

Attachment A

Resolution No. 2026-27: Notice
of Intent to Override ALUC
Determination

RESOLUTION NO. 2026- __

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, NOTIFYING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION AND STATE DEPARTMENT OF TRANSPORTATION, AERONAUTICS PROGRAM OF THE CITY'S INTENTION TO FIND THAT AN AMENDMENT TO THE NEWPORT PLACE PLANNED COMMUNITY DEVELOPMENT PLAN (PC-11) TO REVISE THE MINIMUM INCLUSIONARY FOR-SALE HOUSING PERCENTAGE REQUIRED WITHIN THE RESIDENTIAL OVERLAY IS CONSISTENT WITH THE PURPOSES OF THE STATE AERONAUTICS ACT AND OVERRULE THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION THAT THE AMENDMENT IS INCONSISTENT WITH THE 2008 JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN (PA2025-0196)

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, Newport Place is a Planned Community ("PC-11") in the Airport Area, generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street and Bristol Street North, and originally designed in the early 1970s with clusters of office parks and industrial uses;

WHEREAS, on July 24, 2012, the City Council adopted Ordinance No. 2012-14, amending the PC-11 to create the Residential Overlay ("Overlay") which was necessary to secure certification of the 4th Cycle Housing Element as it had a greater potential to accommodate the City's Regional Housing Needs Assessment ("RHNA");

WHEREAS, the amendment to PC-11 included use and development standards for multi-unit residential projects including a requirement that 30% of the units in a residential development be affordable to lower-income households for a minimum of 30 years;

WHEREAS, on September 13, 2022, the City adopted Resolution No. 2022-60, approving the 6th Cycle Housing Element for the 2021-2029 period, which was subsequently certified by the State Department of Housing and Community Development (“HCD”) on October 5, 2022;

WHEREAS, the Airport Area Environs (“Airport Area”) is one of the five focus areas where new housing opportunity sites are identified to satisfy the RHNA allocation of 4,845 new housing units;

WHEREAS, at least 2,577 housing units are planned for the Airport Area, which comprises approximately 25% of the City’s planned housing capacity;

WHEREAS, on July 25, 2023, the City adopted Ordinance No. 2023-13, reducing the minimum inclusionary housing requirement of the Overlay from 30% to 15% for both for-sale and rental housing developments;

WHEREAS, the reduction in inclusionary requirement was necessary to mitigate potential governmental constraints and facilitate construction of market-rate housing and affordability for all income groups;

WHEREAS, on April 9, 2024, the City Council approved the necessary land use entitlements for the development of a 67-unit condominium project, the Residences at 1401 Quail Street, by Intracorp Homes (PA2023-0040) which is within the Overlay;

WHEREAS, the Intracorp Homes project is located within the Overlay and includes the 15% inclusionary requirement;

WHEREAS, Intracorp Homes has since requested that the City consider lowering the required inclusionary percentage for for-sale housing, as the approved project is no longer financially feasible;

WHEREAS, on September 24, 2024, the City adopted Resolution No. 2024-73, amending portions of Section 3 and 4 of the 6th Cycle Housing Element;

WHEREAS, on November 4, 2025, the City adopted Resolution No. 2025-77, initiating an amendment to PC-11 to lower the minimum percentage of inclusionary for-sale housing within the Overlay (“Amendment”), in accordance with Section 20.56.050(E) (Development Plan Amendments) and Section 20.56.050(B) (Development Plan) of the Newport Beach Municipal Code (“NBMC”);

WHEREAS, a public hearing was held by the Planning Commission on March 19, 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. PC2026-009 (4 ayes, 1 recusal, 2 absent), recommending the City Council approve the Amendment to reduce the minimum inclusionary for-sale housing percentage within the Overlay from 15% to 6% for lower-income households (i.e., very-low and low) and 8% for moderate-income households;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the Amendment 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 April 16, 2026, the ALUC determined (5 ayes, 1 vacancy, 1 absent) the Amendment is inconsistent with the following provisions of the AELUP:

- a. Section 2.1.1 (Aircraft Noise), which provides that the "aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport";
- b. Section 2.1.2 (Safety Compatibility Zones), which provides 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";
- c. Section 2.1.4 (Air Transportation) and CPUC Section 21674, which state 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) "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 provides that “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”;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council may, after a public hearing, propose to overrule the ALUC with a two-thirds vote, if the Council makes specific findings that the Amendment is consistent with the purpose of Section 21670 of the CPUC to protect 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; and

WHEREAS, the City Council held a public hearing on May 12, 2026, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b) 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 that the Amendment is consistent with the purposes of Section 21670 of the CPUC and the AELUP to protect 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.

