



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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AGENDA ITEM 2

July 20, 2023

TO: Commissioners/Alternates

FROM: Lea Choum, Executive Officer

SUBJECT: City of Newport Beach: Request for Consideration of Newport Place Planned Community (PC-11) Amendment related to Affordable Housing Percentage of Residential Overlay

Background

In June 2012, the City of Newport Beach referred the Newport Place PC to the ALUC for a consistency review. At that time the planned community was being amended to create the Residential Overlay and allow residential development consistent with the MU-H2 General Plan Land Use category that allows housing or mixed-use development for parcels located within the Newport Place PC (See Attachment 1). The amendment permitted lower income residential as well as established minimum development regulations including building heights, setbacks, and parking requirements and brought Newport Place PC into conformance with the 2006 General Plan Update. The Commission reviewed the Newport Place PC amendment and found it consistent with the *ALUP for JWA* (See Attachment 2 to view excerpts of the staff report from June 21, 2012).

The City of Newport Beach is proposing an amendment to the Newport Place PC Development Plan to revise the minimum affordability housing percentage for residential development within the Planned Community's Residential Overlay from thirty percent (30%) to fifteen percent (15%). No other changes are proposed.

The current residential overlay includes use and development standards for residential projects and requires thirty percent (30%) of the residential units in a development to be made affordable to lower-income households for a minimum of 30 years. The City is proposing to lower this percentage to 15% to promote housing production and to make residential projects more financially feasible. The City also states that they must evaluate a variety of policies and regulations to identify impediments and incentives to housing production to meet their RHNA obligation for the 6th Cycle Housing Element for the 2021-2029 housing period.

The boundary of the Newport Place PC begins at MacArthur Boulevard extending westerly bounded by Jamboree Road, Bristol Street North, and Birch Street as depicted on the vicinity map (See Attachment 3). The percentage change will apply to parcels that have the existing General Plan Land Use Designation of Mixed-Use Horizontal (MU-H2), shown as the grey shaded areas on the Newport Place PC Residential Overlay Exhibit (Attachment 1).

The City of Newport Beach has scheduled public hearings on the proposed Newport Place PC Amendment as follows:

June 22, 2023	City of Newport Beach Planning Commission
July 25, 2023	City of Newport Beach City Council

JWA AELUP Issues

Regarding Aircraft Noise Impacts:

The Newport Place PC is located within the 60 and 65 CNEL Noise Contours for JWA (See Attachment 4).

The Newport Place PC allows for residential within the 60 CNEL Noise Contour for JWA and contains the following Airport Noise Compatibility policies:

1. Residential development shall be located outside the JWA 65 dB CNEL noise contour, specified by the 1985 JWA Master Plan.
2. Notice of aircraft overflight and noise shall be posted at all public parks and designated outdoor common and recreational areas.
3. Notice shall be provided to all future residents to inform of potential annoyances or inconveniences associated with residing in proximity to airport operations such as noise, vibration, and odors.

The properties eligible for the residential overlay with the MU-H2 land use designation are within the 60 CNEL noise contour (Attachment 1). Per the *AELUP for JWA*, residential developments are normally consistent within the 60 CNEL noise contour as long as conventional construction methods are used.

On September 16, 2021 the City of Newport Beach brought its Draft Housing Element Update to the ALUC for a consistency review. The ALUC found the Newport Beach Housing Element Update Inconsistent with the *AELUP for JWA*. The City of Newport Beach overruled the ALUC on September 16, 2021 and on September 13, 2022 adopted the 6th Cycle Housing Element for the 2021-2029 housing period. See Attachment 5 to view the adopted Housing Sites Inventory within the JWA CNEL Noise Contours.

The approved Housing Element Update includes housing opportunity sites within the 65 CNEL noise contour including opportunity sites within Newport Place PC-11. The parcels shown in green are proposed new sites that the City has deemed suitable for residential development.

Although opportunity sites are approved within the Newport Place PC, the City is not proposing to amend the Newport Place PC Development Standards at this time to accommodate residential in the 65 CNEL noise contour. The City would be required to bring any future PC amendments to the ALUC for review. The only change proposed to the Newport Place PC Development Standards is the affordable housing percentage to be changed from 30% to 15%.

Regarding Height Restrictions:

Newport Place PC is within the Federal Aviation Administration (FAA) Notification Area (See Attachment 6) and the Federal Aviation Regulation (FAR) Part 77 Obstruction Imaginary Surfaces for JWA (See Attachment 7). The proposed building height for projects within the residential overlay is 55 feet. With a site elevation of approximately 50 feet above mean sea level (AMSL), projects developed at a maximum height of 55 feet would not penetrate the obstruction imaginary surface for this project area which would be penetrated at 206 feet AMSL.

The PC text states that the heights of a structure can be increased with the approval of a site development review, but have to meet the following building height requirements proposed on page 47 in the PC Section V. General Development Standards for Residential:

A. Building Height

“Maximum building heights shall be limited to a height limit of 55 feet. The height of a structure can be increased with the approval of a site development review and subject to required findings specified in Section 20.30.060.C.3 of the Newport Beach Zoning Code but shall not penetrate Federal Aviation Regulation (FAR) Part 77, Obstruction—Imaginary Surfaces for John Wayne Airport unless approved by the Airport Land Use Commission (ALUC), shall be in compliance with FAR Part 77, and comply with the requirements of Section 20.30.060.E of the Newport Beach Zoning Code (Airport Environs Land Use Plan for John Wayne Airport and the Airport Land Use Commission Review Requirements).”

As stated in the Building Height requirement above, building heights must also comply with Section 20.30.060.E of the Newport Beach Zoning Code which contains the following requirements for projects located within the Airport Area for JWA:

- 1) Buildings and structures shall not penetrate Federal Aviation Regulation Part 77 Obstruction Imaginary Surfaces for JWA unless found consistent by the Airport Land Use Commission (ALUC).
- 2) In accordance with FAR Part 77, applicants proposing buildings or structures that penetrate the 100:1 Notification Surface shall file a Form 7460-1 Notice of Proposed Construction or Alteration with FAA. A copy of the application shall be submitted to ALUC, and the applicant shall provide the City with FAA and ALUC responses.
- 3) Development projects that include structures higher than 200 feet above existing grade shall be submitted to the Airport Land Use Commission (ALUC) for review. In addition, projects that exceed a height of 200 feet above existing grade shall file Form 7460-1 with the FAA.

Attachment 7 also shows that Newport Place PC borders the approach, departure, and transitional surfaces for JWA.

Regarding Flight Tracks and Safety Zones:

Newport Place PC is located within Safety Zone 6 – Traffic Pattern Zone and a portion of the PC is within Safety Zone 3 – Inner Turning Zone (See Attachment 8). The residential overlay is not located within Safety Zone 3. According to the California Airport Land Use Planning Handbook, noise and overflight should be considered in Safety Zone 6.

Attachment 9 illustrates flight tracks provided by the John Wayne Airport Noise Office for the City on three separate days in January, June, and December 2022 and are color coded based on aircraft elevation. As shown on the exhibits there are flight tracks over the Newport Place PC.

Regarding Heliports:

The development of heliports was not discussed within the Newport Place PC Amendment and is not proposed as part of the project. Heliports are not a permitted use 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

The City of Newport Beach Planning Commission found the proposed Newport Place Planned Community Development Plan amendment not subject to the California Environmental Quality Act under Sections 15060(c)(2), as the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and 15060(c)(3), that the activity is not a project as defined in Section 15378 of the CEQA guidelines.

Conclusion

Attachment 10 to this report contains the project submittal package received from the City of Newport Beach for your reference. ALUC staff has reviewed this project with respect to compliance with the *AELUP for JWA*, including review of appropriate height restrictions, imaginary surfaces, and noise. The City is proposing to Amend the Newport Place PC as follows:

Amend Part III. Residential Overlay Zone, Section IVA.3 to read as follows:

“A minimum of ~~30~~ 15 percent of the units within the residential development shall be affordable to lower-income households and subject to a 30-year affordability covenant.”

No other changes to the Newport Place PC Development Standards are being proposed at this time. The PC still contains airport noise compatibility policies and height restrictions that promote consistency with the *AELUP for JWA*.

As part of the Newport Place PC review, the Commission should also consider the Housing Element Update that was adopted by the City on September 13, 2022 adopting the 6th Cycle Housing Element for the 2021-2029 housing period. As part of the Housing Element approval the City has approved housing opportunities sites within the Newport Place PC that would allow residential within the 65 CNEL noise contours. The ALUC found the Housing Element Update Inconsistent with the *AELUP for JWA* based upon introducing residential uses in close proximity to an airport that may be incompatible with general welfare of the inhabitants within the vicinity of the airport possibly resulting in noise and safety impacts.

The Housing Element Update identified the Airport Area as one of the five focus areas where new housing opportunity sites are identified to satisfy the RHNA allocation of 4,845 new housing units. Newport Place PC-11 is within the Airport Area. Because additional residential is designated within Newport Place PC, the Commission could find the Newport Place PC inconsistent due to the potential to build residential within the 65 CNEL contour, introduce residential development within safety zones and subject future residents to aircraft overflight.

Although the City is currently only proposing an amendment to the affordable housing percentage in Newport Place PC as part of this submittal, it's Draft Planning Commission Resolution No. 2023-025 (included in Attachment 10) contains facts and findings that seem to tie the proposed affordable housing change to the City's approved Housing Element Update. This makes it difficult to separate the relationship of the two documents. The wording in the City's draft resolution is as follows:

Planning Commission Draft Resolution, Section 1. Statement of Fact #3:

“On September 13, 2022, the City adopted the 6th Cycle Housing Element for the 2021- 2029 housing period, and it was certified by the State Department of Housing and Community Development (“HCD”) on October 5, 2022. The Airport Area is one of the five focus areas where new housing opportunity sites are identified to satisfy the RHNA allocation of 4,845 new housing units. At least 2,577 housing units are planned for the Airport Area, which comprises approximately 25 percent of the City’s planned housing capacity. In addition to the existing residential sites allowed by the 2006 General Plan Land Use Element and the PC-11’s Overlay, a total of 29 new housing opportunity sites have been identified in the PC-11 per the 6th Cycle Housing Element.”

Planning Commission Draft Resolution, Section 3, Finding and Facts in Support of Findings:

“The Amendment would be a step in the implementation of the 6th Cycle Housing Element by mitigating potential governmental constraints through the reduction of affordable housing percentage from 30 to 15 percent, to facilitating construction of market-rate housing and affordable for all income groups. According to the February 17, 2022, Inclusionary Housing Financial Evaluation, prepared by Keyser Marston Associates for the City of Newport Beach, inclusionary housing percentages higher than 15 percent would likely be too high rendering most residential projects financially infeasible. Reducing the inclusionary percentage would reduce the potential impediment and would also affirmatively further fair housing consistent with Policy Action 4A: Affirmatively Furthering Fair Housing provided in the 6th Cycle Housing Element.”

