CITY OF NEWPORT BEACH
CITY COUNCIL AGENDA

MAY 26, 2026
COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH, CA 92660

REGULAR MEETING- 4:00 PM

LAUREN KLEIMAN, Mayor
NOAH BLOM, Mayor Pro Tem
MICHELLE BARTO, Councilmember
ROBYN GRANT, Councilmember
JOE STAPLETON, Councilmember
SARA J. WEBER, Councilmember
ERIK WEIGAND, Councilmember

SEIMONE JURJIS , City Manager
AARON C. HARP, City Attorney
LENA SHUMWAY, City Clerk

NOTICE REGARDING PRESENTATIONS REQUIRING USE OF CITY EQUIPMENT
Any presentation requiring the use of the City of Newport Beach's equipment must be submitted to the City Clerk 24 hours prior to the scheduled City Council meeting.

LEVINE ACT
Under the Levine Act, Section 84308 of the Government Code, a party to a proceeding before the City involving a contract (other than competitively bid, labor, or personal employment contracts), franchise, license, permit, or other entitlement for use, is required to disclose on the record of the proceeding any contribution in an amount of more than five hundred dollars ($500) made within the preceding 12 months by the party or the party's agent to any elected or appointed officer of the City. If you have made a qualifying contribution, please ensure to make this disclosure on the record.

PUBLIC HEARINGS
If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

NOTICE TO THE PUBLIC
Any times listed in this agenda are provided as a courtesy and the actual item may be heard before or after the time given.
This agenda was prepared by the City Clerk. Copies of the staff reports and supporting materials are on file with the City Clerk and are available for public inspection and copying at the City Clerk's Office or online at newportbeachca.gov/agendas. For questions or to request copies of any staff reports or other documentation related to items on this agenda, please contact the City Clerk's Office at 949-644-3005.
The City of Newport Beach's goal is to fully comply with the Americans with Disabilities Act (ADA). If you require special assistance to participate in this meeting, we will attempt to accommodate you in every reasonable manner. Please contact City Clerk staff prior to the meeting at 949-644-3005 or cityclerk@newportbeachca.gov so that reasonable accommodations can be made.

I. ROLL CALL - 4:00 p.m.

INVOCATION

Rev. Sadie Cullumber, Harbor Christian Church

PLEDGE OF ALLEGIANCE

II. STUDY SESSION

- **Proposed Fiscal Year 2026-27 through 2031-32 Capital Improvement Program (CIP)**

  Public Works staff will present the proposed Fiscal Year 2026-27 through 2031-32 Capital Improvement Program (CIP) budget for further public and Councilmember review and discussion. The annual CIP budget serves as an identification and funding plan for City infrastructure projects and programs that are in progress and/or will be implemented in the coming 2026-27 fiscal year. The total proposed 2026-27 CIP budget is $95,096,260.

  FY 2026_27 CIP Presentation

PUBLIC COMMENTS ON AGENDA AND NON-AGENDA ITEMS

The City Council of Newport Beach welcomes and encourages community participation. Public comments are invited on items listed on the agenda and non-agenda items. Speakers must limit comments to three minutes per person to allow everyone to speak. Written comments are encouraged as well. The City Council has the discretion to extend or shorten the time limit on agenda or non-agenda items.

CITY COUNCIL ANNOUNCEMENTS AND ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

III. MATTERS WHICH COUNCILMEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA (NON-DISCUSSION ITEM)

- **Consider purchasing and installing audio livestream and recording devices for all City Board, Commission and Committee (A-2) Ralph M. Brown Act applicable meetings (Councilmember Weigand)**

PUBLIC COMMENTS ON CONSENT CALENDAR

This is the time in which Councilmembers may pull items from the CONSENT CALENDAR for discussion (ITEMS 1 - 11). Public comments are also invited on Consent Calendar items. Speakers must limit comments to three minutes. Before speaking, please state your name for the record. If any item is removed from the Consent Calendar by a Councilmember, members of the public are invited to speak on each item for up to three minutes per item.

All matters listed under CONSENT CALENDAR are considered to be routine and will all be enacted by one motion in the form listed below. Councilmembers have received detailed staff reports on each of the items recommending an action. There will be no separate discussion of these items prior to the time the City Council votes on the motion unless members of the City Council request specific items to be discussed and/or removed from the Consent Calendar for separate action.

IV. CONSENT CALENDAR

1. Approval of Minutes

Approval of Minutes for the May 12, 2026, City Council Meeting.

2026-05-12 CC Minutes

ORDINANCES FOR ADOPTION

2. Ordinance No. 2026-04: Amending Newport Beach Municipal Code Section 3.36.030 Related to Cost Recovery Percentages

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Waive the full reading of the Ordinance, read by title only, conduct a second reading and adopt Ordinance No. 2026-04, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Newport Beach Municipal Code Section 3.36.030 Related to Cost Recovery Percentages*.

Staff Report

Attachment A - Ordinance No. 2026-04

Attachment B - Redlined Code Section 3.36.030

CONTRACTS AND AGREEMENTS

3. **Fiscal Year 2025-2026 Citywide Park Fence Rehabilitation - Notice of Completion for Contract No. 9837-1 (25P02)**

   a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

   b) Accept the completed work and authorize the City Clerk to file a Notice of Completion for the project.

   Staff Report

   Attachment A - Location Map

4. **Amendment No. One to Professional Services Agreement with MissionSquare Retirement for Retirement Health Savings Plan Recordkeeping, Administration, and Claims Processing Services - One-Year Term Extension (Contract No. C-7279-2)**

   a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

   b) Authorize the Mayor and City Clerk to execute Amendment No. One to Professional Services Agreement with the International City Management Association Retirement Corporation, doing business as MissionSquare Retirement for Retirement Health Services Plan Agreement, Contract No. C-7279-2, extending the agreement term by one year through April 2027 and incorporating a reduction in annual administrative fees from 0.135% to 0.129%, with all other terms and conditions remaining unchanged.

   Staff Report

   Attachment A – Amendment No. One with MissionSquare

5. **Increase Purchase Order Amount with Mueller Systems for As-Needed Water Meters**

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;

b) Approve a change order to the Purchase Order with Mueller Systems in increasing the total amount from $120,000 to $250,000 for FY 2025-26; and

c) Approve issuing a purchase order with Mueller Systems for $250,000 for FY 2026-27 on or after July 1, 2026.

Staff Report

Attachment A - Mueller Meter Price Quotes

6. **On-Call Professional Services Agreement for Animal Care Medical Services**

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Approve an On-Call Professional Services Agreement for animal care medical services with Mariners VH LP for Animal Care Medical Services (DBA Mariners Mile Pet Clinic of Newport Beach, California) at a not-to-exceed cost of $505,000 and authorize the Mayor and City Clerk to execute the agreement.

Staff Report

Attachment A – Agreement

7. **General Liability Third Party Administrator - Approval of Professional Services Agreement with George Hills Company, Inc.**

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Approve a five-year Professional Services Agreement with George Hills Company, Inc., for Third Party General Liability Claims Administration Services at a not-to-exceed amount of $784,025 and authorize the Mayor and City Clerk to execute the Agreement.

Staff Report

Attachment A - PSA w George Hills Company, Inc.

8. MacArthur Boulevard Pavement Rehabilitation and Median Improvements - Award of Contract No. 9431-2 (24R13)

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(c), Class 1 (maintenance of existing public facilities involving negligible or no expansion of use) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment;

b) Approve the project plans and specifications;

c) Approve Budget Amendment No. 26-080 appropriating $11,700 in new revenue and expenditures from Orange County Sanitation District (OCSan) to Account Nos. 13501-431075-24R13 and 13501-980000-24R13, appropriating $57,800 in new revenue and expenditures from Irvine Ranch Water District (IRWD) to Account Nos. 13501-431220-24R13 and 13501-980000-24R13, appropriating $29,437 in new revenue and expenditures from the City of Irvine to Account Nos. 13501-431135-24R13 and 13501-980000-24R13, appropriating $321,860 in new revenue and expenditures from Cal Recycle Grant Funding to Account Nos. 13501-431490-26R02 and 13501-980000-26R02, appropriating $550,503 in increased expenditures in Account No. 12101-980000-24R13 from Gas Tax unappropriated fund balance, and appropriating $221,887 in increased expenditures in Account No. 01201927-980000-24R13 from General Fund unappropriated fund balance;

d) Award Contract No. 9431-2 to All American Asphalt for the total bid price of $7,099,118 for the MacArthur Boulevard Pavement Rehabilitation and Median Improvements project, and authorize the Mayor and City Clerk to execute the contract; and

e) Establish a contingency of $710,000 (approximately 10% of the total bid) to cover the cost of unforeseen work not included in the original contract.

Staff Report
Attachment A - Location Map
Attachment B - Budget Amendment

MISCELLANEOUS

9. Set Public Hearing Date to Adopt Fiscal Year 2026-2027 Budget

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Schedule a public hearing of the City's Proposed Budget for Fiscal Year 2026-2027 for June 9, 2026, and direct the City Clerk to publish a notice of said hearing in accordance with Section 1102 of the Newport Beach Charter.

Staff Report

10. Third Quarter Budget Update

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Approve Budget Amendment No. 26-076, adjusting revenue estimates and expenditure appropriations for the Fiscal Year 2025-26 budget as further outlined in this report.

Staff Report
Attachment A - Budget Amendment No. 26-076

11. Planning Commission Agenda for the May 21, 2026, Meeting

Receive and file.

PC Agenda

ACTION: MOVE AFFIRMATIVE ACTION OF THE CONSENT CALENDAR, EXCEPT FOR THOSE ITEMS REMOVED

ITEMS REMOVED FROM THE CONSENT CALENDAR

V. PUBLIC HEARINGS

12. Ordinance No. 2026-5: Amending Title 21 of the Newport Beach Municipal Code, and Resolution No. 2026-30: Implementing the Housing Element and Establishing the Housing Opportunity (HO) Overlay Coastal Zoning District (PA2022-0245)

a) Conduct a public hearing;

b) Find that all potential environmental effects for the amendment have been adequately addressed in the previously certified Final Program Environmental Impact Report identified by State Clearinghouse Number 2023060699, and the City Council of the City of Newport Beach intends to use said document for the approval of the Local Coastal Program Amendment;

c) Adopt Resolution No. 2026-30, *A Resolution of the City Council of the City of Newport Beach, California, Approving an Amendment to the Coastal Land Use Plan, as Modified by the California Coastal Commission, to Incorporate Updates for Consistency with the Adopted and Certified 6th Cycle Housing Element (PA2022-0245)*; and

d) Introduce Ordinance No. 2026-05, *An Ordinance of the City Council of the City of Newport Beach, California, Approving an Amendment to Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code, as Modified by the California Coastal Commission, to Establish the Housing Opportunity (HO) Overlay Coastal Zoning District (PA2022-0245 & PA2024-0205),* and pass to second reading on June 9, 2026.

Staff Report
Attachment A - Resolution No. 2026-30
Attachment B - Ordinance No. 2026-05
Attachment C - Resolution No. 2024-51
Attachment D - Ordinance No. 2024-16
Attachment E - Resolution No. 2024-52
Attachment F - Ordinance No. 2025-10
Attachment G - Resolution No. 2025-32
Attachment H - Coastal Comm. Reports and Correspondence
Attachment I - Approval Letter and Suggested Modifications
Attachment J - Redline

13. Resolution No. 2026-31: Community Development Block Grant - 2026-2027 Annual Action Plan

a) Conduct a public hearing to receive comments on the Annual Action Plan;

b) Find the approval of the 2026-2027 Annual Action Plan exempt from the National Environmental Policy Act (NEPA) pursuant to 24 CFR Part 58, Section 58.34;

c) Find the approval of the 2026-2027 Annual Action Plan exempt from 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 Section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly;

d) Adopt Resolution No. 2026-31, *A Resolution of the City Council of the City of Newport Beach, California, Approving the 2026-2027 Annual Action Plan for the Allocation of the Federal Community Development Block Grant Program Funds for Fiscal Year 2026-2027*; and

e) Authorize the City Manager to:

- Proportionally adjust appropriations to specific programs and projects as necessary to conform with the final 2026-2027 formula grant allocation of CDBG funds from HUD if the appropriation is more or less than $409,157;
- Submit the 2026-2027 Annual Action Plan to HUD;
- Execute the 2026-2027 CDBG Program Grant Agreement and all related documents on behalf of the City of Newport Beach;
- Execute all sub-recipient agreements with the non-profit organizations receiving allocations of CDBG funds in the 2026-2027 Action Plan; and
- Authorize the Community Development Director, or his designee, to be the official representative of the City of Newport Beach, administer the 2026-2027 Annual Action Plan and submit required environmental documentation to HUD for CDBG projects.

Staff Report

Attachment A - Resolution No. 2026-31

14. Ordinance No. 2026-06: Amending Title 5 (Business Licenses and Regulations) and Title 20 (Planning and Zoning) for Tobacco Retailer Businesses and Cigar Lounges

a) Conduct a public hearing;

b) Find this project categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment; and

c) Introduce Ordinance No. 2026-06, *An Ordinance of the City Council of the City of Newport Beach, California, Adding Chapter 5.55 (Tobacco Retailer Businesses) to Title 5 (Business Licenses and Regulations) and Amending Title 20 (Planning and Zoning) of the Newport Beach Municipal Code Related to Operation of New Tobacco Retailer Businesses and the Relocation or Physical Expansion of Existing Tobacco Retailer Businesses, Also Known as Smoke Shops,* and pass to second reading on June 9, 2026.

Staff Report
Attachment A – Ordinance No. 2026-06
Attachment B - March 19, 2026, PC Staff Report
Attachment C - March 19, 2026, PC Minutes
Attachment D - Amendments to Title 5 - Redlined
Attachment E - Amendments to Title 20 - Redlined

VI. MOTION FOR RECONSIDERATION

A motion to reconsider the vote on any action taken by the City Council at either this meeting or the previous meeting may be made only by one of the Councilmembers who voted with the prevailing side.

PUBLIC COMMENTS ON CLOSED SESSION

VII. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL
EXISTING LITIGATION

Government Code § 54956.9 (d)(1): 1 matter.

Steven Shulman v. City of Newport Beach
WCAB Case Nos. ADJ7917346 and ADJ8398388

CLOSED SESSION REPORT

ADJOURNMENT - In Memory of Judy Ware

Written Comments Received on Agenda and Non-Agenda Items after Agenda Posting

PLEASE TURN CELL PHONES OFF OR SET IN SILENT MODE.

CITY OF NEWPORT BEACH
FY 2026-27 THROUGH FY 2031-32
CAPITAL IMPROVEMENT PROGRAM

City Council Study Session Item No. 1

May 26, 2026

CAPITAL IMPROVEMENT PROGRAM

- Sets Priorities and Appropriates Funds
- Provides a Basis for Project Planning and Identifies Potential Conflicts
- Develops and Constructs Identified Public Improvements
- Addresses Significant Maintenance Projects
- Responds to Changing Priorities and Conditions

RECAP of the 2025-26 CIP

- ✓ 36 CAPITAL IMPROVEMENT PROJECTS COMPLETED or to be Completed by June 30, 2026
  Total Value: $59 Million

  Plus 39 Projects in Design/Construction Valued at $75 Million including:

  - *Fire Station No.1 / Balboa Branch Library*
  - *City Yard Fueling Support / Transfer Station Upgrades*
  - *Irvine Terrace East / Shore Cliffs Water Replacements*
  - *MacArthur Blvd Pavement Rehabilitation*
  - *Water Well Rehabilitation – 3 Existing Wells*
  - *Cathodic Protection Program*





COMPLETED CIP's in FY 2025-26

- Balboa Yacht Basin Dredging
- Beach Access Street Ends - Peninsula Point
- Big Canyon Restoration - Phase 3
- Bristol North Pavement Rehabilitation
- Central Library Air Handler Replacement
- Central Library Elevator Modernization
- City Yard & Utilities Yard Gate Replacements
- CDM Beach Parking Changeable Message Signs
- Fire Station No 2 HVAC Improvements
- Fire Station No 7 Backflow Replacement
- FY 25 City Bridge Maintenance Program
- FY 25 Playground Project - Spyglass Hill Park
- FY 26 ADA Concrete Improvements
- FY 26 Beach and Bay Sand Maintenance
- FY 26 Carpet Replacement - Central Library/Oasis/VJC
- FY 26 Concrete Repair Program
- FY 26 Facility Painting Project
- FY 26 Facility Roofing Repairs
- FY 26 Habitat Restoration - Maintenance
- FY 26 Park Fence Replacements
- FY 26 Pavement Management Plan
- FY 26 Playground Project - Bonita Canyon Park
- FY 26 Streetlight Improvements - Meter Cabinets
- FY 26 Street Pavement Repair Program
- Irrigation Controllers Replacement - Phase 2
- Irrigation Controllers Replacement - Phase 3
- Library Lecture Hall – Witte Hall
- Neighborhood Traffic Calming Improvements
- Oasis Senior Center Site Lighting - Phase 2
- Ocean Piers Inspection and Maintenance
- Sewer Line Replacements – Kings Road
- Spyglass Hill Road Pavement Rehabilitation
- Utility Undergrounding As. Dist. 124 (Phase 2)
- Via Lido Sewer Rehabilitation
- Von Karman Avenue Pavement Rehabilitation
- Water Line Replacements - PCH @ Tustin Ave.

PROPOSED 2026-27 CIP



Includes 69 Items

(Projects, Programs and Capital Expenses)

Total = $95.1 Million

$47.8 Million New Funding

$47.3 Million Re-Budget* from FY 2025-26

Large Re-Budgets include:

- *Balboa Island Drainage / Pump Station Improvements* *$6.3M*
- *Balboa Yacht Basin Dock Replacement* *$6.1M*
- *Old Newport at WCH Intersection Improvements* *$5.6M*
- *Harbor and Ocean Bulkheads and Seawalls Rehab* *$4.5M*
- *Collins Island Bridge and Seawall* *$2.0M*
- *15th Street Restroom Replacement* *$1.1M*

*Assumed Re-Budget on July 1, 2026

CIP BUDGET SUMMARY

Category	Rebudget	New Budget	%	Total
Facilities	$3,169,000	$5,150,000	9%	$8,319,000
Streets & Drainage	$17,521,000	$17,070,000	36%	$34,591,000
Transportation	$1,858,000	$1,580,000	4%	$3,438,000
Parks, Harbors & Beaches	$19,173,000	$6,300,000	27%	$25,473,000
Water Quality/Environmental	$300,000	$700,000	1%	$1,000,000
Water	$3,514,000	$15,400,000	20%	$18,914,000
Wastewater	$664,000	$1,340,000	2%	$2,004,000
Other Projects	$1,057,000	$300,000	1%	$1,357,000
Total	$47,256,000	$47,840,000	100%	$95,096,000

- The Proposed CIP Budget detail can be found on the City's website:
  https://www.newportbeachca.gov/government/departments/public-works

FACILITIES



TOTAL BUDGET
$8.3 Million

- 15th Street Restroom Replacement
- Building Resiliency and Backup Generation
- Council Chambers & Community Room AV Upgrades
- Facilities Maintenance Master Plan *(FMMP)*



FACILITIES
Continued

- Newport Coast Pickleball Lighting
- Police Station *(CEQA, Concept Design & Permitting)*
- Trash Enclosure Improvement *(Balboa Pier and CDM Beach)*
- Utility Yard Facility Improvements



STREETS and DRAINAGE



TOTAL BUDGET
$34.6 Million

- Balboa Island Concrete Road & Alley Improvements
- Balboa Island Drainage Master Plan / Pump Stations
- Balboa Island Street and Drainage Improvements *(Collins Bridge)*
- Beach Access Street Ends – Peninsula Point
- Birch Street Pavement Rehabilitation – Bristol to Jamboree
- Corona Del Mar Street and Traffic Improvements

STREETS and DRAINAGE
Continued



- City Bridge Maintenance Program
- Concrete Replacement Program
  (Newport Coast, CdM North and Fashion Island)
- Eastbluff Drive Pavement Rehabilitation
- Landscape Enhancement Program
  (East Coast Hwy Beatification and Bayview Heights Trail)
- Old Newport Blvd / West Coast Hwy Intersection Improvements
- Pavement Management Plan Maintenance / Inspection
- Rubberized Asphalt Pavement Overlay Program

STREETS and DRAINAGE
Continued

- San Miguel Drive Pavement Rehab - San Joaquin Hills Rd to Old Ford Rd
- Slurry Seal Program *(Newport Coast, CdM North and Fashion Island)*
- Via Lido Pavement Rehabilitation – Newport Blvd to Via Malaga
- Via Lido and Via Oporto Intersection Improvements
- West Coast Hwy Intersection Improvements and Pedestrian Bridge
- Street Pavement Repair Program
  (Newport Coast, CdM North and Fashion Island)
- Streetlight Rehabilitation Program
- Storm Drain System Repair / Rehabilitation



TRANSPORTATION

TOTAL BUDGET
$3.4 Million

- Balboa Island / CdM Trolly Transit Service
- Bristol Street Corridor Regional Traffic Signal Synchronization Project
- Traffic Signage, Striping and Markings
- Traffic Signal Rehabilitation Program



PARKS, HARBORS and BEACHES



TOTAL BUDGET
$25.5 Million

PARKS

- Bonita Creek Park Athletic Field Turf Replacement
- Park Master Maintenance Plan (*PMMP*)
- Playground Refurbishment Program *(Irvine Terrace Park)*

HARBOR and BEACHES

- Abandoned / Surrendered Watercraft Abatement

PARKS, HARBORS and BEACHES *Continued*

- Balboa Island Boardwalk and Perimeter Drainage
- Balboa Island Seawall (*Agate Ferry Landing*)
- Balboa Island Seawall – Permitting and Design
- Balboa Yacht Basin Dock Replacement
- Bathymetry Survey (*Newport Island Channels*)
- Beach and Bay Sand Management
- Eelgrass Survey



PARKS, HARBORS and BEACHES *Continued*

- Harbor & Ocean Bulkheads / Seawalls / Structure Repairs
- Harbor & Ocean Maintenance / Minor Improvements
- Newport Pier & McFadden Square *(Permitting & Design)*
- Ocean Piers Inspection and Maintenance
- Peninsula Seawall *(Palm Ferry Landing)*
- Tide Valve Replacement – Peninsula
- Vessel Sewage Pump-Out Replacement



WATER QUALITY and ENVIRONMENTAL

TOTAL BUDGET
$1.0 Million

- Environmental Habitat Restoration – Required Monitoring & Maintenance *(Peninsula Point, Trash Interceptor & Big Canyon Phase 2 & 3)*
- Newport Beach Trash Interceptor Modification
- TMDL Compliance / Water Quality Improvements



WATER

TOTAL BUDGET
$18.9 Million

- Water and Wastewater Bay Crossing Main Rehabilitation
- CM-9 & CM-6 MWD Turnout Replacement
- Distribution Valve Replacement Program
- Grade Adjustments – Water Valves
- New Water Wells and Pipeline
- Water System Rehabilitation
- Zones 3 and 4 Pump Station Upgrades



WASTEWATER

TOTAL BUDGET
$2.0 Million

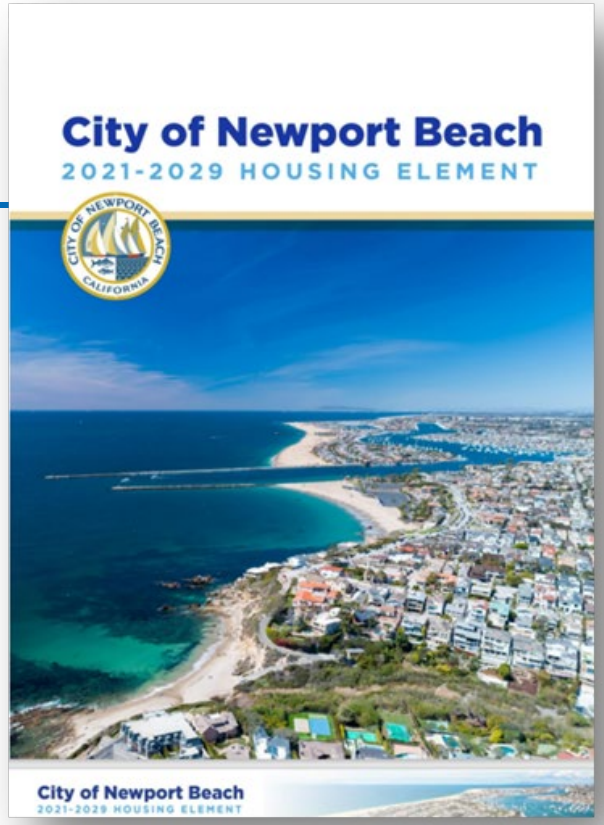
- Grade Adjustments – Sewer Manhole Covers
- Sewer Main Lining and Repairs



MISCELLANEOUS

TOTAL BUDGET
$1.4 Million

- 7th Cycle Housing Element Planning
- Affordable Housing
- Oil Well 3 Rehabilitation
- Oil Well 12 Rehabilitation
- Oil Well 14 Rehabilitation
- Oil Well 15 Rehabilitation

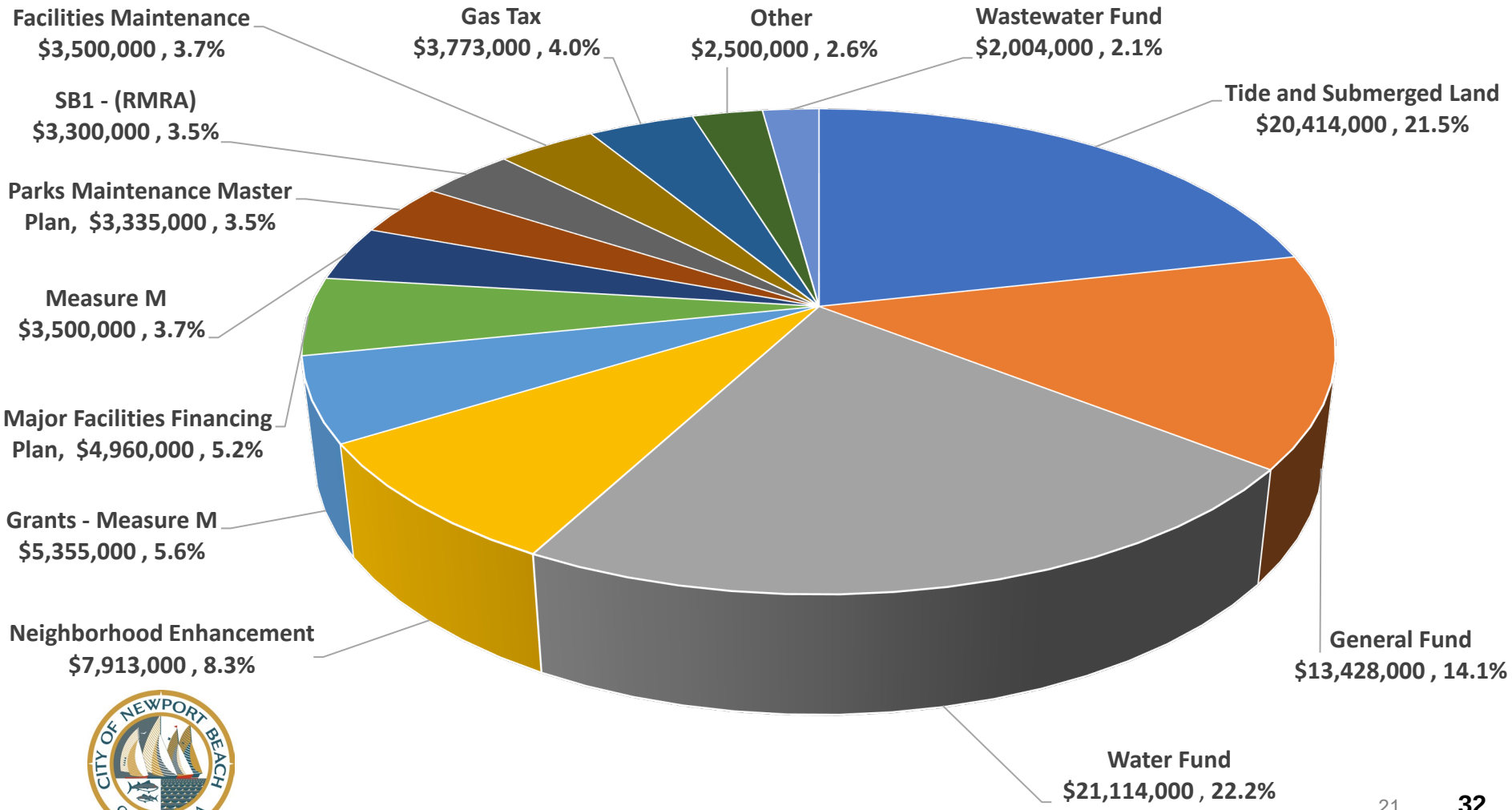


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Water Quality/Environmental	$300,000	$700,000	1%	$1,000,000
Water	$3,514,000	$15,400,000	20%	$18,914,000
Wastewater	$664,000	$1,340,000	2%	$2,004,000
Other Projects	$1,057,000	$300,000	1%	$1,357,000
Total	$47,256,000	$47,840,000	100%	$95,096,000

- The Proposed CIP Budget detail can be found on the City's website:
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PROPOSED CIP – BY FUND
TOTAL = $95,096,000



Comments / Questions

Your Public Works Department

Protecting and Providing Quality

Public Improvements and Services

NEWPORTBEACHCA.GOV/PUBLICWORKS

Newport Beach

100 Civic Center Drive, Newport Beach, CA 92660

Minutes

Tuesday, May 12, 2026

4:00 PM

STUDY SESSION- 4:00 PM (PUBLIC WELCOME)

Council Chambers

City Council

LAUREN KLEIMAN, Mayor
NOAH BLOM, Mayor Pro Tem
MICHELLE BARTO, Councilmember
ROBYN GRANT, Councilmember
JOE STAPLETON, Councilmember
SARA J. WEBER, Councilmember
ERIK WEIGAND, Councilmember

SEIMONE JURJIS, City Manager
AARON C. HARP, City Attorney
LENA SHUMWAY, City Clerk

I. ROLL CALL - 4:00 p.m.

Present: Mayor Lauren Kleiman, Mayor Pro Tem Noah Blom, Councilmember Michelle Barto, Councilmember Robyn Grant, Councilmember Joe Stapleton, Councilmember Sara J. Weber, Councilmember Erik Weigand.

INVOCATION

The invocation was led by Councilmember Barto.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Pro Tem Blom.

II. PRESENTATIONS

- Public Works Week Proclamation

  Mayor Kleiman read the proclamation designating May 17 through May 23, 2026, as National Public Works Week, recognizing the 66th annual observance sponsored by the American Public Works Association. Public Works Director David Webb and Utilities Director Mark Vukojevic accepted the proclamation on behalf of the Public Works Department and thanked the City Council for its continued support of infrastructure investment.

III. STUDY SESSION

- Self-Certification Building Permit Program

  City Manager Seimone Jurjis introduced the item as part of an ongoing effort to improve customer service in the permitting process. Community Development Director Jaime Murillo and Deputy Community Development Director Tonee Thai presented a proposed voluntary self-certification building permit program. Community Development Director Murillo explained that the program would allow qualified, licensed architects—holding ICC certification and demonstrating prior experience with City projects—to self-certify code and zoning compliance for lower-risk projects such as non-structural tenant improvements and residential ADUs, bypassing traditional plan check review. Key safeguards would include full building inspections, liability and indemnification agreements, and a disqualification mechanism for violations. Community Development Director Murillo noted an anticipated time savings of two to four months and reduced plan check costs for applicants. He also addressed the potential future use of AI-based code compliance tools as a pre-screening resource. Staff identified potential concerns including architect reluctance to assume full liability and increased burden on field inspectors.

  Councilmember Weigand expressed support, noting the program would benefit residents who are often frustrated by permitting delays, and that a qualified pool of local architects already performing Newport Beach work would develop naturally over time.

  Public Comment

  Adam Leverenz expressed support for easing regulatory burdens while appreciating the retained oversight measures and cautioned against unchecked self-certification based on an example from Humboldt County.

Ana Gromis (Building Industry Association of Southern California, Orange County Chapter) commended the City for its forward-thinking approach and encouraged starting small before expanding scope.

Denys Oberman (Resident) praised the community development department's professionalism and suggested adding electrical and mechanical thresholds as eligibility criteria, engaging insurance carriers, and implementing a structured pilot period of 12 to 18 months.

Jim Mosher (Resident) asked for clarification on whether Council approval was required or whether this was an administrative decision, and whether a formal vote would be taken at a future meeting.

The City Council expressed support for the program through a straw vote (7-0-0).

PUBLIC COMMENTS ON AGENDA AND NON-AGENDA ITEMS

Former Mayor Nancy Gardner commended City staff who attended the Corona del Mar Residents Association meeting, praising their enthusiasm and effectiveness as community ambassadors.

Jim Mosher (Resident) concurred and raised a procedural point regarding the upcoming Finance Committee budget review meeting, noting that the five non-committee council members are welcome to attend as observers.

Chaylee Hylkema (Mooring Permit Holder) expressed concerns about proposed mooring fee increases of 300 to 500 percent and the potential elimination of mooring transferability and questioned the equity of fee treatment between mooring permit holders and residential pier permit holders.

Adam Leverenz raised a transparency concern regarding the Harbor Commission agenda not being accessible via the City's standard website links, noting the issue was corrected after being brought to staff's attention.

Axel (Resident) representing Creek Team OC, urged Newport Beach to support a county-level transition to an organic-first approach to herbicide application, citing violations by Orange County Public Works in waterways flowing into Newport Back Bay.

Steven Gerard Sidlorsky advocated for the City to adopt a resolution declaring Newport Beach a safe pre-born personhood city.

CITY COUNCIL ANNOUNCEMENTS AND ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

Councilmember Weigand recognized Public Works staff for promptly responding on a Saturday morning to address non-organic mulch debris discovered at Castaways Park.

Councilmember Grant reported on attending the Boys and Girls Club of Central Orange Coast 2026 Impact Summit, highlighting the organization's partnership with the City in East Bluff since 1971.

Councilmember Weber announced Armed Forces Day at the Field of Honor at Castaways Park on Saturday May 16, 2026, at 12:00 PM, and a Memorial Day
ceremony on Monday, May 25 at 12:00 PM.

Councilmember Stapleton echoed recognition of the Corona del Mar Residents Association event, congratulated local yacht clubs on their opening days, and reminded the public of the Finance Committee meeting taking place on Thursday, May 14, 2026, at 3:00 PM.

Mayor Kleiman congratulated Ben Zdeba on his promotion to Deputy City Manager.

PUBLIC COMMENTS ON CONSENT CALENDAR

There were no public comments on consent calendar items.

IV. CONSENT CALENDAR

Mayor Kleiman announced that staff requested to pull Item No. 4 from the Consent Calendar for consideration at a later date.

Councilmember Stapleton stated that he had a conflict on Agenda Item No. 11 based on his interest in his personal residence.

Mayor Pro Tem Blom noted a conflict on Agenda Item No. 5 based on his interest in 224 Marine Avenue.

Mayor Pro Tem Blom moved, seconded by Councilmember Barto, to approve the Consent Calendar, including amendments to Item No. 2 (Minutes), and excluding Item No. 4; noting Mayor Pro Tem Blom's conflict on Agenda Item No. 5 based on his interest in 224 Marine Avenue, and Councilmember Stapleton's conflict on Agenda Item No. 11 based on his interest in his personal residence.

The motion carried by the following vote: 7-0-0

Ayes: Councilmember Barto, Mayor Pro Tem Blom, Councilmember Grant, Mayor Kleiman, Councilmember Stapleton, Councilmember Weber, and Councilmember Weigand

READING OF MINUTES AND ORDINANCES

1. Reading of Ordinances

2. Minutes for the April 28, 2026, City Council Meeting

CONTRACTS AND AGREEMENTS

3. OASIS Senior Center Site Lighting Phase 2 - Notice of Completion for Contract No. 9009-3 (26F02)

4. Fire Station No.2 HVAC Retrofit - Notice of Completion for Contract No. 9959-1 (25R02) – **Item pulled from the Consent Calendar for future consideration**

5. Approval of Professional Services Agreement with X Engineering & Consulting, Inc. for the AD 124 Alley Restoration Design Services-Contract No. 9451-4

Mayor Pro Tem Blom recused himself on Agenda Item 5 due to his interest in 224 Marine Avenue.

6. Approval of Equipment Replacement Purchase Orders for One Hydro Excavator Truck and One Sewer Cleaner Truck

7. Approval of Purchase Order with Pinnacle Petroleum, Inc. for Fuel

8. Pump Station Commercial Door Replacement - Award of Contract No. 9888-1 (25F03)

9. Professional Services Agreement with Aleshire & Wynder, LLP, JLGroup, LLC, and Richard D. Jones dba Jones Mayer for Hearing Adjudication Services

10. Amended and Restated National Pollutant Discharge Elimination System Stormwater Permit Implementation Agreement - Approval

11. Amendment to Professional Services Agreement with Sampson Oil Company for Oil Well Management Services

Councilmember Stapleton recused himself on Agenda Item 11 due to his interest in his personal residence.

MISCELLANEOUS

12. Set a Public Hearing for the City's 2025 Urban Water Management Plan and Water Shortage Contingency Plan

13. Acceptance of Proposition 69 Reimbursement

ACTION: MOVE AFFIRMATIVE ACTION OF THE CONSENT CALENDAR, EXCEPT FOR THOSE ITEMS REMOVED

ITEMS REMOVED FROM THE CONSENT CALENDAR

4. Fire Station No.2 HVAC Retrofit - Notice of Completion for Contract No. 9959-1 (25R02)
- **Item pulled from the Consent Calendar for consideration at a later date.**

V. PUBLIC HEARINGS

14. Resolution No. 2026-27: Notice of Intent to Override Airport Land Use Commission Finding of Inconsistency for Amendment to Newport Place Planned Community Development Plan Related to the Minimum Percentage of Inclusionary For-Sale Housing within the Residential Overlay (PA2025-0196)

Councilmember Stapleton recused himself due to a real property conflict. Mayor Kleiman recused herself as well due to her husband having received income from business relations with INTRACORP involving projects outside the City.

Mayor Kleiman turned the meeting over to Mayor Pro Tem Blom.

Mayor Pro Tem Blom presided. No staff report was requested and no public comments were received.

Mayor Pro Tem Blom moved, seconded by Councilmember Weber to, a) Conduct a public hearing; b) Find the proposed overriding action is not subject to 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. 2026-27, A Resolution of the City Council of the City of Newport Beach, California, Notifying the Orange County Airport Land Use Commission and the 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).

The motion carried by the following vote: 5-0-2 (Councilmember Stapleton and Mayor Kleiman recused)

Ayes: Councilmember Barto, Mayor Pro Tem Blom, Councilmember Grant, Councilmember Weber, and Councilmember Weigand

15. Ordinance No. 2026-04: Amending Newport Beach Municipal Code Section 3.36.030 Related to Cost Recovery Percentages, and Resolution No. 2026-28: Revising and Adopting Fees Within the Schedule of Rents, Fines and Fees

Budget Analyst Abigail Marin presented the City's annual rotational fee study, covering the Community Development, Fire, and Police Departments, as reviewed and recommended by the Finance Committee on April 16. Notable changes included: new e-bike impound release fees in the Police Department; introduction of a care facility lift assist fee in the Fire Department (with one free assist per calendar year before full cost recovery applies); removal of the standalone emergency ambulance transportation fee; a phased 6% annual increase to the Junior Lifeguard program fee toward full cost recovery; updated short-term lodging permit fees; and a new parking penalty for California Vehicle Code crosswalk violations per Assembly Bill 413. The proposed updates are projected to generate approximately $937,000 in additional annual revenue, with most fees effective July 1, 2026, and building and development fees effective July 25, 2026, per Government Code Section 66017.

Councilmember Weigand noted there was no increase to the MEDICS program and took the opportunity to encourage all residents to enroll in the program.

Mayor Pro Tem Blom and Councilmember Weigand both spoke in support of the Junior Lifeguard fee increase, noting the program remains a strong value and that complementary scholarship and foundation resources exist for lower-income participants.

Mayor Kleiman expressed support for the new care facility lift assist fee structure and

requested that staff explore full or partial cost recovery for administrative site and parking hearings in a future study.

Public Comment:

Jim Mosher (Resident) noted the complexity of the fee schedule and identified several apparent gaps, including a missing fee for the e-bike diversion program, the absence of fees for city tree removal requests and related appeals under the recently amended tree policy, and questioned the policy rationale for pursuing full cost recovery for the Junior Lifeguard program while not charging for CERT or Citizens Police Academy participation.

Mayor Pro Tem Blom moved, seconded by Councilmember Weber to, a) Conduct a public hearing; b) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; c) Adopt Resolution No. 2026-28, A Resolution of the City of Newport Beach, California, Revising and Adopting Fees Within the Schedule of Rents, Fines and Fees; and d) Introduce Ordinance No. 2026-04, An Ordinance of the City Council of the City of Newport Beach, California, Amending Section 3.36.030 of the Newport Beach Municipal Code Related to Cost Recovery Percentages.

The motion carried by the following vote: 7-0-0

Ayes: Councilmember Barto, Mayor Pro Tem Blom, Councilmember Grant, Mayor Kleiman, Councilmember Stapleton, Councilmember Weber, and Councilmember Weigand

VI. CURRENT BUSINESS

16. Resolution No. 2026-29: Dissolving the Newport Beach Police Headquarters Assessment Committee and Creating the Newport Beach Police Headquarters Advisory Committee

Acting Deputy Community Development Director Ben Zdeba outlined the background of the police headquarters evaluation effort initiated in 2025, noting that the prior three-member Council Assessment Committee had reviewed potential sites, culminating in a March 10 study session where staff was directed to continue evaluating the Civic Center campus while keeping other locations in consideration. The proposed Advisory Committee would consist of three Council members and four residents, including two qualified members (one in real estate financing, one in construction management/architecture/land use) and two at-large members, charged with evaluating the feasibility of the Civic Center campus, assessing cost and design, and making a recommendation to City Council.

Mayor Kleiman proposed clarifying language to reflect that the new committee's scope would extend to all three sites under consideration—the Civic Center campus at 100 Civic Center Drive, 1201 Dove Street in the airport area, and the existing headquarters at 870

Santa Barbara Drive—and that the committee's purpose be to discuss, assess, and obtain public input rather than be limited to a pure feasibility determination. Mayor Kleiman also proposed extending the application period beyond the one week specified in the draft resolution.

Councilmember Grant expressed support for the committee reform but urged that the scope be expanded to restart the site selection process entirely, beginning from a blank slate and considering all potential sites citywide rather than the three already identified. Councilmember Grant also requested that the committee, rather than the Mayor, appoint its own chair and vice chair as a transparency measure.

City Manager Seimone Jurjis clarified that the $1.5 million previously allocated for Civic Center campus study had not been altered by this action, and any expansion of scope would require the advisory committee to bring recommendations back to the full Council.

Councilmember Stapleton and Councilmember Weigand expressed general support for the resolution, noting that the committee could surface additional sites and bring them forward to Council, and that the full Council retains confirmation authority over all appointments.

Public Comment:

Adam Leverenz expressed appreciation for the inclusion of citizen members while encouraging serious consideration of police substations as an alternative to a single large facility and noted strong public opposition to the Civic Center park site.

Ron Rubino (Resident) requested that all four options from the original scope of work (including a site across from the Civic Center) remain under consideration, called for the committee's meetings to be open, televised, and include interim public check-ins, and suggested recruiting a member with direct experience building a police facility.

An unidentified speaker urged that the word "advisability" be added alongside "feasibility" in the committee's charge, so that the committee could address whether the Civic Center park site is a good idea, not merely whether it is technically possible.

Former Mayor Keith Curry argued that the Civic Center park site should be formally removed from consideration given its cost, operational, environmental, and community opposition issues, and suggested that several Council members had already publicly endorsed the park site while dismissing Dove Street and Santa Barbara as real options.

Nancy Skinner (Resident) urged the Council to take the park option off the table entirely and avoid spending $1.5 million on a study for an unpopular site.

Andrew Gerken (Resident) expressed concern that the committee member selection process was not sufficiently representative of the public and suggested a more randomized or broadly representative approach.

Jim Mosher (Resident) recommended the City follow its charter process for citizen advisory bodies, called for all seven Council members to review applications rather than delegating solely to the Mayor, and suggested including an environmental expert among the qualified member slots if the Civic Center park remains in consideration.

Evelyn Kroner (Resident) spoke in support of preserving the Civic Center park, noting the historical significance of open space in the area and the growing density of approved housing nearby.

Motion by Mayor Kleiman, seconded by Mayor Pro Tem Blom to a) Determine this action is exempt from the California Environmental Quality Act (CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA guidelines because this action will not result in a direct or indirect physical change to the environment; and b) Adopt Resolution No. 2026-29, A Resolution of the City Council of the City of Newport Beach, California, Dissolving the Newport Beach Police Headquarters Assessment Committee, and Creating the Newport Beach Police Headquarters Advisory Committee with the following changes for the scope of the committee: discuss, assess and solicit public input on the Civic Center Campus, 1201 Dove Street, and 870 Santa Barbara Drive as potential sites for a new Newport Beach Police Department headquarters and change deadline for publication of the notice to two (2) weeks.

The motion carried by the following vote: 7-0-0

Ayes: Councilmember Barto, Mayor Pro Tem Blom, Councilmember Grant, Mayor Kleiman, Councilmember Stapleton, Councilmember Weber, and Councilmember Weigand

VII. MOTION FOR RECONSIDERATION

There were no motions for reconsideration.

ADJOURNMENT

The meeting was adjourned at 6:01 p.m. in memory of Debra Allen.

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 2

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Jason Al-Imam, Adminstrative Services Director/Treasurer - 949-644-3126, jalimam@newportbeachca.gov
PREPARED BY:	Abigail Marin, Senior Budget Analyst - 949-644-3042, amarin@newportbeachca.gov
TITLE:	Ordinance No. 2026-04: Amending Newport Beach Municipal Code Section 3.36.030 Related to Cost Recovery Percentages

ABSTRACT:

For the City Council's consideration is the adoption of Ordinance No. 2026-04, amending Section 3.36.030 (Cost Recovery Percentages) of the Newport Beach Municipal Code (NBMC) to modify language to authorized levels of cost recovery required by the fee changes that were approved by the City Council on May 12, 2026. The attached ordinance was introduced and considered at the May 12, 2026, City Council meeting.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Waive the full reading of the Ordinance, read by title only, conduct second reading and adopt Ordinance No. 2026-04, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Newport Beach Municipal Code Section 3.36.030 Related to Cost Recovery Percentages*.

DISCUSSION:

On May 12, 2026, after a noticed public hearing, the City Council adopted Resolution No. 2026-28, approving the Fiscal Year 2025-26 Fee Study update and introduced and passed to second reading Ordinance 2026-04, which amends Section 3.36.030 of the NBMC (Cost Recovery Percentages) to update language to the cost-recovery targets for certain user fees.

FISCAL IMPACT:

The City Council's policy of regularly reviewing cost-of-service fees and maintaining adequate cost recovery ensures users fund fee-based services, allowing general tax revenue to support and enhance non-fee services and programs.

Staff estimates that the fee updates in Resolution No. 2026-28, adopted at the May 12, 2026, City Council meeting, and associated Ordinance 2026-04, introduced at the same meeting, will amount to approximately $937,000 in additional revenues to the City of Newport Beach. However, this projection does not account for any fees where volume statistics are unavailable.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this 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, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Ordinance No. 2026-04
Attachment B – Redlined Newport Beach Municipal Code Section 3.36.030

Attachment A

Ordinance No. 2026-04

ORDINANCE NO. 2026-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING NEWPORT BEACH MUNICIPAL CODE SECTION 3.36.030 RELATED TO COST RECOVERY PERCENTAGES

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 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, the City funds certain municipal services, which are typically performed without request by the user, that benefit the public generally and are traditionally funded by tax revenue;

WHEREAS, the City performs other services which are funded, in whole or in part, by a person requesting the service;

WHEREAS, Subsection (A) of Section 3.36.030 (Cost Recovery Percentages) of the Newport Beach Municipal Code ("NBMC") provides the cost recovery for user service fees specifically requested by a person shall be at one hundred percent (100%), unless the amount is modified by Exhibit A to Section 3.36.030 (Cost Recovery Percentages) of the NBMC ("Exhibit A");

WHEREAS, the Administrative Services Department conducts regular fee studies and makes recommendations to the City Council regarding adjustments that may be made to the cost recovery amounts provided in Exhibit A, to ensure compliance with the law, consistency with current practices, and the maintenance of a high level of customer services for our residents;

WHEREAS, any instances with reference to Finance Director in Section 3.36.030 have been updated to reflect the title of Administrative Services Director/Treasurer;

WHEREAS, on April 16, 2026, the proposed revisions to Exhibit A were presented to the City's Finance Committee; and

WHEREAS, City staff recommends the City Council adopt the proposed revisions to Exhibit A.

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

Section 1: Section 3.36.030 (Cost Recovery Percentages) and its Exhibit A of the NBMC, are hereby amended to read as follows:

A. The municipal functions the City Council has determined to be user services and for which the City Council has initially determined the actual costs and the appropriate cost recovery percentage are described in the fee resolution. The cost recovery percentage appropriate for each user service shall be one hundred (100) percent with the exception of the user services listed in Exhibit "A" and those services for which the fee is limited by statute. The City Council may include in the fee resolution a schedule to phase in specific fee increases over a period not to exceed five years.

B. The City Council shall establish, pursuant to the fee resolution, the actual fee or charge for each user service described in the fee resolution. The fee or charge shall be based upon the actual cost of providing the user service, multiplied by the relevant cost recovery percentage.

C. The City Council may, without amending this chapter, modify (increase or decrease) the fee resolution to amend the amount of any fee or charge for, and the actual cost of providing, any user service upon a determination that there has been an increase or decrease in one or more of the cost factors relevant to the calculation of the actual cost of providing that service.

D. The City Council may modify the municipal functions determined to be user services in the fee resolution and the cost recovery percentage for any service only by amending this chapter.

E. Fees for service established in the fee resolution may be waived by:

1. The City Council;

2. The City Manager, up to an amount not to exceed one thousand dollars ($1,000.00), per occurrence, for fees imposed on nonprofit organizations for nonprofit sponsored events; or

3. The City Manager or the Administrative Services Director/Treasurer up to an amount not to exceed five thousand dollars ($5,000.00), per occurrence, if the City Manager or Administrative Services Director/Treasurer determines that the imposition of the fee would exceed the actual cost to the City or would result in duplicative fees for services rendered.

Exhibit A

The City's cost of providing the following services shall be recovered through direct fees charged for services. Exhibit "A" limits cost recovery fees to the percentages or dollar amounts indicated below.

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
All Departments	
Appeals—For Any User Services Appeal Not Otherwise Specified—Appellant Successful	0%
Appeals—For Any User Services Appeal Not Otherwise Specified—Appellant Unsuccessful	50%
Administrative Services Department	
Admin. Cite Hearings	0%
Parking Hearings	0%
Short Term Lodging Permit Suspension or Revocation Hearing—Appellant Successful	0%
Short Term Lodging Permit Suspension or Revocation Hearing—Appellant Unsuccessful	50%
Zero Bill Reprint	0%
Community Development Department	
Building	

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
Appeals Board Hearing—Appellant Successful	0%
Appeals Board Hearing—Appellant Unsuccessful	50%
Harbor Construction	50%
Preliminary Plan Review	First Two Hours Free, Full Cost Thereafter
Planning	
Appeals to City Council or Planning Commission—Appellant Successful	0%
Appeals to City Council or Planning Commission—Appellant Unsuccessful	50%
Coastal Development Permit Application Appeals from Zoning Administrator to Planning Commission	0%
General Plan Maintenance Fee	12%
Reasonable Accommodation	0%
Fire Department	
Emergency Medical Services	
Advanced Life Support (ALS)—Nontransport	$450
Basic Life Support (BLS)—Nontransport	$450

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
ALS First Responder Fee	$450
BLS First Responder Fee	$450
Lifeguard Operations & Junior Lifeguards Program	
Junior Lifeguards Program Participant Fee	85% of the FY 26/27 Fee effective July 1, 2026. A six percent (6%) adjustment shall occur to the Junior Guard Participant Fee on July 1, 2027, and each year thereafter until the full cost of service is reached. The underlying cost of service used to calculate the Junior Lifeguard Participant Fee shall be adjusted annually by CPI beginning on July 1, 2027.
Harbor Department	
Chapter 17.65 Appeal—Appellant Successful	0%
Chapter 17.65 Appeal to City Council or Harbor Commission—Appellant Unsuccessful	50%
Deposit/Late Cancellation Fee for Use of Human Lift—Marina Park	0%
Deposit/Late Cancellation Fee for Use of	0%

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
Human Lift—Balboa Marina PD	
Library Services Department	
Black and White Copies from Self-Service Copier or Printer	$0.15
Color Copies from Self-Service Copiers or Printers	$0.45
Use Fees—Materials	$1
Inter-Library Loan	$5
Police Department	
Citation Sign-off	$10
Fingerprinting—City Portion	$30
Registrant—Narcotics	0%
Registrant—Sex	0%
Animal Shelter	
Adoption Fee—Puppies	$225
Adoption Fee—Senior Dog—Animal Over Eight (8) Years Old	$70
Adoption Fee—Dog—All Other	$150
Adoption Fee—Kittens	$110

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
Adoption Fee—Senior Cat—Animal Over Eight (8) Years Old	$70
Adoption Fee—Cat—All Other	$90
Adoption Fee—Small Animals	$45
Boarding Fee (per day)—Animals	$25
Boarding Fee (per day)—Small Animals	$10
Owner Turn-In Fee— Altered Animal	$100
Owner Turn-In Fee—Unaltered Animal	$200
Impound Fee—Dogs, Cats, Other Similar Size Animals	$70
Public Works Department	
Chapter 17.65 Appeal—Appellant Successful	0%
Chapter 17.65 Appeal to City Council or Harbor Commission—Appellant Unsuccessful	50%
Recreation and Senior Services Department	
Adult Sports	50%—95%
Administrative Processing Fee	$5
Badge Replacement	$5

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
After School/Camp Programs	
Camps	20%—50%
After-School/Teen Program	20%—50%
Preschool Program	20%—50%
Aquatics	20%—50%
Contract Classes	50%—95%
Class Refunds	
$74 or less	$10
$75 or more	$20
Youth Sports	20%—50%
Special Events—Levels 1, 2, and 3	
Resident, Level 1 and Late Fees for Level 1	0%—20%
Resident, Levels 2—3 and Late Fees for Levels 2—3	20%—50%
Nonresident, Levels 1—2 and Late Fees for Level 1	20%—50%
Nonresident, Level 3 and Late Fees for Levels 2—3	50%—95%
Appeal to City Council—Appellant	0%

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
Successful	
Appeal to City Council—Appellant Unsuccessful	50%—95%
Natural Resources Programs	0%—20%
Senior Services	
OASIS Transportation	$1—$3 each way
Contract Classes	20%—50%
Fitness Center	50%—95%
Utilities Department	
Construction Water Meter Establishment	50%
Fats, Oils, and Grease (FOG) Annual Permit	0%
City Council, Board, Commission, Committee or Any Individual Member Thereof When Acting Within the Scope of Their Official Duties	
Review from a Lower Body or Official	$0

Section 2: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 3: 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 4: The City Council finds the introduction and adoption of this ordinance 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.

Section 5: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 6: 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 12th day of May, 2026, and adopted on the 26th day of May, 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 B

Redlined NBMC 3.36.030

Chapter 3.36
COST RECOVERY FOR USER SERVICES

3.36.030 Cost Recovery Percentages.

A. The municipal functions the City Council has determined to be user services and for which the City Council has initially determined the actual costs and the appropriate cost recovery percentage are described in the fee resolution. The cost recovery percentage appropriate for each user service shall be one hundred (100) percent with the exception of the user services listed in Exhibit "A" and those services for which the fee is limited by statute. The City Council may include in the fee resolution a schedule to phase in specific fee increases over a period not to exceed five years.

B. The City Council shall establish, pursuant to the fee resolution, the actual fee or charge for each user service described in the fee resolution. The fee or charge shall be based upon the actual cost of providing the user service, multiplied by the relevant cost recovery percentage.

C. The City Council may, without amending this chapter, modify (increase or decrease) the fee resolution to amend the amount of any fee or charge for, and the actual cost of providing, any user service upon a determination that there has been an increase or decrease in one or more of the cost factors relevant to the calculation of the actual cost of providing that service.

D. The City Council may modify the municipal functions determined to be user services in the fee resolution and the cost recovery percentage for any service only by amending this chapter.

E. Fees for service established in the fee resolution may be waived by:

1. The City Council;

2. The City Manager, up to an amount not to exceed one thousand dollars ($1,000.00), per occurrence, for fees imposed on nonprofit organizations for nonprofit sponsored events; or

3. The City Manager or the ~~Finance~~ Administrative Services Director/Treasurer up to an amount not to exceed five thousand dollars ($5,000.00), per occurrence, if the City Manager or ~~Finance~~ Administrative Services Director/Treasurer determines that the imposition of the fee would exceed the actual cost to the City or would result in duplicative fees for services rendered.

Exhibit A

The City's cost of providing the following services shall be recovered through direct fees charged for services. Exhibit "A" limits cost recovery fees to the percentages or dollar amounts indicated below.

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
All Departments	
Appeals—For Any User Services Appeal Not Otherwise Specified—Appellant Successful	0%
Appeals—For Any User Services Appeal Not Otherwise Specified—Appellant Unsuccessful	50%
Administrative Services Department	
Admin. Cite Hearings	0%
Parking Hearings	0%
Short Term Lodging Permit Suspension or Revocation Hearing—Appellant Successful	0%
Short Term Lodging Permit Suspension or Revocation Hearing—Appellant Unsuccessful	50%
Zero Bill Reprint	0%
Community Development Department	
~~Chapter 17.65 Appeal—Appellant Successful~~	~~0%~~

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
~~Chapter 17.65 Appeal to City Council or Harbor Commission—Appellant Unsuccessful~~	~~50%~~
Building	
Appeals Board Hearing—Appellant Successful	0%
Appeals Board Hearing—Appellant Unsuccessful	50%
Harbor Construction	50%
Preliminary Plan Review	First Two Hours Free, Full Cost Thereafter
Planning	
Appeals to City Council or Planning Commission—Appellant Successful	0%
Appeals to City Council or Planning Commission—Appellant Unsuccessful	50%
Coastal Development Permit Application Appeals from Zoning Administrator to Planning Commission	0%
General Plan Maintenance Fee	12%
Reasonable Accommodation	0%
~~**Finance Department**~~	
~~Admin. Cite Hearings~~	~~0%~~

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
~~Parking Hearings~~	~~0%~~
~~Short Term Lodging Permit Suspension or Revocation Hearing—Appellant Successful~~	~~0%~~
~~Short Term Lodging Permit Suspension or Revocation Hearing—Appellant Unsuccessful~~	~~50%~~
~~Zero Bill Reprint~~	~~0%~~
Fire Department	
Emergency Medical Services	
Advanced Life Support (ALS)—Nontransport	$~~400~~450
Basic Life Support (BLS)—Nontransport	$~~400~~450
ALS First Responder Fee	$~~400~~450
BLS First Responder Fee	$~~400~~450
Lifeguard Operations & Junior Lifeguards Program	
Junior Lifeguards Program Participant Fee	85% of the FY 26/27 Fee effective July 1, 2026. A six percent (6%) adjustment shall occur to the Junior Guard Participant Fee on July 1, 2027, and each year thereafter until the full cost of service is reached. The

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
	underlying cost of service used to calculate the Junior Lifeguard Participant Fee shall be adjusted annually by CPI beginning on July 1, 2027.
Harbor Department	
Chapter 17.65 Appeal—Appellant Successful	0%
Chapter 17.65 Appeal to City Council or Harbor Commission—Appellant Unsuccessful	50%
Deposit/Late Cancellation Fee for Use of Human Lift—Marina Park	0%
Deposit/Late Cancellation Fee for Use of Human Lift—Balboa Marina PD	0%
Library Services Department	
Black and White Copies from Self-Service Copier or Printer	$0.15
Color Copies from Self-Service Copiers or Printers	$0.45
Use Fees—Materials	$1
Inter-Library Loan	$5
Police Department	

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
~~Bike Licenses~~	~~0%~~
Citation Sign-off	$10
Fingerprinting—City Portion	$~~25~~30
~~Secondhand/Pawn Dealer Tag Check~~	~~0%~~
Registrant—Narcotics	0%
Registrant—Sex	0%
Animal Shelter	
Adoption Fee—Puppies	$225
Adoption Fee—Senior Dog—Animal Over Eight (8) Years Old	$70
Adoption Fee—Dog—All Other	$150
Adoption Fee—Kittens	$110
Adoption Fee—Senior Cat—Animal Over Eight (8) Years Old	$70
Adoption Fee—Cat—All Other	$90
Adoption Fee—Small Animals	$45
Boarding Fee (per day)—Animals	$25
Boarding Fee (per day)—Small Animals	$10
Owner Turn-In Fee— Altered Animal	$100
Owner Turn-In Fee—Unaltered Animal	$200

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
Impound Fee—Dogs, Cats, ~~Small Animals~~Other Similar Size Animals	$~~62~~70
Public Works Department	
Chapter 17.65 Appeal—Appellant Successful	0%
Chapter 17.65 Appeal to City Council or Harbor Commission—Appellant Unsuccessful	50%
~~RGP Dredging Permit~~	~~100%~~
Recreation and Senior Services Department	
Adult Sports	50%—95%
Administrative Processing Fee	$5
Badge Replacement	$5
After School/Camp Programs	
Camps	20%—50%
After-School/Teen Program	20%—50%
Preschool Program	20%—50%
Aquatics	20%—50%
Contract Classes	50%—95%
Class Refunds	

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
$74 or less	$10
$75 or more	$20
Youth Sports	20%—50%
Special Events—Levels 1, 2, and 3	
Resident, Level 1 and Late Fees for Level 1	0%—20%
Resident, Levels 2—3 and Late Fees for Levels 2—3	20%—50%
Nonresident, Levels 1—2 and Late Fees for Level 1	20%—50%
Nonresident, Level 3 and Late Fees for Levels 2—3	50%—95%
Appeal to City Council—Appellant Successful	0%
Appeal to City Council—Appellant Unsuccessful	50%—95%
Natural Resources Programs	0%—20%
Senior Services	
OASIS Transportation	$1—$3 each way
Contract Classes	20%—50%
Fitness Center	50%—95%
Utilities Department	

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
Construction Water Meter Establishment	50%
Fats, Oils, and Grease (FOG) Annual Permit	0%
City Council, Board, Commission, Committee or Any Individual Member Thereof When Acting Within the Scope of Their Official Duties	
Review from a Lower Body or Official	$0

(Ord. 2024-12 § 1, 2024; Ord. 2023-22 § 184, 2023; Ord. 2023-7 § 1, 2023; Ord. 2022-10 §§ 3, 4, 2022; Ord. 2021-13 § 1, 2021; Ord. 2021-7 § 1, 2021; Ord. 2020-10 § 1, 2020; Ord. 2020-5 § 4, 2020; Ord. 2018-15 § 1, 2018; Ord. 2018-13 § 1, 2018; Ord. 2016-14 § 1, 2016; Ord. 2015-29 § 1, 2015; Ord. 2015-9 § 1, 2015; Ord. 2013-18 §§ 1, 2, 2013; Ord. 2013-1 § 1, 2013; Ord. 2011-28 § 1, 2011; Ord. 2011-10 § 1, 2011; Ord. 2009-32 § 1 (Exh. A), 2010; Ord. 2009-21 § 1 (Att. 1), 2009; Ord. 2008-14 § 1 (Exh. 1) (part), 2008: Ord. 2004-4 § 3, 2004; Ord. 2002-26 Exh. A, 2002; Ord. 2000-24 § 1, 2000; Ord. 98-18 § 1, 1998; Ord. 97-8 §§ 1 (part), 2, 1997)

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 3

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	David A. Webb, Public Works Director - 949-644-3311, dawebb@newportbeachca.gov
PREPARED BY:	Tom Sandefur, Assistant City Engineer - 949-644-3321, tsandefur@newportbeachca.gov
TITLE:	Fiscal Year 2025-2026 Citywide Park Fence Rehabilitation – Notice of Completion for Contract No. 9837-1 (25P02)

ABSTRACT:

On October 28, 2025, the City Council awarded Contract No. 9837-1 for the Fiscal Year 2025-2026 Citywide Park Fence Rehabilitation project to DASH Construction Company, Inc. The project involved removing and replacing chain link fencing and fence painting at Bonita Canyon Sports Park, Buffalo Hills Park, Mariners Park, and West Newport Park. The work is now complete and staff requests City Council acceptance and closure of the contract.

RECOMMENDATION:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Accept the completed work and authorize the City Clerk to file a Notice of Completion for the project.

DISCUSSION:

Overall Contract Cost/Time Summary

Awarded Contract Amount	Final Total Contract Amount	Total Contract Change Amount	Percent Contract Cost Change
$392,500	$431,730.11	$39,230.11	10.0%

Allowed Contract Time + Approved Extensions (Days) =	60	Actual Time Used (Days)	60

The 2025-2026 Citywide Park Fence Rehabilitation project focused on fencing repairs at baseball fields, soccer fields, pickleball courts, and tennis courts, which had deteriorated due to weathering, age and heavy use.

The contracted work has been completed to the satisfaction of the Public Works Department. A summary of the construction cost is as follows:

Original bid amount:	$	392,500.00
Actual Cost of Bid Items Constructed:	$	392,500.00
Total Change Orders:	$	39,230.11
Final contract cost:	**$**	**431,730.11**

The final total contract amount was $431,730.11, which is approximately 10% more than the original bid amount. Three contract change orders were necessary. The additional work included new backstop boards at Buffalo Hill's and Mariner's baseball fields, painting the dugout fencing at Bonita Canyon Sports Park, and additional fencing materials.

A summary of the project schedule milestones is as follows:

Estimated Start of Construction per Annual Baseline Schedule	January 26, 2026
Actual Start of Construction Per Notice to Proceed	January 26, 2026
Estimated Completion per Annual Baseline Schedule	March 10, 2026
Substantial Completion Date Inclusive of Extra Work	April 24, 2026

FISCAL IMPACT:

The Fiscal Year 2025-2026 Citywide Park Fence Rehabilitation project was funded from the FY 2025-26 Capital Improvement Program Budget. Funds for the construction contract were expended from the Parks Maintenance Master Plan (General Fund) in the following accounts:

Account Description	Account Number	Amount
Parks Maintenance Master Plan	57001-980000-25P02	$ 431,730.11
	Total:	**$ 431,730.11**

ENVIRONMENTAL REVIEW:

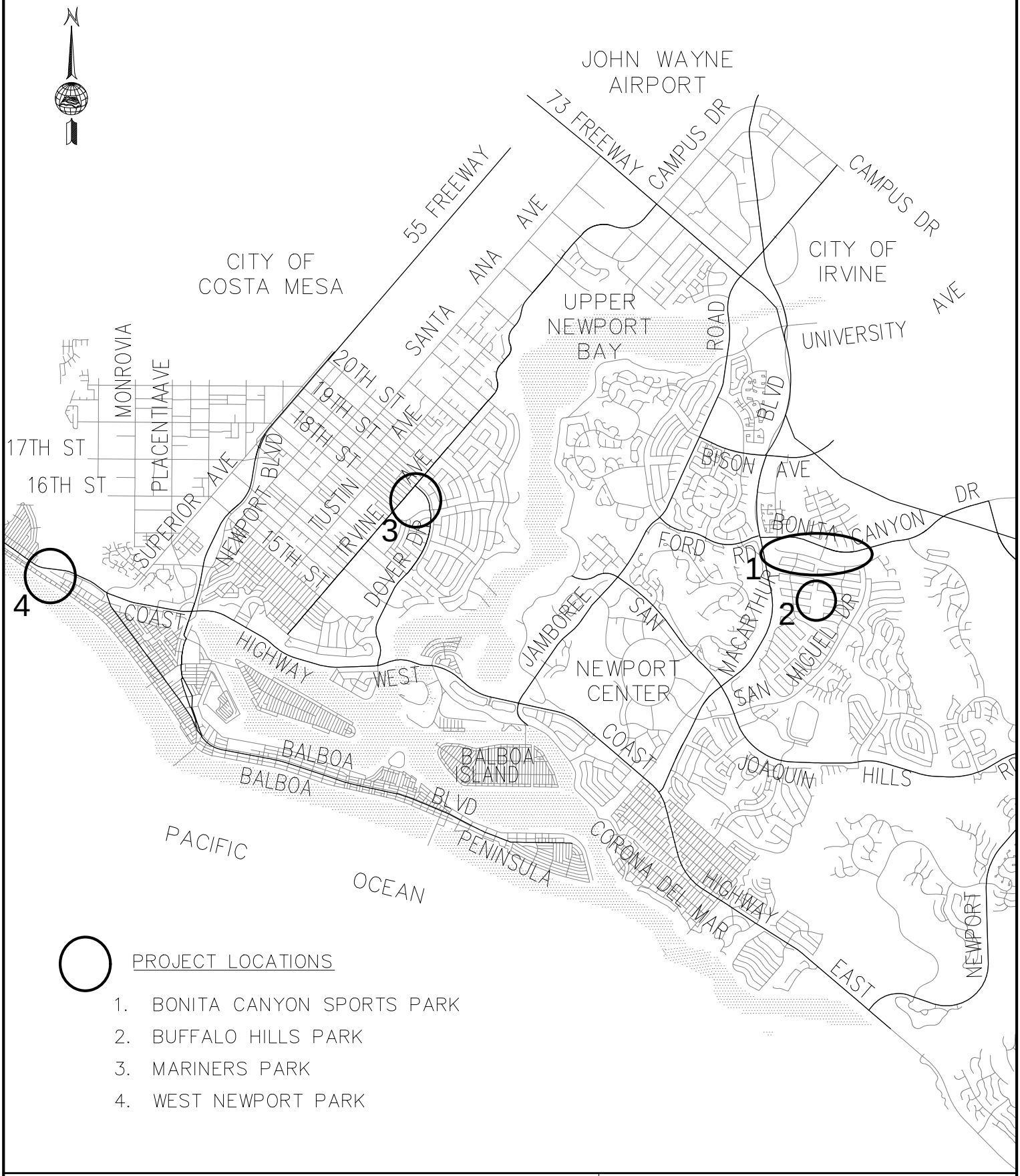
On October 28, 2025, the City Council found this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 Class 1 (maintenance of existing facilities involving no expansion of an existing use) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Location Map



PROJECT LOCATIONS

1. BONITA CANYON SPORTS PARK
2. BUFFALO HILLS PARK
3. MARINERS PARK
4. WEST NEWPORT PARK

2025-2026 CITYWIDE PARK FENCE REHABILITATION

LOCATION MAP

CITY OF NEWPORT BEACH
PUBLIC WORKS DEPARTMENT

C-9837-1	25P02	5/26/26

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CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 4

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Jason Al-Imam, Administrative Services Director/Treasurer - 949-644-3126, jalimam@newportbeachca.gov
PREPARED BY:	Jason Al-Imam, Administrative Services Director/Treasurer
TITLE:	Amendment No. One to Professional Services Agreement with MissionSquare Retirement for Retirement Health Savings Plan Recordkeeping, Administration, and Claims Processing Services — One-Year Term Extension (Contract No. C-7279-2)

ABSTRACT:

For the City Council's consideration is a one-year extension of the agreement with The International City Management Association Retirement Corporation, doing business as MissionSquare Retirement (MissionSquare), for administration of the City of Newport Beach's Retiree Health Savings (RHS) Plan, extending the contract term through April 2027.

The RHS Plan, in place since 2006, provides employees with a tax-advantaged method to fund retiree healthcare expenses. Following an unsuccessful competitive solicitation in 2025, staff recommends extending the current agreement to ensure uninterrupted plan administration while a new request for proposals is prepared. As part of the proposed amendment, MissionSquare has agreed to reduce its annual administrative fee from 0.135% to 0.129%; these fees are paid directly by plan participants.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Authorize the Mayor and City Clerk to execute Amendment No. One to Professional Services Agreement with The International City Management Association Retirement Corporation, doing business as MissionSquare Retirement for Retirement Health Services Plan Agreement, Contract No. C-7279-2, extending the agreement term by one year through April 2027 and incorporating a reduction in annual administrative fees from 0.135% to 0.129%, with all other terms and conditions remaining unchanged.

DISCUSSION:

The City has offered the RHS Plan to its employees since 2006, providing a tax-advantaged vehicle for retirees to pay qualifying healthcare expenses. The Plan has been administered by MissionSquare. The current agreement (Contract No. C-7279-2) was executed by the City Manager on April 6, 2021, with a three-year initial term and two automatic one-year renewals, for a maximum five-year term expiring in April 2026. Because the proposed extension would result in a total term of six years, City Council approval is required under Administrative Procedure No. 1 (AP-001), which limits City Manager contract term authority to five years.

In October 2025, the City issued RFP No. 26-16, soliciting proposals for RHS Plan Recordkeeping, Administration, and Claims Processing services. After evaluating the responses received, staff determined that the proposals did not meet the City's service requirements, and no award was made. A one-year extension of the current agreement is necessary to maintain uninterrupted plan administration while staff prepares and issues a new competitive solicitation.

Additionally, the City has for several years requested that MissionSquare deploy a debit card feature enabling retirees to access their RHS funds directly. This capability has been a consistent request from plan participants. MissionSquare has continued to represent that debit card services will be available within the next 12 months but has not yet delivered this functionality. The one-year extension will serve as a final performance period for MissionSquare to demonstrate its ability to fulfill this service need.

As part of the proposed extension, staff negotiated a reduction in MissionSquare’s annual administrative fee from 0.135% to 0.129%, a decrease of 0.6 basis points (approximately 5%). These fees are paid directly by plan participants from their RHS accounts. This reduction reflects the City’s continued efforts to lower costs for plan participants during the extension period.

FISCAL IMPACT:

There is no financial impact to the City. All recordkeeping, administration and claims processing fees are paid directly by plan participants from their RHS accounts. The proposed amendment includes a reduction in the annual administrative fee from 0.135% to 0.129%, resulting in cost savings to plan participants.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this 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, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Amendment No. One with MissionSquare

AMENDMENT NO. ONE TO PROFESSIONAL SERVICES AGREEMENT WITH THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION DBA MISSIONSQUARE RETIREMENT FOR RETIREMENT HEALTH SERVICES PLAN AGREEMENT

THIS AMENDMENT NO. ONE TO PROFESSIONAL SERVICES AGREEMENT ("Amendment No. One") is made and entered into as of this 12th day of May, 2026 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION RETIREMENT CORPORATION, a Delaware corporation, doing business as ("DBA") MissionSquare Retirement ("Consultant" or "ICMA-RC"), whose address is 777 North Capitol Street NE, Suite 600, Washington, DC 20002, and is made with reference to the following:

RECITALS

A. On April 6, 2021, City and Consultant entered into a Professional Services Agreement (Contract No. C-7279-2) ("Agreement") to provide record keeping and administration services to City' s employer-sponsored Retirement Health Savings Plan ("Project").

B. The parties desire to enter into this Amendment No. One to extend the term of the Agreement to April 5, 2027, update Consultant's Project Manager, update the Administration section, revise City's contact for notices, update the participant fee provided in Exhibit A, and revise the insurance requirements.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

Section 1 of the Agreement is amended in its entirety and replaced with the following: "The term of this Agreement shall commence on the Effective Date, and shall terminate on April 5, 2027, unless terminated earlier as set forth herein."

2. PROJECT MANAGER

Section 5.1 of the Agreement is amended in its entirety and replaced with the following: "Consultant shall designate a Project Manager, who shall coordinate all phases of the Project. This Project Manager shall be available to City at all reasonable times during the Agreement term. Consultant has designated Thomas Dawes to be its Project Manager. Consultant shall not remove or reassign the Project Manager or any personnel listed in Exhibit A or assign any new or replacement personnel to the Project without the prior written consent of City. City' s approval shall not be unreasonably withheld with respect to the removal or assignment of non-key personnel.

3. ADMINISTRATION

Section 6 of the Agreement is amended in its entirety and replaced with the following: "This Agreement will be administered by the Administrative Services Department. City's Administrative Services Director or designee shall be the Project Administrator and shall have the authority to act for City under this Agreement. The Project Administrator shall represent City in all matters pertaining to the Services to be rendered pursuant to this Agreement."

4. NOTICES

Section 25.2 of the Agreement is amended in its entirety and replaced with the following: "All notices, demands, requests or approvals from Consultant to City shall be addressed to City at:

Attn: Administrative Services Director
Administrative Services Department
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660"

5. COMPENSATION

As of the Effective Date of this Amendment No. One, Section 7.a. of Exhibit A of the Agreement is amended in its entirety and replaced with the following: "**Participant Fees**. Plan participant accounts shall be assessed an asset-based fee to cover the costs of record-keeping and other services provided by ICMA-RC, and other costs associated with the Plans as directed by the Employer. The Employer shall work with ICMA-RC to determine the appropriate amount of the gross asset-based fee to be charged to participant accounts, which may be increased or decreased from time to time at the direction of the Employer. At the inception of this Agreement the participant fee shall be 0.129%."

6. INSURANCE

As of the Effective Date of this Amendment No. One, Exhibit C of the Agreement shall be deleted in its entirety and replaced with Exhibit C, attached hereto and incorporated herein by reference. Any reference to Exhibit C in the Agreement and Amendment No. One shall hereafter refer to "Exhibit C" attached hereto.

7. INTEGRATED CONTRACT

Except as expressly modified herein, all other material provisions, terms, and covenants set forth in the Agreement shall remain unchanged and shall be in full force and effect.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Amendment No. One to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date: 4/28/2026

By: _____
Aaron C. Harp
City Attorney

ATTEST:
Date: _____

By: _____
Lena Shumway
City Clerk

CITY OF NEWPORT BEACH,
a California municipal corporation
Date: _____

By: _____
Lauren Kleiman
Mayor

CONSULTANT: The International City Management Association Retirement Corporation, a Delaware corporation, doing business as ("DBA") MissionSquare Retirement
Date: 5/5/26

By: _____
Thomas McAndrews
Secretary

Date: 6 May 2026

By: _____
Erica McFarquhar
Assistant Secretary

[END OF SIGNATURES]

Attachments: Exhibit C – Insurance Requirements

EXHIBIT C

INSURANCE REQUIREMENTS – PROFESSIONAL SERVICES

1. Provision of Insurance. Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City. Consultant agrees to provide insurance in accordance with requirements set forth here. If Consultant uses existing coverage to comply and that coverage does not meet these requirements, Consultant agrees to amend, supplement or endorse the existing coverage.

2. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

3. Coverage Requirements.

   A. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation Insurance, statutory limits, and Employer's Liability Insurance with limits of at least one million dollars ($1,000,000) each accident for bodily injury by accident and each employee for bodily injury by disease in accordance with the laws of the State of California, Section 3700 of the Labor Code.

   Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its City Council, boards and commissions, officers, agents, volunteers and employees.

   B. General Liability Insurance. Consultant shall maintain commercial general liability insurance, and if necessary umbrella liability insurance, with coverage at least as broad as provided by Insurance Services Office form CG 00 01, in an amount not less than two million dollars ($2,000,000) per occurrence, four million dollars ($4,000,000) general aggregate. The policy shall cover liability arising from premises, operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

   C. Automobile Liability Insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars ($1,000,000) combined single limit each accident.

D. Professional Liability (Errors & Omissions) Insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of two million dollars ($2,000,000) per claim and four million dollars ($4,000,000) in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the Effective Date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the Services required by this Agreement.

4. Other Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:

A. Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its City Council, boards and commissions, officers, agents, volunteers and employees or shall specifically allow Consultant or others providing insurance evidence in compliance with these requirements to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers from each of its subconsultants.

B. Additional Insured Status. All liability policies including general liability, excess liability, pollution liability, and automobile liability, if required, but not including professional liability, shall provide or be endorsed to provide that City, its City Council, boards and commissions, officers, agents, volunteers and employees shall be included as insureds under such policies.

C. Primary and Non Contributory. All liability coverage shall apply on a primary basis and shall not require contribution from any insurance or self-insurance maintained by City.

D. Notice of Cancellation. All policies shall provide City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

5. Additional Agreements Between the Parties. The parties hereby agree to the following:

A. Evidence of Insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation and other endorsements as specified herein for each coverage. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least

fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

B. City's Right to Revise Requirements. City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving Consultant sixty (60) calendar days' advance written notice of such change. If such change results in substantial additional cost to Consultant, City and Consultant may renegotiate Consultant's compensation.

C. Right to Review Subcontracts. Consultant agrees that upon request, all agreements with subcontractors or others with whom Consultant enters into contracts with on behalf of City will be submitted to City for review. Failure of City to request copies of such agreements will not impose any liability on City, or its employees. Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as CG 20 38 04 13.

D. Enforcement of Agreement Provisions. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any requirement imposes no additional obligations on City nor does it waive any rights hereunder.

E. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

F. Self-insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these requirements unless approved by City.

G. City Remedies for Non-Compliance. If Consultant or any subconsultant fails to provide and maintain insurance as required herein, then City shall have the right but not the obligation, to purchase such insurance, to terminate this Agreement, or to suspend Consultant's right to proceed until proper evidence of insurance is provided. Any amounts paid by City shall, at City's sole option, be deducted from amounts payable to Consultant or reimbursed by Consultant upon demand.

H. Timely Notice of Claims. Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

I. Consultant's Insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 5

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Mark Vukojevic, Utilities Director - 949-644-3011, mvukojevic@newportbeachca.gov
PREPARED BY:	Steffen Catron, Water Utilities Manager - 949-644-3011, scatron@newportbeachca.gov
TITLE:	Increase Purchase Order Amount with Mueller Systems for As-Needed Water Meters

ABSTRACT:

The Utilities Department oversees the City of Newport Beach's (City) water meter infrastructure, including procurement, installation, and ongoing maintenance. For the City Council's consideration is an amendment to an existing purchase order with Mueller Systems to support routine water meter replacements and development-related upgrades. The amendment would increase the Fiscal Year 2025-26 authorization from $120,000 to $250,000. Also for the City Council's consideration is a new purchase order with Mueller Systems in the amount of $250,000 for Fiscal Year 2026-27, effective July 1, 2026.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;

b) Approve a change order to the purchase order with Mueller Systems to increase the total amount from $120,000 to $250,000 for FY 2025-26; and

c) Approve issuing a purchase order with Mueller Systems for $250,000 for FY 2026-27 on or after July 1, 2026.

DISCUSSION:

Between 2020 and 2024, the City completed a comprehensive system upgrade, replacing or retrofitting all 26,000 water meters with modern digital technology known as Automated Metering Infrastructure (AMI). The transition to an automated reading process was facilitated through an agreement partnership with Mueller Systems, which provided the meters, collectors, repeaters, and integrated communication hardware. Smaller meters, typically for residential use, were fully replaced with new digital units. Larger meters, typically for commercial use, were retrofitted to support electronic readers. Staff is embarking on a seven-year program to replace the large water meters.

The Utilities Department continues to manage routine meter replacements and the installation of these new meters for new developments. While the Utilities Department performs the labor and procurement, developers are responsible for the actual costs associated with new meter upgrades.

The recent transition to modernized digital water meters has significantly strengthened the City's management capabilities and provided valuable new tools for the community. Both City staff and water customers now have direct access to precise usage information, increasing transparency. The system automatically identifies potential leaks within a property's plumbing, enabling residents and businesses to perform timely repairs and prevent high bills or property damage. The Utilities Departments customer service staff can now access real-time meter readings remotely. This eliminates the need for manual checks, leading to faster response times and improved service quality.

Since selecting Mueller Systems in 2020, the City has leveraged the provider's extensive experience and proven Sentryx™ technology to maintain a high-performing water meter network. As the sole manufacturer of the integrated hardware and software, Mueller provides a dedicated Network Operations Center and support team to ensure system performance for the City's meter needs. Previous long-term agreements allow the City to bypass distributors and secure direct wholesale pricing, resulting in significant cost savings. As sole source justification has been approved by the Administrative Services Department, Utilities Department staff is now requesting an increase to the purchase order contracts for both the current and upcoming fiscal years.

FISCAL IMPACT:

The adopted budget includes sufficient funding for this year's $250,000 water meter purchases. It will be expensed to the Water Enterprise Fund, meter accounts 7019052-851055 and 851064, and equipment account 7019052-911024. $250,000 plus an additional $60,000 in funding is proposed to be approved with the adoption of the FY 2026-27 budget for water meter replacements. Actual needs and expenses are expected to increase with planned residential development projects and those costs are reimbursed by developers. Staff is also planning to bring for City Council consideration a transition to a master purchasing agreement to replace next years' purchase order.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this 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, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Mueller Meter Price Quotes

MUELLER

SALES QUOTATION

Phone: (800) 423-1323
Website: www.MuellerSystems.com

Attention: Chris Auger
Phone: +1 949-644-3019
Email: cauger@newportbeachca.gov

Company Address:
949 W. 16TH STREET
NEWPORT BEACH,CA,92663

Prepared For:
NEWPORT BEACH (CA), CITY OF
Account #: 91296000

End User:
NEWPORT BEACH (CA), CITY OF

Created Date: 11/13/2025
Quote #: Q-185382
Quote Status: Valid
Quote Expires: 05/31/2026

Terms are located at:
www.muellerwaterproducts.com/terms-conditions

Currency Type: USD

Prepared by:
Justin Thompson

Comments & Consideration

*** Freight Policy – orders less than $15,000 net, a 3% freight charge will be added for each shipment.**
* Purchase of any LoRaWAN Network-as-a-Service part number, such as “MSW-LW-PH-ALL”, is subject to SaaS and NaaS Agreement.
* Seller reserves the right to increase product pricing at any time during the validity of this quote due to any costs incurred beyond its control, such as tariffs or other sub-tier cost increases.
* $50 minimum order, $75 non-box quantity
Should you have any questions, please do not hesitate to contact Justin-Thompson

Quote Line Items

PART #	DESCRIPTION	UNITS	SALE PRICE	EXTENDED NET
M0031F125	3"MAG,FM,CF,COMP,4D BAT,25'NIC	3	3,067.36	9,202.08
M0041F125	4"MAG,FM,CF,COMP,4D BAT,25'NIC	10	3,508.77	35,087.70
M0061F125	6"MAG,FM,CF,COMP,4D BAT,25'NIC	2	5,849.60	11,699.20
HBRING3	3" HBMAG GROUNDING RING	6	22.29	133.74
HBRING4	4" HBMAG GROUNDING RING	20	29.50	590.00
HBRING6	6" HBMAG GROUNDING RING	4	33.06	132.24
MSW-NODE6-1P-05	MINODE 6 W/5'NICOR	15	116.85	1,752.75
MS-TTL-H	MINET THRU THE LID HANGER ASSY	15	7.21	108.15
SALES TAX	SALES TAX	1	4,549.70	4,549.70
			SUBTOTAL:	USD 63,255.56

TOTAL:	USD 63,255.56

MUELLER

SALES QUOTATION

Phone: (800) 423-1323
Website: www.MuellerSystems.com

Attention: Chris Auger
Phone: +1 949-644-3019
Email: cauger@newportbeachca.gov

Company Address:
949 W. 16TH STREET
NEWPORT BEACH,CA,92663

Prepared For:
NEWPORT BEACH (CA), CITY OF
Account #: 91296000

End User:
NEWPORT BEACH (CA), CITY OF

Created Date: 01/16/2026
Quote #: Q-188531
Quote Status: Valid
Quote Expires: 05/31/2026

Terms are located at:
www.muellerwaterproducts.com/terms-conditions

Currency Type: USD

Prepared by:
Justin Thompson

Comments & Consideration

*** Freight Policy – orders less than $15,000 net, a 3% freight charge will be added for each shipment.**
* Purchase of any LoRaWAN Network-as-a-Service part number, such as “MSW-LW-PH-ALL”, is subject to SaaS and NaaS Agreement.
* Seller reserves the right to increase product pricing at any time during the validity of this quote due to any costs incurred beyond its control, such as tariffs or other sub-tier cost increases.
* $50 minimum order, $75 non-box quantity
Should you have any questions, please do not hesitate to contact Justin-Thompson

Quote Line Items

PART #	DESCRIPTION	UNITS	SALE PRICE	EXTENDED NET
HBRING12	12" HBMAG GROUNDING RING	2	115.00	230.00
M0121F225	12"MAG,FACTORY MUTUAL FIRE RATED FLOW, CUBIC FT REGISTRATION ,REMOTE REGISTER,4D REPLACABLE BATTERY PARK ,25' NICOR WIRE OUT	1	20,699.00	20,699.00
XXXXXX	SCADAMETRICS SIGNALIZER UI1203/ SENSUS TO 4-20mA PART# EMP	1	646.00	646.00
XXXXXX	SCADAMETRICS POWER ADAPTER AC to DC PART# MDR.20.24	1	62.00	62.00
Tax	Sales Tax 7.75%	1	1,676.87	1,676.87

PART #	DESCRIPTION	UNITS	SALE PRICE	EXTENDED NET
Shipping Costs	Freight is covered on orders over $15,000 If order is less than $15,000 - Shipping Cost is 3% of total order amount.	1	0.00	0.00
			SUBTOTAL:	USD 23,313.87

TOTAL:	USD 23,313.87

MUELLER

SALES QUOTATION

Phone: (800) 423-1323
Website: www.MuellerSystems.com

Attention: Chris Auger
Phone: +1 949-644-3019
Email: cauger@newportbeachca.gov

Company Address:
949 W. 16TH STREET
NEWPORT BEACH,CA,92663

Prepared For:
NEWPORT BEACH (CA), CITY OF
Account #: 91296000

End User:
NEWPORT BEACH (CA), CITY OF

Created Date: 05/05/2026
Quote #: Q-195701
Quote Status: Valid
Quote Expires: 05/31/2026

Terms are located at:
www.muellerwaterproducts.com/terms-conditions

Currency Type: USD

Prepared by:
Justin Thompson

Comments & Consideration

*** Freight Policy – orders less than $15,000 net, a 3% freight charge will be added for each shipment.**
* Purchase of any LoRaWAN Network-as-a-Service part number, such as “MSW-LW-PH-ALL”, is subject to SaaS and NaaS Agreement.
* Seller reserves the right to increase product pricing at any time during the validity of this quote due to any costs incurred beyond its control, such as tariffs or other sub-tier cost increases.
* $50 minimum order, $75 non-box quantity
Should you have any questions, please do not hesitate to contact Justin-Thompson

Quote Line Items

Meters

PART #	DESCRIPTION	UNITS	SALE PRICE	EXTENDED NET
SSR6N-452	452-SSR 18"NICOR	50	99.77	4,988.50
SSR6N-562	562-SSR 18"NICOR	25	99.77	2,494.25
SSR6N-572	572-SSR 18"NICOR	25	99.77	2,494.25
			Meters SUBTOTAL:	USD 9,977.00

Taxes Calculated at 7.75%

PART #	DESCRIPTION	UNITS	SALE PRICE	EXTENDED NET
Tax	Tax	1	773.22	773.22
			Taxes Calculated at 7.75% SUBTOTAL:	USD 773.22

Freight If order is less than $15,000 - Shipping Cost is 3% of total order amount.

PART #	DESCRIPTION	UNITS	SALE PRICE	EXTENDED NET
Shipping Costs		1	299.31	299.31
			Freight SUBTOTAL:	USD 299.31

TOTAL:	USD 11,049.53

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 6

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	David Miner, Chief of Police - 949-644-3701, dminer@nbpd.org
PREPARED BY:	Jennifer Manzella, Police Fiscal Services/Facilities Manager - 949-644-3655, jmanzella@nbpd.org
TITLE:	On-Call Professional Services Agreement for Animal Care Medical Services

ABSTRACT:

The Police Department requests City Council approval for an on-call Professional Services Agreement with Mariners Mile Pet Clinic for animal care medical services. Mariners Mile Pet Clinic was selected through a detailed Request for Proposals (RFP) process. The term of the agreement would be for five years and costs are estimated at $101,000 per year for a total not-to-exceed amount of $505,000.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Approve an On-Call Professional Services Agreement with Mariners VH LP for Animal Care Medical Services (DBA Mariners Mile Pet Clinic of Newport Beach, California) at a not-to-exceed cost of $505,000 and authorize the Mayor and City Clerk to execute the agreement.

DISCUSSION:

The City of Newport Beach contracts out medical services for animals in the care and custody of Newport Beach Animal Control and the Newport Beach Animal Shelter. The contract veterinary clinic provides emergency and urgent treatment for injured animals as well as more routine pre-adoption procedures such as examinations, vaccinations and spaying/neutering.

RFP Process

Using specifications and service requirements provided by the Police Department, the City's Purchasing staff issued a formal RFP solicitation, No. 26-11, for Veterinary Services. The RFP was posted on the City's public procurement system (PlanetBids) and distributed directly to known providers of these services. The specifications in the RFP contained minimum qualifications to ensure optimal service delivery. One such

qualification was the requirement for prospective veterinary facilities to be located no more than five miles from the City's Animal Shelter.

This RFP was evaluated in two phases: (1) Technical Evaluation and (2) Cost Evaluation. During the Technical Evaluation, a panel reviewed each proposal and rated them on technical factors such as:

- Qualifications and experience of the clinic and the personnel assigned to this project;
- Experience and subject matter expertise in providing professional veterinary services;
- Ability to perform all requested veterinary services needed by the City; and
- References and project history.

Any proposers who received 70 percent or more of the available points in the Technical Evaluation then proceeded to the Cost Evaluation. The scores from both evaluations were then combined into an aggregate score, resulting in an overall ranking of the proposals.

The City received two responses to this RFP solicitation: Mariners Mile Pet Clinic (the incumbent provider of these services) and Newport Center Animal Hospital & Pet Hotel Suites. Both proposers received the 70 percent minimum score necessary in the Technical Evaluation to qualify for the Cost Evaluation. Mariners Mile Pet Clinic received both the highest technical and the highest aggregate score, placing them first overall in the proposer rankings.

Proposer	**Technical Score (2400 Max Points)**	**Cost Ratio Score (600 Max Points)**	**Aggregate Score (3000 Max Points)**	**Overall Rank**
Mariners Mile Pet Clinic	2140	535.37	2675.37	1
Newport Center Animal Hospital & Pet Hotel Suites	1680	600.00	2280.00	2

The agreement includes contract authority not-to-exceed $505,000 for the five-year term. This amount is $101,000 per 12-month period and was calculated based on actual expenditures from the last two fiscal years.

FISCAL IMPACT:

The adopted budget includes sufficient funding for this purchase. It will be expensed to the Animal Shelter Contracts account in the Police Department, 01035354-811047.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this 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, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – On-Call Professional Services Agreement for Animal Care Medical Services

ON-CALL PROFESSIONAL SERVICES AGREEMENT WITH MARINERS VH LP FOR ANIMAL CARE MEDICAL SERVICES

THIS ON-CALL PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into as of this 26th day of May, 2026 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and MARINERS VH LP, a California limited partnership ("Consultant"), whose address is 802 Montgomery, Suite 220, San Francisco, CA 94133, and is made with reference to the following:

RECITALS

A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of City.

B. City desires to engage Consultant to provide animal care and medical services to animals under custody of the Newport Beach Police Department and Newport Beach Animal Shelter ("Project").

C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the professional services described in this Agreement.

D. City has solicited and received a proposal from Consultant, has reviewed the previous experience and evaluated the expertise of Consultant, and desires to retain Consultant to render professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

The term of this Agreement shall commence on the Effective Date, and shall terminate on May 1, 2031, unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED

2.1 Consultant shall perform the on-call services described in the Scope of Services attached hereto as Exhibit A and incorporated herein by reference ("Services" or "Work"). Upon written request from the Project Administrator as defined herein, Consultant shall provide a letter proposal for Services requested by the City (hereinafter referred to as the "Letter Proposal"). The Letter Proposal shall include the following:

2.1.1 A detailed description of the Services to be provided;

2.1.2 The position of each person to be assigned to perform the Services, and the name of the individuals to be assigned, if available;

2.1.3 The estimated number of hours and cost to complete the Services; and

2.1.4 The time needed to finish the specific project.

2.2 No Services shall be provided until the Project Administrator has provided written acceptance of the Letter Proposal. Once authorized to proceed, Consultant shall diligently perform the duties in the approved Letter Proposal.

3. TIME OF PERFORMANCE

3.1 Time is of the essence in the performance of Services under this Agreement and Consultant shall perform the Services in accordance with the schedule included in Exhibit A and the Letter Proposal. In the absence of a specific schedule, the Services shall be performed to completion in a diligent and timely manner. The failure by Consultant to strictly adhere to the schedule set forth in Exhibit A and the Letter Proposal, if any, or perform the Services in a diligent and timely manner may result in termination of this Agreement by City.

3.2 Notwithstanding the foregoing, Consultant shall not be responsible for delays due to causes beyond Consultant's reasonable control. However, in the case of any such delay in the Services to be provided for the Project, each party hereby agrees to provide notice within two (2) calendar days of the occurrence causing the delay to the other party so that all delays can be addressed.

3.3 Consultant shall submit all requests for extensions of time for performance in writing to the Project Administrator as defined herein not later than ten (10) calendar days after the start of the condition that purportedly causes a delay. The Project Administrator shall review all such requests and may grant reasonable time extensions for unforeseeable delays that are beyond Consultant's control.

3.4 For all time periods not specifically set forth herein, Consultant shall respond in the most expedient and appropriate manner under the circumstances, by hand-delivery or mail.

4. COMPENSATION TO CONSULTANT

4.1 City shall pay Consultant for the Services on a time and expense not-to-exceed basis in accordance with the provisions of this Section and the Letter Proposal and the Schedule of Billing Rates attached hereto as Exhibit B and incorporated herein by reference. Consultant's compensation for all Work performed in accordance with this Agreement, including all reimbursable items and subconsultant fees, shall not exceed **Five Hundred Five Thousand Dollars and 00/100 ($505,000.00),** without prior written

authorization from City. No billing rate changes shall be made during the term of this Agreement without the prior written approval of City.

4.2 Consultant shall submit monthly invoices to City describing the Work performed the preceding month. Consultant's bills shall include the name of the person who performed the Work, a brief description of the Services performed and/or the specific task in the Scope of Services to which it relates, the date the Services were performed, the number of hours spent on all Work billed on an hourly basis, and a description of any reimbursable expenditures. City shall pay Consultant no later than thirty (30) calendar days after approval of the monthly invoice by City staff.

4.3 City shall reimburse Consultant only for those costs or expenses specifically identified in Exhibit B to this Agreement and the Letter Proposal or specifically approved in writing in advance by City.

4.4 Consultant shall not receive any compensation for Extra Work performed without the prior written authorization of City. As used herein, "Extra Work" means any Work that is determined by City to be necessary for the proper completion of the Project, but which is not included within the Scope of Services and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Compensation for any authorized Extra Work shall be paid in accordance with the Schedule of Billing Rates as set forth in Exhibit B and the Letter Proposal.

5. PROJECT MANAGER

5.1 Consultant shall designate a Project Manager, who shall coordinate all phases of the Project. This Project Manager shall be available to City at all reasonable times during the Agreement term. Consultant has designated Megan Whisler to be its Project Manager. Consultant shall not remove or reassign the Project Manager or any personnel listed in Exhibit A or assign any new or replacement personnel to the Project without the prior written consent of City. City's approval shall not be unreasonably withheld with respect to the removal or assignment of non-key personnel.

5.2 Consultant, at the sole discretion of City, shall remove from the Project any of its personnel assigned to the performance of Services upon written request of City. Consultant warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement.

5.3 If Consultant is performing inspection services for City, the Project Manager and any other assigned staff shall be equipped with a cellular phone to communicate with City staff. The Project Manager's cellular phone number shall be provided to City.

6. ADMINISTRATION

This Agreement will be administered by the Police Department. City's Deputy Director of Police Services or designee shall be the Project Administrator and shall have the authority to act for City under this Agreement. The Project Administrator shall

represent City in all matters pertaining to the Services to be rendered pursuant to this Agreement.

7. CITY'S RESPONSIBILITIES

To assist Consultant in the execution of its responsibilities under this Agreement, City agrees to provide access to and upon request of Consultant, one copy of all existing relevant information on file at City. City will provide all such materials in a timely manner so as not to cause delays in Consultant's Work schedule.

8. STANDARD OF CARE

8.1 All of the Services shall be performed by Consultant or under Consultant's supervision. Consultant represents that it possesses the professional and technical personnel required to perform the Services required by this Agreement, and that it will perform all Services in a manner commensurate with community professional standards and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline under similar circumstances. All Services shall be performed by qualified and experienced personnel who are not employed by City. By delivery of completed Work, Consultant certifies that the Work conforms to the requirements of this Agreement, all applicable federal, state and local laws, and legally recognized professional standards.

8.2 Consultant represents and warrants to City that it has, shall obtain, and shall keep in full force and effect during the term hereof, at its sole cost and expense, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that is legally required of Consultant to practice its profession. Consultant shall maintain a City of Newport Beach business license during the term of this Agreement.

8.3 Consultant shall not be responsible for delay, nor shall Consultant be responsible for damages or be in default or deemed to be in default by reason of strikes, lockouts, accidents, acts of God, or the failure of City to furnish timely information or to approve or disapprove Consultant's Work promptly, or delay or faulty performance by City, contractors, or governmental agencies.

9. HOLD HARMLESS

9.1 To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers and employees (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise from or in any manner relate (directly or indirectly) to any breach of the terms and conditions of this Agreement, any Work performed or Services provided under this Agreement including, without limitation, defects in workmanship or materials or Consultant's presence or activities conducted on

the Project (including the negligent, reckless, and/or willful acts, errors and/or omissions of Consultant, its principals, officers, agents, employees, vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable, or any or all of them).

9.2 Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorneys' fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant.

10. INDEPENDENT CONTRACTOR

It is understood that City retains Consultant on an independent contractor basis and Consultant is not an agent or employee of City. The manner and means of conducting the Work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. No civil service status or other right of employment shall accrue to Consultant or its employees. Nothing in this Agreement shall be deemed to constitute approval for Consultant or any of Consultant's employees or agents, to be the agents or employees of City. Consultant shall have the responsibility for and control over the means of performing the Work, provided that Consultant is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Consultant as to the details of the performance of the Work or to exercise a measure of control over Consultant shall mean only that Consultant shall follow the desires of City with respect to the results of the Services.

11. COOPERATION

Consultant agrees to work closely and cooperate fully with City's designated Project Administrator and any other agencies that may have jurisdiction or interest in the Work to be performed. City agrees to cooperate with the Consultant on the Project.

12. CITY POLICY

Consultant shall discuss and review all matters relating to policy and Project direction with City's Project Administrator in advance of all critical decision points in order to ensure the Project proceeds in a manner consistent with City goals and policies.

13. PROGRESS

Consultant is responsible for keeping the Project Administrator informed on a regular basis regarding the status and progress of the Project, activities performed and planned, and any meetings that have been scheduled or are desired.

14. INSURANCE

Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement or for other periods as specified in this Agreement, policies of insurance of the type, amounts, terms and conditions described in the Insurance Requirements attached hereto as Exhibit C, and incorporated herein by reference.

15. PROHIBITION AGAINST ASSIGNMENTS AND TRANSFERS

Except as specifically authorized under this Agreement, the Services to be provided under this Agreement shall not be assigned, transferred contracted or subcontracted out without the prior written approval of City. Any of the following shall be construed as an assignment: The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant if Consultant is a partnership or joint-venture or syndicate or co-tenancy, which shall result in changing the control of Consultant. Control means fifty percent (50%) or more of the voting power or twenty-five percent (25%) or more of the assets of the corporation, partnership or joint-venture.

16. SUBCONTRACTING

The subcontractors authorized by City, if any, to perform Work on this Project are identified in Exhibit A and the Letter Proposal. Consultant shall be fully responsible to City for all acts and omissions of any subcontractor. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor nor shall it create any obligation on the part of City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law. City is an intended beneficiary of any Work performed by the subcontractor for purposes of establishing a duty of care between the subcontractor and City. Except as specifically authorized herein, the Services to be provided under this Agreement shall not be otherwise assigned, transferred, contracted or subcontracted out without the prior written approval of City.

17. OWNERSHIP OF DOCUMENTS

17.1 Each and every report, draft, map, record, plan, document and other writing produced, including but not limited to, websites, blogs, social media accounts and applications (hereinafter "Documents"), prepared or caused to be prepared by Consultant, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or any other party. Additionally, all material posted in cyberspace by Consultant, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or any other party. Consultant shall, at Consultant's expense, provide such Documents, including all logins and password information to City upon prior written request.

17.2 Documents, including drawings and specifications, prepared by Consultant pursuant to this Agreement are not intended or represented to be suitable for reuse by City or others on any other project. Any use of completed Documents for other projects and any use of incomplete Documents without specific written authorization from Consultant will be at City's sole risk and without liability to Consultant. Further, any and all liability arising out of changes made to Consultant's deliverables under this Agreement by City or persons other than Consultant is waived against Consultant, and City assumes full responsibility for such changes unless City has given Consultant prior notice and has received from Consultant written consent for such changes.

17.3 All written documents shall be transmitted to City in formats compatible with Microsoft Office and/or viewable with Adobe Acrobat.

18. CONFIDENTIALITY

All Documents, including drafts, preliminary drawings or plans, notes and communications that result from the Services in this Agreement, shall be kept confidential unless City expressly authorizes in writing the release of information.

19. INTELLECTUAL PROPERTY INDEMNITY

Consultant shall defend and indemnify City, its agents, officers, representatives and employees against any and all liability, including costs, for infringement or alleged infringement of any United States' letters patent, trademark, or copyright, including costs, contained in Consultant's Documents provided under this Agreement.

20. RECORDS

Consultant shall keep records and invoices in connection with the Services to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any Services, expenditures and disbursements charged to City, for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of City to examine, audit and make transcripts or copies of such records and invoices during regular business hours. Consultant shall allow inspection of all Work, data, Documents, proceedings and activities related to the Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

21. WITHHOLDINGS

City may withhold payment to Consultant of any disputed sums until satisfaction of the dispute with respect to such payment. Such withholding shall not be deemed to constitute a failure to pay according to the terms of this Agreement. Consultant shall not discontinue Work as a result of such withholding. Consultant shall have an immediate right to appeal to the City Manager or designee with respect to such disputed sums. Consultant shall be entitled to receive interest on any withheld sums at the rate of return

that City earned on its investments during the time period, from the date of withholding of any amounts found to have been improperly withheld.

22. ERRORS AND OMISSIONS

In the event of errors or omissions that are due to the negligence or professional inexperience of Consultant which result in expense to City greater than what would have resulted if there were not errors or omissions in the Work accomplished by Consultant, the additional design, construction and/or restoration expense shall be borne by Consultant. Nothing in this Section is intended to limit City's rights under the law or any other sections of this Agreement.

23. CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS

City reserves the right to employ other Consultants in connection with the Project.

24. CONFLICTS OF INTEREST

24.1 Consultant or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act") and/or Government Code §§ 1090 et seq., which (1) require such persons to disclose any financial interest that may foreseeably be materially affected by the Work performed under this Agreement, and (2) prohibit such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

24.2 If subject to the Act and/or Government Code §§ 1090 et seq., Consultant shall conform to all requirements therein. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City. Consultant shall indemnify and hold harmless City for any and all claims for damages resulting from Consultant's violation of this Section.

25. NOTICES

25.1 All notices, demands, requests or approvals, including any change in mailing address, to be given under the terms of this Agreement shall be given in writing, and conclusively shall be deemed served when delivered personally, or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided.

25.2 All notices, demands, requests or approvals from Consultant to City shall be addressed to City at:

Attn: Deputy Director of Police Services
Police Department
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

25.3 All notices, demands, requests or approvals from City to Consultant shall be addressed to Consultant at:

Attn: Megan Whisler
Mariners VH LP
2630 Avon Street
Newport Beach, CA 92663

26. CLAIMS

Unless a shorter time is specified elsewhere in this Agreement, before making its final request for payment under this Agreement, Consultant shall submit to City, in writing, all claims for compensation under or arising out of this Agreement. Consultant's acceptance of the final payment shall constitute a waiver of all claims for compensation under or arising out of this Agreement except those previously made in writing and identified by Consultant in writing as unsettled at the time of its final request for payment. Consultant and City expressly agree that in addition to any claims filing requirements set forth in the Agreement, Consultant shall be required to file any claim Consultant may have against City in strict conformance with the Government Claims Act (Government Code sections 900 *et seq.).*

27. TERMINATION

27.1 In the event that either party fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, that party shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) calendar days, or if more than two (2) calendar days are reasonably required to cure the default and the defaulting party fails to give adequate assurance of due performance within two (2) calendar days after receipt of written notice of default, specifying the nature of such default and the steps necessary to cure such default, and thereafter diligently take steps to cure the default, the non-defaulting party may terminate the Agreement forthwith by giving to the defaulting party written notice thereof.

27.2 Notwithstanding the above provisions, City shall have the right, at its sole and absolute discretion and without cause, of terminating this Agreement at any time by giving no less than seven (7) calendar days' prior written notice to Consultant. In the event of termination under this Section, City shall pay Consultant for Services satisfactorily performed and costs incurred up to the effective date of termination for which Consultant has not been previously paid. On the effective date of termination, Consultant shall deliver to City all reports, Documents and other information developed or accumulated in the performance of this Agreement, whether in draft or final form.

28. STANDARD PROVISIONS

28.1 Recitals. City and Consultant acknowledge that the above Recitals are true and correct and are hereby incorporated by reference into this Agreement.

28.2 Compliance with all Laws. Consultant shall, at its own cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted. In addition, all Work prepared by Consultant shall conform to applicable City, county, state and federal laws, rules, regulations and permit requirements and be subject to approval of the Project Administrator and City.

28.3 Waiver. A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

28.4 Integrated Contract. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

28.5 Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Agreement and the Scope of Services or any other attachments attached hereto, the terms of this Agreement shall govern.

28.6 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

28.7 Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

28.8 Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

28.9 Controlling Law and Venue. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange, State of California.

28.10 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, age or any other impermissible basis under law.

28.11 No Attorneys' Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorneys' fees.

28.12 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date: 5/05/2026

By: _____
Aaron C. Harp 5-5-20 RJ
City Attorney

ATTEST:
Date: _____

By: _____
Lena Shumway
City Clerk

CITY OF NEWPORT BEACH,
a California municipal corporation
Date: _____

By: _____
Lauren Kleiman
Mayor

CONSULTANT: Mariners VH LP,
a California limited partnership
By: Curo Pet, LLC
Its: General Partner
By: Curo Pet Management Corp.
Its: Manager

Date: _____

By: _____
Jonas Pilkauskas
Chief Executive Officer,
Secretary, and Chief Financial Officer

[END OF SIGNATURES]

Attachments: Exhibit A – Scope of Services
Exhibit B – Schedule of Billing Rates
Exhibit C – Insurance Requirements

EXHIBIT A
SCOPE OF SERVICES

Objective:

The City of Newport Beach ("City") is seeking proposals from qualified proposers interested in providing professional veterinary services to the City. These services shall support the City's Police Department, as well as the Newport Beach Animal Shelter (NBAS) operations managed by the Police Department.

Contract Term: Five (5) years

Minimum Qualifications:

- At least five (5) years of experience with a broad range of veterinary procedures/care for shelter animals.
- Allow animal control personnel to purchase animal medication under their veterinary license with MWI Animal Health or other medication providers.
    - Medication to include controlled substances and euthanasia drugs, including Telazol and Fatal Plus euthanasia solution.
- Experience with municipal animal control and animal sheltering, including:
    - Examining animals seized during animal neglect and animal cruelty investigations.
    - The ability to provide a diagnosis and identify whether a lack of proper care or mistreatment led to the animal's present condition.
    - Writing veterinary reports for criminal animal neglect and animal cruelty cases; explaining in lay terms how an animal's mistreatment resulted in its present condition.
    - Ability to testify in court and possess qualifications to be declared an expert witness in order to opine on the cause of an animal's condition.
- Allow animal control personnel to access the veterinary facility and provide safe placement of animals outside of normal business hours.
- Be located no more than five (5) miles (measured on a direct line or "as the crow flies") from the Newport Beach Animal Shelter, located at 20282 Riverside Drive, Newport Beach, California 92660.
- Be available during the veterinary practice's regular business hours for emergency exams.
- Certification by the Feline Veterinary Medical Association (FelineVMA) for the Cat Friendly Certificate Program.
- Member of Southern California Veterinary Medical Association (SCVMA).
- All veterinarians providing services must possess a current California Veterinary license.
- Veterinarians, registered veterinary technicians, and other staff members possessing knowledge of shelter veterinary medicine.
- Meet the insurance requirements detailed in this RFP document.
- Selected vendor shall maintain a City of Newport Beach business license during the term of this Agreement.

  Note that any unsatisfactory references or unsatisfactory work performance with the City may eliminate the proposer from further consideration.

  Proposers who do not meet the Minimum Qualifications may be disqualified.

Description:

Contractor shall provide the following care, procedures, or services (at minimum), subject to change according to the needs of the City:

1. Exams
2. Emergency exams
3. Hospitalization
4. Spay/neuter, including IV catheter and pain medication to leave
    a. Feline spay
    b. Feline neuter
    c. Canine spay
    d. Canine neuter
    e. Lagomorph spay
    f. Lagomorph neuter
5. Administer microchips provided by NBAS
6. Administer vaccines provided by NBAS
7. Administer tattoo ink after spays/neuters
8. FeLV/FIV testing for cats
9. 4 DX testing for dogs
10. Radiographs
11. Blood testing
12. Urinalysis
13. Fecal exams
14. Dental procedures, including tooth extractions
15. Euthanasia
16. Baths/grooming
17. Nail trims
18. Ultrasound exams
19. Echocardiograms
20. K-laser
21. Additional surgical procedures as agreed to by the City's Police Department animal control officers

With the exception of item #21, all services set forth shall have a flat rate fee.

Services will primarily be conducted with the City's animal control officers bringing animals to the veterinary facility; there will be no contact with the public or "walk-ins" from the general public.

Qualifications and experience of the Proposer:

My name is Dr. Megan Whisler, DVM, and I am the owner, lead veterinarian and medical director of Mariners Mile Pet Clinic, a full-service veterinary hospital located here in Newport Beach. I am expressing our strong interest in continuing to partner with the City of Newport Beach and the Newport Beach Animal Shelter to provide comprehensive, compassionate, and professional veterinary services.

As a locally established veterinary practice, we take pride in serving the pets and people of this community. Our clinic is fully equipped to provide high-quality medical, surgical, and preventive care to companion animals, including shelter and rescue pets as we have demonstrated during the tenure of our current alliance with Newport Beach Animal Shelter and Animal Control. Very recently I, Dr Whisler, testified in court regarding an animal abuse case for a patient brought in after seizure from the owner. I felt confident that my testimony as an expert witness helped shed light on the nature of the abuse directed at an innocent dog. It would be an honor to continue supporting municipal animal control and sheltering in this capacity. During our off hours we have hosted a forensic veterinary pathologist for necropsy on a few cases and will continue to do so.
All of our doctors and staff take pride in caring for the animals (young or old, healthy or sick, domestic or exotic) of Newport Beach Animal Shelter and Animal Control. We maintain a strong focus on patient welfare, public health, and collaboration with animal control and animal welfare organizations.

Mariners Mile Pet Clinic is deeply committed to the welfare and well-being of every pet in our care. We understand the unique needs of shelter animals and the importance of efficient, compassionate medical management to support successful adoption outcomes. Our goal is to continue to provide timely, high-quality veterinary care while maintaining open communication and a collaborative relationship with the Newport Beach Animal Shelter team.

Proposers ability to deploy and provide services as requested:

I, Dr. Megan Whisler, can confirm that Mariners Mile Pet Clinic can perform all services requested in the Scope of Services in this Agreement. All items listed in the care, procedures, and services section are well within our expertise. Surgery and dentistry are performed daily at the hospital in addition to wellness maintenance and management of ill patients needing hospitalization. In our general practice we are proud to offer gold standard medicine and care. We are able to host a Board certified radiologist in hospital for ultrasounds and Board certified Cardiologist for echocardiograms. We also do routine surgery and dentistry, as well as exploratory laparotomy, gastropexy, some orthopedic surgeries, and more. Exotic companion animals welcomed. K-laser is used frequently to support wound healing, post-op incision healing and several other inflammatory conditions. We use one room exclusively as a feline friendly cat dedicated room. With inheriting this practice, I was told the practice is a certified "Cat friendly practice". I recently was made aware the certification has not been renewed for many years and have actively started the renewal quest.

