



# AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

## AGENDA ITEM 1

August 17, 2023

**TO:** Commissioners/Alternates

**FROM:** Lea U. Choum, Executive Officer

**SUBJECT:** City of Newport Beach Housing Element Implementation/Noise-Related Amendments including Amendments to the Land Use Element, Noise Element, Zoning Code, Newport Airport Village Planned Community and Newport Place Planned Community

### Background

In September 2021, the City of Newport Beach submitted its 2021-2029 Housing Element Update (Housing Element) to the Airport Land Use Commission for Orange County (ALUC) for a consistency review. Your Commission found it to be inconsistent with the *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)* due to noise, safety and land-use incompatibility issues. The City subsequently overruled ALUC's determination in February 2022, and adopted the Housing Element in September 2022.

The City is now submitting noise-related amendments to its Land Use Element, Noise Element, Zoning Code, Newport Place Planned Community, and Newport Airport Village Planned Community to accommodate the residential "opportunity" sites located within the 65 dB CNEL contour that were included in the Housing Element. See Attachment 9, Exhibits A, B, C, and D to view the proposed changes. In addition, the City is proposing to change the noise contours that the subject plans are based on to the contours that were included in the 2014 Settlement Agreement Amendment EIR 617. No additional sites are proposed at this time.

The City has scheduled the following public hearings:

August 3, 2023	Planning Commission (recommended approval)
August 22, 2023 (tentative)	City Council

## **AELUP for JWA Issues**

### **Regarding Aircraft Noise Impacts:**

The Housing Element identified 28 new residential sites within the 65 dB CNEL and 23 new sites for residential development within the 60 dB CNEL. These parcels are shown in Attachment 1. Please note that this exhibit includes the Newport Airport Village Planned Community which your Commission found inconsistent with the *AELUP for JWA* in July 2020 due to noise, safety, and height issues. The City proceeded to overrule ALUC and approve the 2021-2019 Housing Element in September 2020. Also depicted on the exhibit is Newport Place Planned Community which in June 2012 limited residential use to the 60 dB CNEL and was found to be consistent with the AELUP at that time. Since then, the Housing Element expanded Newport Place residential uses into the 65 dB CNEL.

The Housing Element removed a policy that was included in previous Housing Elements prohibiting residential uses within the 65 dB CNEL, and the City is now proposing to revise or remove similar policies from the Noise Element, Land Use Element, Newport Place Planned Community, Newport Airport Village Planned Community, and the Zoning Code. In summary, the City is proposing:

- To adopt updated noise contours (Noise Element Figures N4 and N5) to reflect the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment -Environmental Impact Report (EIR) No. 617. See Attachment 2 for a comparison of the two sets of noise contours;
- To update Land Use and Noise Element Policies, Land Use Element Figures LU11, LU22, and LU23, Title 20, PC-11, and PC-60 to modify and incorporate the updated noise contours identified by EIR No. 617 and to implement additional noise attenuation measures for future housing units proximate to John Wayne Airport; and
- Allow residential units identified by the certified 2021-2029 Sixth Cycle Newport Beach Housing Element to be located within the 65 dBA CNEL noise contour area as identified in the updated noise contour maps analyzed in EIR No. 617. Parcels bisected by the updated 65 dBA CNEL noise contour could support future housing; whereas parcels located wholly within the updated 65 dBA CNEL noise contour could support housing, if deemed necessary to satisfy the Regional Housing Needs Assessment (RHNA) mandate.

Section 3.2.3 of the AELUP Noise Impact Zone 1 – High Impact 65 dB and above, states “Noise impact in this zone is sufficient to warrant restrictions on residential uses and to require sound attenuation measures on other uses. The ALUC does not support residential development within the 65 dB CNEL noise contour.” There are further requirements for sound attenuation and avigation easements for noise for residential units to be found consistent.

Section 3.2.1 of the AELUP states that the General Land Use policy of the Airport Land Use Commission for Orange County shall be, “within the boundaries of the AELUP, any land use

may be found to be Inconsistent with the AELUP which... places people so that they are affected adversely by aircraft noise..." This section further states, "Adverse effects of aircraft noise are

defined by the "reasonable person" concept presented in the Noise Standards for California Airports, Title 21 of the California Code of Regulations (Appendix G). Adverse effects of aircraft noise include single event noise disturbances to which people near airports are subjected."

The noise contours that the City proposes to use are smaller than the 1985 CNEL contours in the vicinity of the Airport and have not been approved by ALUC for inclusion in the AELUP. The following excerpt from Section 2.2.1 of the *AELUP for JWA* provides background information relating to the noise contours included in the AELUP and states the following:

"In February 1985, the Board of Supervisors adopted the John Wayne Airport Master Plan (AMP) and the Santa Ana Heights Land Use Compatibility Program (LUCP). The Airport Master Plan includes a limit of 73 average daily departures (ADDs) for most commercial jet operations. In preparing the LUCP, a projected 65 dB CNEL noise contour reflecting expected future flight levels and a reasonable mix of aircraft types was utilized. This contour, referred to as the Project Case and depicted in EIR 508 (Figure 4.15-15) (prepared jointly for the AMP and LUCP), was approved by the Board of Supervisors as the implementation line for two noise compatibility programs: Purchase Assurance and Acoustical Insulation. It was also utilized in the preparation and Board adoption of a land use plan. The Commission recognizes and utilizes the noise contours referred to in EIR 508 (Figure 4.15-15)."

The AELUP continues to reflect the EIR 508 noise contours for purposes of determining whether a project is consistent with the AELUP noise policies and provisions. Therefore, for purposes of the *AELUP* consistency analysis, the City and ALUC are required to utilize the noise contours that are provided in the *AELUP*. Neither the City nor the ALUC can provide a consistency analysis based on different and updated noise contours unless and until those noise contours have been included in the *AELUP*. Rather, any submittal must be based on the policies and contours currently in the existing *AELUP*.

Attachment 3 is an exhibit from the City's ALUC submittal that shows the Housing Element sites in relation to the 2014 noise contours. As shown, the City is proposing to allow residential in the 65 CNEL regardless of which noise contours are used.

#### **Regarding Height Restrictions:**

Many of the residential sites included in the Housing Element are located in the Approach Surface, Transitional Surface, and Horizontal Surface of the Federal Aviation Regulation (FAR) Part 77 Obstruction Imaginary Surfaces for JWA (see Attachment 4). No height increases are proposed at this time, and with approximate ground elevations of 46 to 53 feet, the City's

existing maximum building heights for these sites would not penetrate the Obstruction Imaginary Surfaces (see Attachment 5 for the City’s existing height limits). The City has indicated that proposals for changes to the existing height limits may be considered in the future but that *“in no event will the City’s rezoned height limits be inconsistent with the parameters outlined in Subsection 3.2.6 (Height Restriction Zone) of the AELUP and FAA standards. In addition, future comprehensive updates to the Land Use Element and rezoning will be subject to future Airport Land Use Commission (ALUC) review, consistent with Public Utilities Code Section 21676.”*

**Regarding Flight Tracks and Safety Zones:**

The Housing Element identified 58 new housing sites within Safety Zone 6-Traffic Pattern Zone, and four sites within Safety Zone 4-Outer Approach/Departure Zone, including parcels in the Santa Ana Heights area (see Attachment 6). Many of the sites located in Safety Zones 4 and 6 are also located in the 65 dB CNEL contour. According to the California Airport Land Use Planning Handbook, noise and overflight should be considered in Safety Zone 6 and residential uses should be limited to low density in Safety Zone 4.

Attachment 7 illustrates flight tracks provided by the John Wayne Airport Noise Office for three separate days in April and in July of 2023. As shown on the exhibits, there are numerous flights over the new housing sites in the Airport Area, with a concentration of flights over the primary approach corridor and sites east of the airport within Safety Zone 6 and the transitional surface for JWA. The location and number of residential sites within Safety Zones 4 and 6, with some directly under the flight path of commercial and general aviation flights, suggests that the residential land uses would be incompatible with the operations at JWA and subject future residents to excessive noise and safety risks.

**Regarding Heliports:**

No heliports are proposed as part of the Noise-Related Amendments, therefore, consistency with the *AELUP* for Heliports was not evaluated.

**Environmental Compliance**

A Notice of Preparation (NOP) for a Program Environmental Impact Report (PEIR) was issued in August 2021 for the Draft Housing Element Update. ALUC staff provided comments on the NOP on September 9, 2021. When the City overruled ALUC in February 2022, it concluded that CEQA did not apply to the Housing Element Update. On June 27, 2023, the City issued a new NOP for a Program EIR to evaluate the potential environmental effects of the implementing actions associated with the adopted Housing Element. On August 9, 2023, ALUC staff resubmitted our previous comment letter to the City (Attachment 8).

Although a CEQA finding is not required for purposes of making a consistency determination, the City’s reliance on FEIR 617 is misplaced because EIR 617 did not provide an analysis of the potentially significant impacts of placing future residential uses within the 65 dB CNEL contour. At that time, the City’s policies did not allow residential uses within the 65 dB CNEL contour and none were proposed. Further CEQA environmental review will be required.

## **Conclusion**

Attachment 9 to this report contains the complete submittal package received from the City of Newport Beach. The final adopted and certified 2021-2029 Housing Element is available on the City's website at:

[https://www.newportbeachca.gov/PLN/Housing\\_Element\\_Update/HE\\_FinalDraft\\_09012022/Final%206th%20Cycle%20Housing%20Element%20\(September%202022\).pdf](https://www.newportbeachca.gov/PLN/Housing_Element_Update/HE_FinalDraft_09012022/Final%206th%20Cycle%20Housing%20Element%20(September%202022).pdf)

And the Newport Place and the Newport Airport Village Planned Communities can be found at:

<https://www.newportbeachca.gov/government/departments/community-development/planning-division/general-plan-codes-and-regulations/planned-communities>

ALUC staff has reviewed the Housing Element Implementation Noise-Related Amendments, including amendments to the Land Use Element, Noise Element, Newport Place Planned Community, Newport Airport Village Planned Community and the Zoning Code, for compliance with the *AE LUP for John Wayne Airport (JWA)*, specifically for noise, safety and overflight. The recommendation below is based on the elimination of residential land use restrictions within the 65 dB CNEL, and the location of these sites within the Safety Zones and under the approach/departure surface for JWA.

## **Recommendation:**

That the Commission find the proposed Newport Beach Land Use Element, Noise Element, Newport Place Planned Community, Newport Airport Village Planned Community and the Zoning Code (Housing Element Implementation/Noise-Related Amendments) inconsistent with the *AE LUP 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.”

4. 3.2.1 General Policy of the *AELUP* which states that the General Land Use policy of the Airport Land Use Commission for Orange County shall be “Within the boundaries of the *AELUP*, any land use may be found to be Inconsistent with the *AELUP* which... places people so that they are affected adversely by aircraft noise...”

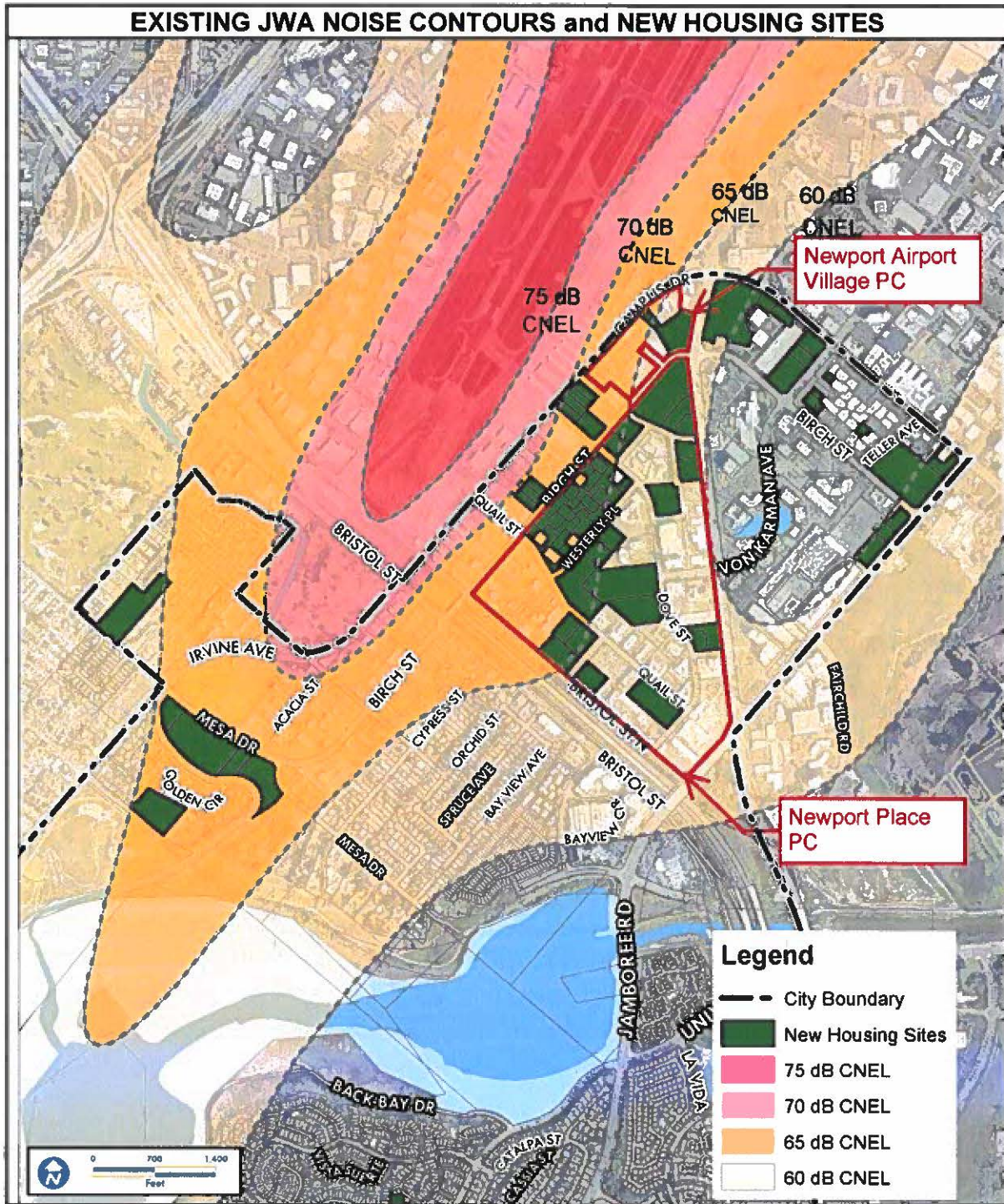
Respectfully submitted,



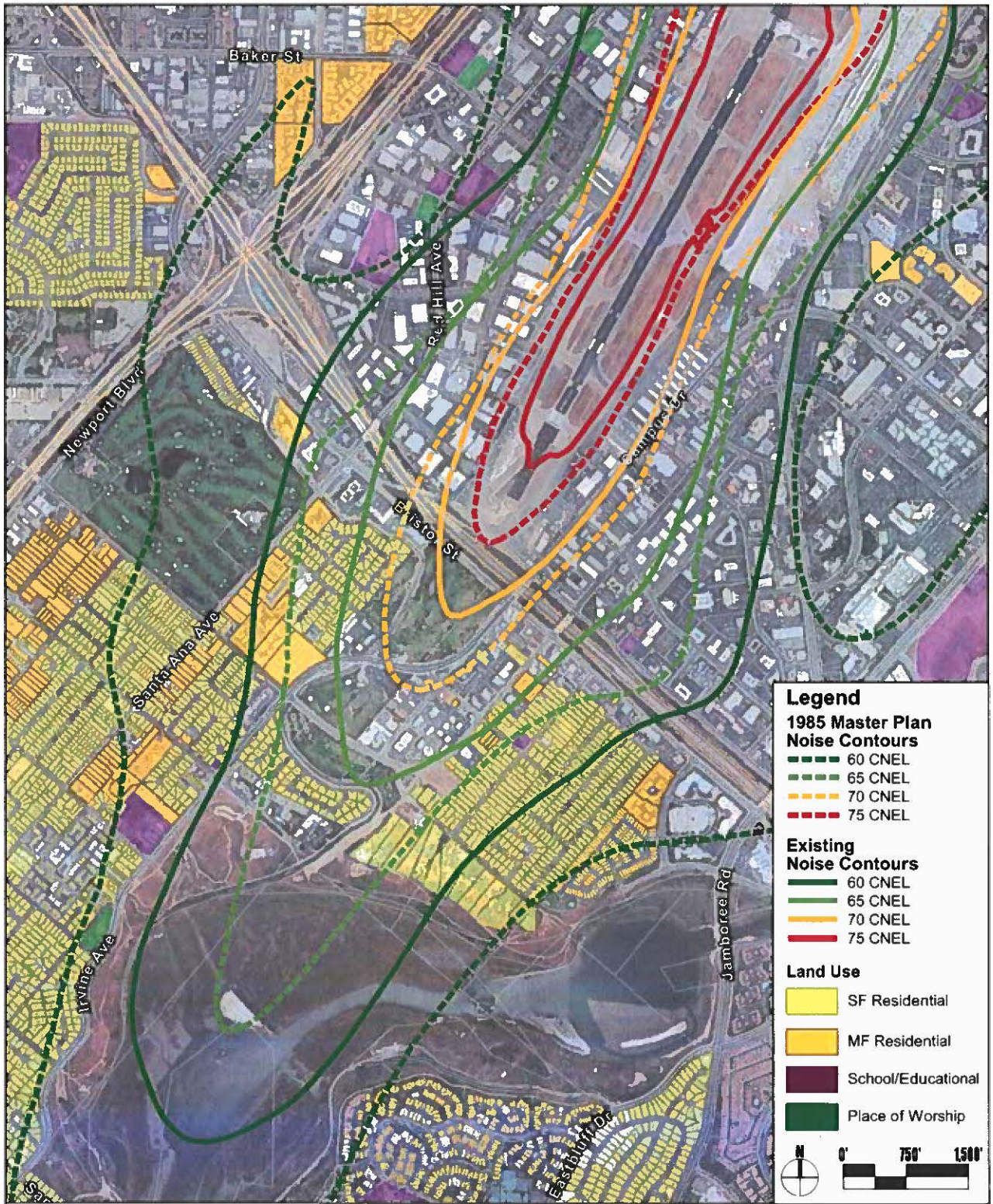
Lea U. Choum  
Executive Officer

Attachments:

1. Newport Beach Housing Element Sites with Adopted AELUP Noise Contours
2. Comparison of 2014 and AELUP Noise Contours
3. Newport Beach Housing Element Sites with Proposed 2014 Contours
4. Overview Map of Obstruction Imaginary Surfaces and Notification Surface
5. Newport Beach Height Limits
6. Parcels in Safety Zones
7. Flight Track Exhibits
8. ALUC Letter regarding NOP for Housing Element Update
9. City of Newport Beach Submittal Package



