional plans are relevant to the proposed Project. The consistency of these plans with the Project is analyzed in this section.

With respect to regional planning, SCAG is the MPO for the Los Angeles, Orange, San Bernardino, Riverside, Ventura, and Imperial Counties. As the designated MPO, SCAG is mandated by the federal government to prepare plans for growth management, transportation, air quality, and hazardous waste management. In addition, SCAG reviews EIRs for projects of regional significance for consistency with regional plans. The policies and strategies of SCAG's regional planning programs—including the RCP and RTP/SCS—are applicable to the proposed Project, because the Project is "of statewide, regional, or areawide significance," requiring a General Plan Amendment, as defined by Section 15206 of the CEQA Guidelines.

Local plans/programs relevant to the Project and the consistency of the proposed Project with these plans/programs are discussed below, including the *City of Newport Beach General Plan* and Zoning Code/Municipal Code.

City of Newport Beach General Plan

The Newport Beach General Plan was adopted on July 25, 2006, and is organized into ten elements, as described above. Each element contains the City's goal(s) and policies related to that element. It should be noted that the current *City of Newport Beach General Plan* Housing Element was adopted under a separate cover on September 24, 2013.

The Land Use Element in the Newport Beach General Plan identifies the allowable land uses throughout the City. The current land use designation for the Project site is CO-G (General Commercial Office). A General Plan Amendment to change the land use designation to PI (Private Institutions) is being requested as part of the proposed Project. The current land use designations for areas surrounding the Project site include Single Unit Residential Detached to the west, Multiple Unit Residential to the southwest, and General Commercial Office to the northwest and southeast.

The site is located along the Bristol Street corridor, mostly developed with commercial and office uses. The Project site has limited direct interface with the adjacent land uses. No elements of the Project or Private Institutions designation would conflict with the ongoing function of the surrounding uses. As discussed in Section 4.11, Transportation/Traffic, the proposed Project would not introduce substantial traffic into the adjacent residential areas and would, in fact, decrease the overall number of trips generated from the site. Additionally, the Private Institutions use would not result in excess noise that would be disruptive to the adjacent land uses (see Section 4.9, Noise). The proposed use would function as a transition from the commercial Bristol Street corridor to the residential uses located to the southwest and west. Similarly, it would not introduce a land use that would conflict with the ongoing General Commercial Office to the southeast. The orientation of the General Commercial Office uses is inward toward Bayview Circle. Therefore, the Private Institutions designation for the Project site would be compatible with the adjacent land use designations and would not interfere with the function of the surrounding uses.

The State’s general rule for a General Plan consistency determination is that “an action, program, or project is consistent with the General Plan if, considering all its aspects, it will further the objectives and policies of the General Plan and not obstruct their attainment.” The analysis below addresses the consistency of the proposed Project with relevant goals and policies outlined in the Newport Beach General Plan.

Table 4.8-1 compares the Project to the objectives and policies of the City’s General Plan that are considered applicable to the Project.

**TABLE 4.8-1
PROJECT COMPARISON TO APPLICABLE CITY OF NEWPORT BEACH
GENERAL PLAN ELEMENTS**

Applicable Goals and Policies	Compliance with Policy
Land Use Element	
<p>Goal LU 1: 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.</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.</p>	<p>Project Would Not Conflict</p> <p>The Project would maintain a land use compatible with the surrounding properties; the character of the Bay View Planned Community would not substantially change with the addition of the Project. Project design would also be compatible with the surrounding commercial and office developments and would follow design guidelines maintained by the City of Newport Beach.</p>
<p>Goal LU 2: 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>	

**TABLE 4.8-1
PROJECT COMPARISON TO APPLICABLE CITY OF NEWPORT BEACH
GENERAL PLAN ELEMENTS**

Applicable Goals and Policies	Compliance with Policy
<p>Policy LU 2.1: Resident-Serving Land Uses. Accommodate uses that support the needs of Newport Beach's residents including housing, retail, services, employment, recreation, education, culture, entertainment, civic engagement, and social and spiritual activity that are in balance with community natural resources and open spaces.</p> <p>Policy LU 2.2: Sustainable and 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.</p>	<p>Project Would Not Conflict</p> <p>The development of the proposed assisted living and memory care facility would cater to the needs of the senior segment of local population within the City of Newport Beach. The facility would provide full services to the resident population, in-house, without the need to travel outside for those services. Additionally, the Project would create employment opportunities for Newport Beach residents during both construction and operation. Since there are other restaurant or dining options in the vicinity of the Project, elimination of the restaurant on the site would not result in a lack of land use serving this need.</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 3.2: Growth and Change. Enhance existing neighborhoods, districts, and corridors, allowing for re-use and infill with uses that are complementary in type, form, scale, and character. Changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach's share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service.</p>	<p>Project Would Not Conflict</p> <p>The proposed Project would change the current land use designation from General Commercial Office to Private Institutions and would replace the current restaurant on site with a senior living project that would include assisted living and memory care units. Although the use would be different, development under the Project would be complementary in form, scale, and character to the surrounding existing uses. The Project would generate minimal population to the City, as some, if not the majority of resident population, may be existing residents of the City of Newport Beach. Additionally, the Project would provide a service that is currently limited in the City and surrounding area. The Project would accommodate the need of City residents to remain in the community as they age and their needs for additional assistance increase. Design of the Project would ensure adequate infrastructure and provision of public services. As analyzed in Sections 3.0, 4.10, and 4.13, the Project would not result in impacts related to infrastructure, public services, and utilities. Additionally, as indicated in Section 4.11, the Project would result in reduced trips compared to the existing restaurant use on site.</p>
<p>Goal LU 5.1: 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 5.1.2: Compatible Interfaces. Require that the height of development in nonresidential and higher-density residential areas transition as it nears lower-density residential areas to minimize conflicts at the interface between the different types of development.</p>	<p>Project Would Not Conflict</p> <p>Uses immediately adjacent to the Project site include General Commercial Office uses to the northwest and southeast, Multiple-Unit Residential uses to the south/southwest, and Single-Unit Residential Detached to the west. As described in detail in this section of the EIR, the Project would not result in land use compatibility impacts with the surrounding uses. Increased setbacks and ample landscaping are incorporated to create a buffer and enhance compatibility with the existing residential uses. Additionally, the design of the structure has taken into account visual compatibility with the surrounding uses; and the height of the proposed facility is in compliance with the Bayview Planned Community (PC-32) standards. It is anticipated the facility would have lesser or similar</p>

**TABLE 4.8-1
PROJECT COMPARISON TO APPLICABLE CITY OF NEWPORT BEACH
GENERAL PLAN ELEMENTS**

Applicable Goals and Policies	Compliance with Policy
	impacts than a 70,000 square foot office building as currently allowed by the general plan.
<p>Goal LU 5.6: Neighborhoods, districts, and corridors containing a diversity of uses and buildings that are mutually compatible and enhance the quality of the City's environment.</p>	
<p>Policy LU 5.6.1: Compatible Development. Require that buildings and properties be designed to ensure compatibility within and as interfaces between neighborhoods, districts, and corridors.</p> <p>Policy LU 5.6.2: Form and Environment. Require that new and renovated buildings be designed to avoid the use of styles, colors, and materials that unusually impact the design character and quality of their location such as abrupt changes in scale, building form, architectural style, and the use of surface materials that raise local temperatures, result in glare and excessive illumination of adjoining properties and open spaces, or adversely modify wind patterns.</p> <p>Policy LU 5.6.3 Ambient Lighting. Require that outdoor lighting be located and designed to prevent spillover onto adjoining properties or significantly increase the overall ambient illumination of their location.</p>	<p>Project Would Not Conflict</p> <p>As described in detail in this section of the EIR, the Project would not result in land use compatibility impacts with the surrounding uses. Increased setbacks and ample landscaping are incorporated to create a buffer and enhance compatibility with the existing residential uses. Additionally, the design of the structure has taken into account visual compatibility with the surrounding uses; and the height of the proposed facility is in compliance with the Bayview Planned Community (PC-32) standards. The proposed Project would comply with City of Newport Beach design requirements and recommendations associated with, scale, building form, architectural style, use of surface materials, and outdoor lighting.</p> <p>The architectural style, colors, and materials used on the exterior would complement and be compatible with the adjacent condominium residential and office uses. The height (35 feet plus appurtenances) of the building is lower than the adjacent office buildings and consistent with the height of office and commercial buildings in the Santa Ana Heights area. Therefore, proposed building would not result in abrupt changes in scale, building form, and architectural style; and the surface materials will not result in excessive illumination of adjoining properties.</p> <p>The proposed Project would include new exterior light sources that would generate light at levels sufficient for safety and visibility. The new light sources would increase lighting levels at the Project site but would be consistent with the ambient and nighttime lighting in the area, surrounding the Project site. All light fixtures would be shielded to direct light down and to minimize light spillover on surrounding properties. In terms of glare, the proposed building would be constructed with primarily non-reflective materials such as stone veneer and stucco on the exterior of the building and concrete or composition shingle roofing. The use of glass in windows would not generate noticeable glare that would affect surrounding uses. Therefore, the Project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.</p>
<p>Goal LU 6.1: A diversity of governmental service, institutional, educational, cultural, social, religious, and medical facilities that are available for and enhance the quality of life for residents and are located and designed to complement Newport Beach's neighborhoods.</p>	
<p>Policy LU 6.1.2 Siting of New Development. Allow for the development of new public and institutional facilities within the City provided that the use and development facilities are compatible with adjoining land uses, environmentally suitable, and can be supported by transportation and utility infrastructure.</p>	<p>Project Would Not Conflict</p> <p>The proposed designation for the Project would be Public Institutional. Analysis contained in this EIR provides an assessment and determination of compatibility of adjoining land uses and environmental suitability of the Project supported by and without impacts to transportation and utility infrastructure. Please see the discussions in Section 4.10, Public Services and Section 4.11, Transportation/Traffic of the EIR.</p>

