Residences at Newport Center

City of Newport Beach, California

Draft Environmental Impact Report

SCH No. 2020110087

Lead Agency

City of Newport Beach

100 Civic Center Drive

Newport Beach, CA 92660

April 2021

DRAFT ENVIRONMENTAL IMPACT REPORT
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Lead Agency
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

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Lead Agency Discretionary Permits
Development Agreement No. DA2020-001
General Plan Amendment No. GP2020-001
Zoning Code Amendment No. CA2020-008
Planned Community Development Plan No. PC2020-001
Major Site Development Review No. SD2020-001
Tentative Tract Map No. NT2020-001

April 2021

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ACRONYMS AND ABBREVIATIONS

Acronym	Definition
AB	Assembly Bill
ACM	Asbestos-Containing Material
ADT	Average daily trips
AELUP	Airport Environs Land Use Plan
ALUC	Airport Land Use Commission
AMSL	Above Mean Sea Level
APN	Assessor Parcel Number
AQMD	Air Quality Management District
AQMP	Air Quality Management Plan
ARB	California Air Resources Board
BACMs	Best Available Dust Control Measures
BERD	California Built Environment Resources Directory
BMPs	Best Management Practices
BTEX	Benzene, Toluene, Ethyl Benzene and Xylenes
C_2F_6	Hexafluoroethane
C_2H_6	Ethane
CA	Code Amendment
CAA	Federal Clean Air Act
CAAQS	California Ambient Air Quality Standards
CadnaA	Computer Aided Noise Abatement
CalEEMod	California Emissions Estimator Model
CalEPA	California Environmental Protection Agency
CalFire	California Department of Forestry and Fire Protection
CALGreen	California Building Standards Code
Cal/OCHA	California Occupational Safety and Health Program
CALTRANS	California Department of Transportation
CARB	California Air Resources Board
CBSC	California Building Standards Code
CCAA	California Clean Air Act
CCCC	California Climate Change Center
CCR	California Code of Regulations
CDC	California Department of Conservation
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CEQA	California Environmental Quality Act
CF_4	Tetrafluoromethane

CFCs	Chlorofluorocarbons
CFGC	Unlawful Take of Destruction of Nests or Eggs
CFR	Code of Federal Regulations
CG	General Commercial
CGS	California Geological Survey
CH_4	Methane
CHL	California Historical Landmarks
CHRIS	California Historical Resources Information System
CLUP	Coastal Land Use Plan
CMP	Congestion Management Program
CNEL	Community Noise Equivalent Level
CNRA	California Natural Resources Agency
CO_2	Carbon Monoxide
CO_2e	CO_2 Equivalent
COG	Council of Governments
CO-G	General Commercial Office
COHb	Carboxyhemoglobin
CO-M	Medical Commercial Office
CO-R	Regional Commercial Office
CPHI	California Points of Historical Interest
CPUC	California Public Utilities Commission
CR	Regional Commercial
CRHR	California Listing of Historic Resources
CRM	Duke Cultural Resources Management
CUP	Conditional Use Permit
CUPA	Certified Unified Program Agency
CV	Visitor Serving Commercial
CWA	Clean Water Act
CWRCB	California Water Resources Control Board
DA	Development Agreement
DAMP	Drainage Area Management Plan
dB	Decibel
dBA	A-weighted decibels
DOC	California Department of Conservation
DEIR	Draft Environmental Impact Report
DOE	Determination of Eligibility
DOF	Department of Finance
DOJ	Department of Justice
DOSH	California's Division of Occupational Safety and Health
DOT	Department of Transportation
DWR	California Department of Water