Finding Facts in Support of Findings

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

The AELUP guides development proposals to provide for the orderly development of John Wayne Airport (“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 are intended to protect the public from the adverse effects of aircraft noise, ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable airspace.

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 60 dBA to 65 dBA CNEL noise contour (Noise Impact Zone 2) as "Moderate Noise Impact." Section 3, Table 1 (Limitations on Land Use Due to Noise) of the AELUP identifies residential uses as "normally consistent" for the 60 dBA CNEL noise contour. The Overlay is located within the 60 dBA and 65 dBA CNEL noise contours as shown on the City's updated noise contour maps as part of the 6th Cycle Housing Element Implementation Noise - Related Amendments and the 60 dBA and 65 dBA noise contours as shown on the AELUP. As currently set forth in the Overlay, residential development shall be limited to parcels wholly or partially outside the 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the sites wholly within the 65 dBA contour area are needed for the City to satisfy its 6th Cycle RHNA mandate and shall be required to comply with the development standards set forth in Section 20.30.080(F) (Residential Use Proximate to John Wayne Airport) of the NBMC.

B. The Amendment is consistent with the safety standards of the AELUP.

Section 2.1.2 (Safety Compatibility Zones) of the AELUP sets forth zones depicting which land uses are acceptable in various portions of JWA environs. Allowed uses in Safety Zone 6 include residential and most nonresidential uses, except outdoor stadiums and similar uses with very high intensities. Uses that should be avoided include children's schools, large day-care centers, hospitals, and nursing homes. Risk factors associated with Safety Zone 6 generally include a low likelihood of accident occurrence.

The Overlay is located within Safety Zone 6 and residential uses are allowed in this zone. The City's General Plan Safety Element Policy S 8.6 (John Wayne Airport Traffic Pattern Zone) demonstrates that the City acknowledges the importance of the JWA Safety Zones: *"Use the most currently available John Wayne Airport (JWA) Airport Environs Land Use Plan (AELUP) as a planning resource for evaluation of land use compatibility and land use intensity in areas affected by JWA operations. In particular, future land use decisions within the existing JWA Clear Zone/ Runway Protection Zone (Figure S5) should be evaluated to minimize the risk to life and property associated with aircraft operations."*

The Amendment complies with the policies and regulations within the JWA Airport Planning Area and follows the safety standards of the AELUP as it is located within Safety Zone 6 and is not within the JWA Clear Zone/ Runway Protection Zone.

C. The Amendment is consistent with the purpose and intent of the AELUP and will not result in incompatible land uses adjacent to JWA.

The standards and policies set forth in AELUP Sections 2 and 3 were adopted to prevent the creation of new noise and safety problems and are also included in PC-11. The Amendment seeks to revise the minimum affordability housing percentage for for-sale residential development within the Overlay, from 15% to 6% for lower-income households (i.e., very-low and low) and 8% for moderate-income households. No other changes are proposed.

Section 2: Based on the foregoing finds, the City Council proposes to overrule the ALUC's determination that the Amendment is inconsistent with the AELUP.

Section 3: The City Council hereby directs City staff to provide the ALUC and State Department of Transportation, Aeronautics Program, with notice of the City's proposal to overrule the ALUC's determination of inconsistency for the Amendment.

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 City's proposal to overrule the ALUC's determination and does not commit the City to approve the Amendment. The Amendment will be independently reviewed and evaluated pursuant to CEQA.

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.

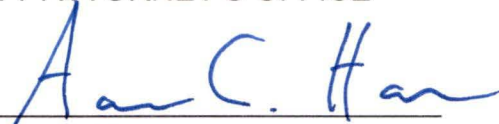
ADOPTED this 12th day of May, 2026.

Lauren Kleiman
Mayor

ATTEST:

Lena Shumway
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney