



# AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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## AGENDA ITEM 3

May 16, 2024

**TO:** Commissioners/Alternates

**FROM:** Julie Fitch, Interim Executive Officer

**SUBJECT:** City of Newport Beach Housing Element Implementation Program Amendments- Proposed Amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program

### 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. The City was assigned a Regional Housing Needs Allocation (RHNA) allocation of 4,845 units for the planning period 2021-2029, and identified five “focus areas” to accommodate the City’s RHNA planning obligation: Airport Area Environs; West Newport Mesa; Newport Center; Dover/Westcliff; and Coyote Canyon. See Attachment 1 for locations of Housing Element Focus Areas and a map and list of sites in the John Wayne Airport Area.

Your Commission found the Update 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 overruled ALUC’s determination in February 2022, and adopted the Housing Element in September 2022. Since then, the City has made various amendments to its General Plan, Specific Plans and Zoning Code to implement the Update.

In August 2023, the City submitted 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. 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. The Housing Element removed a policy that was included in previous Housing

Elements prohibiting residential uses within the 65 dB CNEL, and the City revised or removed similar policies from the Noise Element, Land Use Element, Newport Place Planned Community, Newport Airport Village Planned Community, and the Zoning Code. In addition, the City proposed 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. Your Commission found the noise-related amendments to be inconsistent with the AELUP for JWA due to noise, safety and land-use incompatibility issues. The City overruled ALUC’s determination and adopted the Housing Element Implementation Noise Related Amendments in November 2023.

**Current Proposal**

The City is now proposing further amendments to meet the requirements of the RHNA, which will impact areas within the Planning/Notification Area for John Wayne Airport as shown on Attachment 2.

**General Plan Amendment (“GPA”).** The proposed amendments to the Land Use Element include both revised policies and new policies to implement the Housing Element. The new Land Use Element Policies 4.4 through 4.7 serve to allow for potential residential development in areas that do not necessarily allow it currently. (See Attachment 3 for excerpts from the proposed Land Use Element). Each of the new policies are summarized in the table below, included in the City’s April 18, 2024, Planning Commission Staff Report Item #3, which can be found on the City’s website:

<https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=2954635&dbid=0&repo=CNB>

*Table 2, General Plan Land Use Element New Policies*

<b>Policy</b>	<b>Effect</b>
<b>LU 4.4 (Rezoning to Accommodate Housing Opportunities)</b>	Supports the creation of the Housing Opportunity Overlay Zoning Districts and provides guidance on associated development limits for each focus area.
<b>LU 4.5 (Residential Uses and Residential Densities)</b>	Clarifies that residential use of identified properties is allowed regardless of and in addition to the underlying land use category or density. Identifies the maximum density in Policy 4.4 as an average across an entire property or project site. Furthermore, this Policy clarifies that development limits do not include units that are produced pursuant to state density bonus law or current pipeline units.
<b>LU 4.6 (Continuation of Existing Development)</b>	Reinforces that residential development opportunities are in addition to the existing uses allowed by the General Plan. The allowance for residential does not require development as residential nor does it create nonconforming conditions.

**LU 4.7 (Redevelopment and Transfer of Development Rights)**

Works in conjunction with current Policy 4.3 (Transfer of Development Rights) and allows the transfer of development rights within the same statistical area when a property is redeveloped. For example, removing an office building for a residential development would free up the net change in trips thereby allowing for additional nonresidential intensity on a neighboring site within the same statistical area. This condition will help to ensure the opportunity for adequate resident-serving commercial in newly development residential neighborhoods.

**Amendment to Title 20 (Planning and Zoning) of the NBMC (“ZCA”).** To implement the Land Use Element's policy changes the City must rezone identified properties to allow housing development as an opportunity and to establish appropriate development standards. The proposed amendment to Title 20 consists of two primary components. The first is the proposed Housing Opportunity (HO) Overlay Zoning Districts, which would be applied to the housing opportunity sites identified in the Housing Element. These sites generally include properties within the Airport Area (2,577 units), West Newport Mesa (1,107 units), Dover-Westcliff (531 units), Newport Center (2,439 units), and Coyote Canyon (1,530 units). The second component is the proposed Multi-Unit Objective Design Standards. See Attachment 4 for excerpts from the proposed Title 20 Planning and Zoning Amendment.

**Local Coastal Program Amendment (“LCPA”).** The proposed amendments would revise and create new policies within the City’s Coastal Land Use Plan and to update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6th Cycle Housing Element and within the Coastal Zone. The amendment would add the new Housing Opportunity (HO) Overlay Coastal Zoning Districts and related development standards. See Attachment 5 for excerpts from the proposed Local Coastal Program Amendment.

The City has held/scheduled the following public hearings:

April 18, 2024	Planning Commission (recommended approval)
July 23, 2024	City Council

Certain components of the proposed Housing Element Implementation Amendments constitute a “Major Amendment” in the City’s Charter, therefore they require a majority vote of the electorate. The City intends to move in the direction of putting the item(s) on the ballot in the coming months.

**AELUP for JWA Issues**

**Regarding Aircraft Noise Impacts:**

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.” 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.”

Attachment 6 is an exhibit showing the residential sites included in the Housing Element Update, which will also be impacted by the proposed amendments, in relation to the noise contours adopted by the ALUC and included in the *AELUP for JWA*. The proposed amendments will provide additional policies and land use designations and standards which serve to further support the City’s efforts to allow residential uses in the 65 CNEL. The City also included in its submittal (at the end of this packet), these same sites in relation to the City’s new adopted noise contours which were not approved by ALUC.

**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 7). Height increases are proposed for two sites located on Newport Beach Golf Course property between Mesa Drive and Anniversary Lane (Housing Element Sites #25 and #26). These sites are proposed for an increase in height to 60’ Above Ground Level (AGL). With approximate ground elevations of 46 to 53 feet, these structures would penetrate the Notification Area of 102’ AMSL and Form 7460s would be required. The City’s maximum heights for these sites would not penetrate the Obstruction Imaginary Surfaces.

**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 one of the sites proposed for a height increase to 60’. (See Attachment 8). 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 9 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 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 *AE LUP* for Heliports was not evaluated.

**Conclusion**

Attachment 10 to this report contains excerpts from the submittal received from the City of Newport Beach.

ALUC staff has reviewed the Housing Element Implementation Amendments, including amendments to the Land Use Element, Noise Element, Title 20 (Planning and Zoning Code), and the Local Coastal Program for compliance with the *AE LUP for John Wayne Airport (JWA)*, specifically for noise, safety and overflight. The recommendation below is based on the additional policies and land use designations and standards which serve to further allow residential uses 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 Housing Element Implementation Program Amendments - Proposed Amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program 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,



Julie Fitch  
Interim Executive Officer

Attachments:

1. Newport Beach Housing Element Focus Areas and Airport Area Sites
2. Sites within JWA Notification/Planning Area
3. Excerpts from the Land Use Element Update
4. Excerpts from the Planning and Zoning Code Amendment
5. Excerpts from the Local Coastal Program Amendment
6. Residential Sites with Adopted AELUP Noise Contours
7. Map of Obstruction Imaginary Surfaces and Notification Surface
8. Parcels in Safety Zones
9. Flight Track Exhibits
10. Excerpts from the City of Newport Beach Submittal Package

of the Housing Element no later than February 2025. The City is not required to build housing units to meet its RHNA allocation, only to establish the appropriate zoning designations and development standards to allow the private market to develop these units.

Of critical importance is that the City is required to ensure the continued and effective implementation of the Housing Element programs including, but not limited to, the provision of sufficient adequately zoned land to accommodate its share of the regional growth and its required share of lower income dwelling units consistent with the General Plan and RHNA obligations. The areas where rezoning is required are focused in five areas of the City, as displayed in Figure 1 below. Although Banning Ranch (now the Randall Preserve) was included as a housing opportunity due to existing development capacity in the current General Plan Land Use Element, it is not being considered as an opportunity site that counts towards meeting the City's RHNA allocation.



Figure 1, Focus Areas for Residential Development

## **PROJECT DESCRIPTION AND DISCUSSION**

An in-depth and detailed project description has been prepared as Section 3.0 (Project Description) of the Draft Environmental Impact Report ("Draft EIR"), which is digitally attached to this staff report as Exhibit "A" to Attachment No. PC 1, due to size and made available online at [www.newportbeachca.gov/CEQA](http://www.newportbeachca.gov/CEQA).

Figure B-3: Airport Area Environs – Sites Inventory



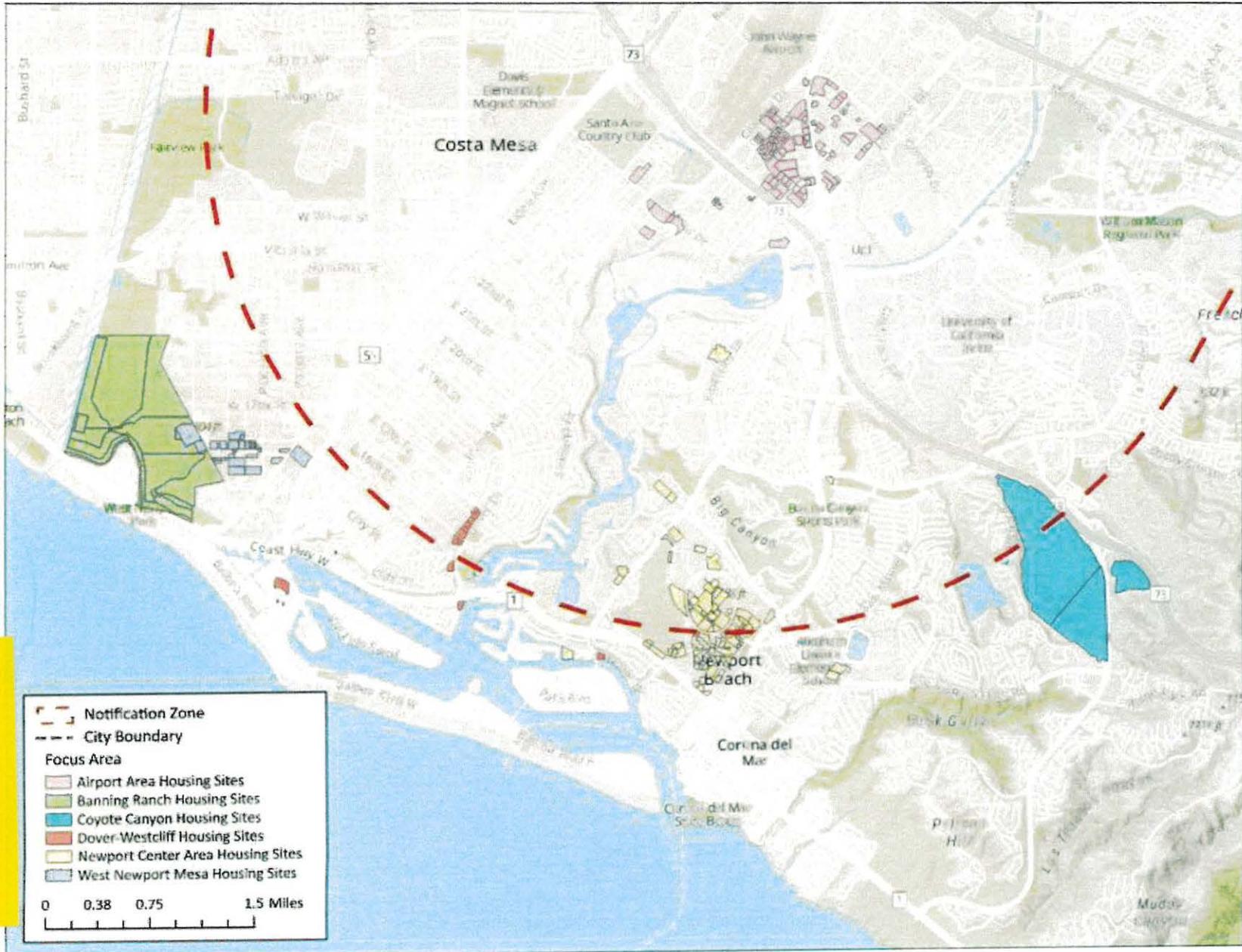
**City of Newport Beach**  
2021-2029 HOUSING ELEMENT

Inventory/Map ID	Assessor Parcel Number	Existing Zoning	Existing General Plan Land Use	Existing/Proposed Allowable Height Limit	JWA Master Plan 1985 Noise Contour (CNEL)	2014 EIR No. 617 Noise Contour (CNEL)	Safety Zone
17	439 241 20	SP-7	RM	Base Zone	60-65 dB	60-65 dB	6
18	427 121 24	OA	AO		65-70 dB	65-70 dB	6
19	427 121 24	OA	AO		65-70 dB	65-70 dB	6
20	445 121 17	PC	CO-G		N/A	N/A	6
21	445 161 03	PC	MU-H2		60-65 dB	N/A	6
22	445 161 03	PC	MU-H2		60-65 dB	N/A	6
23	119 300 17	SP-7	PR	35 Feet	65-70 dB	65-70 dB	4
24	119 310 04	SP-7	PR	35 Feet	65-70 dB	65-70 dB	4
25	119 300 15	SP-7	PR	60 Feet	65-70 dB	60-70 dB	6
26	119 300 16	SP-7	PR	60 Feet	65-70 dB	60-70 dB	4/6
27	427 131 16	OA	AO	Base Zone	65-70 dB	65-70 dB	6
28	427 121 01	OA	AO		65-70 dB	65-70 dB	6
29	427 131 14	OA	AO		65-70 dB	65-70 dB	6
30	427 121 02	OA	AO		65-70 dB	65-70 dB	6
31	427 131 15	OA	AO		65-70 dB	65-70 dB	6
32	445 131 26	PC	MU-H2		60-65 dB	N/A	6
36	445 121 11	PC	CG		N/A	N/A	6
45	445 151 09	PC	MU-H2		60-65 dB	N/A	6
49	445 121 05	PC	CO-G		N/A	N/A	6
52	445 151 01	PC	PF		60-65 dB	N/A	6
53	445 121 14	PC	CO-G		60-65 dB	N/A	6
54	445 121 18	PC	CG		N/A	N/A	6
55	445 161 04	PC	MU-H2		60-65 dB	N/A	6
56	445 141 04	PC	MU-H2		N/A	N/A	6
59	445 121 09	PC	CG		N/A	N/A	6
61	427 121 27	OA	AO		65-70 dB	65-70 dB	6
62	427 173 01	PC	MU-H2		60-65 dB	60-65 dB	6
63	427 332 02	PC	CO-G		65-70 dB	60-65 dB	6
64	427 332 04	PC	CO-G		65-70 dB	60-65 dB	6
65	427 332 03	PC	CO-G		65-70 dB	60-65 dB	6
67	427 181 01	PC	MU-H2		60-65 dB	60-65 dB	6
70	427 174 04	PC	MU-H2		60-65 dB	60-65 dB	6
71	427 221 01	PC	MU-H2		60-65 dB	60-65 dB	6
73	427 222 05	PC	MU-H2		60-65 dB	N/A	6
74	427 222 06	PC	MU-H2		60-65 dB	N/A	6
77	427 221 06	PC	MU-H2		60-65 dB	60-65 dB	6
78	427 174 06	PC	MU-H2		60-65 dB	60-65 dB	6
80	427 181 03	PC	MU-H2		60-65 dB	60-65 dB	6
82	427 221 02	PC	CO-G		60-65 dB	60-65 dB	6
83	427 174 05	PC	MU-H2		60-65 dB	60-65 dB	6
85	427 342 01	PC	MU-H2		60-65 dB	60-65 dB	6
86	427 221 16	PC	CO-G		65-70 dB	65-70 dB	6
87	439 401 01	PF	PF		N/A	N/A	4/6
89	427 221 15	PC	MU-H2		60-65 dB	60-65 dB	6
90	427 141 14	PC	CO-G	65-70 dB	65-70 dB	6	
91	936 790 44	PC	CO-G	65-70 dB	65-70 dB	6	
92	936 790 50	PC	CO-G	65-70 dB	65-70 dB	6	
93	427 141 04	PC	CO-G	65-70 dB	65-70 dB	6	
94	427 141 11	PC	CO-G	65-70 dB	65-70 dB	6	
95	936 790 48	PC	CO-G	65-70 dB	65-70 dB	6	
96	427 141 07	PC	CO-G	65-70 dB	65-70 dB	6	
97	427 141 08	PC	CO-G	65-70 dB	65-70 dB	6	
98	427 141 16	PC	CO-G	65-70 dB	65-70 dB	6	
103	445 141 11	PC	MU-H2	N/A	N/A	6	
104	445 141 12	PC	MU-H2	N/A	N/A	6	
105	445 141 13	PC	MU-H2	N/A	N/A	6	
106	427 171 02	PC	CG	65-70 dB	65-70 dB	6	
107	427 221 03	PC	CO-G	65-70 dB	65-70 dB	6	
108	427 171 03	PC	CG	65-70 dB	65-70 dB	6	
109	936 790 46	PC	CO-G	60-65 dB	60-65 dB	6	
335	427 221 17	PC	MU-H2	60-65 dB	60-65 dB	6	
338	445 141 31	PC	MU-H2	N/A	N/A	6	
343	427 181 09	PC	CG	65-70 dB	65-70 dB	6	
344	427 141 13	PC	CO-G	65-70 dB	65-70 dB	6	
356	427 131 09	SP-7	AO	65-75 dB	65-70 dB	6	
357	442 282 02	PC	CV	60-65 dB	N/A	6	

