

Attachment A

Resolution No. 2025-60

RESOLUTION NO. 2025-60

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, NOTIFYING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION (ALUC) AND STATE DEPARTMENT OF TRANSPORTATION, AERONAUTICS PROGRAM OF THE CITY'S INTENTION TO FIND THAT THE SURF PARK PROJECT LOCATED AT 3100 IRVINE AVENUE IS CONSISTENT WITH THE PURPOSE OF THE STATE AERONAUTICS ACT AND OVERRULE ALUC'S DETERMINATION THAT THE PROJECT IS INCONSISTENT WITH THE 2008 JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN (PA2024-0069)

WHEREAS, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the City Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, an application was filed by CAA Planning, on behalf of Back Bay Barrels, LLC ("Applicant"), concerning the property located at 3100 Irvine Avenue, and legally described in Exhibit "A," which is attached hereto and incorporated herein by reference ("Property");

WHEREAS, the Applicant is requesting to redevelop the central 15.38-acre parcel of the privately owned Newport Beach Golf Course by removing the existing driving range and putting green, pro-shop, restaurant and bar, and three holes of golf and replacing it with a new surf-focused outdoor commercial recreation use ("Project");

WHEREAS, the Project's site improvements include approximately five acres of surfing lagoons surrounded by viewing platforms, seating, pools, spa, restrooms, landscaping, clubhouse with amenities, 40-foot athlete accommodation building with 20 rooms, and two parking lots with 351 parking spaces;

WHEREAS, the following approvals are requested or required to implement the Project:

- General Plan Amendment (“GPA”) – To increase the development limit from 20,000 square feet to 59,772 square feet for Anomaly Number 58, as identified in Table LU 2 of the Land Use Element of the City’s General Plan (“General Plan”);
- Major Site Development Review (“SDR”) – To construct a nonresidential building larger than 20,000 square feet in area;
- Conditional Use Permit (“CUP”) – To allow the operation of an outdoor commercial recreation use including a restaurant with alcohol sales, establish the appropriate parking rate, and allow the construction of buildings taller than 18 feet;
- Modification Permit (“Mod”) – To allow for the construction of retaining walls taller than eight feet in height from finish grade; and
- Environmental Impact Report (“EIR”) – To address reasonably foreseeable environmental impacts resulting from the legislative and project specific discretionary approvals;

WHEREAS, the Property is categorized as Parks and Recreation (PR) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan/Open Space and Recreation (SP-7/OSR) Zoning District;

WHEREAS, the Property is not located within the Coastal Zone, therefore, a coastal development permit is not required;

WHEREAS, the Property is located approximately 0.4-mile southwest of John Wayne Airport (“JWA”) and is within the 2008 John Wayne Airport Environs Land Use Plan (“AELUP”) Notification Area;

WHEREAS, the Property is trisected by Safety Zone 2 (Inner Approach/Departure Zone), Safety Zone 4 (Outer Approach/Departure Zone), and Safety Zone 6 (Traffic Pattern Zone) for the runway that is used by commercial aircraft;

WHEREAS, most of the Property is located within the 65 dB Community Noise Equivalent Level (“CNEL”) contour pursuant to the 1985 Airport Master Plan Noise Contours and the northeast corner is located within the 70 dB CNEL contour;

WHEREAS, the City Council approved Resolutions 2023-20 and 2023-21 and Ordinances 2023-20 and 2023-21 on November 14, 2023, authorizing amendments to the Noise Element and Land Use Element of the General Plan, and Title 20 (Planning and Zoning) of the Newport Beach Municipal Code ("NBMC") to update the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 ("EIR No. 617");

WHEREAS, a significant portion of the Property is located within the 65 dB CNEL contour while the southwest corner is located within the 60 dB CNEL pursuant to the 2014 John Wayne Airport Settlement Agreement EIR No. 617;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the Project to the Orange County Airport Land Use Commission ("ALUC") to review for consistency with the AELUP;

WHEREAS, the ALUC conducted a public hearing on August 7, 2025, and determined the Project is inconsistent with the following provisions of AELUP (5 ayes, 1 nay):

- a. Section 2.1.2 (Safety Compatibility Zones), which states that "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";
- b. Section 2.1.3 (Building Height Restrictions), which states that "a Determination of No Hazard to Air Navigation does not automatically equate to a Consistency determination of the ALUC" and that "the Commission may find a project Inconsistent based on an obstruction determination";
- c. Section 2.1.4 (Air Transportation) reciting CPUC Section 21674 which states that the Commission is charged by CPUC 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 CPUC Section 21674(b) which states that "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"; and

- d. Section 3.2.1 (General Policy), which states that "within the boundaries of the AELUP, any land use may be found to be Inconsistent with the AELUP which... permits structures of excessive height in areas which would affect adversely the continued operation of the airport; or permits activities or facilities that would affect adversely aeronautical operations";