The process by which the City can request veterinary services includes: calling or emailing the office to schedule and/or reaching out directly to Practice Manager, Joanna Moore or myself, Dr. Megan Whisler. Billing will be provided to Newport Beach Animal Shelter representative for the previous month within 7 business days of the start of the next month. Billing will include all invoices that have taken place in the calendar month prior.

EXHIBIT B
SCHEDULE OF BILLING RATES

EXHIBIT B
SCHEDULE OF BILLING RATES

SERVICE	RATE (DISCOUNTED)	COMMENTS
Exams	$68.00	
Emergency exams	$160.00 – Emergency Room $116.00 – Urgent Care	
Hospitalization	Day 1 - $452.00 Day 2 - $344.00 Day 3+ - $311.20 Half Day - $228.00	
Spay/Neuter, including IV catheter and pain medication to leave	_____	
• Feline spay	Under 5 years - $276.00 Over 5 years - $327.20	Pets that are in heat, pregnant, or have pyometra will accrue additional charges
• Feline neuter	Under 5 years - $200.00 Over 5 years - $248.80	Pets that need scrotal ablation or are cryptorchid (bilateral or unilateral) will accrue additional charges
• Canine spay	Under 5 years, < 25 lbs - $517.60 Under 5 years, 25-50 lbs - $559.20 Under 5 years, 51-100 lbs - $600.80 Under 5 years, 100+ lbs - $642.40 Over 5 years, < 25 lbs - $596.00 Over 5 years, 25-50 lbs - $637.60 Over 5 years, 51-100 lbs - $679.20 Over 5 years, 100+ lbs - $720.00	Pets that are in heat, pregnant, or have pyometra will accrue additional charges
• Canine neuter	Under 5 years, < 25 lbs - $393.60 Under 5 years, 25-50 lbs - $414.40 Under 5 years, 51-100 lbs - $435.20 Under 5 years, 100+ lbs - $484.80 Over 5 years, < 25 lbs - $542.40 Over 5 years, 25-50 lbs - $563.20 Over 5 years, 51-100 lbs - $584.00	Pets that need scrotal ablation or are cryptorchid (bilateral or unilateral) will accrue additional charges

	Over 5 years, 100+ lbs - $604.80	
• Lagomorph spay	$ 440.00	Pets that are in heat, pregnant, or have pyometra will accrue additional charges
• Lagomorph neuter	$ 320.00	Pets that need scrotal ablation or are cryptorchid (bilateral or unilateral) will accrue additional charges
Administer microchips provided by NBAS	$ 0.00	
Administer vaccines provided by NBAS	$ 0.00	
Administer tattoo ink after spays/neuters	$ 7.00	Flat rate (not discounted)
FeLV/FIV testing for cats	$ 62.08	
4 DX testing for dogs	$ 37.70	
Radiographs	$ 321.60	Three views
Blood testing	IDEXX - $238.16 In-house - $244.26	Includes urinalysis
Urinalysis	IDEXX - $58.40 In-house - $82.80	
Fecal exams	$82.80	
Dental procedures, including tooth extractions	Procedures, feline - $557.04 Procedures, canine < 25 lbs - $557.04 Procedures, canine 25-50 lbs - $621.32 Procedures, canine 51-100 lbs - $685.58 Procedures, canine 100+ lbs - $749.86 Extractions, canine/carnassial - $252.82 Extractions, pre-molar/molar - $192.82 Extractions, Incisors (1-2) - $43.05 Extractions, Incisors (3-4) - $81.98	

	Extractions, Incisors (5-8) - $128.35	
Euthanasia	0-35 lbs - $217.00 36+ lbs - $310.64 Fractious Pet - $360.00	Does not include cremation
Baths/grooming	Bath, feline - $39.42 Bath, canine < 25 lbs - $41.13 Bath, canine 25-50 lbs - $47.13 Bath, canine 51-90 lbs - $51.42 Bath, canine 91-120 lbs - $59.99 Bath, canine 120+ lbs - $68.56	Grooming/haircuts are additional costs
Nail trims	Feline - $20.70 Canine - $23.20	
Ultrasound exams	$424.00	
Echocardiograms	$424.00	
K-laser	$37.26	Single session

EXHIBIT C

INSURANCE REQUIREMENTS – PROFESSIONAL SERVICES

1. Provision of Insurance. Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City. Consultant agrees to provide insurance in accordance with requirements set forth here. If Consultant uses existing coverage to comply and that coverage does not meet these requirements, Consultant agrees to amend, supplement or endorse the existing coverage.

2. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

3. Coverage Requirements.

   A. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation Insurance, statutory limits, and Employer's Liability Insurance with limits of at least one million dollars ($1,000,000) each accident for bodily injury by accident and each employee for bodily injury by disease in accordance with the laws of the State of California.

      Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City of Newport Beach, its City Council, boards and commissions, officers, agents, volunteers, employees.

   B. General Liability Insurance. Consultant shall maintain commercial general liability insurance, and if necessary excess/umbrella liability insurance, with coverage at least as broad as provided by Insurance Services Office form CG 00 01, in an amount not less than two million dollars ($2,000,000) per occurrence, four million dollars ($4,000,000) general aggregate. The policy shall cover liability arising from bodily injury, property damage, completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

      Consultant shall submit to City, along with a certificate of insurance, additional coverage as stated in Section 4. Other Insurance Requirements.

   C. Automobile Liability Insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of Consultant

arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars ($1,000,000) combined single limit each accident.

Consultant shall submit to City, along with a certificate of insurance, additional coverage as stated in Section 4. Other Insurance Requirements.

D. Professional Liability (Errors & Omissions) Insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of two million dollars ($2,000,000) per claim and four million dollars ($4,000,000) in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the Effective Date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the Services required by this Agreement.

E. Excess/Umbrella Liability Insurance. If any Excess or Umbrella Liability policies are used to meet the limits of liability required by this contract, then said policies shall be "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance requirements stated in this contract, including, but not limited to, the additional insured and primary & non-contributory insurance requirements stated herein. No insurance policies maintained by the City, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Consultant's primary and excess/umbrella liability policies are exhausted.

Consultant shall submit to City, along with a certificate of insurance, additional coverage as stated in Section 4. Other Insurance Requirements.

4. Other Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:

A. Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City of Newport Beach, its City Council, boards and commissions, officers, agents, volunteers and employees or shall specifically allow Consultant or others providing insurance evidence in compliance with these requirements to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers from each of its subconsultants.

B. Additional Insured Status. All liability policies including general liability, excess/umbrella liability, pollution liability, and automobile liability, if required, but not including professional liability, shall provide or be endorsed to provide that City of Newport Beach, its City Council, boards and

commissions, officers, agents, volunteers and employees shall be included as insureds under such policies.

C. Primary and Non Contributory. All liability coverage shall apply on a primary basis and shall not require contribution from any insurance or self-insurance maintained by City.

D. Notice of Cancellation. All policies shall provide City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

E. Subcontractors. Consultant shall be responsible for causing subcontractors to purchase the same types and limits of insurance in compliance with the terms of this Agreement, including adding the City as an additional insured, providing primary and non-contributory coverage and waiver of subrogation to the subcontractor's policies. Limits of liability for General Liability in an amount not less than one million dollars ($1,000,000) per occurrence, two million dollars ($2,000,000) aggregate and Professional Liability (Errors & Omissions) in an amount not less than one million dollars ($1,000,000) per claim, two million dollars ($2,000,000) aggregate.

5. Additional Agreements Between the Parties. The parties hereby agree to the following:

A. Evidence of Insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation and other endorsements as specified herein for each coverage. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

B. City's Right to Revise Requirements. City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving Consultant sixty (60) calendar days' advance written notice of such change. If such change results in substantial

additional cost to Consultant, City and Consultant may renegotiate Consultant's compensation.

C. Right to Review Subcontracts. Consultant agrees that upon request, all agreements with subcontractors or others with whom Consultant enters into contracts with on behalf of City will be submitted to City for review. Failure of City to request copies of such agreements will not impose any liability on City, or its employees.

D. Enforcement of Agreement Provisions. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any requirement imposes no additional obligations on City nor does it waive any rights hereunder.

E. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

F. Self-insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these requirements unless approved by City.

G. City Remedies for Non-Compliance. If Consultant or any subconsultant fails to provide and maintain insurance as required herein, then City shall have the right but not the obligation, to purchase such insurance, to terminate this Agreement, or to suspend Consultant's right to proceed until proper evidence of insurance is provided. Any amounts paid by City shall, at City's sole option, be deducted from amounts payable to Consultant or reimbursed by Consultant upon demand.

H. Timely Notice of Claims. Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

l. Consultant's Insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 7

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Aaron Harp, City Attorney - 949-644-3131, aharp@newportbeachca.gov
PREPARED BY:	Caroline Hua, Senior Human Resources Analyst - 949-644-3131, chua@newportbeachca.gov; and Joseph Meeks, Deputy City Attorney - 949-644-3131, jmeeks@newportbeachca.gov
TITLE:	General Liability Third Party Administrator – Approval of Professional Services Agreement with George Hills Company, Inc.

ABSTRACT:

As a self-insured public entity, the City of Newport Beach (City) contracts with a third-party administrator for general liability claims adjusting services. These services include claims intake and administration, investigation, correspondence with claimants, and coordination related to litigation management. Following the recent organizational restructuring that transitioned the City's Risk Management function into the City Attorney's Office, the operational responsibilities associated with claims administration evolved. Accordingly, the City Attorney's Office recommends approval of a five-year professional services agreement with George Hills Company, Inc. (George Hills) to provide third-party general liability claims administration services.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Approve a five-year Professional Services Agreement with George Hills Company, Inc., for Third Party General Liability Claims and Administration Services at a not-to-exceed amount of $784,025 and authorize the Mayor and City Clerk to execute the Agreement.

DISCUSSION:

The City's Risk Management division is responsible for, among other duties, administration of claims presented against the City. To assist with these responsibilities, the City contracts with a third-party administrator (TPA) to provide general liability claims administration services.

The City's current TPA is AdminSure, Inc. (AdminSure). The City initially entered into an agreement with AdminSure in July 2019 for a five-year term. When the agreement neared expiration in 2024, the City issued a request for proposals (RFP), after which AdminSure was again selected to provide TPA services under a subsequent five-year agreement. AdminSure has therefore served as the City's TPA for approximately seven consecutive years.

In December 2025, the City's Human Resources Department was reorganized into the newly formed Administrative Services Department, while the Risk Management function was transitioned to the City Attorney's Office. Because the City Attorney's Office already manages the City's litigation matters, this restructuring created opportunities to streamline operations, eliminate duplicative responsibilities, and better integrate claims administration with litigation management.

As a result of these operational changes, the City Attorney's Office evaluated various options for future claims administration services, including revising the existing agreement and exploring alternative service providers.

Following a review of available options and current market offerings, the City Attorney's Office determined that a new agreement with George Hills Company, Inc. (George Hills) would better align with the City's evolving operational structure and litigation management needs.

Pursuant to Council Policy F-14 and Administrative Policy AP-001, the City may utilize another public agency's competitive procurement process for substantially similar services completed within the previous 24 months.

In March 2025, the City of Culver City issued an RFP for TPA services and received four proposals. Following interviews conducted by a review panel consisting of representatives from Culver City's Attorney's Office, Finance Department, Risk Management Division, and Public Works Department, George Hills was recommended for award of the agreement based on its qualifications and service approach.

Based on the recent competitive solicitation conducted by Culver City and the City Attorney's Office's independent evaluation of the City's current and future claims administration needs, staff recommends approval of a five-year professional services agreement with George Hills in an amount not to exceed $784,025.

FISCAL IMPACT:

The total not-to-exceed cost of the agreement is $784,025 over a five-year term. Costs will be charged to the General Liability Internal Service Fund account within the City Attorney's Office, Account No. 7517510-891004. There is no additional fiscal impact associated with the proposed agreement.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this 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, 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.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Professional Services Agreement with George Hills Company, Inc.

PROFESSIONAL SERVICES AGREEMENT WITH GEORGE HILLS COMPANY, INC. FOR THIRD PARTY GENERAL LIABILITY CLAIMS AND ADMINISTRATION SERVICES

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into as of this 26th day of May, 2026 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and GEORGE HILLS COMPANY, INC., a California corporation ("Consultant"), whose address is 6020 West Oaks Boulevard, Suite 100, Rocklin, CA 95765, and is made with reference to the following:

RECITALS

A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of City.

B. City desires to engage Consultant to provide third party general liability claims and administration services ("Project").

C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the professional services described in this Agreement.

D. City has solicited and received a proposal from Consultant, has reviewed the previous experience and evaluated the expertise of Consultant, and desires to retain Consultant to render professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

The term of this Agreement shall commence on the Effective Date, and shall terminate on May 25, 2031, unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED

Consultant shall diligently perform all the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein by reference ("Scope of Services" or "Services"). City may elect to delete certain Services within the Scope of Services at its sole discretion.

3. CITY RESPONSIBILITY

City agrees that it shall:

3.1 Collaborate with Consultant as reasonably necessary for Consultant to perform its services including establishing, drafting, and agreeing to a complete set of Claim Handling Instructions which provide direction and guidance related to the services.

3.2 Maintain a City trust account to pay indemnity and expenses that may be due on claims. The amount to be maintained in the trust account shall be determined by City.

3.3 Provide direction to Consultant as requested regarding particular project requirements.

3.4 Communicate any changes in expectations and/or in the event Consultant is not performing in an acceptable manner so Consultant can immediately address such changes and/or performance issues.

3.5 Be responsible for reporting to Consultant all Bodily Injury Claims in addition to all other items noted in the "Medicare, Medicaid, and SCHIP Extension Act of 2007" (MMSEA), attached hereto as Exhibit B and incorporated herein by this reference.

3.6 Be responsible for updating Consultant on any changes to coverage/policy language; including limits, retentions/deductibles and coverage changes before the start of each policy term.

3.7 Obtain any necessary consent in the collection of any City data that is transmitted to a third party (i.e., lawyer, actuary, or auditor). City shall provide Consultant with reasonable assurances that it has the necessary consent to transmit City data to a third party. City acknowledges that the claims data may contain confidential and/or protected health information ("PHI").

4. CONSULTANT ACKNOWLEDGEMENT OF CIPA

4.1 The Consultant acknowledges that the City is a member of the California Insurance Pool Authority ("CIPA") and shall be subject to the Minimum Performance Standards for Liability Claims Administration Policy ("Policy") attached hereto as Exhibit C and incorporated herein by this reference. This requirement applies to the Policy, or as subsequently amended or replaced by the City's then current excess JPA/Carrier.

4.2 By executing this Agreement, the Consultant provides its formal acknowledgment of the Policy and agrees to conduct all claims administration services in strict compliance with the Minimum Performance Standards established by CIPA. The Consultant understands and agrees that all claims managed under this Agreement will be audited by CIPA, or its authorized representative, to ensure conformance with the Policy.

5. TIME OF PERFORMANCE

5.1 Time is of the essence in the performance of Services under this Agreement and Consultant shall perform the Services in accordance with the schedule included in Exhibit A. In the absence of a specific schedule, the Services shall be performed to completion in a diligent and timely manner. The failure by Consultant to strictly adhere to the schedule set forth in Exhibit A, if any, or perform the Services in a diligent and timely manner may result in termination of this Agreement by City.

5.2 Notwithstanding the foregoing, Consultant shall not be responsible for delays due to causes beyond Consultant's reasonable control. However, in the case of any such delay in the Services to be provided for the Project, each party hereby agrees

to provide notice within two (2) calendar days of the occurrence causing the delay to the other party so that all delays can be addressed.

5.3 Consultant shall submit all requests for extensions of time for performance in writing to the Project Administrator as defined herein not later than ten (10) calendar days after the start of the condition that purportedly causes a delay. The Project Administrator shall review all such requests and may grant reasonable time extensions for unforeseeable delays that are beyond Consultant's control.

5.4 For all time periods not specifically set forth herein, Consultant shall respond in the most expedient and appropriate manner under the circumstances, by hand-delivery or mail.

6. COMPENSATION TO CONSULTANT

6.1 City shall pay Consultant for the Services on a time and expense not-to-exceed basis in accordance with the provisions of this Section and the Schedule of Billing Rates attached hereto as Exhibit D and incorporated herein by reference. Consultant's compensation for all Work performed in accordance with this Agreement, including all reimbursable items and subconsultant fees, shall not exceed **Seven Hundred Eighty Four Thousand Twenty Five Dollars and 00/100 ($784,025.00),** without prior written authorization from City. No billing rate changes shall be made during the term of this Agreement without the prior written approval of City.

6.2 Consultant shall be reimbursed at actual cost for the allocated expenses detailed in Exhibit E, which is incorporate herein by reference, provided that all such costs are approved in writing by the City prior to being incurred.

6.3 Consultant shall submit monthly invoices to City describing the Work performed the preceding month. Consultant's bills shall include the name of the person who performed the Work, a brief description of the Services performed and/or the specific task in the Scope of Services to which it relates, the date the Services were performed, the number of hours spent on all Work billed on an hourly basis, and a description of any reimbursable expenditures. City shall pay Consultant no later than thirty (30) calendar days after approval of the monthly invoice by City staff.

6.4 Consultant shall not receive any compensation for Extra Work performed without the prior written authorization of City. As used herein, "Extra Work" means any Work that is determined by City to be necessary for the proper completion of the Project, but which is not included within the Scope of Services and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Compensation for any authorized Extra Work shall be paid in accordance with the Schedule of Billing Rates as set forth in Exhibit D.

7. PROJECT MANAGER

7.1 Consultant shall designate a Project Manager, who shall coordinate all phases of the Project. This Project Manager shall be available to City at all reasonable times during the Agreement term. Consultant has designated Todd Mershon or designee to be its Project Manager. Consultant shall not remove or reassign the Project Manager

or any personnel listed in Exhibit A or assign any new or replacement personnel to the Project without the prior written consent of City. City's approval shall not be unreasonably withheld with respect to the removal or assignment of non-key personnel.

7.2 Consultant, at the sole discretion of City, shall remove from the Project any of its personnel assigned to the performance of Services upon written request of City. Consultant warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement.

7.3 If Consultant is performing inspection services for City, the Project Manager and any other assigned staff shall be equipped with a cellular phone to communicate with City staff. The Project Manager's cellular phone number shall be provided to City.

8. ADMINISTRATION

This Agreement will be administered by the City Attorney's Office. The City Attorney or their designee shall be the Project Administrator and shall have the authority to act for City under this Agreement. The Project Administrator shall represent City in all matters pertaining to the Services to be rendered pursuant to this Agreement.

9. CITY'S RESPONSIBILITIES

To assist Consultant in the execution of its responsibilities under this Agreement, City agrees to provide access to and upon request of Consultant, one copy of all existing relevant information on file at City. City will provide all such materials in a timely manner so as not to cause delays in Consultant's Work schedule.

10. STANDARD OF CARE

10.1 All of the Services shall be performed by Consultant or under Consultant's supervision. Consultant represents that it possesses the professional and technical personnel required to perform the Services required by this Agreement, and that it will perform all Services in a manner commensurate with community professional standards and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline under similar circumstances. All Services shall be performed by qualified and experienced personnel who are not employed by City. By delivery of completed Work, Consultant certifies that the Work conforms to the requirements of this Agreement, all applicable federal, state and local laws, and legally recognized professional standards.

10.2 Consultant represents and warrants to City that it has, shall obtain, and shall keep in full force and effect during the term hereof, at its sole cost and expense, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that is legally required of Consultant to practice its profession. Consultant shall maintain a City of Newport Beach business license during the term of this Agreement.

10.3 Consultant shall not be responsible for delay, nor shall Consultant be responsible for damages or be in default or deemed to be in default by reason of strikes, lockouts, accidents, acts of God, or the failure of City to furnish timely information or to

approve or disapprove Consultant's Work promptly, or delay or faulty performance by City, contractors, or governmental agencies.

11. HOLD HARMLESS

11.1 To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers and employees (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise from or in any manner relate (directly or indirectly) to any breach of the terms and conditions of this Agreement, any Work performed or Services provided under this Agreement including, without limitation, defects in workmanship or materials or Consultant's presence or activities conducted on the Project (including the negligent, reckless, and/or willful acts, errors and/or omissions of Consultant, its principals, officers, agents, employees, vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable, or any or all of them), and/or if it is subsequently determined that an employee of Consultant is not an independent contractor.

11.2 Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorneys' fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant.

12. INDEPENDENT CONTRACTOR

12.1 It is understood that City retains Consultant on an independent contractor basis and Consultant is not an agent or employee of City. The manner and means of conducting the Work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. No civil service status or other right of employment shall accrue to Consultant or its employees. Nothing in this Agreement shall be deemed to constitute approval for Consultant or any of Consultant's employees or agents, to be the agents or employees of City. Consultant shall have the responsibility for and control over the means of performing the Work, provided that Consultant is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Consultant as to the details of the performance of the Work or to exercise a measure of control over Consultant shall mean only that Consultant shall follow the desires of City with respect to the results of the Services.

12.2 During the period of this Agreement, and for a period of one (1) year thereafter, Consultant agrees not to solicit for employment any City employee contacted during the performance of this Agreement. During the period of this Agreement, and for

a period of one (1) year thereafter, City agrees not to solicit for employment, or employ either directly or by contract, any employee of Consultant contacted by the City during the performance of this Agreement. In the event that City solicits an employee of Consultant who performed services on behalf of City pursuant to the Agreement, City agrees to pay a fee equal to one year of the employee's salary.

13. COOPERATION

Consultant agrees to work closely and cooperate fully with City's designated Project Administrator and any other agencies that may have jurisdiction or interest in the Work to be performed. City agrees to cooperate with the Consultant on the Project.

14. CITY POLICY

Consultant shall discuss and review all matters relating to policy and Project direction with City's Project Administrator in advance of all critical decision points in order to ensure the Project proceeds in a manner consistent with City goals and policies.

15. PROGRESS

Consultant is responsible for keeping the Project Administrator informed on a regular basis regarding the status and progress of the Project, activities performed and planned, and any meetings that have been scheduled or are desired.

16. INSURANCE

Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement or for other periods as specified in this Agreement, policies of insurance of the type, amounts, terms and conditions described in the Insurance Requirements attached hereto as Exhibit F, and incorporated herein by reference.

17. PROHIBITION AGAINST ASSIGNMENTS AND TRANSFERS

Except as specifically authorized under this Agreement, the Services to be provided under this Agreement shall not be assigned, transferred contracted or subcontracted out without the prior written approval of City. Any of the following shall be construed as an assignment: The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant if Consultant is a partnership or joint-venture or syndicate or co-tenancy, which shall result in changing the control of Consultant. Control means fifty percent (50%) or more of the voting power or twenty-five percent (25%) or more of the assets of the corporation, partnership or joint-venture.

18. SUBCONTRACTING

The subcontractors authorized by City, if any, to perform Work on this Project are identified in Exhibit A. Consultant shall be fully responsible to City for all acts and omissions of any subcontractor. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor nor shall it create any obligation on the

part of City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law. City is an intended beneficiary of any Work performed by the subcontractor for purposes of establishing a duty of care between the subcontractor and City. Except as specifically authorized herein, the Services to be provided under this Agreement shall not be otherwise assigned, transferred, contracted or subcontracted out without the prior written approval of City.

19. OWNERSHIP OF DOCUMENTS

19.1 Each and every report, draft, map, record, plan, document and other writing produced, including but not limited to, websites, blogs, social media accounts and applications (hereinafter "Documents"), prepared or caused to be prepared by Consultant, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or any other party. Additionally, all material relating directly and only to the City posted in cyberspace by Consultant, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or any other party. Consultant shall, at Consultant's expense, provide such Documents, including all logins and password information to City upon prior written request.

19.2 Documents, including drawings and specifications, prepared by Consultant pursuant to this Agreement are not intended or represented to be suitable for reuse by City or others on any other project. Any use of completed Documents for other projects and any use of incomplete Documents without specific written authorization from Consultant will be at City's sole risk and without liability to Consultant. Further, any and all liability arising out of changes made to Consultant's deliverables under this Agreement by City or persons other than Consultant is waived against Consultant, and City assumes full responsibility for such changes unless City has given Consultant prior notice and has received from Consultant written consent for such changes.

19.3 All written documents shall be transmitted to City in formats compatible with Microsoft Office and/or viewable with Adobe Acrobat.

20. CONFIDENTIALITY

All Documents, including drafts, preliminary drawings or plans, notes and communications that result from the Services in this Agreement, shall be kept confidential unless City expressly authorizes in writing the release of information.

21. INTELLECTUAL PROPERTY INDEMNITY

Consultant shall defend and indemnify City, its agents, officers, representatives and employees against any and all liability, including costs, for infringement or alleged infringement by Consultant of any United States' letters patent, trademark, or copyright, including costs, contained in Consultant's Documents provided under this Agreement.

22. RECORDS

Consultant shall keep records and invoices in connection with the Services to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any Services, expenditures and disbursements charged to City, for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of City to examine, audit and make transcripts or copies of such records and invoices during regular business hours. Consultant shall allow inspection of all Work, data, Documents, proceedings and activities related to the Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

23. WITHHOLDINGS

After providing notice to Consultant regarding any disputed sums, City may withhold payment to Consultant of any disputed sums until satisfaction of the dispute with respect to such payment. Such withholding shall not be deemed to constitute a failure to pay according to the terms of this Agreement. Consultant shall not discontinue Work as a result of such withholding. Consultant shall have an immediate right to appeal to the City Manager or designee with respect to such disputed sums. Consultant shall be entitled to receive interest on any withheld sums at the rate of return that City earned on its investments during the time period, from the date of withholding of any amounts found to have been improperly withheld.

24. ERRORS AND OMISSIONS

In the event of errors or omissions that are due to the negligence or professional inexperience of Consultant which result in expense to City greater than what would have resulted if there were not errors or omissions in the Work accomplished by Consultant, the additional design, construction and/or restoration expense shall be borne by Consultant. Nothing in this Section is intended to limit City's rights under the law or any other sections of this Agreement.

25. CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS

City reserves the right to employ other Consultants in connection with the Project.

26. CONFLICTS OF INTEREST

26.1 Consultant or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act") and/or Government Code §§ 1090 et seq., which (1) require such persons to disclose any financial interest that may foreseeably be materially affected by the Work performed under this Agreement, and (2) prohibit such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

26.2 If subject to the Act and/or Government Code §§ 1090 et seq., Consultant shall conform to all requirements therein. Failure to do so constitutes a material breach

and is grounds for immediate termination of this Agreement by City. Consultant shall indemnify and hold harmless City for any and all claims for damages resulting from Consultant's violation of this Section.

27. NOTICES

27.1 All notices, demands, requests or approvals, including any change in mailing address, to be given under the terms of this Agreement shall be given in writing, and conclusively shall be deemed served when delivered personally, or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided.

27.2 All notices, demands, requests or approvals from Consultant to City shall be addressed to City at:

Attn: City Attorney
City Attorney's Office
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

27.3 All notices, demands, requests or approvals from City to Consultant shall be addressed to Consultant at:

Attn: Chris Shaffer
George Hills Company, Inc.
PO Box 120
Rocklin, CA 95677

28. CLAIMS

Unless a shorter time is specified elsewhere in this Agreement, before making its final request for payment under this Agreement, Consultant shall submit to City, in writing, all claims for compensation under or arising out of this Agreement. Consultant's acceptance of the final payment shall constitute a waiver of all claims for compensation under or arising out of this Agreement except those previously made in writing and identified by Consultant in writing as unsettled at the time of its final request for payment. Consultant and City expressly agree that in addition to any claims filing requirements set forth in the Agreement, Consultant shall be required to file any claim Consultant may have against City in strict conformance with the Government Claims Act (Government Code sections 900 *et seq.).*

29. TERMINATION

29.1 In the event that either party fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, that party shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) calendar days, or if more than two (2) calendar days are reasonably required to cure the default and the defaulting party fails to give adequate assurance of due performance within two (2) calendar days after receipt of written notice of default,

specifying the nature of such default and the steps necessary to cure such default, and thereafter diligently take steps to cure the default, the non-defaulting party may terminate the Agreement forthwith by giving to the defaulting party written notice thereof.

29.2 Notwithstanding the above provisions, City shall have the right, at its sole and absolute discretion and without cause, of terminating this Agreement at any time by giving no less than thirty (30) calendar days' prior written notice to Consultant. In the event of termination under this Section, City shall pay Consultant for Services satisfactorily performed and costs incurred up to the effective date of termination for which Consultant has not been previously paid. On the effective date of termination, Consultant shall deliver to City all reports, Documents and other information developed or accumulated in the performance of this Agreement, whether in draft or final form.

29.3 Upon the earlier of a notice of termination or the actual termination of this Agreement for any reason, Consultant shall, at no cost to City, promptly provide all historical claim data, files, and related information to City or its designee but not later than fifteen (15) calendar days. This delivery shall include all data, transactional records, and updates generated up to and including the effective date of termination. Such data must be provided in a machine-readable, industry-standard format (e.g., .csv, .xlsx, or SQL) that is immediately accessible and ready for use without the need for proprietary software. Consultant further agrees to provide a comprehensive data dictionary or schema to ensure the City can fully interpret and integrate the historical records into its own systems or those of a successor administrator.

30. AMENDMENT DUE TO GOVERNMENTAL, POLITICAL, OR LEGISLATIVE CHANGES

Consultant and City agree that governmental, political, or legislative changes may impact the work of Consultant and City on behalf of City members. Consultant reserves the right, for the benefit of both parties, to require an amendment to any portion(s) of this Agreement, expressly including the compensation, fees, and expenses stated in Section 4, in response to any change to, addition or deletion of any statute, rule, regulation, or policy which materially impacts the liability of public entities in California, damages for which public entities may become responsible, and/or the handling, administration, adjustment, payment, and/or reporting related to services performed under this Agreement.

31. CONTRACTOR NOT A PUBLIC OFFICIAL

Neither Consultant, nor any employee of Consultant, is a "public official" for purposes of Government Code §§ 87200 et seq. Consultant conducts research and arrives at conclusions, provides advice, recommendation, or counsel independent of the control and direction of the City or any official of the City, other than normal contract monitoring. In addition, Consultant possesses no authority with respect to any City decision beyond these conclusions, advice, recommendation, or counsel.

32. STANDARD PROVISIONS

32.1 Recitals. City and Consultant acknowledge that the above Recitals are true and correct and are hereby incorporated by reference into this Agreement.

32.2 Compliance with all Laws. Consultant shall, at its own cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted. In addition, all Work prepared by Consultant shall conform to applicable City, county, state and federal laws, rules, regulations and permit requirements and be subject to approval of the Project Administrator and City.

32.3 Waiver. A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

32.4 Integrated Contract. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

32.5 Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Agreement and the Scope of Services or any other attachments attached hereto, the terms of this Agreement shall govern.

32.6 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

32.7 Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

32.8 Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

32.9 Controlling Law and Venue. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange, State of California.

32.10 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, age or any other impermissible basis under law.

32.11 No Attorneys' Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorneys' fees.

32.12 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date: 5/12/26

By: Jose Montoya for
Aaron C. Harp 5-12-26 RJ
City Attorney

ATTEST:
Date:_____

By:_____
Lena Shumway
City Clerk

CITY OF NEWPORT BEACH,
a California municipal corporation
Date:_____

By:_____
Lauren Kleiman
Mayor

CONSULTANT: GEORGE HILLS COMPANY, INC., a California corporation

Date:_____

By_____
Lowell Hays
Chief Executive Officer

Date:_____

By:_____
Ron Shah
Chief Financial Officer

[END OF SIGNATURES]

Attachments:
Exhibit A – Scope of Services
Exhibit B – Medicare, Medicaid, and Schip Extension Act of 2007
Exhibit C – California Insurance Pool Authority ("CIPA")
Exhibit D – Schedule of Billing Rates
Exhibit E – Allocated Expenses
Exhibit F – Insurance Requirements

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES AND CLIENT EXPRESSED AUTHORITY AND LIMITATIONS UNDER THE AGREEMENT

This Exhibit A provides the Scope of Services referenced in Section 2 of the Agreement and also the specific service expectations in the Agreement, that would not otherwise require revision during the term of the Agreement, and which may differ from, or elaborate upon, the Client Service Profile. Services to be provided by Consultant on behalf of City may include some or all of the following.

I. SERVICES INCLUDED IN THE AGREEMENT

A. General Administrative Services

Throughout each year Consultant performs numerous functions which support claims administration on behalf of the City, other than claims handling, and are performed by non-claims personnel. Additionally, in the first year of this Agreement there are several "on-boarding" services that are general and administrative in nature. Below is a list of such services which are included within the terms of the Agreement:

1) Claims Management Information System ("CMIS") Services and Reports
   A. Access to CMIS and training.
   B. A monthly listing of open claims, showing expense categories, reserves, and total incurred.
   C. Monthly claim summary reports.
   D. Monthly hours and claims data detail for billing.
   E. Providing loss run data and required reports.
   F. Access to GH Client Portal.

2) Providing annual reports to outside agencies.
3) Filing of regulatory reports (such as 1099, W-9, etc.).
   A. Administer and maintain the City's designated trust account to pay indemnity and expenses that may be due on claims as provided below in Section I (Financial Accounting).

B. Investigative Services

1) George Hills will conduct all investigations.
2) Retention of vendors (appraisers, translators, copy services, Independent Adjuster, IME's, Surveillance, etc.) shall be preauthorized by the City.
3) Receipt and examination of all reports of accidents or incidents that are or may be the subject of claims.
4) Investigation of accidents or incidents as warranted, to include on-site investigation, photographs, witness interviews, determination of losses and other such investigative services necessary to determine all City losses but not to include extraordinary investigative services outside the expertise of GH.

5) In the event City or other agency conducts any investigation, and upon Client's request, GH shall review and analyze for liability and/or damage issues and for possible additional follow-up investigation.
6) Maintain service on a 24-hour, 7 days per week basis, to receive reports of any incident or accident which may be the subject of a liability claim and provide immediate investigative services to the extent necessary to provide a complete investigation.
7) Undertake items of investigation requiring special handling for City at the direction of the Project Administrator.

C. Liability and Claim Handling Services

1) Contractor shall ensure all tort claims are handled in strict conformance with CIPA Policy standards and timelines.
2) Within twenty-four (24) hours, set up a claim file upon receipt of the claim and maintain a claim file on each potential or actual claim reported.
3) Assess and evaluate the nature and extent of each claim and establish claims reserves for indemnity and legal expense.
4) GH will follow any City policy regarding tort claim rejection instructions, including rejection and return of an untimely or insufficient claim.
5) Ensure timely tort claim handling, including contact and follow-up with claimants regarding claim issues and processing.
6) Any bodily injury claim and property damage claim that is being pursued shall be indexed. Notice only matters or precautionary bodily injury claims that are not pursued do not need to be indexed.
7) Determine the need for defense representation. All litigation shall be handled by either City in-house legal counsel or outside legal counsel selected by the City.
8) Report claims to the excess insurer in compliance with excess carrier's reporting requirements and CIPA Policy and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.
9) Maintain records on any such claim and notify City when City is about to exhaust the Self-Insured Retention.
10) Obtain settlement contracts and releases upon settlement of claims or potential claims not in litigation.
11) Perform periodic reviews, as needed, of City files and claims as well as statutory requirements to ensure compliance including excess insurance related requirements.
12) Perform the necessary data gathering for the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) and the Set Aside Contracts in compliance with Section 111 of the MMSEA including the required reporting. (See Exhibit B.)
13) To the extent there is privileged information or PHI shared between agencies, which is subject to protection under HIPAA, GH shall implement all necessary measures in compliance with the Act and will execute a Business Associates Agreement (BAA).

D. Litigation Support Services

1) Upon notification by the City that litigation has been filed naming City or any of its members, GH shall follow the instructions outlined in the Client Expressed Scope of Work Instructions form. GH will work collaboratively with City to post all legal payments and expenses and to ensure that all financial activities related to the case are recorded in the system for inclusion on a formal loss run which will be provided to the City.
2) City will handle litigated claims in house, with GH to capture data into SIMS.
3) The CMIS operated by GH will serve as the repository for the City's legal file pertaining to the litigation.
4) Consultant will collaborate with the City to ensure that there is a process such that the file contents include the following documents and information:
    - Operative Summons and Complaint;
    - Case evaluations from defense counsel;
    - A summary or copy of any discovery motions;
    - Summary of discovery efforts and evidence obtained;
    - Expert Witness Reports and summary of expected testimony;
    - A summary or copy of dispositive motions;
    - Mediation or settlement conference statements of all parties;
    - Settlement demands or offers from any party;
    - A copy of any Judgment, arbitration award, or Jury verdict;
    - Any Court order of significance to liability in the case; and
    - Appellate documents including open and responsive briefs and opinions or decisions issued by the Court.

E. Litigation Management and Support Services

1) Claims Processors, Adjusters and/or Supervisors will perform the following services in relation to litigated, or to-be-litigated, claims:
    - Upon notification by the City that litigation has been filed on an open claim, Consultant shall follow the litigation referral process as outlined in the Client Expressed Scope of Work Instructions form.
    - Work cooperatively with City in choosing outside counsel and assist defense counsel in on-going litigation defense efforts.
    - Obtain and maintain a Litigation Plan and Budget.
    - Review legal bills in connection with Litigation Plan and Budget.
    - Review, evaluate and adjust defense counsel invoices for legal services in cooperation with the City.
    - Cooperate with and assist defense counsel assigned to litigation of open claims and provide such investigative services as directed during pre-trial and trial stages.
    - Assist in responding to discovery or preparing discovery.
    - At the request of the City, attend mandatory settlement conferences on behalf of City.

- Where authorized by the City, appear on behalf of City in small claims actions filed against City.
- Review and evaluate case evaluations, correspondence and status reports forwarded to Consultant by counsel. Regularly discuss, review, and direct investigation, discovery, and case strategy with counsel.
- Cooperate with counsel and litigation manager as a team with an open communication approach on each case to obtain the most economical and best result for the City.

2) Litigation Managers shall perform the following services:
   A. For designated claims identified as having a complex nature or potential high level of exposure, including coverage issues:

      - Review to determine proper handling throughout the life of the claim and/or litigation.
      - Assess excess coverage reporting requirements and potential issues related to coverage and advise Consultant personnel of the need for reporting.
      - Identify the need for evidence preservation including scope and duration.
      - Assess need for early intervention by and assignment to defense counsel where appropriate.
      - Assess need for early retention and evaluation by expert witnesses.
      - Review case evaluations, correspondence and status reports forwarded by defense counsel to advise City on proper handling including settlement, trial, and/or appellate work.
      - Monitor the case and advise on updating reserves and financial information on the file to maintain current and accurate loss information.
      - Provide advice on and/or assign defense counsel and ensure that a plan of action, budget, and evaluation of the case is prepared and maintained on designated cases.
      - Obtain, review, and analyze status reports of defense counsel and participate in selection of strategy, need for motions, retention of experts, trial preparation and trial, and appellate work.
      - Cooperate with counsel, claims supervisor and adjuster as a team with an open communication approach on each case to obtain the most economical and best result for the City.
      - Appear at mediations and settlement conferences.

   B. For non-claims related matters:
      - Evaluate defense attorney case load and areas of practice to ensure consistent handling between cases with similar subject matter.

- Where appropriate, will analyze the work of defense counsel and participate in the selection of new counsel or correction of existing counsel where appropriate.
- Provide independent analysis of risk exposure not only based on education, training, and experience the Litigation Managers, but also based on litigation trends across the state for similar cases, incidents, and legal issues.

F. Reports and Procedures

1) Within thirty (30) days of assignment, or sooner if practicable, required, or requested, Consultant will provide City with a report pursuant to specified claims handling instructions, showing name(s) of claimant(s), type of claim, date of loss, comments on liability, reserve recommendations, settlement recommendations, and other pertinent information. Subsequent to the initial thirty (30) day report, Consultant will report as often as warranted by any important change in status but no longer than every ninety (90) days until the claim closes unless extended diary is appropriate.
2) All original reports, documents, and claim data of every kind or description, that are prepared in whole or in part by or for the Consultant in connection with the Agreement shall be City's property and constitute the Consultant's work product for which compensation is paid. A copy of all reports, documents, and claim data of every kind or description that is in whole or in part by or for the City is the property of Consultant. Additional copies of original reports, documents, and data requested by City will be at City's expense in accordance with this Agreement.
3) Consultant agrees that City have access and the right to audit and reproduce any of the Consultant's relevant records to ensure that the City is receiving all services to which the City is entitled under this Agreement or for any purpose relating to the Agreement.

G. Data

1) Utilize Consultant's claims management information system. City will be provided "read-only" access to the claims system. "Read-write" access may be obtained at the City's additional expense.
2) Record all claim information including all financial data.
3) Provide City and broker Read only on-line access to the claims data system (up to five users), if desired by City.
4) Provide monthly standard loss run and check register.
5) Provide annual claims data report upon request. Written authorization and/or a Business Associate Agreement may be required for confidential information protected by HIPAA.
6) Provide assistance to City in developing customized reports when requested at no additional charge).
7) Arrange for electronic file conversion for any open and closed claims at the direction of City.

H. Weekly Meeting and Claim Review Meetings

Consultant shall hold weekly remote check-ins with the City to discuss claim strategy and direction on claims.

In addition to weekly consultations, Consultant shall, on a mutually agreed periodic basis, meet with Client to review and discuss the City's claims inventory and claims results of specified periods and delivery of services by Consultant. Consultant will attend four (4) claims review meetings annually with two (2) of the meetings to be attended in person and an agreed upon location and two (2) of the meeting to be held remotely by phone or video conference.

I. Trust Account and Financial Accounting

1) Consultant shall administer and maintain the City's designated trust account for the payment of claim-related indemnity and expenses. The amount to be maintained in the trust account shall be determined by City. The Consultant is responsible for performing all reporting and reconciliation obligations in accordance with the terms of the Agreement and the City's financial protocols.
2) Maintain a copy of all checks drawn by the Consultant to pay claims and claims related expenses.
3) Submit weekly check registers of all transactions made for the period.
4) Approval process shall be documented in Consultant Client Expressed Scope of Work Standards and Instruction Form.
5) Consultant will provide monthly bank reconciliation reports to City for audit purposes.
6) Submit positive pay if applicable/monitor positive pay (review daily emails from bank for exceptions).
7) Monitor account balance and prepare replenishment requests monthly. Where replenishment of the account is required more than once per month, an additional administration fee may be required. Any additional fees are subject to the City's prior written approval.
8) Respond to special funding requests arising out of the settlement of a claim or case and funding thresholds as defined in the Claim Handling Instructions. In the event that more than two (2) special funding requests are required in a month, an additional fee may apply.
9) Annual Service
    A. Respond to outside financial auditors
    B. Provide reports to City actuaries and claims auditors
    C. Submit GH SSAE 16 reports, or the current equivalent
    D. Providing annual reports to outside agencies
    E. Filing of regulatory reports such as 1099, W-9, etc.
    F. Cooperate with annual audits conducted by the City and its excess JPA/Carrier, whether performed jointly or independently

J. Third Party Subrogation Services

In any claim in which City is alleged to be liable or case in which City is a named defendant, Consultant will identify additional parties to that dispute which may also bear responsibility or liability for the damages claimed by the claimant(s) and/or plaintiff(s). Where additional individuals or entities are identified as having some responsibility, Consultant will perform the following services, with the City's prior approval:

1) Prepare and file a claim with each identified individual or entity.
2) Tender defense to or seek recovery from any identified individual or entity.
3) With the assistance of counsel selected by the City, Consultant will prepare and file, or caused to be prepared and filed, any necessary litigation required to affect the claim of recovery on behalf of the City.
4) Assist City with management of litigation related to such claims or cases made to or filed against the other individual or entity.
5) All costs and expenses of litigation filed pursuant to this section, including attorney fees for outside counsel where necessary and approved, will be paid by the City.

K. First Party Subrogation Services

In the event that City assigns first party subrogation claims to Consultant, City shall identify damages it has sustained which have a value of one thousand dollars ($1,000) or greater and for which any individual or entity is believed to be liable or responsible, the following may be performed:

1) City may authorize Consultant to act as a representative of City for the investigation, adjustment, processing, supervision, and evaluation of an ultimate recovery of potential money from the identified individuals or entities.
2) With prior approval of the City, Consultant may engage the services of one of the City's litigation attorneys to consult, review, and determine the best legal strategy available leading to recovery for the City. Upon determination by the attorney that a civil action is in the best interest of the City, Consultant will notify the City and obtain authorization to initiate litigation in accordance with the recommendations of the City and its attorney.
3) Where Consultant is able to recover money from an identified individual or entity, in addition to any other compensation identified in this Agreement, City will pay a Subrogation Fee in the amount of twenty five percent (25%) of the gross amount recovered for each recovery obtained by Consultant. In no event shall Consultant be entitled to recover or share attorney's fees or costs from the City or City's designated litigation attorneys. The minimum amount to be paid to Consultant will be two hundred fifty dollars ($250) per claim upon recovery. However, Consultant has the authority to reject any claim for any reason, relieving the City of any fiscal responsibility for rejected claims only. The amounts due under this section shall be invoiced to the City on a monthly basis following receipt of the recovery payment from the at-fault party.

4) While Consultant is handling a subrogation claim for the City pursuant to the terms of this Agreement, and the institution of a civil action is determined by the City to be the best course of action, City may elect to, at City's expense, recall the claim to the City's control so that City may pursue recovery in a manner in the best interest of the City.
5) Where requested, Consultant shall consult with City on claims and other related matters not specifically assigned to Consultant for handling under this Agreement.
6) Consultant reserves the right to cease working on any claim whereas information has not been made available to Consultant within one hundred twenty (120) days after Consultant has submitted the information and/or documentation to the City, at such time, the claim will be closed.
7) Consultant does not handle subrogation claims with a value less than one thousand dollars ($1,000), unless a separate arrangement is established and agreed to.
8) Costs and Expenses: All costs and expenses arising out of or connected to any claim or lawsuit filed pursuant to this Agreement, including attorney fees for outside counsel where necessary and approved, will be paid by the City. All such expenses require the City's advance written approval before they are incurred.

    A. Where Consultant is requested to appear in small claims court to pursue the recovery of funds, each appearance will incur an additional fee of one hundred fifty dollars ($150).
    B. Where Consultant personnel appear in the same court on the same day for more than one (1) claim, Consultant will charge a flat fee of four hundred dollars ($400) for one half (½) of a day, or eight hundred dollars ($800) for one (1) full day, regardless of the number of claims handled on that day.
    C. City shall reimburse Consultant all miles traveled at the current IRS rate and Allocated Expenses as provided in Exhibit E.

9) Billing for Services and Payment to Consultant: The process for payment to Consultant is stated as follows:

    A. Upon reaching a settlement agreement approved in writing by the City and all documentation executed including a release, the at-fault party will issue a check to City for the full agreed upon amount.
    B. Consultant shall submit an invoice to the City pursuant to Section 4 of the Agreement for its Subrogation Fee plus any costs and expenses authorized pursuant to this Agreement.
    C. If City terminates the services of Consultant related to First Party Subrogation before the end of the Term or recalls any claim for any reason, the City's sole liability for pending First Party Subrogation claims shall be to reimburse Consultant for direct out-of-pocket costs only.
    D. The parties may discuss additional conditions under which payment may be made or work continued and may reach an additional agreement related thereto at the time of termination.

10) Consultant shall defend and indemnify City, its agents, officers, representatives and employees against any and all liability, including costs, for any actual or

alleged violation of the Fair Debt Collection Practices Act, the California Rosenthal Fair Debt Collection Practices Act, or any similar state or federal consumer protection or unfair business practices statutes, arising out of the Consultant's collection, recovery, or subrogation activities on behalf of the City pursuant to this Agreement.

II. CLIENT EXPRESSED AUTHORITY AND LIMITATIONS

It is agreed by the parties that the City has provided Consultant with the following authority and/or limitations, on the ability of Consultant to act on behalf of the City.

Protocols for Rejections

GH requires City authorization to reject claims. Once authorization is granted, GH may send the rejection on behalf of the City.

Settlement of Claims and Payment of Expenses

It is agreed that City has granted no authority to Consultant for the purpose of compromising, settling, and paying any claims against City being handled by Consultant as set forth in this Exhibit A. The Consultant shall obtain written prior approval from the City's Project Administrator before compromising or settling any claim.

Legal Invoices and Expenses

Unless otherwise requested by the City, the Consultant is authorized to pay legal expenses—including, but not limited to, attorney's fees—without seeking prior consent from the City. The Consultant shall include an itemized summary of all legal expenses paid on a quarterly basis or more frequently upon the City's request. This summary must include the payee (e.g. law firm), the amount disbursed, and the specific matter to which the expense relates.

EXHIBIT B
MEDICARE, MEDICAID, AND SCHIP EXTENSION ACT OF 2007 (MMSEA)

This law requires liability insurers, self-insurers, no fault insurers and workers' compensation insurers to report certain information to The Centers for Medicare and Medicaid Services (CMS) concerning Medicare beneficiaries. The penalty for failure to comply is one thousand dollars ($1,000) per day, per claimant.

George Hills Company, Inc. (GH) has contracted with ExamWorks for Mandatory Insurer Reporting (MIR) for the CLIENT. ExamWorks shall represent the CLIENT and Responsible Reporting Entity (RRE) to this existing Agreement and this addendum and will be the designated reporting agent. GH will be responsible for gathering and reporting accurate claims data required by MMSEA to ExamWorks in a timely manner. GH agrees to assume the responsibility for reporting data to ExamWorks to meet all reporting requirements in accordance with MMSEA, on behalf of the RRE; including assuming responsibility for any fines or penalties that are directly caused by GH's non-compliance. GH further agrees to indemnify and hold-harmless, RRE, and staff, for any penalties or fines resulting from GH's direct failure to timely and accurately provide the reporting data to ExamWorks. The above-mentioned obligations to indemnify and hold-harmless shall not be applicable to matters relating to delays caused by RRE or other third parties, or inaccurate data supplied to GH by RRE or other third parties.

By contract with GH, ExamWorks will indemnify and hold GH harmless from and against any claim, damage, fine, loss and expense, arising in connection with, or as a result of, any error, omission, or negligent performance of its obligations as reporting agent, which indemnity will include all reasonable costs of litigation and attorneys' fees incurred. Without in any way limiting the indemnity set forth in this Agreement, all work performed by ExamWorks will be done in a professional manner.

GH shall perform the necessary data gathering for RRE and ExamWorks; as such GH shall include in our monthly invoicing the time incurred for such work at GH's contract hourly rate or will be included in your monthly flat fee or claims adjusting.

ExamWorks will perform the MMSEA Mandatory Insurer Reporting function for GH, and its RREs, shall be charged as an Allocated Expense, as defined in Attachment C, subject to the following. RRE will designate ExamWorks, unless otherwise requested, as its exclusive vendor for all of RRE's "Qualified Referrals" (those claims determined to require Medicare Set Aside (MSA) or a Claim Settlement Allocation (CSA) and RRE will utilize other ExamWorks services related to Medicare Secondary Payer (MSP) compliance identified in their fee schedule.

EXHIBIT C
CALIFORNIA INSURANCE POOL AUTHORITY ("CIPA")

MINIMUM PERFORMANCE STANDARDS
FOR LIABILITY CLAIMS ADMINISTRATION POLICY

Member Agencies shall either incorporate these minimum performance standards into signed agreements with their claims administrator or obtain a signed acknowledgement from their claims administrator that they will comply with the Minimum Performance Standards established by California Insurance Pool Authority (CIPA). Copies of the agreements or signed acknowledgments shall be provided to CIPA. Claims will be audited for conformance with this Policy.

This Policy is divided into the following sections:

1) Caseloads
2) Communication
3) Investigations
4) File Review & Documentation
5) Reporting
6) Litigation Management
7) Claim Resolution & Settlement Authority
8) Payments & Reserves
9) Excess Insurance Reporting
10) Supervisory Review
11) Subrogation
12) Medicare Reporting

CASELOADS

A. Caseloads for claims examiners shall not exceed one hundred seventy five (175) claims, unless approved in writing by the Member Agency and/or CIPA.
B. Supervisory personnel shall not handle a caseload. Exceptions may be made for a small number of claims involving special issues.
C. Administrator shall provide CIPA and Member Agency with an accounting of caseloads each June 30 and December 31. The accounting for each examiner shall include (1) the name or pseudo name of all assigned clients;

and (2) the number of claims for each client. Each examiner shall sign acknowledgement of their claims count and provide to CIPA and Member Agency.

COMMUNICATION

A. If claimant is not represented by an attorney, contact claimant within twenty-four (24) hours of receipt of a claim and maintain appropriate contact with them until the claim is closed, unless otherwise directed by the Member Agency. If claimant not contacted, the reason shall be documented in file.
B. Telephone calls will be returned within twenty-four (24) hours. If the staff member called is not available within this timeframe, another designated staff member will return the call.
C. All written communications received shall be stamped with date of receipt.
D. Respond to emails within forty-eight (48) hours, unless an immediate response is required. If staff member does not have the information being requested at the time they respond, the response should include a date by which they will provide the requested information.
E. The claims administrator shall respond to all other written communications within five (5) business days of receipt or sooner if an immediate response is required.

INVESTIGATIONS

A. When required on non-litigated claims, statements from or interviews with claimant(s) and witnesses shall be taken within three (3) business days of receipt of a claim. Statements will be preserved by recording or taking hand-written signed statements and interviews shall be documented.
B. Examiner shall take steps to ensure proper preservation of evidence.
C. Further investigate claims where the initial review indicates that it is warranted. Further investigation may include, but not be limited to, on-site investigation, taking photographs, interviewing witnesses, taking signed or recorded statements, verifying damage or loss, taking measurements, or obtaining maps/diagrams, medical releases, police reports, vendor contracts, third-party contracts, insurance documents, internal operations investigations, paramedic reports, marine department reports, building permits, or other records as required. Initial investigations shall be completed within forty-five (45) calendar days of receipt. The efforts to complete the initial investigation and any further investigations shall be documented in the file, including any reason for delay.
D. Within forty-five (45) calendar days, identify and document in the file all liability issues, including but not limited to immunities, comparative negligence, joint tortfeasors, and joint and several liability

E. Within forty-five (45) calendar days, identify and document in the file all damages, including property damage, nature and extent of injuries, medical

costs, lost wages, and non-economic damages. The efforts to complete shall be documented in the file, including any reason for delay.

F. Evaluate need to utilize experts and obtain approval from Member Agency, and CIPA if indicated.
G. Within fifteen (15) calendar days of receipt of claim, report bodily injury cases to the Index Bureau and re-index as needed. If not reported, the reason shall be documented in file.
H. Within three (3) business days of receipt of a claim, arrange for appraisal of damaged property when indicated. If appraisal not obtained, the reason shall be documented in file.
I. Investigative assignments to outside vendors will only be made with approval from Member Agency, and CIPA if indicated
J. All notices, including claim insufficiency, late claims, rejections, etc., shall be done in accordance with the relevant Governmental Code provisions.

FILE REVIEW & DOCUMENTATION

A. Claims will be initially reviewed and entered in the computer system within twenty-four (24) hours of receipt.
B. Calendar all files at appropriate intervals and no less frequently than every sixty (60) calendar days to allow for timely completion of required activity. Rejected claims shall be diaried every ninety (90) days or as directed by Member Agency.
C. All activity, including phone calls, correspondence and the rationale for decisions shall be clearly and concisely documented in the files.
D. All correspondence shall be contained in the file.
E. Notes and activities entered in the computer system must be dated and identify who completed the entry.
F. File notes shall not be copied from prior entries without reviewing for relevance and accuracy.
G. An active case strategy shall be documented in the file until closure.
H. Maintain accurate and complete records of all payments.
I. Provide Member Agency and CIPA with copies of file correspondence and documentation as requested.
J. All files shall be reviewed for closure and closed within seven (7) calendar days from date all issues have been resolved.

REPORTING

A. Provide first status report within thirty (30) calendar days of receipt of claim to Member Agency. Send report to CIPA General Manager when claim meets designated criteria.
B. Subsequent status reports shall be provided no less than every ninety (90) calendar days. Status reports shall focus on changes in liability analysis, damages, and reserves.
C. Provide Member Agency and CIPA, if applicable, with a status report outlining the facts of the case, results of investigations, primary issues,

requested action and any related documentation within fourteen (14) calendar days of receipt of lawsuit.

D. Provide clear and concise narrative reports when recommending rejection or settlement of a claim, when claim is going to trial, or when other significant events occur.
E. CIPA shall be provided with closing documents and an accounting of the final paid amounts within fifteen (15) calendar days from the day the final defense bill is paid on claims involving CIPA funds.

LITIGATION MANAGEMENT

A. Forward Litigation Acknowledgement Form to defense attorneys when case assigned (do not wait until lawsuit filed). The claims administrator shall follow-up no less than every five (5) business days for receipt of Litigation Acknowledgement Form, as expenses incurred prior to receipt do not count toward a Member Agency's self-insured retention (SIR).
B. If the billed amount of attorney's fees and costs exceed seventy five (75) percent of the total budget, then the claims administrator shall request an updated budget.
C. Defense attorneys shall copy CIPA on all correspondence related to reportable claims. The claims administrator shall immediately notify the defense attorney if CIPA is not copied on any correspondence.
D. Assist trial attorney in preparation of litigation and negotiation of settlements at request of Member Agency and/or CIPA and provide trial attorney with all necessary documentation.
E. Assist trial attorney in answering interrogatories.
F. Attend mediations, mandatory and voluntary settlement conferences, and arbitrations as requested.
G. Assist Member Agency's designated representative in small claims actions.
H. Monitor performance of vendors for appropriateness of work and cost effectiveness. Any deficiencies should be reported to Member Agency and, if applicable, to CIPA.
I. The claims administrator is responsible for monitoring compliance with the Liability Program Defense Counsel Policy. The Member Agency and CIPA, if applicable, shall be copied on follow-up requests to defense attorneys when out of compliance. All claims administrators are responsible for being fully knowledgeable of requirements in the Liability Program Defense Counsel Policy.

CLAIM RESOLUTION AND SETTLEMENT AUTHORITY

A. Process any claim or potential claim for settlement in accordance with instructions and policies of Member Agency and in accordance with the California Government Code.
B. Obtain a fully executed release on all settlements and dismissals.
C. All settlement offers requiring any payment or potential payment from CIPA must be approved in writing in advance by CIPA. Neither the examiner nor

legal counsel shall make any recommendations or commitments to injured employees or their legal counsel for settlements that involve or potentially involve CIPA funds without CIPA's prior approval.

D. Proof of settlement authorization from the Member Agency and CIPA, if applicable, shall be maintained in the file.

PAYMENTS & RESERVES

A. Review and process payments within authority level within twenty (20) calendar days of receipt.
B. Each claim shall be reserved at the most probable outcome and evaluated based on the merits of the claim. This includes but is not limited to damages, past and future medical expenses, loss of income, pain and suffering, plaintiff's attorney fees, defense costs, comparative negligence, facts of loss, defense counsel evaluations, and jury verdicts. The file shall document the rational for the reserves.
C. At all times, reserves shall reflect the current information in the file and reserves shall be reviewed for adequacy at each diary review and no less frequently than every ninety (90) calendar days and the file shall document this required review of reserves.
D. Review proposed reserve changes with CIPA General Manager prior to making changes on any claims with potential exposure to CIPA.

EXCESS INSURANCE REPORTING

A. Claims administrator shall report to the reinsurance/excess insurance carrier(s), including CIPA, in accordance with reporting requirements established by CIPA and each insurance carrier above CIPA.
B. Quarterly reporting shall be in a format prescribed by CIPA, as may be modified from time to time.
C. As defined by CIPA's Memorandum of Coverage, all claims with reserves or potential payments, including defense costs that are 50% or more of a Member Agency's SIR, or involving any of the following, shall be considered "excess claims" and reported in writing to the General Manager of CIPA within two (2) business days after receipt by claims administrator.

    1) Paralysis – Paraplegia, Quadriplegia
    2) Loss of eye(s) or limb(s)
    3) Spinal cord or brain injury
    4) Sensory organ or nerve injury, or neurological deficit
    5) Serious burns
    6) Substantial disability or disfigurement
    7) Death
    8) Amputation or loss of use of a major extremity
    9) Rape, sexual abuse offense/molestation of any individual
    10) Any disability where it appears reasonably likely that there will be disability that lasts for more than one year

11)Class Action
12)Employment Practices Liability claims regardless of claim reserves

SUPERVISORY REVIEW

Supervisors shall review claims no less frequently than every one hundred twenty (120) calendar days. The supervisor shall document the scope of the review and include any recommendations.

SUBROGATION

A. Subrogation possibilities will be identified within five (5) business days after a claim is opened, or within five (5) business days after information is available that subrogation may exist. The claim file shall document subrogation possibilities and all action related to pursuing.
B. The party responsible for the injury shall be notified of the Member Agency's or CIPA's right to subrogation within fourteen (14) calendar days after the identity of the responsible party is known by claims administrator.
C. Contact with the responsible party and/or insurer to provide notification of the amount of estimated recovery shall be made at least every sixty (60) calendar days or sooner if costs escalate.
D. Member Agency's approval is required to waive pursuit of subrogation or agree to a settlement of a third-party recovery. This approval shall be documented in the claim file.
E. CIPA's approval is required to waive pursuit of subrogation or agree to a third-party settlement if there is potential for the claim to exceed the Member Agency's SIR.

MEDICARE REPORTING

A. The claims administrator shall report all claims in compliance with Medicare, Medicaid, and SCHIP Extension Act (MMSEA) Section 111 Mandatory reporting.
B. Medicare eligibility shall be documented in the file no later than at the time the file is evaluated for settlement.

Amended and Approved by the Board of Directors on June 29, 2020.

Repeals April 10, 2018 Minimum Claims Performance Standards for Third Party Liability Claims Administration Policy.

EXHIBIT D
SCHEDULE OF BILLING RATES

COMPENSATION, FEES AND EXPENSES

The following compensation, fees and expenses, shall be paid in consideration for the services provided by Consultant:

George Hills Pricing	Annual Claim Admin Fee	One Time Startup Fee	MMSEA Fee	Annual Non Claim Admin Fee	Total Cost
2026-2027	$ 135,000.00	$ 10,000.00	$ 800.00	$ 6,500.00	$ 152,300.00
2027-2028	$ 139,050.00	$ -	$ 500.00	$ 6,695.00	$ 146,245.00
2028-2029	$ 143,220.00	$ -	$ 500.00	$ 6,895.00	$ 150,615.00
2029-2030	$ 147,520.00	$ -	$ 500.00	$ 7,100.00	$ 155,120.00
2030-2031	$ 151,945.00	$ -	$ 500.00	$ 7,300.00	$ 159,745.00
				Total Value	$ 764,025.00

The compensation to be paid pursuant to this Agreement are comprised of three distinct categories:

A: "Administrative Services"

B: "Fees for Claim Adjusting Services"

C: "Allocated Costs/Expenses"

The Fees and Costs/Expenses pursuant to subsections "A", "B", and "C" will be billed together monthly in a standard invoice format utilized by Consultant. Additionally, if the City elects any optional services identified subsections "F" or "G" below, all additional amounts will be itemized and billed together monthly where applicable.

A. Administration Services

1) One Time (first year only) On-Boarding Fee: Ten thousand dollars ($10,000)

   Consultant will charge a one-time startup fee which includes, but is not limited to, the planning and coordination of the onboarding process and documentation, detailing specific claims handling instructions, communication protocols, personalize design of claims management information system ("CMIS"), coordinating trust accounts and banking setups, W-9, etc., and claims triage and assignments. This fee is billed in the first month of service.
2) Annual Administration Fee: Six thousand five hundred dollars ($6,500) which is billed annually at the beginning of the Agreement term and thereafter upon the anniversary of the Agreement.

3) MMSEA: There is a one-time setup fee of eight hundred dollars ($800) and a five hundred dollar ($500) annual reporting fee, charged to support Consultant's contract with Consultant's service provider for reporting to CMS. This fee is billed annually at the beginning of the Agreement term.
4) System Access Fee: Access to the claims management information system, "CMIS", which includes the setup and management of up to five (5) "read only" user accounts. "Read/write" access to the system can be obtained for an additional fee.
5) iMetrics Report Fee: There will be no charge for our iMetrics business intelligence reports with executive in-person debriefs.
6) George Hills Client Portal: Consultant operates a client interface which is intended to provide the City with information regarding claims related and loss information. City will be provided with access for five (5) users at no additional cost.
7) Custom Reports: Additional charges for custom reporting shall be defined as, specialized reporting requiring a third-party programmer for three hours or more and is client specific. Custom Report do not apply to standard searches, data exports, loss runs, or reports generated for Public Records Act requests, which are provided by Consultant at no cost.
8) Conversion Fee: Consultant shall perform all services associated with electronic data conversion, transition, reconciliation of financials, all reports created and vetted, and City sign-off on CMIS set up ("Conversion") at no cost to the City. The Conversion Fee, valued at twenty thousand dollars ($20,000), is waived in full for the five-year term of this Agreement. The City shall not be responsible for any costs or fees associated with data conversion, system setup, or reporting vetting during the term of this Agreement.

   The Conversion Fee does not include shipping, storing, scanning, copying, or otherwise handling open or closed paper claims files. Please see "Paper Files" Section 12 below.

9) Catastrophic Fees: Consultant recognizes that there are events that are unanticipated and/or catastrophic. When such events occur, it requires additional hours for the handling of such claims which could not be estimated or included in the Annual Fixed Fee calculation contained herein. As such, to preserve the quality and efficiency of service, when such an event is deemed to be catastrophic by any entity providing excess coverage, the California Department of Insurance, the Insurance Services Office, or any local, state, or federal government declares a State of Emergency in relation to the subject matter upon which the claim is based, and upon agreement of the City and Consultant, should any one event occur resulting in five or more claimants alleging loss out of the same designated event, or two or more claimants with their own attorneys, Consultant will bill the City on a time and expenses basis at the current hourly rate for all services. Consultant shall provide a written budget estimate for the City's prior approval. These claims will be identified for separate billing procedures and will not be counted in the claims frequency which serves as the underlying basis for the Fixed Fee calculation applicable for the next year in the Agreement period.

10) Fixed Fee Annual Recalculation: Consultant reviews and analyzes the claims frequency semi-annually. Within thirty (30) days of the end of each six (6) month period from July 1, 2026, the date the work under the Agreement is initiated, Consultant will provide notice to the City of the actual number of claims received for the preceding 6 months. If the claims frequency during a twelve (12) month period exceeds, or drops below, the base number of one hundred seventy five (175), by greater than thirty percent (30%), but in no event more than fifty percent (50%), Consultant will provide a new Annual Fixed Fee calculation based on the change in frequency. The new Annual Fixed Fee will begin on July 1st of the next year in the Agreement term. If the frequency changes in an amount of thirty percent (30%) or less, there will be no change in the Annual Fixed Fee calculation. The claim frequency changes by greater than fifty percent (50%), the parties will discuss contract modification. In determining the actual number of claims received by the City, any catastrophic claims as described above shall be excluded and shall not count toward the base number for purpose of the frequency calculations.

11) General File: A general administrative file shall be established and maintained to track effort related to services necessary to fulfill our contractual obligations and not otherwise associated with a claim.

12) Paper Files: Consultant is prepared to take the lead to arrange for all services relating to conversion storage, copying, scanning, shipping, and disposal. Consultant will provide City a quote for any services related to storage, retrieval, copying, scanning, shipping, and disposal of paper files.

B. Fees for Claim Adjusting Services

1) Annual Fixed Fee of $135,000. In exchange for the services provided under the Agreement by Consultant, City shall pay to Consultant the following Annual Fixed Fee(s).

Fixed Annual Fee*	
Year One (4/1/26 – 3/31/2027)	$135,000
Year Two (4/1/2027 – 3/31/2028)	$139,050
Year Three (4/1/2028 – 3/31/2029	$143,220
Year Four (4/1/2029 – 3/31/2030	$147,520
Year Five (4/1/2030 – 3/31/2031	$151,945

2) Time and Expense: In the event of catastrophic loss as referenced herein, the Consultant Claims team will charge time for each task performed on a claim. The time billed will be charged to each specific claim using a minimum of one tenth (1/10) of an hour increments for each task. Time billed will be rounded to the nearest one tenth (1/10) of an hour. Each billing entry will be accompanied

with further descriptions of the task performed and shall be stated on each monthly invoice. The current hourly rates are:

Litigation Manager:	$225/hour*
Claims Supervisor:	$135/hour*
Sr. Claims Adjuster:	$118/hour*
Claims Adjuster:	$105/hour*
Claims Processing:	$92/hour*

C. Allocated Costs/Expenses

With City's prior written consent, Consultant will charge to the City both allocated and non-allocated costs and expenses incurred pursuant to the Agreement as stated herein and defined further in Exhibit E, "Allocated Expenses."

1) Mileage Reimbursement: Mileage traveled will be paid at the IRS rate in effect at the time the mileage is traveled. This section applies to mileage which can be allocated to a specific claim and also mileage which is not allocated to any claim, such as attendance at claim review, board and/or committee meetings requested or required by the City.
2) Adjuster Travel Expenses: Consultant will separately charge for any travel expenses in connection with attendance at mediations, settlement conferences, trials, etc. This will be subject to City prior written approval and actual expenses will be submitted with receipts on a monthly basis. This section applies to travel expenses which can be allocated to a specific claim and also travel expenses which are not allocated to any claim, such as attendance at claim review, board and/or committee meetings.

E. Electronic Funds Transfer or Direct Deposit

Consultant has determined that the most efficient and secure default form of payment for goods and/or services provided under the Agreement with City shall be Electronic Funds Transfer (EFT) or direct deposit, unless an alternative method of payment is deemed appropriate by both Consultant and City and agreed to in writing.

Consultant will submit a direct deposit authorization request via to City with banking and vendor information, and any other information that the City determines is reasonably necessary to process the payment and comply with all accounting, record keeping, and tax reporting requirements.

At any time during the duration of the Agreement, Consultant may submit a written request for an exemption to this requirement. Such request must be based on specific

legal, business or operational needs and Consultant will explain why the payment method designated by the City is not feasible and an alternative is necessary.

F. **First Party Subrogation Services and Fees**

Consultant is a claim administration firm experienced in the handling of first party subrogation claims and is ready and capable of performing such services on behalf of City upon assignment. The fee for these services is twenty five percent (25%) of the gross recovery.

G. Optional Services

Consultant employs "in-house" attorneys which have vast experience in claims and litigation handling, problem resolution, issue identification and investigation, and advice and consultation, for all types of claims and issues which may arise for a public entity. Should the special circumstance arise whereby City requests additional services by a Consultant attorney, including those identified in the list below, the services will be provided on a time and expenses basis and at the rate of two hundred twenty five dollars ($225) per hour, billed using one tenth (1/10) of an hour increments for each task performed on a claim or issue. The fees charged for these services will be in addition to any other compensation defined in this

Litigation Management

Monitoring Counsel

Outside General and Special Counsel

Trial/Mediation/Board Meeting Attendance

Legal Training and Seminars

Consultant can also provide Professional and Financial Services related to risk management and loss prevention in alignment with the scope of services for the same rate referenced above.

Upon written request from the Project Administrator as defined herein, Consultant shall provide a letter proposal for Optional Services requested by the City (hereinafter referred to as the "Letter Proposal"). The Letter Proposal shall include the following:

1. A detailed description of the Services to be provided.
2. The position of each person to be assigned to perform the Services, and the name of the individuals to be assigned, if available.
3. The estimated number of hours and cost to complete the Services.
4. The time needed to finish the specific project.

No Services shall be provided until the Project Administrator has provided written acceptance of the Letter Proposal. Once authorized to proceed, Consultant shall diligently perform the duties in the approved Letter Proposal.

EXHIBIT E
ALLOCATED EXPENSES

Typically, allocated expenses are those expenses that are generated by a claim (by outside vendors other than George Hills) that cannot be foreseen nor included in this Agreement. These expenses are generally allocated back to the specific claim file for which the cost was incurred and then charged back to the entity whose claim incurred that cost. In most situations these are pass-through costs (with processing fees) for services and/or fees not directly generated by the TPA, but rather by a third-party consultant where the TPA has acted as an agent on behalf of the entity to necessarily outsource services to a third-party consultant and/or miscellaneous fees applicable to the specific claim applied by an outside entity, such as a court or copy services. Below, George Hills has provided a list, which is not an exhaustive list, of typical allocated expenses.

Paid to GH

- CMS reporting costs and fees (ExamWorks)

Paid to Others as Authorized by Client

- Fees of outside counsel for claims in suit, coverage opinions, and litigation, and for representation and hearings or pretrial conferences;
- Fees of court reporters;
- All court costs, court fees, and court expenses;
- Fees for service of process;
- Costs of undercover operatives and detectives (if initially paid by GH);
- Costs for employing experts for the preparation of maps, professional photographs, accounting, chemical or physical analysis, or diagrams;
- Costs for employing experts for the advice, opinions, or testimony concerning claims under investigation or in litigation for which a declaratory judgment is sought;
- Costs for independent medical examination or evaluation for rehabilitation;
- Costs of legal transcripts of testimony taken at coroner's inquests, or criminal or civil proceeding;
- Costs for copies of any public records or medical records;
- Costs of depositions and court reporting;
- Costs and expenses of subrogation, (if not George Hills);
- Costs of engineers, handwriting experts, or any other type of expert used in the preparation of litigation or used in a one-time basis to resolve disputes;
- Witness fees and travel expenses;

- Costs of photographers and photocopy services (if not George Hills—our costs for this is included in our rate);
- Costs of appraisal fees and expenses not included in flat fee or performed by others;
- Costs of indexing claimants;
- Services performed outside Southern California;
- Costs associated with Medicare Set-Aside analysis and submission or Medicare Conditional Lien negotiation;
- Investigation of possible fraud including SIU services and related expenses; and/or
- Any other similar cost, fee, or expense that is not otherwise included in the TPA's service fees that is reasonably chargeable to the investigation, negotiation, settlement, or defense of a claim or loss or to the protection or perfection of the subrogation rights of the entity, including travel related expenses.

Travel Related

Costs of travel related to claims including mileage driven, such as for attendance at inspections, mediations, and trial, shall be allocated to the specific claim and reimbursed to GH based on the actual cost incurred. Mileage shall be reimbursed at the current IRS rated at the time the mileage is traveled.

EXHIBIT F
INSURANCE REQUIREMENTS – PROFESSIONAL SERVICES

1. Provision of Insurance. Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City. Consultant agrees to provide insurance in accordance with requirements set forth here. If Consultant uses existing coverage to comply and that coverage does not meet these requirements, Consultant agrees to amend, supplement or endorse the existing coverage.

2. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

3. Coverage Requirements.

   A. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation Insurance, statutory limits, and Employer's Liability Insurance with limits of at least one million dollars ($1,000,000) each accident for bodily injury by accident and each employee for bodily injury by disease in accordance with the laws of the State of California, Section 3700 of the Labor Code.

   Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its City Council, boards and commissions, officers, agents, volunteers and employees.

   B. General Liability Insurance. Consultant shall maintain commercial general liability insurance, and if necessary umbrella liability insurance, with coverage at least as broad as provided by Insurance Services Office form CG 00 01, in an amount not less than two million dollars ($2,000,000) per occurrence, four million dollars ($4,000,000) general aggregate. The policy shall cover liability arising from premises, operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

   C. Automobile Liability Insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented

vehicles, in an amount not less than one million dollars ($1,000,000) combined single limit each accident.

D. Professional Liability (Errors & Omissions) Insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of two million dollars ($2,000,000) per claim and four million dollars ($4,000,000) in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the Effective Date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the Services required by this Agreement.

E. Cyber Liability Insurance. Consultant shall maintain cyber liability insurance in an amount not less than two million dollars ($2,000,000) per occurrence and four million dollars ($4,000,000) annual aggregate covering (1) all acts, errors, omissions, negligence, infringement of intellectual property; (2) network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or negligence in the handling of confidential information, privacy perils, including coverage for related regulatory defense and penalties; (3) data breach expenses payable whether incurred by City or Consultant, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for City or on behalf of City hereunder. If a sub-limit applies to any elements of coverage, the certificate of insurance evidencing the coverage above must specify the coverage section and the amount of the sub-limit.

4. Other Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:

A. Waiver of Subrogation. Insurance coverage for Commercial General Liability, Automobile, and Workers' Compensation maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its City Council, boards and commissions, officers, agents, volunteers and employees or shall specifically allow Consultant or others providing insurance evidence in compliance with these requirements to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers from each of its subconsultants.

B. Additional Insured Status. All liability policies including general liability, excess liability, pollution liability, and automobile liability, if required, but not including professional liability, shall provide or be endorsed to provide that

City, its City Council, boards and commissions, officers, agents, volunteers and employees shall be included as insureds under such policies.

C. Primary and Non Contributory. All liability coverage shall apply on a primary basis and shall not require contribution from any insurance or self-insurance maintained by City.

D. Notice of Cancellation. All policies shall provide City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

5. Additional Agreements Between the Parties. The parties hereby agree to the following:

A. Evidence of Insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation and other endorsements as specified herein for each coverage. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

B. City's Right to Revise Requirements. City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving Consultant sixty (60) calendar days' advance written notice of such change. If such change results in substantial additional cost to Consultant, City and Consultant may renegotiate Consultant's compensation.

C. Right to Review Subcontracts. Consultant agrees that upon request, all agreements with subcontractors or others with whom Consultant enters into contracts with on behalf of City will be submitted to City for review. Failure of City to request copies of such agreements will not impose any liability on City, or its employees. Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated

herein, and Consultant shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as CG 20 38 04 13.

D. Enforcement of Agreement Provisions. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any requirement imposes no additional obligations on City nor does it waive any rights hereunder.

E. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City unless expressly prohibited by the insurance policy.

F. Self-insured Retentions. Any self-insured retentions must be declared to the City. Self-insurance will not be considered to comply with these requirements unless approved by City.

G. City Remedies for Non-Compliance. If Consultant or any subconsultant fails to provide and maintain insurance as required herein, then City shall have the right but not the obligation, to purchase such insurance, to terminate this Agreement, or to suspend Consultant's right to proceed until proper evidence of insurance is provided. Any amounts paid by City shall, at City's sole option, be deducted from amounts payable to Consultant or reimbursed by Consultant upon demand.

H. Timely Notice of Claims. Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

I. Consultant's Insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 8

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	David A. Webb, Public Works Director - 949-644-3311, dawebb@newportbeachca.gov
PREPARED BY:	Michael J. Sinacori, Assistant City Engineer - 949-644-3342, msinacori@newportbeachca.gov
TITLE:	MacArthur Boulevard Pavement Rehabilitation and Median Improvements – Award of Contract No. 9431-2 (24R13)

ABSTRACT:

The City of Newport Beach (City) received construction bids for the MacArthur Boulevard Pavement Rehabilitation and Median Improvements project and requests City Council approval to award the construction contract to All American Asphalt of Corona. This project will construct new landscaped medians, replace traffic signals at two intersections, replace deteriorated concrete, construct a new City entrance sign, and rehabilitate the asphalt concrete pavement.

RECOMMENDATIONS:

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(c), Class 1 (maintenance of existing public facilities involving negligible or no expansion of use) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment;

b) Approve the project plans and specifications;

c) Approve Budget Amendment No. 26-080 appropriating $11,700 in new revenue and expenditures from Orange County Sanitation District (OCSan) to Account Nos. 13501-431075-24R13 and 13501-980000-24R13, appropriating $57,800 in new revenue and expenditures from Irvine Ranch Water District (IRWD) to Account Nos. 13501-431220-24R13 and 13501-980000-24R13, appropriating $29,437 in new revenue and expenditures from the City of Irvine to Account Nos. 13501-431135-24R13 and 13501-980000-24R13, appropriating $321,860 in new revenue and expenditures from Cal Recycle Grant Funding to Account Nos. 13501-431490-26R02 and 13501-980000-26R02, appropriating $550,503 in increased expenditures in Account No. 12101-980000-24R13 from Gas Tax unappropriated fund balance, and appropriating $221,887 in increased expenditures in Account No. 01201927-980000-24R13 from General Fund unappropriated fund balance;

d) Award Contract No. 9431-2 to All American Asphalt for the total bid price of $7,099,118 for the MacArthur Boulevard Pavement Rehabilitation and Median Improvements project, and authorize the Mayor and City Clerk to execute the contract; and

e) Establish a contingency of $710,000 (approximately 10% of the total bid) to cover the cost of unforeseen work not included in the original contract.

DISCUSSION:

The proposed project is located on MacArthur Boulevard from Jamboree Road to Campus Drive. This project will construct new landscaped medians; replace two traffic signals to reconfigure the intersections and remove the free-right turns at Von Karman Avenue and Birch Street; replace deteriorated concrete curb, gutter and sidewalks; construct a new City entrance sign just south of Campus Drive; and rehabilitate the asphalt concrete pavement.

During the design of the project, City staff coordinated with the City of Irvine, Irvine Ranch Water District (IRWD) and the Orange County Sanitation District (OC San) to coordinate any work with their facilities. The City executed reimbursement agreements with these agencies for work to lower and raise water valves and manholes. The City of Irvine will reimburse the City for its portion of the intersection paving of Campus Drive and MacArthur Boulevard.

In addition, City staff met with representatives from The Irvine Company (TIC) to coordinate with its future developments and adjusted the landscaping plans based on TIC's feedback. City staff incorporated changes to the shrub and groundcover planting palette and increased the palm tree height to enhance the view corridor.

At 10 a.m. on May 5, 2026, the City Clerk opened and read the following bids for this project:

	BIDDER	TOTAL BID AMOUNT
Low	All American Asphalt	$ 7,099,118
2nd	Sequel Contractors, Inc.	$ 7,413,283
3rd	R.J. Noble Company	$ 7,479,507
4th	Calmex Engineering, Inc.	$ 7,545,179
5th	Vido Samarzich, Inc.	$ 7,578,000
6th	Hardy & Harper, Inc.	$ 7,817,500
7th	Excel Paving	$ 8,448,382
8th	Gentry General Engineering, Inc.	$ 8,522,053

The City received eight bids. The low bidder, All American Asphalt, possesses a California State Contractor's License Classification "A" and the subcontractors have a C-10 Electrical Contractor License and C-27 Landscape Contractor License, as required by the project specifications. A review of references for All American Asphalt shows satisfactory completion of similar contracts for the City and other municipalities.

All American Asphalt's bid was 5.3% below the engineer's estimate of $7,500,000. The difference between the low bid was primarily from the price of the concrete median curb and traffic striping, which were significantly lower than the engineer's estimate. Pursuant to the contract specifications, the contractor will have 180 consecutive working days to complete the work. Work is scheduled to start in July 2026.

This project is part of the state's CalRecycle Rubberized Grant Program. The program promotes the use of rubberized asphalt concrete made from recycled waste tires generated in California. The program aims to decrease the adverse environmental impacts created by the disposal and stockpiling of waste tires. Through CalRecycle, the City will be reimbursed up to $11 per ton of rubberized asphalt concrete used on the project. The budget amendment is appropriating all $321,860 in grant funds into the City Capital Improvement Program budget, although this project is anticipated to use $84,700 of that total. The remaining appropriated funds will be budgeted into future street rehabilitation projects.

The project plans and specifications are available for review at the following link: Awarding Contracts. This link will expire 10 days after the City Council meeting date.

FISCAL IMPACT:

Upon approval of the proposed budget amendment, sufficient funding is available from the adopted Capital Improvement Program budget for the award of this contract.

Account Description	Account Number		Amount
General Fund	01201927-980000-24R13	$	1,231,777
General Fund	01201927-980000-25T01	$	200,000
Measure M Fund	12201-980000-24R13	$	3,000,000
Gas Tax	12101-980000-24R13	$	849,876
SB-1 Fund	12601-980000-24R13	$	2,380,000
Water Capital Fund	70201-980000-26R09	$	12,000
Wastewater Enterprise Fund	71101-980000-26R09	$	12,710
OC San Reimbursement	13501-980000-24R13	$	11,700
IRWD Reimbursement	13501-980000-24R13	$	57,800
City of Irvine Reimbursement	13501-980000-24R13	$	29,437
Cal Recycle Grant	13501-980000-26R02	$	84,700
	Total:	**$**	**7,870,000**

Proposed fund uses are as follows:

Vendor	Purpose		Amount
All American Asphalt	Construction Contract	$	7,099,118
All American Asphalt	Construction Contingency	$	710,000
Geocon West, Inc.	Materials Testing	$	59,618
Various	Printing & Incidentals	$	1,264
	Total:	**$**	**7,870,000**

Funding for this project comes from the following sources:

- Gas Tax revenue is received through State-imposed taxes on fuel and motor vehicle registration dedicated to transportation purposes.
- The Orange County Transportation Authority provides Measure M funding, generated through a ½ cent sales tax, to the City for transportation improvement projects.
- SB1 Road Maintenance & Rehabilitation Account revenues are State fuel and vehicle registration taxes imposed by the Road Repair and Accountability Act of 2017.
- OC San will reimburse the City for improvements to its facilities.
- IRWD will reimburse the City for improvements to its facilities.
- Water and Wastewater Funds generate revenue primarily through water and sewer rates collected from service users.

Staff recommends establishing $710,000 (approximately 10% of the total bid) for contingency purposes and unforeseen conditions associated with construction.

ENVIRONMENTAL REVIEW:

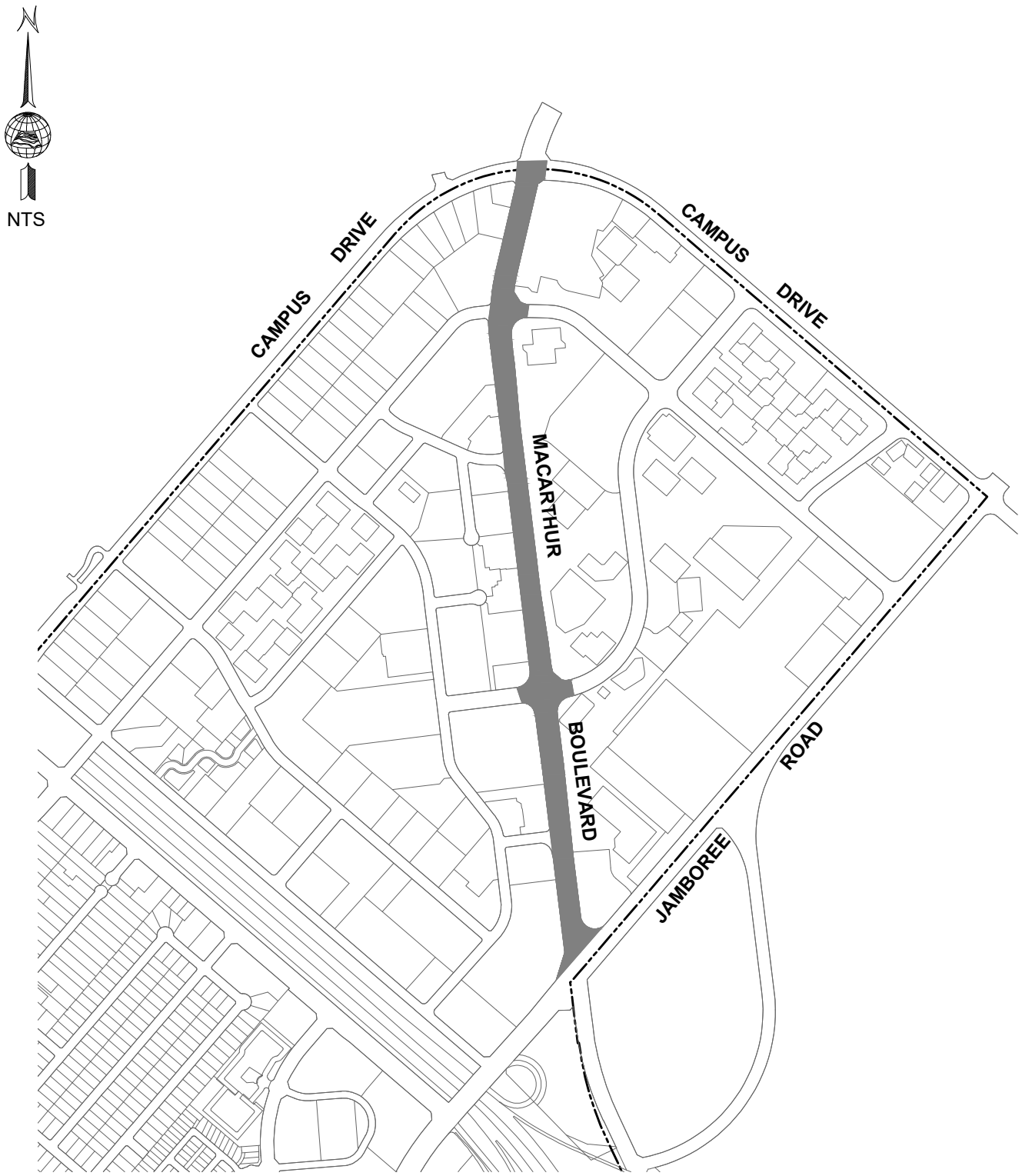
Staff recommends the City Council find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(c), Class 1 (maintenance of existing public facilities involving negligible or no expansion of use) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this project has no potential to have a significant effect on the environment.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Location Map
Attachment B – Budget Amendment



MACARTHUR BOULVEVARD PAVEMENT REHABILITATION AND MEDIAN IMPROVEMENTS

LOCATION MAP

CITY OF NEWPORT BEACH
PUBLIC WORKS DEPARTMENT

C-9431-2	24R13	5/26/2026

I:\Users\PBW\Shared\Contracts\FY25-26 CURRENT\200_STREET_DRAIN\MacArthur Blvd Pvmnt Rehab 24R13\PLANS & EXHIBITS\Location Map.dwg 04/02/26 - 8:48am bdavis

City of Newport Beach

BUDGET AMENDMENT

2025-26

BA#: 26-080

Department: Public Works

Requestor: Theresa Schweitzer

ONE TIME: ☑ Yes ☐ No

☐ **CITY MANAGER'S APPROVAL ONLY**

☑ **COUNCIL APPROVAL REQUIRED**

Approvals

City Clerk: **Date**

Administrative Services Director: Jann A Brown **Date** 5/13/26

Budget Manager: **Date** 5/13/26

EXPLANATION FOR REQUEST:

To appropriate additional revenues related to contributions from the OC Sanitation District, Irvine Ranch Water District, the City of Irvine, and Cal Recycle and increase expenditures for the MacArthur Boulevard Pavement Rehabilitation and Median Improvements projects 24R13 and 26R02. This amendment also appropriates increased expenditures from the Gas Tax and General Fund unappropriated fund balance for 24R13.

☐ from existing budget appropriations
☑ from additional estimated revenues
☑ from unappropriated fund balance

REVENUES

Fund #	Org	Object	Project	Description	Increase or (Decrease) $
135	13501	431075	24R13	CONTRIBUTIONS FUND CIP - OC SANITATION DST CONTRIB	11,700.00
135	13501	431220	24R13	CONTRIBUTIONS FUND CIP - IRVINE RANCH WATER DIST	57,800.00
135	13501	431135	24R13	CONTRIBUTIONS FUND CIP - REFNDS&REBATES FROM GOVT	29,437.00
135	13501	431490	26R02	CONTRIBUTIONS FUND CIP - CAL RECYCLE	321,860.00
				-	
				-	
				Subtotal	$ 420,797.00

EXPENDITURES

Fund #	Org	Object	Project	Description	Increase or (Decrease) $
135	13501	980000	24R13	CONTRIBUTIONS FUND CIP - CIP EXPENDITURES FOR GL	98,937.00
135	13501	980000	26R02	CONTRIBUTIONS FUND CIP - CIP EXPENDITURES FOR GL	321,860.00
121	12101	980000	24R13	STATE GAS TAX CIP - CIP EXPENDITURES FOR GL	550,503.00
012	01201927	980000	24R13	STREET - CIP EXPENDITURES FOR GL	221,887.00
				-	
				-	
				Subtotal	$ 1,193,187.00

FUND BALANCE

Fund #	Object	Description	Increase or (Decrease) $
012	300000	GENERAL FUND CAPITAL PROJECTS - FUND BALANCE CONTROL	(221,887.00)
121	300000	STATE GAS TAX FUND - FUND BALANCE CONTROL	(550,503.00)
135	300000	CONTRIBUTIONS FUND - FUND BALANCE CONTROL	-
		-	-
		Subtotal	**$ (772,390.00)**

Fund Balance Change Required

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 9

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Jason Al-Imam, Adminstrative Services Director/Treasurer - 949-644-3126, jalimam@newportbeachca.gov
PREPARED BY:	Courtney Buck, Budget Analyst - 949-644-3240, cbuck@newportbeachca.gov
TITLE:	Set Public Hearing Date to Adopt Fiscal Year 2026-2027 Budget

ABSTRACT:

Per Section 1102 of the City Charter, the City Manager is to submit the budget to the City Council at least 35 days prior to the beginning of the fiscal year, July 1. After reviewing the budget and making such revisions as it may deem advisable, the City Council shall determine the time for the holding of the public hearing and publish a notice in an official newspaper not less than 10 days prior to said hearing. The Charter requires the City Council to adopt an annual budget each year on or before June 30.

RECOMMENDATION:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Schedule a public hearing of the City of Newport Beach's Proposed Budget for Fiscal Year 2026-2027 for June 9, 2026, and direct the City Clerk to publish a notice of said hearing in accordance with Section 1102 of the Newport Beach Charter.

DISCUSSION:

The City's Charter requires that the City Council adopt an annual budget each year on or before June 30. Staff has provided the Council with copies of the preliminary budget document, and it is available for public review on the City's website at:

https://www.newportbeachca.gov/government/departments/finance/city-budget-salary

Staff recommends that the City Council set the date for the public hearing on the Fiscal Year 2026-2027 budget for June 9, 2026. The public hearing would be noticed and held during the regular Council meeting.

FISCAL IMPACT:

The proposed FY 2026-27 General Fund budget is structurally balanced, with projected revenues of approximately $350.9 million and proposed expenditures of approximately $348.4 million, resulting in an estimated $2.5 million surplus. The proposed budget reflects the City's longstanding commitment to fiscal sustainability by maintaining core services and public safety while continuing investments in infrastructure, City operations, and community priorities.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this 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, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 10

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Jason Al-Imam, Administrative Services Director/Treasurer – 949-644-3126, jalimam@newportbeachca.gov
PREPARED BY:	Jessica Nguyen, Budget Manager – 949-644-3192, jnguyen@newportbeachca.gov
TITLE:	Third Quarter Budget Update

ABSTRACT:

The Administrative Services Department prepares quarterly financial reports to review General Fund revenues and expenditures and monitor budgetary trends across other City of Newport Beach funds. This report summarizes revenues, expenditures and the estimated fund balance through the third quarter of Fiscal Year 2025–26.

The third quarter financial report analyzes the City's financial activity from January through March 2026. Based on information available through the end of the quarter, the City projects an unrestricted General Fund operating surplus of $16.1 million for FY 2025–26, including full funding of the contingency reserve. This represents an increase of $3.2 million from the second quarter projection. Recommended revenue and expenditure adjustments are outlined in this report and will be incorporated into proposed Budget Amendment No. 26-076.

This report was reviewed and discussed with the Finance Committee on May 14, 2026.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Approve Budget Amendment No. 26-076, adjusting revenue estimates and expenditure appropriations for the Fiscal Year 2025-26 budget as further outlined in this report.

DISCUSSION:

Economic Overview

In the first quarter of calendar year 2026, the median sales price for detached single-

family residences in Newport Beach increased 16.8% from the same period in the prior year, reaching $5 million. This represents an increase of approximately $720,000 from the median sales price recorded for the quarter ending December 31, 2025. The increase was driven primarily by a shift in the mix of sales, with more homes selling in higher price ranges and fewer at the lower end of the market. While several high-end sales further boosted average pricing, the rise in the median sales price also indicates that typical home values across the market moved higher.

As the market enters the spring homebuying season, home prices are expected to continue rising, supporting a positive outlook for the City's property tax revenues. However, potential inflationary pressures in the coming months may pose risks to housing affordability and overall market activity.

The City will continue to monitor potential impacts on tax revenues and adjust revenue projections as needed based on evolving economic conditions and data-driven analysis. Overall, the City's diverse and stable revenue base, combined with prudent fiscal management, positions it well to maintain long-term financial sustainability.

General Fund Revenues

General Fund revenues are projected to end the fiscal year approximately 1.2%, or $4.0 million, above second quarter projections. The increase is primarily due to higher-than-anticipated revenues from service fees and charges, investment earnings, licenses and permits, miscellaneous revenues, and transient occupancy tax revenue. Revenue projections for key categories have been updated to reflect current economic conditions and the latest forecasts.

The table below summarizes changes in projected General Fund revenues compared to the second quarter FY 2025–26 projections. Additional detail on material variances is provided below.

FY 2025-26 Projected General Fund Revenues

Revenues by Category	Revised Budget	A Q2 Projected Actuals	B Q3 Projected Actuals	C = B - A Variance	D = C/B % Variance
Property Taxes	163,128,525	163,128,525	162,671,926	(456,599)	-0.3%
Sales Tax	48,793,625	48,793,625	48,934,518	140,893	0.3%
Transient Occupancy Tax*	32,821,827	32,821,827	33,791,437	969,610	2.9%
Other Taxes	10,318,398	10,318,398	10,318,398	-	0.0%
Service Fees & Charges	26,598,746	26,492,369	28,492,321	1,999,952	7.0%
Parking Revenue	8,976,102	8,924,261	8,950,545	26,284	0.3%
Licenses and Permits	6,249,421	6,213,317	6,730,337	517,020	7.7%
Property Income	9,552,739	10,117,997	10,204,260	86,264	0.8%
Fines & Penalties	4,169,867	4,431,438	4,089,007	(342,431)	-8.4%
Intergovernmental	4,946,790	4,531,502	4,597,004	65,502	1.4%
Investment Earnings	1,577,249	1,577,249	2,200,000	622,751	28.3%
Misc Revenues	859,026	934,015	1,326,681	392,666	29.6%
Operating Transfers In	25,753,116	20,753,116	20,753,116	-	0.0%
Total Revenues	**343,745,431**	**339,037,638**	**343,059,551**	**4,021,912**	**1.2%**

* Gross TOT revenues are projected at approximately $41.1 million. Effective January 1, 2025, VNB's share increased to 23% of hotel TOT, while its share of residential TOT decreased to 0%. VNB is projected to receive approximately $7.3 million, resulting in net TOT revenues of $33.8 million.

Property Tax – Property taxes are the City's single largest General Fund revenue and represent approximately 50% of all General Fund revenues. As reported in the first and second quarter budget update, property tax revenue was projected at $163 million, reflecting an increase of $1.5 million, or 1.3%, over the prior year. Third quarter projections reflect a slight decrease of $0.5 million, or 0.3%, from second quarter estimates.

Sales Tax – The second-largest funding source for the General Fund is sales tax revenue, which accounts for more than 15% of total General Fund revenues. The City's sales tax base is primarily generated from four industry groups: autos and transportation; general consumer goods; restaurants and hotels; and the state and county pools. As reported in the second quarter, sales tax revenue was projected at $48.7 million. However, an updated projection provided by the City's sales tax consultant reflects a 0.3%, or $0.1 million, increase over the second quarter projection. Overall, sales tax revenue is now estimated at $48.9 million for the current fiscal year, which is $3.0 million, or 6.5%, higher than prior year actuals. A major contributor to this growth is the autos and transportation sector, which is projected to increase by $1.3 million, or 11.4%, compared to the prior year.

Transient Occupancy Tax – Transient Occupancy Tax (TOT) is the third-largest revenue source for the General Fund, accounting for more than 10% of total General Fund revenues. As noted in the second quarter budget update, TOT revenues were projected to decline by approximately $0.9 million (2.8%) compared to first quarter projections. However, third quarter results indicate that commercial TOT is up 1.6% fiscal year-to-date, driven by stronger than anticipated booking activity. Accordingly, staff recommends a budget amendment to increase commercial TOT revenue projections by $0.9 million.

All Other Revenue – This category includes all other revenue sources other than the top three (property tax, sales tax and TOT). All other revenue is made up of other taxes, service fees and charges, investment earnings, miscellaneous revenues, licenses and permits, and intergovernmental revenues. Changes in projected amounts are proposed in the following categories:

- Service Fees & Charges including plan check fees, recreation classes, and emergency medical services fees, are projected to exceed second quarter estimates by approximately $2.0 million (7.0%). The increase is primarily driven by higher-than-anticipated plan check activity in the Community Development Department, particularly related to apartment projects, as well as increased attendance at Recreation and Senior Services facilities citywide. Additional recreation revenues will be offset by corresponding increases in instructor-related expenditures.
- Investment Earnings are projected to exceed second quarter projections by approximately $622,751 due to favorable market conditions through March 31, 2026.
- Miscellaneous Revenues include restricted revenues, damage to City property, bad debt recoveries, donations and contributions, and non-operating revenues such as proceeds from the sale of materials and equipment. This category is projected to exceed second quarter projections by approximately $0.5 million (29.6%). The increase is primarily attributable to a one-time donation to the Police

Department from the Newport Beach Foundation.

- Licenses and Permits include fees for processing building-related permits, street closure permits, dog licenses, and police tow franchise fees. Budget projections indicate an increase of $0.5 million, or 7.7%, above the second quarter projection. This variance is primarily attributed to higher volumes of building, plumbing and electrical permits, reflecting an overall increase in residential and commercial development projects.

General Fund Expenditures

The FY 2025-26 General Fund revised expenditure budget totals $356.4 million. Spending trends in FY 2025-26 are generally consistent with prior years and do not indicate any cause for concern. As of quarter three, additional expenditure savings of $2.6 million are projected largely due to year-to-date savings from vacancies.

The following table summarizes second quarter projected actuals compared to updated estimates based on year-to-date data, along with expenditure savings by budget category. Additional details explaining significant variances are provided below.

FY 2025-26 Projected General Fund Expenditures

Expenses by Category	Revised Budget	A Q2 Projected Actuals	B Q3 Projected Actuals	C = A - B Variance	D = C/B % Variance
Salary & Benefits	195,405,386	191,525,260	187,473,898	4,051,362	2.2%
Contract Services	42,484,029	41,891,862	42,475,281	(583,419)	-1.4%
Grant Operating	1,570,592	1,097,146	1,163,868	(66,723)	-5.7%
Utilities	5,032,621	4,966,968	4,946,838	20,131	0.4%
Supplies & Materials	5,364,447	5,087,980	5,258,057	(170,077)	-3.2%
Maintenance & Repair	6,829,408	6,587,024	6,918,355	(331,331)	-4.8%
Travel & Training	874,719	865,405	863,328	2,077	0.2%
General Expenses	5,304,271	5,036,800	5,106,661	(69,861)	-1.4%
Internal Svc Charge	29,444,147	29,444,147	29,444,147	-	0.0%
Capital Expenditures	1,841,189	1,188,003	1,418,960	(230,957)	-16.3%
Operating Transfers Out	62,268,327	57,267,367	57,267,378	(11)	0.0%
Total Expenditures	**356,419,138**	**344,957,962**	**342,336,771**	**2,621,191**	**0.76%**

Significant expenditure budget variances are as follows:

- The revised salary and benefits budget totals $195.4 million. An analysis of third quarter salary and benefit activity indicates that $4.1 million in personnel savings accrued during the third quarter.
- The contract services and maintenance and repair expenditures are projected to exceed second quarter projections by a combined $0.9 million, driven by increased utilization of temporary staffing in the Community Development Department, as well as higher outside agency service costs and maintenance activity at fire stations citywide within the Fire Department. Additionally, the Recreation and Senior Services Department requests a budget amendment to appropriate funds which are to be fully offset by revenues as previously mentioned in this report. These amounts are built into the projected revenue and expenses included in the tables in this report.
- The grant operating budget is projected to increase by $66,723 from second

quarter projections primarily due to staff proposing a budget amendment to increase appropriations by $53,311.32 to make remaining estimated payments to the State of California under the PP-GEMT-IGT program for State Calendar Year 2025.

General Fund Sources, Uses and Projected Surplus

The City continues to maintain a strong and stable financial position. Conservative budgeting practices and adherence to sound financial policies have supported consistent General Fund operating surpluses and healthy reserve levels over the past several years. Unrestricted General Fund resources are currently projected to total $19.5 million at the end of FY 2025–26. After allocating an estimated $3.4 million to fully fund the contingency reserve, $16.1 million is expected to remain available for City Council appropriation. As in prior years, additional savings are anticipated, which could increase the final year-end surplus.

FY 2025-26 Projected General Fund Sources, Uses, and Budget Surplus

Category	Revised Budget	A Q2 Projection	B Q3 Projection	C=B-A Variance	D=C/B % Variance
Beginning Fund Balance Reserves	**$ 25,714,088**	**$ 25,714,088**	**$ 25,714,088**	**$ -**	**0.00%**
Operating Resources:					
Operating Revenues	317,992,315	318,284,522	322,306,434	4,021,912	1.26%
Prior Year Resources Carried Forward	3,785,541	3,785,541	3,785,541	-	0.00%
Transfers In from Other Funds	20,753,116	20,753,116	20,753,116	-	0.00%
Repayment of Advances	1,250,000	1,250,000	1,250,000	-	0.00%
Total Operating Resources	**$ 343,780,972**	**$ 344,073,180**	**$ 348,095,092**	**$ 4,021,912**	**1.17%**
Operating Uses:					
Operating Expenditures	294,150,811	287,690,595	285,069,393	2,621,202	0.91%
Transfers Out	45,331,827	43,489,779	43,489,790	(11)	0.00%
Total Operating Uses	**$ 339,482,638**	**$ 331,180,374**	**$ 328,559,184**	**$ 2,621,191**	**0.79%**
Net Operating Surplus	**$ 4,298,334**	**$ 12,892,805**	**$ 19,535,908**	**$ 6,643,103**	**51.53%**
Non-Operating Resources & Uses					
Non-Operating Transfers In	5,000,000	-	5,000,000	-	100.00%
Non-Operating Transfers Out	(5,000,000)	-	(5,000,000)	-	100.00%
Purchase of Real Property on Campus Drive	(11,936,500)	(11,936,500)	(11,936,500)	-	0.00%
Transfers out to the FFP	(13,777,588)	(13,777,588)	(13,777,588)	-	0.00%
Total Non-Operating Resources & Uses	**$ (25,714,088)**	**$ (25,714,088)**	**$ (25,714,088)**	**$ -**	**0.00%**
Net Change in Fund Balance	(21,415,754)	(12,821,283)	(6,178,180)	6,643,103	-51.81%
Ending Fund Balance Reserves	**$ 4,298,334**	**$ 12,892,805**	**$ 19,535,908**	**$ 6,643,103**	**51.53%**

Non-Operating Transfers Out

A one-time transfer out from the General Fund to the Office of Traffic Safety Fund (OTS, Fund 110) in the amount of $11.43 is included to correct an invoice allocation posted to the incorrect account.

Major Funds

Staff have evaluated the fiscal condition of the City's major operating funds, as summarized below:

- Measure M-Competitive Fund, the Orange County Transit Authority (OCTA) Environmental Cleanup Program provides Measure M2 funding for water quality improvement projects that address transportation-generated pollution. The City was awarded a grant to purchase a second trash rover that will be deployed in Newport Harbor. A budget amendment is requested to appropriate the $68,000 in OCTA grant funds to Account No. 1230052-980000-26X12 and expense in 1230052-980000-26X12.

- PEG Fees Fund, the Public, Education, and Government (PEG) Fund receives revenue from cable franchise agreements and is restricted to supporting community cable access. Eligible expenditures include capital-related costs such as equipment (e.g., cameras and editing systems), as well as facility construction, upgrades and renovations to studios and control rooms. Historically, the City has charged PEG-eligible expenditures to the General Fund. Staff is now correcting this practice to ensure that qualifying expenditures are appropriately accounted for in the PEG Fund. Accordingly, a budget amendment is requested to appropriate $30,000 from the PEG Fund unappropriated fund balance.

- Fire Equipment Fund, Public Safety Development Impact Fees were established to provide capital improvements related to buildings, furnishings, vehicles equipment software, and similar facilities utilized by the City's Fire Department. The Fire Department received $141,000 of development impact fees from the 1401 Quail location. Staff proposed to recognize $141,000 in account 75604-561083-23040 and expense to account 75604-911024-23040 for equipment such as radios and ballistic helmets with vest supplements.

Staff has evaluated the fiscal condition of the City's other major operating funds (Water and Wastewater). The budget performance analysis for these funds indicates that no adjustments are necessary, and variances between budgeted and actuals amounts are reasonable.

FISCAL IMPACT:

As a result of the Budget Amendment (Attachment A), an additional $765,000 in revenue and $679,00 in expenditures will be appropriated to the accounts listed in the amendment. Approval of these budget amendments is reflected in the "Q3 Projection" column of the previous FY 2025–26 General Fund Sources and Uses table.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this 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, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Budget Amendment No. 26-076

Attachment A

Budget Amendment 26-076

City of Newport Beach
BUDGET AMENDMENT
2025-26

BA#: 26-076

Department: Administrative Services

Requestor: Jessica Nguyen

ONE TIME: ☑ Yes ☐ No

☐ **CITY MANAGER'S APPROVAL ONLY**

☑ **COUNCIL APPROVAL REQUIRED**

Approvals		
City Clerk:		**Date**
Administrative Services Director:	Jaron Ahlmann	**Date** 5/14/26
Budget Manager:		**Date** 5/14/26

EXPLANATION FOR REQUEST:

To adjust revenue and expenditure appropriations based on the Fiscal Year 2025-26 Quarter 3 staff report.

☐ from existing budget appropriations
☑ from additional estimated revenues
☑ from unappropriated fund balance

REVENUES

Fund #	Org	Object	Project	Description	Increase or (Decrease) $
010	0107012	521435		ADULT SPORTS - RACKET SPORTS	25,000.00
010	0107020	521425		NEWPORT COAST COMMUNITY CENTER - FEE BASED CLASSES	175,000.00
010	0107023	521455		MARINA PARK - SURFING CLASSES	125,000.00
010	0107031	521640		OASIS - OASIS CLASS FEES	120,000.00
010	0107032	521500		OASIS FITNESS CENTER - PERSONAL TRAINER FEES	125,000.00
				-	
110	11099	691010		INTERFUND TRANSFERS - TRANSFER IN GENERAL FUND	11.43
				-	
123	1230052	431150	26X12	MEASURE M COMP WATER QUALITY - MEASURE M COMPETITIVE	54,400.00
				-	
756	75604	561083	23040	FIRE EQUIPMENT NON OP - 1401 QUAIL DEVELOPMENT	141,000.00
				-	
				Subtotal	$ 765,411.43

EXPENDITURES

Fund #	Org	Object	Project	Description	Increase or (Decrease) $
010	01040404	821010		EMERGENCY MEDICAL SERVICES - PP-GEMT-IGT	53,311.36
				-	
010	0107020	811036		NEWPORT COAST COMMUNITY CENTER - CONTRACT RSS INSTRUCTORS	100,000.00
010	0107021	811036		COMMUNITY YOUTH CENTER - CONTRACT RSS INSTRUCTORS	10,000.00
010	0107023	811051		MARINA PARK - SURF CONTRACT INSTRUCTORS	140,000.00
010	0107031	811036		OASIS - CONTRACT RSS INSTRUCTORS	50,000.00
010	0107032	811036		OASIS FITNESS CENTER - CONTRACT RSS INSTRUCTORS	100,000.00
				-	
010	01099	991110		GENERAL FUND INTERFUND TRANSFR - TRANSFER OUT OTS GRANT FUND	11.43
				-	
123	1230052	980000	26X12	MEASURE M COMP WATER QUALITY - CIP EXPENDITURES FOR GL	54,400.00
				-	
168	16820201	911055		PEG FEES CITY MANAGER - PEG EQUIPMENT	30,000.00
				-	
756	75604	911024	23040	FIRE EQUIPMENT NON OP - EQUIPMENT N.O.C.	141,000.00
				-	
				Subtotal	$ 678,722.79

FUND BALANCE

Fund #	Object	Description	Increase or (Decrease) $
010	300000	GENERAL FUND - FUND BALANCE CONTROL	116,677.21
110	300000	OTS GRANT FUND - FUND BALANCE CONTROL	11.43
123	300000	MEASURE M-COMPETITIVE FUND - FUND BALANCE CONTROL	-
168	300000	PEG FEES FUND - FUND BALANCE CONTROL	(30,000.00)
756	300000	FIRE EQUIPMENT FUND - FUND BALANCE CONTROL	-
		-	-
		-	-
		Subtotal	$ 86,688.64

Fund Balance Change Required

NEWPORT BEACH PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, MAY 21, 2026
REGULAR MEETING – 6:00 P.M.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. PUBLIC COMMENTS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

V. REQUEST FOR CONTINUANCES

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF APRIL 23, 2026

Recommended Action: Approve and file

VII. PUBLIC HEARING ITEMS

ITEM NO. 2 SOL COCINA PATIO EXPANSION (PA2025-0199)
Site Location: 251 East Coast Highway (restaurant) and offsite parking at 151 and 201 East Coast Highway and APNs 050-451-03 and 050-451-57

Summary:

A request for a conditional use permit and coastal development permit to permanently retain a 641-square-foot outdoor dining patio (Detached Patio) at SOL Mexican Cocina (Restaurant), to expand the existing Type 47 (On-Sale General – Eating Place) Alcohol Beverage Control (ABC) License to include the Detached Patio, and to reauthorize off-site parking on the waterfront of Balboa Marina, identified as 151 and 201 East Coast Highway and Assessor Parcel Numbers 050-451-03 and 050-451-57. As proposed, hours of operation for the Restaurant and existing attached patio will remain as currently operating, from 10 a.m. to 12 a.m., daily (i.e., late hours), with live entertainment authorized until 11 p.m. in the interior of the Restaurant. The hours of operation for the proposed Detached Patio will be from 10 a.m. to 10 p.m., daily. No dancing is proposed. If approved, the operator will be required to obtain an operator license from the Newport Beach Police Department as the project includes alcohol service with live entertainment and late hours. Approval of the project will supersede Use Permit Nos. UP621 and UP651 and Accessory Outdoor Dining Permit Nos. OD49 and OD49A.

Recommended Actions:

1. Conduct a public hearing;

2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301 under Class 1 (Existing Facilities) and 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and

3. Adopt Resolution No. PC2026-016 approving the Conditional Use Permit and Coastal Development Permit filed as PA2025-0199 (Attachment No. PC 1).

ITEM NO. 3 NEWPORT BIRCH MEDICAL PLAZA (PA2025-0220)
Site Location: 20071 Birch Street

Summary:

A request to construct a new 19,156-square-foot medical building on a vacant lot. The building will feature a small lobby and parking on the ground level, with two levels of medical office space above. The interior of the building is proposed as a shell design to accommodate future medical office tenants. The project also includes uncovered surface parking spaces, circulation improvements, and landscaping along the street frontage and throughout the parking lot. The project will provide a total of 89 parking spaces. The following approvals are required to implement the project as proposed:

- Minor Site Development Review: To allow the construction of a nonresidential building between 10,000 and 19,999 square feet of floor area, pursuant to Section 20.52.080 (Site Development Reviews) of the Newport Beach Municipal Code (NBMC).
- Minor Use Permit*:* To authorize the medical office use, pursuant to Section 20.90.120 (Business Park District: SP-7) [BP]) of the NBMC;
- Staff Approval*:* To waive 7 of the 96 required parking spaces, or 7.3 % of the parking requirement, pursuant to Section 20.40.110(D) (Adjustments to Off-Street Parking Requirements – Reduction of Required Off-Street Parking by Director) of the NBMC; and
- Traffic Study*:* To consider the projected 643 net increase in average daily trips (ADTs), pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC.

If approved, this project will supersede the Use Permit Filed as PA2023-0172.

Recommended Actions:

1. Conduct a public hearing;

2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 under Class 32 (In-Fill Development Projects) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and

3. Adopt Resolution No. PC2026-017, approving the Site Development Review, Minor Use Permit, Staff Approval, and Traffic Study collectively filed as PA2025-0220 (Attachment No. PC 1).

VIII. STUDY SESSION

ITEM NO. 4 RESULTS OF THE REAP 2.0 MIXED-USE STUDY (PA2025-0257)
Site Location: Citywide

Summary:

On January 13, 2026, the City Council authorized participation in the Regional Early Action Planning (REAP) 2.0 Program in partnership with the Orange County Council of Governments (OCCOG). The REAP 2.0 Program provided the City with grant-funded consultant assistance to complete Housing Element Policy Action 4H (Review Mixed-Use Zones), primarily intended to identify and reduce regulatory barriers to housing development in the City's existing mixed-use zoning districts (Study). Staff has been working with OCCOG's selected consultant, Houseal Lavigne, to prepare the Study including recommendations for potential changes to the Newport Beach Municipal Code, Local Coastal Program, and General Plan that would reduce barriers and incentivize mixed-use development. The City is not obligated to make any amendments based on the findings of the Study. Staff will share a presentation on the findings of the Study for Planning Commission review and discussion.

