

Attachment B

Ordinance No. 2026-__: Zoning Code
Amendment

ORDINANCE NO. 2026-__

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWPORT BEACH, CALIFORNIA, APPROVING A
ZONING CODE AMENDMENT FOR A 132-UNIT
RESIDENTIAL TOWNHOME PROJECT LOCATED AT
1200 DOVE STREET, 1300 DOVE STREET, AND 4041
MACARTHUR BOULEVARD (PA2025-0170)**

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), 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, California Government Code Section 65580 *et seq.* ("State Housing Element Law") requires each city and county adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing;

WHEREAS, an application was filed by Sean Matsler with Cox, Castle, & Nicholson, LLP ("Applicant"), concerning property located at 1200 and 1300 Dove Street and 4041 MacArthur Boulevard (APN No. 427-222-01), and legally described in "Exhibit A," which is attached hereto and incorporated herein by reference ("Property");

WHEREAS, the Applicant is requesting approval to develop a 132-unit residential townhome project ("Project"), which will require the following approvals:

- a. Zoning Code Amendment ("ZCA"): An amendment to Section 20.80.025 (Housing Opportunity Overlay Zoning Districts Maps) of the Newport Beach Municipal Code ("NBMC") to include the Property in the Housing Opportunity Sites Overlay in the HO-1- Airport Area Environs Map;
- b. Major Site Development Review ("SDR"): A major site development review in accordance with Section 20.52.080 (Site Development Reviews) of the NBMC for five or more units with a tentative tract map;
- c. Vesting Tentative Tract Map ("VTTM"): A vesting tentative tract map to allow for an airspace subdivision of the individual residential units on a 6.5-acre parcel pursuant to Chapter 19.12 (Tentative Map Review) of the NBMC;

- d. Affordable Housing Implementation Plan ("AHIP"): A plan specifying how the Project meets the City's affordable housing requirement pursuant to Chapter 20.32 (Density Bonus) of the NBMC and Government Code Section 65915 ("Density Bonus Law");
- e. Development Agreement ("DA"): A development agreement between the Applicant and the City, pursuant to Section 15.45.020 (Development Agreement Required) of the NBMC, which provides the Applicant with the vested right to develop the Project for a term of ten years and will provide negotiated public benefits to the City; and
- f. Addendum to the Newport Beach General Plan Housing Implementation Program Environmental Impact Report ("Addendum"): Pursuant to the California Environmental Quality Act ("CEQA"), the Addendum addresses reasonably foreseeable environmental impacts resulting from the Project;

WHEREAS, the Property is designated Mixed-Use Horizontal (MU-H2) by the General Plan Land Use Element and located within the Newport Place Planned Community (PC-11) Zoning District in the Professional & Business Office Site 4 subarea within the Residential (R) Overlay;

WHEREAS, the Property is not located within the coastal zone; therefore, amending the Local Coastal Program or obtaining a coastal development permit is not required;

WHEREAS, on September 24, 2024, the City Council adopted Ordinance Nos. 2024-16 and 2024-17, approving amendments to Title 20 (Planning and Zoning) of the NBMC to establish the Housing Opportunity (HO) Overlay Zoning Districts in Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) ("Housing Overlay") and to create multi-unit objective design standards in Section 20.48.185 (Multi-Unit Objective Design Standards) of the NBMC;

WHEREAS, these new sections serve to implement Policy Actions 1A through 1G and 3A in the 6th Cycle Housing Element ("Housing Element") of the General Plan;

WHEREAS, on July 23, 2024, the City Council adopted Resolution No. 2024-50 certifying Final Program Environmental Impact Report SCH No. 2023060699 ("PEIR"), approving a Mitigation Monitoring and Reporting Program ("MMRP"), and adopting Findings and a Statement of Overriding Considerations related to the implementation of the Housing Element involving amendments to the General Plan, Coastal Land Use Plan, and Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC;

WHEREAS, a public hearing was held by the Planning Commission on June 4, 2026, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with 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 public hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2026-018 by a unanimous vote (6 ayes, 1 absent), recommending the City Council approve the Project;

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 2008 John Wayne Airport Environs Land Use Plan ("AELUP");

WHEREAS, on July 16, 2026, the ALUC determined the Project is consistent with the AELUP for the John Wayne Airport ("JWA"); and

WHEREAS, a public hearing was held by the City Council on July 28, 2026, 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 the Ralph M. Brown Act and Chapter 20.62 (Public Hearings) and Section 15.45.050 (Public Hearing - Notice) of the NBMC. 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 ordains as follows:

Section 1: The City Council has considered the recommendation of the Planning Commission and determined that modifications to the Project made by the City Council, if any, are not major changes that require referral back to the Planning Commission for consideration and recommendation.

Section 2: The City Council finds amendments to Title 20 (Planning and Zoning) of the NBMC are legislative acts. Neither Title 20 nor State Planning Law set for any required findings for either approval or denial of such amendments. Notwithstanding the foregoing, with this ZCA, the Property will be consistent with the General Plan.

Section 3: The City Council hereby approves the ZCA reviewed under PA2025-0170, as depicted in Exhibit "B," which is attached hereto and incorporated herein by reference and does hereby make the findings attached hereto as Exhibit "C" and incorporated herein by reference.