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council may, after a public hearing, propose to overrule the ALUC by a two-thirds vote, if it makes specific findings that the Project is consistent with the purpose of Section 21670 of the CPUC by protecting the public health, safety, and welfare as well as ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses;

WHEREAS, a public hearing was held by the Planning Commission on September 4, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2025-018 by a majority vote (6 ayes, 1 recusal) recommending the City Council approve the Project; and

WHEREAS, a public hearing was held by the City Council on September 9, 2025, in the City Council Chambers, 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with Section 21676(b) of the CPUC and the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

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

Section 1: The City Council finds the Project consistent with the purposes of Section 21670 of the CPUC and the AELUP of protecting the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

Findings and Facts in Support of Findings

A. The Project is consistent with the noise standards of the AELUP.

The AELUP guides development proposals to provide for the orderly development of JWA and the surrounding area through implementation of the standards in Section 2 (Planning Guidelines) and Section 3 (Land Use Policies). Implementation of these standards is intended to protect the public from the adverse effects of aircraft noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace.

Most of the Property is located within the 65 dB CNEL contour, under both the 1985 Airport Master Plan noise contours and the 2014 John Wayne Airport Settlement Agreement EIR No. 617.

Section 2.1.1 of the AELUP sets forth the CNEL standards, and Sections 3.2.3 and 3.2.4 of the AELUP define the noise exposure in the 65 dBA CNEL noise contour (Noise Impact Zone 2). Specifically, Table 1 of Section 3.2.3 identifies four different land use categories consisting of “Residential,” “Community Facilities,” “Commercial,” and “Industrial” along with the decibel levels that are consistent for each particular use. In this case, the Project does not fit squarely within any of four land uses, but rather, is a hybrid between “Community Facilities” and “Commercial” land uses. In either land use category, a 65 dBA CNEL is “Normally Consistent” subject to the project including conventional construction methods as acceptable and without requiring any special noise reduction requirements. Section 3.2.3 further delineates the restrictions and construction requirements for each of the above land use categories within the 65 dB CNEL Noise Impact Zone 1. Specifically, residential is generally prohibited within Zone 1, however, commercial and recreational uses may be acceptable provided that commercial structures are sufficiently sound attenuated to allow normal work activities to be conducted. The Project will comply with the sound attenuation requirements for commercial and industrial structures as per the California Noise Insulation Standards, Title 21, 25, California Code of Regulations. EIR No. 617 requires all nonresidential structures to be sound attenuated consistent with the General Plan and Title 20 (Planning and Zoning) of the NBMC.

Additionally, as to outdoor noise, there are no aircraft noise restrictions for outdoor recreational uses within the 65 dB CNEL contour. Specifically, Section 3.2.3 recommends that all designated outdoor common or recreational areas within

Noise Impact Zone 1 provide outdoor signage informing the public of the presence of operating aircraft. The Project will incorporate outdoor signage notifying the public of the operation of aircraft. Of note, aircraft noise at the Property would be a regular occurrence and identical to the noise currently occurring at the golf course.

Finally, the Noise Analysis (Appendix Q of the DEIR) found that Airport Exposure for the Project would be less than significant and did not require further mitigation.

B. The proposed Amendments are consistent with the safety standards of the AELUP.

The Property encompasses approximately 15.4 acres with portions of Project overlying three airport safety zones. A detailed description of the Project Area along with the uses within each safety zone is provided herein. In Safety Zone 2, the total Project Area is approximately 5.79 acres. The Project uses in Safety Zone 2 include 207 parking spaces (however, 95 parking spaces will be reserved for the off-site, adjacent golf course use, leaving 112 parking spaces for Project uses in Safety Zone 2), heating equipment, equipment yard, maintenance buildings, wave making equipment, and 37.8 percent of the surf lagoon. In Safety Zone 4, the total Project Area is approximately 3.48 acres. The Project uses in Safety Zone 4 include 9,432 square feet of athlete accommodations (20 total units), wave making equipment, pool area, restrooms, storage, and 41.2 percent of the surf lagoon. And in Safety Zone 6, the total Project Area is approximately 6.16 acres. The Project uses in Safety Zone 6 include 49,221 square feet of clubhouse space including staff area, restaurant, surf shop, fitness areas and related uses, 144 parking spaces, a drop off area, pool area, outdoor arcade, outdoor changing rooms, storage, mechanical/electrical/plumbing ("MEP") equipment areas, and 21.0 percent of the surf lagoon.

Section 2.1.2 (Safety Compatibility Zones) of the AELUP sets forth the allowable land uses within each safety zone and provides the maximum intensities for each zone. The California Airport Land Use Planning Handbook ("Caltrans Handbook") suggests the following maximum allowable occupancy for non-residential land uses in an urban setting, and the below table also provides the calculations for the maximum allowed occupancy based on acreage per safety zone applicable to the Project.