**TABLE 4.8-1
PROJECT COMPARISON TO APPLICABLE CITY OF NEWPORT BEACH
GENERAL PLAN ELEMENTS**

Applicable Goals and Policies	Compliance with Policy
Historical Resources Element	
Goal HR 2: Identification and protection of important archaeological and paleontological resources within the City.	
<p>Policy HR 2.1: New Development Activities. Require that, in accordance with CEQA, new development protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources. Through planning policies and permit conditions, ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA.</p>	<p>Project Would Not Conflict Even though this policy is a City-wide effort and enforced through planning polices and permit conditions, the Project would mitigate potential impacts pertaining to archeological and paleontological resources. The analysis in Section 4.3, Cultural Resources, concluded that Project-specific and cumulative impacts to archaeological and paleontological resources associated with the Project would be reduced to less than significant with implementation of MM CULT-1 through MM CULT-3. Additionally, City Council Policy K-5 would apply to the Project.</p>
<p>Policy HR 2.3: Cultural Organizations. Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow representatives of such groups to monitor grading and/or excavation of development sites.</p>	<p>Project Would not Conflict In accordance with Assembly Bill (AB) 52 and Senate Bill (SB) 18, the Native American Heritage Commission (NAHC) was contacted for a Sacred Lands File search and a list of tribal representatives for SB 18 and, subsequently, AB 52 coordination. Project notification letters were sent out to the tribal representatives on these lists. As a result of this outreach, Native American monitoring of Project excavation activities has been requested by the Gabrieleño Band of Mission Indians-Kizh Nation (please see discussion in Section 4.12, Tribal Cultural Resources of the EIR).</p>
<p>Policy HR 2.4: Paleontological or Archaeological Materials. Require new development to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach, or Orange County, whenever possible.</p>	<p>Project Would not Conflict As indicated in Section 4.3, Cultural Resources, any fossil remains recovered during grading of native soils (for creation of subterranean parking), would be placed in an accredited scientific institution for the benefit of current and future generations (MM CULT-2).</p>
Circulation Element	
Goal CE 2.2: A safe and efficient roadway system.	
<p>Policy CE 2.2.4: Driveway and Access Limitations. Limit driveway and local street access on arterial streets to maintain a desired quality of traffic flow. Wherever possible, consolidate driveways and implement access controls during redevelopment of adjacent parcels.</p>	<p>Project Would Not Conflict The proposed senior living Project is replacing the existing restaurant on the site. Primary vehicular access to the proposed Project would be provided by an entry driveway off Bayview Place, which is consistent with the current configuration of the entry into the existing use. As the entry maintains the existing location, additional vision clearance would not be needed. In addition, the location of driveway access points would comply with City of Newport Beach roadway standards for adequate sight distance. The Project would not include any off-site roadway and intersection improvements. No additional driveway and local street access, with the exception of the controlled access emergency exit on Bristol Street, is proposed.</p>

**TABLE 4.8-1
PROJECT COMPARISON TO APPLICABLE CITY OF NEWPORT BEACH
GENERAL PLAN ELEMENTS**

Applicable Goals and Policies	Compliance with Policy
Goal CE 7.1: An adequate supply of convenient parking throughout the City.	
Policy CE 7.1.1: Required Parking. Require that new development provide adequate, convenient parking for residents, guests, business patrons, and visitors.	Project Would Not Conflict The proposed Project would provide 53 subterranean parking spaces for employees and guests, which would be accessible from the main entry to the Project site off Bayview Place. The City's Municipal Code requires 1 parking space per 3 beds for convalescent facilities; therefore, the proposed Project would be required to provide 40 parking spaces. The proposed Project would provide 53 parking spaces, which is approximately 33 percent more than the City requirement. Thus, the Project would provide convenient and adequate on-site parking.
Natural Resources Element	
Goal NR 3: Enhancement and protection of water quality of all natural water bodies, including coastal waters, creeks, bays, harbors, and wetlands.	
Policy NR 3.2: Water Pollution Prevention. Promote pollution prevention and elimination methods that minimize the introduction of pollutants into natural water bodies.	Project Would Not Conflict The Project would include the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP), which would reduce and/or eliminate pollutants in storm water discharges during construction activities on the site, in compliance with the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity. Additionally, the Project includes a Preliminary Water Quality Management Plan (WQMP) that identifies the structural and non-structural measures that would be implemented by the Project to reduce and/or eliminate pollutants in storm water during long-term operations.
Policy NR 3.3: Ground Water Contamination. Suspend activities and implement appropriate health and safety procedures in the event that previously unknown groundwater contamination is encountered during construction. Where site contamination is identified, implement an appropriate remediation strategy that is approved by the City and the state agency with appropriate jurisdiction.	Project Would Not Conflict As discussed in Section 4.6, Hazards and Hazardous Materials, no land uses on or near the site are known to have resulted in soil or groundwater contamination that would affect the Project. In the unlikely event that contaminated groundwater is encountered at the site, compliance with existing regulations would be required. As discussed in Section 4.7, Hydrology and Water Quality, should groundwater be encountered during excavation activities, the contractor would have to comply with the Santa Ana Regional Water Quality Control Board's Waste Discharge Requirements (WDRs) for the disposal of dewatering wastes into the storm drain system.
Policy NR 3.4: Storm Drain Sewer System Permit. Require all development to comply with the regulations under the City's municipal separate storm drain system permit under the National Pollutant Discharge Elimination System.	Project Would Not Conflict In compliance with the Orange County Municipal Separate Storm Sewer System (MS4) Permit, the Project has prepared a Preliminary WQMP that identifies the structural and non-structural measures that would be implemented by the Project to reduce and/or eliminate pollutants in storm water during long-term operations. Permanent treatment control best management practices (BMPs) include bio-filtration planters that would treat storm water and an underground detention basin that would collect treated runoff to prevent increases in runoff volumes and rates.

**TABLE 4.8-1
PROJECT COMPARISON TO APPLICABLE CITY OF NEWPORT BEACH
GENERAL PLAN ELEMENTS**

Applicable Goals and Policies	Compliance with Policy
Policy NR 3.5: Natural Water Bodies. Require that development does not degrade natural water bodies.	Project Would Not Conflict The Project would implement construction BMPs as outlined in the SWPPP and operational BMPs as outlined in the Preliminary WQMP to prevent pollutants from entering the City's storm drain system and Upper Newport Bay.
Policy NR 3.9: Water Quality Management Plan. Require new development applications to include a Water Quality Management Plan (WQMP) to minimize runoff from rainfall events during construction and post-construction.	Project Would Not Conflict As discussed in Section 4.7, Hydrology and Water Quality, the Project has prepared a Preliminary WQMP that identifies the structural and non-structural measures that would be implemented by the Project to reduce and/or eliminate pollutants in storm water during long-term operations. The Project would also prepare and implement a SWPPP, which would reduce and/or eliminate pollutants in storm water during construction activities.
Policy NR 3.10: Best Management Practices. Implement and improve upon Best Management Practices (BMPs) for residences, businesses, development projects, and City operations.	Project Would Not Conflict The Project would implement BMPs during the construction phase, as outlined in the SWPPP. The Project would also implement structural and non-structural BMPs, as outlined in the Preliminary WQMP, during long-term operations.
Policy NR 3.11: Site Design and Source Control. Include site design and source control BMPs in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality as required by the National Pollutant Discharge Elimination System (NPDES), structural treatment BMPs will be implemented along with site design and source control measures.	Project Would Not Conflict As discussed in Section 4.7, Hydrology and Water Quality, the Project would implement structural and non-structural BMPs, as outlined in the Preliminary WQMP. These include bio-filtration planters and an underground detention basin and a number of non-structural source control BMPs that would be implemented as part of long-term Project operations and maintenance activities.
Policy NR 3.12: Reduction of Infiltration. Include equivalent BMPs that do not require infiltration, where infiltration of runoff would exacerbate geologic hazards.	Project Would Not Conflict As discussed in Section 4.7, Hydrology and Water Quality, infiltration and retention are not feasible for the site; therefore, a combination of biotreatment and hydromodification control BMPs would be incorporated in the storm drainage design of the Project. This includes bio-filtration planters and an underground detention basin.
Policy NR 3.14: Runoff Reduction on Private Property. Retain runoff on private property to prevent the transport of pollutants into natural water bodies, to the maximum extent practicable.	Project Would Not Conflict The Project includes the construction of bio-filtration planters that would treat storm water and an underground detention basin that would collect treated runoff prior to its discharge into the storm drain line in Bayview Place.
Policy NR 3.15: Street Drainage Systems. Require all street drainage systems and other physical improvements created by the City, or developers of new subdivisions, to be designed, constructed, and maintained to minimize adverse impacts on water quality. Investigate the possibility of treating or diverting street drainage to minimize impacts to water bodies.	Project Would Not Conflict The Project does not require improvements to the existing street drainage system. Construction-related and operational storm water pollutants would be minimized on site to reduce and/or avoid impacts to the water quality in Upper Newport Bay per the preliminary WQMP.