EAP	Energy Action Plan
EIR	Environmental Impact Report
EOP	Emergency Operations Plan
EPA	Environmental Protection Agency
EPCA	Energy Policy and Conservation Act of 1975
EPS	Emission Performance Standard
ESA	Endangered Species Act
ESAs	Environmental Site Areas
EV	Electric Vehicle
°F	Fahrenheit
FAA	Federal Aviation Administration
FAR	Floor to Area Ratio
FEMA	Federal Emergency Management Agency
FERO	Fero Environmental Engineering, Inc.
FESA	Federal Endangered Species Act
FHWA	Federal Highway Administration
FMMP	Farmland Mapping and Monitoring Program
FTA	Federal Transit Administration
GCC	Global Climate Change
Gg	Gigagram
GHG	Greenhouse Gas(es)
GSAs	Groundwater Sustainability Agencies
GSPs	Groundwater Sustainability Plans
GWP	Global Warming Potential
HCPs	Habitat Conservation Plans
HFC-23	Fluoroform
HFC-134a	1,1,1,2-Tetrafluoroethane
HFC -152a	1,1-Difluoroethane
HFCs	Hydrofluorocarbons
HMTA	Hazardous Materials Transportation Act of 1975
HMTUSA	Hazardous Materials Transportation Uniform Safety Act
HOA	Homeowners Association
HRS	Hazard Ranking System
HSC	Health and Safety Code
HSWA	Federal Hazards and Solid Waste Amendments
HVAC	Heating Ventilation, and Air Conditioning
HWCL	California Hazardous Waste Control Law
JPA	Joint Powers Authority
JWA	John Wayne Airport

IBC	International Building Code
IPCC	Intergovernmental Panel on Climate Change
IRWD	Irvine Ranch Water District
ITE	Institute of Transportation Engineers
LCD	Liquid Crystal Display
LCFS	Low Carbon Fuel Standard
L_{eq}	Equivalent Noise Level
LOS	Level of Service
LST	Localized Significance Thresholds
MBTA	Migratory Bird Treaty Act
MM	Mitigation Measure
MMRP	Monitoring, and Reporting Program
$MMTCO_2e$/yr.	Million Metric Tons of CO_2 per year
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
MRZs	Mineral Resources Zones
MS4	Municipal Separate Storm Sewer System
MU-H	Mixed-Use Horizontal
MUP	Minor Use Permit
MUTCD	California Manual on Uniform Traffic Control Devices
$\mu g/m^3$	*Microgram per cubic meter*
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NBFD	Newport Beach Fire Department
NBPD	Newport Beach Police Department
NBMC	Newport Beach Municipal Code
NCCP	Natural Community Conservation Planning Act
NCCP/HCP	Orange County Natural Communities Conservation Plan/Habitat Conservation Plan
NDCs	Nationally Determined Contributions
NESHAP	National Emission Standards for Hazardous Air Pollutants
NF_3	Nitrogen Trifluoride
NHPA	National Historic Preservation Act of 1966
NIA	Noise Impact Analysis
NIOSH	National Institute for Occupational Safety and Health
NMG	NMG Geotechnical Inc.
NMUSD	Newport-Mesa Unified School District
N_2	Nitrogen
N_2O	Nitrous Oxide
NO	Nitric oxide
NO_2	Nitrogen Dioxide

NO_X	Oxides of Nitrogen
NOAA	National Oceanic and Atmospheric Administration
NOP	Notice of Preparation
NPDES	National Pollutant Discharge Elimination System
NPPA	Native Plant Protection Act of 1977
NRHP	National Register of Historic Places
NPS	National Park Service
OCALUC	Orange County Airport Land Use Commission
OCCOG	Orange County Council of Governments
OCHCA	Orange County Health Care Agency
OCSD	Orange County Sanitation District
OCTA	Orange County Transportation Authority
OG	Office of the Governor
OPR	California Office of Planning and Research
OPRs	California Office of Planning and Research's
OR	Office Regional Commercial
OS	Open space
OSHA	Occupational Safety and Health Administration
O_2	Oxygen
O_3	Ozone
Pb	Lead
PC	Planned Community Zoning District
PC	Planned Community
PCBs	Poly-Chlorinated Biphenyls
PCDP	Planned Community Development Plan
PC-56	Planned Community 56
Pcf	pounds-per-cubic-foot
PFCs	Perfluorocarbons
pCi/L	Picocuries per liter
PF	Public Facilities
PM	Particulate Matter
$PM_{2.5}$	Fine Particulate Matter less than 2.5 microns
PM2.5[9]	Fine Particulate Matter
PM_{10}	Inhalable Particulate Matter less than 10 microns
PM10[9]	Respirable Particulate Matter
pph	person(s) per household
ppm	parts per million
ppt	parts per trillion
PR	Parks and Recreation
PRC	Public Resources Code
Qtm	Marine Terrace Deposit