**City of Newport Beach**  
2021-2029 HOUSING ELEMENT

Inventory/Map ID	Assessor Parcel Number	Existing Zoning	Existing General Plan Land Use	Existing/Proposed Allowable Height Limit	JWA Master Plan 1985 Noise Contour (CNEL)	2014 EIR No. 617 Noise Contour (CNEL)	Safety Zone
358	439 021 13	SP-7	CG	Base Zone	60-65 dB	60-65 dB	3
359	439 021 12	SP-7	CG		60-65 dB	60-65 dB	3
360	439 021 03	SP-7	CG		60-65 dB	60-65 dB	3/6
363	439 352 21	SP-7	CO-G		65-70 dB	65-70 dB	6
364	493 341 01	SP-7	RS-D		65-70 dB	65-70 dB	6
365	439 352 17	SP-7	CO-G		65-70 dB	65-70 dB	6
366	439 352 20	SP-7	CO-G		65-70 dB	65-70 dB	6
367	439 352 22	SP-7	CO-G		65-70 dB	65-70 dB	3/6

City of Newport Beach Housing Element Implementation Program Amendments  
 ALUC Submittal, April 26, 2024  
 EXHIBIT A – Notification Area/Planning Area

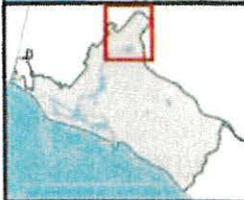
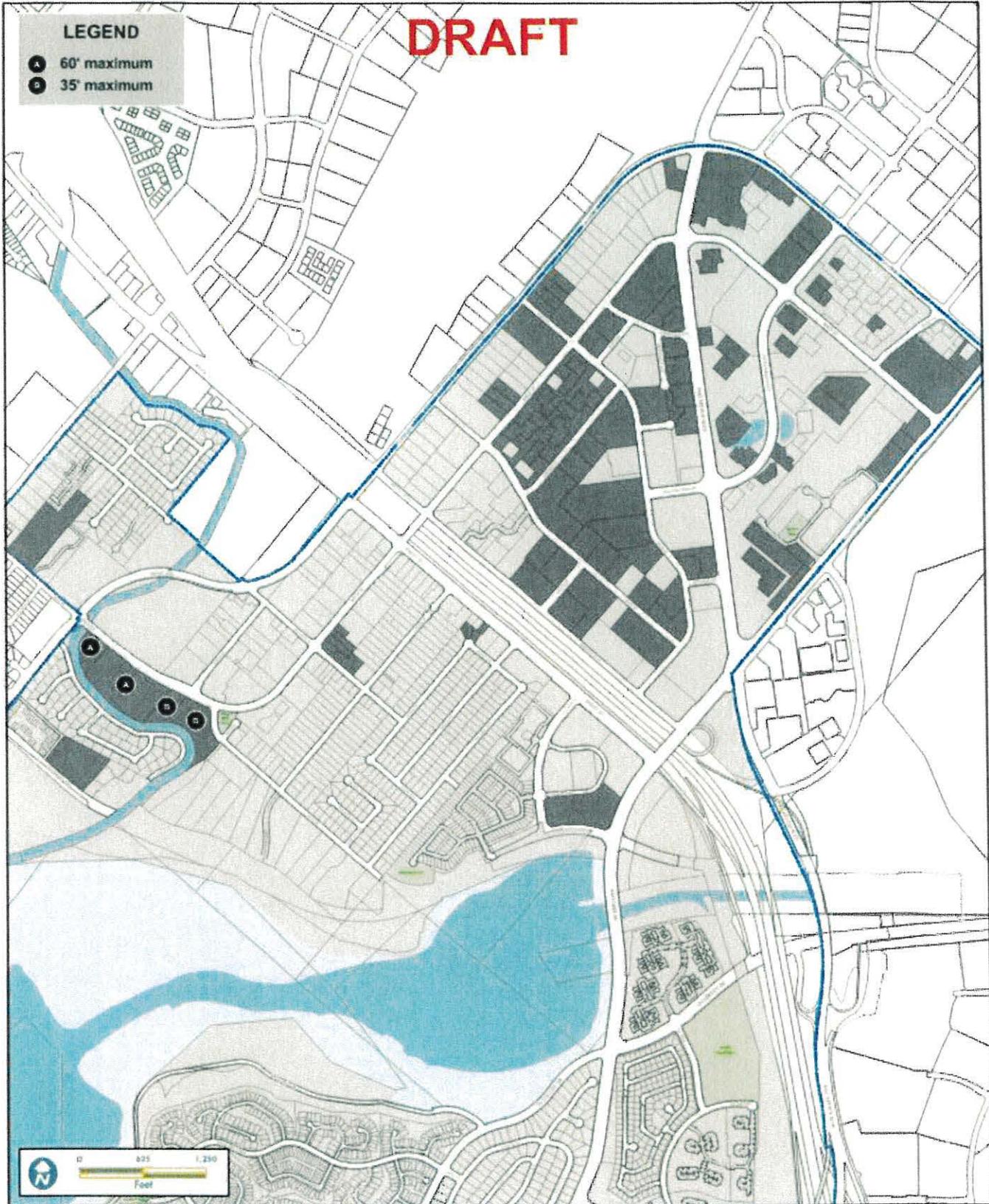


ATTACHMENT 2

**DRAFT**

**LEGEND**

- A** 60' maximum
- B** 35' maximum



**HO-1 Airport Area Environs Area**



City of Newport Beach  
GIS Division  
October 09, 2023

- b. The reduced density/intensity on the donor site provides benefits to the City such as, but not limited to, the (1) provision of extraordinary open space, public visual corridor(s), parking or other amenities; (2) preservation of a historic building or property or natural landscapes; (3) improvement of the area's scale and development character; (4) consolidation of lots to achieve a better architectural design than could be achieved without lot consolidation; and/or (5) reduction of local vehicle trips and traffic congestion;
- c. The increment of growth transferred to the receiver site complements and is in scale with surrounding development, complies with community character and design policies contained in this Plan, and does not materially degrade local traffic conditions and environmental quality.
- d. Transfer of Development Rights in Newport Center is governed by Policy 6.14.3 (*Imp 2.1, 5.1, 10.2*)

**LU 4.4 Rezoning to Accommodate Housing Opportunities**

Accommodate housing opportunities through the adoption of housing opportunity overlay zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element's focus areas. Properties within each overlay district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites may be identified in the future through rezoning unless precluded by state law. The goal is to ensure an adequate number of sites Citywide to accommodate the City's allocation of the Regional Housing Needs Assessment:

- **Airport Environs:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the area.
- **West Newport Mesa:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the area.
- **Newport Center:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the area. units per gross acre.
- **Dover / Westcliff:** the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the area.
- **Coyote Canyon:** the intent is to allow a density between 20 and 60 dwelling units per gross acre of viable land to accommodate up to 1,530 total dwelling units within the area.

**ATTACHMENT 3**

**LU 4.5 Residential Uses and Residential Densities**

Residential use of any property included within an established housing opportunity overlay zoning district is allowed regardless of and in addition to the underlying land use category or density limit established through Policy LU 4.1, Table LU 1 and Table LU 2. A general plan amendment is not required to develop a residential use within an established housing opportunity zoning overlay district. The maximum density specified for the various overlay districts specified in Policy LU 4.2 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 4.4 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units identified in LU 4.2 do not include units identified as pipeline units or units permitted pursuant to State density bonus law.

**LU 4.6 Continuation of Existing Development**

Residential opportunities are in addition to existing uses allowed by the General Plan. Properties within the established overlay zones are not required to be developed for mixed-use or residential. Existing uses may continue to operate provided they are legally established and consistent with policies and regulations related to legal nonconforming uses. The adoption of housing opportunity overlay districts shall not affect existing rights to use the property.

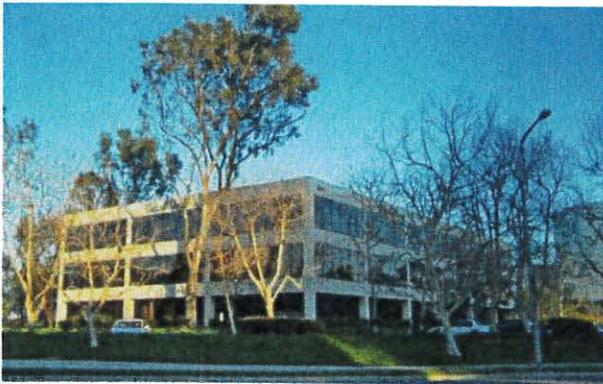
**LU 4.7 Redevelopment and Transfer of Development Rights**

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

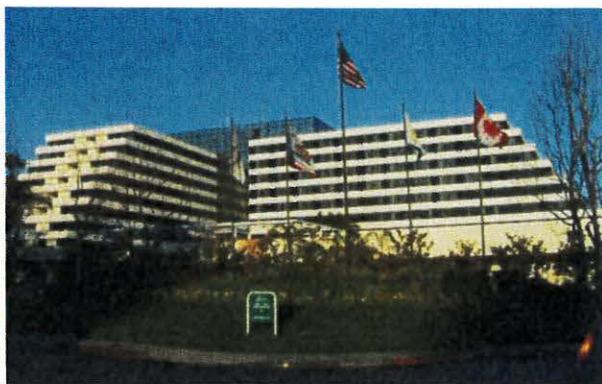
### Airport Area

The Airport Area encompasses the properties abutting and east of (JWA) and is in close proximity to the Irvine Business Complex and University of California, Irvine (UCI). This proximity has influenced the area's development with uses that support JWA and UCI, such as research and development, high technology industrial and visitor-serving uses, such as hotel and car rental agencies. A mix of low-, medium-, and high-rise office buildings predominate, with lesser coverage of supporting multi-tenant commercial, financial, and service uses. A number of buildings are occupied by corporate offices for industry and financial uses. Koll Center, at MacArthur Boulevard and Jamboree Road, was developed as a master planned campus office park. Manufacturing uses occupy a small percentage of the Airport Area. Three large hotels have been developed to take advantage of their proximity to JWA, local businesses, and those in the nearby Irvine Business Complex.

The area immediately abutting JWA, referred to as the "Campus Tract," contain a diverse mix of low intensity industrial, office, and airport-related uses, including a number of auto-related commercial uses including carwash, auto-detailing, rental, repair, and parts shops. In comparison to properties to the east, this area is underutilized and less attractive.



Office in Airport Area



Hotel in Airport Area

Development in the Airport Area is limited due to the safety restrictions and noise associated with John Wayne Airport. 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.

Recent development activity in the City of Irvine's Business Complex to the north has included the transfer of development rights, bringing more intense development closer to the Airport Area and resulting in the conversion of office to residential entitlement. This activity is changing the area to a mixed-use center.

Through the Visioning process and preparation of the General Plan, the public preferred revitalization of the Airport Area with income-generating land uses. Generally, a range of development types were acceptable as long as traffic is not adversely affected. However, a majority believed that the Airport Area is urban in character, different than other City neighborhoods. Additional density and traffic congestion were considered more acceptable here than other parts of the City. There was strong support for new hotels and broad consensus on mixed-use development with residential and revenue-generating uses.

**Policy Overview**

The General Plan provides for the development of office, industrial, retail, and airport-related businesses in the Airport Area, as well as the opportunity for housing and supporting services. The latter would be developed as clusters of residential villages centering on neighborhood parks and interconnected by pedestrian walkways. These would contain a mix of housing types and buildings that integrate housing with ground-level convenience retail uses and would be developed at a sufficient scale to achieve a "complete" neighborhood. 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.

**Goal**

**LU 6.15**

A mixed-use community that provides jobs, residential, and supporting services in close proximity, with pedestrian-oriented amenities that facilitate walking and enhance livability.

**Policies**

**URBAN FORM AND STRUCTURE [refer to Figure LU22]**

**LU 6.15.1 Land Use Districts and Neighborhoods**

Provide for the development of distinct business park, commercial, and airport-serving districts and residential neighborhoods that are integrated to ensure a quality environment and compatible land uses. *(Imp 1.1, 2.1)*

**LU 6.15.2 Underperforming Land Uses**

Promote the redevelopment of sites with underperforming retail uses located on parcels at the interior of large blocks for other uses, with retail clustered along major arterials (e.g., Bristol, Campus, MacArthur, and Jamboree), except where intended to serve and be integrated with new residential development. *(Imp 2.1, 24.1)*

**LU 6.15.3 Airport Compatibility**

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 shall be allowed only on parcels with noise levels of less than John Wayne Airport 65 dBA CNEL noise contour area as shown in Figure

## Land Use Element

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N5 of the Noise Element of the General 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. (*Imp 2.1, 3.1, 4.1, 14.3*)

**EXHIBIT "C"**

**TITLE 20 (PLANNING AND ZONING) AMENDMENT  
HOUSING OPPORTUNITY (HO) OVERLAY ZONING DISTRICTS**

Chapter 20.28 (Overlay Zoning Districts [MHP, PM, B, H]) of the Newport Beach Municipal Code (NBMC) would be amended as follows, currently shown in redline-strikeout format for ease of reference only:

**Chapter 20.28  
OVERLAY ZONING DISTRICTS (MHP, PM, B, HO, H)**

Sections:

- 20.28.010 Purposes of Overlay Zoning Districts.**
- 20.28.020 Mobile Home Park (MHP) Overlay Zoning District.**
- 20.28.030 Parking Management (PM) Overlay District.**
- 20.28.040 Bluff (B) Overlay District.**
- 20.28.050 Housing Opportunity (HO) Overlay Zoning Districts.**
- 20.28.060 Height (H) Overlay District.**

**20.28.010 Purposes of Overlay Zoning Districts.**

The purposes of the individual overlay zoning districts and the manner in which they are applied are outlined below. An overlay district may be initiated as a Zoning Map amendment in compliance with Chapter 20.66 (Amendments). All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying zoning district in addition to the standards provided in this chapter, if any. In situations where an inconsistency occurs between the development standards of the underlying zoning district and the standards in this chapter, the standards of the overlay district shall prevail.