Recommended Actions:

1. Receive the presentation and provide direction regarding the recommendations of the Study.

IX. DISCUSSION ITEM

ITEM NO. 5 CITY TRAFFIC ENGINEER UPDATES (PA2026-0085)
Site Location: Citywide

In response to previous Planning Commission inquiries, City Traffic Engineer Kevin Riley will present updates on the warrant study for a stop sign at Cliff Drive and Kings Place and the potential for on-street parking on the southside of Ridge Park Road near the Ziani Community.

X. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 MOTION FOR RECONSIDERATION

ITEM NO. 7 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA

ITEM NO. 8 REQUESTS FOR EXCUSED ABSENCES

XI. ADJOURNMENT

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 12

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Jaime Murillo, Community Development Director - 949-644-3209, jmurillo@newportbeachca.gov
PREPARED BY:	Benjamin M. Zdeba, Deputy City Manager - 949-644-3253, bzdeba@newportbeachca.gov
TITLE:	Ordinance No. 2026-05: Amending Title 21 of the Newport Beach Municipal Code, and Resolution No. 2026-30: Implementing the Housing Element and Establishing the Housing Opportunity (HO) Overlay Coastal Zoning District (PA2022-0245)

ABSTRACT:

On July 23, 2024, the City Council adopted Resolution No. 2024-51, amending the General Plan Land Use Element to incorporate policies supporting implementation of the adopted and certified 6th Cycle Housing Element (Housing Element). On September 24, 2024, the City Council adopted Ordinance No. 2024-16 establishing the Housing Opportunity (HO) Overlay Zoning District within Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), which was subsequently amended through adoption of Ordinance No. 2025-10 on June 24, 2025. Concurrently, the City Council authorized submittal of a complementary Local Coastal Program Amendment (LCPA), including amendments to the Coastal Land Use Plan (CLUP) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC, to the California Coastal Commission (CCC). Collectively, these amendments complete implementation of Housing Element Policy Actions 1A through 1G. On April 17, 2026, the CCC approved the submitted LCPA with suggested modifications.

For the City Council consideration are a proposed resolution accepting and incorporating the CCC's suggested modifications into the CLUP (Attachment A) and a proposed ordinance accepting and incorporating the CCC's suggested modifications into Title 21 of the NBMC (Attachment B).

RECOMMENDATIONS:

a) Conduct a public hearing;

b) Find that all potential environmental effects for the amendment have been adequately addressed in the previously certified Final Program Environmental Impact Report identified by State Clearinghouse Number 2023060699, and the City Council of the

City of Newport Beach intends to use said document for the approval of the Local Coastal Program Amendment;

c) Adopt Resolution No. 2026-30, *A Resolution of the City Council of the City of Newport Beach, California, Approving an Amendment to the Coastal Land Use Plan, as Modified by the California Coastal Commission, to Incorporate Updates for Consistency with the Adopted and Certified 6th Cycle Housing Element (PA2022-0245)*; and

d) Introduce Ordinance No. 2026-05, *An Ordinance of the City Council of the City of Newport Beach, California, Approving an Amendment to Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code, as Modified by the California Coastal Commission, to Establish the Housing Opportunity (HO) Overlay Coastal Zoning District (PA2022-0245 & PA2024-0205)*, and pass to second reading on June 9, 2026.

DISCUSSION:

The Housing Element is one of the seven mandatory elements of the Newport Beach General Plan. Every eight years, state law requires the City of Newport Beach to update its Housing Element to plan for projected housing needs. As required by state law, the City adopted the 6th Cycle Housing Element for the 2021-2029 planning period (Housing Element) on September 13, 2022, which was certified by the California Department of Housing and Community Development on October 5, 2022.

On July 23, 2024, the City Council adopted Resolution No. 2024-51 (Attachment C), approving an amendment to the General Plan Land Use Element, including updates that support the implementation of the Housing Element.

On September 24, 2024, the City Council adopted Ordinance No. 2024-16 (Attachment D), approving an amendment to Title 20 (Planning and Zoning) of the NBMC, to establish the HO Overlay Zoning Districts in Section 20.28.050 [HO Overlay Zoning Districts]. The amendment served to partially implement Policy Actions 1A through 1G in the Housing Element.

The adoption of this ordinance 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).

On July 23, 2024, alongside the adoption of Resolution No. 2024-51 and the introduction of Ordinance No. 2024-16, the City Council adopted Resolution No. 2024-52 (Attachment E), authorizing the submittal of the corresponding Local Coastal Program Amendment (LCPA) to the 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 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 with the CCC on August 16, 2024.

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 specified in Table 2-16 (Development Standards for HO Overlay Zones) of Section 20. 28.050 [HO Overlay Zoning Districts] and pending Table 21.28-1 (Development Standards for Housing Opportunity Overlay Zones) in Title 21 of the NBMC.

On June 10, 2025, consistent with the initiation, an amendment to Title 20 was introduced and subsequently adopted with Ordinance No. 2025-10 (Attachment F). Alongside the introduction, the City Council adopted Resolution No. 2025-32 (Attachment G), authorizing the submittal of the corresponding LCPA to the CCC to amend Title 21 of the NBMC. City staff coordinated with CCC staff to modify the original LCPA submittal to include this amendment.

Coastal Commission Action and Acceptance of Suggested Modifications

On August 16, 2024, City staff submitted the City Council's authorized LCPA to the CCC and it was deemed filed by CCC staff on January 7, 2025.

On April 17, 2026, the CCC considered and denied the LCPA, as submitted, but approved it with seven suggested modifications, which are detailed in the staff report and addendum included as Attachment H and the approval letter included as Attachment I.

Table 1 lists a summary of each suggested modification from the CCC and City staff’s analysis of the appropriateness.

Table 1 – CCC Suggested Modifications		
No.	**Summarized Revision**	**Staff's Analysis**
1	Modify proposed CLUP Policy 2.1.11-1 to remove the reference to "West Newport Mesa" as a subarea.	As part of the initial review, it was identified that the two sites in the Coastal Zone and within the West Newport Mesa (HO-2) Subarea are part of the Deferred Certification Area of the Local Coastal Program. Suggested Modification 1 is necessary to refocus the LCPA to areas where the City has coastal permitting authority.
2	Modify proposed CLUP Policy 2.1.11-2 to include a requirement for properties with base zoning designations of Visitor Serving Commercial or Parks and Recreation to retain or replace existing Coastal Act priority uses. Any existing priority uses must be retained or replaced with a functionally equivalent use.	Suggested Modification 2 interjects a policy statement that serves to harmonize the proposed additional opportunity for housing development with the priority land uses of the Coastal Act when such uses exist on a site that is proposed for redevelopment. The "functionally equivalent" phrase gives flexibility in application and compliance for any future projects.
3	Modify proposed Implementation Plan Subsection 21.28.070(A), IP Table 21.28-1, IP Subsection 21.28.070(C), and IP Section 21.80.032 to remove the reference to "West Newport Mesa" as a subarea and to clean up footnote references in IP Table 21.28-1.	See the analysis for Suggested Modification 1. The balance of Suggested Modification 3 serves to incorporate missing footnote references.
4	Modify IP Table 21.14-1 to include a reference to the new Housing Opportunity (HO) Overlay Coastal Zoning Districts.	Suggested Modification 4 is a clean-up item to add a reference that was inadvertently missed when submitted.
5	Modify IP Subsection 21.28.070(B) to include a requirement that any proposed residential uses must harmonize with uses prioritized by the Coastal Act. Any existing priority uses must be retained or replaced with a functionally equivalent use.	Suggested Modification 5 is an implementation component of Suggested Modification 2. It allows for the opportunity to redevelop sites with housing projects while ensuring any existing priority uses in the Coastal Act are retained or replaced. The "functionally equivalent" phrase gives flexibility in application and compliance for any future projects.

Table 1 – CCC Suggested Modifications		
No.	**Summarized Revision**	**Staff's Analysis**
6	Modify IP Subsection 21.28.070(C)(2) to include requirements specific to Housing Opportunity Sites 23, 24, 25, and 26, such as enhanced environmentally sensitive habitat area (ESHA) buffers and specificity on public recreational improvements.	Suggested Modification 6 only applies to the Newport Beach Golf Course parcels south of Mesa Drive. It primarily requires enhanced buffers from the new native habitat that is anticipated with the County of Orange's Santa Ana Delhi Channel Improvement Project. It also includes specific public recreational improvements intended to ensure that any future housing project on the sites respects the underlying Parks and Recreation designation and enhances it with meaningful public recreation opportunities. Importantly, the Suggested Modification allows the sites to remain viable for future housing opportunities, should it be pursued by the owner.
7	Modify IP Subsection 21.28.070(D) to: (1) require retention or replacement of visitor-serving commercial or marine-related uses on sites proposed for housing projects; (2) prohibit the conversion of overnight visitor accommodations; (3) require the retention or replacement of parks and recreation or open space uses; and (4) add references to other existing IP sections and chapters to ensure housing projects are evaluated for compliance.	Similar to Suggested Modification 5, Suggested Modification 7 is an implementation component of Suggested Modification 2. It specifically addresses and serves to prevent the loss of visitor-serving commercial, marine-related uses, overnight visitor accommodations, parks and recreation, and open space uses with any future housing projects on an affected site. The "functionally equivalent" phrase gives flexibility in application and compliance for any future projects.

The recommended action is to accept and incorporate all the CCC's suggested modifications into the amendments to the CLUP and Title 21 of the NBMC. The amendments, as modified, will continue to provide opportunities for residential development on sites identified as housing opportunities within the Coastal Zone while harmonizing any potential housing projects with the Coastal Act.

The City Council must accept or reject all the suggested modifications. Partial acceptance is not permitted and would require resubmittal to the CCC through a new amendment

application. A redline-strikeout version incorporating all CCC modifications for Title 21 is included as Attachment J.

If introduced, the ordinances would return for a second reading on June 9, 2026, and take effect 30 days thereafter or when the executive director of the CCC certifies the amendment, whichever is later.

Once effective, the City will have successfully completed its rezoning requirements to implement the residential capacity required by the Housing Element.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find that all potential environmental effects for the amendment have been adequately addressed in the previously certified Final Program Environmental Impact Report (EIR) identified by State Clearinghouse Number (SCH No.) 2023060699, and the City intends to use said document for the approval of the amendments. Copies of the previously prepared environmental document are available for public review and inspection at the Planning Division or at the City of Newport Beach website here: Housing Implementation Program EIR (PA2022- 0245).

NOTICING:

Pursuant to Section 13515 of the California Code of Regulations, a review draft of the Title 21 Amendment was made available, and a Notice of Availability was originally distributed on May 2, 2023, to all persons and agencies on the Notice of Availability mailing list.

In addition, notice of this hearing was published in the Daily Pilot as an eighth-page advertisement at least 10 days before the scheduled meeting, consistent with the provisions of the NBMC. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City's website. The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Resolution No. 2026-30
Attachment B – Ordinance No. 2026-05
Attachment C – Resolution No. 2024-51
Attachment D – Ordinance No. 2024-16
Attachment E – Resolution No. 2024-52
Attachment F – Ordinance No. 2025-10
Attachment G – Resolution No. 2025-32
Attachment H – California Coastal Commission Staff Report, Addendum, and Correspondence
Attachment I – California Coastal Commission Approval Letter and Suggested Modifications
Attachment J – Redline-Strikeout with Suggested Modifications

Attachment A

Resolution No. 2026-__

RESOLUTION NO. 2026- __

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING AN AMENDMENT TO THE COASTAL LAND USE PLAN, AS MODIFIED BY THE CALIFORNIA COASTAL COMMISSION, TO INCORPORATE UPDATES FOR CONSISTENCY WITH THE ADOPTED AND CERTIFIED 6TH CYCLE HOUSING ELEMENT (PA2022-0245)

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 prepares goals, policies, and programs, and quantified objectives to further the development, improvement, and preservation of housing;

WHEREAS, Section 30500 of the California Public Resources Code requires each county and city to prepare a Local Coastal Program ("LCP") for that portion of the coastal zone within its jurisdiction;

WHEREAS, the California Coastal Commission ("CCC") effectively certified the City's LCP Implementation Plan on January 13, 2017, and the City added Title 21 (Local Coastal Program Implementation Plan) ("Title 21") to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit issuing authority on January 30, 2017;

WHEREAS, the City Council adopted Resolution No. 2024-52 on July 23, 2024, authorizing submittal of the LCP Amendment ("LCPA") to the CCC amending the City's Coastal Land Use Plan and Title 21 of the NBMC to establish the Housing Opportunity (HO) Overlay Coastal Zoning Districts and their corresponding development standards applicable to properties located within the Coastal Zone;

WHEREAS, the City filed the LCPA application with the CCC on August 16, 2024, and received a letter from CCC staff on January 7, 2025, confirming the City's application is complete and pending a hearing date;

WHEREAS, the City Council adopted Resolution No. 2024-51 on July 23, 2024, updating the General Plan Land Use Element to implement the adopted and certified 6th Cycle Housing Element ("Housing Element");

WHEREAS, the City Council adopted Ordinance No. 2024-16 on September 24, 2024, adding Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) to the NBMC, creating Housing Opportunity Overlay Zoning Districts;

WHEREAS, the new section partially implements Policy Actions 1A through 1G in the City's adopted and certified 6th Cycle Housing Element ("Housing Element");

WHEREAS, Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) of the NBMC allows for new housing opportunities within five focus areas consisting of the 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) ("Focus Areas") that correspond with the Focus Areas in the Housing Element to ensure that the City accommodates its Housing Element Regional Housing Needs Assessment allocation;

WHEREAS, properties identified within the Focus Areas are eligible for specified development standards conducive to residential development at the prescribed average density of 20 to 60 dwelling units per acre that include, but are not limited to, minimum lot area, setbacks, height, open space, landscaping, and parking;

WHEREAS, pursuant to Section 13515 (Public Participation and Agency Coordination Procedures) of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5 (Public Participation) ("Section 13515"), drafts of the LCPA were made available, and a Notice of Availability was distributed at least six weeks prior to the anticipated final action date;

WHEREAS, the CCC denied the LCPA at its April 17, 2026, hearing, as submitted and approved it with suggested modifications (LCP-5-NPB-24-0032-2) as being consistent with the California Coastal Act; and

WHEREAS, the City Council held a public hearing on May 26, 2026, in the City Council Chambers located 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 Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

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

Section 1: The City Council hereby approves the Local Coastal Program Amendment ("LCPA") filed as PA2022-0245 and accepts the suggested modifications by the California Coastal Commission ("CCC") to amend the Coastal Land Use Plan ("CLUP") as set forth in Exhibit "A," and based upon the Findings in Exhibit "B," both of which are attached hereto and incorporated herein by reference.

Section 2: The LCPA filed as PA2022-0245, will be carried out fully in conformity with the California Coastal Act.

Section 3: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 4: The City Council hereby authorizes City staff to submit this resolution for a determination by the Executive Director of the CCC that this action is legally adequate to satisfy the specific requirements of the CCC's April 17, 2026, action on LCPA Request No. LCP-5-NPB-24-0032-2 (6th Cycle Housing Element).

Section 5: This resolution shall not become effective until the Executive Director of the CCC certifies that this resolution complies with the CCC's April 17, 2026, action on LCPA Request No. LCP-5-NPB-24-0032-2 (6th Cycle Housing Element).

Section 6: 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 7: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the "Project") in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 et seq., Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-50, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the LCPA was considered within the PEIR. Resolution No. 2024-50 is hereby incorporated by reference.

Section 8: This resolution shall become final and effective as provided in Section 5 of this resolution, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 26th 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

Attachments: Exhibit A – Findings
Exhibit B – LCPA Filed as PA2022-0245

EXHIBIT A

FINDINGS

The City Council finds amendments to the LCP are legislative acts. Neither Title 21 nor State Planning Law set forth any required findings for either approval or denial of such amendments. Notwithstanding the foregoing, the Local Coastal Program Amendment is consistent with the corresponding General Plan Amendment and Zoning Code Amendment, adopted by City Council Resolution No. 2024-51 and Ordinance No. 2024-16, respectively. The LCPA will also create internal consistency with the Housing Element:

Findings and Facts in Support of Finding:

1. The Housing Element includes Section 4 (Housing Plan), which sets forth programs and strategies to facilitate and encourage the development of the City's obligation to meet regional housing demand. Appendix B of the Housing Element is the Sites Analysis and identifies several sites to be rezoned to allow for potential redevelopment with housing projects. A number of these sites are within the City's Coastal Zone. As Title 20 has been amended to add the new HO Overlay Zones with associated development standards, similarly, the amendment to Title 21 to add the new Housing Opportunity (HO) Overlay Coastal Zoning Districts for properties within the Coastal Zone has been prepared and submitted to the California Coastal Commission for consideration.

2. The amendment specific to the Coastal Land Use Plan ("CLUP"), attached hereto as Exhibit "B," and incorporated herein by reference, will create consistency in implementation between the General Plan and the CLUP and will help to fulfill the Housing Plan. The proposed LCPA will facilitate the development of housing consistent with the implementation program in the Housing Plan of the Housing Element, as discussed in Resolution No. 2024-51 under the Findings for the General Plan Amendment. The LCPA 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.

EXHIBIT B

LOCAL COASTAL PROGRAM AMENDMENT
FILED AS PA2022-0245 AND PA2024-0205

I. Policy 2.1.2-1 of the CLUP is hereby modified as follows:

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.

II. Policy 2.1.10-1 of the CLUP is hereby modified as follows:

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.

III. New Policy 2.1.11-1 is hereby incorporated in the CLUP in series and shall read as follows:

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 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 entire area, inclusive of those properties in the Coastal Zone.

- 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 entire area, inclusive of those properties in the Coastal Zone.

- 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 entire area, inclusive of those properties in the Coastal Zone.

IV. New Policy 2.1.11-2 is hereby incorporated in the CLUP in series and shall read as follows:

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. However, for properties with base designations of either Visitor Serving Commercial or Parks and Recreation, any housing project shall be required to retain or replace existing higher priority Coastal Act uses with an on-site functionally equivalent use that maintains comparable visitor peak use intensity and public availability. Replacement of any existing priority use with a new priority use that provides lower-cost and/or no-cost coastal access is preferred. 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 for the various overlay coastal zoning districts 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.

V. New Policy 2.1.11-3 is hereby incorporated in the CLUP in series and shall read as follows:

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.

VI. New Policy 2.1.11-4 is hereby incorporated in the CLUP in series and shall read as follows:

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).

Attachment B

Ordinance No. 2026-__

ORDINANCE NO. 2026-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING AN AMENDMENT TO TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE, AS MODIFIED BY THE CALIFORNIA COASTAL COMMISSION, TO ESTABLISH THE HOUSING OPPORTUNITY (HO) OVERLAY COASTAL ZONING DISTRICT (PA2022-0245 & PA2024-0205)

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, Section 30500 of the California Public Resources Code requires each county and city to prepare a Local Coastal Program ("LCP") for that portion of the coastal zone within its jurisdiction;

WHEREAS, the California Coastal Commission ("CCC") effectively certified the City's LCP Implementation Plan on January 13, 2017, and the City added Title 21 (Local Coastal Program Implementation Plan) ("Title 21") to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit issuing authority on January 30, 2017;

WHEREAS, the City Council adopted Resolution No. 2024-52 on July 23, 2024, authorizing submittal of the LCP Amendment ("LCPA") to the CCC amending the City's Coastal Land Use Plan and Title 21 of the NBMC to establish the Housing Opportunity (HO) Overlay Coastal Zoning Districts and their corresponding development standards applicable to properties located within the Coastal Zone;

WHEREAS, the City filed the LCPA application with the CCC on August 16, 2024, and received a letter from CCC staff on January 7, 2025, confirming the City's application is complete and pending a hearing date;

WHEREAS, the City Council adopted Ordinance No. 2024-16 on September 24, 2024, adding Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) to the NBMC creating Housing Opportunity Overlay Zoning Districts;

WHEREAS, the new section partially implements Policy Actions 1A through 1G in the City's adopted and certified 6th Cycle Housing Element ("Housing Element");

WHEREAS, Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) of the NBMC allows for new housing opportunities within five focus areas consisting of the 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) ("Focus Areas") that correspond with the Focus Areas in the Housing Element to ensure that the City accommodates its Housing Element Regional Housing Needs Assessment allocation;

WHEREAS, properties identified within the Focus Areas are eligible for specified development standards conducive to residential development at the prescribed average density of 20 to 60 dwelling units per acre that include, but are not limited to, minimum lot area, setbacks, height, open space, landscaping, and parking;

WHEREAS, the City Council adopted Resolution No. 2024-85 on November 19, 2024, initiating amendments to Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) and the pending complementary amendment to Title 21 of the NBMC to adjust certain development standards, including but not limited to, building height limits;

WHEREAS, pursuant to Section 13515 (Public Participation and Agency Coordination Procedures) of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5 (Public Participation) ("Section 13515"), drafts of the LCPA as revised were made available, and a Notice of Availability was distributed at least six weeks prior to the anticipated final action date;

WHEREAS, a public hearing was held by the Planning Commission on January 23, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the Amendment. 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 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 conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2025-004 by a unanimous vote of (5 ayes, 1 recusal) recommending the City Council authorize the submittal of the LCPA, as revised;

WHEREAS, the City Council held a duly noticed public hearing on June 10, 2025, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California. Notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Section 13515, Chapter 20.62 (Public Hearings) and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

WHEREAS, at the conclusion of the public hearing, the City Council adopted Resolution No. 2025-32, authorizing submittal of the LCPA, as revised, to the CCC by a unanimous vote (6 ayes, 0 nays) establishing the HO Overlay Coastal Zoning District for identified properties within the Coastal Zone;

WHEREAS, the CCC denied the LCPA at its April 17, 2026, hearing, as submitted and approved it with suggested modifications (LCP-5-NPB-24-0032-2) as being consistent with the California Coastal Act; and

WHEREAS, the City Council held a public hearing on May 26, 2026, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California. Notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Section 13515, and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

Section 1: The City Council hereby approves the Local Coastal Program Amendment filed as PA2022-0245 and PA2024-0205 and accepts the suggested modifications by the California Coastal Commission ("CCC") to amend Title 21 of the

Newport Beach Municipal Code as set forth in Exhibit "A," and based upon the Findings in Exhibit "B," each of which are attached hereto and incorporated herein by reference.

Section 2: The LCPA filed as PA2022-0245 and PA2024-0205, will be carried out in full conformity with the California Coastal Act.

Section 3: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 4: The City Council hereby authorizes City staff to submit this ordinance for a determination by the Executive Director of the CCC that this action is legally adequate to satisfy the specific requirements of the CCC's April 17, 2026, action on LCPA Request No. LCP-5-NPB-24-0032-2 (6th Cycle Housing Element).

Section 5: This ordinance shall not become effective until thirty days after adoption and until the Executive Director of the CCC certifies that this ordinance complies with the CCC's April 17, 2026, action on LCPA Request No. LCP-5-NPB-24-0032-2 (6th Cycle Housing Element).

Section 6: 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 7: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the "Project") in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 et seq., Title 14, Division 6, Chapter 3 of the California Code of Regulations CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-50, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the LCPA was considered within the PEIR. Resolution No. 2024-50 is hereby incorporated by reference.

Section 8: Except as expressly modified in this ordinance, all other sections, Subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

Section 9: 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 and the same shall become final and effective as provided in Section 5 of this ordinance.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 26th day of May, 2026, and adopted on the 9th day ofJune, 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

Attachments: Exhibit A – Findings
Exhibit B – LCPA Filed as PA2022-0245 and PA2024-0205

EXHIBIT A

FINDINGS

The City Council finds amendments to the LCP are legislative acts. Neither Title 21 nor State Planning Law set forth any required findings for either approval or denial of such amendments. Notwithstanding the foregoing, the Local Coastal Program Amendment ("LCPA") is consistent with the corresponding General Plan Amendment and Zoning Code Amendment, adopted by City Council Resolution No. 2024-51 and Ordinance No. 2024-16, respectively. The LCPA will also create internal consistency with the Housing Element:

Findings and Facts in Support of Finding:

1. The Housing Element includes Section 4 (Housing Plan), which sets forth programs and strategies to facilitate and encourage the development of the City's obligation to meet regional housing demand. Appendix B of the Housing Element is the Sites Analysis and identifies several sites to be rezoned to allow for potential redevelopment with housing projects. A number of these sites are within the City's Coastal Zone. As Title 20 has been amended to add the new HO Overlay Zones with associated development standards, similarly, the amendment to Title 21 to add the new Housing Opportunity (HO) Overlay Coastal Zoning Districts for properties within the Coastal Zone has been prepared and submitted to the California Coastal Commission for consideration.

2. The amendment specific to Title 21 (Local Coastal Program Implementation Plan) of the NBMC, attached hereto as Exhibit "B," and incorporated herein by reference, will create consistency in implementation between Titles 20 and 21 of the NBMC and will help to fulfill the Housing Plan, as the proposed LCPA will facilitate the development of housing consistent with the implementation program in the Housing Plan of the Housing Element, as discussed in Resolution No. 2024-51 under the Findings for the General Plan Amendment. The LCPA 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.

EXHIBIT B

LOCAL COASTAL PROGRAM AMENDMENT
FILED AS PA2022-0245 AND PA2024-0205

I. The title and section listing of Chapter 21.28 are hereby revised to include the Housing Opportunity (HO) Overlay Coastal Zoning Districts as follows:

Chapter 21.28

OVERLAY COASTAL ZONING DISTRICTS (MHP, PM, B, C, 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 Special Flood Hazard Area (VE) Overlay District.
21.28.080 Housing Opportunity (HO) Overlay Coastal Zoning Districts.

II. Section 21.28.010 (Purpose of Overlay Coastal Zoning Districts) is hereby amended to include the HO Overlay Coastal Zoning Districts to read as follows:

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.

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).

III. Section 21.28.080 (Housing Opportunity (HO) Overlay Coastal Zoning Districts) is hereby added to read as follows:

21.28.080 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-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.

3. 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;

4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.; and

5. Residential uses permitted under this section shall harmonize with the Coastal Act's priority uses, including visitor-serving, marine-related, public-serving, or recreational uses, and shall retain or provide functionally equivalent uses, as measured by comparable visitor peak use intensity and public availability.

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

	Housing Opportunity Subareas		
Development Feature	HO-1	HO-3	HO-4
Lot Size/Dimension	Per Base Zone		
Lot area required per unit (sq. ft.)[1]	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)		
Setbacks			
Front	0 ft.(2)	10 ft.(2)(3)	0(2)
Rear	0	20 ft.	0
Side	0'(4)		
Street Side	0(2)	10 ft.(2)	0 ft.(2)
Height	Per Base Zone unless otherwise identified on the map	65 ft.(5)	Per Base Zone(8), unless otherwise identified on the map
Building Separation	10 ft.		

Floor Area Ratio (FAR)	No restriction[6]
Common Open Space[7]	Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)
Private Open Space[7]	5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).
Landscaping	See Section 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).
Lighting	See Section 21.30.070 (Outdoor Lighting).
Parking	See Subsection (D)(2) below and Chapter 21.40 (Off-Street Parking).
Signs	See Chapter 21.30.065 (Sign Standards).

(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.
(8) "Base Zone" includes all height limitations by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).

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.

d. Housing Opportunity Sites 23, 24, 25 and 26. A residential or mixed-use development encompassing Housing Opportunity Sites 23, 24, 25, and 26 shall include a free to access public park or public recreational opportunity, which shall comply with Subsection 21.28.070(D)(4) and that conforms to all the following:

   i. A minimum 50-foot ESHA buffer measured from the outermost extent of the riparian or wetland vegetation, whichever extends furthest from the channel shall be provided. For a minimum 10-year period, the buffer shall be measured from the outermost extent of the vegetation established as part of the Santa Ana Delhi Channel Improvement Project proposed by the Orange County Flood Control District. The 50-foot buffer shall be consistent with 21.30B.30(D); however, the exceptions criteria for smaller ESHA buffers shall not apply. Further, a path sited, designed, constructed and operated in a manner that minimizes impacts to ESHA and other coastal resources may be permitted within the 50-foot ESHA buffer where needed to maintain the channel and/or provide for public access and recreation.

   ii. An additional 50-foot buffer measured from the outermost extent of the ESHA buffer shall also be provided consistent with 21.30B.30(E). This transitional buffer may be used to accommodate a free, low-impact public recreational opportunity. At a minimum, such public recreational opportunity shall include a contiguous open space corridor along the entire length of the Santa Ana Delhi Channel located adjacent to the subject properties that is of sufficient width to accommodate a 100-foot biological buffer, separately and contiguously, to protect habitat in and

along the channel. Such recreational opportunity shall also provide public access and recreational open space that will accommodate passive and active public recreational opportunities including, but not limited to continuous pedestrian/cycling trail, benches, drinking fountains and/or water fill stations, picnic tables, shade structures and fitness/exercise equipment.

iii. In the event the Santa Ana Delhi Channel Improvement Project does not occur there shall be a minimum 100-foot-wide corridor along the channel that extends from the top of the channel bank to be used for the free, low-impact coastal access and public recreational opportunity described in subsection (B) above.

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

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

3. Visitor-Serving Commercial, Marine-Related Uses, or Visitor Accommodations. For sites with base designations intended for Visitor-Serving Commercial, Marine-Related Uses, or Overnight Visitor Accommodations, any

existing uses consistent with the intent of those designations shall be retained, replaced, or expanded where feasible, with a functionally equivalent use in terms of comparable visitor peak use intensity and public availability. No hotel, motel, or other overnight visitor accommodations shall be converted or replaced with residential use.

4. Parks and Recreation or Open Space-Uses. For sites with base designations intended for Parks and Recreation or Open Space, any existing uses consistent with the intent of those designations shall be retained, replaced or expanded where feasible, with a functionally equivalent use in terms of comparable visitor peak use intensity and public availability. When there is a proposed replacement of any existing priority use with a new priority use, a use that provides lower-cost and/or no-cost visitor-serving and coastal access is preferred.

5. All housing projects within the Housing Opportunity (HO) Overlay Coastal Zoning District shall demonstrate consistency with:

a. Section 21.30.015 (General Site and Development Standards);

b. Section 21.30.030 (Natural Landform and Shoreline Protection);

c. Section 21.30.100 (Scenic and Visual Quality Protection);

d. Section 21.30.105 (Cultural Resource Protection); and

e. Chapter 21.30B (Habitat Protection).

IV. Chapter 21.80 (Maps) is hereby revised to incorporate Section 21.80.032 (Housing Opportunity Overlay Districts Maps) as follows:

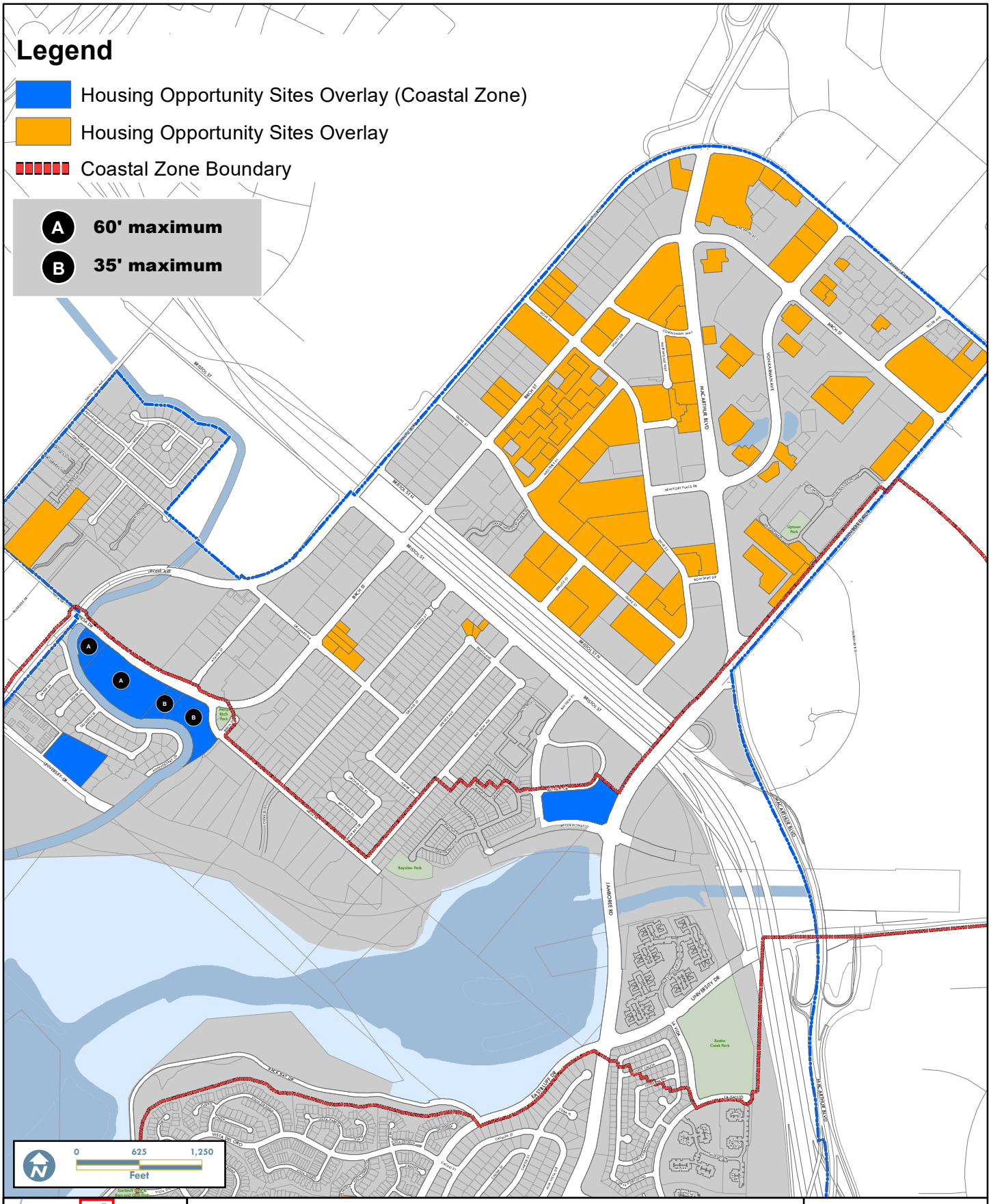
21.80.032 Housing Opportunity Overlay Districts Maps.

HO-1 - Airport Area Environs Area (PDF)

HO-3 - Dover-Westcliff Area (PDF)

HO-4 - Newport Center Area (PDF)

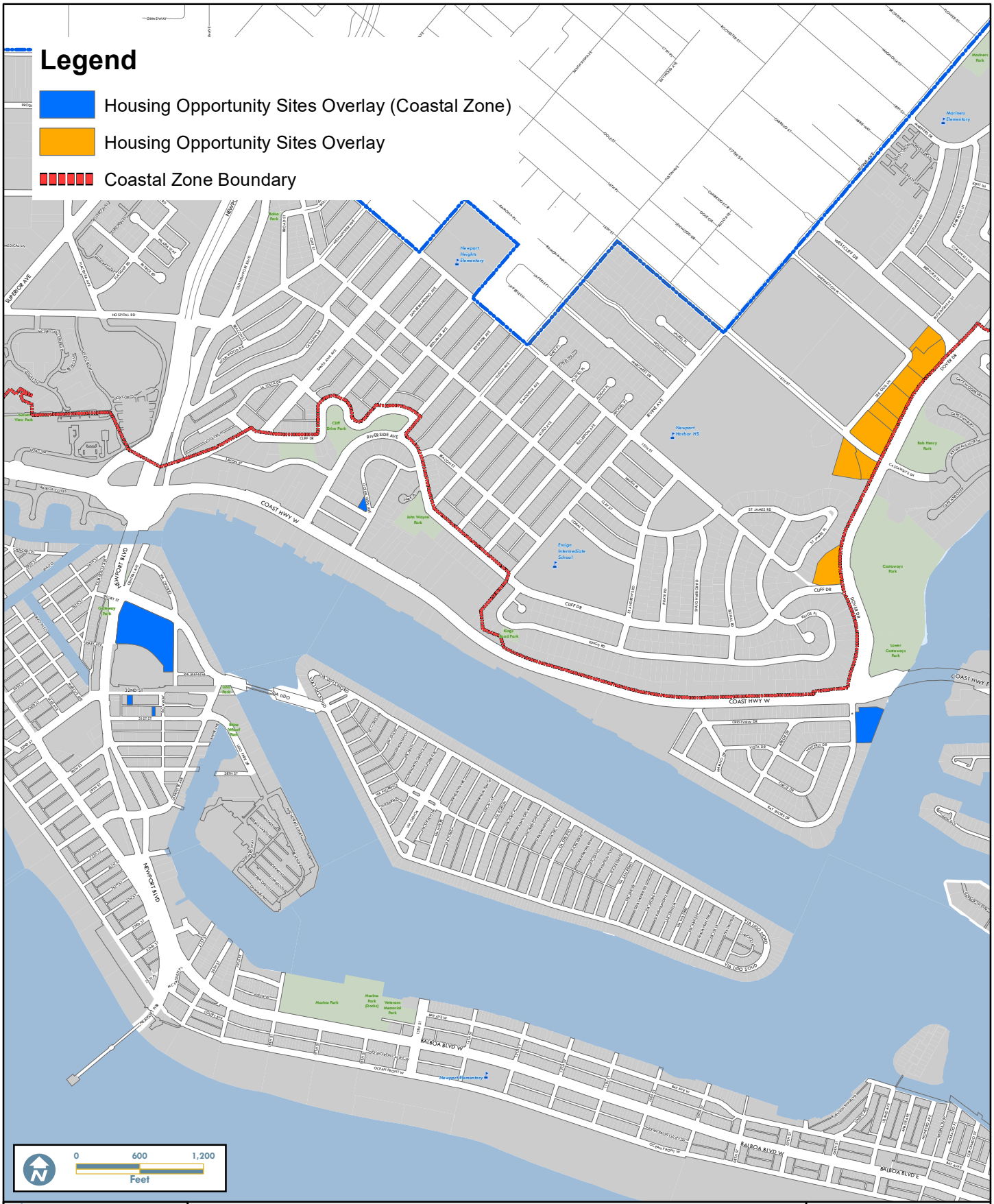
V. The corresponding maps identified in Section 21.80.032 are as follows on the subsequent pages:



HO-1 Airport Area Environs Area

City of Newport Beach
GIS Division
October 04, 2024

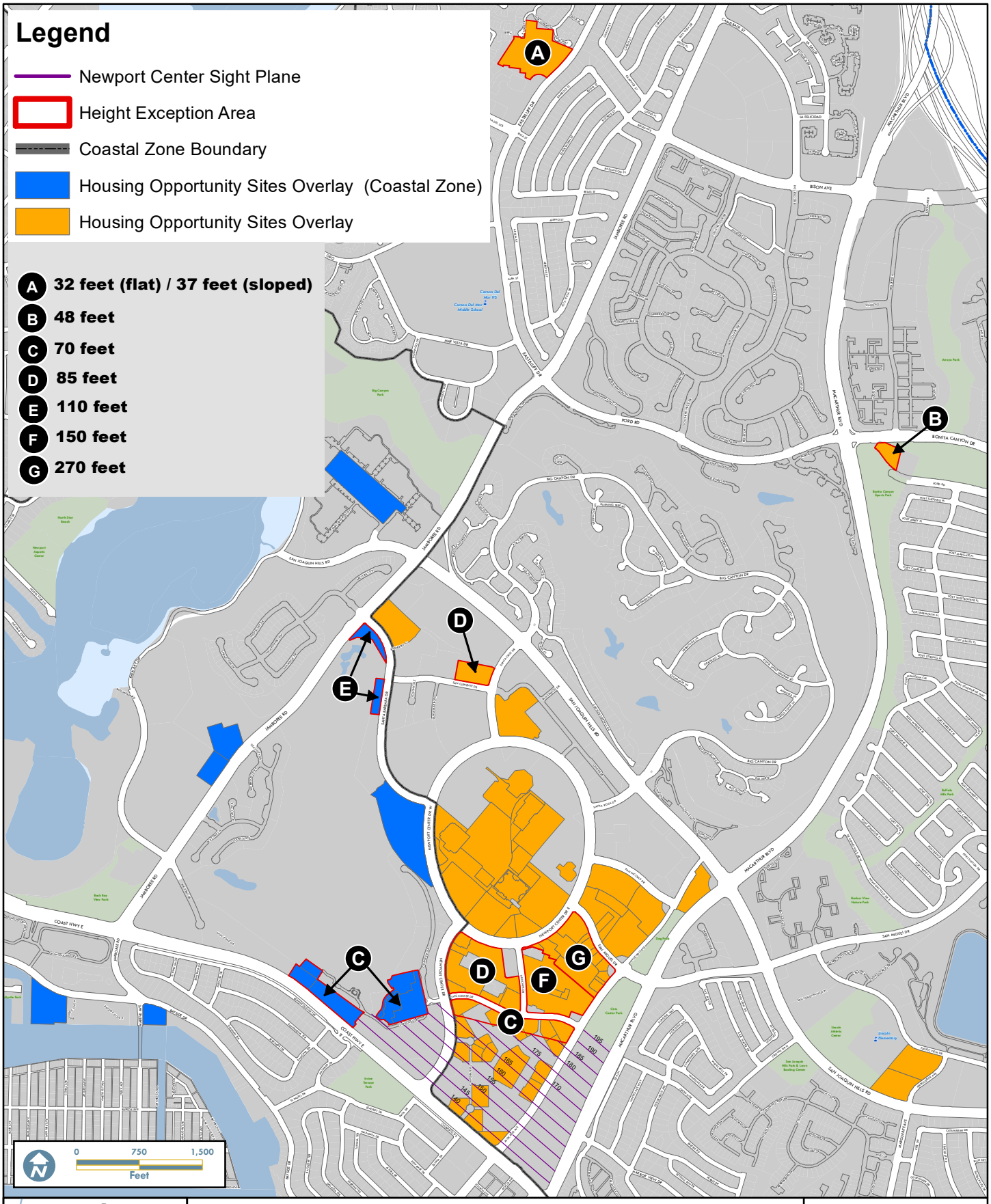
HO-1 Airport Area Environs Area.mxd



HO-3 Dover-Westcliff Area

City of Newport Beach
GIS Division
October 04, 2024

HO-3 Dover-Westcliff Area.mxd



HO-4 Newport Center Area

City of Newport Beach
GIS Division
June 13, 2025

HO-4 Newport Center Area_Height_Exceptions.mxd

VI. The bottommost portion of Table 21.14-1 entitled "Overlay Coastal Zoning Districts" within Section 21.14.020 (Coastal Zoning Districts Established) is hereby revised as follows:

TABLE 21.14-1
COASTAL ZONING DISTRICTS

Coastal Zoning Map Symbol	Coastal Zoning Districts	Coastal Land Use Plan Designations Implemented by Zoning Districts	
Overlay Coastal Zoning Districts			
MHP	Mobile Home Park	RM	Multiple-Unit Residential
PM	Parking Management	All designations	
B	Bluff	All designations	
C	Canyon	RS, RM	Single-Unit Residential Multiple-Unit Residential
H	Height	RM	Multiple-Unit Residential
HO	Housing Opportunity	Varies	Varies

Attachment C

Resolution No. 2024-51

RESOLUTION NO. 2024-51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING THE GENERAL PLAN LAND USE ELEMENT TO IMPLEMENT THE GENERAL PLAN HOUSING ELEMENT IMPLEMENTATION PROGRAM (PA2022-0245)

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 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, the City's General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating as necessary for consistency with other General Plan elements;

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment ("RHNA") allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th 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 by an ad-hoc committee called the Housing Element Update Advisory Committee ("HEUAC") formed and appointed by the City Council;

City of Newport Beach

WHEREAS, after several meetings with the State Department of Housing and Community Development ("HCD") and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City's 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the "fair share" of regional housing need and demand, by planning for units within the following site groupings or "focus areas" that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th 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 implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 ("6th Cycle Housing Element Implementation"), which requires 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 6th Cycle Housing Element;

- Amendment to Title 20 (Planning and Zoning) ("ZCA") - To implement the Land Use Element's policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;

City of Newport Beach

- Local Coastal Program Amendment ("LCPA") - To revise and create new policies within the City's Coastal Land Use Plan and 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 that are within the Coastal Zone; and

- Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act ("CEQA") related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report ("Draft PEIR"), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to $600,000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City's zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

WHEREAS, City staff worked closely with the community through the City Council-appointed General Plan Advisory Committee ("GPAC") and General Plan Update Steering Committee ("GPUSC") from March 2023 to August 2023 to draft Land Use Element goals and policies that support 6th Cycle Housing Element Implementation;

WHEREAS, the draft GPA that was supported by the GPAC and the GPUSC was posted online on August 30, 2023, with additional public comments and participation at the Planning Commission Study Session on September 21, 2023, and City Council Study Session on February 13, 2024;

WHEREAS, the draft GPA was revised and reposted online on January 16, 2024, and March 28, 2024, based on the public's input;

City of Newport Beach

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 (Public Hearings) and Chapter 21.62 (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. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation 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 May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with the AELUP;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on May 28, 2024, and adopted Resolution No. 2024-32 (7 ayes, 0 nays), to notify the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding and on May 29, 2024, the City issued the Notice of Intent to Override ALUC's determination and received two comments in response; and

City of Newport Beach

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality 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 does hereby make the findings attached hereto as Exhibit "A," and incorporated herein by reference, and approves the GPA, which is also attached hereto as Exhibit "B," and incorporated herein by reference.

Section 2: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the "Project") in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-50, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the GPA was considered within the PEIR. Resolution No. 2024-50 is hereby incorporated by reference.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

City of Newport Beach

Section 4: 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 5: This resolution shall take effect upon immediately upon it adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

Attachments: Exhibit "A" – Findings for Approval
Exhibit "B" – General Plan Land Use Element Amendment

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Exhibit "A"
Findings for Approval

General Finding:

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 approval of such amendments. Notwithstanding the foregoing, the following amendments to the General Plan Land Use Element will create internal consistency with the certified 6th Cycle Housing Element:

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 6th Cycle Housing Element adopted in the context of the visions and goals stipulated by the General Plan.

3. The proposed GPA, attached to this resolution and incorporated herein, is in full compliance with the Section 4 of the 6th Cycle Housing Element as presented below:

6th Cycle Housing Element Implementation Measures	**Amendments in Support of Housing Element's Implementation Measures**
Housing Goal #1. Provision of adequate sites to accommodate projected housing unit growth needs within the following identified housing opportunity sites: • Airport Area Environs • West Newport Mesa • Newport Center • Dover/Westcliff • Banning Ranch • Coyote Canyon	Revised Policies LU 1.1 through LU 1.5 emphasize the goal of balancing the needs of residents, business and visitors through the recognition that Newport Beach is primarily a residential community. The polices 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.

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6th Cycle Housing Element Implementation Measures	Amendments in Support of Housing Element's Implementation Measures
Housing Goal #2. Quality residential development and preservation, conservation and appropriate redevelopment of housing stock. Housing Goal #3. A variety of housing types, designs, and opportunities for all social and economic segments. 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.	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. 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. Revised Goal LU 4 Manage growth and change to: • Support the livability of existing neighborhoods. • Support residential opportunities that accommodate the City's share of the Regional Housing Needs Assessment. • Promote new uses that are complimentary to already existing neighborhoods and uses. • Achieve distinct and economically vital business and employment districts. • Correlate with supporting infrastructure and public services. • Sustain Newport Beach's natural setting. The above goal supports Housing Goal #1 as it accommodates City's share of RHNA. 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. New Policies 4.4 (Rezoning to Accommodate Housing Opportunities); 4.5 (Residential Uses and Residential Densities); 4.6 (Continuation of

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6th Cycle Housing Element Implementation Measures	Amendments in Support of Housing Element's Implementation Measures
	Existing Development); and 4.7 (Redevelopment and Transfer of Development Rights) all support 6th 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 percent or more of units are affordable to lower-income households, ensures housing opportunities for all social and economic segments and ensures streamlined project review. 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. Revised Policy LU 6.2.4 (Accessory Dwelling Units (ADU)) 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. 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.

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Charter Section 423 Analysis Finding:

Unless precluded by state or federal law, Section 423 of the Charter of the City of Newport Beach ("Charter Section 423") requires voter approval for any major amendment to the City's General Plan. A "major amendment" is one that significantly increases allowed intensity by 40,000 square feet of nonresidential floor area, increases traffic by more than 100 peak hour vehicle trips (AM/PM), or increases residential dwelling units by 100 units. These thresholds apply to the total of increases resulting from the amendment itself, plus 80% of the increases resulting from other amendments affecting the same neighborhood (defined as a "statistical area" as shown in the General Plan Land Use Element) and adopted within the preceding 10 years.

Council Policy A-18 (Guidelines for Implementing Charter Section 423) requires that proposed amendments to the General Plan be reviewed to determine if a vote of the Newport Beach electorate would be required. This policy includes a provision that all General Plan amendments be tracked as "Prior Amendments" for 10 years to determine if minor amendments in a single Statistical Area cumulatively exceed the thresholds indicated above.

Facts in Support of Finding:

1. If it is determined a Section 423 vote is required, the proposed amendment will not take effect unless approved by a majority of the electorate voting on it.

2. Should the City not implement the 6th 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 (SB18) Finding:

Pursuant to California Government Code Section 65352.3 ("SB18"), a local government is required to contact the appropriate tribes identified by the Native American Heritage Commission ("NAHC") each time it considers a proposal to adopt or amend the General Plan. If requested by any tribe, the local government must consult for the purpose of preserving or mitigating impacts to cultural resources.

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Facts in Support of Finding:

Pursuant to SB18, the City requested a Sacred Lands File ("SLF") search on the Project locations from the 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 SB18 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.

Fiscal Impact Analysis Finding:

Pursuant to General Plan Implementation Program 12.1, a fiscal impact analysis is required to be prepared for the Project. This analysis must use the City's fiscal impact model and should calculate public service impacts for specific land uses that support the residential population, the employment base, the visitor population in Newport Beach, public revenues that each type of land use typically generates for the City, including property taxes, sales taxes and other taxes, as well as a variety of user charges and fees. The fiscal impact model is designed to calculate the average cost of public services required by new development, on the assumption that new development affects the City services in approximately the same way that existing development does.

Facts in Support of Finding:

A fiscal impact analysis was prepared for the Housing Element Implementation Program Amendments by Keyser Marston Associates ("KMA") dated July 9, 2024 ("Fiscal Impact Analysis"). As there are no specific projects proposed and the dwelling unit capacity added through implementation does not contemplate any replacement of existing uses, KMA's evaluation is highly conservative and theoretical. In summary, KMA found the following:

- Rents, sales prices and assessed values in the City are all very high, benefiting General Fund revenues.
- Total buildout of all the potential residential would have a net negative impact on the City's General Fund; however, this may be mitigated if projects continue to be developed at higher price points.
- The replacement of land uses that generate minimal public revenues can offset the negative impact of the residential. For example, the recently approved 1400 Bristol Street project demonstrates that office development can have a net negative impact on the General Fund and higher

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rents/values can significantly reduce the residential impact to the General Fund.

- Cities will often adopt a development fee program, negotiate development agreements, and pursue other methods to mitigate the fiscal impact of residential development. KMA understands the City is currently preparing a development fee program, which could potentially offset some of the projected impacts.

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EXHIBIT "B"
General Plan Land Use Amendment

General Plan Land Use Element Policy LU 1.1 is amended as follows:

LU 1.1 Unique Environment

Maintain and enhance the different villages, neighborhoods, business districts, and harbor that define Newport Beach through neighborhood preservation. Locate and design development in a way that to reflects Newport Beach's topography and, architectural diversity while emphasizing the City's coastal orientation, including public views. (Imp 1.1)

General Plan Land Use Element Policy LU 1.2 is amended as follows:

LU 1.2 Citywide Identity

Recognize and support the qualities that uniquely define Newport Beach's neighborhoods and districts that promote a Citywide identity unique to the Southern California region. (Imp 1.1)

General Plan Land Use Element Policy LU 1.2 is amended as follows:

LU 1.5 Economic Health

Support the local economy through the identification and development of housing opportunities, as well as adequate commercial, office, medical, industrial, and marine-oriented uses that provide employment and local revenue opportunities to support high-quality community services for residents, businesses, and visitors. (Imp 1.1, 24.1)

General Plan Land Use Element Policy LU 2.2 is amended as follows:

LU 2.2 Sustainable and Complete Community

Emphasize and support the development of uses that enable Newport Beach to be a complete community that maintains the ability to provide locally accessible opportunities for retail, goods and services, and employment. (Imp 1.1, 24.1)

General Plan Land Use Element Policy LU 2.5 is amended as follows:

LU 2.5 Harbor and Waterfront Uses

Preserve the uses of the Harbor and the waterfront that contribute to the charm and character of Newport Beach and provide needed support for residents, boaters, and visitors, with appropriate regulations necessary to protect the interests of all users as well as adjoining residents. (Imp 1.1, 2.5, 5.1, 21.4, 24.1)

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General Plan Land Use Element Policy LU 3.3 is amended as follows:

LU 3.3 Opportunities for Change

Support opportunities for new development and improved physical environments for residents, businesses, and visitors in the following districts and corridors, as specified in Polices 6.3.1 through 6.22.7:

West Newport: support consolidation of retail and visitor-serving commercial uses, and new residential opportunities
Santa Ana Heights: support continued implementation of the adopted Specific Plan and Redevelopment Plan
Fashion Island/Newport Center: support balanced expansion and enhancement of retail uses, hotel rooms, and offices, and development of residential in proximity to jobs and services
Balboa Peninsula: support patterns of use that consolidate the Peninsula's visitor-serving and mixed uses within the core commercial districts; encourage marine-related uses especially along the bay front; integrate residential with retail and visitor-serving uses in Lido Village, McFadden Square, Balboa Village, and along portions of the Harbor frontage; re-use interior parcels in Cannery Village for residential and limited mixed-use and live/work buildings; and redevelop underperforming properties outside of the core commercial districts along the Balboa Boulevard corridor for residential. Infill development shall be designed and sited to preserve the historical and architectural fabric of these districts
Mariners' Mile: support revitalization of existing properties for retail, visitor-serving, and marine-related uses, integrated with residential
Corona del Mar: support enhancement of public improvements and parking (Imp 1.1, 2.1, 5.1)

Study and consider the adoption of specific plans or other appropriate land use guidance for the following areas:

West Newport Mesa: This area is generally bounded by the City of Costa Mesa to the north, Banning Ranch to the west, State Route 55 to the east, and Hospital Road to the south. The area may be expanded if warranted. The intent is to support a cohesive strategy that enhances existing land use or repurpose underperforming commercial and industrial uses or activities while facilitating new and varied housing, including workforce housing proximate to jobs, transportation, and services. Future land uses are intended to be appropriately located and sized to accommodate local community needs.
Airport Area: This area is generally bound by Jamboree Road to the east, Campus Drive to the north and west, and State Route 73 to the south. This area may be expanded subject to LU 4.4. This area must support flexible land use planning for the reuse and repurposing of existing nonresidential uses while allowing for a variety of housing opportunities inclusive of workforce housing proximate to jobs, transportation, supporting commercial, and services. The intent is to support and provide neighborhood parks or other recreational opportunities, and other public services. Development in this area should contribute to a cohesive urban, mixed-use character where residents and visitors can live, work, shop, access services, and play.
Coyote Canyon Landfill: This approximately 375-acre open space area is generally bound by Newport Coast Drive to the east, State Route 73 to the north, and the Newport Ridge Planned Community to the west and south. The intent for this area is to support a comprehensive vision that

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balances future land uses with environmental stewardship and public access. Future development should adapt the closed landfill as an area that supports a variety of outdoor recreational uses such as golf, hiking, and nature interpretation alongside housing opportunities with complementary nonresidential uses.

General Plan Land Use Element Goal LU 4 is amended as follows:

LU 4

Management of growth and change to:

- Support the livability of existing neighborhoods.
- Support residential opportunities that accommodate the City's share of the Regional Housing Needs Assessment.
- Promote new uses that are complementary to already existing neighborhoods and uses.
- Achieve distinct and economically vital business and employment districts.
- Correlate with supporting infrastructure and public services.
- Sustain Newport Beach's natural setting.

General Plan Land Use Element Policy LU 4.1 is amended as follows:

LU 4.1 Land Use Diagram

Support land use development consistent with the Land Use Plan. Figure LU1 depicts the general distribution of uses throughout the City and Figure LU2 through Figure LU15 depict specific use categories for each parcel within defined Statistical Areas. Table LU1 (Land Use Plan Categories) specifies the primary land use categories, types of uses, and, for certain categories, the densities/intensities to be permitted. The permitted densities/intensities or amount of development for land use categories for which this is not included in Table LU1, are specified on the Land Use Plan, Figure LU4 through Figure LU15. These are intended to convey maximum and, in some cases, minimums that may be permitted on any parcel within the designation or as otherwise specified by Table LU2 (Anomaly Locations).

The density/intensity ranges exclude increases allowed through the applications of density bonus laws and are calculated based on actual land area, actual number of dwelling units in fully developed residential areas, and development potential in areas where the General Plan allows additional development.

To determine the permissible development, the user should:

a. Identify the parcel and the applicable land use designation on the Land Use Plan, Figure LU4 through Figure LU15
b. Refer to Figure LU4 through Figure LU15 and Table LU1 to identify the permitted uses and permitted density or intensity or amount of development for the land use classification. Where densities/intensities are applicable, the maximum amount of development shall be determined by multiplying the area of the parcel by the density/intensity.
c. For anomalies identified on the Land Use Map by a symbol, refer to Table LU2 to determine the precise development limits.
d. For residential development in the Airport Area., refer to the policies prescribed by the Land Use Element that define how development may occur. (Imp 2.1, 5.1, 10.2)

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General Plan Land Use Element Policy LU 4.4 is added in its entirety as follows:

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 or adjustments 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 overall 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.

General Plan Land Use Element Policy LU 4.5 is added in its entirety as follows:

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, or any other conflict in the Land Use Element. 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 4.4 do not include units identified as pipeline units or units permitted pursuant to State density bonus law.

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General Plan Land Use Element Policy LU 4.6 is added in its entirety as follows:

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.

General Plan Land Use Element Policy LU 4.7 is added in its entirety as follows:

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.

General Plan Land Use Element Policy LU 5.1.3 is amended as follows:

LU 5.1.3 Neighborhood Identification

Encourage and support residential neighborhood identity through the establishment of objective design and development standards that will distinguish neighborhoods from others in the City. (Imp 1.1, 1.3)

General Plan Land Use Element Policy 6.2.4 is amended as follows:

LU 6.2.4 Accessory Dwelling Units

Support and promote the development of accessory dwelling units and junior accessory dwelling units in all zones that will allow residential units, to provide a more affordable housing option that helps the City meet its housing production goals while minimizing the need to rezone for additional future capacity. (Imp 2.1)

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General Plan Land Use Element Policy 6.4.2 is amended as follows:

LU 6.4.2 Residential

Accommodate a maximum of 1,475 residential units, which shall consist of a mix of single-family detached, attached, and multi-family units to provide a range of choices and prices for residents. (Imp 2.1)

General Plan Land Use Element Policy 6.6.2 is amended as follows:

LU 6.6.2 Residential Types

Support the development of a mix of residential types consistent with the densities permitted by the General Plan (Figure LU18), which may include single-family attached, townhomes, apartments, and comparable units, provided the overall average project density of 20 to 50 dwelling units per acre is not exceeded. (Imp 2.1)

General Plan Land Use Element Policy 6.10.2 is stricken and removed in its entirety.

General Plan Land Use Element Policy 6.10.3 is stricken and removed in its entirety.

General Plan Land Use Element Policy 6.12.2 is stricken and removed in its entirety.

General Plan Land Use Element Policy 6.15.4 is amended as follows:

LU 6.15.4 Priority Uses

Accommodate office, research and development, and similar uses that support the primary office and business park functions such as retail and financial services, as prescribed for the "CO-G" designation, while allowing for the re-use of properties for the development of cohesive mixed-use and residential developments that are integrated with business park uses. (Imp 2.1)

General Plan Land Use Element Policy 6.15.28 is amended as follows:

LU 6.15.28 Priority Uses

Encourage the development of retail, financial services, dining, hotel, and other uses that support the John Wayne Airport, the Airport Area's office uses, and, as developed or redeveloped, its residential neighborhoods, as well as automobile sales and supporting uses at the MacArthur Boulevard and Bristol Street node. (Imp 2.1, 24.1)

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General Plan Land Use Element Policy 6.15.29 is amended as follows:

LU 6.15.29 Priority Uses

Encourage the development of administrative, professional, and office uses that are proximate or adjacent to residential uses; with accessory retail and service uses that provide jobs for residents and benefit adjoining mixed-use districts. (Imp 2.1, 24.1)

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Exhibit "A"
Findings for Approval

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Housing Goal #2. Quality residential development and preservation, conservation and appropriate redevelopment of housing stock. Housing Goal #3. A variety of housing types, designs, and opportunities for all social and economic segments. 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.	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. 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. Revised Goal LU 4 Manage growth and change to: • Support the livability of existing neighborhoods. • Support residential opportunities that accommodate the City's share of the Regional Housing Needs Assessment. • Promote new uses that are complimentary to already existing neighborhoods and uses. • Achieve distinct and economically vital business and employment districts. • Correlate with supporting infrastructure and public services. • Sustain Newport Beach's natural setting. The above goal supports Housing Goal #1 as it accommodates City's share of RHNA. 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. New Policies 4.4 (Rezoning to Accommodate Housing Opportunities); 4.5 (Residential Uses and Residential Densities); 4.6 (Continuation of

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General Plan Land Use Amendment

General Plan Land Use Element Policy LU 1.1 is amended as follows:

LU 1.1 Unique Environment

Maintain and enhance the different villages, neighborhoods, business districts, and harbor that define Newport Beach through neighborhood preservation. Locate and design development in a way that to reflects Newport Beach's topography and, architectural diversity while emphasizing the City's coastal orientation, including public views. (Imp 1.1)

General Plan Land Use Element Policy LU 1.2 is amended as follows:

LU 1.2 Citywide Identity

Recognize and support the qualities that uniquely define Newport Beach's neighborhoods and districts that promote a Citywide identity unique to the Southern California region. (Imp 1.1)

General Plan Land Use Element Policy LU 1.2 is amended as follows:

LU 1.5 Economic Health

Support the local economy through the identification and development of housing opportunities, as well as adequate commercial, office, medical, industrial, and marine-oriented uses that provide employment and local revenue opportunities to support high-quality community services for residents, businesses, and visitors. (Imp 1.1, 24.1)

General Plan Land Use Element Policy LU 2.2 is amended as follows:

LU 2.2 Sustainable and Complete Community

Emphasize and support the development of uses that enable Newport Beach to be a complete community that maintains the ability to provide locally accessible opportunities for retail, goods and services, and employment. (Imp 1.1, 24.1)

General Plan Land Use Element Policy LU 2.5 is amended as follows:

LU 2.5 Harbor and Waterfront Uses

Preserve the uses of the Harbor and the waterfront that contribute to the charm and character of Newport Beach and provide needed support for residents, boaters, and visitors, with appropriate regulations necessary to protect the interests of all users as well as adjoining residents. (Imp 1.1, 2.5, 5.1, 21.4, 24.1)

City of Newport Beach

General Plan Land Use Element Policy LU 3.3 is amended as follows:

LU 3.3 Opportunities for Change

Support opportunities for new development and improved physical environments for residents, businesses, and visitors in the following districts and corridors, as specified in Polices 6.3.1 through 6.22.7:

West Newport: support consolidation of retail and visitor-serving commercial uses, and new residential opportunities
Santa Ana Heights: support continued implementation of the adopted Specific Plan and Redevelopment Plan
Fashion Island/Newport Center: support balanced expansion and enhancement of retail uses, hotel rooms, and offices, and development of residential in proximity to jobs and services
Balboa Peninsula: support patterns of use that consolidate the Peninsula's visitor-serving and mixed uses within the core commercial districts; encourage marine-related uses especially along the bay front; integrate residential with retail and visitor-serving uses in Lido Village, McFadden Square, Balboa Village, and along portions of the Harbor frontage; re-use interior parcels in Cannery Village for residential and limited mixed-use and live/work buildings; and redevelop underperforming properties outside of the core commercial districts along the Balboa Boulevard corridor for residential. Infill development shall be designed and sited to preserve the historical and architectural fabric of these districts
Mariners' Mile: support revitalization of existing properties for retail, visitor-serving, and marine-related uses, integrated with residential
Corona del Mar: support enhancement of public improvements and parking (Imp 1.1, 2.1, 5.1)

Study and consider the adoption of specific plans or other appropriate land use guidance for the following areas:

West Newport Mesa: This area is generally bounded by the City of Costa Mesa to the north, Banning Ranch to the west, State Route 55 to the east, and Hospital Road to the south. The area may be expanded if warranted. The intent is to support a cohesive strategy that enhances existing land use or repurpose underperforming commercial and industrial uses or activities while facilitating new and varied housing, including workforce housing proximate to jobs, transportation, and services. Future land uses are intended to be appropriately located and sized to accommodate local community needs.
Airport Area: This area is generally bound by Jamboree Road to the east, Campus Drive to the north and west, and State Route 73 to the south. This area may be expanded subject to LU 4.4. This area must support flexible land use planning for the reuse and repurposing of existing nonresidential uses while allowing for a variety of housing opportunities inclusive of workforce housing proximate to jobs, transportation, supporting commercial, and services. The intent is to support and provide neighborhood parks or other recreational opportunities, and other public services. Development in this area should contribute to a cohesive urban, mixed-use character where residents and visitors can live, work, shop, access services, and play.
Coyote Canyon Landfill: This approximately 375-acre open space area is generally bound by Newport Coast Drive to the east, State Route 73 to the north, and the Newport Ridge Planned Community to the west and south. The intent for this area is to support a comprehensive vision that

City of Newport Beach

balances future land uses with environmental stewardship and public access. Future development should adapt the closed landfill as an area that supports a variety of outdoor recreational uses such as golf, hiking, and nature interpretation alongside housing opportunities with complementary nonresidential uses.

General Plan Land Use Element Goal LU 4 is amended as follows:

LU 4
Management of growth and change to:

- Support the livability of existing neighborhoods.
- Support residential opportunities that accommodate the City's share of the Regional Housing Needs Assessment.
- Promote new uses that are complementary to already existing neighborhoods and uses.
- Achieve distinct and economically vital business and employment districts.
- Correlate with supporting infrastructure and public services.
- Sustain Newport Beach's natural setting.

General Plan Land Use Element Policy LU 4.1 is amended as follows:

LU 4.1 Land Use Diagram

Support land use development consistent with the Land Use Plan. Figure LU1 depicts the general distribution of uses throughout the City and Figure LU2 through Figure LU15 depict specific use categories for each parcel within defined Statistical Areas. Table LU1 (Land Use Plan Categories) specifies the primary land use categories, types of uses, and, for certain categories, the densities/intensities to be permitted. The permitted densities/intensities or amount of development for land use categories for which this is not included in Table LU1, are specified on the Land Use Plan, Figure LU4 through Figure LU15. These are intended to convey maximum and, in some cases, minimums that may be permitted on any parcel within the designation or as otherwise specified by Table LU2 (Anomaly Locations).
The density/intensity ranges exclude increases allowed through the applications of density bonus laws and are calculated based on actual land area, actual number of dwelling units in fully developed residential areas, and development potential in areas where the General Plan allows additional development.
To determine the permissible development, the user should:

a. Identify the parcel and the applicable land use designation on the Land Use Plan, Figure LU4 through Figure LU15
b. Refer to Figure LU4 through Figure LU15 and Table LU1 to identify the permitted uses and permitted density or intensity or amount of development for the land use classification. Where densities/intensities are applicable, the maximum amount of development shall be determined by multiplying the area of the parcel by the density/intensity.
c. For anomalies identified on the Land Use Map by a symbol, refer to Table LU2 to determine the precise development limits.
d. For residential development in the Airport Area., refer to the policies prescribed by the Land Use Element that define how development may occur. (Imp 2.1, 5.1, 10.2)

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General Plan Land Use Element Policy LU 4.4 is added in its entirety as follows:

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 or adjustments 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 overall 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.

General Plan Land Use Element Policy LU 4.5 is added in its entirety as follows:

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, or any other conflict in the Land Use Element. 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 4.4 do not include units identified as pipeline units or units permitted pursuant to State density bonus law.

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General Plan Land Use Element Policy LU 4.6 is added in its entirety as follows:

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.

General Plan Land Use Element Policy LU 4.7 is added in its entirety as follows:

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.

General Plan Land Use Element Policy LU 5.1.3 is amended as follows:

LU 5.1.3 Neighborhood Identification

Encourage and support residential neighborhood identity through the establishment of objective design and development standards that will distinguish neighborhoods from others in the City. (Imp 1.1, 1.3)

General Plan Land Use Element Policy 6.2.4 is amended as follows:

LU 6.2.4 Accessory Dwelling Units

Support and promote the development of accessory dwelling units and junior accessory dwelling units in all zones that will allow residential units, to provide a more affordable housing option that helps the City meet its housing production goals while minimizing the need to rezone for additional future capacity. (Imp 2.1)

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General Plan Land Use Element Policy 6.15.29 is amended as follows:

LU 6.15.29 Priority Uses

Encourage the development of administrative, professional, and office uses that are proximate or adjacent to residential uses; with accessory retail and service uses that provide jobs for residents and benefit adjoining mixed-use districts. (Imp 2.1, 24.1)

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General Plan Land Use Element Policy 6.4.2 is amended as follows:

LU 6.4.2 Residential

Accommodate a maximum of 1,475 residential units, which shall consist of a mix of single-family detached, attached, and multi-family units to provide a range of choices and prices for residents. (Imp 2.1)

General Plan Land Use Element Policy 6.6.2 is amended as follows:

LU 6.6.2 Residential Types

Support the development of a mix of residential types consistent with the densities permitted by the General Plan (Figure LU18), which may include single-family attached, townhomes, apartments, and comparable units, provided the overall average project density of 20 to 50 dwelling units per acre is not exceeded. (Imp 2.1)

General Plan Land Use Element Policy 6.10.2 is stricken and removed in its entirety.

General Plan Land Use Element Policy 6.10.3 is stricken and removed in its entirety.

General Plan Land Use Element Policy 6.12.2 is stricken and removed in its entirety.

General Plan Land Use Element Policy 6.15.4 is amended as follows:

LU 6.15.4 Priority Uses

Accommodate office, research and development, and similar uses that support the primary office and business park functions such as retail and financial services, as prescribed for the "CO-G" designation, while allowing for the re-use of properties for the development of cohesive mixed-use and residential developments that are integrated with business park uses. (Imp 2.1)

General Plan Land Use Element Policy 6.15.28 is amended as follows:

LU 6.15.28 Priority Uses

Encourage the development of retail, financial services, dining, hotel, and other uses that support the John Wayne Airport, the Airport Area's office uses, and, as developed or redeveloped, its residential neighborhoods, as well as automobile sales and supporting uses at the MacArthur Boulevard and Bristol Street node. (Imp 2.1, 24.1)

City of Newport Beach

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2024-51 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 23rd day of July, 2024; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Pro Tem Joe Stapleton, Councilmember Brad Avery, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Erik Weigand
NAYS: None
ABSTAINED: Mayor Will O'Neill

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 24th day of July, 2024.

Leilani I. Brown
City Clerk
Newport Beach, California

City of Newport Beach

Attachment D

Ordinance No. 2024-16

ORDINANCE NO. 2024-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING TITLE 20 (PLANNING AND ZONING) OF THE NEWPORT BEACH MUNICIPAL CODE TO IMPLEMENT THE GENERAL PLAN 6TH CYCLE HOUSING ELEMENT (PA2022-0245)

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 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, the City's General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating every now and then for consistency with other General Plan elements;

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment ("RHNA") allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th 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 by an ad-hoc committee called the Housing Element Update Advisory Committee ("HEUAC") formed and appointed by the City Council;

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WHEREAS, after several meetings with the State Department of Housing and Community Development ("HCD") and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City's 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the "fair share" of regional housing need and demand, by planning for units within the following site groupings or "focus areas" that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th 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 implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 ("6th Cycle Housing Element Implementation"), which requires 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 6th Cycle Housing Element;

- Amendment to Title 20 (Planning and Zoning) ("ZCA") - To implement the Land Use Element's policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;

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- Local Coastal Program Amendment ("LCPA") - To revise and create new policies within the City's Coastal Land Use Plan and 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 that are within the Coastal Zone; and

- Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act ("CEQA") related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report ("Draft PEIR"), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to $600,0000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City's zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

WHEREAS, City staff worked closely with the community through the City Council-appointed General Plan Advisory Committee ("GPAC") and General Plan Update Steering Committee ("GPUSC") from March 2023 to August 2023 to draft Land Use Element goals and policies that support 6th Cycle Housing Element Implementation, including the ZCA;

WHEREAS, the draft GPA that was supported by the GPAC and the GPUSC was posted online along with the draft ZCA on August 30, 2023, with additional public comments and participation at the Planning Commission Study Session on September 21, 2023, and City Council Study Session on February 13, 2024;

WHEREAS, the draft GPA was revised and reposed online on January 16, 2024, and March 28, 2024, based on the public's input;

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WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 (Public Hearings) and Chapter 21.62 (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. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation 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 May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with the AELUP;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on May 28, 2024, and adopted Resolution No. 2024-32 (7 ayes, 0 nays), to notify the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding and on May 29, 2024, the City issued the Notice of Intent to Override ALUC's determination and received two comments in response; and

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing.

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

Section 1: 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, the ZCA is consistent with the corresponding GPA and LCPA.

Section 2: The City Council does hereby make the findings attached hereto as Exhibit "A" and incorporated by reference, and approves the ZCA, as set forth in Exhibit "B," which is attached hereto and incorporated herein by reference.

Section 3: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the "Project") in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-50, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the ZCA was considered within the PEIR. Resolution No. 2024-50 is hereby incorporated by reference.

Section 4: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 5: 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 6: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

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Section 7: 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 take effect 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 23rd day of July, 2024, and adopted on the 24th day of September, 2024, by the following vote, to-wit:

AYES: Mayor Pro Tem Stapleton, Councilmember Blom, Councilmember Grant, Councilmember Kleiman, Councilmember Weigand

ABSTAIN: Mayor O'Neill

ABSENT: Councilmember Avery

WILL O'NEILL, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

CITY OF NEWPORT BEACH CALIFORNIA

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

AARON C. HARP, CITY ATTORNEY

Attachments: Exhibit "A" – Findings for Approval
Exhibit "B" – Title 20 (Planning and Zoning) Housing Opportunity (HO) Overlay Zoning Districts

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EXHIBIT "A"
Findings for Approval

General Finding:

An amendment to the City's Zoning Code 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 approval of such amendments. Notwithstanding the foregoing, the following amendments to the Zoning Code will create internal consistency with the certified 6th Cycle Housing Element:

Facts in Support of Finding:

1. The Zoning Code is a tool designed to implement the General Plan. Since the 6th 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 Zoning Code Amendment ("ZCA"), attached to this ordinance as Exhibit "B" incorporated herein, including the Housing Opportunity (HO) Overlay Zoning Districts with associated development standards, are consistent with the implementation program in the Housing Plan of the Housing Element, as discussed in Resolution No. 2024-____ 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.

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EXHIBIT "B"
Title 20 (Planning and Zoning)
Housing Opportunity (HO) Overlay Zoning Districts

Chapter 20.28 (Overlay Zoning Districts) of the NBMC is amended to include a new Section 21.28.050 (Housing Opportunity [HO] Overlay Zoning Districts) as follows:

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.

Section 20.28.010 (Purposes of Overlay Zoning Districts) is amended to include a new Subsection (D) as follows:

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).

New Section 20.28.050 (Housing Opportunity [HO] Overlay Zoning Districts) is incorporated into the Chapter as follows:

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 (Maps – NOTE: Maps largely mirror the focus areas in Appendix B of the Housing Element and will be posted once available). 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.

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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 16th Street, Production Place, and 15th 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 - 5th Cycle Housing Element Sites – Those sites that are identified as 5th Cycle Housing Element sites on Figure B-5 of the 6th 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.

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.

City of Newport Beach

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

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(1) Development limits are additional residential development opportunities beyond the base allowances in this Title and General Plan, including projects approved under those base allowances and units identified as pipeline units in the 6th Cycle Housing Element (Table B-2). Development limits shall not include density bonus units. 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 6th 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

City of Newport Beach

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

City of Newport Beach

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

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

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;

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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.

Subsection 20.48.130(B) shall be amended to include a reference to the HO Overlay Zoning Districts as follows:

B. Development Standards. In addition to the development standards provided in this section, development standards for mixed-use projects are provided in:

1. Table 2-10 (Development Standards for MU-V; MU-MM; MU-DW; and MUCV/15th St.);

2. Table 2-11 (Development Standards for MU-W1 and MU-W2 Mixed-Use Zoning Districts);

3. Table 2-16 (Development Standards for Housing Opportunity Overlay Zones); and

4. Other sections in this Part 4 for specific uses that may be part of the proposed mixed-use project.

Part 8. Maps, Chapter 20.80 (Maps) is amended to include new Section 20.80.025 (Housing Opportunity Overlay Zoning Districts maps) as follows:

Chapter 20.80

MAPS

Sections:

20.80.010 Area maps.
20.80.020 Bluff overlay.
20.80.025 Housing Opportunity Overlay Zoning Districts maps.
20.80.030 Height limit areas.
20.80.035 Parking Management Overlay District maps.
20.80.040 Setback maps.

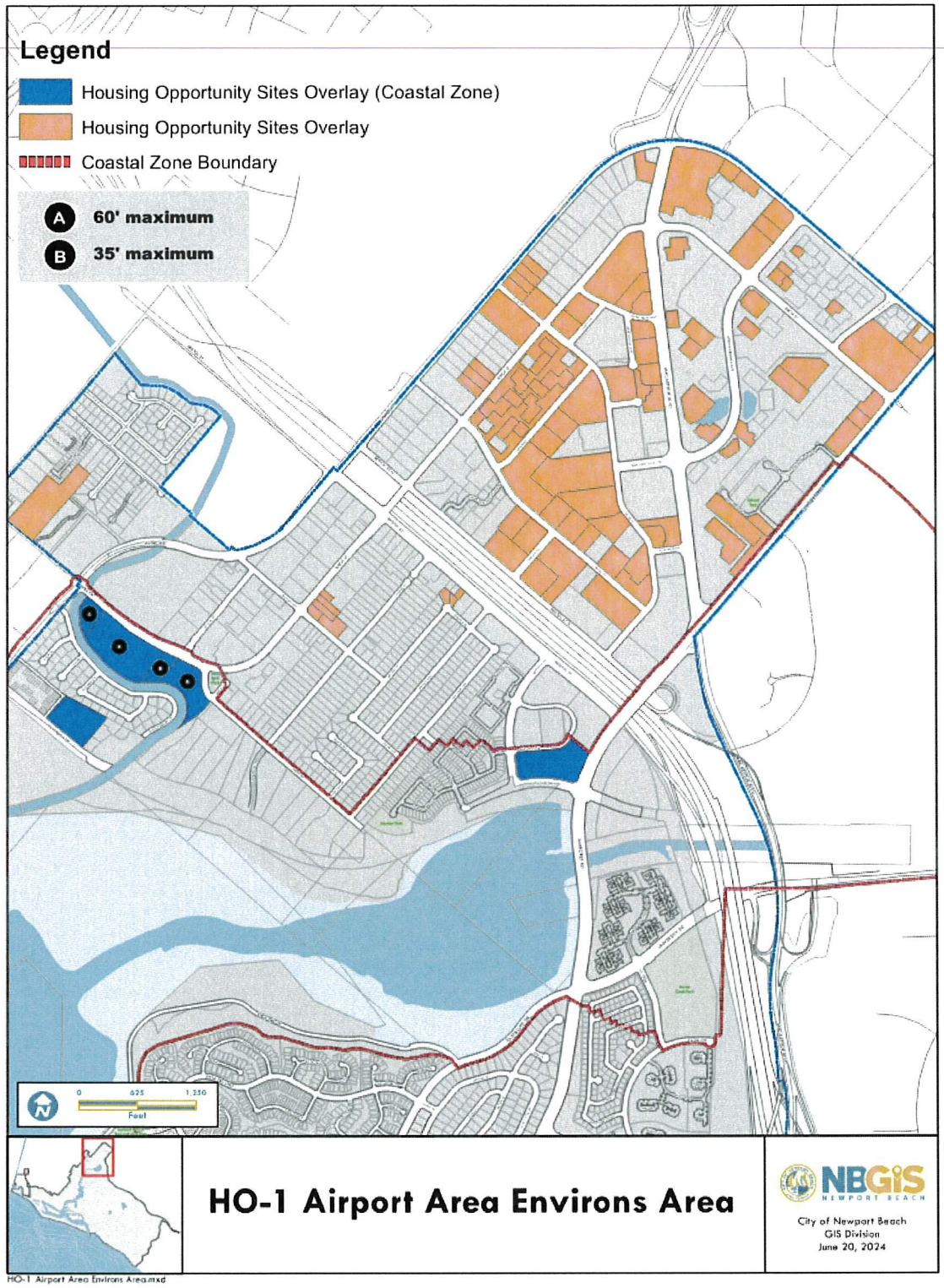
City of Newport Beach

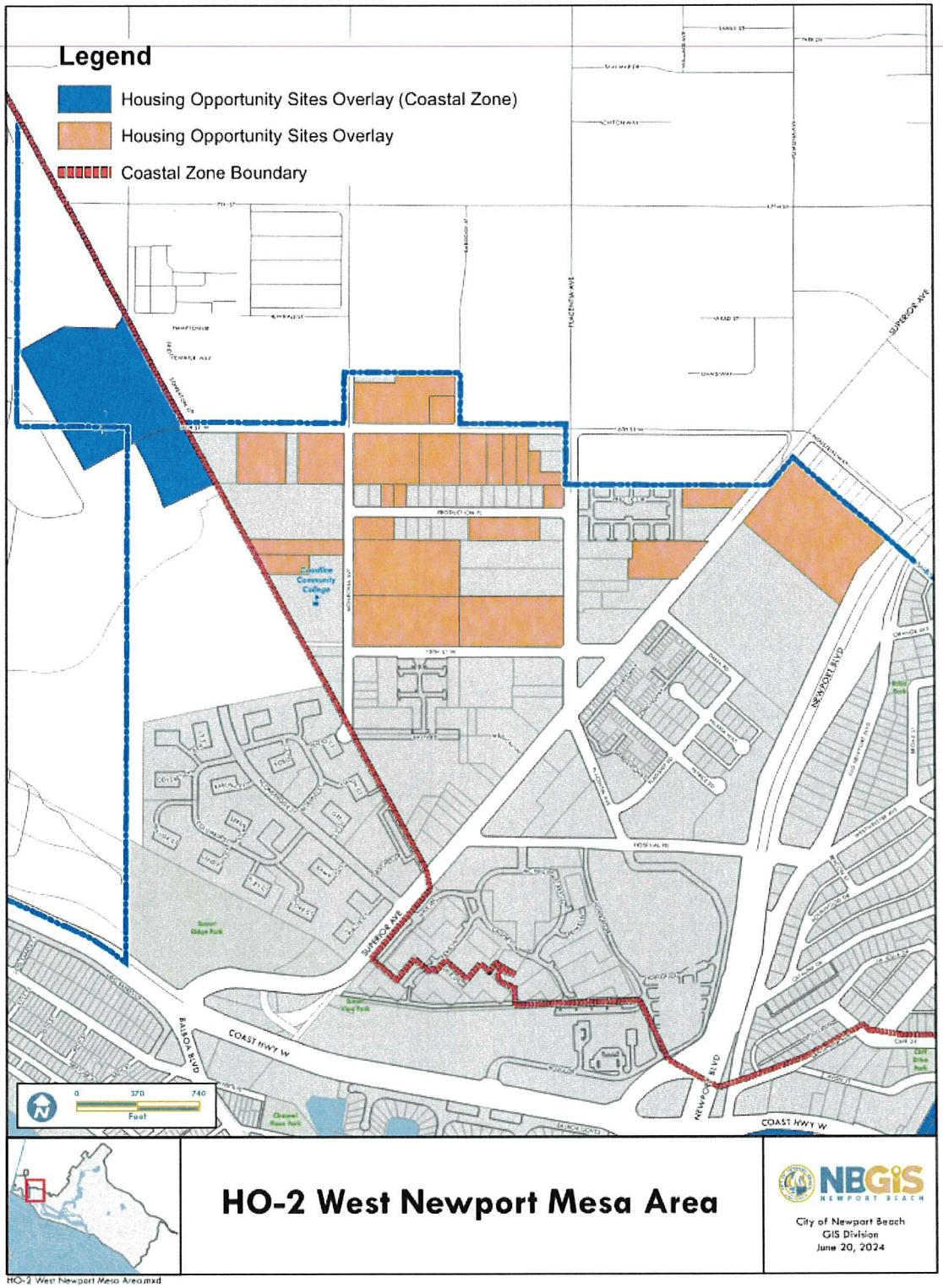
Section 20.80.025 (Housing Opportunity Overlay Zoning Districts maps) is added in its entirety to include an indexing of maps as follows:

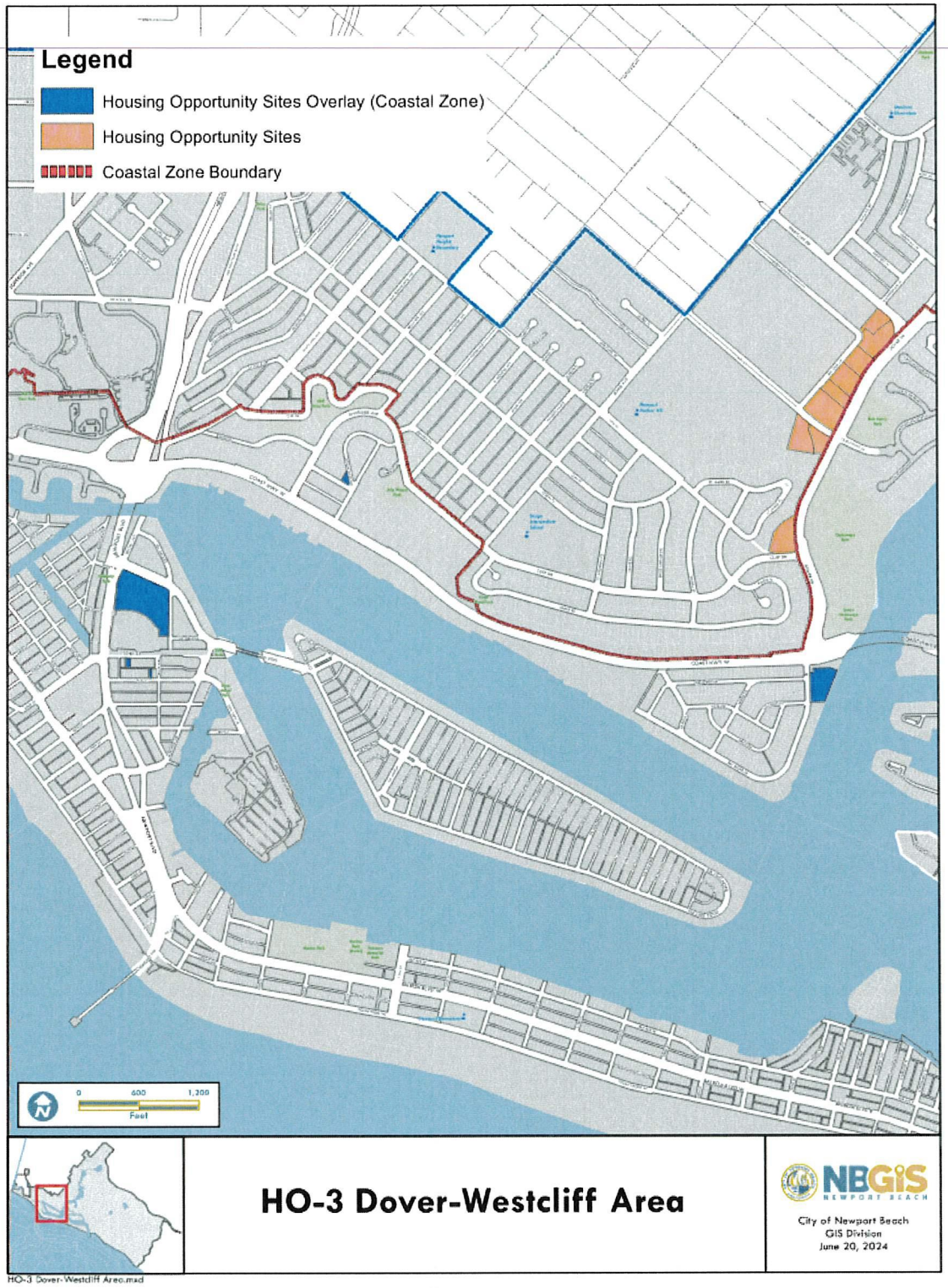
HO-1 - Airport Area Environs Area (PDF)
HO-2 - West Newport Mesa Area (PDF)
HO-3 - Dover-Westcliff Area (PDF)
HO-4 - Newport Center Area (PDF)
HO-5 - Coyote Canyon Area (PDF)
HO-6 - 5th Cycle Housing Element Sites (PDF)

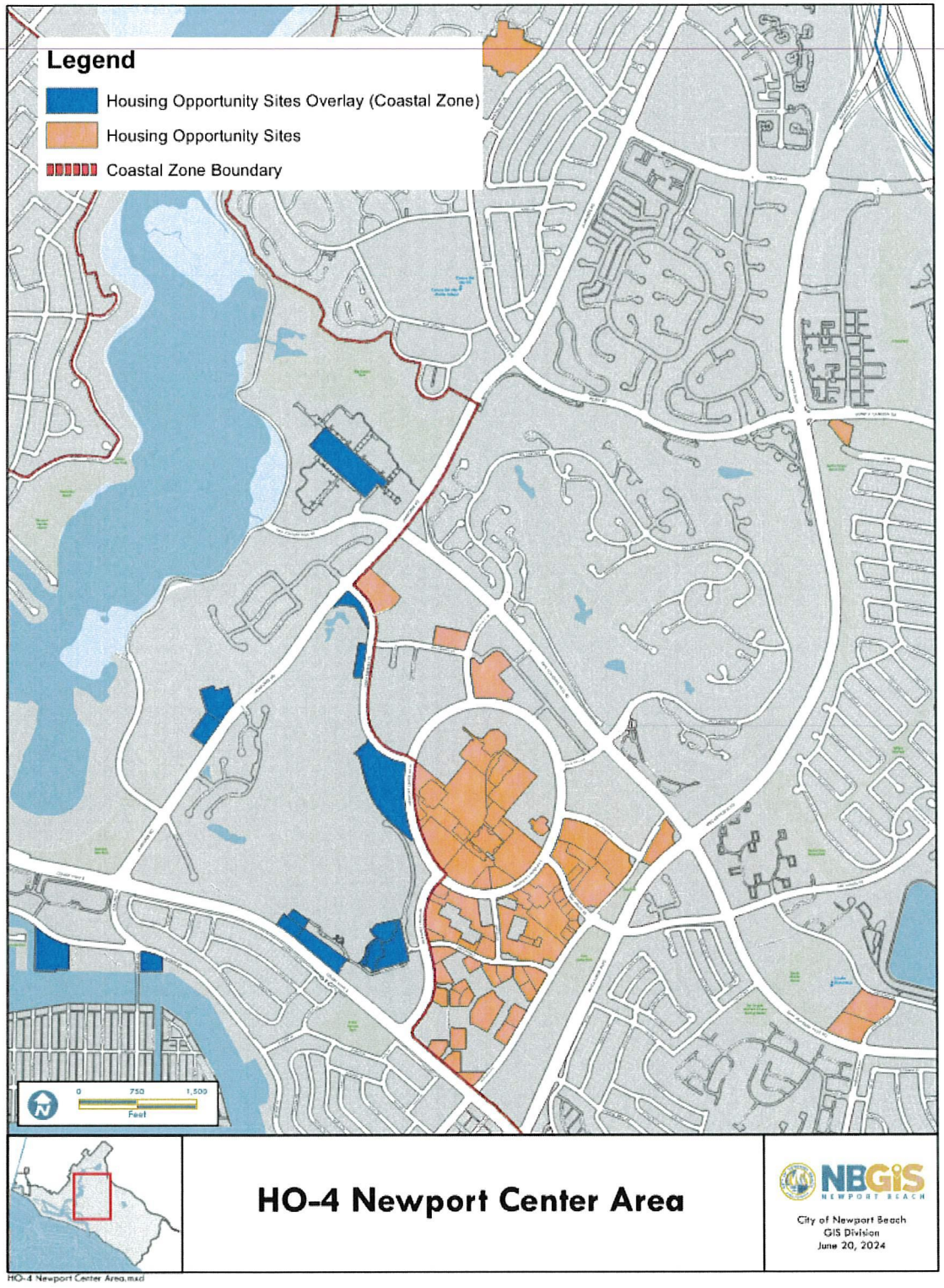
The corresponding maps for each of the Housing Opportunity Overlay Zoning Districts, as indexed in Section 20.80.025 and linked as a PDF, are to be in a similar format to the following series of maps beginning on the next page:

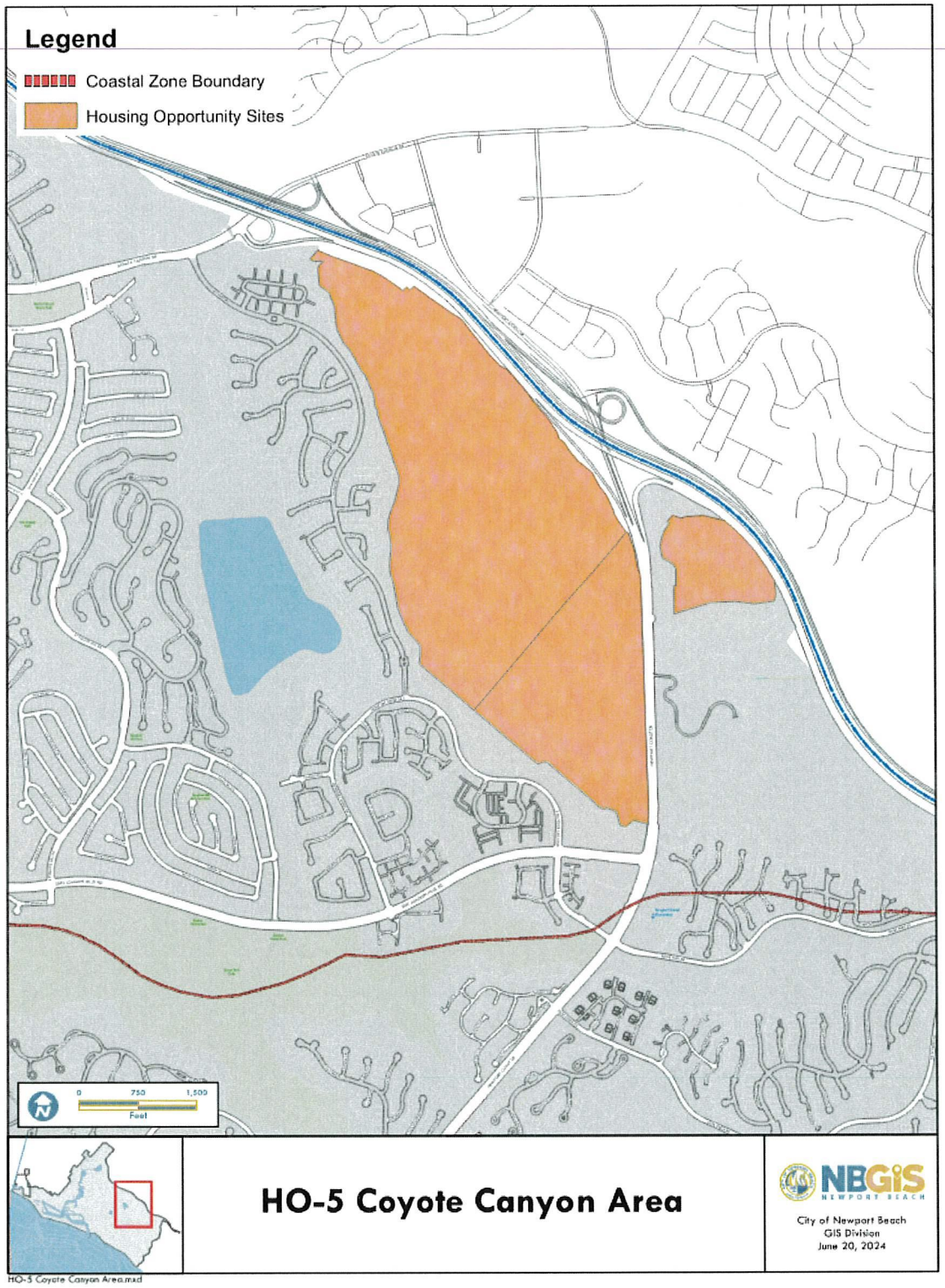
City of Newport Beach


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites Overlay
Coastal Zone Boundary
A 60' maximum
B 35' maximum
0 625 1,250
Feet
HO-1 Airport Area Environs Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-1 Airport Area Environs Area.mxd


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites Overlay
Coastal Zone Boundary
COAST HWY W
NEWPORT BLVD
SUPERIOR AVE
BALBOA BLVD
HOSPITAL RD
0
370
740
Feet
HO-2 West Newport Mesa Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-2 West Newport Mesa Area.mxd


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites
Coastal Zone Boundary
0
600
1,200
Feet
HO-3 Dover-Westcliff Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-3 Dover-Westcliff Area.mxd


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites
Coastal Zone Boundary
0
750
1,500
Feet
HO-4 Newport Center Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-4 Newport Center Area.mxd


Legend
Coastal Zone Boundary
Housing Opportunity Sites
0
750
1,500
Feet
HO-5 Coyote Canyon Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-5 Coyote Canyon Area.mxd


COAST HWY W
NEWPORT BLVD
VIA LIDO
Balboa Village
0
370
740
Feet
HO-6 Existing 5th Cycle Sites
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-6 Existing_5th_Cycle_Sites.mxd

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2024-16 was duly introduced on the 23rd day of July, 2024, at a regular meeting, and adopted by the City Council at a regular meeting duly held on the 24th day of September, 2024, and that the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Pro Tem Joe Stapleton, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Erik Weigand
ABSTAIN: Mayor Will O'Neill
ABSENT: Councilmember Brad Avery

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 25th day of September, 2024.

Leilani I. Brown, MMC
City Clerk
City of Newport Beach, California

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2024-16 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in *The Daily Pilot*, a newspaper of general circulation on the following dates:

Introduced Ordinance: July 27, 2024
Adopted Ordinance: September 28, 2024

In witness whereof, I have hereunto subscribed my name this 2nd day of October, 2024.

Leilani I. Brown, MMC
City Clerk
City of Newport Beach, California

City of Newport Beach

Attachment E

Resolution No. 2024-52

RESOLUTION NO. 2024-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF A LOCAL COASTAL PROGRAM AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION TO AMEND THE CITY OF NEWPORT BEACH COASTAL LAND USE PLAN AND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO THE IMPLEMENTATION OF THE HOUSING ELEMENT (PA2022-0245)

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 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, Section 30500 of the California Public Resources Code requires each county and city to prepare a Local Coastal Program ("LCP") for that portion of the coastal zone within its jurisdiction;

WHEREAS, the California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City added Title 21 (Local Coastal Program Implementation Plan) ("Title 21") to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit issuing authority on January 30, 2017;

WHEREAS, the City's General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating as necessary for consistency with other General Plan elements;

City of Newport Beach

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment ("RHNA") allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th 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 by an ad-hoc committee called the Housing Element Update Advisory Committee ("HEUAC") formed and appointed by the City Council;

WHEREAS, after several meetings with the State Department of Housing and Community Development ("HCD") and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City's 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the "fair share" of regional housing need and demand, by planning for units within the following site groupings or "focus areas" that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th 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 implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

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WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 ("6th Cycle Housing Element Implementation"), which requires 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 6th Cycle Housing Element;

- Amendment to Title 20 (Planning and Zoning) ("ZCA") - To implement the Land Use Element's policy changes by allowing housing development as an opportunity and establishing appropriate 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 update Title 21 (Local Coastal Program Implementation Plan) of the NBMC to support housing production in the focus areas identified by the 6th Cycle Housing Element that are within the Coastal Zone; and

- Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act ("CEQA") related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report ("Draft PEIR"), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to $600,000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City's zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

City of Newport Beach

WHEREAS, City staff worked closely with the community through the City Council-appointed General Plan Advisory Committee ("GPAC") and General Plan Update Steering Committee ("GPUSC") from March 2023 to August 2023 to draft Land Use Element goals and policies that support 6th Cycle Housing Element Implementation;

WHEREAS, the draft GPA that was supported by the GPAC and the GPUSC was posted online on August 30, 2023, with additional public comments and participation at the Planning Commission Study Session on September 21, 2023, and the City Council Study Session on February 13, 2024;

WHEREAS, the draft GPA was revised and reposted online on January 16, 2024, and March 28, 2024, based on the public's input;

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 (Public Hearings) and Chapter 21.62 (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. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation 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 May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with the AELUP;

City of Newport Beach

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on May 28, 2024, and adopted Resolution No. 2024-32 (7 ayes, 0 nays), to notify the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding and on May 29, 2024, the City issued the Notice of Intent to Override ALUC's determination and received two comments in response;

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing; and

WHEREAS, pursuant to Section 13515 of the California Code of Regulations Title 14, Division 5. 5, Chapter 8 ("Section 13515"), drafts of the LCPA were made available and a Notice of Availability was distributed on April 15, 2024, at least six weeks prior to the anticipated final action date.

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

Section 1: The City Council finds amendments to the LCP are legislative acts. Neither Title 21 nor State Planning Law set for any required findings for either approval or denial of such amendments. Notwithstanding the foregoing, the LCPA is consistent with the corresponding GPA and ZCA.

Section 2: The City Council does hereby make the findings attached hereto as Exhibit "A" and incorporated by reference and authorizes staff to submit this LCPA to amend portions of the Coastal Land Use Plan and Title 21, as set forth in Exhibits "B" and "C," which are attached hereto and incorporated by reference, to the California Coastal Commission for review and approval.

City of Newport Beach

Section 3: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the "Project") in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-50, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the LCPA was considered within the PEIR. Resolution No. 2024-50 is hereby incorporated by reference.

Section 4: This LCPA shall not become effective until voter approval set forth in Section 8 below followed by approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City of Newport Beach.

Section 5: This LCPA, if approved, will be carried out fully in conformity with the California Coastal Act.

Section 6: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 7: 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.

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Section 8: 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 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

Attachments:
Exhibit "A" – Findings for Approval
Exhibit "B" – Amendment to Coastal Land Use Plan
Exhibit "C" – Amendment to Title 21 (Local Coastal Program Implementation Plan)

City of Newport Beach

EXHIBIT "A"
Findings for Approval

General Finding:

An amendment to the City's Local Coastal Program is a legislative act. Neither Title 21 (Planning and Zoning) of the NBMC nor California Government Code Section 65000 *et seq.*, set forth any required findings for approval of such amendments. Notwithstanding the foregoing, the following amendments to the Local Coastal Program will create internal consistency with the certified 6th Cycle Housing Element:

Facts in Support of Finding:

1. The Local Coastal Program ("LCP"), including the Coastal Land Use Plan and the Implementation Plan (Title 21) are designed to implement the General Plan within the Coastal Zone in furtherance of the California Coastal Act. Since the 6th Cycle Housing Element Implementation involves an amendment to the General Plan and Title 20 (Planning and Zoning) affecting several properties within the Coastal Zone, it is necessary to also amend the LCP to achieve the goals and policies.

2. The LCP Amendment ("LCPA"), attached to this resolution as Exhibits "B" and "C" incorporated herein, including the Housing Opportunity (HO) Overlay Coastal Zoning Districts with associated development standards, are consistent with the implementation program in the Housing Plan of the Housing Element, as discussed in Resolution No. 2024-____ under the Findings for the General Plan Amendment. The LCPA 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.

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EXHIBIT "B"
Amendment to Coastal Land Use Plan

Policy 2.1.2-1 of the CLUP is revised as follows:

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.

Policy 2.1.10-1 of the CLUP is revised as follows:

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.

New Policy 2.1.11-1 is inserted and reads as follows:

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 6th 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:

- **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 entire area, inclusive of those properties in the Coastal Zone.
- **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 entire area, inclusive of those properties in the Coastal Zone.
- **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 entire area, inclusive of those properties in the Coastal Zone.
- **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 entire area, inclusive of those properties in the Coastal Zone.

City of Newport Beach

New Policy 2.1.11-2 is inserted and reads as follows:

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 for the various overlay coastal zoning districts 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.

New Policy 2.1.11-3 is inserted and reads as follows:

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.

New Policy 2.1.11-4 is inserted and reads as follows:

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).

City of Newport Beach

EXHIBIT "C"
Amendment to Title 21 (Local Coastal Program Implementation Plan)

Chapter 21.28 (Overlay Coastal Zoning Districts) of the NBMC is amended to include a new Section 21.28.070 (Housing Opportunity [HO] Overlay Coastal Zoning District) as follows:

Chapter 21.28

OVERLAY COASTAL ZONING DISTRICTS (MHP, PM, B, C, H, 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.

Section 21.28.010 (Purposes of Overlay Coastal Zoning Districts) is amended to include a new Subsection (F) as follows:

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).

New Section 21.28.070 (Housing Opportunity [HO] Overlay Coastal Zoning Districts) is incorporated into the Chapter as follows:

21.28.070 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:

City of Newport Beach

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 16th Street, Production Place, and 15th 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.

City of Newport Beach

TABLE 21.28-1
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES

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

(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.

City of Newport Beach

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.

City of Newport Beach

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 COASTAL OVERLAY ZONES

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

Part 8. Maps, Chapter 20.80 (Maps) is amended to include new Section 21.80.032 (Housing Opportunity Overlay Districts Maps) as follows:

Chapter 21.80

MAPS

Sections:

21.80.010 Area Maps.
21.80.020 Bluff Overlay.
21.80.025 Canyon Overlay.
21.80.030 Height Limit Areas.
21.80.032 Housing Opportunity Overlay Districts Maps.
21.80.035 Parking Management Overlay District Maps.
21.80.040 Setback Maps.

City of Newport Beach

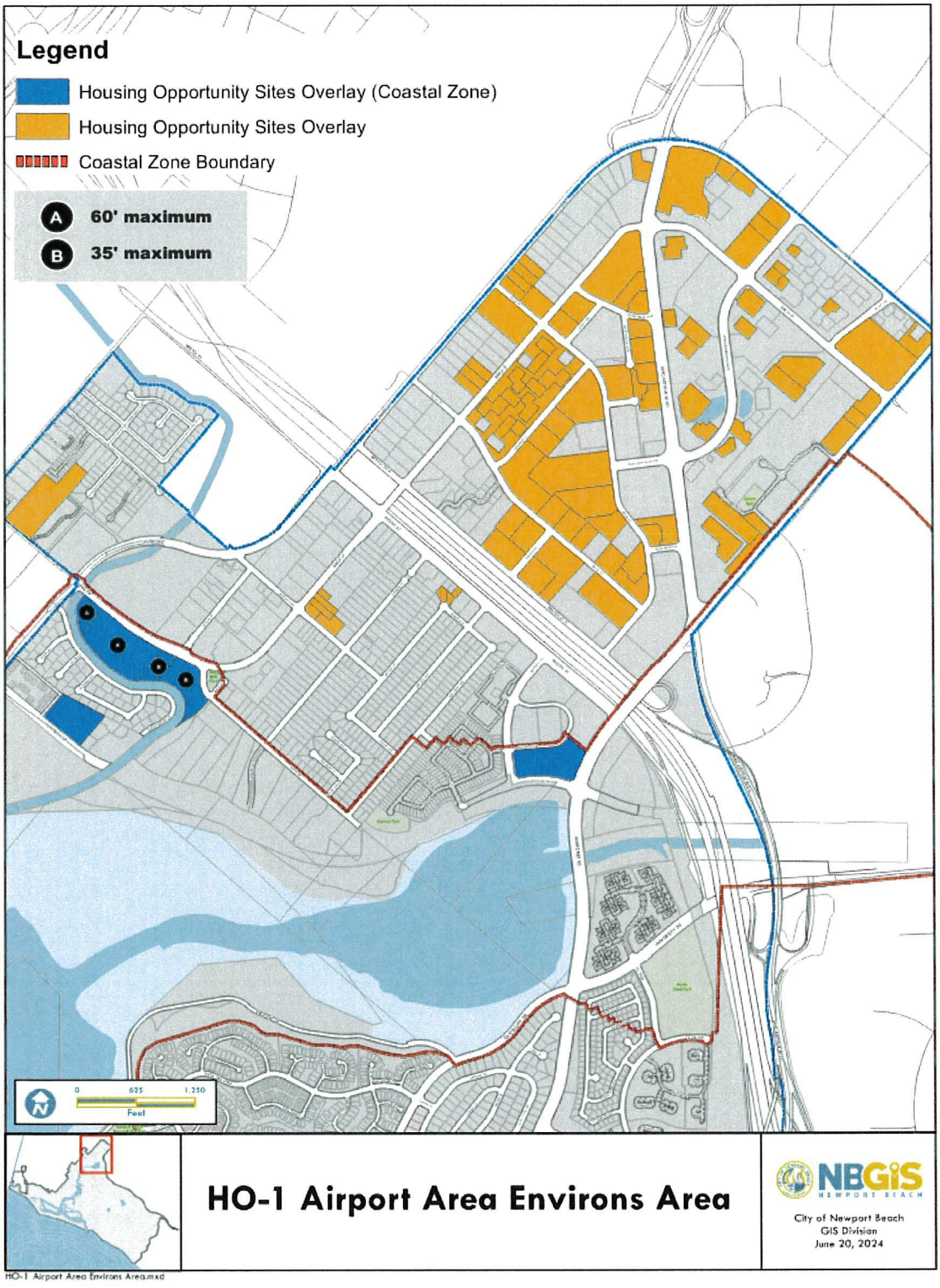
21.80.055 Planned Community Site Plans.
21.80.065 Planned Community Land Use Maps.