Staff reiterates that the opportunity sites that were adopted with the Housing Element Update were found to be inconsistent with the *AELUP for JWA*. A consistency determination of the proposed affordable housing percentage change would not change the Commission’s inconsistency determination of the opportunity sites adopted within the Housing Element Update.

Recommendation:

That the Commission find the proposed Newport Place PC-11 Amendment consistent with the *AELUP for JWA* provided that none of the housing within the Residential Overlay will be located within the 65 dB CNEL noise contour for JWA, as currently required in the Newport Place PC, and that any future changes to the Newport Place PC-11 be brought back to ALUC for review.

Or

That the Commission find the proposed Newport Place PC-11 Amendment Update inconsistent with the *AELUP for JWA* per:

1. Section 2.1.1 Aircraft Noise that the “aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport.”
2. Section 2.1.2 Safety Compatibility Zones in which “the purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA.”
3. Section 2.1.4, and PUC Section 21674 which state that the Commission is charged by PUC Section 21674(a) “to assist local agencies in ensuring compatible land uses in the vicinity of ...existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses,” and PUC Section 21674(b) “to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare.”

Respectfully submitted,

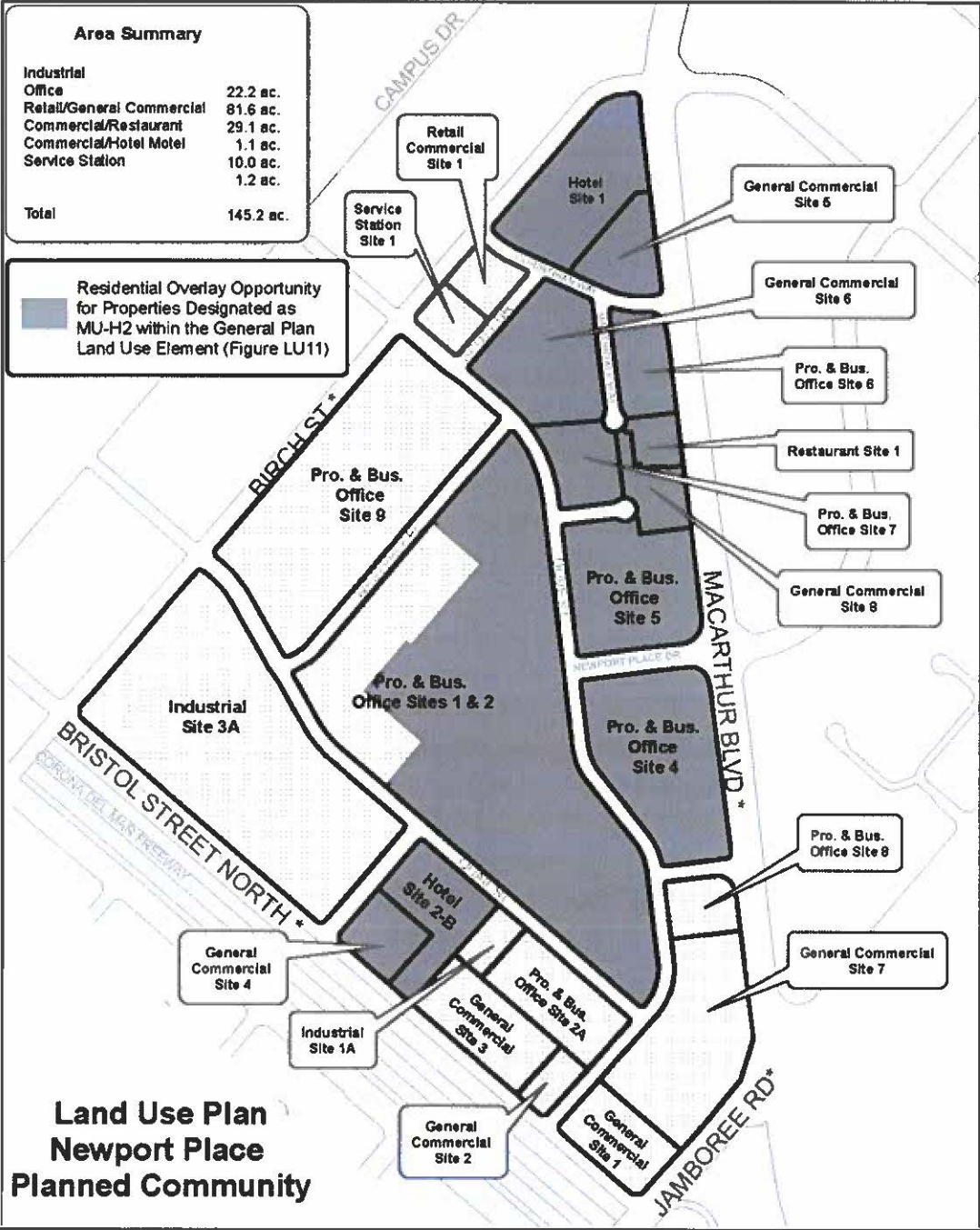


Lea U. Choum
Executive Officer

Attachments:

1. Map of Residential Overlay Area
2. Excerpts from ALUC staff report June 21, 2012, Newport Place PC Amendment
3. Vicinity Map
4. Exhibit of PC area within JWA Noise Contour
5. Housing Element Housing Sites Inventory within JWA CNEL Noise Contours
6. Exhibit of PC area within JWA Notification Area
7. Exhibit of PC area within JWA Obstruction Imaginary Surfaces
8. Exhibit of PC in JWA Safety Zones
9. Flight Track Exhibits
10. City Submittal Package

Newport Place Planned Community - Residential Overlay





AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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AGENDA ITEM 1

June 21, 2012

TO: Commissioners/Alternates

FROM: Kari A. Rigoni, Executive Officer

SUBJECT: City of Newport Beach: Request for Consideration of Airport Area PC Amendment (PC-11)

Background

The City of Newport Beach is proposing an amendment to the Newport Place Planned Community Development Plan (PC-11) to implement Housing Programs 3.2.2. and 3.2.3 found in the 2008-2014 Housing Element. The amendment would provide permitting and development regulations within PC-11 for affordable housing developments that provide a minimum of 30 percent of the units to lower-income households with the approval of a Site Development Review application. Developments meeting these criteria will also be eligible for a waiver of the minimum 10-acre site area required. The amendment would also establish minimum development regulations including building heights, setbacks, and parking requirements.

The boundary of PC-11 begins at MacArthur Boulevard extending westerly bounded by Jamboree Road, Bristol Street North, and Birch Street as depicted on the vicinity map (See Attachment 1). PC-11 is part of the Airport Area as designated in the City of Newport Beach General Plan and Zoning Code. The proposed changes to PC-11 apply only to parcels that have the existing General Plan Land Use designation of Mixed Use Horizontal (MU-H2) as shown as the grey shaded areas on the vicinity map. The proposed residential overlay will allow residential development in areas zoned for office and industrial uses.

The City of Newport Beach completed a comprehensive update of its General Plan in 2006 and a Housing Element Update in 2011. Both updates identified the Airport Area as an area to potentially accommodate affordable housing. The MU-H2 land use classification was introduced as part of the 2006 General Plan update to allow for mixed-use and multi-family residential within the Airport Area. The proposed amendment will bring PC-11 into conformance with the 2006 General Plan Update.

The existing Planned Community text does not provide residential development standards. The existing PC text allows for a range of heights, depending on the site, from 50 feet to 167 feet or 9 stories. City staff consulted with affordable housing developers to determine that a height limit of 55 feet is appropriate to facilitate a four-story building that typically can accommodate the 30 to 50 unit per acre density range. The 55-feet may be exceeded with the approval of the Site Development

ATTACHMENT 2

Review if additional findings can be made pursuant to Zoning Code Section 20.30.060 C.3 (See Attachment 2). The Planned Community text does include commercial setback and landscape standards including special landscaped streets (Jamboree Road, Bristol Street North, Birch Street, and MacArthur Boulevard) which are maintained in the proposed residential overlay to preserve the existing development pattern of the PC. The residential overlay also includes development standards related to the project providing sufficient amenities, integration of projects within the existing PC, and integration of the affordable units within a specific project (See Attachment 3 to view the proposed development standards for the Residential Overlay).

The City of Newport Beach has scheduled public hearings on the proposed Airport Area PC Amendment as follows:

June 7, 2012	City of Newport Beach Planning Commission
July 12, 2012	City of Newport Beach City Council

JWA AELUP Issues

Regarding Aircraft Noise Impacts:

The properties eligible for the residential overlay with the MU-H2 land use designation are within the 60 CNEL noise contour (See Attachment 4). Per the *JWA AELUP*, residential developments are normally consistent within the 60 CNEL noise contour as long as conventional construction methods are used.

The PC amendment does not address specific noise standards for the Airport Area. However, the City's General Plan Housing, Recreation and Noise Elements do contain policies addressing *JWA AELUP* noise issues as follows:

The Housing Element contains policy H 3.2:

H 3.2 Enable construction of new housing units sufficient to meet City quantified goals by identifying adequate sites for their construction. Development of new housing will not be allowed within the John Wayne Airport (JWA) 65 dB CNEL contour, no larger than shown on the 1985 JWA Master Plan.

The Recreation Element contains the following policy:

R. 1.12 Requires that public parks in the noise impact zone identified in the *JWA AELUP* be posted with notifications regarding aircraft overflight and noise.

The Noise Element contains the following policies:

N 3.1 Requires use of *JWA AELUP* noise contours to ensure new development is compatible with the noise environment.

N 3.2 Disallows residential development within the 65 dBA CNEL noise contour in the *JWA AELUP*.

N3.3 Requires consideration of aviation easements in favor of Orange County when noise sensitive uses are proposed in the JWA planning area.

ALUC staff recommends that the PC text refers to these policies within the General Plan stating that residential developments within the overlay must also adhere to these policies. In addition to the policies above, ALUC staff recommends that the PC text also include language giving notice to future residents that there is an airport in the vicinity. Sample language is included below:

Notice of Airport in Vicinity

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

The Notice of Airport in Vicinity language along with the existing policies within the Newport Beach General Plan will ensure that future housing development within the airport area will follow the development guidelines for noise related to the *JWA AELUP*. These policies should be referred to within the PC Amendment text.

Regarding Height Restrictions:

PC-11 is within the Federal Aviation Administration (FAA) Notification Area (See Attachment 5) and the Federal Aviation Regulation (FAR) Part 77 Obstruction Imaginary Surfaces for JWA (See Attachment 6). The proposed building height for projects within the residential overlay is 55 feet. With a site elevation of approximately 50 feet above mean sea level (AMSL), projects developed at a maximum height of 55 feet would not penetrate the obstruction imaginary surface for this project area which would be penetrated at 206 feet AMSL.