A. MHP (Mobile Home Park) Overlay Zoning District. The MHP Overlay Zoning District is intended to establish a mobile home district on parcels of land developed with mobile home parks. The regulations of this district are designed to maintain and protect mobile home parks in a stable environment with a desirable residential character.

B. PM (Parking Management) Overlay Zoning District. The PM Overlay Zoning District is intended to provide for areas where parking management plans are appropriate to ensure adequate parking.

C. B (Bluff) Overlay Zoning District. The B Overlay District is intended to establish special development standards for areas of the City where projects are proposed on identified bluff areas. The specific areas are identified in Part 8 of this title (Maps).

D. HO (Housing Opportunity) Overlay Zoning Districts. The HO Overlay Zoning Districts are intended to accommodate housing opportunities consistent with the Housing Element's focus areas and to ensure the City can meet its allocation of the Regional Housing Needs Assessment (RHNA). The specific areas are identified in Part 8 of this title (Maps).

E. H (Height) Overlay District. The H Overlay District is intended to establish standards for review of increased building height in conjunction with the provision of enhanced project design features and amenities.

20.28.050 Housing Opportunity (HO) Overlay Zoning Districts.

A. Applicability. This section applies to properties located in one of the Housing Opportunity (HO) Overlay Zoning Districts, as identified in Part 8 of this title. This includes the following subareas:

1. HO-1 - Airport Area Environs Area – The Airport Area Environs Area is located north of the Upper Newport Bay Nature Reserve, primarily around the John Wayne Airport.
2. HO-2 - West Newport Mesa Area – The West Newport Mesa Area is located near the southwest corner of the City and primarily consists of industrial properties along 16<sup>th</sup> Street, Production Place, and 15<sup>th</sup> Street.
3. HO-3 - Dover-Westcliff Area – The Dover-Westcliff Area includes property on both sides of West Coast Highway and the west of Dover Drive. Properties in the Lido Village area are included.
4. HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.
5. HO-5 - Coyote Canyon Area – The Coyote Canyon Area is located on the south side of California State Route 73, at the junction of Newport Coast Drive.

The above listed are general descriptions of each subarea and additional properties may be included with the subarea. To be eligible for the provisions of this chapter, the property must be listed on the HO area map as an "Opportunity Site".

6. HO-6 - 5<sup>th</sup> Cycle Housing Element Sites – Those sites that are identified as 5<sup>th</sup> Cycle Housing Element sites on Figure B-5 of the 6<sup>th</sup> Cycle Housing Element. See subsection 20.28.050(E) for alternative review process.

B. Uses Allowed. The following uses shall be permitted in the Housing Opportunity (HO) Overlay Zoning Districts with exception of HO-6 where only the base zoning standards apply:

1. Any use that is permitted or conditionally permitted in the base zone;
2. Multiple-unit development that meets the density requirements set forth in this section;
3. Mixed-use development that includes a residential component which complies with the minimum density set forth in this section; and
4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.

C. Subarea Development Standards.

1. Development Standards. The following development standards shall apply to any residential or mixed-use project permitted pursuant to this section. Unless otherwise modified by this section, all applicable development standards, including any adopted objective design standards, shall apply.

**TABLE 2-16**

**DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES**

Development Feature	Housing Opportunity Subareas					
	HO-1	HO-2	HO-3	HO-4	HO-5	HO-6
<u>Development Limit (units)<sup>(1)</sup></u>	<u>2,577</u>	<u>1,107</u>	<u>521</u>	<u>2,439</u>	<u>1,530</u>	<u>N/A</u>
<u>Lot Size/Dimension</u>	<u>Per Base Zone</u>					
<u>Lot area required per unit (sq. ft.)<sup>(2)</sup></u>	<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 871 (50 du/ac)</u>	<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 871 (50 du/ac)</u>		<u>Minimum: 2,178 (20 du/ac)</u> <u>Maximum: 726 (60 du/ac)<sup>(10)</sup></u>		<u>All Standards Per Base Zone</u>
<u>Setbacks</u>						
<u>Front</u>	<u>0 ft.<sup>(3)</sup></u>	<u>10 ft.<sup>(3)</sup></u>	<u>10 ft.<sup>(3)(4)</sup></u>	<u>0<sup>(3)</sup></u>	<u>10 ft.<sup>(3)</sup></u>	
<u>Rear</u>	<u>0</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>0</u>	<u>20 ft.</u>	
<u>Side</u>	<u>0<sup>(4)</sup></u>					
<u>Street Side</u>	<u>0<sup>(3)</sup></u>	<u>10 ft.<sup>(3)</sup></u>	<u>10 ft.<sup>(3)</sup></u>	<u>0 ft.<sup>(3)</sup></u>	<u>10 ft.<sup>(3)</sup></u>	
<u>Height</u>	<u>Per Base Zone unless otherwise identified on the map</u>	<u>65 ft.</u>	<u>65 ft.<sup>(6)</sup></u>	<u>Per Base Zone<sup>(7)</sup></u>	<u>65 ft.</u>	
<u>Building Separation</u>	<u>10 ft.</u>					
<u>Floor Area Ratio (FAR)</u>	<u>No restriction<sup>(8)</sup></u>					
<u>Common Open Space<sup>(9)</sup></u>	<u>Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)</u>					
<u>Private Open Space<sup>(9)</sup></u>	<u>5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)</u>					
<u>Fencing</u>	<u>See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).</u>					
<u>Landscaping</u>	<u>See Chapter 20.36 (Landscaping Standards).</u>					
<u>Lighting</u>	<u>See Section 20.30.070 (Outdoor Lighting).</u>					
<u>Outdoor Storage/Display</u>	<u>See Section 20.48.140 (Outdoor Storage, Display, and Activities).</u>					
<u>Parking</u>	<u>See Subsection (D)(3) below and Chapter 20.40 (Off-Street Parking).</u>					
<u>Satellite Antennas</u>	<u>See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).</u>					
<u>Signs</u>	<u>See Chapter 20.42 (Sign Standards).</u>					

(1) Development limits are additional residential development opportunities beyond the base allowances in this Title or the General Plan. These limits shall not include density bonus units or units that are either identified as pipeline units in the 6<sup>th</sup> Cycle Housing Element (Table B-2) or units that were applied for and predate the effective date of the HO Overlay Zoning Districts. Furthermore, eligible units are only counted against the development limits when they are either entitled or are issued a building permit if allowed by right. However, 25% of the development limit within each HO Overlay Zoning District that includes properties within the Coastal Zone shall be reserved until such a time as the City's Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6<sup>th</sup>

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- Cycle Housing Element. Following the City's Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone.
- (2) Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units.
  - (3) Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way.
  - (4) Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway.
  - (5) The combined total from both sides shall be 15 feet.
  - (6) The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1.
  - (7) "Base Zone" includes all height limitations established by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).
  - (8) The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable.
  - (9) For purposes of this section, common and private open space in HO-1 may include enclosed shared amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility, children's playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director.
  - (10) This density is intended for the former Coyote Canyon Landfill site only. The Sage Hill School site is limited to a maximum of 20 dwelling units.
2. Airport Area Environs Area (HO-1). The following development standards shall only apply to projects with the Airport Area Environs Area:
- a. Sound Mitigation. The interior ambient noise level of all new residential dwelling units shall meet applicable standards of the Section 10.26.030 (Interior Noise Standards). An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the interior noise standard. The residential units shall be constructed, and noise attenuated in compliance with the report.
  - b. Advanced Air Filtration. The design of all new residential and mixed-use residential developments shall include advanced air filtration systems to promote cleaner air within living environments.
  - c. Notification to Owners and Tenants. A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment adjacent to an airport and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment (e.g., noise from planes, commercial activity on the site and vehicles streets) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.
3. West Newport Mesa Area (HO-2). The following development standards shall only apply to projects with the West Newport Mesa Area:

- a. West Newport Mesa Streetscape Master Plan. Any residential or mixed-use residential development shall implement applicable components of the adopted West Newport Mesa Streetscape Master Plan.
- 4. Coyote Canyon Area (HO-5). The following development standards shall only apply to projects with the Coyote Canyon Area:
  - a. Public Park. Any future residential development within this subarea shall include a public park that is no less than 3.5 acres, in aggregate. As part of the review for the overall project, the developer shall provide a detailed description of the public park, including timing, dimensions, and location within the project site.
  - b. Public Trails. Any future residential development shall include public trails for the entire subarea that accommodate multiple modes of transit (i.e., walking and bicycling) and connect to nearby community resources, as well as the existing trail system. As part of the review for the overall project, the developer shall provide a detailed description of the trail system, including timing, dimensions, alignment, and location within the project site.

D. General Development Standards. The following development standards shall apply to all projects within the Housing Opportunity zone, regardless of subarea:

- 1. Mixed-use developments. All mixed-use developments shall comply with Section 20.48.130 (Standards for Mixed-Use Projects). In addition, a minimum of 50% of the floor area of mixed-use developments shall be dedicated to residential uses. For purposes of this section, floor area be defined as all enclosed floor space, but exclude parking garages/spaces, utility areas, and storage areas that are not directly accessible from the interior of a dwelling unit.
- 2. Landscaped Setbacks. All front and street side setbacks shall be landscaped, except for areas that provide vehicle and pedestrian access to the right-of-way.
- 3. Residential Off-Street Parking Requirements. Residential parking requirements for projects within the Housing Opportunity Overlay Zones shall be provided in accordance with Table 2-17 below. Parking for all other uses not included in this table shall be provided in accordance with Chapter 20.40 (Off-Street Parking Requirements) of the NBMC.

**TABLE 2-17**

**RESIDENTIAL OFF-STREET PARKING FOR HOUSING OPPORTUNITY OVERLAY ZONES**

<u>Land Use</u>	<u>Subtype</u>	<u>Parking Requirement</u>
<u>Residential (Rental)</u>	<u>Studio</u>	<u>1.1 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.5 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>
<u>Residential (Ownership)</u>	<u>Studio</u>	<u>1.4 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.8 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>

E. Review Process. Notwithstanding Sections 20.48.130(A) and 20.52.080, any residential or mixed-use development in the HO Overlay Zones that includes a minimum of 20% of the units reserved for very-low- and low-income residents shall not require a Site Development Review, but shall require an affordable housing implementation plan (AHIP) and shall meet all the following criteria:

1. All units designated as affordable to very-low and/or low-income residents shall be subject to a minimum 30-year affordability covenant;
2. Affordable units shall reflect the range of numbers of bedrooms provided in the residential development project as a whole, but may be smaller and have different interior finishes and features than market-rate units;
3. Affordable units shall be comparable in the facilities provided (e.g., laundry, recreation, etc.) and in the quality of construction and exterior design to the market-rate units; and
4. Affordable units shall be dispersed throughout the residential development.

**EXHIBIT “E”**

**LOCAL COASTAL PROGRAM AMENDMENT**

The Coastal Land Use Plan (CLUP) of the City’s Certified Local Coastal Program would be revised as follows, subject to California Coastal Commission review and approval:

Current Policy	Revised Policy
<p><b>Policy 2.1.2-1</b> Development in each district and corridor shall adhere to policies for land use type and density/intensity contained in Table 2.1.1-1, except as modified in Sections 2.1.3 to 2.1.8.</p>	<p><b>Policy 2.1.2-1 (revised)</b> Development in each district and corridor shall adhere to policies for land use type and density/intensity contained in Table 2.1.1-1, except as modified in Sections 2.1.3 to 2.1.8, and 2.1.11.</p>
<p><b>Policy 2.1.10-1</b> Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations.</p>	<p><b>Policy 2.1.10-1 (revised)</b> Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations, except as modified by all Policies in the 2.1.11 series.</p>
<p>N/A</p>	<p><b>Policy 2.1.11-1 (new)</b> Accommodate housing opportunities through the adoption of housing opportunity overlay coastal zoning districts or other land use regulatory policy. The following areas are intended to be consistent with the Housing Element’s focus areas. Properties within each overlay coastal zoning district should include, but are not limited to, sites identified in the Housing Element; however, not all sites must be included, and other sites may be identified in the future through rezoning unless precluded by state law. The City will reserve 25% of allocated dwelling units within the Coastal Zone until such a time as the City’s Local Coastal Program has been amended to allow for housing consistent with the implementation of the 6<sup>th</sup> Cycle Housing Element. Following the City’s Local Coastal Program Amendment, priority for the reserved units will be given to sites located within the Coastal Zone. The goal is to ensure an adequate number of sites Citywide to accommodate the City’s allocation of the Regional Housing Needs Assessment:</p> <ul style="list-style-type: none"> <li>▪ <b>Airport Environs:</b> the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,577 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.</li> <li>▪ <b>West Newport Mesa:</b> the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 1,107 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.</li> <li>▪ <b>Newport Center:</b> the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 2,439 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.</li> </ul>

Current Policy	Revised Policy
	<ul style="list-style-type: none"> <li>▪ <b>Dover / Westcliff:</b> the intent is to support a density between 20 and 50 dwelling units per gross acre to accommodate up to 521 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone.</li> </ul>
N/A	<p><b>Policy 2.1.11-2 (new)</b>                      Residential use of any property included within an established housing opportunity overlay coastal zoning district is allowed regardless of and in addition to the underlying land use category or density limit established herein. An amendment to the Coastal Land Use Plan is not required to develop a residential use within an established housing opportunity zoning overlay coastal zoning district. The maximum density specified in Policy 2.1.11-1 is an average over the entire property or project site. For example, a portion of a development site may be developed at a higher density than specified by Policy 2.1.11-1 provided other portions of the site are developed at lower densities such that the average does not exceed the maximum. Density calculations and total units do not include units identified as pipeline units or units permitted pursuant to State density bonus law.</p>
N/A	<p><b>Policy 2.1.11-3 (new)</b>                      Residential opportunities are in addition to existing uses allowed by the Coastal Land Use Plan. Properties within the established overlay coastal zones are not required to be developed for mixed-use or residential. Existing uses may continue to operate provided they are legally established and consistent with policies and regulations related to legal nonconforming uses. The adoption of housing opportunity overlay coastal zoning districts shall not affect existing rights to use the property.</p>
N/A	<p><b>Policy 2.1.11-4 (new)</b>                      If residential or mixed-use projects pursuant to a housing opportunity overlay coastal zoning district are developed, projects shall be consistent with applicable overlay coastal zoning district or Implementation Plan requirements unless modified consistent with an established procedure to grant relief from standards (e.g., Coastal Modification or Variance, or the application of Density Bonus regulations).</p>

Chapter 21.28 (Overlay Coastal Zoning Districts [MHP, PM, B, C, And H]) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC would be amended as follows, currently shown in redline-strikeout format for ease of reference only, and subject to California Coastal Commission review and approval:

**Chapter 21.28**  
**OVERLAY COASTAL ZONING DISTRICTS (MHP, PM, B, C, ~~ANDH~~, AND HO)**

Sections:

- 21.28.010 Purposes of Overlay Coastal Zoning Districts.**
- 21.28.020 Mobile Home Park (MHP) Overlay Coastal Zoning District.**
- 21.28.030 Parking Management (PM) Overlay District.**
- 21.28.040 Bluff (B) Overlay District.**
- 21.28.050 Canyon (C) Overlay District.**
- 21.28.060 Height (H) Overlay District.**
- 21.28.070 Housing Opportunity (HO) Overlay Coastal Zoning Districts.**

**21.28.010 Purposes of Overlay Coastal Zoning Districts.**

The purposes of the individual overlay coastal zoning districts and the manner in which they are applied are outlined below. An overlay district may be initiated as a Coastal Zoning Map amendment in compliance with Chapter [21.14](#) (Coastal Maps). All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying coastal zoning district in addition to the standards provided in this chapter, if any. In situations where an inconsistency occurs between the development standards of the underlying coastal zoning district and the standards in this chapter, the standards of the overlay district shall prevail.