RCA	Soil and Water Resources Conservation Act of 1977
RCRA	Resource Conservation and Recovery Act
REC	Recognized Environmental Condition
RECs	Recognized Environmental Conditions
RM	Multiple Unit Residential
RPS	Renewables Portfolio Standard
RTP	Regional Transportation Plan
RTPA	Regional Transportation Planning Agency
RTP/SCS	*(2012-2035)&(2020-2045) Regional Transportation Plan/Sustainable Communities Strategy*
RWQCB	Santa Ana Regional Water Quality Control Board
SB	Senate Bill
SCAB	South Coast Air Basin
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCCIC	South Central Coastal Information System
SCE	Southern California Edison
SCEC	Southern California Earthquake Center
SCGC	Southern California Gas Company
SCH	State Clearinghouse
SD	Site Development
S.F.	Square feet
SF_6	Sulfur Hexafluoride
SGMA	Sustainable Groundwater Management Act
SHPO	State Historic Preservation Office
SLUR's	Special Land Use Restrictions
SOx	Sulfur Oxides
SO_2	Sulfur Dioxide
SO_2 [11]	Sulfur Dioxide
SO_4	Sulfates
SR-1	State Route 1/Pacific Coast Highway
SR-73	State Route 73
SWEEPS	Statewide Environmental Evaluation and Planning Systems
SWPPP	Stormwater Pollution Prevention Plan
SWRCB	State Water Resources Control Board
TGA	Trip Generation Assessment
Tm	Monterey Formation
TPO	Traffic Phasing Ordinance
UCANR	University of California Agriculture and Natural Resources
UNCC	United Nations Climate Change
UNFCCC	United Nations Framework Convention on Climate Change

USCB	United States Census Bureau
USFWS	United States Fish and Wildlife Service
UST(s)	Underground Storage Tank(s)
UWMP	Urban Water Management Plan
VdB	Vibration decibels
VMT	Vehicles Miles Traveled
VOCs	Volatile Organic Compounds
WQMP	Water Quality Management Plan

ES.0 EXECUTIVE SUMMARY

ES.1 INTRODUCTION AND EIR PROCESS

This EIR addresses the proposed redevelopment of a 1.26-acre property located in the Newport Center area of the City of Newport Beach. The property is the existing location of the "Newport Beach Car Wash" located south of the Fashion Island regional shopping center and south of Newport Center Drive, west of Anacapa Drive, and northeast of the Gateway Plaza office park. The Project entails the proposed demolition and removal of all existing features on the property including the car wash and its ancillary convenience market and gas station and redevelopment of the site with a proposed mid-rise residential building to consist of a 28-unit residential condominium building with subterranean parking. Refer to EIR Section 3.0, *Project Description*, for a detailed description of the proposed Project.

The California Environmental Quality Act (CEQA), Public Resources Code § 21000, et seq. requires that before a public agency makes a decision to approve a project that could have one or more adverse effects on the physical environment, the agency must inform itself about the project's potential environmental impacts, give the public an opportunity to comment on the environmental issues, and take feasible measures to avoid or reduce potential harm to the physical environment.