The PC text also states that the heights of a structure can be increased with the approval of a site development review, but have to meet the following building height requirements proposed on page 49 in the PC Section V. General Development Standards for Residential:

A. Building Height

Maximum building heights shall be limited to a height limit of 55 feet. The height of a structure can be increased with the approval of a site development review and subject to required findings specified in Section 20.30.060.C.3 of the Newport Beach Zoning Code but shall not penetrate Federal Aviation Regulation (FAR) Part 77, Obstruction—Imaginary Surfaces, for John Wayne Airport unless approved by the Airport Land Use Commission (ALUC), shall be in compliance with FAR Part 77, and comply with the requirements of Section 20.30.060.E of the Newport Beach Zoning Code (Airport Environs Land Use Plan for John Wayne Airport and the Airport Land Use Commission Review Requirements).

As stated in the Building Height requirement above, building heights must also comply with Section 20.30.060.E of the Newport Beach Zoning Code which contains the following requirements for projects located within the Airport Area for JWA:

- 1) Buildings and structures shall not penetrate Federal Aviation Regulation Part 77 Obstruction Imaginary Surfaces for JWA unless found consistent by the Airport Land Use Commission (ALUC).
- 2) In accordance with FAR Part 77, applicants proposing buildings or structures that penetrate the 100:1 Notification Surface shall file a Form 7460-1 Notice of Proposed Construction or Alteration with FAA. A copy of the application shall be submitted to ALUC and, the applicant shall provide the City with FAA and ALUC responses.
- 3) Development projects that include structures higher than 200 feet above existing grade shall be submitted to the Airport Land Use Commission (ALUC) for review. In addition, projects that exceed a height of 200 feet above existing grade shall file Form 7460-1 with the FAA.

With the inclusion of the policies listed above, the PC text does ensure consideration of *JWA AELUP* height restrictions and ALUC review.

Regarding Heliports:

The development of heliports was not discussed within the Airport Area PC Amendment and is not proposed as part of project. Heliports are not a permitted use 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

A Negative Declaration (ND) was prepared for the Housing Element Update. A subsequent Negative Declaration for the proposed PC amendment is not required to be prepared pursuant to CEQA Guidelines Section 15162 because the proposed amendment implements Housing Programs HP3.2.2 and 3.2.3, and does not constitute substantial changes that would involve new significant environmental effects or result in the adoption of mitigation measures. Future residential development that could occur pursuant to the proposed amendment would be subject to further site-specific environmental evaluations. The ND was originally circulated for public review from September 30, 2011 to October 31, 2011 and subsequently adopted by the City Council on November 22, 2011.

Conclusion

Attachment 7 to this report contains excerpts from the project submittal package received from the City of Newport Beach for your reference. ALUC staff has reviewed this project with respect to compliance with the *JWA AELUP*, including review of appropriate height restrictions, imaginary surfaces, and noise. Based upon staff's review, the proposed PC Amendment would be Consistent with the Commission's *JWA AELUP*. In its submittal package, the City of Newport Beach emphasizes that the Planned Community text refers to the following conditions to ensure adherence to the *AELUP* and FAA restrictions. The language is referred to on page 49 of the Planned

Community Text within the General Development Standards for Residential and states that heights shall comply with the requirements of Section 20.30.060.E of the Newport Beach Zoning Code (AELUP for JWA and the Airport Land Use Commission (ALUC) Review Requirements). Section 20.30.060.E is listed below:

E. Airport Environs Land Use Plan (AELUP) for John Wayne Airport and Airport Land Use Commission (ALUC) Review Requirements.

1. AELUP Requirements

- a. Buildings and structures shall not penetrate Federal Aviation Regulation (FAR) Part 77 Imaginary Obstruction Surfaces for John Wayne Airport unless found consistent by the Airport Land Use Commission (ALUC).
 - b. In compliance with FAR Part 77, applicants proposing buildings or structures that penetrate the 100:1 Notification Surface shall file a Form 7460-1 Notice of Proposed Construction or Alteration with FAA. A copy of the FAA application shall be submitted to ALUC and the applicant shall provide the City with FAA and ALUC responses.
2. Citywide Requirements. Development projects that include structures higher than 200 feet above existing grade shall be submitted to the ALUC for review. In addition, projects that exceed a height of 200 feet above existing grade shall file Form 7460-1 with the Federal Aviation Administration (FAA). (Ord. 2010-21 1(Exh. A)(part), 2010)

Because of the close proximity to the airport, Staff recommends that the PC text refer to the following policies related to noise and incorporate language in the PC text giving future residents Notice of an Airport in the Vicinity. The policies which should be referenced in the PC text are listed below:

R. 1.12 Requires that public parks in the noise impact zone identified in the *JWA AELUP* be posted with notifications regarding aircraft overflight and noise.

In addition to public parks, expand the language to include designated outdoor common or recreational areas within the noise impact zone identified in the *JWA AELUP* be posted with notifications regarding aircraft overflight and noise.

N 3.1 Requires use of *JWA AELUP* noise contours to ensure new development is compatible with the noise environment.

N 3.2 Disallows residential development within the 65 dBA CNEL noise contour in the *JWA AELUP*

N3.3 Require consideration of aviation easements in favor of Orange County when noise sensitive uses are proposed in the JWA planning area.

In addition to referencing the policies above, ALUC staff recommends that the PC text also include language requiring notice to be given to future residents that there is an airport in the vicinity. Sample language is included below:

Notice of Airport in Vicinity

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

Recommendation:

1. That the Commission find the proposed Airport Area PC Amendment Consistent with the *AELUP for JWA*.
2. That the Commission find the proposed Airport Area PC Amendment Consistent with the *AELUP for Heliports*.

Respectfully submitted,



Kari A. Rigoni
Executive Officer

Attachments:

1. Map of Residential Overlay Area
2. Zoning Code Section 20.30.060 C.3
3. Proposed PC text for Residential Overlay
4. Exhibit of PC area within JWA Noise Contour
5. Exhibit of PC area within JWA Notification Area
6. Exhibit of PC area within JWA Obstruction Imaginary Surfaces
7. Excerpts of City Submittal Package

3. A minimum of 30 percent of the units within the residential development shall be affordable to lower-income households and subject to a 30-year affordability covenant.
4. Densities shall be limited to a minimum of 30 dwelling units per acre and a maximum of 50 dwelling units per acre.
5. Sites shall be located such that any noise, dust, smoke, vibration, odor, toxic or noxious matter that may be generated by existing commercial or industrial uses in the surrounding environment would not negatively impact future residents of the development.
6. Residential dwellings shall be permitted as replacement of existing nonresidential uses. The number of peak hour trips generated by the development of the site shall not exceed the number of trips that would have resulted from the existing development of the underlying permitted nonresidential uses. A standardized set of conversion rates provided by the City Traffic Engineer shall be utilized.
7. Residential development shall be subject to the maximum development allocation for the Airport Area established by General Plan Land Use Policy 6.15.5.

Section V. General Development Standards for Residential

Residential development shall be subject to the development standards applicable to the Multi-Unit (RM) residential zoning district as specified in the Newport Beach Zoning Code, except as specified below:

A. Building Height

Maximum building heights shall be limited to a height limit of 55 feet. The height of a structure can be increased up to a maximum height limit of 300 feet, with the approval of a site development review and subject to required findings specified in Section 20.30.060.C.3 of the Newport Beach Zoning Code. Heights shall also comply with the requirements of Section 20.30.060.E of the Newport Beach Zoning Code (Airport Environs Land Use Plan for John Wayne Airport and the Airport Land Use Commission Review Requirements).

B. Floor Area Limit

None.

C. Setbacks

All setbacks shall be measured from the property line. For the purpose of this ordinance, a street side property line is that line created by the ultimate right-of-way line of the frontage street.

1. Street Setback

Thirty (30) feet minimum, except that unsupported roofs or sunscreens may project six (6) feet into the setback area.

2. Interior Setback

Ten (10) feet, except on a through-lot in which case the required street setback shall be observed.

3. Footprint Lots

Except as required by the Building Code there shall be no additional setback requirements for buildings within footprint lots. Provided, however, that buildings within footprint lots shall be so located as to observe the setbacks from streets and existing lot lines required under Part III, Section III.B.1, 2 and 3.

D. Signs

All signage shall be as specified in Chapter 20.42 of the Newport Beach Zoning Code.

E. Amenities and Neighborhood Integration

Due to the potential land use incompatibility with other uses within the established commercial or industrial area, residential development shall incorporate sufficient amenities (e.g., parks, clubhouse, pool, etc.) for the use of the residents and incorporate necessary improvements (e.g., pedestrian walkways, open space, recreational space, pedestrian and bicycle connections) to allow integration into the existing community and larger residential development that may occur in the future. The number and type of amenities required and necessary improvements shall be determined through the Site Development Review process based on the size, density, location, and any other factors deemed relevant.

Affordable units shall be designed and distributed within the residential development as follows:

1. Number of Bedrooms. Affordable units shall reflect the range of numbers of bedrooms provided in the residential development project as a whole;
2. Comparable Quality and Facilities. Affordable units shall be comparable in the facilities provided (e.g., laundry, recreation, etc.) and in the quality of construction and exterior design to the market-rate units;
3. Size. Affordable units may be smaller and have different interior finishes and features than the market-rate units; and
4. Location. Affordable units shall be dispersed throughout the residential development, unless clustering is allowed by the review authority.

F. Parking

Parking shall comply with the requirements and standards specified in Chapter 20.40 of the Newport Beach Municipal Code for multi-unit residential development.

G. Landscape

All landscaping shall comply with the requirements specified in Chapter 20.36 of the Newport Beach Municipal Code for multi-unit residential development, with the following exceptions:

1. Special Landscaped Street

The entire area between the curb and the building setback line shall be landscaped, except for any driveway in said area. Tree size to be no less than 24-inch box.

2. Other Streets

The entire area between the curb and a point ten (10) feet back in the front property line shall be landscaped except for any driveway in said area. Tree size to be no less than 24-inch box.

- a. Re-designate Industrial Site 4 to Professional and Business Offices Site 9.
- b. Change the parking requirement for office uses within Professional and Business Offices Site No. 9 to one space per 281 square feet, which allows all of the buildings to be occupied with office uses.
- c. Add a provision that requires Planning Director review of the parking configuration in Professional and Business Offices Site No. 9.
- d. Revising the Land Use Plan, permitted uses and development standards of the Newport Place Planned Community as they relate to the Newport Commerce 16.9 acre site bounded by Birch Street, Dove Street, Westerly Place and Quail Street.

[36] Planned Community Text Amendment No. 36, adopted on October 25, 2011:

- a. Add vehicle storage facility as a permitted use on Hotel Site 2-B subject to the issuance of a use permit and a finding that the use is supportive of the principal uses permitted in the Newport Place Planned Community text.