A. MHP (Mobile Home Park) Overlay Coastal Zoning District. The MHP Overlay Coastal Zoning District is intended to establish a mobile home district on parcels of land developed with mobile home parks. The regulations of this district are designed to maintain and protect mobile home parks in a stable environment with a desirable residential character.

B. PM (Parking Management) Overlay Zoning District. The PM Overlay Zoning District is intended to provide for areas where parking management plans are appropriate to ensure adequate parking.

C. B (Bluff) Overlay Coastal Zoning District. The B Overlay District is intended to establish special development standards for areas of the City where projects are proposed on identified bluff areas. The specific areas are identified in Part 8 of this Implementation Plan (Maps).

D. C (Canyon) Overlay Coastal Zoning District. The C Overlay District is intended to establish development setbacks based on the predominant line of existing development for areas that contain a segment of the canyon edge of Buck Gully or Morning Canyon. The specific areas are identified in Part 8 of this Implementation Plan (Maps).

E. H (Height) Overlay District. The H Overlay District is intended to establish standards for review of increased building height in conjunction with the provision of enhanced project design features and amenities. (Ord. 2021-26 § 4, 2021; Ord. 2016-19 § 9 (Exh. A)(part), 2016)

F. HO (Housing Opportunity) Overlay Coastal Zoning Districts. The HO Overlay Coastal Zoning Districts are intended to accommodate housing opportunities consistent with the Housing Element's focus areas and to ensure the City can meet its allocation of the Regional Housing Needs Assessment (RHNA). The specific areas are identified in Part 8 of this title (Maps).

21.28.060 Housing Opportunity (HO) Overlay Coastal Zoning Districts.

A. Applicability. This section applies to properties located in one of the Housing Opportunity (HO) Overlay Coastal Zoning Districts, as identified in Part 8 of this title. This includes the following subareas:

1. HO-1 - Airport Area Environs Area – The Airport Area Environs Area is located north of the Upper Newport Bay Nature Reserve, primarily around the John Wayne Airport.
2. HO-2 - West Newport Mesa Area – The West Newport Mesa Area is located near the southwest corner of the City and primarily consists of industrial properties along 16<sup>th</sup> Street, Production Place, and 15<sup>th</sup> Street.
3. HO-3 - Dover-Westcliff Area – The Dover-Westcliff Area includes property on both sides of West Coast Highway and the west of Dover Drive. Properties in the Lido Village area are included.
4. HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.

The above listed are general descriptions of each subarea and additional properties may be included with the subarea. To be eligible for the provisions of this chapter, the property must be listed on the HO area map as an "Opportunity Site".

B. Uses Allowed. The following uses shall be permitted in the Housing Opportunity (HO) Overlay Coastal Zoning Districts:

1. Any use that is permitted or conditionally permitted in the base zone;
2. Multiple-unit development that meets the density requirements set forth in this section;
3. Mixed-use development that includes a residential component which complies with the minimum density set forth in this section; and
4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.

C. Subarea Development Standards.

1. Development Standards. The following development standards shall apply to any residential or mixed-use project permitted pursuant to this section. Unless otherwise modified by this section, all applicable development standards, including any adopted objective design standards, shall apply.

**TABLE 21.28-1**

**DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES**

Development Feature	Housing Opportunity Subareas			
	HO-1	HO-2	HO-3	HO-4
<u>Lot Size/Dimension</u>	<u>Per Base Zone</u>			
<u>Lot area required per unit (sq. ft.)<sup>1</sup></u>	Minimum: <u>2,178 (20 du/ac)</u> Maximum: <u>871 (50 du/ac)</u>		Minimum: <u>2,178 (20 du/ac)</u> Maximum: <u>871 (50 du/ac)</u>	
<u>Setbacks</u>				
<u>Front</u>	<u>0 ft.<sup>(2)</sup></u>	<u>10 ft.<sup>(2)</sup></u>	<u>10 ft.<sup>(2)(3)</sup></u>	<u>0<sup>(2)</sup></u>
<u>Rear</u>	<u>0</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>0</u>
<u>Side</u>			<u>0'<sup>(4)</sup></u>	
<u>Street Side</u>	<u>0<sup>(2)</sup></u>	<u>10 ft.<sup>(2)</sup></u>	<u>10 ft.<sup>(2)</sup></u>	<u>0 ft.<sup>(2)</sup></u>
<u>Height</u>	<u>Per Base Zone unless otherwise identified on the map</u>	<u>65 ft.</u>	<u>65 ft.<sup>(5)</sup></u>	<u>Per Base Zone<sup>(6)</sup></u>
<u>Building Separation</u>		<u>10 ft.</u>		
<u>Floor Area Ratio (FAR)</u>		<u>No restriction<sup>(6)</sup></u>		
<u>Common Open Space<sup>(7)</sup></u>	<u>Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)</u>			
<u>Private Open Space</u>	<u>5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)</u>			
<u>Fencing</u>	<u>See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).</u>			
<u>Landscaping</u>	<u>See Section 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).</u>			
<u>Lighting</u>	<u>See Section 21.30.070 (Outdoor Lighting).</u>			
<u>Parking</u>	<u>See Subsection (D)(2) below and Chapter 21.40 (Off-Street Parking).</u>			
<u>Signs</u>	<u>See Chapter 21.30.065 (Sign Standards).</u>			

- (1) Minimum/maximum allowable density range may be based on an average density of the entire project site, excluding density bonus units.
- (2) Any portion of the building that is over 20 feet in height shall be setback a minimum 20 feet from the street right-of-way.
- (3) Except in the Mixed-Use Mariners Mile (MU-MM) Zoning District wherein residential uses are only allowed beginning 100 feet north of Coast Highway.
- (4) The combined total from both sides shall be 15 feet.
- (5) The height shall be limited to 35 feet in the Shoreline Height Limit Area, as identified in Map H-1.
- (6) The FAR in this table only applies to residential floor area, including any supporting facilities. In mixed-use developments, the FAR for nonresidential is still applicable.
- (7) For purposes of this section, common and private open space in HO-1 may include enclosed shared amenities such as a clubhouse, swimming pool, tennis court, basketball court, racquetball court, weightlifting facility, children's playground equipment, sauna, jacuzzi, day care facility, or any other recreational amenities/facilities as deemed appropriate by the Community Development Director.

2. Airport Area Environs Area (HO-1). The following development standards shall only apply to projects with the Airport Area Environs Area:
  - a. Sound Mitigation. The interior ambient noise level of all new residential dwelling units shall meet applicable standards of the Section 10.26.030 (Interior Noise Standards). An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the interior noise standard. The residential units shall be constructed, and noise attenuated in compliance with the report.
  - b. Advanced Air Filtration. The design of all new residential and mixed-use residential developments shall include advanced air filtration systems to promote cleaner air within living environments.
  - c. Notification to Owners and Tenants. A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment adjacent to an airport and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment (e.g., noise from planes, commercial activity on the site and vehicles streets) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.
3. West Newport Mesa Area (HO-2). The following development standards shall only apply to projects with the West Newport Mesa Area:
  - a. West Newport Mesa Streetscape Master Plan. Any residential or mixed-use residential development shall implement applicable components of the adopted West Newport Mesa Streetscape Master Plan.

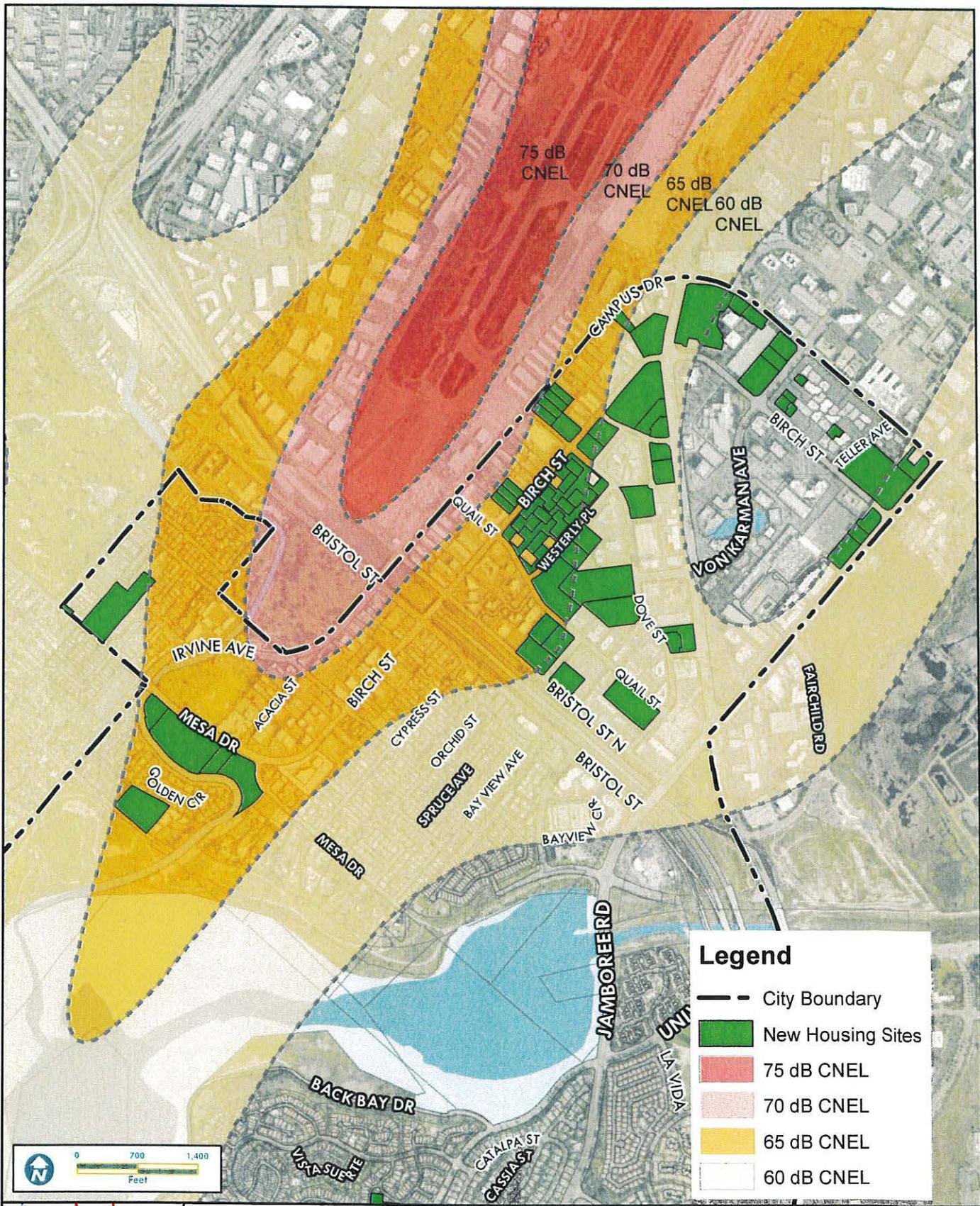
D. General Development Standards. The following development standards shall apply to all projects within the Housing Opportunity zone, regardless of subarea:

1. Landscaped Setbacks. All front and street side setbacks shall be landscaped, except for areas that provide vehicle and pedestrian access to the right-of-way.
2. Residential Off-Street Parking Requirements. Residential parking requirements for projects within the Housing Opportunity Overlay Zones shall be provided in accordance with Table 21.28-2 below. Parking for all other uses not included in this table shall be provided in accordance with Chapter 21.40 (Off-Street Parking Requirements) of the NBMC.

**TABLE 21.28-2**

**RESIDENTIAL OFF-STREET PARKING FOR HOUSING OPPORTUNITY OVERLAY ZONES**

<u>Land Use</u>	<u>Subtype</u>	<u>Parking Requirement</u>
<u>Residential (Rental)</u>	<u>Studio</u>	<u>1.1 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.5 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>
<u>Residential (Ownership)</u>	<u>Studio</u>	<u>1.4 spaces per dwelling unit</u>
	<u>1 Bedroom</u>	<u>1.8 spaces per dwelling unit</u>
	<u>2 Bedrooms</u>	<u>1.8 spaces per dwelling unit</u>
	<u>3 Bedrooms</u>	<u>2.0 spaces per dwelling unit</u>
	<u>Visitor Parking</u>	<u>0.3 spaces per dwelling unit</u>



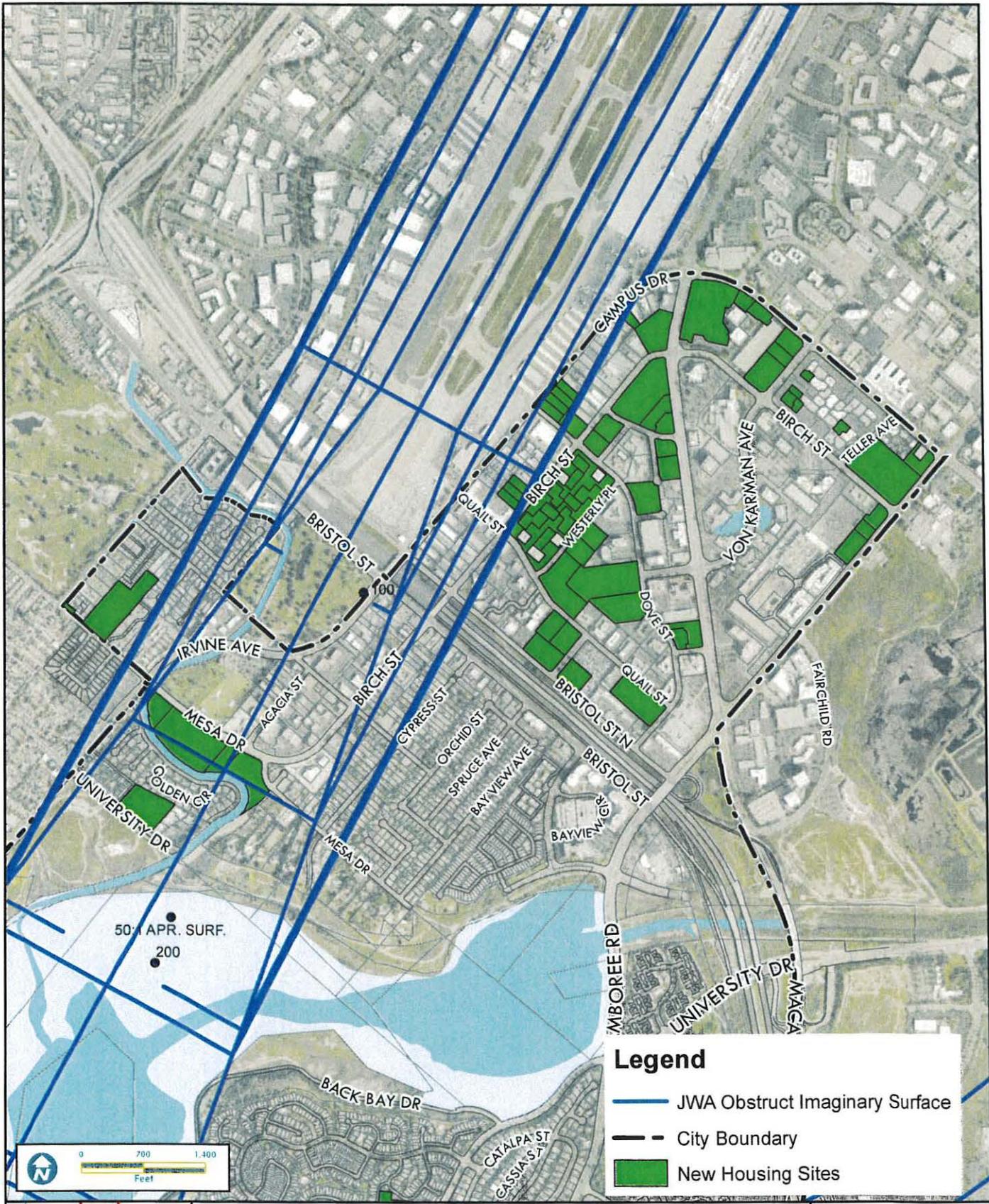
**Legend**

- City Boundary
- New Housing Sites
- 75 dB CNEL
- 70 dB CNEL
- 65 dB CNEL
- 60 dB CNEL