**ATTACHMENT 1**



Source: Noise Analysis Technical Report, Landrum & Brown 2014

### Comparison of 1985 Master Plan and Existing Departure Noise Contours

Exhibit 4.6-11c

John Wayne Airport Settlement Agreement Amendment

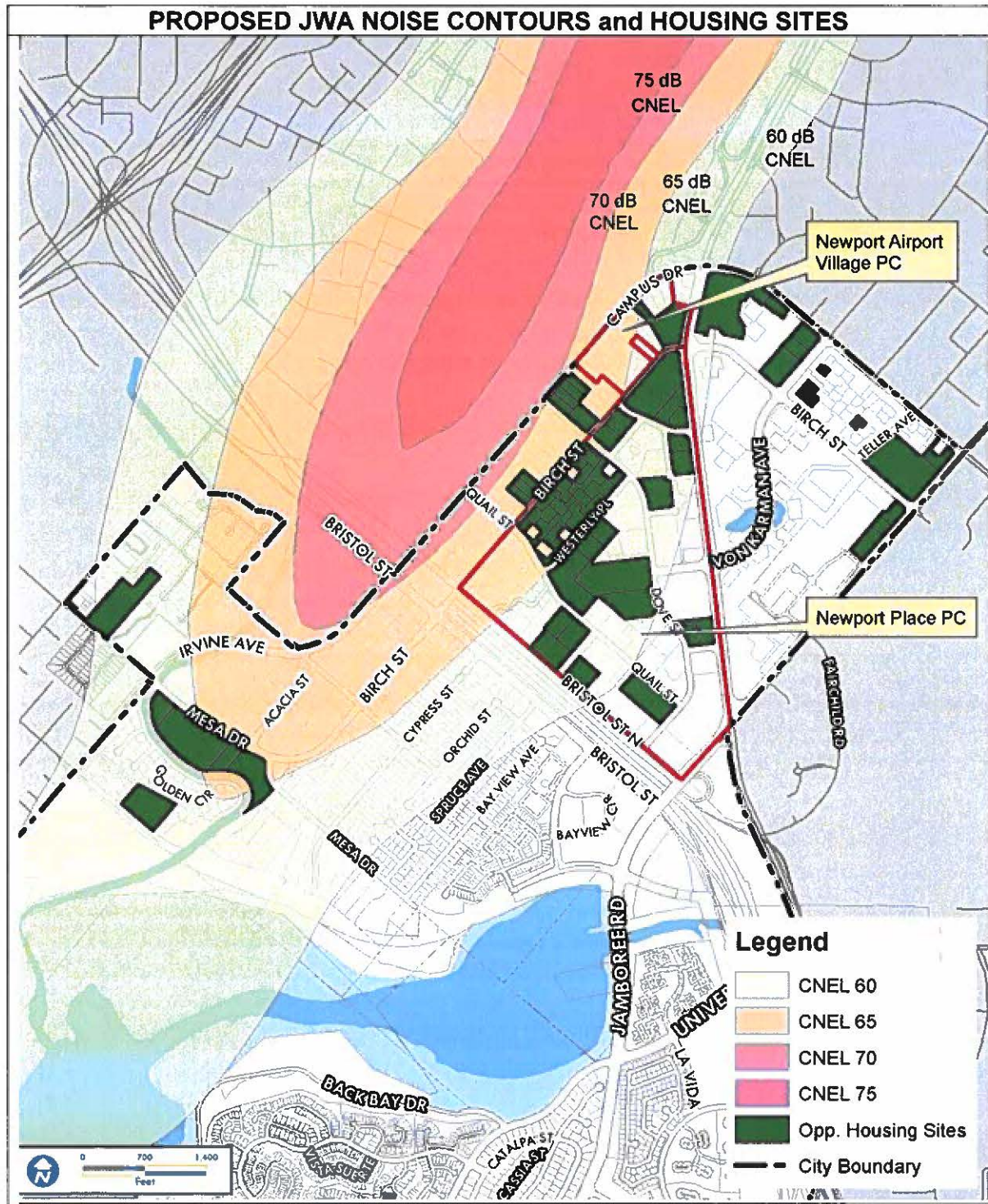


Map not to scale

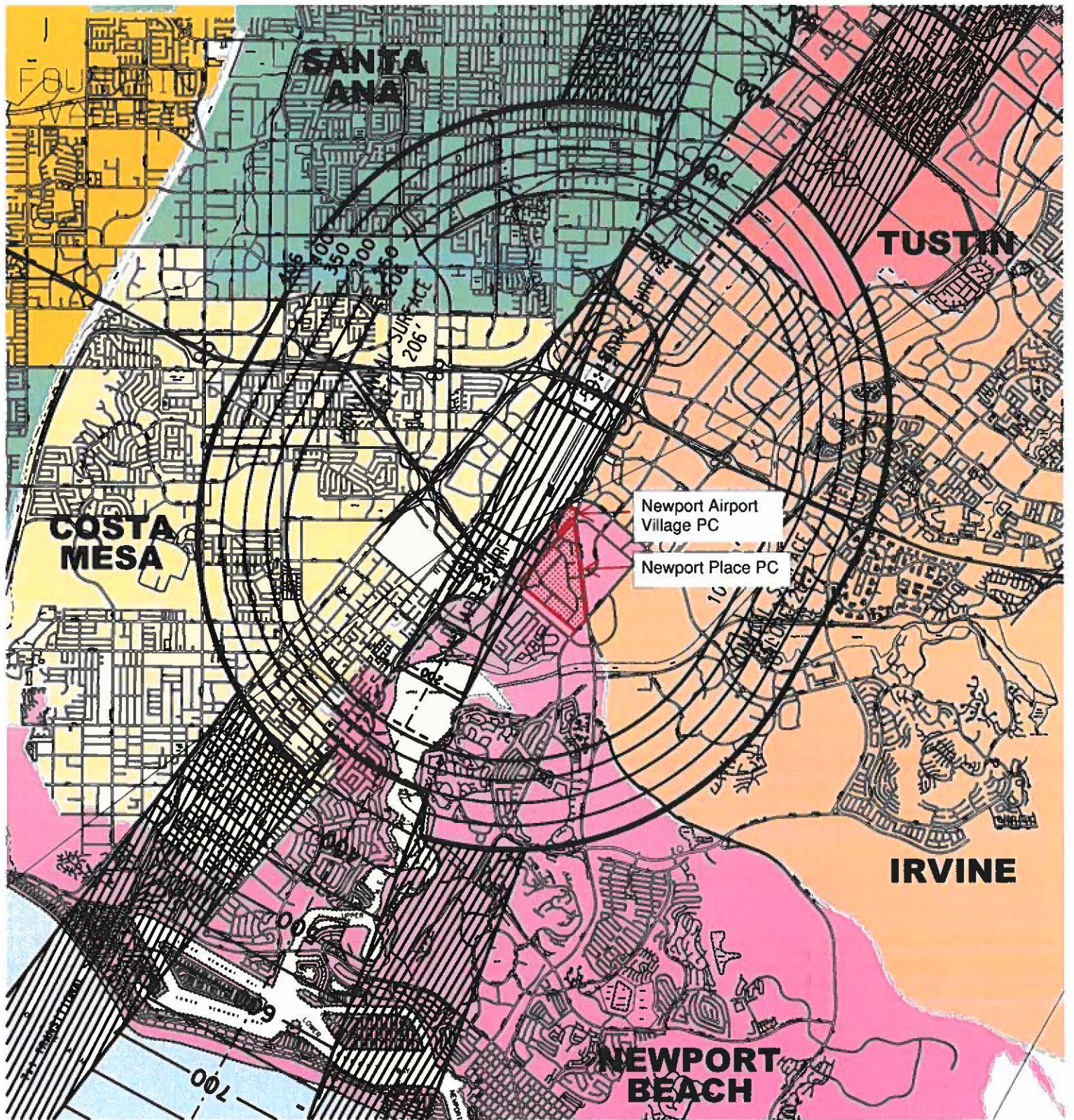
# ATTACHMENT 2





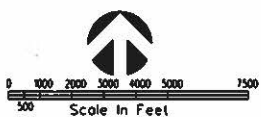


**ATTACHMENT 3**



Note: County Unincorporated areas are shown in white.

## FAR PART 77 John Wayne Airport Obstruction Imaginary Surfaces



**LEGEND**

- CITY BOUNDARIES
- AIRPORT BOUNDARIES

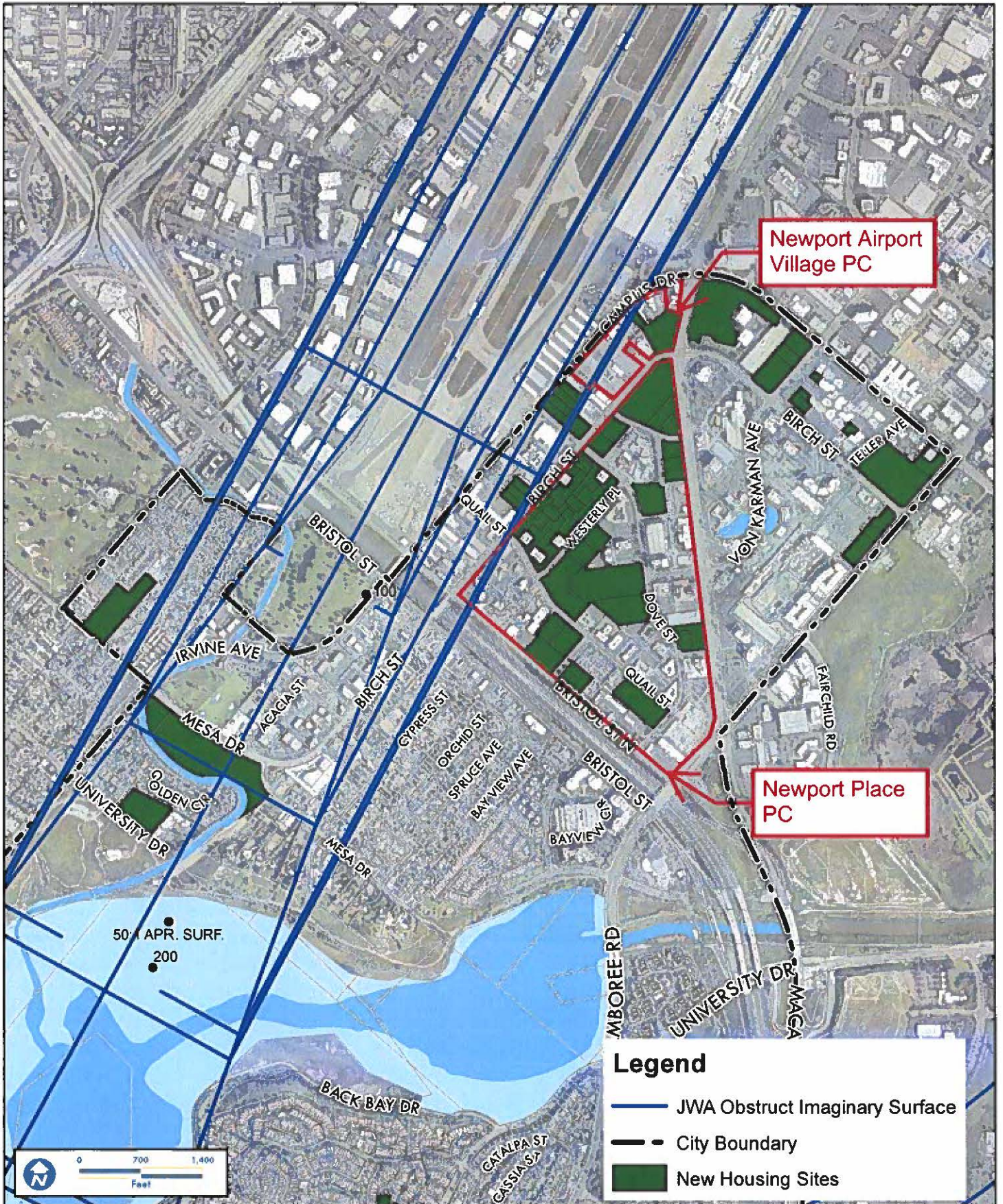
Adopted

**ATTACHMENT 4**

County

Lea Choum, Executive Officer

Date



# Housing Sites Inventory PA2022-0201 JWA Obstruction Imaginary Surface (Airport Area)



City of Newport Beach  
GIS Division  
August 24, 2021

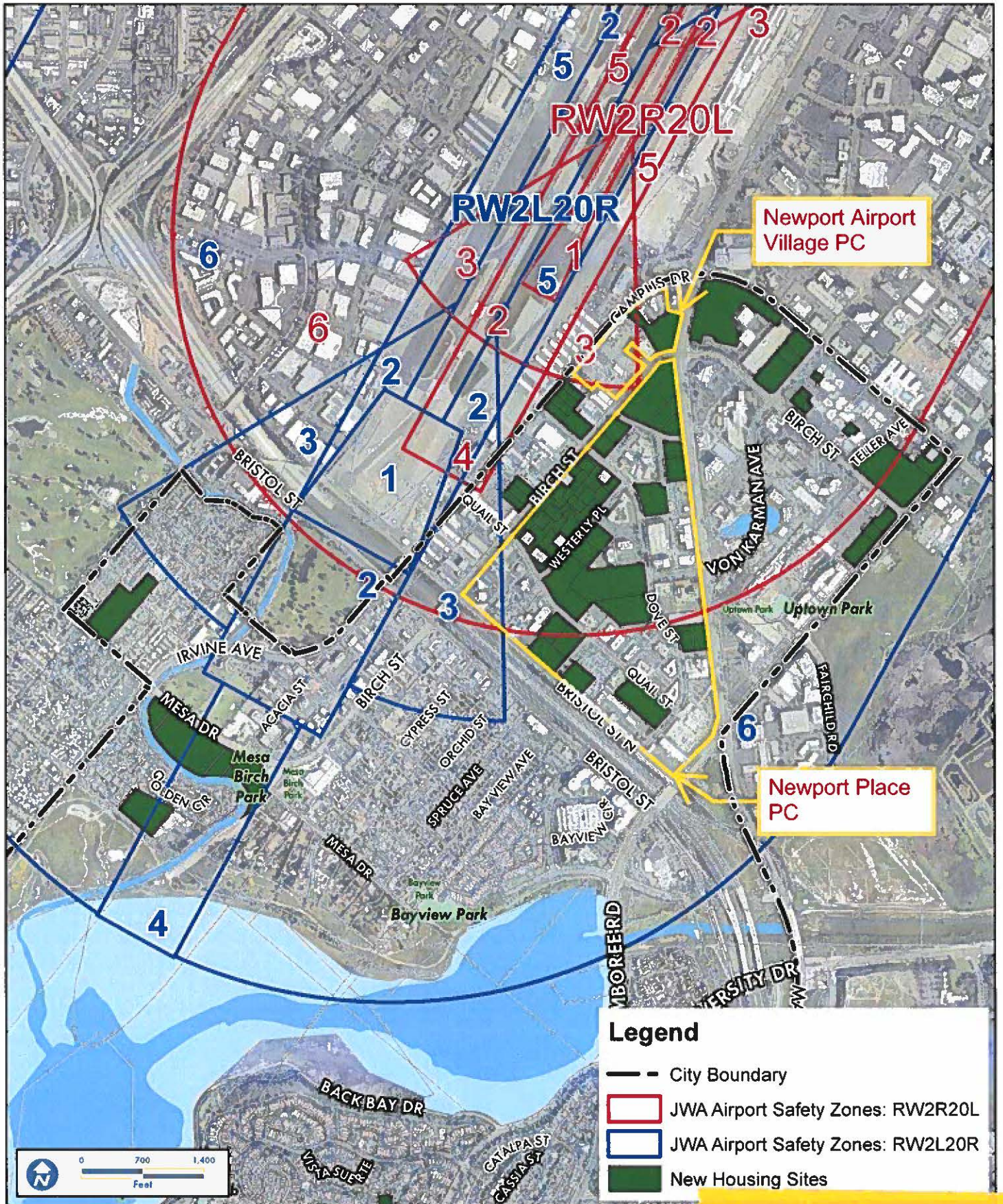
## Housing Element Implementation, Noise-Related Amendments (PA2022-0201)

**Site Location & Maximum Permitted Height Table**

<b>Site Location</b>	<b>Allowed Maximum Building Height</b>
Newport Place Planned Community	55 ft <sup>1</sup>
Newport Airport Village Planned Community Planning Area 1 (within 60 dBA noise contour)	55 ft (Nonresidential) <sup>2</sup> 85 ft (Residential & Mixed-Use) <sup>2</sup>
Planning Area 2 (within 65 dBA noise contour)	55 ft (Nonresidential) <sup>3</sup>
Office-Zoned properties on Campus Drive	300 ft (High Rise) <sup>4</sup>
Golf Course properties on Mesa Dr	18 ft
YMCA property on University Dr	37 ft
Residential properties on Mesa Dr	35 ft

**Notes:**

1. The height of residential 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).
2. The height of residential or mixed-use structures currently allowed within 60 dBA CNEL contour.
3. The height of nonresidential structures currently allowed within 65 dBA CNEL contour.
4. Allowed per [Section 20.30.060.C.2.e](#) (Height Limits and Exceptions) of NBMC.