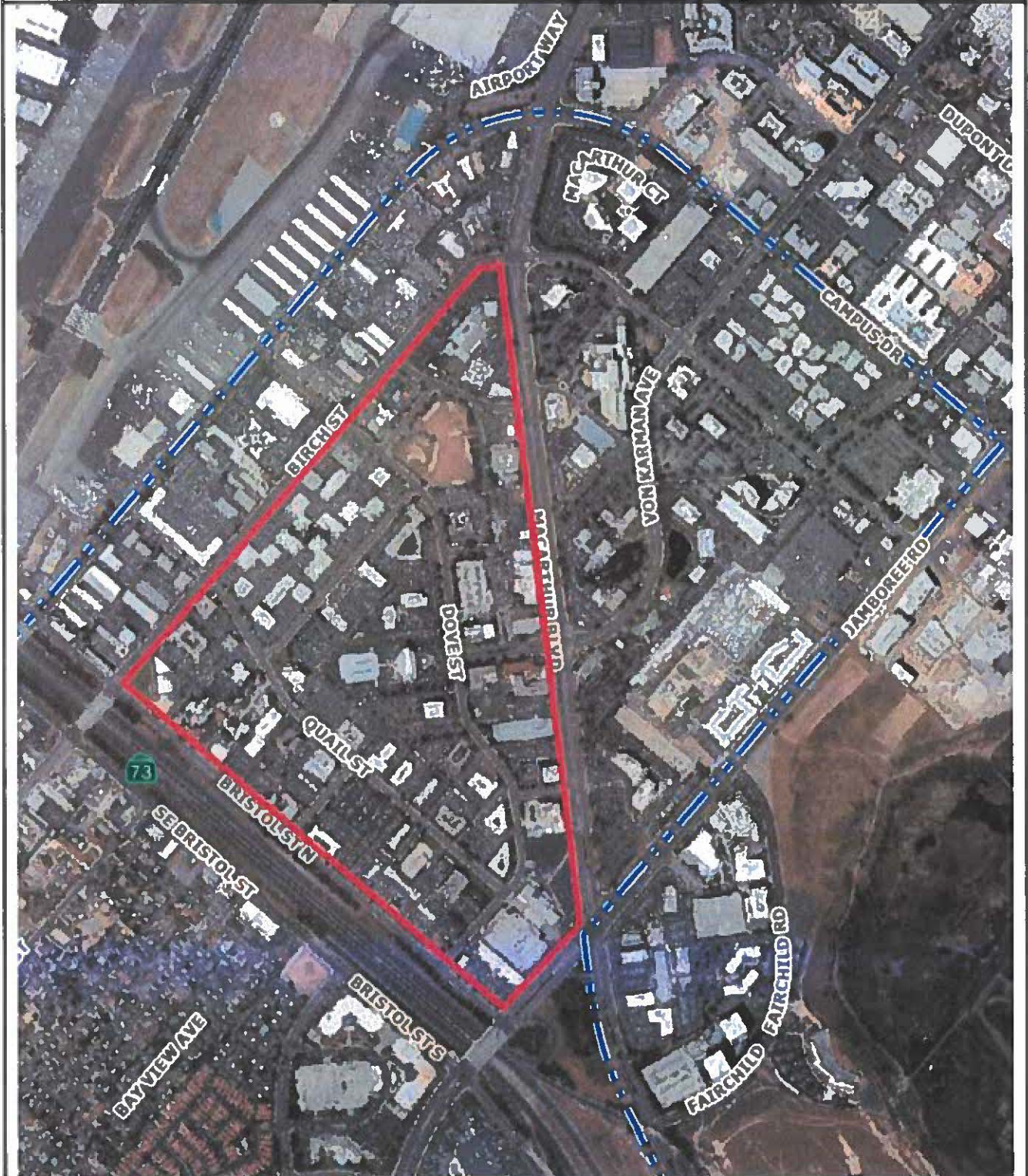
[37] Planned Community Text Amendment No. 37, adopted on November 22, 2011:

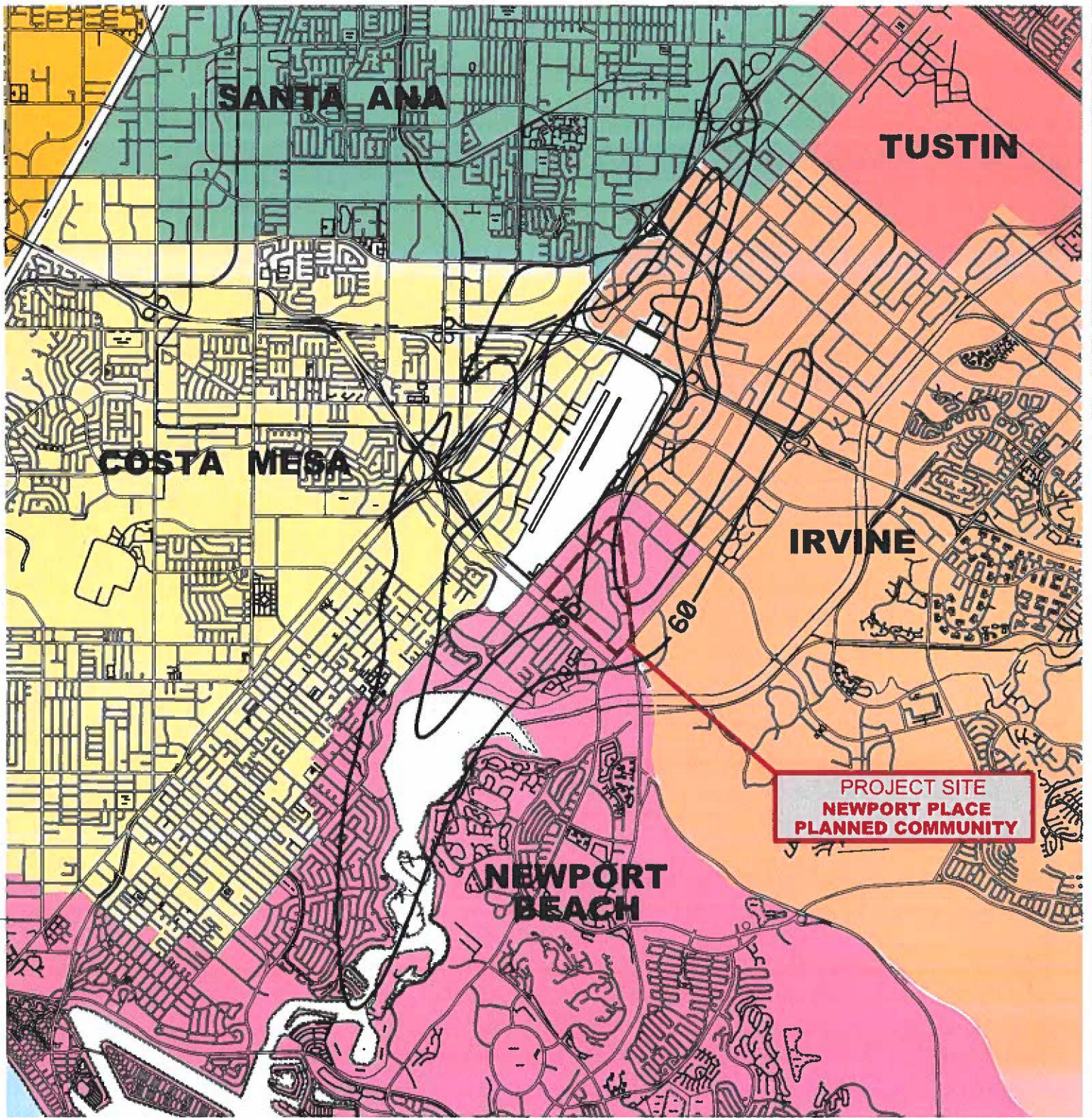
- a. Change the zoning designation of the subject property from "Restaurant Site 1" to "General Commercial Site 8."
- b. A transfer of development rights to allow the transfer of 48 unbuilt hotel units, which equates to Storage Facility at 1301 Quail Street and 1,620 square feet from General Commercial Site 7 (Lexus Dealership at 3901 MacArthur Boulevard) for a total of 5,529 square feet to the subject site, pursuant to Chapter 20.46 (Transfer of Development Rights) of the Municipal Code.

[38] Planned Community Text revisions (Ordinance No. 2011-). adopted Insert Date, to allow the following changes:

- a. To establish a residential development overlay where multi-unit residential developments, which include a minimum of 30 percent of the units affordable to lower income households, are permitted subject to site development review.
- b. Revised references to the Planning Director, Planning Department, and Building Department, to Community Development Director, Planning Division, and Building Division, to reflect changes in the City's organizational structure.

VICINITY MAP
Newport Place Planned Community









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)