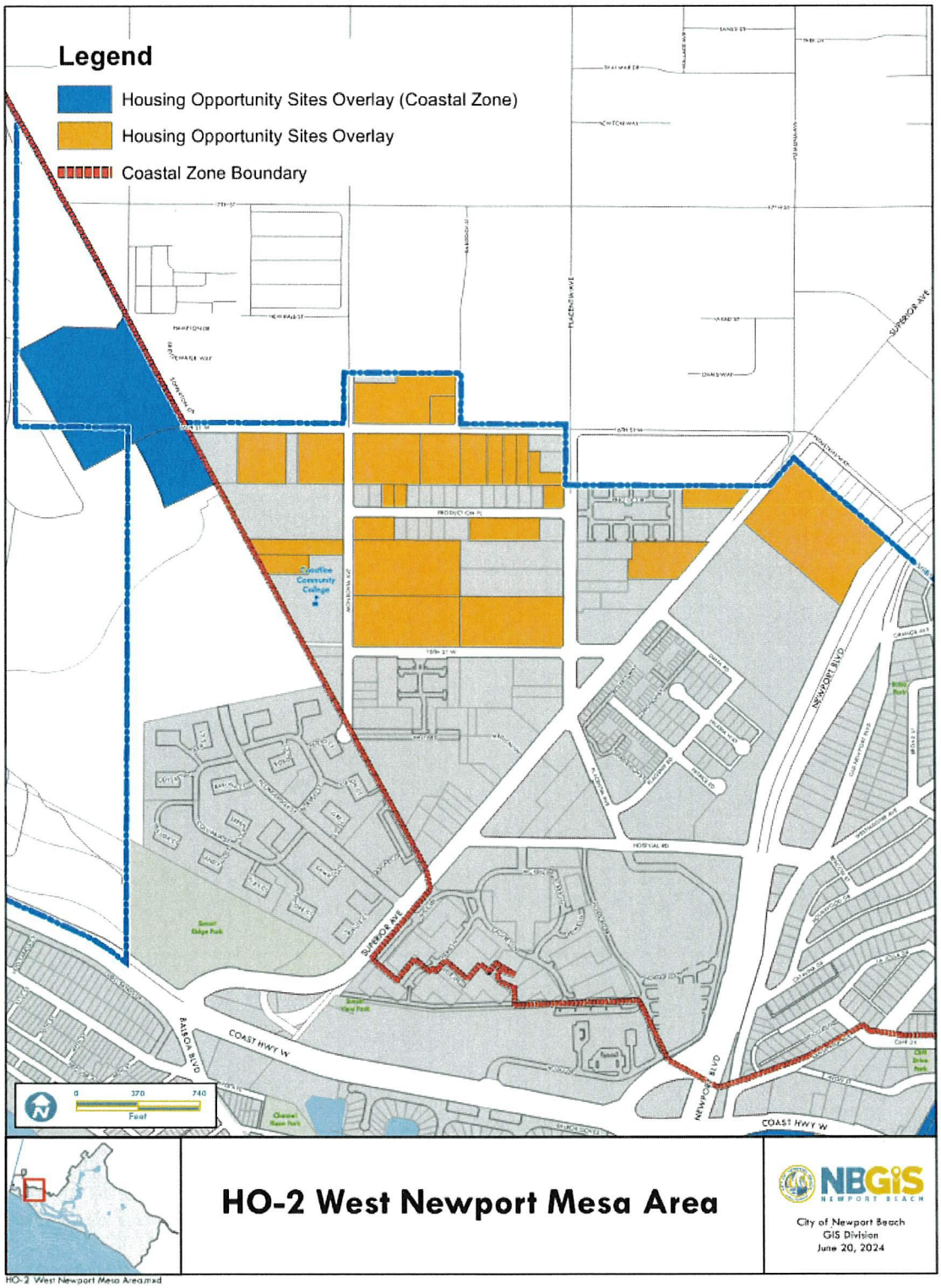
Section 21.80.032 (Housing Opportunity Overlay Zoning Districts Maps) is added in its entirety to include an indexing of maps as follows:

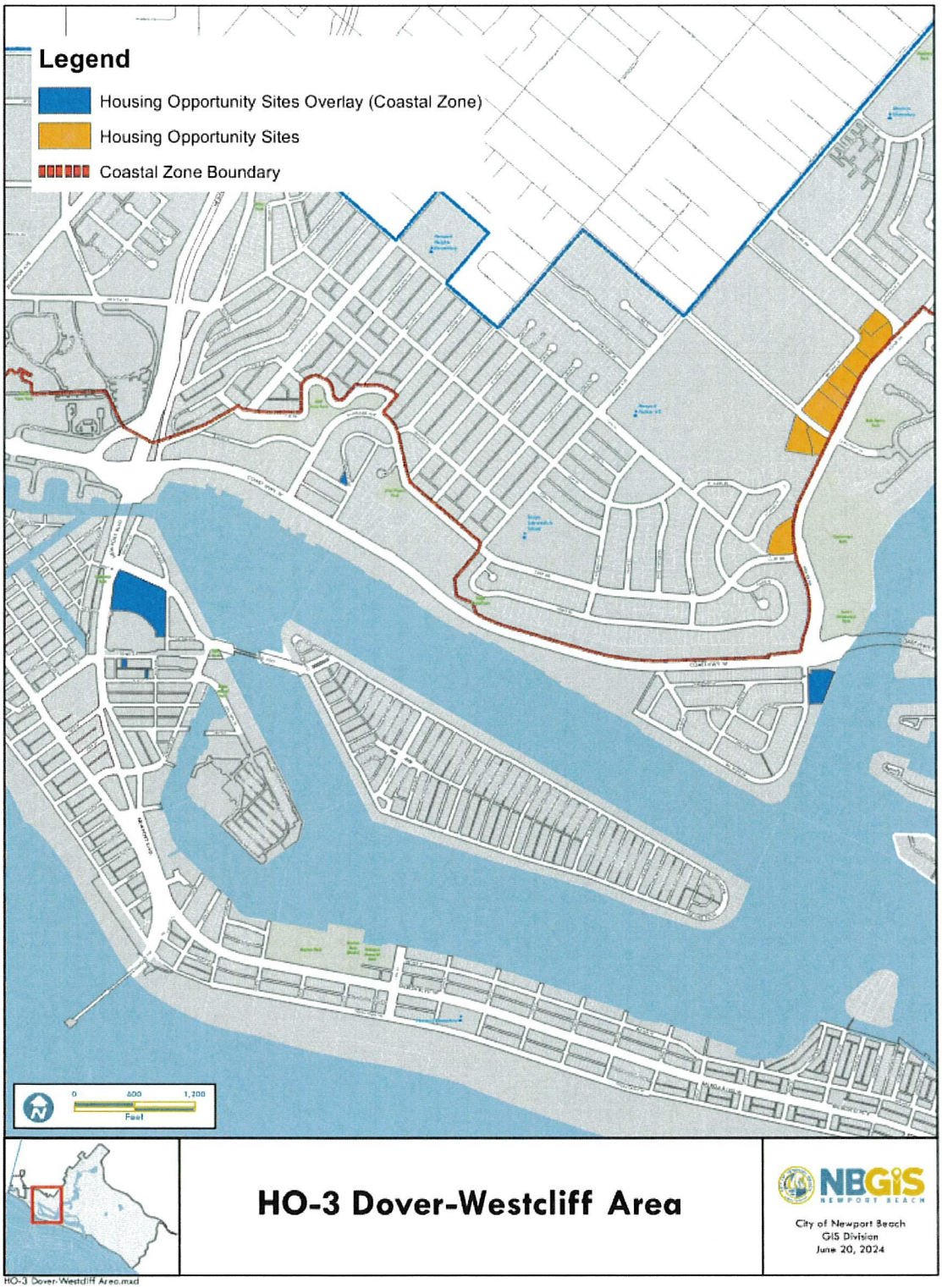
HO-1 - Airport Area Environs Area (PDF)
HO-2 - West Newport Mesa Area (PDF)
HO-3 - Dover-Westcliff Area (PDF)
HO-4 - Newport Center Area (PDF)

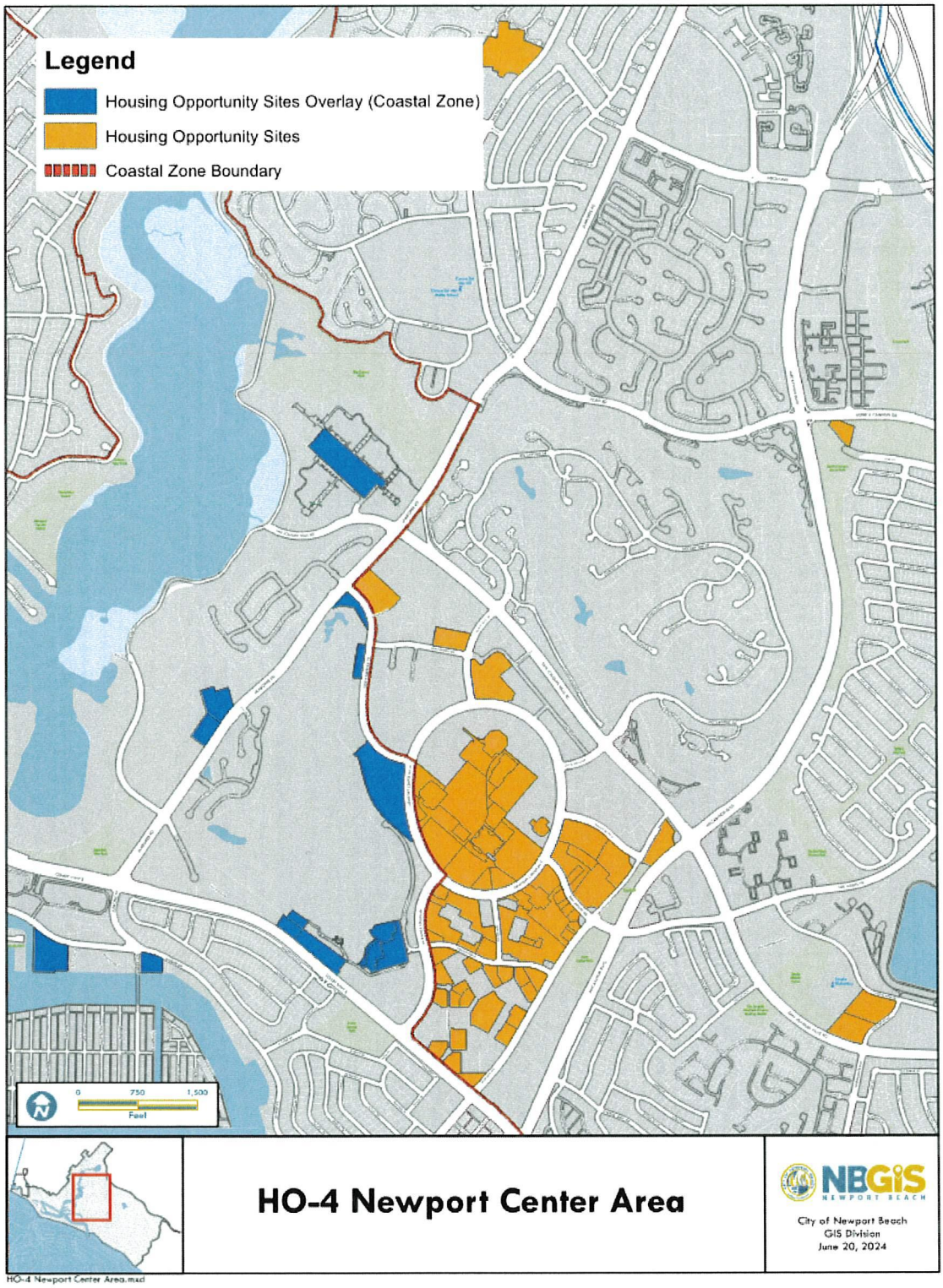
The corresponding maps for each of the Housing Opportunity Overlay Coastal Zoning Districts, as indexed in Section 21.80.032 and linked as a PDF, are to be in a similar format to the following series of maps beginning on the next page:

City of Newport Beach


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites Overlay
Coastal Zone Boundary
A 60' maximum
B 35' maximum
0 625 1,250
Feet
HO-1 Airport Area Environs Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-1 Airport Area Environs Area.mxd


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites Overlay
Coastal Zone Boundary
Coastline Community College
SUPERIOR AVE
NEWPORT BLVD
COAST HWY W
BALBOA BLVD
0 370 740
Feet
HO-2 West Newport Mesa Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-2 West Newport Mesa Area.mxd


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites
Coastal Zone Boundary
0
600
1,200
Feet
HO-3 Dover-Westcliff Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-3 Dover-Westcliff Area.mxd


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites
Coastal Zone Boundary
0
750
1,500
Feet
HO-4 Newport Center Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-4 Newport Center Area.mxd

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2024-52 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 23rd day of July, 2024; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Pro Tem Joe Stapleton, Councilmember Brad Avery, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Erik Weigand
NAYS: None
ABSTAINED: Mayor Will O'Neill

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 24th day of July, 2024.

Leilani I. Brown
City Clerk
Newport Beach, California

City of Newport Beach

Attachment F

Ordinance No. 2025-10

ORDINANCE NO. 2025-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING SECTION 20.28.050 (HOUSING OPPORTUNITY (HO) OVERLAY ZONING DISTRICTS) IN TITLE 20 (PLANNING AND ZONING) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO IMPLEMENTATION OF THE HOUSING ELEMENT (PA2024-0205)

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 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, the City Council adopted Resolution Nos. 2024-52 and 2024-58 on July 23, 2024, authorizing submittal of the Local Coastal Program Amendment ("LCPA") to the California Coastal Commission ("CCC") amending the City's Coastal Land Use Plan and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code ("NBMC") to establish the Housing Opportunity (HO) Overlay Coastal Zoning Districts and their corresponding development standards applicable to properties located within the Coastal Zone and initiating a narrowly focused amendment to the 6th Cycle Housing Element ("Housing Element") to remove reference to Charter Section 423 to implement the Housing Element;

WHEREAS, the City filed the LCPA application with the CCC on August 16, 2024, and received a letter from CCC staff on January 7, 2025, confirming the City's application is complete and pending a hearing date;

WHEREAS, the City Council adopted Ordinance Nos. 2024-16 and 2024-17 on September 24, 2024, adding Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) and Section 20.48.185 (Multi-Unit Objective Design Standards) to the NBMC establishing Housing Opportunity Overlay Zoning Districts and creating multi-unit objective design standards respectively;

City of Newport Beach

WHEREAS, the new sections implement Policy Actions 1A through 1G and 3A of the Housing Element;

WHEREAS, Section 20.28.050 of the NBMC allows for new housing opportunities within five focus areas consisting of the 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) ("Focus Areas") that correspond with the Focus Areas in the Housing Element to ensure that the City accommodates its Housing Element Regional Housing Needs Assessment allocation;

WHEREAS, properties identified within the Focus Areas are eligible for specified development standards conducive to residential development at the prescribed average density of 20 to 60 dwelling units per acre that include, but are not limited, to minimum lot area, setbacks, height, open space, landscaping, and parking;

WHEREAS, the City Council adopted Resolution No. 2024-85 on November 19, 2024, initiating amendments to Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) and the pending amendments to Section 21.28.070 of the NBMC to adjust certain development standards, including but not limited to, building height limits;

WHEREAS, an amendment to Table 2-16 in Section 20.28.050 and pending Table 21.28-1 in Section 21.28.070 of the NBMC are necessary to adjust the height limitations of certain properties within the Newport Center Area (HO-4) to accommodate potential residential development with the intended prescribed density range, and to identify a certain number of units being allocated from the respective development limits for a selected group of City-owned properties located within Airport Area Environs Area (HO-1) and Newport Center Area (HO-4) ("Amendment");

WHEREAS, a public hearing was held by the Planning Commission on January 23, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the Amendment. 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 Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

City of Newport Beach

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2025-004 by a unanimous vote of (5 ayes and 1 recusal) recommending the City Council approve the Amendment including the addition of Site ID Nos. 146 and 147 with a maximum height limit of 50 feet for flat roofs and 55 feet for sloped roofs and Site ID No. 141 with a maximum height limit of 48 feet;

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 February 20, 2025, the ALUC conducted a public hearing on the Amendment and continued the hearing to its March 20, 2025, meeting by a unanimous vote (5 ayes, 0 nays);

WHEREAS, at the continued hearing on March 20, 2025, the ALUC determined the Amendment is inconsistent with the AELUP (5 ayes, 1 nay);

WHEREAS, the City Council unanimously adopted Resolution No. 2025-13 on April 15, 2025, pursuant to Sections 21670 and 21676 of the CPUC, notifying the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding; and

WHEREAS, a public hearing was held on June 10, 2025, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the Amendment. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, CPUC Section 21676(b), and Chapters 20.62 (Public Hearings) and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

Section 1: The City Council finds the Amendment is a legislative act. Neither Title 20 nor California Government Code Section 65000 *et seq.*, sets forth any required findings for either approval or denial of the Amendment.

City of Newport Beach

Section 2: Notwithstanding the above, the City Council does hereby make the findings set forth in Exhibit "A," and the amendment to Title 20 (Planning and Zoning) of the NBMC, as set forth in Exhibit "B," both of which are attached hereto and incorporated herein by reference.

Section 3: The City Council finds all potential environmental effects for the Amendment have been adequately addressed in the previously certified Final Program Environmental Impact Report (PEIR) (SCH No. 2023060699) which was done in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act) related to the implementation of the 6th Cycle Housing Element Implementation involving amendments to the General Plan, Coastal Land Use Plan, Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC. Furthermore, the Amendment does not constitute substantial changes to the circumstances under which the project shall 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 as detailed in the CEQA Consistency Memorandum, which is attached hereto as Exhibit "C" and incorporated by reference. Therefore, in accordance with Section 21166 of the California Public Resources Code and Section 15162 of the CEQA Guidelines, no additional environmental review is required to adopt the Amendment.

Section 4: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 5: 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 6: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

City of Newport Beach

Section 7: 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 10th day of June, 2025, and adopted on the 24th day of June, 2025, by the following vote, to-wit:

AYES: Mayor Stapleton, Mayor Pro Tem Kleiman, Councilmember Barto, Councilmember Blom, Councilmember Grant, Councilmember Weber, Councilmember Weigand

NAYS: None

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" – Findings for Approval
Exhibit "B" – Amendment to Chapter 20.28 (Overlay Zoning Districts (MHP, PM, B, H) of Title 20 (Planning And Zoning)
Exhibit "C" – CEQA Consistency Memorandum

City of Newport Beach

EXHIBIT "A"
Findings for Approval

General Finding:

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*., sets forth any required findings for approval of such amendments.

Findings and Facts in Support of Finding:

1. Title 20 (Planning and Zoning) of the NBMC serves as the City's Zoning Code, which is a tool to ensure consistency with and implementation of the General Plan. It is necessary to amend and update Title 20 from time to time to ensure the policies set forth by the General Plan are implemented effectively.

2. The Amendment specific to Title 20 (Planning and Zoning) of the NBMC, which is attached hereto as Exhibit "B" and incorporated herein by reference will further enable the implementation of the Housing Element's key objective, which is to accommodate the development of housing to fulfill City's obligation to meet regional housing demands. Specifically, the Amendment will allow increased height limitations for certain properties within HO-4 to accommodate residential developments within the intended prescribed density range while furthering the longstanding vision for development in Newport Center, as noted in General Plan Land Use Element Policy 6.14.4 (Development Scale). Increased heights will accommodate density on smaller sites and/or fewer sites and will increase walkability for residents and activate the urban core of Newport Center to create a true mixed-use community while decreasing development footprints and encouraging increased open space and views through developments.

3. The Amendment will also allocate a portion of the development limits in HO-1 and HO-4 to City-owned sites where there is a potential for redevelopment with housing projects within the Housing Element's planning period.

City of Newport Beach

EXHIBIT "B"
Amendment to Chapter 20.28 (Overlay Zoning Districts (MHP, PM, B, H) of Title 20 (Planning And Zoning)

Table 2-16 of Section 20.28.50 (Housing Opportunity (HO) Overlay Zoning Districts) of Chapter 20.28 of the Newport Beach Municipal Code would be amended as follows, currently shown in redline-strikeout format for ease of reference only:

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
Lot Size/Dimension	Per Base Zone					
Lot area required per unit (sq. ft.)[2]	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)			Minimum: 2,178 (20 du/ac) Maximum: 726 (60 du/ac)[10]	All Standards Per Base Zone
Setbacks						
Front	0 ft.[3]	10 ft.[3]	10 ft.[3][4]	0[3]	10 ft.[3]	
Rear	0	20 ft.	20 ft.	0	20 ft.	
Side	0[4]					
Street Side	0[3]	10 ft.[3]	10 ft.[3]	0 ft.[3]	10 ft.[3]	
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.	
Building Separation	10 ft.					
Floor Area Ratio (FAR)	No restriction[8]					
Common Open Space[9]	Minimum 75 square feet/dwelling unit. (The minimum dimension (length and width) shall be 15 feet.)					
Private Open Space[9]	5% of the gross floor area for each unit. (The minimum dimension (length and width) shall be 6 feet.)					
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).					
Landscaping	See Chapter 20.36 (Landscaping Standards).					

City of Newport Beach

TABLE 2-16

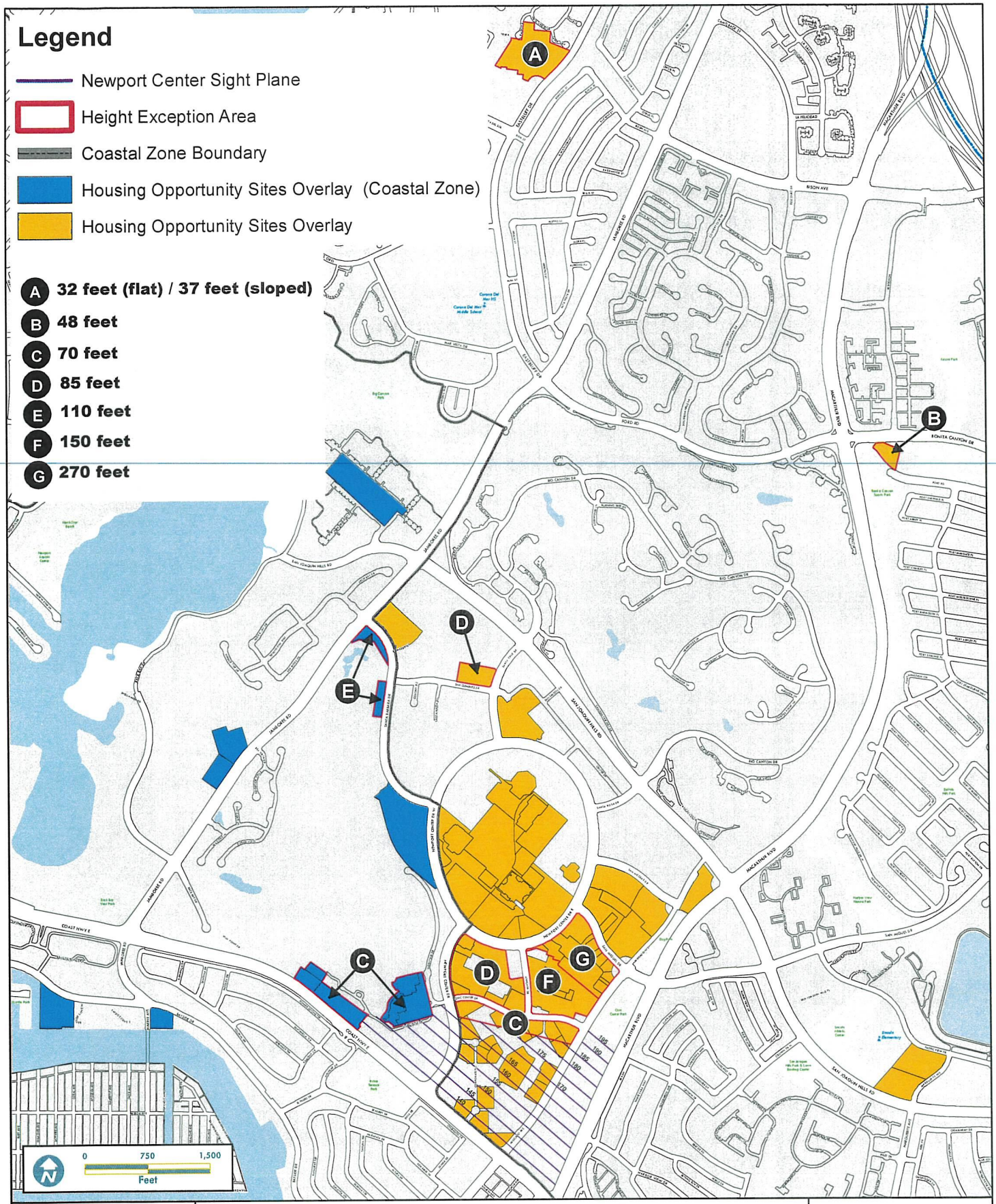
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES

Development Feature	Housing Opportunity Subareas					
	HO-1	HO-2	HO-3	HO-4	HO-5	HO-6
Lighting	See Section 20.30.070 (Outdoor Lighting).					
Outdoor Storage/Display	See Section 20.48.140 (Outdoor Storage, Display, and Activities).					
Parking	See subsection (D)(3) of this section and Chapter 20.40 (Off-Street Parking).					
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).					
Signs	See Chapter 20.42 (Sign Standards).					

(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 6th 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 6th 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.
(11) Of the 2,577 base development units, 179 units 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, 152 units shall be allocated to Site ID No. 362 (868 and 870 Santa Barbara Drive) from the 6th Cycle Housing Element Sites Inventory.

The following map is updated in Section 20.80.025 (Housing Opportunity Overlay District maps) of Chapter 20.80 (Maps) of the NBMC:

City of Newport Beach



HO-4 Newport Center Area

City of Newport Beach
GIS Division
June 13, 2025

City of Newport Beach

HO-4 Newport Center Area_Height_Exceptions.mxd

EXHIBIT "C"
CEQA Consistency Memorandum

Available separately due to bulk at:

https://newportbeachca.gov/home/showdocument?id=76683&t=638833463869042483

City of Newport Beach

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Molly Perry, Interim City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2025-10 was duly introduced on the 10th day of June, 2025, at a regular meeting, and adopted by the City Council at a regular meeting duly held on the 24nd day of June, 2025, and that the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Joe Stapleton, Mayor Pro Tem Lauren Kleiman, Councilmember Michelle Barto, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Sara J. Weber, Councilmember Erik Weigand
NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 26th day of June, 2025.

Molly Perry
Interim City Clerk
City of Newport Beach, California

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Molly Perry, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2025-10 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in the *Daily Pilot*, a newspaper of general circulation on the following dates:

Introduced Ordinance: June 10, 2025
Adopted Ordinance: June 24, 2025

In witness whereof, I have hereunto subscribed my name this 26th day of June, 2025.

CITY OF NEWPORT BEACH CALIFORNIA

Molly Perry
Interim City Clerk
City of Newport Beach, California

City of Newport Beach

Attachment G

Resolution No. 2025-32

RESOLUTION NO. 2025-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF A LOCAL COASTAL PROGRAM AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION TO AMEND PENDING SECTION 21.28.070 (HOUSING OPPORTUNITY (HO) OVERLAY COASTAL ZONING DISTRICTS) IN TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO IMPLEMENTATION OF THE HOUSING ELEMENT (PA2024-0205)

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 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, Section 30500 of the California Public Resources Code requires each county and city to prepare a Local Coastal Program ("LCP") for that portion of the coastal zone within its jurisdiction;

WHEREAS, the California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City added Title 21 (Local Coastal Program Implementation Plan) to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit issuing authority on January 30, 2017;

City of Newport Beach

WHEREAS, the City Council adopted Resolution Nos. 2024-52 and 2024-58 on July 23, 2024, authorizing submittal of the Local Coastal Program Amendment ("LCPA") to the California Coastal Commission ("CCC") amending the City's Coastal Land Use Plan and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code ("NBMC") to establish the Housing Opportunity (HO) Overlay Coastal Zoning Districts and their corresponding development standards applicable to properties located within the Coastal Zone and initiating a narrowly focused amendment to the 6th Cycle Housing Element ("Housing Element") to remove reference to Charter Section 423 to implement the Housing Element;

WHEREAS, the City filed the LCPA application with the CCC on August 16, 2024, and received a letter from CCC staff on January 7, 2025, confirming the City's application is complete and pending a hearing date;

WHEREAS, the City Council adopted Ordinance Nos. 2024-16 and 2024-17 on September 24, 2024, adding Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) and Section 20.48.185 (Multi-Unit Objective Design Standards) to the NBMC creating Housing Opportunity Overlay Zoning Districts and creating multi-unit objective design standards respectively;

WHEREAS, the new sections implement Policy Actions 1A through 1G and 3A in the Housing Element;

WHEREAS, Section 20.28.050 of the NBMC allows for new housing opportunities within five focus areas consisting of the 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) ("Focus Areas") that correspond with the Focus Areas in the Housing Element to ensure that the City accommodates its Housing Element Regional Housing Needs Assessment allocation;

WHEREAS, properties identified within the Focus Areas are eligible for specified development standards conducive to residential development at the prescribed average density of 20 to 60 dwelling units per acre that include, but are not limited to, minimum lot area, setbacks, height, open space, landscaping, and parking;

WHEREAS, the City Council adopted Resolution No. 2024-85 on November 19, 2024, initiating amendments to Section 20.28.050 and the pending amendments to Section 21.28.070 of the NBMC to adjust certain development standards, including but not limited to, building height limits;

City of Newport Beach

WHEREAS, an amendment to Table 2-16 in Section 20.28.050 and pending Table 21.28-1 in Section 21.28.070 of the NBMC are necessary to adjust the height limitations of certain properties within the Newport Center Area (HO-4) to accommodate potential residential development with the intended prescribed density range, and to identify a certain number of units being allocated from the respective development limits for a selected group of City-owned properties located within the Airport Area Environs Area (HO-1) and Newport Center Area (HO-4) ("Amendment");

WHEREAS, a public hearing was held by the Planning Commission on January 23, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the Amendment. 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 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 conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2025-004 by a unanimous vote of (5 ayes and 1 recusal) recommending the City Council approve the Amendment including the addition of Site ID Nos. 146 and 147 with a maximum height limit of 50 feet for flat roofs and 55 feet for sloped roofs and Site ID No. 141 with a maximum height limit of 48 feet;

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 February 20, 2025, the ALUC conducted a public hearing on the Amendment and continued the hearing to its March 20, 2025, meeting by a unanimous vote (5 ayes, 0 nays);

WHEREAS, at the continued hearing on March 20, 2025, the ALUC determined the Amendment is inconsistent with the AELUP (5 ayes, 1 nay);

WHEREAS, the City Council unanimously adopted Resolution No. 2025-13 on April 15, 2025, pursuant to Sections 21670 and 21676 of the CPUC, notifying the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding and on April 16, 2025, the City issued a Notice of Intent to Override ALUC's determination and received two comments in response; and

City of Newport Beach

WHEREAS, a public hearing was held on June 10, 2025, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the Amendment. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, CPUC Section 21676(b), and Chapters 20.62 (Public Hearings) and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

Section 1: The City Council finds the Amendment is a legislative act. Neither Title 21 nor California Government Code Section 65000 *et seq.*, sets forth any required findings for either approval or denial of the Amendment.

Section 2: Notwithstanding the above, the City Council does hereby make the findings attached hereto as Exhibit "A" and incorporated herein by reference and authorizes staff to submit this Amendment to update pending Table 21.28-1 and corresponding Housing Opportunity Overlay District Map in Section 21.80.035 of Title 21 proposed by the LCPA, as set forth in Exhibit "B," which is attached hereto and incorporated herein by reference, to the California Coastal Commission for review and approval.

Section 3: The City Council finds all potential environmental effects for the Amendment have been adequately addressed in the previously certified Final Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) which was done in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 et seq., Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act) related to the 6th Cycle Housing Element Implementation involving amendments to the General Plan, Coastal Land Use Plan, Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC. Furthermore, the Amendment does not constitute substantial changes to the circumstances under which the project shall 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 as detailed in the CEQA Consistency Memorandum, which is attached hereto as Exhibit "C" and incorporated by reference. Therefore, in accordance with Section 21166 of the California Public Resources Code and Section 15162 of the CEQA Guidelines, no additional environmental review is required to adopt the Amendment.

City of Newport Beach

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: 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 10th day of June, 2025.

Joe Stapleton
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

Attachments: Exhibit "A" – Findings for Approval
Exhibit "B" – Amendment to Chapter 21.28 (Overlay Coastal Zoning Districts (MHP, PM, B, C, H, & HO) of Title 21 (Local Coastal Program Implementation Plan)
Exhibit "C" – CEQA Consistency Memorandum

City of Newport Beach

EXHIBIT "A"
Findings for Approval

General Finding:

An amendment to the City's Local Coastal Program is a legislative act. Neither Title 21 (Local Coastal Program Implementation Plan) nor California Government Code Section 65000 *et seq.*, set forth any required findings for approval of such amendments. Notwithstanding the foregoing, the following amendments to the Local Coastal Program will create internal consistency with the certified 6th Cycle Housing Element:

Findings and Facts in Support of Finding:

1. The Housing Element includes Section 4 (Housing Plan), which sets forth programs and strategies to facilitate and encourage the development of the City's obligation to meet regional housing demand. Appendix B of the Housing Element is the Sites Analysis and identifies several sites to be rezoned to allow for potential redevelopment with housing projects. A number of these sites are within the City's Coastal Zone. As Title 20 has been amended to add the new HO Overlay Zones with associated development standards, similarly, the amendment to Local Coastal Program Implementation Plan to add the new Overlay Coastal Zones for properties within the Coastal Zone has been prepared and submitted to the California Coastal Commission for consideration.

2. The Amendment specific to Title 21 (Local Coastal Program Implementation Plan) of the NBMC, attached hereto as Exhibit "B," and incorporated herein by reference, will create consistency in implementation between Titles 20 and 21 of the NBMC and will help to fulfill the Housing Plan, as the proposed Amendment will facilitate the development of housing consistent with the Housing Element.

City of Newport Beach

EXHIBIT "B"
Amendment to Chapter 21.28 (Overlay Coastal Zoning Districts (MHP, PM, B, C, H, & HO) of Title 21 (Local Coastal Program Implementation Plan)

Table 21.28-1 of pending Section 21.28.070 (Housing Opportunity (HO) Overlay Coastal Zoning Districts) of Chapter 21.28 of Title 21 (Local Coastal Program Implementation Plan) of the of the Newport Beach Municipal Code 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:

TABLE 21.28-1
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES

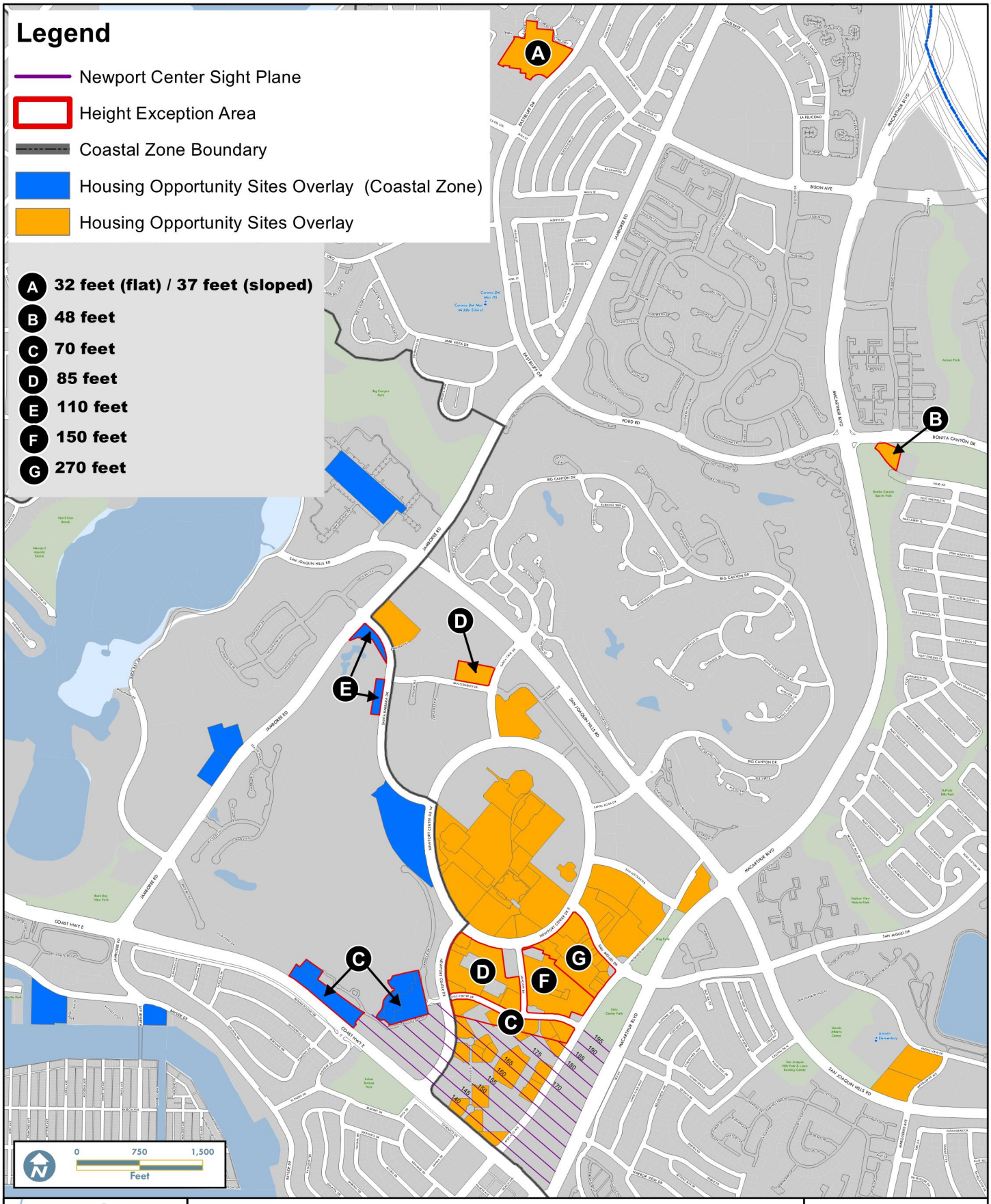
Development Feature	Housing Opportunity Subareas			
	HO-1	HO-2	HO-3	HO-4
Lot Size/Dimension	Per Base Zone			
Lot area required per unit (sq. ft.)[1]	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)		
Setbacks				
Front	0 ft.[(2)]	10 ft.[(2)]	10 ft.[(2)(3)]	0[(2)]
Rear	0	20 ft.	20 ft.	0
Side	0[(4)]			
Street Side	0[(2)]	10 ft.[(2)]	10 ft.[(2)]	0 ft.[(2)]
Height	Per Base Zone unless otherwise identified on the map	65 ft.	65 ft.[(5)]	Per Base Zone–unless otherwise Identified on map[(6)(8)]
Building Separation	10 ft.			
Floor Area Ratio (FAR)	No restriction[(6)]			
Common Open Space[(7)]	Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)			
Private Open Space	5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)			
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Section 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).			
Lighting	See Section 21.30.070 (Outdoor Lighting).			
Parking	See Subsection (D)(2) below and Chapter 21.40 (Off-Street Parking).			
Signs	See Chapter 21.30.065 (Sign Standards).			

City of Newport Beach

(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.
(8) "Base Zone" includes all height limitations established by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).

The following map is updated to pending Section 21.80.032 (Housing Opportunity Overlay District maps) of Chapter 20.80 (Maps) of the NBMC:

City of Newport Beach



HO-4 Newport Center Area

City of Newport Beach

City of Newport Beach
GIS Division
June 13, 2025

HO-4 Newport Center Area_Height_Exceptions.mxd

EXHIBIT "C"
CEQA Consistency Memorandum

Available separately due to bulk at:

https://newportbeachca.gov/home/showdocument?id=76683&t=638833463869042483

City of Newport Beach

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2025-32 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 10th day of June, 2025; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Joe Stapleton, Mayor Pro Tem Lauren Kleiman, Councilmember Michelle Barto, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Sara J. Weber
NAYS: None
ABSENT: Councilmember Erik Weigand

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 11th day of June, 2025.

Leilani I. Brown
City Clerk
Newport Beach, California

City of Newport Beach

Attachment H

Coastal Commission Staff Report,
Addendum, and Correspondence

CALIFORNIA COASTAL COMMISSION
SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD, SUITE 300
LONG BEACH, CA 90802
VOICE (562) 590-5071
FAX (562) 590-5084

F11a

DATE: April 17, 2026

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director
Amrita Spencer, District Manager
Mandy Revell, District Supervisor
Dulce Cortez, Coastal Program Analyst

SUBJECT: Major Amendment Request No. LCP-5-NPB-24-0032-2, 6th Cycle Housing Element, to the City of Newport Beach LUP & IP for Commission Action at the April 15-17, 2026, meeting.

SUMMARY OF LCP AMENDMENT REQUEST

The City of Newport Beach requests that the Commission certify an amendment to the City's certified Local Coastal Program (LCP). LCP Amendment Request No. LCP-5-NPB-24-0032-2 proposes amendments to both the certified Land Use Plan (LUP) and the certified Implementation Plan (IP) to implement portions of the City's adopted and certified Sixth Cycle Housing Element for the 2021-2029 planning period.

The proposed amendment would establish Housing Opportunity (HO) Overlay coastal zoning districts on selected sites within the coastal zone to facilitate residential development consistent with state housing law and City's Housing Element. Citywide, the Housing Element identifies 228 sites with a collective capacity of accommodating approximately 1,874 dwelling units. Of these sites, 26 parcels- representing roughly 11% of the total- are located within the coastal zone and would be subject to the proposed HO Overlay, with an assumed collective capacity of approximately 1,441 dwelling units.

Under the proposed amendment, multi-family residential uses would be permitted as an allowable use on the HO Overlay sites regardless of underlying land use designations or density limits, subject to applicable development standards and coastal resource protections. Because several HO Overlay sites are currently designated for commercial, visitor-serving commercial, marine-related, parks, recreation, or open-space uses, the amendment raises questions regarding consistency with the Coastal Act priorities and certified LUP policies that protect visitor-serving uses, public access, recreation, and coastal resources.

The primary concerns regarding the HO Overlay amendment involve allowing residential units to be constructed in four parcels currently designated for open space and recreational uses that are also immediately adjacent to the planned Santa Ana Delhi Channel Project, which includes channel widening, habitat restoration and potential Environmentally Sensitive Habitat Area (ESHA).

The Coastal Commission certified the City of Newport Beach Local Coastal Program (LCP) on January 13, 2017. The Commission's standard of review for the proposed LUP amendment are the Chapter 3 policies of the Coastal Act, while the standard of review for the proposed IP amendment is whether the IP, as amended, conforms with and is adequate to carry out the provisions of the certified LUP. Commission staff identified a set of suggested modifications necessary to ensure that residential development authorized by the HO Overlay does not displace or diminish Coastal Act priority uses, maintains public access and recreational opportunities, protected marine-related and coastal dependent uses, protects tribal cultural resources, and remains subject to all applicable coastal resources protection standards.

As modified, the amendment clarifies that residential development under the HO Overlay is permitted only in addition to, and not in place of, existing or planned visitor-serving, marine-related or public serving uses; prohibits the conversion or replacement of hotels, motels or other lodging accommodations with residential use; requires retention or on-site provision of functionally equivalent visitor-serving uses where such uses exist or are planned; and establishes additional protections of open-space and recreation sites, including HO-1 parcels within the Santa Ana Heights area. The suggested modifications also clarify continued applicability of certified IP provisions addressing hazards, water quality, environmentally sensitive habitat areas, and public access.

The proposed LCP amendment was submitted for Commission certification by City Council Resolution No. 2024-52 on July 23, 2024, following public hearings before the City Planning Commission and City Council.

Staff recommends that the Commission, after public hearing, reject the proposed LUP and IP amendment as submitted and certify the amendment with suggested modifications to both the LUP and IP, which can be found in Section III of this staff report. The suggested modifications are necessary to ensure the amendment to the LUP is consistent with the Chapter 3 policies of the Coastal Act and the amendment to the IP conforms with, is adequate to carry out, the provisions of the City's certified LUP, as amended. The motions and resolutions to accomplish this recommendation are found in Section II of this staff report.

Further information on the City of Newport Beach's LCP Amendment Request No. LCP-5-NPB-24-0032-2 may be obtained from Dulce Cortez, Coastal Program Analyst, at (562) 590-5071. If you wish to comment on the proposed amendment, please contact

either dulce.cortez@coastal.ca.gov via email or the South Coast District Office via hard-copy mail by 5pm on Friday, April 10, 2026.

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I. PROCEDURAL REQUIREMENTS

A. STANDARD OF REVIEW

Pursuant to Coastal Act Sections 30512, 30513, and 30514(b), the standard of review for amendments to a certified Local Coastal Program (LCP) depends on which component of the LCP is being amended. The City of Newport Beach's LCP Amendment Request No. LCP-5-NPB-24-0032-2 proposes amendments to both the certified Coastal Land Use Plan (LUP) and the certified Implementation Plan (IP) to implement the City's adopted 6th Cycle Housing Element (2021–2029) within the coastal zone.

Amendments to the certified LUP must be reviewed for consistency with Chapter 3 polices of the Coastal Act. Amendments to the certified IP must be reviewed to determine whether the IP, as amended, conforms with, and is adequate to carry out, the provisions of the certified (as amended) LUP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act states:

> During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected government agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not yet been subjected to public hearing within four years of such submission.

Coastal Act Section 30503 thus requires local governments to provide adequate opportunities for public participation during the LCP amendment process. The City of Newport Beach held multiple publicly noticed hearings to consider the proposed amendment to the certified LUP and IP to establish the Housing Opportunity (HO) overlay, consistent with the City's adopted and certified 6th Cycle Housing Element.

On April 18, 2024, the Planning Commission held a duly noticed public hearing to review the proposed LCP amendment and receive testimony from City staff and members of the public. City staff presented an overview of the Housing Element implementation program and described how the proposed overlay would enable residential development on selected parcels within the coastal zone to help meet the City's Regional Housing Need Allocation (RHNA).

One member of the public- Jim Mosher- provided comments at the local level. Jim Mosher expressed concern regarding the relationship between the proposed overlay and existing visitor-serving commercial uses and raised questions about how the City

would ensure that future housing did not displace those priority uses. Members of the public raised concerns about the potential changes to the HO-1 (Airport Environs/Santa Ana Heights) site, including the potential loss of open space and recreational land, traffic and parking impacts, and the adequacy of supporting infrastructure. Some community members supported the addition of affordable-housing capacity but requested further assurances that sensitive coastal resources and public access would remain protected. After discussion, the Planning Commission voted to recommend approval of the amendment to the City Council.

On July 23, 2024, the City Council held a public hearing to consider the Planning Commission's recommendation and the proposed amendments to the certified LCP. City staff summarized the purpose of the Housing Opportunity Overlay and explained how it would implement the City's Housing Element while maintaining consistency with Coastal Act policies. Public comments reiterated many of the issues raised at the Planning Commission hearing. Jim Mosher again emphasized the need to retain existing visitor-serving uses and requested clarification on how such uses would be protected within the overlay. Other commenters expressed concern about potential impacts to the Santa Ana Heights open-space area, including changes to land currently utilized as a golf course and public-access amenities. Following deliberation, the City Council adopted Resolution No. 2024-52 (**Exhibit 1**), approving the LCP amendment and authorizing its submittal to the Coastal Commission for certification.

In summary, the City complied with Coastal Act Section 30503 through the provision of multiple public hearings and the consideration of public testimony at both the Planning Commission and City Council levels. Notice of the Coastal Commission hearing for the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

If the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary, and the amendment takes effect. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective, pursuant to Section 13542(f). Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action.[1] (**Exhibit 2**) In that scenario, pursuant to Section 13544(c) of Title 14 of the California Code of Regulations (CCR), the modified LCP Amendment will become final at a subsequent Commission meeting if the

[1] The City's submittal resolution indicates that the ordinance will only become final after effective certification by the Commission, but pursuant to CCR Section 13544(c)(3), no further formal Commission action is required if the Executive Director reports having determined the City's action accepting the Commission's suggested modifications and the City's notification procedures are legally adequate.

Executive Director reports a Determination that the City's action in accepting suggested modifications approved by the Commission for the LCP Amendment is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.[2]

D. DEADLINE FOR COMMISSION ACTION

On August 16, 2024, the City of Newport Beach submitted LCP Amendment Request No. LCP-5-NPB-24-0032-2 to the Coastal Commission to amend both the certified IP and LUP to establish a Housing Opportunity (HO) Overlay District. The amendment was submitted through adoption of City Council Resolution No. 2024-52**.** Commission staff reviewed the submittal for completeness in accordance with Coastal Act Section 30510 and California Code of Regulations (CCR) Sections 13518–13520 and determined that additional materials were necessary on September 3, 2024. The City provided supplemental materials on November 14, 2024, and again on December 20, 2024. On January 7, 2025, Commission staff determined that the amendment was in proper order and legally adequate to comply with the submittal requirements of CCR Section 13553.

Pursuant to Coastal Act Section 30512 and California Code of Regulations (CCR) Section 13522, the Commission must act on a combined LUP and IP amendment within 90 working days of a complete submittal. Based on the January 7, 2025, filing date, the deadline for Commission action would have been May 16, 2025 (i.e., the May 7–9, 2025 hearing). However, at its March 13, 2025, meeting, the Commission approved a one-year extension**,** as permitted under Coastal Act Section 30517 and CCR Section 13535(c)**,** to allow additional time for review of the amendment. Accordingly, the deadline for Commission action on LCP Amendment Request No. LCP-5-NPB-24-0032-2 is now May 16, 2026**.**

II. MOTIONS AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings.

A. DENY LUP AMENDMENTS AS SUBMITTED

Motion I: I move that the Commission certify Land Use Plan Amendment No. 5-NPB-24-0032-2 as submitted by the City of Newport Beach.

Staff recommends a **NO** vote. Passage of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

[2] See 14 CCR § 13537(b) and 13542(b).

Resolution to Deny Certification of the LUP as Submitted:

The Commission hereby denies certification of Land Use Plan Amendment No. LCP-5-NPB-24-0032-2 as submitted and adopts the findings set forth below on grounds that the amendment to the Land Use Plan does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the amendment to the Land Use Plan as submitted would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the amendment to the Implementation Program as submitted.

B. APPROVE LUP AMENDMENTS WITH SUGGESTED MODIFICATIONS

Motion II I move that the Commission certify the Land Use Plan Amendment LCP-5-NPB-24-0032-2, for the City of Newport Beach if modified as recommended by staff.

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

Resolution to Approve with Modifications:

The Commission hereby certifies Land Use Plan Amendment No. LCP-5-NPB-24-0032-2 if modified as suggested and adopts the findings set forth below on grounds that the land use plan with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan if modified.

C. DENY IP AMENDMENT AS SUBMITTED

Motion III: I move that the Commission reject Implementation Plan Amendment No. LCP 5-NPB-24-0032-2, as submitted by the City of Newport Beach.

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program Amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Deny as Submitted:

The Commission hereby denies certification of Implementation Plan Amendment No. LCP-5-NPB-24-0032-1, as submitted by the City of Newport Beach and adopts the findings set forth below on the grounds that the Implementation Plan Amendment does not conform with, and is not adequate to carry out, the provisions of the certified Land Use Plan. Certification of the amendment to the Implementation Plan would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the amendment to the Implementation Program as submitted.

D. APPROVE IP AMENDMENT WITH SUGGESTED MODIFICATIONS

Motion IV: I move that the Commission certify Implementation Plan Amendment No. LCP-5-NPB-24-0032-2, if modified as recommended by staff.

Staff recommends a **YES** vote. Passage of this motion will result in the certification of the Implementation Plan Amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the Commissioners present.

Resolution to Certify if Modified:

The Commission hereby certifies Amendment No. LCP-5-NPB-24-0032-2, to the Implementation Plan for the City of Newport Beach certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan with the suggested modifications will be in conformance with and adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

III. SUGGESTED MODIFICATIONS

Certification of LUP and IP Amendment No. LCP-5-NPB-24-0032-2, related to the standards for the housing overlay, is subject to the following modifications:

The City's proposed new text is shown in <u>underlined text</u>.
The City's proposed deleted text is shown in ~~single strike-through~~.
The Commission's proposed new text is shown in **<u>bold underline</u>**.
The Commission's proposed deleted text is shown in **~~bold strike-through~~**.

The following suggested modifications to the Coastal Land Use Plan (LUP) are necessary to ensure that the proposed LUP amendments are consistent with the policies of Chapter 3 of the Coastal Act. The following suggested modifications to the Implementation Plan (IP) are necessary to ensure that the proposed IP amendments conform with, and are adequate to carry out, the provisions of the certified (as amended) LUP. For clarity, the suggested modifications are presented using the section numbering and terminology proposed in the City's amendment.

Land Use Plan (LUP) Modifications

Suggested Modification 1: Delete all text in CLUP Policy 2.1.11-1 that applies the Housing Opportunity (HO) Overlay to parcels in the Deferred Certification Area (DCA) of the HO-2 (West Newport Mesa) Subarea.

CLUP Policy 2.1.11-1 shall be modified as follows:

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 6th 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:

- 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 entire area, inclusive of those properties in the Coastal Zone.
- ~~**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 entire area, inclusive of those properties in the Coastal Zone.**~~
- 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 entire area, inclusive of those properties in the Coastal Zone.
- 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 entire area, inclusive of those properties in the Coastal Zone.

Suggested Modification 2: Ensure that residential uses permitted under the Housing Opportunity (HO) Overlay Coastal Zoning District are harmonized with the Coastal Act with respect to prioritizing visitor-serving, marine-related, or public-serving uses.

CLUP Policy 2.1.11-2 shall be modified as follows:

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. **However, for properties with base designations of either Visitor Serving Commercial or Parks and Recreation, any housing project shall be required to retain or replace existing higher priority Coastal Act uses with an on-site functionally equivalent use that maintains comparable visitor peak use intensity and public availability. Replacement of any existing priority use with a new priority use that provides lower-cost and/or no-cost coastal access is preferred.** 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 for the various overlay coastal zoning districts 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.

Implementation Plan (IP) Modifications:

Suggested Modification 3:

IP Subsection 21.28.070(A) shall be modified as follows:

1. 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.~~ **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 16th Street, Production Place, and 15th Street.**~~

    ~~3.~~ **2.** 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. **3.** HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.

IP Table 21.28-1 shall be modified as follows:

TABLE 21.28-1
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES

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

(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.

IP Subsection 21.28.070(C) shall be modified as follows:

~~**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.**~~

IP Section 21.80.032 (Housing Opportunity Overlay Districts Maps) shall be modified as follows:

HO-1 - Airport Area Environs Area (PDF)
~~**HO-2 - West Newport Mesa Area (PDF)**~~
HO-3 - Dover-Westcliff Area (PDF)
HO-4 - Newport Center Area (PDF)

Suggested Modification 4: Update Table 21.14-1 (Coastal Zoning Districts) by inserting "Housing Opportunity (HO) Overlay" to reflect inclusion within the certified set of coastal zoning districts.

IP Table 21.14-1 shall be modified as follows:

Coastal Zoning Map Symbol	**Coastal Zoning Districts**	**Coastal Land Use Plan Designations Implemented by Zoning Districts**	
Overlay Coastal Zoning Districts			
MHP	Mobile Home Park	RM	Multiple-Unit Residential
PM	Parking Management	All designations	

Coastal Zoning Map Symbol	**Coastal Zoning Districts**	**Coastal Land Use Plan Designations Implemented by Zoning Districts**	
B	Bluff	All designations	
C	Canyon	RS, RM	Single-Unit Residential Multiple-Unit Residential
H	Height	RM	Multiple-Unit Residential
HO	**Housing Opportunity**	**Varies**	**Varies**

Suggested Modification 5: Add a new subsection (5) to Subsection 21.28.070(B) to prohibit displacement of visitor-serving and public-serving commercial uses, including hotels and lodging accommodations, by residential development under the Housing Opportunity Overlay.

Subsection 21.28.070(B) shall be modified as follows:

4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.; and

5. **Residential uses permitted under this section shall harmonize with the Coastal Act's priority uses, including visitor-serving, marine-related, public-serving, or recreational uses, and shall retain or provide functionally equivalent uses, as measured by comparable visitor peak use intensity and public availability.**

Suggested Modification 6: Add a new subsection (d) to Subsection 21.28.070(C)(2) to apply habitat protection and open space preservation requirements to Housing Opportunity Sites 23-26. These parcels are located immediately adjacent to the Santa Ana Delhi Channel, which is the site of the proposed Santa Ana Delhi Channel Improvement Project that is pending a Coastal Development Permit and is currently being reviewed by Commission staff.

Subsection 21.28.070(C)(2) shall be modified as follows:

d. Housing Opportunity Sites 23, 24, 25 and 26. A residential or mixed-use development encompassing Housing Opportunity Sites 23, 24, 25, and 26 shall include a free to access public park or public recreational opportunity that conforms to all the following:

1. **A minimum 50 ft. ESHA buffer measured from the outermost extent of the riparian vegetation shall be provided. For a minimum 10-year period, the buffer shall be measured from the outermost extent of the vegetation established as part of the Santa Ana Delhi Channel Improvement Project proposed by the Orange County Flood Control District. The 50 ft. buffer shall be consistent with 21.30B.30 (D); however, the exceptions criteria for smaller ESHA buffers shall not apply.**

2. **An additional 50 ft. buffer measured from the outermost extent of the ESHA buffer shall also be provided consistent with 21.30B.30 (E). This transitional buffer may be used to accommodate a free, low-impact public recreational opportunity. At a minimum, such public recreational opportunity shall include a contiguous open space corridor along the entire length of the Santa Ana Delhi Channel located adjacent to the subject properties that is of sufficient width to accommodate a 100-ft. biological buffer, separately and contiguously, to protect habitat in and along the channel. Such recreational opportunity shall also provide public access and recreational open space that will accommodate passive and active public recreational opportunities including, but not limited to continuous pedestrian/cycling trail, benches, drinking fountains and/or water fill stations, picnic tables, shade structures and fitness/exercise equipment.**

3. **In the event the Santa Ana Delhi Channel Improvement Project does not occur there shall be a minimum 100 ft. wide corridor along the channel that extends from the top of the channel bank to be used for the free, low-impact coastal access and public recreational opportunity described in subsection B. above.**

Suggested Modification 7: Add new sections to Subsection 21.28.070(D) to 1) ensure that development on sites with visitor-serving or marina-related uses results in no net loss of public availability or capacity; 2) prohibit displacement of visitor-serving and public-serving commercial uses, including hotels and lodging accommodations, by residential development under the Housing Opportunity Overlay; and 3) add explicit language in §21.28.070 confirming that HO Overlay projects must comply with §§21.30.015, 21.30.030, 21.30.100, 21.30.105, and Ch. 21.30B.

Subsection 21.28.070(D) shall be modified as follows:

3. **Visitor-Serving Commercial, Marine-Related Uses, or Visitor Accommodations. For sites with base designations intended for Visitor-Serving Commercial, Marine-Related Uses, or Overnight Visitor**

Accommodations, any existing uses consistent with the intent of those designations shall be retained, replaced, or expanded where feasible, with a functionally equivalent use in terms of comparable visitor peak use intensity and public availability. No hotel, motel, or other overnight visitor accommodations shall be converted or replaced with residential use.

4. **Parks and Recreation or Open Space- Uses. For sites with base designations intended for Parks and Recreation or Open Space, any existing uses consistent with the intent of those designations shall be retained, replaced or expanded where feasible, with a functionally equivalent use in terms of comparable visitor peak use intensity and public availability. When there is a proposed replacement of any existing priority use with a new priority use, a use that provides lower-cost and/or no-cost visitor-serving and coastal access is preferred.**

5. **All housing projects within the Housing Opportunity (HO) Overlay Coastal Zoning District shall demonstrate consistency with:**

    a. **Section 21.30.015 (General Site and Development Standards);**
    b. **Section 21.30.030 (Natural Landform and Shoreline Protection);**
    c. **Section 21.30.100 (Scenic and Visual Quality Protection);**
    d. **Section 21.30.105 (Cultural Resource Protection); and**
    e. **Chapter 21.30B (Habitat Protection).**

IV. FINDINGS

The Commission hereby finds and declares:

A. AMENDMENT DESCRIPTION

The City of Newport Beach requests that the Commission certify Local Coastal Program (LCP) Amendment Request No. LCP-5-NPB-24-0032-2, which proposes amendments to the City's certified Coastal Land Use Plan (LUP) and Implementation Plan (IP) to implement the City's adopted and certified 6th Cycle Housing Element (2021-2029). Specifically, the Amendment would establish a new Housing Opportunity (HO) Overlay Coastal Zoning District **(Exhibit 1)**.

State housing law, including recent legislation such as Senate Bill 423, requires local governments to plan for and accommodate their assigned share of regional housing need through adoption of a Housing Element that is certified by the California Department of Housing and Community Development (HCD). Each Housing Element must identify adequate sites with realistic development capacity to meet the jurisdictions Regional Housing Needs Allocation (RHNA) for the applicable planning period. The HO

Overlay is a key Housing Element implementation tool intended to facilitate residential development on selected sites, and implementation of the HO Overlay on sites within the coastal zone requires amendment of the City's certified LCP to ensure consistency with the Coastal Act. The subject amendment was submitted for Commission certification pursuant to City Council Resolution No. 2024-52, adopted July 23, 2024 **(Exhibit 1)**. The proposed LCPA is part of a broader Housing Element implementation program that includes complementary amendments to the General Plan Land Use Element and Newport Beach Municipal Code (NBMC) Title 20 (Planning and Zone). Collectively, these actions are intended to provide capacity for 8,175 dwelling units citywide, including 2,707 units affordable to very-low, low-, and moderate-income households, across 228 Housing Elements. Of those sites, 26 parcels (appx 11%) are located within the coastal zone, with an assumed collective capacity of approximately 1,441 dwelling units.

Housing Opportunity Overlay
The proposed LCPA would establish a new Housing Opportunity (HO) Overlay on selected Housing Element sites within the coastal zone where residential use is not currently allowed by underlying LUP land use designation or IP zoning. Specifically, The HO Overlay is intended to allow multifamily residential use in addition to existing allowable uses on designated parcels, while maintaining consistency with the Coastal Act and the certified LCP. In other words, the proposed overlay would add residential development as an allowable use on the 26 coastal affected parcels (**Exhibit 3**), but it would not rezone the subject parcels or remove any of the existing allowable uses.

The proposed Amendment to the certified LUP would add new policies that identify the purpose of the HO Overlay, establish residential densities of 20-50 units per gross acre (which corresponds to a medium density residential use), and clarifies the relationship between the overlay and underlying land use designations. The amendment also adds a

The proposed Amendment to the certified IP (NBMC Title 21) would add a new IP (Section 21.28.070) to incorporate the HO Overlay Coastal Zoning District, establish objective development standards governing overlay applicability, and outline allowed uses, developments, and coastal development permit processing associated with the HO Overlay Coastal Zoning District.

The Commission's standard of review for the subject amendment is whether the proposed LUP amendments are consistent with Chapter 3 of the Coastal Act, and whether the proposed IP amendments conform with, and are adequate to carry out, the provisions of the certified (as amended) LUP. As discussed in Section II of this report, Commission staff recommends certification of the amendment with suggested modifications to ensure continued Coastal Act consistency with the certified LCP.

B. CONSISTENCY ANALYSIS

Chapter 3 of the Coastal Act includes the following relevant sections:

30210 Maximum public access and recreational opportunities shall be provided for all the people, consistent with public safety needs and the protection of private property rights and natural resources.

30213 Lower-cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.

30222 The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

30221 Oceanfront land suitable for recreational use shall be protected for recreational use unless adequate recreational opportunities are already provided in the area.

30231 The biological productivity and quality of coastal waters shall be maintained and restored through control of runoff and nonpoint source pollution.

30240 Environmentally sensitive habitat areas (ESHAs) shall be protected against significant disruption of habitat values.

30253 New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

30244 Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The LUP includes the following relevant policies:

2.3.1-3 On land designated for visitor-serving and/or recreational uses, give priority to visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over other commercial uses.

2.3.3-3 Identify, protect, encourage, and provide lower-cost visitor-serving and recreational facilities.

2.3.3-4 Encourage visitor-serving and recreational developments that provide public recreational opportunities.

2.4.1-1 Give priority to coastal-dependent uses over other uses on or near the shoreline.

2.4.1-3 Discourage reuse of properties that result in the reduction of coastal-dependent commercial uses; allow reuse only where coastal-dependent uses remain.

2.3.2-1 Protect and enhance public and private recreational facilities and open space.

2.3.2-4 Ensure recreational uses are preserved and remain available to the public.

3.1.1-1 Protect, maintain, and enhance public access to the coast.

4.1.1-4 Protect ESHAs against any significant disruption of habitat values.

4.1.1-6 Require development in areas adjacent to environmentally sensitive habitat areas to be sited and designed to prevent impacts that would significantly degrade those areas, and to be compatible with the continuance of those habitat areas.

4.1.1-8 Limited public access improvements and minor educational, interpretative and research activities and development may be considered resource dependent uses. Measures, including, but not limited to, trail creation, signage, placement of boardwalks, and fencing, shall be implemented as necessary to protect ESHA.

4.1.1-9 Where feasible, confine development adjacent to ESHAs to low impact land uses, such as open space and passive recreation.

4.1.1-10 Require buffer areas of sufficient size to ensure the biological integrity and preservation of the habitat they are designed to protect. Terrestrial ESHA shall have a minimum buffer width of 50 feet wherever possible. Smaller ESHA buffers may be allowed only where it can be demonstrated that 1) a 50-foot wide buffer is not possible due to site-specific constraints, and 2) the proposed narrower buffer would be amply protective of the biological integrity of the ESHA given the site-specific characteristics of the resource and of the type and intensity of disturbance.

4.1.1-11 Provide buffer areas around ESHAs and maintain with exclusively native vegetation to serve as transitional habitat and provide distance and physical barriers to human and domestic pet intrusion.

4.1.1-12 Require the use of native vegetation and prohibit invasive plant species within ESHAs and ESHA buffer areas.

4.5.1-1. Require new development to protect and preserve paleontological and archaeological resources from destruction and avoid and minimize impacts to such resources. If avoidance of the resource is not feasible, require an in situ or site-capping preservation plan or a recovery plan for mitigating the effect of the development.

4.5.1-2 Require a qualified paleontologist/archeologist to monitor all grading and/or excavation where there is a potential to affect cultural or paleontological resources. If grading operations or excavations uncover paleontological/archaeological resources, require the paleontologist/archeologist monitor to suspend all development activity to avoid destruction of resources until a determination can be made as to the significance of the paleontological/ archaeological resources. If resources are determined to be significant, require submittal of a mitigation plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. Mitigation plans shall include a good faith effort to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, in situ preservation/capping, and placing cultural resource areas in open space.

4.5.1-3. Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow qualified representatives of such groups to monitor grading and/or excavation of development sites.

4.5.1-4. Where in situ preservation and avoidance are not feasible, require new development to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Orange County, whenever possible.

4.5.1-5. Where there is a potential to affect cultural or paleontological resources, require the submittal of an archeological/cultural resources monitoring plan that identifies monitoring methods and describes the procedures for selecting archeological and Native American monitors and procedures that will be followed if additional or unexpected archeological/cultural resources are encountered during development of the site. Procedures may include, but are not limited to, provisions for cessation of all grading and construction activities in the area of the discovery that has any

potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options to allow for significance testing, additional investigation and mitigation.

As described in the "Standard of Review" subsection above, the proposed LUP amendment must be consistent with Chapter 3 of the Coastal Act and the IP amendment must conform with, and be adequate to carry out, the provisions of the City's certified Coastal Land Use Plan (LUP). The proposed amendment would establish Housing Opportunity (HO) Overlay coastal zoning districts to facilitate residential development on selected sites within the coastal zone in furtherance of the City's adopted Housing Element.

Suggested Modifications 1 and **2** will modify the Land Use Plan in order to be consistent with Chapter 3 Coastal Act policies. Suggested modifications 3-7 will modify the IP to be consistent with the LUP.

Suggested Modification 1 provides clarifying revisions to the HO Overlay provisions to clearly define the scope, applicability, and implementation of the overlay within the certified LCP, ensuring consistent interpretation and administration. Because the HO Overlay introduces a new policy framework allowing residential use on properties with a range of underlying land use designations, the amendment must be evaluated to ensure that it does not conflict with Coastal Act priorities and existing certified LUP policies addressing visitor-serving uses, marine-relates uses, public access, parks and recreation, open space, or coastal resource protection.

Chapter 3 of the Coastal Act prioritizes public access and coastal recreation, protection of lower-cost visitor-serving facilities, and the priority of visitor-serving commercial recreational uses over private residential development on suitable coastal lands. In addition, the Coastal Act requires protection of coastal resources, including water quality, environmentally sensitive habitat areas (ESHAs), and public safety in hazardous areas. The City's certified LUP implements these Coastal Act mandates through polices that protect and encourage visitor-serving and recreation uses, prioritize coastal-dependent and marine-related uses, preserve parks, recreation, and open space, and protect public access to the coast.

Suggested Modification 1 and 3 remove all text that applies the HO Overlay to HO-2 (West Newport Mesa) Subarea parcels because this subarea is in the Deferred Certification Area (DCA) of the Newport Beach LCP.

Visitor-Serving and Marine-Related Uses

The proposed HO Overlay would allow residential use on certain properties with underlying commercial, visitor-serving commercial, marine-related, or parks and recreations designations. Absent appropriate safeguards, residential development on such sites could result in the displacement or reduction of Coastal Act priority land use,

including visitor-serving commercial recreational facilities and marine-related uses. See Coastal Act Sections 30210, 30213, and 30222.

To address this concern, **Suggested Modifications 2, 5**, and **7** revise the HO Overlay provisions to ensure that residential development authorized in the HO Overlay is permitted only in addition to, and not in place of, existing or planned visitor-serving, marine-related, public serving uses on applicable sites. Specifically, these suggested modifications clarify that where such priority uses exist or are planned, any development proposing to reduce or remove them must retain, replace or provide an on-site visitor - serving or functionally equivalent use that maintains comparable capacity and public availability. **Suggested Modification 7** further prohibits the conversion or replacement of hotels, motels, or other lodging accommodations with residential use under the HO Overlay, thereby protecting lower-cost and overnight visitor-serving facilities.

In addition, **Suggested Modification 3** removes the HO Overlay designation from certain sites where the potential for conflict with the Coastal Act priority uses cannot be adequately addressed through development standards alone, thereby avoiding land use conflicts and ensuring the continued protection of such uses. **Suggested Modification 4** further clarifies the application of the HO Overlay within the IP plan by updating Table 21.14-1 to ensure consistency between the overlay districts and permitted land uses.

Together, these suggested modifications ensure that residential development facilitated by the HO Overlay does not displace or diminish Coastal Act priority uses and remains consistent with the certified LUP's policies requiring protection of visitor-serving, marine-related, and public-serving uses.

Parks, Recreation, Open Space and Habitat Protection

Although the proposed HO Overlay would facilitate residential development on selected coastal zone sites, it does not exempt development from compliance with existing coastal resource protection standards. Coastal Act sections 30210, 30213, 30221, 30231, 30240, and 30253, together with corresponding certified LUP polices require protection of public access, recreational opportunities, water quality, biological resources and public safety in hazardous areas. The primary concerns regarding the HO Overlay amendment involve allowing residential units to be constructed in four parcels currently designated for open space and recreational uses that are also immediately adjacent to the planned Santa Ana Delhi Channel Project, which includes channel widening, habitat restoration and creation.

<u>Open Space/Recreation</u>

The City's proposed HO Overlay includes four parcels (Housing Opportunity Sites 23, 24, 25, and 26, hereafter referred to as the "Golf Course Parcels") within HO-1that are currently designated as PR (Parks and Recreation) and developed with a portion of the Newport Beach Golf Course. As mentioned previously, the proposed amendment would

amend both the certified LUP and the IP to permit residential development as an allowable use on these sites. Certified LUP Polices 2.3.1-3, 2.3-3.3, and 2.3.3-4 collectively require the prioritization, encouragement, and protection of recreational uses, particularly recreational uses that are lower cost. This is in line with Chapter 3 of Coastal Act Sections 30210, 30213, and 30222, which prioritize and protect recreational uses within the Coastal Zone.

As currently proposed by the City, the HO Overlay does not contain clear policies to protect recreational uses onsite to the maximum extent feasible. If residential uses are allowed on the site without meaningful protections for recreational uses, a developer could opt to redevelop the sites with a completely residential project, with no recreational uses that benefit the general public. The City has indicated that the Golf Course Parcels have a development potential of over 700 units, which comprise approximately half of the potential unit creation within their entire HO Overlay. The Commission is understanding of the need for the City to identify sites and create opportunities to accommodate new residential development to conform to State housing laws. However, the Commission is charged with implementing the Coastal Act and upholding the City's certified LCP, both of which explicitly call for the prioritization of open space and recreational uses. Thus, in this case, modifications to the proposed Amendment are needed to balance the protection of open space/recreational uses as required in the Coastal Act and LCP with opportunities to allow for multifamily residential development on the site.

ESHA/Habitat Creation

The Orange County Department of Public Works is currently seeking authorization from the Commission for the Santa Ana Delhi Channel Improvement Project, which includes restoration and/or creation of riparian habitat which has been determined by the Commission's Ecology staff as potential ESHA. Although the Commission has not yet acted upon this application, if the project is approved, additional ESHA will be created immediately adjacent to Parcels 23-26, which would require ESHA buffers and additional habitat protections under Certified LUP Policies 4.1.1-10, 4.1.1-11, and 4.1.1-12. In addition, the resulting ESHA has the potential to be adversely impacted by the construction of residential units on these parcels. The currently proposed HO Overlay amendment does not account for this potential for new ESHA creation. If not addressed through modifications, a future residential development project could adversely impact riparian ESHA by encroaching too close to the sensitive habitat.

Tribal Cultural Resources

During tribal consultation, a tribal member discussed the sensitivity of some of the open space/ public park parcels that are part of the HO Overlay, particularly the Housing Opportunity sites 23, 24, 25, and 26, and requested that consultation occur prior to any approved development on these sites. The City's certified LUP contains policies that require the protection of tribal cultural resources; however, the currently proposed HO

Overlay amendment does not identify that projects proposed under the overlay must also be consistent with existing code sections that require protection of tribal cultural resources.

Suggested Modifications

While the HO Overlay is intended to facilitate residential development, such development must occur in a manner that does not adversely impact coastal resources. As recognized in prior Commission actions, including LCP Amendment LCP-4-STB-18-0098-3 Part B, housing and other supportive uses may be accommodated in the coastal zone, but only where such development is sited and designed to avoid impacts to protected resources and to maintain their long-term viability. In this case, the subject sites are located adjacent to an area planned for habitat restoration and enhanced public access, and without clearly established standards, residential development could encroach into sensitive habitat areas, reduce open space, or compromise the integrity of potential habitat and recreational corridor.

With respect to parks, recreation, open-space resources, and habitat protection, the Commission imposes **Suggested Modification 6**, which establishes specific requirements for Housing Opportunity sites 23, 24, 25, and 26 located immediately adjacent to the Santa Ana Delhi Channel, the site of the proposed Santa Ana Delhi Channel Improvement Project which includes habitat restoration and creation, that is pending a Coastal Development Permit and is currently being reviewed by Commission staff. These provisions require a minimum 100-foot buffer area, consisting of a 50-foot ESHA buffer and an additional 50-ft transitional buffer, and the provision of a free low-impact public recreational opportunity, including a contiguous open space corridor with public access amenities. This requirement ensures the protection of sensitive habitat areas while providing expanded public access and recreational opportunities along the channel corridor.

Suggested Modification 6 also ensures that residential development may still occur on the subject sites, but only in a manner that preserves open space, protects biological resources, and maintains public access. The implementation of setbacks or other site features does not eliminate the need for biologically protective buffers, as such measures do not ensure the protection of habitat functions or the long-term viability of adjacent ESHA proposed with the future Santa Ana Delhi Channel Improvement Project. To the extent the site constraints limit the intensity or density of development, such limitations are necessary to ensure consistency with the resource protection policies of the certified LCP and chapter 3 of the Coastal Act. Moreover, should the Santa Ana Delhi Channel Improvement Project not occur within 10 years, **Suggested Modification 6** requires a minimum 100 ft. wide corridor along the channel that extends from the top of the channel bank to be used for the free, low-impact coastal access and public recreational opportunity described in subsection B. above.

The Commission also imposes **Suggested Modification 7**, which clarifies that development under the HO Overlay remains subject to all applicable certified IP resources-protection standards, including those addressing natural landforms, shoreline protection, scenic and visual resources, tribal cultural resources, and habitat protection.

With regard to tribal cultural resources, **Suggested Modification 7** includes a reference to IP section 21.30.105 which states that when a development is proposed in an area where there are known or has potential for archaeological or paleontological resources an Archaeological Research Plan (ARP) shall be prepared. The development of the ARP must include consultation with tribal governments listed on the Native American Heritage Commission list. Only as modified to require consistency with this provision of the IP is the amendment consistent with the certified LUP.

As such, development authorized under the HO Overlay must be reviewed and conditioned, as necessary, to avoid adverse impacts to coastal resources and public safety and to ensure consistency with the certified LCP.

In addition, **Suggested Modification 7** requires that development on sites designated for parks, recreation, or open space retain, replace, or provide functionally equivalent uses that maintain comparable public access, visitor-serving capacity, and recreational opportunities. Together, these suggested modifications ensure that implementation of the HO Overlay does not result in the loss or degradation of public access, recreational opportunities, or open-space resources. While the proposed amendment facilitates residential development to implement the City's adopted Housing Element, such development must be carefully balanced with the protection of coastal resources. As modified by the Commission's suggested modifications, the amendment ensures that residential development remains subject to all applicable coastal resource protection standards and preserves public access and recreational opportunities consistent with the certified LUP and Chapter 3 of the Coastal Act.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code, within the California Environmental Quality Act (CEQA), exempts local governments from the requirement to prepare environmental review documentation in connection with activities and approvals necessary for the preparation and adoption of a LCP. In addition, pursuant to CCR Section 15251(f), the Commission's LCP review and approval program has been certified by the Secretary of the Resources Agency as functionally equivalent to the preparation of an environmental impact report (EIR). CEQA Section 21080.5 further provides that the Commission's review of LCP amendments satisfies CEQA if the Commission considers whether there are feasible alternatives or mitigation measures that would substantially lessen any significant adverse environmental impacts of the proposed LCP amendment.

As discussed in the Consistency Analysis sections above, the proposed LCP amendment, which includes amendments to both the LUP and the IP, is consistent with the Chapter 3 policies of the Coastal Act and conforms with, and is adequate to carry out, the provisions of the certified LUP. The Commission therefore finds that approval of the proposed LCP amendment, as modified, will not result in significant adverse environmental impacts within the meaning of CEQA and is consistent with Public Resources Code Section 21080.5(d)(2)(A). In addition, there are no feasible alternatives or mitigation measures available that would substantially lessen any potential adverse environmental effects of the proposed LCP amendment.

APPENDIX A—SUGGESTED MODIFICATIONS IN TEXT

For ease of reading, the suggested modifications associated with the subject LCP amendment have been incorporated into Appendix A. The suggested modifications are shown overlaid onto the City's proposed amendments to both the Coastal Land Use Plan and Implementation Plan, as submitted pursuant to City Council Resolution No. 2024-52, resulting in a consolidated and more readable presentation of the proposed amendments as modified.

Normal Text = Existing, unmodified language
~~Strikethrough Text~~ = City's proposed eliminated language
Underline Text = City's proposed added language
~~Bold Strikethrough Text~~ = Commission's proposed eliminated language
Bold Underline Text = Commission's proposed added language

Land Use Plan (LUP) and Implementation Plan (IP) Modifications

1. Modify proposed LUP policy 2.1.11-1 as follows:

   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 6th 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:

   - 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 entire area, inclusive of those properties in the Coastal Zone.
   - **~~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 entire area, inclusive of those properties in the Coastal Zone.~~**
   - 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 entire area, inclusive of those properties in the Coastal Zone.
   - 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 entire area, inclusive of those properties in the Coastal Zone.

2. Modify proposed LUP policy 2.1.11-2 as follows**:**

   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. **However, for properties with base designations of either Visitor Serving Commercial or Parks and Recreation, any housing project shall be required to retain or replace existing higher priority Coastal Act uses with an on-site functionally equivalent use that maintains comparable visitor peak use intensity and public availability. Replacement of any existing priority use with a new priority use that provides lower-cost and/or no-cost coastal access is preferred.** 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 for the various overlay coastal zoning districts 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.

3. Modify proposed IP Subsection 21.28.070(A) as follows:

2. 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.~~ **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 16th Street, Production Place, and 15th Street.**~~

   ~~3.~~ **2.** 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. **3.** HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.

Modify proposed IP Table 21.28-1 as follows:

TABLE 21.28-1
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES

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

(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.

IP Subsection 21.28.070(C) shall be modified as follows:

~~3. West Newport Mesa Area (HO-2). The following development standards shall only apply to projects with the West Newport Mesa Area:~~

~~b. 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.~~

IP Section 21.80.032 (Housing Opportunity Overlay Districts Maps) shall be modified as follows:

HO-1 - Airport Area Environs Area (PDF)
~~HO-2 - West Newport Mesa Area (PDF)~~
HO-3 - Dover-Westcliff Area (PDF)
HO-4 - Newport Center Area (PDF)

4. Modify Table 21.14-1 (Coastal Zoning Districts) by inserting "Housing Opportunity (HO) Overlay" to reflect inclusion within the certified set of coastal zoning districts as follows:

IP Table 21.14-1 shall be modified as follows:

Coastal Zoning Map Symbol	**Coastal Zoning Districts**	**Coastal Land Use Plan Designations Implemented by Zoning Districts**	
Overlay Coastal Zoning Districts			
MHP	Mobile Home Park	RM	Multiple-Unit Residential

Coastal Zoning Map Symbol	**Coastal Zoning Districts**	**Coastal Land Use Plan Designations Implemented by Zoning Districts**	
PM	Parking Management	All designations	
B	Bluff	All designations	
C	Canyon	RS, RM	Single-Unit Residential Multiple-Unit Residential
H	Height	RM	Multiple-Unit Residential
HO	**Housing Opportunity**	**Varies**	**Varies**

5. Modify proposed 21.28.070(B) as follows:

Subsection 21.28.070(B) shall be modified as follows:

6. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.; and

7. **Residential uses permitted under this section shall harmonize with the Coastal Act's priority uses, including visitor-serving, marine-related, public-serving, or recreational uses, and shall retain or provide functionally equivalent uses, as measured by comparable visitor peak use intensity and public availability.**

6. Modify proposed LUP Subsection 21.28.070(C)(2) as follows:

Subsection 21.28.070(C)(2) shall be modified as follows:

d. Housing Opportunity Sites 23, 24, 25 and 26. A residential or mixed-use development encompassing Housing Opportunity Sites 23, 24, 25, and 26 shall include a free to access public park or /public recreational opportunity that conforms to all the following:

4. A minimum 50 ft. ESHA buffer measured from the outermost extent of the riparian vegetation shall be provided. For a minimum 10-year period, the buffer shall be measured from the outermost extent of the vegetation established as part of the Santa Ana Delhi Channel Improvement Project proposed by the Orange County Flood Control District. The 50 ft. buffer shall be consistent with 21.30B.30 (D); however, the exceptions criteria for smaller ESHA buffers shall not apply.

5. **An additional 50 ft. buffer measured from the outermost extent of the ESHA buffer shall also be provided consistent with 21.30B.30 (E). This transitional buffer may be used to accommodate a free, low-impact public recreational opportunity. At a minimum, such public recreational opportunity shall include a contiguous open space corridor along the entire length of the Santa Ana Delhi Channel located adjacent to the subject properties that is of sufficient width to accommodate a 100-ft. biological buffer, separately and contiguously, to protect habitat in and along the channel. Such recreational opportunity shall also provide public access and recreational open space that will accommodate passive and active public recreational opportunities including, but not limited to continuous pedestrian/cycling trail, benches, drinking fountains and/or water fill stations, picnic tables, shade structures and fitness/exercise equipment.**

6. **In the event the Santa Ana Delhi Channel Improvement Project does not occur there shall be a minimum 100 ft. wide corridor along the channel that extends from the top of the channel bank to be used for the free, low-impact coastal access and public recreational opportunity described in subsection B. above.**

7.Modify proposed LUP Subsection 21.28.070(D) as follows:

Subsection 21.28.070(D) shall be modified as follows:

6. **Visitor-Serving Commercial, Marine-Related Uses, or Visitor Accommodations. For sites with base designations intended for Visitor-Serving Commercial, Marine-Related Uses, or Overnight Visitor Accommodations, any existing uses consistent with the intent of those designations shall be retained, replaced, or expanded where feasible, with a functionally equivalent use in terms of comparable visitor peak use intensity and public availability. No hotel, motel, or other overnight visitor accommodations shall be converted or replaced with residential use.**

7. **Parks and Recreation or Open Space. For sites with base designations intended for Parks and Recreation or Open Space, any existing uses consistent with the intent of those designations shall be retained, replaced or expanded where feasible, with a functionally equivalent use in terms of comparable visitor peak use intensity and public availability. When there is a proposed replacement of any existing priority use with a new priority use, a use that provides lower-cost and/or no-cost visitor-serving and coastal access is preferred**.

8. All housing projects within the Housing Opportunity (HO) Overlay Coastal Zoning District shall demonstrate consistency with:

f. Section 21.30.015 (General Site and Development Standards);
g. Section 21.30.030 (Natural Landform and Shoreline Protection);
h. Section 21.30.100 (Scenic and Visual Quality Protection);
i. Section 21.30.105 (Cultural Resource Protection); and
j. Chapter 21.30B (Habitat Protection).

CALIFORNIA COASTAL COMMISSION
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F11a

LCP-5-NPB-24-0032-2 (Housing Overlay

April 17, 2025

EXHIBITS

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Exhibit 3 – Housing Opportunity Overlay Zoning Districts maps

RESOLUTION NO. 2024-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF A LOCAL COASTAL PROGRAM AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION TO AMEND THE CITY OF NEWPORT BEACH COASTAL LAND USE PLAN AND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO THE IMPLEMENTATION OF THE HOUSING ELEMENT (PA2022-0245)

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 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, Section 30500 of the California Public Resources Code requires each county and city to prepare a Local Coastal Program ("LCP") for that portion of the coastal zone within its jurisdiction;

WHEREAS, the California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City added Title 21 (Local Coastal Program Implementation Plan) ("Title 21") to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit issuing authority on January 30, 2017;

WHEREAS, the City's General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating as necessary for consistency with other General Plan elements;

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City of Newport Beach

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment ("RHNA") allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th 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 by an ad-hoc committee called the Housing Element Update Advisory Committee ("HEUAC") formed and appointed by the City Council;

WHEREAS, after several meetings with the State Department of Housing and Community Development ("HCD") and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City's 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the "fair share" of regional housing need and demand, by planning for units within the following site groupings or "focus areas" that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th 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 implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

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City of Newport Beach

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 ("6th Cycle Housing Element Implementation"), which requires 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 6th Cycle Housing Element;

- Amendment to Title 20 (Planning and Zoning) ("ZCA") - To implement the Land Use Element's policy changes by allowing housing development as an opportunity and establishing appropriate 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 update Title 21 (Local Coastal Program Implementation Plan) of the NBMC to support housing production in the focus areas identified by the 6th Cycle Housing Element that are within the Coastal Zone; and

- Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act ("CEQA") related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report ("Draft PEIR"), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to $600,000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City's zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

City of Newport Beach

WHEREAS, City staff worked closely with the community through the City Council-appointed General Plan Advisory Committee ("GPAC") and General Plan Update Steering Committee ("GPUSC") from March 2023 to August 2023 to draft Land Use Element goals and policies that support 6th Cycle Housing Element Implementation;

WHEREAS, the draft GPA that was supported by the GPAC and the GPUSC was posted online on August 30, 2023, with additional public comments and participation at the Planning Commission Study Session on September 21, 2023, and the City Council Study Session on February 13, 2024;

WHEREAS, the draft GPA was revised and reposted online on January 16, 2024, and March 28, 2024, based on the public's input;

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq*. ("Ralph M. Brown Act"), Chapter 20.62 (Public Hearings) and Chapter 21.62 (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. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation 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 May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with the AELUP;

City of Newport Beach

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on May 28, 2024, and adopted Resolution No. 2024-32 (7 ayes, 0 nays), to notify the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding and on May 29, 2024, the City issued the Notice of Intent to Override ALUC's determination and received two comments in response;

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing; and

WHEREAS, pursuant to Section 13515 of the California Code of Regulations Title 14, Division 5. 5, Chapter 8 ("Section 13515"), drafts of the LCPA were made available and a Notice of Availability was distributed on April 15, 2024, at least six weeks prior to the anticipated final action date.

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

Section 1: The City Council finds amendments to the LCP are legislative acts. Neither Title 21 nor State Planning Law set for any required findings for either approval or denial of such amendments. Notwithstanding the foregoing, the LCPA is consistent with the corresponding GPA and ZCA.

Section 2: The City Council does hereby make the findings attached hereto as Exhibit "A" and incorporated by reference and authorizes staff to submit this LCPA to amend portions of the Coastal Land Use Plan and Title 21, as set forth in Exhibits "B" and "C," which are attached hereto and incorporated by reference, to the California Coastal Commission for review and approval.

City of Newport Beach

Section 3: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the "Project") in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-50, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the LCPA was considered within the PEIR. Resolution No. 2024-50 is hereby incorporated by reference.

Section 4: This LCPA shall not become effective until voter approval set forth in Section 8 below followed by approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City of Newport Beach.

Section 5: This LCPA, if approved, will be carried out fully in conformity with the California Coastal Act.

Section 6: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 7: 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.

City of Newport Beach

Section 8: 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 23rd day of July, 2024.

Will O'Neill
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

Attachments:
Exhibit "A" – Findings for Approval
Exhibit "B" – Amendment to Coastal Land Use Plan
Exhibit "C" – Amendment to Title 21 (Local Coastal Program Implementation Plan)

City of Newport Beach

EXHIBIT "A"
Findings for Approval

General Finding:

An amendment to the City's Local Coastal Program is a legislative act. Neither Title 21 (Planning and Zoning) of the NBMC nor California Government Code Section 65000 *et seq.*, set forth any required findings for approval of such amendments. Notwithstanding the foregoing, the following amendments to the Local Coastal Program will create internal consistency with the certified 6th Cycle Housing Element:

Facts in Support of Finding:

1. The Local Coastal Program ("LCP"), including the Coastal Land Use Plan and the Implementation Plan (Title 21) are designed to implement the General Plan within the Coastal Zone in furtherance of the California Coastal Act. Since the 6th Cycle Housing Element Implementation involves an amendment to the General Plan and Title 20 (Planning and Zoning) affecting several properties within the Coastal Zone, it is necessary to also amend the LCP to achieve the goals and policies.

2. The LCP Amendment ("LCPA"), attached to this resolution as Exhibits "B" and "C" incorporated herein, including the Housing Opportunity (HO) Overlay Coastal Zoning Districts with associated development standards, are consistent with the implementation program in the Housing Plan of the Housing Element, as discussed in Resolution No. 2024-____ under the Findings for the General Plan Amendment. The LCPA 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.

City of Newport Beach

EXHIBIT "B"
Amendment to Coastal Land Use Plan

Policy 2.1.2-1 of the CLUP is revised as follows:

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.

Policy 2.1.10-1 of the CLUP is revised as follows:

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.

New Policy 2.1.11-1 is inserted and reads as follows:

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 6th 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:

- **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 entire area, inclusive of those properties in the Coastal Zone.
- **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 entire area, inclusive of those properties in the Coastal Zone.
- **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 entire area, inclusive of those properties in the Coastal Zone.
- **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 entire area, inclusive of those properties in the Coastal Zone.

City of Newport Beach

New Policy 2.1.11-2 is inserted and reads as follows:

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 for the various overlay coastal zoning districts 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.

New Policy 2.1.11-3 is inserted and reads as follows:

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.

New Policy 2.1.11-4 is inserted and reads as follows:

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).

City of Newport Beach

EXHIBIT "C"
Amendment to Title 21 (Local Coastal Program Implementation Plan)

Chapter 21.28 (Overlay Coastal Zoning Districts) of the NBMC is amended to include a new Section 21.28.070 (Housing Opportunity [HO] Overlay Coastal Zoning District) as follows:

Chapter 21.28

OVERLAY COASTAL ZONING DISTRICTS (MHP, PM, B, C, H, 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.

Section 21.28.010 (Purposes of Overlay Coastal Zoning Districts) is amended to include a new Subsection (F) as follows:

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).

New Section 21.28.070 (Housing Opportunity [HO] Overlay Coastal Zoning Districts) is incorporated into the Chapter as follows:

21.28.070 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:

City of Newport Beach

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 16th Street, Production Place, and 15th 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.

City of Newport Beach

TABLE 21.28-1
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES

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

(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.

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City of Newport Beach

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.

City of Newport Beach

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 COASTAL OVERLAY ZONES

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

Part 8. Maps, Chapter 20.80 (Maps) is amended to include new Section 21.80.032 (Housing Opportunity Overlay Districts Maps) as follows:

Chapter 21.80

MAPS

Sections:

21.80.010 Area Maps.
21.80.020 Bluff Overlay.
21.80.025 Canyon Overlay.
21.80.030 Height Limit Areas.
21.80.032 Housing Opportunity Overlay Districts Maps.
21.80.035 Parking Management Overlay District Maps.
21.80.040 Setback Maps.

City of Newport Beach

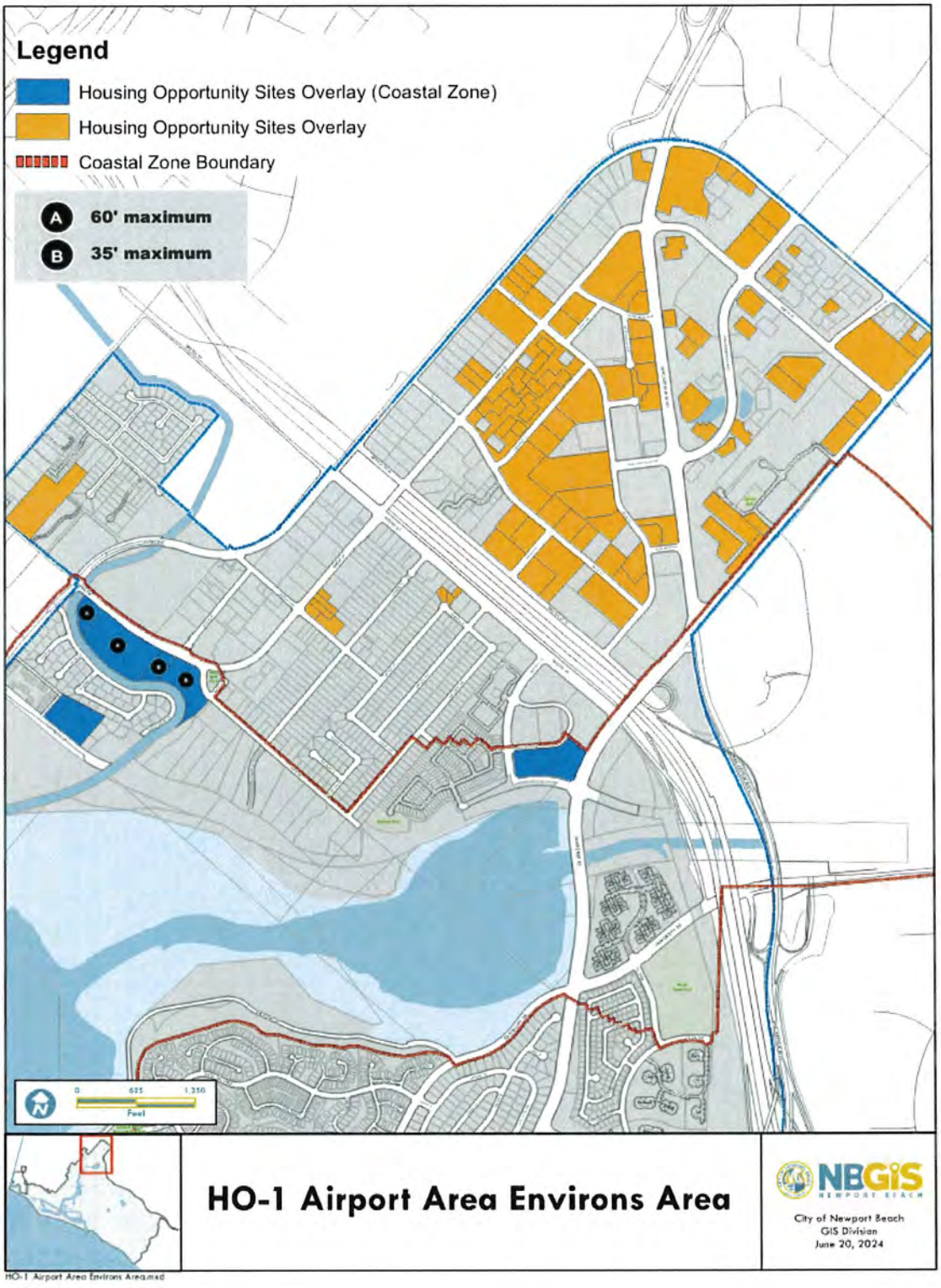
21.80.055 Planned Community Site Plans.
21.80.065 Planned Community Land Use Maps.

Section 21.80.032 (Housing Opportunity Overlay Zoning Districts Maps) is added in its entirety to include an indexing of maps as follows:

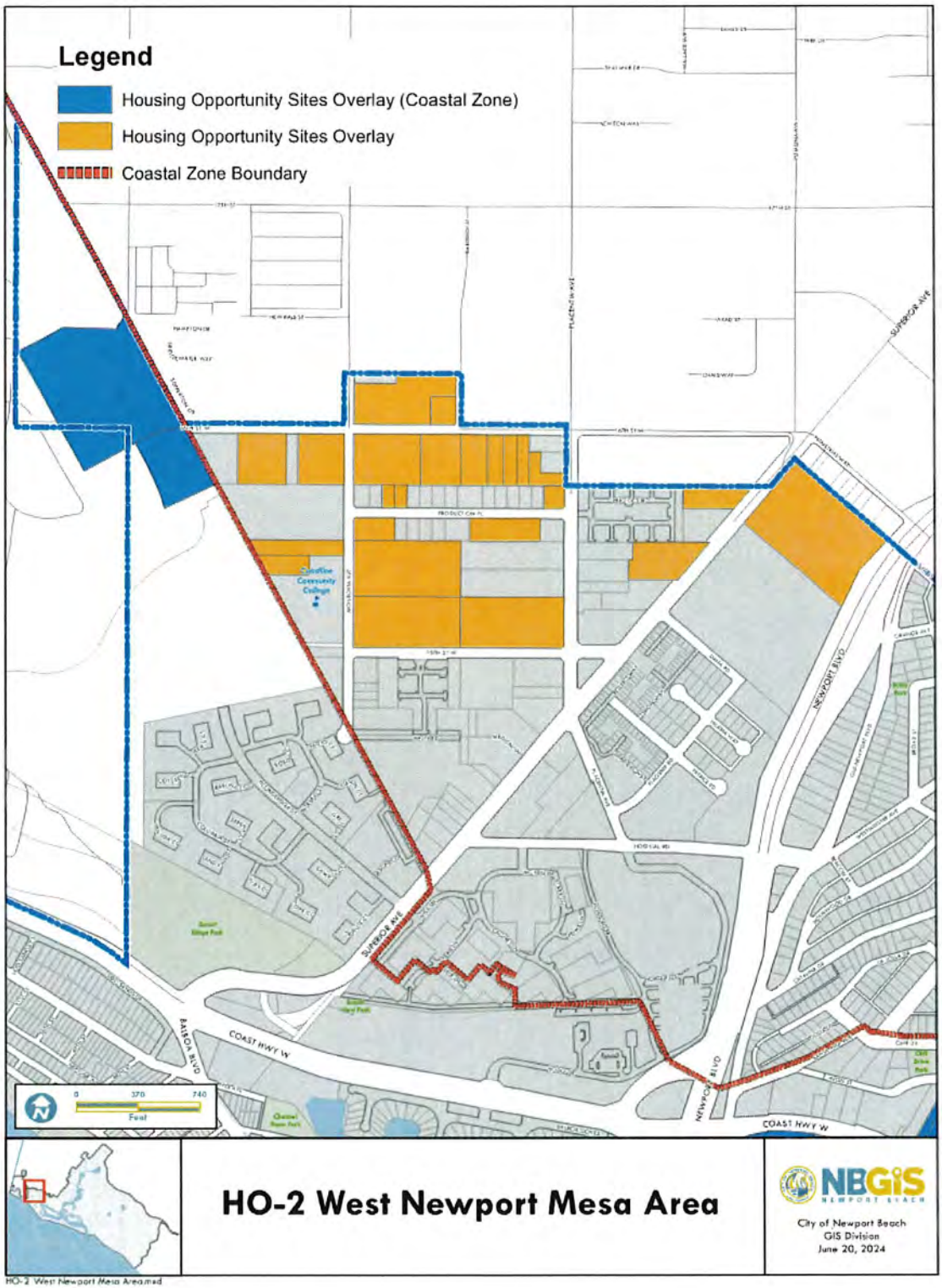
HO-1 - Airport Area Environs Area (PDF)
HO-2 - West Newport Mesa Area (PDF)
HO-3 - Dover-Westcliff Area (PDF)
HO-4 - Newport Center Area (PDF)

The corresponding maps for each of the Housing Opportunity Overlay Coastal Zoning Districts, as indexed in Section 21.80.032 and linked as a PDF, are to be in a similar format to the following series of maps beginning on the next page:

City of Newport Beach

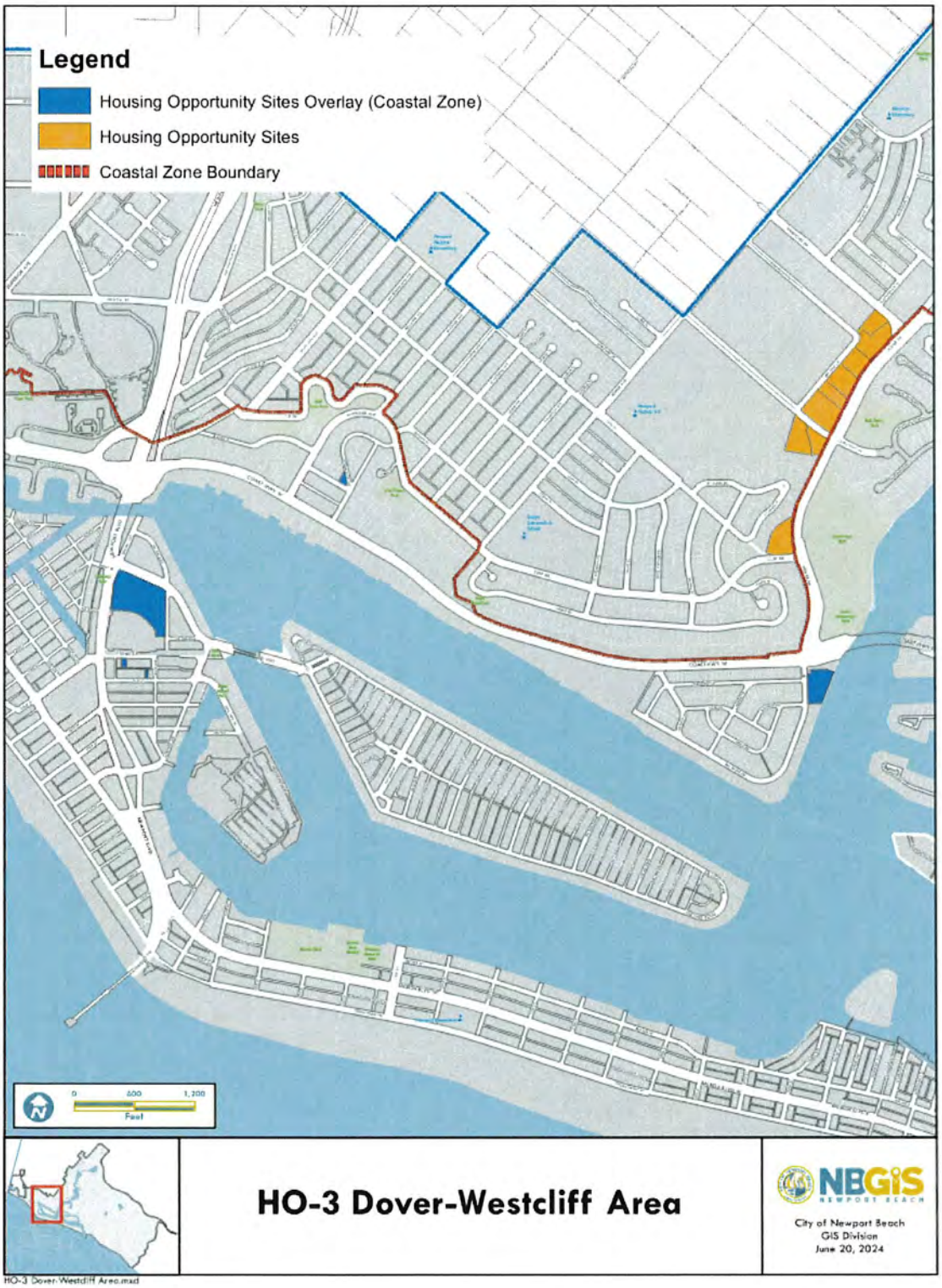


City of Newport Beach

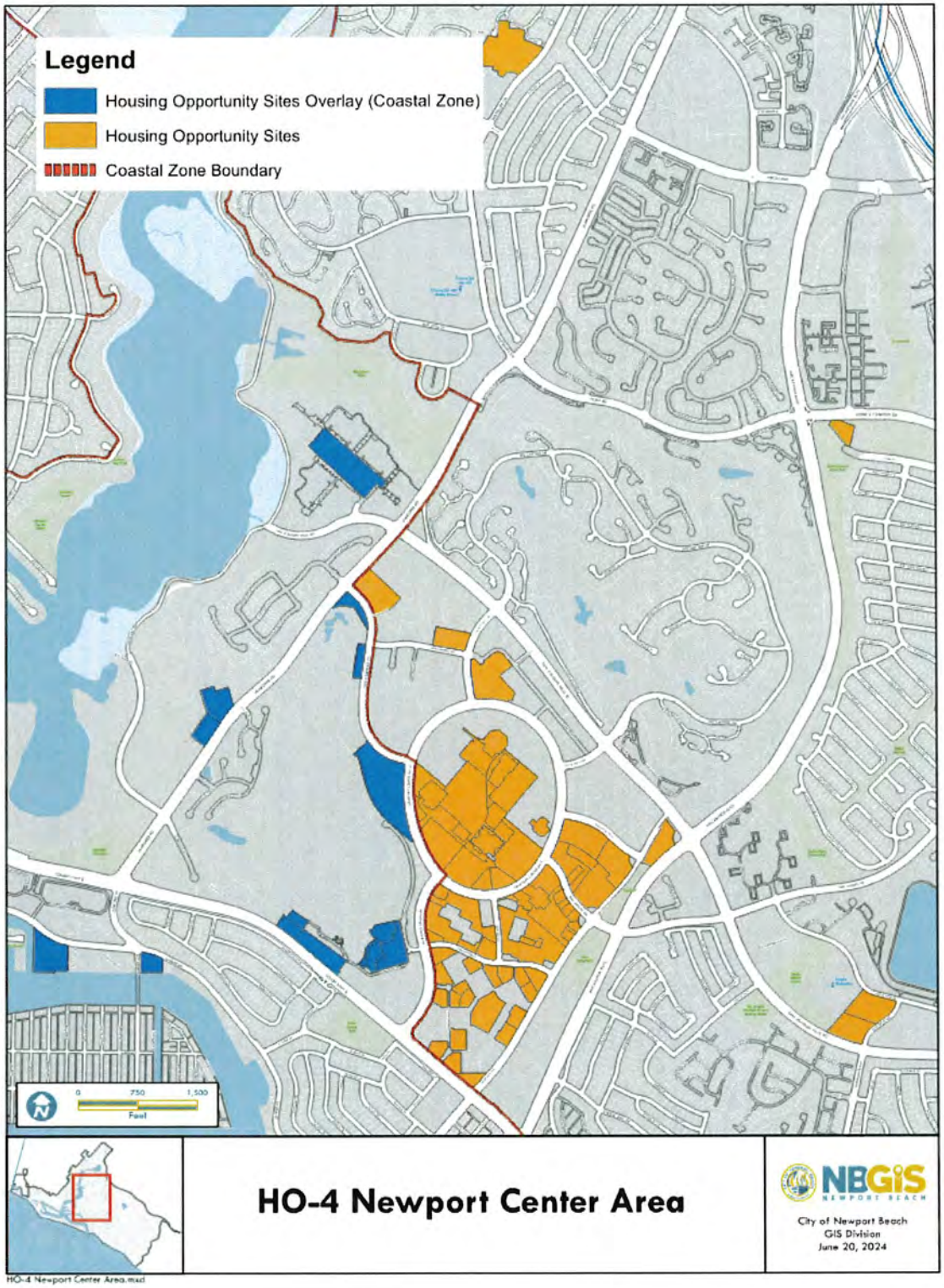


HO-2 West Newport Mesa Area.mxd

City of Newport Beach



City of Newport Beach



City of Newport Beach

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2024-52 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 23rd day of July, 2024; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Pro Tem Joe Stapleton, Councilmember Brad Avery, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Erik Weigand
NAYS: None
ABSTAINED: Mayor Will O'Neill

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 24th day of July, 2024.

Leilani I. Brown
City Clerk
Newport Beach, California

City of Newport Beach

ORDINANCE NO. 2024-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING TITLE 20 (PLANNING AND ZONING) OF THE NEWPORT BEACH MUNICIPAL CODE TO IMPLEMENT THE GENERAL PLAN 6TH CYCLE HOUSING ELEMENT (PA2022-0245)

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 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, the City's General Plan Land Use Element is a mandatory element that governs the ultimate pattern of development and requires updating every now and then for consistency with other General Plan elements;

WHEREAS, every eight years, State Housing Element Law requires the City to update its General Plan Housing Element to identify and analyze existing and projected housing needs for the City along with a housing plan that provides adequate land use capacity to meet those needs;

WHEREAS, the City was assigned a Regional Housing Needs Assessment ("RHNA") allocation of 4,845 new units as its projected housing need for the planning period covering 2021-2029 and, as a result, the City worked diligently to prepare its 6th Cycle Housing Element in compliance with state law;

WHEREAS, preparation of the 6th 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 by an ad-hoc committee called the Housing Element Update Advisory Committee ("HEUAC") formed and appointed by the City Council;

Proposed

WHEREAS, after several meetings with the State Department of Housing and Community Development ("HCD") and numerous drafts, the City Council adopted the final 6th Cycle Housing Element on September 13, 2022;

WHEREAS, HCD certified the City's 6th Cycle Housing Element on October 5, 2022, as statutorily compliant with state law;

WHEREAS, Section 4 (Housing Plan) of the 6th Cycle Housing Element presents a framework and strategy for meeting the needs of existing and future resident populations in Newport Beach based on the RHNA allocation of 4,845 new housing units, the "fair share" of regional housing need and demand, by planning for units within the following site groupings or "focus areas" that are best suited for residential growth: Airport Area Environs, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon;

WHEREAS, the 6th 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 implementation;

WHEREAS, the rezoning includes the establishment of overlay zoning districts and accompanying development standards, as well as corresponding amendments to the General Plan Land Use Element and the Local Coastal Program;

WHEREAS, to comply with state law, the City has been working diligently to implement the 6th Cycle Housing Element no later than February 2025 ("6th Cycle Housing Element Implementation"), which requires 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 6th Cycle Housing Element;

- Amendment to Title 20 (Planning and Zoning) ("ZCA") - To implement the Land Use Element's policy changes by allowing housing development as an opportunity and establishing appropriate objective design and development standards for multi-unit residential and mixed-use development projects;

Proposed

- Local Coastal Program Amendment ("LCPA") - To revise and create new policies within the City's Coastal Land Use Plan and 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 that are within the Coastal Zone; and

- Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) - To analyze potential environmental impacts under the California Environmental Quality Act ("CEQA") related to the 6th Cycle Housing Element Implementation, a Draft Housing Element Implementation Program Amendments Program Environmental Impact Report ("Draft PEIR"), to address reasonably foreseeable environmental impacts resulting from the 6th Cycle Housing Element Implementation;

WHEREAS, the 6th Cycle Housing Element Implementation must take effect by February 2025 to avoid significant penalties and loss of local control dictated by state law, which may include, but are not limited to:

- Increased exposure to public and private litigation;
- Loss of permitting authority;
- Financial penalties including monthly fines of up to $600,0000;
- Loss of eligibility for state and regional funding sources;
- Court receivership;
- Allowing housing developers to bypass the City's zoning requirements; and
- Increased exposure to monitoring by the newly formed Housing Accountability Unit of HCD;

Proposed

WHEREAS, City staff worked closely with the community through the City Council-appointed General Plan Advisory Committee ("GPAC") and General Plan Update Steering Committee ("GPUSC") from March 2023 to August 2023 to draft Land Use Element goals and policies that support 6th Cycle Housing Element Implementation, including the ZCA;

WHEREAS, the draft GPA that was supported by the GPAC and the GPUSC was posted online along with the draft ZCA on August 30, 2023, with additional public comments and participation at the Planning Commission Study Session on September 21, 2023, and City Council Study Session on February 13, 2024;

WHEREAS, the draft GPA was revised and reposed online on January 16, 2024, and March 28, 2024, based on the public input;

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the actions and amendments required for the 6th Cycle Housing Element Implementation. A notice of time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 (Public Hearings) and Chapter 21.62 (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. PC2024-006 by a unanimous vote (5 ayes, 2 recusals) recommending the City Council certify the Housing Element Implementation Program Amendments Draft PEIR and approve the 6th Cycle Housing Element Implementation;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the 6th Cycle Housing Element Implementation 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 May 16, 2024, the ALUC determined the 6th Cycle Housing Element Implementation is inconsistent with the AELUP;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council held a duly noticed public hearing on May 28, 2024, and adopted Resolution No. 2024-32 (7 ayes, 0 nays), to notify the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding and on May 29, 2024, the City issued the Notice of Intent to Override ALUC's determination and received two comments in response; and

WHEREAS, a public hearing was held on July 23, 2024, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the 6th Cycle Housing Element Implementation, including consideration of certifying the PEIR, adoption of CEQA Findings, Mitigation Monitoring and Reporting Program and a Statement of Overriding Considerations. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, Chapter 20.62 (Public Hearings), Chapter 20.66 (Amendments), and Chapter 21.62 (Public Hearings) of the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this hearing.

Proposed

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

Section 1: 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, the ZCA is consistent with the corresponding GPA and LCPA.

Section 2: The City Council does hereby make the findings attached hereto as Exhibit "A" and incorporated by reference, and approves the ZCA, as set forth in Exhibit "B," which is attached hereto and incorporated herein by reference.

Section 3: The Housing Element Implementation Program Amendments Final PEIR (SCH No. 2023060699) was prepared for the 6th Cycle Housing Element Implementation (also referred to as the "Project") in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 *et seq.*, Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act). On July 23, 2024, the City Council adopted Resolution No. 2024-50, to certify the PEIR as complete and adequate, inclusive of all required findings, a statement of overriding considerations, and a mitigation monitoring reporting program. The City Council hereby finds that the action to adopt this Resolution approving the ZCA was considered within the PEIR. Resolution No. 2024-50 is hereby incorporated by reference.

Section 4: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 5: 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 6: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

Proposed

Section 7: 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 take effect 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 23rd day of July, 2024, and adopted on the ___ day of _____, 2024, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

_____
WILL O'NEILL, MAYOR

ATTEST:

_____
LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

_____
AARON C. HARP, CITY ATTORNEY

Attachments: Exhibit "A" – Findings for Approval
Exhibit "B" – Title 20 (Planning and Zoning) Housing Opportunity (HO) Overlay Zoning Districts

Proposed

EXHIBIT "A"
Findings for Approval

General Finding:

An amendment to the City's Zoning Code 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 approval of such amendments. Notwithstanding the foregoing, the following amendments to the Zoning Code will create internal consistency with the certified 6th Cycle Housing Element:

Facts in Support of Finding:

1. The Zoning Code is a tool designed to implement the General Plan. Since the 6th 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 Zoning Code Amendment ("ZCA"), attached to this ordinance as Exhibit "B" incorporated herein, including the Housing Opportunity (HO) Overlay Zoning Districts with associated development standards, are consistent with the implementation program in the Housing Plan of the Housing Element, as discussed in Resolution No. 2024-____ 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.

Proposed

EXHIBIT "B"
Title 20 (Planning and Zoning)
Housing Opportunity (HO) Overlay Zoning Districts

Chapter 20.28 (Overlay Zoning Districts) of the NBMC is amended to include a new Section 21.28.050 (Housing Opportunity [HO] Overlay Zoning Districts) as follows:

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.

Proposed

Section 20.28.010 (Purposes of Overlay Zoning Districts) is amended to include a new Subsection (D) as follows:

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).

New Section 20.28.050 (Housing Opportunity [HO] Overlay Zoning Districts) is incorporated into the Chapter as follows:

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 (Maps – NOTE: Maps largely mirror the focus areas in Appendix B of the Housing Element and will be posted once available). 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 16th Street, Production Place, and 15th 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 - 5th Cycle Housing Element Sites – Those sites that are identified as 5th Cycle Housing Element sites on Figure B-5 of the 6th 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.

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.

Proposed

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

Proposed

(1) Development limits are additional residential development opportunities beyond the base allowances in this Title and General Plan, including projects approved under those base allowances and units identified as pipeline units in the 6th Cycle Housing Element (Table B-2). Development limits shall not include density bonus units. 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 6th 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

Proposed

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

Proposed

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

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

Proposed

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.

Subsection 20.48.130(B) shall be amended to include a reference to the HO Overlay Zoning Districts as follows:

B. Development Standards. In addition to the development standards provided in this section, development standards for mixed-use projects are provided in:

1. Table 2-10 (Development Standards for MU-V; MU-MM; MU-DW; and MUCV/15th St.);

2. Table 2-11 (Development Standards for MU-W1 and MU-W2 Mixed-Use Zoning Districts);

3. Table 2-16 (Development Standards for Housing Opportunity Overlay Zones); and

4. Other sections in this Part 4 for specific uses that may be part of the proposed mixed-use project.

Part 8. Maps, Chapter 20.80 (Maps) is amended to include new Section 20.80.025 (Housing Opportunity Overlay Zoning Districts maps) as follows:

Proposed

Chapter 20.80

MAPS

Sections:

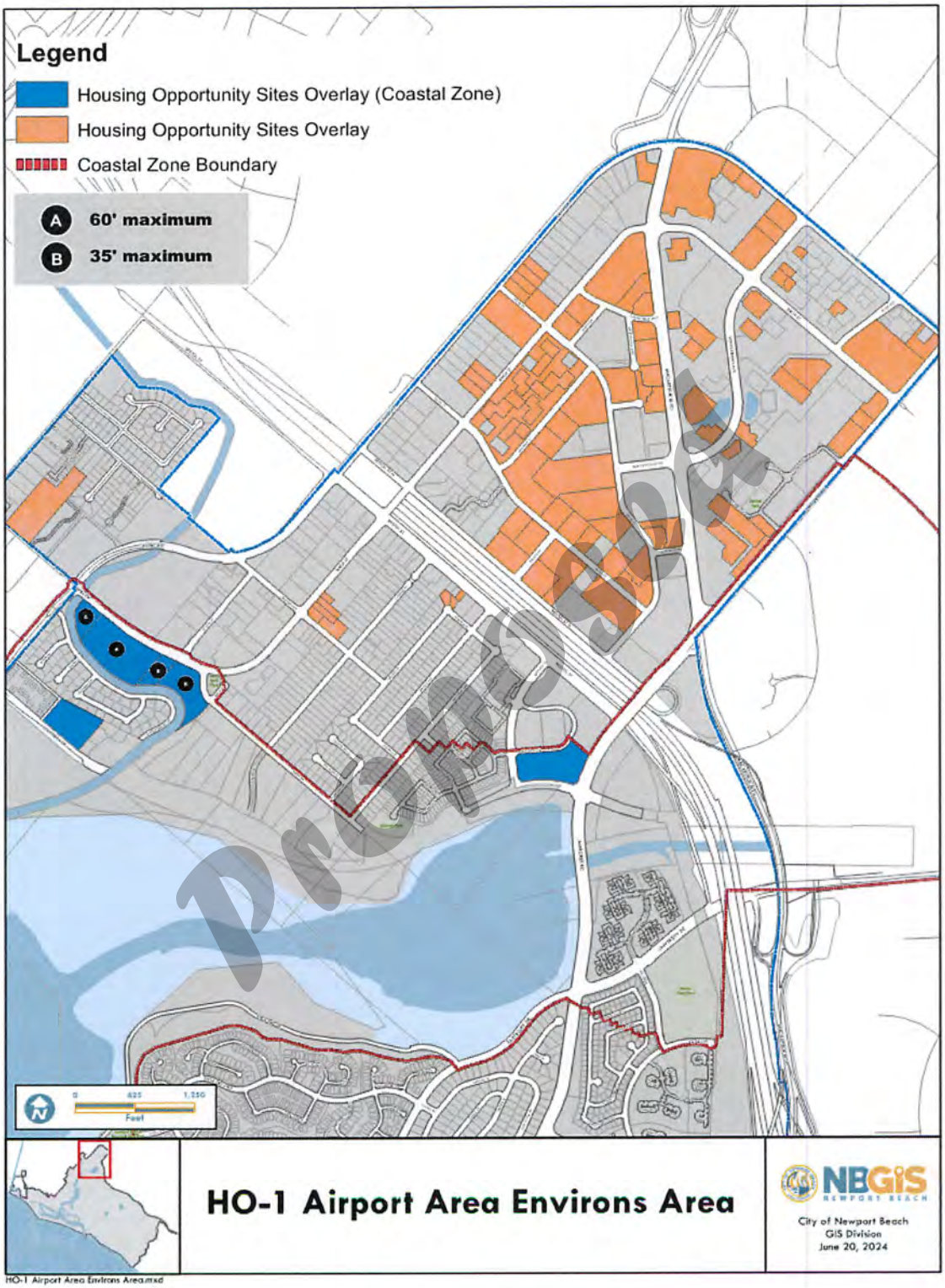
20.80.010 Area maps.
20.80.020 Bluff overlay.
20.80.025 Housing Opportunity Overlay Zoning Districts maps.
20.80.030 Height limit areas.
20.80.035 Parking Management Overlay District maps.
20.80.040 Setback maps.