Snug Harbor Project		Zone 2 Nonresidential Intensities				Zone 4 Nonresidential Intensities			
Safety Zone	Acres per Zone	Average People/Acre		Maximum Single Acre		Average People/Acre		Maximum Single Acre	
		60	80	120	160	150	200	450	600
Zone 2	5.79	347.4	463.2	694.8	926.4	-	-	-	-
Zone 4	3.48	-	-	-	-	522.0	696.0	1566.0	2088.0
Zone 6	6.16	No Limit	No Limit	No Limit	No Limit	No Limit	No Limit	No Limit	No Limit

The ALUC applies the suburban intensity parameters to the Project and provided the following occupancy calculations: 254 people per acre in Safety Zone 2; 770 people per acre in Safety Zone 4; and 972 people per acre in Safety Zone 6.

The Project traffic study and parking requirements ("Traffic Study") prepared for the Project EIR includes a detailed trip generation assessment based on the uses and traffic flow for the Project that quantifies the anticipated number of individuals in each Safety Zone. Moreover, the City's Project Conditions of Approval require compliance with these use parameters. Specifically, the assessment includes the development of trip generation rates, time-of-day distributions and estimates for the Project based on detailed programmatic attendance information and operational modeling data provided by industry experts. The occupancy for the Project shall comply with the estimates from the approved Trip Generation Assessment and Parking Demand Analysis reports, which estimates the following for daily activity: a) 1,400 visitors and surfers (comprised of 700 people in the surf lagoon, 140 people in the surf academy, 280 people in the restaurant, 70 people in the shops, 210 people in the yoga/fitness areas), and b) 70 employees. The maximum number of surfers in the lagoon is 72 at one time. The average number of people in the Project Area between the peak hour of 12:00 PM to 1:00 PM is 388 people. The average vehicle occupancy parameters assume visitor vehicles at 2.0 two people per vehicle, and employee vehicles at 1.0 people per vehicle.

Applying the parameters set forth in the Traffic Study, the anticipated number of individuals in each Safety Zone based on use and traffic flow are set forth herein. With respect to Safety Zone 2 which includes a portion of the surf lagoon, automobile parking and park maintenance facilities; a portion of the surf lagoon totaling 1.91 acres (37.8 percent of the total lagoon area), is the only area in Safety Zone 2 that would be steadily occupied by people and which yields an average potential of 27 people in the Safety Zone 2 lagoon area. There are also two proposed maintenance buildings totaling 2,000 square feet. The California Building Code assumes 300 square feet per person for maintenance uses, yielding seven employees potentially in Safety Zone 2. The combined occupancy of these uses in Safety Zone 2 totals 34 people over 5.79 acres or approximately six people per acre. Applying the Caltrans Handbook suburban limit of 40 to 60 people per acre

in Safety Zone 2 would allow approximately 232 to 347 total people over a total of 5.79 acres. Thus, for Safety Zone 2, with a total of 34 people over 5.79 acres, the Project would comply with the maximum allowable occupancy for non-residential land uses for either an urban setting (347.4 to 463.2 people) or suburban setting (232 to 347 people).

With respect to Safety Zone 4, it is comprised of 20 rooms for athlete accommodations and a portion of the surf lagoon. At a maximum of four athletes per room, these accommodations would total 80 people. The portion of the surf lagoon in Safety Zone 4 is 2.08 acres (41.2 percent of the total lagoon area), which equates to an average potential of 30 people in the Safety Zone 4 lagoon area. The total combined occupancy in Safety Zone 4 is 110 people over 3.48 acres or approximately 32 people per acre. Applying the Caltrans Handbook suburban limit of 100 to 150 people/acre in Safety Zone 4 would allow 348 to 522 people based on a total of 3.48 acres. Thus, for Safety Zone 4, with a total of 110 people over 3.48 acres, the Project would comply with the maximum allowable occupancy for non-residential land uses for either an urban setting (522 to 696 people) or suburban setting (348 to 522 people).

With respect to Safety Zone 6, it is comprised of a wider array of uses including a portion of the surf lagoon, the clubhouse area, beach areas and parking spaces spread over 6.16 acres. The portion of the Safety Zone 6 surf lagoon is 1.06 acres (21 percent of the total lagoon area), which equates to an average potential of 15 people in the Safety Zone 6 lagoon area. The Traffic Study noted 388 people during the peak hour from 12:00 pm to 1:00 pm. Subtracting out the total number of people in the lagoon area (72) equates to a potential of 316 visitors in Zone 6, which could be generally using the club house area. If all 70 employees were also in Safety Zone 6, it would bring the total maximum number of people in the clubhouse area to 386. The combination of occupancy in Safety Zone 6 totals 458 people over 6.16 acres or approximately 75 people per acre. Applying the Caltrans Handbook suburban limit of 200 to 300 people/acre in Safety Zone 6 would allow 1,232 to 1,848 people based on a total of 6.16 acres. Thus, for Safety Zone 6, with a total of 458 people over 6.16 acres, the Project would comply with the maximum allowable occupancy for non-residential land uses for either an urban setting, which has no limit, or suburban setting (1,232 to 1,848 people).