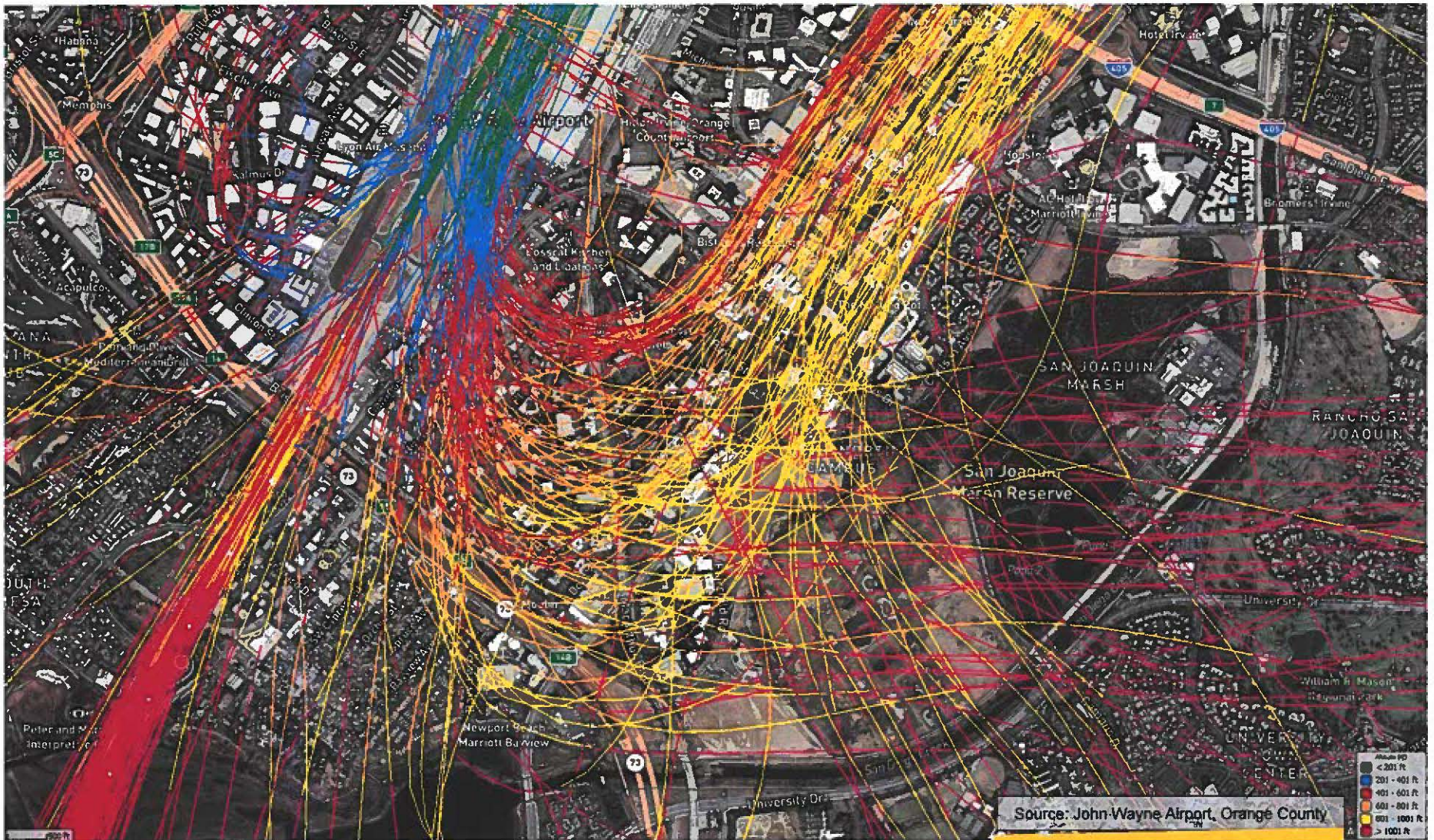
# ATTACHMENT 6

## Housing Sites Inventory PA2022-0201 JWA Safety Zones

City of Newport Beach  
GIS Division  
August 24, 2021



John Wayne Airport Altitude Analysis  
481 Operations  
Tuesday, April 11, 2023



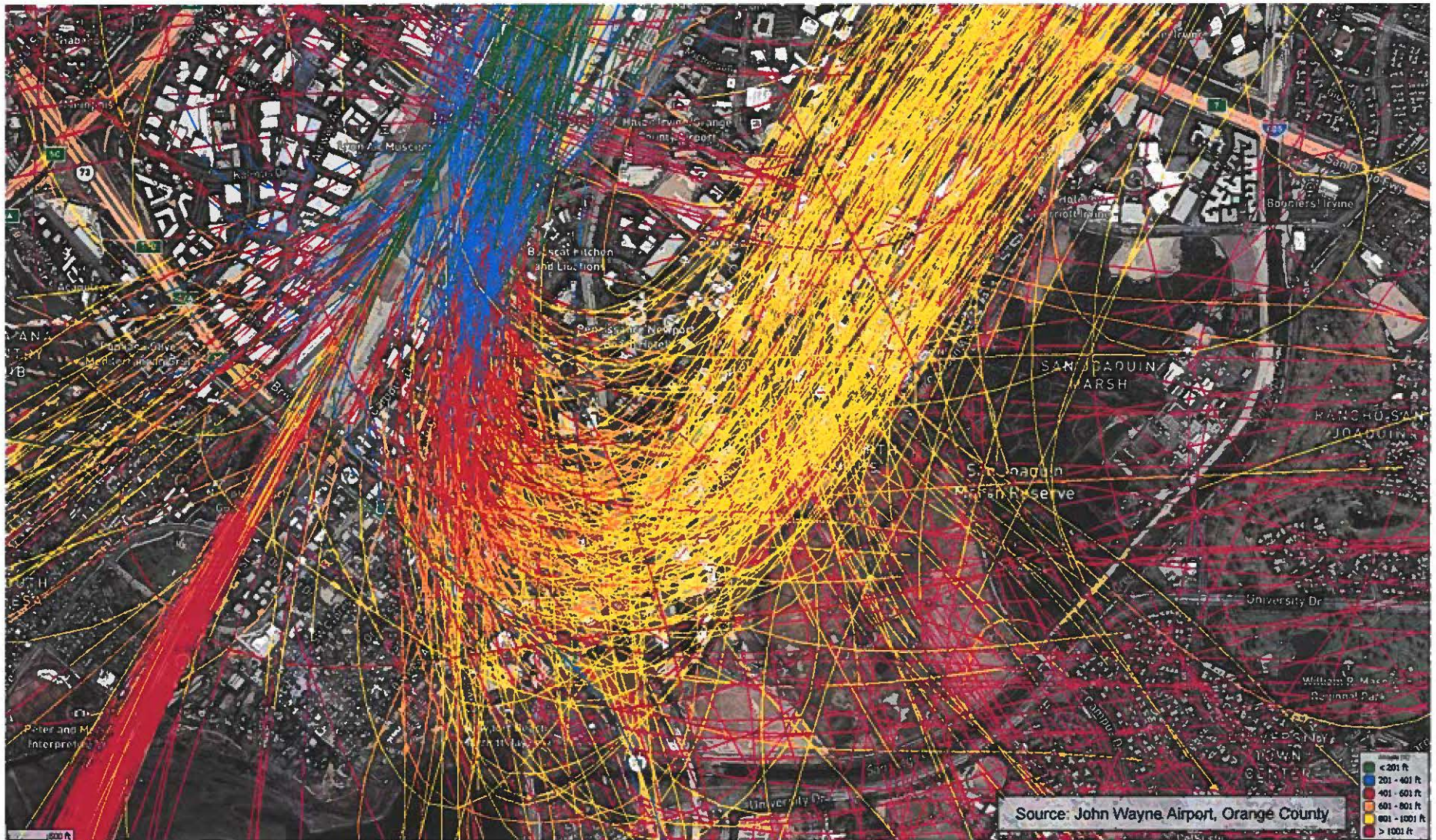


John Wayne Airport Altitude Analysis  
723 Operations  
Thursday, April 20, 2023





John Wayne Airport Altitude Analysis  
603 Operations  
Saturday, April 15, 2023





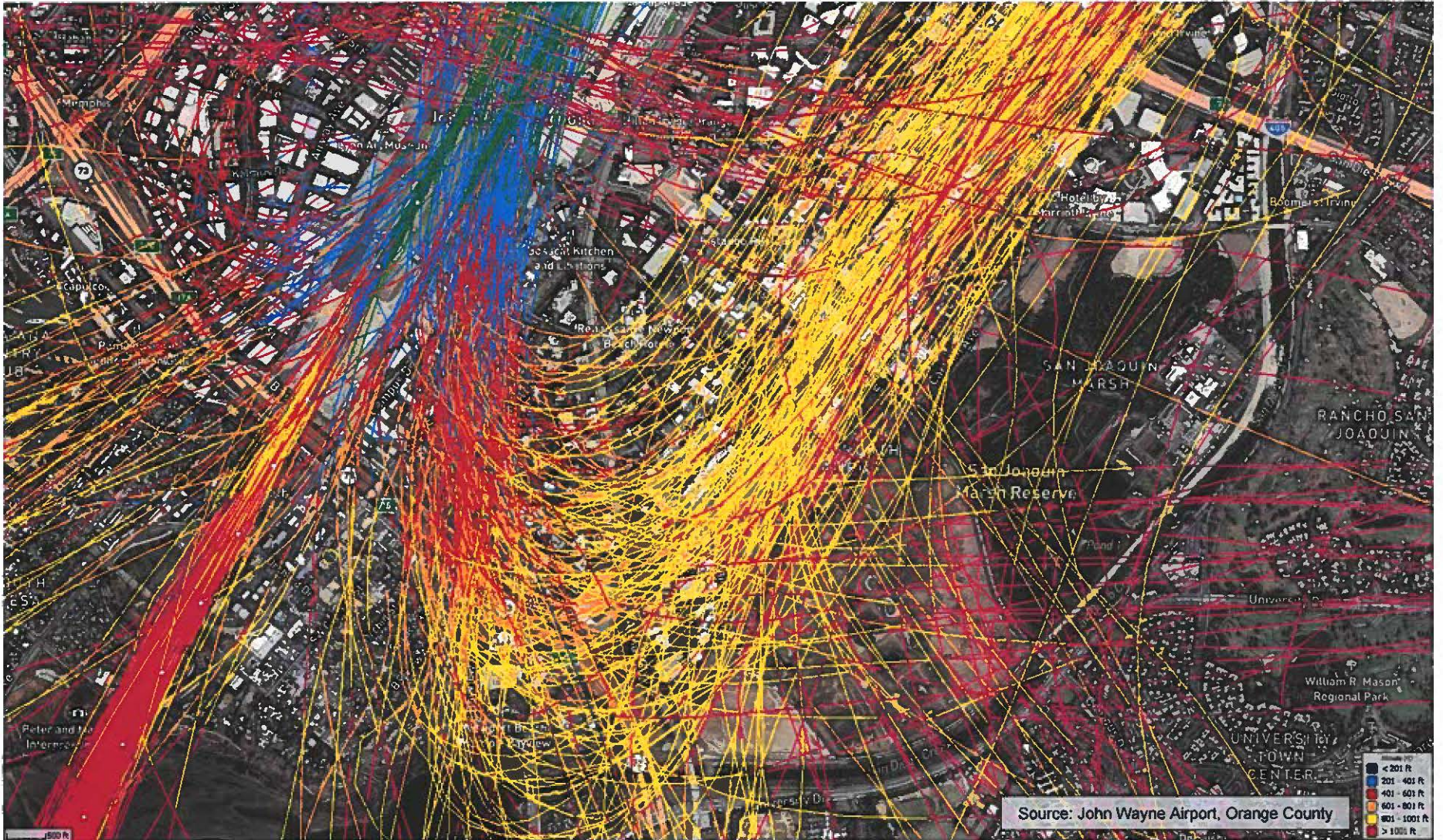


John Wayne Airport Altitude Analysis  
613 Operations  
Tuesday, July 18, 2023



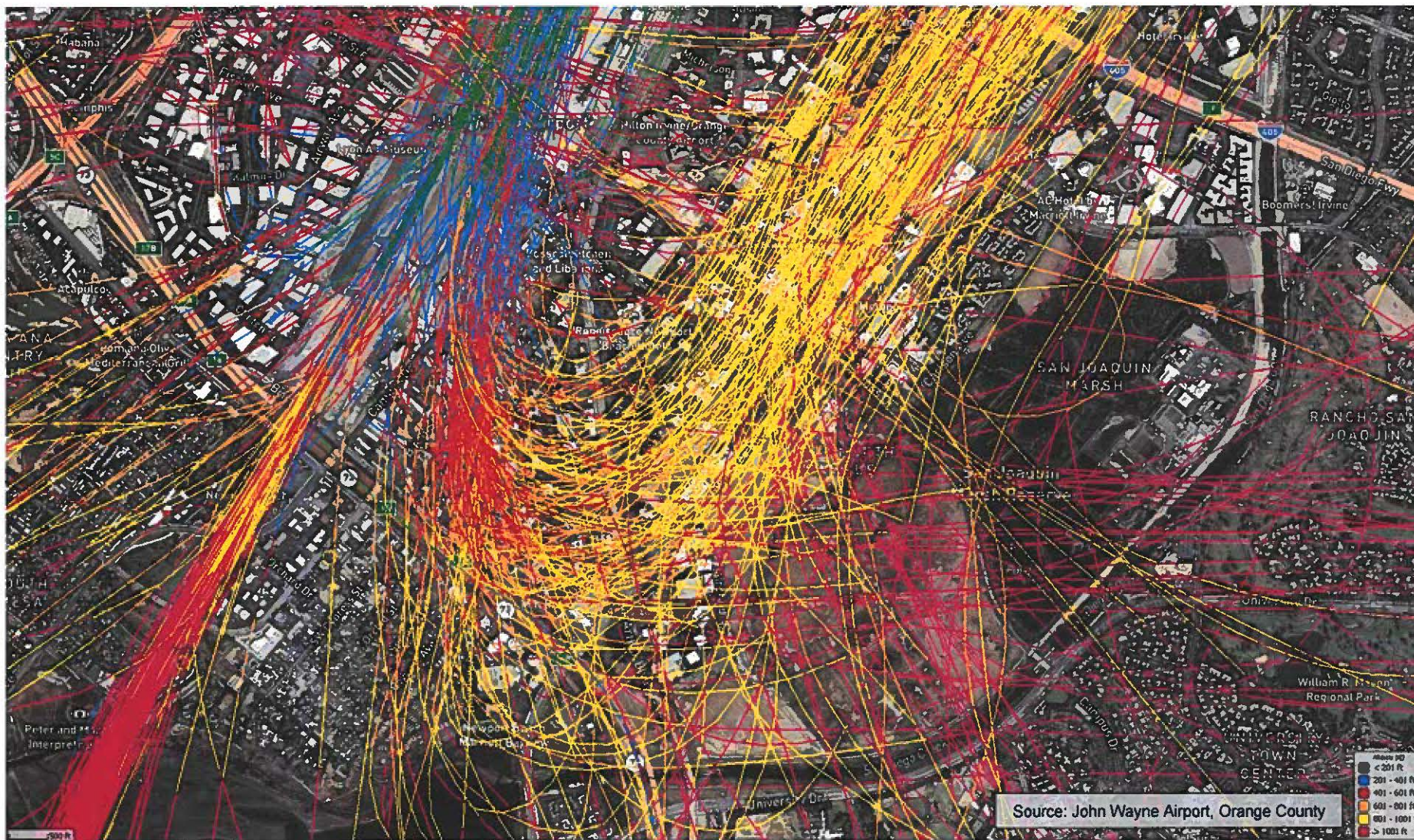


John Wayne Airport Altitude Analysis  
711 Operations  
Thursday, July 27, 2023





John Wayne Airport Altitude Analysis  
567 Operations  
Saturday, July 15, 2023





# AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

August 9, 2023

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

Subject: City of Newport Beach NOP Program EIR for Housing Implementation Program

Dear Mr. Zdeba:

Thank you for the opportunity to provide comments on the NOP of a Program Environmental Impact Report (PEIR) for the proposed Housing Implementation Program in the context of the Airport Land Use Commission's (ALUC's) *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)*.

Please accept our September 9, 2021 comment letter that we provided regarding the NOP for the Program EIR for the Housing and Circulation Elements as the ALUC comments on the subject NOP.

Thank you!

Sincerely,

Lea U. Choum  
Executive Officer

Attachment: September 9, 2021 ALUC Letter Regarding NOP PEIR for Housing and Circulation Elements

ATTACHMENT 8



# AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

September 9, 2021

Ben Zdeba, Senior Planner  
Community Development Department  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

Subject: City of Newport Beach NOP of PEIR for Housing and Circulation Elements

Dear Mr. Zdeba:

Thank you for the opportunity to review the Draft Housing Element Update and the Notice of Preparation (NOP) of a Program Environmental Impact Report (PEIR) for the proposed Housing and Circulation Element updates in the context of the Airport Land Use Commission's *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)*.

The Draft Housing Element includes a site inventory assessment, which identifies sites that can achieve the City's assigned 2021 Regional Housing Needs Allocation (RHNA) for the 2021-2029 planning period. The Draft Element identifies six focus areas for residential development:

- Airport Area
- West Newport Mesa
- Dover/Westcliff
- Newport Center
- Banning Ranch
- Coyote Canyon

Of these, the following proposed focus areas fall within the Airport Planning Area/Notification for JWA: Airport Area, Dover/Westcliff, and Newport Center.

The Draft Housing Element raises potentially significant land use compatibility impact concerns related to the Airport Area. In light of this area's close proximity to John Wayne Airport (JWA), and its location which is directly under a general aviation, low-altitude, primary flight corridor, the PEIR should specifically address

the impacts of development of new residential sites in terms of compatibility with the *AELUP for JWA*.

With respect to noise impacts, the Draft Housing Element is proposing to locate numerous residential sites within the 65 dB and 60 dB CNEL contours for JWA. As noted in your submittal to the ALUC, 23 sites are proposed within the 60 dB to 65 dB CNEL contour and 28 sites fall within the 65 dB to 70 dB CNEL contour. The California Airport Noise Regulations (promulgated in accordance with the State Aeronautics Act and set forth in Section 5000 et seq. of the California Code of Regulations, Title 21, Division 2.5, Chapter 6) establish the 65 dB CNEL as a noise impact boundary within which there shall be no incompatible land uses. The PEIR should address impacts related to incompatible development within these contours and address the California Airport Noise Regulations and ALUC policies contained in the *AELUP for JWA*.

As for homes located within the 60 dB CNEL contour, it is strongly recommended that residential units be limited or excluded from this area unless the sound attenuation provided is sufficient to comply with noise levels identified in the 1985 JWA Master Plan and subsequent Settlement Agreement Amendments.

The PEIR also needs to address the noise impacts of airport operations on the proposed sensitive land uses because the impacts would not occur if not for the project. Even with noise attenuation to meet interior noise standards, there would be a land use impact because exterior noise levels for residential uses may not be achieved.

The City's submittal to the ALUC states there are no proposed policies or mitigation measures in the Housing Element to address potential land use incompatibility and noise. Instead, the City relies on its General Plan Noise Element to provide goals and policies in relation to airport noise. As noted in the City's General Plan, locating residential within the 65 dB CNEL noise contour is contrary to the City's current General Plan Land Use and Noise Elements, which contain the following policies:

**LU 6.15.3 Airport Compatibility:**

Require that all development be constructed in conformance with the height restrictions set forth by Federal Aviation Administration (FAA) Federal Aviation Regulations (FAR) Part 77, Caltrans Division of Aeronautics, and that residential development be located outside of the 65 dB CNEL noise contour specified by the 1985 JWA Master Plan. (Imp 2.1, 3.1, 4.1, 14.3)

**Policy N3.2 Residential Development:**

**Require that residential development in the Airport Area be located outside of the 65 dB CNEL noise contour no larger than shown in the 1985 JWA Master Plan and require residential developers to notify prospective purchasers or tenant of aircraft overflight and noise.**

**The City identifies there will be a need to amend the Land Use Element to reflect the sites identified in the Housing Element that are not presently designated for housing development to allow this type of land use. Additionally, Policy N 3.2 is identified as a policy needing to be amended to allow residential uses in the 65 to 70 dB CNEL contour. Until that action is taken and the appropriate mitigation measures to address such a policy change are adopted, the Housing Element would need to be identified as inconsistent with the Land Use and Noise Elements of the General Plan.**

**In addition to noise impacts, it is important that the PEIR address the proposed focus areas that are within the Federal Aviation Regulation (FAR) Part 77 Obstruction Imaginary Surfaces for JWA and those portions located on the AELUP Notification Area for JWA. The environmental document should address these height restrictions relative to both the notification and imaginary surfaces. ALUC staff recommends that policies be established ensuring that the maximum allowable building heights for projects located within the JWA Planning Area do not penetrate the FAA Part 77 Obstruction surfaces for JWA.**

**There are proposed housing opportunity sites in the Airport Area that are located within the approach and transitional obstruction imaginary surfaces for JWA. Housing sites proposed within the Santa Ana Heights Specific Area Plan (SAHSAP) will be situated under the primary approach surface for JWA. The PEIR should emphasize that future residents would be exposed to significant aircraft overflight and single event noise due to the project's location under this surface. In addition, there are new housing sites proposed along Campus Drive directly east of the airport that are located within the transitional surfaces for JWA. This area would also be subject to low-altitude general aviation overflight.**

**The PEIR should also discuss safety concerns related to proposing housing sites within the Safety Zones for JWA. The Draft Housing Element identifies housing sites within Safety Zone 6: Traffic Pattern Zone and Safety Zone 4: Outer Approach/Departure Zone. There are new housing sites proposed within SAHSAP that fall within Safety Zone 4. According to the California Airport Land Use Planning Handbook, noise and overflight should be considered in Safety Zone 6 and residential uses should be limited to low density in Safety Zone 4. In this zone, aircraft are flying at approximately 1,000 feet above the property and there is a moderate risk level for near-runway accidents. Approaching aircraft are usually at less than traffic pattern altitude in Safety Zone 4.**

ALUC Comments  
NOP of PEIR for Draft Housing & Circulation Element  
9.3.21  
Page 3

Thank you for the opportunity to comment on this NOP and we look forward to reviewing the PEIR. Please contact Julie Fitch at (949) 252-5284 or via email at [jfitch@ocair.com](mailto:jfitch@ocair.com) should you require additional information.

Sincerely,

A handwritten signature in black ink that reads "Lea U. Choum". The signature is written in a cursive style with a long, sweeping underline.

Lea U. Choum  
Executive Officer





**CITY OF NEWPORT BEACH**

100 Civic Center Drive  
Newport Beach, California 92660

949 644-3200

[newportbeachca.gov/communitydevelopment](http://newportbeachca.gov/communitydevelopment)

July 27, 2023

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

RE: City of Newport Beach Housing Element Implementation – Noise-Related Amendments

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 noise-related amendments to Land Use Element, Noise Element, Newport Place Planned Community, and Newport Airport Village Planned Community for consistency with the Airport Environs Land Use Plan (AELUP) at its August 17, 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](mailto: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](mailto:jcampbell@newportbeachca.gov).

Sincerely,



Rosalinh Ung  
Principal Planner

Attachments:

1. Submittal Forms and Checklists (total of 5)
2. August 3, 2023, Planning Commission Staff Report with Attachments
3. Noise, Height & Safety Consistency
4. Proposed JWA Noise Contours & Housing Sites
5. Obstruction Airport Area Map
6. Safety Zones Map
7. Site Locations & Maximum Height

**ATTACHMENT 9**



## AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

### SUBMITTAL FORM: GENERAL PLAN LAND USE ELEMENT AMENDMENT

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): General Plan Amendment  
Name of General Plan Element, Specific Plan or Planned Community: Land Use Element
5. Scheduled date of Planning Commission Public Hearing: 8/3/2023
6. Tentative date of City Council/Board of Supervisors Public Hearing: 8/22/2023
7. Requested date of ALUC Review: August 17  
*(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)\*? 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 Click or tap here to enter text. and proposed Click or tap here to enter text. maximum heights allowed.

## SUBMITTAL CHECKLIST: GENERAL PLAN LAND USE ELEMENT AMENDMENT

- |                                     |   |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Cover letter on City/County letterhead.   |
| <input checked="" type="checkbox"/> | Completed Submittal Form.   |
| <input checked="" type="checkbox"/> | Link to existing <a href="#">Land Use Element</a> 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.  |
| <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 checked="" 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. Please see the August 3, 2023, Planning Commission Staff Report with Attachments |
| <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](mailto:ALUCinfo@ocair.com)*



## AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

### SUBMITTAL FORM: GENERAL PLAN NOISE ELEMENT AMENDMENT

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): General Plan Amendment  
Name of General Plan Element, Specific Plan or Planned Community: Noise Element
5. Scheduled date of Planning Commission Public Hearing: 8/3/2023
6. Tentative date of City Council/Board of Supervisors Public Hearing: 8/22/2023
7. Requested date of ALUC Review: August 17  
*(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)\*? 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 Click or tap here to enter text. and proposed Click or tap here to enter text. maximum heights allowed.

### SUBMITTAL CHECKLIST: GENERAL PLAN NOISE ELEMENT AMENDMENT

- |                                     |  |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Cover letter on City/County letterhead.  |
| <input checked="" type="checkbox"/> | Completed Submittal Form.  |
| <input checked="" type="checkbox"/> | Link to existing <u>Noise Element</u> 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.   |
| <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 checked="" 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.<br>Please see the August 3, 2023, Planning Commission Staff Report with Attachments |
| <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/>

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Attn: Executive Officer, 3160 Airway Avenue, Costa Mesa, CA 92626 / Phone: (949) 252-5170  
[ALUCinfo@ocair.com](mailto:ALUCinfo@ocair.com)*



## AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

### SUBMITTAL FORM: TITLE 20 (PLANNING & ZONING) CODE AMENDMENT

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): Zoning Code Amendment  
Name of General Plan Element, Specific Plan or Planned Community: Title 20 (Planning & Zoning) Code Amendment
5. Scheduled date of Planning Commission Public Hearing: 8/3/2023
6. Tentative date of City Council/Board of Supervisors Public Hearing: 8/22/2023
7. Requested date of ALUC Review: August 17  
*(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)\*? 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 Click or tap here to enter text. and proposed Click or tap here to enter text. maximum heights allowed.