Section 4: An Addendum was prepared for the Project in compliance with CEQA, the CEQA Guidelines and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act) to ensure that the Project will not result in new or increased environmental impacts. On the basis of the entire environmental record, the Project will not result in any new significant impacts that were not previously analyzed in the Final Program Environmental Impact Report SCH No. 2023060699 ("PEIR"). The Addendum confirms and provides substantial evidence that the potential impacts associated with this Project would either be equal to or less than those described in the PEIR, as reduced by applicable General Plan Policies in the PEIR. In addition, there are no substantial changes to the circumstances under which the Project would be undertaken that would result in new or more severe environmental impacts than previously addressed in the PEIR, nor has any new information regarding the potential for new or more severe significant environmental impacts been identified. Therefore, in accordance with Section 15164 of the CEQA Guidelines, an addendum to the previously adopted PEIR is the appropriate environmental document for the Project. In taking action to approve any of the requested applications for the Project, the data presented in the PEIR, as augmented by the Addendum for this Project, are considered as part of the record.

Section 5: The City Council finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time-consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages that may be awarded to a successful challenger.

Section 6: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 7: If any section, subsection, sentence, clause or phrase of this ordinance 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 ordinance. The City Council hereby declares that it would have passed this ordinance 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 8: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 28th day of July, 2026, and adopted on the 25th day of August, 2026, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

Lauren Kleiman, Mayor

ATTEST:

Lena Shumway, City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp, City Attorney

Attachment(s): Exhibit A – Legal Description
 Exhibit B – Zoning Code Amendment
 Exhibit C – Findings and Facts in Support of Finding

EXHIBIT "A"

LEGAL DESCRIPTION

The Land referred to herein below is situated in the City of Newport Beach, County of Orange, State of California, and is described as follows:

Parcel 2, in the City of Newport Beach, County of Orange, State of California, as shown on the map filed in Book 63, Page 27 of Parcel Maps, in the Office of the County Recorder of said County.

EXHIBIT "B"

Zoning Code Amendment to amend Section 20.80.025 (Housing Opportunity Overlay Zoning Districts Maps) of the Newport Beach Municipal Code ("NBMC") to include the property in the Housing Opportunity Sites Overlay in the HO-1- Airport Area Environs Map