Section 20.80.025 (Housing Opportunity Overlay Zoning Districts maps) is added in its entirety to include an indexing of maps as follows:

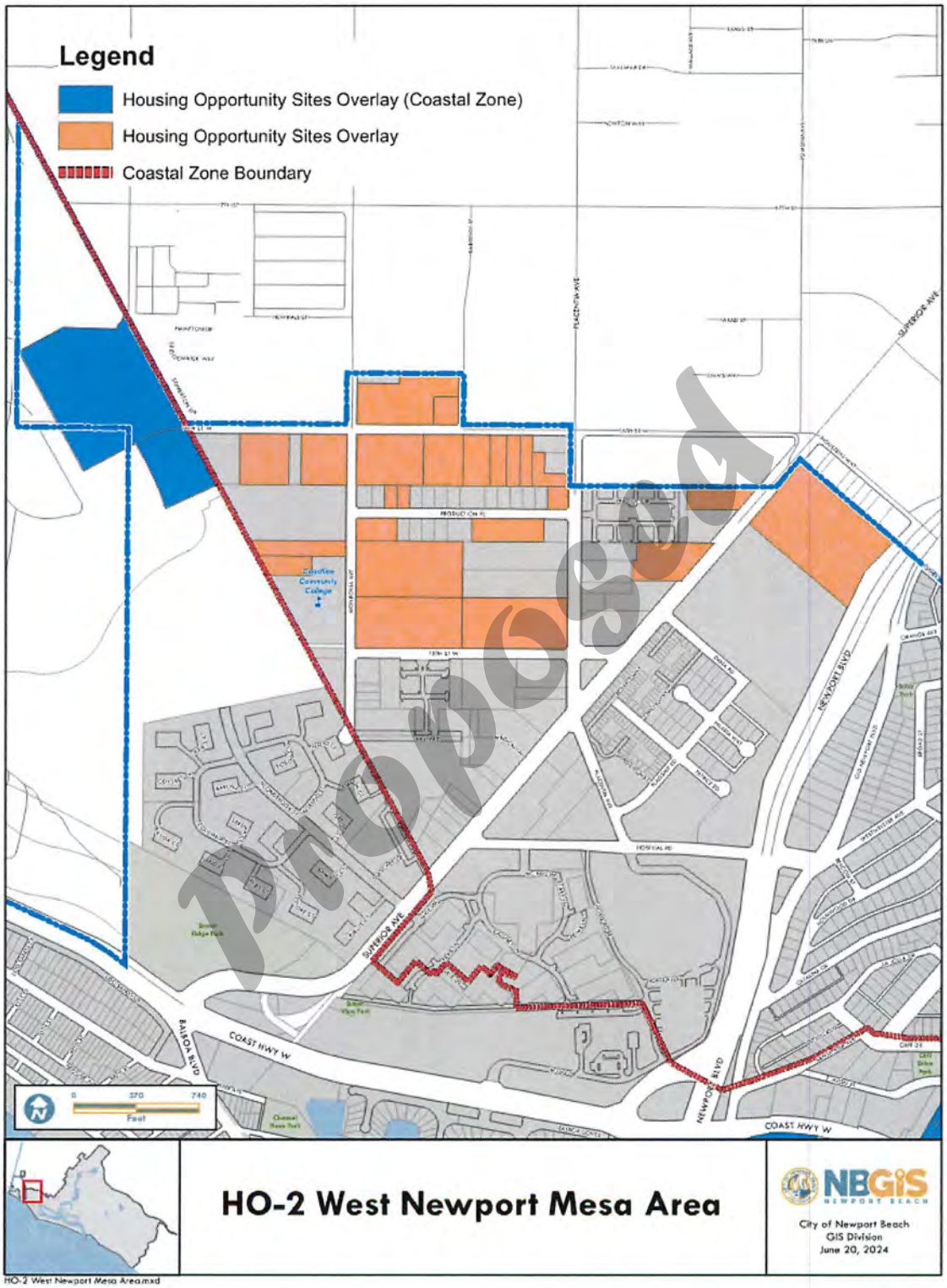
HO-1 - Airport Area Environs Area (PDF)
HO-2 - West Newport Mesa Area (PDF)
HO-3 - Dover-Westcliff Area (PDF)
HO-4 - Newport Center Area (PDF)
HO-5 - Coyote Canyon Area (PDF)
HO-6 - 5th Cycle Housing Element Sites (PDF)

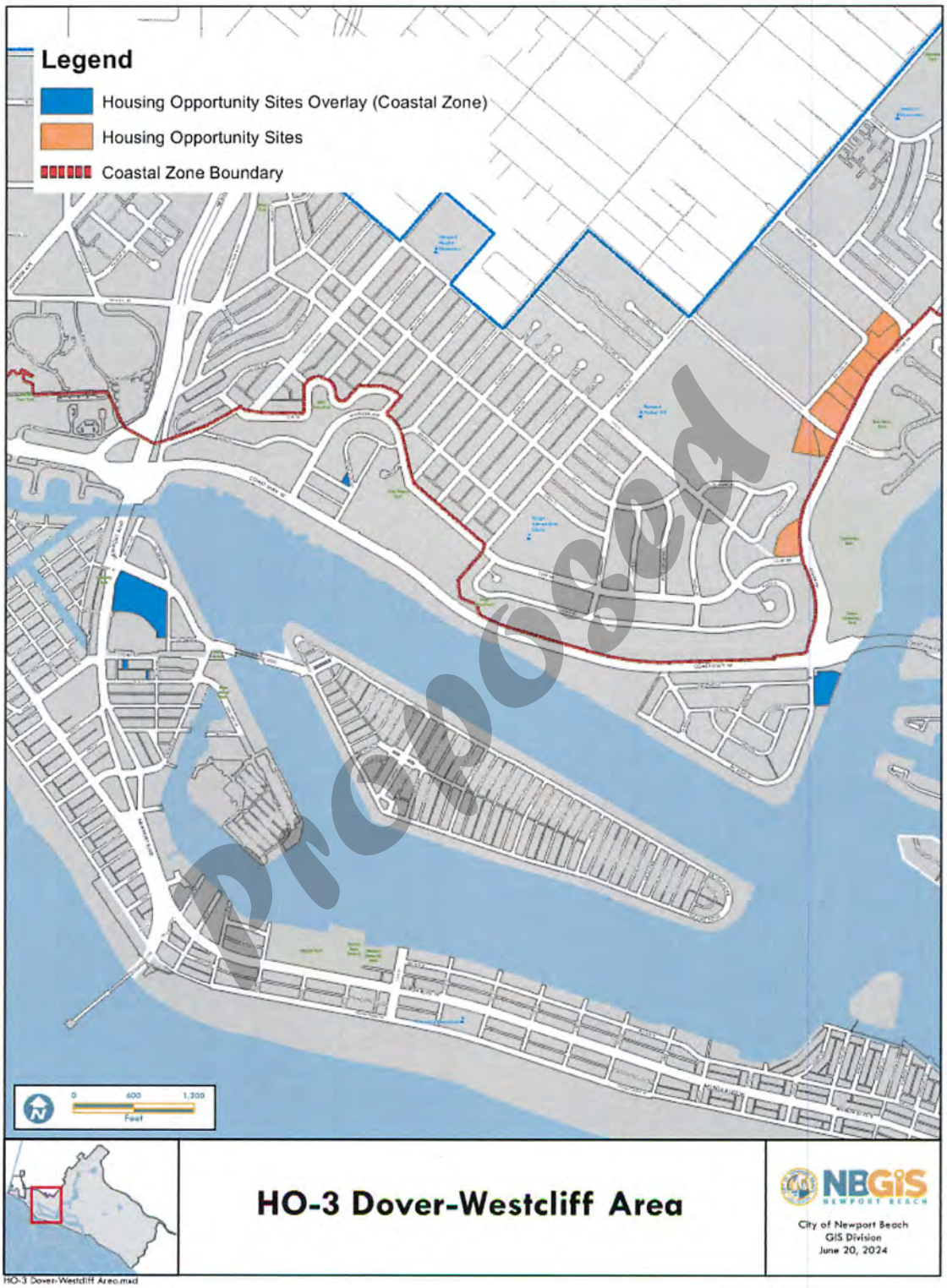
The corresponding maps for each of the Housing Opportunity Overlay Zoning Districts, as indexed in Section 20.80.025 and linked as a PDF, are to be in a similar format to the following series of maps beginning on the next page:

Proposed

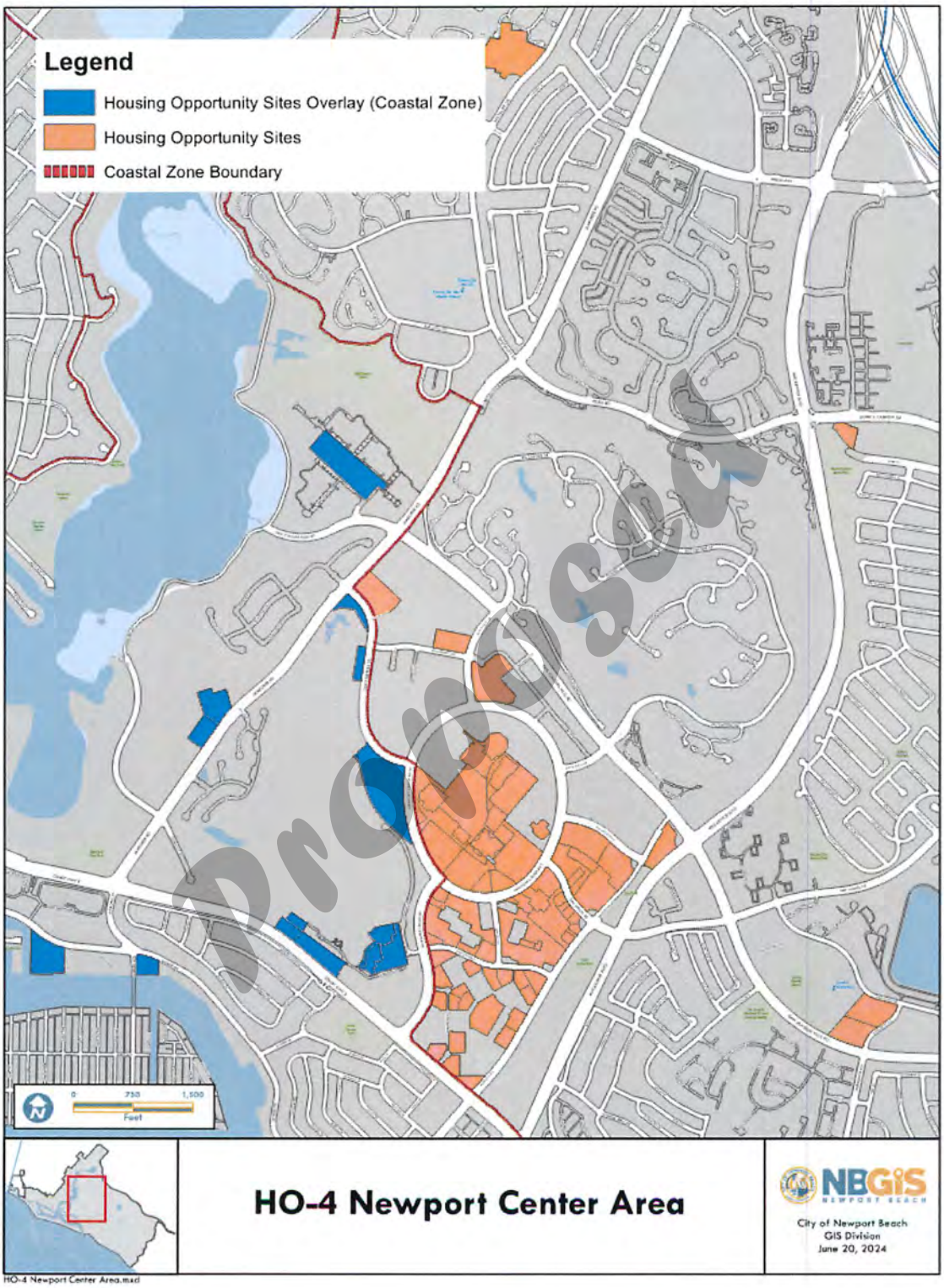

Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites Overlay
Coastal Zone Boundary
A 60' maximum
B 35' maximum
HO-1 Airport Area Environs Area
NBGIS
City of Newport Beach
GIS Division
June 20, 2024
HO-1 Airport Area Environs Area.mxd

Proposed

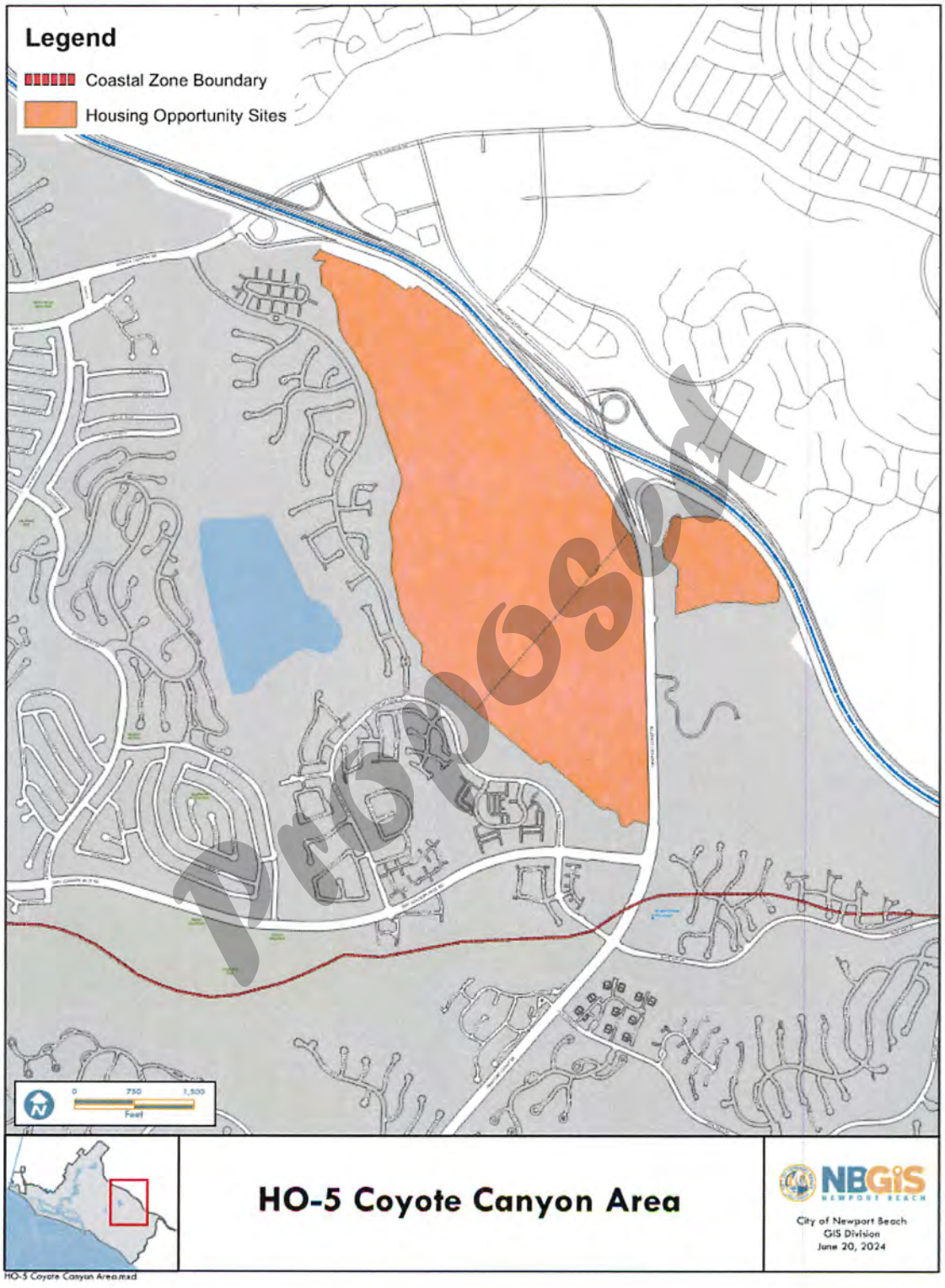

Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites Overlay
Coastal Zone Boundary
Proposed
COAST HWY W
NEWPORT BLVD
SUPERIOR AVE
BALBOA BLVD
HO-2 West Newport Mesa Area
NBGIS
City of Newport Beach
GIS Division
June 20, 2024
HO-2 West Newport Mesa Area.mxd


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites
Coastal Zone Boundary
0
600
1,200
Feet
HO-3 Dover-Westcliff Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-3 Dover-Westcliff Area.mxd

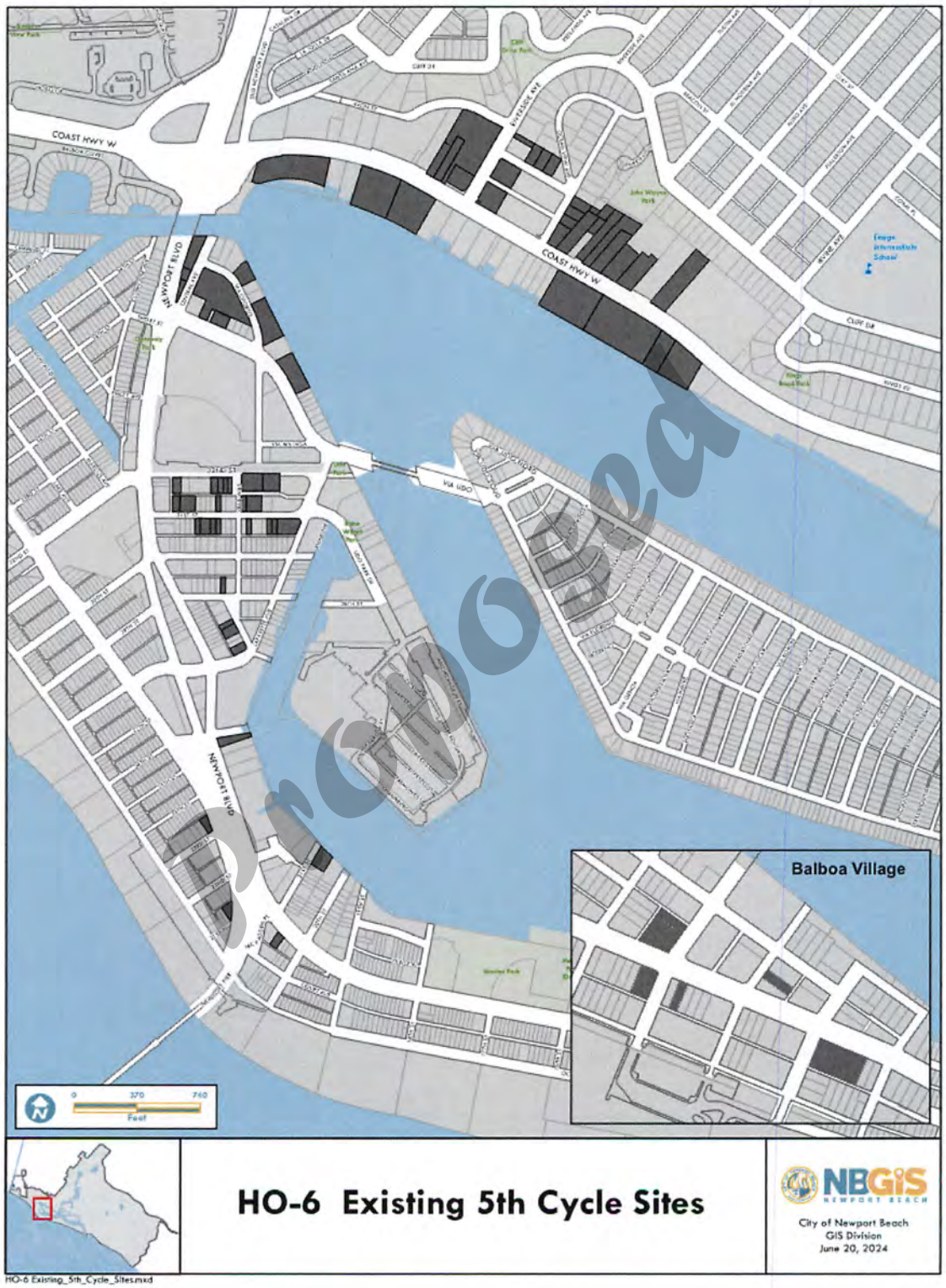
Proposed


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites
Coastal Zone Boundary
0
750
1,500
Feet
HO-4 Newport Center Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-4 Newport Center Area.mxd

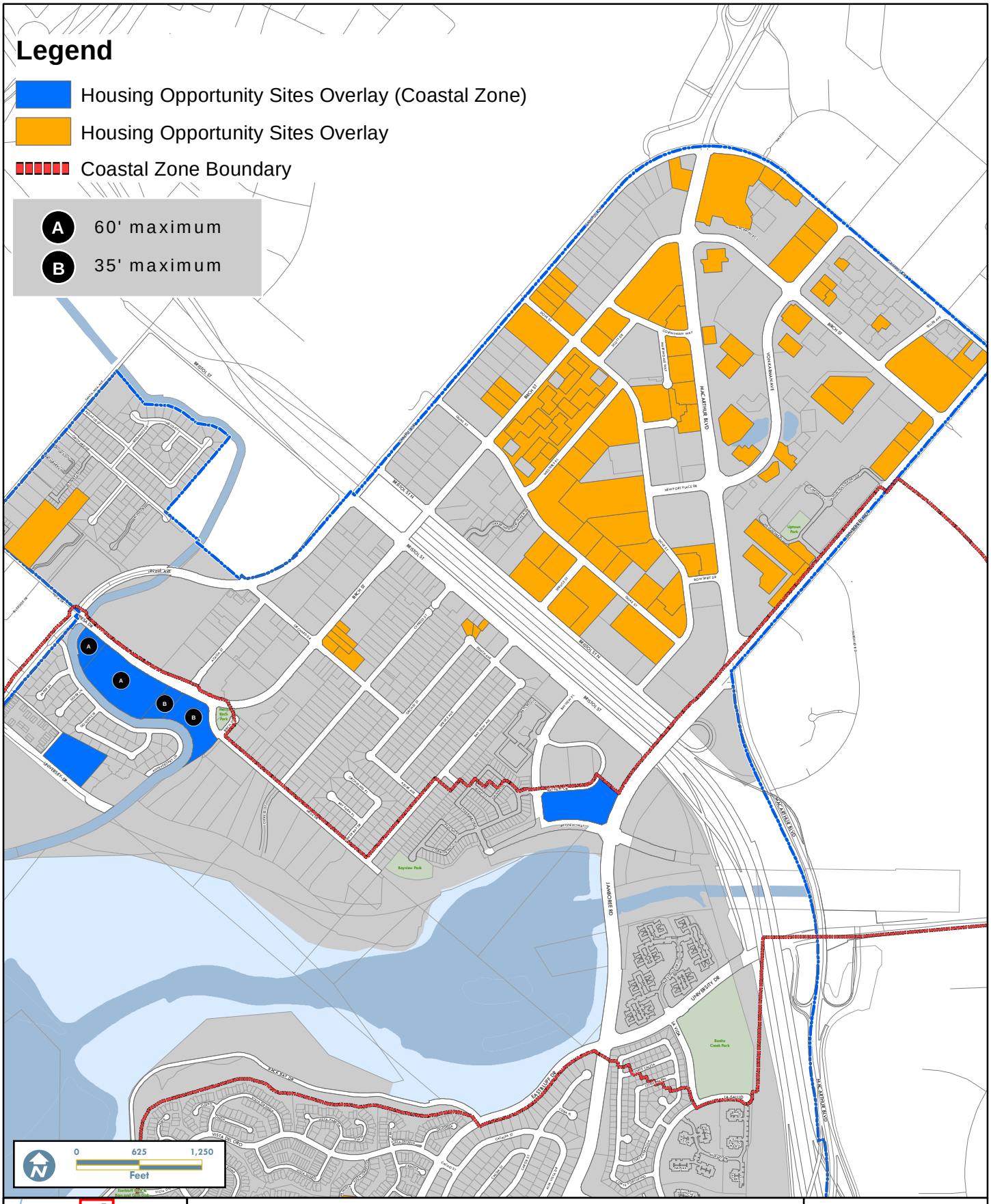
Proposed


Legend
Coastal Zone Boundary
Housing Opportunity Sites
0
750
1,500
Feet
HO-5 Coyote Canyon Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-5 Coyote Canyon Area.mxd

Proposed


COAST HWY W
NEWPORT BLVD
VIA LIDO
Balboa Village
0 370 740
Feet
HO-6 Existing 5th Cycle Sites
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 20, 2024
HO-6 Existing_5th_Cycle_Sites.mxd

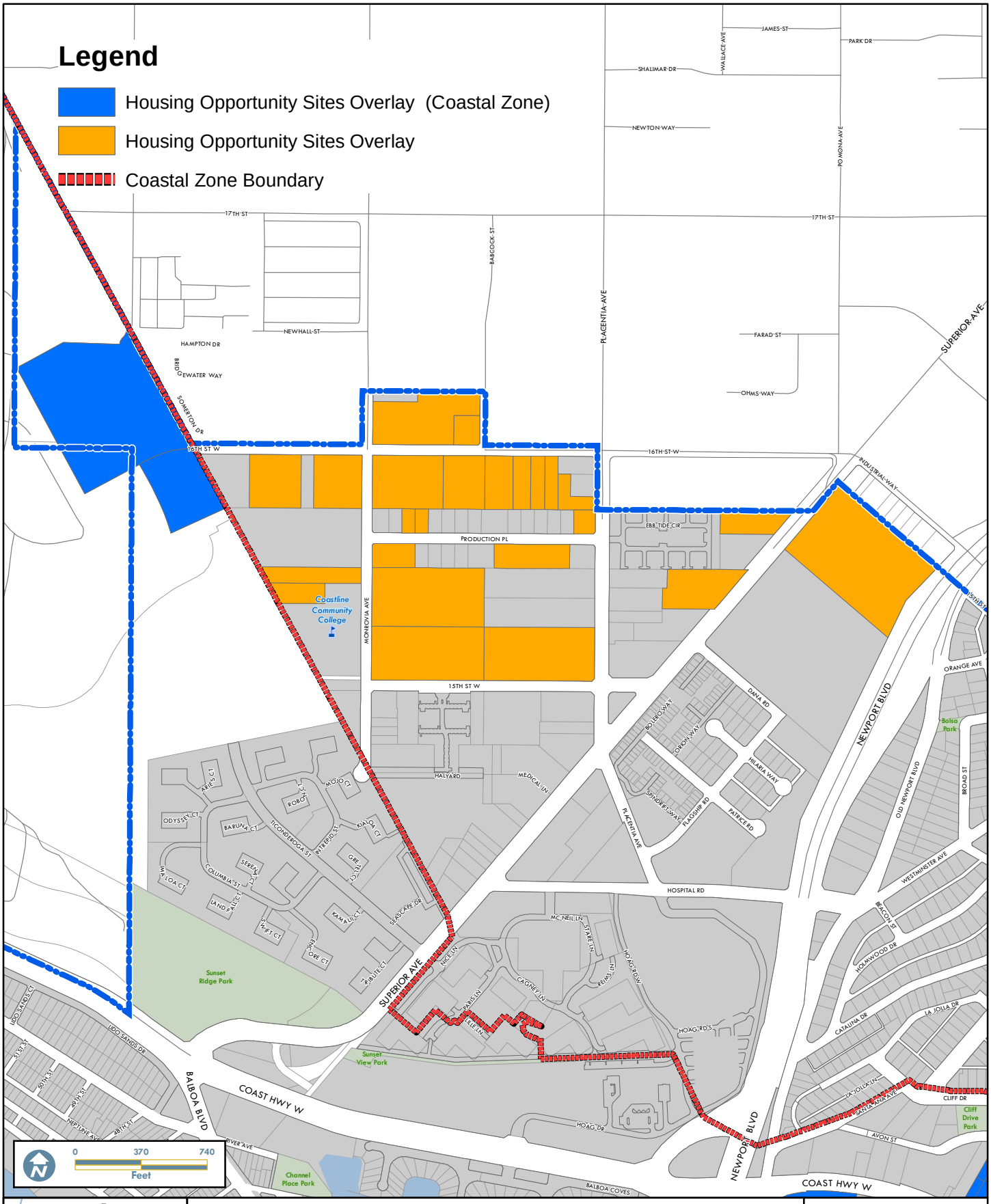
Proposed



HO-1 Airport Area Environs Area

City of Newport Beach
GIS Division
October 04, 2024

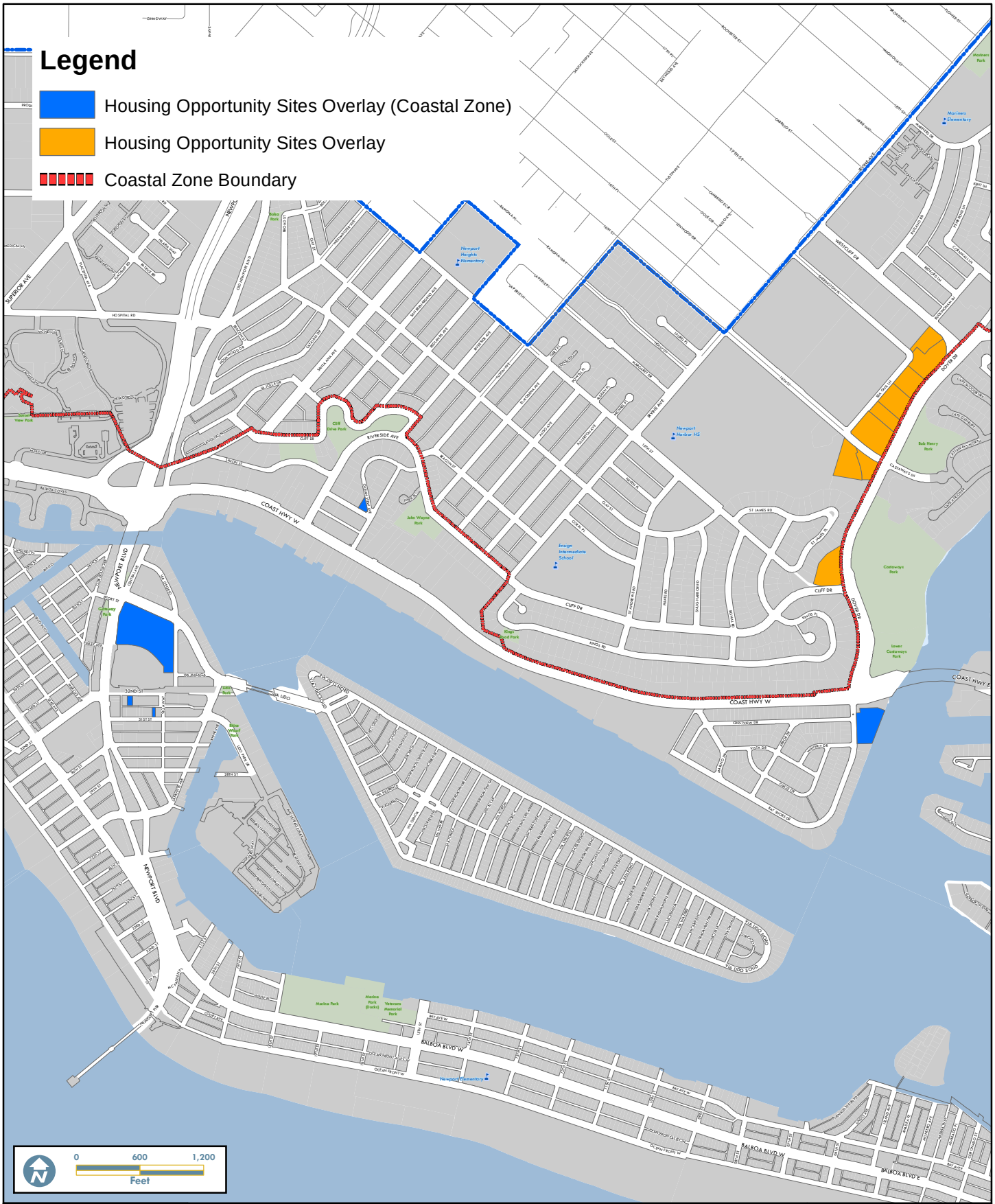
HO-1 Airport Area Environs Area.mxd



HO-2 West Newport Mesa Area

City of Newport Beach
GIS Division
November 19, 2024

HO-2 West Newport Mesa Area.mxd

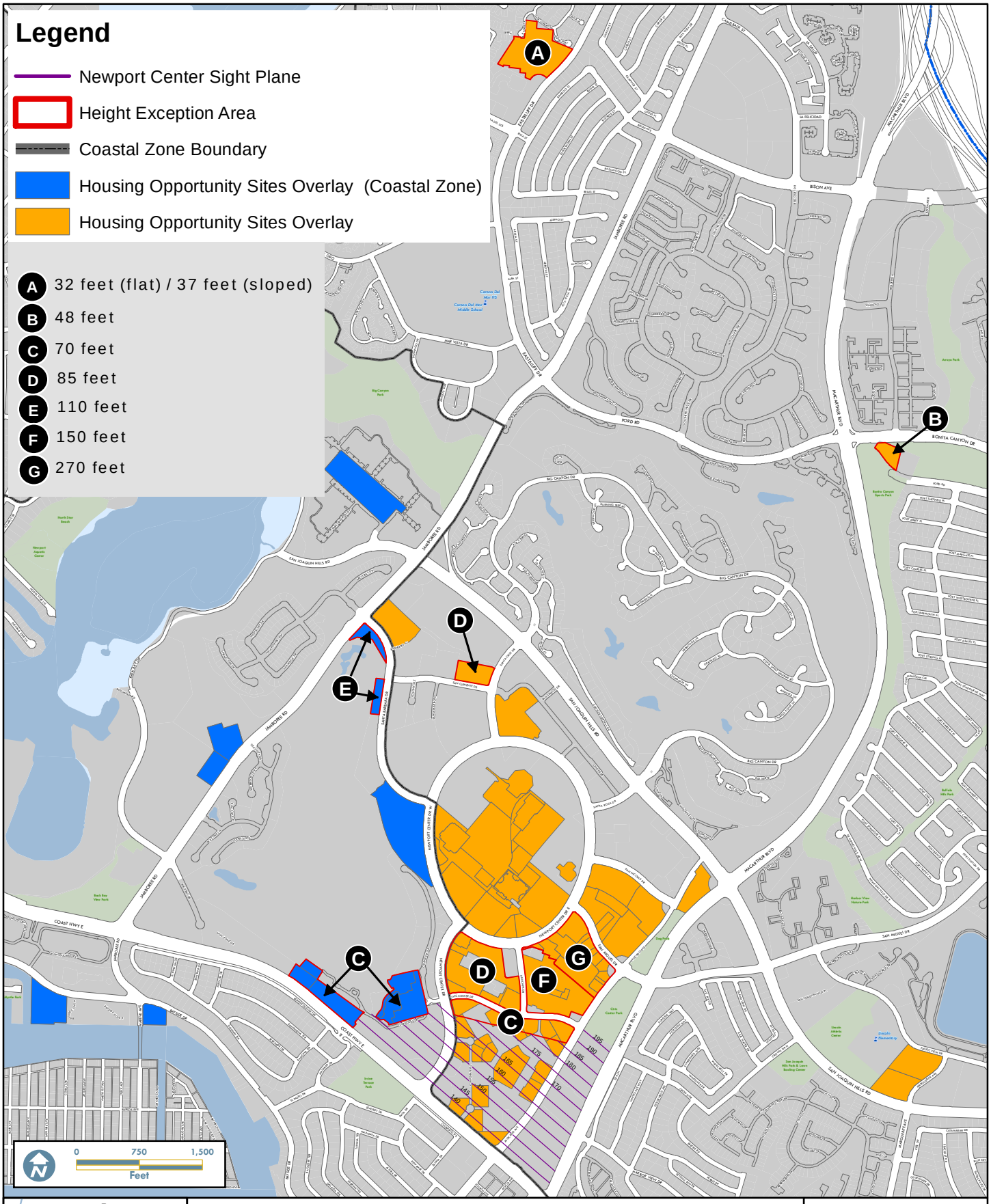


HO-3 Dover-Westcliff Area

California Coastal Commission
LCP-5-NPB-24-0032-2
Exhibit 3
Page 3 of 4

City of Newport Beach
GIS Division
October 04, 2024

HO-3 Dover-Westcliff Area.mxd



HO-4 Newport Center Area

City of Newport Beach
GIS Division
June 13, 2025

HO-4 Newport Center Area_Height_Exceptions.mxd

CALIFORNIA COASTAL COMMISSION
South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4830
(562) 590-5071

F11a

ADDENDUM

DATE: April 16, 2026

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

Subject: **ADDENDUM TO ITEM F11a, LCPA APPLICTION NO. LCP-5-NPB-24-0032-2 (City of Newport Beach) FOR THE COMMISSION MEETING ON April 17, 2026**

This addendum is designed to achieve the following objectives. Section I updates the record by supplementing it with correspondence that the Commission received after the staff report was issued. Section II provides responses to concerns raised in the recent correspondence, which Commission staff proposes the Commission incorporate into its findings, and Section III addresses changes to the staff report

I. CORRESPONDENCE RECEIVED

Since the publication of the staff report on April 3, 2026, the Commission received approximately 15 letters from members of the public, including members of Protect our Coast Newport Beach and Members of Residents to Save Newport Beach Golf Course, opposing the proposed LCP amendment with regard to the potential loss of open space and recreational uses, safety risks and ecological concerns (development of housing units in a floodplain and under the flight path of John Wayne Airport proximity to Upper Newport Bay Ecological Reserve) particularly as it applies to Housing Opportunity Sites 23, 24, 25, and 26 located at the Newport Beach Golf Course (hereafter referred to as the Golf Course Parcels). Staff also received letters opposing the project from Chris Pederson and Jim Mosher regarding the lack of affordable housing provided with the subject LCPA (both addressed specifically below); and one letter from the City of Newport Beach requesting revisions to **Suggested Modification 6**, which also pertains to the Golf Course parcels. All of the comment letters have been posted with Correspondence for this item. Thus, the following is added as a Response to Comments section of the staff report dated April 17, 2026 (as section IV. C of the staff report on page 25, thus renumbering the CEQA section as section D.

II. RESPONSE TO COMMENTS

The Commission received multiple letters regarding the proposed amendment. Many of the comments raised similar or overlapping concerns related to the preservation of open space uses, adequate protection of biological resources, coastal hazards, and the scale and intensity of potential development. Accordingly, for clarity and efficiency, staff has organized and addressed these comments by issue area in the form of contentions below. Each contention reflects one or more recurring concerns raised in the correspondence, and staff's responses address these issues collectively.

Response to Comments from the City of Newport Beach

On April 8, 2026, the City of Newport Beach submitted comments focused on **Suggested Modification 6** related to Housing Opportunity sites at the Golf Course Parcels and proposed revised language to provide more flexibility with the 100-ft buffer recommended by staff. Specifically, the City contends that staff's recommended buffer is unnecessarily restrictive and constrains the feasibility of housing development on the sites. According to the City, the adjacent Santa Ana Delhi Channel Project, since it is preliminary/speculative in nature, requires additional coordination with the County and adjacent property owners, and is subject to potential design changes that could include a joint maintenance road and multi-use trail.

As stated in the staff report, the Orange County Department of Public Works (OCPW) is currently seeking a CDP from the Commission for the Santa Ana Delhi Channel Improvement Project (SAD). This project primarily proposes to widen the existing channel to 100 ft in order to be compliant with regulations set forth by the U.S. Army Corps of Engineers (USACE). The proposed project would also create expanded habitat comprised of freshwater marsh, riparian transitional habitat, and coastal salt marsh habitat- all of which has been required by USACE as mitigation for work that has been conducted on the channel since 1986. In order to establish the required habitat areas, the County needs to acquire portions of the Golf Course Parcels through an easement. Upon receiving the easement, the CDP, and all other entitlements, the project would result in new habitat areas that would be established directly on the Golf Course Parcels. As noted in the staff report, the Commission's Ecology Team has indicated that the habitat proposed in this project would constitute environmentally sensitive habitat area (ESHA) that requires special protections under the certified LCP and Chapter 3 of the Coastal Act.

Contrary to the City's assertions in its comment letter, the SAD project is not a speculative project. As previously noted, the SAD channel widening is being required by USACE to increase flood capacity, create habitat, and slow creek flow velocity to prevent scouring of Upper Newport Bay, so the probability of the project being abandoned is very slim. Moreover, in recent conversations between Commission staff and OCPW, OCPW indicated that the project could begin as early as Spring 2027, depending on when all the requisite entitlements (including the CDP) are obtained. OCPW has submitted a CDP application to the Commission's South Coast District

office, and District staff is actively collaborating with County staff to finalize their application materials and schedule a Commission hearing once the project has been thoroughly analyzed.

Given that the SAD channel project is not speculative as implied in the City's comment letter, it is imperative for the Commission to consider the potential new ESHA areas when considering long-term planning policies for residential development that could adversely impact biological resources. This consideration for sensitive biological resources is not only required pursuant to Section 30240 of the Coastal Act, but also in the certified LCP. Among the policies listed in Pages 18-20 of the staff report, LUP policy 4.1.1-4 requires the protection of ESHA from significant disruption of habitat values, LUP Policy 4.1.1-20 requires a minimum buffer of 50 ft. wherever possible, and LUP Policies 4.1.1-11 and 4.1.1-12 outline vegetation requirements for ESHA buffers. Additionally, certified IP Chapter 21.30B.030(D) requires a minimum 50 ft. wide buffer for ESHA.

As detailed in the staff report, the proposed amendment does not establish sufficient standards to ensure the protection of biological resources and open space functions on these sites. In the absence of such standards, development could encroach into ESHA or reduce the effectiveness of a future habitat and recreational corridor. Thus, the recommended 50 ft-foot ESHA buffer required in **Suggested Modification 6** is intended to ensure adequate protection of habitat function and long-tern ecological viability.

It should be acknowledged that the LUP and IP policies referenced above do contain language that allows for reductions to the minimum 50-ft. ESHA buffer requirement in limited circumstances where it can be demonstrated a 50-ft. ESHA buffer is infeasible due to site constrains and a narrower buffer would be equally protective of the biological integrity of ESHA.[1] However, in this case, the City's anticipated development of up to 700 medium-density residential units on these sites would adversely impact biological resources (including the planned SAD-created ESHA) if an adequate ESHA buffer is not maintained. Moreover, the Commission's Ecology team has continued to recommend that a minimum 100 ft. buffer (comprised of a 50 ft. ESHA buffer and a 50 ft. transitional buffer) should be maintained throughout the site in order to provide adequate protection for ESHA. Thus, staff continues to recommend that the 50-ft. required ESHA buffer in **Suggested Modification 6** not allow for exceptions to reduce the buffer width.

In addition to a 50-ft. ESHA buffer, Commission staff is recommending an additional 50-ft. transitional buffer pursuant to Suggested Modification 6. As explained in the staff report, this buffer requirement is necessary to ensure that future development does not preclude or constrain and public access and recreation opportunities on sites that have base zoning designations of open space/Parks. In response to the City's contention regarding flexible buffers, Commission staff evaluated the Golf Course sites and determined that a 50 ft. transitional buffer is the minimum buffer necessary to provide a

[1] Note: both criteria must be met under the certified IP for an exception to apply.

meaningful public access/recreation component. Moreover, as explained in more detail below, the land area that would be impacted by Commission staff's recommended buffers is relatively small compared to the area that would be available to accommodate multifamily residential development projects.

The City's response letter also notes that proposed future improvements under the SAD project may include a maintenance road or multi-use trail and suggests that such features could help determine the appropriate buffer. However, the presence or potential infrastructure does not eliminate the need for biologically protective buffers. Buffers are required to protect habitat areas from indirect impacts such as noise, lighting, human activity, and runoff, and to maintain the long-term success of adjacent habitat areas. As such, infrastructure such as maintenance roads or trails do not, in and of themselves, provide adequate protection of biological resources. The recommended buffer and open space corridor requirements are therefore necessary to ensure that both habitat protection and public access objectives are achieved. However, the City does raise a valid point that **Suggested Modification 6**, as currently recommended, does not account for the possibility of a path for channel maintenance and/or public access within the 50-ft. ESHA buffer. Therefore, Commission staff is recommending modifications to Suggested Modification 6 to address the potential for such a path, as detailed in Section III (Changes to Staff Report) of this addendum.

With regard to site constraints, the City asserts that a uniform 100-foot buffer would substantially reduce the developable area of the sites and limit the feasibility of housing development. While the recommended buffer may constrain the area available for development, it does not prevent residential use on the subject sites.

Based on available site information, the proposed 100-foot buffer would preserve approximately 4.97 acres of the 13.9-acre golf course area (or as open space to accommodate biological resource protection and passive recreational use. This would leave approximately 8.9 acres (or 65% of the total site area) available for potential residential development, as shown in Figure 1 below, which is an exhibit prepared by the Commission's mapping unit illustrating the buffer areas and resulting development footprint.



For illustrative purposes only.

Santa Ana-Delhi Channel Mitigation Areas



Santa Ana-Delhi Channel Total Habitat Area
50 foot buffer
100 foot buffer

CALIFORNIA COASTAL COMMISSION
Technical Services Division - GIS Unit

Sources: CCC, GeosyntecVantor, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community
EE April 2026

Figure 1. Illustration depicting a 50-foot buffer (in yellow) and 100-foot buffer (in black) for the Santa Ana Delhi Channel Improvement Project.

The proposed amendment does not approve any specific development or guarantee a particular density on any site. The amount and configuration of development will be determined through future coastal development permit review, where site-specific constraints, including ESHA protection, public access, and hazard considerations, must be addressed.

Response to Comments from Jim Mosher

The Commission received correspondence from Jim Mosher on April 10, 2026. The comment is included in the correspondence for this item. Mr. Mosher raises several concerns regarding the proposed amendment, including whether the use of Housing Opportunity Overlay districts is consistent with recent court decisions interpreting state housing law, where the amendment could result in excessive residential density or height increases that may affect coastal views, whether the proposed polices adequately protect visitor-serving and marine related priority uses, and whether the amendment provides sufficient clarity regarding implementation, including mapping and permitting processes. He also raises concerns regarding the potential use of administrative approvals, such as Directors Determination, to implement changes without a Local Coastal Program amendment.

Mr. Mosher raises concerns with the proposed LCP amendment's compliance with state housing law, particularly regarding the use of housing opportunity overlays to meet affordable housing obligations. Mr. Mosher states that the City's Housing Element is no longer compliant with state housing law and that the Housing Opportunity Overlay is similar to those invalidated in two recent cases where housing overlay districts have been ruled invalid. Mr. Mosher's concerns are outside of the Commission's scope of review for this matter. The Commission's standard of review for the proposed amendment to the certified IP is whether the amendment, as modified, conforms with and is adequate to carry out the policies of the certified LUP, and the standard of review for the amendment to the certified LUP is whether the amendment, as modified, conforms with and is adequate to carry out the Chapter 3 policies of the Coastal Act. In any case, the City of Newport Beach has stated that it believes that its Housing Element complies with state housing law, The City's 6th Cycle Housing Element was deemed certified and compliant with State law by Housing and Community Development (HCD) on October 5, 2022, within the required deadline.

Regarding concerns related to density, height, and potential impact to coastal views, Mr. Mosher notes that a portion of the City's coastal zone is subject to the Shoreline Height Limitation, and that the amendment is not clear how the proposed HO Overlay development standards would be made consistent with the Shoreline Height Limit. Mr. Mosher further notes that because the proposed density limits are described as averages over a site, even higher densities and heights could be allowed, which could adversely impact visual resources. In response to Mr. Mosher's concerns, the Coastal Act requires that new development be sited and designed to protect views to and along the ocean and scenic coastal areas, consistent with section 30251. In addition, certified

IP Chapter 21.30.100 (Scenic and Visual Quality Protection) provides specific visual resource protection policies that all projects within the City's LCP jurisdiction must meet in order to receive a CDP. As mentioned throughout the staff report, the proposed amendment does not, in and of itself, approve any specific residential development projects. All future development under the Housing Opportunity Overlay would be required to comply with applicable Coastal Act and certified LCP policies, including those governing scenic and visual resources and would be subject to coastal development permit review to ensure consistency with those standards. Moreover, Section 21.32.020B of the certified IP- which relates to Coastal Act Consistency policies related to density bonus projects- prohibits waivers or concessions related to the coastal resource protection development regulations, including Chapter 21.30.100.

With respect to the protection of visitor-serving, marine-related, and other priority coastal uses, Mr. Mosher raises concerns regarding whether such uses would be adequately protected in cases where they do not currently exist on sites with different base land use designations. As discussed in the staff report, **Suggested Modifications 2**, **5**, and **7** require that residential development be permitted only in addition to, and not in place of, existing or planned priority uses. These modifications also require that where such uses are removed or reduced, they must be retained, replaced or provided through functionally equivalent uses that maintain comparable capacity and public availability. These requirements apply regardless of whether such uses are currently present on a site and are intended to ensure that land designated or appropriate for priority coastal uses is not lost .

Mr. Mosher also raises questions regarding the clarity of policy language and implementation mechanisms, including the identification of Housing Opportunity sites and the relationship between the LUP, IP, and Housing Element. The Commission review focuses on whether the certified LCP, as modified, provides sufficient standards to guide development and ensure consistency with the Coastal Act. The amendment, as modified, is implemented through the certified IP, which establishes the applicable zoning, development standards, and permitting governing development with the coastal zone.

Mr. Mosher also raises concerns regarding the clarity and content of proposed LUP policy 2.1.11, including provisions related to the reservation and prioritization of dwelling units within the Coastal Zone. In response to these concerns, the City has indicated that it supports the removal of the provisions reserving 25% of allocated dwelling units within the Coastal Zone and prioritizing those units following certification of the LCPA.

The City agrees that these provisions are not necessary to implement the Housing Opportunity Overlay and could create confusion regarding the application of development limits within the Coastal Zone. Accordingly, the suggested modifications have been revised to remove these changes to ensure clarity and consistency within the certified LUP.

With respect to concerns regarding the potential use of administrative approvals, such as Director's Determinations, to effectuate changes without a Local Coastal Program amendment, any changes to land use designations, zoning, or permitted uses within the coastal zone must be consistent with the certified LCP and, where applicable, require approval of an LCP amendment by the Commission. The proposed amendment does not alter these requirements.

Finally, Mr. Mosher identifies several minor issues, including typographical errors and clarifications related to figures, tables, and cross-references within the staff report and proposed amendment. Staff has reviewed these comments and, where appropriate, has incorporated corrections and clarifications into this addendum and the revised findings.

Response to Comments from Chris Pedersen

The Commission received an email from Christopher Pederson on April 9, 2026, which raises concerns regarding the potential consistency of the suggested modifications with state housing law. Specifically, Mr. Pederson asserts that the suggested modifications may reduce the amount of housing that could be developed on Housing Opportunity Overlay sites and that the staff does not evaluate whether the modifications would affect the City's ability to meet its obligations under the state housing law. Mr. Pederson further states that the Commission should not act on the amendment without the analysis demonstrating that the City can continue to comply with those obligations.

Public Resources Code Section 30007 provides that the Coastal Act does not exempt local governments from compliance with state housing law. At the same time, The Commission's standard of review for amendment to a certified IP is whether the amendment, as modified, conforms with and is adequate to carry out the policies of the certified LUP, and the standard of review for an amendment to a certified LUP is whether the amendment, as modified, conforms with and is adequate to carry out the Chapter 3 policies of the Coastal Act. These policies include, among others, the protection of environmentally sensitive habitat areas, public access and visitor-serving and coastal dependent uses.

The City's adopted 6th Cycle Housing Element was certified by the California Department of Housing and Community Development in October 2022, and the City retains responsibility for maintaining compliance with applicable state housing law requirements. Under state housing law, local governments are required to identify and zone adequate sites to accommodate their assigned housing needs, and implementation of those requirements remains the responsibility of the city.

Though the Commission's standard of review of the LCP amendment does not include an analysis on a local government's ability to comply with state housing law, the City has not raised concerns about the City's ability to comply with state housing law if the Commission's suggested modifications are adopted. The City has raised concerns that Suggested Modification 6 would limit HO-1 area's ability to serve as a housing opportunity because of the reduction of developable area on two of the parcels that

comprise that overlay area. However, the City has not provided any quantitative evidence that this affects their ability to meet their RNHA obligations. As explained above, the buffers are necessary to preserve biological resources and still allows for 65% of the parcels to be developed. As explained in the staff report, several of the sites that are included in the proposed overlay have current base designations that relate to visitor-serving commercial uses, marine commercial uses, and parks and recreation uses. Pages 18-20 of the staff report detail several relevant certified LUP policies and Coastal Act Chapter 3 policies that require prioritization and protection of such uses. While the Commission understands and is supportive of the statewide need for more housing, the certified LCP and the Coastal Act have clearly mandated the need to protect visitor serving, coastal-dependent marine, and recreational uses. Thus, in evaluating the proposed LUP/IP Amendment, Commission staff determined that the suggested modifications are necessary to ensure that residential development within the coastal zone is sited and designed to avoid the displacement of high priority uses as designated in the certified LCP and the Coastal Act. The modifications are not intended to preclude residential development from occurring on sites but rather establish standards to ensure that such development occurs in a manner that adequately preserves priority uses in the Coastal Zone. The amendment does not approve any specific development project or authorize a specific number of units an any site. The ultimate amount and location of development will be determined through future project-level review and implementation by the City.

The Commission's action on this amendment does not determine or alter the City's obligations under state housing law. The City retains responsibility for complying with applicable housing law requirements, including Regional Housing Needs Allocation obligations.

Response to other Comments

Open Space and Recreation

Several letters of correspondence opposing the project expressed concerns that the proposed Housing Opportunity Overlay would result in the loss of open space and recreational uses, particularly on sites currently designated for parks, recreation, or open space, including the Newport Beach Golf Course. Commenters stated that these areas provide important recreational opportunities and contribute to community character and environmental quality.

As explained in the staff report, the proposed amendment, as modified, does not require or mandate the conversion of such uses to residential development. Instead, **Suggested Modification 6 and 7** ensure where residential development is proposed on sites designated for parks, recreation, or open space, such development must be sited and designed to retain, replace, or provide functionally equivalent recreational and open space uses that maintain comparable public access and availability.

In addition, **Suggested Modification 6** requires the provision of a contiguous open space corridor and public recreational amenities on sites adjacent to the Santa Ana Delhi Channel, ensuring that open space functions are preserved and enhanced.

Therefore, the amendment, as modified, does not result in the loss of open space or recreational opportunities, but instead ensures their continued provision consistent with the Coastal Act and certified LCP.

Biological Resources and ESHA

The Commission received correspondence expressing concern that residential development on sites adjacent to the Santa Ana Delhi Channel could adversely impact sensitive habitat areas, including the Upper Newport Bay ecological reserve, through encroachment, runoff, or habitat degradation.

The Coastal Act requires the protection of environmentally sensitive habitat areas (ESHA) and the establishment of appropriate buffers to prevent adverse impacts. **Suggested Modification 6** was specifically developed to address these concerns by requiring a minimum of 100-foot buffer adjacent to the channel, consisting of a 50-foot ESHA buffer and an additional 50-foot transitional buffer. These requirements are intended to ensure the long-term protection of habitat functions and biological resources.

In addition, all development under the HO Overlay remains subject to the City's certified LCP policies and regulations addressing ESHA, water quality, and habitat protection, and must be reviewed and conditioned through the coastal development permit process to avoid adverse impacts.

Therefore, as modified, the amendment ensures the protection of biological resources and ESHA consistent with Coastal Act Section 30240.

Coastal Act Priority Uses

The Commission received correspondence expressing concern that the proposed amendment would allow residential development to displace visitor-serving, marine related, or other priority coastal uses in conflict with Coast Act policies.

The Coastal Act prioritizes visitor-serving and coastal-dependent uses over residential development. As submitted, the amendment could allow residential use in sites designated for such priority uses without adequate safeguards. To address these concerns, Suggested Modifications 2, 5, and 7 require that residential development be permitted only in addition to, and not in place of, existing or planned priority uses. These modifications further require that any reduction or removal of such uses be offset through the provision of on-site or functionally equivalent uses that maintain comparable capacity and public availability. In addition, Suggested Modification 7 prohibits the conversion of hotels, motels, or other overnight visitor accommodations to residential use.

Therefore, as modified, the amendment ensures the residential development does not displace Coastal Act priority uses and remains consistent with applicable policies.

Scale and Intensity of Development

The Commission received correspondence expressing concern regarding the potential scale and intensity of development that could occur under the proposed overlay, including increased traffic, congestion and strain on infrastructure. Commenters reference the potential for several hundred residential units on certain sites.

The proposed amendment does not approve any specific development project or authorize a specific number of residential units on any site. Rather, it establishes a framework under which residential development may be considered, subject to all applicable Coastal Act and LCP requirements.

The amount, location, and design of any development would be determined through future project-specific coastal development permit review, during which site constraints, environmental considerations, and applicable development standards would be applied.

Therefore, the amendment does not result in the approval of any specific development intensity and ensures the future development is appropriately constrained and reviewed.

Coastal Hazards and Public Safety

Several correspondence letters expressed concern that the subject sites are located within areas subject to flood hazards, airport-related safety constraints, and other environmental risks, and questioned whether residential development would be appropriate in these locations.

The Coastal Act requires that development be sited and designed to minimize risks to life and property and to ensure stability and structural integrity in areas subject to hazards. The proposed amendment does not exempt development from these requirements. All development under the HO Overlay would be required to comply with the applicable hazard-related policies of the Coastal Act and the City's certified LCP, including those addressing flooding, drainage, and public safety. In addition to its biological resource functions, the required 100-foot buffer would also provide secondary hazard-avoidance benefits by maintaining open space adjacent to the drainage channel. Preserving this area as undeveloped open space improves on-site stormwater management capacity and reduces the potential for flood-related impacts to future development areas. These issues would be evaluated through the coastal development permit process, and development would be conditioned or denied as necessary to ensure consistency with these requirements.

Therefore, as modified, the amendment ensures that coastal hazards and public safety concerns have been appropriately addressed.

III. CHANGES TO STAFF REPORT

The following modifications to the staff report dated April 17, 2026, are made to address minor typographical errors and clarify text. Language to be added is shown in ***bold italicized and double underlined text,*** and language to be deleted is identified by ~~strikethrough~~.

a) **Exhibit 4 (Resolution 2025-32) shall be added to the list of project exhibits as Exhibit 4 and is included at the end of this addendum. This exhibit details Amending Resolution 2025-32, which the City of Newport Beach adopted on June 10, 2025 to amend the height limits of HO-4.**

b) Modify line 5 of paragraph 2 on page 2 as follows:
…~~1,8~~***8,1***74 dwelling units.

c) Modify Section I.B. (Public Participation) of the staff report on Page 6 as follows:

On July 23, 2024, the City Council held a public hearing to consider the Planning Commission's recommendation and the proposed amendments to the certified LCP. City staff summarized the purpose of the Housing Opportunity Overlay and explained how it would implement the City's Housing Element while maintaining consistency with Coastal Act policies. Public comments reiterated many of the issues raised at the Planning Commission hearing. Jim Mosher again emphasized the need to retain existing visitor-serving uses and requested clarification on how such uses would be protected within the overlay. Other commenters expressed concern about potential impacts to the Santa Ana Heights open-space area, including changes to land currently utilized as a golf course and public-access amenities. Following deliberation, the City Council adopted Resolution No. 2024-52 (Exhibit 1), approving the LCP amendment and authorizing its submittal to the Coastal Commission for certification.

On June 10, 2025, the City Council held a public hearing and adopted an amending resolution (Resolution No. 2025-32), which authorized City staff to increase the proposed height limits to the Newport Center subarea (HO-4) of the proposed HO Overlay amendment (which comprise of 5 parcels in the Coastal Zone) and submit the proposed changes to the Coastal Commission to review as part of the subject LCP Amendment application.

d) Modify LCP amendment application number on page 9 as follows:

The Commission hereby denies certification of Implementation Plan Amendment No. LCP-5-NPB-24-0032-~~1~~***-2***.

e) Modify Suggested Modification 1 on page 10 as follows:

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 6th 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:

f) Modify table 21.28-1 on page 12 as follows:

Height	Per Base Zone unless otherwise identified on the map	~~**65 ft.**~~	65 ft.[5]	Per Base Zone~~[6]~~ ***[8] unless otherwise identified on map***

g) Add footnote to table 21.28-1 on page 12 as follows:

(8) "Base Zone" includes all height limitations by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).

h) Modify Suggested Modification 6 beginning on the fourth complete paragraph on page 14 as follows:

Subsection 21.28.070(C)(2) shall be modified as follows:

d. Housing Opportunity Sites 23, 24, 25 and 26. A residential or mixed-use development encompassing Housing Opportunity Sites 23, 24, 25, and 26 shall include a free to access public park ~~or~~ /public recreational opportunity, *which shall comply with Subsection 21.28.070(D)(4) and* ~~that~~ conforms to all the following:

1. A minimum 50 foot. ESHA buffer measured from the outermost extent of the riparian *or wetland* vegetation, *whichever extends furthest from the channel* shall be provided. For a minimum 10-year period, the buffer shall be measured from the outermost extent of the vegetation established as part of the Santa Ana Delhi Channel Improvement Project proposed by the Orange County Flood Control District. The 50-foot buffer shall be consistent with 21.30B.30 (D); however, the exceptions criteria for smaller ESHA buffers shall not apply. *Further, a path sited, designed, constructed*

and operated in a manner that minimizes impacts to ESHA and other coastal resources may be permitted within the 50 foot ESHA buffer where needed to maintain the channel and/or provide for public access and recreation.

2. **An additional 50 ~~ft.~~*foot* buffer measured from the outermost extent of the ESHA buffer shall also be provided consistent with 21.30B.30 (E). This transitional buffer may be used to accommodate a free, low-impact public recreational opportunity. At a minimum, such public recreational opportunity shall include a contiguous open space corridor along the entire length of the Santa Ana Delhi Channel located adjacent to the subject properties that is of sufficient width to accommodate a 100 ~~ft.~~*foot* biological buffer, separately and contiguously, to protect habitat in and along the channel. Such recreational opportunity shall also provide public access and recreational open space that will accommodate passive and active public recreational opportunities including, but not limited to continuous pedestrian/cycling trail, benches, drinking fountains and/or water fill stations, picnic tables, shade structures and fitness/exercise equipment.**

3. **In the event the Santa Ana Delhi Channel Improvement Project does not occur there shall be a minimum 100 ~~ft.~~ *foot* wide corridor along the channel that extends from the top of the channel bank to be used for the free, low-impact coastal access and public recreational opportunity described in subsection B. above.**

i) Modify line 11 of paragraph 1 on page 17 as follows:

…across 228 ~~Housing Elements~~ ***sites***

j) Modify the first full paragraph under the ESHA/Habitat Creation Section on page 23 of the staff report to allow more flexibility in the final restoration plan that is still sufficiently protective of the buffer required by Suggested Modification 6 as follows:

The Orange County Department of Public Works is currently seeking authorization from the Commission for the Santa Ana Delhi Channel Improvement Project, which includes restoration and/or creation of riparian, ***freshwater marsh and saltmarsh*** habitat which has been determined by the Commission's Ecology staff as potential ESHA. Although the Commission has not yet acted upon this application, if the project is approved, additional ESHA will be created immediately adjacent to Parcels 23-26, which would require ESHA

buffers and additional habitat protections under Certified LUP Policies 4.1.1-10, 4.1.1-11, and 4.1.1- 12. In addition, the resulting ESHA has the potential to be adversely impacted by the construction of residential units on these parcels. The currently proposed HO Overlay amendment does not account for this potential for new ESHA creation. If not addressed through modifications, a future residential development project could adversely impact riparian ESHA by encroaching too close to the sensitive habitat.

k) Add the following sentence to the end of the second full paragraph on page 24 as follows:

> With respect to parks, recreation, open-space resources, and habitat protection, the Commission imposes **Suggested Modification 6,** which establishes specific requirements for Housing Opportunity sites 23, 24, 25, and 26 located immediately adjacent to the Santa Ana Delhi Channel, the site of the proposed Santa Ana Delhi Channel Improvement Project which includes habitat restoration and creation, that is pending a Coastal Development Permit and is currently being reviewed by Commission staff. These provisions require a minimum 100-foot buffer area, consisting of a 50-foot ESHA buffer and an additional 50-ft transitional buffer, and the provision of a free low-impact public recreational opportunity, including a contiguous open space corridor with public access amenities. This requirement ensures the protection of sensitive habitat areas while providing expanded public access and recreational opportunities along the channel corridor. ***In addition, Suggested Modification 6 allows for a path to be constructed within the 50-foot ESHA buffer where needed to maintain the channel and/or provide for public access and recreation, which may be allowed in limited circumstances where maintenance access may be necessary to prevent degradation of the habitat and recreation area.***

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EXHIBIT 4

Resolution 2025-32 (City of Newport Beach)

RESOLUTION NO. 2025-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF A LOCAL COASTAL PROGRAM AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION TO AMEND PENDING SECTION 21.28.070 (HOUSING OPPORTUNITY (HO) OVERLAY COASTAL ZONING DISTRICTS) IN TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO IMPLEMENTATION OF THE HOUSING ELEMENT (PA2024-0205)

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 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, Section 30500 of the California Public Resources Code requires each county and city to prepare a Local Coastal Program ("LCP") for that portion of the coastal zone within its jurisdiction;

WHEREAS, the California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City added Title 21 (Local Coastal Program Implementation Plan) to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit issuing authority on January 30, 2017;

City of Newport Beach

WHEREAS, the City Council adopted Resolution Nos. 2024-52 and 2024-58 on July 23, 2024, authorizing submittal of the Local Coastal Program Amendment ("LCPA") to the California Coastal Commission ("CCC") amending the City's Coastal Land Use Plan and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code ("NBMC") to establish the Housing Opportunity (HO) Overlay Coastal Zoning Districts and their corresponding development standards applicable to properties located within the Coastal Zone and initiating a narrowly focused amendment to the 6th Cycle Housing Element ("Housing Element") to remove reference to Charter Section 423 to implement the Housing Element;

WHEREAS, the City filed the LCPA application with the CCC on August 16, 2024, and received a letter from CCC staff on January 7, 2025, confirming the City's application is complete and pending a hearing date;

WHEREAS, the City Council adopted Ordinance Nos. 2024-16 and 2024-17 on September 24, 2024, adding Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts) and Section 20.48.185 (Multi-Unit Objective Design Standards) to the NBMC creating Housing Opportunity Overlay Zoning Districts and creating multi-unit objective design standards respectively;

WHEREAS, the new sections implement Policy Actions 1A through 1G and 3A in the Housing Element;

WHEREAS, Section 20.28.050 of the NBMC allows for new housing opportunities within five focus areas consisting of the 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) ("Focus Areas") that correspond with the Focus Areas in the Housing Element to ensure that the City accommodates its Housing Element Regional Housing Needs Assessment allocation;

WHEREAS, properties identified within the Focus Areas are eligible for specified development standards conducive to residential development at the prescribed average density of 20 to 60 dwelling units per acre that include, but are not limited to, minimum lot area, setbacks, height, open space, landscaping, and parking;

WHEREAS, the City Council adopted Resolution No. 2024-85 on November 19, 2024, initiating amendments to Section 20.28.050 and the pending amendments to Section 21.28.070 of the NBMC to adjust certain development standards, including but not limited to, building height limits;

City of Newport Beach

WHEREAS, an amendment to Table 2-16 in Section 20.28.050 and pending Table 21.28-1 in Section 21.28.070 of the NBMC are necessary to adjust the height limitations of certain properties within the Newport Center Area (HO-4) to accommodate potential residential development with the intended prescribed density range, and to identify a certain number of units being allocated from the respective development limits for a selected group of City-owned properties located within the Airport Area Environs Area (HO-1) and Newport Center Area (HO-4) ("Amendment");

WHEREAS, a public hearing was held by the Planning Commission on January 23, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider the Amendment. 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 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 conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2025-004 by a unanimous vote of (5 ayes and 1 recusal) recommending the City Council approve the Amendment including the addition of Site ID Nos. 146 and 147 with a maximum height limit of 50 feet for flat roofs and 55 feet for sloped roofs and Site ID No. 141 with a maximum height limit of 48 feet;

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 February 20, 2025, the ALUC conducted a public hearing on the Amendment and continued the hearing to its March 20, 2025, meeting by a unanimous vote (5 ayes, 0 nays);

WHEREAS, at the continued hearing on March 20, 2025, the ALUC determined the Amendment is inconsistent with the AELUP (5 ayes, 1 nay);

WHEREAS, the City Council unanimously adopted Resolution No. 2025-13 on April 15, 2025, pursuant to Sections 21670 and 21676 of the CPUC, notifying the ALUC and State Department of Transportation Aeronautics Program of the City's intent to override ALUC's inconsistency finding and on April 16, 2025, the City issued a Notice of Intent to Override ALUC's determination and received two comments in response; and

City of Newport Beach

WHEREAS, a public hearing was held on June 10, 2025, by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the Amendment. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, CPUC Section 21676(b), and Chapters 20.62 (Public Hearings) and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

Section 1: The City Council finds the Amendment is a legislative act. Neither Title 21 nor California Government Code Section 65000 *et seq.*, sets forth any required findings for either approval or denial of the Amendment.

Section 2: Notwithstanding the above, the City Council does hereby make the findings attached hereto as Exhibit "A" and incorporated herein by reference and authorizes staff to submit this Amendment to update pending Table 21.28-1 and corresponding Housing Opportunity Overlay District Map in Section 21.80.035 of Title 21 proposed by the LCPA, as set forth in Exhibit "B," which is attached hereto and incorporated herein by reference, to the California Coastal Commission for review and approval.

Section 3: The City Council finds all potential environmental effects for the Amendment have been adequately addressed in the previously certified Final Program Environmental Impact Report ("PEIR") (SCH No. 2023060699) which was done in compliance with the California Environmental Quality Act ("CEQA") as set forth in the Public Resources Code Section 21000 et seq., Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act) related to the 6th Cycle Housing Element Implementation involving amendments to the General Plan, Coastal Land Use Plan, Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC. Furthermore, the Amendment does not constitute substantial changes to the circumstances under which the project shall 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 as detailed in the CEQA Consistency Memorandum, which is attached hereto as Exhibit "C" and incorporated by reference. Therefore, in accordance with Section 21166 of the California Public Resources Code and Section 15162 of the CEQA Guidelines, no additional environmental review is required to adopt the Amendment.

City of Newport Beach

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: 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 10th day of June, 2025.

Joe Stapleton
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

Attachments: Exhibit "A" – Findings for Approval
Exhibit "B" – Amendment to Chapter 21.28 (Overlay Coastal Zoning Districts (MHP, PM, B, C, H, & HO) of Title 21 (Local Coastal Program Implementation Plan)
Exhibit "C" – CEQA Consistency Memorandum

City of Newport Beach

EXHIBIT "A"
Findings for Approval

General Finding:

An amendment to the City's Local Coastal Program is a legislative act. Neither Title 21 (Local Coastal Program Implementation Plan) nor California Government Code Section 65000 *et seq.*, set forth any required findings for approval of such amendments. Notwithstanding the foregoing, the following amendments to the Local Coastal Program will create internal consistency with the certified 6th Cycle Housing Element:

Findings and Facts in Support of Finding:

1. The Housing Element includes Section 4 (Housing Plan), which sets forth programs and strategies to facilitate and encourage the development of the City's obligation to meet regional housing demand. Appendix B of the Housing Element is the Sites Analysis and identifies several sites to be rezoned to allow for potential redevelopment with housing projects. A number of these sites are within the City's Coastal Zone. As Title 20 has been amended to add the new HO Overlay Zones with associated development standards, similarly, the amendment to Local Coastal Program Implementation Plan to add the new Overlay Coastal Zones for properties within the Coastal Zone has been prepared and submitted to the California Coastal Commission for consideration.

2. The Amendment specific to Title 21 (Local Coastal Program Implementation Plan) of the NBMC, attached hereto as Exhibit "B," and incorporated herein by reference, will create consistency in implementation between Titles 20 and 21 of the NBMC and will help to fulfill the Housing Plan, as the proposed Amendment will facilitate the development of housing consistent with the Housing Element.

City of Newport Beach

EXHIBIT "B"
Amendment to Chapter 21.28 (Overlay Coastal Zoning Districts (MHP, PM, B, C, H, & HO) of Title 21 (Local Coastal Program Implementation Plan)

Table 21.28-1 of pending Section 21.28.070 (Housing Opportunity (HO) Overlay Coastal Zoning Districts) of Chapter 21.28 of Title 21 (Local Coastal Program Implementation Plan) of the of the Newport Beach Municipal Code 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:

TABLE 21.28-1
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES

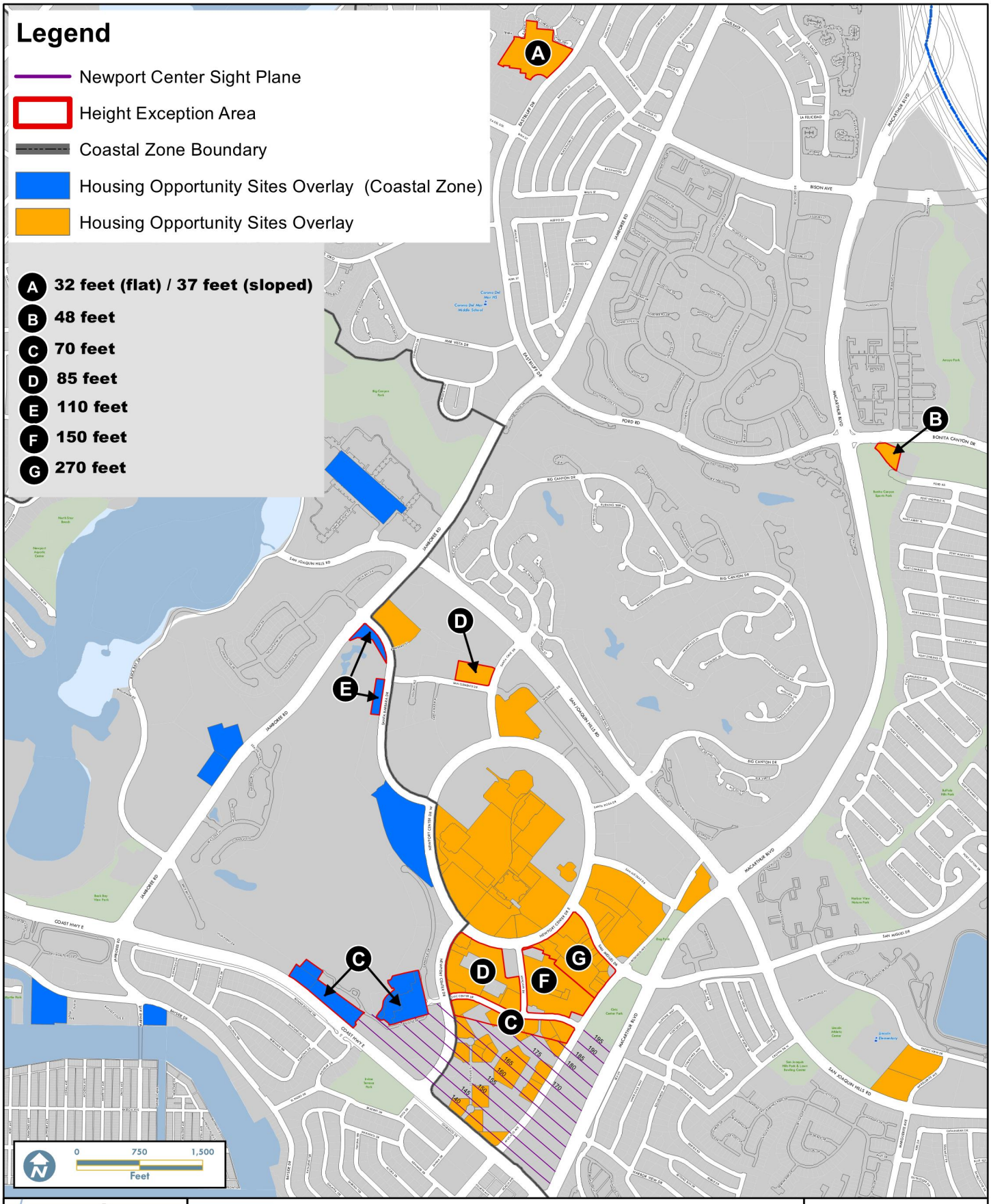
Development Feature	Housing Opportunity Subareas			
	HO-1	HO-2	HO-3	HO-4
Lot Size/Dimension	Per Base Zone			
Lot area required per unit (sq. ft.)[1]	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)		
Setbacks				
Front	0 ft.[(2)]	10 ft.[(2)]	10 ft.[(2)(3)]	0[(2)]
Rear	0	20 ft.	20 ft.	0
Side	0[(4)]			
Street Side	0[(2)]	10 ft.[(2)]	10 ft.[(2)]	0 ft.[(2)]
Height	Per Base Zone unless otherwise identified on the map	65 ft.	65 ft.[(5)]	Per Base Zone–unless otherwise Identified on map[(6)(8)]
Building Separation	10 ft.			
Floor Area Ratio (FAR)	No restriction[(6)]			
Common Open Space[(7)]	Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)			
Private Open Space	5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)			
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Section 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).			
Lighting	See Section 21.30.070 (Outdoor Lighting).			
Parking	See Subsection (D)(2) below and Chapter 21.40 (Off-Street Parking).			
Signs	See Chapter 21.30.065 (Sign Standards).			

City of Newport Beach

(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.
(8) "Base Zone" includes all height limitations established by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).

The following map is updated to pending Section 21.80.032 (Housing Opportunity Overlay District maps) of Chapter 20.80 (Maps) of the NBMC:

City of Newport Beach



HO-4 Newport Center Area

City of Newport Beach

City of Newport Beach
GIS Division
June 13, 2025

HO-4 Newport Center Area_Height_Exceptions.mxd

EXHIBIT "C"
CEQA Consistency Memorandum

Available separately due to bulk at:

https://newportbeachca.gov/home/showdocument?id=76683&t=638833463869042483

City of Newport Beach

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2025-32 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 10th day of June, 2025; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Joe Stapleton, Mayor Pro Tem Lauren Kleiman, Councilmember Michelle Barto, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Sara J. Weber
NAYS: None
ABSENT: Councilmember Erik Weigand

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 11th day of June, 2025.

Leilani I. Brown
City Clerk
Newport Beach, California

City of Newport Beach

CALIFORNIA COASTAL COMMISSION
South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071

F11a

LCP-5-NPB-24-0032-2 (City of Newport Beach) April 13, 2025

CORRESPONDENCE

Outlook

FW: Opposition to Housing Layer and rezoning

From SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Date Tue 4/7/2026 1:22 PM
To Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>

From: Andrea <californiakane@yahoo.com>
Sent: Tuesday, April 7, 2026 11:56 AM
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Subject: Opposition to Housing Layer and rezoning

You don't often get email from californiakane@yahoo.com. Learn why this is important

To the California Coastal Commission,

I am writing to strongly oppose the proposed approval of the Housing Layer and the rezoning of the Newport Beach Golf Course from its current Recreational Open Space designation to High-Density Housing.

The Newport Beach Golf Course is an invaluable community and environmental asset. Its current zoning as Recreational Open Space safeguards not only the character of the surrounding area but also the ecological balance, open vistas, and natural habitats that are vital to our coastal environment. Rezoning this land for high-density housing would irreversibly damage the integrity of the coastline, increase traffic congestion, strain public services, and diminish the recreational opportunities that residents and visitors currently enjoy.

High-density development in this sensitive coastal area directly contradicts the principles of the California Coastal Act, which prioritizes the protection of coastal resources, scenic beauty, and public access to open spaces. Approving such a drastic change would set a harmful precedent for the erosion of recreational spaces in favor of urban sprawl, undermining the very mission of the California Coastal Commission.

There are alternative opportunities for housing development in areas already designated for urban or residential use that would not compromise the environmental and social value of Newport Beach Golf Course. Preserving this open space is essential to maintaining the quality of life, ecological health, and recreational opportunities that define our region.

A petition to block Surf Park development of middle NBGC parcel was recently signed by 6100 Newport Beach voters snd NB reversed approval to avoid a public vote. Housing on golf course will also be opposed y by Newport voters.

The John Wayne Airport Land Use Commission rejected development on golf course in high noise and crash zone directly under the flight path
NB Council over rode ALUC to approve tge project but then reversed approval after the public petition required a public vote.

I urge the Commission to reject the proposed Housing Layer and rezoning request in order to protect the natural and community resources entrusted to your stewardship.

Andrea Kane
20231 Spruce Ave
Newport Beach 92660

Outlook

FW: Housing Layer and the rezoning of the Newport Beach Golf Course from its current Recreational Open Space designation to High-Density Housing.

From SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Date Thu 4/9/2026 10:14 AM
To Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>

From: BJ Sihilling <bjsihilling@gmail.com>
Sent: Wednesday, April 8, 2026 9:14 PM
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Subject: Housing Layer and the rezoning of the Newport Beach Golf Course from its current Recreational Open Space designation to High-Density Housing.

You don't often get email from bjsihilling@gmail.com. Learn why this is important

For the California Coastal Commission,

I would like to submit a quote from our neighbor, Jim Auster, who stated our position succinctly:

"To the California Coastal Commission,

I am writing to strongly oppose the proposed approval of the Housing Layer and the rezoning of the Newport Beach Golf Course from its current Recreational Open Space designation to High-Density Housing.

The Newport Beach Golf Course is an invaluable community and environmental asset. Its current zoning as Recreational Open Space safeguards not only the character of the surrounding area but also the ecological balance, open vistas, and natural habitats that are vital to our coastal environment. Rezoning this land for high-density housing would irreversibly damage the integrity of the coastline, increase traffic congestion, strain public services, and diminish the recreational opportunities that residents and visitors currently enjoy.

High-density development in this sensitive coastal area directly contradicts the principles of the California Coastal Act, which prioritizes the protection of coastal resources, scenic beauty, and public access to open spaces. Approving such a drastic change would set a harmful precedent for the erosion of recreational spaces in favor of urban sprawl, undermining the very mission of the California Coastal Commission.

There are alternative opportunities for housing development in areas already designated for urban or residential use that would not compromise the environmental and social value of Newport Beach Golf Course. Preserving this open space is essential to maintaining the quality of life, ecological health, and recreational opportunities that define our region.

A petition to block Surf Park development of middle NBGC parcel was recently signed by 6100 Newport Beach voters snd NB reversed approval to avoid a public vote. Housing on golf course will also be opposed y by Newport voters.

The John Wayne Airport Land Use Commission rejected development on golf course in high noise and crash zone directly under the flight path.
NB Council over rode ALUC to approve tge project but then reversed approval after the public petition required a public vote.

I urge the Commission to reject the proposed Housing Layer and rezoning request in order to protect the natural and community resources entrusted to your stewardship.

Respectfully,
Jim Auster
9706187692"

With the above information in mind, we strongly urge you not to approve this. There is a great deal of housing now going up around our community on the opposite side of Bristol Street. To allow these units to be built on our side, next to our residential area would mean drastic changes for all residents here. It is not unreasonable for us to want our community to stay residential.

The added traffic alone will be a major complicating factor to our way of life. The John Wayne Airport land use commission rejected development on the golf course In the high noise and cross zone directly under the flight path. The Newport Beach city Council reversed their approval after our public petition required a public vote. We raised 6100 voters for the petition and will do so again if we need to in opposition to this project. The loss of our golf course impacts all of those who play golf in our area, including school, children who receive money from the fundraisers they hold there. The environmental impact from having so many more residents would be huge in this area so close to the Back Bay Environmental preserve.

Please do not approve this. please reject this
proposed Housing Layer and rezoning request in order to protect the natural and community resources entrusted to your stewardship.

Please uphold the principles of the California Coastal Act, which prioritizes the protection of coastal resources, scenic beauty, and public access to open spaces. Approving such drastic changes would, indeed set a harmful precedent and does contradict the principles of the California Coastal Act.

Most Sincerely,

Barbara and William Goring

Outlook

Public Comment on April 2026 Agenda Item Friday 11a - City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

From Christopher Pederson <chpederson@yahoo.com>
Date Thu 4/9/2026 8:31 PM
To SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Cc Schwing, Karl@Coastal <Karl.Schwing@coastal.ca.gov>; Spencer, Amrita@Coastal <Amrita.Spencer@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>; Warren, Louise@Coastal <Louise.Warren@coastal.ca.gov>; Reed, Jessica@Coastal <Jessica.Reed@coastal.ca.gov>

You don't often get email from chpederson@yahoo.com. Learn why this is important

Dear Chair Harmon and Commissioners:

The proposed suggested modifications to the City of Newport Beach housing overlay LCP amendment appear to significantly reduce the amount of housing that could be provided on sites subject to the suggested modifications. Unfortunately, the staff report does not evaluate how the suggested modifications will affect Newport Beach's ability to comply with the city's obligations under state housing law nor do the suggested modifications identify other areas within the city's coastal zone where additional housing could be provided to offset the effects of the suggested modifications.

Although the Commission has the authority to adopt suggested modifications to ensure the LCP amendment complies with Coastal Act requirements, the Commission may not do so in a way that conflicts with state housing law requirements. The Coastal Act expressly provides that it does not exempt local governments from meeting state law requirements with respect to "any" obligation related to housing. (Pub. Resources Code, § 30007.)

Here, it is unclear whether the proposed suggested modifications would prevent the city from meeting its obligations under state housing law. The Commission should not act on the proposed LCP amendment until staff provides an analysis demonstrating that the proposed suggested modifications will not prevent the city from meeting its obligations under state housing law or provides additional suggested modifications that would allow sufficient additional housing in the city's coastal zone to allow the city to comply with state housing law.

Thank you for your consideration of my comments.

Sincerely,

Christopher Pederson

Outlook

FW: Public Comment on April 2026 Agenda Item Friday 11a - City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

From SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Date Fri 4/10/2026 8:57 PM
To Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>
Cc Spencer, Amrita@Coastal <Amrita.Spencer@coastal.ca.gov>; Dobson, Amber@Coastal <amber.dobson@coastal.ca.gov>

FYI

From: Diane Moore <djmore@roadrunner.com>
Sent: Friday, April 10, 2026 4:58 PM
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Subject: Public Comment on April 2026 Agenda Item Friday 11a - City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

You don't often get email from djmore@roadrunner.com. Learn why this is important

I want to urge the Commission tp not approve any overlays or rezoning of the Newport Beach Golf course. It has been historically zoned as Recreational Open Space to provide a low occupancy crash buffer for the airport and the parcel ias an unoccupied overflow for the Delhi flood channel. The golf course is a beautiful little valley surrounded by housing and small businesses. It is the only affordable pubic course in Newport Beach and to have it rezoned and high density housing units built on site would certainly not be beneficial to the general public.

I am a long time resident of what was Santa Ana Heights.. We were annexed by Newport to give them leverage in limiting the airport activity to insure the quality of life under the flight path.. Now that they have kept the airport small, they are proposing changes for the golf course and surrounding area without the thought of the quality of life in our neighborhood. The amount of traffic that 600+ units would create and add to that the thousands of residential units planned for the area across the 73 freeway between the airport and Jamboree Road will create horrible traffic numbers on Irvine avenue.

Please don’t allow the overlay to occur..

Thank you, Diane Moore

SCHMITZ & ASSOCIATES, INC.
DEVELOPMENT CONSULTING | PERMIT PROCESSING

April 8, 2026

California Coastal Commission
301 E. Ocean Blvd., Suite 300
Long Beach. CA 90802
Executive staff@coastal.ca.gov

Subject: City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

Dear Commissioners and Staff,

Thank you for your continued review and engagement regarding the City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay). As a built-out city in the coastal zone, we believe this amendment harmonizes Coastal Act priorities to protect visitor-serving, marine-related, and public serving uses with the State's mandates for identifying new housing opportunity sites.

We are submitting comments for Suggested Modification 6 for your consideration that affect Housing Opportunity Sites 23, 24, 25 and 26. This revised language is intended to provide the level of certainty sought by the Commission and staff for habitat protection, while avoiding constraints that could unnecessarily hinder the feasibility of housing development on the sites based on the speculative nature of the adjacent Santa Ana Delhi Channel Project. It is our understanding that the channel project is currently under preliminary review with Commission staff, requires additional coordination with the County and adjacent property owners, and is subject to potential design changes that could include a joint maintenance road and multi-use and revised language trail.

As reflected in the attached revision, we have anchored the proposed language to the City's already certified Implementation Plan (IP), specifically referencing Section 21.30B.030(D)(2)(a) (Vegetation for ESHA Buffers). This approach ensures consistency with established, certified standards that have been central to prior discussions and also cited previous correspondences with Coastal staff. By relying on this existing framework, the revised language provides a clear, predictable regulatory path without introducing new or untested requirements.

Importantly, the proposed revision preserves the availability of ESHA buffer exceptions under NBMC Section 21.30B.030.D. Given the uncertainty surrounding the timing, scope, and ultimate implementation of the County's channel project, maintaining these exceptions is critical. Eliminating or restricting them at this stage would introduce significant risk to the feasibility of potential housing development based on assumptions that may not materialize.

With respect to the proposed 100-foot buffer beyond the County's planned improvements along the entire edge of the affected sites, we want to highlight the substantial impact such a requirement would have on feasibility. Imposing a uniform buffer of this size would:

- Significantly reduce the development area of the sites beyond the anticipated County easements needed to accommodate the channel project;
- Constrain site planning flexibility needed to accommodate required circulation, infrastructure, and building placement.
- Undermine the project's ability to deliver housing at a scale necessary to remain consistent with Housing and Community Development (HCD) requirements.

In effect, a 100-foot blanket buffer particularly one tied to a potential future condition would materially limit the site's capacity to function as a viable housing opportunity.

At the same time, we recognize and support the Commission's goal of ensuring meaningful public access and/or recreational opportunities. The revised language strengthens this outcome by explicitly incorporating a functional equivalency requirement. This ensures that any alternative approach to buffer configuration will still deliver comparable or enhanced public access and recreational benefits in a clear and enforceable manner. Additionally, the simplified buffer framework included in the revision improves clarity while maintaining environmental protections.

In summary, the attached revision:

- Provides regulatory certainty by relying on the City's certified Implementation Plan;
- Preserves necessary flexibility through existing ESHA buffer exceptions;
- Avoids imposing constraints tied to uncertain/evolving future infrastructure projects;
- Enhances assurance of meaningful, public access and recreational outcomes through functional equivalency, and which at minimum, include a no-cost, continuous pedestrian/cycling trail, benches, drinking fountains and/or water fill stations, picnic tables, shade structures and fitness/exercise equipment.

We respectfully request that the Commission consider and adopt the revised language as presented. We believe it strikes an appropriate and balanced approach that harmonizes the Coastal Act's objectives of habitat protection and open space preservation while maintaining the feasibility of delivering much-needed housing in the coastal zone

Thank you for your time and consideration. We are available to discuss this further at your convenience.

Sincerely,



Don Schmitz, AICP
President, Schmitz and Associates

Cc: Jaime Murillo, City of Newport Beach Community Development Director
Ben Zdeba, City of Newport Beach Deputy Community Development Director

Attachment: Coastal Commission LCP-5-NPB-24-0032-2 Revisions to Suggested Mod #6

Suggested Modification 6: Add a new section to Subsection 21.28.070(C)(2) to apply habitat protection and open space preservation requirements to Housing Opportunity Sites 23-26. These parcels are located adjacent to the Delhi Channel, which is the site of Santa Ana Delhi Channel Improvement Project that is pending a CDP from the Commission.

Subsection 21.28.070(C)(2) shall be modified as follows:

d. Housing Opportunity Sites 23, 24, 25 and 26. A residential or mixed-use development encompassing Housing Opportunity Sites 23, 24, 25, and 26 shall include a free to access public park and/or ~~/~~public recreational opportunity, which shall comply with Subsection 21.28.070(D)(4), ~~that~~ and conforms to all the following:

~~A.~~ **A minimum 50-~~foot-ft.~~ ESHA buffer measured from the outermost extent of the riparian vegetation shall be provided to ensure~~. For a minimum 10-year period,~~ that the biological integrity ~~buffer shall be measured from the outermost extent~~ of the riparian vegetation is protected. ~~established as part of the Santa Ana Delhi Channel Improvement Project proposed by the Orange County Flood Control District.~~ The ~~50 ft.~~ buffer shall be consistent with Subsections 21.30B.30 (D) and 21.30B.30(E)~~; however, the exceptions criteria for smaller ESHA buffers shall not apply.~~**

~~B.~~A. ~~An additional 50 ft. buffer measured from the outermost extent of the ESHA buffer shall also be provided consistent with 21.30B.30 (E).~~ This transitional buffer may be used to accommodate a free, low-impact public recreational opportunity. At a minimum, such public recreational opportunity shall include a contiguous open space corridor along the entire length of the Santa Ana Delhi Channel located adjacent to the subject properties that is of sufficient width to accommodate a ~~100 ft. biological~~ buffer, separately and contiguously, to protect ~~habitat~~ vegetation in and along the channel. Such recreational opportunity shall also provide public access and recreational open space that will accommodate passive and active public recreational opportunities including, but not limited to continuous pedestrian/cycling trail, benches, drinking fountains and/or water fill stations, picnic tables, shade structures and fitness/exercise equipment.

~~C.~~B. In the event the Santa Ana Delhi Channel Improvement Project does not occur there shall be a minimum 100-~~foot-ft.~~ wide corridor along the channel that extends from the top of the channel bank to be used for the free, low- impact coastal access and public recreational opportunity described in subsection ~~A~~B. above.

Outlook

Fwd: California Coastal Commission, Save NBGC

From Jim Auster <jimauster@hotmail.com>
Date Sun 4/12/2026 9:50 AM
To citycouncil@newportbeachca.gov <citycouncil@newportbeachca.gov>
Cc Jurjis, Seimone@City of Newport Beach <sjurjis@newportbeachca.gov>; Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>; ExecutiveStaff@Coastal <ExecutiveStaff@coastal.ca.gov>

Some people who received this message don't often get email from jimauster@hotmail.com. Learn why this is important

Dear Mayor and NB Council members,
Before CCC meeting on 4/17, please consider withdrawing CCC application or removing NBGC from the application .
Jim Auster
20401 Bayview Ave
Newport Beach CA 92660

Begin forwarded message:

From: Jim Auster <jimauster@hotmail.com>
Date: April 12, 2026 at 10:35:56 MDT
To: Linda Giedt <lclemensgiedt@gmail.com>, "M. Smith" <mws.aspenroyal@gmail.com>, Steve Carfano Carfano <scarfano@verizon.net>, Benny Hallock <bennyhallock@gmail.com>, merrilee bliss <merrileebliss@gmail.com>, Robert Rosenberg <robert@onetrustlegacy.com>, JOSEPH SALVO <jsalvo2105@aol.com>
Subject: California Coastal Commission, Save NBGC

Newport Beach City Council applied to California Coastal Commission for approval of housing overlay that rezones NBGC from recreational open space to high density residential. NB claims development of the golf course is needed and necessary to meet CA Element Housing mandate requiting 4800 units. NB Development Office application pipeline already has 2000 units in Airport Area, 5000 units total, see link below.. Public vote is scheduled in Nov. to limit housing to less than 3000 units. There is no need for any housing or any other development on NBGC open space recreation zone, in Coastal protection zone, in JWA crash zone, in JWA high 65db zone, in flood and tsunami zone, in high traffic zone, adjoining Back Bay wildlife zone, in violation of SAH Specific Plan, etc. Normally legitimate city Council decisions are by law exempt from personal liability claims but council and NB tax payers are not exempt from enormous potential liability for Council's reckless unjustifiable overruling of Airport Land Use Commission's rejection of development in 65db zone and crash zone directly under JWA flight path.
Council members justified their approval of Surf Park as a private property owner's right for highest best and most profitable land use but that was not justified and Surf Park approval has been reversed by public petition. Owners purchased the land from Irvine Ranch for a low price to build the golf course and have had a big return on their investment because golf is the only safe low density highest best appropriate and beneficial use directly under JWA flight path.

If CCC follows their staff recommendation to approve housing in this location I will ask commissioners if there is any purpose of the California Coastal Commission?
Element Housing law exempts all regulations, zoning, existing land uses, environmental impacts, etc, but does not exempt requirement CCC approval of housing overlay . Except for a legal challenge, this may be our last chance to block administrative approval.
I will attend CCC meeting in Gonzoles on Friday. It is past 4/10 deadline to submit public comments but please send any comments, information, exhibits, photos, etc you would like me to add to the presentation.

how many housingunits are already in planning approval process in Newport Beachtto meet Element housing mandate
google.com



On Apr 3, 2026, at 16:45, Linda Giedt <lclemensgiedt@gmail.com> wrote:

Along with the Bristol housing projects underway now, this was just approved by the Planning Commission last night. 100 units at Quail and Birch. They will knock down the existing 7 story high rise there. No low income housing.
Wow, the added traffic in the Airport area. The 73 to the 405 is already a parking lot.

There are more housing projects still waiting to be approved on the other side of Bristol.

Linda

<image.png>

<100-condo development in Newport Beach near John Wayne Airport OK'd - Los Angeles Times.pdf>

April 7, 2026

To the California Coastal Commission,

I am writing to strongly oppose the proposed approval of the Housing Layer and the rezoning of the Newport Beach Golf Course from its current Recreational Open Space designation to High-Density Housing.

The Newport Beach Golf Course is an invaluable community and environmental asset. Its current zoning as Recreational Open Space safeguards not only the character of the surrounding area but also the ecological balance, open vistas, and natural habitats that are vital to our coastal environment. Rezoning this land for high-density housing would irreversibly damage the integrity of the coastline, increase traffic congestion, strain public services, and diminish the recreational opportunities that residents and visitors currently enjoy.

High-density development in this sensitive coastal area directly contradicts the principles of the California Coastal Act, which prioritizes the protection of coastal resources, scenic beauty, and public access to open spaces. Approving such a drastic change would set a harmful precedent for the erosion of recreational spaces in favor of urban sprawl, undermining the very mission of the California Coastal Commission.

There are alternative opportunities for housing development in areas already designated for urban or residential use that would not compromise the environmental and social value of Newport Beach Golf Course. Preserving this open space is essential to maintaining the quality of life, ecological health, and recreational opportunities that define our region. Newport Beach claim the Housing Overlay is needed to meet Element Housing required number of units is incorrect, more than enough housing applications are already being processed to meet Newport Beach Element mandate without building it on NBGC within Coastal protection boundary.
A petition to block Surf Park development of middle NBGC parcel was recently signed by 6100 Newport Beach voters and NB reversed approval to avoid a public vote. Housing on golf course will also be opposed y by Newport voters. Another petition with required 6100 signatures was approved for a community vote to limit housing to the minimum required Element number under 3000 units. NBGC is not needed for housing.

The John Wayne Airport Land Use Commission rejected development of Surf Park on golf course in high noise and crash zone directly under the flight path. NB Council over rode ALUC to approve the project but then reversed approval after 6100 signature public petition required a public vote. ALUC rejected NB revision of noise contour to allow housing in 65 db zone but NB overrode ALUC. If Overlay is approved ALUC will also reject housing directly under flight path in crash zone that will make NB taxpayer potentiall liable for enormous crash and noise impacts to housing residents.

Housing on this site requires sewage pumping up to Mesa Drive and risks sewage pollution of Back Bay with a power outage. It is also in the tsunami and flood protection zone from historical flooding of Delhi Channel.

Santa Ana Specific Plan enacted when Santa Ana Heights was annexed by NB requites golf course to be permanent, see letter to Nb copied below. The only highest safe and best use of this land is to leace it as it is now, golf course low density recreational with no impact to the environment, airport, our community, and the Back Bay.

I urge the Commission to reject the proposed Housing Layer and rezoning request in order to protect the natural and community resources entrusted to your stewardship.

Respectfully,
Jim Auster
9706187692

RESIDENTS TO SAVE NEWPORT BEACH GOLF COURSE
March 16, 2026
Mayor Lauren Kleiman & Newport Beach City Council
100 Civic Center Dr
Newport Beach, CA 92660
citycouncil@newportbeachca.gov
Dear Mayor Kleiman & City Council Members,
As you are aware, Santa Ana Heights (SAH) was annexed into the city in two phases, in 2002

the area east of Irvine Ave and 2008 the area west of Irvine Ave. The annexation agreement was memorialized on September 10, 2002 and remains in full force.
SAH was content as a county island and did not seek annexation – the City approached us. We were concerned city government would add another layer of regulation and bureaucracy to our lives while disregarding the unique character of SAH. Our fears have been confirmed.
Residents worked with the City and County for over fifteen years to develop an annexation agreement to maintain the unique characteristics of the area. The Heights includes a winery, equestrian property, traditional residential tracts, estate lots, mansions, 18-hole Newport Beach Golf Course and driving range.
These were hard-fought negotiations that encompassed many complex issues across multiple governmental jurisdictions including the City, County, a redevelopment agency, city, Coastal Commission, Mesa Water District, JWA Settlement Agreement, property tax transfers, and a utility undergrounding district.
As previously noted, the 2002 City/County Santa Ana Heights Annexation Agreement remains a legally controlling document. It specifically requires the City to seek the County's consent for General Plan Amendments – including the City's housing zoning overlay on the golf course. ALUC found the housing overlay INCONSISTENT with the Airport Environs Land Use Element (AELUP) on a 5-1 vote. This is the only attempt the City made to seek County approval, and it failed. As such, the City ignored other considerations of the Santa Ana Heights Annexation Agreement as it relates to the proposed development site south of Mesa Drive.
The unique characteristics of the Santa Ana Heights are codified in the Santa Ana Heights Specific Plan (NB Municipal Code Chapter 21.90, specifically Section 21.90.020 SP-7(OSR) stating "Land Use and development standards for Santa Ana Heights shall be in accordance with Exhibit 21.90-1, "Land Use Map – Specific Plan District No. 7" and the provisions of this section
The plain language of the codified specific plan and enabling map DOES NOT allow any non-golf course uses like wave pools, Costco, apartments, commercial buildings or anything else – no matter how giddy the property owner, politicians and staff are to kill the golf course.
The city council's October 29, 2025, Snug Harbor project approval – effectively killing the Newport Beach Golf Course and replacing it with a 15-acre, 10-million-gallon heated wave pool – sought to destroy the unique characteristic of SAH; ignored the Santa Ana Heights Specific Plan, zoning, and Annexation Agreement. In addition, you failed to acknowledge the long history of the underlying restrictive leases with the County and property owner for the long-term use as a golf course and related uses.
We were forced to circulate a successful citywide referendum petition triggering an election for the council's unanimous Snug Harbor wave pool approval. Over 9600 signatures were collected in just 21 days. We are reminded of the perils of local government.
2To your credit, facing the wrath of the community at the ballot box, the Council rescinded the General Plan Amendment approval of 40,000 square feet of commercial buildings on a site zoned for open space and recreation, whose sole purpose and intent is explicitly "to insure the long-term use and viability of the Newport Beach Golf Course" – not concrete.
In 1973 the Irvine Company leased the site to the Lane Family who graded the community golf course that remains today. It is a very challenging parcel for development due to its topography, proximity to JWA, water table, Delhi Channel, and restrictions of the FEMA Zone A flood hazard area. The Irvine Company understood these development barriers in 1973. Nothing has changed in 53 years – except additional binding restrictions of the SAH Annexation Agreement, SAH Specific Plan, zoning code, and Charter Section 423.
The front nine is owned in fee by Newport Golf Club LLC, comprised of long-time Newport residents. They want the highest and best use on a degraded parcel that is restricted for development. As you know, the back nine is owned by the County of Orange (JWA) and serves as the FAA Runway Protection Zone requiring open space and prohibiting permanent structures – in perpetuity.
We respect the private property rights of the respective families and their heirs. We also respect the decades of their investment in our community, both financial and philanthropic. They are an important part of the fabric that makes Newport Beach a vibrant community.
As elected officials you are often asked to balance the needs of the residents and development community. This is one of those moments.

We encourage you to keep an open mind and create a vehicle that preserves the unique character of Santa Ana Heights, while complying with the requisite Santa Ana Heights Annexation Agreement and Specific Plan, zoning code, Charter Section 423 and if necessary calling for a citywide vote for large commercial projects, and respect private property rights and honor the City's commitment to Santa Ana Heights and the residents of Newport Beach.
Sincerely,
RESIDENTS TO SAVE NEWPORT BEACH GOLF COURSE

Date of comment: April 10, 2025
Date of hearing: April 17, 20265
Agenda Item: F11a-4-2026
My position: Both items need additional modifications

To: Dulce Cortez
California Coastal Commission
301 E. Ocean Blvd, Suite 300
Long Beach, CA, 90802-4325

Re: City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2

Dear Ms. Cortez,

It is unfortunate staff's recommendation is coming so close to the deadline for a Commission decision.I find it difficult to comment on this item in any concise way, but here is my attempt:

Synopsis

The Commission is being asked to certify an amended LCP authorizing the City to add housing to its coastal zone, potentially disrupting higher priority uses, in quantities and types not required by its state housing obligations, using a land use mechanism that California courts have found inconsistent with state housing law. Approval, even as modified, will likely lead to unnecessary and unrequired development while leaving for the future the City's true need, which is to meet its state requirement to allow affordable housing, which will, in that future, presumably have to be added on top of whatever is approved here.

1. Newport Beach's RHNA Obligation and its Housing Element

The City's citywide RHNA obligation is to allow for 4,845 new housing units in the 6th Cycle, of which 3,436 must be affordable to households with various moderate or lower incomes.

According to Table B-1 on page B-9 of Appendix B of the City's 6th Cycle Housing Element, the City anticipates no difficulty reaching its quota for above moderate housing production even without any rezoning, but expects a shortfall of 2,707 units in the affordable categories.

The Housing Element proposes to meet this affordable housing shortfall by authorizing 8,174 new base units through "Housing Opportunity Overlays" added to selected parcels in five vaguely-defined "focus areas," all but one of which (Coyote Canyon) include portions of the coast zone.

However, even though Policy Action 1K (Inclusionary Housing Policy) on page 4-10 of the Housing Element's Housing Plan calls for adoption of an inclusionary ordinance, nothing has been done, nor is contemplated, in that regard. Indeed, the Council has reduced inclusionary requirements in the one small non-coastal area of the city that historically had a requirement. As a result, **there is no requirement for any of the 8,174 new base units to be used to meet the City's affordable housing obligation**, which, if not fulfilled, will, per Government Code Section 65584.09, carry over into, and be added to, any new obligations in the 7th Cycle.

All 8,174 new units, including all authorized in the coastal zone, could, and a large portion likely will, be used to entitle new luxury housing not required by state housing law, leaving the 2,707

unit citywide affordable housing requirement largely unfilled and needing to be entitled in the future, above and beyond the 8,174.

2. Courts Have Disallowed Use of the Housing Overlays the City Proposes

An additional reason the City's proposal should be approached is with caution is that the scheme of using overlay districts to meet affordable housing obligations was based on erroneous advice[1] from the state Department of Housing and Community Development. While thought consistent with state housing law when the City's Housing Element was certified as compliant by them in October 2022, it no longer is.

In particular, in *New Commune DTLA v. City of Redondo Beach* (2025) 115 Cal.App.5th 111, an opinion published on October 10, 2025, and which the California Supreme Court declined to review on appeal on January 28, 2026, the California Court of Appeal found that the use of voluntary overlay districts of the type proposed here is generally *not* compliant with state housing law. Indeed, to comply with requirements to meet RHNA requirements to allow development of affordable housing, the court found at least 50% of the requirement must be met by actually rezoning selected properties to require that when and if they redevelop, at least 50% of the floor area be devoted to housing. This follows the earlier ruling in *Martinez v. City of Clovis* (2023) 90 Cal. App. 5th 193, which the California Supreme Court also declined to review, that housing overlays are not an adequate mechanism to address the carry-over of unmet affordable housing obligations, which Newport Beach will almost certainly face when the 6th Cycle ends on October 15, 2029, and the 7th Cycle begins.

It seems problematic to add a scheme to the LCP that will need to be completely revised in the near future. How can the Commission be sure the presently-requested entitlements will be unwound when new ones consistent with state housing law are added?

3. Problems with Coastal Land Use Plan Amendments

Regarding the requested amendments to the City's Coastal Land Use Plan as shown in Exhibit "B" to the staff report's Exhibit 1 (City Council Resolution No. 2024-52) with the suggested modifications found on pages 10 and 11 of the staff report:

a. Existing Policy 2.1.10-1, regarding consistency with the City's Coastal Land Use Plan Map, is proposed to be amended to say it is "modified by all Policies in the [new] 2.1.11 series." This does not provide any clear guidance for interpretation of the map because the new 2.1.11 policy series sets limits on how many housing units can be added to named areas, but provides no indication of what the geographic boundaries of those areas are – only a reference to the Housing Element, which is not only not certified by the CCC, but also provides no clear boundaries. For example, the 521 units allowed by the proposed CLUP Policy 2.1.11-1 in the "Dover/Westcliff" area are authorized in the proposed implementation for use on some parcels far afield from "Dover" or "Westcliff," that have been assigned to that CLUP area in a seemingly arbitrary way. Without clear geographic boundaries to the CLUP areas, are those assignments consistent with the

[1] See page 15 of their May 2020 "Site Inventory Guidebook."

CLUP? While the "correct" assignment of those parcels might be resolved by reference to the Housing Element, but proposed CLUP Policy 2.1.11-1 says other parcels can be added through rezoning. Is it the intent of the CLUP that a parcel in, say, Balboa Village or on Balboa Island that wanted to be added to the overlay implementation be subject to the CLUP's ""Dover/Westcliff" housing limit or its "Newport Center" limit? It seems impossible to tell and reference to the Housing Element is unavailing if the parcel is not in the Housing Element.

b. The staff report (on page 10) recommends Suggested Modification 1 to proposed new CLUP Policy 2.1.11-1, deleting the "West Newport Mesa" area because all the coastal zone properties are in a Deferred Certification Area.[2] I agree with that modification, but even with it, the policy seems glaringly defective to me:

   i. First, the opening paragraph contains two sentences that say "*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 6th 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*."

      This seems to be forward-looking language saving some units for implementation in the coastal zone, pending Coastal Commission approval. **Shouldn't this be deleted upon certification?** If not, why would the Commission want to give priority to approving housing in the coastal zone over non-coastal zone sites?

   ii. At least as importantly, assuming the CCC wants to certify overlay districts despite the courts having found them an improper mechanism to meet RHNA quotas, shouldn't the numeric limits for development in the three (after the recommended modification) areas be reduced, as contemplated in the forward-looking language, to something like 25% of the citywide limits?

      For example, since the citywide limit is irrelevant to the CLUP, shouldn't the limit for housing in the "Airport Environs" be reduced in the CLUP from "*2, 577 total dwelling units within the entire area, inclusive of those properties in the Coastal Zone*" to "~~*2, 577*~~ *644 total dwelling units within the* ~~*entire area, inclusive of those properties in the*~~ *Coastal Zone*" and so on for the other areas (644 being 25% of 2,577)? **Otherwise, as proposed, the policy would allow the City's *entire* RHNA target for each area to be entitled in the coastal zone.** Why would the CCC approve that?

   iii. An additional problem with this proposed policy, even as amended, is allowing densities of up to 50 du/ac in all areas. As the Commission knows, to preserve the city's character, part of the City's coastal zone is subject to a Shoreline Height

[2] Regarding that Deferred Certification Area, the Commission may or may not be aware that the owner of one of the parcels, the Newport Mesa Unified School District is contemplating accepting a proposal to add 169 units of housing, of which 20% would be below market rate and prioritized for District employees. See the NMUSD Board's 3/10/2026 Item 21c and presentation. Those units, if built, would count toward the City's RHNA obligations, but their approval is entirely up to the CCC.

Limitation (CLUP Policy 4.4.2-1). As a matter of policy, it is unclear how a CLUP authorization for 50 du/ac could be made consistent with the **shoreline height limit**, and it seems that under state housing law property owners subject to the overlay could seek, and the City might have to grant, exceptions to make their housing projects feasible, defeating the intent of the height limitation. Although it has apparently been withdrawn for the moment, the City has already received just such an application, PA2025-0050 for the 1.45 acre harbor-front parcel at 1101 Bayside Dr, seeking to provide 144 units in an eight-story building, despite the parcel being subject to the Shoreline Height Limitation and designated in the CLUP for Recreational and Marine Commercial (CM) use. Similarly, although not in the Shoreline Height Limitation area, the City has an application for the proposed coastal zone overlay site at 2300 University Dr to waive the base height limit of 32/37 feet and build housing to 75 feet, indicating pressure to vastly exceed base heights will exist.

c. Proposed new Policy 2.1.11-2 aggravates the last-named concern by stating that the density limits are averages over a site, so even higher densities (and heights) would seem to be allowed. In the unlikely event that affordable units are offered, market rate bonus units would add even more density and height, inconsistent with existing CLUP Policy 4.4.2-1 for areas subject to it.

   Unrelated to that concern, CCC staff is recommending Suggested Modification 2, to "harmonize" added housing with visitor-serving, marine-related, or public-serving uses. There are at least two problems with the suggested modification:

   i. The modification introduces the term "functionally equivalent" whose meaning is neither obvious nor defined in the CLUP Glossary. Since whether a replacement use is "functionally equivalent" is likely to be a point of contention, I think the criteria for making that decision need to be more clearly defined.

   ii. The modification does not address the issue of uses not always following a properties base CLUP designation or, alternatively, a property reserved for priority uses through their base designation not currently having such uses. For example, the proposed housing overlay site at 1101 Bayside Dr, mentioned above, is one of the few reserved for Marine Commercial use. If it does not currently have such uses, would that rare designation be ignored? Conversely, one of the more prominent Marine Commercial uses, the West Marine emporium, is located at 3433 Via Lido, which is proposed to be Housing Opportunity Overlay Site No. 334, with a General Commercial (CG) base CLUP designation. Since it is not on land with one of the listed designations, **is there no policy to prevent this essential high-priority marine-related use from being replaced with lower-priority housing?**

d. Most of proposed new Policy 2.1.11-3 asks the Commission to certify exactly the features that have caused California courts to find "housing overlays" inconsistent with the requirements of state housing law for meeting affordable housing requirements. **Why would the CCC certify language the courts have said is unacceptable?**

4. Problems with Implementation Plan Amendments

a. The City's proposed new Section 21.28.010.F refers to the overlay locations being "*identified in Part 8 of this title (Maps)*." This is at least partially inconsistent with staff's Suggested Modification 4, which implies the overlay sites will be identified on the Section 21.14.010 Coastal Zoning Map.

b. Suggested Modification 3 appropriately deletes the "West Newport Mesa Area" from proposed new Subsection 21.28.070.A.

   i. However, it leaves intact the description of the "Newport Center Area." Is the word "generally" (and the paragraph that follows) sufficient to include the many housing opportunity sites that are in the coastal zone but far outside the bounds described?

   ii. It also leaves intact footnote (5) to IP Table 21.28-1, referencing the Shoreline Height Limit Area. But, as noted above, how will that be enforced if an applicant seeks an exception to utilize the 50 du/ac authorization?

   iii. Additionally in the "Height" row of the "HO-4" column of the modified Table 21.28-1 proposed for certification it says "Per Base Zone (6)," but footnote (6) is not related to height. See also my Comment 5.c, below.

   iv. A very small point, but in the "Lot area required per unit (sq. ft.)" row of that table, there are two boxes with what appear to be identical specifications. Why are they in two separate boxes, and not combined in one?

c. By not requiring the addition of housing upon redevelopment, proposed new Subsection 21.28.070.B repeats what California courts have found to be the problematic aspects of housing overlays purporting to be consistent with state housing law.

d. Suggested Modification 4 recommends the addition of an "HO" symbol to be used on the Section 21.14.010 Coastal Zoning Map. While I think this is a good idea:

   i. No sample of what the certified new Coastal Zoning Map would look like is provided.

   ii. As noted above, the City's proposed new Section 21.28.010.F implies the HO sites will only be identified in Part 8 maps.

   iii. In the proposed revision to IP Table 21.14-1, staff recommends that in the "Coastal Land Use Plan Designations Implemented by Zoning Districts" column, the HO districts say "Various." Since the only thing implemented by the HO districts is "RM Multiple-Unit Residential" shouldn't it say that?

e. A minor point, but in Suggested Modification 5:

   i. Hasn't the word "and" been added to the existing clause "4." If so, shouldn't "and" be in bold?

ii. Similarly, isn't the intent to delete the word "and" from the end of the existing clause "3" (which is not shown)?

f. With regard to Suggested Modification 6:

i. Within the context of the IP, how is the identification of "Housing Opportunity Sites 23, 24, 25 and 26" supposed to be established? I do not see those numeric designations on any of the materials submitted for certification. **Should the proposed Section 21. 80.032 maps be amended to include a numeric designation of each opportunity site?**

ii. I am not sure I understand how the proposed buffers of a maximum of 100 foot width is "functionally equivalent" to the larger open space currently available. That, again, emphasizes the need to more precisely define the phrase.

g. Regarding Suggested Modification 7, this has the same problem noted under comment 3.c.2, above.

i. The restriction of the protection of high priority uses to parcels with certain base designations fails to protect existing such uses on parcels without those base designations. It also fails to protect parcels with high priority designations that do not currently have high priority uses on them, leading to a loss of acreage intended to be preserved for them.

ii. Again, a clear definition of "functionally equivalent" needs to be added both to the CLUP Glossary and IP Section 21.70.020 (Definitions of Specialized Terms and Phrases).

iii. Since at least two of the Housing Opportunity Overlay Sites are hotels, the "*No hotel, motel, or other overnight visitor accommodations shall be converted or replaced with residential use*" restriction is important. I hope CCC staff does not need to be reminded of the episode (see City Planning Commission Agenda Item No. 5 from May 12, 2022, in which coastal zone hotel rooms on "CV Commercial Visitor-Serving" property were converted to residences by virtue of a City "Directors Determination," without amending the LCP. Because it was outside the appeal area, CCC staff could do nothing but strenuously object. It is perhaps ominous that the same property, at 900 and 1000 Newport Center Dr is here proposed to be certified as a Housing Opportunity Overlay Site.