**TABLE 4.8-1
PROJECT COMPARISON TO APPLICABLE CITY OF NEWPORT BEACH
GENERAL PLAN ELEMENTS**

Applicable Goals and Policies	Compliance with Policy
Policy NR 3.17: Parking Lots and Rights-of-Way. Require that parking lots and public and private rights-of-way be maintained and cleaned frequently to remove debris and contaminated residue.	Project Would Not Conflict The Preliminary WQMP for the Project outlines various non-structural source control BMPs, including the sweeping of private streets and parking lots, which would be implemented during Project operations.
Policy NR 3.18: Water Quality Education. Effectively communicate water quality education to residents and businesses, including the development of a water quality testing lab and educational exhibits at various educational facilities.	Project Would Not Conflict Although this policy is a City-wide effort, the Preliminary WQMP for the Project outlines various non-structural source control BMPs, including the education of owners, tenants, and occupants; activity restrictions; and employee training, which would be implemented during Project operations.
Policy NR 3.20: Impervious Surfaces. Require new development and public improvements to minimize the creation of and increases in impervious surfaces, especially directly connected impervious areas, to the maximum extent practicable. Require redevelopment to increase area of pervious surfaces, where feasible.	Project Would Not Conflict The Project site is largely developed and paved and would remain developed with the Project. While an increase in impervious surfaces would occur due to the expanded footprint of on-site development, storm water would be directed into three bio-filtration planters, which would separate the impervious areas on the site. Additionally, an underground detention basin is proposed to maintain existing runoff volumes and rates.
Goal NR 4: Maintenance of water quality standards through compliance with the total maximum daily loads (TMDLs) standards.	
Policy NR 4.3: Restore Natural Hydrologic Conditions. Preserve, or where feasible, restore natural hydrologic conditions such that downstream erosion, natural sedimentation rates, surface flow, and groundwater recharge function near natural equilibrium states.	Project Would Not Conflict The Project site is largely developed and paved and would remain developed with the Project. Although the Project would not restore the natural hydrologic conditions of the site, the Project would include bio-filtration planters and an underground detention basin to maintain existing runoff volumes and rates. This would prevent downstream erosion and maintain existing sedimentation rates, surface flows, and groundwater recharge.
Policy NR 4.4: Erosion Minimization. Require grading/erosion control plans with structural BMPs that prevent or minimize erosion during and after construction for development on steep slopes, graded, or disturbed areas.	Project Would Not Conflict As discussed in Section 4.7, Hydrology and Water Quality, the Project site is largely developed and would remain developed with the Project. Additionally, the Project would implement erosion and sediment control BMPs in the SWPPP during construction and in the Preliminary WQMP during long-term operation. The Project would also comply with erosion control measures in the City's Grading Code.
Goal NR 8: Reduced air pollutant emissions from construction activities.	
Policy NR 8.1: Management of Construction Activities to Reduce Air Pollution. Require developers to use and operate construction equipment, use building materials and paints, and control dust created by construction activities to minimize air pollutants.	Project Would Not Conflict The Project would comply with SCAQMD Rules 402 and 403 regarding fugitive dust control during construction activities (RR AQ-1 and RR AQ-2). The Project would also comply with other SCAQMD regulations, such as Rule 1113, regarding the volatile organic compound (VOC) content of architectural coatings. As discussed in Section 4.2, Air Quality, the Project's construction emissions would be below SCAQMD thresholds for all criteria air pollutants.

**TABLE 4.8-1
PROJECT COMPARISON TO APPLICABLE CITY OF NEWPORT BEACH
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Applicable Goals and Policies	Compliance with Policy
Goal NR 18: Protection and preservation of important paleontological and archaeological resources.	
Policy NR 18.1: New Development. Require new development to protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources in accordance with the requirements of CEQA. Through planning policies and permit conditions, ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA.	Project Would Not Conflict This policy is similar to HR 2.1, above.
Policy NR 18.3: Potential for New Development to Impact Resources. Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow qualified representatives of such groups to monitor grading and/or excavation of development sites.	Project Would Not Conflict This policy is similar to HR 2.3, above.
Policy NR 18.4: Donation of Materials. Require new development, where on site preservation and avoidance are not feasible, to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible.	Project Would Not Conflict This policy is similar to HR 2.4, above.
Noise	
Goal N 1: Noise Compatibility - Minimized land use conflicts between various noise sources and other human activities.	
Policy N 1.1: Noise Compatibility of New Development. Require that all proposed projects are compatible with the noise environment through use of Table N2, and enforce the interior and exterior noise standards shown in Table N3.	Project Would Not Conflict As indicated in Section 4.9, Noise of the EIR, MM NOI-4 requires the Applicant to demonstrate the Project will meet interior and exterior compatibility standards.
Policy N 1.2: Noise Exposure Verification for New Development. Applicants for proposed projects that require environmental review and are, located in areas projected to be exposed to a CNEL of 60 dBA and higher, as shown on Figure N4, Figure N5, and Figure N6 may conduct a field survey, noise measurements or other modeling in a manner acceptable to the City to provide evidence that the depicted noise contours do not adequately account for local noise exposure circumstances due to such factors as, topography, variation in traffic speeds, and other applicable conditions. These	Project Would Not Conflict As discussed in Section 4.9, Noise of the EIR, noise monitoring was conducted to determine that noise exposure could equal or exceed 70 dBA CNEL on facades facing Bristol Street. Therefore, MM NOI-4 requires the Applicant to demonstrate the Project will meet interior and exterior compatibility standards.

**TABLE 4.8-1
PROJECT COMPARISON TO APPLICABLE CITY OF NEWPORT BEACH
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Applicable Goals and Policies	Compliance with Policy												
findings shall be used to determine the level of exterior or interior, noise attenuation needed to attain an acceptable noise exposure level and the feasibility of such mitigation when other planning considerations are taken into account.													
Policy N 1.3: Remodeling and Additions of Structures. Require that all remodeling and additions of structures comply with the noise standards shown in Table N3.	Project Would Not Conflict The Project proposed redevelopment of the site with a senior living facility. The Project would comply with all required standards and requirements for a new development. The analysis in Section 4.9, Noise of the EIR discusses the Project's potential noise impacts and mitigations that would reduce the impacts to less than significant levels.												
Policy N 1.4: New Developments in Urban Areas. Require that applicants of residential portions of mixed-use projects and high density residential developments in urban areas (such as the Airport Area and Newport Center) demonstrate that the design of the structure will adequately isolate noise between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code.	Project Would Not Conflict The proposed Project is not a high density residential development. Nevertheless, the analysis of Threshold 4.9-5 in Section 4.9, Noise of the EIR demonstrates that exposure to aircraft noise would be less than significant.												
Policy N 1.5: Infill Projects. Allow a higher exterior noise level standard for infill projects in existing residential areas adjacent to major arterials if it can be shown that there are no feasible mechanisms to meet the exterior noise levels. The interior standard of 45 dBA CNEL shall be enforced for any new residential project.	Project Would Not Conflict As indicated in Section 4.9, Noise of the EIR, MM NOI-4 requires the Applicant to demonstrate the Project will meet interior and exterior compatibility standards.												
<p>Policy N 1.8: Significant Noise Impacts. Require the employment of noise mitigation measures for existing sensitive uses when a significant noise impact is identified. A significant noise impact occurs when there is an increase in the ambient CNEL produced by new development impacting existing sensitive uses. The CNEL increase is shown in the table below.</p> <table border="1" data-bbox="188 1624 592 1821"> <thead> <tr> <th>CNEL dBA</th> <th>dBA increase</th> </tr> </thead> <tbody> <tr> <td>55</td> <td>3</td> </tr> <tr> <td>60</td> <td>2</td> </tr> <tr> <td>65</td> <td>1</td> </tr> <tr> <td>75</td> <td>1</td> </tr> <tr> <td>Over 75</td> <td>Any increase is considered significant</td> </tr> </tbody> </table>	CNEL dBA	dBA increase	55	3	60	2	65	1	75	1	Over 75	Any increase is considered significant	Project Would Not Conflict The proposed Project would have less vehicle trip generation compared to the existing restaurant use on the site. As analyzed in Section 4.9, Noise of the EIR, Project is anticipated to have less on-site noise generation than the existing restaurant use. No significant long-term noise impacts were identified.
CNEL dBA	dBA increase												
55	3												
60	2												
65	1												
75	1												
Over 75	Any increase is considered significant												

Source: Psomas, 2018.

City of Newport Beach Zoning Ordinance

The Newport Beach Zoning Ordinance is the primary tool for implementing the Newport Beach General Plan. The Zoning Ordinance provides development standards (i.e., setbacks, building height, site coverage, parking, and sign requirements) for all areas in the City. In addition to guiding the land use, design, and site improvements of development projects, the Zoning Ordinance provides detailed guidance for development based on and consistent with the land use policies established in the Newport Beach General Plan.

