



CITY OF

NEWPORT BEACH

City Council Staff Report

April 15, 2025
Agenda Item No. 12

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Resolution No. 2025-13: Notice of Intent to Override Orange County
Airport Land Use Commission's Determination of Inconsistency for
an Amendment to the Housing Opportunity (HO) Overlay Zoning and
Coastal Zoning Districts (PA2024-0205)

ABSTRACT:

Consistent with City Council Resolution No. 2024-85, which was adopted on November 19, 2024, City of Newport Beach staff has been working on an amendment to the Housing Opportunity (HO) Overlay Zoning and Coastal Zoning Districts in Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) (Amendment). Due to nine affected properties being located within the John Wayne Airport (JWA) Notification Area, the City is required to submit the Amendment to the Orange County Airport Land Use Commission (ALUC) for a consistency determination with the JWA Airport Environs Land Use Plan (AELUP) pursuant to Section 4.3 of the AELUP and Section 21676(b) of the California Public Utilities Code (CPUC). The ALUC conducted a hearing on the matter on February 20, 2025, and continued it to March 20, 2025, when it found the Amendment to be inconsistent with the AELUP.

For the City Council's consideration is a recommendation to override the ALUC's finding of inconsistency. This action would authorize staff to formally provide notice, pursuant to CPUC Section 21676(b), to the ALUC and the State Department of Transportation, Aeronautics Program, of the City's intention to override the ALUC's inconsistency finding.

RECOMMENDATIONS:

- a) Conduct a public hearing;
- b) Find that the proposed overriding action 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 because it has no potential for resulting in physical change to the environment, directly or indirectly; and

- c) Adopt Resolution No. 2025-13, *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 the Amendment to Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) and Pending Section 21.28.070 (Housing Opportunity (HO) Overlay Coastal Zoning Districts) of the Newport Beach Municipal Code Related to the Implementation of the Housing Element is Consistent with the 2008 John Wayne Airport Environs Land Use Plan (PA2024-0205).*

DISCUSSION:

On September 24, 2024, the City Council adopted Ordinance No. [2024-16](#), approving an amendment 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]. The City Council also adopted Ordinance No. [2024-17](#) to create multi-unit objective design standards in Section 20.48.185 (Multi-Unit Objective Design Standards). The new sections serve to implement Policy Actions 1A through 1G and 3A in the General Plan 6th Cycle Housing Element (Housing Element).

The adoption of these ordinances provided new housing opportunities within five subareas to ensure the City can meet its 6th Cycle Regional Housing Needs Assessment (RHNA) allocation: Airport Area Environs Area (HO-1), West Newport Mesa Area (HO-2), Dover-Westcliff Area (HO-3), Newport Center Area (HO-4), and Coyote Canyon Area (HO-5). These subareas correspond directly to the Focus Areas identified in Appendix B (Adequate Sites Analysis) of the Housing Element.

Properties identified within these subareas are eligible for special development allowances intended to be conducive to residential development at the prescribed average density of 20 to 50 dwelling units per acre (du/ac). Additionally, the ordinances created multi-unit objective design standards and development standards, which include but are not limited to minimum lot area, setbacks, height, open space, landscaping, and parking.

On July 23, 2024, alongside the introduction of Ordinance No. 2024-16, the City Council adopted Resolution No. [2024-52](#), authorizing the submittal of the corresponding Local Coastal Program Amendment (LCPA) to the California Coastal Commission (CCC) to amend the City's Coastal Land Use Plan and Title 21 (Local Coastal Program Implementation Plan) of the NBMC. The LCPA would establish the Housing Opportunity (HO) Overlay Coastal Zoning Districts and their corresponding development standards applicable to properties located within the Coastal Zone of the City to implement the Housing Element. The City filed the LCPA application on August 16, 2024, and received its notice of complete filing on January 7, 2025. The LCPA will be scheduled for a CCC public hearing for consideration.

On November 19, 2024, the City Council adopted Resolution No. [2024-85](#), initiating an amendment to Section 20.28.050 in Title 20 and the pending complementary section in Title 21 of the NBMC, to review and make possible adjustments to certain development standards, including but not limited to building height limits.

Proposed Amendment

Table 2-16 (Development Standards for Housing Opportunity Overlay Zones) of Section 20.28.050 in Title 20 identifies that heights within the HO-4 Subarea are limited to those in the underlying base zoning district. Given the variety of zoning districts, maximum height limits range as high as 300 feet and as low as 32 feet. Due to the lower base height limits, an adjustment to allowable building heights is necessary to accommodate residential developments within the intended prescribed density range of 20 to 50 dwelling units per acre. It should be emphasized that there are no changes proposed to the Newport Center Sight Plane, as established by Ordinance Nos. 1371, 1596, 83-27, and 91-97, which serves to maintain residential views across the southeasterly quadrant of Newport Center.

Table 1 below summarizes the locations and proposed specified heights for potential housing sites taking advantage of the HO Overlay Zoning Districts along with their existing allowed base heights.

Table 1, HO-4 properties with proposed height increase

Location Description	Base Heights	Proposed Height
Newport Beach Tennis Club in Eastbluff	32 feet	32 feet ¹
AT&T Switching Station on Ford Road	32 feet	48 feet ²
St. Michael's and All Angels Church/Newport Center United Methodist	32 feet	50 feet (flat) ² 55 feet (sloped)
Armstrong Gardens, Newport Beach Country Club's surface parking lot, maintenance yard, and tennis courts	32 feet, 50 feet	70 feet
Northern portion of Corporate Plaza outside the Newport Center Sight Plane	32 feet	70 feet
100 Block Newport Center	32 feet, 50 feet	85 feet
Underutilized parking structure	65 feet	85 feet
Chase bank	32 feet	110 feet
Newport Beach Country Club golf course portion	50 feet	110 feet
Southern portion of 200 Block Newport Center excepting Regal Edwards Big Newport site	32 feet	150 feet
300 Block Newport Center and Regal Edwards Big Newport Site	32 feet	270 feet

¹ This site is in a well-established neighborhood in Eastbluff where anything higher than the base height limit would likely not be compatible with surrounding development. Limiting the height to 32 feet eliminates the potential to seek a site development review to increase the height and further encourages a lower density of 20 dwelling units per acre for neighborhood compatibility.

² These sites have been included as part of the Planning Commission's review and recommendation of the Amendment, which is discussed under the "Planning Commission Review and Recommendation" header below.

Allocating Units to City-Owned Properties

The proposed Amendment would also allocate dwelling units from the development limits of HO-1 and HO-4 Subareas to one City-owned property within each subarea.

The City acquired real property at 1201 Dove Street in 2023 with the intention of potentially redeveloping it in the future as the new headquarters for the Newport Beach Police Department (NBPD); however, alternative uses for the site are possible. Of the 2,577-unit development limit in HO-1, a total of 179 units (50 du/ac) would be allocated to Site ID No. 77 (1201 Dove Street) from the Housing Element Sites Inventory. This gives the City flexibility on the final use in the future.

Newport Beach Fire Station No. 3 and the NBPD's headquarters are currently located at 868 and 870 Santa Barbara Drive, respectively. Both sites are City-controlled and have the potential for redevelopment with housing projects within the Housing Element's planning period. Of the 2,439-unit development limit in HO-4, a total of 199 units (50 du/ac) would be allocated to Site ID No. 362 (868 and 870 Santa Barbara Drive) from the Housing Element Sites Inventory.

Title 20 (Planning and Zoning) Amendment

Table 2-16 of Section 20.28.050 in Title 20 would be amended as illustrated in the redlined version below (all other information in the table and footnotes would remain the same):

**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
Development Limit (units) ⁽¹⁾	2,577 ⁽¹¹⁾	1,107	521	2,439 ⁽¹²⁾	1,530	N/A
Height	Per Base Zone unless otherwise identified on the map	65 ft.	65 ft. ⁽⁶⁾	Per Base Zone unless otherwise identified on the map ⁽⁷⁾	65 ft.	All Standards Per Base Zone

(11) Of the 2,577 base development units, 179 units (50 du/ac) shall be allocated to Site ID No. 77 (1201 Dove Street) from the 6th Cycle Housing Element Sites Inventory.

(12) Of the 2,439 base development units for HO-4, 199 units (50 du/ac) shall be allocated to Site ID No. 362 (868 and 870 Santa Barbara Drive) from the 6th Cycle Housing Element Sites Inventory.

Title 21 (Local Coastal Program Implementation Plan) Amendment

For those properties located in the Coastal Zone, the proposed amendment to Table 21.28-1 and updated or added maps to Section 21.80.032 in Title 21 would mirror proposed changes as proposed to Table 2-16 and Section 20.80.25 in Title 20.

Planning Commission Review and Recommendation

On January 23, 2025, the Planning Commission considered the Amendment. Four members of the public addressed the Planning Commission, including a representative from Saint Michael and All Angels Church requesting the inclusion of Site ID No. 147 in the height limitation adjustments for HO-4 Subarea. The Planning Commission also received written comments, including one from the property owner of Site ID No. 141 requesting its inclusion in the height limitation adjustments for HO-4 Subarea.

At the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2025-004 by a unanimous vote of (5 ayes and 1 recused) recommending the City Council approve the Amendment with inclusion of Site ID Nos. 146 and 147 with a maximum height limit of 50 feet (flat) and 55 feet (sloped) and Site ID No. 141 with a maximum height limit of 48 feet. The January 23, 2025, Planning Commission staff report, Planning Commission minutes excerpts, and Planning Commission Resolution No. PC2025-004 are included in this staff report as Attachments B, C and D, respectively.

Airport Land Use Commission Review

Section 4.3 of the AELUP and Section 21676(b) of the California Public Utilities Code require the City to submit General Plan and Zoning Code amendments to the ALUC for a consistency determination with the AELUP.

On February 20, 2025, the ALUC conducted a public hearing on the Amendment and after two failed motions, the ALUC continued the matter to its March 20, 2025, meeting by a unanimous vote (5 ayes, 0 nays).

On March 20, 2025, the ALUC conducted a second public hearing on the Amendment and after one failed motion, the ALUC determined (5 ayes and 1 nay) the Amendment is inconsistent with the AELUP.

The February 20 and March 20, 2025, ALUC staff reports are included as Attachments E and F, and the ALUC inconsistency determination letter is included as Attachment G. It is notable that for both staff reports, ALUC staff recommended the ALUC make the determination that the Amendment is consistent with the AELUP.

ALUC Override Process

As a final review authority on legislative acts, the City Council may choose to override the ALUC's determination by following a two-step process, which is established in CPUC Section 21676. The first step in the process is to conduct a public hearing to adopt a resolution of intention to override, a copy of which would be sent to the ALUC and State Department of Transportation, Aeronautics Program to provide formal notification of the City's intent.

The second step in the process is that not less than 45 days after notification has been sent to the ALUC and State Department of Transportation, Aeronautics Program, the City Council may conduct a second public hearing to consider adopting a resolution to override the ALUC. At this time, the Council may also consider the Amendment and take final action on the application.

The following points are important to consider:

- The City Council's adoption of the attached notification resolution does not constitute approval of the Amendment, nor does it predispose the City Council's future action on either the Amendment or the consistency determination;
- The attached resolution notifying the ALUC and the State Department of Transportation, Aeronautics Program of the City's intent, and the resolution to overrule the ALUC, which will be presented at a future hearing, must be adopted by a two-thirds majority vote. Since there are seven City Council members, five affirmative votes are needed to pass the resolution;
- Should the City Council ultimately overrule the ALUC decision, that action will not immediately affect the City's status as a consistent agency with the AELUP. The ALUC would need to place an item on one of its future agendas to consider deeming the City an inconsistent agency; and
- CPUC Section 21678 states that if the City overrides the ALUC's action or recommendation, the operator of the airport shall be immune from liability from damages to property or personal injury caused by or resulting directly or indirectly from the City's decision to overrule the ALUC determination.

The draft resolution provided as Attachment A to this report includes a preliminary analysis of the Amendment's consistency with the AELUP.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Final action on the Amendment is not being considered at this time. A complete environmental analysis of the Amendment is contained in the attached January 23, 2025 Planning Commission Staff Report for which a consistency analysis to the previously certified Final Program Environmental Impact Report (PEIR) identified by State Clearinghouse Number (SCH No.) 2023060699 is being proposed. The consistency analysis determined that the Amendment is consistent with the Housing Element and within the scope of PEIR. Under State CEQA Guidelines Sections 15162 and 15164, no additional environmental review is required.

Nevertheless, the action that is currently before the City Council is consideration of adopting a resolution of intent to override the ALUC's finding that the Project is not consistent with the AELUP.

The City Council finds the adoption of this resolution is not subject to 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 future development of any property within the Amendment's area or commit the City to approve the Amendment. Potential project impacts will be analyzed when the City Council considers a project.

NOTICING:

Notice of this hearing was published in the Daily Pilot in a one-eighth-page format at least 10 days before the scheduled meeting, consistent with Section 20.62.020(B)(2)(c) of the NBMC. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

ATTACHMENTS:

- Attachment A – Resolution No. 2025-13 Intent to Override ALUC's Determination
- Attachment B – Planning Commission Staff Report, dated January 23, 2025
(No Attachments)
- Attachment C – Planning Commission Minute Excerpts, dated January 23, 2025
- Attachment D – Planning Commission Resolution No. PC2025-004
- Attachment E – ALUC Staff Report, dated February 20, 2025 (No Attachments)
- Attachment F – ALUC Staff Report, dated March 20, 2025
- Attachment G – ALUC Determination Letter, dated March 21, 2025