5. Miscellaneous Comments

a. Similar to the last-stated concern about hotel rooms outside the appeal area being converted by "Directors Determinations" (supposedly authorized by existing IP Subsection 21.12.020.A), the proposed amendments are a bit vague as to how parcels can be added to the Housing Opportunity Overlay Districts. Proposed new CLUP Policy 2.1.11-1 suggests the process would involve rezoning, which would require CCC action. However, an example already exists of parcels outside the coastal zone being added

through a Directors Determination, without any rezoning, and presumably without revising the overlay maps (see June 6, 2025, Action Letter).

b. I am not sure CCC staff is aware that in recommending certification (with modifications) it is recommending certification of changes to established height limits within the coastal zone, per the reference under "Height" in proposed Table 21.28-1 to "Per Base Zone unless otherwise identified on the map." The map seems to be the "HO-1" of proposed new Section 21.80.032, allowing heights of 35 to 60 feet on property with a CLUP designation of PR (Parks and Recreation) and formerly limited by the City's Zoning Code to 18 feet. I do not see any analysis of possible Coastal Act implications of this change. And, as noted in comment 3.b.iii, above, the City has applications to exceed base height limits on an HO-1 property not indicated as having a special height authorization on the map.

c. More disturbingly, the City's Title 20 HO-4 map (linked to from NBMC Section 20.80.025) contains call-outs for height exceptions, at least four of which affect coastal zone sites, yet the Title 21 HO-4 map being proposed for certification contains no such exceptions. Which prevails?

d. In line 5 of paragraph 2 of the summary on page 1 of the staff report, the number "8,174" has been inadvertently transposed to "1,874."

e. Some of the information in that sentence is repeated in the paragraph at the top of page 17, where the number becomes "1,875" and the reference to "228 sites" has become garbled to "228 Housing Elements."

f. In any event, it is not clear what the source is of these statements regarding the City's overall overlay efforts that "Collectively, these actions are intended to provide capacity for 8,175 dwelling units citywide, including 2,707 units affordable to very-low, low-, and moderate-income households, across 228 Housing Elements. Of those sites, 26 parcels (appx 11%) are located within the coastal zone, with an assumed collective capacity of approximately 1,441 dwelling units."

    i. I am not aware of any comprehensive and reliable list of the proposed Housing Opportunity Overlay sites, which is one of the problems with trying to understand the program.

    ii. Appendix B of the Housing Element lists many. It appears to list 222 parcels assigned to Overlay Districts with a total buildable area of about 470 acres. But it gives no indication of which parcels are in the coastal zone and which not. And some sites have been added since. A better source might be Table C of the City's 2025 Annual Progress Report Excel workbook submitted to the state in March. It lists 225 parcels with a total area of 685 acres of which 24 with a combined area of 68 acres are flagged as "Pending Coastal Commission" (approval). However, that does not include the 4.03-acre 919 Bayside Dr parcel or the 7.05-acre 1 Park Newport Dr parcel depicted on the proposed HO-4 (Newport Center Area) map, which might bring the coastal zone totals to 79 acres over the 26 sites mentioned in the staff report (although not in the coastal zone, also missing from Table C

are two parcels comprising 1.77 acres of the Regal Edwards Cinema site at 300 Newport Center Drive and a 1.18-acre parcel at 4667 MacArthur Blvd).

iii. While the number of coastal zone parcels ("sites") may be correct, it is especially unclear where the "*with an assumed collective capacity of approximately 1,441 dwelling units*" statement comes from. The housing element assumes each of the coastal zone parcels has a capacity to develop 50 du/ac, and 79 acres x 50 du/ac = 3,950 units. Table C of the 2025 Annual Progress Report, with its two missing coastal zone parcels, but which I believe corrects for existing units on opportunity sites, as well as recent approvals at less than full capacity, shows a "realistic" net increase of coastal zone housing of 2,781 units.

iv. That said, Assessors Parcel Numbers may not be the best way of identifying sites, since some parcels have more than on APN and some APN's contain more than one overlay site covering less than the full parcel. The Newport Beach Country Club is an example of this, with the same 128.5-acre parcel identified as both APN 441 011 51 and 441 011 52, and containing within it two separate and unrelated 0.5-acre Housing Opportunity Sites identified in the Housing Element as Numbers 353 and 354.

v. In short, a definitive and reliable list of opportunity sites seems lacking, with the maps providing only tenuous guidance given their marginally legible scale and lack of many property lines, including most internal ones, and all site numbers.

g. Two additional puzzles are:

i. No opportunity sites at all have been identified in the Newport Coast portion of the city, even though it comprises a large part of the land area. I do not know why that is, since I would assume there would be opportunities to densify housing in areas where it already exists rather than sacrificing existing commercial, recreational, and visitor- and marine-serving property

ii. In all overlay districts other than HO-3 (Dover/Westcliff) the Housing Element offers overlay status to all the housing opportunity sites that were identified in the City's 5th Cycle Housing Element. In the proposed IP HO-3 map only three tiny 5th Cycle parcels (one in the northern part of Mariners Mile and two barely visible south of Lido Village) are authorized to make use of the overlay. I have no idea why or how they were selected, since there are many other similarly-situated 5th Cycle parcels neighboring them. **It would seem to me that if more of them were allowed to participate in the overlay, there would be opportunities for lot consolidation. That would allow housing to densify in areas where it already exists rather than sacrificing existing commercial, recreational and visitor- and marine-serving property**. I would think that would be an option much preferred by the Coastal Commission.

h. It is not entirely clear why the staff report includes Exhibit 2 (which seems to be a copy of Newport Beach City Council Ordinance No. 2024-16, as introduced). This is an ordinance adopting changes to Title 20 (Planning and Zoning) of the City's Municipal

Code. **Is Exhibit 2 intended to illustrate the statement near the top of page 17 about City's "broader Housing Element implementation program that includes complementary amendments to the General Plan Land Use Element and Newport Beach Municipal Code (NBMC) Title 20 (Planning and ~~Zone~~ Zoning)"?** If so, why is an unsigned "proposed" version provided instead of the signed, adopted one linked to above? While the text of Title 20 frequently parallels that of Title 21 (Local Coastal Program Implementation Plan), and while actions in the coastal zone have to be consistent with both, it is not the same, nor is its adoption contingent on CCC certification. In fact, the final version of Exhibit 2 was adopted on September 24, 2024, and has been in effect since October 25 of that year. Should the Commission find the text being considered at the present meeting, as modified, consistent with the Coastal Act, my understanding is that the City will introduce and adopt a new and separate resolution (different from Exhibit 1) adding that text to the CLUP and a new ordinance adding it to the IP, subject to subsequent concurrence by the CCC Executive Director.

My apologies for the length of the comments, but this strikes me as an important issue that deserves additional review before being certified. Given the deadline, it's possible the best course would be to deny certification and start over with a new proposal more closely tailored to the City's affordable housing requirements and compliant with the court decisions.

Yours sincerely,

Jim Mosher
2210 Private Road
Newport Beach, CA. 92660

April 7, 2026

To the California Coastal Commission,

I am writing to strongly oppose the proposed approval of the Housing Layer and the rezoning of the Newport Beach Golf Course from its current Recreational Open Space designation to High-Density Housing.

The Newport Beach Golf Course is an invaluable community and environmental asset. Its current zoning as Recreational Open Space safeguards not only the character of the surrounding area but also the ecological balance, open vistas, and natural habitats that are vital to our coastal environment. Rezoning this land for high-density housing would irreversibly damage the integrity of the coastline, increase traffic congestion, strain public services, and diminish the recreational opportunities that residents and visitors currently enjoy.

High-density development in this sensitive coastal area directly contradicts the principles of the California Coastal Act, which prioritizes the protection of coastal resources, scenic beauty, and public access to open spaces. Approving such a drastic change would set a harmful precedent for the erosion of recreational spaces in favor of urban sprawl, undermining the very mission of the California Coastal Commission.

There are alternative opportunities for housing development in areas already designated for urban or residential use that would not compromise the environmental and social value of Newport Beach Golf Course. Preserving this open space is essential to maintaining the quality of life, ecological health, and recreational opportunities that define our region. Newport Beach claim the Housing Overlay is needed to meet Element Housing required number of units is incorrect, more than enough housing applications are already being processed to meet Newport Beach Element mandate without building it on NBGC within Coastal protection boundary.
A petition to block Surf Park development of middle NBGC parcel was recently signed by 6100 Newport Beach voters and NB reversed approval to avoid a public vote. Housing on golf course will also be opposed y by Newport voters. Another petition with required 6100 signatures was approved for a community vote to limit housing to the minimum required Element number under 3000 units. NBGC is not needed for housing.

The John Wayne Airport Land Use Commission rejected development of Surf Park on golf course in high noise and crash zone directly under the flight path. NB Council over rode ALUC to approve the project but then reversed approval after 6100 signature public petition required a public vote. ALUC rejected NB revision of noise contour to allow housing in 65 db zone but NB overrode ALUC. If Overlay is approved ALUC will also reject housing directly under flight path in crash zone that will make NB taxpayer potentiall liable for enormous crash and noise impacts to housing residents.

Housing on this site requires sewage pumping up to Mesa Drive and risks sewage pollution of Back Bay with a power outage. It is also in the tsunami and flood protection zone from historical flooding of Delhi Channel.

Santa Ana Specific Plan enacted when Santa Ana Heights was annexed by NB requites golf course to be permanent, see letter to Nb copied below. The only highest safe and best use of this land is to leace it as it is now, golf course low density recreational with no impact to the environment, airport, our community, and the Back Bay.

RESIDENTS TO SAVE NEWPORT BEACH GOLF COURSE
March 16, 2026
Mayor Lauren Kleiman & Newport Beach City Council
100 Civic Center Dr
Newport Beach, CA 92660
citycouncil@newportbeachca.gov
Dear Mayor Kleiman & City Council Members,
As you are aware, Santa Ana Heights (SAH) was annexed into the city in two phases, in 2002 the area east of Irvine Ave and 2008 the area west of Irvine Ave. The annexation agreement was memorialized on September 10, 2002 and remains in full force.
SAH was content as a county island and did not seek annexation – the City approached us. We were concerned city government would add another layer of regulation and bureaucracy to our lives while disregarding the unique character of SAH. Our fears have been confirmed.
Residents worked with the City and County for over fifteen years to develop an annexation

agreement to maintain the unique characteristics of the area. The Heights includes a winery, equestrian property, traditional residential tracts, estate lots, mansions, 18-hole Newport Beach Golf Course and driving range.

These were hard-fought negotiations that encompassed many complex issues across multiple governmental jurisdictions including the City, County, a redevelopment agency, city, Coastal Commission, Mesa Water District, JWA Settlement Agreement, property tax transfers, and a utility undergrounding district.

As previously noted, the 2002 City/County Santa Ana Heights Annexation Agreement remains a legally controlling document. It specifically requires the City to seek the County's consent for General Plan Amendments – including the City's housing zoning overlay on the golf course. ALUC found the housing overlay INCONSISTENT with the Airport Environs Land Use Element (AELUP) on a 5-1 vote. This is the only attempt the City made to seek County approval, and it failed. As such, the City ignored other considerations of the Santa Ana Heights Annexation Agreement as it relates to the proposed development site south of Mesa Drive.

The unique characteristics of the Santa Ana Heights are codified in the Santa Ana Heights Specific Plan (NB Municipal Code Chapter 21.90, specifically Section 21.90.020 SP-7(OSR) stating "Land Use and development standards for Santa Ana Heights shall be in accordance with Exhibit 21.90-1, "Land Use Map – Specific Plan District No. 7" and the provisions of this section

The plain language of the codified specific plan and enabling map DOES NOT allow any non-golf course uses like wave pools, Costco, apartments, commercial buildings or anything else – no matter how giddy the property owner, politicians and staff are to kill the golf course.

The city council's October 29, 2025, Snug Harbor project approval – effectively killing the Newport Beach Golf Course and replacing it with a 15-acre, 10-million-gallon heated wave pool – sought to destroy the unique characteristic of SAH; ignored the Santa Ana Heights Specific Plan, zoning, and Annexation Agreement. In addition, you failed to acknowledge the long history of the underlying restrictive leases with the County and property owner for the long-term use as a golf course and related uses.

We were forced to circulate a successful citywide referendum petition triggering an election for the council's unanimous Snug Harbor wave pool approval. Over 9600 signatures were collected in just 21 days. We are reminded of the perils of local government.

2To your credit, facing the wrath of the community at the ballot box, the Council rescinded the General Plan Amendment approval of 40,000 square feet of commercial buildings on a site zoned for open space and recreation, whose sole purpose and intent is explicitly "to insure the long-term use and viability of the Newport Beach Golf Course" – not concrete.

In 1973 the Irvine Company leased the site to the Lane Family who graded the community golf course that remains today. It is a very challenging parcel for development due to its topography, proximity to JWA, water table, Delhi Channel, and restrictions of the FEMA Zone A flood hazard area. The Irvine Company understood these development barriers in 1973. Nothing has changed in 53 years – except additional binding restrictions of the SAH Annexation Agreement, SAH Specific Plan, zoning code, and Charter Section 423.

The front nine is owned in fee by Newport Golf Club LLC, comprised of long-time Newport residents. They want the highest and best use on a degraded parcel that is restricted for development. As you know, the back nine is owned by the County of Orange (JWA) and serves as the FAA Runway Protection Zone requiring open space and prohibiting permanent structures – in perpetuity.

We respect the private property rights of the respective families and their heirs. We also respect the decades of their investment in our community, both financial and philanthropic. They are an important part of the fabric that makes Newport Beach a vibrant community.

As elected officials you are often asked to balance the needs of the residents and development community. This is one of those moments.

We encourage you to keep an open mind and create a vehicle that preserves the unique character of Santa Ana Heights, while complying with the requisite Santa Ana Heights Annexation Agreement and Specific Plan, zoning code, Charter Section 423 and if necessary calling for a citywide vote for large commercial projects, and respect private property rights and honor the City's commitment to Santa Ana Heights and the residents of Newport Beach.

Sincerely,

RESIDENTS TO SAVE NEWPORT BEACH GOLF COURSE

Sent to NBGC neighboring community and NB City Council 4/12

Newport Beach City Council applied to California Coastal Commission for approval of housing overlay that rezones NBGC from recreational open space to high density residential. NB claims development of the golf course is needed and necessary to meet CA Element Housing mandate requiting 4800 units. NB Development Office application pipeline already has 2000 units in Airport Area, 5000 units total, see link below.. Public vote is scheduled in Nov. to limit housing to less than 3000 units. There is no need for any housing or any other development on NBGC open space recreation zone, in Coastal protection zone, in JWA crash zone, in JWA high 65db zone, in flood and tsunami zone, in high traffic zone, adjoining Back Bay wildlife zone, in violation of SAH Specific Plan, etc. Normally legitimate city Council decisions are by law exempt from personal liability claims but council and NB tax payers are not exempt from enormous potential liability for Council's reckless unjustifiable overruling of Airport Land Use Commission's rejection of development in 65db zone and crash zone directly under JWA flight path.

Council members justified their approval of Surf Park as a private property owner's right for highest best and most profitable land use but that was not justified and Surf Park approval has been reversed by public petition. Owners purchased the land from Irvine Ranch for a low price to build the golf course and have had a big return on their investment because golf is the only safe low density highest best appropriate and beneficial use directly under JWA flight path.

If CCC follows their staff recommendation to approve housing in this location I will ask commissioners if there is any purpose of the California Coastal Commission?

Element Housing law exempts all regulations, zoning, existing land uses, environmental impacts, etc, but does not exempt requirement CCC approval of housing overlay . Except for a legal challenge, this may be our last chance to block administrative approval.

I will attend CCC meeting in Gonzoles on Friday. It is past 4/10 deadline to submit public comments but please send any comments, information, exhibits, photos, etc you would like me to add to the presentation.

Sent 4/13 to Seimone Jurgis, Newport Beach Director of Community Development, Assistant City Manager

Dear Seimone

Please send information on the number of housing unit applications being processed by Community Development in Airport Area and citywide, and if number may now exceed number required for NB to comply with Element mandate. If so will Council withdraw CCC housing overlay application based on now baseless claim that housing on NBGC open space is essential to meet Element mandate numbers. If enough housing on other sites is already in the pipeline, especially considering reversal of Surf Park approval and petition for vote to reduce housing numbers, Element mandate is moot, application is inaccurate and obsolete, and there is no public support to proceed with CCC application for housing on NBGC. If not withdrawn but approved by CCC housing overlay will be challenged in court.

Jim Auster
20401 Bayview Ave
9706187692

https://www.google.com/search?q=nnumber+of+housing+units+in+pipeline+in+nweport+beach+to+meet+Housing+Element+mandate+for+6th+cycle&ie=UTF-8&oe=UTF-8&hl=en-us&client=safari

As of October 2025, Newport Beach has over 5,000 housing units in preliminary applications, exceeding its 6th Cycle RHNA mandate to plan for 4,845 new units by 2029. The city is currently in a 2021–2029 planning cycle, with adopted plans focusing on six key areas to meet this quota through 2025.

City of Newport Beach (.gov) +3

- Total Mandate (6th Cycle): 4,845 units, of which 1,456 are for very low-income and 930 for low-income households.
- Pipeline Status: More than 5,000 units are currently in preliminary application stages, with a significant number being apartment developments.
- Buffer Strategy: The city has approved plans for up to 8,174 units (via rezoning/density), intended to serve as a buffer to meet mandates in case projects are canceled.
- Future Developments: A proposed "Responsible Housing Initiative" for the November 2026 ballot aims to cap new housing at 2,900 units, relying on those already in the pipeline to meet the state mandate.









Outlook

FW: 4/17 vote to rezone NBGC to high density housing

From SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Date Thu 4/9/2026 2:33 PM
To Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>

-----Original Message-----
From: Matt <mattsup62@gmail.com>
Sent: Thursday, April 9, 2026 2:31 PM
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Subject: 4/17 vote to rezone NBGC to high density housing

[You don't often get email from mattsup62@gmail.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Hello,
I am opposed to the rezoning of the NBGC from its current status as recreational open space. As a resident of this neighborhood for 30 years I have seen many changes such as MOBs and executive suites, etc. come in to the neighborhood. The golf course is a buffer from the noise and congestion that has grown over time. The area including the adjacent Delhi channel is critical to many waterfowl as well as Osprey and other raptors , reptiles and mammals who use the area for nesting, denning and hunting. If any housing, let alone high density multi family housing goes in here the area will be negatively impacted.
This is a stones throw from where the Delhi channel empties into the Upper Newport Bay Preserve so the damage could be even more damaging to the area.
My hope would be to keep the open space designation so that this area could enhance the quality of life for all. Rather than decimate it.
Thank you for your time,
Matt Clark
949 422-4942

Outlook

FW: Public Comment on April 2026 Agenda Item Friday 11a - City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

From SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Date Fri 4/10/2026 9:00 PM
To Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>
Cc Spencer, Amrita@Coastal <Amrita.Spencer@coastal.ca.gov>; Dobson, Amber@Coastal <amber.dobson@coastal.ca.gov>

FYI

From: Protect Our Coast Newport Beach <protectourcoastnb@gmail.com>
Sent: Friday, April 10, 2026 4:35 PM
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>; Huckelbridge, Kate@Coastal <Kate.Huckelbridge@coastal.ca.gov>
Subject: Public Comment on April 2026 Agenda Item Friday 11a - City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

You don't often get email from protectourcoastnb@gmail.com. Learn why this is important

Re: Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Opportunity Overlay)
Hearing Date: April 11th 2026

Dear Chair Harmon and Commissioners,
We appreciate the effort by both the City and Coastal Commission staff to address the State's housing requirements within the coastal zone. Increasing housing opportunities—particularly for lower- and moderate-income households—is an important statewide priority. However, the Coastal Act establishes equally important and legally binding protections for public access, lower-cost recreation, coastal-dependent uses, and environmentally sensitive habitat areas. The proposed Housing Opportunity Overlay, as currently structured, appears to shift that balance by allowing residential development in areas traditionally reserved for priority coastal uses, without clear, enforceable safeguards to ensure those uses are preserved. The following comments are intended to identify specific areas where the amendment may not fully conform to Coastal Act requirements and to request clarification and revisions necessary to ensure consistency with those standards.

Requested Action
The Commission should deny the LCP amendment as currently conditioned unless the issues identified below are fully resolved.

Threshold Issue – Legal Standard
The staff report emphasizes that the purpose of the amendment is to:
"facilitate residential development… to help meet the City's Regional Housing Needs Allocation (RHNA)" (pp. 5, 17)
At the same time, the report correctly states:
"The standard of review… is whether the LCP, as amended, conforms with and is adequate to carry out the provisions of the Coastal Act." (p. 5)
These two statements must be reconciled. While housing obligations are important, they do not

displace the Coastal Act's Chapter 3 requirements. The Commission's obligation remains to ensure that any LCP amendment fully conforms with policies governing priority uses, public access, lower-cost recreation, environmentally sensitive habitat, and coastal hazards.

Addendum Request:

Please identify any specific statute or adopted Coastal Commission policy that authorizes the displacement of coastal priority uses or modifies Chapter 3 standards in order to accommodate housing. If no such authority exists, the amendment must be evaluated strictly on its consistency with the Coastal Act.

Priority Use Conflict (Coastal Act §§30222, 30213)

The staff report acknowledges that the Housing Opportunity Overlay applies to sites currently designated for a wide range of coastal priority uses, stating:

"HO Overlay sites are currently designated for commercial, visitor-serving commercial, marine-related, parks, recreation, or open space uses." (p. 1)

The report further recognizes the inherent risk:

"Residential development… could result in the displacement or reduction of Coastal Act priority uses." (p. 21)

The proposed safeguard—requiring "functional equivalent uses"—is not defined in measurable or enforceable terms. It does not ensure that displaced uses are replaced at the same location, at the same scale, or at the same level of public accessibility.

Addendum Request:

Please define "functional equivalent" using objective, enforceable criteria, and explain how allowing residential development on these sites complies with the Coastal Act's requirement that visitor-serving and coastal-dependent uses have priority over residential development.

Loss of Lower-Cost Coastal Access (Coastal Act §30213)

The Coastal Act requires that:

"Lower-cost visitor and recreational facilities shall be protected and encouraged…" (p. 18)

However, the staff report acknowledges that residential development under the amendment:

"could result in the displacement… of visitor-serving commercial recreational facilities." (p. 21)

The proposed replacement standard—"comparable visitor peak use intensity and public availability"—does not address affordability. As a result, lower-cost uses could be replaced with higher-cost alternatives, undermining a core Coastal Act requirement.

Addendum Request:

Please explain how the amendment ensures that lower-cost access opportunities are preserved, rather than replaced with higher-cost or less accessible uses.

Public Access and Recreation Impacts (Coastal Act §§30210, 30223)

The Coastal Act requires the provision of:

"Maximum public access and recreational opportunities…" (p. 18)

The staff report confirms that certain Housing Opportunity sites include existing recreational lands, including portions of the Newport Beach Golf Course:

"four parcels… are designated as PR (Parks and Recreation)… Newport Beach Golf Course." (p. 22)

Allowing residential use on these sites raises serious concerns about the loss or reduction of recreational opportunities.

Addendum Request:

Please provide a quantitative analysis comparing existing recreational acreage and capacity to post-development conditions, and demonstrate how the amendment results in no loss—and preferably an increase—in public access and recreational opportunities.

ESHA and Habitat Protection (Coastal Act §30240)

The staff report notes that:

"ESHA will be created immediately adjacent to Parcels 23–26…" (p. 23)

It also acknowledges that development could:
“adversely impact riparian ESHA by encroaching too close…” (p. 23)
Despite this, the amendment allows residential development in proximity to these sensitive areas without clearly defined avoidance or buffer standards at the LCP level.
Addendum Request:
Please identify ESHA boundaries and required buffers at the program level, and explain why avoidance of these areas is not required prior to allowing residential zoning.

_____

Reliance on Future Discretion (LCP Certification Issue)
The amendment repeatedly relies on future project-level review, stating that development must:
“comply with applicable coastal resource protection standards” (p. 16)
However, LCPs must be clear and enforceable at the time of certification. Key terms such as “functional equivalent,” “comparable,” and “lower-cost” remain undefined.
Addendum Request:
Please provide objective definitions and explain how the amendment meets the requirement that an LCP be self-executing and enforceable.

_____

De Facto Rezoning
Although the staff report states that the amendment:
“would not rezone the subject parcels…” (p. 17)
allowing residential use where it was not previously permitted constitutes a functional change in land use.
Addendum Request:
Please analyze the amendment as a land use conversion and reevaluate its consistency with Coastal Act priority use policies under that framework.

_____

Failure to Analyze Alternatives
The staff report concludes that:
“no feasible alternatives… are available” (p. 26)
However, there is no clear analysis of whether housing could be accommodated outside the coastal zone or on sites that do not currently serve priority coastal functions.
Addendum Request:
Please identify feasible inland or non-priority-use alternatives and explain why they were not selected.

_____

Structural Defects – RHNA Misalignment and Overconcentration
The amendment appears to authorize significantly more housing capacity than is necessary to meet RHNA requirements, particularly within the coastal zone. At the same time, there is no mechanism ensuring that this additional capacity results in the delivery of required affordable housing.
Additionally, the structure of the amendment allows entire “focus area” allocations to be concentrated within the coastal zone, rather than distributed more evenly between coastal and inland areas.
Addendum Requests:
• Please explain why coastal zone capacity exceeds what is necessary to meet RHNA requirements.
• Please clarify whether limits should be placed on the number of units that may be located within the coastal zone portions of each focus area.
• Please identify mechanisms that ensure affordable housing obligations are actually met.

_____

Legal Instability of Overlay Approach
Recent case law raises questions about whether overlay zoning alone is sufficient to meet RHNA obligations, particularly with respect to affordable housing. If additional rezoning is required in the future, previously approved coastal entitlements may be revisited or expanded.

Addendum Request:
Please explain how potential future rezoning requirements would interact with Coastal Act compliance and previously approved development rights.

Height Limit Conflict
The amendment allows relatively high residential densities while also maintaining a 35-foot shoreline height limit. This creates a foreseeable conflict, as applicants may argue that the allowed density cannot be achieved within the height limit.
Addendum Request:
Please demonstrate how the proposed densities can be achieved within existing height limits, and clarify whether any mechanism exists to prevent requests for height increases based on feasibility claims.

Mismatch Between Land Use Designations and Actual Uses
The amendment protects coastal-related uses based on zoning designations rather than actual existing uses. This could result in the loss of functioning marine or visitor-serving businesses located on commercially designated parcels, while protecting sites that are designated for coastal uses but not actively used as such.
Addendum Request:
Please explain how existing coastal-dependent and visitor-serving uses will be protected regardless of underlying zoning designation.

Sea Level Rise and Coastal Hazards (Coastal Act §30253)
The amendment increases residential density in coastal areas without evaluating long-term exposure to sea level rise, flooding, or other coastal hazards. This is particularly relevant for sites near coastal waters and the Santa Ana Delhi Channel.
Coastal Act §30253 requires that development minimize risks to life and property and ensure long-term stability.
Addendum Request:
Please identify which Housing Opportunity sites are vulnerable to sea level rise or flooding, and explain how increased residential density in these areas complies with Coastal Act hazard avoidance requirements.

Conclusion
The issue before the Commission is not whether housing should be accommodated in the coastal zone—it should and must be. The issue is how that housing is accommodated, and whether it is done in a manner that remains faithful to the Coastal Act's core mandates. The proposed amendment allows housing to displace priority coastal uses based on vague and unenforceable standards, rather than ensuring those uses are preserved as required by law. The Commission can and should require a framework that accommodates housing without sacrificing the coastal resources the Act is designed to protect.

Housing can and should be built—but not by trading away the public's coast one site at a time.
Thank you for your careful consideration and for all you do to protect our coast.

Submitted on behalf of the Steering Committee of Protect our Coast Newport Beach

Outlook

FW: Housing Layer of the Newport Beach Golf Course-04.09.26

From SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Date Thu 4/9/2026 11:15 AM
To Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>

From: jsalvo2105@aol.com <jsalvo2105@aol.com>
Sent: Thursday, April 9, 2026 11:07 AM
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Subject: Housing Layer of the Newport Beach Golf Course-04.09.26

You don't often get email from jsalvo2105@aol.com. Learn why this is important

To the California Coastal Commission,

We are writing to strongly oppose the proposed approval of the Housing Layer and the rezoning of the Newport Beach Golf Course from its current Recreational Open Space designation to High-Density Housing.

The Newport Beach Golf Course is an invaluable community and environmental asset. Its current zoning as Recreational Open Space safeguards not only the character of the surrounding area but also the ecological balance, open vistas, and natural habitats that are vital to our coastal environment. Rezoning this land for high-density housing would irreversibly damage the integrity of the coastline, increase traffic congestion, strain public services, and diminish the recreational opportunities that residents and visitors currently enjoy.

High-density development in this sensitive coastal area directly contradicts the principles of the California Coastal Act, which prioritizes the protection of coastal resources, scenic beauty, and public access to open spaces. Approving such a drastic change would set a harmful precedent for the erosion of recreational spaces in favor of urban sprawl, undermining the very mission of the California Coastal Commission.

There are alternative opportunities for housing development in areas already designated for urban or residential use that would not compromise the environmental and social value of Newport Beach Golf Course. Preserving this open space is essential to maintaining the quality of life, ecological health, and recreational opportunities that define our region.

A petition to block Surf Park development of middle NBGC parcel was recently signed by 6100 Newport Beach voters and NB reversed approval to avoid a public vote. Housing on golf course will also be opposed y by Newport voters.

The John Wayne Airport Land Use Commission rejected development on golf course in high noise and crash zone directly under the flight path and NB Council over rode ALUC to approve the project but then reversed approval after the public petition required a public vote.

We urge the Commission to reject the proposed Housing Layer and rezoning request in order to protect the natural and community resources entrusted to your stewardship.

Best Regards,

Shella & Joseph Salvo
20352 SW Cypress Street
626-755-5425

I offer the following comments and observations with regards to the proposed action item #11:

1.Initially the proposed action of the City of Newport Beach does not appear to comply with the requirements of *New Commune DTLA LLC v. City of Redondo Beach, Martinez v. City of Clovis) 115 Cal. App. 5th 111 - Cal: Court of Appeal, 2nd Appellate Dist ..., 2025.*

2. The proposed action does not comply with the City's own zoning of Open Space Recreational as codified in *NBMC 21.90.030 etc. As stated in the code : "The Purpose and Intent of the SP-7 (OSR) District is established to ensure the long-term use and viability of the Newport Beach Golf Course.".NBMC 21.90.030.*

For the City to take the action it is requesting must first comply with the condition precedents of

- Apply for a General Plan Amendment and/or a Specific Plan Amendment and Zone Change, which would require public hearings and City Council approval. None of those actions have been taken.

- Nor has the City demonstrated that the proposed change still meets the overall goals and policies of the City's General Plan and the intent of the Open Space recreational district, which is specifically tied to the existing golf course.

3. The City is subject to an Annexation Agreement dated September 10, 2002 with the County of Orange. The 2002 City/County Santa Ana Heights Annexation Agreement remains a legally controlling document. It specifically requires the City to seek the County's "prior written *consent"* for General Plan Amendments – including the City's housing zoning overlay on the golf course. The condition precedent is lacking.

4. The proposed action of the City does not meet the Land Use Element as established by the County of Orange. And in fact when it was brought before the county it was rejected by a vote of the Airport Land Use Commission.

5. As a result of actions taken by the City Council in proposed development of adjoining property, the proposed action before the Commission would require that an additional or amended EIR be completed given the proposed changes in use on adjoining property.

6. The proposed action appears to be inconsistent with the City's own actions of October 28, 2025 wherein the City's own actions stated : "The portions of the golf course …south of Mesa Drive [the area currently under consideration by the Commission] will remain."

Chapter 21.90 – Santa Ana Heights Specific Plan

Sections:

21.90.010 Purpose
21.90.020 Land Use Regulations
21.90.030 Open Space and Recreation District: SP-7 (OSR)
21.90.060 Residential Equestrian District: SP-7 (REQ)

21.90.010 – Purpose

The purpose of the Santa Ana Heights specific plan is to provide for the orderly and balanced development of the community consistent with the specific plan's adopted land use plan and with the stated goals and policies of the Coastal Land Use Plan.

21.90.020 – Land Use Regulations

A. **Land Use Designations.** The following land use designations are established for the Santa Ana Heights specific plan area:

1. Open Space and Recreation District: SP-7 (OSR)
2. Residential Equestrian District: SP-7 (REQ)

Land use and development standards for Santa Ana Heights shall be in accordance with Exhibit 21.90-1, "Land Use Map—Specific Plan District No. 7," and the provisions of this section.



Exhibit 20.90-1: Land Use Map

21.90.030 – Open Space and Recreation District: SP-7 (OSR)

A. **Purpose and Intent.** The SP-7 (OSR) District is established to ensure the long-term use and viability of the Newport Beach Golf Course.

B. **Principal Uses Allowed.**

1. The following principal use is permitted:

   a. Local and buffer greenbelts.

   b. Public/private utility buildings and structures.

   c. Golf courses.

   d. Outdoor commercial recreation.

C. **Accessory Uses Permitted.** Accessory uses and structures are permitted when customarily associated with and subordinate to a principal permitted use on the same building site including:

1. Detached buildings.

2. Fences and walls.

3. Signs per Section 21.30.065.

4. Restrooms.

5. Any other accessory use or structure which the Director finds consistent with the purpose and intent of this District.

D. **Prohibited Uses.** The following uses are specifically prohibited:

1. All uses not listed in this section as permitted.

E. **Site Development Standards.**

1. Building Site Area. One acre minimum.

2. Building Height. Eighteen (18) feet maximum unless otherwise provided for by an approved coastal development permit.

3. Building Setbacks. Twenty (20) feet minimum from all property lines.

4. Off-Street Parking. Per Chapter 21.40.

5. Lighting. All lighting shall be designed and located so that direct light rays are confined to the premises.

21.90.060 – Residential Equestrian District: SP-7 (REQ)

A. **Purpose and Intent.** The SP-7 (REQ) District is established to provide for the development and maintenance of a single-family residential neighborhood in conjunction with limited equestrian uses. A rural character with an equestrian theme shall predominate.

B. **Principal Uses Permitted.**

1. The following principal uses are permitted:

a. Single-family detached dwellings or single-family mobile homes (one per building site).

b. Residential care facilities, small licensed.

c. Parks, playgrounds, and athletic fields (noncommercial).

d. Riding and hiking trails.

e. Small family child care homes (see Section 21.48.070, Day Care Facilities (Adult and Child)).

f. Communication transmitting, reception, or relay facilities.

g. Public/private utility buildings and structures.

h. Large family child care homes.

i. Fire and police stations.

j. Churches, temples, and other places of worship.

k. Educational institutions.

l. Libraries.

m. Any other use which the Planning Commission finds consistent with the purpose and intent of this District.

C. **Temporary Uses Permitted.** The following temporary uses are permitted:

1. Continued use of an existing building during construction of a new building.

2. Mobile home residence during construction.

D. **Accessory Uses Permitted**. Accessory uses and structures are permitted when customarily associated with and subordinate to a principal permitted use on the same building site including:

1. Garages and carports.

2. Swimming pools.

3. Fences and walls.

4. Patio covers.

5. Signs per Section 21.30.065.

6. Home occupations.

7. The keeping of the following animals for the recreational enjoyment of persons residing on the same building site, subject to the noted restrictions:

a. Any animal if kept exclusively within the residence.
b. Horses and ponies, limited to the following (offspring exempt up to the age of eight months):

Size of Building Site (sq. ft.)	Maximum Number Permitted
Less than 10,000	1
10,000 to 15,000	2
Greater than 15,000	3 to 6

c. Goats, sheep, pigs and cows only on building sites greater than fifteen thousand (15,000) square feet in size and limited to: (i) no more than two adult animals of any one species per building site and (ii) no more than a total of six adult animals, including horses and ponies, per building site. Offspring are exempt until such time as they are weaned.

d. Rabbits, chickens and ducks, limited to no more than a total of six of such animals per building site.

e. Up to three dogs and three cats. Offspring are exempt up to the age of four months. The keeping of four or more dogs or four or more cats over the age of four months is also permitted subject to obtaining an animal permit per County health regulations.

f. Minimum setbacks for the keeping of animals shall be as follows:

	From Ultimate Street Right-of-Way Line		**From Property Line Abutting RSF or BP Districts**		**From Property Line Abutting REQ District**	
	Front	Side	Front	Side	Front	Side
All structures housing animals (e.g., corrals, pens, stalls, cages, doghouses)	50	20	25	25	5*	5*
Exercise areas	25	10	0	0	0	0

* Required for covered portions of structures only.

8. Granny unit, attached or detached.

9. Any other accessory use or structure which the Director finds consistent with the purpose and intent of this District.

E. **Prohibited Uses.** The following uses are specifically prohibited:

1. All uses not listed in this section as permitted.

2. The storage of vehicles, equipment, or products related to commercial activities not permitted in this District.

3. The keeping of animals for any commercial purpose except in the Commercial Stable (S) District, where applicable.

4. Commercial kennels.

5. Apiaries.

6. Aviaries.

F. **Site Development Standards.**

1. **Minimum Building Site Area.** Two (2) acres.

2. **Building Height.** Thirty-five (35) feet maximum. Roof-mounted mechanical equipment shall not be visible from any existing dwelling unit located three hundred (300) feet or less from the subject building site.

3. **Building Setbacks.**

   a. Front Setback. Twenty (20) feet minimum.

   b. Side Setback. Five feet minimum.

   c. Rear Setback. Twenty-five (25) feet minimum.

3. **Off-Street Parking.** Per Chapter 21.40.

5. **Lighting.** All lighting shall be designed and located so that direct light rays are confined to the premises.

Outlook

Public Comment on April 2026 Agenda Item Friday 11a - City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

From M. Smith <mws.aspenroyal@gmail.com>
Date Fri 4/10/2026 1:08 PM
To SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Cc Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>

4 attachments (11 MB)

NBGC_owner interest and site study 2 5 2021.pdf; Golf Course_40_Chapter 21.90 Santa Ana Heights Specific Plan.pdf; OC Business Journal 3 23 2026 Airport Area 14 Housing Projects in color Word.docx; NB Housing Element 2021 2029 Aiport Area Sites 23 24 25 26 Newport Beach Golf Course with Highlights.png;

Sent 4/10/2026 @ 1:05 pm.

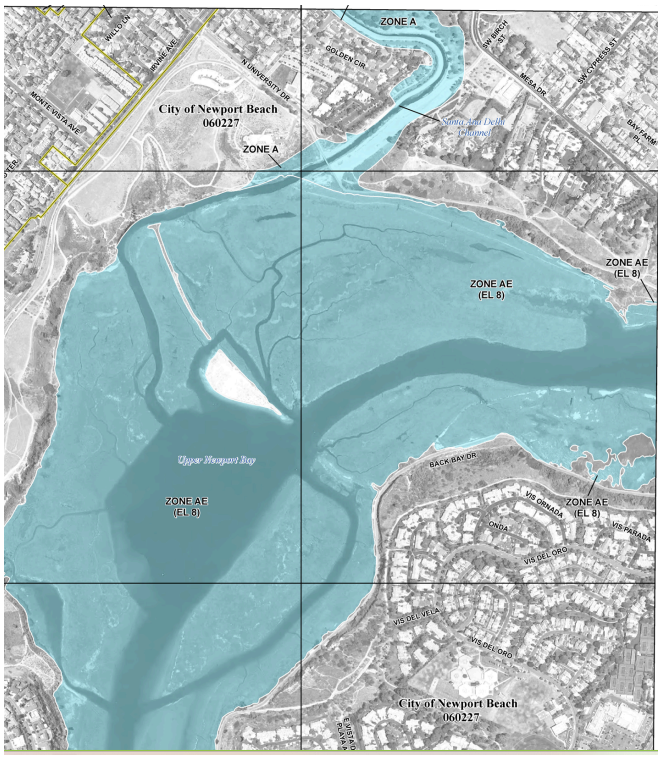
Dear California Coastal Commission Commissioners:

I write to you today to respectfully request that you NOT approve the original or the modified Housing Overlay for the Airport Area specifically associated with Sites 23, 24, 25, 26 located at the Newport Beach Golf Course in Newport Beach, CA.

Sites 23 - 26 are bordered by the Santa Ana Delhi Channel and Mesa Drive. They are also located in the 100-year flood zone per the Newport Beach Geographic Information System (GIS) flood maps and FEMA notes this area is designated to be in flood Zone A. The Delhi Channel connects directly to the Upper Newport Bay Nature Preserve which is a highly sensitive habit and estuary area. The Upper Newport Bay Nature Preserve is a 135-acre county park and 1,000-acre ecological reserve in Newport Beach, protecting one of Southern California's last remaining pristine coastal estuaries. It is a top birding hotspot and habitat for over 200 species. It is a crucial stop on the Pacific Flyway for up to 30,000 migratory birds in winter. This protected marshland is home to endangered species like the California least tern and Light-footed clapper rail. The preserve is managed by OC Parks in partnership with the California Department of Fish and Wildlife and the Newport Bay Conservancy.

Any building, construction, contaminated runoff, sewage spills, etc. on Sites 23 - 26 would have a major impact to the Preserve and estuary. Please see the comments below regarding the Site owners (Newport Golf Club, LLC) intention for building 693 residential units on Sites 23 - 26.





The Newport Beach Golf Course and specifically Sites 23, 24, 25, 26 are governed by the Santa Ana Heights Specific Plan and are designated as Open Space Recreation (OSR). The Santa Ana Heights Specific Plan (SP-7) protects the Newport Beach Golf Course via the Open Space and Recreation District (OSR) designation, which restricts the land use to ensure its long-term operation as a recreational facility. The plan limits development and supports its function as a greenbelt. The intention of the (SP-7) and (OSR) is very clear. It is not zoned residential and NO Housing Overlay should be allowed given the (SP-7) and (OSR) designation. Please see the Santa Ana Heights Specific Plan attached.

It is my understanding that the Coastal Act prioritizes the protection of parks, recreation, and open space, which are essential for public enjoyment and environmental preservation. That is exactly what exists today, please do NOT approve the Housing Overlay!

693 Units - Newport Golf Club, LLC intention to develop Sites 23, 24, 25, 26:

Below is a copy of my 4/8/2026 email addressed to Ms. Cortez of the California Coastal Commission (CCC). I did copy this email and the attachments to the Commissioners on 4/8/2026 via SouthCoast@coastal.ca.gov. That email and the attachments brought to everyone's attention the property owners of the Newport Beach Golf Course (Newport Golf Club, LLC) intentions for building approximately 693 units on Sites 23 - 26. Please see their email attached dated 2/5/2021. Also attached is the Newport Beach Housing Element for 2021 – 2029, showing that the City of Newport Beach has accounted for these 693 units that are not permitted, especially given the current zoning and the fact that the Santa Ana Heights Specific Plan (SP-7) and the designated Open Space Recreation (OSR) take precedence and are well established.

Table B-12: Airport Area Sites Inventory

Parcel Number	Owner	Existing Zoning	Existing General Plan Land Use	Vacancy	5th Cycle Site?	Existing Units	Gross Acreage	Buildable Acreage	HCD Sizing Criteria?	Density (Du/Ac)		Potential Rezoned Unit Yield	Assumed Net Yield	Assumed Net Unit Yield			Existing Use and Explanation of Propensity	Letter Interest ?	Fo A
										Existing Zone Density	Rezoned Density (Assumed)			Low/ Very Low	Mod	Above Mod			
445 161 03	Todd Todd Schiffman	PC	MU-H2	No		0	1.04	1.04	Yes	0	50	51	51	15	5	31	This parcel is already approved by the City for Newport Crossings multi-tenant housing project.		Ai A
119 300 17	Newport Golf Club LLC	SP-7	PR	No		0	1.38	1.38	Yes	0	50	69	57*	17	6	34	The current owner of the property has expressed to City staff written interest to develop housing.	Y	Ai A
119 310 04	Newport Golf Club LLC	SP-7	PR	No		0	3.70	3.70	Yes	0	50	184	152*	46	15	91	The current owner of the property has expressed to City staff written interest to develop housing.	Y	Ai A
119 300 15	Newport Golf Club LLC	SP-7	PR	No		0	1.52	1.52	Yes	0	50	76	62*	19	6	37	The current owner of the property has expressed to City staff written interest to develop housing.	Y	Ai A
119 300 16	Newport Golf Club LLC	SP-7	PR	No		0	7.30	7.30	Yes	0	50	364	299*	89	30	180	The current owner of the property has expressed to City staff written interest to develop housing.	Y	Ai A
427 131 16	Birch Development Co	OA	AO	No		0	0.67	0.67	Yes	0	50	33	33	10	3	20	This parcel contains vegetation and excess parking stalls and is identified as a site for potential housing.		Ai A
427 121 01	Dekk Associates LP	OA	AO	No		0	0.73	0.73	Yes	0	50	36	36	11	4	21	This parcel contains office space for an analytical data company and is identified as a site for potential housing.		Ai A
427 131 14	Chiappero	OA	AO	No		0	0.67	0.67	Yes	0	50	33	33	10	3	20	This parcel is currently under construction as a multi-story high rise apartment complex.		Ai A

Airport Concerns for Sites 23, 24, 25, 26:

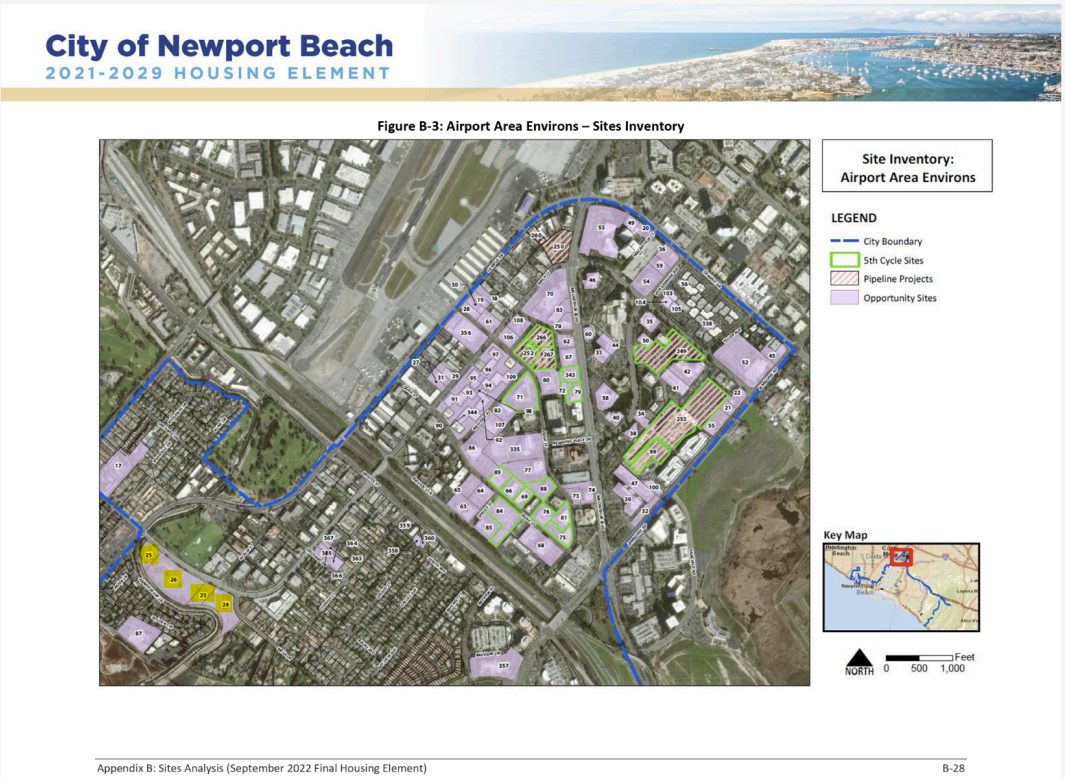
Sites 23 – 26 are on the direct flight path for low level takeoffs and low-level landings of commercial and private flights/planes using the John Wayne Airport. This danger is magnified when the Santa Ana Winds are present and extremely low-level landings take place coming in from the Pacific Ocean and over Sites 23 - 26. Common sense says - do not approve a Housing Overly directly under a low-level flight path. This could also become a liability issue for the Coastal Commission and the City of Newport Beach in the event of an accident tied to any Housing Overlay for Sites 23, 24, 25, 26 at the Newport Beach Golf Course. I believe the Orange County Airport Land Use Commission (ALUC) would NOT approve any building on Sites 23 - 26.

State Mandate for Housing:

The Newport Beach City Council and the City of Newport Beach have a mandate from the State of California for building 4,845 housing units in the City of Newport Beach. On July 23, 2024, the Newport Beach City Council opted to bypass a Greenlight vote and implement the housing element, which includes the state mandated plans to accommodate 4,845 housing units, and under the city's re-zoning program, has a total potential capacity of 8,174 units or more. A close to doubling of the State requirement. This is part of the Newport Beach 6th Cycle Housing Element planning period (October 2021–October 2029). This item will go before the voters of Newport Beach in November 2026, due to the fact that 9,000 signatures were obtained to limit the housing count to 4,845 and not allow the 8,000+ units without a vote of the residents of Newport Beach. In my opinion, no Housing Overlays should be considered or approved until after the November 2026 vote so all parties know the true and correct numbers.

Airport Area Building Status Today:

Attached for your review is a recent article taken from the Orange County Business Journal, March 23-29, 2026. This article points out that approximately 4,100 units are in progress or in planning/ discussion in the Airport Area now. Below please find a map that shows the, "Airport Area" as it relates to building & housing projects. Please do take the time to review the attached article. You will be amazed at the volume of building in the Airport Area alone.



In my opinion, the Newport Beach Housing Overlay request for Sites 23 – 26 is not warranted given the points raised. Please vote NO on the original and any modified Housing Overlay specifically for Sites 23, 24, 25, 26.

I respectfully request that Staff make sure all links and attachments are presented to all Commissioners for their full review and consideration. If necessary, please print out any items that did not present itself clearly. If any attachment is out of order as noted in this email, please accept my apologies but please do adjust where necessary to see that the complete package and breath of this email is presented to all Commissioners.

Thank you for your time and attention to this matter.

Mike Smith

Resident, Newport Beach, CA

***** Copy of previous 4/8/2026 email & attachments *****

Public Comment on April 2026 Agenda Item Friday 11a - City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

Inbox



M. Smith <mws.aspenroyal@gmail.com>

to Dulce@Coastal, SouthCoast, bcc: me

Ms. Cortez,

Thank you for your phone call today regarding the Housing Overlay (HO) issue for Sites 23, 24, 25, 26 on the Newport Beach Golf Course located on Mesa Drive, Newport Beach, CA. Below is one of the housing items we discussed. If you could please confirm receipt of this email and the attachments, and confirm that the Coastal Commission Commissioners/Board Members will review this and the attachments prior to their upcoming meeting on 4/17/2026, I would be very grateful. As you noted, the California Coastal Commission (CCC) is not aware of this information. By sending this email, I would like to make all parties aware of the following:

Attached is the 2/5/2021 document and map from the owners of the Newport Golf Club LLC related to developing housing on the current golf holes 3-8 on Mesa Drive (the Southern section of the golf course), i.e. Sites 23, 24, 25, 26. This housing count has been added to the Newport Beach Housing Element accounting for approx. 693 units being built on Sites 23, 24, 25, 26, which today is zoned open space recreational (OSR). Please see the second attachment below regarding the Newport Beach Housing Element for 2021 - 2029. The open space is called out in the Santa Ana Heights Specific Plan (SP-7) and is called out to remain (OSR) as part of the golf course.

As we discussed, Sites 23, 24, 25, 26 fall within the California Coastal Commission Zone authority and are noted to be in a, "100 Year Floodplain". These same sites are designated Open Space and Recreation District: SP-7 (OSR) as noted in the Santa Ana Heights Specific Plan. A copy is attached for your's and the (CCC) Commissioners/ Board Members review.

Given these facts and new information, I respectfully request that the (CCC) Staff make the recommendation to the (CCC) Commissioners/ Board Members to withdraw the Newport Beach Golf Course, Housing Overlay Sites 23, 24, 25, 26 from the list of this and any future Housing Overlay. I also respectfully request that the (CCC) Commissioners/ Board Members not approve the Housing Overlay for this specific area.

I look forward to your reply.

Thank you for your time and consideration.

Mike Smith

*****

Additional key points opposing development and the Housing Opportunity Overlay on Housing Opportunity Sites 23–26 at the Newport Beach Golf Course, Newport Beach, CA:

1. Loss of Open Space and Recreational Land

- Sites 23–26 are currently designated for open space and recreational uses, including a golf course. Development could lead to the loss of these valuable community resources.
- The Coastal Act prioritizes the protection of parks, recreation, and open space, which are essential for public enjoyment and environmental preservation.

2. Impact on Environmentally Sensitive Habitat Areas (ESHAs)

- The Santa Ana Delhi Channel is planned for habitat restoration and may include ESHA. Development on adjacent parcels could disrupt sensitive habitats and compromise restoration efforts.
- The Coastal Act mandates the protection of ESHAs and requires adequate buffer zones to ensure the biological integrity of these areas. Development could encroach on these buffers, harming the ecosystem.

3. Conflict with Coastal Act Priorities

- The Coastal Act prioritizes visitor-serving and marine-related uses over residential development in the coastal zone. Allowing residential development on these sites could displace or diminish these priority uses.
- The sites are located in areas that could otherwise be used for lower-cost visitor-serving facilities, which are protected under the Coastal Act.

4. Potential Loss of Public Access and Recreation

- Development could reduce public access to recreational opportunities and open space, which are critical for community well-being and coastal enjoyment.
- The Coastal Act requires maximum public access and recreational opportunities, which could be compromised by residential development.

5. Traffic and Infrastructure Concerns

- Development of up to 693 residential units on these sites could lead to increased traffic congestion and strain on existing infrastructure, negatively impacting the surrounding community.

6. Cultural Resource Protection

- Tribal consultation has identified these sites as sensitive areas for cultural resources. Development could adversely impact archaeological or paleontological resources, which are protected under the Coastal Act and the City's certified LCP.

7. Precedent for Future Development

- Allowing residential development on these sites could set a precedent for further encroachment on open space and recreational areas within the coastal zone, undermining the intent of the Coastal Act and the LCP.

8. Inadequate Safeguards

- While the proposed modifications aim to mitigate impacts, they may not fully ensure the protection of coastal resources, recreational uses, and public access. The risk of losing these priority uses remains significant.

9. Alternative Sites Available

- The City has identified 228 sites for residential development as part of its Housing Element, with only 26 located in the coastal zone. Development should focus on non-coastal sites to avoid conflicts with Coastal Act priorities.

10. Environmental Concerns

- Residential development could lead to increased pollution, runoff, and other environmental impacts, which may harm the biological productivity and quality of coastal waters, as protected under the Coastal Act.

***** End ****

Outlook

Public Comment on April 2026 Agenda Item Friday 11a - City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

From M. Smith <mws.aspenroyal@gmail.com>
Date Wed 4/8/2026 4:25 PM
To Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>
Cc SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

3 attachments (5 MB)

NBGC_owner interest and site study 2 5 2021.pdf; Golf Course_40_Chapter 21.90 Santa Ana Heights Specific Plan.pdf; NB Final Housing Element Golf Course 345678.png;

Ms. Cortez,

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I look forward to your reply.

Thank you for your time and consideration.

Mike Smith



Table B-12: Airport Area Sites Inventory

Parcel Number	Owner	Existing Zoning	Existing General Plan Land Use	Vacancy	5th Cycle Site?	Existing Units	Gross Acreage	Buildable Acreage	HCD Sizing Criteria?	Density (Du/Ac)		Potential Rezoned Unit Yield	Assumed Net Yield	Assumed Net Unit Yield			Existing Use and Explanation of Propensity	Letter Interest ?	Focus Area	Inventory/ Map ID
										Existing Zone Density	Rezoned Density (Assumed)			Low/ Very Low	Mod	Above Mod				
445 161 03	Todd Todd Schiffman	PC	MU-H2	No		0	1.04	1.04	Yes	0	50	51	51	15	5	31	This parcel is already approved by the City for Newport Crossings multi-tenant housing project.		Airport Area	22
119 300 17	Newport Golf Club LLC	SP-7	PR	No		0	1.38	1.38	Yes	0	50	69	57*	17	6	34	The current owner of the property has expressed to City staff written interest to develop housing.	Y	Airport Area	23
119 310 04	Newport Golf Club LLC	SP-7	PR	No		0	3.70	3.70	Yes	0	50	184	152*	46	15	91	The current owner of the property has expressed to City staff written interest to develop housing.	Y	Airport Area	24
119 300 15	Newport Golf Club LLC	SP-7	PR	No		0	1.52	1.52	Yes	0	50	76	62*	19	6	37	The current owner of the property has expressed to City staff written interest to develop housing.	Y	Airport Area	25
119 300 16	Newport Golf Club LLC	SP-7	PR	No		0	7.30	7.30	Yes	0	50	364	299*	89	30	180	The current owner of the property has expressed to City staff written interest to develop housing.	Y	Airport Area	26
427 131 16	Birch Development Co	OA	AO	No		0	0.67	0.67	Yes	0	50	33	33	10	3	20	This parcel contains vegetation and excess parking stalls and is identified as a site for potential housing.		Airport Area	27

From: Brett Feuerstein <brett@mesacenters.com>
Sent: Friday, February 5, 2021 3:40 PM
To: Jurjis, Seimone
Cc: Campbell, Jim; Housing Element Update Advisory Committee; Tucker, Larry
Subject: Newport Beach Golf Course- 3100 Irvine Ave.
Attachments: Site Study.pdf; California Airport Land Use Planning Handbook - Allowable Densities (Zone 4).pdf

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Mr. Jurjis and Mr. Campbell:

Thank you for all of your efforts and work that went into the subcommittee report regarding projects in the 65 CNEL. I would like to submit the attached plan as a potential project for the City to consider as part of the updated Housing Element. We are very excited to participate in this update. Through much study regarding the goals of the City, the policies of the airport, as well as the financial needs for the development to occur, we believe that we have come up with an ideal residential project, as well as providing a 1.5 acre park for the community. The attached plan shows a majority of the denser development in Zone 6 with a little of the multifamily spilling over into Zone 4 (see attached plan to see where Zone 4 and 6 actually are). This portion of the property includes approximately 200 multifamily units as well as 75 affordable units. In Zone 4 which per the airport guidelines allows an "average density/intensity of comparable surrounding users" (see attached for exact language for residential use pertaining to urban areas) we have shown townhomes at approx. 17 du/ac, for a total of approximately 100 units. With the neighboring uses including; single family residential, multifamily residential, commercial center, golf course and office buildings, we thought that townhomes would make sense in Zone 4 and allow the City to get a significant numbers of units. In addition in Zone 4 we placed the 1.5 acre park since obviously that is the least dense use and helps offset the other development in Zone 4. I would love to discuss with you and see if there is anything else that the City would like to see on the property.

Sincerely,

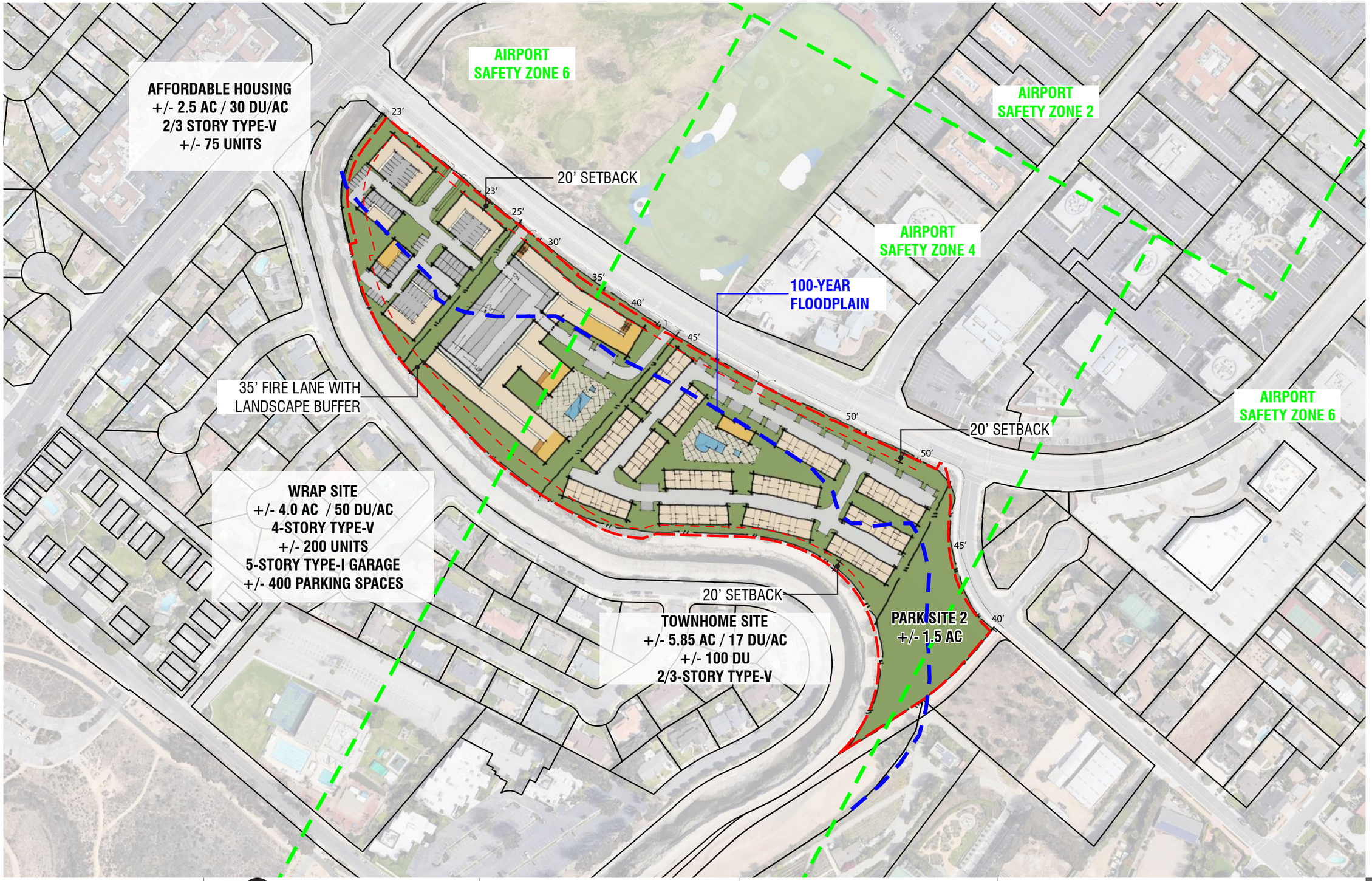
Brett Feuerstein
Newport Golf Club, LLC

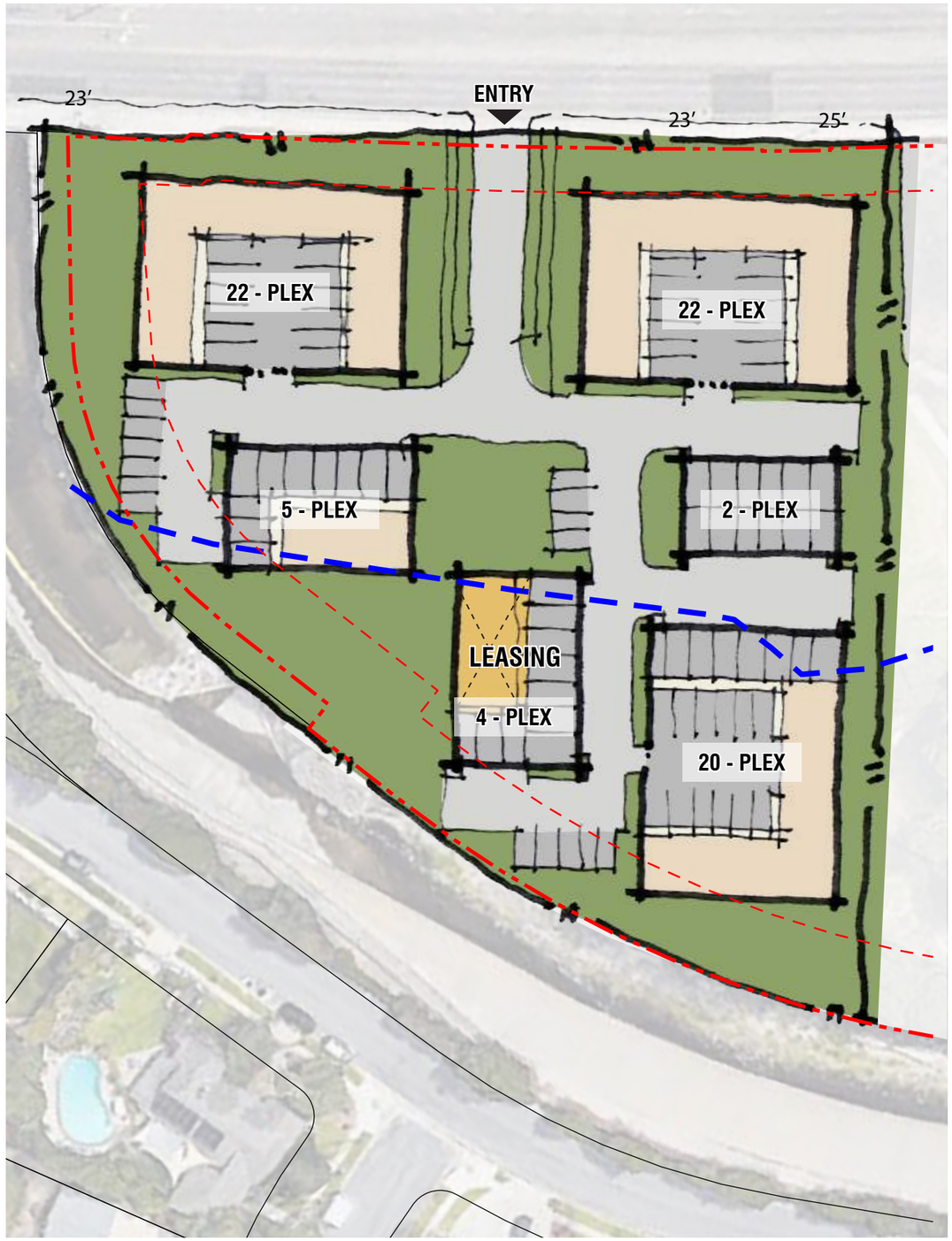
NEWPORT BEACH GOLF COURSE

SITE STUDY

TCA ARCHITECTS

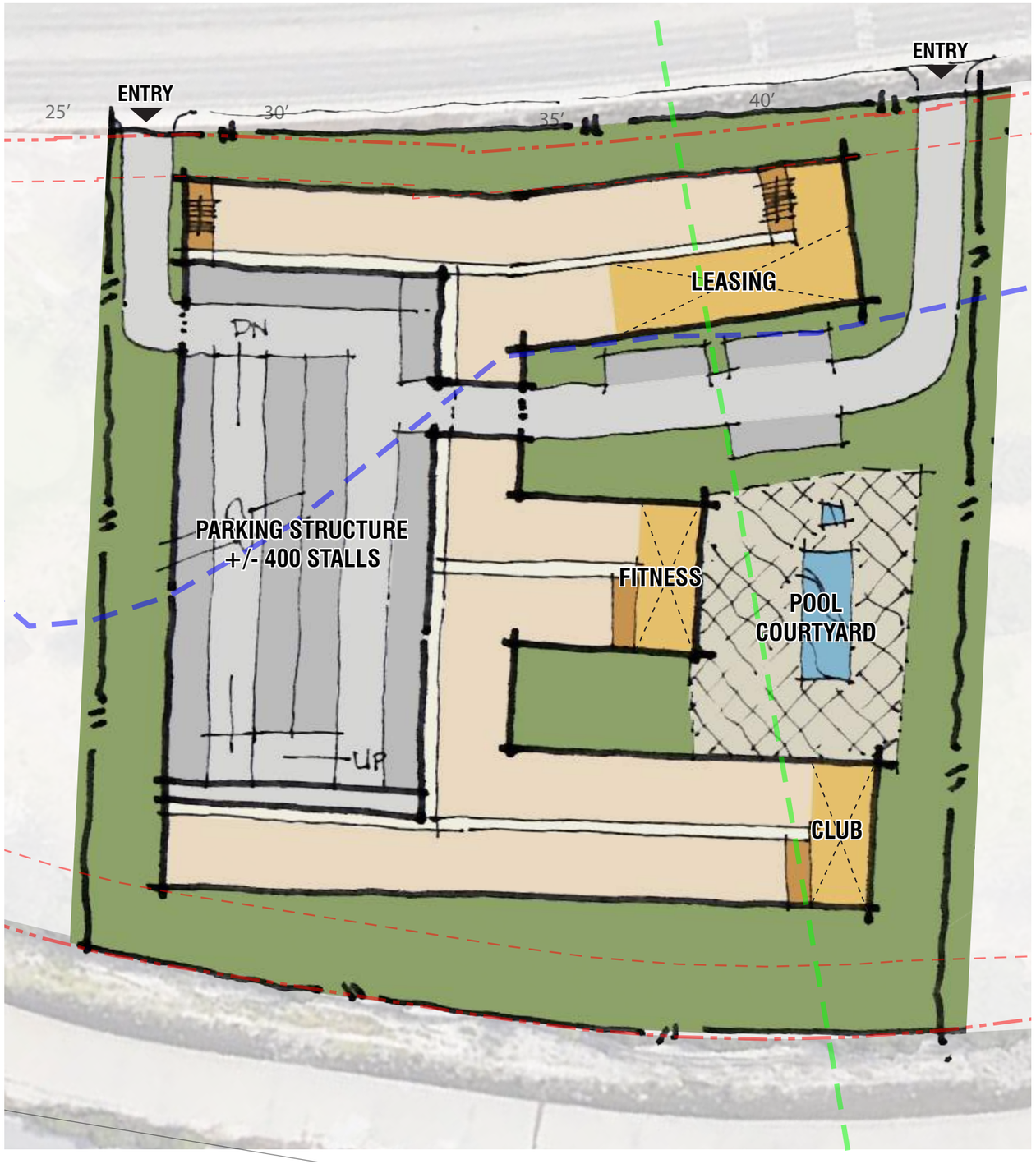



AFFORDABLE HOUSING
+/- 2.5 AC / 30 DU/AC
2/3 STORY TYPE-V
+/- 75 UNITS
AIRPORT
SAFETY ZONE 6
AIRPORT
SAFETY ZONE 2
AIRPORT
SAFETY ZONE 4
AIRPORT
SAFETY ZONE 6
23'
20' SETBACK
23'
25'
30'
35'
40'
45'
100-YEAR
FLOODPLAIN
35' FIRE LANE WITH
LANDSCAPE BUFFER
50'
20' SETBACK
50'
45'
WRAP SITE
+/- 4.0 AC / 50 DU/AC
4-STORY TYPE-V
+/- 200 UNITS
5-STORY TYPE-I GARAGE
+/- 400 PARKING SPACES
20' SETBACK
TOWNHOME SITE
+/- 5.85 AC / 17 DU/AC
+/- 100 DU
2/3-STORY TYPE-V
PARK SITE 2
+/- 1.5 AC
40'



AFFORDABLE HOUSING

SITE: +/- 2.5 AC
TOTAL UNITS: 75
DENSITY: 30 DU/AC
BUILDING TYPE: RESIDENTIAL: 2/3 STORY - TYPE V



WRAP

SITE: +/- 4.0 AC.

UNIT SUMMARY:

STUDIO: 20 DU / 10%

1-BEDROOM: 100 DU / 50%

2-BEDROOM: 80 DU / 40%

TOTAL UNITS: 200

DENSITY: 50 DU/AC

BUILDING TYPE:

RESIDENTIAL: 4-STORY TYPE-V

GARAGE: 5-STORY TYPE-I

PARKING SUMMARY:

TOTAL +/- 400 STALLS



NEWPORT BEACH GOLF COURSE
NEWPORT BEACH, CA
TCA # 2020-068

TCA ARCHITECTS

SITE STUDY

0' 30' 60' 120'

OPTION-1
TOWNHOMES

Nature of Risk

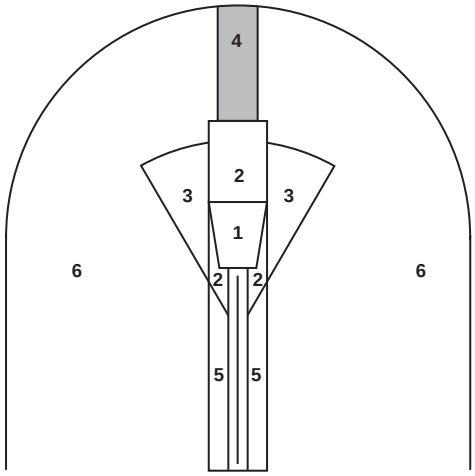
- Normal Maneuvers
  - Approaching aircraft usually at less than traffic pattern altitude. Particularly applicable for busy general aviation runways (because of elongated traffic pattern), runways with straight-in instrument approach procedures, and other runways where straight-in or straight-out flight paths are common
- Altitude
  - Less than 1,000 feet above runway
- Common Accident Types
  - Arrival: Pilot undershoots runway during an instrument approach, aircraft loses engine on approach, forced landing
  - Departure: Mechanical failure on takeoff
- Risk Level
  - Moderate
  - Percentage of near-runway accidents in this zone: 2% - 6%



LONG FINAL

Basic Compatibility Policies

- Normally Allow
  - Uses allowed in Zone 3
  - Restaurants, retail, industrial
- Limit
  - Residential uses to low density
- Avoid
  - High-intensity retail or office buildings
- Prohibit
  - Children's schools, large daycare centers, hospitals, nursing homes
  - Stadiums, group recreational uses
- Other Factors
  - Most low to moderate intensity uses are acceptable. Restrict assemblages of people
  - Consider potential airspace protection hazards of certain energy/industrial projects



Refer to Chapter 3 for dimensions.

	Maximum Residential Densities	Maximum Nonresidential Intensities	Maximum Single Acre
	Average number of dwelling units per gross acre	Average number of people per gross acre	3x the Average number of people per gross acre
Rural	See Note A	70 – 100	210 – 300
Suburban	1 per 2 - 5 ac.	100 – 150	300 – 450
Urban	See Note B	150 – 200	450 – 600
Dense Urban	See Note B	See Note B	See Note B

Note A: Maintain current zoning if less than density criteria for suburban setting.
Note B: Allow infill at up average density/intensity of comparable surrounding users.

FIGURE 4E

Safety Zone 4 – Outer Approach/Departure Zone

OCBJ.COM

ORANGE COUNTY BUSINESS JOURNAL

Vol. 49, No. 12 — THE COMMUNITY OF BUSINESS™ — March 23-29, 2026 • $5.00



Shopoff Realty Investments and the Picerne Group's One Uptown kick started the residential developments in the Newport Beach side of John Wayne Airport

Newport Beach's Airport Area Becomes New Uptown

14 Housing Projects Planned Near John Wayne

By JOSEPH PIMENTEL

NEWPORT BEACH — More than a decade ago, developer **Bill Shopoff** saw an overlooked part of Newport Beach ready for prime redevelopment.

At the time, office parks and light industrial properties dotted the Newport Beach side of **John Wayne Airport** landscape. That changed when voters approved a plan to shift the area from purely commercial use to a mixed-use district that welcomes residential development.

Special Report
Residential Real Estate page 17

In 2014, Shopoff and the **Picerne Group**'s Uptown

Newport Beach 22

Fast-Growing Karman Gets New CEO

DEFENSE: Rambeau succeeds Koblinski at $14B company

By KEVIN COSTELLOE



Jon Rambeau
New CEO
Karman Space & Defense

HUNTINGTON BEACH — Industry veteran **Jon Rambeau**, the new chief executive of **Karman Space & Defense**, says he has two very straightforward goals: strengthening national defense and advancing space exploration.

Karman, boasting a market cap close to $14 billion, is a key player in Southern California's growing military-focused sector.

"At a moment when rapid solution delivery is critical to the nation, Karman remains positioned to respond," Rambeau said in a March 12 announcement of his new post.

It's a surprising development, as Rambeau is succeeding **Tony Koblinski**, who in 2021 took over a

Karman 40

OC JV Buys Victoria Gardens for $530M

RETAIL: To spend $50M to improve Inland Empire center

By JOSEPH PIMENTEL



John Pomer,
Co-Founder &
Managing Partner
Redwood West

NEWPORT BEACH — An Orange County joint venture earlier this month acquired the Inland Empire's **Victoria Gardens** for $530 million.

The JV, led by Newport Beach-based **Redwood West** and Irvine-based **Panattoni** purchased the Rancho Cucamonga lifestyle center from **Brookfield Properties** and **Queensland Investment Corporation** in one of the largest retail transactions in Southern California in recent years. The JV plans to spend another $50

Victoria Gardens 40

Trumark Plans 'Aggressive' Expansion in SoCal

RESIDENTIAL: Homebuilder secures 750 new homesites

By JOSEPH PIMENTEL

NEWPORT BEACH — In a **Trumark Homes** boardroom, Southern California Division President **Richard Douglass** stands before a large map displaying the company's housing developments throughout the region.

Special Report
Residential Real Estate page 17

He points down to **Ocean Breeze Ranch**, where

Trumark Homes 18



Trumark housing developments across Southern California



P. 6 **TECHNOLOGY:** Robot developer FieldAI first to move to Carneige Mellon Research Center

P. 3 **POLITICS:** Pacific Symphony's Iranian concert strikes chord

THE LIST

HOMEBUILDERS

See page 26



Newport Beach

from page 1

Newport, a mixed-use project with up to 1,244 residential units, 11,500 square feet of retail space and two acres of park space at 4321 Jamboree Road, became the first big residential project approved in the city's airport district. The first phase was completed in 2019.

"We had a long vision of housing being in demand in infill locations," Shopoff, founder and chief executive of **Shopoff Realty Investments**, told the Business Journal. "Although it wasn't prime Newport Beach at the time, we felt there was a big distinction between being in Newport Beach and being just a few blocks over in Irvine."

City officials said this early project proved that housing could succeed in the area and paved the way for more proposals. There are currently 14 housing projects in the airport area in various stages of entitlements and development. If built out, these projects could add more than 4,100 units.

"That was the first project that really took advantage of the opportunities created by the city's 2006 General Plan update," said **Jaime Murillo**, Newport Beach's community development director, to the Business Journal. "It showed the potential of what could be built there and demonstrated that a high-quality residential community could work in the airport area."

Shopoff said the location is one of the biggest selling points.

"You're close to the beach, close to the heart of Newport, and you've got incredible access to the 405, the 73 and the toll roads," he said. "Anything in that airport area has great connectivity.

"Newport is the Beverly Hills of Orange County," he added. "Who wouldn't want to be here?"

The Business Journal this week is publishing its annual list of the biggest homebuilders in Orange County (see page 26).

What follows is a map showing the projects already built or under construction or being planned. ■

John Wayne Condo: $800K Average

Buyers paid a slight per-square-foot premium for a condominium near John Wayne Airport, highlighting an up-and-coming area that's poised for growth.

In 2025, the median price of a condominium near John Wayne Airport was about $800,000, or $708 per square foot, according to property data provider **Cotality**.

Meanwhile, the Orange County median sale price was about $820,000, or $641 per square foot.

In data exclusively for the Business Journal, Cotality analyzed 150 condo sales in zip codes 92660, 92612, 92617, 92626, 92627, 92614, 92707, 92782 and 92646.

Cotality officials told the Business Journal that sales volume remains limited, with about 150 independent transactions in the John Wayne Airport area in 2025, making it difficult to compare long-term trends.

—*Joseph Pimentel*



1 **THE RESIDENCES AT 4400 VON KARMAN**
DEVELOPER: The Picerne Group
ADDRESS: 4400 Von Karman Street
PROJECT: Proposed construction of a 5-story residential building (podium-style) featuring 312 apartment units (13 affordable)



2 **1500 QUAIL STREET**
DEVELOPER: Lincoln Property
ADDRESS: 1500 Quail Street
PROJECT: Proposed construction of 100, three story, three and four bedroom townhomes



3 **1300 DOVE STREET**
DEVELOPER: Lincoln Property
ADDRESS: 1301 Dove Street
PROJECT: Proposed construction of 132, three to four story, two, three and four bedroom townhomes



5 **THE PERCH RESIDENCES**
DEVELOPER: YMCA
ADDRESS: 2300 University Drive
PROJECT: Active senior living community featuring 105 rental units (21 affordable) and a 51,000-square-foot YMCA (not on map)





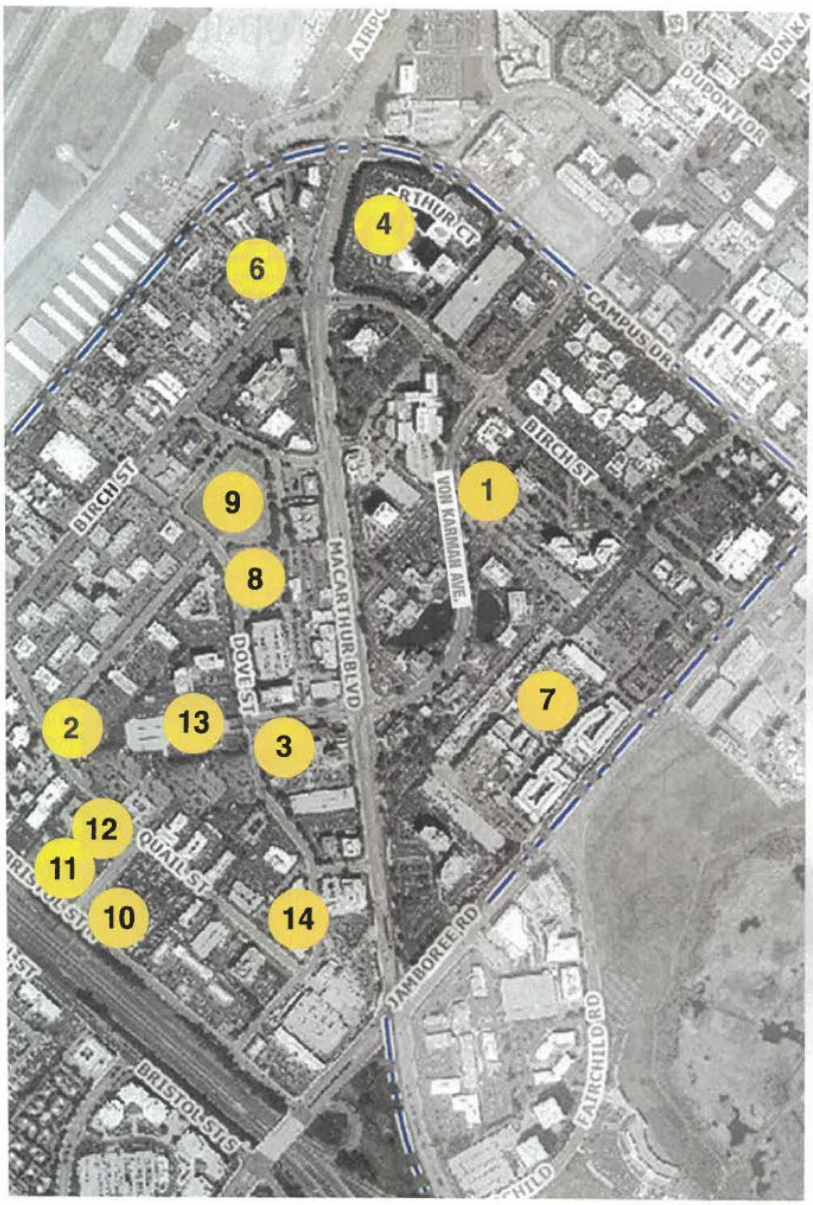
4 **MACARTHUR COURT**
DEVELOPER: Irvine Company
ADDRESS: 4665 MacArthur Court
PROJECT: Company plans to build two five to seven story towers totaling 700 residential units on the western portion of the 19-acre MacArthur Court Campus. The plan for the mixed-use project also includes one acre of publicly accessible, privately maintained open space, and would replace two low-rise office towers



6 **THE RESIDENCES AT AIRPORT VILLAGE**
DEVELOPER: The Picerne Group
ADDRESS: 4540 Campus Drive
PROJECT: Project includes the demolition of seven commercial buildings and surface parking and the construction of 444 residential rental units atop an 806-space parking structure



7 **ONE UPTOWN**
DEVELOPER: Shopoff Realty Investments and the Picerne Group
ADDRESS: 4321 Jamboree Road
PROJECT: Phase 2 of One Uptown will include 619 units, retail space and a park





1401 QUAIL RESIDENCES **10**
DEVELOPER: Intracorp
ADDRESS: 1401 Quail Street
PROJECT: Proposed six-story 67-unit for sale units (8 affordable), one, two and three bedrooms



1400 BRISTOL RESIDENCES **11**
DEVELOPER: The Picerne Group
ADDRESS: 1400 Bristol Street
PROJECT: Five story 229-unit apartment (46 affordable), studio, one to two bedrooms



1300 BRISTOL RESIDENCES **12**
DEVELOPER: The Picerne Group
ADDRESS: 1300 Bristol Street
PROJECT: Five story 350-unit apartment (78 affordable), studio, one to two bedrooms



RESIDENCES AT 1600 DOVE STREET **8**
DEVELOPER: 1600 Dove St, LP and GS 1600 Dove
ADDRESS: 1600 Dove Street
PROJECT: Predevelopment stage. Proposal to demolish a 60,600-square-foot office to build a seven-story, 282-unit apartment (28 affordable units), podium style with parking on the first level



NEWPORT CROSSINGS **9**
DEVELOPER: VLR Capital Partners
ADDRESS: 4200 Scott Drive
PROJECT: Redevelopment of the former MacArthur Square shopping center. Project includes 350 residential units, 2,000 square feet of restaurant space, 5,500 square feet of commercial space and a half-acre public park



UNNAMED **13**
DEVELOPER: Dove Property Owner/Cress Capital
ADDRESS: 1301 Dove Street
PROJECT: Proposal to demolish the existing parking structure and office building to redevelop as a 139-unit for sale townhomes

UNNAMED **14**
DEVELOPER: SBS Dove Street
ADDRESS: 901 and 1001 Dove Street
PROJECT: Application to develop and demolish existing office site to make way for 75 for sale units

Outlook

FW: Public Comment on April 2026 Agenda Item Friday 11a - City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

From SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Date Fri 4/10/2026 9:06 PM
To Cortez, Dulce@Coastal <dulce.cortez@coastal.ca.gov>
Cc Spencer, Amrita@Coastal <Amrita.Spencer@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

4 attachments (7 MB)

Golf Course_C-3590PreAnnexationAgreementforSantaAnaHeights.pdf; NBGC_owner interest and site study 2 5 2021.pdf; NB Final Housing Element Golf Course 345678.png; Golf Course_Apartment Site_FEMA Flood Map.png;

From: Linda Giedt <lclemensgiedt@gmail.com>
Sent: Friday, April 10, 2026 1:05 PM
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Subject: Public Comment on April 2026 Agenda Item Friday 11a - City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 (Housing Overlay)

You don't often get email from lclemensgiedt@gmail.com. Learn why this is important

To the California Coastal Commissioners,

RE: Opposition to Housing Opportunity (HO) Overlay for Sites 23, 24, 25, and 26 (Newport Beach Golf Course)

I am writing to formally oppose the proposed Housing Opportunity (HO) Overlay for Sites 23, 24, 25, and 26 at the Newport Beach Golf Course. Beyond the severe environmental and safety risks, this proposal represents a direct violation of a binding legal contract and a failure of the City to follow its own established rule of precedence.

1. Violation of Binding Annexation Agreement & Municipal Code (Rule of Precedence)
The proposed housing overlay for Parcels 23–26 directly violates the **Santa Ana Heights Annexation Agreement** dated September 10, 2002. This is a binding legal contract between the City of Newport Beach and the County of Orange that vested specific land-use protections for the community. Per **Newport Beach Municipal Code Section 20.12.020.D**, this annexation agreement **takes legal precedence** over any subsequent zoning changes. The City is effectively attempting to use an "overlay" to unilaterally vacate contractually protected land-use designations (Open Space and Recreation - OSR). The Commission should not certify an LCP amendment that relies on the City's violation of its own rule of precedence and the disregard of vested community rights.

2. Violation of the Airport Environs Land Use Plan (AELUP)
The proposed residential use violates the John Wayne Airport AELUP. These sites are within the 65 dB CNEL noise contour and **Safety Zones 4 and 6**. The Airport Land Use Commission (ALUC) has repeatedly found this housing plan inconsistent with state safety standards. The City's decision to

formally "overrule" these findings multiple times does not negate the physical danger of placing 693 families in an aircraft departure zone. By ignoring expert aviation warnings, the City is prioritizing density over public safety.

3. Direct Threat to the Newport Beach Back Bay & ESHA
These sites directly abut the Upper Newport Bay (Back Bay), one of the most environmentally sensitive habitat areas (ESHA) in Southern California. Development will inevitably cause "edge effects"—including light pollution, noise, and urban runoff—that will degrade this fragile ecosystem. The proposed 100-foot buffer is a numerical abstraction that cannot mitigate the permanent loss of biological connectivity between the golf course's current open space and the Back Bay's wildlife corridors.

4. Omission of Critical Information and Intent
In February 2021, the Newport Beach Golf Club LLC owners submitted a Letter of Interest to the City for sites 23, 24, 25, and 26 to be added to the Housing Element, including site plans for 693 high-density dwellings specifically for holes 3-8. This reveals that the proposed density was not a hypothetical "planning exercise" but a specific, developer-led target. The Commission cannot certify an amendment based on an incomplete environmental review that ignored the specific intensity and physical constraints of this intended use.

5. Significant Floodplain Hazards
These sites are located within a **100-Year Floodplain**. Approving high-density housing in a known flood hazard zone directly contradicts Coastal Act priorities regarding public safety and hazard avoidance. In an era of increasing climate volatility and rising sea levels, placing 693 families in a floodplain is a planning failure that the Coastal Commission must prevent.

Conclusion
The combination of contractual violations, airport safety risks, and environmental sensitivity of the Back Bay makes Sites 23–26 entirely unsuitable for a Housing Overlay. Most importantly, this would result in the permanent and irrevocable loss of public open space. Once this recreational land is converted to housing, a vital community asset and a critical environmental buffer for the Back Bay will be gone forever. I respectfully request that the Commission deny the HO Overlay for these four sites to protect the integrity of the Coastal Zone. Housing should not be the "default" for protected open space when alternative, less sensitive sites exist citywide.

Sincerely,

Linda Giedt
Newport Beach, CA

Attachements: SAH Annexation Agreement, NBGC Letter of Interest, Housing Element Site Inventory, Flood Zone Map


059C0267J
12/3/2009
ORANGE COUNTY
UNINCORPORATED AREAS
060212
CITY OF NEW
06
490
Zone A

PRE-ANNEXATION AGREEMENT

THIS AGREEMENT, is entered into the 10th day of September, 2002 by and between the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "COUNTY", the ORANGE COUNTY DEVELOPMENT AGENCY, a public body corporate and politic, hereinafter referred to as the "AGENCY", and the CITY OF NEWPORT BEACH, a charter city, hereinafter referred to as "CITY".

RECITALS:

WHEREAS, the Board of Supervisors of the COUNTY acting pursuant to the Community Redevelopment Law ("CRL") has adopted a redevelopment plan (the "Redevelopment Plan") for a portion of the unincorporated territory of the COUNTY known as Santa Ana Heights (the unincorporated territory governed by the Redevelopment Plan is referred to in this Agreement as the "Project Area"); and

WHEREAS, under the CRL, the AGENCY is responsible for implementing and administering the Redevelopment Plan; and

WHEREAS, the COUNTY has adopted the Santa Ana Heights Specific Plan to regulate land use and zoning within the Project Area (the "Specific Plan"); and

WHEREAS, the Redevelopment Plan specifies that the land uses permitted in the Project Area will be those set out in the Specific Plan; and

WHEREAS, in August 2000 the CITY amended its General Plan to include the Specific Plan; and

WHEREAS, the AGENCY and COUNTY desire that the land use and zoning regulations of the Specific Plan continue in effect in order to encourage development in the Project Area that will generate sufficient tax increment revenues to repay the redevelopment bonds issued by the AGENCY to finance capital projects in the Santa Ana Heights Project Area, and meet the AGENCY's obligation to contribute to the repayment of the COUNTY'S bankruptcy recovery bonds in accordance with the provisions of Health and Safety Code Sections 33670.9 and 33670.95; and

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COUNTY OF ORANGE

WHEREAS, the CITY is proposing to annex and/or reorganize currently unincorporated territories adjacent to or within the CITY'S western and northern sphere of influence, including a portion of the Project Area (the portion of the Project Area proposed to be annexed to the CITY is referred to in this Agreement as the "Annex Area"); and

WHEREAS, if the Annex Area is annexed to the CITY, the COUNTY and the AGENCY desire assurances from the CITY that the land use regulation applicable to the Annex Area will remain as specified in the Specific Plan and that the CITY will not amend the Specific Plan or its General Plan as they pertain to the Annex Area without the COUNTY and AGENCY'S prior written consent; and

WHEREAS, after annexation, the CITY desires that the AGENCY cooperate with the CITY in acquiring land for and constructing a fire station in the Project Area; and

WHEREAS, the COUNTY and the CITY intend that, upon the effective date of the annexation of the Annex Area to the CITY, and the CITY providing local municipal services to the Annex Area, the property tax sharing between the COUNTY and the CITY shall be 70% of the current COUNTY General Fund share of the 1% basic property tax levy to the CITY, and 30% to the COUNTY during the time the AGENCY continues to receive tax increment from the Annexed Area pursuant to Health and Safety Code Section 33670, and, once the AGENCY is no longer receiving tax increment from the Project Area, the COUNTY and CITY shall thereafter share the property tax that the COUNTY would have received if the annexation had not occurred, based on the allocation set out in the Master Property Tax Agreement between the CITY and the COUNTY, to wit: 51.9378% to the CITY and 48.0622% to the COUNTY. In addition to the above, the CITY shall receive 100% of the property tax revenues from the Annexed Area that, absent annexation, would have been apportioned to the Orange County Library District and the Orange County Fire Authority; and

WHEREAS, AGENCY is desirous of purchasing a parcel of improved real property in the Project Area, for purposes of a community center, which property will be turned over to the CITY upon the completion of the annexation of the Annex Area by the CITY; and

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COUNTY OF ORANGE

WHEREAS, CITY agrees to accept title to the property that AGENCY acquires for a community center, and thereafter use and maintain the property as a community center, and, upon CITY's acceptance of title, CITY shall pay all use and maintenance costs connected therewith.

NOW THEREFORE, in consideration of the above recitals and of the mutual covenants and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the COUNTY, AGENCY and CITY agree as follows:

1. OBJECTIVES AND INTENT.

1.1. Objectives. The objectives of this Agreement are:

1.1.1 Ensure that after the annexation of the Annex Area by the City, the land use and zoning regulations of the Specific Plan are not be amended by the CITY without the prior written consent of the COUNTY and the AGENCY.

1.1.2. Preserve the AGENCY'S tax increment revenues from the Annex Area after its annexation by the CITY in order to repay the AGENCY'S redevelopment bonds issued to finance Project Area capital projects and contribute to the repayment of the COUNTY'S bankruptcy recovery bonds.

1.1.3 Provide AGENCY cooperation and contribute AGENCY funding for the acquisition of land, (or provide AGENCY land, if suitable), for, and construction of, a fire station in the Annex Area after its annexation to the CITY.

1.1.4 To provide the Santa Ana Heights and Newport Beach residents with a suitable community center to use for community activities and programs.

1.2. Intent. The COUNTY, AGENCY and CITY, through this Agreement, intend to establish the rights, obligations and duties of each of them after the CITY'S annexation of the Annex Area in order to accomplishment the objectives of this Agreement.

2. AMENDMENT OF THE SPECIFIC PLAN WITHOUT WRITTEN CONSENT OF COUNTY AND AGENCY.

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COUNTY OF ORANGE

2.1. After the CITY's annexation of the Annex Area, the CITY shall not amend its General Plan as it pertains to the Annex Area or the Specific Plan without the prior written consent of the COUNTY and the AGENCY. The CITY also agrees that in the event of any conflict between the Redevelopment Plan and the CITY's General Plan or Specific Plan with regard to land uses or other zoning or land use regulation, the Redevelopment Plan shall prevail. Determinations as to whether such conflicts exist and their resolution shall be made by the AGENCY. COUNTY and AGENCY recognize that CITY's current effort to revise CITY's General Plan ("Update") for entirety of Newport Beach may include the Annex Area. CITY agrees that CITY's Update, where it applies to the Annex Area, shall be submitted to COUNTY and AGENCY for review and approval.

3. VARIATION FROM MASTER PROPERTY TAX AGREEMENT.

3.1. The provisions of the Master Property Tax Agreement between the COUNTY and the CITY notwithstanding:

(a) The COUNTY and the CITY agree that, upon the effective date of the annexation of the Annex Area to the CITY, and the CITY providing local municipal services to the Annex Area, the property tax sharing between the COUNTY and the CITY shall be 70% of the current (preannexation) COUNTY General Fund share of the 1% basic property tax levy to the CITY, and 30% to the COUNTY during the time the AGENCY continues to receive tax increment from the Annexed Area pursuant to Health and Safety Code Section 33670; provided, however, in the event the CITY, in violation of Section 2 above, amends its General Plan or Specific Plan without the prior written consent of the AGENCY and the COUNTY, then the property tax sharing between the COUNTY and the CITY shall be 30% of the current (preannexation)COUNTY General Fund share of the 1% basic property tax levy to the CITY, and 70% to the COUNTY.

(b) Once the AGENCY is no longer receiving tax increment from the Project Area, the COUNTY and CITY shall thereafter share the property tax that the COUNTY would have received if the annexation had not occurred, based on the allocation set out in the Master Property Tax Agreement between the CITY and the COUNTY, to wit: 51.9378% to the CITY and 48.0622% to the COUNTY, provided, however, in the event the CITY, in violation of Section 2 above, amends its General Plan or

Specific Plan without the prior written consent of the AGENCY and the COUNTY, then the property tax sharing between the COUNTY and the CITY shall be 30% of the current (preannexation)COUNTY General Fund share of the 1% basic property tax levy to the CITY, and 70% to the COUNTY.

(c) In addition to the above, the CITY shall receive 100% of the property tax revenues from the Annexed Area that, absent annexation, would have been apportioned to the Orange County Library District and the Orange County Fire Authority.

(d) COUNTY and AGENCY agree, from the effective date of this Agreement forward, AGENCY shall not issue redevelopment bonds backed by tax increment revenue from territory that includes the Annex Area unless the bonds terminate before 2036.

The CITY recognizes and acknowledges that so long as the AGENCY receives tax increment pursuant to Health and Safety Code Section 33670, the forgoing allocation of property taxes between the COUNTY and CITY applies only to those property taxes allocable to the COUNTY and CITY pursuant to subsection (a) of Health and Safety Code Section 33670 and that the balance of the property taxes form the Annex Area will be allocated to the AGENCY as tax increment pursuant to subsection (b) of Health and Safety Code Section 33670.

4. AGENCY COOPERATION TO ACQUIRE AND CONSTRUCT A FIRE STATION IN SANTA ANA HEIGHTS.

4.1. After the annexation of the Annex Area by the City, the AGENCY shall cooperate with and assist the CITY in locating and financing the acquisition of suitable land for a fire station to serve Santa Ana Heights, adjacent unincorporated areas (via mutual and automatic aid), and John Wayne Airport.

4.2. After annexation of the Annex Area by the CITY, the AGENCY shall cooperate and assist the CITY in financing the construction of a fire station to serve Santa Ana Heights, adjacent unincorporated areas (via mutual and automatic aid), and John Wayne Airport.. After its construction, the CITY, at its sole cost, will equip and operate the fire station.

4.3. The parties understand and agree that the AGENCY's financing of the costs of the land for and construction of the fire station is subject to and will require public hearings and the making of

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COUNTY OF ORANGE

findings pursuant to Health and Safety Code Sections 33445 and 33679 and that they will cooperate to hold the requisite hearings and make the findings before the Board of Supervisors of the COUNTY and City Council of the CITY so as to satisfy the requirements of Health and Safety Code Section 33445 and 33679.

5. AGENCY COOPERATION TO PROVIDE LAND FOR COMMUNITY CENTER

5.1. After the annexation of the Annex Area by the CITY, the AGENCY shall cooperate with and assist the CITY in locating and financing the acquisition of suitable land for a community center to serve the Annex Area as well as the balance of the Project Area.

5.2. Once the property for the community center property has been identified, acquired by the AGENCY and conveyed to the CITY, the CITY will, at the CITY's sole cost, make all improvements to that property necessary for its use as a community center and shall operate the property as a community center. The AGENCY deed of the property to the CITY shall contain a right of reverter giving the AGENCY the right to revest title to the property in the AGENCY in the event the CITY fails to operate the property as a community center for a period of at least six consecutive months.

5.3. The parties understand and agree that the AGENCY's financing of the costs of the land for the community center is subject to and will require the making of findings pursuant to Health and Safety Code Section 33445 and that they will cooperate to facilitate the making of the requisite findings before the Board of Supervisors of the COUNTY and City Council of the CITY so as to satisfy the requirements of Health and Safety Code Section 33445.

6. MISCELLANEOUS PROVISIONS

6.1. Entire Agreement.

This Agreement constitutes the entire Agreement between the parties with respect to the matters stated herein. All previous proposals, offers, discussions, preliminary understandings, and other communications relative to this Agreement, oral or written, are hereby superseded, except to the extent that they have incorporated into this Agreement. No exceptions, alternatives or substitutes of any of the terms, conditions and/or provisions of this Agreement shall be considered valid unless specifically agreed to in writing by both parties.

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COUNTY OF ORANGE

6.2. Amendments.

No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties.

6.3. Consent To Breach Not Waiver.

No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented.

Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

6.4. Specific Performance.

The parties acknowledge that monetary damages would be inadequate to remedy any breach of this Agreement by either party. Accordingly, the parties agree that any breach of this Agreement shall entitle the non-breaching party to file an action for specific performance in a court of competent jurisdiction. In no event shall either party be liable for monetary damages in the event of a breach of this Agreement.

6.5. Counterparts.

This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same affect as if all of the parties had executed the same instrument.

6.6. Further Actions and Instruments.

Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated by this Agreement to achieve the objectives of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgement or affidavit if reasonably required, and file or record instruments and writing. The parties shall also take any action as may be reasonably necessary under the terms of this Agreement to carry out the intent and to achieve the objectives of this Agreement.

6.7. Indemnification.

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COUNTY OF ORANGE

CITY shall defend, indemnify, and hold harmless the COUNTY, the AGENCY, and its officers, employees and agents with respect to any claim, damage, loss, cause of action, lawsuit or proceeding that arises out of or is in any way related to any act or omission by CITY or its officers, employees or agents in the performance or non-performance of any duty or obligation pursuant to this Agreement. COUNTY and AGENCY shall defend, indemnify, and hold harmless the CITY and its officers, employees and agents with respect to any claim, damage, loss, cause of action, lawsuit or proceeding that arises out of or is in any way related to any act or omission by COUNTY, AGENCY or its officers, employees, or agents in the performance or non-performance of any duty or obligation pursuant to this Agreement.

6.8. General Law and Venue.

This AGREEMENT has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this AGREEMENT, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

6.9. Waiver of Jury.

Each party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Agreement and/or any other claim of injury or damage.

6.10. Heading/Severability.

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COUNTY OF ORANGE

The various headings and numbers herein, the grouping of provisions of this Agreement into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

6.11. Interpretation.

This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Agreement by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose of the parties and this Agreement.

6.12. Authority.

The parties to this Agreement represent and warrant that this Agreement has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

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OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year dated below.

DATED: Sept. 10, 2002

COUNTY OF ORANGE, a political subdivision of the State of California

By Cynthia P. Coad
Chair of Its Board of Supervisors

"COUNTY"

and

DATED: Sept. 10, 2002
ORANGE COUNTY

DEVELOPMENT AGENCY, a public body corporate and politic

By Cynthia P. Coad
Chair of Its Board of Supervisors, Acting as the chair of the Board of the Orange County Development Agency

"AGENCY"

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD AND THE CHAIR OF THE BOARD ACTING AS THE ORANGE COUNTY DEVELOPMENT AGENCY

Robin Stieler for
DARLENE J. BLOOM
Clerk of the Board of Supervisors
County of Orange, California

APPROVED AS TO FORM:
COUNTY COUNSEL

By Robert L. Austin
Robert L. Austin, Deputy

DATED: 9/9, 2002

DATED: Dec. 17, 2002

CITY OF NEWPORT BEACH

By

OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

758\08\160800.4

Mayor of the City of Newport Beach

APPROVED AS TO FORM:

By _____

City Attorney for the City of Newport Beach

DATED: 12/16, 2002

OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE

(21) ITEM 23
C-3540(38)

NEWPORT BEACH CITY COUNCIL

August 13, 2002 Regular Meeting

TO: Members of the Newport Beach City Council

FROM: Dave Kiff, Assistant City Manager

SUBJECT: **Resolution 2002-__ and Memorandum of Understanding (MOU) Relating to Santa Ana Heights, Bay Knolls, and Emerson/Churchill Annexations**

BY THE CITY COUNCIL
CITY OF NEWPORT BEACH
AUG 13 2002
APPROVED
Res 2002-55
as amended

RECOMMENDED ACTIONS:

(1) Adopt Resolution 2002-__ relating a property tax exchange agreement for the City's pending annexation of three unincorporated areas between Newport Beach and Costa Mesa.

(2) Authorize the City Manager to enter into a Memorandum of Understanding (MOU) substantially similar to the attached draft MOU relating to the Santa Ana Heights Specific Plan and the City's operation of a fire station in Santa Ana Heights.

BACKGROUND:

State law (the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 -- Government Code §56000 *et seq.*) governs the way cities, counties, and special districts address boundary issues like incorporations, annexations, detachments, changes in "spheres of influence", mergers and consolidations, and combinations of these actions called "reorganizations." Readers can access the Act at www.leginfo.ca.gov.

The Act describes the membership and role of the Local Agency Formation Commission (LAFCO) in each county. Orange County LAFCO, a seven-member body that meets monthly in Santa Ana, addresses boundary changes for our region (www.oclafco.ca.gov).

On September 26, 2000, the City Council adopted Resolution 2000-81 directing City staff to process an annexation application for the Newport Coast, Santa Ana Heights, and the Bay Knolls community. The City filed its application to annex these territories on March 19, 2001. The Newport Coast portion of the City's annexation effort became effective January 1, 2002. The City Council added another neighborhood (about nine homes in the Emerson/Churchill tract) to its pending application on May 28, 2002, when it adopted Resolution 2002-36.

The east Santa Ana Heights and Bay Knolls/Emerson annexations are anticipated to become effective July 1, 2003 following a LAFCO hearing in September 2002.

Part I: Proposed Resolution - Property Tax Exchange Agreement. One of the last steps before LAFCO can hear the City's application for any annexation is the adoption by the City Council and the Orange County Board of Supervisors of

nearly-identical resolutions directing the transfer and allocation after annexation of the 1% Basic Levy that all property owners pay. In most of Newport Beach, the city government itself receives about 17% of the 1% Basic Levy paid by Newport Beach property owners, with the remaining 83% going to schools, community colleges, the County of Orange, and special districts.

On October 28, 1980, the City and the County of Orange entered into a Master Property Tax Transfer Agreement (MPTTA) governing the exchange of the 1% Basic Levy in future annexations. The MPTTA determines how the City and the County split that portion of the Levy that goes today to the County General Fund. The Agreement directs that the City and the County always follow the following ratio for any annexation:

0.51937804992 to the City and
0.48062195008 to the County.

In most circumstances, the MPTTA would be appropriate to use for east Santa Ana Heights and Bay Knolls/Emerson. But the County and the City - in an attempt to assist the County in "getting out of the municipal service business" - have discussed providing a small incentive for Newport Beach to also annex smaller unincorporated islands between Newport Beach and Costa Mesa that remain administered by the County's redevelopment agency ("RDA") and thus have a significant portion of their total property tax apportionments restricted (see the next section for more information about how redevelopment works).

As such, the attached resolution proposes a split different from the MPTTA for the three annexation areas, but only for the property tax base that does not go to redevelopment and only for that share of the property tax base that today goes to the County General Fund. The City and the County propose that, following annexation, the non-RDA property tax share that currently goes to the County General Fund be split in the following manner:

0.70 to the City and
0.30 to the County.

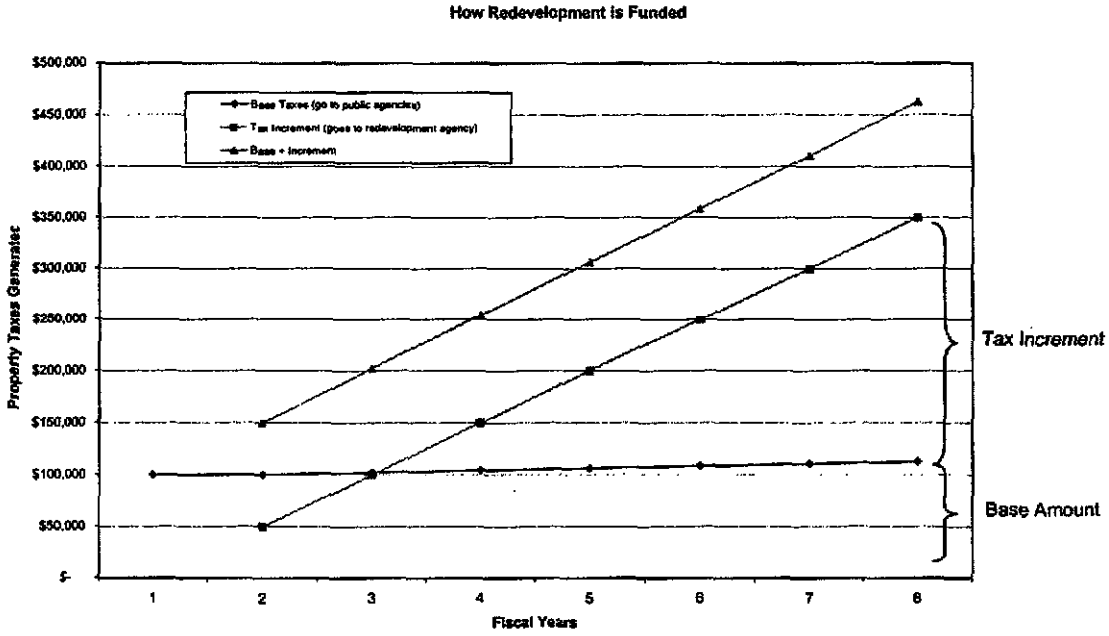
Because the County Board of Supervisors is directed by State Law to act on behalf of special districts to apportion property taxes from special purpose districts in an annexation, the proposed resolution directs the Board to also apportion 100% of the non-RDA 1% Basic Levy now received by the Orange County Fire Authority the Orange County Library District to the City upon the annexation's effective date.

And a Link to the Recent Past. In 2001, the City and the County adopted joint resolutions for the City's proposed Newport Coast annexation that directed the County to, if the City was successful in annexing Bay Knolls at a later date, provide that the property tax apportionment of the County General Fund amounts from the Newport Coast would increase to:

0.52937804992 to the City and
0.47062195008 to the County.

Part II: An MOU -- City Compliance with the Santa Ana Heights Specific Plan & the Operation of a new Fire Station. The County of Orange's redevelopment agency (called the Orange County Development Agency or OCDA) coordinates specific public works projects in many of the unincorporated islands affected by our annexation proposal. Like any redevelopment agency, OCDA funds capital projects for a "blighted" area by selling bonds based on what's called property tax "increment."

Property tax increment is the amount of property taxes generated during and after an area is redeveloped above a base amount. State law directs that property taxes at or below the base be apportioned to all of the entities that typically get property taxes -- schools, community colleges, special districts, and more. But everything above the base (with a few exceptions for growth and for schools) can be directed to a redevelopment agency. The agency then issues redevelopment bonds that will construct the improvements based on the anticipated increment.



A redevelopment agency bases its projections of increment upon an adopted redevelopment plan. The redevelopment plan typically shows where commercial, residential, or industrial properties will replace blighted areas. For the eastern Santa Ana Heights community, the redevelopment plan's zoning and land uses is reflected in the Santa Ana Heights Specific Plan.

In anticipation of annexation, on August 8, 2000, the City Council adopted Resolution 2000-73 and thereby adopted the Santa Ana Heights Specific Plan as the City's own plan for eastern Santa Ana Heights. However, to protect the County's redevelopment bonds and the anticipated flow of tax increment, the County of Orange has asked the City to confirm that the City will not rezone or redesignate land uses within the Santa Ana Heights Specific Plan without the permission and consent of the Orange County Development Agency (the Orange

County Board of Supervisors). The proposed MOU would make this confirmation.

Santa Ana Heights Fire Station. In March 2001, the City established a temporary fire station on Zenith Street serving Santa Ana Heights and the airport area when a nearby Orange County Fire Authority (OCFA) station closed in December 2000. Since that time, Chief Tim Riley and I have worked to find a site for a permanent station should the City be successful in annexing eastern Santa Ana Heights. One such location is on Birch Street in a commercially-zoned area.

The County's executive administration and the County's redevelopment agency staff are amenable to funding all or a significant part of the construction of the station provided that the City pledge to equip it, staff it, and provide traditional mutual and automatic aid to the remaining unincorporated regions around eastern Santa Ana Heights. The proposed MOU would make this commitment on the City's behalf.

THIS AGENDA ITEM:

This Agenda Item proposes the adoption of a resolution and authorization for the City Manager to execute an MOU (in substantially similar form to the attached draft MOU) relating to the City's proposed annexation of Santa Ana Heights, Bay Knolls, and the Emerson/Churchill tract:

- The Resolution agrees upon a 70% (City) and 30% (County) property tax split (but only of the base property taxes -- not the increment) for each territory. This same resolution re-affirms the City and the County's intent to give the City a slightly higher percentage of the property tax generated in the Newport Coast upon annexation of the Bay Knolls community; and
- The MOU affirms the City's intent to respect the Santa Ana Heights Specific Plan following annexation and the City's intent to equip and staff a permanent fire station in eastern Santa Ana Heights following annexation should the County use redevelopment funds to acquire land for and to construct the station.

County staff intends to place the MOU (in substantially similar form) and the Resolution on the Orange County Board of Supervisors' Agenda also in August or early September, 2002.