## SUBMITTAL CHECKLIST: TITLE 20 (PLANNING & ZONING) CODE AMENDMENT

- |                                     |  |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Cover letter on City/County letterhead.  |
| <input checked="" type="checkbox"/> | Completed Submittal Form.  |
| <input checked="" type="checkbox"/> | Link to existing <a href="#">Title 20 Planning &amp; Zoning</a> 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.   |
| <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 checked="" 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.<br>Please see the August 3, 2023, Planning Commission Staff Report with Attachments |
| <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](mailto:ALUCinfo@ocair.com)*



## AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

### SUBMITTAL FORM: NEWPORT AIRPORT VILLAGE PLANNED COMMUNITY AMENDMENT

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 Airport Village  
Planned Community Amendment
5. Scheduled date of Planning Commission Public Hearing: 8/3/2023
6. Tentative date of City Council/Board of Supervisors Public Hearing: 8/22/2023
7. Requested date of ALUC Review: August 17  
*(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)\*? 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 Click or tap here to enter text. and proposed Click or tap here to enter text.  
maximum heights allowed.



## SUBMITTAL CHECKLIST: NEWPORT AIRPORT VILLAGE PLANNED COMMUNITY AMENDMENT

- |                                     |   |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Cover letter on City/County letterhead.   |
| <input checked="" type="checkbox"/> | Completed Submittal Form.   |
| <input checked="" type="checkbox"/> | Link to existing <a href="#">Newport Airport Village Planned Community</a> 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.  |
| <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 checked="" 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. Please see the August 3, 2023, Planning Commission Staff Report with Attachments |
| <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.

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[ALUCinfo@ocair.com](mailto:ALUCinfo@ocair.com)*



## AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

### SUBMITTAL FORM: NEWPORT PLACE PLANNED COMMUNITY AMENDMENT

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: 8/3/2023
6. Tentative date of City Council/Board of Supervisors Public Hearing: 8/22/2023
7. Requested date of ALUC Review: August 17  
*(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)\*? Please attach an exhibit showing location(s) of the proposed new uses in relation to noise contours.
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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 Click or tap here to enter text. and proposed Click or tap here to enter text. maximum heights allowed.

## SUBMITTAL CHECKLIST: NEWPORT PLACE PLANNED COMMUNITY AMENDMENT

- Cover letter on City/County letterhead.
- Completed Submittal Form.
- Link to existing Newport Place Planned Community and proposed Click or tap here to enter text General Plan Element, Specific Plan or Zoning Code for this submittal.
- Attachment showing proposed changes to General Plan Element, Specific Plan or Zoning Code Section(s) with strikethrough/underline.
- Exhibit showing location(s) of proposed new uses within the Notification Area/Planning Area for airport(s).
- Exhibit showing location(s) of proposed new uses in relation to noise contours for airport(s).
- Exhibit showing location(s) of proposed new uses in relation to Airport Safety Zones.
- Exhibit showing location(s) of proposed new uses in relation to the Obstruction Imaginary Surfaces.
- Attachment showing current and proposed noise policies/mitigation measures.
- Explanation of how the General Plan, Specific Plan, or Zoning Code address the AELUP standards for noise impact, safety compatibility, and height restriction zones. Please see the August 3, 2023, Planning Commission Staff Report with Attachments
- 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.

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Attn: Executive Officer, 3160 Airway Avenue, Costa Mesa, CA 92626 / Phone: (949) 252-5170  
[ALUCinfo@ocair.com](mailto:ALUCinfo@ocair.com)*



**CITY OF NEWPORT BEACH  
PLANNING COMMISSION STAFF REPORT**

August 3, 2023  
Agenda Item No. 4

**SUBJECT:** Housing Element Implementation, Noise-Related Amendments (PA2022-0201)

- General Plan Land Use Element Amendment
- General Plan Noise Element Amendment
- Title 20 Planning and Zoning Code Amendment
- Newport Place Planned Community Amendment
- Newport Airport Village Planned Community Amendment

**SITE LOCATION:** Various sites in the Newport Beach Airport Area

**PROPONENT:** City of Newport Beach

**PLANNER:** Rosalinh Ung, Principal Planner  
949-644-3208 or [rung@newportbeachca.gov](mailto:rung@newportbeachca.gov)

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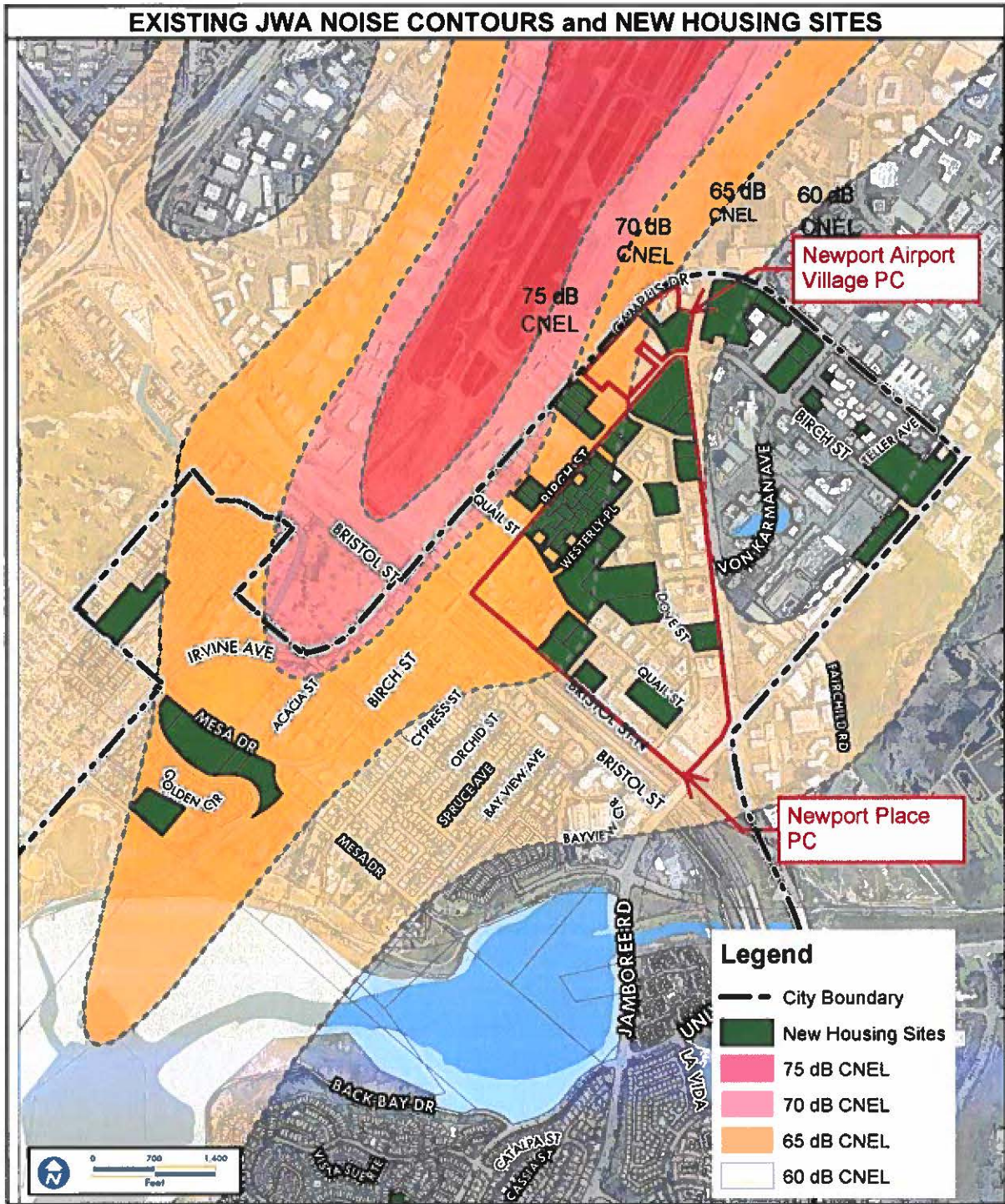
**PROJECT SUMMARY**

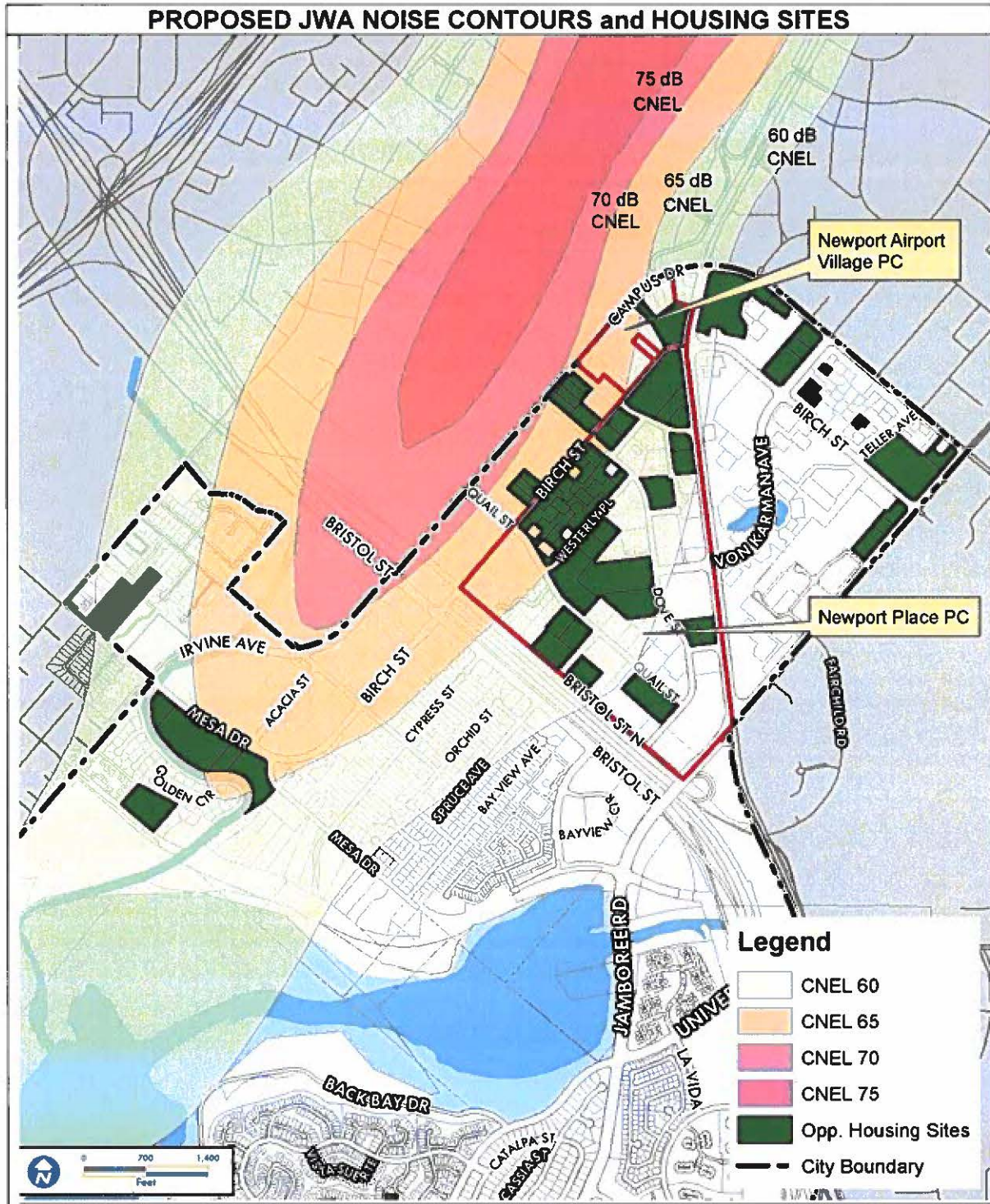
Amendments to Newport Beach General Plan Land Use and Noise Elements, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code, Newport Place Planned Community (PC-11), and Newport Airport Village Planned Community (PC-60) (Amendments) to accommodate housing units identified by the certified 2021-2029 Sixth Cycle General Plan Housing Element.

**RECOMMENDATION**

- 1) Conduct a public hearing;
- 2) Find the proposed amendments are exempt and not subject to further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15183 because the amendments would not allow development of greater intensity than is allowed under the 2006 General Plan, including the Newport Airport Village Planned Community, as amended. The updated contours, and impacts associated therewith, were also fully analyzed in the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report (EIR No. 617); and
- 3) Adopt Resolution No. PC2023-015 recommending approval of the Housing Element Implementation, Noise-Related Amendments to the City Council (PA2022-0201) (Attachment No. PC 1).

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## **INTRODUCTION**

### **Background**

On September 13, 2022, the City Council adopted the 2021-2029 City of Newport Beach [Housing Element](#) (Housing Element). On October 5, 2022, the State Department of Housing and Community Development (HCD) certified the Housing Element as substantially compliant with State housing laws.

The Housing Element provides a comprehensive set of housing goals and policies, as well as an inventory of potential candidate housing sites by income category to meet the City's Sixth Cycle RHNA allocation. Several of the sites identified are proximate to John Wayne Airport within the existing 65 dBA Community Noise Equivalent Level (CNEL) noise contour area. Currently, there are City policies and regulations related to noise that prohibit residential uses in this area. The opportunity sites are necessary allowing the City to meet the City's RHNA allocation obligation. As a result, these policies and regulations must be updated to eliminate the prohibition.

The Airport Area Environs (Airport Area) is one of the five focus areas where new housing opportunity sites are identified to satisfy the RHNA allocation: West Newport Mesa, Dover-Westcliff/Mariner's Mile, Newport Center, Coyote Canyon, and the 5<sup>th</sup> Cycle sites. The Airport Area includes 62 new housing opportunity sites that could accommodate up to 2,577 housing units. This comprises approximately 25 percent of the total housing units identified in the various focus areas identified in the Housing Element.

When the Housing Element was being drafted, the Airport Land Use Commission (ALUC) reviewed these sites and found the entire draft Housing Element inconsistent with the Airport Environs Land Use Plan (AELUP). Ultimately, the City Council overrode their determination consistent with State law and adopted the Housing Element with these sites included.

### **Previous Noise Amendments Request**

The proposed amendments were initially scheduled to be heard back on April 6, 2023; however, the Commission could not consider the amendments due to a lack of a quorum. Subsequently, staff reexamined the proposed amendments and the goals of the Housing Element, and the initial draft described in the April report has been dropped.

### **Revised Noise Amendments**

Staff has since had additional time to consider the appropriate CNEL noise contour areas to advance the policies and goals of the Sixth Cycle Housing Element. Staff determined that the existing CNEL noise contours adopted in the 2006 Noise Element were based on



the 1985 AELUP Master Plan, specifically Noise Element Figures N4 and N5, and now are outdated and in need of updating.

Staff then examined the County of Orange prepared EIR No. 617 as it relates to the 2014 John Wayne Airport Settlement Agreement Amendment. In May 2014, the County of Orange prepared EIR No. 617, with the City as the responsible agency. After EIR 617 was certified by the County, the city was a co-signatory to the executed Settlement Agreement Amendment.

The Noise Chapter of EIR No. 617 explained how the dBA CNEL noise contours have reduced in size compared to the 1985 AELUP Master Plan CNEL noise contours, in which the City's General Plan policies and maps are based on. The 1985 Master Plan noise contours are considerably larger than the existing noise contours presented previously. This is largely due to a quieter fleet of existing commercial aircraft and a dramatic reduction in the number of generation aviation operations. The noise contours in EIR No. 617 are based on more contemporary noise modeling programs, as the EIR explained that "one of the most important factors in generating accurate noise contours is the collection of accurate operational data". Airport noise contours generated in this noise study using the INM Version 7.0d which was released for use in May 2013, and is the state-of-art in airport noise modeling.

The Amendments are required to further the goals, policies, and programs of the Sixth Cycle Housing Element, and replace the currently outdated CNEL noise contour boundaries in the City's General Plan and PCs' zoning texts with a more updated CNEL contour boundary based on updated operations at JWA, technological advancements in aviation technology, and updated noise modeling data.

In summary, staff is proposing to revise the proposed amendments as follows:

- Adopting updated noise contours (Noise Element Figures N4 and N5) to reflect the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 (EIR No. 617),
- Updating Land Use and Noise Element Policies, Land Use Element Figures LU11, LU22, and LU23, Title 20, PC-11, and PC-60 to modify and incorporate the updated noise contours identified by EIR No. 617 and to implement additional noise attenuation measures for future housing units proximate to John Wayne Airport; and
- Allowing residential units identified by the certified 2021-2029 Sixth Cycle Newport Beach Housing Element to be located within the 65 dBA CNEL noise contour area as identified in the updated noise contour maps analyzed in EIR No. 617. Parcels bisected by the updated 65 dBA CNEL noise contour could support future housing; whereas parcels located wholly within the updated 65 dBA CNEL noise contour

could support housing, if deemed necessary to satisfy the Regional Housing Needs Assessment (RHNA) mandate.

The following specific policies, maps, and regulations are proposed to be changed:

Land Use Element:

- Policy LU6.15.3 (Airport Compatibility)
- Figure LU11 – Statistical Areas J6, L4 (removal of the outdated 65 dBA CNEL noise contour line),
- Figure LU22 – Airport (removal of the outdated noise contour line), and
- Figure LU23 - Airport Area Residential Villages Illustrative Concept Diagram (removal of the outdated noise contour line)

Noise Element:

- Policy N1.2 (Noise Exposure Verification for New Development)
- Policy N1.5.A (Airport Area Infill Projects (new policy for Airport Area)
- Policy N2.2 (Design of Sensitive Land Uses)
- Policy N3.2 (Residential Development)
- Figure N4 - Future Noise Contours (update JWA noise contours) and
- Figure N5 - Future Noise Contours (update JWA noise contours)

Title 20 Zoning Code Amendment:

- Section 20.30.080(F) (Noise-Airport Environs Land Use Plan)

Planned Community Text Amendments:

- Newport Place Planned Community (PC-11) – Part III. Residential Overlay Zone, Section V.D.1 (Airport Noise Compatibility)
- Newport Airport Village Planned Community (PC-60) –Sections I.D (Purpose and Objective), & II.A & B (Permitted & Prohibited Uses)

The precise changes are included in the draft resolution as Attachment No. PC 1. Updated Land Use Element Figures LU 11, LU22, and LU22 and Noise Element Figures N4 and N5 are also referenced and included in the draft resolution.

## **DISCUSSION**

### Analysis

#### *General Plan Amendment*

The amendments are required to further the goals, policies, and programs of the Sixth Cycle Housing Element, and replace the currently outdated CNEL noise contours adopted and referenced in the Land Use and Noise Elements, Title 20, and Planned Communities with updated CNEL contours analyzed in EIR No. 617. The amendments would modify

the General Plan Policies in the Land Use Element and Noise Element for consistency with the Housing Element. The proposed changes include all noise-related policies and referenced figures listed above for the Airport Area.

The proposed amendments would be consistent with the following Housing Element Policies and Policy Actions:

- **Housing Policy 1.1** (Identify a variety of sites to accommodate housing growth need by income categories to serve the needs of the entire community.);
- **Housing Policy 4.2** (Enable construction of new housing units sufficient to meet City qualified goals by identifying adequate sites for their construction.); and
- **Policy Action 4J** (Airport Environs Sub Area Environmental Constraints)

The amendments to the Noise Element and Land Use Element would be a step in the implementation of the Sixth Cycle Housing Element. As mentioned above, a total of 62 new housing opportunity sites are identified in the Airport Area according to the Sixth Cycle Housing Element. Of those sites, 48 are located wholly or partially outside the 65 dBA CNEL contour boundary as identified in the proposed noise contour map above. Only 14 new housing opportunity sites are located wholly within the updated 65 dBA CNEL contour boundary.

By updating the General Plan Land Element and Noise Element policies that prohibit residential uses with the outdated, 1985 65 dBA CNEL contour, the Amendments will advance the Sixth Cycle Housing Element's goal of accommodating at least 2,577 housing units in a variety of income levels in the Airport Area.

Additionally, by providing uniform and concise conditions of approval identified in the Amendment to Title 20 (Planning and Zoning) of NBMC, the City has taken actions to address potential environmental constraints in the Airport Area and ensure continued feasibility of sites, particularly for lower-income RHNA.

#### *Charter 423 Analysis*

Section 423 of the Charter and Council Policy A-18 (Guidelines for Implementing Charter Section 423) ("Council Policy A-18") require any amendment to the General Plan be reviewed to determine if a vote of the electorate would be required. If a General Plan Amendment (separately or cumulatively with other GPAs within the previous 10 years) generates more than 100 peak hour trips (a.m. or p.m.), adds 40,000 square feet of non-residential floor area, or adds more than 100 dwelling units in a statistical area, a vote of the electorate would be required.

The purpose of the Amendments is to eliminate conflicts between the certified Sixth Cycle Housing Element and the City's General Plan Land Use Element and Noise Element (and other ordinances), which prohibit residential development within the outdated 1985 65

dba CNEL noise contour area, and to adopt more updated CNEL noise contour areas that are based on updated noise modeling data, airport operations and advances in aviation technology that result in decreased noise levels. As a result, these policies and regulations must be updated to eliminate conflicting policy and regulatory restrictions to provide consistency with the Housing Element. No development would be directly authorized by the amendments to the Noise Element and Land Use Element. As none of the thresholds specified by Charter Section 423 are impacted nor exceeded by the amendments to the Noise Element and Land Use Element, no vote of the electorate is required.