Scale in Feet

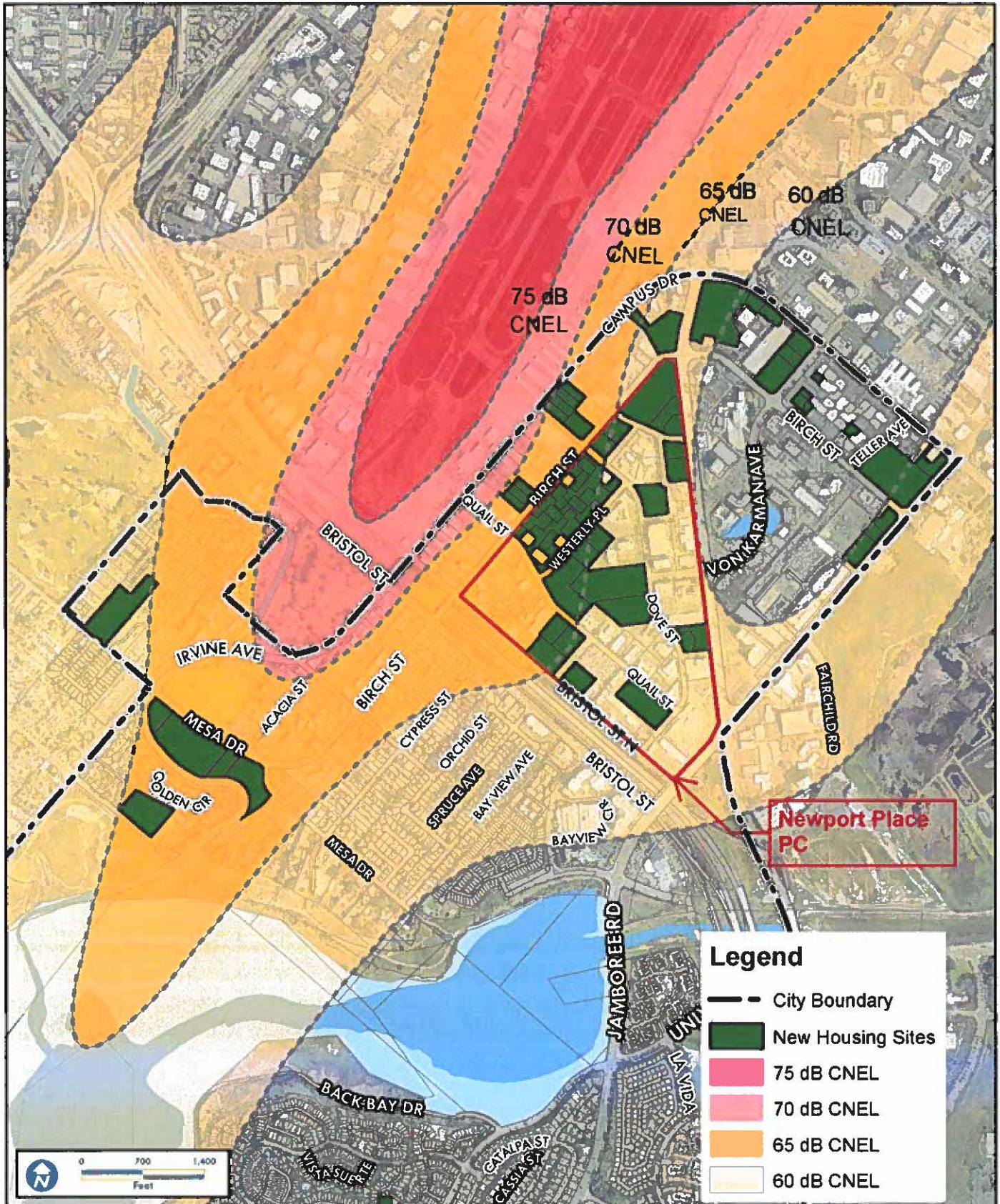
Adopt

ATTACHMENT 4

Orange County

Lea Choum, Executive Officer

Date

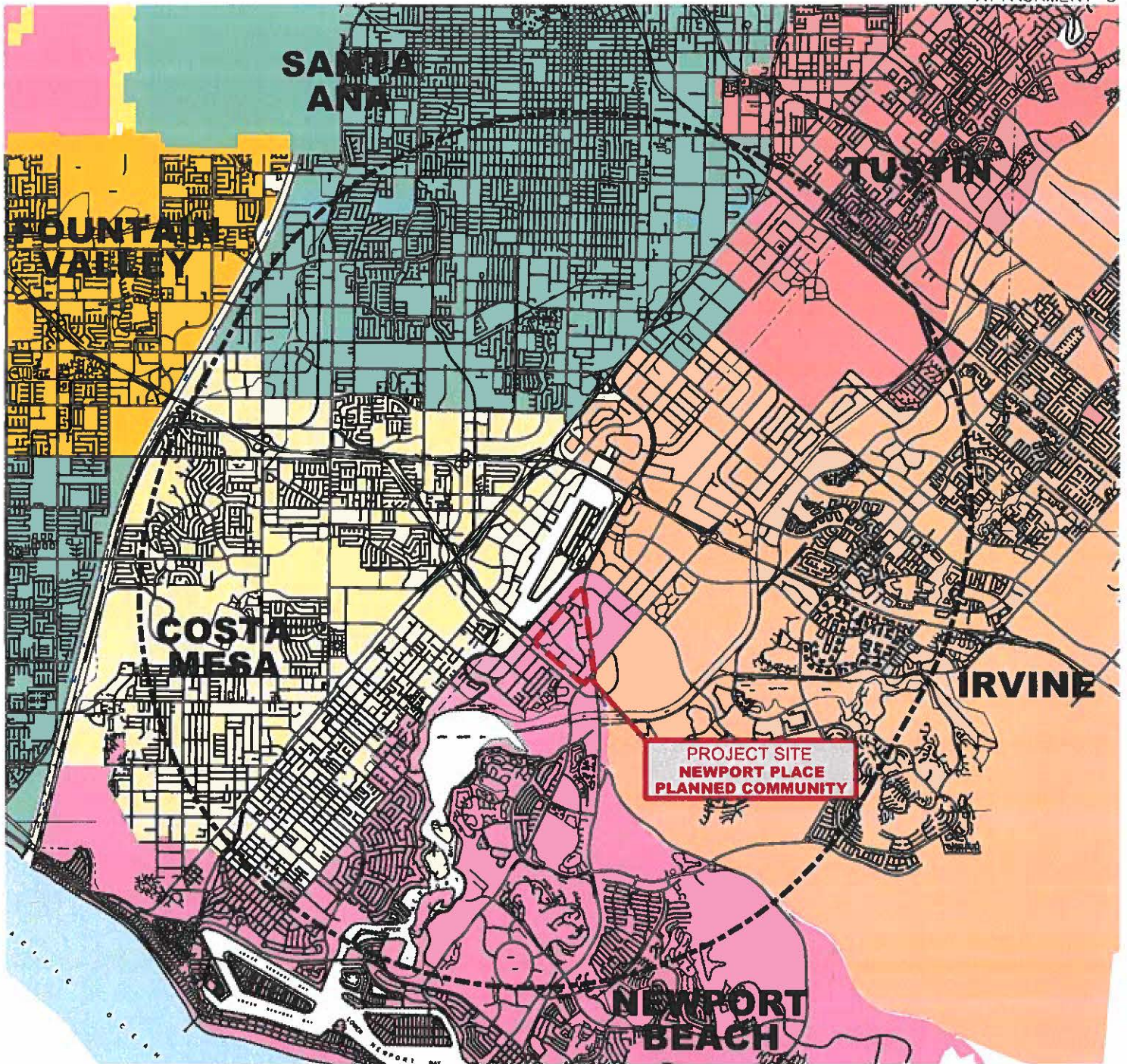


Noise Contours & Housing Opportunity Sites

ATTACHMENT 5

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



0 1000 2000 3000 4000 5000
Scale in Feet

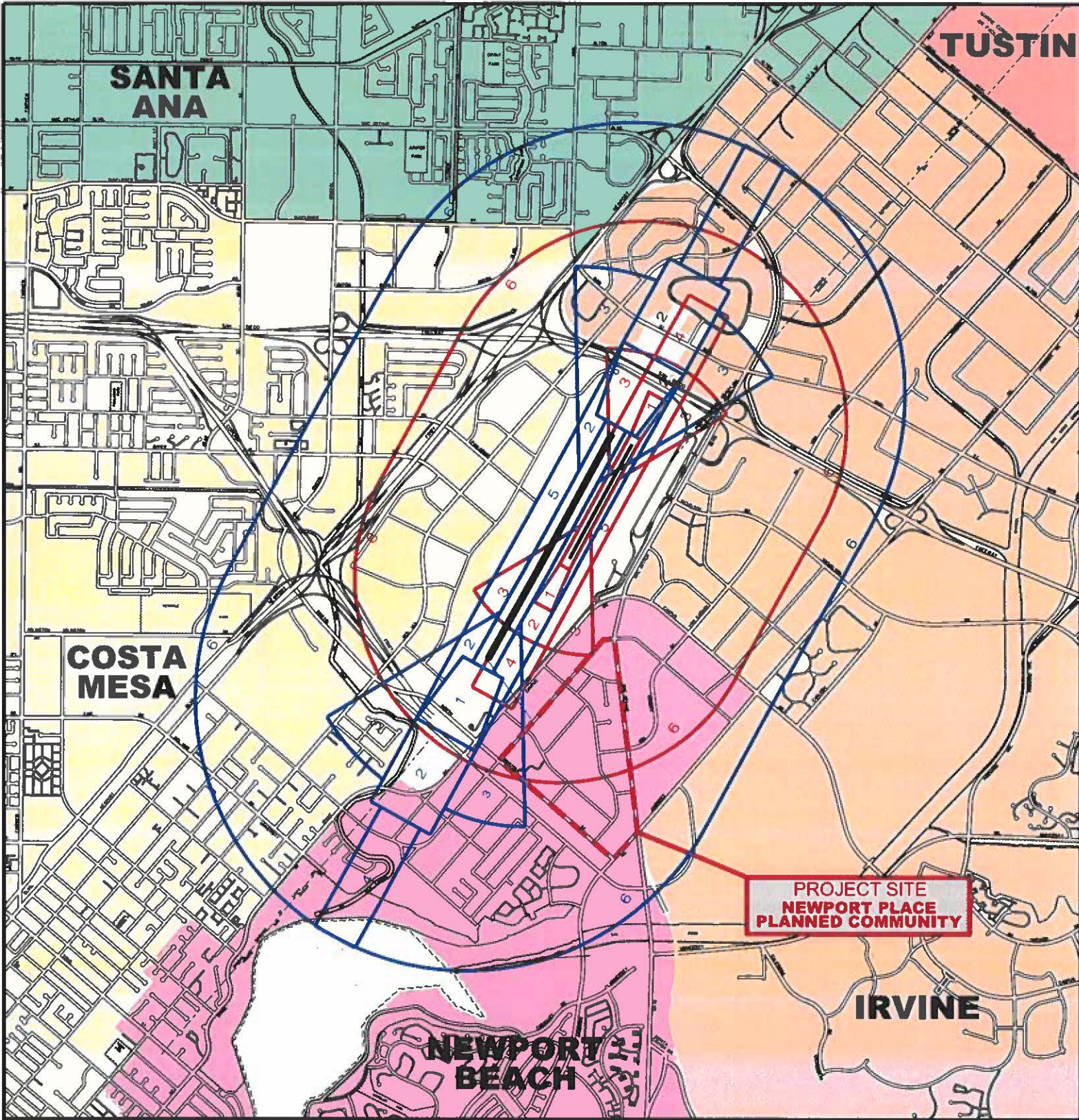
Ac

ATTACHMENT 6

Orange County

Lea Choum, Executive Officer

Date



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. SIDELINE ZONE
- 6. TRAFFIC PATTERN ZONE



SAFETY COMPATIBILITY ZONES FOR RUNWAY 2L & 20R (A MEDIUM GENERAL AVIATION RUNWAYS 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)