The proposed Project is within Zoning District PC-32, which is the Bayview Planned Community Development Plan (PC-32), that provides for residential, recreational, commercial, professional, institutional, hotel, and office uses. The Project site is located in Area 5 of the Bayview Planned Community, which is intended for commercial uses, specifically facilities for shopping goods, convenience goods and services, food services, and recreation for the community. Permitted uses include restaurants, bars, theaters, and nightclubs. Permitted uses subject to a Conditional Use Permit include automobile washing; health clubs; helistops; mini-storage facilities; public utility exchanges and substations; retail businesses; service businesses; animal clinics and hospitals; administrative and professional offices; automobile parking lots and structures; commercial recreation; nurseries and garden supply stores; day nurseries; financial institutions; public/private utility buildings and structures; self-service laundry and dry cleaning facilities; accessory structures and uses necessary and customarily incidental to the above uses; and any other uses that, in the opinion of the City of Newport Beach Planning Commission, are of a similar nature.

The proposed Project would include an amendment to the existing Bayview Planned Community Development Plan (PC-32) to allow for congregate care/convalescent and private institution uses and amend the land use and development standards for the Project site. The proposed revisions include increasing the floor area from 8,000 square feet for restaurant use or 70,000 square feet for office use to 85,000 square feet for congregate care/convalescent and public institution uses; modifying the current parking requirement (for the restaurant use) from 90 to 53 spaces to reflect the applicable parking requirements for the proposed use; and altering the uses in Area 5 of PC-32, which would involve removing the commercial uses currently allowed and providing for privately owned facilities that serve the public, including congregate homes, convalescent facilities, health care services, assisted living facilities, and comparable uses. The provision of 53 spaces is based on NBMC Section 20.40.040 requirement of 1 space for every 3 beds, which equates to a total of 40 spaces for the Project (120 beds). The Project would provide an additional 13 spaces resulting in a total of 53 parking spaces (49 standard spaces and 4 accessible or barrier-free spaces).

Additionally, the development standards that would be subject to the proposed amendment in the PC-32 text include maximum square footage and off-street parking. An amendment to the maximum height limits would not be required, as the proposed building height of 39 feet and 6 inches (at the highest point), which includes mechanical equipment screening, is within the current height limits in the PC-32 text.

The proposed Project includes a request for a Planned Community Development Plan Amendment to increase the floor area allowance to 85,000 square feet and to change the land use limitations. The extra 15,000 square feet would be offset by efficient design and building

placement. Planned Community Development Plan Amendment No. PD2015-005 proposes to amend PC-32 to allow for congregate care/convalescent and private institution uses. The Project also includes a request for a Use Permit to allow the establishment of a convalescent facility with congregate care (referred to as assisted living and memory care throughout the EIR) housing. With the proposed amendment, the Project would be compatible with the zoning designation, surrounding land uses, and requirements. Impacts would be less than significant, and no mitigation is required.

Airport Environs Land Use Plan

As previously discussed, the Project site is located approximately 0.7 mile southeast of JWA and falls within the JWA AELUP. The following presents the AELUP Land Use Policies that are applicable to the proposed Project, followed by an assessment of the Project's compatibility with the policy.

3.2.1 General Policy. Within the boundaries of the AELUP, any land use may be found to be inconsistent with the AELUP which:

1. Places people so that they are affected adversely by aircraft noise
2. Concentrates people in areas susceptible to aircraft accidents
3. Permits structures of excessive height in areas which would affect adversely the continued operation of the airport
4. Permits activities or facilities that would affect adversely aeronautical operations

The Project is located in Zone 6 of the JWA Safety Compatibility Zones. The JWA AELUP cites and includes Table 9B, Basic Safety Compatibility Qualities, from the *California Airport Land Use Planning Handbook*. This zone, identified as Traffic Pattern Zone for the Medium General Aviation Runway, identifies that the risk factor in this zone is generally low and residential and most non-residential uses are allowed. Though not prohibited in Zone 6, the *California Airport Land Use Planning Handbook* recommends the avoidance of schools, large day care centers, hospitals, and nursing homes. It should be noted, that the Project does not fit the definition of a nursing home.¹ The Handbook provides discussion of the basic safety criteria when evaluating compatibility of land uses. Though the compatibility criteria applicable to each of the safety zones are held relatively constant among most airports, the qualitative descriptions in the Handbook provide an overview of general relative risks prevalent in each zone. It specifically states the types of variables not fully accounted for in the safety zones. The Handbook indicates more intensive development is often considered acceptable within urban areas in recognition of the costs associated with avoiding development. Table 9C of the Handbook presents a set of specific safety compatibility criteria formulated with this factor in mind. Table 9C does not identify a maximum residential density or non-residential intensity for Zone 6. The only condition is large stadiums and similar uses should be prohibited. The Project density is compatible with the surrounding

¹ The Project is defined as a Residential Care Facility for the Elderly (RCFE) and is licensed by the California Department of Social Services, whereas a nursing home is licensed by the Department of Public Health.

uses. Therefore, the Project would be consistent with the AELUP Safety Compatibility Zone requirements.

Consistency with height restrictions and compatibility with aeronautical operations are further discussed below under Policies 3.2.6 and 3.2.7.

3.2.4 Noise Impact Zone "2" - Moderate Noise Impact. Noise impact in this area is sufficient to require sound attenuation as set forth in the California Noise Insulation Standards, Title 25, *California Code of Regulations*. Single noise events in this area create serious disturbances to many inhabitants. Even though the Commission would not find residential units incompatible in this area, the Commission strongly recommends that residential units be limited or excluded from this area unless sufficiently sound attenuated. The residential use interior sound attenuation requirement shall be a CNEL value not exceeding an interior level of 45 dB. In addition, it is recommended that designated outdoor common or recreational areas within Noise Impact Zone "2" provide outdoor signage informing the public of the presence of operating aircraft.

The Project site is in the Noise Impact Zone "2", as designated in the AELUP. As previously noted, the AELUP uses a policy implementation line, which was adopted by the Orange County Board of Supervisors in 1985 for establishing the Noise Impact Zones. This line is based on the highest noise level at a given location utilizing noise projections from both the 1990 and 2005 project case contours developed as part of the 1985 John Wayne Airport Master Plan and are used as the basis for planning in the vicinity of JWA. At that time the site was within the 60-dB to 65-dB CNEL noise contour (County 1985). Though not currently or projected to be in the 60-dB CNEL contour, the site is subject to aircraft noise and is located in the typical 85 departure Single Event Noise Equivalent Level for several types of aircraft that operate at JWA (A300-600 and the 737-700). However, it should be noted, that based on the Noise Analysis Technical Report prepared for the John Wayne Airport Settlement Agreement Amendment Final EIR 617 (County 2014), in 2013 the "time above values" at 85 dBA at the closest monitoring station was an average of 0.6 minutes per day.² Building noise attenuation would ensure that the interior noise levels achieve the 45-dB standard (see MM NOI-4). The Project would not include public outdoor areas, although it would include common outdoor areas for Project residents. However, based on consistency with the AELUP policy requirements, notification of residents of the presence of operating aircraft is required. Therefore, in an abundance of caution, the Project has been identified as having a potential significant impact, which would be mitigated to less than significant with implementation of MM LU-1.

3.2.6 Height Restriction Zone. Any object, which by reason of its height or location would interfere with the established, or planned, airport flight procedures, patterns, or navigational systems, is unacceptable to the Commission. Similarly, any proposal which would cause a diminution in the utility of an airport is unacceptable to the Commission. The standards, criteria, and procedures promulgated by the FAA for the thorough evaluation of development projects are designed to ensure the safe and efficient use of the navigable airspace. The

² Noise Monitoring Station 2S is the closest permanent noise monitoring station to the Project site. This monitoring station is located at 20162 Birch Street, Newport Beach, approximately 0.4 mile southeast of the Project site. Therefore, the noise levels at the Project site would be incrementally less than the noise levels calculated at the noise station.

application of these principles by the Commission will ensure the stability of local air transportation, as well as promote land uses that are compatible with the airport environs. However, any object which rises above the height of surrounding development, or which is located in close proximity to any of the various flight paths, must be clearly visible during hours of twilight or darkness and must not threaten, endanger, or interfere with aeronautical operations. Such objects, even if within the above height restrictions, are not acceptable to the Commission unless they are clearly marked or lighted according to FAA standards.

3.2.7 Airspace/Airport Inconsistency. In reviewing projects, the Commission will find any structure, either within or outside of the planning areas, inconsistent with this AELUP if it:

1. Is determined to be a "Hazard" by the FAA;
2. Would raise the ceiling or visibility minimums at an airport for an existing or planned instrument procedure (i.e., a procedure consistent with the FAA-approved airport layout plan or a proposed procedure formally on file with the FAA);
3. Would result in a loss in airport utility, e.g. in a diminution of the established operational efficiency and capacity of the airport, such as by causing the usable length of the runway (s) to be reduced; or
4. Would conflict with the VFR [visual flight route] air space used for the airport traffic pattern or enroute navigation to and from the airport.