*Title 20 Planning and Zoning Amendment*

Section 20.30.080(F) (Noise-Airport Environs Land Use Plan) of the Newport Beach Municipal Code (NBMC) will be updated to allow residential uses, including mixed-use residential in the Airport Area, subject to the conditions below.

Residential development would be limited to parcels wholly or partially outside the updated 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate. Non-residential uses would be encouraged on parcels located wholly within the 2014 65 dBA CNEL contour area.

- 1) Prior to the issuance of any building permits for such development, a noise study shall be prepared by a City-approved, qualified acoustical consultant and submitted to the Community Development Director for approval;
- 2) All new residential structures or the residential units within a mixed-use development shall be attenuated to provide an interior noise level of 45 dBA CNEL or less;
- 3) The design of the residential portions of mixed-use projects and residential developments shall have adequate noise attenuation between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code;
- 4) New mixed-use developments shall incorporate designs with loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development;
- 5) Use of walls, berms, interior noise insulation, double paned windows, advance insulation systems, or other noise mitigation measures, as deemed appropriate shall be incorporated in the design of new residential to bring interior sound attenuation to 45 dBA CNEL or less;
- 6) Residential uses shall be indoor-oriented to reduce noise impingement on outdoor living areas;
- 7) On-site indoor amenities, such as fitness facilities or recreation and entertainment facilities shall be encouraged; and
- 8) Advanced air filtration systems for buildings shall be considered to promote cleaner air.

*Newport Place (PC-11) and Newport Airport Village (PC-60) Planned Community Amendments*

PC 11 and PC 60 will be revised to allow residential development or mixed-use development on parcels wholly or partially outside the updated 65 dBA CNEL noise contour area, unless and until the City determines that the sites wholly within such contour area are required to meet the City's Sixth Cycle RHNA mandate.

*Airport Land Use Commission Consistency Determination*

California Public Utilities Code Section 21676(b) and John Wayne Airport Environs Land Use Plan (AELUP) Section 4.11 require the City to refer the proposed noise amendment to the Airport Land Use Commission (ALUC) for consistency determination with the AELUP due to the proposed amendment to the Land Use and Noise Elements, Zoning Code and Planned Communities. The proposed amendments are scheduled for ALUC consideration at its August 17, 2023, meeting.

Environmental Review

The Amendments are exempt from CEQA pursuant to CEQA Guidelines section 15183 because they do not change the underlying land use or zoning designations of any specific parcels, including parcels within the Airport Area or within the updated noise contours. The Amendments, therefore, will not result in development of greater intensity than is allowed under the 2006 General Plan and Newport Airport Village Planned Community, as amended. To the extent new parcels can be developed in the future for residential uses, by nature of no longer being located within areas identified as experiencing 65 dB CNEL or greater, those parcels must be part of a specific proposed project for consideration and processing by the City for approval.

The Amendments are also exempt because they fall within the scope of analysis contained within EIR 617, prepared, and certified by the County for the 2014 JWA Settlement Agreement Amendment, to which the City is a party. EIR No. 617, fully analyzed impacts on sensitive receptors (including residential uses) in adopting the Settlement Agreement Amendment, including the updated CNEL contour boundaries associated therewith, using both the County and City's thresholds of significance. The City was a responsible agency for EIR No. 617, and co-signatory to the Settlement Agreement Amendment. EIR No. 617 concluded that the Settlement Agreement Amendment (and associated updated CNEL contours) would result in less-than-significant impacts related to noise increases at sensitive receptors, but a significant and unavoidable impact from increasing noise levels at exterior use areas of residences. A Statement of Overriding Considerations was adopted. No lawsuits were filed challenging the adequacy of the EIR.

The Amendments are required for the City to officially adopt the latest and most recently analyzed dBA CNEL noise contours, which are based on state-of-the-art noise modeling,

current airport activity and operations at JWA, and technological advances in aviation technology that reduce noise levels from aircraft. Because EIR No. 617 analyzed impacts associated with the updated noise contours, the City's adoption of the updated CNEL noise contours is fully within the scope of EIR No. 617, and the 2006 General Plan, as amended. The Amendments, therefore, do not warrant further environmental review under CEQA.

Public Notice

Given the proposed amendments only involve the properties located in the Airport Area, notice of this hearing was published in the Daily Pilot and mailed to all owners of properties within PC-11 and PC-60 that located within the existing 65 dBA CNEL noise contour at least 10 days before the scheduled meeting, consistent with the provisions of Section 20.66.030(B) of the NBMC. 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 with Proposed Amendments

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**Attachment No. PC 1**  
Draft Planning Commission Resolution



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**RESOLUTION NO. PC2023-015**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE AN AMENDMENT TO THE NOISE AND LAND USE ELEMENTS OF THE GENERAL PLAN, TITLE 20 (PLANNING AND ZONING) OF THE NEWPORT BEACH MUNICIPAL CODE, NEWPORT PLACE PLANNED COMMUNITY (PC-11) AND NEWPORT AIRPORT VILLAGE PLANNED COMMUNITY (PC-60) RELATED TO NOISE IN THE AIRPORT AREA IN ORDER TO IMPLEMENT THE SIXTH CYCLE HOUSING ELEMENT (PA2022-0201)**

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

**SECTION 1. STATEMENT OF FACTS.**

1. Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California.
2. The Noise Element is one of the mandatory elements of the Newport Beach General Plan and was last updated as part of a comprehensive General Plan Update in 2006. In January 2019, the City Council initiated a comprehensive update of the Newport Beach General Plan. Due to the Regional Housing Needs Assessment ("RHNA") allocation of 4,845 new housing units to plan for the 2021-2029 housing period ("Sixth Cycle Housing Element"), the City Council directed City staff to focus on the Housing Element, Land Use Element, and Circulation Element. The City Council adopted the Sixth Cycle Housing Element on September 13, 2022, and it was certified by the State Department of Housing and Community Development ("HCD") on October 5, 2022. The Land Use Element and other elements of the General Plan are being updated in order to implement the Sixth Cycle Housing Element.
3. The Airport Area Environs ("Airport Area") is one of the five focus areas where new housing opportunity sites are identified to satisfy the RHNA allocation. At least 2,577 housing units are planned for the Airport Area, which comprises approximately 25 percent of the City's planned housing capacity, according to the Sixth Cycle Housing Element. A total of 62 new housing opportunity sites are identified in the Airport Area. Of those sites, 48 are located wholly or partially outside the updated 65 dBA CNEL contour boundary. Only 14 new housing opportunity sites are located wholly within the updated 65 dBA CNEL contour boundary.
4. The Sixth Cycle Housing Element including Appendix B has been subject to extensive public participation. Pursuant to Government Code Section 65351, the City held thirteen community workshops, worked with the Housing Element Update Advisory Committee

(“HEUAC”) at fourteen Brown Act meetings, and brought iterations of the Housing Element to one duly noticed Planning Commission study session and six duly noticed City Council study sessions where the Housing Element was publicly reviewed and discussed. Additionally, the HEUAC formed five different subcommittees to thoroughly review and identify all feasible sites for potential redevelopment as residential in the future and those sites are captured in Appendix B (Adequate Sites Analysis), which demonstrates the City’s capacity to meet the RHNA allocation.

5. The Noise Element and Land Use Elements of the General Plan, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (“NBMC”), Newport Place Planned Community (PC-11), and Newport Airport Village Planned Community (PC-60) restrict residential development in the 65 dBA CNEL and higher noise contour area as identified in the 1985 John Wayne Airport Master Plan.
6. The following amendments to the Noise Element, Land Use Element, Title 20, Newport Place Planned Community (PC-11), and Newport Airport Village Planned Community (PC-60) are necessary to implement the Sixth Cycle Housing Element to allow the identified opportunity sites to realize residential uses, including mixed-use residential, that are wholly or partially located outside the 65 dBA noise contour area identified in the Noise Element (“Amendments”) without causing a potential inconsistency issue under the Planning and Zoning Law. Thus, while the Amendments do not change the existing underlying land use or zoning designations of particular parcels, the Amendments do reflect revisions to the following:

**Land Use Element:**

- Policy LU6.15.3 (Airport Compatibility);
- Figure LU11 – Statistical Areas J6, L4;
- Figure LU22 – Airport; and
- Figure LU23 - Airport Area Residential Villages Illustrative Concept Diagram (removal of 65 CNEL noise contour line);

**Noise Element:**

- Policy N 1.2 (Noise Exposure Verification for New Development);
- Policy N1.5.A (Airport Area Infill Projects (new policy));
- Policy N 2.2 (Design of Sensitive Land Uses); and
- Policy N 3.2 (Residential Development);
- Figure N4 - Future Noise Contours; and
- Figure N5 – Future Noise Contours;

**Title 20 (Planning and Zoning) of the NBMC:**

- Section 20.30.080(F) (Noise-Airport Environs Land Use Plan);

**Planned Communities:**

- Newport Place Planned Community (PC-11) – Part III. Residential Overlay Zone, Section V.D.1 (Airport Noise Compatibility); and

- Newport Airport Village Planned Community (PC-60) – Section I.D (Purpose and Objective) & Section II.B.2 (Prohibited Uses).

7. A public hearing was held on August 3, 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.* (“Ralph M. Brown Act”), 65090, and 65353 of the Government Code, Chapter 20.62 (Public Hearings) of the NBMC and Council Policy K-1 (General Plan and Local Coastal Program). 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 Amendments are exempt from the California Environmental Quality Act pursuant to Section 15183 of the California Code of Regulations Title 14, Division 6, Chapter 3 (“CEQA Guidelines”) because they do not change the underlying land use or zoning designations of any specific parcels, including parcels within the Airport Area or within the updated noise contours. The Amendments, therefore, will not result in development of greater intensity than is allowed under the 2006 General Plan, Newport Place Planned Community (PC-11), and Newport Airport Village Planned Community (PC-60), as amended. To the extent new parcels are able to be developed in the future for residential uses, by nature of no longer being located within areas identified as experiencing 65 dB CNEL or greater, those parcels must be part of a specific proposed project for consideration and processing by the City for approval.

The Amendments are also exempt because they fall within the scope of analysis contained within EIR No. 617, prepared and certified by the County for the 2014 John Wayne Airport (“JWA”) Settlement Agreement Amendment, to which the City is a party. EIR No. 617, fully analyzed impacts on sensitive receptors (including residential uses) in adopting the Settlement Agreement Amendment, including the updated CNEL contour boundaries associated therewith, using both the County and City’s thresholds of significance. The City was a responsible agency for EIR No. 617, and co-signatory to the Settlement Agreement Amendment. EIR No. 617 concluded that the Settlement Agreement Amendment (and associated updated CNEL contours) would result in less-than-significant impacts related to noise increases at sensitive receptors, but a significant and unavoidable impact from increasing noise levels at exterior use areas of residences. A Statement of Overriding Considerations was adopted. No lawsuits were filed challenging the adequacy of the EIR.

The accompanying adopted Findings of Consistency which are attached hereto as Exhibit “H” and incorporated by reference.

## SECTION 3. REQUIRED FINDINGS.

### **General Plan Noise Element and Land Use Element Amendments**

An amendment to the 2006 Newport Beach General Plan Noise Element and Land Use Element are legislative acts. Neither Title 20 (Planning and Zoning) nor California Government Code Section 65000 *et seq.*, set forth any required findings for either approval or denial of such

amendments. Notwithstanding the foregoing, the amendments to the Noise Element and Land Use Element are consistent with the following General Plan policies.

**Finding and Facts in Support of Findings:**

1. The amendments to the Noise Element and Land Use Element would eliminate conflicting general plan policies that prohibit residential developments within the 1985 JWA Master Plan 65 dBA to 70 dBA CNEL noise contour area.
2. The amendments to the Noise Element and Land Use Element are consistent with the following City of Newport Beach Housing Element Policy and Policy Action:

**Housing Policy 1.1**

*Identify a variety of sites to accommodate housing growth need by income categories to serve the needs of the entire community.*

The amendments to the Noise Element and Land Use Element would be a step in the implementation of the Sixth Cycle Housing Element. The Housing Element identified 62 new housing opportunity sites in the Airport Area. Of those sites, 48 are located wholly or partially outside the 65 dBA CNEL contour boundary. By updating the General Plan Land Element and Noise Element policies that prohibit residential uses within the outdated, 1985 Master Plan 65 dBA CNEL contour, the Amendments will advance the Sixth Cycle Housing Element's goal of accommodating at least 2,577 housing units in a variety of income levels within the Airport Area.

*Tribal Consultation*

**Findings:**

Pursuant to California Government Code Section 65352.3 (SB 18), a local government is required to contact the appropriate tribes identified by the Native American Heritage Commission ("NAHC") each time it considers a proposal to adopt or amend the General Plan. If requested by any tribe, the local government must consult for the purpose of preserving or mitigating impacts to cultural resources.

**Facts in Support of Findings:**

The City received comments from the NAHC indicating that 12 tribal contacts should be provided notice regarding the Amendments. Notices were sent to the 12 tribes on February 16, 2023. California Government Code Section 65352.3 requires notification 90 days prior to Council action to allow tribal contacts to respond to the request to consult. The 90-day notification period has expired on May 16, 2023. No consultation request received.

*423 Charter Analysis*

Finding:

Section 423 of the Charter and Council Policy A-18 (Guidelines for Implementing Charter Section 423) (“Council Policy A-18”) require any amendment to the General Plan be reviewed to determine if a vote of the electorate would be required. If a General Plan Amendment (separately or cumulatively with other GPAs within the previous 10 years) generates more than 100 peak hour trips (a.m. or p.m.), adds 40,000 square feet of non-residential floor area, or adds more than 100 dwelling units in a statistical area, a vote of the electorate would be required.

Facts in Support of Findings:

The purpose of the Amendments is to eliminate a conflict with the certified Sixth Cycle Housing Element and the City’s General Plan Land Use Element and Noise Element, which prohibit residential development within the 1985 JWA Master Plan’s 65 dBA CNEL noise contour area, and to endorse a more updated CNEL contour areas that are based on updated noise modeling data, airport operations and advances in aviation technology that result in decreased noise levels. As a result, these policies and regulations must be updated to eliminate conflicting policy and regulatory restrictions to provide consistency with the Sixth Cycle Housing Element. Notwithstanding the foregoing, no development would be directly authorized by the amendments to the Noise Element and Land Use Element. As none of the thresholds specified by Charter Section 423 are impacted nor exceeded by the amendments to the Noise Element and Land Use Element, no vote of the electorate is required.

**Title 20 (Planning and Zoning) of NBMC Amendment**

An amendment to Title 20 (Planning and Zoning) of NBMC is a legislative act. Neither Chapter 20.66 (Planning and Zoning, Amendments) of Title 20 (Planning and Zoning) of NBMC, 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 such amendments. Notwithstanding the foregoing, the amendments to Title 20 (Planning and Zoning) of the NBMC is consistent with the following General Plan policies.

Finding and Facts in Support of Findings:

The amendment to Section 20.30.080(F) (Noise-Airport Environs Land Use Plan) of the NBMC is consistent with the following City of Newport Beach Housing Element Policies and Policy Action:

1. ***Housing Element Policy 4.2.***

*Enable construction of new housing units sufficient to meet City qualified goals by identifying adequate sites for their construction.*

2. **Policy Action 4J** (Airport Environs Sub Area Environmental Constraints).

*Policy Action 4J requires the City to take the following actions to address potential environmental constraints in the Airport Environs Sub Area and ensure continued feasibility of sites, particularly for lower-income RHNA:*

- a. Require new residential development projects in the Airport Environs Sub Area provide noise studies and acoustical analyses to ensure designs include proper sound attenuation;
- b. Require new residential development projects in the Airport Environs Sub Area to explore advanced air filtration systems for buildings to promote cleaner air;
- c. Encourage on-site indoor amenities, such as fitness facilities or recreation and entertainment facilities; and
- d. Continue to implement park dedication requirements consistent with the City's Park Dedication ordinance and Land Use Element Policy LU 6.15.13 (Neighborhood Parks—Standards) and Policy LU 6.15.16 (On-Site Recreation and Open Space) to ensure adequate recreational space to ensure at least 8-percent of a project's gross land area (exclusive of existing rights-of-way) of the first phase for any development in each neighborhood or ½ acre, whichever is greater, is developed as a neighborhood park, unless waived through Density Bonus Law.

The City has taken actions to address potential environmental constraints in the Airport Area and ensure continued feasibility of sites, particularly for lower-income RHNA by providing the following uniform and concise criteria:

- a. Prior to the issuance of any building permits for such development, a noise study shall be prepared by a City-approved qualified acoustical consultant and submitted to the Community Development Director for approval;
- b. All new residential structures or the residential units within a mixed-use development shall be attenuated to provide an interior noise level of 45 dBA CNEL or less;
- c. The design of the residential portions of mixed-use projects and residential developments shall have adequate noise attenuation between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code;
- d. New mixed-use developments shall incorporate designs with loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development;

- e. Use of walls, berms, interior noise insulation, double paned windows, advance insulation systems, or other noise mitigation measures, as deemed appropriate shall be incorporated in the design of new residential to bring interior sound attenuation to 45 dBA CNEL or less;
- f. Residential uses shall be indoor-oriented to reduce noise impingement on outdoor living areas;
- g. On-site indoor amenities, such as fitness facilities or recreation and entertainment facilities shall be encouraged; and
- h. Advanced air filtration systems for buildings shall be considered to promote cleaner air.

**Planned Community Development Plan Amendments for the Newport Placed Planned Community (PC-11) and Newport Airport Village Planned Community (PC-60)**

An amendment to PC-11 and PC-60 is a legislative act. Neither PC-11 and PC-60, Chapter 20.56 (Planning and Zoning, Planned Community District Procedures) or Chapter 20.66 (Planning and Zoning, Amendments) of Title 20 (Planning and Zoning) of NBMC, 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 amendments to Title 20 (Planning and Zoning) of the NBMC is consistent with the following General Plan policies.

**Finding and Facts in Support of Findings:**

The Amendment is consistent with the following Housing Element Policy and Policy Action:

1. See findings in support of amendments to the Noise Element and Land Use Element and Title 20 (Planning and Zoning) of the NBMC above which are incorporated herein by reference.
2. Additionally, all new housing opportunity sites located in Newport Place and Newport Airport Village planned communities are located wholly or partially outside the updated 65 dBA noise contour area. By requiring conditions of approval identified in amendment to Title 20 (Planning and Zoning) of NBMC, the City has taken actions to address potential environmental constraints in the Airport Area and ensure continued feasibility of sites, particularly for lower-income RHNA.



**SECTION 4. DECISION.**

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby finds this action is not subject to further environmental review pursuant to Section 15183 of the CEQA Guidelines because the Amendments do not change the underlying land use or zoning designations of any specific parcels, including parcels within the Airport Area or within the updated noise contours. The Amendments, therefore, will not result in development of greater intensity than is allowed under the 2006 General Plan and Newport Airport Village Planned Community, as amended. To the extent new parcels can be developed in the future for residential uses, by nature of no longer being located within areas identified as experiencing 65 dB CNEL or greater, those parcels must be part of a specific proposed project for consideration and processing by the City for approval. The Amendments are also exempt because they fall within the scope of analysis contained within the previously certified EIR No. 617, prepared for the 2014 John Wayne Airport ("JWA") Settlement Agreement, to which the City is a party.
  
2. The Planning Commission of the City of Newport Beach hereby recommends the following to the City Council:
  - a. Adopt Land Use Element Amendment, which is attached hereto as Exhibit "A," and incorporated herein by reference;
  - b. Adopt Noise Element Amendment, which is attached hereto as Exhibit "B," and incorporated herein by reference;
  - c. Adopt Title 20 (Planning and Zoning) of the NBMC, which is attached hereto as Exhibit "C," and incorporated herein by reference;
  - d. Adopt Newport Place Planned Community (PC-11) Text Amendment, which is attached hereto as Exhibit "D," and incorporated herein by reference; and
  - e. Adopt Newport Airport Village Planned Community (PC-60) Text Amendment, which is attached hereto as Exhibit "E," and incorporated herein by reference,
  - f. Adopt Land Use Element Figures LU11, LU22 and LU23 to remove the 65 dBA CNEL noise contour, which are attached hereto as Exhibit "F," Exhibit "G," and Exhibit "H," respectively, and incorporated herein by reference;
  - g. Adopt Noise Element Figures N4 and N5 to update the 65 dBA CNEL noise contour, which are attached hereto as Exhibit "I" and Exhibit "J," respectively, and incorporated herein by reference; and
  - h. Adopt CEQA - Findings of Consistency, which are attached hereto as "Exhibit K," and incorporated herein by reference.

3. In conformance with City Council Policy K-1, the Planning Commission reviewed and recommended approval of the Amendments to the City Council by the adoption of Resolution No. PC2023-015.