0 100 200 300 400
Scale in Feet

CERTIFICATION

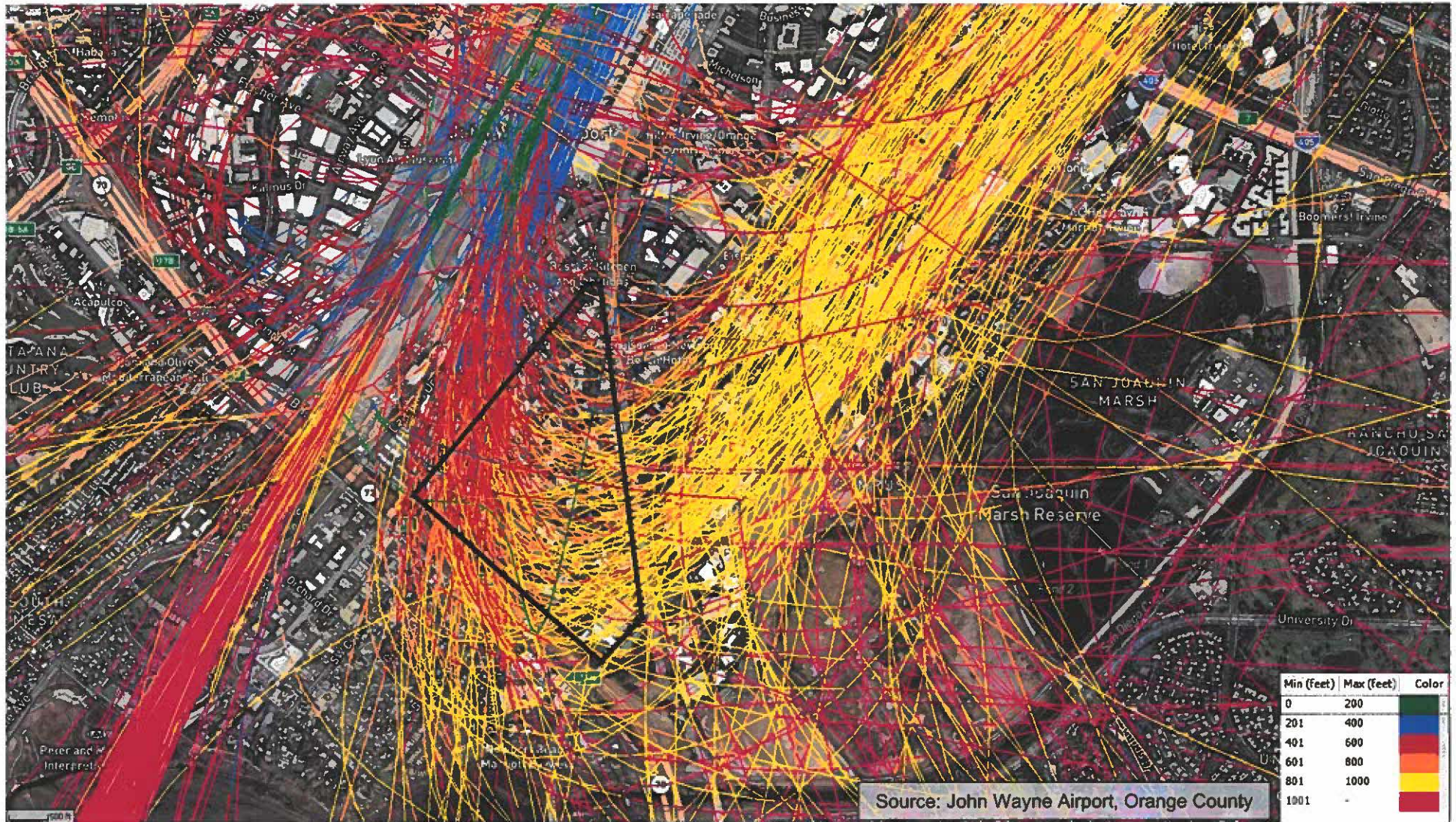
Ad _____ or Orange County

ATTACHMENT 8

Lea _____ Date _____



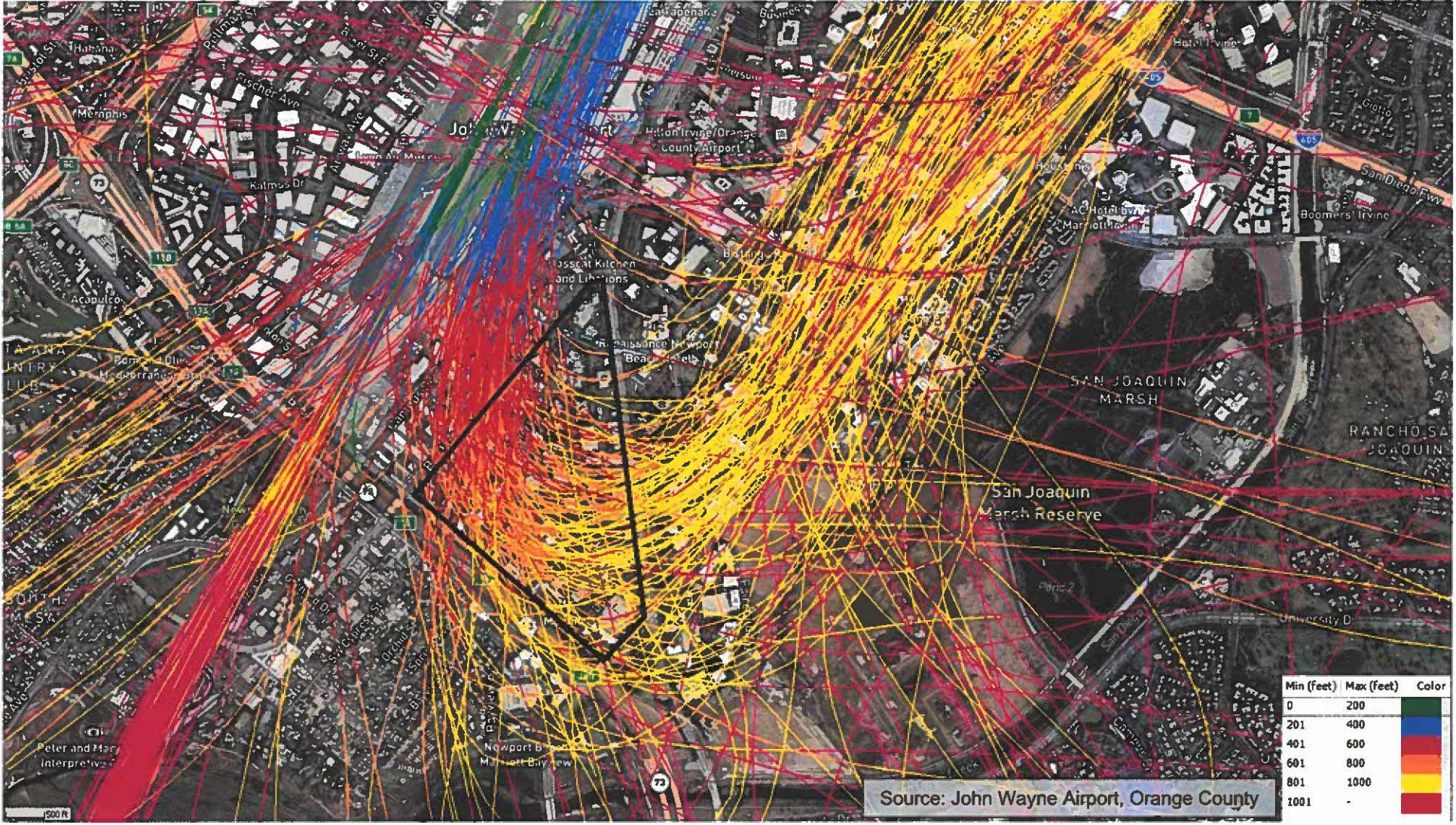
John Wayne Airport Altitude Analysis
683 Operations
Thursday, January 27, 2022



 Newport Place Planned Community
(Approximate Location)



John Wayne Airport Altitude Analysis
512 Operations
Saturday, June 25, 2022

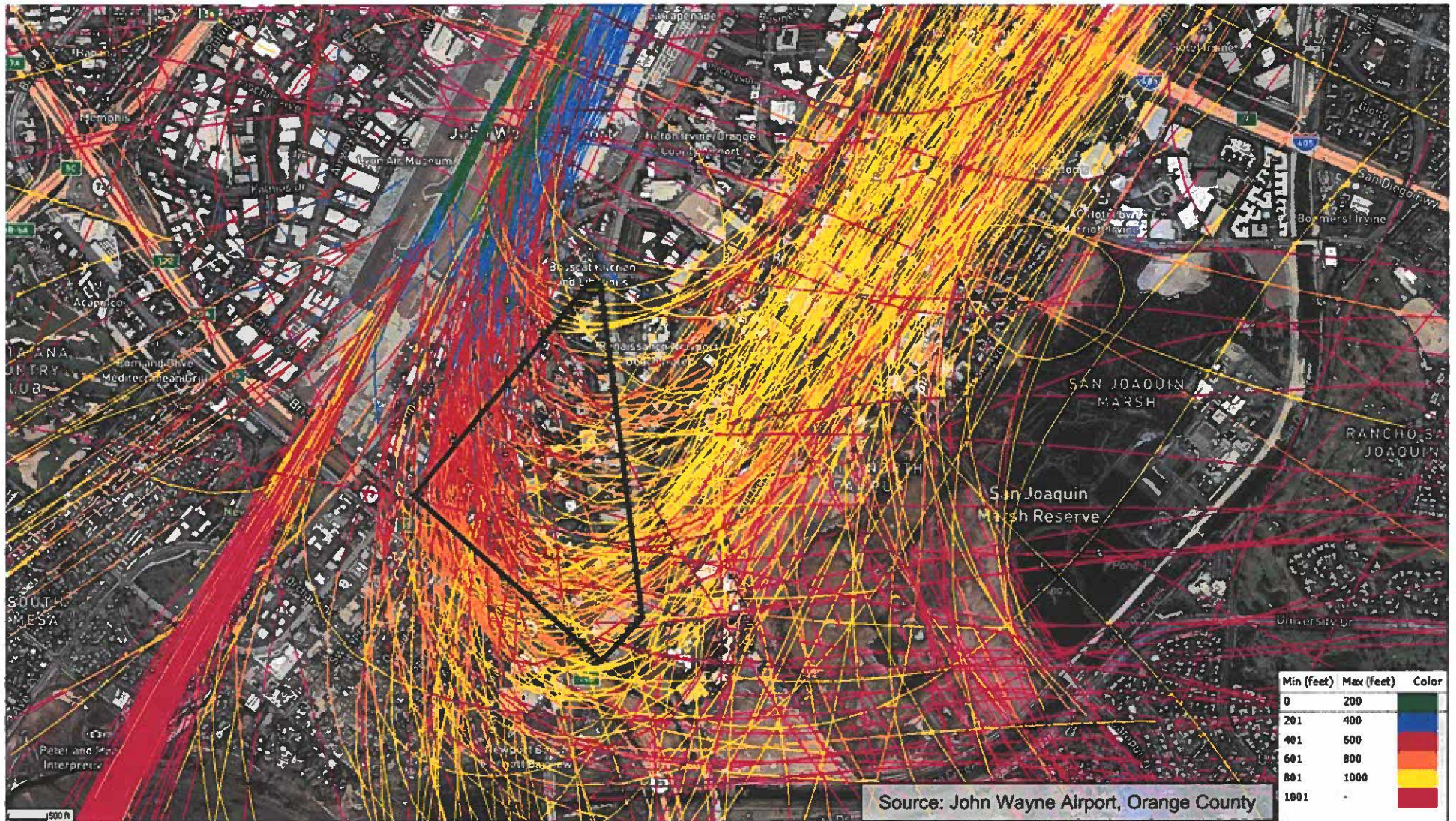


Source: John Wayne Airport, Orange County

 Newport Place Planned Community
(Approximate Location)



John Wayne Airport Altitude Analysis
547 Operations
Saturday, December 10, 2022



 Newport Place Planned Community
(Approximate Location)



June 20, 2023

Lea Choum, Planning Manager
John Wayne Airport, Orange County
3160 Airway Avenue
Costa Mesa, CA 92626

RE: Newport Place Planned Community Amendment Related to Affordable Housing
Percentage of Residential Overlay

Dear Ms. Choum,

Pursuant to Section 4.3 (Amendments to General Plans and Specific Plans [Zoning]) 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 City's proposed amendment to Newport Place Planned Community, to revise the minimum affordability housing percentage for residential development within the Residential Overlay from 30% to 15%, for consistency with the Airport Environs Land Use Plan (AELUP) at its July 20, 2023, meeting.