As indicated in the AELUP for JWA, the Project site is located within the AELUP Part 77 Notification Area for JWA. Within the Notification Area boundary, the ALUC must be notified of any proposed construction or structural alterations involving a land use or legislative amendment in the AELUP Planning Area, development that exceeds 200 feet above ground level, and all heliports or helistops. As indicated in Section 2.5.3, The FAA Form 7460-1 was filed electronically on January 12, 2018. Determinations of No Hazard to Air Navigation for the proposed structure and temporary structure (i.e., construction equipment boom lift) were issued separately on January 30, 2018. The determination of No Hazard for the proposed structure stated that the structure would not exceed obstruction standards and would not be a hazard to air navigation; however, it required that the FAA Form 7460-2, Notice of Actual Construction or Alteration, be filed electronically within five days after the construction reaches its greatest height. The determination of No Hazard for the temporary construction equipment indicated that the temporary structure (i.e., construction equipment boom lift) would not exceed obstruction standards and would not be a hazard to air navigation. Both determinations stated that while marking and lighting are not necessary, should they be included, they would be installed and maintained in accordance with the FAA Advisory circular 70/7460-1 L. The FAA determinations are provided in Appendix D-2.

Based on the above consistency analysis, the Project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project. Impacts would be less than significant; however, implementation MM LU-1 is recommended.

Southern California Association of Governments

The fundamental goals of SCAG’s RTP/SCS effort are to make the SCAG region a better place to live, work, and play for all residents regardless of race, ethnicity, or income class. Table 4.8-2, below, presents the Project’s consistency with the relevant adopted 2016-2040 RTP/SCS goals. The adopted 2016-2040 RTP/SCS seeks to link the goal of sustaining mobility with the goals of fostering economic development; enhancing the environment; reducing energy consumption; promoting transportation-friendly development patterns; and encouraging fair and equitable access to residents impacted by socioeconomic, geographic, and commercial conditions. Implementation of the proposed Project would be consistent with the goals and the intent of the 2016-2040 RTP/SCS (SCAG 2016b).

The analysis of the Project’s consistency with the 2016-2040 RTP/SCS goals is provided in Table 4.8-2, below.

**TABLE 4.8-2
CONSISTENCY WITH REGIONAL TRANSPORTATION PLAN/
SUSTAINABLE COMMUNITIES STRATEGY GOALS**

RTP/SCS GOAL	CONSISTENCY ANALYSIS
Goal 1: Align the plan investments and policies with improving regional economic development and competitiveness.	Project Would Not Conflict The proposed Project involves the redevelopment of a site that is currently developed with a restaurant and surface parking. Although the current use provides job opportunities, operation of the proposed Project would also generate approximately 30 jobs upon Project implementation in addition to up to 50 construction jobs, thereby supporting regional economic development.
Goal RTP/SCS G2: Maximize mobility and accessibility for all people and goods in the region.	Project Would Not Conflict This goal would be implemented at a regional level. Even though the Project proposes the construction and operation of an assisted living and memory care facility, it would not conflict with this goal. The Project is proposed as a self-sufficient facility with recreation amenities that would encourage mobility for the resident population within the Project.
Goal RTP/SCS G3: Ensure travel safety and reliability for all people and goods in the region.	Project Would Not Conflict Project implementation would not affect travel safety and reliability for people and goods, as the Project would use an existing circulation system consisting of roads and sidewalks in a setting near existing major transportation thoroughfares. Additionally, the Project is proposed as a self-sufficient facility with recreation amenities that would encourage mobility for the resident population within the Project with safety in mind. Additionally, it should be noted that the proposed Project would result in a reduction of vehicular trips compared to the existing restaurant use (see Section 4.11, Transportation/Traffic of the EIR).
Goal RTP/SCS G4: Preserve and ensure a sustainable regional transportation system.	Project Would Not Conflict This goal would be implemented at a regional level. The Project proposes the construction and operation of an assisted living and memory care facility and would promote and encourage walking and mobility for the resident population within the facility. Regional transportation would not be impacted by the Project.

**TABLE 4.8-2
CONSISTENCY WITH REGIONAL TRANSPORTATION PLAN/
SUSTAINABLE COMMUNITIES STRATEGY GOALS**

RTP/SCS GOAL	CONSISTENCY ANALYSIS
Goal RTP/SCS G5: Maximize the productivity of our transportation system.	Project Would Not Conflict This goal would be implemented at a regional level. The Project proposes the construction and operation of an assisted living and memory care facility and would promote and encourage walking and mobility for the resident population within the facility. Local and regional transportation would not be impacted by the Project. Additionally, as indicated above, it should be noted that the proposed Project would result in a reduction of vehicular trips compared to the existing restaurant use (see Section 4.11, Transportation/Traffic of the EIR).
Goal RTP/SCS G6: Protect the environment and health for our residents by improving air quality and encouraging active transportation (non-motorized transportation, such as bicycling and walking).	Project Would Not Conflict While this goal would be implemented at a city-wide and regional level, the Project, an assisted living and memory care facility, would not conflict with this goal. The Project seeks to create a self-sufficient facility with amenities that would promote and encourage walking and mobility for the resident population within the facility. Walkways and internal courtyards are proposed to cater to the needs of the future residents of the facility.
Goal RTP/SCS G7: Actively encourage and create incentives for energy efficiency, where possible.	Project Would Not Conflict Section 6.0 discusses energy conservation and identifies how the Project would avoid and reduce inefficient, wasteful, and unnecessary consumption of energy during construction and operation.
Goal RTP/SCS G8: Encourage land use and growth patterns that facilitate transit and non-motorized active transportation.	Project Would Not Conflict While this goal would be implemented at a city-wide and regional level, the Project, an assisted living and memory care facility, would not conflict with this goal. The Project seeks to create a self-sufficient facility with amenities that would promote and encourage walking and mobility for the resident population within the facility. Walkways and internal courtyards are proposed to cater to the needs of the future residents of the facility.
Goal RTP/SCS G9: Maximize the security of the regional transportation system through improved system monitoring, rapid recovery planning, and coordination with other security agencies.	Project Would Not Conflict The proposed Project does not involve the construction or expansion of the regional transportation system. Therefore, security associated with regional transportation systems is not applicable to the proposed Project, and the Project would not conflict with it. The potential impact of the proposed Project to public services, including police and fire protection, is discussed in Section 4.10, Public Services, of this EIR.

Source (2016 RTP/SCS Goals): SCAG 2016b.

Impact Conclusion: Pursuant to Threshold 4.8-1, the Project would not conflict with any local applicable land use plan, policy, or regulation. The Project is located in the Noise Impact Zone "2" that recommends notification of operating aircraft in the area. MM LU-1 is recommended for compliance with the AELUP requirements and would reduce impacts to less than significant.

Compatibility with Surrounding Land Uses

Land use compatibility with existing adjacent land uses considers the impacts associated with locating different and incompatible land uses interfacing with each other. The proposed Project

Land Use and Planning

would not conflict with existing land uses around the Project site. Existing uses would either be compatible with the proposed use and/or buffered by expanded setbacks, walls, and existing and enhanced landscaping.

The Project site is located in an urbanized and fully developed portion of the City of Newport Beach with a mix of residential, commercial, retail, health care, and office uses. As shown in Exhibit 2-1, the Project site is bordered by Bristol Street and SR-73 to the northeast, Bayview Place and a six-story office building to the southeast, Baycrest multi-family residential development to the southwest, and Santa Ana Heights single-family residential neighborhood and a three-story office building to the northwest. This portion of the City is characterized by a concentration of commercial and office uses along Bristol Street and residential development adjacent and behind the commercial uses. Bristol Street and Bayview Place provide sufficient buffer/right-of-way between the proposed use and the adjacent office uses across Bayview Place.

Additionally, the proposed building height and the proposed setbacks, described in Section 3.0, Project Description, of this EIR, are designed to provide compatibility with the adjacent uses. The proposed building is uniformly three stories, or 33 feet, at the top of the roof, and 39 feet and 6 inches at the highest point, which includes mechanical equipment screening. This is within the height limits in the Bayview Planned Community text (PC-32) and is hence compatible with the surrounding uses.

In terms of compatibility with the adjacent residential uses to the northwest and southwest, there are existing 6- and 8-foot walls in addition to the existing mature landscaping (to be further enhanced) along the northwest and southwest property boundaries. Furthermore, increased setbacks and enhanced landscaping are incorporated along the property lines adjacent to Baycrest Court condominiums and Santa Ana Heights single-family residential to create a buffer and enhance compatibility. The building, as situated on the Project site, exceeds the minimum required setbacks identified in the PC text, as summarized below:

- 41-foot setback from the southwest property line near the Baycrest Court condominiums (the PC requires 20 feet between commercial and residential uses)
- 41-foot setback from the office building and residential to the northwest (the PC requires 0 feet to the office and 20 feet to the residential)
- 15-foot setback from Bristol Street (the PC requires 10 feet)
- 11-foot setback from Bayview Place (the PC requires 10 feet)

Therefore, based on the above discussion, potential compatibility issues with the existing surrounding uses would be less than significant, and no mitigation is required.

No long-term direct or indirect impacts to surrounding uses would occur with the proposed Project. Potential short-term, construction-related compatibility issues related to air quality, noise, and aesthetics are discussed in separate sections of this EIR.

Impact Conclusion: *The Project would introduce an assisted living and memory care facility on a previously developed site, in a well-developed area, surrounded by office, commercial, and residential uses. There is no predominant land use within this area of the City. The Project design, height, and massing would be*

compatible with the surrounding uses. In addition, sufficient buffer exists along the Project site's perimeter that would enhance compatibility with the adjacent land uses. Hence, the impacts would be less than significant pursuant to Threshold 4.8-1 as it pertains to consistency with land use plans, and no mitigation is required.