ATTACHMENTS:

Attachment A -- Resolution 2002-__
Attachment B -- Draft MOU

RESOLUTION 2002-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH RELATING TO A PROPERTY TAX TRANSFER AGREEMENT WITH THE COUNTY OF ORANGE ON BEHALF OF THE COUNTY, THE ORANGE COUNTY FIRE AUTHORITY, AND THE ORANGE COUNTY LIBRARY DISTRICT RELATING TO THE ANNEXATIONS OF EAST SANTA ANA HEIGHTS, BAY KNOLLS, AND THE EMERSON/CHURCHILL TRACT

WHEREAS, the City of Newport Beach has proposed the annexation and/or reorganization of territories adjacent to or within the City's western and northern sphere of influence. These territories are known as eastern Santa Ana Heights ("Santa Ana Heights"), Bay Knolls, and the Emerson/Churchill tract; and

WHEREAS, all or portions of these territories are within specific redevelopment project areas administered by the Orange County Development Agency (OCDA) which direct most property tax increment to the OCDA; and

WHEREAS, in January 2002, the City of Newport Beach annexed the Newport Coast community to Newport Beach; and

WHEREAS, in 1980, the City Council adopted a Master Property Tax Transfer Agreement with the County of Orange that directs that 0.51937804992 of the County General Fund share of the 1% Basic Levy be transferred to the City and 0.48062195008 remain with the County upon annexation of territory by the City; and

WHEREAS, on August 14 2001, the Board of Supervisors and the City Council agreed to adjust the Master Property Tax Transfer Agreement for the Newport Coast property tax apportionments upon a future annexation of the Bay Knolls area in order to assist the City of Newport Beach in funding municipal services to the Bay Knolls area because that territory falls within an OCDA project area; and

WHEREAS, because the City has its own library system and fire department, the City's share of the 1% Basic Levy from the Orange County Library System and the Structural Fire Fund or Orange County Fire Authority share will equal 100% of these agencies' respective shares; and

WHEREAS, the eastern Santa Ana Heights, Bay Knolls, and Emerson/Churchill neighborhoods, being all or in part covered by redevelopment project areas, will produce less property tax dollars for non-redevelopment public agencies than had the areas not been under redevelopment; now, therefore be it

RESOLVED by the City Council of the City of Newport Beach that the City Council hereby:

1. States that, upon the effective date of each specific annexation, the property tax transfer between the City of Newport Beach and the County of Orange General Fund will be as follows for the annexation areas known as eastern Santa Ana Heights, Bay Knolls, and Emerson/Churchill:

   - 0.70 of the County General Fund share of the non-redevelopment 1% Basic Levy be transferred to the City of Newport Beach; and
   - 0.30 shall remain with the County.

2. Accepts that, upon the effective date of the City's annexation of the Bay Knolls community, the property tax exchange for the previously-certified Newport Coast Annexation will be as follows:

   - 0.52937804992 of the County General Fund share of the 1% Basic Levy generated from the Newport Coast annexation area be transferred to the City of Newport Beach; and
   - 0.47062195008 shall remain with the County.

3. Requests that, upon the effective date of each specific annexation, 100% of the non-redevelopment property tax revenues accrued from the reorganized or annexed territory to the Orange County Library District shall be transferred to the City of Newport Beach.

4. Requests that, upon the effective date of each specific annexation, 100% of the non-redevelopment property tax revenues accrued from the reorganized or annexed territory to the Orange County Fire Authority shall be transferred to the City of Newport Beach.

ADOPTED this 13th day of August, 2002.

TOD W. RIDGEWAY
Mayor of Newport Beach

ATTEST:

LAVONNE HARKLESS
City Clerk of Newport Beach

-- DRAFT --

MEMORANDUM OF UNDERSTANDING

BETWEEN THE CITY OF NEWPORT BEACH AND THE COUNTY OF ORANGE REGARDING SANTA ANA HEIGHTS

The City of Newport Beach ("City") and the County of Orange ("County"), collectively known as the Parties, have hereby entered into this Memorandum of Understanding (MOU) on _____, 2002 ("Effective Date") in regards to the following issues in eastern Santa Ana Heights ("SAH"):

1. City has proposed the annexation and/or reorganization of territories adjacent to or within the City's western and northern sphere of influence. These territories are known as eastern SAH, Bay Knolls, and the Emerson/Churchill tract; and

2. County, operating as the Orange County Development Agency ("OCDA"), has adopted and confirmed a Redevelopment Plan ("Plan") for the SAH community; and

3. County has adopted the SAH Specific Plan ("Specific Plan") which describes the land use and zoning associated with the eastern SAH community; and

4. In August 2000, City amended its General Plan to include the Specific Plan in City's General Plan; and

5. The redevelopment plan relies upon the land uses and zoning described in the Specific Plan to derive the property tax increment revenue needed to pay back redevelopment bonds issued for capital projects in the SAH Project Area; and

6. County seeks City's assurance that it will respect the land use designations and zoning within the Specific Plan so that the Plan can continue to provide the tax increment revenue upon which the redevelopment bonds rely; and

7. The Plan and State Law describe various capital improvements that can be constructed with redevelopment funds; and

8. City has previously expressed its desire to have the OCDA acquire land for and construct a fire station at a suitable site in Santa Ana Heights and that following OCDA or private sector construction of such a facility and following City's annexation of the territory, City would equip and operate the station on behalf of eastern Santa Ana Heights, the Airport Area, and the remaining unincorporated areas (via existing mutual and automatic aid agreements);

Now, therefore, the Parties agree as follows:

1. City will respect, protect, and not amend without the written consent of County, the land use designations and zoning within the Specific Plan so that the Plan will continue to

support adequate property tax generation used to pay principal and interest on redevelopment bonds issued for the purposes of capital projects within the Project Area;

2. City and County will support OCDA's use of redevelopment funds for the acquisition of land and the costs of construction of a permanent fire station in eastern Santa Ana Heights;

3. City shall, following construction and following annexation, equip and staff the station in a manner that serves the residents and businesses of eastern Santa Ana Heights, the Airport Area, and nearby unincorporated areas pursuant to existing automatic aid and mutual aid agreements.

IN WITNESS WHEREOF, County and City have caused this Memorandum of Understanding to be executed the day and year first above written.

CITY OF NEWPORT BEACH
a municipal corporation.

_____
Homer L. Bludau, City Manager

APPROVED AS TO FORM:

_____
Robert L. Burnham, City Attorney

COUNTY OF ORANGE

_____
Dr. Michael Schumacher, County Executive Officer

APPROVED AS TO FORM:

_____
Benjamin DeMayo, County Counsel

RESOLUTION 2002-55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH RELATING TO A PROPERTY TAX TRANSFER AGREEMENT WITH THE COUNTY OF ORANGE ON BEHALF OF THE COUNTY, THE ORANGE COUNTY FIRE AUTHORITY, AND THE ORANGE COUNTY LIBRARY DISTRICT RELATING TO THE ANNEXATIONS OF EAST SANTA ANA HEIGHTS, BAY KNOLLS, AND THE EMERSON/CHURCHILL TRACT

WHEREAS, the City of Newport Beach has proposed the annexation and/or reorganization of territories adjacent to or within the City's western and northern sphere of influence. These territories are known as eastern Santa Ana Heights ("Santa Ana Heights"), Bay Knolls, and the Emerson/Churchill tract; and

WHEREAS, all or portions of these territories are within specific redevelopment project areas administered by the Orange County Development Agency (OCDA) which direct most property tax increment to the OCDA; and

WHEREAS, in January 2002, the City of Newport Beach annexed the Newport Coast community to Newport Beach; and

WHEREAS, in 1980, the City Council adopted a Master Property Tax Transfer Agreement with the County of Orange that directs that 0.51937804992 of the County General Fund share of the 1% Basic Levy be transferred to the City and 0.48062195008 remain with the County upon annexation of territory by the City; and

WHEREAS, on August 14 2001, the Board of Supervisors and the City Council agreed to adjust the Master Property Tax Transfer Agreement for the Newport Coast property tax apportionments upon a future annexation of the Bay Knolls area in order to assist the City of Newport Beach in funding municipal services to the Bay Knolls area because that territory falls within an OCDA project area; and

WHEREAS, because the City has its own library system and fire department, the City's share of the 1% Basic Levy from the Orange County Library System and the Structural Fire Fund or Orange County Fire Authority share will equal 100% of these agencies' respective shares; and

WHEREAS, the eastern Santa Ana Heights, Bay Knolls, and Emerson/Churchill neighborhoods, being all or in part covered by redevelopment project areas, will produce less property tax dollars for non-redevelopment public agencies than had the areas not been under redevelopment; now, therefore be it

RESOLVED by the City Council of the City of Newport Beach that the City Council hereby:

1. States that, upon the effective date of each specific annexation, the property tax transfer between the City of Newport Beach and the County of Orange General Fund will be as follows for the annexation areas known as eastern Santa Ana Heights, Bay Knolls, and Emerson/Churchill:

   - 0.70 of the County General Fund share of the non-redevelopment 1% Basic Levy be transferred to the City of Newport Beach; and
   - 0.30 shall remain with the County.
   - The property tax transfer will revert to the ratio specified in the Master Property Tax Agreement at the time when the Orange County Development Agency ceases to collect tax increment from the areas subject to this annexation. Said ratio is as follows: 0.51937804992 of the County General Fund share of the 1% Basic Levy be transferred to the City and 0.48062195008 remain with the County.

2. Accepts that, upon the effective date of the City's annexation of the Bay Knolls community, the property tax exchange for the previously-certified Newport Coast Annexation will be as follows:

   - 0.52937804992 of the County General Fund share of the 1% Basic Levy generated from the Newport Coast annexation area be transferred to the City of Newport Beach; and
   - 0.47062195008 shall remain with the County.

3. Requests that, upon the effective date of each specific annexation, 100% of the non-redevelopment property tax revenues accrued from the reorganized or annexed territory to the Orange County Library District shall be transferred to the City of Newport Beach.

4. Requests that, upon the effective date of each specific annexation, 100% of the non-redevelopment property tax revenues accrued from the reorganized or annexed territory to the Orange County Fire Authority shall be transferred to the City of Newport Beach.

ADOPTED this 13th day of August, 2002.

Tod W. Ridgeway

TOD W. RIDGEWAY
Mayor of Newport Beach

ATTEST:

LaVonne M. Harkless

LAVONNE HARKLESS
City Clerk of Newport Beach

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LaVonne M. Harkless, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2002-55 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 13th day of August, 2002, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Heffernan, O'Neil, Bromberg, Glover, Adams, Proctor, Mayor Ridgeway

Noes: None

Absent: None

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 14th day of August, 2002.

LaVonne M. Harkless
City Clerk
Newport Beach, California

(Seal)

From: Brett Feuerstein <brett@mesacenters.com>
Sent: Friday, February 5, 2021 3:40 PM
To: Jurjis, Seimone
Cc: Campbell, Jim; Housing Element Update Advisory Committee; Tucker, Larry
Subject: Newport Beach Golf Course- 3100 Irvine Ave.
Attachments: Site Study.pdf; California Airport Land Use Planning Handbook - Allowable Densities (Zone 4).pdf

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Mr. Jurjis and Mr. Campbell:

Thank you for all of your efforts and work that went into the subcommittee report regarding projects in the 65 CNEL. I would like to submit the attached plan as a potential project for the City to consider as part of the updated Housing Element. We are very excited to participate in this update. Through much study regarding the goals of the City, the policies of the airport, as well as the financial needs for the development to occur, we believe that we have come up with an ideal residential project, as well as providing a 1.5 acre park for the community. The attached plan shows a majority of the denser development in Zone 6 with a little of the multifamily spilling over into Zone 4 (see attached plan to see where Zone 4 and 6 actually are). This portion of the property includes approximately 200 multifamily units as well as 75 affordable units. In Zone 4 which per the airport guidelines allows an "average density/intensity of comparable surrounding users" (see attached for exact language for residential use pertaining to urban areas) we have shown townhomes at approx. 17 du/ac, for a total of approximately 100 units. With the neighboring uses including; single family residential, multifamily residential, commercial center, golf course and office buildings, we thought that townhomes would make sense in Zone 4 and allow the City to get a significant numbers of units. In addition in Zone 4 we placed the 1.5 acre park since obviously that is the least dense use and helps offset the other development in Zone 4. I would love to discuss with you and see if there is anything else that the City would like to see on the property.

Sincerely,

Brett Feuerstein
Newport Golf Club, LLC

Attachment I

Coastal Commission Approval Letter and Suggested Modifications

CALIFORNIA COASTAL COMMISSION
SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD, SUITE 300
LONG BEACH, CA 90802-4325
VOICE (562) 590-5071
FAX (562) 590-5084

May 15, 2026

City of Newport Beach
Planning Department
Jamie Murillo, Deputy Community Development Director
100 Civic Center Drive
Newport Beach, CA 92660

RE: REVISED City of Newport Beach Local Coastal Program (LCP) Amendment No. LCP-5-NPB-24-0032-2, 6th Cycle Housing Element.

Dear Mr. Murillo,

You are hereby notified that the California Coastal Commission, at its April 17, 2026, meeting, approved the City of Newport Beach Local Coastal Program (LCP) Amendment No. LCP-5-NPB-24-0032-2 with suggested modifications. Amendment No. LCP-5-NPB-24-0032-2, which was submitted pursuant to City Council Resolution No. 2024-52, incorporates changes to both the Certified Local Coastal Plan (LCP) and the Implementation Plan (IP) portion of the LCP to establish a Housing Opportunity (HO) overlay, on selected parcels within the coastal zone to facilitate residential development.

The Commission approved the LCP Amendment with suggested modifications. Thus, the Amendment will become final once: 1) The City of Newport Beach City Council adopts the Commission's suggested modifications, 2) the City of Newport Beach City Council forwards the adopted suggested modifications to the Commission by Resolution, and 3) the Executive Director certifies that the City has complied with the Commission's April 17, 2026, action. The Coastal Act requires that the City's adoption of the suggested modifications be completed within six (6) months of the Commission's action.

Pursuant to the Commission's action on April 17, 2026, certification of the City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2 is subject to the attached Suggested Modifications (Attachment A).

Thank you for your cooperation and we look forward to working with you and your staff in the future. Please email me at dulce.cortez@coastal.ca.gov if you have any questions regarding the modifications required for effective certification of City of Newport Beach LCP Amendment No. LCP-5-NPB-24-0032-2.

Sincerely,

Dulce Cortez
Dulce Cortez
Coastal Program Analyst

cc: File
Ben Zdeba, City of Newport Beach

Attachment A: Suggested Modifications to Amendment No. LCP-5-NPB-24-0032-3

Certification of City of Newport Beach Local Coastal Program (LCP) Amendment No. LCP-5-NPB-24-0032-2 is subject to the following modifications.

Text added by the suggested modification is **bold and underlined**, and text suggested to be deleted is ~~struck through~~. Only those subjections of the LCP for which modifications are being suggested are shown below.

Suggested Modification 1:

CLUP Policy 2.1.11-1 shall be modified as follows:

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 6th 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:

- 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 entire area, inclusive of those properties in the Coastal Zone.
- ~~**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 entire area, inclusive of those properties in the Coastal Zone.**~~
- 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 entire area, inclusive of those properties in the Coastal Zone.
- 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 entire area, inclusive of those properties in the Coastal Zone.

Suggested Modification 2:

CLUP Policy 2.1.11-2 shall be modified as follows:

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. **However, for properties with base designations of either Visitor Serving Commercial or Parks and Recreation, any**

housing project shall be required to retain or replace existing higher priority Coastal Act uses with an on-site functionally equivalent use that maintains comparable visitor peak use intensity and public availability. Replacement of any existing priority use with a new priority use that provides lower-cost and/or no-cost coastal access is preferred. 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 for the various overlay coastal zoning districts 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.

Suggested Modification 3:

IP Subsection 21.28.070(A) shall be modified as follows:

1. 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.~~ **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 16th Street, Production Place, and 15th Street.**~~

    ~~3.~~ **2.** 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.~~ **3.** HO-4 - Newport Center Area – The Newport Center Area is generally bounded by San Joaquin Hills Road, MacArthur Blvd, Coast Highway, and Jamboree Road.

IP Table 21.28-1 shall be modified as follows:

TABLE 21.28-1
DEVELOPMENT STANDARDS FOR HOUSING OPPORTUNITY OVERLAY ZONES

Development Feature	Housing Opportunity Subareas			
	HO-1	~~**HO-2**~~	HO-3	HO-4
Lot Size/Dimension	Per Base Zone			

Lot area required per unit (sq. ft.)[1]	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)		
Setbacks				
Front	0 ft.(2)	~~**10 ft.**~~(2)	10 ft.(2)(3)	0(2)
Rear	0	~~**20 ft.**~~	20 ft.	0
Side	0' (4)			
Street Side	0(2)	~~**10 ft.**~~(2)	10 ft.(2)	0 ft.(2)
Height	Per Base Zone unless otherwise identified on the map	~~**65 ft.**~~	65 ft.(5)	Per Base Zone~~(6)~~ **(8) unless otherwise identified on map**
Building Separation	10 ft.			
Floor Area Ratio (FAR)	No restriction(6)			
Common Open Space(7)	Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)			
Private Open Space**(7)**	5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)			
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Section 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).			
Lighting	See Section 21.30.070 (Outdoor Lighting).			
Parking	See Subsection (D)(2) below and Chapter 21.40 (Off-Street Parking).			
Signs	See Chapter 21.30.065 (Sign Standards).			

(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.
(8) "Base Zone" includes all height limitations by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).

IP Subsection 21.28.070(C) shall be modified as follows:

~~**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.**~~

IP Section 21.80.032 (Housing Opportunity Overlay Districts Maps) shall be modified as follows:

HO-1 - Airport Area Environs Area (PDF)
~~**HO-2 - West Newport Mesa Area (PDF)**~~
HO-3 - Dover-Westcliff Area (PDF)
HO-4 - Newport Center Area (PDF)

Suggested Modification 4:

IP Table 21.14-1 shall be modified as follows:

Coastal Zoning Map Symbol	**Coastal Zoning Districts**	**Coastal Land Use Plan Designations Implemented by Zoning Districts**	
Overlay Coastal Zoning Districts			
MHP	Mobile Home Park	RM	Multiple-Unit Residential
PM	Parking Management	All designations	
B	Bluff	All designations	
C	Canyon	RS, RM	Single-Unit Residential Multiple-Unit Residential
H	Height	RM	Multiple-Unit Residential
HO	**Housing Opportunity**	**Varies**	**Varies**

Suggested Modification 5:

Subsection 21.28.070(B) shall be modified as follows:

4. Residential supporting uses such as leasing/sales/property management offices, fitness facilities, recreation facilities, etc.; and

5. **Residential uses permitted under this section shall harmonize with the Coastal Act's priority uses, including visitor-serving, marine-related, public-serving, or recreational uses, and shall retain or provide functionally equivalent uses, as measured by comparable visitor peak use intensity and public availability.**

Suggested Modification 6:

Subsection 21.28.070(C)(2) shall be modified as follows:

d. Housing Opportunity Sites 23, 24, 25 and 26. A residential or mixed-use development encompassing Housing Opportunity Sites 23, 24, 25, and 26 shall include a free to access public park ~~or~~ /public recreational opportunity, which shall comply with Subsection 21.28.070(D)(4) and ~~that~~ conforms to all the following:

1. **A minimum 50 ~~ft~~ foot ESHA buffer measured from the outermost extent of the riparian or wetland vegetation, whichever extends furthest from the channel shall be provided. For a minimum 10-year period, the buffer shall be measured from the outermost extent of the vegetation established as part of the Santa Ana Delhi Channel Improvement Project proposed by the Orange County Flood Control District. The 50 ~~ft~~ foot buffer shall be consistent with 21.30B.30 (D); however, the exceptions criteria for smaller ESHA buffers shall not apply. Further, a path sited, designed, constructed and operated in a manner that minimizes impacts to ESHA and other coastal resources may be permitted within the 50 ~~ft~~ foot ESHA buffer where needed to maintain the channel and/or provide for public access and recreation.**

2. **An additional 50 ~~ft.~~foot buffer measured from the outermost extent of the ESHA buffer shall also be provided consistent with 21.30B.30 (E). This transitional buffer may be used to accommodate a free, low-impact public recreational opportunity. At a minimum, such public recreational opportunity shall include a contiguous open space corridor along the entire length of the Santa Ana Delhi Channel located adjacent to the subject properties that is of sufficient width to accommodate a 100 ~~ft.~~foot biological buffer, separately and contiguously, to protect habitat in and along the channel. Such recreational opportunity shall also provide public access and recreational open space that will accommodate passive and active public recreational opportunities including, but not limited to continuous pedestrian/cycling trail, benches, drinking fountains and/or water fill stations, picnic tables, shade structures and fitness/exercise equipment.**

3. **In the event the Santa Ana Delhi Channel Improvement Project does not occur there shall be a minimum 100 ~~ft.~~ foot wide corridor along the channel that extends from the top of the channel bank to be used for the free, low-impact coastal access and public recreational opportunity described in subsection B. above.**

Suggested Modification 7:

Subsection 21.28.070(D) shall be modified as follows:

3. **Visitor-Serving Commercial, Marine-Related Uses, or Visitor Accommodations. For sites with base designations intended for Visitor-**

Serving Commercial, Marine-Related Uses, or Overnight Visitor Accommodations, any existing uses consistent with the intent of those designations shall be retained, replaced, or expanded where feasible, with a functionally equivalent use in terms of comparable visitor peak use intensity and public availability. No hotel, motel, or other overnight visitor accommodations shall be converted or replaced with residential use.

4. **Parks and Recreation or Open Space- Uses. For sites with base designations intended for Parks and Recreation or Open Space, any existing uses consistent with the intent of those designations shall be retained, replaced or expanded where feasible, with a functionally equivalent use in terms of comparable visitor peak use intensity and public availability. When there is a proposed replacement of any existing priority use with a new priority use, a use that provides lower-cost and/or no-cost visitor-serving and coastal access is preferred.**

5. **All housing projects within the Housing Opportunity (HO) Overlay Coastal Zoning District shall demonstrate consistency with:**

    a. **Section 21.30.015 (General Site and Development Standards);**
    b. **Section 21.30.030 (Natural Landform and Shoreline Protection);**
    c. **Section 21.30.100 (Scenic and Visual Quality Protection);**
    d. **Section 21.30.105 (Cultural Resource Protection); and**
    e. **Chapter 21.30B (Habitat Protection).**

Attachment J

Redline-Strikeout with Suggested Modifications

REDLINE-STRIKEOUT: SUGGESTED MODIFICATIONS

COASTAL LAND USE PLAN AMENDMENT

I. Policy 2.1.2-1 of the CLUP is hereby modified as follows:

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.

II. Policy 2.1.10-1 of the CLUP is hereby modified as follows:

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.

III. New Policy 2.1.11-1 is hereby incorporated in the CLUP in series and shall read as follows:

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 6th 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:

- 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 entire area, inclusive of those properties in the Coastal Zone.

- ~~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 entire area, inclusive of those properties in the Coastal Zone.~~

- 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 entire area, inclusive of those properties in the Coastal Zone.

- 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 entire area, inclusive of those properties in the Coastal Zone.

IV. New Policy 2.1.11-2 is hereby incorporated in the CLUP in series and shall read as follows:

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. However, for properties with base designations of either Visitor Serving Commercial or Parks and Recreation, any housing project shall be required to retain or replace existing higher priority Coastal Act uses with an on-site functionally equivalent use that maintains comparable visitor peak use intensity and public availability. Replacement of any existing priority use with a new priority use that provides lower-cost and/or no-cost coastal access is preferred. 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 for the various overlay coastal zoning districts 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.

V. New Policy 2.1.11-3 is hereby incorporated in the CLUP in series and shall read as follows:

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.

VI. New Policy 2.1.11-4 is hereby incorporated in the CLUP in series and shall read as follows:

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).

TITLE 21 AMENDMENT

I. The title and section listing of Chapter 21.28 are hereby revised to include the Housing Opportunity (HO) Overlay Coastal Zoning Districts as follows:

Chapter 21.28

OVERLAY COASTAL ZONING DISTRICTS (MHP, PM, B, C, 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 Special Flood Hazard Area (VE) Overlay District.
21.28.080 Housing Opportunity (HO) Overlay Coastal Zoning Districts.

II. Section 21.28.010 (Purpose of Overlay Coastal Zoning Districts) is hereby amended to include the HO Overlay Coastal Zoning Districts to read as follows:

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.

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).

III. Section 21.28.080 (Housing Opportunity (HO) Overlay Coastal Zoning Districts) is hereby added to read as follows:

21.28.080 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 16th Street, Production Place, and 15th Street.~~

~~3.~~2. 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.~~3. 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.; and

5. Residential uses permitted under this section shall harmonize with the Coastal Act's priority uses, including visitor-serving, marine-related, public-serving, or recreational uses, and shall retain or provide functionally equivalent uses, as measured by comparable visitor peak use intensity and public availability.

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

	Housing Opportunity Subareas			
Development Feature	HO-1	~~HO-2~~	HO-3	HO-4
Lot Size/Dimension	Per Base Zone			
Lot area required per unit (sq. ft.)[1]	Minimum: 2,178 (20 du/ac) Maximum: 871 (50 du/ac)			
Setbacks				
Front	0 ft.(2)	~~10 ft.~~((3)	10 ft.(2)(3)	0(2)
Rear	0	~~20 ft.~~	20 ft.	0
Side	0' (4)			
Street Side	0(2)	~~10 ft.~~(2)	10 ft.(2)	0 ft.(2)

Height	Per Base Zone unless otherwise identified on the map	~~65 ft.~~	65 ft.(5)	Per Base Zone~~(6)~~(8), unless otherwise identified on the map
Building Separation	10 ft.			
Floor Area Ratio (FAR)	No restriction(6)			
Common Open Space(7)	Minimum 75 square feet/dwelling unit. (The minimum dimension [length and width] shall be 15 feet.)			
Private Open Space(7)	5% of the gross floor area for each unit. (The minimum dimension [length and width] shall be 6 feet.)			
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Section 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).			
Lighting	See Section 21.30.070 (Outdoor Lighting).			
Parking	See Subsection (D)(2) below and Chapter 21.40 (Off-Street Parking).			
Signs	See Chapter 21.30.065 (Sign Standards).			

(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.
(8) "Base Zone" includes all height limitations by the Sight Plane Ordinance (Ordinance No. 1371 and Ordinance No. 1596).

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.

d. Housing Opportunity Sites 23, 24, 25 and 26. A residential or mixed-use development encompassing Housing Opportunity Sites 23, 24, 25, and 26 shall include a free to access public park or public recreational opportunity, which shall comply with Subsection 21.28.070(D)(4) and that conforms to all the following:

i. A minimum 50-foot ESHA buffer measured from the outermost extent of the riparian or wetland vegetation, whichever extends furthest from the channel shall be provided. For a minimum 10-year period, the buffer shall be measured from the outermost extent of the vegetation established as part of the Santa Ana Delhi Channel Improvement Project proposed by the Orange County Flood Control District. The 50-foot buffer shall be consistent with 21.30B.30(D); however, the exceptions criteria for smaller ESHA buffers shall not apply. Further, a path sited, designed, constructed and operated in a manner that minimizes impacts to ESHA and other coastal resources may be permitted within the 50-foot ESHA buffer where needed to maintain the channel and/or provide for public access and recreation.

ii. An additional 50-foot buffer measured from the outermost extent of the ESHA buffer shall also be provided consistent with 21.30B.30(E). This transitional buffer may be used to accommodate a free, low-impact public

recreational opportunity. At a minimum, such public recreational opportunity shall include a contiguous open space corridor along the entire length of the Santa Ana Delhi Channel located adjacent to the subject properties that is of sufficient width to accommodate a 100-foot biological buffer, separately and contiguously, to protect habitat in and along the channel. Such recreational opportunity shall also provide public access and recreational open space that will accommodate passive and active public recreational opportunities including, but not limited to continuous pedestrian/cycling trail, benches, drinking fountains and/or water fill stations, picnic tables, shade structures and fitness/exercise equipment.

iii. In the event the Santa Ana Delhi Channel Improvement Project does not occur there shall be a minimum 100-foot-wide corridor along the channel that extends from the top of the channel bank to be used for the free, low-impact coastal access and public recreational opportunity described in subsection (B) above.

~~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

Land Use	Subtype	Parking Requirement
Residential (Rental)	Studio	1.1 spaces per dwelling unit
	1 Bedroom	1.5 spaces per dwelling unit
	2 Bedrooms	1.8 spaces per dwelling unit

	3 Bedrooms Visitor Parking	2.0 spaces per dwelling unit 0.3 spaces per dwelling unit
Residential (Ownership)	Studio 1 Bedroom 2 Bedrooms 3 Bedrooms Visitor Parking	1.4 spaces per dwelling unit 1.8 spaces per dwelling unit 1.8 spaces per dwelling unit 2.0 spaces per dwelling unit 0.3 spaces per dwelling unit

3. Visitor-Serving Commercial, Marine-Related Uses, or Visitor Accommodations. For sites with base designations intended for Visitor-Serving Commercial, Marine-Related Uses, or Overnight Visitor Accommodations, any existing uses consistent with the intent of those designations shall be retained, replaced, or expanded where feasible, with a functionally equivalent use in terms of comparable visitor peak use intensity and public availability. No hotel, motel, or other overnight visitor accommodations shall be converted or replaced with residential use.

4. Parks and Recreation or Open Space-Uses. For sites with base designations intended for Parks and Recreation or Open Space, any existing uses consistent with the intent of those designations shall be retained, replaced or expanded where feasible, with a functionally equivalent use in terms of comparable visitor peak use intensity and public availability. When there is a proposed replacement of any existing priority use with a new priority use, a use that provides lower-cost and/or no-cost visitor-serving and coastal access is preferred.

5. All housing projects within the Housing Opportunity (HO) Overlay Coastal Zoning District shall demonstrate consistency with:

a. Section 21.30.015 (General Site and Development Standards);

b. Section 21.30.030 (Natural Landform and Shoreline Protection);

c. Section 21.30.100 (Scenic and Visual Quality Protection);

d. Section 21.30.105 (Cultural Resource Protection); and

e. Chapter 21.30B (Habitat Protection).

IV. Chapter 21.80 (Maps) is hereby revised to incorporate Section 21.80.032 (Housing Opportunity Overlay Districts Maps) as follows:

21.80.032 Housing Opportunity Overlay Districts Maps.

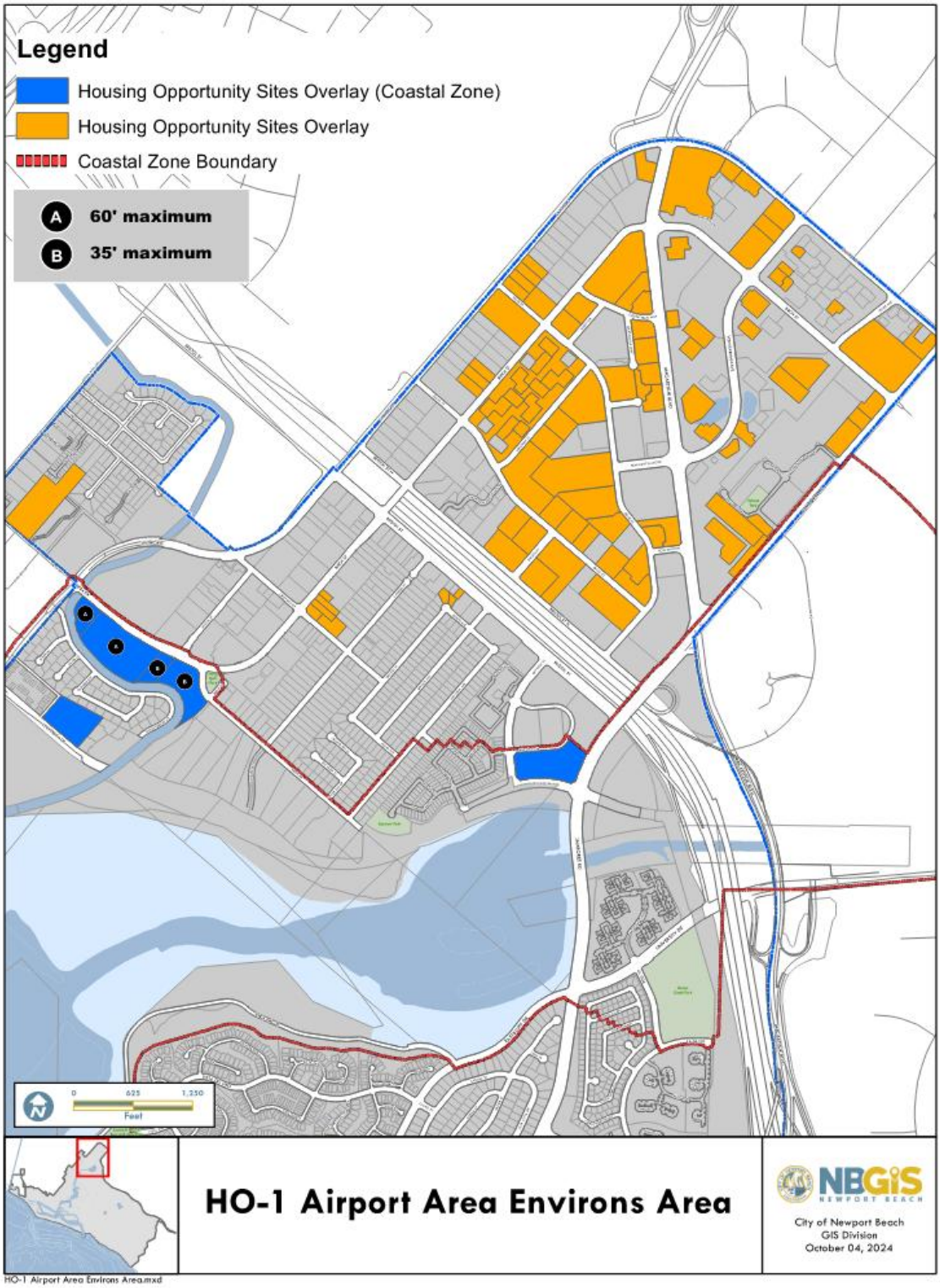
HO-1 - Airport Area Environs Area (PDF)

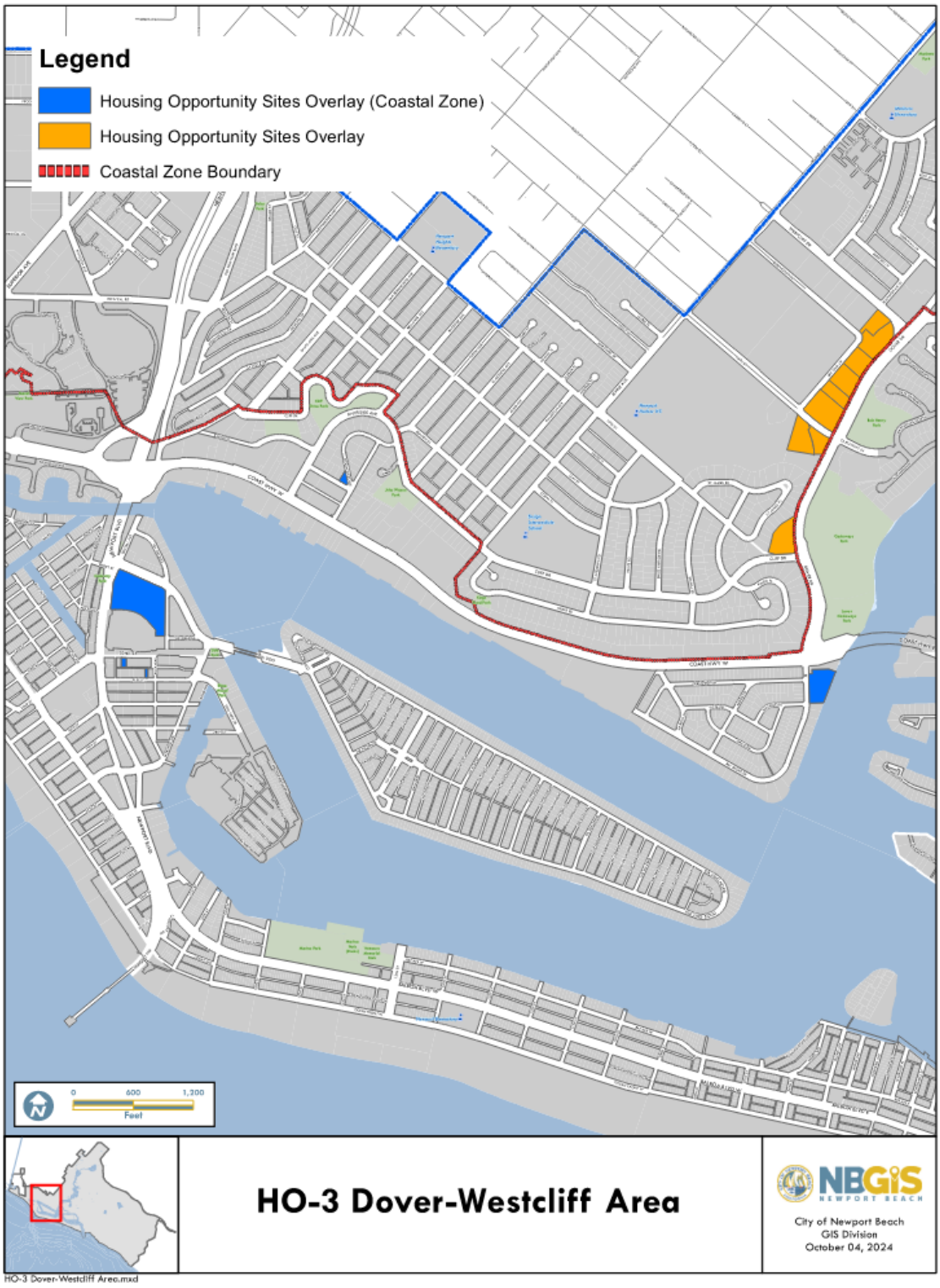
~~HO-2 - West Newport Mesa Area (PDF)~~

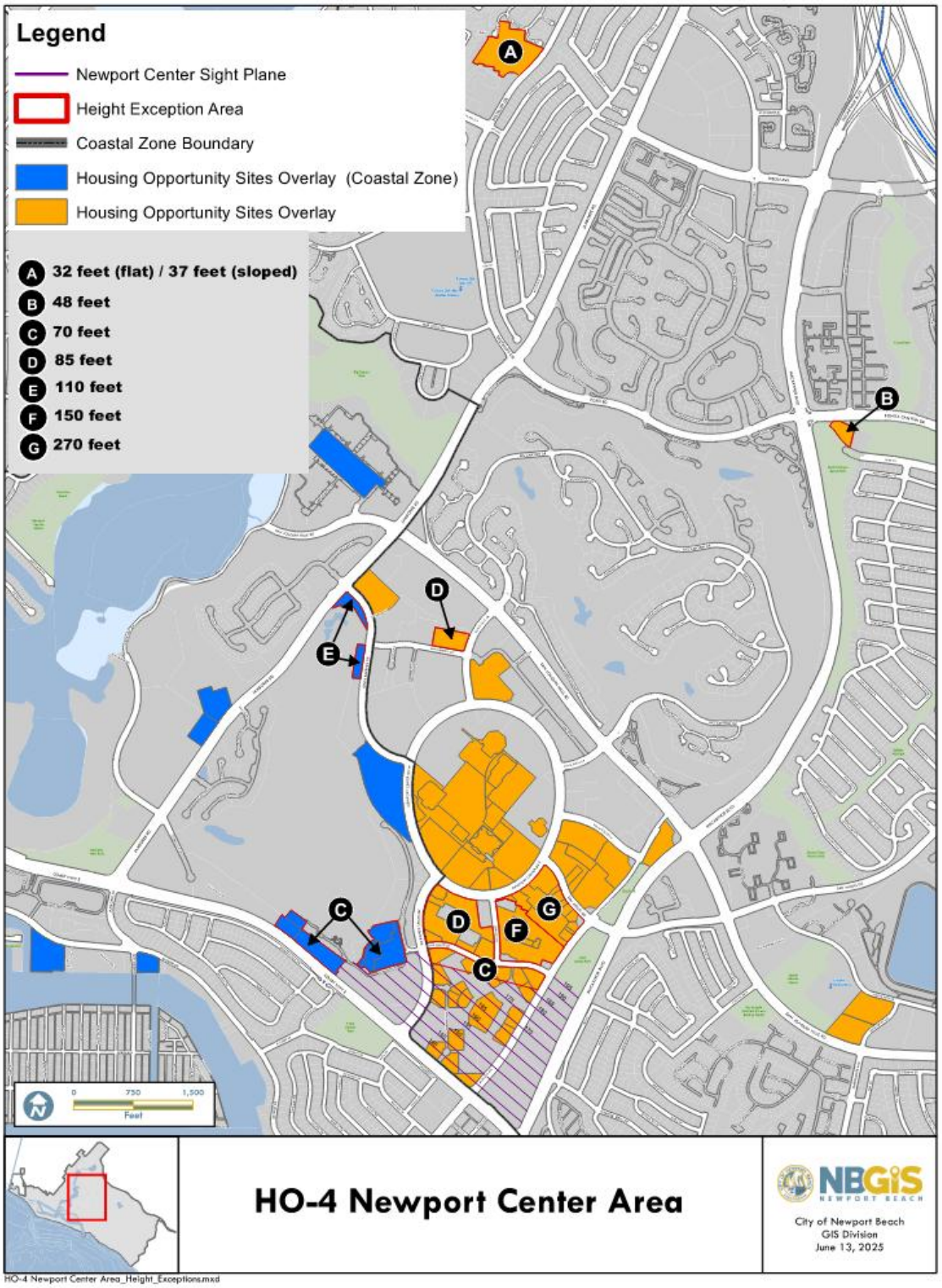
HO-3 - Dover-Westcliff Area (PDF)

HO-4 - Newport Center Area (PDF)

V. The corresponding maps identified in Section 21.80.032 are as follows on the subsequent pages:


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites Overlay
Coastal Zone Boundary
A 60' maximum
B 35' maximum
0 625 1,250
Feet
HO-1 Airport Area Environs Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
October 04, 2024
HO-1 Airport Area Environs Area.mxd


Legend
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites Overlay
Coastal Zone Boundary
0
600
1,200
Feet
HO-3 Dover-Westcliff Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
October 04, 2024
HO-3 Dover-Westcliff Area.mxd


Legend
Newport Center Sight Plane
Height Exception Area
Coastal Zone Boundary
Housing Opportunity Sites Overlay (Coastal Zone)
Housing Opportunity Sites Overlay
A 32 feet (flat) / 37 feet (sloped)
B 48 feet
C 70 feet
D 85 feet
E 110 feet
F 150 feet
G 270 feet
0 750 1,500
Feet
HO-4 Newport Center Area
NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Division
June 13, 2025
HO-4 Newport Center Area_Height_Exceptions.mxd

VI. The bottommost portion of Table 21.14-1 entitled “Overlay Coastal Zoning Districts” within Section 21.14.020 (Coastal Zoning Districts Established) is hereby revised as follows:

TABLE 21.14-1
COASTAL ZONING DISTRICTS

Coastal Zoning Map Symbol	Coastal Zoning Districts	Coastal Land Use Plan Designations Implemented by Zoning Districts	
Overlay Coastal Zoning Districts			
MHP	Mobile Home Park	RM	Multiple-Unit Residential
PM	Parking Management	All designations	
B	Bluff	All designations	
C	Canyon	RS, RM	Single-Unit Residential Multiple-Unit Residential
H	Height	RM	Multiple-Unit Residential
HO	Housing Opportunity	Varies	Varies

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 13

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Jaime Murillo, Community Development Director - 949-644-3209, jmurillo@newportbeachca.gov
PREPARED BY:	Lauren Wooding Whitlinger, Real Property Manager - 949-644-3236, lwooding@newportbeachca.gov
TITLE:	Resolution No. 2026-31: Community Development Block Grant – 2026-2027 Annual Action Plan

ABSTRACT:

The City of Newport Beach receives funds each year through the U.S. Department of Housing and Urban Development (HUD) program for Community Development Block Grants (CDBG), to benefit those with low and moderate incomes, aid in the prevention of neighborhood deterioration, and meet other urgent community development needs due to natural disasters or other emergencies. In compliance with the CDBG program regulations, the City prepares a grant application in the form of an Annual Action Plan outlining how funds will be used in the community. The plan implements strategies adopted in the City's five-year Consolidated Plan. For the City Council's consideration are the specific programs and funding proposed for Fiscal Year 2026-27, allocating approximately $409,157 in grant funds and $325,000 in program income.

RECOMMENDATIONS:

a) Conduct a public hearing to receive comments on the Annual Action Plan;

b) Find the approval of the 2026-2027 Annual Action Plan exempt from the National Environmental Policy Act (NEPA) pursuant to 24 CFR Part 58, Section 58.34;

c) Find the approval of the 2026-2027 Annual Action Plan exempt from 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 Section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly;

d) Adopt Resolution No. 2026-31, *A Resolution of the City Council of the City of Newport Beach, California, Approving the 2026-2027 Annual Action Plan for the Allocation of the Federal Community Development Block Grant Program Funds for Fiscal Year 2026-2027*; and

e) Authorize the City Manager to:
    1. Proportionally adjust appropriations to specific programs and projects as necessary to conform with the final 2026-2027 formula grant allocation of CDBG funds from HUD if the appropriation is more or less than $409,157;
    2. Submit the 2026-2027 Annual Action Plan to HUD;
    3. Execute the 2026-2027 CDBG Program Grant Agreement and all related documents on behalf of the City of Newport Beach;
    4. Execute all sub-recipient agreements with the non-profit organizations receiving allocations of CDBG funds in the 2026-2027 Action Plan; and
    5. Authorize the Community Development Director, or his designee, to be the official representative of the City of Newport Beach, administer the 2026-2027 Annual Action Plan and submit required environmental documentation to HUD for CDBG projects.

DISCUSSION:

The City receives a formula grant allocation of CDBG funds each year from the federal government, a program run by HUD. The objective of the CDBG program is to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons. CDBG is authorized under Title I of the Housing and Community Development Act of 1974. CDBG funds may be used for a wide variety of programs, services and facilities improvements, including but not limited to:

- Community and senior services
- Fair housing enforcement and landlord/ tenant mediation
- Homeless prevention and domestic violence programs
- Public facilities and infrastructure improvements
- Disabled (ADA) accessibility improvements
- Housing programs
- Section 108 loan payments

Since July 1, 1989, the City has received a total direct allocation of approximately $16.8 million of CDBG funds from HUD with annual allocations ranging from a low of $319,676 in 2017, to a high of $534,000 in 1995. The 2026-2027 formula grant allocation is $409,157. In addition, the City anticipates $325,000 in program income from the lease of property acquired with CDBG funds, for a total of $734,157 to be programmed for fiscal year 2026-2027.

According to CDBG regulations, the City may spend up to 15% of the annual formula grant allocation of CDBG funds for community services such as senior meal delivery, senior services or homeless prevention programs and 20% for program administration. The remaining amount of funding may be used for projects such as street and sidewalk improvements, disabled accessibility improvements, and public facilities improvements

such as the construction or rehabilitation of park and recreational facilities, provided the projects meet applicable CDBG regulations and national objectives.

Each year, the City uses a portion of the funds reserved for program administration to comply with Fair Housing Act requirements and make fair housing enforcement and landlord/tenant mediation services available to the community. These services have been provided free of cost to City residents by the Fair Housing Foundation since 2011.

On February 7, 2026, the City published a Notice of Funding Availability (NOFA) in the Daily Pilot newspaper and on the City website, to announce the availability of CDBG funds and solicit proposals from tax-exempt, nonprofit organizations that provide eligible CDBG services or projects that benefit the residents.

In response to the NOFA, four nonprofit organizations submitted applications for CDBG grants. In consideration of the funding available, the amount of funding requested, past performance, anticipated benefit to the residents, and the City's priorities, staff recommends program/project funding levels in the Action Plan as follows:

Category	Requested	Recommended
Public Services (subject to 15% grant cap)	**Limit of $110,123.55**	
Meals on Wheels OC: Home Delivered Meals	$30,000	$30,000
Lifting Up Foundation: Technical Assistance	$15,000	$15,000
Project Hope Alliance: Case Management	$15,000	$0
Newport Beach PD: Motel Voucher	$30,000	$0
Administration (subject to 20% grant cap)	**Limit of $146,831.40**	
CDBG Program Administration	$120,000	$120,000
Fair Housing Foundation: Fair Housing Services	$16,000	$16,000
Capital Projects (remaining amount)	**$553,157**	
City IPF Project	$0	$0
Total	**$226,000**	**$181,000**

The Action Plan, found in the draft resolution (Attachment A), describes each program. With the proposed funding levels shown in the table above, Meals on Wheels OC plans to serve approximately 33 City residents during the 2026-2027 fiscal year; the agency's focus is serving meals to homebound senior citizens. Seniors make up approximately 24% of the City's population. Lifting Up Foundation plans to serve approximately 400 unduplicated City residents with the proposed funding level and will provide support services to low-to-moderate income veterans. Funding for two homelessness services providers is not recommended this fiscal year, Project Hope Alliance and the Newport

Beach Police Department motel voucher program, as the City's recent homeless counts show a drastic reduction from prior years. Additionally, the City has other resources being funneled to address homelessness, specifically aimed at street exits, including the Costa Mesa Bridge Shelter and 12 new permanent supportive housing units at the Avon River project which is set for move-in in July 2026.

Under the Capital Projects category, $553,157 is available to be programmed. Staff will return to the City Council for approval of selected project(s) once award recommendations are available.

Each of the programs and projects recommended above are contemplated within the Strategic Plan priorities of the 2025-2029 Consolidated Plan.

On April 25, 2026, staff published a notice in the Daily Pilot informing the general public that the City had prepared the Draft 2026-2027 Annual Action Plan. The notice also indicated the plan would be available for review and comment until May 26, 2026. The public has been provided with an opportunity to provide oral and/or written comments on the proposed activities included in the Draft 2026-2027 Annual Action Plan. At the time this report was prepared, no public comments were received. Additionally, the current Citizen Participation Plan requires that a public hearing be held to receive testimony from interested residents or parties regarding the Action Plan. The May 26, 2026, public hearing fulfills this requirement.

FISCAL IMPACT:

This item provides for City Council approval of the use of an estimated $409,157 of CDBG funds, and $325,000 in program income for the 2026-2027 fiscal year, to be adjusted by the city manager as necessary to conform with the final 2026-2027 formula grant allocation from HUD.

ENVIRONMENTAL REVIEW:

The development of required plans and allocation of CDBG program funds is an administrative activity exempt under 24 CFR Part 58, Section 58.34 of the National Environmental Policy Act of 1969 (NEPA), as amended.

Staff recommends the City Council find the adoption of the 2026-2027 Annual Action Plan 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, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

In accordance with HUD requirements for a 30-day public review and comment period, notice of the public hearing was published in the Daily Pilot on April 25, 2026. Notice was also sent to each of the applicants requesting funding and emailed to all parties that signed up to receive email notifications from the Planning Division. Further, the agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Resolution No. 2026-31 (2026-2027 Annual Action Plan included)

Attachment A

RESOLUTION NO. 2026- __

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING THE 2026-2027 ANNUAL ACTION PLAN FOR ALLOCATION OF THE FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUNDS FOR FISCAL YEAR 2026-2027

WHEREAS, the City of Newport Beach ("City") participates in the United States Department of Housing and Urban Development's ("HUD") Community Development Block Grant ("CDBG") program;

WHEREAS, HUD requires the City to prepare a Five Year Consolidated Plan and Citizen Participation Plan outlining the use of CDBG funds, strategic vision for housing and community development in the City, and receipt of community input regarding the expenditure of CDBG funds;

WHEREAS, HUD also requires the City to prepare an Annual Action Plan for the appropriation of the CDBG annual grant and other available grant funds for the fiscal year;

WHEREAS, on July 22, 2025, the City Council adopted Resolution No. 2025-51 approving the current 2025-2029 Consolidated Plan and Citizen Participation Plan;

WHEREAS, the City anticipates receiving $409,157 in grant funds for the 2026-2027 program year, and $325,000 in program income;

WHEREAS, on February 7, 2026, in accordance with Section G.1(b) of the Citizen Participation Plan, a Notice of Funding Availability was published in the Daily Pilot newspaper and sent to known non-profit community organizations currently operating within the City requesting proposals from non-profit organizations to provide public services to low- and moderate- income residents within the city and to provide fair housing services to all residents of the community;

WHEREAS, four proposals to provide public services, and one proposal to provide fair housing services were received by the City;

WHEREAS, in accordance with the applicable sections of 24 Code of Federal Regulations ("CFR") Part 91, the City prepared a draft 2026-2027 Annual Action Plan that appropriates the anticipated Fiscal Year 2026-2027 grant funding and program income to various programs and projects consistent with the 2025-2029 Consolidated Plan and HUD requirements;

WHEREAS, on April 25, 2026, a notice was published in the Daily Pilot newspaper that the draft 2026-2027 Annual Action Plan would be available for public review and comment from April 25, 2026, to May 26, 2026; and

WHEREAS, on May 26, 2026, a public hearing was held by the City Council in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, regarding the draft 2026-2027 Annual Action Plan. 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 24 Code of Federal Regulations Part 91. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

Section 1: The City Council does hereby approve the 2026-2027 Annual Action Plan which is attached as Exhibit "A," and incorporated herein by reference.

Section 2: The City Council authorizes the City Manager, or designee, to: 1) proportionally adjust appropriations to specific programs and projects as necessary to conform with the final 2026-2027 formula grant allocation of CDBG funds from HUD, if the appropriation is more or less than $409,157; 2) submit the 2026-2027 Annual Action Plan to HUD; 3) execute the 2026-2027 CDBG Program Grant Agreement and all related documents on behalf of the City; 4) execute all subrecipient agreements with the nonprofit organizations receiving allocations of CDBG funds in the 2026-2027 Annual Action Plan; and 5) authorize the Community Development Department Director, or his/her designee, to be the official representative of the City, to administer the 2026-2027 Annual Action Plan and submit required environmental documentation to HUD for CDBG projects.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: 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 5: The City Council finds that the development of required plans and allocation of CDBG program funds is exempt from the National Environmental Policy Act of 1969 under 24 CFR Part 58, Section 58.34 as it is an administrative activity and will not have a physical impact or result in physical changes to the environment

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.

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 26th 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

Attachment(s): Exhibit A – 2026-2027 Annual Action Plan

EXHIBIT A

2026-2027 Annual Action Plan



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CITY OF NEWPORT BEACH

Annual Action Plan

FY 2026-2027

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OMB Control No: 2506-0117 (exp. 09/30/2021)

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Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

The City of Newport Beach prepared the 2025-2029 Consolidated Plan as a requirement to receive Federal Community Development Block Grant (CDBG) funds. The Consolidated Plan provides the U.S. Department of Housing and Urban Development (HUD) with a comprehensive assessment of the City's housing and community development needs and outlines the City's priorities, objectives, and strategies for the investment of CDBG funds to address these needs over the next five years, beginning July 1, 2025, and ending June 30, 2029. This Annual Action Plan is one of the five implementing funding plans that make up the full Consolidated Plan.

The City receives CDBG funds from HUD on a formula basis each year, and in turn, awards grants to nonprofit, for-profit or public organizations for programs and projects in furtherance of this Plan. The CDBG program generally provides a range of eligible activities for the benefit of low- and moderate-income Newport Beach residents, as discussed below.

The 2026-2027 Action Plan is the second year of five annual plans implementing the 2025-2029 Consolidated Plan Strategic Plan goals for the investment of annual allocations of CDBG funds from HUD. The Action Plan identifies available resources, annual goals, projects, and activities for the period beginning July 1, 2026, and ending June 30, 2027.

Community Development Block Grant (CDBG) Program

Established under the Housing and Community Development Act of 1974, the CDBG Program is guided by three primary objectives used by HUD to evaluate the Consolidated Plan and the City's implementation:

- Provide decent housing
- Create a suitable living environment
- Expand economic opportunities for low- and moderate-income individuals

To be eligible, each CDBG-funded activity must meet at least one of the following national objectives:

- Benefit low- and moderate-income persons
- Prevent or eliminate slums and blight
- Address urgent community development needs (typically in response to natural disasters)

For the 2026-2027 program year, the City of Newport Beach will receive $409,157 in CDBG funds from HUD. Combined with $325,000 in program income, a total of **$734,157** will be available for allocation in the City's 2026-2027 Annual Action Plan. If the actual amount of CDBG funding received from HUD is higher or lower than anticipated, the City will adjust the funding amounts for each activity proportionally and in compliance with regulatory requirements for funding allocations to certain types of CDBG activities.

2. Summarize the objectives and outcomes identified in the Plan

The priority needs and goals outlined in this Plan were determined through a comprehensive needs assessment. This assessment drew upon multiple sources, including:

- Results from the City's 2025-2029 Consolidated Plan Needs Assessment Survey
- Housing and community development data required by HUD and submitted through the eCon Planning Suite, using: 2016–2020 American Community Survey (ACS) 5-Year Estimates Comprehensive Housing Affordability Strategy (CHAS) data for the same period
- In addition to quantitative data, the City conducted consultations with local nonprofit organizations that develop affordable housing and provide public services to children, families, seniors, and individuals with special needs. These collaborative efforts ensured that the Plan reflects both data-driven insights and on-the-ground realities.

Established Priority Needs

Based on the analysis of available data and extensive community input, the following six priority needs have been identified for the 2025–2029 Consolidated Plan:

1. Affirmatively Further Fair Housing
2. Expand Affordable Housing Opportunities Improve public facilities and infrastructure
3. Provide Community and Homeless Services
4. Improve and Enhance Public Facilities and Infrastructure
5. Support Businesses and Job Creation/Retention
6. Support Programs through Program Administration

These priority needs align with HUD's national objectives for the CDBG program, which are to:

- Provide decent housing
- Maintain a suitable living environment
- Expand economic opportunities for low- and moderate-income residents

Over the next five years, the City will address these priorities through the implementation of CDBG-funded activities aligned with the five measurable Strategic Plan goals found in SP- section of this Plan.

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3. Evaluation of past performance

The City is currently implementing the activities included in the 2026-2027 Action Plan. As of this writing, all activities are underway.

The investment of HUD resources during the 2026-2027 program year was a catalyst for positive change in the community. Together with other federal, state and local investments, HUD resources allowed the City and its partners to accomplish the following goals:

1. Delivered fair housing services to promote equal access to housing opportunities for all residents.

2. Provided homeless prevention and assistance services, supporting individuals and families at risk of or experiencing homelessness.

3. Offered essential public services for seniors, including home-delivered meals and support services addressing elder abuse and neglect.

4. Supported special needs populations, including services for survivors of domestic violence and individuals in substance abuse recovery.

5. Funded Section 108 debt service obligations and enhanced public facilities improvements.

4. Summary of Citizen Participation Process and consultation process

Subsequent to the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009, HUD revised the Consolidated Plan regulations at 24 CFR Part 91 to emphasize the importance of citizen participation and consultation in the development of the Consolidated Plan. HUD strengthened the consultation process with requirements for consultation with the Continuum of Care (CoC), Public Housing Authorities (PHA), business leaders, civic leaders and public or private agencies that address housing, health, social service, victim services, employment, or education needs of low-income individuals and families, homeless individuals and families, youth and/or other persons with special needs. Together with the analytic capabilities of the eCon Plan Suite, these requirements created the conditions necessary to implement a collaborative, data-driven and place-based planning process that includes a robust level of citizen participation and consultation.

In accordance with the City's Citizen Participation Plan, residents and stakeholders were able to participate in the development of the 2025-2029 Consolidated Plan through surveys, community meetings and public hearings. Efforts were made to encourage participation by low- and moderate-income persons, particularly those living in areas where HUD funds are proposed to be used, and by residents of predominantly low- and moderate-income neighborhoods. Efforts were made to encourage the participation of minorities and non- English-speaking persons, as well as persons with disabilities. The consultation process included representatives of the CoC, PHA, and other specified groups who completed surveys, provided local data and assisted the City to ensure practical coordination of strategies to maximize impact and to avoid duplication of effort.

6. Summary of public comments

[No public comments received at this time. Any Public comments received will be updated prior to completion of the final Plan]

7. Summary

The 2026-2027 Action Plan addresses five of the six Strategic Plan Goals from the 2020-2024 Consolidated Plan by allocating approximately $409,157 from PY 2026-27, and $325,000 in program income. Therefore, the total amount of CDBG funds available for PY 2026-27 is $734,157 to projects and activities to be implemented from July 1, 2026, to June 30, 2027.

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PR-05 Lead & Responsible Agencies – 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
CDBG Administrator	NEWPORT BEACH	Community Development Department

Table 1 – Responsible Agencies

Narrative

The Planning Division of the City of Newport Beach Community Development Department serves as the lead agency responsible for administering the Community Development Block Grant (CDBG) program.

As part of this effort, the City designed and carried out a comprehensive citizen participation and consultation process, along with a needs assessment and market analysis. These efforts focus on identifying levels of need in areas such as affordable housing, homelessness, special needs services, and broader community development issues. Information was collected through consultations with public officials and local agencies, community outreach and meetings, as well as a detailed review of demographic, economic, and housing market data.

Using this combination of quantitative and qualitative insights, the City of Newport Beach, developed the 2025–2029 Strategic Plan and the corresponding 2026-2027 Annual Action Plan.

The Planning Division will oversee the implementation of the 2025–2029 Consolidated Plan and each of the five subsequent Annual Action Plans, and will remain responsible for all grants planning, program management, and regulatory compliance in accordance with HUD guidelines and City policies.

Consolidated Plan Public Contact Information

City of Newport Beach

Community Development Department, Planning Division

100 Civic Center Drive

Newport Beach, CA 92660

949-644-3309

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AP-10 Consultation – 91.100, 91.200(b), 91.215(l)

1. Introduction

HUD requires that each jurisdiction encourage its citizens to participate in the development of the Consolidated Plan and subsequent Action Plan. To ensure the opportunity is provided, the City of Newport Beach maintains a Citizen Participation Plan.

The Citizen Participation Plan set forth policies and procedures for citizen interaction in planning, implementation, and assessment of the City's Consolidated Plan/Action Plan. The objectives of the Citizen Participation Plan are:

- To encourage citizens, particularly residents of low- and moderate-income living in areas eligible for the use of program funds, including minorities, non-English speaking persons, and persons with mobility, visual, or hearing impairments, to participate in the development of the Consolidated Plan/Action Plan.
- To ensure that citizens are furnished with appropriate information about the Consolidated Plan and its various component programs.

The City of Newport Beach engaged in extensive consultation with a wide range of agencies, organizations, and stakeholder groups involved in:

- Developing affordable housing
- Creating job opportunities for low- and moderate-income residents
- Providing services to children, seniors, individuals with disabilities, people with HIV/AIDS and their families, and individuals experiencing homelessness

To facilitate this consultation, the City employed multiple outreach methods, including:

- Web-based stakeholder surveys
- One-on-one stakeholder interviews
- Community meetings
- Public hearings
- Solicitation and review of written comments

To ensure a comprehensive understanding of community needs, the City consulted with a diverse mix of partners across the housing, community development, and economic development sectors. These consultations provided valuable insight that shaped the objectives and goals outlined in the Strategic Plan.

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Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l))

The City of Newport Beach recognizes that effective coordination among service providers is essential to maximizing the impact of the Community Development Block Grant (CDBG) program. To that end, the City engaged in close consultation with organizations offering assisted housing, health services, and other community-based programs during the development of this Consolidated Plan. These efforts aimed to gain a comprehensive understanding of the needs of low- and moderate-income residents.

Outreach activities included:

- Surveys with targeted questions on inter-agency coordination
- Invitations to community meetings
- Follow-up interviews conducted in person where appropriate

Looking ahead to the upcoming five-year planning period, the City remains committed to fostering continued collaboration and alignment with these partner agencies. The City will enhance these partnerships through the Notice of Funds Availability (NOFA) process and by offering ongoing technical assistance to CDBG subrecipients, ensuring effective implementation and sustained impact of funded activities.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

The Orange County Continuum of Care (CoC) leads regional efforts to develop and implement strategies aimed at ending homelessness. The CoC supports a comprehensive homeless system of care that includes a diverse network of public agencies, private entities, nonprofit organizations, faith-based groups, and for-profit providers. Together, these partners utilize federal, state, and local resources to deliver a wide range of services to individuals and families experiencing homelessness.

Municipalities across Orange County, including the City of Newport Beach, contribute local resources to support programs that assist both individuals experiencing homelessness and those at risk of becoming homeless. In Newport Beach, City Net provides dedicated outreach to the homeless population, working to connect individuals with supportive services and coordinate efforts among providers to enhance outcomes and leverage collective impact.

The nonprofit community plays a pivotal role within the CoC system. Hundreds of organizations across the County offer services that range from emergency food distribution to the development of permanent supportive housing. These services are available to a variety of populations, including adults, families, unaccompanied youth, and individuals with special needs, such as veterans, survivors of domestic violence, and persons with disabilities.

Coordination across service providers is guided by the CoC's leadership and supported by key organizations such as 2-1-1 Orange County and Orange County Community Services. All providers within

the CoC network are equipped to refer individuals to appropriate services based on their specific needs, ensuring a seamless and responsive system of care for those experiencing homelessness.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

The City does not receive ESG funding.

The Orange County Continuum of Care (CoC) maintains ongoing collaboration with jurisdictions that receive Emergency Solutions Grant (ESG) funds. A regional collaborative has been established, which meets quarterly and includes representatives from ESG jurisdictions and the CoC. These meetings are used to identify funding priorities that align with each jurisdiction's Consolidated Plan and reflect community-identified needs. An evaluation panel is convened to review applications and determine which agencies will receive ESG funding.

In Orange County, ESG resources are primarily allocated to emergency shelter and rapid rehousing programs. Additionally, CDBG funds are used—when public service resources are available—to support emergency shelter rehabilitation and homeless services.

Performance Monitoring and Evaluation

The Orange County CoC uses performance standards and evaluation metrics grounded in data from:

- Homeless Management Information System (HMIS)
- Annual Performance Reports (APRs)
- Point-in-Time (PIT) Counts
- Homeless Inventory Count (HIC)

Key performance indicators include:

- Increases in employment income
- Access to mainstream resources
- Exits to and retention in permanent housing
- Spending efficiency and leveraging resources
- HMIS data quality and participation in system-wide counts

The CoC has recently expanded its performance evaluation criteria to include:

- Average length of stay

- Rate of exits to permanent housing
- Recidivism (returns to homelessness)
- Net exits permanent housing
- Program cost-efficiency using a Performance Improvement Calculator

This data enables the CoC to assess the effectiveness and cost of programs in achieving rapid and stable housing outcomes. The CoC also considers the severity of barriers when evaluating placements:

- High-barrier households are prioritized for permanent supportive housing
- Low-barrier households are guided toward rapid rehousing

The CoC reviews performance data quarterly and uses the findings to make incremental improvements and optimize program delivery.

Regional Collaboration and HMIS Oversight

The Orange County CoC collaborates with the three CoCs in Los Angeles County (City of Pasadena, City of Glendale, and Los Angeles County) on shared implementation and management practices. Together, they developed and maintained a Policies and Procedures Guide for the use of the HMIS system.

HMIS system administrators provide:

- Ongoing training
- User support
- Troubleshooting assistance as needed

This collaborative structure ensures consistency, quality, and efficiency across regional homelessness data systems.

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities

1	**Agency/Group/Organization**	2-1-1 ORANGE COUNTY
	Agency/Group/Organization Type	Continuum of Care - Information and Referral
	What section of the Plan was addressed by Consultation?	Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth

	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
2	**Agency/Group/Organization**	Orange County Housing Authority
	Agency/Group/Organization Type	Housing PHA Services - Housing
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Housing Needs
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was consulted by email outreach and the web-based survey. Through this consultation, Newport Beach opened or preserved lines of communication between the stakeholder and the City to be an active participant in housing and community development planning in the jurisdiction. Newport Beach sought specific input, feedback, and recommendations related to the topics highlighted above from this stakeholder.
3	**Agency/Group/Organization**	Regional Center of Orange County
	Agency/Group/Organization Type	Services-Persons with Disabilities Regional organization
	What section of the Plan was addressed by Consultation?	Non-Homeless Special Needs Non-Housing Community Development Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
4	**Agency/Group/Organization**	Radiant Health Centers (Previously Aids Services Foundation)
	Agency/Group/Organization Type	Services-Persons with HIV/AIDS
	What section of the Plan was addressed by Consultation?	Non-Homeless Special Needs HOPWA Strategy

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	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
5	**Agency/Group/Organization**	Families Forward
	Agency/Group/Organization Type	Services-Children Services-Victims of Domestic Violence Services-homeless
	What section of the Plan was addressed by Consultation?	Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
6	**Agency/Group/Organization**	SOUTH ORANGE COUNTY COMMUNITY SERVICES COUNCIL
	Agency/Group/Organization Type	Services-homeless
	What section of the Plan was addressed by Consultation?	Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
7	**Agency/Group/Organization**	Fair Housing Foundation
	Agency/Group/Organization Type	Service-Fair Housing

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	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Services
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
8	**Agency/Group/Organization**	Orange County Fire Authority
	Agency/Group/Organization Type	Other government - County
	What section of the Plan was addressed by Consultation?	Market Analysis Non-Housing Community Development Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
9	**Agency/Group/Organization**	C&C Development
	Agency/Group/Organization Type	Housing
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
10	**Agency/Group/Organization**	HUMAN OPTIONS, INC.
	Agency/Group/Organization Type	Services-Victims of Domestic Violence
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Non-Homeless Special Needs

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	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
11	**Agency/Group/Organization**	Southern California Association of Governments
	Agency/Group/Organization Type	Regional organization Planning organization
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
12	**Agency/Group/Organization**	The Trust for Public Land
	Agency/Group/Organization Type	Public Land Agency
	What section of the Plan was addressed by Consultation?	Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholder's input, feedback, and recommendations on the key topics outlined above.
13	**Agency/Group/Organization**	South County Outreach
	Agency/Group/Organization Type	Services - Housing Services-Children Services-Elderly Persons Services-homeless
	What section of the Plan was addressed by Consultation?	Homelessness Strategy Homeless Needs - Families with children Anti-poverty Strategy

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	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholder's input, feedback, and recommendations on the key topics outlined above.
14	**Agency/Group/Organization**	VOCATIONAL VISIONS
	Agency/Group/Organization Type	Services-Persons with Disabilities Services-Employment
	What section of the Plan was addressed by Consultation?	Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholder's input, feedback, and recommendations on the key topics outlined above.
15	**Agency/Group/Organization**	U.S. Department of Housing and Urban Development
	Agency/Group/Organization Type	Other government - Federal
	What section of the Plan was addressed by Consultation?	Housing Market Analysis and Homeless Needs Assessment
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
16	**Agency/Group/Organization**	OC Board of Supervisors
	Agency/Group/Organization Type	Other government - County
	What section of the Plan was addressed by Consultation?	Market Analysis

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	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
17	**Agency/Group/Organization**	Orange County Public Works
	Agency/Group/Organization Type	Agency - Managing Flood Prone Areas Agency - Management of Public Land or Water Resources Other government - County
	What section of the Plan was addressed by Consultation?	Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
18	**Agency/Group/Organization**	Orange County 4 Kids
	Agency/Group/Organization Type	Foster Care Agency/Facility
	What section of the Plan was addressed by Consultation?	Homelessness Needs - Unaccompanied youth Non-Housing Community Development Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
19	**Agency/Group/Organization**	Hoag Hospital
	Agency/Group/Organization Type	Health Agency
	What section of the Plan was addressed by Consultation?	Lead-based Paint Strategy Market Analysis

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	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
20	**Agency/Group/Organization**	Project Self Sufficiency
	Agency/Group/Organization Type	Services-homeless Homeless/Formerly Homeless Resident (ESG)
	What section of the Plan was addressed by Consultation?	Market Analysis Services - Homeless
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
21	**Agency/Group/Organization**	Chelsea Investment Co.
	Agency/Group/Organization Type	Housing
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
22	**Agency/Group/Organization**	City of Costa Mesa
	Agency/Group/Organization Type	Other government - Local
	What section of the Plan was addressed by Consultation?	Non-Housing Community Development Strategy

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	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
23	**Agency/Group/Organization**	City of Santa Ana
	Agency/Group/Organization Type	Other government - Local
	What section of the Plan was addressed by Consultation?	Homelessness Strategy Non-Housing Community Development Strategy
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
24	**Agency/Group/Organization**	OC Health Care Agency
	Agency/Group/Organization Type	Mental Health Agency/Facility
	What section of the Plan was addressed by Consultation?	Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
25	**Agency/Group/Organization**	VOLUNTEERS OF AMERICA
	Agency/Group/Organization Type	Services-homeless
	What section of the Plan was addressed by Consultation?	Homelessness Needs - Veterans Market Analysis

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	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
26	**Agency/Group/Organization**	JAMBOREE HOUSING CORPORATION
	Agency/Group/Organization Type	Services - Housing
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
27	**Agency/Group/Organization**	California State Senate
	Agency/Group/Organization Type	Other government - State
	What section of the Plan was addressed by Consultation?	Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
28	**Agency/Group/Organization**	Innovative Housing Opportunities
	Agency/Group/Organization Type	Assisted Housing
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Market Analysis

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	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
29	**Agency/Group/Organization**	CA Emerging Technology Fund (CETF)
	Agency/Group/Organization Type	Services - Narrowing the Digital Divide
	What section of the Plan was addressed by Consultation?	Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
30	**Agency/Group/Organization**	Cox Communications
	Agency/Group/Organization Type	Services - Broadband Internet Service Providers
	What section of the Plan was addressed by Consultation?	Market Analysis
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
31	**Agency/Group/Organization**	StandUp For Kids - Orange County
	Agency/Group/Organization Type	Services-homeless
	What section of the Plan was addressed by Consultation?	Homelessness Needs - Unaccompanied youth Market Analysis Services - Homeless

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	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
32	**Agency/Group/Organization**	Illumination Foundation
	Agency/Group/Organization Type	Services-homeless
	What section of the Plan was addressed by Consultation?	Market Analysis Services-Homeless
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
33	**Agency/Group/Organization**	Orange County CoC
	Agency/Group/Organization Type	Services-homeless
	What section of the Plan was addressed by Consultation?	Homelessness Strategy Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
35	**Agency/Group/Organization**	Orange County Emergency Management Bureau
	Agency/Group/Organization Type	Other government - County
	What section of the Plan was addressed by Consultation?	Market Analysis

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	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.
36	**Agency/Group/Organization**	Habitat for Humanity Orange County
	Agency/Group/Organization Type	Housing Services - Housing
	What section of the Plan was addressed by Consultation?	Housing Need Assessment
	How was the Agency/Group/Organization consulted and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization was engaged through email outreach and a web-based survey. This consultation helped the City of Newport Beach maintain open communication with the stakeholder and encouraged their active involvement in housing and community development planning. The City specifically sought the stakeholders input, feedback, and recommendations on the key topics outlined above.

Table 2 – Agencies, groups, organizations who participated

Identify any Agency Types not consulted and provide rationale for not consulting

To strengthen collaboration between the Continuum of Care (CoC), housing providers, and health and social service agencies, the City of Newport Beach actively engaged these stakeholders during the development of the Consolidated Plan. These consultations ensured the Plan reflects the broad spectrum of community needs—especially for vulnerable and underserved groups.

The City continues to track CoC policy updates to keep local strategies aligned with broader regional efforts to assist homeless and low-income populations. Through its Planning Division, Newport Beach coordinates closely with CDBG subrecipients to deliver integrated services, focusing on support for:

- Chronically homeless individuals and families
- Families with children
- Veterans and their families
- Unaccompanied youth
- Individuals transitioning into permanent housing

To expand economic opportunities for low-income residents, the City partners with local service agencies, employers, and housing developers. In line with Section 3 of the Housing and Community Development

Act of 1968, Newport Beach promotes inclusive outreach to ensure that employment opportunities linked to HUD-assisted activities are accessible to qualified residents.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	County of Orange	The City of Newport's strategies to address homelessness align with the County of Orange's Continuum of Care program with regard to providing emergency shelter services, outreach, transitional, and permanent supportive housing.
2021-2029 Housing Element	City of Newport Beach	Strategic Plan goals are consistent with Housing Element policies and goals to ensure equal housing opportunities for residents through fair housing services.

Table 3 – Other local / regional / federal planning efforts

Narrative

To enhance coordination among the CoC, public and assisted housing providers and private and governmental health, mental health and service agencies, the City invited each of these entities to provide input on the needs of the community in the development of this Consolidated Plan. The City monitors CoC policy making to ensure that local efforts correspond to changes in the regional approach to addressing the needs of homeless and low-income people.

Further, the Planning Division works with subrecipients of CDBG funds to ensure a coordinated effort among service agencies in the region to address the needs of Newport Beach residents, including but not limited to chronically homeless individuals and families, families with children, veterans and their families, unaccompanied youth, and people who were recently homeless but now live in permanent housing.

To promote economic opportunities for low-income residents, the City coordinates with subrecipient social service agencies, businesses and housing developers to ensure that where there are job opportunities for low-income people in connection with HUD-assisted projects, information is disseminated through appropriate channels consistent with the objectives of Section 3 of the Housing and Community Development Act of 1968.

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AP-12 Participation – 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation

Summarize citizen participation process and how it impacted goal setting

The following table provides an overview of the citizen participation process.

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Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Newspaper Ad	Non-targeted/broad community	On April 25, 2026, the City published a Notice of Public Hearing and 30-day Public Comment period in the Daily Pilot newspaper and City website, to adopt the 2026-2027 AAP	[No comments at this time were received.]	[Not applicable.]	
2	Internet Outreach	Non-targeted/broad community	On April 25, 2026, the City published the 2026-2027 AAP to the City website	[No comments at this time were received.]	[Not applicable.]	
3	Public Hearing	Non-targeted/broad community	Held on May 26, 2026. Newport Beach residents were able to participate in the public hearing and address the City Council.	[No comments at this time were received.]	[Not applicable.]	

Table 4 – Citizen Participation Outreach

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Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

For program year 2026-2027 , the City will receive $409,157 in CDBG funds from HUD. When these amounts are combined with program income of $325,000 available for inclusion in the 2026 Annual Action Plan, the City will allocate $734,157. The City anticipates the availability of approximately $2,000,000 of CDBG resources during the five-year period beginning July 1, 2025 and ending June 30, 2029.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan $	Narrative Description
			Annual Allocation: $	Program Income: $	Prior Year Resources: $	Total: $		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	409,157	325,000	0	734,157	1,200,000	The City assumes it will receive $400,000 each year during this Consolidated Plan cycle.

Table 5 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

Depending on the financing structure and scope of a particular activity, the City of Newport Beach may strategically use Community Development Block Grant (CDBG) funds to leverage additional state, local, and private resources to maximize impact and promote long-term sustainability. Leveraging multiple funding sources enhances the City's ability to support affordable housing, public services, and infrastructure improvements that benefit low- and moderate-income residents.

The City may pursue partnerships and funding from the following programs and agencies:

State Resources

- State Low-Income Housing Tax Credit (LIHTC) Program – Provides tax incentives to attract private investment in affordable rental housing.

- Building Equity and Growth in Neighborhoods (BEGIN) Program – Offers down payment assistance to low- and moderate-income homebuyers.

- CalHome Program – Supports homebuyer assistance, housing rehabilitation, and capacity building for housing nonprofits.

- Multifamily Housing Program (MHP) – Offers low-interest loans for construction and rehabilitation of affordable multifamily developments.

- Housing-Related Parks (HRP) Grant Program – Provides funds for park development and improvements in jurisdictions building affordable housing.

- California Housing Finance Agency (CalHFA) Programs – Includes financing for both single-family and multifamily housing projects.

- Mental Health Services Act (MHSA) Funding – Funds permanent supportive housing and services for individuals with serious mental illness.

- Orange County Housing & Finance Agency (OCHFA) – Offers financing tools for affordable housing production and preservation.

- Southern California Home Financing Authority (SCHFA) – Provides access to mortgage revenue bond programs for affordable housing.

- Orange County Continuum of Care (CoC) – Coordinates housing and services for homeless individuals and families.

- Orange County Housing Authority (OCHA) – Administers Housing Choice Vouchers and related rental assistance programs.

- Federal Home Loan Bank Affordable Housing Program (AHP) – Provides competitive grants and subsidized loans for affordable housing development.

- Community Reinvestment Act (CRA) Programs – Encourages financial institutions to support projects that benefit low- and moderate-income communities.

- United Way Funding – Supports community-based services, especially for vulnerable populations.

- Private Contributions – Donations from individuals, foundations, and corporations can support specific projects or initiatives.

- Public-Private Partnerships (PPPs) – Collaborative efforts that combine public investment with private sector innovation and resources to achieve shared development goals.

By leveraging these resources in combination with CDBG funding, the City of Newport Beach aims to expand its capacity to address local housing and community development needs, implement cost-effective solutions, and foster inclusive growth throughout the city.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

Surplus Land and Affordable Housing Development

The City of Newport Beach will comply with the requirements of Assembly Bills 1486 and 1255, which mandate the identification and inventory of surplus municipal and state-owned land suitable for affordable housing development. In support of these efforts, the City will make surplus land information available to affordable housing developers and consider the use of Community Development Block Grant (CDBG) or other local, state, or federal resources to assist with site preparation, should eligible properties be identified.

At the time of preparing this 2025–2029 Consolidated Plan and 2026-2027 Action Plan, the City has no publicly owned land available that could support the development of affordable housing. However, the City remains committed to evaluating any future surplus land opportunities in alignment with state law and local housing goals.

Matching Requirements

The City of Newport Beach does not receive HOME Investment Partnerships Program (HOME) funds as part of its entitlement allocation. As a result, HOME matching requirements do not apply for the 2026-2027 program year. The City continues to focus its housing and community development strategies on eligible activities supported through CDBG and other complementary funding sources.

Discussion

Assuming continued level funding of the CDBG programs, the City expects to utilize approximately $2,000,000 of CDBG funds during the five-year period beginning July 1, 2025 and ending June 30, 2029, to achieve the goals of the Strategic Plan.

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Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Goals Summary Information

Table 6 – Goals Summary

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Affirmatively Further Fair Housing	2025	2029	Non-Housing Community Development	Citywide	Promote Fair Housing	CDBG: $16,000.00	Public service activities other than Low/Moderate Income Housing Benefit: 120 Persons Assisted
2	Support Community and Homeless Services	2025	2029	Homeless Non-Homeless Special Needs Non-Housing Community Development	Citywide	Support Community and Homeless Services	CDBG: $45,000.00	Public service activities other than Low/Moderate Income Housing Benefit: 433 Persons Assisted
3	Public Facilities and Infrastructure Improvements	2025	2029	Non-Housing Community Development	CDBG Low/Mod Census Tract Target Area	Enhance Public Facilities and Infrastructure	CDBG: $553,157.00	Other: 1 Other
4	Support Programs through Program Administration	2025	2029	Planning and Administration	Citywide	Promote Economic Development Promote Fair Housing Enhance Public Facilities and Infrastructure Support Community and Homeless Services	CDBG: $120,000.00	Other: 1 Other

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Goal Descriptions

1	**Goal Name**	Affirmatively Further Fair Housing
	Goal Description	Affirmatively further fair housing choice through the provision of fair housing education, counseling, anti-discrimination and landlord-tenant mediation services. The CDBG Administration activity funding for five years is also represented under this goal.
2	**Goal Name**	Support Community and Homeless Services
	Goal Description	Provide public services for low- and moderate-income residents including senior citizens, families and youth including but not limited to those concerned with food, essential services, transportation, health, recreation and employment.
3	**Goal Name**	Public Facilities and Infrastructure Improvements
	Goal Description	Support infrastructure improvements that benefit low to moderate income persons/households and provide accessibility to disabled persons
4	**Goal Name**	Support Programs through Program Administration
	Goal Description	Efficient and cost-effective implementation of CDBG program.

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Projects

AP-35 Projects – 91.220(d)

Introduction

To address the high priority needs identified in the Strategic Plan, the City of Newport Beach will invest CDBG funds in projects that provide fair housing services as well as services to low- and moderate-income residents, prevent homelessness and strengthen economic opportunities. Together, these projects will address the needs of low- and moderate-income Newport Beach residents.

Projects

#	Project Name
1	CDBG Program Administration
2	Fair Housing Services
3	Meals on Wheels
4	LiftingUp Foundation
5	City IPF Project

Table 7 - Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The City of Newport Beach has prioritized the use of its non-administrative Community Development Block Grant (CDBG) funds for the 2026-2027 program year to support projects and services that directly benefit low- and moderate-income residents.

Reasons for Allocation Priorities

Funding decisions are based on the goals identified in the Strategic Plan and informed by data from the Needs Assessment, community input, and consultation with local service providers. Priority is given to:

- Public service programs supporting low- and moderate-income households
- Activities that help prevent homelessness
- Economic development initiatives that create or expand opportunities for income stability

These priorities align with the City's broader goals of promoting housing stability, community well-being,

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and economic mobility.

Obstacles to Addressing Underserved Needs

Despite these efforts, several key challenges persist:

- Limited funding: Federal, state, and local funding sources remain insufficient to fully meet the scale of need.

- High housing costs: The local housing market is unaffordable for many low-income residents, limiting their options for stable housing.

City Response

To overcome these barriers, the City is strategically targeting its CDBG resources toward high-impact programs and partnerships with nonprofit organizations. These efforts are designed to maximize the impact of available funds by focusing on services that address urgent needs, enhance self-sufficiency, and improve quality of life for Newport Beach's most vulnerable residents.

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AP-38 Project Summary

Project Summary Information

1	**Project Name**	CDBG Program Administration
	Target Area	Citywide
	Goals Supported	Support Programs through Program Administration
	Needs Addressed	Support Programs through CDBG Administration
	Funding	CDBG: $120,000.00
	Description	CDBG program oversight and coordination.
	Target Date	6/30/2027
	Estimate the number and type of families that will benefit from the proposed activities	N/A
	Location Description	100 Civic Center Drive, Newport Beach, CA - City Hall
	Planned Activities	CDBG program oversight and coordination.
2	**Project Name**	Fair Housing Services
	Target Area	Citywide
	Goals Supported	Affirmatively Further Fair Housing
	Needs Addressed	Promote Fair Housing
	Funding	CDBG: $16,000.00
	Description	Fair housing outreach, education, and enforcement.
	Target Date	6/30/2027
	Estimate the number and type of families that will benefit from the proposed activities	120 Households
	Location Description	Activity will be available Citywide
	Planned Activities	Fair housing outreach, education, and enforcement to address and eliminate impediments to fair housing.
3	**Project Name**	Meals on Wheels
	Target Area	Citywide
	Goals Supported	Support Community and Homeless Services
	Needs Addressed	Support Community and Homeless Services
	Funding	CDBG: $30,000.00
	Description	Meals will be provided to senior citizens throughout the City.
	Target Date	6/30/2027

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	Estimate the number and type of families that will benefit from the proposed activities	33 seniors
	Location Description	Citywide
	Planned Activities	Meals on Wheels OC: Home Delivered Meals.
4	**Project Name**	LiftingUp Foundation
	Target Area	Citywide
	Goals Supported	Support Community and Homeless Services
	Needs Addressed	Support Community and Homeless Services
	Funding	CDBG: $15,000.00
	Description	CDBG technical assistance to build organizational capacity and reach grant milestone and provide meals to LMI veterans and their families.
	Target Date	6/30/2027
	Estimate the number and type of families that will benefit from the proposed activities	400 veterans
	Location Description	Citywide
	Planned Activities	CDBG technical assistance to build organizational capacity and reach grant milestone and provide meals to LMI veterans and their families.
5	**Project Name**	City IPF Project
	Target Area	Citywide
	Goals Supported	Public Facilities and Infrastructure Improvements
	Needs Addressed	Enhance Public Facilities and Infrastructure
	Funding	CDBG: $553,157.00
	Description	Funding to meet infrastructure and ADA needs for eligible populations
	Target Date	6/30/2027
	Estimate the number and type of families that will benefit from the proposed activities	Estimation once project scope is determined
	Location Description	Citywide
	Planned Activities	Public Facilities Improvements

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AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

Based on evaluation of CPD Maps data, there are no areas within the City exhibiting a greater level of need for affordable housing or services for low- and moderate-income residents and there were no areas of the City containing minority concentrations; therefore, no geographic priorities were established within the Consolidated Plan and allocation priorities will be driven by citywide need. All CDBG funds will be directed toward activities benefitting low- and moderate-income residents citywide.

The only exception to this approach would be for CDBG projects that are qualified on a low- and moderate-income area basis where a specific proportion of the residents within the service area must be low- and moderate-income residents.

Geographic Distribution

Target Area	Percentage of Funds
Citywide	100

Table 8 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

The City's investments in Fair Housing Services, Public Services and Homelessness Prevention Services projects are based on a citywide geography because individuals in need of these services may live anywhere within the jurisdiction—particularly services for seniors and homeless individuals.

Discussion

Based on the Strategic Plan, the City is allocating 100 percent of its non-administrative CDBG funds for program year 2026-2027 to projects and activities that benefit low- and moderate-income people.

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

The City of Newport Beach will look at using non-CDBG local, state, and federal funding sources to develop new housing units. Preservation of the physical and functional integrity of existing housing units occupied by low- and moderate-income households is a cost-effective way to invest limited non-CDBG resources to retain existing housing units that are already affordable to low- and moderate-income households in the community. Additionally, rehabilitation will assist in resolving housing problems that residents face throughout Newport Beach. Addressing substandard housing conditions through housing preservation activities ensures that all economic segments of the community have the opportunity to live in decent housing that meets local standards.

Expand the Supply of Affordable Housing

Based on recent housing data, Newport Beach continues to face a significant need for additional rental housing that is affordable to lower-income households, particularly those earning less than 50 percent of the Area Median Income (AMI). Many households are burdened by high housing costs, with a large share paying more than half of their income toward rent—placing them at risk of housing instability or homelessness.

To address this, the City will continue to leverage its Affordable Housing Trust Fund and pursue strategies under the State Density Bonus law to support the development of new affordable housing opportunities. These efforts aim to increase the availability of housing for the most vulnerable residents and reduce the risk of displacement.

Preserve the Supply of Affordable Housing

As Newport Beach's housing stock continues to age, more homes will require repairs and upgrades to remain safe and livable. This need is especially critical for low- and moderate-income homeowners who may lack the financial resources to keep up with necessary maintenance.

Investing in the preservation of existing homes is a cost-effective strategy to protect affordable housing that already serves the community. By addressing substandard conditions through targeted rehabilitation efforts, the City can help ensure that residents across all income levels have access to safe, decent housing that meets local standards. Additionally, the data below outlines the number of homeless, special-needs, and other families assisted with affordable housing. One-year goals for rental assistance and the production of new housing units are also included.

One Year Goals for the Number of Households to be Supported	
Homeless	12
Non-Homeless	178

One Year Goals for the Number of Households to be Supported	
Special-Needs	6
Total	196

Table 9 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	86
The Production of New Units	172
Rehab of Existing Units	0
Acquisition of Existing Units	0
Total	258

Table 10 - One Year Goals for Affordable Housing by Support Type

Discussion

Additionally, the City provides Housing Choice Vouchers and is currently serving 86 families, including 4 disabled persons and 62 elderly persons. The Strategic Plan identifies a high priority need to expand the supply of affordable housing. However, the City will use other funding sources and methods to create affordable housing opportunities such as the Affordable Housing Trust Fund and the State Density Bonus law.

Upcoming developments with LMI units include 4400 Von Karman, 4665 MacArthur CT, Newport Crossings, 1300 Bristol Apartments, 1401 Quail ST Condos

AP-60 Public Housing – 91.220(h)

Introduction

The Newport Beach Housing Authority does not administer Section 8 and does not own HUD Public Housing. Newport Beach is within the service area of the Orange County Housing Authority (OCHA) for the purposes of Section 8 and Public Housing. The data presented in the tables below is for Newport Beach and the narrative responses address the needs for the entire county, with specific references to the City of Newport Beach.

Actions planned during the next year to address the needs to public housing

The City does not own or operate public housing, and no public housing developments are proposed for Program Year 2026-27.

In the upcoming five years, OCHA's goals are:

- Apply for additional housing assistance funding and programs that may become available.
- Explore the use of Project-Based Housing Choice Vouchers or other housing funds to promote the construction or acquisition activities that will result in additional units or developments that will serve special needs populations.
- Ensure consistent quality of assisted housing services by maintaining high performer status in Section Eight Management Assessment Program (SEMAP) scores.
- Promote Family Self-Sufficiency incentives and homeownership opportunities for Housing Choice Voucher participants in partnership with local programs and related service providers.
- Expand assisted housing choices by conducting outreach efforts to increase the number of property owners and their participation in housing assistance programs.
- Identify and utilize technology to enhance operational effectiveness and efficiency in delivery of housing assistance services.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

OCHA supports resident councils and actively seeks input from PHA residents on the management and implementation of OCHA policies and procedures.

Housing prices in Orange County are so high that homeownership opportunities are limited for OCHA residents. On a limited basis, OCHA has partnered with Habitat for Humanity to provide two affordable homeownership units, but these types of efforts are limited.

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

Not applicable. OCHA is designated as a High Performing PHA.

Discussion

Newport Beach continues to support OCHA in effective administration of its limited affordable housing resources. The City also continues to work with OCHA to include the residents with Section 8 Housing Choice Vouchers in the federally funded programs administered by the City, including any homeownership programs.

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

The City will invest CDBG funds during the 2026-2027 program year to address high priority needs identified in the 2025-2029 Consolidated Plan including preventing homelessness and providing public services to homeless populations.

Homelessness Prevention Services

According to the results of the most recent data available from the bi-annual Point-In-Time Homeless Count (PIT Count) held in January 2024, on any given night in Orange County, approximately 7,132 people are homeless. To address incidences of homelessness in Newport Beach and to prevent extremely low-income Newport Beach families from becoming homeless, the City places a high priority on programs that work to prevent homelessness or rapidly assist homeless individuals living in the community. To address this need, the City will support CDBG public service activities that help prevent homelessness and that provide a structured path to stable housing for individuals and families who become homeless.

According to the results of the most recent data available from the Point-In-Time Homeless Count (PIT Count) held on any given night in Newport Beach, approximately 71 people are homeless. To address incidences of homelessness in Newport Beach and to prevent extremely low-income Newport Beach families from becoming homeless, the City places a high priority on programs that work to prevent homelessness or rapidly assist homeless individuals living in the community. To address this need, the City will support CDBG public service activities that help prevent homelessness and that provide a structured path to stable housing for individuals and families who become homeless.

Services for Residents with Special Needs

Analysis of available data and consultation with organizations providing services for special needs populations revealed a need for a range of additional services including, but not limited to, those concerned with domestic violence, human trafficking, mental disabilities, physical disabilities, developmental disabilities, substance abuse/alcoholism and HIV/AIDS that may be addressed by non-profit organizations. Non-profit organizations currently exist to fulfill some of these needs of individuals. Organizations such as Human Options, an Orange County-based non-profit that provides assistance to individuals experiencing domestic violence. Laura's House provides emergency shelter to women and children fleeing domestic violence situations. Radiant Health Centers provides services for those with HIV/AIDS such as free HIV and Hepatitis C testing.

Describe the one-year jurisdictions' goals and actions for reducing and ending homelessness including:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

To reach out to unsheltered homeless persons and assess their individual needs for the purpose of connecting them with available emergency shelter and transitional housing resources, the City of Newport Beach, through its Planning Division, will provide information and referrals — primarily to 2-1-1 Orange

County. Additionally, to reduce and end homelessness, the City of Newport Beach will provide CDBG public service funds for the following activities:

- Newport Beach Motel Voucher Program (20 homeless people)

Addressing the emergency shelter and transitional housing needs of homeless persons

The City addresses homelessness through coordinated outreach, case management, and partnerships. City staff and City Net—a contracted outreach provider—work together to connect individuals with emergency housing, health care, benefits counseling, and other community-based services. Engagement often requires multiple visits to build trust before assistance is accepted.

A full-time Homeless Liaison Officer and a homeless coordinator focus on individualized case work, collaborating with the County of Orange Health Care Agency and City Net. Each person's needs differ, so outreach is tailored case-by-case.

Street outreach aims to link unsheltered individuals to emergency shelter, housing, critical services, healthcare, or urgent care. Since 2021, Newport Beach has partnered with Costa Mesa for access to the Bridge Shelter, which offers temporary housing, case management, addiction and mental health counseling, job assistance, and connections to permanent housing.

The City also operates a motel voucher program serving 20 homeless individuals. Additional emergency and transitional housing services are provided through the Orange County Continuum of Care (CoC), including Orange Coast Interfaith Shelter, Orange County Rescue Mission, WISEPlace, and City Net.

All efforts operate within state and federal laws and court rulings. In *Martin v. City of Boise* (2018), the Ninth Circuit held that governments cannot criminalize sleeping outdoors if no indoor option exists. Following this, a federal judge limited enforcement of anti-camping laws in Orange County unless adequate alternative sleeping locations are available.

Newport Beach's approach combines law compliance, consistent outreach, and individualized service connections to move people from homelessness toward stable housing.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

To address the needs of homeless families, families with children, veterans and their families, the City supports the City's Motel Voucher Program.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

The Orange County CoC Ten Year Plan to End Homelessness included a goal to establish countywide protocols and procedures to prevent people from being discharged from public and private institutions of care into homelessness that will help decrease the number of persons being discharged into homelessness. The CoC is seeking improve coordination among publicly and privately funded institutions of care and local service agencies in the County of Orange in order to decrease the number of persons being discharged from homelessness annually.

City Net is an organization that coordinates outreach among homeless service providers in the county with vulnerable homeless neighbors. City Net collects data for a Homeless Services Dashboard Report with frequent meetings on how to improve public services that enables organizations in Newport Beach to better coordinate their efforts and leverage key synergies.

Preventing and ending homelessness is a HUD priority addressed nationally through coordination of regional strategies carried out locally by government agencies and a wide variety of community-based organizations and faith-based groups. Consistent with this approach, the City of Newport Beach supports the efforts of Orange County Continuum of Care (CoC) and its member organizations that address homelessness throughout Orange County. In alignment with this strategy, the City will use CDBG funds to support local service providers with programs to prevent homelessness and to expand the supply of affordable housing in Newport Beach for low- and moderate-income residents.

Discussion

The City of Newport Beach considers ending and preventing homelessness a high priority and will support CDBG public service activities that help prevent homelessness and that provide a structured path to stable housing for individuals and families who become homeless.

AP-75 Barriers to affordable housing – 91.220(j)

Introduction

A barrier to affordable housing is a public policy or nongovernmental condition that constrains the development or rehabilitation of affordable housing, such as land use controls, property taxes, state prevailing wage requirements, environmental protection, cost of land and availability of monetary resources. Barriers to affordable housing are distinguished from impediments to fair housing choice in the sense that barriers are lawful and impediments to fair housing choice are usually unlawful.

Based on information gathered during community meetings, the Consolidated Plan Needs Assessment Survey, the 2021-2029 Housing Element and market analysis, the primary barriers to affordable housing in Newport Beach are housing affordability and the lack of monetary resources necessary to develop and sustain affordable housing. The two barriers are related in the sense that demand for affordable housing exceeds the supply, and insufficient resources are available to increase the supply of affordable housing to meet demand.

For low- and moderate-income households, finding and maintaining decent, affordable housing is a persistent challenge due to the high cost of housing in Newport Beach and the surrounding region. According to 2016–2020 CHAS data, approximately 36% of the City's 38,075 households experience either a housing cost burden (paying more than 30% of income) or a severe cost burden (paying more than 50%). This issue disproportionately impacts renters, especially those earning below 80% of the Area Median Income (AMI). Responses to the 2025-2029 Consolidated Plan Needs Assessment Survey confirm this data, with residents identifying a strong need for additional affordable housing options in the community.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

In the development of the 2021-2029 Housing Element, the City evaluated significant public policies affecting affordable housing. The Housing Element identifies and analyzes the City's existing and projected housing needs. The Housing Element contains a detailed outline and work program of the City's goals, policies, and quantified objectives for the preservation, improvement, and development of housing for a sustainable future. This includes timelines for the City to accomplish each identified action within the Housing Plan.

As is common in many communities, a variety of constraints affect the provisions and opportunities for adequate housing in the City of Newport Beach. Housing constraints consist of both governmental constraints, including but not limited to land use controls, development fees and permitting fees, development standards, building codes and permitting processes; as well as, nongovernmental or market constraints, including but not limited to land costs, construction costs, and availability of finances. Combined, these factors create barriers to availability and affordability of new housing, especially for lower and moderate-income households.

On September 13, 2022, the Newport Beach City Council adopted an update to its Housing Element for the 2021-2029 planning cycle in response to the 6th Cycle Regional Housing Needs Assessment (RHNA)

allocation of 4,845 new housing units for Newport Beach. On October 5, 2022, the City received a letter from HCD certifying the City's Housing Element as being in full compliance with State Housing Element Law.

Discussion

N/A

AP-85 Other Actions – 91.220(k)

Introduction

In the implementation of the 2026-2027 Annual Action Plan, the City will invest CDBG resources to address obstacles to meeting underserved needs, reduce the number of poverty-level families, develop institutional structure and enhance coordination between public and private social service agencies.

Actions planned to address obstacles to meeting underserved needs

One of the main challenges in addressing the needs of low- and moderate-income residents is the limited availability of funding from federal, state, and local sources, along with the high cost of housing in Newport Beach. To overcome these barriers, the City is prioritizing its 2026-2027 Community Development Block Grant (CDBG) investments to directly support underserved populations.

Through its Action Plan, the City will fund projects that assist individuals with special needs, help prevent homelessness and expand economic opportunities for low- and moderate-income residents. For the 2026-2027 program year, 100 percent of the City's non-administrative CDBG funds will be directed toward activities that benefit low- and moderate-income households or those presumed by HUD to qualify as such.

Actions planned to foster and maintain affordable housing

In the implementation of the 2026-2027 Annual Action Plan, the City will continue to look at alternate funding sources and programs to preserve and maintain existing affordable housing such as the City's Residential Rehabilitation Program.

Actions planned to reduce lead-based paint hazards

The City of Newport Beach administers a Residential Rehabilitation Program. The City includes lead-based paint safety education—such as EPA brochures—with all application materials. For any assisted housing unit built before January 1, 1978, the City will require lead-based paint testing. If lead is found, abatement will be completed in compliance with federal regulations under 24 CFR Part 35 as part of the rehabilitation process.

Actions planned to reduce the number of poverty-level families

The City of Newport Beach uses a combination of federal, state, and local resources to help reduce the number of families living in poverty by:

- Expanding affordable housing through use of the City's Housing Trust Fund and incentives like the State Density Bonus law;
- Preventing and addressing homelessness by supporting a range of housing and service programs;
- Preserving existing housing to ensure low-income households have safe, decent places to live;
- Funding nonprofit services with CDBG support to assist youth, seniors, families, and individuals

with special needs.

These local efforts are supported by broader state and federal programs that help families meet basic needs and move toward self-sufficiency. Programs like the Earned Income Tax Credit, Head Start, CalWORKs, CalFresh, and Medi-Cal provide critical help with employment, food, healthcare, childcare, and housing. Additional support is available for those facing substance abuse, domestic violence, or mental health challenges.

Actions planned to develop institutional structure

The City of Newport Beach maintains a strong and collaborative institutional network that supports the effective delivery of housing and community services. This system includes close coordination between City departments and a broad range of experienced nonprofit organizations.

Community-based organizations—such as City Net—play a central role in providing housing navigation and supportive services. These partnerships help align efforts, maximize resources, and improve outcomes for residents, particularly those experiencing or at risk of homelessness.

The Planning Division of the Community Development Department leads the City's affordable housing development and preservation efforts in collaboration with other public agencies and private developers. Public service programs are implemented by local nonprofit partners through CDBG grants to serve seniors, people with disabilities, low-income families, and special needs populations.

Additionally, the Planning Division works closely with the Public Works and Engineering Departments and qualified contractors to manage and deliver infrastructure and facility improvement projects that benefit low- and moderate-income neighborhoods.

To further strengthen this institutional framework, the City will continue investing CDBG funds into a diverse portfolio of public services, with an emphasis on programs that address the needs of underserved populations and promote housing stability, independence, and long-term well-being.

Actions planned to enhance coordination between public and private housing and social service agencies

To strengthen coordination between public and private entities, the City of Newport Beach will continue to engage a broad network of housing providers, social service agencies, and nonprofit organizations that serve low- and moderate-income residents. This includes ongoing consultation, outreach, and participation opportunities throughout the implementation of the 2026-2027 Annual Action Plan.

The City will facilitate collaboration by:

- Maintaining open communication with local partners involved in affordable housing, homelessness services, and supportive programs for seniors, youth, and persons with special needs.

- Hosting meetings, workshops, and technical assistance sessions to align program goals and

improve service delivery.

- Supporting cross-agency referrals to ensure residents receive comprehensive and coordinated support.

Discussion

Through the 2026-2027 Annual Action Plan, the City will allocate CDBG resources to address critical community needs by targeting underserved populations, reducing poverty, improving service infrastructure, and fostering stronger partnerships between public institutions and private nonprofit agencies. These coordinated efforts are essential to maximizing impact and achieving lasting community outcomes.

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

Introduction

A description of all CDBG funds expected to be available during the 2026-27 program year is provided in Section AP-35 (Projects) of the Action Plan. The City has no urban renewal settlements; grant funds returned to the line of credit or income from float-funded activities.

Community Development Block Grant Program (CDBG)

Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
2. The amount of proceeds from section 108 loan guarantees that it will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	**0**

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons with low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	100.00%

Discussion

The City intends to utilize 100% of its CDBG allocation for activities that benefit low- and moderate-income households. Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table.

CITY OF

NEWPORT BEACH

City Council Staff Report

May 26, 2026
Agenda Item No. 14

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Jaime Murillo, Community Development Director - 949-644-3209, jmurillo@newportbeachca.gov
PREPARED BY:	Oscar Orozco, Associate Planner - 949-644-3219, oorozco@newportbeachca.gov
TITLE:	Ordinance No. 2026-06: Amending Title 5 (Business Licenses and Regulations) and Title 20 (Planning and Zoning) for Tobacco Retailer Businesses and Cigar Lounges

ABSTRACT:

For the City Council's consideration is the introduction of an ordinance amending Title 5 (Business Licenses and Regulations) and Title 20 (Planning and Zoning) to establish comprehensive regulations for tobacco retailer businesses and cigar lounges.

Consistent with the City Council's initiation on September 9, 2025, the ordinance would create new permitting requirements, operational standards, location restrictions, and other provisions, including but not limited to requiring all tobacco retailer businesses to obtain a Tobacco Retailer Permit from the Newport Beach Police Department (NBPD). The ordinance would prohibit tobacco retailer businesses from operating near residential zoning districts, schools, public libraries, parks, and other sensitive uses. As proposed, existing retailers within these buffer areas may be considered legal nonconforming uses but would be required to obtain and maintain a Tobacco Retailer Permit.

The ordinance would further establish a new land use classification for cigar lounges and permit them within the Office Airport (OA) and Office Regional (OR) Zoning Districts subject to certain operational and locational standards.

RECOMMENDATIONS:

1) Conduct a public hearing;

2) Find this project categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment; and

3) Introduce Ordinance No. 2026-06, *An Ordinance of the City Council of the City of Newport Beach, California, Adding Chapter 5.55 (Tobacco Retailer Businesses) to Title 5 (Business Licenses and Regulations) and Amending Title 20 (Planning and Zoning) of the Newport Beach Municipal Code Related to Operation of New Tobacco Retailer Businesses and the Relocation or Physical Expansion of Existing Tobacco*

Retailer Businesses, Also Known as Smoke Shops, and pass to second reading on June 9, 2026.

DISCUSSION:

Nitrous Oxide, Flavored Tobacco & Illegal Activity at Local Tobacco Retailers

Newport Beach is facing increasing public safety concerns tied to nitrous oxide and flavored tobacco, both of which are widely accessible in local smoke shops and illegal dispensaries. These products are especially appealing to youth, and national data shows that most teens who vape use flavored products. Local parents have also raised concerns, submitting multiple complaints about smoke shops over the past two years.

At the same time, several tobacco retailers in the city have been found to be involved in illegal drug sales, including cannabis, psilocybin, nitrous oxide, and prohibited tobacco products. NBPD investigations and search warrants uncovered significant quantities of illegal substances at two locations in Corona del Mar, highlighting a broader pattern of unlawful activity.

Together, these trends point to a clear need for stronger oversight and enforcement, similar to actions already taken in nearby cities such as Anaheim, Orange, Buena Park, Costa Mesa, and Beverly Hills.

Moratorium and Initiation of Code Amendments and Measures Taken to Alleviate the Conditions That Led to the Adoption of the Urgency Ordinance

Based on the aforementioned safety concerns, on September 9, 2025, then-Mayor-Pro-Tem Lauren Kleiman requested initiating amendments to Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) related to tobacco retail establishments, tobacco accessories/paraphernalia, smoke shops, smoking lounges, and other smoke-related businesses pursuant to City Council Policy A-1. In addition to the code update, the City Council also directed staff to prepare an Urgency Ordinance to establish a temporary moratorium on the establishment of new smoke shops pending the outcome of the code amendment review. The City Council voted unanimously (6-0), via a straw poll, in favor of staff returning with an item.

On September 23, 2025, the City Council unanimously (7-0) adopted Ordinance No. 2025-31, imposing a 45-day moratorium on the establishment and operation of new tobacco retailer businesses as well as the relocation or physical expansion of existing tobacco retailer businesses. In addition, the City Council adopted Resolution No. 2025-64, initiating amendments to Title 20 and Title 21 of the NBMC pertaining to smoke shops, smoking lounges, and other tobacco related businesses[1].

On September 23, 2025, the City Council unanimously (7-0) adopted Ordinance Nos. 2025-26 and 2025-27, establishing a permanent prohibition on the sale and distribution of flavored tobacco products and the sale, distribution and use of nitrous oxide designed

[1] Amendments to Title 5 of the NBMC do not require initiation by the City Council.

to address the same issues that prompted the temporary moratorium. Chapters 6.30 (Prohibition of Sale and Distribution of Flavored Tobacco Products) and 6.40 (Prohibition of Sale, Distribution, and Use of Nitrous Oxide) of Title 6 (Health and Sanitation) of the NBMC now govern flavored tobacco products and nitrous oxide. These chapters expressly prohibit the sale and distribution of flavored tobacco products, and they also prohibit the sale, distribution, and use of nitrous oxide within the city.

On October 28, 2025, the City Council unanimously (7-0) adopted Ordinance No. 2025-34, extending the temporary moratorium on the establishment and operation of new tobacco retailer businesses and the relocation or physical expansion of existing tobacco retailer businesses. The temporary moratorium would end by September 23, 2026 and allow City staff time to prepare the aforementioned code amendments.

Pursuant to Government Code Section 65858(d), the City is required to issue a written report describing the measures taken to alleviate the conditions which led to the adoption of the interim moratorium at least 10 days prior to the expiration of the ordinance or any extension. The City hereby designates this staff report, made available to the public on May 22, 2026, as the written report required under Section 65858(d).

Planning Commission Review

On March 19, 2026, the Planning Commission considered the proposed amendments establishing a Tobacco Retailer Permit (TRP) program and cigar lounge regulations to Titles 5 and 20 of the NBMC. No public comments were received prior to the public hearing.

During the Planning Commission's deliberations, several Commissioners raised questions regarding the scope of the ordinance, particularly the distinction between smoke shops and convenience stores. Commissioner Rosene encouraged staff to consider removing convenience stores from the list of exempted businesses. The Commissioners also asked if staff would notify those businesses that would become legal nonconforming due to the ordinance. During the public hearing, Mr. Jim Mosher provided oral comments. He stated, as summarized, that the definition of "tobacco retailing" is unclear and that additional clarification of a "residential use" or "residential zone" is necessary. He also suggested revising the ordinance so that only relevant violations affect TRP eligibility and refining the definition of a tobacco retailer business so that drug stores selling nicotine patches are not mistakenly classified as smoke shops. Vice Chair Salene agreed that the ordinance should be revised so that only relevant violations affect TRP eligibility, and Chair Harris supported clarification over mixed-use and housing overlay areas as it relates to the limitations in "residential zones" and "residential use".

At the conclusion of the public hearing, the Planning Commission adopted Resolution No. No. PC2026-009 by a unanimous vote (5 ayes, 0 nays, 2 absent) recommending approval of the amendments. A copy of the March 19, 2026, Planning Commission staff report is included as Attachment B and the meeting minutes are included as Attachment C.

In response to the questions and concerns raised by the Planning Commission, staff has incorporated revisions to the draft code language, which are reflected in the attached draft ordinance.

Tobacco Retailer Businesses

The sale of tobacco and tobacco related products is currently defined as a “Retail Sales” land use in Chapter 20.70 (Definitions) of the NBMC, which is permitted by right in most zoning districts with a few exceptions. The NBMC does not include specific standards for retail sales of tobacco or tobacco related products. Neither Title 20 nor Title 21 provide a definition for “Tobacco Retail Sales”, “Tobacco Retailer Business”, or “Smoke Shops”, and there are no objective land use regulations, such as limits on hours of operations, appropriate zoning districts, and/or separation requirements. Therefore, despite the aforementioned public safety implications, tobacco related retail sales are regulated no differently than a typical retail store.

Cigar Lounges Prohibited

Titles 20 and 21 of the NBMC include a definition and a land use classification for “Smoking Lounge,” which is defined as “an establishment that is dedicated, in whole or part, to providing tobacco or other substances for smoking by patrons on the premises for a fee, including but not limited to establishments known as cigar lounges, hookah lounges, tobacco clubs, or tobacco bars. It does not include a “retail or wholesale tobacco shop,” which sells tobacco products and smoking accessories, but does not provide for on-premises use of tobacco products. The smoking lounge land use classification includes cigar lounges and is prohibited in all zoning districts.

Tobacco Retailer Businesses Amendment

The proposed code amendments would establish comprehensive regulations governing tobacco retailer businesses within Newport Beach. The amendment introduces a ministerial permitting framework for businesses defined as a “Tobacco Retailer Business” in Title 5 of the NBMC. The sale of tobacco would remain a “Retail Sales” land use within Title 20 but would include a reference to Title 5 that will contain comprehensive regulations and the requirement for a Tobacco Retailer Permit (TRP).

As proposed in Title 5 and Title 20 of the NBMC, a “Tobacco retailer business” means any person or establishment who sells, offers for sale, distributes, furnishes, or otherwise exchanges, with or without compensation, a tobacco product, tobacco paraphernalia, or tobacco-related item, to a consumer or end user, whether conducted in a physical storefront, through mobile or temporary setups, or via online or delivery-based platforms operating within the City of Newport Beach. Does not include "Grocery Store," "Supermarket,", “Hotel”, “Motel”, "Alcohol Sales (off-sale)," "Alcohol Sales (off-sale), Accessory Only," "Cigar Lounge,” or the "Sale of Premium Cigars." At the recommendation of the Planning Commission, “Convenience Markets” and “Service Station” have been removed from the proposed definition[2] and as proposed would be

[2] Convenience stores which include "Alcohol Sales (off-sale)," or "Alcohol Sales (off-sale), Accessory Only," are exempt from obtaining a TRP because they are already required to obtain an alcohol license from the California Department of

required to obtain a TRP. A copy of the Amendments to Title 5 and Title 20 in redlined format are included as attachments D and E.

The ordinance includes references to definitions in Chapters 6.30 (Prohibition of Sale and Distribution of Flavored Tobacco Products) and 6.40 (Prohibition of Sale, Distribution, and Use of Nitrous Oxide) and introduces new definitions for tobacco paraphernalia, electronic smoking devices, and related terms. These new definitions provide clarity for enforcement and distinguish tobacco retailers from other commercial and retail uses.

As proposed in Title 20 of the NBMC, tobacco retailers would continue to be permitted in office, commercial, industrial, and mixed-use zoning districts, provided they obtain a TRP and comply with the additional regulations, including the separation and location requirements identified in Table 1.

Tobacco Retailer Permit Requirements

All businesses that meet the definition of a tobacco retailer business would be subject to the standards proposed in Title 5 including obtaining a TRP. Administrative responsibility for TRPs will be conducted by the NBPD. The proposed ordinance establishes robust separation and locational standards to mitigate secondary effects, limit tobacco retailer businesses near sensitive uses, and prevent overconcentration. It also incorporates extensive operating standards to ensure responsible business practices and reduce the likelihood of unlawful activity. A summary of the proposed regulations for Tobacco Retailer Businesses is provided in Table 1 below.

Table 1, Summary of Proposed Regulations for Tobacco Retailer Businesses

Category	Key Rules	Purpose / Effect
Permit Requirement	All tobacco retailers must obtain a City TRP from the NBPD; Non-transferable Annual renewal required.	Ensures oversight, accountability, and compliance with Local/State law.
Where Retailers Are Allowed	Permitted in OA, OG, OM, OR, CC, CG, CM, CN, MU-V, MU-MM, MU-DW, MU-CV/15th St., MU-W1, MU-W2, and IG Zoning Districts, subject to prohibited locations and separation requirements discussed below.	Limits tobacco retailing to compatible commercial and mixed-use areas.
Where Retailers Are Prohibited	Prohibited in residential zones, restaurants, and alcohol-serving establishments.	Prevents incompatible or high-risk co-locations.
Separation Requirements	1,000 feet (ft) from another tobacco retailer business; 500 ft from public or private school, park or playground, civic center, cultural site, or religious institution; and 500 ft from residential zoning district or residential use.	Prevents overconcentration and protects residential neighborhoods and minors.