This Environmental Impact Report (EIR), having California State Clearinghouse (SCH) No. 2020110087 was prepared in accordance with CEQA Guidelines Article 9, §15120 to § 15132, to evaluate the potential environmental impacts associated with planning, constructing, and operating the proposed Project. This EIR does not recommend approval, approval with modification, or denial of the proposed Project; rather, this EIR is a source of factual information regarding potential impacts to the physical environment that may result from the Project's implementation. The Draft EIR will be available for public review for a minimum period of 45 days during which time the City will accept written comments on the Draft EIR by mail or e-mail, submitted to:

Liz Westmoreland, Associate Planner
Newport Beach City Hall, First Floor Bay B
100 Civic Center Drive
Newport Beach, CA 92658-9518
lwestmoreland@newportbeachca.gov

After considering and preparing responses to the comments received, the City of Newport Beach City Planning Commission will make a recommendation to the City Council and the City Council will consider certifying the Final EIR and adopting required findings in conjunction with Project approval. In addition, the City Council must adopt a Mitigation, Monitoring, and Reporting Program (MMRP), which describes the process to ensure implementation of the mitigation measures identified in the Final EIR. Required adherence to the MMRP ensures CEQA compliance during Project construction and operation.

ES.2 SCOPE OF THE EIR

The City's preliminary analysis determined that the Project may have the potential to result in significant environmental impacts under 11 environmental topic areas. The determination was based on the completion of an Initial Study that represented the City of Newport Beach's independent judgment pursuant to CEQA Guidelines § 15063, and in consideration of public comment received by the City in response to this EIR's Notice of Preparation (NOP). The Initial Study, NOP, and written comments received by the City in response to the NOP are attached to this EIR as *Technical Appendix A*. The 11 environmental topic areas that have the potential to be significantly affected by planning, constructing, and/or operating the proposed Project and that are analyzed herein include:

1. Aesthetics
2. Air Quality
3. Biological Resources
4. Cultural Resources
5. Geology and Soils
6. Greenhouse Gas Emissions
7. Hazards and Hazardous Materials
8. Land Use and Planning
9. Noise
10. Transportation
11. Tribal Cultural Resources

Refer to EIR Section 4.0, *Environmental Analysis*, for analyses of the environmental topic areas listed above. Subject areas for which the Initial Study concluded that impacts would be clearly less than significant and that do not warrant detailed analysis in this EIR are addressed in EIR Section 5.0, *Other CEQA Considerations*.

For subjects in each of the aforementioned environmental topic areas warranting analysis, this EIR describes: 1) the physical conditions that existed at the approximate time this EIR's NOP was published (November 5, 2020); 2) the type and magnitude of potential environmental impacts resulting from Project planning, construction, and operation; and 3) if required, mitigation measures that would reduce or avoid significant adverse environmental impacts that may result from the Project. A summary of the Project's significant environmental impacts and the recommended mitigation measures is provided as Table ES-1, *Mitigation Monitoring and Reporting Program*. The City of Newport Beach applies mitigation measures which it determines 1) are feasible and practical for project applicants to implement, 2) are feasible and practical for the City of Newport Brach to monitor and enforce, 3) are legal for the City of Newport Beach to impose, 4) have an essential nexus to the Project's impacts, and 4) would result in a benefit to the physical environment. CEQA does not require the Lead Agency to impose mitigation measures that are duplicative of mandatory regulatory requirements.

ES.3 PROJECT OVERVIEW

ES.3.1 LOCATION AND SETTING

At the regional level, the approximately 1.26-acre Project site is in Section 36 of Township 6 South, Range 10 West, San Bernardino Baseline and Meridian on Assessor Parcel Number (APN) 442-231-12 at the physical address of 150 Newport Center Drive in the City of Newport Beach, Orange

County, California. John Wayne Airport (JWA) is located approximately 3.6 miles north/northeast of the Project site and is the nearest public airport to the Project site. State Route 1 (SR-1), also known as East Coast Highway, is located approximately 0.31-mile south of the Project site. MacArthur Boulevard is located approximately 0.3-mile east of the Project site and provides access to California State Route 73 (SR-73), located approximately 2.0 miles northeast of the Project site. Newport Harbor is located approximately 0.71-mile to the southwest of the Project site and the Pacific Ocean is located approximately 1.4 miles to the south of the Project site.