## Housing Sites Inventory (PA2017-141) JWA CNEL Noise Contours





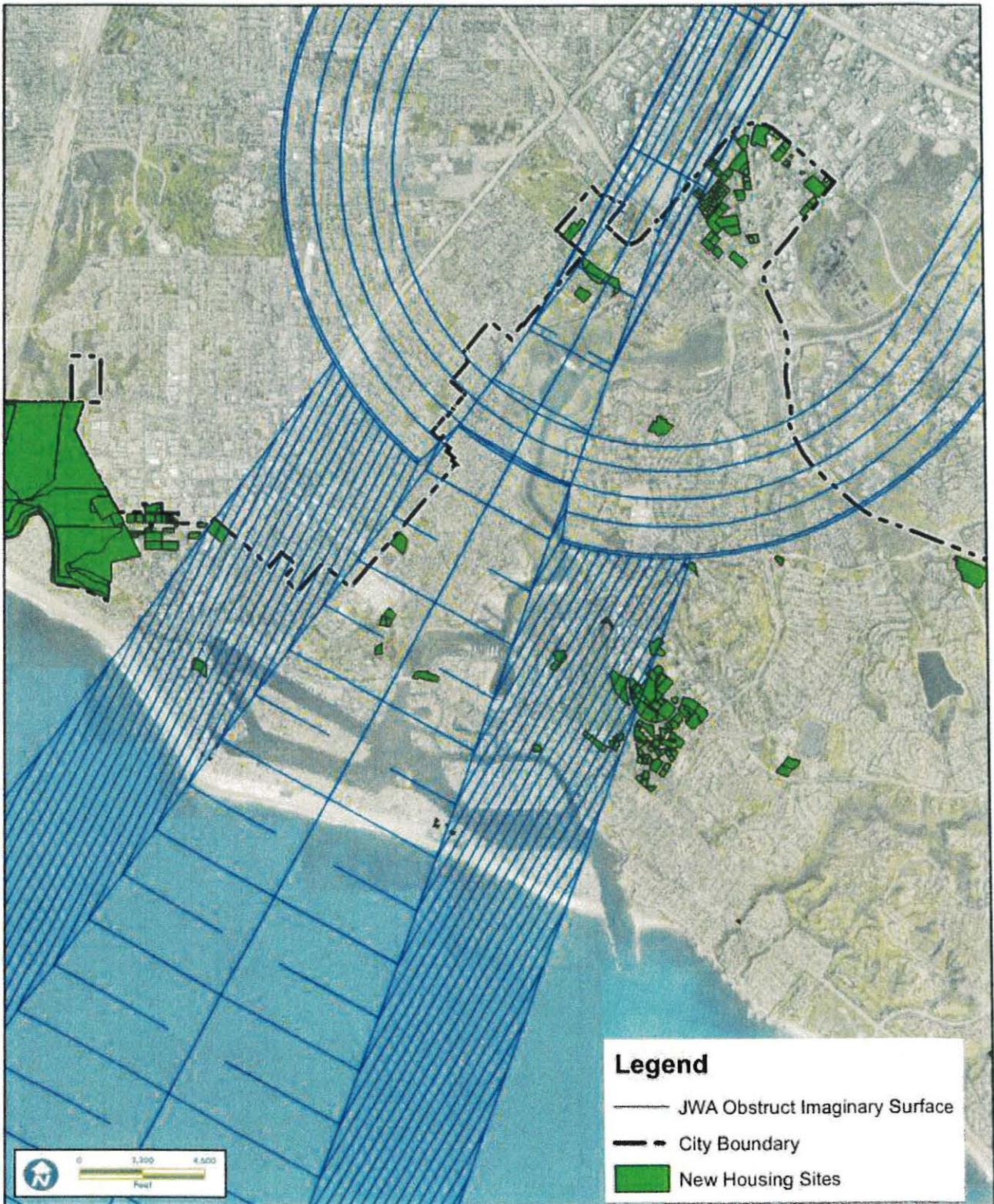
Housing Sites Inventory (PA2017-141)  
 JWA Obstruction Imaginary Surface  
 (Airport Area)

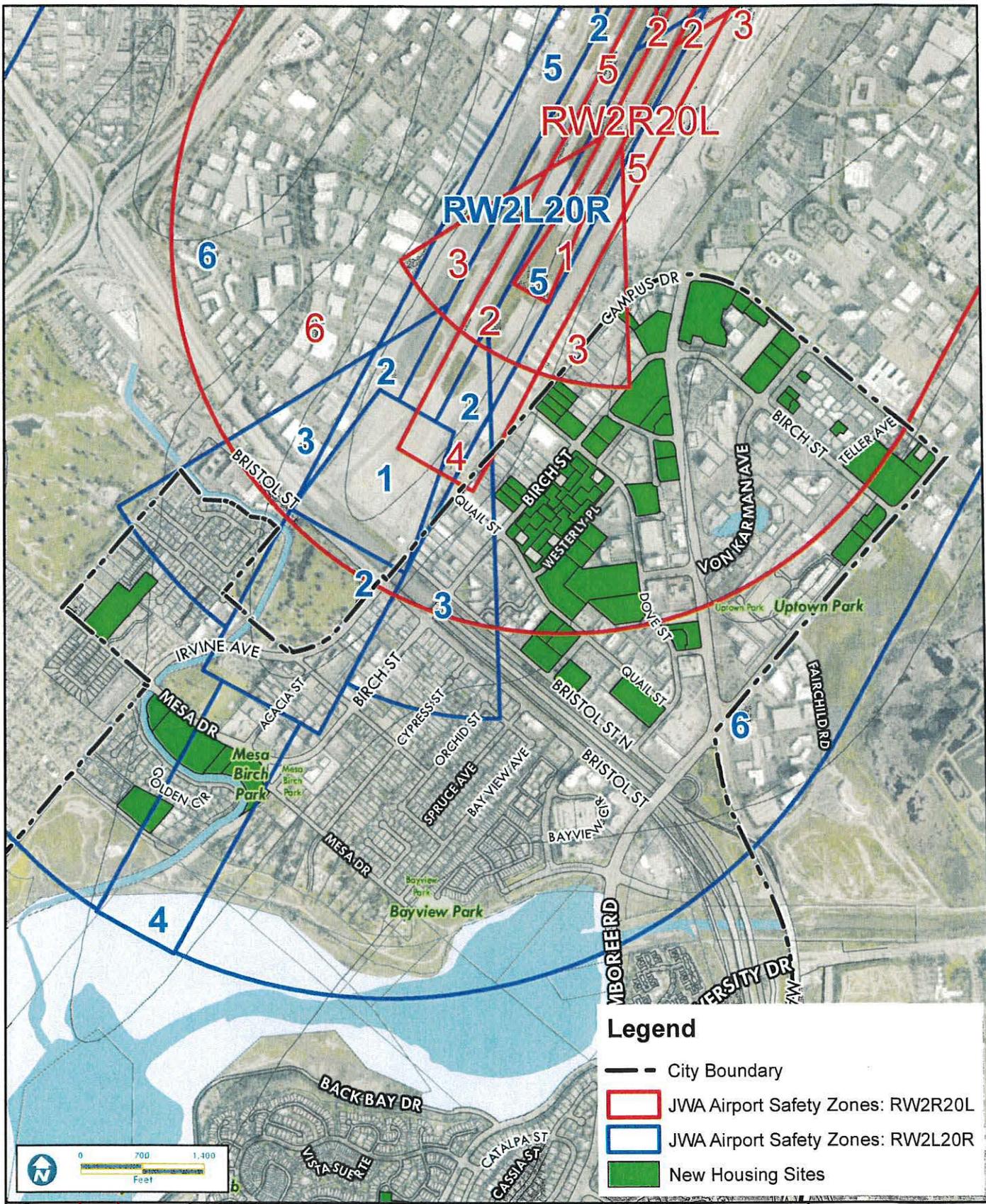


City of Newport Beach  
 GIS Division  
 August 24, 2021

**ATTACHMENT 7**

City of Newport Beach Housing Element Implementation Program Amendments  
ALUC Submittal, April 26, 2024  
EXHIBIT D – Obstruction Imaginary Surfaces





**Legend**

- City Boundary
- JWA Airport Safety Zones: RW2R20L
- JWA Airport Safety Zones: RW2L20R
- New Housing Sites

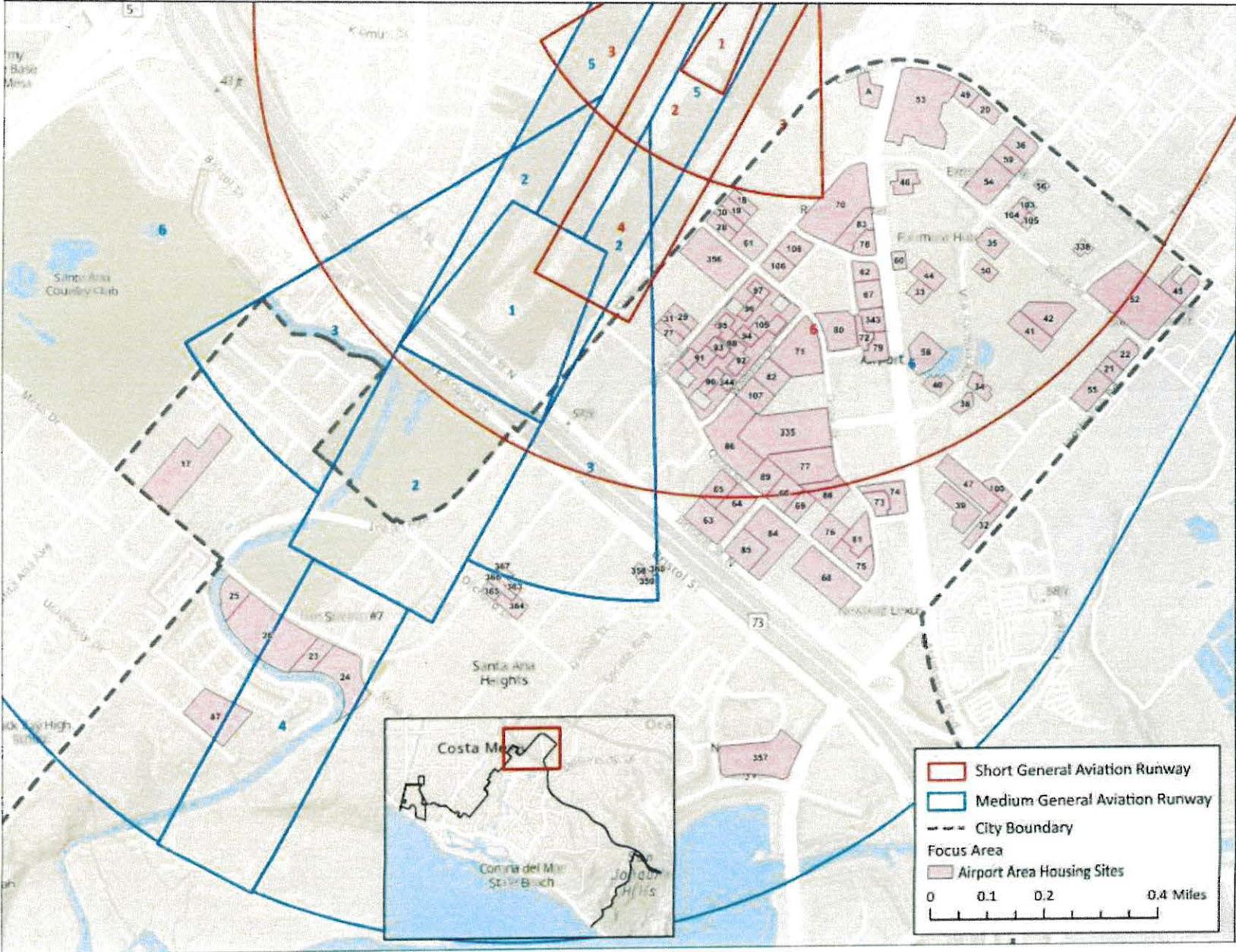
Housing Sites Inventory (PA2017-141)  
 JWA Safety Zones



City of Newport Beach  
 GIS Division  
 August 24, 2021

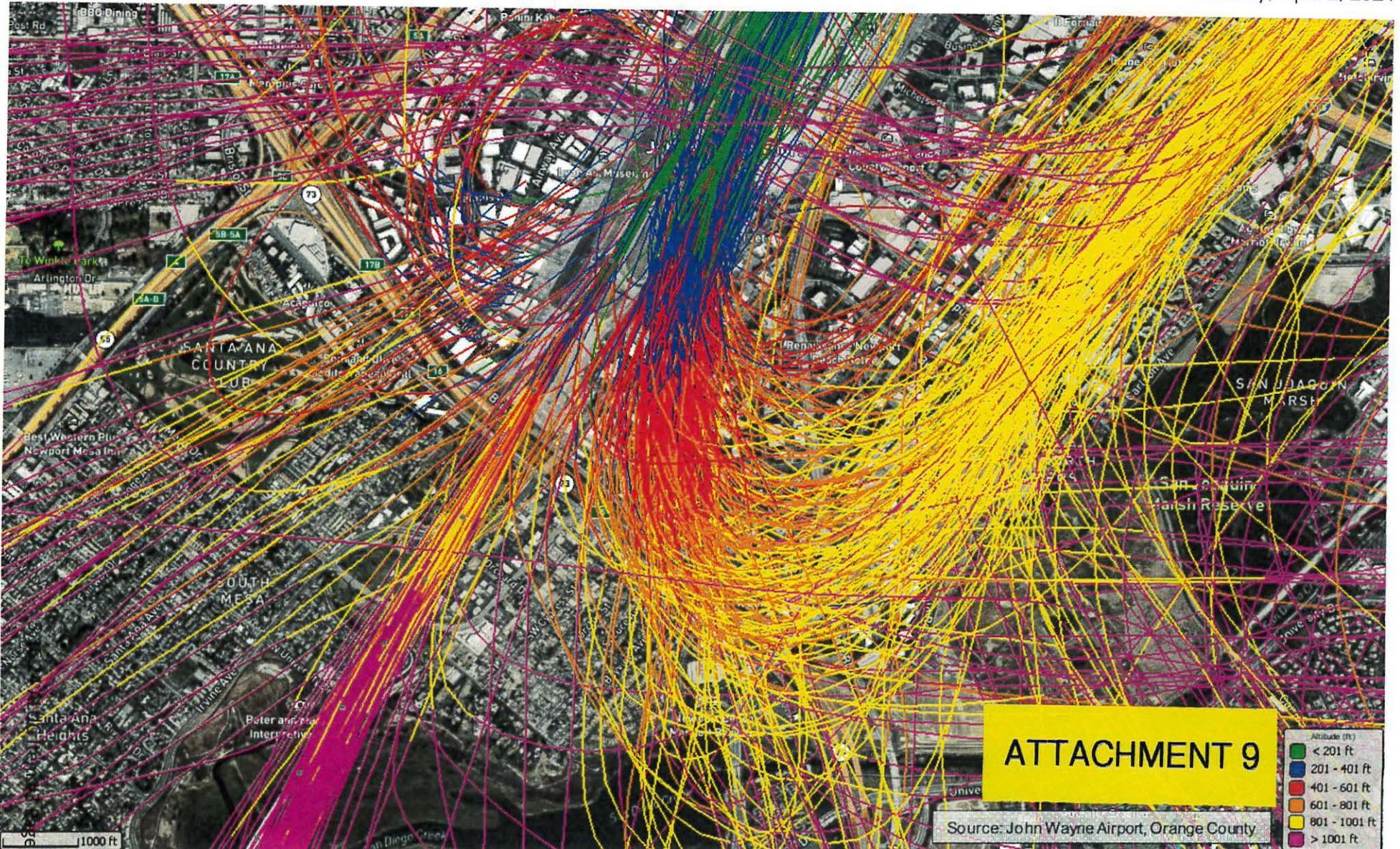
**ATTACHMENT 8**

**City of Newport Beach Housing Element Implementation Program Amendments**  
**ALUC Submittal, April 26, 2024**  
**EXHIBIT C – Airport Safety Zones**