Alcoholic Beverage Control (ABC). The ABC license provides a regulatory and enforcement mechanism that allows the Police Department to oversee and address alcohol-related compliance issues, making a separate TRP unnecessary.

Category	Key Rules	Purpose / Effect
Nonconforming Retailers	May continue if they obtain a permit within 60 days, avoid lapses, and do not substantially change operations.	Allows existing businesses to operate under certain conditions.
Prohibited Products	Nitrous oxide, cannabis, flavored tobacco, disguised electronic smoking devices, imitation tobacco.	Reduces illegal activity and protects public safety.
Operational Standards	No self-service displays (e.g., vending machines); Age verification required; Original packaging only; and Posted permits.	Promotes orderly, lawful, and transparent operations.
Signage Limits	No more than 20% of window/door transparency area may contain signage and must comply with Chapter 20.42 (Sign Standards).	Maintains visibility and reduces visual blight.
Fixed Location Requirement	No mobile, temporary, or vehicle-based tobacco retailing.	Prevents unregulated or transient operations.
Permit Denial / Revocation	May occur for incomplete applications, false information, or outstanding fines.	Ensures only compliant operators remain in business.

Existing Tobacco Retailer Businesses

There are many existing, known, tobacco retailer businesses within the city that are legally permitted to operate under current zoning regulations and identified in Figure 1. Upon adoption of the proposed ordinance, these businesses would become legal nonconforming uses due to the newly established standards applicable to tobacco retailers. As legal nonconforming uses, these retailers would be allowed to continue operating provided they obtain a Tobacco Retailer Permit within 60 days of the effective date of the ordinance, maintain continuous operation without lapse, and remain consistent with Section 20.38.050 (Nonconforming Uses) of the NBMC and proposed Title 5 regulations. At the recommendation of the Planning Commission, revisions to the amendment have been made to help clarify the standards that apply to legal nonconforming businesses to remove any ambiguity regarding how prior violations are evaluated.

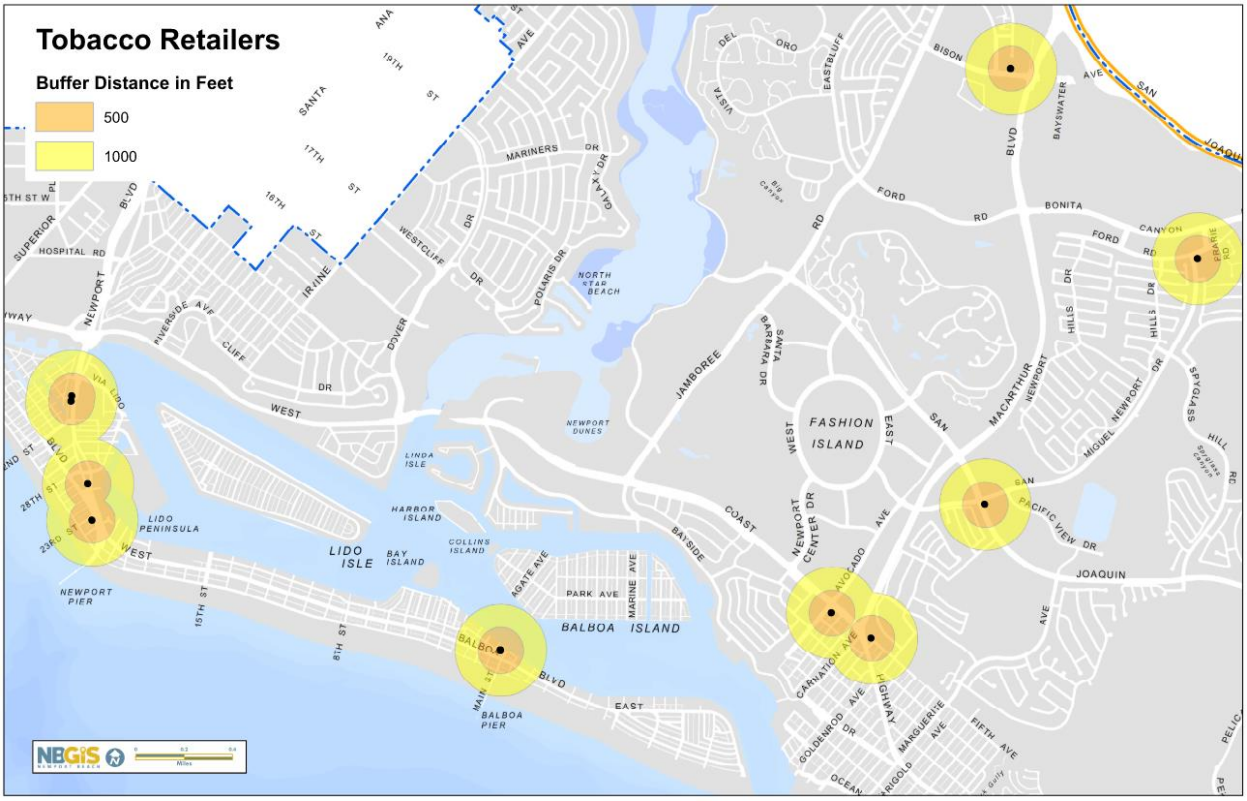


Figure 1, Existing Known Tobacco Retailer Businesses

Cigar Lounges Amendment

Additional amendments are proposed to Title 20 that would establish a new land use specifically for cigar lounges. The amendments authorize cigar lounges in limited commercial zones and in conjunction with the retail sale of premium cigars, which are exempt from the TRP requirements previously outlined. The amendments would modify the existing definition of "Smoking Lounges" to remove cigar lounges and create a new definition that would allow the smoking of premium cigars[3] only.

As proposed, cigar lounges would be permitted within the OA (Office Airport) and OR (Office Regional) Zoning Districts. These districts, depicted in Figure 3 below, were intentionally selected for their commercial intensity, distance from established residential neighborhoods, and reduced likelihood of conflict with sensitive uses. The OA and OR districts are generally characterized by a mix of uses that function more like quasi-urban mixed-use environments and generate predominantly commercial activity. The OA District is adjacent to John Wayne Airport and the OR District is within Newport Center. There are no changes proposed to the prohibition on Smoking Lounges, which would continue to be prohibited citywide.

[3] Premium cigars are generally defined as any cigar that is handmade, or hand rolled, is not mass produced by use of mechanization, has a wrapper, which is made entirely from whole tobacco leaf, and has a wholesale price of no less than $12 each. A premium cigar does not have a filter, tip, or nontobacco mouthpiece and is capped by hand.

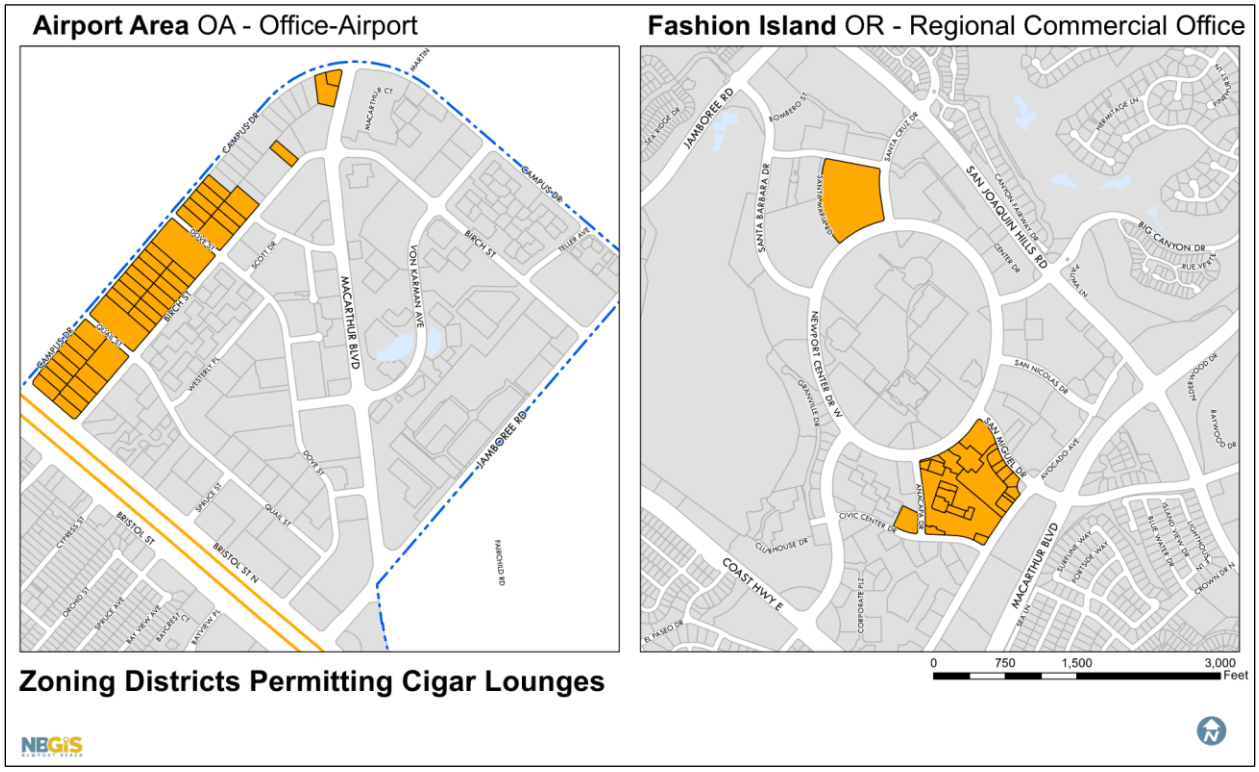


Figure 3, Zoning Districts where Cigar Lounges would be permitted

The proposed code amendment would also establish regulations for cigar lounges, recognizing their operational characteristics while ensuring they remain compatible with surrounding land uses and consistent with the City's broader public health and safety objectives. A summary of the proposed regulations for Cigar Lounges is provided in Table 2 below.

Table 2, Summary of Proposed Regulations for Cigar Lounges

Category	Key Rules	Purpose / Effect
Permitted Zoning Districts	OA (Office Airport) and OR (Office Regional)	Cigar lounges may operate only in these two commercial zones, selected for their distance from residential areas and compatibility with higher-intensity commercial uses.
Prohibited Zoning Districts	All other zones, including residential, mixed-use, and neighborhood-serving commercial districts.	Prevents cigar lounges from locating near homes, schools, or resident-oriented commercial areas.
Separation From Other Cigar Lounges	1,000 feet of another Cigar Lounge.	Ensure cigar lounges do not cluster or create overconcentration within permitted districts.
Operational Compatibility	Restricted to people 21 years of age or older. Shall be fire sprinklered and provide adequate ventilation.	Ensure cigar lounges operate in a controlled, contained manner consistent with City health and safety objectives.

State Laws Pertaining to Cigar Lounges

California's Attorney General has clarified that cigar lounges attached to retail or wholesale tobacco shops must follow State smoke-free workplace laws if they serve alcohol, meaning alcohol service is not allowed in conjunction with indoor smoking.

The opinion also states that cigar lounges are considered assembly occupancies under the California Building Standards Code. As a result, they must meet all relevant fire and life safety requirements, including installing automatic fire sprinkler systems, due to the increased fire risk of indoor smoking.

The proposed ordinance incorporates these State rules by allowing cigar lounges only in certain commercial zones and requiring full compliance with all building, fire and workplace safety regulations. Any approved cigar lounge must:

- Follow Labor Code §6404.5, including smoke-free rules when alcohol is served
- Install required fire sprinklers and safety systems
- Obtain all necessary building, fire and operational permits

Overall, the ordinance ensures cigar lounges operate safely and in full alignment with state law.

General Plan Consistency

The proposed code amendment regulating tobacco retailers and cigar lounges is consistent with the Newport Beach 2006 General Plan because it maintains the City's existing land use structure and does not introduce new land use categories or expand permitted uses. Tobacco retailers and cigar lounges would continue to operate only within established commercial, office, mixed-use, and industrial areas that already support a wide range of resident-serving and economically sustaining activities.

The amendment aligns with General Plan policies that promote resident-serving uses, support a complete and sustainable community, and encourage economic vitality. Restricting cigar lounges to the Office Airport (OA) and Office Regional (OR) districts is consistent with policies directing higher-intensity commercial uses to appropriate locations while preserving the character of residential neighborhoods. These districts are already characterized by employment and commercial activity and are suitably separated from sensitive land uses. This approach supports General Plan goals related to neighborhood preservation, growth management, and maintaining the City's unique community character. The amendment's operational standards, separation requirements, and permitting framework further reinforce General Plan objectives by ensuring compatibility with surrounding uses, protecting public welfare, and contributing to a balanced and economically healthy community.

Overall, the proposed code amendment is fully consistent with the General Plan because it supports orderly commercial development, protects residential areas, and advances Newport Beach's long-term vision for a safe, vibrant and well-balanced community. A full

analysis and breakdown of the amendment's general plan consistency is included in the attached Planning Commission Staff Report (Attachment B).

Local Coastal Program

An amendment to Title 21 (Local Coastal Program Implementation Plan) is not required because tobacco retailer businesses will continue to be classified as "Retail" uses under Titles 20 and 21 of the NBMC and will remain permitted in all zones where retail uses are allowed. Additionally, the OA (Office Airport) and OR (Office Regional) zoning districts where cigar lounges would be permitted are located outside the Coastal Zone and are therefore not addressed by Title 21. Therefore, no amendments to Title 21 are necessary.

FISCAL IMPACT:

The proposed amendments will have no fiscal impact. To ensure these costs are fully recovered, a new permit fee is being established. This fee is structured to capture the staff time and administrative resources necessary to implement and enforce the updated regulatory framework.

ENVIRONMENTAL REVIEW:

The proposed action is statutorily and categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. While this amendment would modify standards for tobacco retailer businesses and cigar lounges within the city, it does not authorize new development that would directly result in physical changes to the environment. There is no evidence or known special circumstances that amending the regulations for tobacco retailer businesses and cigar lounges would result in any new effects on the environment.

NOTICING:

Notice of this hearing was published in the Daily Pilot as an eighth-page advertisement, consistent with the provisions of the NBMC. The item also appears on the agenda for this meeting, which was posted at City Hall and on the City website.

In addition, direct notice was provided to the nine existing known tobacco retailer businesses affected by this amendment.

ATTACHMENTS:

Attachment A – Ordinance No. 2026-06
Attachment B – March 19, 2026, Planning Commission Staff Report (Without Attachments)
Attachment C – March 19, 2026, Planning Commission Minutes
Attachment D – Amendments to Title 5 (Business Licenses and Regulations), Proposed Redlined Code Changes
Attachment E – Amendments to Title 20 (Planning and Zoning Code), Proposed Redlined Code Changes

Attachment A

ORDINANCE NO. 2026-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADDING CHAPTER 5.55 (TOBACCO RETAILER BUSINESSES) TO TITLE 5 (BUSINESS LICENSES AND REGULATIONS) AND AMENDING TITLE 20 (PLANNING AND ZONING) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO OPERATION OF NEW TOBACCO RETAILER BUSINESSES AND THE RELOCATION OR PHYSICAL EXPANSION OF EXISTING TOBACCO RETAILER BUSINESSES, ALSO KNOWN AS SMOKE SHOPS

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, pursuant to Government Code Section 65858, the City Council may adopt an interim urgency ordinance prohibiting any use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time, if the members of the City Council by a majority vote find that there is a current and immediate threat to the public safety, health, and welfare of the community;

WHEREAS, tobacco retailer businesses, also known as smoke shops, have been a source of unlawful activities in the City, which, if not curtailed, present an immediate threat to the public health, safety, and welfare;

WHEREAS, the Newport Beach Police Department ("NBPD") served warrants at local tobacco retailer businesses and found evidence of ongoing illegal drug sales to adults and minors;

WHEREAS, on May 15, 2024, NBPD detectives arrested a store clerk at Plugged N Smoke & Sneakers, located at 3555 East Coast Highway in Corona Del Mar, following a lengthy investigation that uncovered ongoing sales of illegal marijuana, controlled substances, and prohibited tobacco products to both minors and adults;

WHEREAS, on June 10, 2025, NBPD detectives served a search warrant at Tobacco and Accessories, located at 3617 East Coast Highway in Corona Del Mar, seizing over 454 pounds of illegal cannabis, psilocybin (magic mushrooms), nitrous oxide, and prohibited tobacco products;

WHEREAS, these two cases are part of a troubling trend that endangers the well-being of the City's residents, especially minors, highlighting the urgent need for swift and decisive action, as demonstrated by aggressive enforcement and stricter regulations recently adopted by neighboring cities like Anaheim, Orange, La Habra, and Redondo Beach;

WHEREAS, the City Council adopted interim Urgency Ordinance No. 2025-31 on September 23, 2025, which was subsequently extended by the adoption of Urgency Ordinance No. 2025-34 on November 28, 2025;

WHEREAS, pursuant to Government Code Section 65858(d), the City issued a report detailing the actions taken to alleviate the conditions necessitating extension of Ordinance No. 2025-31, which included obtaining community input and convening an inter-departmental task force to develop new regulations, enhance enforcement, and curb illegal tobacco sales to minors and sales involving illicit substances;

WHEREAS, on September 23, 2025, the City Council initiated an amendment of the Zoning Code pertaining to smoke shops, smoking lounges, and other tobacco related businesses;

WHEREAS, the Planning Commission held a public hearing on March 19, 2026, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing. The Planning Commission unanimously voted to recommend the City Council adopt Chapter 5.55 (Tobacco Retailer Businesses) to Title 5 (Business Licenses and Regulations) and amendments to Newport Beach Municipal Code Title 20 (Planning and Zoning);

WHEREAS, the City Council held a public hearing on May 12, 2026, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing; and

WHEREAS, the City Council desires to protect the public health, safety, and general welfare of the community by imposing restrictions, enforcement tools, and local licensing requirements for tobacco retailers, and finds that the adoption of Chapter 5.55 (Tobacco Retailer Businesses) to Title 5 (Business Licenses and Regulations) and amendments to Title 20 (Planning and Zoning) will encourage responsible tobacco retailing and discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to youth.

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

Section 1: Chapter 5.55 (Tobacco Retailer Businesses) is hereby added to Title 5 (Business Licenses and Regulations) of the Newport Beach Municipal Code as set forth in Exhibit "A," which is attached hereto and incorporated herein by this reference.

Section 2: Sections 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements), 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements), and 20.24.020 (Industrial Zoning District Land Uses and Permit Requirements) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code are hereby replaced in their entirety as set forth in Exhibit "B," which is attached hereto and incorporated herein by this reference.

Section 3: The definitions set forth in Exhibit "B" are hereby added to Section 20.70.020 (Definitions of Specialized Terms and Phrases) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.

Section 4: Upon the effective date of this Ordinance, Urgency Ordinance Nos. 2025-31 and 2025-34, are hereby repealed in their entirety and shall be of no further force or effect.

Section 5: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 6: 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 7: The proposed action is statutorily and categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and pursuant to Section 15061(b)(3) of the CEQA guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. While this amendment would modify standards for tobacco retailer businesses and cigar lounges within the City, it does not authorize new development that would directly result in physical changes to the environment. There is no evidence or known special circumstances that amending the regulations for tobacco retailer businesses and cigar lounges would result in any new effects on the environment.

Section 8: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 9: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause this urgency ordinance, or a summary thereof, to be published pursuant to all applicable laws including 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 12th day of May, 2026, and adopted on the 26th day of May, 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

Attachments: Exhibit A - Chapter 5.55 of Title 5 of the NBMC
Exhibit B - Sections 20.20.020, 20.22.020, 20.24.020, and 20.70.020 of Title 20 (Planning and Zoning) of the NBMC

Exhibit "A"

Chapter 5.55
Tobacco Retailer Businesses

Sections:

5.55.005 Findings and Purpose.
5.55.010 Definitions.
5.55.015 Requirements of Operation.
5.55.020 Application for Tobacco Retailer's Permit.
5.55.025 Tobacco Retailer's Permit Issuance and Renewal.
5.55.030 Prohibitions and Requirements.
5.55.035 Compliance Monitoring and Right of Entry.
5.55.040 Violations – Suspension, Revocation, and Seizure.
5.55.045 Suspension, Revocation, Denial, Seizure, and Appeal.
5.55.050 Enforcement.

5.55.005 Findings and Purpose.

It is the purpose and intent of this chapter to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, particularly those that prohibit or discourage the sale or distribution of tobacco products to minors. This chapter is not intended to expand or limit the scope of conduct regulated by federal or state law, nor to alter any penalties provided under such laws.

The restrictions and requirements of this chapter are further intended to reduce the burden on the Police Department and to allow for the more effective deployment of law enforcement resources toward the prevention of more serious crimes.

5.55.010 Definitions.

"Control" means the ability, directly or indirectly, to influence the management, policies, or operations of a business, whether through ownership, contract, financial arrangement, lease, employment relationship, or otherwise.

"Electronic smoking device" means any electronic or battery-operated device that simulates smoking and can be used to deliver an inhaled dose of nicotine or any other substance in aerosolized or vaporized form, including any component, part, or accessory used in the preparation or operation of such device. This term includes, but is not limited to, electronic cigarettes, cigars, cigarillos, pipes, vape pens, hookahs, vaporizers, and atomizers. It does not include nicotine replacement or cessation products approved by the United States Food and Drug Administration.

"Flavored tobacco product" shall have the same meaning as set forth in Section 6.30.010.

"Nitrous oxide" shall have the same meaning as set forth in Section 6.040.010.

"Permittee" means any person or proprietor who holds a valid tobacco retailer's permit issued pursuant to this chapter.

"Proprietor" means any person with an ownership or managerial interest in a business. An ownership interest exists if a person, directly or indirectly, holds ten percent (10%) or more of the business's stock, equity, or right to share in profits or residual distributions, excluding any security or debt interest. A managerial interest exists if a person exercises, or shares, control over the business's day-to-day operations.

"Sell" or "sale" shall have the same meaning as set forth in Section 6.30.010.

"Smoke" or "Smoking" shall have the same meaning as set forth in Section 6.25.010.

"Tobacco paraphernalia" means cigarette papers or wrappers, blunt wraps as defined in California Penal Code Section 308, pipes, holders of smoking materials of all types, cigarette rolling machines, or any other instruments or items designed or marketed for the consumption, preparation, storing, use, smoking or ingestion of tobacco products.

"Tobacco product" shall have the same meaning as set forth in Section 6.30.010. Notwithstanding anything to the contrary in Section 6.30.010, "tobacco product" includes any component, part, or accessory intended to be used with a tobacco product, whether or not sold separately.

"Tobacco product flavor enhancer" has the meaning set forth in California Health and Safety Code Section 104559.5(a)(18).

"Tobacco retailer business" shall have the same meaning as set forth in Section 20.70.020.

"Tobacco retailing" shall mean the doing of any of the activities associated with a "tobacco retailer business" as defined in Section 20.70.020. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

"Tobacco retailer's permit" means a permit issued by the Chief of Police authorizing a specific location to engage in tobacco retailing. Issuance of a permit does not constitute a determination of compliance with all applicable laws. A permit may be suspended or revoked pursuant to this chapter.

5.55.015 Requirements of Operation.

A. Tobacco Retailer's Permit Requirement. Except as provided in subsection (E), no person shall own, operate, or otherwise conduct a tobacco retailer business within the City without first obtaining and maintaining a valid tobacco retailer's permit for each location at which such business operates.

B. Zoning and Land Use Restrictions. Permits shall not be issued for locations that violate Title 20 or Title 21 of this Code and shall only be located in zoning districts where retail sales are a permitted use.

C. Prohibited Business Types. A tobacco retailer's permit shall not be issued or renewed for any premises licensed by the state for on-site alcohol consumption, or for any restaurant or business that offers food for on-site consumption.

D. Location Requirements. Tobacco retailer businesses shall comply with the following minimum separation requirements:

1. One thousand (1,000) feet from another permitted tobacco retailer business;

2. One thousand (1,000) feet from any public or private school, day care center, park, playground, hospital, beach, library, youth center, or other public facility; and

3. One thousand (1,000) feet from any residential zoning district or residential use.

Distances required by this subsection shall be measured in a straight line, without regard to intervening structures, from the closest property line of the parcel on which the tobacco retailer business is located to the closest property line of the zoning district, property, or use.

E. Nonconforming Use Exception. A tobacco retailer business lawfully operating as of the effective date of this chapter is exempt from the location and zoning requirements set forth in subsections (B), (C), and (D) of this section and may continue operating under the following conditions:

1. A tobacco retailer's permit application is filed within sixty (60) calendar days of the effective date of this chapter.

2. The tobacco retailer's permit is timely issued and renewed in accordance with Section 5.55.025.

3. After obtaining a permit, the tobacco retailer business does not cease operations for more than sixty (60) consecutive calendar days.

4. After obtaining a permit, the tobacco retailer business complies with Section 20.38.050.

F. Legal non-conforming. Except as otherwise provided in this chapter, a tobacco retailer's permit issued under subsection (E) of this section shall be treated as a legal nonconforming use pursuant to Section 20.38.050 of the Code and subject to its provisions and limitations.

G. Permit is Conditional. A tobacco retailer's permit confers a limited, revocable privilege to operate at the specified location and does not create a vested right or supersede any other applicable law.

5.55.020 Application for Tobacco Retailer's Permit.

A. Application Procedure.

1. Applications shall be submitted on forms provided by the City and include a non-refundable fee as set by City Council resolution.

2. Each application shall include, at minimum, the following:

a. Full legal name, date of birth, government-issued identification number, mailing address, phone number, and email for each proprietor;

b. Business name, address, phone number, and hours of operation;

c. Disclosure of any prior permit suspensions or revocations under this chapter, including dates and reasons;

d. Proof of a valid state tobacco retailer license from the California Department of Tax and Fee Administration;

e. Any other information deemed necessary by the Chief of Police for administration or enforcement purposes; and

f. A signed certification by each proprietor under penalty of perjury affirming the accuracy of the information provided and compliance with this chapter.

B. Change of Information. The applicant/permittee shall notify the Chief of Police in writing of any change to the information submitted in the application within ten (10) calendar days.

C. Non-Transferability. A tobacco retailer's permit is non-transferable and may not be assigned to any other person, proprietor, or location. Any attempted transfer is void. A new application is required for any change in ownership or location.

5.55.025 Tobacco Retailer's Permit Issuance and Renewal.

A. Tobacco Retailer's Permit Review and Issuance. The Chief of Police shall review each completed application and may conduct any investigation necessary to determine compliance with this chapter and applicable laws. A permit may be denied or not renewed upon a determination that any of the following conditions exist:

1. The application is materially incomplete or contains inaccurate, false, fraudulent, or misleading information.

2. Except as provided in Section 5.55.015, the applicant/proprietor seeks authorization for tobacco retailing that is prohibited, unlawful or violates this chapter or other applicable local, state, or federal law or regulation.

3. The applicant/proprietor has unresolved outstanding fines, penalties, fees, or taxes owed to the City in connection with tobacco retailing activities.

4. The applicant/proprietor has had a City tobacco retailer's permit or California tobacco retailer's license revoked in the preceding five (5) years.

5. Except as provided in this subsection, the business location has had a City tobacco retailer's permit or California tobacco retailer's license revoked within the preceding five (5) years.

a. The City Manager may waive or modify the restriction upon a determination that the purposes of this chapter would not be undermined, including, but not limited to, where there has been a bona fide change in ownership and adequate safeguards are in place to prevent future violations.

b. The applicant bears the burden of demonstrating that any transfer of ownership is bona fide and at arm's length. The City may require disclosure of prior ownership interests, management control, financial arrangements, and any other information necessary to determine whether a genuine change in control has occurred. A transfer shall not be deemed bona fide where the prior owner retains any direct or indirect ownership interest, financial interest, management role, or control over the business or its operations.

6. Issuance or renewal of the permit would be contrary to the public health, safety, or welfare, based on specific findings demonstrating a reasonable nexus between the proposed operation and potential harm.

Any approved permit may be subject to reasonable conditions that are related to ensuring compliance with this chapter and protecting public health, safety, and welfare.

B. Tobacco Retailer's Permit Term and Renewal.

1. A permit is valid for one (1) year from the date of issuance and shall be renewed annually to continue operation as a tobacco retailer business.

2. To maintain continuity, renewal applications should be submitted at least thirty (30) days before expiration.

Unless the City Manager determines there is good cause to grant an extension, a permit that is not timely renewed shall expire automatically at midnight on the expiration date. Upon expiration, all tobacco retailing shall immediately cease, and a new application shall be required.

5.55.030 Prohibitions and Requirements.

A. Compliance with Laws. Except as provided in Section 5.15.015 (E), a tobacco retailer business shall comply with all applicable local, state, and federal laws, including those relating to zoning, building, fire, public health, safety, and tobacco control.

B. Fixed Location Required. Tobacco retailing shall occur only from a fixed, permanent location. Retailing from vehicles, temporary structures, or mobile operations is prohibited.

C. Prohibited Products and Activities. The following items shall not be sold, distributed, displayed, furnished, administered, exchanged, given away, or possessed with the intent to sell or offered for sale by any tobacco retailer's business:

1. Nitrous oxide or any device used to dispense it as defined by local, state or federal law;

2. Cannabis, cannabis products, or edible cannabis products as defined in Chapter 10.70;

3. Flavored tobacco products and tobacco product flavor enhancers, as prohibited under local, state or federal law, including Chapter 6.30;

4. Imitation tobacco products, including, but not limited to, candy cigarettes and bubble gum cigars;

5. Disguised vape or electronic smoking devices, including, but not limited to, those made to look like USB drives, pens, markers, phone cases, watches, lipstick, remote keys or other non-tobacco items; and/or

6. Any product, device, or item that is designed, marketed, or reasonably intended to evade or circumvent the prohibitions set forth in this chapter.

D. Minimum Age of Employees. No person under the minimum legal age determined by the stricter of state or federal law for purchasing or possessing tobacco products may engage in or assist with tobacco retailing.

E. Government Identification. No tobacco product or tobacco paraphernalia shall be sold unless the tobacco retailer business first verifies, by examining valid government-issued photo identification, that the purchaser meets the minimum legal age, under the stricter of state or federal law, for purchasing or possessing tobacco products.

F. Storage. All tobacco products shall be stored in a manner that prevents direct customer access without employee assistance.

G. Packaging, Labeling, and Pricing.

1. Tobacco products shall be sold in the original manufacturer's packaging, compliant with all federal and state labeling, tax, and child-resistant packaging laws.

2. Prices shall be clearly displayed on the product or nearby shelf or signage.

H. Display of Licenses and Permits. The tobacco retailer's permit and all required state or federal licenses shall be prominently displayed within five (5) feet of the point of sale.

I. Premises Regulations.

1. A tobacco retailer business shall maintain a clearly designated front entrance for customers. All non-emergency public access shall occur through this entrance.

2. Front entrance doors of a tobacco retailer business shall remain unlocked during regular business hours.

J. Signage Compliance. A tobacco retailer business shall comply with all signage requirements in Title 20 of the Code and all applicable state and federal laws related to tobacco warnings, age restrictions, and advertising. No more than twenty (20) percent of the total transparent area of a tobacco retailer business storefront windows and doors may be covered by signage. All signage shall be placed to maintain a clear and unobstructed view of the interior of the premises including, but not limited to, the point-of-sale area, from the exterior.

5.55.035 Compliance Monitoring and Right of Entry.

The City may enter any permitted tobacco retailer during regular business hours, or at any other reasonable time, to conduct reasonable inspections to ensure compliance with this chapter and applicable laws. Inspections may be routine, unannounced, or complaint based. Refusal to permit entry, or any act that delays or interferes with an inspection, constitutes a violation of this chapter.

5.55.040 Violations – Suspension, Revocation, and Seizure.

A. Grounds for Enforcement. In addition to any other remedies provided by law, the Chief of Police or City Manager may suspend or revoke a tobacco retailer's permit upon a finding, by a preponderance of the evidence, that one or more of the following has occurred:

1. The permittee or proprietor submitted a tobacco retailer permit application that contained false information;

2. The permittee, proprietor, or any employee has violated any provision of this chapter or any condition of the permit;

3. The permittee, proprietor, or any employee has violated any local, state, or federal law governing tobacco products or tobacco retailing; or

4. The permittee, proprietor, or any employee has been convicted of, or has pled guilty or no contest to, a violation of local, state, or federal law constituting a felony, and the violation is directly and substantially related to the operation of the tobacco retailer business.

Any decision to suspend or revoke a tobacco retailer's permit may be appealed pursuant to Section 5.55.045.

B. Conditions During Suspension or Revocation. During a suspension or revocation period:

1. All tobacco products and related items shall be removed from customer view and stored in a secure, non-public area; and

2. A City-issued notice shall be posted at all public entrances and points of sale, stating the reason and duration of the enforcement action.

C. Seizure. Tobacco products and tobacco paraphernalia offered for sale are subject to immediate seizure by the Chief of Police if there is probable cause to believe that a violation of this chapter or any permit condition has occurred. The permittee and any other owner of the seized items shall be provided written notice of the seizure and informed of the right to appeal in accordance with Section 5.55.045. Seized items shall be forfeited unless the permittee or owner of the seized items successfully demonstrates, through the appeal process, that the items were not offered for sale in violation of this chapter.

Forfeited tobacco products and tobacco paraphernalia shall be destroyed after all administrative appeals have been exhausted and the time to seek judicial review pursuant to Chapter 1.10 or other applicable law has expired without the filing of a lawsuit, or, if such a lawsuit is filed, after final judgment is entered.

D. Attribution of Employee Conduct. For purposes of this section, violations by employees shall be attributed to the permittee.

5.55.045 Suspension, Revocation, Denial, Seizure, and Appeal.

A. Notice of Action. Fifteen (15) calendar days prior to the effective date of a denial, suspension, or revocation of a tobacco retailer's permit, or fifteen (15) calendar days following the seizure of items under this chapter, the Chief of Police shall provide written notice to the applicant or permittee. The notice shall include:

1. The specific grounds for the action;

2. A summary of the supporting facts and applicable code provisions; and

3. Instructions for requesting an administrative review pursuant to this section.

B. Appeal.

1. The applicant or permittee may request an administrative review by the City Manager within fifteen (15) calendar days of service of the notice of action in accordance with Section 1.08.080 by filing an appeal with the City Clerk.

2. The City Manager may affirm, modify, or reverse the decision, or impose conditions or alternative remedies, based on the record and any additional information deemed relevant to the purposes of this chapter.

3. Decisions under this section shall be upheld if supported by substantial evidence in the record.

4. The City Manager may consider the totality of the circumstances and the purposes of this chapter in making determinations.

5. The City Manager may consider any relevant evidence, whether or not it would be admissible in a court of law.

6. The decision of the City Manager shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

C. Failure to Participate. Failure of the appellant to appear at the appeal hearing shall be deemed a withdrawal of the appeal and a waiver of the right to exhaust administrative remedies.

5.55.050 Enforcement.

A. Suspension or Revocation of Tobacco Retailer's Permit. A violation of, or failure to comply with, any provision of this chapter may result in one or more of the following administrative actions, as determined by the Chief of Police or City Manager based on the severity and circumstances of the violation:

1. For the first violation within a five (5) year period, the tobacco retailer's permit may be suspended for up to thirty (30) calendar days.

2. For the second violation within a five (5) year period, the tobacco retailer's permit may be suspended for up to ninety (90) calendar days.

3. For a third or subsequent violation within a five (5) year period, the permit may be suspended for up to one hundred and eighty (180) days or revoked.

B. Aggregation of Violations. For purposes of enforcement, violations occurring at multiple locations that have a common permittee, or proprietor may be aggregated and treated as violations of a single permittee.

C. Remedies. The remedies provided in this chapter are in addition to any other remedies available under local, state, or federal law. Nothing in this chapter limits the City's authority to pursue any available legal remedy, including, but not limited to, nuisance abatement or, permit suspension or revocation, or enforcement under Chapter 20.68 of the Code.

D. City Manager Authority. The City Manager shall have authority to interpret,

implement, and enforce this chapter, including the authority to impose conditions, grant modifications, and make determinations necessary to carry out its purposes. The City Manager shall determine the extent to which any provision of this chapter is preempted by state or federal law and may modify or suspend enforcement accordingly.

Exhibit "B"

20.20.020 Commercial Zoning Districts Land Uses and Permit Requirements.

A. Allowed Land Uses. Tables 2-4 and 2-5 indicate the uses allowed within each zoning district and the permit required to establish the use, if any, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-4 ALLOWED USES AND PERMIT REQUIREMENTS	**Commercial Office Zoning Districts Permit Requirements ***				
	P	**Permitted by Right**			
	CUP	**Conditional Use Permit (Section 20.52.020)**			
	MUP	**Minor Use Permit (Section 20.52.020)**			
	LTP	**Limited Term Permit (Section 20.52.040)**			
	—	**Not allowed ***			
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**OA**	**OG**	**OM**	**OR**	**Specific Use Regulations**
Retail Trade Uses					
Alcohol Sales (off-sale)	MUP	MUP	MUP	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	MUP	MUP	P	
Retail Sales (less than 10,000 sq. ft.) [4]	MUP	P	P	P	
Retail Sales (10,000 sq. ft. or greater) [1,4]	CUP	—	—	—	
Pharmacy, Medical Supplies	P	P	P	P	
Other Uses					
Cigar Lounges [5]	P	—	—	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 11:00 p.m. any day of the week.

(2) Permitted or Minor Use Permit Required.

a. For Take-Out Service – Fast Casual (up to 20 seats), a minor use permit shall be required for any use located within one hundred (100) feet of any residential zoning district.

b. Except as provided in (2)(a), a minor use permit shall be required for any use located within five hundred (500) feet of any residential zoning district.

c. A minor use permit shall be required for any use that maintains late hours.

(3) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(4) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

(5) Cigar Lounges are only permitted in the OA and OR Zoning District when located in a private room within, or attached to, a premium cigar retail sale establishment. A Cigar Lounge shall be restricted to persons aged twenty-one (21) years of age or older. Cigar Lounges shall be fire sprinklered and comply with all Building and Fire Codes. A Cigar Lounge shall provide adequate ventilation. A Cigar Lounge shall not be located within one thousand (1,000) feet of another Cigar Lounge.

TABLE 2-5 ALLOWED USES AND PERMIT REQUIREMENTS	**Commercial Retail Zoning Districts** **Permit Requirements *** **P Permitted by Right** **CUP Conditional Use Permit (Section 20.52.020)** **MUP Minor Use Permit (Section 20.52.020)** **LTP Limited Term Permit (Section 20.52.040)** **— Not allowed ***						
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**CC**	**CG**	**CM**	**CN**	**CV**	**CV-LV**	**Specific Use Regulations**
Retail Trade Uses							
Alcohol Sales (off-sale)	MUP	MUP	MUP	MUP	MUP	MUP	Section 20.48.030
Alcohol Sales (off-	P	P	P	P	P	P	

TABLE 2-5 ALLOWED USES AND PERMIT REQUIREMENTS	Commercial Retail Zoning Districts Permit Requirements * P Permitted by Right CUP Conditional Use Permit (Section 20.52.020) MUP Minor Use Permit (Section 20.52.020) LTP Limited Term Permit (Section 20.52.040) — Not allowed *						
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**CC**	**CG**	**CM**	**CN**	**CV**	**CV-LV**	**Specific Use Regulations**
sale), Accessory Only							
Bulk merchandise	—	P	—	P	—	—	
Marine Rentals and Sales							
Boat Rentals and Sales	—	CUP	CUP	—	CUP	P	
Marine Retail Sales	P	P	P	—	P	P	
Retail Sales[5]	P	P	P	P	—	—	
Visitor-Serving Retail	P	—	—	—	P	P	

Notes:

(1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).

(2) In the CG Zoning District, when 0.3/0.5 is shown on the Zoning Map, the FAR may be increased to a maximum of 0.5 when two or more legal lots are merged to accommodate larger commercial development projects in compliance with General Plan Policy LU 6.19.13 and Title 19 (Subdivisions).

(3) Portions of legal lots that are submerged lands or tidelands shall be included in the land area of the lot for the purpose of calculating the allowable floor area for structures.

(4) Architectural features such as domes, towers, cupolas, spires, and similar structures may be up to 65 feet in height.

(5) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

20.22.020 Mixed-Use Zoning Districts Land Uses and Permit Requirements.

A. Allowed Land Uses. Tables 2-8, 2-9, and 2-10 indicate the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-8 ALLOWED USES AND PERMIT REQUIREMENTS	**Mixed-Use Zoning Districts Permit Requirements**				
	P	**Permitted by Right**			
	CUP	**Conditional Use Permit (Section 20.52.020)**			
	MUP	**Minor Use Permit (Section 20.52.020)**			
	LTP	**Limited Term Permit (Section 20.52.040)**			
	—	**Not Allowed ***			
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**MU-V**	**MU-MM (6)**	**MU-DW**	**MU-CV/15th St. (7)**	**Specific Use Regulations**
Retail Trade Uses					
Alcohol Sales (off-sale)	MUP	MUP	—	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	P	P	P	
Marine Rentals and Sales					
Boat Rentals and Sales	CUP	P	—	CUP	
Marine Retail Sales	P	P	P	P	
Retail Sales[8]	P	P	P	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Allowed only as part of a mixed-use development. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(2) Not allowed to front onto Coast Highway. Coast Highway frontage shall be limited to nonresidential uses. See Table 2-10 (Development Standards for Vertical and Horizontal Mixed-

Use Zoning Districts).

(3) Not allowed on lots at street intersections unless part of a mixed-use or live-work structure.

(4) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public after 11:00 p.m. any day of the week.

(5) Permitted or Minor Use Permit Required.

a. For Take-Out Service – Fast Casual (up to 20 seats), a minor use permit shall be required for any use located within one hundred (100) feet of any residential zoning district.

b. Except as provided in (5)(a), a minor use permit shall be required for any use located within five hundred (500) feet of any residential zoning district.

c. A minor use permit shall be required for any use that maintains late hours.

(6) Properties fronting on Coast Highway shall be developed with nonresidential uses as allowed in Table 2-9. Properties to the rear of the commercial frontage may be developed for freestanding nonresidential uses, multi-unit residential dwelling units, or mixed-use structures that integrate multi-unit residential above the ground floor with nonresidential uses on the ground floor. See Table 2-10 (Development Standards for Vertical and Horizontal Mixed-Use Zoning Districts).

(7) Mixed-use or commercial structures are required on lots at street intersections and are allowed, but not required, on other lots.

(8) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

TABLE 2-9 ALLOWED USES AND PERMIT REQUIREMENTS	**Mixed-Use Zoning Districts Permit Requirements** **P** Permitted by Right **CUP** Conditional Use Permit (Section 20.52.020) **MUP** Minor Use Permit (Section 20.52.020) **LTP** Limited Term Permit (Section 20.52.040) **—** Not allowed *		
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**MU-W1 (5)(6)**	**MU-W2**	**Specific Use Regulations**
Retail Trade Uses			
Alcohol Sales (off-sale)	MUP	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	P	

TABLE 2-9 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements P Permitted by Right CUP Conditional Use Permit (Section 20.52.020) MUP Minor Use Permit (Section 20.52.020) LTP Limited Term Permit (Section 20.52.040) — Not allowed *		
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**MU-W1 (5)(6)**	**MU-W2**	**Specific Use Regulations**
Marine Rentals and Sales			
Boat Rentals and Sales	P	P	
Marine Retail Sales	P	P	
Retail Sales[8]	P	P	
Visitor-Serving Retail	P	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) May only be located on lots with a minimum of two hundred (200) lineal feet of frontage on Coast Highway. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(2) May only be located above a commercial use and not a parking use. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(3) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 11:00 p.m. any day of the week.

(4) Permitted or Minor Use Permit Required.

a. For Take-Out Service – Fast Casual (up to 20 seats), a minor use permit shall be required for any use located within one hundred (100) feet of any residential zoning district.

b. Except as provided in (4)(a), a minor use permit shall be required for any use located within five hundred (500) feet of any residential zoning district.

c. A minor use permit shall be required for any use that maintains late hours.

(5) Approval of a minor site development review, in compliance with Section 20.52.080, shall be required prior to any development to ensure that the uses are fully integrated and that potential impacts from their differing activities are fully mitigated.

(6) A minimum of fifty (50) percent of the square footage of a mixed-use development shall be used for nonresidential uses.

(7) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(8) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein

Section 20.24.020 Industrial Zoning District Land Uses and Permit Requirements.

A. Allowed Land Uses. Table 2-12 indicates the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-12 ALLOWED USES AND PERMIT REQUIREMENTS	**Industrial Zoning District Permit Requirements**	
	P	**Permitted by Right**
	CUP	**Conditional Use Permit (Section 20.52.020)**
	MUP	**Minor Use Permit (Section 20.52.020)**
	LTP	**Limited Term Permit (Section 20.52.040)**
	—	**Not allowed ***
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**IG**	**Specific Use Regulations**
Retail Trade Uses		
Alcohol Sales (off-sale)	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	
Building Materials and Services	P	
Contractor's Storage Yards	MUP	

TABLE 2-12 ALLOWED USES AND PERMIT REQUIREMENTS	Industrial Zoning District Permit Requirements	
	P	Permitted by Right
	CUP	Conditional Use Permit (Section 20.52.020)
	MUP	Minor Use Permit (Section 20.52.020)
	LTP	Limited Term Permit (Section 20.52.040)
	—	Not allowed *
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**IG**	**Specific Use Regulations**
Marine Rentals and Sales		
Boat Rentals and Sales	MUP	
Marine Retail Sales	P	
Retail Sales[3]	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Wine Tasting Room Hours of Operation. The permitted hours of operation shall be limited to Monday through Friday from 4:00 p.m. to 11:00 p.m., and Saturday and Sunday from 12:00 p.m. to 11:00 p.m.

(2) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(3) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

Section 20.70.020 Definitions of Specialized Terms and Phrases

C. "C" Definitions

"Cigar Lounge" means any person or establishment where the primary use or ancillary use is characterized by the sale and offering of smoking of premium cigars.

G. "G" Definitions

"Grocery store" means a retail establishment of which greater than 1/2 of the floor area is devoted to the sale of food items and small household goods intended for consumption or use off the

premises, excluding alcoholic beverages.

P. "P" Definitions

"Premium cigar" shall have the same meaning as set forth in Section 6.25.010.

S. "S" Definitions

"Sale of Premium Cigars" means an establishment primarily engaged in the exclusive sale, distribution, or exchange of premium cigars.

"Smoking lounge (land use)" means an establishment that is dedicated, in whole or part, to providing tobacco or other substances for smoking by patrons on the premises for a fee, including but not limited to establishments known as hookah lounges, vape lounges, e-cigarette club, tobacco clubs, or tobacco bars.

T. "T" Definitions

"Tobacco retailer business" means any person or establishment who sells, offers for sale, distributes, furnishes, or otherwise exchanges, with or without compensation, a tobacco product, tobacco paraphernalia, or tobacco-related item, to a consumer or end user, whether conducted in a physical storefront, through mobile or temporary setups, or via online or delivery-based platforms operating within the City of Newport Beach. Does not include "Grocery Store," "Supermarket," "Hotel," "Motel," "Alcohol Sales (off-sale)," "Alcohol Sales (off-sale), Accessory Only," "Cigar Lounge," or the "Sale of Premium Cigars."

Attachment B

March 19, 2026, Planning Commission Staff Report (Without Attachments)

Staff Report with attachments available here: https://ecms.newportbeachca.gov/WEB/DocView.aspx?id=3230870&dbid=0&repo=CNB

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT

March 19, 2026
Agenda Item No. 4

SUBJECT: Tobacco Retailer Business and Cigar Lounge Ordinance (PA2025-0171)
- Business Licenses and Regulations Code Amendment (Title 5)
- Zoning Code Amendment (Title 20)

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PLANNER: Oscar Orozco, Associate Planner
949-644-3219, oorozco@newportbeachca.gov

PROJECT SUMMARY

Consistent with the City Council's initiation on September 9, 2025, the proposed amendments to Title 5 (Business Licenses and Regulations), and Title 20 (Planning and Zoning) of the Newport Beach Municipal Code serve to establish comprehensive regulations related to permitting and operation for tobacco retail businesses and cigar lounges.

RECOMMENDATION

1) Conduct a public hearing;

2) Find the Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment; and

3) Adopt Resolution No. PC2026-010 (Attachment No. PC 1) recommending the City Council approve the code amendments collectively filed as PA2025-0171 establishing comprehensive regulations for tobacco retailer businesses and cigar lounges.

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DISCUSSION

Background

Nitrous Oxide and Flavored Tobacco

In recent years, Newport Beach has experienced a significant rise in public safety concerns related to the accessibility and use of nitrous oxide and flavored tobacco products among the youth. Arrests involving nitrous oxide have surged by 720% from just five arrests in 2020 to 41 in 2024. While 2025 data is not yet available, preliminary review shows trend continuing with another 20% increase over the previous year.

The Newport Beach Police Department (NBPD) has identified nitrous oxide being sold in local smoke shops and illegal dispensaries, contributing to its widespread availability. This accessibility poses a growing risk to the health and safety of young residents and underscores the need for stronger regulatory oversight.

Additionally, flavored tobacco products remain a major driver of youth vaping. According to the Centers for Disease Control and Prevention (CDC), 87.6% of U.S. students who vaped in 2024 used flavored products. In California, 85.6% of high school tobacco users reported using flavored varieties. These statistics highlight the disproportionate appeal of flavored tobacco to minors. Over the past two years, NBPD has received community input, including approximately 15 formal complaints from parents and community members regarding smoke shops, further emphasizing community concern.

Illegal Activity at Local Tobacco Retailers

According to State of California (State) records, as of September 5, 2025, there are 41 locations within Newport Beach that are licensed by the State for the retail sale of tobacco. Retailers range from large grocery store chains to gas stations and convenience markets to retailers that primarily sell tobacco.

Especially in recent years, tobacco retailer businesses have been sources of unlawful activity in the City. The City has served warrants at local tobacco retailer businesses and found evidence of ongoing illegal drug sales to adults and minors. Specifically, on May 15, 2024, the NBPD detectives arrested an employee at Plugged N Smoke & Sneakers, located at 3555 East Coast Highway in Corona del Mar, following a lengthy investigation that uncovered ongoing sales of illegal marijuana, controlled substances, and prohibited tobacco products to both minors and adults.

Additionally, on June 10, 2025, NBPD detectives served a search warrant at Tobacco and Accessories, located at 3617 East Coast Highway in Corona del Mar, seizing over 454 pounds of illegal cannabis, psilocybin (magic mushrooms), nitrous oxide, and prohibited tobacco products.

These two cases are part of a troubling trend that endangers the well-being of the City's residents, especially minors, highlighting the urgent need for swift and decisive action, as demonstrated by aggressive enforcement and stricter regulations recently adopted in other cities in Orange County and Los Angeles County such as the cities of Anaheim, Orange, Buena Park, Costa Mesa and Beverly Hills. A comparison of regulations in other cities is provided as Attachment No. PC 4 of this report.

Moratorium and Initiation of Code Amendments

Based on the aforementioned safety concerns, on September 9, 2025, then-Mayor-Pro-Tem Kleiman requested initiating amendments to Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) related to tobacco retail establishments, tobacco accessories/paraphernalia, smoke shops, smoking lounges and other smoke-related businesses pursuant to City Council Policy A-1. In addition to the code update, the City Council also directed staff to prepare an Urgency Ordinance to establish a temporary moratorium on the establishment of new smoke shops pending the outcome of the code amendment review. The City Council voted unanimously (6-0), via a straw poll, in favor of staff returning with an item.

On September 23, 2025, the City Council unanimously (7-0) adopted Ordinance No. 2025-31 imposing a 45-moratorium on the establishment and operation of new tobacco retailer businesses as well as the relocation or physical expansion of existing tobacco retailer businesses. In addition, the City Council adopted Resolution No. 2025-64 initiating amendments to Title 20 and Title 21 of the NBMC pertaining to smoke shops, smoking lounges, and other tobacco related businesses[1].

On September 23, 2025, the City Council unanimously (7-0) adopted Ordinance Nos. 2025-26 and 2025-27, establishing a permanent prohibition on sale and distribution of flavored tobacco products and the sale, distribution and use of nitrous oxide designed to address the same issues that prompted the temporary moratorium. Chapters 6.30 (Prohibition of Sale and Distribution of Flavored Tobacco Products) and 6.40 (Prohibition of Sale, Distribution, and Use of Nitrous Oxide) of Title 6 (Health and Sanitation) of the NBMC now govern flavored tobacco products and nitrous oxide. These chapters expressly prohibit the sale and distribution of flavored tobacco products, and they also prohibit the sale, distribution, and use of nitrous oxide within the City.

On October 28, 2025, the City Council unanimously (7-0) adopted Ordinance No. 2025-34 extending the temporary moratorium on the establishment and operation of new tobacco retailer businesses and the relocation or physical expansion of existing tobacco retailer businesses. The temporary moratorium would end by September 23, 2026.

[1] Amendments to Title 5 of the NBMC do not require initiation by the City Council.

Existing Tobacco Regulations

Tobacco Retailer Businesses

The sale of tobacco and tobacco related products is currently defined as a "Retail Sales" land use in Chapter 20.70 (Definitions) of the NBMC, which is permitted by right in most zoning districts with a few exceptions. The NBMC does not include specific standards for retail sales of tobacco or tobacco related products. Additionally, neither Title 20 nor Title 21 provides a definition for "Tobacco Retail Sales", "Tobacco Retailer Business", or "Smoke Shops", and there are no objective land use regulations, such as limits on hours of operations, appropriate zoning districts, and/or separation requirements. Therefore, despite the aforementioned public safety implications, tobacco related retail sales are regulated no differently than a typical retail store.

Cigar Lounges Prohibited

Titles 20 and 21 of the NBMC include a definition and a land use classification for "Smoking Lounge," which is defined as "an establishment that is dedicated, in whole or part, to providing tobacco or other substances for smoking by patrons on the premises for a fee, including but not limited to establishments known as cigar lounges, hookah lounges, tobacco clubs, or tobacco bars. It does not include a "retail or wholesale tobacco shop," which sells tobacco products and smoking accessories, but does not provide for on-premises use of tobacco products". The smoking lounge land use classification includes cigar lounges and is prohibited in all zoning districts.

<u>Proposed Amendments</u>

Tobacco Retailer Businesses

The proposed code amendments would establish comprehensive regulations governing tobacco retailer businesses within Newport Beach. The amendment introduces a ministerial permitting framework for businesses defined as a "Tobacco Retailer Business" in Title 5 of the NBMC. The sale of tobacco would remain a "Retail Sales" land use within Title 20 but would include a reference to Title 5 that will contain comprehensive regulations and the requirement for a Tobacco Retailer Permit (TRP).

As proposed in the Title 5 of the NBMC, a "Tobacco retailer business" means any person who sells, offers for sale, distributes, furnishes, or otherwise exchanges, with or without compensation, a tobacco product, tobacco paraphernalia, or tobacco-related item, to a consumer or end user, whether conducted in a physical storefront, through mobile or temporary setups, or via online or delivery-based platforms operating within the City of Newport Beach. It does not include "Grocery Store", "Convenience Market", "Cigar Lounge" or the sale of "Premium Cigars".

The ordinance includes references to definitions in Chapters 6.30 (Prohibition of Sale and Distribution of Flavored Tobacco Products) and 6.40 (Prohibition of Sale, Distribution, and Use of Nitrous Oxide) and introduces new definitions for tobacco paraphernalia, premium cigars, electronic smoking devices, imitation tobacco products, and related terms. These definitions provide clarity for enforcement and distinguish tobacco retailers from other commercial and retail uses.

As proposed in Title 20 of the NBMC, tobacco retailers would continue to be permitted in most office, commercial, industrial, and mixed-use zoning districts (depicted in Figure 1), however, they would be subject to the separation requirements identified in Table 1. These districts reflect commercial environments where tobacco retailing is expected to be compatible with surrounding uses and sufficiently separated from residential areas.

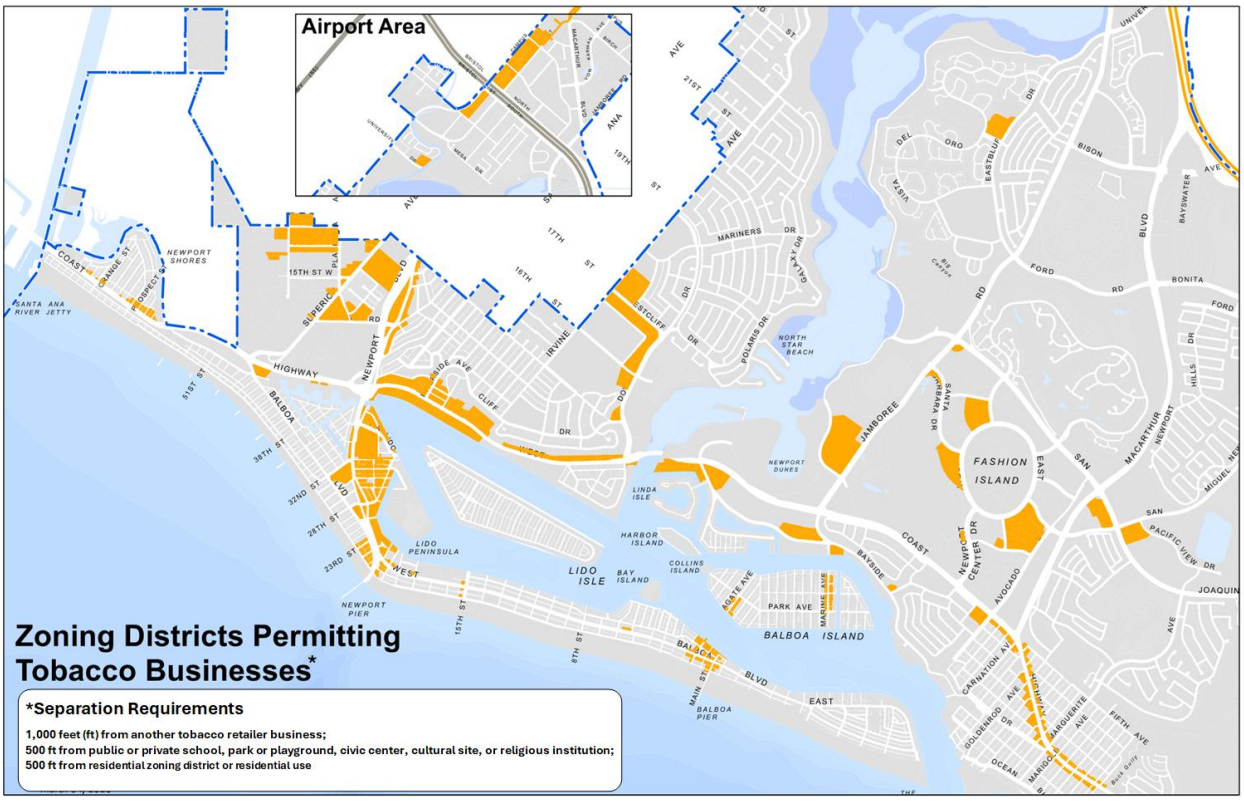


Figure 1, Zoning Districts where Tobacco Retailer Businesses are Permitted

Tobacco Retailer Permit Requirements

All businesses that meet the definition of a tobacco retailer business would be subject to the standards identified in Title 5 including obtaining a TRP. Administrative responsibility for TRPs will be conducted by the NBPD. The proposed ordinance establishes robust separation and locational standards to mitigate secondary effects, limit tobacco retailer businesses near sensitive uses, and prevent overconcentration. It also incorporates extensive operating standards to ensure responsible business practices and reduce the

likelihood of unlawful activity. A summary of the proposed regulations for Tobacco Retailer Businesses is provided in Table 1 below.

Table 1, Summary of Proposed Regulations for Tobacco Retailer Businesses

Category	Key Rules	Purpose / Effect
Permit Requirement	All tobacco retailers must obtain a City TRP from the NBPD; non-transferable; annual renewal required.	Ensures oversight, accountability, and compliance with local/state law.
Where Retailers Are Allowed	Permitted in OA, OG, OM, OR, CC, CG, CM, CN, MU-V, MU-MM, MU-DW, MU-CV/15th St., MU-W1, MU-W2, and IG Zoning Districts	Limits tobacco retailing to compatible commercial areas. No changes proposed.
Where Retailers Are Prohibited	Prohibited in residential zones, smoking lounges, restaurants, and alcohol-serving establishments.	Prevents incompatible or high-risk co-locations.
Separation Requirements	1,000 feet (ft) from another tobacco retailer business; 500 ft from public or private school, park or playground, civic center, cultural site, or religious institution; 500 ft from residential zoning district or residential use.	Prevents overconcentration and protects residential neighborhoods and minors.
Nonconforming Retailers	May continue if they obtain a permit within 60 days, avoid lapses, and do not substantially change operations.	Allows existing businesses to operate under strict conditions.
Prohibited Products	Drug paraphernalia, nitrous oxide, cannabis, controlled substances, flavored tobacco, electronic smoking devices (unless preempted), imitation tobacco, disguised vape devices, unlawful weapons.	Reduces illegal activity and protects public safety.
Operational Standards	No self-service displays (e.g., vending machines); age verification required; original packaging only; posted permits; restricted hours (no sales 12 a.m.– 6 a.m.).	Promotes orderly, lawful, and transparent operations.
Signage Limits	No more than 20% of window/door transparency area may contain signage and must comply with Chapter 20.42 (Sign Standards).	Maintains visibility and reduces visual blight.
Fixed Location Requirement	No mobile, temporary, or vehicle-based tobacco retailing.	Prevents unregulated or transient operations.
Permit Denial / Revocation	May occur for incomplete applications, false information, outstanding fines, prior violations, or unlawful activity.	Ensures only compliant operators remain in business.

Existing Tobacco Retailer Businesses

There are several existing, known, tobacco retailer businesses within the City that are legally permitted to operate under current zoning regulations, which are identified in Figure 2 on the following page. Upon adoption of the proposed ordinance, these businesses would become legal nonconforming uses due to the newly established standards applicable to tobacco retailers. As legal nonconforming uses, these retailers would be allowed to continue operating provided they obtain a Tobacco Retailer Permit within 60 days of the effective date of the resolution, maintain continuous operation without lapse, and refrain from any substantial change in ownership or business activity,

consistent with Section 20.38.050 (Nonconforming Uses) of the NBMC and proposed Title 5 regulations. Any expansion, intensification, relocation, or operational modification that constitutes a substantial change would require full compliance with the new ordinance, including all locational standards. Any existing Tobacco Retailer Businesses that violate local, state, and/or federal laws would not be eligible for a TRP.

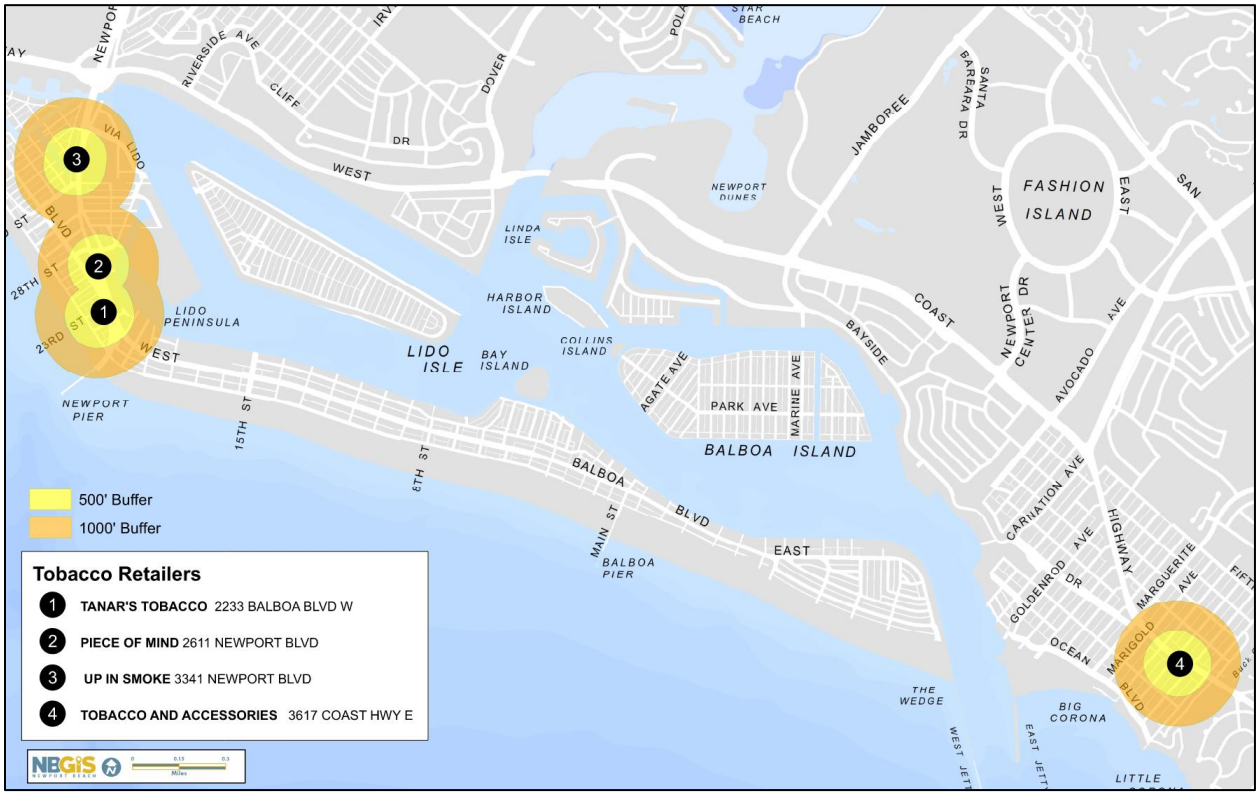


Figure 2, Existing Known Tobacco Retailer Businesses

Cigar Lounges

Additional amendments are proposed to Title 20 that would establish a new land use specifically for cigar lounges. The amendments authorize cigar lounges in limited commercial zones and in conjunction with the retail sale of premium cigars, which are exempt from the TRP requirements previously outlined. The amendments would modify the existing definition of "Smoking Lounges" to remove cigar lounges and create a new definition that would allow the smoking of premium cigars[2] only.

As proposed, cigar lounges would be permitted uses within the OA (Office Airport) and OR (Office Regional) Zoning Districts. These Districts, depicted in Figure 3 below, were intentionally selected for their commercial intensity, distance from established residential neighborhoods, and reduced likelihood of conflict with sensitive uses. The OA and OR

[2] Premium cigars are generally defined as any cigar that is handmade, or hand rolled, is not mass produced by use of mechanization, has a wrapper, which is made entirely from whole tobacco leaf, and has a wholesale price of no less than $12 each. A premium cigar does not have a filter, tip, or nontobacco mouthpiece and is capped by hand.

districts are generally characterized by a mix of uses that function more like urban mixed-use environments and generate predominantly commercial activity. The OA District is adjacent to John Wayne Airport and the OR District is within Newport Center. There are no other changes proposed to the prohibition on Smoking Lounges, which would continue to be prohibited Citywide.

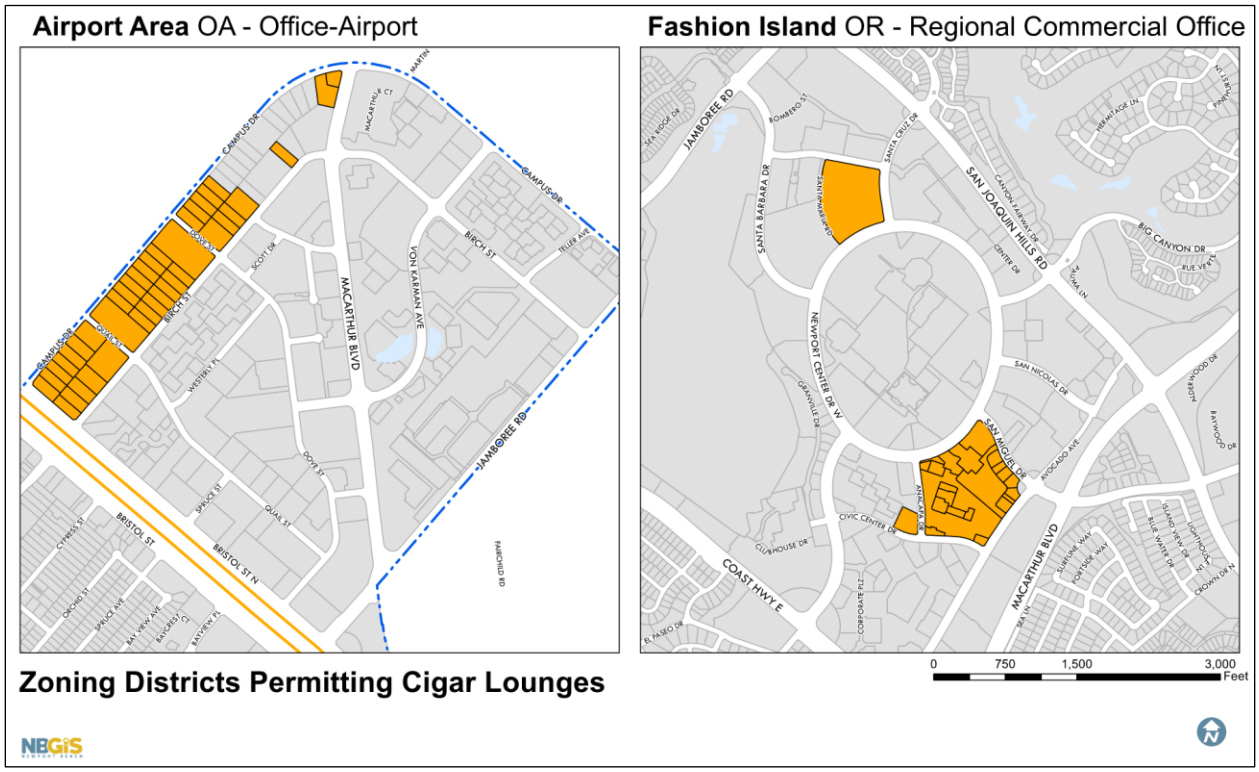


Figure 3, Zoning Districts where Cigar Lounges would be permitted

The proposed code amendment would also establish regulations for cigar lounges, recognizing their operational characteristics while ensuring they remain compatible with surrounding land uses and consistent with the City's broader public health and safety objectives. A summary of the proposed regulations for Cigar Lounges is provided in Table 2 below.

Table 2, Summary of Proposed Regulations for Cigar Lounges

Category	Key Rules	Purpose / Effect
Permitted Zoning Districts	OA and OR	Cigar lounges may operate only in these two commercial zones, selected for their distance from residential areas and compatibility with higher-intensity commercial uses.
Prohibited Zoning Districts	All other zones, including residential, mixed-use, and neighborhood-serving commercial districts.	Prevents cigar lounges from locating near homes, schools, or resident-oriented commercial areas.

Separation From Other Cigar Lounges	1,000 feet of another Cigar Lounge	Ensure cigar lounges do not cluster or create overconcentration within permitted districts.
Operational Compatibility	Restricted to people 21 years of age or older. Shall be fire sprinklered and provide adequate ventilation.	Ensure cigar lounges operate in a controlled, contained manner consistent with City health and safety objectives.

State Laws Pertaining to Cigar Lounges

The California Attorney General issued an opinion (Opinion No. 09-507) that provides clear guidance regarding the applicability of state smoke-free workplace laws to private smokers' lounges. The Opinion concludes that a private smokers' lounge located in or attached to a retail or wholesale tobacco shop is not exempt from the requirements of Labor Code section 6404.5 when the establishment serves alcoholic beverages to patrons. Therefore, the service of alcohol (such as a restaurant) would be prohibited in conjunction with a cigar lounge.

The Opinion further explains that cigar lounges operating as enclosed smoking environments constitute assembly-type occupancies under the California Building Standards Code and therefore must comply with applicable fire and life safety requirements, including the installation of automatic fire sprinkler systems. This requirement reflects the heightened fire risk associated with indoor smoking and the need to ensure adequate protection for employees, patrons, and adjacent businesses.

The proposed ordinance incorporates this state guidance by limiting cigar lounges to specific commercial zoning districts and by requiring full compliance with all applicable building, fire, and workplace safety regulations as a condition of operation. As a result, any cigar lounge permitted under the amendment shall:

- Comply with Labor Code section 6404.5, including smoke-free workplace requirements when alcohol is served.
- Install and maintain fire sprinklers and any other fire and life safety systems required by Code.
- Obtain all required building, fire, and operational permits prior to occupancy.

By explicitly requiring cigar lounges to meet these state-mandated standards, the ordinance ensures that such establishments operate safely, responsibly, and in full compliance with State law.

General Plan Consistency

The proposed code amendment establishing regulations for tobacco retailer businesses and cigar lounges is consistent with the City of Newport Beach 2006 General Plan because it does not introduce any new General Plan Land Use Categories or expand the range of uses permitted beyond those already contemplated within the City's nonresidential districts. Tobacco retailers and cigar lounges would continue to be located

only within established commercial, office, mixed-use, and industrial land use designations that already accommodate a broad mix of retail, service, and commercial activities. These designations expressly support uses that serve residents, sustain the local economy, and provide employment opportunities, consistent with the following policies:

1. LU 2.1 Resident-Serving Land Uses Accommodate uses that support the needs of Newport Beach's residents including housing, retail, services, employment, recreation, education, culture, entertainment, civic engagement, and social and spiritual activity that are in balance with community natural resources and open spaces. (Imp 1.1, 2.1)

2. LU 2.2 Sustainable and Complete Community Emphasize and support the development of uses that enable Newport Beach to be a complete community that maintains the ability to provide locally accessible opportunities for retail, goods and services, and employment. (Imp 1.1, 24.1)

3. LU 2.4 Economic Development Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)

Limiting cigar lounges to the Office Airport (OA) and Office Regional (OR) Districts aligns with the General Plan's intent to maintain a development pattern that complements existing neighborhoods and directs more intensive commercial uses to appropriate locations, consistent with the following policies:

1. LU 3.1 Neighborhoods, Districts, Corridors, and Open Spaces Maintain Newport Beach's pattern of residential neighborhoods, business and employment districts, commercial centers, corridors, and harbor and ocean districts. (Imp 1.1)

2. LU 3.2 Growth and Change Enhance existing neighborhoods, districts, and corridors, allowing for re-use and infill with uses that are complementary in type, form, scale, and character. Changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach's share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service. (Imp 1.1, 2.1, 5.1, 10.2, 16.2, 16.3, 17.1, 18.1, 19.1, 22.1, 23.1, 23.2)

These areas are characterized by higher-intensity commercial and employment uses and are appropriately separated from residential neighborhoods and sensitive land uses,

supporting the General Plan's emphasis on protecting community character and quality of life as articulated in the following policies:

1. LU 1.1 Unique Environment Maintain and enhance the different villages, neighborhoods, business districts, and harbor that define Newport Beach through neighborhood preservation. Locate and design development in a way that to reflects Newport Beach's topography and, architectural diversity while emphasizing the City's coastal orientation, including public views. (Imp 1.1)

2. LU 1.4 Growth Management Implement a conservative growth strategy that enhances the quality of life of residents and balances the needs of all constituencies with the preservation of open space and natural resources. (Imp 1.1, 10.2)

The proposed separation requirements, operational standards, and permitting framework further reinforce General Plan objectives by ensuring that tobacco retailers and cigar lounges operate in a manner compatible with surrounding uses, maintain the safety and welfare of residents, and contribute positively to the City's commercial vitality. These measures support the General Plan's overarching goals of preserving neighborhood livability, sustaining economic health, and maintaining a balanced mix of land uses, consistent with the following policy:

1. LU 1.5 Economic Health Support the local economy through the identification and development of housing opportunities, as well as adequate commercial, office, medical, industrial, and marine-oriented uses that provide employment and local revenue opportunities to support high-quality community services for residents, businesses, and visitors. (Imp 1.1, 24.1)

Accordingly, the proposed code amendment is fully consistent with the Newport Beach General Plan because it maintains the established land use structure, supports orderly commercial development, protects residential neighborhoods, and advances the City's long-term vision for a safe, vibrant, and well-balanced community.

Local Coastal Plan

An amendment to Title 21 (Local Coastal Program Implementation Plan) is not required because tobacco retailer businesses will continue to be classified as "Retail" uses under Titles 20 and 21 of the NBMC and will remain permitted in all zones where retail uses are allowed. Title 21 already identifies retail sales as an allowed use, and the proposed amendments to Titles 5 and 20 do not change the zoning districts in which retail uses are permitted. Additionally, the OA (Office Airport) and OR (Office Regional) zoning districts where cigar lounges are proposed to be allowed are located outside the Coastal Zone and are therefore not addressed by Title 21. As a result, no amendments to Title 21 are necessary.

Summary

These comprehensive regulations for tobacco retailer businesses would establish separation requirements and detailed operational standards intended to address documented public safety concerns while ensuring compatibility with surrounding land uses. The proposed regulations respond to a pattern of unlawful activity associated with certain tobacco retailers, as evidenced by recent NBPD investigations, and are designed to protect public health, safety, and welfare while maintaining the character and vitality of the City's commercial areas. As described in the resolution (Attachment No. PC 1), the ordinance is supported by substantial evidence of negative secondary effects associated with smoke shops, including illegal drug sales and the attraction of criminal activity, particularly near sensitive uses such as schools and residential neighborhoods.

The proposed amendments for cigar lounges would establish clear separation requirements and operational standards intended to ensure that these businesses operate in a manner compatible with surrounding commercial and residential areas. As outlined in the accompanying resolution, the regulations are intended to safeguard public health, safety, and welfare while preserving the character and economic vitality of the City's commercial districts.

Alternatives

The Planning Commission may recommend revisions to the proposed code amendments, such as changing location, separation requirements, and hours or operation. If the changes are substantial the Planning Commission may direct staff to return to the Planning Commission with a revised code amendment addressing the recommended revisions prior to recommending approval of the code amendments to the City Council.

Environmental Review

The proposed action is statutorily and categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. While this amendment would modify standards for tobacco retailer businesses and cigar lounges within the City, it does not authorize new development that would directly result in physical changes to the environment. There is no evidence or known special circumstances that amending the regulations for tobacco retailer businesses and cigar lounges would result in any new effects on the environment.

Public Notice

Notice of this hearing was published in the Daily Pilot as an eighth-page advertisement at least 20 days before the scheduled meeting, consistent with the provisions of the

NBMC and State Law. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Oscar Orozco, Associate Planner

Submitted by:

Benjamin M. Zdeba, AICP
Acting Deputy Community
Development Director

LAW/oo

ATTACHMENTS

PC 1 Draft Resolution
PC 2 Amendments to Title 5 (Business Licenses and Regulations), proposed redlined code changes
PC 3 Amendments to Title 20 (Planning and Zoning Code), proposed redlined code changes
PC 4 Comparison of Tobacco Regulations in other cities

Attachment C

March 19, 2025, Planning Commission Minutes

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Vice Chair Salene closed the public hearing.

Commissioner Rosene stated that this is an area of the City where they are trying to focus on affordable housing generation. He stated that the negative impact of 15% to a developer is significant enough to lead to a reduction to 6%. He expressed his support for the amendment.

Commissioner Gazzano recommended including a clause about offering a developer 8% moderate-level income housing units as an option in addition to 6% at the lower income levels. He agreed that clarity could be added to the amendment about the specific affordability levels.

Commissioner Reed agreed with Commissioner Gazzano.

In response to Commissioner Reed's inquiry, Community Development Director Murillo clarified that PC-11's Residential Overlay was created to reduce barriers to the development of lower-income housing during the fourth RHNA cycle. He added that the study included in the staff report was conducted while looking into the feasibility of a potential Citywide inclusionary housing ordinance. He stated that City staff never anticipated the potential of for-sale housing in the JWA area, so it was not included in the original study, with the City's consultants later being asked to amend their original study to consider the feasibility of for-sale housing in PC-11.

Motion made by Commissioner Gazzano and seconded by Commissioner Rosene to approve the amendment with an addition of including the option of a minimum of 8% of for-sale units be designated for moderate-income, while clarifying that the 6% requirement is specifically for low-income and very-low-income.

AYES:	Gazzano, Reed, Rosene, and Salene
NOES:	None
ABSTAIN:	Harris
ABSENT:	Ellmore, Langford

Chair Harris returned to the meeting.

ITEM NO. 4 TOBACCO RETAILER BUSINESS AND CIGAR LOUNGE ORDINANCE (PA2025-0171)
Site Location: Citywide

Summary:

Consistent with the City Council's initiation on September 9, 2025, the proposed amendments to Title 5 (Business Licenses and Regulations), and Title 20 (Planning and Zoning) of the Newport Beach Municipal Code serve to establish comprehensive regulations related to permitting and operation for tobacco retail businesses and cigar lounges.

Recommended Actions:

1. Conduct a public hearing;
2. Find the Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment; and
3. Adopt Resolution No. PC2026-010 recommending the City Council approve the code amendments collectively filed as PA2025-0171 establishing comprehensive regulations for tobacco retailer businesses and cigar lounges.

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Associate Planner Oscar Orozco reported that there are public safety concerns over the sale of nitrous oxide and flavored tobacco products, with the City seeing a significant rise in arrests for nitrous oxide in recent years, while flavored tobacco and vaping product usage rates are rising among youth. He reported that the Newport Beach Police Department (NBPD) has been involved in enforcement actions around two Corona del Mar vendors that were subsequently closed for selling prohibited products.

Associate Planner Orozco reported that the City Council passed a temporary moratorium on the establishment of any new tobacco retail businesses in September 2025, initiated Newport Beach Municipal Code (NBMC) amendments to create regulations for these businesses and permanently banned the sale of flavored tobacco products along with nitrous oxide at the request of the NBPD. He added that the Council has since extended this moratorium through September to allow staff time to create more solidified NBMC amendments.

Associate Planner Orozco reported that the NBMC does not have a category for these stores, such as “tobacco retailer” or “smoke shop”, so they are treated as general retailers, which are permitted in most commercial zones. He added that cigar lounges are prohibited Citywide due to the current definitions. He reported that staff is proposing amending Title 5 of the NBMC to establish a permitting process for tobacco retailers and amending Title 20 to create new definitions and establish standards for tobacco retailer businesses and cigar lounges. He added that the goal of these amendments is to create comprehensive, enforceable standards while protecting public safety and preventing youth access.

Associate Planner Orozco presented the proposed definition of a tobacco retailer, noting that it excludes businesses such as grocery stores and convenience stores to help differentiate businesses that happen to sell tobacco products from those the regulations are intended to focus on that primarily sell tobacco products. He added that if a business is identified as a tobacco retailer by this definition, then it must obtain a Tobacco Retailer Permit (TRP) from the NBPD. He added that these permits would have an annual renewal requirement, be non-transferable, and retailers must comply with City, State, and federal laws. He added that a new separation requirement would not allow a tobacco retailer within 1,000 feet of another one, within 500 feet of uses like a school, park, or religious institution, or within 500 feet of residential use or zoning districts. He reported on operational standards, including no sales between midnight and 6:00 a.m., and a list of prohibited products, including nitrous oxide and flavored tobacco.

Associate Planner Orozco reported that there will be exceptions made for Newport Beach’s three existing non-confirming retailers, adding that they must obtain a TRP within 60 days of the Ordinance going into effect, maintain continuous operation, not substantially change ownership and operations, or violate applicable laws.

Associate Planner Orozco stated that cigar lounges are currently prohibited, but the City Council has made a clear distinction for the sale of premium cigars, adding that the NBPD is in support, as they are distinct from smoke shops and issues are not anticipated. He noted that staff have received applications for cigar lounges over the past few years and has identified areas where ones could be opened within select portions of the JWA area and Fashion Island. He added that cigar lounges would have to comply with operational standards, including only allowing patrons who are at least 21 years of age, installing fire sprinklers, providing adequate ventilation, complying with smoke-free workplace rules, prohibiting alcohol sales, and not being within 1,000 feet of another cigar lounge.

Associate Planner Orozco reported that staff’s only proposed revisions to the Ordinance are to include hotels and motels in the exceptions section of the definition of a tobacco retailer.

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Commissioner Rosene stated that the non-conforming and excluded uses are the interesting parts of this item, noting that Tanar's Tobacco was approved as a convenience store.

In response to Commissioner Rosene's inquiry, Acting Deputy Community Development Director Zdeba stated that staff feel Tanar's is not truly a convenience store. He clarified that they do not have a TRP because those will not exist until this Ordinance is approved by the City Council, but that they would need a TRP in the future if the Ordinance is approved. He confirmed that Tanar's and Piece of Mind Smoke Shop will be permitted to operate despite being less than 1,000 feet apart because they are already existing businesses.

Commissioner Rosene encouraged staff to consider removing convenience stores from the exempted businesses list.

NBPD Civilian Investigator Wendy Joe stated that most convenience stores that sell tobacco products also have Alcoholic Beverage Control (ABC) licenses, whereas this Ordinance is targeting smoke shops that do not sell alcohol and are not governed by any other licenses. She added that, when recently inspecting Tanar's, she found that they had a small refrigerator of sodas, but those were the only beverages.

In response to Commissioner Rosene's inquiry, Civilian Investigator Joe confirmed that whether a store has an ABC license or not is clarified within the Ordinance.

In response to Commissioner Gazzano's inquiries, Associate Planner Orozco confirmed that any existing operator will have to obtain a TRP, adding that the TRP will have an exception for establishments that also require an ABC license. He added that the ABC license provides more means and mechanisms of enforcement to ensure that a convenience store selling alcohol complies with its sales limitations. He clarified that the sale of flavored tobacco and nitrous oxide would be prohibited Citywide, even if a store has an ABC license. Civilian Investigator Joe added that flavored tobacco is covered by State law, but the City's Ordinance provides more local controls. She clarified that the sale of flavored tobacco to an adult is more of an administrative violation through the California Department of Public Health, and this will allow the City to create a higher enforcement standard. She clarified that the age restriction for smoking lounges is 21 years of age and not 18 because of smoking lounges with hashish, noting that hashish is not considered flavored tobacco. Assistant City Attorney Summerhill reported that the legal age to purchase and possess tobacco products in California has recently been changed to 21.

In response to Chair Harris' inquiry, Civilian Investigator Joe clarified that an ABC license requires that you cannot sell drug paraphernalia, such as glass pipes. She added that there are no current mechanisms for the enforcement of things like this with a smoke shop that does not sell alcohol. She added that the TRP is an attempt to bridge the gap.

In response to Vice Chair Salene's inquiries, Associate Planner Orozco stated that when the three existing smoke shops apply for a TRP, the NBPD will confirm that they do not have a history of violations before issuing a TRP. He confirmed that if the three stores have been rule-compliant, they would be issued a TRP.

In response to Chair Harris' inquiry, Associate Planner Orozco confirmed that staff will notify all known existing retailers prior to the City Council's public hearing about the Ordinance.

In response to Chair Harris' inquiry, none of the Commissioners disclosed any ex parte communications about this item, other than Chair Harris, who disclosed speaking with a potential tobacco retail owner.

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Chair Harris opened the public hearing.

Mr. Mosher noted that his comments on this item were not submitted in writing like his other comments. He stated that the concept of tobacco "retailing" in proposed NBMC Section 5.55.15(A) is insufficiently defined. He added that proposed NBMC Section 5.55.15(D)(3) is unclear, noting the potential for confusing applications in mixed-use and housing overlay zones. He compared the discussion to the City Council's restrictions on tattoo parlors and stated that maps comparable to the ones presented at that discussion would be beneficial. He recommended that more specificity about the length of time and types of violations be added to proposed NBMC Section 5.55.15(E)(5), pondering if something unrelated to tobacco sales, like a plumbing violation, could be counted here. He recommended inserting language into proposed NBMC Section 20.70.020(T) as a drug store selling nicotine patches could fit the definition as presented because they sell a "tobacco-related item." He stated that the focal point of the definition should be that the primary business of a smoke shop is selling tobacco.

Chair Harris closed the public hearing.

Vice Chair Salene agreed with Mr. Mosher on the overly broad nature of the requirement that a retailer have no violations in proposed NBMC Section 5.55.15(E)(5).

In response to Vice Chair Salene's inquiry, Assistant City Attorney Summerhill agreed that proposed NBMC Section 5.55.15(E)(5) can be tightened up prior to its City Council presentation, along with adding other editorial comments made by Mr. Mosher and the Commission.

Chair Harris stated that he has similar thoughts to Mr. Mosher about needing clarity in proposed NBMC Section 5.55.15(D)(3) relative to the application of these regulations in mixed-use and housing overlay zones.

Motion made by Chair Harris and seconded by Vice Chair Salene to approve the item as revised by staff.

AYES:	Gazzano, Harris, Reed, Rosene, and Salene
NOES:	None
ABSTAIN:	None
ABSENT:	Ellmore, Langford

VIII. STUDY SESSION

ITEM NO. 5 STUDY SESSION ON THE NEWPORT BEACH 2050 GENRAL PLAN (PA2022-080)
Site Location: Citywide

Summary:

City staff will present relevant background and an overview of the status of the comprehensive General Plan Update with special focus on introducing the Final Draft GPUSC/GPAC General Plan Update, also referred to as the "Newport Beach 2050 General Plan." This is a study session item only with no action required. It is anticipated the Planning Commission will review and consider recommending the Newport Beach 2050 General Plan for City Council approval at its meeting on April 23, 2026.

Attachment D

Amendments to Title 5 (Business Licenses and Regulations), Proposed Redlined Code Changes

Chapter 5.55
Tobacco Retailer Businesses

Sections:

5.55.005 Findings and Purpose.
5.55.010 Definitions.
5.55.015 Requirements of Operation.
5.55.020 Application for Tobacco Retailer's Permit.
5.55.025 Tobacco Retailer's Permit Issuance and Renewal.
5.55.030 Prohibitions and Requirements.
5.55.035 Compliance Monitoring and Right of Entry.
5.55.040 Violations – Suspension, Revocation, and Seizure.
5.55.045 Suspension, Revocation, Denial, Seizure, and Appeal.
5.55.050 Enforcement.

5.55.005 Findings and Purpose.

It is the purpose and intent of this chapter to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, particularly those that prohibit or discourage the sale or distribution of tobacco products to minors. This chapter is not intended to expand or limit the scope of conduct regulated by federal or state law, nor to alter any penalties provided under such laws.

The restrictions and requirements of this chapter are further intended to reduce the burden on the Police Department and to allow for the more effective deployment of law enforcement resources toward the prevention of more serious crimes.

5.55.010 Definitions.

"Control" means the ability, directly or indirectly, to influence the management, policies, or operations of a business, whether through ownership, contract, financial arrangement, lease, employment relationship, or otherwise.

"Electronic smoking device" means any electronic or battery-operated device that simulates smoking and can be used to deliver an inhaled dose of nicotine or any other substance in aerosolized or vaporized form, including any component, part, or accessory used in the preparation or operation of such device. This term includes, but is not limited to, electronic cigarettes, cigars, cigarillos, pipes, vape pens, hookahs, vaporizers, and atomizers. It does not include nicotine replacement or cessation products approved by the United States Food and Drug Administration.

"Flavored tobacco product" shall have the same meaning as set forth in Section 6.30.010.

"Nitrous oxide" shall have the same meaning as set forth in Section 6.040.010.

"Permittee" means any person or proprietor who holds a valid tobacco retailer's permit issued pursuant to this chapter.

"Proprietor" means any person with an ownership or managerial interest in a business. An ownership interest exists if a person, directly or indirectly, holds ten percent (10%) or more of the business's stock, equity, or right to share in profits or residual distributions, excluding any security or debt interest. A managerial interest exists if a person exercises, or shares, control over the business's day-to-day operations.

"Sell" or "sale" shall have the same meaning as set forth in Section 6.30.010.

"Smoke" or "Smoking" shall have the same meaning as set forth in Section 6.25.010.

"Tobacco paraphernalia" means cigarette papers or wrappers, blunt wraps as defined in California Penal Code Section 308, pipes, holders of smoking materials of all types, cigarette rolling machines, or any other instruments or items designed or marketed for the consumption, preparation, storing, use, smoking or ingestion of tobacco products.

"Tobacco product" shall have the same meaning as set forth in Section 6.30.010. Notwithstanding anything to the contrary in Section 6.30.010, "tobacco product" includes any component, part, or accessory intended to be used with a tobacco product, whether or not sold separately.

"Tobacco product flavor enhancer" has the meaning set forth in California Health and Safety Code Section 104559.5(a)(18).

"Tobacco retailer business" shall have the same meaning as set forth in Section 20.70.020.

"Tobacco retailing" shall mean the doing of any of the activities associated with a "tobacco retailer business" as defined in Section 20.70.020. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

"Tobacco retailer's permit" means a permit issued by the Chief of Police authorizing a specific location to engage in tobacco retailing. Issuance of a permit does not constitute a determination of compliance with all applicable laws. A permit may be suspended or revoked pursuant to this chapter.

5.55.015 Requirements of Operation.

A. Tobacco Retailer's Permit Requirement. Except as provided in subsection (E), no person shall own, operate, or otherwise conduct a tobacco retailer business within the City without first obtaining and maintaining a valid tobacco retailer's permit for each location at which such business operates.

B. Zoning and Land Use Restrictions. Permits shall not be issued for locations that violate Title 20 or Title 21 of this Code and shall only be located in zoning districts where retail sales are a permitted use.

C. Prohibited Business Types. A tobacco retailer's permit shall not be issued or renewed for any premises licensed by the state for on-site alcohol consumption, or for any restaurant or business that offers food for on-site consumption.

D. Location Requirements. Tobacco retailer businesses shall comply with the following minimum separation requirements:

1. One thousand (1,000) feet from another permitted tobacco retailer business;

2. Five hundred (500) feet from any public or private school, day care center, park, playground, hospital, or youth center; and

3. Five hundred (500) feet from any residential zoning district.

Distances required by this subsection shall be measured in a straight line, without regard to intervening structures, from the closest property line of the parcel on which the tobacco retailer business is located to the closest property line of the zoning district, property, or use.

E. Nonconforming Use Exception. A tobacco retailer business lawfully operating as of the effective date of this chapter is exempt from the location and zoning requirements set forth in subsections (B), (C), and (D) of this section and may continue operating under the following conditions:

1. A tobacco retailer's permit application is filed within sixty (60) calendar days of the effective date of this chapter.

2. The tobacco retailer's permit is timely issued and renewed in accordance with Section 5.55.025.

3. After obtaining a permit, the tobacco retailer business does not cease operations for more than sixty (60) consecutive calendar days.

4. After obtaining a permit, the tobacco retailer business complies with Section 20.38.050.

F. Legal non-conforming. Except as otherwise provided in this chapter, a tobacco retailer's permit issued under subsection (E) of this section shall be treated as a legal nonconforming use pursuant to Section 20.38.050 of the Code and subject to its provisions and limitations.

G. Permit is Conditional. A tobacco retailer's permit confers a limited, revocable privilege to operate at the specified location and does not create a vested right or supersede any other applicable law.

5.55.020 Application for Tobacco Retailer's Permit.

A. Application Procedure.

1. Applications shall be submitted on forms provided by the City and include a non-refundable fee as set by City Council resolution.

2. Each application shall include, at minimum, the following:

a. Full legal name, date of birth, government-issued identification number, mailing address, phone number, and email for each proprietor;

b. Business name, address, phone number, and hours of operation;

c. Disclosure of any prior permit suspensions or revocations under this chapter, including dates and reasons;

d. Proof of a valid state tobacco retailer license from the California Department of Tax and Fee Administration;

e. Any other information deemed necessary by the Chief of Police for administration or enforcement purposes; and

f. A signed certification by each proprietor under penalty of perjury affirming the accuracy of the information provided and compliance with this chapter.

B. Change of Information. The applicant/permittee shall notify the Chief of Police in writing of any change to the information submitted in the application within ten (10) calendar days.

C. Non-Transferability. A tobacco retailer's permit is non-transferable and may not be assigned to any other person, proprietor, or location. Any attempted transfer is void. A new application is required for any change in ownership or location.

5.55.025 Tobacco Retailer's Permit Issuance and Renewal.

A. Tobacco Retailer's Permit Review and Issuance. The Chief of Police shall review each completed application and may conduct any investigation necessary to determine compliance with this chapter and applicable laws. A permit may be denied or not renewed upon a determination that any of the following conditions exist:

1. The application is materially incomplete or contains inaccurate, false, fraudulent, or misleading information.

2. Except as provided in Section 5.55.015, the applicant/proprietor seeks authorization for tobacco retailing that is prohibited, unlawful or violates this chapter or other applicable local, state, or federal law or regulation.

3. The applicant/proprietor has unresolved outstanding fines, penalties, fees, or taxes owed to the City in connection with tobacco retailing activities.

4. The applicant/proprietor has had a City tobacco retailer's permit or California tobacco retailer's license revoked in the preceding five (5) years.

5. Except as provided in this subsection, the business location has had a City tobacco retailer's permit or California tobacco retailer's license revoked within the preceding five (5) years.

a. The City Manager may waive or modify the restriction upon a determination that the purposes of this chapter would not be undermined, including, but not limited to, where there has been a bona fide change in ownership and adequate safeguards are in place to prevent future violations.

b. The applicant bears the burden of demonstrating that any transfer of ownership is bona fide and at arm's length. The City may require disclosure of prior ownership interests, management control, financial arrangements, and any other information necessary to determine whether a genuine change in control has occurred. A transfer shall not be deemed bona fide where the prior owner retains any direct or indirect ownership interest, financial interest, management role, or control over the business or its operations.

6. Issuance or renewal of the permit would be contrary to the public health, safety, or welfare, based on specific, articulable facts demonstrating a reasonable nexus to increased risk of unlawful tobacco sales, youth access, or prior violations.

Any approved permit may be subject to reasonable conditions that are related to ensuring compliance with this chapter and protecting public health, safety, and welfare.

B. Tobacco Retailer's Permit Term and Renewal.

1. A permit is valid for one (1) year from the date of issuance and shall be renewed annually to continue operation as a tobacco retailer business.

2. To maintain continuity, renewal applications should be submitted at least thirty (30) days before expiration.

Unless the City Manager determines there is good cause to grant an extension, a permit that is not timely renewed shall expire automatically at midnight on the expiration date. Upon expiration, all tobacco retailing shall immediately cease, and a new application shall be required.

5.55.030 Prohibitions and Requirements.

A. Compliance with Laws. Except as provided in Section 5.15.015 (E), a tobacco retailer business shall comply with all applicable local, state, and federal laws, including those relating to zoning, building, fire, public health, safety, and tobacco control.

B. Fixed Location Required. Tobacco retailing shall occur only from a fixed, permanent location. Retailing from vehicles, temporary structures, or mobile operations is prohibited.

C. Prohibited Products and Activities. The following items shall not be sold, distributed, displayed, furnished, administered, exchanged, given away, or possessed with the intent to sell or offered for sale by any tobacco retailer's business:

1. Nitrous oxide or any device used to dispense it as defined by local, state or federal law;

2. Cannabis, cannabis products, or edible cannabis products as defined in Chapter 10.70;

3. Flavored tobacco products and tobacco product flavor enhancers, as prohibited under local, state or federal law, including Chapter 6.30;

4. Imitation tobacco products, including, but not limited to, candy cigarettes and bubble gum cigars;

5. Disguised vape or electronic smoking devices, including, but not limited to, those made to look like USB drives, pens, markers, phone cases, watches, lipstick, remote keys or other non-tobacco items; and/or

6. Any product, device, or item that is designed, marketed, or intended to evade or circumvent the prohibitions set forth in this chapter.

D. Minimum Age of Employees. No person under the minimum legal age determined by the stricter of state or federal law for purchasing or possessing tobacco products may engage in or assist with tobacco retailing.

E. Government Identification. No tobacco product or tobacco paraphernalia shall be sold unless the tobacco retailer business first verifies, by examining valid government-issued photo identification, that the purchaser meets the minimum legal age, under the stricter of state or federal law, for purchasing or possessing tobacco products.

F. Storage. All tobacco products shall be stored in a manner that prevents direct customer access without employee assistance.

G. Packaging, Labeling, and Pricing.

1. Tobacco products shall be sold in the original manufacturer's packaging, compliant with all federal and state labeling, tax, and child-resistant packaging laws.

2. Prices shall be clearly displayed on the product or nearby shelf or signage.

H. Display of Licenses and Permits. The tobacco retailer's permit and all required state or federal licenses shall be prominently displayed within five (5) feet of the point of sale.

I. Premises Regulations.

1. A tobacco retailer business shall maintain a clearly designated front entrance for customers. All non-emergency public access shall occur through this entrance.

2. Front entrance doors of a tobacco retailer business shall remain unlocked during regular business hours.

J. Signage Compliance. A tobacco retailer business shall comply with all signage requirements in Title 20 of the Code and all applicable state and federal laws related to tobacco warnings, age restrictions, and advertising. No more than twenty (20) percent of the total transparent area of a tobacco retailer business storefront windows and doors may be covered by signage. All signage shall be placed to maintain a clear and unobstructed view of the interior of the premises including, but not limited to, the point-of-sale area, from the exterior.

5.55.035 Compliance Monitoring and Right of Entry.

The City may enter any permitted tobacco retailer during regular business hours, or at any other reasonable time, to conduct reasonable inspections to ensure compliance with this chapter and applicable laws. Inspections shall be limited to areas open to the public or reasonably necessary to verify compliance and may be routine, unannounced, or complaint based. Refusal to permit entry, or any act that delays or interferes with an inspection, constitutes a violation of this chapter.

5.55.040 Violations – Suspension, Revocation, and Seizure.

A. Grounds for Enforcement. In addition to any other remedies provided by law, the Chief of Police or City Manager may suspend or revoke a tobacco retailer's permit upon a finding, by a preponderance of the evidence, that one or more of the following has occurred:

1. The permittee or proprietor submitted a tobacco retailer permit application that contained inaccurate, false, fraudulent, or misleading information;

2. The permittee, proprietor, or any employee has violated any provision of this chapter or any condition of the permit;

3. The permittee, proprietor, or any employee has violated any local, state, or federal law governing tobacco products or tobacco retailing; or

4. The permittee, proprietor, or any employee has been convicted of, or has pled guilty or no contest to, a violation of local, state, or federal law constituting a felony, and the violation is directly and substantially related to the operation of the tobacco retailer business.

Any decision to suspend or revoke a tobacco retailer's permit may be appealed pursuant to Section 5.55.045.

B. Conditions During Suspension or Revocation. During a suspension or revocation period:

1. All tobacco products and related items shall be removed from customer view and stored in a secure, non-public area; and

2. A City-issued notice shall be posted at all public entrances and points of sale, stating the reason and duration of the enforcement action.

C. Seizure. Tobacco products and tobacco paraphernalia offered for sale are subject to immediate seizure by the Chief of Police if there is probable cause to believe that a violation of this chapter or any permit condition has occurred. The permittee and any other owner of the seized items shall be provided written notice of the seizure and informed of the right to appeal in accordance with Section 5.55.045. Seized items shall be forfeited unless the permittee or owner of the seized items successfully demonstrates, through the appeal process, that the items were not offered for sale in violation of this chapter.

Forfeited tobacco products and tobacco paraphernalia shall be destroyed after all administrative appeals have been exhausted and the time to seek judicial review pursuant to Chapter 1.10 or other applicable law has expired without the filing of a lawsuit, or, if such a lawsuit is filed, after final judgment is entered.

D. Attribution of Employee Conduct. For purposes of this section, violations by employees shall be attributed to the permittee.

5.55.045 Suspension, Revocation, Denial, Seizure, and Appeal.

A. Notice of Action. Fifteen (15) calendar days prior to the effective date of a denial, suspension, or revocation of a tobacco retailer's permit, or fifteen (15) calendar days following the seizure of items under this chapter, the Chief of Police shall provide written notice to the applicant or permittee. The notice shall include:

1. The specific grounds for the action;

2. A summary of the supporting facts and applicable code provisions; and

3. Instructions for requesting an administrative review pursuant to this section.

B. Appeal.

1. The applicant or permittee may request an administrative review by the City Manager within fifteen (15) calendar days of service of the notice, in accordance with Section 1.08.080, by filing an appeal with the City Clerk.

2. The City Manager may affirm, modify, or reverse the decision, or impose conditions or alternative remedies, based on the record and any additional information deemed relevant to the purposes of this chapter.

3. Decisions under this section shall be upheld if supported by substantial evidence in the record.

4. The City Manager may consider the totality of the circumstances and the purposes of this chapter in making determinations.

5. The City Manager may consider any relevant evidence, whether or not it would be admissible in a court of law.

6. The decision of the City Manager shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

C. Failure to Participate. Failure of the appellant to appear at the appeal hearing shall be deemed a withdrawal of the appeal and a waiver of the right to exhaust administrative remedies.

5.55.050 Enforcement.

A. Suspension or Revocation of Tobacco Retailer's Permit. A violation of, or failure to comply with, any provision of this chapter may result in one or more of the following administrative actions, as determined by the Chief of Police or City Manager based on the severity and circumstances of the violation:

1. For the first violation within a five (5) year period, the tobacco retailer's permit may be suspended for up to thirty (30) calendar days.

2. For the second violation within a five (5) year period, the tobacco retailer's permit may be suspended for up to ninety (90) calendar days.

3. For a third or subsequent violation within a five (5) year period, the permit may be suspended for up to one hundred and eighty (180) days or revoked.

B. Aggregation of Violations. For purposes of enforcement, violations occurring at multiple locations that have a common permittee, or proprietor may be aggregated and treated as violations of a single permittee where there is common ownership or control and a demonstrated pattern of noncompliance.

C. Remedies. The remedies provided in this chapter are in addition to any other remedies available under local, state, or federal law. Nothing in this chapter limits the City's authority to pursue any available legal remedy, including, but not limited to, nuisance abatement or, permit suspension or revocation, or enforcement under Chapter 20.68 of the Code.

D. City Manager Authority. The City Manager shall have authority to interpret, implement, and enforce this chapter, including the authority to impose conditions, grant

modifications, and make determinations necessary to carry out its purposes. The City Manager shall determine the extent to which any provision of this chapter is preempted by state or federal law and may modify or suspend enforcement accordingly.

Attachment E

Amendments to Title 20 (Planning and Zoning Code), Proposed Redlined Code Changes

20.20.020 Commercial Zoning Districts Land Uses and Permit Requirements.

A. Allowed Land Uses. Tables 2-4 and 2-5 indicate the uses allowed within each zoning district and the permit required to establish the use, if any, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-4 ALLOWED USES AND PERMIT REQUIREMENTS	**Commercial Office Zoning Districts Permit Requirements ***				
	P	**Permitted by Right**			
	CUP	**Conditional Use Permit (Section 20.52.020)**			
	MUP	**Minor Use Permit (Section 20.52.020)**			
	LTP	**Limited Term Permit (Section 20.52.040)**			
	—	**Not allowed ***			
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**OA**	**OG**	**OM**	**OR**	**Specific Use Regulations**
Retail Trade Uses					
Alcohol Sales (off-sale)	MUP	MUP	MUP	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	MUP	MUP	P	
Retail Sales (less than 10,000 sq. ft.) [4]	MUP	P	P	P	
Retail Sales (10,000 sq. ft. or greater) [1,4]	CUP	—	—	—	
Pharmacy, Medical Supplies	P	P	P	P	
Other Uses					
Cigar Lounges [5]	P	—	—	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 11:00 p.m. any day of the week.

(2) Permitted or Minor Use Permit Required.

a. For Take-Out Service – Fast Casual (up to 20 seats), a minor use permit shall be required for any use located within one hundred (100) feet of any residential zoning district.

b. Except as provided in (2)(a), a minor use permit shall be required for any use located within five hundred (500) feet of any residential zoning district.

c. A minor use permit shall be required for any use that maintains late hours.

(3) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(4) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

(5) Cigar Lounges are only permitted in the OA and OR Zoning District when located in a private room within, or attached to, premium cigar retail sale establishment. A Cigar Lounge shall be restricted to persons aged twenty-one (21) years of age or older. Cigar Lounges shall be fire sprinklered and comply with all Building and Fire Codes. A Cigar Lounge shall provide adequate ventilation. A Cigar Lounge shall not be located within one thousand (1,000) feet of another Cigar Lounge.

TABLE 2-5 ALLOWED USES AND PERMIT REQUIREMENTS	Commercial Retail Zoning Districts Permit Requirements * P Permitted by Right CUP Conditional Use Permit (Section 20.52.020) MUP Minor Use Permit (Section 20.52.020) LTP Limited Term Permit (Section 20.52.040) — Not allowed *						
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**CC**	**CG**	**CM**	**CN**	**CV**	**CV-LV**	**Specific Use Regulations**
Retail Trade Uses							
Alcohol Sales (off-sale)	MUP	MUP	MUP	MUP	MUP	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	P	P	P	P	P	
Bulk merchandise	—	P	—	P	—	—	
Marine Rentals and Sales							
Boat Rentals and Sales	—	CUP	CUP	—	CUP	P	
Marine Retail Sales	P	P	P	—	P	P	
Retail Sales[5]	P	P	P	P	—	—	
Visitor-Serving Retail	P	—	—	—	P	P	

Notes:

(1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).

(2) In the CG Zoning District, when 0.3/0.5 is shown on the Zoning Map, the FAR may be increased to a maximum of 0.5 when two or more legal lots are merged to accommodate larger commercial development projects in compliance with General Plan Policy LU 6.19.13 and Title 19 (Subdivisions).

(3) Portions of legal lots that are submerged lands or tidelands shall be included in the land area of the lot for the purpose of calculating the allowable floor area for structures.

(4) Architectural features such as domes, towers, cupolas, spires, and similar structures may be up to 65 feet in height.

(5) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

20.22.020 Mixed-Use Zoning Districts Land Uses and Permit Requirements.

A. Allowed Land Uses. Tables 2-8, 2-9, and 2-10 indicate the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-8 ALLOWED USES AND PERMIT REQUIREMENTS	**Mixed-Use Zoning Districts Permit Requirements**				
	P	**Permitted by Right**			
	CUP	**Conditional Use Permit (Section 20.52.020)**			
	MUP	**Minor Use Permit (Section 20.52.020)**			
	LTP	**Limited Term Permit (Section 20.52.040)**			
	—	**Not Allowed ***			
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**MU-V**	**MU-MM (6)**	**MU-DW**	**MU-CV/15th St. (7)**	**Specific Use Regulations**
Retail Trade Uses					
Alcohol Sales (off-sale)	MUP	MUP	—	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	P	P	P	
Marine Rentals and Sales					
Boat Rentals and Sales	CUP	P	—	CUP	
Marine Retail Sales	P	P	P	P	

TABLE 2-8 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements				
	P	Permitted by Right			
	CUP	Conditional Use Permit (Section 20.52.020)			
	MUP	Minor Use Permit (Section 20.52.020)			
	LTP	Limited Term Permit (Section 20.52.040)			
	—	Not Allowed *			
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**MU-V**	**MU-MM (6)**	**MU-DW**	**MU-CV/15th St. (7)**	**Specific Use Regulations**
Retail Sales[8]	P	P	P	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Allowed only as part of a mixed-use development. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(2) Not allowed to front onto Coast Highway. Coast Highway frontage shall be limited to nonresidential uses. See Table 2-10 (Development Standards for Vertical and Horizontal Mixed-Use Zoning Districts).

(3) Not allowed on lots at street intersections unless part of a mixed-use or live-work structure.

(4) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public after 11:00 p.m. any day of the week.

(5) Permitted or Minor Use Permit Required.

a. For Take-Out Service – Fast Casual (up to 20 seats), a minor use permit shall be required for any use located within one hundred (100) feet of any residential zoning district.

b. Except as provided in (5)(a), a minor use permit shall be required for any use located within five hundred (500) feet of any residential zoning district.

c. A minor use permit shall be required for any use that maintains late hours.

(6) Properties fronting on Coast Highway shall be developed with nonresidential uses as allowed in Table 2-9. Properties to the rear of the commercial frontage may be developed for freestanding nonresidential uses, multi-unit residential dwelling units, or

mixed-use structures that integrate multi-unit residential above the ground floor with nonresidential uses on the ground floor. See Table 2-10 (Development Standards for Vertical and Horizontal Mixed-Use Zoning Districts).

(7) Mixed-use or commercial structures are required on lots at street intersections and are allowed, but not required, on other lots.

(8) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

TABLE 2-9 ALLOWED USES AND PERMIT REQUIREMENTS	**Mixed-Use Zoning Districts Permit Requirements**		
	P **CUP** **MUP** **LTP** **—**	**Permitted by Right** **Conditional Use Permit (Section 20.52.020)** **Minor Use Permit (Section 20.52.020)** **Limited Term Permit (Section 20.52.040)** **Not allowed ***	
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**MU-W1 (5)(6)**	**MU-W2**	**Specific Use Regulations**
Retail Trade Uses			
Alcohol Sales (off-sale)	MUP	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	P	
Marine Rentals and Sales			
Boat Rentals and Sales	P	P	
Marine Retail Sales	P	P	
Retail Sales[8]	P	P	
Visitor-Serving Retail	P	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) May only be located on lots with a minimum of two hundred (200) lineal feet of frontage on Coast Highway. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(2) May only be located above a commercial use and not a parking use. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(3) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 11:00 p.m. any day of the week.

(4) Permitted or Minor Use Permit Required.

a. For Take-Out Service – Fast Casual (up to 20 seats), a minor use permit shall be required for any use located within one hundred (100) feet of any residential zoning district.

b. Except as provided in (4)(a), a minor use permit shall be required for any use located within five hundred (500) feet of any residential zoning district.

c. A minor use permit shall be required for any use that maintains late hours.

(5) Approval of a minor site development review, in compliance with Section 20.52.080, shall be required prior to any development to ensure that the uses are fully integrated and that potential impacts from their differing activities are fully mitigated.

(6) A minimum of fifty (50) percent of the square footage of a mixed-use development shall be used for nonresidential uses.

(7) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(8) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

20.24.020 Industrial Zoning District Land Uses and Permit Requirements.

A. Allowed Land Uses. Table 2-12 indicates the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-12 ALLOWED USES AND PERMIT REQUIREMENTS	Industrial Zoning District Permit Requirements	
	P CUP MUP LTP —	Permitted by Right Conditional Use Permit (Section 20.52.020) Minor Use Permit (Section 20.52.020) Limited Term Permit (Section 20.52.040) Not allowed *
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**IG**	**Specific Use Regulations**
Retail Trade Uses		
Alcohol Sales (off-sale)	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	
Building Materials and Services	P	
Contractor's Storage Yards	MUP	
Marine Rentals and Sales		
Boat Rentals and Sales	MUP	
Marine Retail Sales	P	
Retail Sales[3]	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Wine Tasting Room Hours of Operation. The permitted hours of operation shall be limited to Monday through Friday from 4:00 p.m. to 11:00 p.m., and Saturday and Sunday from 12:00 p.m. to 11:00 p.m.

(2) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(3) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained

20.70.020 Definitions of Specialized Terms and Phrases.

C. "C" Definitions

"Cigar Lounge" means any person or establishment where the primary use or ancillary use is characterized by the sale and offering of smoking of premium cigars.

G. "G" Definitions

"Grocery store" means a retail establishment of which greater than 1/2 of the floor area is devoted to the sale of food items and small household goods intended for consumption or use off the premises, excluding alcoholic beverages.

P. "P" Definitions

"Premium cigar" shall have the same meaning as set forth in Section 6.25.010.

S. "S" Definitions

"Sale of Premium Cigars" means an establishment primarily engaged in the exclusive sale, distribution, or exchange of premium cigars.

"Smoking lounge (land use)" means an establishment that is dedicated, in whole or part, to providing tobacco or other substances for smoking by patrons on the premises for a fee, including but not limited to establishments known as ~~cigar lounges,~~ hookah lounges, vape lounges, e-cigarette club, tobacco clubs, or tobacco bars. ~~Does not include a "retail or wholesale tobacco shop," which sells tobacco products and smoking accessories, but does not provide for on-premises use of tobacco products.~~

T. "T" Definitions

"Tobacco retailer business" means any person or establishment who sells, offers for sale, distributes, furnishes, or otherwise exchanges, with or without compensation, a tobacco product, tobacco paraphernalia, or tobacco-related item, to a consumer or end user, whether conducted in a physical storefront, through mobile or temporary setups, or via online or delivery-based platforms operating within the City of Newport Beach. Does not include "Grocery Store," "Supermarket," "Hotel," "Motel," "Alcohol Sales (off-sale)," "Alcohol Sales (off-sale), Accessory Only," "Cigar Lounge," or the "Sale of Premium Cigars."