**PASSED, APPROVED, AND ADOPTED THIS 3rd DAY OF AUGUST, 2023.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Curtis Ellmore, Chair

BY: \_\_\_\_\_  
Tristan Harris, Secretary

**EXHIBIT "A"**  
**Amendment to the 2006 General Plan Land Use Element**  
**Airport Area**

Reference & Page	Propose Changes
<p>Airport Area narrative change</p> <p>Introduction on Pg 3-100</p>	<p>Modify the third paragraph on page 3-100 as follows:</p> <p><b>Development in the Airport Area is limited restricted due to the safety restrictions and noise associated impacts of JWA with John Wayne Airport. Much of the southwestern portion of the area is located in the 65 dBA CNEL, which is unsuitable for residential and other "noise sensitive" uses. Additionally, building heights are restricted for aviation safety. Residential uses can be allowed in the Airport Area on parcels that are wholly or partially outside the 65 dBA CNEL contour as denoted in Figures N4 and N5 of the Noise Element. Figure N5 is largely derived from the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report (EIR No. 617). Residential uses may be approved in these areas provided interior living areas are protected from excessive noise by appropriate construction techniques that reduce the interior noise to 45 dBA CNEL, consistent with state law. (See Cal. Code Regs., tit. 21, § 5014, subd. (a)(1)-(4).) Parcels that are wholly within the John Wayne Airport 65 dB CNEL contour shown in Figure N5 (e.g., those identified as experiencing noise levels above 65 dB CNEL) are unsuitable for residential development unless and until the City determines, based on substantial evidence, that the site(s) wholly within the 65-70 dB CNEL contours are needed for the City to satisfy its Sixth Cycle RHNA mandate. Nonresidential uses are, however, encouraged on parcels located wholly within the 65 dBA CNEL contour area.</b></p>
<p>Policy Overview; Pg 3-101</p>	<p>Modify the fourth sentence in first paragraph on page 3-101 as follows:</p> <p><b><del>Housing</del> Residential and mixed-use (commercial and residential) buildings would be restricted from areas exposed to exterior noise levels of John Wayne Airport 65 dBA CNEL and higher, based on the dBA CNEL contour boundaries shown in Figure N5 of the Noise Element of the General Plan, unless and until the City determines, based on substantial evidence that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate.</b></p>

<p>Policy LU6.15.3 (Airport Compatibility); Pg 3-101</p>	<p>Require that all development be constructed in conformance with the height restrictions set forth by the Federal Aviation Administration (FAA), Federal Aviation Regulations (FAR) Part 77, and Caltrans Division of Aeronautics, and that residential development <b>shall be allowed only on parcels with noise levels of less than located outside of the John Wayne Airport 65 dBA CNEL noise contour area as shown in Figure N5 of the Noise Element of the General Plan specified by the 1985 JWA Master Plan, unless and until the City determines, based on substantial evidence, that the sites wholly within the 65 dBA CNEL noise contour shown in Figure N5 are needed for the City to satisfy its Sixth Cycle RHNA mandate. Nonresidential uses are, however, encouraged on parcels located wholly within the 65 dBA CNEL contour area.</b> (Imp 2.1, 3.1, 4.1, 14.3)</p>
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**EXHIBIT "B"**  
**Amendment to the 2006 General Plan Noise Element**

Reference & Page	Proposed Changes
<p>Narrative-Community Noise Contours; Pg 12-9</p>	<p>Modify the second full paragraph on page 12-9 as follows:</p> <p>The aircraft noise contours that are used for planning purposes by the County of Orange and Airport Land Use Commission are found in the Airport Environs Land Use Plan (AELUP) and are derived from the 1985 Master Plan for JWA and the accompanying EIR 508. These noise contours are based on fleet mix and flight level assumptions developed in EIR 508, and are shown in <del>Figure N5</del> <b>Figures N1 and N2.</b>"</p> <p>Add the following paragraph after the second full paragraph on page 12-9 as follows:</p> <p><b>The Noise Chapter within 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report EIR No. 617 illustrated how the dBA CNEL noise contours have reduced in size compared to the 1985 AELUP Master Plan CNEL noise contours, in which the General Plan policies and maps are based on. The noise contours in EIR No. 617 are based on more contemporary noise modeling programs. Airport noise contours generated in this noise study using the INM Version 7.0d which was released for use in May 2013, and is the state-of-art in airport noise modeling. Consequently, Figures N4 and N5 are updated to reflect the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617.</b></p> <p>Modify the last sentence of the third full paragraph on page 12-9 as follows:</p> <p>The 65 dBA CNEL contour <i>area</i> describes the area for which new noise-sensitive developments, <b><i>including residential uses</i></b>, will be <b>conditionally</b> permitted only if appropriate measures are included such that the standards contained in this <b>Noise Element</b> are achieved. <b><i>Noise-sensitive uses shall not be located on parcels that are wholly within the John Wayne Airport 65 dBA CNEL contour as shown in Figure N5.</i></b></p> <p>Modify the fourth full paragraph on page 12-9 as follows:</p>

	<p>The JWA AELUP (last amended in 2002) only allows residential uses and other noise-sensitive uses within a 65 dBA noise contour if the interior noise standard of 45 dBA CNEL can be maintained, with an accompanying dedication of a navigation easement for noise to the airport proprietor applicable to single-family residences. <b>Furthermore, residential units should be sufficiently indoor-oriented, consistent with Title 21 of the California Code of Regulations, so as to reduce noise impingement on outdoor living areas.</b> The JWA AELUP also strongly recommends that if any residential uses are allowed within a 60 dBA CNEL contour that sufficient sound attenuating methods are used to maintain a 45 dBA CNEL interior noise level. <b>all designated outdoor common or recreational areas provide outdoor signage informing the public of the presence of operating aircraft.</b></p>
<p>Policy N1.2 (Noise Exposure Verification for New Development); Pg 12-25</p>	<p>Applicants for proposed <b>residential or mixed-use</b> projects that require environmental review and are located in areas projected to be exposed to <b>65-70 dBA CNEL or greater</b> CNEL 60 dBA and higher, as shown on Figure N4, Figure N5, and Figure N6 may <b>must</b> conduct a field survey, noise measurements or other modeling in a manner acceptable to the City <b>noise study</b> 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 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 measures when other planning considerations are taken into account, <b>consistent with Title 21 of the California Code of Regulations.</b> (Imp 2.1)</p>
<p>Policy N1.5 (Infill Projects); Pg 12-25</p>	<p>Allow a higher (above <b>65 dBA CNEL</b>) 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 <b>or mixed-use project containing a residential component, consistent with Title 21 of California Code of Regulations.</b> (Imp 2.1, 7.1)</p>

<p>Policy N1.5A (Airport Area Infill Projects)  <b>New Policy</b></p>	<p><b>Allow infill residential projects proximate to John Wayne Airport to have a higher exterior noise level standard (65-70 dBA CNEL) if it can be shown that there are no practical mechanisms or designs to meet the exterior noise levels. The interior standard of 45 dBA CNEL shall be enforced for any residential component of projects. No residential units may be located on parcels wholly within the John Wayne Airport 65 dBA CNEL noise contour area as shown in Figure N5, of the Noise Element of the General Plan, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate. Nonresidential uses are encouraged on parcels located wholly within the 65 dBA CNEL contour area, shown in Figure N5.</b></p>
<p>Policy N2.2 (Design of Sensitive Land Uses); Pg 12-26</p>	<p>Require the use of walls, berms, interior noise insulation, double-paned windows, <b>advanced insulation systems</b>, or other noise mitigation measures, as appropriate, in the design of new residential <b>developments to attenuate noise levels to not exceed 45 dBA CNEL interior.</b> <del>or</del> Other new noise sensitive land uses that are adjacent to major roads <del>arterials</del> <b>and located proximate to John Wayne Airport (e.g., infill residential) and within the 65-70 dBA CNEL noise contour area are required to be indoor-oriented to reduce noise impacts on outdoor living or recreational areas.</b> Application of the Noise Standards in Table <del>N3</del> <b>N2</b> shall govern this requirement. (Imp 7.1)</p>
<p>Policy N3.1 (New Development); Pg 12-27</p>	<p>Ensure new development is compatible with the noise environment <del>by using airport noise contours no larger than those contained in the 1985 JWA Master Plan, as guides to future planning and development decisions</del> <b>proximate to John Wayne Airport by not allowing residential units on parcels located wholly within the John Wayne Airport 65 dBA CNEL noise contour, as shown in Figure N5 of the Noise Element of the General Plan, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate.</b></p>
<p>Policy N3.2 (Residential Development); Pg 12-28</p>	<p>Require that residential development <del>in</del> <b>proximate to John Wayne Airport Area shall not be located outside on parcels wholly within the John Wayne Airport 65 dBA</b> <del>outside of the 65 dBA CNEL noise contour shown in Figure N5 of the</del></p>

**Noise Element of the General Plan, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate. ~~the 1985 JWA Master Plan and.~~ Require residential developers of residential or mixed-use land uses with a residential component to notify prospective purchasers or tenants of aircraft noise. Additionally, require outdoor common areas or recreational areas of residential or mixed-used developments to be posted with signs notifying users regarding the proximity to John Wayne Airport and the presence of operating aircraft and noise. (Imp 2.1, 3.1, 4.1)**



**EXHIBIT "C"**

**Amendment to Title 20 (Planning and Zoning) of the Newport Beach Municipal Code**

Amend Section 20.30.080.F (~~Noise Airport Environs Land Use Plan Residential Use Proximate to John Wayne Airport~~) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code to read as follows:

**F. Residential Use Proximate to John Wayne Airport ~~Environs Land Use Plan~~.** Residential uses, including mixed-use residential, shall be ~~prohibited within the 1985 John Wayne Airport (JWA) Master Plan 65 dBA CNEL contour~~ ***allowed on parcels wholly or partially outside the John Wayne Airport 65 dBA CNEL noise contour as shown in Figure N5 of the Noise Element of the General Plan, as identified in the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report (EIR No. 617) and consistent with Title 21 of the California Code of Regulations, subject to the following conditions that apply to all residential project within the John Wayne Airport 60 dBA CNEL or higher CNEL noise as shown in Figures N4 and N5 of the Noise Element of the General Plan:***

- 1) Prior to the issuance of any building permits for such development, a noise study shall be prepared by a City-approved qualified acoustical consultant and submitted to the Community Development Director for approval;***
- 2) All new residential structures or the residential units within a mixed-use development shall be attenuated to provide an interior noise level of 45 dBA CNEL or less;***
- 3) The design of the residential portions of mixed-use projects and residential developments shall have adequate noise attenuation between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code;***
- 4) New mixed-use developments shall incorporate designs with loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development;***
- 5) Use of walls, berms, interior noise insulation, double paned windows, advance insulation systems, or other noise mitigation measures, as deemed appropriate shall be incorporated in the design of new residential to bring interior sound attenuation to 45 dBA CNEL or less;***
- 6) Residential uses shall be indoor-oriented to reduce noise impingement on outdoor living areas;***
- 7) On-site indoor amenities, such as fitness facilities or recreation and entertainment facilities shall be encouraged; and***
- 8) Advanced air filtration systems for buildings shall be considered to promote cleaner air.***

***Residential development shall be limited to parcels wholly or partially outside the 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy***

***its Sixth Cycle RHNA mandate. Non-residential uses are encouraged on parcels located wholly within the 65 dBA CNEL contour area.***

**EXHIBIT "D"**  
**Amendment to Newport Place Planned Community (PC-11)**

Amend Part III. Residential Overlay, Section V.D.1 (Airport Noise Compatibility) to read as follows:

1. Residential development shall be located ~~outside up to the JWA 65-dB CNEL noise contour,~~ specified by the ~~1985 JWA Master Plan~~ **the John Wayne Airport 65 dBA CNEL noise contour as shown in Figure N5 of the Noise Element of the General Plan, and subject to compliance with Section 20.30.080.F (Residential Use Proximate to John Wayne Airport) of the Newport Beach Municipal Code. Residential development shall be limited to parcels wholly or partially outside the 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate. Non-residential uses are encouraged on parcels located wholly within the 65 dBA CNEL contour area.**

**EXHIBIT "E"**  
**Amendment to Newport Airport Village Planned Community (PC-60)**

Amend Section I.D. (Purpose and Objective) to read as follows:

**"D. Purpose and Objective**

The purpose of the PCDP is to establish appropriate zoning regulations that govern the land use and development of the PC in a manner that is consistent with the City of Newport Beach General Plan. Implementation of the PCDP will:

- Provide a quality mixed-use development that includes residential and supporting commercial uses; as well as, commercial uses that support or benefit from the proximity to the airport.
- Create two planning areas to guide the development of the PC District (see Figure 4). Planning Area 1 will include the residential and, potentially, a complimentary retail or service commercial component of the PC District. Planning Area 2 will consist exclusively of non-residential uses.
- Provide new housing opportunities in response to increased demand for housing, reduction of vehicle trips, and an encouragement of an active lifestyle by increasing the opportunity for residents to live in proximity to jobs, services, and entertainment. Such housing will be proximate to, and interconnected with, commercial development through pedestrian walkways provided by future development within the PCDP.

~~- Ensure that all residential units are located outside the John Wayne Airport 65 dBA CNEL noise contour and Safety Zone 3 and noise-sensitive uses (e.g., schools, churches, hospitals, public libraries) regardless of location, shall be designed to maintain the interior noise standard of 45 dBA CNEL or less and in compliance with Section 20.30.080.F (Residential Use Proximate to John Wayne Airport) of the Municipal Code.~~

***" - Protect future residents and other sensitive uses by prohibiting these uses from being developed on parcels that are wholly within the John Wayne Airport 65 dBA CNEL noise contour area shown in Figure N5 of the Noise Element of the General Plan. Residential development shall be limited to parcels wholly or partially outside the John Wayne Airport 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate. Non-residential uses are encouraged on parcels located wholly within the John Wayne Airport 65 dBA CNEL contour area as shown in Figures N5 of the Noise Element of the General Plan and outside of Safety Zone 3 of the AELUP."***

Amend Section II.A. (Permitted Uses) to read as follows:

Table 1 lists the permitted uses for each planning area of the Planned Community. The uses identified within the table are not intended to be a comprehensive list, but rather major use

**categories. All residential units and noise-sensitive uses, regardless of location, shall maintain the interior noise standard of 45 dBA CNEL or less, and shall be located on parcels wholly or partially outside the John Wayne Airport 65 dBA noise contour as shown in Figures N5 of the Noise Element of the General Plan-area and Safety Zone 3 of the AELUP. Residential development shall be limited to parcels wholly or partially outside the John Wayne Airport 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate. Non-residential uses are encouraged on parcels located wholly within the John Wayne Airport 65 dBA CNEL contour area.**

The Community Development Director may determine other uses not specifically listed herein are allowed or allowed pursuant to an MUP or a CUP, provided they are consistent with the purpose of the planning areas, are compatible with surrounding uses, and are not listed as a prohibited use.

Amend Section II.B. (Prohibited Uses) to read as follows:

The following uses shall be expressly prohibited from the PCDP:

**B. Prohibited Uses**

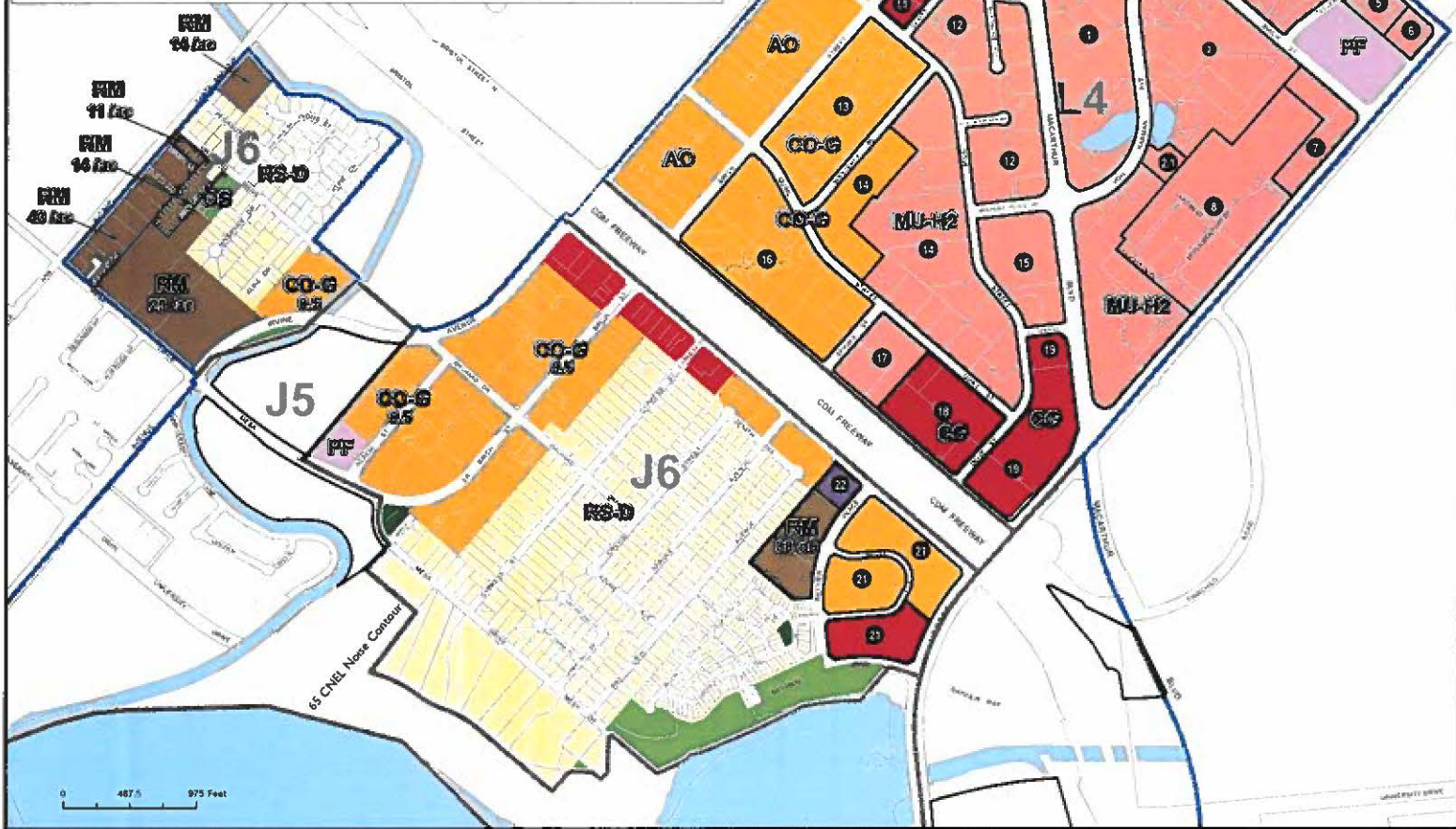
The following uses shall be expressly prohibited from the PCDP:

1. Any use not authorized by this PCDP unless the Community Development Director determines a particular use consistent with the purpose and intent of the PCDP,
- ~~2. Residential dwelling units within (i.e., west of) the 65 dBA CNEL (or above) noise contour from John Wayne Airport (residential accessory uses, and amenities are allowed),~~
2. Residential dwelling units within John Wayne Airport Safety Zone 3 (residential accessory uses, and amenities are allowed),
3. The following uses, if said structure within 250 feet of any residential dwelling unit:
  - a. Handicraft Industry
  - b. Industry, Small (less than 5,000 sq. ft.)
  - c. Emergency Health Facilities/Urgent Care
  - d. Ambulance Services
  - e. Funeral Homes and Mortuaries
  - f. Maintenance and Repair Services.

**EXHIBIT "F"**  
**Land Use Element Figure LU11 – Statistical Areas J6, L4**

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CC Resolution No.	GPA No.	Project No.	Adopting Date	Description
2020-84	GP2014-004	PA2014-225	09/22/2020	Change land use designation from Airport Office and Supporting Uses (AO) to Mixed-Use Horizontal 2 (MU-H2) and add Anomaly No. 86 (329 dwelling units and 297,572 commercial sq ft) for 4341, 4361, and 4501 Birch Street; 4320, 4340, 4360, 4400, 4500, 4520, 4540, 4570, 4600, and 4630 Campus Drive; and 4525, 4533, and 4647 MacArthur Boulevard.
2019-14	GP2015-004	PA2015-210	02/12/2019	Change land use designation from General Commercial Office (CO-G) to Private Institutions (PI) and amend Anomaly No. 22 to allow 85,000 square feet for Residential Care Facility for the Elderly located at 101 Baynew place
2011-21	GP2007-009	PA2007-213	02/22/2011	Increase the maximum allowable development limit by 11,544 square feet and create anomaly No. 21 for 4300 Von Karman.