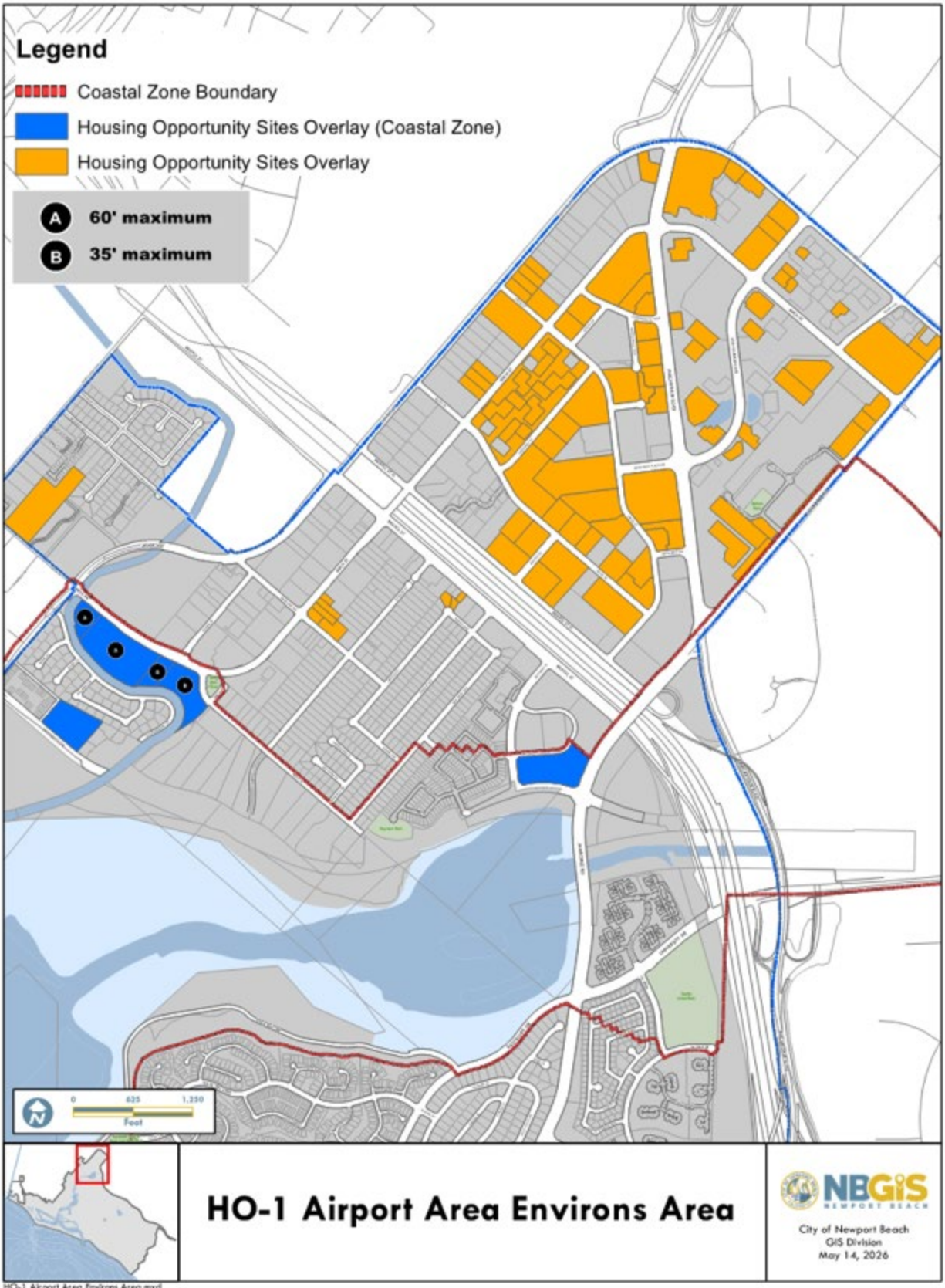


EXHIBIT "C"

FINDINGS AND FACTS IN SUPPORT OF FINDINGS

Zoning Code Amendment

Finding:

- A. An amendment to the Zoning Code is a legislative act. Chapter 20.66 (Amendments) of Title 20 (Planning and Zoning) of the NBMC, or Article 2 (Adoption of Regulations) of Chapter 4 (Zoning Regulations) of Division 1 (Planning and Zoning) of Title 7 (Planning and Land Use) of the California Government Code does not set forth any required findings for either approval or denial of such amendments to the NBMC.

Facts in Support of Finding:

1. The Property is located within the Newport Place Planned Community (PC-11) Zoning District in the Professional & Business Office Site 4 Subarea. It is also within the Residential (R) Overlay, which allows for multifamily residential development on the Project Site. The (R) Overlay requires a minimum of 30 dwelling units per acre, where the Project proposes approximately 20 dwelling units per acre. Therefore, the applicant is seeking an amendment to Section 20.80.025 (Housing Opportunity Overlay Zoning Districts Maps) of the NBMC to include the Property in the HO Overlay Zoning Districts within the HO-1 (Airport Area Environs Map), where the minimum density is 20 dwelling units per acre. Because the existing PC-11 Residential (R) overlay would allow residential, the Project would be consistent with the intent of the existing zoning district to provide housing.
2. The Project allocates 5% of the base units (7 dwelling units) as affordable for very-low-income households, increasing the overall affordable housing supply. Specifically, the Project would include the introduction of a for-sale affordable housing product, which would diversify the City's housing stock.
3. Given the location of the Project Site in the Airport Area, which includes a mixture of service uses, hotels, John Wayne Airport and commercial support services, professional offices, and new residential developments that cumulatively contain the ingredients of a planned community, the ZCA would not disrupt the existing uses within the Planned Community and would add to this diversity of uses, assisting the City in larger scale community planning and the provision of additional housing opportunities.
4. The Property is located within the Airport Area Environs Area, which includes numerous properties designated within the HO Overlay Zoning District. The property nearest to the site, located at 1050 Dove Street immediately to the south, is within the HO-1 subarea. The Project would be consistent with the anticipated

future development of other adjacent properties within the HO Overlay Zoning District in the Airport Area Environs Area. Additionally, the Airport Area Environs Area contains a dispersed pattern of HO Overlay Zoning District sites, and because the Property is directly adjacent to an existing housing-designated property, its inclusion within this broader development context is appropriate and not a substantial change in the anticipated character of the area. The ZCA would not increase the number of units allocated to the HO-1 subarea

5. The Project would be subject to the appropriate site and project specific setbacks, density, and height limits for this urban location. All required parking is provided on-site. The Project complies with the development standards identified for the HO Overlay Zoning District, except as modified by the allowed development standard waivers identified in the Affordable Housing Implementation Plan. The HO Overlay Zoning District provides a density range for proposed projects and references the Section 20.32 (Density Bonus) of the NBMC that prescribes the maximum density bonus and incentives allowed. Therefore, the Project is consistent with the intent of the density bonus assumptions in the HO Overlay Zoning District and within the maximum allowed by the density bonus provisions.
6. The Project also requires a site development review in accordance with Section 20.52.080 (Site Development Reviews) of the NBMC. The Project includes an SDR, and all required findings are addressed below.
7. The Property is located near existing office buildings within the Airport Area and is not negatively impacted by noise, dust, smoke, vibration, odor, toxic or noxious matter that may be generated by existing commercial or industrial uses nearby.
8. The Project will develop 132 of the overall 2,577 units allowed within the HO-1 (Airport Area Environs Area) Subarea. The Property is located within the 60 dba CNEL noise contour, reducing the likelihood of dwelling units being developed within the 65 dba CNEL noise contours.
9. The Property is fully developed and does not support any natural resources and all potential environmental impacts associated with the Project are appropriately addressed through standard building permit procedures, conditions of approval, and the General Plan Policies identified in the Housing Implementation PEIR Addendum.