Should you have any questions concerning the preceding information, I can be reached at 949-644-3208 or via email at rung@newportbeachca.gov or in my absence, you may contact Jim Campbell, Deputy Community Development Director at 949-644-3210 or via email at jcampbell@newportbeachca.gov.

Sincerely,



Rosalinh Ung
Principal Planner

Attachments:

1. Submittal Form and Checklist
2. June 22, 2023, Planning Commission Staff Report & attachments

ATTACHMENT 10



AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

SUBMITTAL FORM: NEWPORT PLACE PLANNED COMMUNITY AMENDMENT RELATED TO INCLUSIONARY HOUSING PERCENTAGE

1. Name of City or County: City of Newport Beach
2. Contact Information - Name/Title Rosalinh Ung / Principal Planner
Agency: Community Development Department – Planning Division
Address: 100 Civic Center Drive, Newport Beach, CA 92660
Phone/email: 949-644-3208; rung@newportbeachca.gov
3. Airport Planning Area(s):
 John Wayne Airport Fullerton Municipal Airport JFTB - Los Alamitos
4. Item being submitted for review (submit each item separately): Planned Community
Name of General Plan Element, Specific Plan or Planned Community: Newport Place Planned
Community Amendment
5. Scheduled date of Planning Commission Public Hearing: 6/22/2023
6. Tentative date of City Council/Board of Supervisors Public Hearing: 7/25/2023
7. Requested date of ALUC Review: July 20
(Complete submittals must be received by the first day of the month for the next meeting).
8. Does the item submitted propose a change of land use or heights within the airport
Notification/Planning Area*? No (skip items # 9-12). Yes (continue below).
9. Does the item propose a change of land use within the 60 CNEL or 65 CNEL noise
contours of the airport(s)? No. Please attach an exhibit showing location(s) of the proposed
new uses in relation to noise contours.
10. Are noise policies or mitigation measures identified in the proposed item or elsewhere in the
General Plan? No Yes - Please attach pages with current (and proposed if applicable)
noise policies/mitigation measures highlighted.
11. Does the item submitted propose a change of land use within the Runway Protection Zone
(RPZ), Clear Zone (CZ), or Airport Safety Zones of the airport*? No Yes - Please attach
exhibit showing location(s) of proposed uses.
12. Does the item submitted propose a change of land use within the Obstruction Imaginary
Surfaces*? No Yes
13. Please indicate current 55 feet and proposed 55 feet – no changes to maximum allowed
heights.

SUBMITTAL CHECKLIST: NEWPORT PLACE PLANNED COMMUNITY AMENDMENT

- | | |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | Cover letter on City/County letterhead. |
| <input checked="" type="checkbox"/> | Completed Submittal Form. |
| <input type="checkbox"/> | Link to existing Newport Place Planned Community and proposed <small>Click or tap here to enter text.</small> General Plan Element, Specific Plan or Zoning Code for this submittal. |
| <input checked="" type="checkbox"/> | Attachment showing proposed changes to General Plan Element, Specific Plan or Zoning Code Section(s) with strikethrough/underline. Please see attached June 22, 2023 Planning Commission staff report and attachments for detail discussion of proposed amendment, including maps and proposed percentage change to Newport Place Planned Community. |
| <input type="checkbox"/> | Exhibit showing location(s) of proposed new uses within the Notification Area/Planning Area for airport(s). |
| <input type="checkbox"/> | Exhibit showing location(s) of proposed new uses in relation to noise contours for airport(s). |
| <input type="checkbox"/> | Exhibit showing location(s) of proposed new uses in relation to Airport Safety Zones. |
| <input type="checkbox"/> | Exhibit showing location(s) of proposed new uses in relation to the Obstruction Imaginary Surfaces. |
| <input type="checkbox"/> | Attachment showing current and proposed noise policies/mitigation measures. |
| <input type="checkbox"/> | Explanation of how the General Plan, Specific Plan, or Zoning Code address the AELUP standards for noise impact, safety compatibility, and height restriction zones. <small>Click or tap here to enter text.</small> |
| <input type="checkbox"/> | Describe height and density changes in cover letter and attach pages of General Plan, Specific Plan and/or Zoning Code where maximum heights are specified. |

*For airport planning/notification areas, noise contours, safety zones and obstruction imaginary surfaces see Appendix D of the applicable Airport Environs Land Use Plan (AELUP) at: <https://www.ocair.com/about/administration/airport-governance/commissions/airport-land-use-commission/>

Noise sensitive uses include but are not limited to community facilities such as: churches, libraries, schools, preschools, day-care centers, hospitals, and nursing/convalescent homes.

Mail or Email Submittal Form, Checklist and attachments to: Airport Land Use Commission for Orange County,
Attn: Executive Officer, 3160 Airway Avenue, Costa Mesa, CA 92626 / Phone: (949) 252-5170
ALUCinfo@ocair.com



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

June 22, 2023
Agenda Item No. 4

SUBJECT: Newport Place Planned Community Amendment (PA2023-0082)
▪ Newport Place Planned Community Development Plan Amendment

SITE LOCATION: Newport Place Planned Community bounded by MacArthur Boulevard, Jamboree Road, Birch Street and Bristol Street North

APPLICANT: City of Newport Beach

PLANNER: Rosalinh Ung, Principal Planner
949-644-3208 or rung@newportbeachca.gov

PROJECT SUMMARY

An amendment to Newport Place Planned Community Development Plan (PC-11) to revise the minimum affordability housing percentage for residential development within the Residential Overlay, from thirty percent (30%) to fifteen percent (15%).

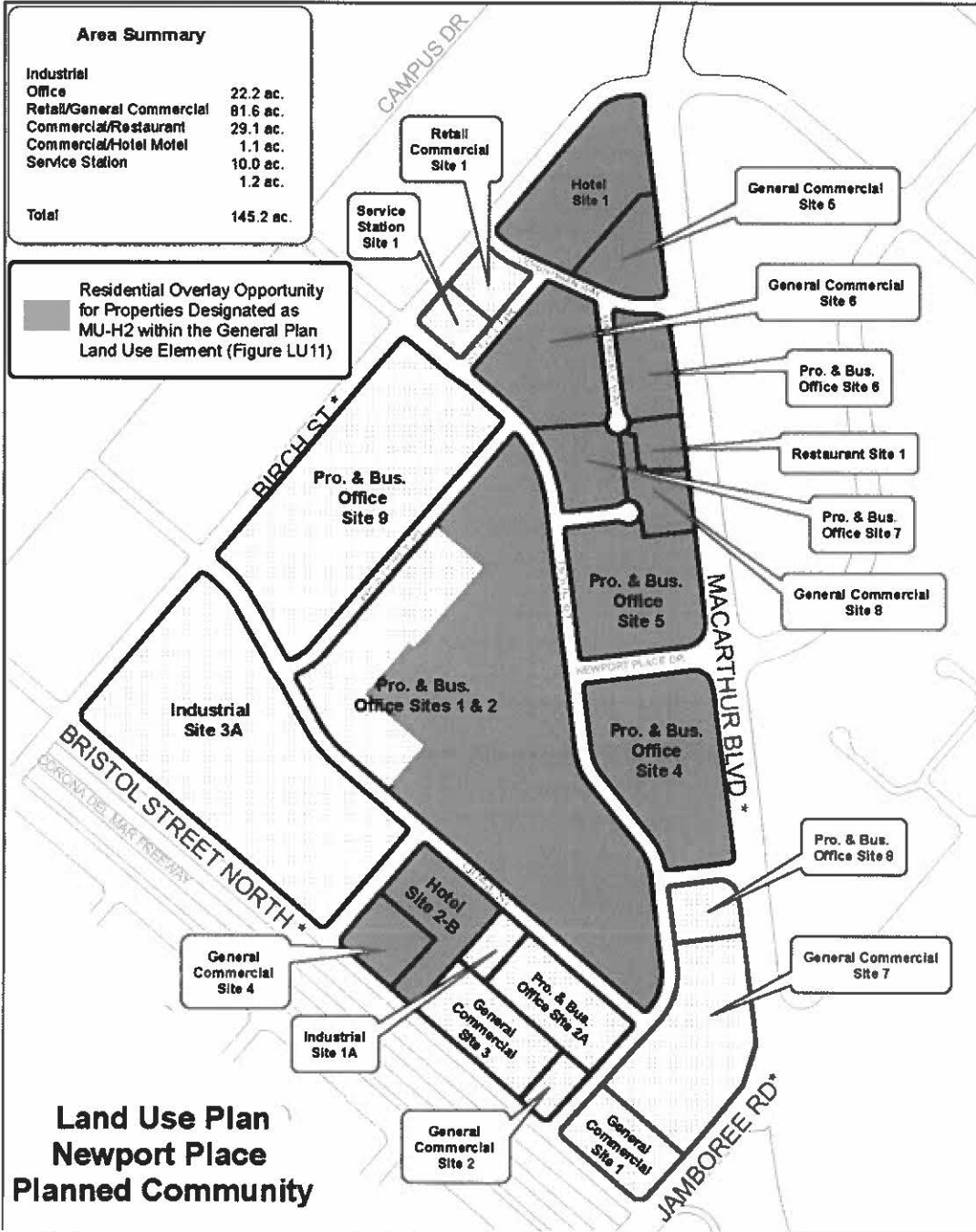
RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find the Amendment is not subject to the California Environmental Quality Act ("CEQA") under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA; and
- 3) Adopt Resolution No. PC2023-025 recommending approval a Planned Community Development Plan Amendment to modify the minimum inclusionary affordable housing percentage to the City Council (PA2023-0082) (Attachment No. PC 1).

VICINITY MAP
Newport Place Planned Community



Newport Place Planned Community - Residential Overlay



INTRODUCTION

Project Setting/Background

Newport Place is a Planned Community in the Airport Area that was originally designed in the early 1970's with clusters of office parks and industrial uses. The boundary of PC-11 begins at MacArthur Boulevard extending westerly bounded by Jamboree Road, Bristol Street North, and Birch Street as depicted on the vicinity map. The 145-acre area has evolved with light industrial uses being replaced overtime with commercial support retail and office uses within the original design.