At the local level, the Project site is located south of Newport Center Drive, west of Anacapa Drive, and immediately northeast of an existing office park (Gateway Plaza). According to the City's General Plan Figure LU3, Statistical Area Map, the Project site is within the City of Newport Beach's Newport Center/Fashion Island Sub-Area (Statistical Area L1) (City of Newport Beach, 2006a) Refer to EIR Section 2.0, *Environmental Analysis*, for a detailed description of the Project's environmental setting.

ES.3.2 Project Summary

The Project evaluated herein consists of applications for a Development Agreement (DA2020-001), a General Plan Amendment (GP2020-001), a Zoning Code Amendment (CA2020-008), a Planned Community Development Plan (PC2020-001) (referred to as the Residences at Newport Center Planned Community Development Plan (PCDP)), a Major Site Development Review (SD2020-001), and a Tentative Tract Map (NT2020-001). These applications are collectively referred to by the City as file number PA2020-020.

Refer to EIR Section 3.0, *Project Description* for a detailed description of the proposed Project. In summary, file number PA2020-020 involves the proposed entitlement of a 1.26-acre property for the demolition and removal of "The Newport Beach Car Wash" and redevelopment of the site with a proposed mid-rise residential building to consist of a 28-unit residential condominium building with subterranean parking. Architecturally, the Project's building design breaks the building mass to appear as two buildings linked together by a central structure of glass and stone with outdoor amenities. The proposed building footprint (first floor) is designed with approximately 27,006 square feet (S.F.) resulting in approximately 55% coverage of the existing lot. In total, the building would comprise approximately 103,158 gross S.F and the parking areas under the building would comprise approximately 71,456 gross S.F. and consist of an upper and lower basement parking area. Amenities and common areas in the proposed building would include but not be limited to a lobby, lounge, concierge area, offices, meeting room, catering kitchen, storage areas, fitness area, lap pool, and an outdoor dog run. Visitor access would be provided to the building's main entrance from a driveway connecting to Anacapa Drive. Resident and service vehicle access would be provided via a driveway located on the adjacent property to the south that is accessible via Anacapa Drive.

ES.3.3 Project Objectives

The underlying purpose and goal of the proposed Project is to redevelop an underutilized economically challenged property in the Newport Center area with residential units located within

walking distance to employment, shopping, entertainment, and recreation. The following objectives are intended to achieve these underlying purposes:

A. Redevelop an underutilized property with a use that is financially feasible to construct and operate.

B. Make efficient use of existing infrastructure by repurposing a property with a higher and better use than currently occurs on the property.

C. Maximize the surface use of a redeveloped property by accommodating parking underground.

D. Increase the available housing stock within the City of Newport Beach and maximize the development potential of the site by constructing a project with at least 22 dwelling units.

E. Provide housing options for owner-occupied mid-rise multi-family flats in Newport Center to diversify the range of available residential housing unit types.

F. Introduce a luxury, multi-family residential development in Newport Center that can attract households in the surrounding area that are seeking low maintenance and single-level living options.

G. Provide a new multi-family residential development in Newport Center that is within walking distance of, and has pedestrian connections to, employment, shopping, entertainment, public services, and recreation.

H. Maintain high-quality architectural design in Newport Center by adding a building that has a recognizable architectural style and that complements the architectural styles that exist in the surrounding Newport Center community.

I. Implement a residential development that provides on-site amenities for its residents.

J. Redevelop a property that uses outdated operational technologies with a new use that is designed to be energy efficient and avoid the excessive use of energy and water.