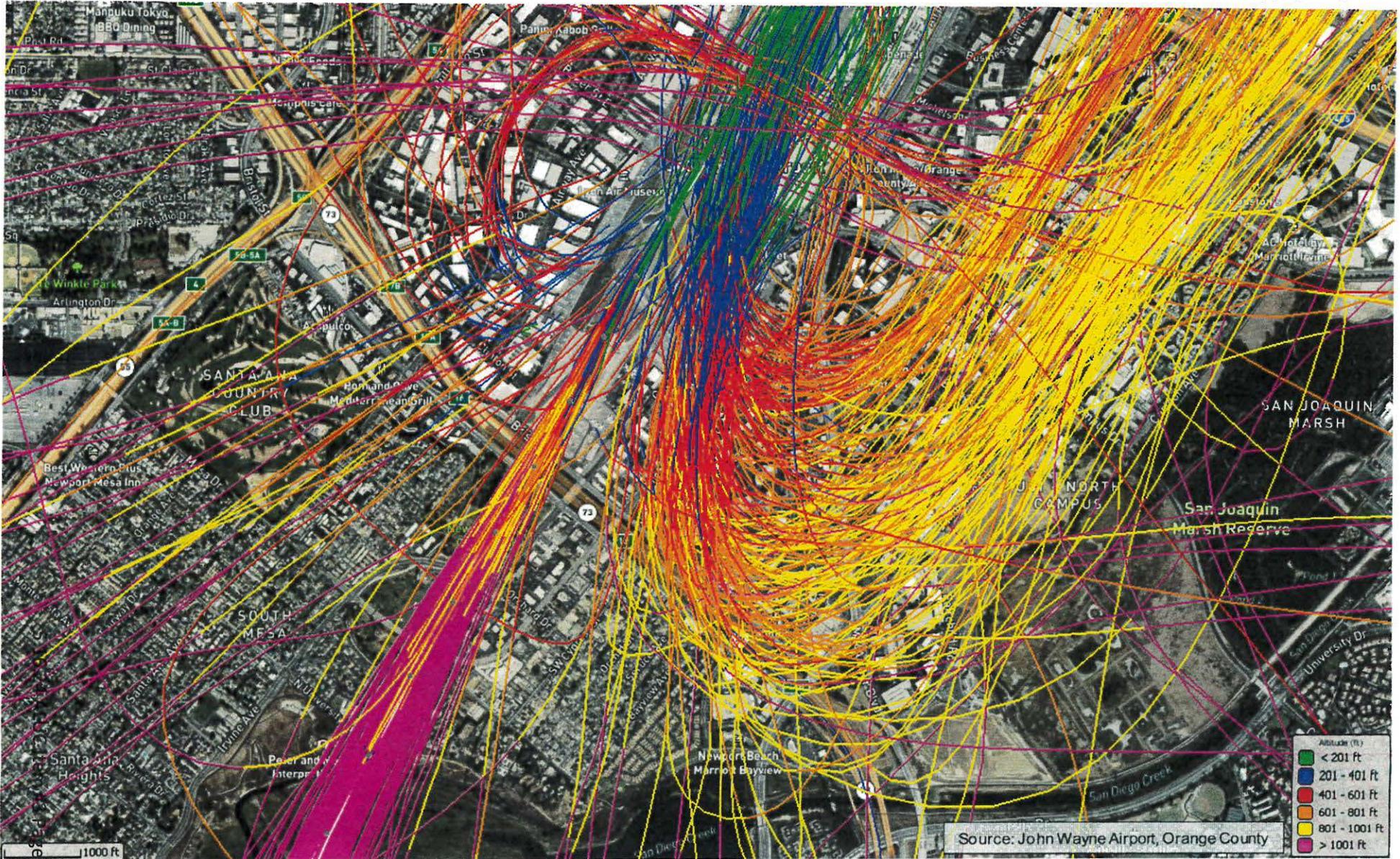


John Wayne Airport Altitude Analysis  
629 Operations  
Tuesday, April 2, 2024



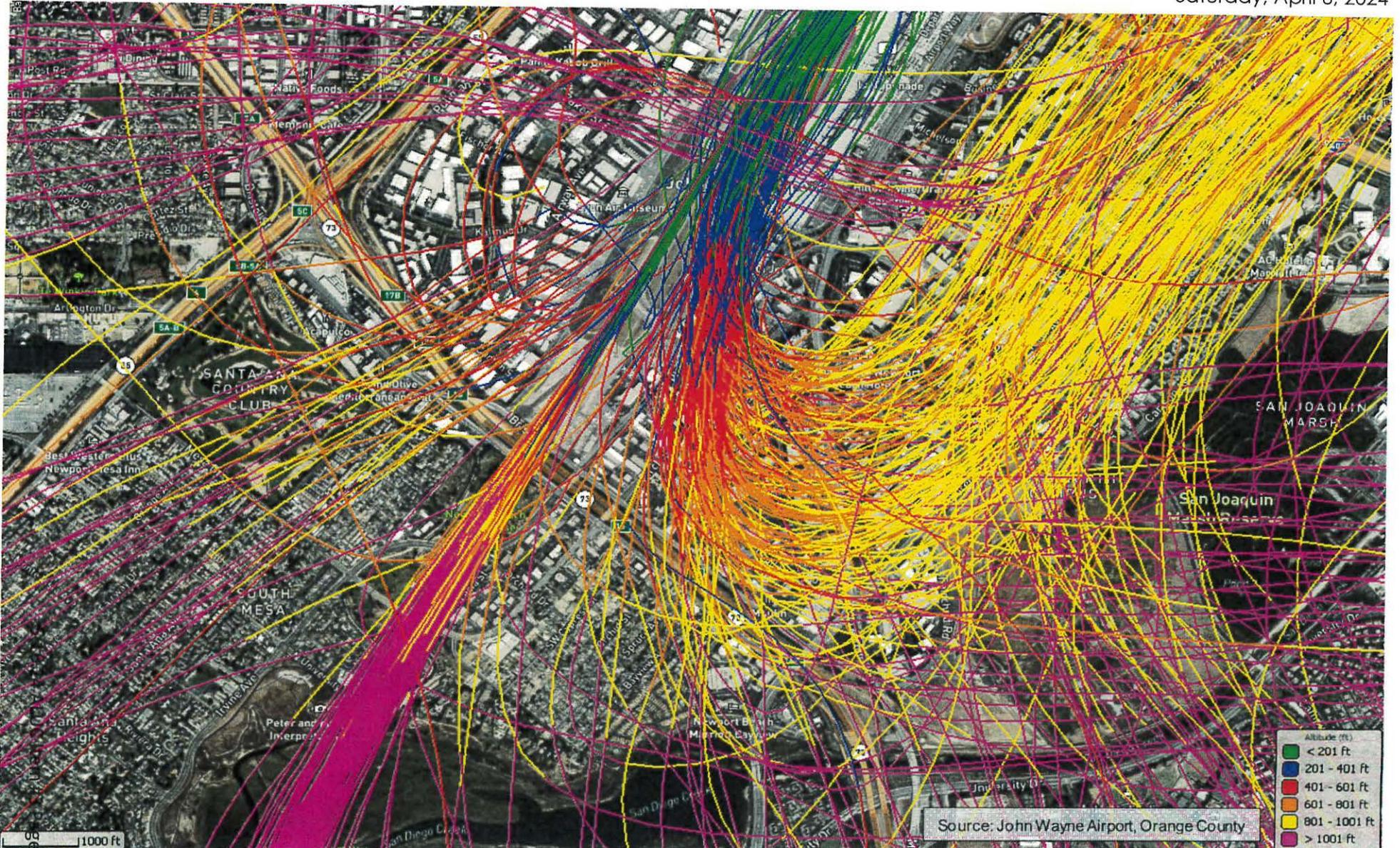


John Wayne Airport Altitude Analysis  
589 Operations  
Thursday, April 4, 2024





John Wayne Airport Altitude Analysis  
561 Operations  
Saturday, April 6, 2024





CITY OF NEWPORT BEACH

100 Civic Center Drive  
Newport Beach, California 92660

949 644-3200

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

RECEIVED

APR 26 2024

AIRPORT LAND USE COMMISSION

April 26, 2024

Julie Fitch, Interim Executive Officer  
Airport Land Use Commission for Orange County  
3160 Airway Avenue  
Costa Mesa, CA 92626

RE: City of Newport Beach Housing Element Implementation Program Amendments

Dear Ms. Fitch,

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 amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program for consistency with the Airport Environs Land Use Plan (AELUP) at its meeting on May 16, 2024.

As you are aware, the State of California (State) is presently in and has been experiencing a housing crisis that is continuously evidenced through State mandates, like the Regional Housing Needs Assessment (RHNA), and legislative updates. Over the past four years, City staff has worked alongside the City's Housing Element Update Advisory Committee (HEUAC), the consultant team, the community, Planning Commission, and City Council, as well as ALUC, to prepare the 6<sup>th</sup> Cycle General Plan Housing Element update (Housing Element). In September 2022, the City Council adopted the Housing Element and in October 2022, the State Department of Housing and Community Development (HCD) certified the Housing Element and statutorily compliant.

It is notable that the City's 6<sup>th</sup> Cycle RHNA allocation of 4,845 new units represented a nearly 1,000-fold increase of its 5<sup>th</sup> Cycle RHNA allocation and further represented about a 10-percent increase of the City's current housing stock. Given this unprecedentedly high allocation and the City's numerous constraints identified in Housing Element Section 3 (Housing Constraints and Resources), the sites identified within Appendix B of the Housing Element were identified after a citywide search, with approximately 25 percent of all identified sites being within the Airport Area.

Please note, the amendments proposed with this submittal are simply carrying forward the implementing actions identified within Section 4 (Housing Plan) of the Housing Element, which was previously reviewed by ALUC on September 16, 2021. Under State law, the City must implement the Housing Element through rezoning no later than February 2025.

I believe the enclosed materials adequately address all the required information your office needs to evaluate and bring our application to hearing on May 16, 2024. Should this not be the case, please know

**ATTACHMENT 10**

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the City is committed to providing any additional information necessary to constitute a complete application and stands ready to provide such information at a moment's notice.

I can be reached at 949-644-3253 or via email at [bzdeba@newportbeachca.gov](mailto:bzdeba@newportbeachca.gov). You may also reach out to Acting Deputy Community Development Director Jaime Murillo at 949-644-3209 or via email at [jmurillo@newportbeachca.gov](mailto:jmurillo@newportbeachca.gov).

Thank you for your time and consideration of our application. The City looks forward to collaborating with ALUC and ALUC staff on this matter.

Sincerely,



Benjamin M. Zdeba, AICP, Principal Planner

Attachments:

- 1a. General Plan Amendment Submittal Form and Checklist
- 1b. Zoning Code Amendment Submittal Form and Checklist
- 1c. Local Coastal Program Amendment Submittal Form and Checklist
2. Planning Commission Resolution No. PC2024-006
3. April 18, 2024, Planning Commission Staff Report with Attachments
4. Strikethrough-Underline Versions or Matrices of All Revisions
5. AELUP and City Noise, Height, and Safety Consistency Analysis

Exhibits:

- A. Notification Area/Planning Area
- B1. 2008 AELUP Noise Contours
- B2. City Noise Element Noise Contours
- C. Airport Safety Zones
- D. Obstruction Imaginary Surfaces



## AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

### SUBMITTAL FORM: GENERAL PLAN · SPECIFIC PLAN · ZONING CODE

1. Name of City or County: Newport Beach
2. Contact Information - Name/Title Benjamin M. Zdeba, AICP, Principal Planner  
Agency: City of Newport Beach  
Address: 100 Civic Center Drive, Bay B, Newport Beach, CA 92660  
Phone/email: 949-644-3253/bzdeba@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: Housing Element  
Implementation Program Amendments
5. Scheduled date of Planning Commission Public Hearing: 4/18/2024
6. Tentative date of City Council/Board of Supervisors Public Hearing: 7/23/2024
7. Requested date of ALUC Review: May 18  
*(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 N/A and proposed N/A maximum heights allowed.

### **SUBMITTAL CHECKLIST: General Plan · Specific Plan · Zoning Code**

- Cover letter on City/County letterhead.
- Completed Submittal Form.
- Link to existing Land Use Element - [https://www.newportbeachca.gov/PLN/General\\_Plan/04\\_Ch3\\_LandUse\\_web.pdf](https://www.newportbeachca.gov/PLN/General_Plan/04_Ch3_LandUse_web.pdf) and proposed (Attachment 2) 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. See Attachment 3.
- 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)

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## AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

### SUBMITTAL FORM: GENERAL PLAN • SPECIFIC PLAN • ZONING CODE

1. Name of City or County: Newport Beach
2. Contact Information - Name/Title Benjamin M. Zdeba, AICP, Principal Planner  
Agency: City of Newport Beach  
Address: 100 Civic Center Drive, Bay B, Newport Beach, CA 92660  
Phone/email: 949-644-3253/bzdeba@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: Housing Element  
Implementation Program Amendments
5. Scheduled date of Planning Commission Public Hearing: 4/18/2024
6. Tentative date of City Council/Board of Supervisors Public Hearing: 7/23/2024
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Surfaces\*?  No  Yes
13. Please indicate current N/A and proposed N/A maximum heights allowed.

### SUBMITTAL CHECKLIST: General Plan · Specific Plan · Zoning Code

- Cover letter on City/County letterhead.
- Completed Submittal Form.
- Link to existing Zoning Code - <https://www.codepublishing.com/CA/NewportBeach/#!/NewportBeach20/NewportBeach20.html> and proposed Attachment 2 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).
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Attachment 3
- 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)

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03.23



# AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

## SUBMITTAL FORM: GENERAL PLAN • SPECIFIC PLAN • ZONING CODE

1. Name of City or County: Newport Beach

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2. Contact Information - Name/Title Benjamin M. Zdeba, AICP, Principal Planner  
Agency: City of Newport Beach  
Address: 100 Civic Center Drive, Bay B, Newport Beach, CA 92660  
Phone/email: 949-644-3253/bzdeba@newportbeachca.gov

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3. Airport Planning Area(s):  
 John Wayne Airport     Fullerton Municipal Airport     JFTB - Los Alamitos

---

4. Item being submitted for review (submit each item separately): [Click here to choose.](#)  
Name of General Plan Element, Specific Plan or Planned Community: (Local Coastal Program Amendment) Housing Element Implementation Program Amendments

---

5. Scheduled date of Planning Commission Public Hearing: 4/18/2024

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6. Tentative date of City Council/Board of Supervisors Public Hearing: 7/23/2024

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*(Complete submittals must be received by the first day of the month for the next meeting).*

---

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---

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---

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 N/A and proposed N/A maximum heights allowed.