In 2006, the City comprehensively updated its General Plan. At the time, the 3rd cycle Regional Housing Needs Assessment (RHNA) required the City to create additional housing opportunities. The 2006 General Plan included several new mixed use land use categories including the MU-H2 applied to many properties in the Airport Area¹.

On July 24, 2012, the City amended PC-11 to create the Residential Overlay (Overlay) to implement a Housing Element policy as part of the 4th cycle RHNA. The Overlay allows residential development consistent with the MU-H2 General Plan Land Use category that allows housing or mixed-use development for parcels located within PC-11. The Overlay requires a minimum of thirty percent (30%) of a housing or mixed-use development be restricted to lower income households.

At the April 11, 2023, City Council meeting, City Council Member Erik Weigand requested that an item be placed on a future City Council agenda that reduces the inclusionary housing percentage of the Residential Overlay (Overlay) in Newport Place Planned Community from thirty percent (30%) to fifteen percent (15%).

On May 9, 2023, the City Council adopted Resolution No. 2023-25 (Attachment No. PC 2), initiating the subject amendment.

Amendment Description

The proposed amendment would reduce the minimum inclusionary housing percentage of the Overlay, from thirty percent (30%) to fifteen percent (15%). No other changes are proposed, and no development would be directly authorized by the proposed amendment.

DISCUSSION

Analysis

The adoption of Overlay in 2012 was necessary to secure certification of the 4th Cycle Housing Element as it was, at that time, had a greater potential to accommodate the City's

¹ The Airport Area is located near John Wayne Airport bounded by Jamboree Rd., Campus Dr., and State Route 73.

Regional Housing Needs Assessment (RHNA) for lower-income households. The Overlay includes use and development standards for residential projects and requires thirty percent (30%) of the residential units in a development to be made affordable to lower-income households for a minimum of 30 years. Because of this reason, it is the only area in the Airport Area that requires the inclusionary housing and with the highest percentage.

As the City is facing with the substantial 6th Cycle RHNA obligation for the 2021-2029 Housing Element, the City must evaluate a variety of policies and regulations to identify impediments and incentives to housing production.

Reducing the inclusionary percentage would reduce potential impediment and would also affirmatively further fair housing consistent with *Policy Action 4A: Affirmatively Furthering Fair Housing and Housing Policy 4.1: Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligation for housing in the City*, provided in the certified 6th Cycle Housing Element. The proposed amendment is also supported by the February 17, 2022, [Inclusionary Housing: Financial Evaluation](#), prepared by Keyser Marston Associates for the City of Newport Beach. The study concluded that inclusionary housing percentages higher than fifteen percent (15%) would likely be too high rendering most residential projects financially infeasible.

Environmental Review

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

Public Notice

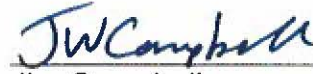
Notice of this hearing was published in the Daily Pilot and mailed to all owners of property within 300 feet of the boundaries of the Newport Place Planned Community (excluding intervening rights-of-way and waterways), consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:

Submitted by:



Rosalinh Ung
Principal Planner



Jim Campbell
Deputy Community Development Director

ATTACHMENTS

PC 1 Draft Planning Commission Resolution No. 2023-025

PC 2 City Council Resolution No. 2023-25

Attachment No. PC 1
Draft Planning Commission Resolution
No. 2023-025

RESOLUTION NO. PC2023-025

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVE AN AMENDMENT TO NEWPORT PLACE PLANNED COMMUNITY DEVELOPMENT PLAN (PC-11) TO REVISE THE MINIMUM AFFORDABILITY HOUSING PERCENTAGE OF THE RESIDENTIAL OVERLAY (PA2023-0082)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. Newport Place is a Planned Community (PC) in the Airport Area, generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street and Bristol Street North, was originally designed in the early 1970's with clusters of office parks and industrial uses. The 145-acre area has evolved with light industrial uses being replaced over time with the commercial supported retail and office uses within the original design. The introduction of the Mixed Use – Horizontal 2 (MU-H2) General Plan Land Use classification as a part of the 2006 General Plan Land Use Element, created an opportunity for residential uses.
2. On July 24, 2012, the City Council of City of Newport Beach (“City”) amended the Newport Place PC (PC-11) creating the Residential Overlay (Overlay). The Overlay was necessary to secure certification of the 4th Cycle Housing Element as it was, at that time, had a greater potential to accommodate the City’s Regional Housing Needs Assessment (RHNA) for lower-income households. The amendment implemented the Mixed Use – Horizontal 2 (MU-H2) General Plan Land Use category for parcels within PC-11. The Overlay included use and development standards for residential projects, and it requires 30 percent of the residential units in a development to be made affordable to lower-income households for a minimum of 30 years.
3. On September 13, 2022, the City adopted the 6th Cycle Housing Element for the 2021-2029 housing period, and it was certified by the State Department of Housing and Community Development (“HCD”) on October 5, 2022. The Airport Area is one of the five focus areas where new housing opportunity sites are identified to satisfy the RHNA allocation of 4,845 new housing units. At least 2,577 housing units are planned for the Airport Area, which comprises approximately 25 percent of the City’s planned housing capacity. In addition to the existing residential sites allowed by the 2006 General Plan Land Use Element and the PC-11’s Overlay, a total of 29 new housing opportunity sites have been identified in the PC-11 per the 6th Cycle Housing Element.
4. At the April 11, 2023, City Council meeting, City Council Member Erik Weigand requested that an item be placed on a future City Council agenda that reduced the inclusionary housing percentage for PC-11’s Overlay from thirty to 15 percent.
5. On May 9, 2023, the City adopted Resolution No. 2023-25, initiating an amendment to PC-11 related to the minimum affordability percentage of the PC-11’s Overlay (“Amendment”),

in accordance with Section 20.56.050(E) (Development Plan Amendments) and Section 20.56.050(B) (Development Plan) of the Newport Beach Municipal Code ("NBMC").

6. A public hearing was held on June 22, 2023, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with California Sections 54950 *et seq.* of the Government Code ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

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

SECTION 3. REQUIRED FINDINGS.

An amendment to PC-11 is a legislative act. Neither PC-11 or Chapter 20.56 (Planning and Zoning, Planned Community District Procedures), or Article 2 (Adoption of Regulations) of Chapter 4 (Zoning Regulations) of Division 1 (Planning and Zoning) of Title 7 (Planning and Land Use) of the California Government Code set forth any required findings for either approval or denial of the Amendment. Notwithstanding the foregoing, the Amendment is consistent with the following City of Newport Beach 6th Cycle Housing Element Policy and Policy Action:

Finding and Facts in Support of Findings:

Housing Policy 4.1

Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligation for housing in the City.

The Amendment would be a step in the implementation of the 6th Cycle Housing Element by mitigating potential governmental constraints through the reduction of affordable housing percentage from 30 to 15 percent, to facilitating construction of market-rate housing and affordable for all income groups. According to the February 17, 2022, Inclusionary Housing Financial Evaluation, prepared by Keyser Marston Associates for the City of Newport Beach, inclusionary housing percentages higher than 15 percent would likely be too high rendering most residential projects financially infeasible. Reducing the inclusionary percentage would reduce the potential impediment and would also affirmatively further fair housing consistent with Policy Action 4A: Affirmatively Furthering Fair Housing provided in the 6th Cycle Housing Element.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby finds this action is covered under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, in accordance with the recitals under Section 2 of this Resolution.
2. The Planning Commission of the City of Newport Beach hereby recommends the City Council of Newport Beach adopt Newport Place Planned Community (PC-11) Text Amendment, which is attached hereto as Exhibit "A", and incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED THIS 22nd DAY OF JUNE, 2023.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Curtis Ellmore, Chair

BY: _____
Sarah Klaustermeier, Secretary

EXHIBIT "A"
Amendment to Newport Place Planned Community (PC11)

Amend Part III. Residential Overlay Zone, Section IV.A .3 to read as follows:

A minimum of ~~30~~ **15** percent of the units within the residential development shall be affordable to lower-income households and subject to a 30-year affordability covenant.

Attachment No. PC 2

City Council Resolution No. 2023-25

RESOLUTION NO. 2023-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, INITIATING AN AMENDMENT TO THE NEWPORT PLACE PLANNED COMMUNITY DEVELOPMENT PLAN TO REVISE THE MINIMUM AFFORDABILITY PERCENTAGE OF THE RESIDENTIAL OVERLAY (PA2023-0082)

WHEREAS, City Council Policy A-1 ("City Council") allows a member of the City Council to request that an item be placed on a future City Council agenda for consideration;

WHEREAS, at the April 11, 2023, City Council meeting, City Council Member Erik Weigand requested that an item be placed on a future City Council agenda that reduced the inclusionary housing percentage for the Newport Place Planned Community Development Plan (PC-11) from thirty to fifteen percent; and

WHEREAS, City Council desires to initiate an amendment to the Newport Place Planned Community Development Plan (PC-11) related to the minimum affordability percentage of the Residential Overlay in accordance to Section 20.56.050(E) (Development Plan Amendments) and Section 20.56.050(B) (Development Plan) of the Newport Beach Municipal Code.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council hereby initiates an amendment to Newport Place Planned Community Development Plan to lower the minimum affordability percentage of the Residential Overlay.

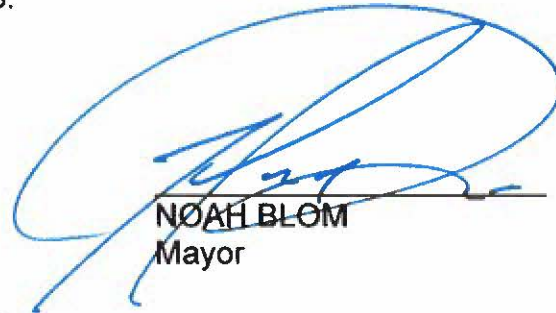
Section 2: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 3: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The City Council finds the adoption of this resolution is exempt from environmental review under the California Environmental Quality Act ("CEQA"), pursuant to Section 15262 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it involves feasibility or planning studies for possible future actions which the agency, board, or commission has not approved or adopted.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 9th day of May, 2023.

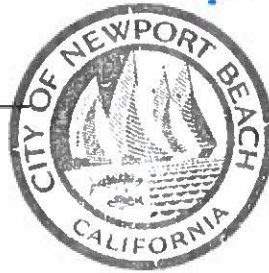


NOAH BLOM
Mayor


ATTEST:



Leilani I. Brown
City Clerk



**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**



Aaron C. Harp
City Attorney

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2023-25 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 9th day of May, 2023; and the same was so passed and adopted by the following vote, to wit:

- AYES: Mayor Noah Blom, Council Member Brad Avery, Council Member Robyn Grant, Council Member Lauren Kleiman, Council Member Erik Weigand
- NAYS: None
- RECUSED: Mayor Pro Tem Will O'Neill, Council Member Joe Stapleton

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 10th day of May, 2023.



Leilani I. Brown
City Clerk
Newport Beach, California