4.8.7 CUMULATIVE IMPACTS

The Project is located within a well-developed area of Newport Beach. Given the developed nature of the area, other cumulative projects in proximity of the site (only two projects are within less than a mile from the site) are also in-fill redevelopment projects. Some of this redevelopment in underutilized lots would lead to an intensification of development in the area, as anticipated in City's General Plan and other planning documents. Therefore, the increased development as a result of the cumulative projects would not necessarily be considered adverse land use impacts because the proposed Project and the cumulative projects would not disrupt or divide established communities and would not result in the introduction of incompatible uses in the area. Moreover, the conversion of previously developed or underdeveloped land to urban uses is anticipated in the *City of Newport Beach General Plan*; therefore, growth would occur in areas of the City determined to be more suitable for more development.

Additionally, future development of cumulative projects would be evaluated for compatibility with the surrounding uses and for consistency with the local and regional jurisdictions' land use plans, policies, and regulations, including the General Plan and Zoning Ordinance. Each proposed development project would be subject to the development review and permit process, which would include determination of project conformity to applicable land use plans and policies. Thus, these projects would be approved in accordance with adopted land use plans and policies and would not lead to land use incompatibilities and conflict or inconsistency with the goals and policies. In light of the above, cumulative land use impacts and the Project's contribution to cumulative impacts would be less than significant.

4.8.8 MITIGATION PROGRAM

Mitigation Measures

The proposed Project would not result in significant impacts to land use and planning; however, to ensure consistency with the recommendations in the AELUP for projects in the Noise Impact Zone "2", MM LU-1 is recommended.

MM LU-1 Prior to issuance of certificates of use and occupancy, the Applicant shall produce evidence to the Community Development Director of a notice for prospective residents that this property is subject to over-flight, sight, and sound of aircraft operating from John Wayne Airport.

4.8.9 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Due to being located within Noise Impact Zone 2, MM LU-1 is recommended. Upon inclusion of MM LU-1, any potential land use planning impact would be reduced to less than significant.

4.8.10 REFERENCES

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- Southern California Association of Governments (SCAG). 2016a (access date July 15). About SCAG. Los Angeles, CA: SCAG. <http://scag.ca.gov/about/Pages/Home.aspx>.
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- . 2008. *Final 2008 Regional Comprehensive Plan*. Los Angeles, CA: SCAG. http://www.scag.ca.gov/rcp/pdf/finalrcp/f2008RCP_Complete.pdf.

4.6 HAZARDS AND HAZARDOUS MATERIALS

This section analyzes the potential impacts of existing hazards that may adversely affect the Project and hazardous materials that may be introduced by the Project. Information presented in this section is derived from the Phase I Environmental Site Assessment, Center Pointe Senior Living, 101 Bayview Place, Newport Beach, California 92660 (Phase I ESA), prepared by Ninyo & Moore and included in Appendix D-1 of this EIR (Ninyo & Moore 2015). Federal Aviation Administration (FAA) determinations are included in Appendix D-2 (FAA 2018a and 2018b). Other referenced documents were also used in the preparation of this section.

Comment letters on the Notice of Preparation (NOP) submitted by the Department of Toxic Substances Control (DTSC) and the Airport Land Use Commission for Orange County (OCALUC) provided comments pertaining to hazardous materials and airport hazards, respectively.

4.6.1 REGULATORY SETTING

Federal

Federal Aviation Regulation Part 77

Part 77 of the Federal Aviation Regulations (FAR, Title 14 of the *Code of Federal Regulations*) addresses objects affecting navigable airspace. This regulation requires that the Federal Aviation Administration (FAA) be notified of any project that may encroach upon established navigable airspace. Once notified, the FAA is responsible for reviewing site and building plans to determine the effects of proposed construction on air navigation. Measures are then identified to ensure the continued safety of air navigation. The Project site is within the area subject to FAA notification and development review due to its proximity to the John Wayne Airport (JWA).

Hazardous Materials Transportation Act

The Hazardous Materials Transportation Act administered by the U.S. Department of Transportation governs the transport of hazardous materials, such as contaminated soil, asbestos, or lead-containing materials. The California Department of Transportation (Caltrans) implements the federal regulations published as Title 49 of the *Code of Federal Regulations* (CFR), which is known as the Hazardous Materials Transportation Act. The main purpose of the Hazardous Materials Transportation Act is to provide adequate protection against risks to life and property inherent in the transport of hazardous materials by improving the regulatory and enforcement authority of the Secretary of Transportation.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) was authorized by Congress in 1976. This law creates the framework for the proper management of hazardous and non-hazardous solid waste. The RCRA amended the Solid Waste Disposal Act of 1965 and has the following goals: (1) to protect human health and the environment from the potential hazards of waste disposal, (2) to conserve energy and natural resources, (3) to reduce the amount of waste generated, and (4) to ensure that wastes are managed in an environmentally sound manner.

Occupational Safety and Health Administration (OSHA)

The Occupational Safety and Health Act of 1970 (OSH Act) was passed to ensure that employers are responsible for providing a safe and healthful workplace. The Occupational Safety and Health Administration's (OSHA's) mission is to assure safe and healthful workplaces by setting and enforcing standards and by providing training, outreach, education, and assistance. Employers must comply with all applicable OSHA standards. Employers must also comply with the General Duty Clause of the OSH Act, which requires employers to keep their workplace free of serious recognized hazards. OSHA standards are listed in Title 29 CFR Part 1910.

State

California Hazardous Waste Control Act

The California Hazardous Waste Control Act (HWCA), as found in the *California Health and Safety Code* (see Division 20, Chapter 6.5, Article 2, Section 25100, et seq.) authorizes the California State Department of Toxic Substances Control (DTSC) and local Certified Unified Program Agencies (CUPA) to regulate facilities that generate or treat hazardous waste. The HWCA authorizes CUPAs to perform the following actions:

- Conduct inspections of any factory, plant, construction site, waste disposal site, transfer station, establishment, or any other place or environment where hazardous wastes are stored, handled, processed, disposed of, or being treated to recover resources
- Maintain records of compliance with the Hazardous Waste Control Act
- Require hazardous waste generators to pay inspection and administration fees to cover the costs of administering the provisions in the HWCA. Fees may include but shall not be limited to the costs of inspection, document development and processing, recordkeeping, enforcement activities, and informational materials development and distribution.
- Issue authorization for on-site treatment of hazardous waste to persons eligible to operate pursuant to permit-by-rule, conditional authorization, or conditional exemption
- Enforce against violations of the HWCA

Certified Unified Program Agency

In 1993, Senate Bill 1082 created the CUPA program to foster effective partnerships between local, State, and federal agencies. The Environmental Health Division was designated as the CUPA for the County of Orange by the State Secretary for Environmental Protection on January 1, 1997. The CUPA is the local administrative agency that coordinates the regulation

of hazardous materials and hazardous wastes in Orange County through the following six programs:

- Hazardous Materials Disclosure (HMD)
- Business Emergency Plan (BEP)
- Hazardous Waste (HW)
- Underground Storage Tank (UST)
- Aboveground Petroleum Storage Tank (APST)
- California Accidental Release Prevention Program (CalARP)

County and City Fire Agencies within Orange County have joined in partnership with the CUPA as Participating Agencies (PAs). In most Orange County cities, the Environmental Health Division administers all programs; however, the City of Newport Beach Fire Department is responsible for its Hazardous Materials and Business Emergency Plan Programs.

California Accidental Release Prevention Program

The California Accidental Release Prevention Program (CalARP), managed by the CUPA as noted above, is a merging of the Federal Accidental Release Prevention Program and State programs for the prevention of accidental release of regulated toxic and flammable substances. It replaced the California Risk Management and Prevention Program and was created to eliminate the need for two separate and distinct risk management programs. Stationary sources exceeding a threshold quantity of regulated substances are evaluated under this program to determine the potential for and impacts of accidental releases from the source. Depending on the potential hazards, the owner or occupant of a stationary source may be required to develop and submit a risk management plan.

California Occupational Safety and Health Administration

The Division of Occupational Safety and Health, better known as Cal/OSHA, protects and improves the health and safety of working men and women in California through setting and enforcing standards; providing outreach, education, and assistance; and issuing permits, licenses, certifications, registrations, and approvals. Employers are required to monitor worker exposure to listed hazardous substances and notify workers of exposure (8 *California Code of Regulations* [CCR] Sections 337-340). Cal/OSHA regulations specify employer requirements including employee training, provision of safety equipment, accident-prevention programs, and hazardous substance exposure warnings.

Local

Newport Beach General Plan Safety Element

The primary goal of the Safety Element is to reduce the potential risk of death, injuries, property damage, and economic and social dislocation resulting from natural and human-induced hazards. The Safety Element recognizes and responds to public health and safety risks that could cause exposure to the residents of Newport Beach. This element specifically addresses coastal

hazards, geologic hazards, seismic hazards, flood hazards, wildland and urban fire hazards, hazardous materials, aviation hazards, and disaster planning.