### SUBMITTAL CHECKLIST: General Plan • Specific Plan • Zoning Code

- Cover letter on City/County letterhead.
- Completed Submittal Form.
- Link to existing CLUP - [https://www.newportbeachca.gov/PLN/LCP/Internet%20PDFs/CLUP\\_Part%202\\_Land%20Use%20and%20Development.pdf](https://www.newportbeachca.gov/PLN/LCP/Internet%20PDFs/CLUP_Part%202_Land%20Use%20and%20Development.pdf) and IP - <https://www.codepublishing.com/CA/NewportBeach/#!/NewportBeach21/NewportBeach21.html> and proposed Attachment 2 General Plan Element, Specific Plan or Zoning Code for this submittal.
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[ALUCinfo@ocair.com](mailto:ALUCinfo@ocair.com)

5.16.24 ALUC Item #3 Page 46

**RESOLUTION NO. PC2024-006**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING THE CITY COUNCIL CERTIFY AN ENVIRONMENTAL IMPACT REPORT, INCLUDING A MITIGATION MONITORING AND REPORTING PROGRAM AND A STATEMENT OF OVERRIDING CONSIDERATIONS WITH CEQA FINDINGS, AND AMENDMENT TO THE GENERAL PLAN, COASTAL LAND USE PLAN, AND TITLE 20 (PLANNING AND ZONING) AND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE TO IMPLEMENT THE GENERAL PLAN 6<sup>TH</sup> CYCLE HOUSING ELEMENT IN COMPLIANCE WITH STATE LAW (PA2022-0245)**

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

SECTION 1. STATEMENT OF FACTS.

1. Every eight years, state law requires the City of Newport Beach ("City") to update its Housing Element, one of the seven mandatory elements of the Newport Beach General Plan, which identifies and analyzes existing and projected housing needs within their jurisdiction.
2. Newport Beach was assigned a Regional Housing Needs Allocation ("RHNA") allocation of 4,845 homes as its projected housing needs for the planning period covering 2021-2029.
3. As a result, the City prepared the 6<sup>th</sup> Cycle Housing Element, which covers the planning period from 2021-2029 ("6<sup>th</sup> Cycle Housing Element") to plan for the 4,845 new housing units.
4. Preparation of the 6<sup>th</sup> Cycle Housing Element involved extensive public participation with community groups at numerous workshops, as well as meetings with the Planning Commission and City Council, and was assisted the Housing Element Update Advisory Committee (HEAUC), which was an ad-hoc committee formed and appointed by the City Council.
5. In accordance with state law, the 6<sup>th</sup> Cycle Housing Element for the 2021-2029 planning period was adopted by the City Council on September 13, 2022, and certified as statutorily compliant with state law by the State Department of Housing and Community Development ("HCD") on October 5, 2022.
6. Section 4 (Housing Plan) of the 6<sup>th</sup> Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations based on the RHNA allocation of 4,845 new housing units, the "fair share" of regional housing need and demand.

7. The 6<sup>th</sup> Cycle Housing Element identifies the following site groupings or “focus areas” that are best suited to accommodate the City’s RHNA planning obligation:
  - Airport Area Environs
  - West Newport Mesa
  - Newport Center
  - Dover/Westcliff
  - Coyote Canyon
8. The 6<sup>th</sup> Cycle Housing Element opportunity sites are to be rezoned per Housing Element Policy Actions 1A through 1F to accommodate the City’s RHNA obligation, including a buffer necessary to address future “no net loss” of available sites and to preclude the need to identify replacement sites during the 6<sup>th</sup> Cycle implementation. Rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the Land Use Element of the General Plan and the Local Coastal Program.
9. To comply with state law, the City has been working diligently to implement the planning strategy outlined in Section 4 (Housing Plan) of the 6<sup>th</sup> Cycle Housing Element no later than February 2025. The implementing programs and strategies (“6<sup>th</sup> Cycle Housing Element Implementation”) include the following amendments and actions:
  - **General Plan Amendment (“GPA”).** To revise the necessary goals and/or policies within the City’s Land Use Element to support housing production in the focus areas identified by the Housing Element;
  - **Amendment to Title 20 (Planning and Zoning) of the NBMC (“ZCA”).** To implement the Land Use Element’s policy changes by allowing housing development as an opportunity and establishing appropriate development standards create objective design and development standards for multi-unit residential and mixed-use development projects;
  - **Local Coastal Program Amendment (“LCPA”).** To revise and create new policies within the City’s Coastal Land Use Plan and to update Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (“NBMC”) to support housing production in the focus areas identified by the 6<sup>th</sup> Cycle Housing Element and within the Coastal Zone; and
  - **Program Environmental Impact Report (SCH No. 2023060699).** To analyze potential environmental impacts under the California Environmental Quality Act (“CEQA”) related to the implementation of the 6<sup>th</sup> Cycle Housing Element through providing additional housing development capacity.
10. Certain components of the 6<sup>th</sup> Cycle Housing Element Implementation constitute a “Major Amendment” as defined in Section 423 (Protection from Traffic and Density) of Article IV

of the City's Charter; therefore, they individually and/or collectively require a majority vote of the electorate.

11. The 6<sup>th</sup> Cycle Housing Element Implementation must take effect by February of 2025 to avoid significant penalties authorized under by state law, including but not limited to:
  - Increased exposure to public and private litigation;
  - Loss of permitting authority;
  - Financial penalties, including monthly fines from \$10,000 to \$100,000;
  - Loss of eligibility for state and regional funding sources;
  - Court receivership;
  - Senate Bill 35 ("SB 35") streamlined ministerial approval process; and
  - Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD.
12. SB 35 provides for a "builder's remedy" that allows developers of affordable housing projects to bypass the zoning code and general plan of cities that are deemed non-compliant with state law by effectively ignoring height limits, density limits, and other regulations that make for thoughtfully planned development. Cities are effectively prohibited from denying a "builder's remedy" project except in unique circumstances, resulting in a loss of local control.
13. A public hearing was held on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 (Public Hearings) and 21.62 (Public Hearing) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. A draft program Environmental Impact Report (State Clearinghouse Number 2023060699) ("DEIR") has been prepared in compliance with the CEQA set forth in Public Resources Code Section 21000 *et seq.*, the State CEQA Guidelines set forth in 14 California Code of Regulations Section 15000 *et seq.*, and City Council Policy K-3.
2. The DEIR was circulated for a 46-day comment period beginning on February 12, 2024, and ending on March 28, 2024. The Environmental Impact Report ("EIR"), which includes the DEIR, comments, and responses to the comments as of the public hearing date, is being considered by the Planning Commission in its review of the 6<sup>th</sup> Cycle Housing Element Implementation.
3. The Planning Commission finds that the EIR has been prepared and completed in compliance with CEQA and City Council Policy K-3.
4. The Planning Commission finds that the EIR reflects the independent judgment and analysis of the City.

5. The Planning Commission reviewed and considered the information contained in the EIR prior to forwarding its recommendation on the amendments to the General Plan, NBMC, and Local Coastal Program.
6. Given the programmatic nature of the EIR, any one site within a focus area that exceeds a threshold of significance causes the need to explore mitigation for the corresponding topic area. Accordingly, the EIR discloses significant and unavoidable impacts relating to aesthetics, air quality, cultural resources, greenhouse gas ("GHG") emissions, noise and utilities and service systems and potentially significant environmental impacts related to geology and soils, tribal cultural resources and wildfire that may directly or indirectly result from the project but would be reduced to a less than significant level of impact by the mitigation measures specified in the EIR.

### SECTION 3. FINDINGS.

#### **General Plan Amendment**

An amendment to the City's General Plan Land Use Element is a legislative act. Neither Title 20 (Planning and Zoning) of the NBMC nor California Government Code Section 65000 *et seq.*, set forth any required findings for either approval of such amendments. Notwithstanding the foregoing, the following amendments to the General Plan Land Use Element will create internal consistency with the certified 6<sup>th</sup> Cycle Housing Element:

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

1. According to General Plan Implementation Program 1.2, revisions and updates of the General Plan must be made in accordance with the Vision Statement. While it is being reviewed as part of the comprehensive General Plan update, as presently written, it is the City's intention to be a residential community, balanced with supporting nonresidential uses, job opportunities, and visitor and recreational services and amenities. Furthermore, the Vision Statement calls for "a range of housing opportunities that allows people to live and work in the City."
2. Implementation Program 1.2 further states that amendments to accommodate the City's "fair share" of regional housing demand will be considered in context of these visions and the goals stipulated by the General Plan. Adoption of the proposed Amendment will support the 6<sup>th</sup> Cycle Housing Element adopted in the context of the visions and goals stipulated by the General Plan.
3. The proposed Amendment, attached to this resolution and incorporated herein, is in full compliance with the Section 4 of the 6<sup>th</sup> Cycle Housing Element as presented below:

<b>6<sup>th</sup> Cycle Housing Element Implementation Measures</b>	<b>Amendments in Support of Housing Element's Implementation Measures</b>
<p>Housing Goal #1. Provision of adequate sites to accommodate projected housing unit growth needs within the following identified housing opportunity sites:</p> <ul style="list-style-type: none"> <li>• Airport Area Environs</li> <li>• West Newport Mesa</li> <li>• Newport Center</li> <li>• Dover/Westcliff</li> <li>• Banning Ranch</li> <li>• Coyote Canyon</li> </ul> <p>Housing Goal #2. Quality residential development and preservation, conservation, and appropriate redevelopment of housing stock.</p> <p>Housing Goal #3. A variety of housing types, designs, and opportunities for all social and economic segments.</p> <p>Housing Goal #4. Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.</p>	<p>Revised Policies LU 1.1 through LU 1.5 emphasize the goal of balancing the needs of residents, businesses, and visitors through the recognition that Newport Beach is primarily a residential community. The policies underscore the need to preserve and enhance residential neighborhoods. The identified sites direct new housing opportunities outside of established residential neighborhoods. The amended Policies ensure the continued recognition that Newport Beach is primarily a residential community.</p> <p>Revised Policies LU 2.2 and LU 2.5 call for supporting the development of uses that allow the City to be a complete community and indicate that harbor and waterfront uses contribute to the charm and character of the City and provide needed support for residents.</p> <p>Revised Policy 3.3 (Transition of Land Uses) calls for supporting residential opportunities in West Newport Mesa; residential infill development along Balboa Boulevard corridor and facilitating workforce housing in proximity to jobs, transportation and services in West Newport Mesa and the Airport Area; and providing for housing opportunities that complement nonresidential uses in the Coyote Canyon Landfill site.</p> <p>Revised Goal LU 4 Manage growth and change to:</p> <ul style="list-style-type: none"> <li>• Support the livability of existing neighborhoods.</li> <li>• Support residential opportunities that accommodate the City's share of the Regional Housing Needs Assessment.</li> <li>• Promote new uses that are complimentary to already existing neighborhoods and uses.</li> <li>• Achieve distinct and economically vital business and employment districts.</li> <li>• Correlate with supporting infrastructure and public services.</li> <li>• Sustain Newport Beach's natural setting.</li> </ul> <p>The above amendment supports Housing Goal #1 as it accommodates City's share of RHNA.</p>

6 <sup>th</sup> Cycle Housing Element Implementation Measures	Amendments in Support of Housing Element's Implementation Measures
	<p>Revised Policy LU4.1 (Land Use Diagram) clarifies that density limits exclude increases allowed through the application of density bonus laws as stipulated also by state law.</p> <p>New Policies 4.4 (Rezoning to Accommodate Housing Opportunities); 4.5 (Residential Uses and Residential Densities); 4.6 (Continuation of Existing Development); and 4.7 (Redevelopment and Transfer of Development Rights) all support 6<sup>th</sup> Cycle Housing Element Implementation Measures. These policies stipulate that residential opportunities are to be established as overlay zones which allow for existing uses to continue. Opportunities for by-right development, when at least 20% or more units are affordable to lower-income households, ensures housing opportunities for all social and economic segments and ensures streamlined project review.</p> <p>Revised Policy LU 5.1.3 (Neighborhood Identification) calls for the establishment of objective design and development standards which ensures Implementation Goals 1 and 2 which stipulate quality design and variety of housing designs.</p> <p>Revised Policy LU 6.2.4 (Accessory Dwelling Units (ADUs)) supports and promotes the development of accessory dwelling units and junior accessory dwellings. This policy fulfills Implementation Goal #1 that calls for the City to aggressively support and accommodate the construction of at least 240 ADUs.</p> <p>Revised Policies LU 6.4.2 (Residential); LU 6.6.2 (Residential Types (West Newport Mesa)); LU 6.15.4 (Priority Uses (Airport Area – Mixed-Use Districts [Subarea C, "MU-H2" designation])); LU 6.15.28 (Priority Uses (Airport Area – Commercial Nodes ]"CG" designation Sub-Area C-part]) and LU 6.15.29 (Priority Uses (Airport Area – Commercial Office District ["CO-G" designation Sub-Area C—part]) support housing development or redevelopment within the opportunity sites identified in the Housing Element.</p>

1. Voter approval is required for any major amendment to the Newport Beach General Plan. A "major amendment" is one that significantly increases the maximum amount of traffic that allowed uses could generate, or significantly increases allowed density or intensity. "Significantly increases" means over 100 peak hour trips (traffic), or over 100 dwelling units (density), or over 40,000 square feet of floor area (intensity).
2. The thresholds apply to the total of: 1) Increases resulting from the amendment itself, plus 2) 80% of the increases resulting from other amendments affecting the same neighborhood and adopted within the preceding 10 years. As the proposed amendment is considered a major amendment, it will not take effect if City Council decides to approve it, unless it has been accessed to registered voters and has been approved by a majority of those voting on it.
3. Should the City not implement the 6<sup>th</sup> Cycle Housing Element by February 2025, the City may be considered non-compliant with State Housing Laws and developers of affordable housing projects will be entitled to have their residential projects approved as a "builder's remedy" in accordance with Senate Bill 35, effectively ignoring height limits, density limits and other regulations designed to ensure development is consistent with the City's Vision Statement of the General Plan.

#### *Tribal Consultation*

1. Pursuant to Senate Bill 18, the City requested a Sacred Lands File (SLF) search on the project location from the Native American Heritage Commission (NAHC) on March 5, 2023. On March 22, 2023, the NAHC responded that the findings of the search were positive and identified 19 Native American tribal representatives to contact for further information on potential tribal resources. To comply with both the requirements of SB 18 and Assembly Bill 52, the City mailed and emailed notices regarding the proposed project to all of the listed tribes. The City received a response from only one representative of the Gabrieleño Band of Mission Indians – Kizh Nation expressing no concerns on the project given its programmatic nature, but also expressing a desire to be consulted on future individual projects.

#### **Zoning Code Amendment**

An amendment to Title 20 (Planning and Zoning) of the NBMC is a legislative act. Neither Title 20 itself nor California Government Code Section 65000 et seq., set forth any required findings for either approval of such amendments. However, Section 20.66.040 of the NBMC requires the Planning Commission to make and file a report of its findings and recommendations with the Council.

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

1. The Zoning Code is a tool designed to implement the General Plan. Since the 6<sup>th</sup> Cycle Housing Element Implementation involves an amendment to the General Plan, it is necessary to also amend Title 20 (Planning and Zoning) to achieve its goals and policies.