The Project is anticipated to host approximately 12 surf events/competitions per year that would be ticketed events similar in scale to other local sporting events. While the number of persons within the safety zones will increase during these

events, these increases are temporary in nature and not a part of the regular operation of the Project.

Lastly, the existing condition of the Project site experiences the highest concentration of persons at the restaurant and at driving range and putting range. These golf course components are within Safety Zone 2. Conversely, the Project places the highest concentration of persons into Safety Zone 6, within the amenity clubhouse building.

Based on the combined analysis from the Project Traffic Study, parking requirements and Project uses within each Safety Zone, the occupancy associated with each use area is within the Caltrans Handbook recommendations for each safety zone area using either the higher urban limits or the lower suburban limits.

C. *Project is consistent with the height standards of the AELUP*

The Federal Aviation Administration ("FAA") has the sole responsibility for studying and determining airspace hazards. The Project complies with FAA notification, pursuant to 14 Code of Federal Regulations ("CFR"), Part 77, Safe, Efficient Use, and Preservation of the Navigable Airspace. On May 6, 2025, the FAA issued a Determination of No Hazard for Air Navigation. As the tallest proposed buildings on the Project site would not exceed the 14 CFR Part 77 construction notification imaginary surfaces over the Property, the Determinations of No Hazard applied to all aspects of the Project.

ALUC determined that a Determination of No Hazard to Air Navigation does not automatically equate to a Consistency determination by the ALUC and that the Commission may find a project Inconsistent based on an Obstruction determination pursuant to Section 2.1.3 of the AELUP. However, no Obstruction was found since the Project heights are lower than 130-feet above mean sea level ("AMSL"). Specifically, Part 77 Obstruction Imaginary Surfaces requires a height of less than 130 feet AMSL. In this case, the maximum height of the Project is 71 feet which is below the 130-foot maximum height restriction and, therefore, is not an Obstruction. In no event will the Project's height limits be inconsistent with the parameters outlined in Subsection 3.2.6 (Height Restriction Zone) of the AELUP and FAA standards.

D. The Project is consistent with the overflight standards of the AELUP

Overflights will be the same with the Project as with the existing golf course. There was a total of 302,654 aircraft operations in 2023 at JWA. Of the total, only 9.7 percent (29,353 aircraft operations) flew over the Property. Approximately 95 percent of these overflights would be departures south of JWA and the remainder would include a mix of JWA arrivals north, overflights to other airports in the vicinity and helicopter traffic at JWA and within the vicinity of the airport. The average daily total overflights of the Property are 80 to 88. While persons in the Project area will generally notice departing aircraft at lower altitudes, it will be the same as the aircraft operations currently noticed over the golf course.

Section 2: Based on the foregoing findings, the City Council provides this notice of intention to overrule the ALUC's determination that the Project is inconsistent with the AELUP.

Section 3: The City Council hereby directs City staff to provide ALUC and State Department of Transportation, Division of Aeronautics, with notice of the City's intention to overrule ALUC's determination that the Project is inconsistent with the AELUP.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

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

Specifically, the resolution does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment because it is limited to the notification of the City's intent to overrule the ALUC determination and it does not authorize the development of the Property or commit the City to approve the Project. Potential project impacts will be analyzed when the City Council considers the Project.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.


ADOPTED this 9th day of September, 2025.

Joe Stapleton
Mayor

ATTEST:

Molly Perry
Interim City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment(s): Exhibit A – Legal Description

EXHIBIT A

LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL NO. 1 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE NO. 94-2, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, RECORDED MAY 9, 1994 AS [INSTRUMENT NO. 94-318607 OF OFFICIAL RECORDS](#).

EXCEPTING THEREFROM, THAT PORTION OF SAID LAND DESCRIBED IN THE DEED TO THE COUNTY OF ORANGE, RECORDED SEPTEMBER 4, 1997 AS [INSTRUMENT NO. 97-428866 OF OFFICIAL RECORDS](#), IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THOSE PORTIONS THEREOF CONVEYED IN FEE TO THE COUNTY OF ORANGE BY DEED RECORDED OCTOBER 21, 2014 AS [INSTRUMENT NO. 2014-427814 OF OFFICIAL RECORDS](#).

APN: 119-200-38 & 119-200-41