CITY of NEWPORT BEACH  
GENERAL PLAN  
Figure LU11  
STATISTICAL AREAS  
J6, L4

- Residential Neighborhoods**
- RS-D Single-Unit Residential Detached
  - RS-A Single-Unit Residential Attached
  - RT Two-Unit Residential
  - RM Multiple-Unit Residential
  - MF Multiple-Unit Residential Detached
- Commercial Districts and Corridors**
- CB Neighborhood Commercial
  - CC Corridor Commercial
  - CG General Commercial
  - VSC Visitor Serving Commercial
  - RCM Recreational and Marine Commercial
  - RR Regional Commercial
- Commercial Office Districts**
- CO-O General Commercial Office
  - CO-M Medical Commercial Office
  - CO-R Regional Commercial Office
- Industrial Districts**
- IG Industrial
- Airport Supporting Districts**
- AO Airport Office and Supporting Uses
- Mixed-Use Districts**
- MU-HV Mixed Use Vertical
  - MU-HH Mixed Use Horizontal
  - MU-WR Mixed Use Water Related
- Public, Semi-Public and Institutional**
- PF Public Facilities
  - PI Private Institutions
  - PR Parks and Recreation
  - OS Open Space
  - TS Tidelands and Submerged Lands
- City of Newport Beach Boundary  
Statistical Area Boundary L4  
Land Use Delineator Line  
Refer to anomaly table








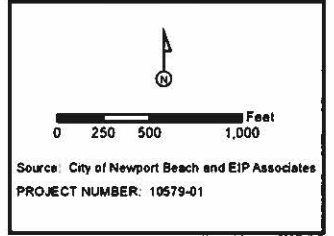
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**EXHIBIT "G"**  
**Land Use Element Figure LU22 – Airport**

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CITY of NEWPORT BEACH  
 GENERAL PLAN  
**FIGURE LU22  
 AIRPORT AREA**

-  Sub-Area
-  Conceptual Development Plan Area
-  Land Use Delineator Line
-  Highway
-  Refer to anomaly table



LAND USE POLICY		
(A)	Underlying Uses: Office, Hotel, Supporting Retail, Residential Village, Housing and Mixed-Use (with Guidelines for Design and Development)	(C)
(B)	Airport-Supporting Businesses	(C)
(C)	Commercial and Office	



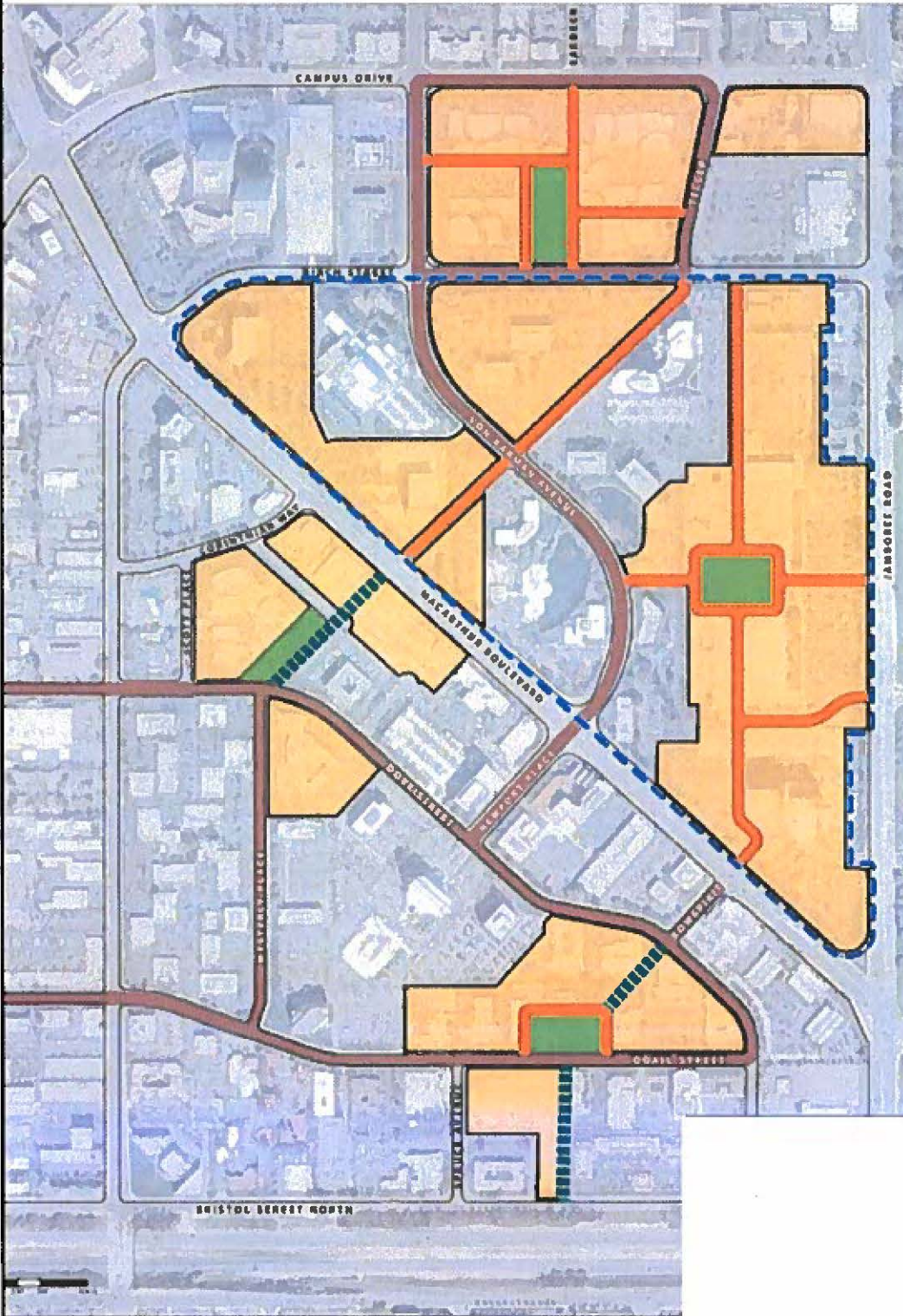
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**EXHIBIT "H"**  
**Land Use Element Figure LU23 - Airport Area Residential Villages Illustrative Concept Diagram**

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CITY of NEWPORT BEACH  
GENERAL PLAN

**Figure LU23**  
**AIRPORT AREA RESIDENTIAL**  
**VILLAGES ILLUSTRATIVE**  
**CONCEPT DIAGRAM**



**Legend**

- OPPORTUNITY SITES
- PROPOSED OPEN SPACES
- IMPROVED RESIDENTIAL STREETS
- PROPOSED RESIDENTIAL STREETS
- PROPOSED PEDESTRIAN WAYS
- CONCEPTUAL PLAN REQUIRED



Source: ROMA Design Group  
PROJECT NUMBER: 10579-01  
Date: 08/03/06





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**EXHIBIT "I"**  
**Noise Element Figures N4 - Future Noise Contours**

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**CITY of NEWPORT BEACH  
GENERAL PLAN  
Figure N4  
FUTURE  
NOISE CONTOURS**

- Roadway Noise Contours**
- 70 CNEL
  - 65 CNEL
  - 60 CNEL
- JWA Noise Contours**
- 70 CNEL
  - 65 CNEL
  - 60 CNEL
- City Boundary
  - John Wayne Airport

The noise contours represent the maximum possible traffic noise levels at locations within them (i.e., they do not account for building placement or traffic speeds, nor include the attenuating effects of walls, structures, and terrain features that might intervene between the roads and any location of interest).



0 1 Miles

Source: City of Newport Beach, Moske Grove Associates and EP Associates  
PROJECT NUMBER: 10579-01  
Date: 4/17/06



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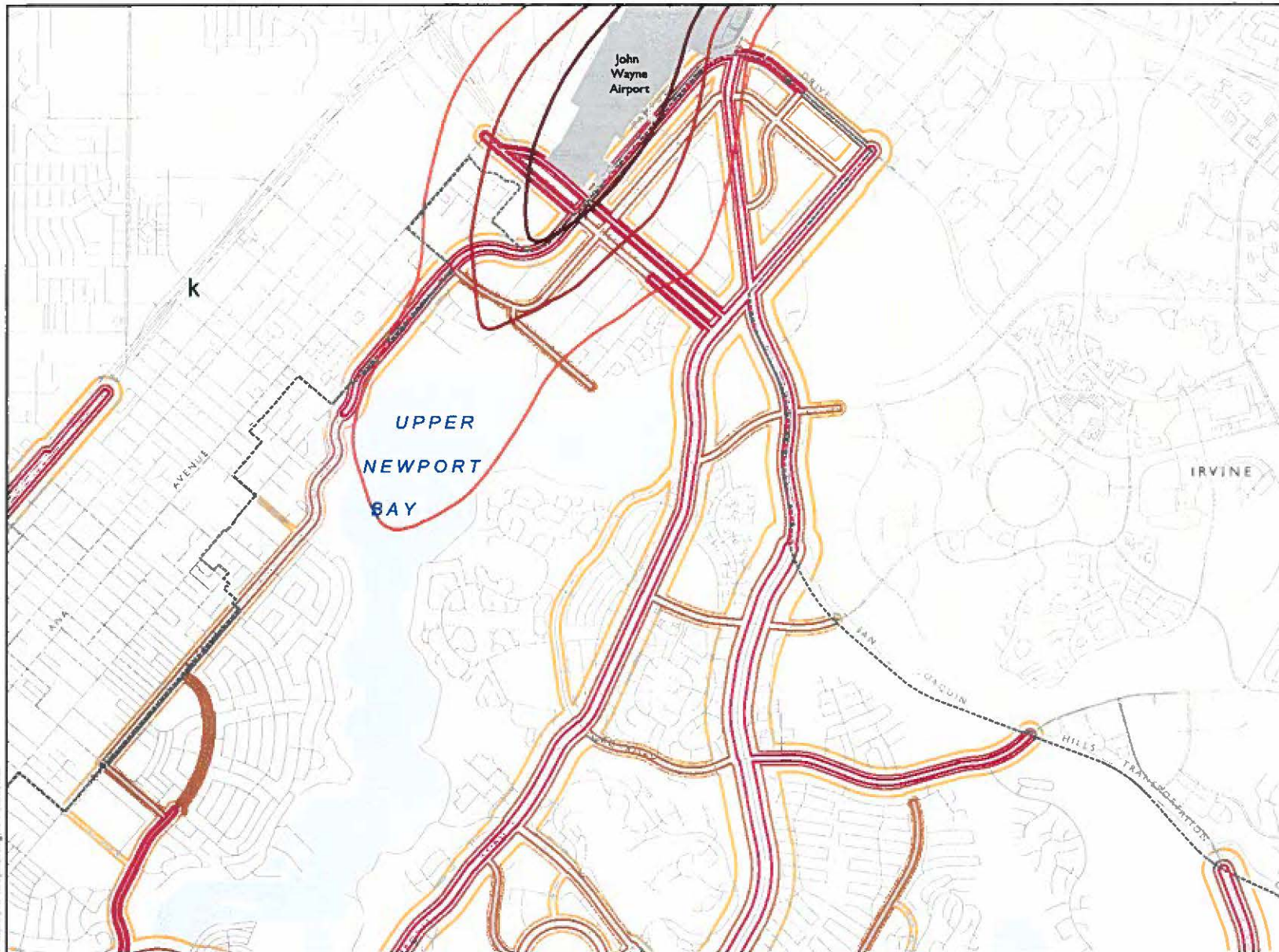
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**EXHIBIT "J"**  
**Noise Element Figure N5 - Future Noise Contours**

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CITY of NEWPORT BEACH  
GENERAL PLAN

Figure N5  
FUTURE  
NOISE CONTOURS



**Roadway Noise Contours**

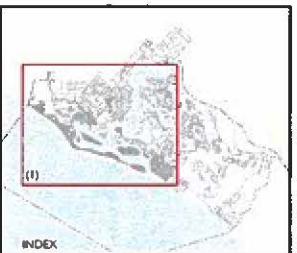
- 70 CNEL
- 65 CNEL
- 60 CNEL

**JWA Noise Contours**

- 70 CNEL
- 65 CNEL
- 60 CNEL

- City Boundary
- John Wayne Airport

The noise contours represent the maximum possible traffic noise levels at locations within them (i.e., they do not account for building placement or traffic speeds, nor include the attenuating effects of walls, structures, and terrain features that might intervene between the roads and any location of interest).



0 1 Miles

Source: City of Newport Beach, Mettler Greve Associates and EP Associates  
PROJECT NUMBER: 10579-01  
Date: 4/17/06

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**EXHIBIT "K"**  
**CEQA - Findings of Consistency**

The California Environmental Quality Act ("CEQA") (California Public Resources Code §§21000 et seq.); the State CEQA Guidelines (Title 14, California Code of Regulations §§15000 et seq.); and the rules, regulations, and procedures for implementing CEQA as set forth by the City of Newport Beach ("City") provide guidance regarding when additional environmental review is required. Pursuant to the provisions of CEQA and the State CEQA Guidelines, Newport Beach is the Lead Agency charged with the responsibility of deciding whether to approve the Amendments to Newport Beach General Plan Land Use and Noise Elements, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code, Newport Place Planned Community (PC-11), and Newport Airport Village Planned Community (PC-60) (Amendments) to accommodate housing units identified by the certified 2021-2029 Sixth Cycle General Plan Housing Element.

The provisions of State CEQA Guidelines Section 15183 are applicable to the Amendments. The Amendments are not subject to further environmental review pursuant to CEQA Guidelines Section 15183 because the Amendments do not change the underlying land use or zoning designations of any specific parcels, including parcels within the Airport Area or within the updated noise contours; and would not result in new significant impacts or a substantial more adverse impact than addressed in *John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617* (State Clearinghouse No. 2001111135) (EIR No. 617). The Amendments are also exempt because they fall within the scope of analysis contained within the previously certified EIR No. 617, prepared for the 2014 John Wayne Airport Settlement Agreement, to which the City is a party.

CEQA Guidelines Section 15183 provides, in relevant part:

- (a) CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.
- (b) In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:
  - (1) Are peculiar to the project or the parcel on which the project would be located,
  - (2) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent,
  - (3) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or

- (4) Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.
- (c) If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision (e) below, then an additional EIR need not be prepared for the project solely on the basis of that impact.
- (d) This section shall apply only to projects which meet the following conditions:
  - (1) The project is consistent with:
    - (A) A community plan adopted as part of a general plan,
    - (B) A zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or
    - (C) A general plan of a local agency, and
  - (2) An EIR was certified by the lead agency for the zoning action, the community plan, or the general plan.

As part of its decision-making process, the City is required to review and consider whether the Amendments would create new significant impacts or significant impacts that would be substantially more severe than those disclosed in the *John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617* (State Clearinghouse No. 2001111135) (EIR No. 617). Additional CEQA review is only triggered if the Amendments create new significant impacts or impacts that are more severe than those disclosed in EIR No. 617 such that major revisions to the EIR would be required.

The Amendments provide for updated noise contours as established in EIR No. 617 and revisions to General Plan policies, Title 20 of Newport Beach Municipal Code (NBMC), Newport Place Planned Community (PC-11), and Newport Airport Village Planned Community (PC-60) to allow for consistency between the certified 2021-2029 Sixth Cycle Housing Element and the Newport Beach General Plan and NBMC as it applies to future housing uses near John Wayne Airport. The Amendments are proposed to ensure consistency pursuant to the State Planning and Zoning Law and the City's compliance with its RHNA allocation.

Residential and mixed-use (commercial and residential) buildings would be restricted from areas exposed to exterior noise levels of 65 dBA CNEL and higher, based on the dBA CNEL contour boundaries set forth in EIR No. 617 for inclusion as Figure N5 of the Noise Element of the General Plan, unless and until the City determines, based on substantial evidence that the sites wholly within such contour area are needed for the City to satisfy its Sixth Cycle RHNA mandate. The Amendments do not grant any development entitlements or authorize development.

The proposed policy changes and NBMC amendments would allow the City to implement housing policies which are in the Sixth Cycle Housing Element. The Sixth Cycle Housing Element was determined to be statutorily exempt under CEQA Guidelines Section 15262 because it does not provide development entitlements to any specific land use projects, nor does it make any changes to the General Plan land use map or modify land use designations, densities, or land use intensities.

The policies and program changes are needed for the City's compliance with its RHNA allocation and would not cause a significant effect on the environment or that were previously analyzed adequately in the Newport Beach General Plan Update Program EIR (SCH No. 2006011119) or EIR No. 617.

The Noise Chapter of EIR No. 617 explained how the dBA CNEL noise contours have reduced in size compared to the 1985 Airport Environs Land Use Plan (AELUP) Master Plan CNEL noise contours, in which the City's General Plan policies and maps are based on. The 1985 Master Plan noise contours are considerably larger than the existing noise contours presented previously. This is largely due to a quieter fleet of existing commercial aircraft and a dramatic reduction in the number of generation aviation operations. The noise contours in EIR No. 617 are based on more contemporary noise modeling programs, as the EIR explained that "one of the most important factors in generating accurate noise contours is the collection of accurate operational data". Airport noise contours generated in this noise study using the INM Version 7.0d which was released for use in May 2013, and is the state-of-art in airport noise modeling.

As such, the City proposes to update the Noise Element to include these noise contours, which in part, modify where residential uses could occur outside of the 65 CNEL contour in the Airport Area. Based on these updated noise contours, certain Housing Opportunity Sites will now be outside of the 65 CNEL contour while others will be within the 65 CNEL contour. However, the Amendments will not result in development of greater intensity than is allowed under the 2006 General Plan and Newport Airport Village Planned Community, as amended. Residential uses can be allowed in the Airport Area on parcels that are wholly or partially outside the 65dBA CNEL contour as denoted in Figure N5 of the Noise Element. Figure N5 is largely derived from EIR No. 617. Residential uses may be approved in these areas provided interior living areas are protected from excessive noise by appropriate construction techniques that reduce the interior noise to 45 dBA CNEL, consistent with state law. Parcels that are wholly within the 65 dB CNEL contour shown in Figure N5 (e.g., those identified as experiencing noise levels above 65 dB CNEL) are unsuitable for residential development unless and until the City determines, based on substantial evidence, that the site(s) wholly within the 65-70 dB CNEL contours are needed for the City to satisfy its Sixth Cycle RHNA mandate. The changes would not allow for more development than assumed in the growth assumptions in the General Plan nor would it impact the City's RHNA obligations.

To the extent new parcels are able to be developed in the future for residential uses, by nature of no longer being located within areas identified as experiencing 65 dB CNEL or greater, those parcels must be part of a specific proposed project for consideration and processing by the City for approval. Future housing development would be subject to compliance with the established regulatory framework, namely federal, State, regional, and local (including General Plan policies, NBMC standards, and Standard Conditions of Approval). While by-right housing projects may be

exempt from CEQA, all future residential uses affected by the Amendments would continue to be subject to further development review, which can include technical supporting reports.

No new information that was not known at the time the General Plan and EIR No. 617 were prepared is now available that demonstrates that the Amendments will result in a new or increased significant impact. The Amendments would not cause growth beyond that accommodated by the General Plan. The Amendments do not introduce new land use designations or otherwise alter general land use patterns or development standards. Therefore, the findings of previously certified EIR No. 617 are applicable to the Amendments. Implementation of the Amendments would not substantially increase the severity of previously identified impacts, including but not limited to air emissions and greenhouse gas emissions. Although the noise contours would be updated, the requirements for compliance with noise standards would not change.

In summary, the Amendments would not result in any new significant environmental effects that are substantially different from those identified in EIR No. 617 nor would it substantially increase the severity of significant effects previously identified in EIR No. 617. Therefore, based on the provisions of State CEQA Guidelines Section 15183, no additional CEQA documentation is required.

**City of Newport Beach Housing Element Implementation – Noise -Related Amendments**  
Attachment No. 3

*Proposed Noise Amendments*

The City of Newport Beach is amending the followings to Newport Beach General Plan Land Use and Noise Elements, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code, Newport Place Planned Community (PC-11), and Newport Airport Village Planned Community (PC-60) to accommodate housing units identified by the certified 2021-2029 Sixth Cycle General Plan Housing Element:

- Adopting updated noise contours (shown in Noise Element Figures N4 and N5) to reflect the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 (EIR No. 617),
- Updating Land Use and Noise Element Policies, Land Use Element Figures LU11, LU22, and LU23, Title 20, PC-11, and PC-60 to modify and incorporate the updated noise contours identified by EIR No. 617 and to implement additional noise attenuation measures for future housing units proximate to John Wayne Airport; and
- Allowing residential units identified by the certified 2021-2029 Sixth Cycle Newport Beach Housing Element to be located within the 65 dBA CNEL noise contour area as identified in the updated noise contour maps identified by EIR No. 617. Parcels bisected by the updated 65 dBA CNEL noise contour could support future housing; whereas parcels located wholly within the updated 65 dBA CNEL noise contour could support housing, if deemed necessary to satisfy the Regional Housing Needs Assessment (RHNA) mandate.