4.6.2 METHODOLOGY

The Phase I ESA prepared by Ninyo & Moore (2015) was prepared in accordance with the Standard Practice for Environmental Site Assessment: Phase I ESA Process, American Society for Testing and Materials (ASTM) E 1527-13, and All Appropriate Inquiries (AAI) set forth in the *Code of Federal Regulations* (specifically, 40 CFR 312). The objective of a Phase I ESA is to identify recognized environmental conditions (RECs), historical recognized environmental conditions (HRECs), and/or controlled recognized environmental conditions (CRECs) that may be associated with the Project site. The scope of the Phase I ESA assessment included reconnaissance of the site and immediate vicinity; Environmental Data Resources (EDR) review of the data available from various regulatory agencies; interview with the maintenance supervisor and property manager; and review of historical aerial photographs, building records, city directory information, and Sanborn Fire Insurance Maps.

4.6.3 EXISTING CONDITIONS

Previous Uses of the Project Site

Based on historical aerial photography, the site was agricultural land from at least 1938 through 1977. By 1985, the Project site appeared to be no longer in use as agricultural and the site was developed with the current site building and parking areas in 1989 (Ninyo & Moore 2015). Based on the historical agricultural use of the property, commercial pesticides and herbicides have likely been applied to the site and site vicinity during the agricultural use of the land. Residual concentrations of these substances and/or their breakdown derivatives may be present in the site soils. A review of historical aerial photographs did not indicate the presence of buildings or other structures on the site where pesticides or herbicides may have been mixed or stored (Ninyo & Moore 2015). The fact that the site has been graded and paved, and the duration since pesticides/herbicides may have been applied (greater than 30 years), indicates that the former agricultural usage of the site is considered a *de minimis* condition.

Current Uses of the Project Site

The Project site, currently occupied by Kitayama Restaurant, is developed with a single-story 8,800-square-foot slab-on-grade building located in the northeast portion of the site and associated asphalt-paved surface parking lot. Parking stalls are arranged around the perimeter of the lot, and two rows of parking spaces are located in the middle of the site. The site also contains ornamental trees and landscaping around the perimeter and within the surface parking area. There is additional landscaping around the two sides of the restaurant abutting Bristol Street to the northeast and Bayview Place to the southeast. The southwestern and northwestern perimeters are bound by block walls; the northeastern and southeastern perimeters are bound by a combination of block wall and wrought iron fencing.

Surrounding Land Uses

As further described in Section 4.8, Land Use and Planning, the Project site is located within a highly developed portion of the City of Newport Beach that includes residential, retail, health care, and office uses. The Project site is bordered by Bristol Street and State Route (SR-) 73 to the northeast, Bayview Place and a six-story office building to the southeast, Baycrest multi-family residential development to the southwest, and Santa Ana Heights single-family residential neighborhood and a three-story office building to the northwest. This portion of the City is characterized by a concentration of commercial and office uses along Bristol Street and residential development adjacent and behind the commercial uses.

Airport Environs Land Use Plan for John Wayne Airport

The Project site is located approximately 0.7 mile southeast of the southernmost John Wayne Airport (JWA) runway. The Project site is located within Noise Impact Zone "2" – Moderate Noise Impact (60 decibels [dB] Community Noise Equivalent Level [CNEL] or greater, less than 65 dB CNEL) as shown in the Airport Environmental Land Use Plan for John Wayne Airport (AELUP) and falls within JWA Safety Zone 6 (Traffic Pattern Zone), where the likelihood of an accident is low. The zone allows for residential uses and most nonresidential uses; however, uses such as schools and health care facilities should be avoided (OCALUC 2008). As indicated in the Airport Environs Land Use Plan (AELUP) for JWA, the Project site is located within the AELUP Part 77 Notification Area for JWA. Within the Notification Area boundary, the Airport Land Use Commission (ALUC) must be notified of any proposed construction or structural alterations involving a land use or legislative amendment in the AELUP Planning Area, development that exceeds 200 feet above ground level, and all heliports or helistops. Additional criteria for notification include development in proximity to an airport exceeding the slope ratio; development involving construction of a traverseway (i.e., highway, railroad, waterway) and exceeding a standard of 77.9(a) or (b) once adjusted upward with the appropriate vertical distance; development emitting frequencies and not meeting the conditions of the FAA Co-location Policy; development being in an instrument approach area and potentially exceeding Part 77 Subpart C; and development being in proximity to a navigation facility and potentially impacting the assurance of navigation signal reception. In addition, to promote air safety, projects that meet the above criteria must also file Form 7460-1 (Notice of Proposed Construction or Alteration) as part of Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) with the FAA (OCALUC 2008). The FAA Form 7460-1 was filed electronically on January 12, 2018.

4.6.4 THRESHOLDS OF SIGNIFICANCE

In accordance with the City's Environmental Analysis Checklist and Appendix G of the State CEQA Guidelines, the Project would result in a significant impact related to hazards and hazardous materials if it would:

Threshold 4.6-1 Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

Hazards and Hazardous Materials

- Threshold 4.6-2** Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
- Threshold 4.6-3** For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area.

4.6.5 IMPACT ANALYSIS

Threshold 4.6-1

Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Hazards to the environment or the public through the transport, use, or disposal of hazardous materials would typically occur with operation of nonresidential uses, such as industrial and some commercial uses.

Demolition and construction activities for the proposed Project would be relatively short-term (approximately 12 to 14 months); and the transport, use, and disposal of any hazardous materials as part of these activities would be temporary. Construction activities would involve the use of chemical substances such as solvents, paints, fuel for equipment, and other potentially hazardous materials. These materials are common for construction activities, would be used in limited quantities, and do not pose a significant hazard to the public or the environment. As part of the demolition activities the transport of demolition debris would also occur, which may potentially include hazardous materials. Impacts associated with the demolition activities are required to comply with existing regulatory requirements. The following regulatory requirement (RR) pertaining to the transport of potentially hazardous materials would be applicable to the Project:

- RR HAZ-1** Demolition shall be conducted in accordance with the remediation and mitigation procedures established by all federal, State, and local standards, including those of the federal and State Occupational Safety and Health Administrations (OSHA and CalOSHA) and South Coast Air Quality Management District (SCAQMD) regulations for the excavation, removal, and proper disposal of asbestos-containing materials (SCAQMD Regulation X – National Emission Standards For Hazardous Air Pollutants, Subpart M – National Emission Standards For Asbestos). The materials shall be disposed of at a certified asbestos landfill. The Asbestos-Abatement Contractor shall comply with notification and asbestos-removal procedures outlined in SCAQMD Rule 1403 to reduce asbestos-related health risks. SCAQMD Rule 1403 applies to any demolition or renovation activity and the associated disturbance of asbestos-containing materials. These requirements shall be included on the contractor specifications and verified by the City of Newport Beach's Community Development Department in conjunction with the issuance of a Demolition Permit.

Consistent with existing residential development in the vicinity of the Project site, once constructed, the proposed assisted living and memory care facility would use hazardous materials (e.g., paint, pesticides, cleansers, and solvents) for maintenance activities but any use would be in limited quantities. The proposed Project would not use, store, or generate hazardous materials or wastes in quantities that would pose a significant hazard to the public. Impacts would be less than significant, and no mitigation is required.

Impact Conclusion: *Construction and operation of the proposed Project would involve handling of hazardous materials in limited quantities and typical to urban environments. Through compliance with RR HAZ-1, less than significant impacts would be associated with the transport, use, or disposal of hazardous materials during construction or operation of the proposed Project, pursuant to Threshold 4.6-1. No mitigation is required.*

Threshold 4.6-2

Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

There is a potential to expose the public to hazardous substances through accidental releases during construction and operation. During construction, potential exists for the accidental release or spill of hazardous substances such as gasoline, oil, hydraulic fluid, diesel fuel, or other liquids associated with construction equipment operation and maintenance. However, use of these materials in limited quantities is typical during operation and maintenance of construction equipment and would be conducted in compliance with applicable State and local regulations. Additionally, the contractor would be required to use standard construction controls and safety procedures, which would avoid and minimize the potential for accidental release or spill of such substances into the environment. The level of risk associated with the accidental release of hazardous substances during construction is less than significant.

Based on research conducted as part of the Phase I ESA, the Project site was agricultural land between 1938 and 1977 and vacant land in 1985. The site was developed with the existing building and parking areas in 1989. The Phase I ESA does not identify any RECs in connection with the Project site; however, based on the historical agricultural use of the property, commercial pesticides and herbicides have likely been applied to the site and in the vicinity of the site during the agricultural use of the land. Residual concentrations of these substances and/or their breakdown derivatives may be present in soils on the site (Ninyo & Moore 2015).

The historical aerial photographs did not indicate the presence of buildings or other structures on the site where pesticides or herbicides may have been mixed or stored. Based on the fact that the site has been graded and paved, and that the duration since pesticides/herbicides may have been applied is likely greater than 30 years, former agricultural usage of the site is considered a *de minimis* condition. No impact would result, and no mitigation is required.

Additional results of the Phase I ESA are summarized below:

- Indications of release at the site, such as odors, stressed vegetation, leaks, pools of liquids, or spills, were not observed.

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- The site was not listed on searched environmental databases. RECs were not identified for the site in the environmental database report.
- Wells, such as water supply wells and groundwater monitoring wells, were not observed on the site during the site reconnaissance.
- Although the Orange County Health Care Agency (OCHCA) and Newport Beach Fire Department (NBFDD) have not responded to requests for a review of site records, the site was not listed on the environmental databases that were searched.
- Based on the historical research and results of the vapor encroachment screening matrix conducted as part of the Phase I ESA, a vapor encroachment condition does not currently exist beneath the site.
- Other off-site concerns were not observed.