2. The ZCA, attached to this resolution as Exhibits “B” and “C,” and incorporated herein, including the Housing Opportunity (HO) Overlay Zoning Districts with associated development standards, and the Multi-Unit Objective Design Standards, are consistent with the implementation program in the Housing Plan of the Housing Element, as discussed above under the Findings for the General Plan Amendment. The ZCA will enable the implementation of the Housing Element’s key objective, which is to accommodate the development of housing projects to fulfill City’s “fair share” of regional housing need and demand.

**Local Coastal Program Amendment**

An amendment to Title 21 (Local Coastal Program Implementation Plan) of the NBMC is a legislative act. Neither Title 21 of the NBMC itself nor California Government Code Section 65000 et seq., set forth any required findings for either approval of such amendments.

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

1. The 6<sup>th</sup> Cycle Housing Element includes the Housing Plan, which sets forth programs and strategies to facilitate and encourage the development of the City’s “fair share” of regional housing demand. Appendix B of the 6<sup>th</sup> Cycle Housing Element has identified several sites to be rezoned with the Housing Overlay (HO) Zoning District. A number of these sites are within the Coastal Zone. As the Zoning Code needs to be amended to add the new HO Overlay Zones, and the associated development standards, similarly, the Local Coastal Program needs to be amended to add the new Overlay Zones along with the development standards, for properties that are within the Coastal Zone.
2. The proposed amendments, attached to this resolution as Exhibit “D,” and incorporated herein, fulfill the Housing Plan, as the amendments will facilitate the development of housing consistent with the 6<sup>th</sup> Cycle Housing Element as shown below:

<b>6th Cycle Housing Element Implementation Measures</b>	<b>Amendments to the Local Coastal Policy in Support of Housing Element’s Implementation Measures</b>
<p>Housing Goal #1. Provision of adequate sites to accommodate projected housing unit growth needs within the following identified housing opportunity sites:</p> <ul style="list-style-type: none"> <li>• Airport Area Environs</li> <li>• West Newport Mesa</li> <li>• Dover/Westcliff</li> <li>• Newport Center</li> <li>• Banning Ranch</li> <li>• Coyote Canyon</li> </ul> <p>Housing Goal #2. Quality residential development and preservation, conservation and appropriate redevelopment of housing stock.</p>	<p>New Policy LU 2.1.11-1 calls for accommodating housing opportunities through the adoption of housing opportunity overlay zoning districts for the following opportunity sites:</p> <ul style="list-style-type: none"> <li>• Airport Environs</li> <li>• West Newport Mesa</li> <li>• Newport Center</li> <li>• Dover/Westcliff</li> </ul> <p>This new policy is consistent with Housing Goal #1.</p> <p>New Policies LU 2.1.11-2, LU 2.1.11-3 and LU 2.1.11-4 establish procedures regarding density</p>

<b>6th Cycle Housing Element Implementation Measures</b>	<b>Amendments to the Local Coastal Policy in Support of Housing Element's Implementation Measures</b>
<p>Housing Goal #3. A variety of housing types, designs, and opportunities for all social and economic segments.</p> <p>Housing Goal #4. Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.</p>	<p>limits and clarify that residential opportunities are in addition to existing uses allowed by the Coastal Land Use Plan and must be consistent with applicable overlay or implementation plan requirements unless modified consistent with established procedures to grant relief from standards (e.g. Coastal Modification or Variance or the application of Density Bonus regulations). These policies fulfill Housing Goals #1 and #2, as they set parameters for the overlay zones and allow for uses permitted by underlying zones.</p>

**SECTION 4. DECISION.**

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

1. The above recitals are true and correct and incorporate herein.
2. The Planning Commission declares that despite the potential for significant environmental effects that cannot be substantially lessened or avoided through the adoption of feasible mitigation measures or feasible alternatives, there exist certain overriding economic, social and other considerations for approving the proposed Project.
3. The Planning Commission hereby recommends the City Council certify the Final EIR (SCH#2023060699) attached as Exhibit "A," including the forthcoming draft findings.
4. The Planning Commission has read and considered the amendments to the General Plan, amendments to the Zoning Code, and the Local Coastal Program, as contained in Exhibits "B" through "E," as part of the consideration of the adopted 6<sup>th</sup> Cycle Housing Element implementation programs and recommends adoption of the General Plan Amendment, Zoning Code Amendments, and Local Coastal Program Amendment under PA2022-0245.

**PASSED, APPROVED, AND ADOPTED THIS 18<sup>TH</sup> DAY OF APRIL, 2024.**

AYES: Barto, Ellmore, Harris, Lowrey, and Salene

NOES: None

RECUSED: Langford and Rosene

ABSENT: None

BY:           Curtis Ellmore            
Curtis Ellmore, Chair

BY:           Tristan Harris            
Tristan Harris, Secretary

## Explanation of Housing Element Implementation Program in Relation to AELUP

As discussed in the cover letter to this submittal, the very high Regional Housing Needs Assessment (RHNA) allocation of 4,845 new units has required the City to look citywide for new housing opportunity sites. While several sites have been identified in the Airport Area and its proximity, there are five other focus areas where most new housing opportunity sites are being listed: Banning Ranch, West Newport Mesa, Dover-Westcliff/Mariner's Mile, Newport Center, and Coyote Canyon. The complete breakdown is viewable in Section 4 and [Appendix B](#) of the adopted and certified Housing Element.

The City's Housing Element was reviewed by ALUC on September 16, 2021. The City Council adopted the Housing Element in February 2022; however, subsequent revisions were required based on feedback from HCD. After multiple iterations and responsive revisions, the City Council re-adopted a revised Housing Element on September 13, 2022. The adopted Housing Element was then certified as being statutorily compliant by HCD on October 5, 2022. Section 4 (Housing Plan) of the Housing Element is the City's strategy to meet the RHNA allocation and includes several policy actions for implementation. The proposed amendments serve to simply implement the City's adopted and certified Housing Element. The following sections further analyze the Housing Element Implementation Program Amendments' compatibility and consistency with the 2008 AELUP, as well as with the City's own adopted policies and ordinances. For ALUC's ease of review, the City is including a partial Housing Opportunity Sites Inventory that inventories the various sites, their noise exposure, and their safety zones, as Appendix A to this narrative.

### *Noise Policies and Mitigation*

There are no proposed policies or mitigation measures related to this proposal that are related to noise from John Wayne Airport. Instead, the City relies on its General Plan Land Use Element and Noise Element to provide pertinent goals and policies. The City also relies on its Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC).

In November 2023, the City amended the Land Use and Noise Elements, as well as Title 20 of the NBMC to accommodate housing units identified by the adopted and certified 6<sup>th</sup> Cycle Housing Element, as follows:

- Adopted 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),
- Updated Land Use and Noise Element Policies, Land Use Element Figures LU11, LU22, and LU23, as well as Title 20 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
- Allowed residential units identified by the certified 6<sup>th</sup> Cycle 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 City's cited General Plan Policies and Title 20 regulations will help to ensure that appropriate noise considerations are made and that mitigation is included in the design. All current policies and regulations are all listed within Table 1 and Table 2 below.

#### **TABLE 1, CITY OF NEWPORT BEACH GENERAL PLAN RELEVANT GOALS AND POLICIES TO PROTECT DEVELOPMENTS FROM UNDUE NOISE**

##### **Goal LU 6.15**

A mixed-use community that provides jobs, residential, and supporting services in close proximity, with pedestrian-oriented amenities that facilitate walking and enhance livability.

**Policy LU 6.15.3 (Current General Plan Page 3-101) – Airport Compatibility**

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 shall be allowed only on parcels with noise levels of less than 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 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.

**Goal N 1 (Current General Plan Page 12-25) – Noise Compatibility**

Minimized land use conflicts between various noise sources and other human activities.

**Policy N 1.1 (Current General Plan Page 12-26) – Noise Compatibility of New Development**

Require that all proposed projects are compatible with the noise environment through use of Table N2 and enforce the interior noise standards shown in Table N3.

**Policy N 1.2 (Current General Plan Page 12-26) – Noise Exposure Verification for New Development**

Applicants for proposed residential or mixed-use projects located in areas projected to be exposed to 65-70 dBA CNEL or greater, as shown on Figure N5 must conduct a noise study 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 feasibility of such mitigation when other planning considerations are taken into account, consistent with Title 21 of the California Code of Regulations.

**Policy N 1.3 (Current General Plan Page 12-26) – Remodeling and Additions of Structures**

Require that all remodeling and additions of structures comply with the noise standards shown in Table N3.

**Policy N 1.4 (Current General Plan Page 12-26) – New Development in Urban Areas**

Require that applicants of residential portions of mixed-use projects and high-density residential developments in urban areas (such as the Airport Area and Newport Center) demonstrate that the design of the structure will adequately isolate noise between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code.

**Policy N 1.5 (Current General Plan Page 12-26) – Infill Projects**

Allow a higher (above 65 dBA CNEL) 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 or mixed-use project containing a residential component, consistent with Title 21 of California Code of Regulations.

**Policy N 1.5A (Current General Plan Page 12-26) – Airport Area Infill Projects**

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.

**Policy N 1.6 (Current General Plan Page 12-27) – Mixed-Use Development**

Encourage new mixed-use developments to site loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development.

**Goal N 3 (Current General Plan Page 12-29)**

Protection of Newport Beach residents from adverse noise impacts of commercial air carrier operations at John Wayne Airport as provide in the City Council Airport Policy.

**Policy N 3.1 (Current General Plan Page 12-29) – New Development**

Ensure new development is compatible with the noise environment 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.

**Policy N 3.2 (Current General Plan Page 12-29) – Residential Development**

Require that residential development proximate to John Wayne Airport shall not be located on parcels wholly within the John Wayne Airport 65 dBA CNEL noise contour 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. Require 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.

**Policy N 3.3 (Current General Plan Page 12-29) – Avigation Easement**

Consider requiring the dedication of avigation easements in favor of the County of Orange when noise sensitive uses are proposed in the JWA planning area, as established in the JWA Airport Environs Land Use Plan (AELUP).

**TABLE 2, CITY OF NEWPORT BEACH GENERAL PLAN RELEVANT TITLE 20 (PLANNING AND ZONING) REGULATIONS TO PROTECT DEVELOPMENTS FROM UNDUE NOISE**

20.30.080 (Noise)

F. Residential Use Proximate to John Wayne Airport. Residential uses, including mixed-use residential, shall be allowed on parcels or sites 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 projects 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;
8. Advanced air filtration systems for buildings shall be considered to promote cleaner air; and
9. Residential development shall be limited to parcels or sites wholly or partially outside the 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the parcels or sites wholly within such contour area are needed for the City to satisfy its 6th Cycle RHNA mandate. Nonresidential uses are encouraged on parcels or sites located wholly within the 65 dBA CNEL contour area.

### *Community Noise Equivalent Levels (CNEL) Compatibility*

The adopted Section 4 (Housing Plan) and the Draft Program Environmental Impact Report (DEIR) include a total of 75 new sites within the area of the Noise Impact Zones using contours identified in the 1985 JWA Master Plan. Of those sites, 27 are proposed within the 60-to-65 dBA CNEL contour and 11 are proposed outside of a noise impact zone in areas less than 60 dBA CNEL. The remaining 37 new sites fall within the 65-to-70 dBA CNEL contours. As discussed in 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 will ensure future development is consistent with the AELUP considerations and Noise Element policies cited above 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 recent changes in November 2023, listed in Tables 1 and 2 above, will help to ensure that appropriate noise considerations are made and that mitigation measures are included in the design.

Despite the above mentioning of the proposed Housing Element Implementation Program Amendments’ consideration of the 1985 JWA Master Plan contours, the City believes that these existing noise contours identified in Appendix D of the ALEUP are no longer accurate. This is demonstrated in the technical analysis provided as part of the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 (2014 EIR No. 617) that was certified by the County of Orange. Furthermore, the identified noise contours, which were last reviewed in 2008, no longer reflect the best available science regarding noise impacts in the vicinity of the airport and do not reflect the actual levels of noise experienced by inhabitants at the property. Therefore, the City believes that the noise contours identified in Appendix D of the ALUEP are outdated and are no longer relevant for the basis of environmental analysis and consistency with the intent of the ALEUP. Nonetheless, the City has provided the enclosed Exhibit B1 showing the location of the sites in relation to the existing ALEUP identified noise contours, as well as Exhibit B2 showing the location of the sites in relation to the 2014 EIR No. 617 contours recognized by the City’s Noise Element.

Of the 75 new housing opportunity sites identified in the Airport Area, 56 are located wholly or partially outside the 65 dBA CNEL contour identified by the 2014 EIR No. 617. 19 new housing opportunity sites are located wholly within the updated 65-70 dBA CNEL contour area boundary.

It should be made clear that in no case is the City prioritizing housing within the 70-to-75 dBA CNEL contour or above.

### *Safety Compatibility*

As part of the site selection process, the City made it a point to avoid sites in the following runway safety zones:

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

69 of the 75 new sites identified within the vicinity of JWA are completely within Safety Zone 6 – Traffic Pattern Zone with the remaining 6 being only *partially* within Safety Zones 3 – Inner Turning Zone or 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 and in Safety Zone 3 as a very low density use with special consideration for noise.

### Zone 3: Inner Turning Zone

#### *Risk Factors / Runway Proximity*

- Zone primarily applicable to general aviation airports
- Encompasses locations where aircraft are typically turning from the base to final approach legs of the standard traffic pattern and are descending from traffic pattern altitude
- Zone also includes the area where departing aircraft normally complete the transition from takeoff power and flap settings to a climb mode and have begun to turn to their en route heading

#### *Basic Compatibility Qualities*

- Limit residential uses to very low densities (if not deemed unacceptable because of noise)
- Avoid nonresidential uses having moderate or higher usage intensities (e.g., major shopping centers, fast food restaurants, theaters, meeting halls, buildings with more than three aboveground habitable floors are generally unacceptable)
- Prohibit children's schools, large day care centers, hospitals, nursing homes
- Avoid hazardous uses (e.g. aboveground bulk fuel storage)

### Zone 4: Outer Approach/Departure Zone

#### *Risk Factors / Runway Proximity*

- Situated along extended runway centerline beyond Zone 3
- Approaching aircraft usually at less than traffic pattern altitude
- 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
- Zone can be reduced in size or eliminated for runways with very-low activity levels

#### *Basic Compatibility Qualities*

- 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
- Limit nonresidential uses as in Zone 3
- Prohibit children's schools, large day care centers, hospitals, nursing homes

### Zone 6: Traffic Pattern Zone

#### *Risk Factors / Runway Proximity*

- Generally low likelihood of accident occurrence at most airports; risk concern primarily is with uses for which potential consequences are severe
- Zone includes all other portions of regular traffic patterns and pattern entry routes

#### *Basic Compatibility Qualities*

- Allow residential uses
- Allow most nonresidential uses; prohibit outdoor stadiums and similar uses with very high intensities
- Avoid children's schools, large day care centers, hospitals, nursing homes

### *Height Restriction Zones*

As presently drafted, all sites within the Housing Opportunity (HO) Overlay Zones will be subject to the current heights allowed by the base zoning district with exception of four parcels that are subject to an unduly restrictive 18-foot height limitation. These are being granted new heights of 35 and 60 feet. However, 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 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. See the draft Housing Opportunity (HO) Overlay Zoning Map for HO-1 Airport Area Environs Area below.

**City of Newport Beach Housing Element Implementation Program Amendments**  
**ALUC Submittal, April 26, 2024**  
**EXHIBIT B1 – 2008 AELUP Noise Contours**