The following specific policies, maps, and regulations are proposed to be changed:

Land Use Element:

- Policy LU6.15.3 (Airport Compatibility)
- Figure LU11 – Statistical Areas J6, L4 (removal of the outdated 65 dBA CNEL noise contour line),
- Figure LU22 – Airport (removal of the outdated noise contour line), and
- Figure LU23 - Airport Area Residential Villages Illustrative Concept Diagram (removal of the outdated noise contour line)

Noise Element:

- Policy N1.2 (Noise Exposure Verification for New Development)
- Policy N1.5.A (Airport Area Infill Projects (new policy for Airport Area)
- Policy N2.2 (Design of Sensitive Land Uses)
- Policy N3.2 (Residential Development)
- Figure N4 - Future Noise Contours (update JWA noise contours) and
- Figure N5 - Future Noise Contours (update JWA noise contours)

Title 20 Zoning Code Amendment:

- Section 20.30.080(F) (Noise-Airport Environs Land Use Plan)

**City of Newport Beach Housing Element Implementation – Noise -Related Amendments**  
Attachment No. 3

**Planned Community Text Amendments:**

- Newport Place Planned Community (PC-11) – Part III. Residential Overlay Zone, Section V.D.1 (Airport Noise Compatibility)
- Newport Airport Village Planned Community (PC-60) –Sections I.D (Purpose and Objective), & II.A & B (Permitted & Prohibited Uses)

Please refer to the August 3, 2023, Planning Commission Staff Report for detail discussion of the proposed changes. The precise changes are included in the draft resolution as Attachment PC 1 (Draft Planning Commission Resolution with Proposed Amendments). Updated Land Use Element Figures LU 11, LU22, and LU22 and Noise Element Figures N4 and N5 are also referenced and included in the draft resolution.

*Community Noise Equivalent Levels (CNEL) Compatibility*

A total of 62 new housing opportunity sites are identified in the Airport Area according to the Sixth Cycle Housing Element. Of those sites, 48 are located wholly or partially outside the 65 dBA CNEL contour identified by the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 (EIR No. 617). Only 14 new housing opportunity sites are located wholly within the updated 65 dBA CNEL contour boundary.

As discussed in AELUP Subsection 3.2.3 (Noise Impact Zone “1” – High Noise Impact [65 dB CNEL and above]) and Subsection 3.2.4 (Noise Impact Zone “2” – Moderate Noise Impact [60 dB CNEL or greater, less than 65 dB CNEL]), residential units may be consistent with proper sound-attenuation and careful design considerations. For any residential sites and uses within Noise Impact Zone “1” or “2,” the City requires future development to be consistent with the AELUP considerations and proposed noise-related policies and development standards to ensure compatibility.

Table 1 (Airport Land Use Commission for Orange County Airport Environs Land Use Plan Limitations on Land Use Due to Noise) of the AELUP shows all types of residential land uses in this noise area as “Normally Inconsistent” *unless sound attenuated to ensure that the interior CNEL does not exceed 45 dB, and that all units are indoor oriented so as to preclude noise impingement on outdoor living areas.* This is further explained in Subsection 3.2.3 (Noise Impact Zone “1” – High Noise Impact [65 dB CNEL and above]). The City’s proposed changes will help to ensure that appropriate noise considerations are made and that mitigation measures are included in the design. Please see Attachment PC1 of the August 3, Planning Commission Staff Report for the complete list of changes to General Plan policies, zoning codes, and planned communities.

**TABLE 1**

**AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY  
AIRPORT ENVIRONS LAND USE PLAN  
LIMITATIONS ON LAND USE DUE TO NOISE  
(Applicable to Aircraft Noise Sources)**

LAND USE CATEGORY	COMMUNITY NOISE EQUIVALENT LEVEL dB					
	55	60	65	70	75	80
Residential (all types): Single and Multi-Family Residences						
Community Facilities: Churches, Libraries, Schools, Preschools, Day-Care Centers, Hospitals, Nursing/Convalescent Homes, & Other noise sensitive uses						
Commercial: Retail, Office						
Industrial:						



**NORMALLY CONSISTENT**

Conventional construction methods used. No special noise reduction requirements.



**CONDITIONALLY CONSISTENT**

Must use sound attenuation as required by the California Noise Insulation Standards, Title 25, California Code of Regulations. Residential use sound attenuation required to ensure that the interior CNEL does not exceed 45 dB. Commercial and industrial structures shall be sound attenuated to meet Noise Impact Zone "1" criteria (refer to Section 3.2.3).



**NORMALLY INCONSISTENT**

All residential units are inconsistent unless are sound attenuated to ensure that the interior CNEL does not exceed 45 dB, and that all units are indoor oriented so as to preclude noise impingement on outdoor living areas.



**City of Newport Beach Housing Element Implementation – Noise -Related Amendments  
Attachment No. 3**

*Safety Compatibility*

As part of the site selection process, the City avoided sites in the following runway safety zones:

- Safety Zone 1 – Runway Protection Zone “RPZ”;
- Safety Zone 2 – Inner Approach/Departure Zone;
- Safety Zone 3 – Inner Turning Zone; and
- Safety Zone 5 – Sideline Zone

58 of the 62 new sites identified within the vicinity of JWA are completely within Safety Zone 6 – Traffic Pattern Zone, with the remaining 4 being only *partially* within Safety Zone 4 – Outer Approach/Departure Zone.

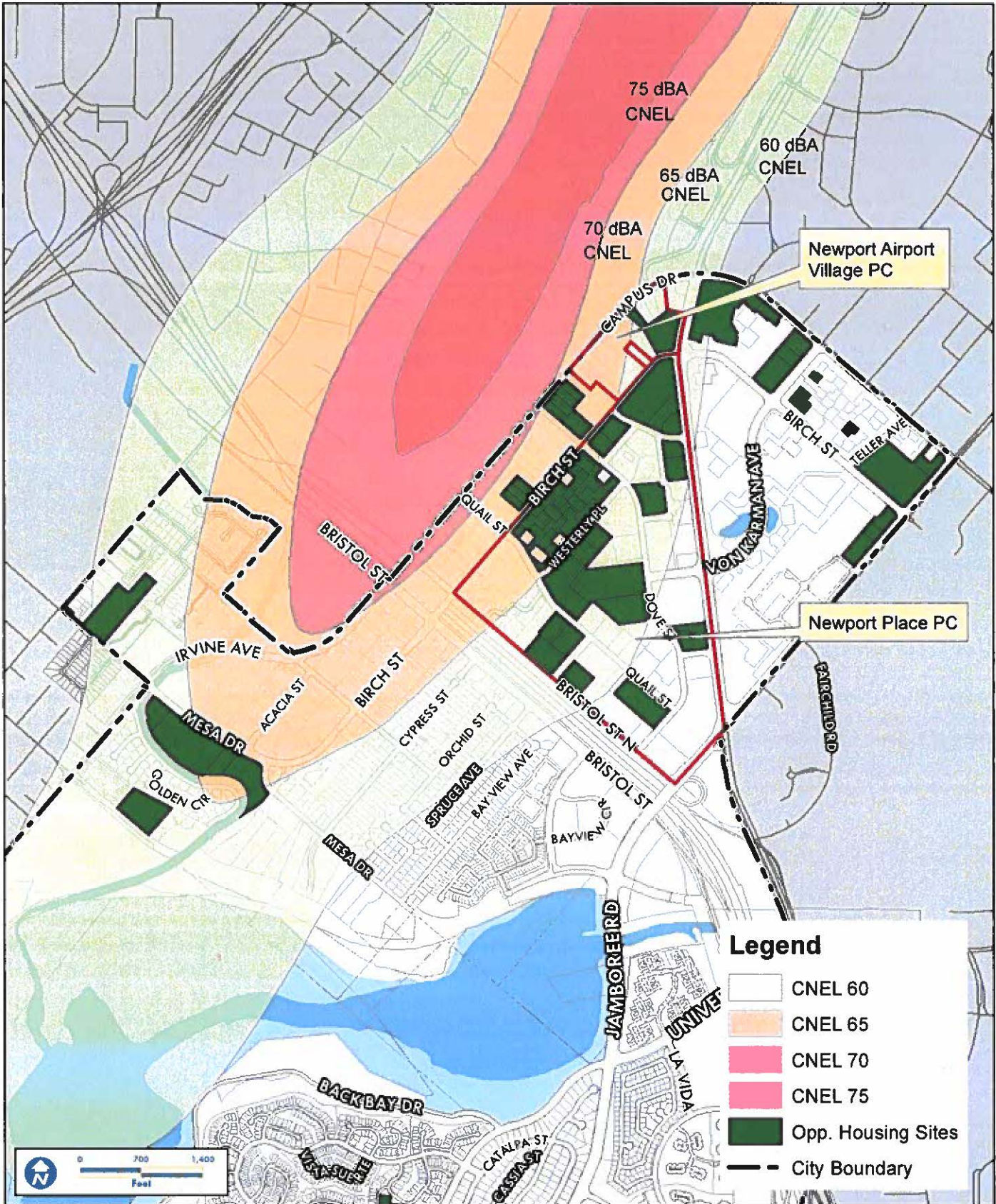
As provided in Appendix D of the AELUP, Table 9B (Safety Compatibility Qualities), residential uses are allowed in Safety Zone 6. Residential uses are allowed in Safety Zone 4 as infill in urban areas.

<p><b>Zone 4: Outer Approach/Departure Zone</b></p> <p align="center"><i>Risk Factors / Runway Proximity</i></p> <ul style="list-style-type: none"> <li>▶ Situated along extended runway centerline beyond Zone 3</li> <li>▶ Approaching aircraft usually at less than traffic pattern altitude</li> <li>▶ Particularly applicable for busy general aviation runways (because of elongated traffic pattern), runways with straight-in instrument approach procedures, and other runways where straight-in or straight-out flight paths are common</li> <li>▶ Zone can be reduced in size or eliminated for runways with very-low activity levels</li> </ul>	<p align="center"><i>Basic Compatibility Qualities</i></p> <ul style="list-style-type: none"> <li>▶ In undeveloped areas, limit residential uses to very low densities (if not deemed unacceptable because of noise); if alternative uses are impractical, allow higher densities as infill in urban areas</li> <li>▶ Limit nonresidential uses as in Zone 3</li> <li>▶ Prohibit children’s schools, large day care centers, hospitals, nursing homes</li> </ul>
<p><b>Zone 5: Sideline Zone</b></p> <p align="center"><i>Risk Factors / Runway Proximity</i></p> <ul style="list-style-type: none"> <li>▶ Encompasses close-in area lateral to runways</li> <li>▶ Area not normally overflowed; primary risk is with aircraft (especially twins) losing directional control on takeoff</li> <li>▶ Area is on airport property at most airports</li> </ul>	<p align="center"><i>Basic Compatibility Qualities</i></p> <ul style="list-style-type: none"> <li>▶ Avoid residential uses unless airport related (noise usually also a factor)</li> <li>▶ Allow all common aviation-related activities provided that height-limit criteria are met</li> <li>▶ Limit other nonresidential uses similarly to Zone 3, but with slightly higher usage intensities</li> <li>▶ Prohibit children’s schools, large day care centers, hospitals, nursing homes</li> </ul>
<p><b>Zone 6: Traffic Pattern Zone</b></p> <p align="center"><i>Risk Factors / Runway Proximity</i></p> <ul style="list-style-type: none"> <li>▶ Generally low likelihood of accident occurrence at most airports; risk concern primarily is with uses for which potential consequences are severe</li> <li>▶ Zone includes all other portions of regular traffic patterns and pattern entry routes</li> </ul>	<p align="center"><i>Basic Compatibility Qualities</i></p> <ul style="list-style-type: none"> <li>▶ Allow residential uses</li> <li>▶ Allow most nonresidential uses; prohibit outdoor stadiums and similar uses with very high intensities</li> <li>▶ Avoid children’s schools, large day care centers, hospitals, nursing homes</li> </ul>

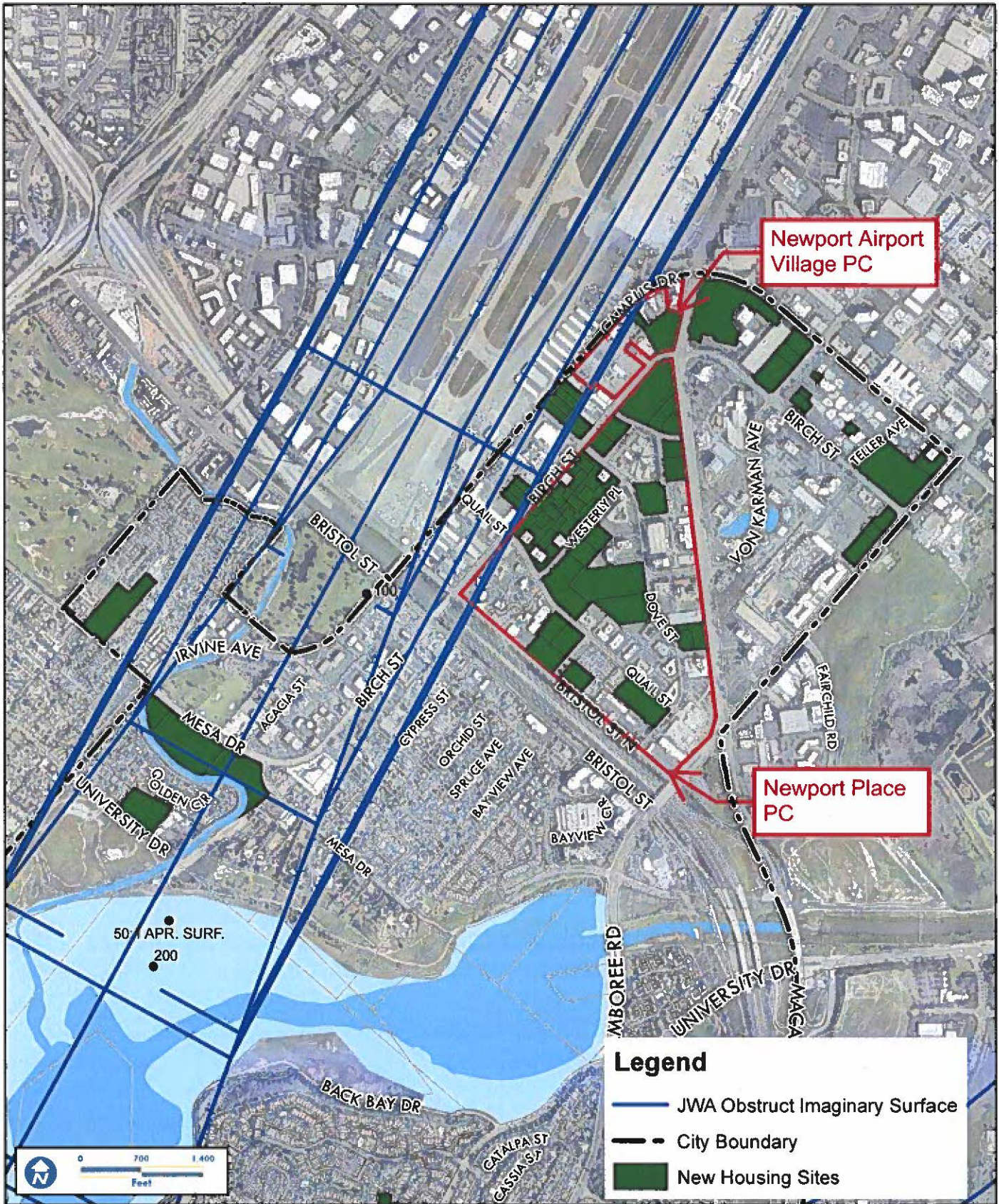
**City of Newport Beach Housing Element Implementation – Noise -Related Amendments**  
**Attachment No. 3**

*Height Restriction Zones*

The majority of the newly identified housing opportunity sites will need to be rezoned to accommodate residential development at later date. As part of that rezoning, height limitations will be developed and applied. In no event will the City's rezoned height limits be inconsistent with the parameters outlined in Subsection 3.2.6 (Height Restriction Zone) of the AELUP and FAA standards. In addition, future comprehensive updates to the Land Use Element and rezoning will be subject to future Airport Land Use Commission (ALUC) review, consistent with Public Utilities Code Section 21676.



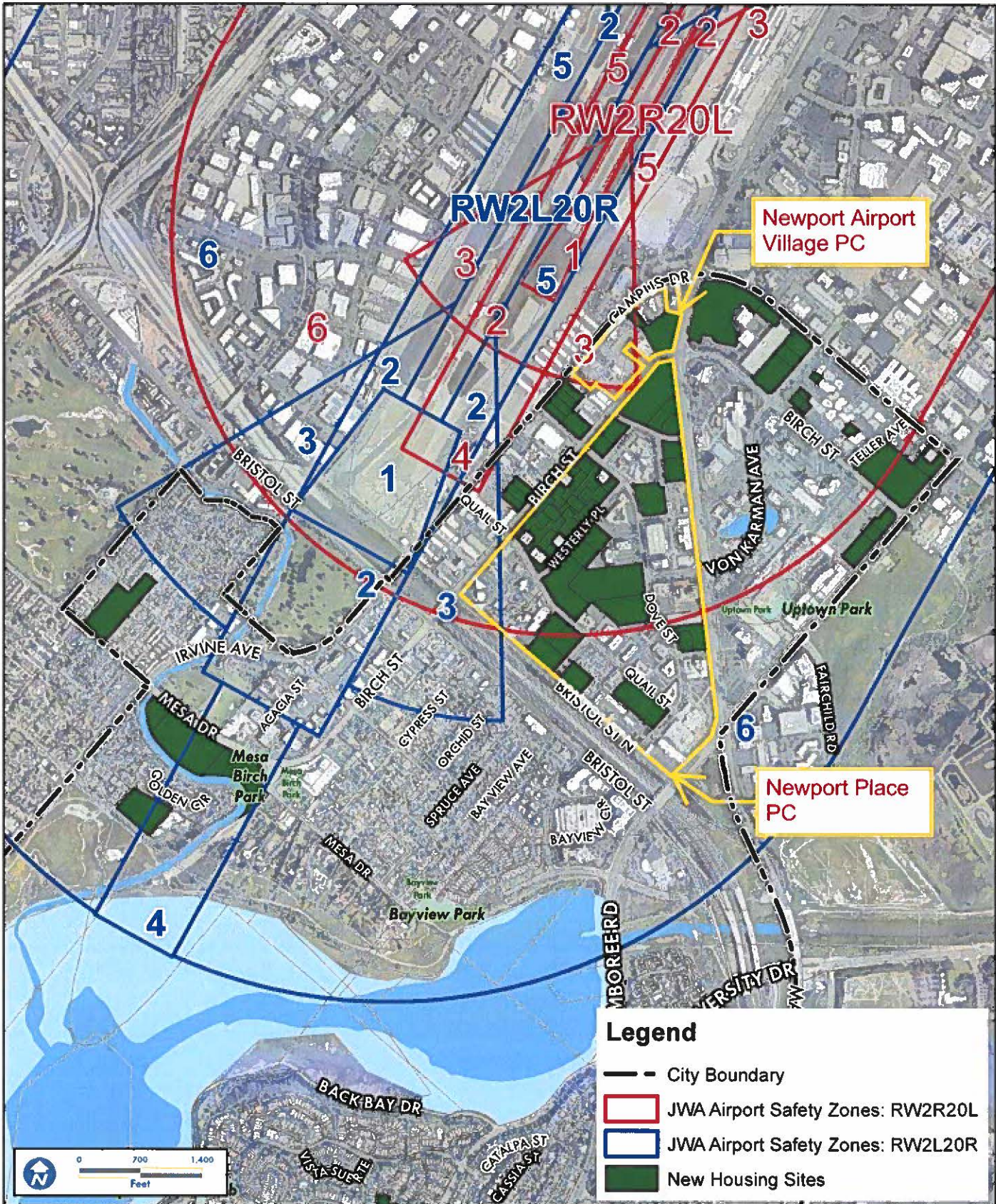
## 2014 JWA Settlement Agreement Amendment Noise Contours (Housing Opportunity Sites)



## Housing Sites Inventory PA2022-0201 JWA Obstruction Imaginary Surface (Airport Area)



City of Newport Beach  
GIS Division  
August 24, 2021



## Housing Sites Inventory PA2022-0201 JWA Safety Zones



City of Newport Beach  
GIS Division  
August 24, 2021

## Housing Element Implementation, Noise-Related Amendments (PA2022-0201)

Site Location & Maximum Permitted Height Table

<b>Site Location</b>	<b>Allowed Maximum Building Height</b>
Newport Place Planned Community	55 ft <sup>1</sup>
Newport Airport Village Planned Community Planning Area 1 (within 60 dBA noise contour)	55 ft (Nonresidential) <sup>2</sup> 85 ft (Residential & Mixed-Use) <sup>2</sup>
Planning Area 2 (within 65 dBA noise contour)	55 ft (Nonresidential) <sup>3</sup>
Office-Zoned properties on Campus Drive	300 ft (High Rise) <sup>4</sup>
Golf Course properties on Mesa Dr	18 ft
YMCA property on University Dr	37 ft
Residential properties on Mesa Dr	35 ft

**Notes:**

1. The height of residential 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).
2. The height of residential or mixed-use structures currently allowed within 60 dBA CNEL contour.
3. The height of nonresidential structures currently allowed within 65 dBA CNEL contour.
4. Allowed per [Section 20.30.060.C.2.e](#) (Height Limits and Exceptions) of NBMC.