As indicated above, the Phase I ESA revealed no evidence of RECs in connection with the Project site. No recommendations for further investigation are required at this time. However, as the existing restaurant would be demolished, compliance with the existing regulatory requirements and a hazardous building materials survey would be required. The following regulatory requirement pertaining to handling and disposal of lead-based paint [LBP] would be applicable to the Project:

RR HAZ-2 Contractors shall comply with the requirements of Title 8 of the *California Code of Regulations* (Section 1532.1), which sets exposure limits, exposure monitoring, respiratory protection, and good working practices by workers exposed to lead. Lead-contaminated debris and other wastes shall be managed and disposed of in accordance with the applicable provisions of the *California Health and Safety Code*.

Impact Conclusion: *Existing and past use of hazardous materials in the Project site would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Through compliance with RR HAZ-2, less than significant impacts would be associated with the handling and disposal of lead-based paint, pursuant to Threshold 4.6-2. No mitigation is required.*

Threshold 4.6-3

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

John Wayne Airport (JWA), located approximately 0.7 mile northwest of the Project site, is the nearest public airport, serving both commercial as well as private aviation. As detailed in the AELUP for JWA, four boundaries are within the JWA Planning Area: (1) area within the 60-dB CNEL contour; (2) area within Runway Protection Zones; (3) area within Safety Zones; and (4) area that lies above or penetrates the 100:1 imaginary surface for notification. While the Project site is not located within the Runway Protection Zone, it falls within the other three boundaries. The Project site is located within Noise Impact Zone "2" - Moderate Noise Impact (60dB CNEL or

greater, less than 65 dB CNEL) as shown in the Airport Environmental Land Use Plan (AELUP) for John Wayne Airport. The Project site is located within Zone 6 (Traffic Pattern Zone), which allows for residential uses and most nonresidential uses. By applying the imaginary surface slope of 100:1, at this distance from the runway, the proposed Project does not penetrate the imaginary surface extending 100 feet outward and 1 foot upward (slope of 100:1) from the JWA runway at a height of 33 feet at the top of the roof and 39 feet and 6 inches at the highest point, which includes screening. Based on the AELUP, the Project would not result in a safety hazard for people residing or working in the area. No impact would result, and no mitigation is required. It should be noted that the proposed Project is located near, but not within, Zone 3 (Inner Turning Zone). This zone allows for limited residential uses of very low densities and recommends avoiding nonresidential uses with moderate to higher usage intensities. The proposed Project is not within Zone 3 and would not result in a safety hazard for people residing or working in the area.

As indicated in the AELUP for JWA, the Project site is located within the AELUP Part 77 Notification Area for JWA. Within the Notification Area boundary, ALUC must be notified of any proposed construction or structural alterations involving a land use or legislative amendment in the AELUP Planning Area, development that exceeds 200 feet above ground level, and all heliports or helistops. Additional criteria for notification include development in proximity to an airport exceeding the slope ratio; development involving construction of a traverseway (i.e., highway, railroad, waterway) and exceeding a standard of 77.9(a) or (b) once adjusted upward with the appropriate vertical distance; development emitting frequencies and not meeting the conditions of the FAA Co-location Policy; development being in an instrument approach area and potentially exceeding Part 77 Subpart C; and development being in proximity to a navigation facility and potentially impacting the assurance of navigation signal reception. In addition, to promote air safety, projects that meet the above criteria must also file Form 7460-1 (Notice of Proposed Construction or Alteration) as part of OE/AAA with the FAA (OCALUC 2008). The FAA Form 7460-1 was filed electronically on January 12, 2018. As indicated in Section 2.5.3, determinations of No Hazard to Air Navigation for the proposed structure and temporary structure (i.e., construction equipment boom lift) were issued separately on January 30, 2018. The determination of No Hazard for the proposed structure stated that the structure would not exceed obstruction standards and would not be a hazard to air navigation; however, it required that the FAA Form 7460-2, Notice of Actual Construction or Alteration, be filed electronically within five days after the construction reaches its greatest height. The determination of No Hazard for the temporary construction equipment indicated that the temporary structure (i.e., construction equipment boom lift) would not exceed obstruction standards and would not be a hazard to air navigation. Both determinations stated that while marking and lighting are not necessary, should they be included, they would be installed and maintained in accordance with the FAA Advisory circular 70/7460-1 L. The FAA determinations of No Hazard to Air Navigation for the proposed structure and temporary structure are provided in Appendix D-2.

The following regulatory requirement pertaining to the FAA determination of No Hazard would be applicable to the Project:

RR HAZ-3 Federal Aviation Administration Form 7460-2, Notice of Actual Construction or Alteration, shall be filed electronically within five days after the construction reaches its greatest height. This shall be verified by the City of Newport Beach's Community Development Department.

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Additionally, in light of the required discretionary approvals (i.e., General Plan Amendment and Bayview Planned Community Development Plan Amendment [PC-32]), per the Public Utilities Code (PUC), Division 9, Aviation, Section 21676(b), the following regulatory requirement would be applicable to the Project:

RR HAZ-4 Prior to City Council's consideration of the amendments to the General Plan and the Bayview Planned Community Development Plan Amendment (PC-32), the City of Newport Beach Community Development Department shall refer the proposed actions to the Airport Land Use Commission (ALUC). The referral shall be submitted by the City and agendized by the ALUC staff between the City's expected Planning Commission and City Council hearings (since the ALUC meets on the third Thursday afternoon of each month, submittals must be received in the ALUC office by the first of the month to ensure sufficient time for review, analysis, and agendizing).

As stated, while the Project is located within 0.7 mile of JWA, the Project site is not subject to substantial risks from aviation hazards and would not result in a safety hazard. Therefore, impacts would be less significant impact and no mitigation is required.

Impact Conclusion: *The Project site is located within the AELUP for JWA. With adherence to the requirements of the AELUP, the proposed Project would not result in a safety hazard to people residing or working on the site or in the Project area. Compliance with RR HAZ-3 and RR HAZ-4 is required per the FAA determination of No Hazard and for compliance with PUC Section 21676(b) requirement. There would be a less than significant impact pursuant to Threshold 4.6-3. No mitigation is required.*

4.6.6 CUMULATIVE IMPACTS

The cumulative study area associated with hazardous materials is typically site-specific except where past, present, and/or proposed land uses would impact off-site land uses and persons or where past, present, or foreseeable future development in the surrounding area would cumulatively expose a greater number of persons to hazards (e.g., hazardous materials and/or waste contamination).

As discussed under Thresholds 4.6-1 and 4.6-2 past, existing, and proposed land uses would not result in an environmental hazard related to the transport, use, or disposal of hazardous materials or the potential for accidental release of hazardous materials. The proposed Project and cumulative development would be required to comply with applicable local, State, and federal requirements concerning hazardous materials, as identified in RRs HAZ-1 and HAZ-2. Therefore, the proposed project would not contribute to any potential significant cumulative hazardous materials impacts.

The cumulative study area for aviation hazards is defined as the Airport Influence Area (AIA) or Airport Planning Areas for JWA, as established in the AELUP (OCALUC 2008). As discussed under Threshold 4.6-3, the proposed Project would be implemented in compliance with the AELUP and therefore would result in a less than significant impact related to aviation hazards. Any proposed development within the AIA would also be required to comply with the AELUP, including but not limited to compliance with FAR 77, Subpart C, which discusses aviation easements, height

limitations, and notification of future development near the airport. As indicated under Threshold 4.6-3, the determination of No Hazard for the proposed structure stated that the structure would not exceed obstruction standards and would not be a hazard to air navigation; however, it required that the FAA Form 7460-2, Notice of Actual Construction or Alteration, be filed electronically within five days after the construction reaches its greatest height. This has been included as RR HAZ-3 as part of the proposed Project. Therefore, the proposed Project would not contribute to any potential significant cumulative impacts related to aviation hazards.

4.6.7 MITIGATION PROGRAM

Mitigation Measure

With incorporation of RR HAZ-1 through RR HAZ-4 into the proposed Project, no significant impacts related to hazards and hazardous materials would occur, and no mitigation is required.

4.6.8 LEVEL OF SIGNIFICANCE AFTER MITIGATION

Impacts related to hazards and hazardous materials would be less than significant.

4.6.9 REFERENCES

Federal Aviation Administration (FAA). 2018a (January 30). Determination of No Hazard to Air Navigation (an official Determination Letter from K. McDonald, Specialist, at the FAA to C. McDermott at Entitlement Advisors).

———. 2018b (January 30). Determination of No Hazard to Air Navigation for Temporary Structure (an official Determination Letter from K. McDonald, Specialist, at the FAA to C. McDermott at Entitlement Advisors).

OC Health Care Agency. 2016 (July 25, date accessed). CUPA Homepage. Santa Ana, CA: <http://occupainfo.com/>.

Orange County Airport Land Use Commission (OCALUC). 2008 (April 17, amended). Airport Environs Land Use Plan for John Wayne Airport. Costa Mesa, CA: http://www.ocair.com/commissions/aluc/docs/JWA_AELUP-April-17-2008.pdf.

Ninyo & Moore Geotechnical and Environmental Sciences Consultants. 2015 (November 10). Phase I Environmental Site Assessment, Center Pointe Senior Living, 101 Bayview Place, Newport Beach, California 92660. Irvine, CA: Ninyo & Moore.