ES.4 Areas of Controversy and Issues to be Resolved

CEQA Guidelines § 15123(b)(2) requires that areas of controversy known to the Lead Agency (City of Newport Beach) be identified in the Executive Summary. The Lead Agency has not identified any issues of controversy with the Project after consideration of all comments receive in response to this EIR's NOP. Notwithstanding, the Lead Agency has identified several issues of local concern including, but not limited to, potential impacts to aesthetics in regard to the height of the proposed

building, temporary construction-related impacts on the Newport Center area, and the existing noise environment surrounding the site that may affect future Project site residents.

Regarding issues to be resolved, this EIR addresses the environmental issues that are known by the City of Newport Beach, that are identified in the Initial Study prepared for the Project, and that were identified in comment letters that the City of Newport Beach received on this EIR's NOP (refer to *Technical Appendix A*) and comments made at the EIR Scoping Meeting. Items raised in written comments to the NOP and at the Scoping Meeting are summarized in Table 1-1, *Summary of NOP and Scoping Meeting Comments*, in Section 1.0 of this EIR.

ES.5 ALTERNATIVES TO THE PROPOSED PROJECT

In compliance with CEQA Guidelines § 15126.6, an EIR must describe a range of reasonable alternatives to the Project. A brief description of the alternatives to the Project considered in this EIR is provided below. A detailed description of each alternative evaluated in this EIR, as well as an analysis of the potential environmental impacts associated with each alternative, is provided in EIR Section 6.0, *Alternatives*. Also described in Section 6.0 is a list of alternatives that were considered but rejected from further analysis.

ES.5.1 NO PROJECT/NO REDEVELOPMENT ALTERNATIVE

CEQA Guidelines §15126.6(e) requires that an alternative be included that describes what would reasonably be expected to occur on the property in the foreseeable future if the Project were not approved, based on current plans and consistent with available infrastructure and community services (i.e., the "no project" alternative). For development projects that would occur on an identifiable property (such as the proposed Project site), the "no project" alternative is considered to be a circumstance under which the project does not proceed (CEQA Guidelines §15126.6(e)(3)(A-B)). Although the current owner of the Project site, which through an affiliated company operates the car wash on the site, reports that the car wash does not support the land value and purchase price of the property and does not intend to continue operation of a car wash on the site (Newport Center Anacapa Associates, LLC, 2020), the No Project/No Redevelopment Alternative considers ongoing operation of the existing uses.

Implementation of the No Project/No Redevelopment Alternative would avoid all of the Project's potentially significant impacts to the environment. The Project's significant effects, which would all be mitigated to below a level of significance, fall under the topics of biology (habitat removals that could potentially contain migratory bird nests), cultural resources, tribal cultural resources, and paleontological resources (potential presence of significant subsurface resources), and geology/soils (potential unstable soil conditions and the potential for expansive soils to be encountered during ground excavation).

The No Project/No Redevelopment Alternative would result in no physical environmental impacts beyond those that occur under existing conditions related to the operation and maintenance of the

existing car wash with ancillary gas station and convenience market. Because this alternative would avoid all of the Project's impacts, it warrants consideration as the "environmentally superior alternative." However, because the existing car wash with ancillary gas station and convenience market generates more daily traffic to and from the site than would the Project's proposed residential condominium building, effects associated with vehicular-related air pollutant emissions, greenhouse gas emissions, and noise would be greater under the No Project/No Redevelopment Alternative than would occur under the proposed Project. In addition, the on-site use dispenses gasoline, uses chemicals in the car washing operation, generates wastewater as a byproduct of the car washing operation, and produces noise from vacuums, dryers, and an outdoor sound amplification system which would continue to occur on the site. For these reasons, the No Project/No Redevelopment Alternative is not an environmentally superior alternative.

The No Project/No Redevelopment Alternative would also fail to meet all of the Project objectives (A-J). In addition, retaining the site in its existing condition as a car wash does not support the land value and purchase price of the property and the owner does not plan to continue its use (Newport Center Anacapa Associates, LLC, 2020).

ES.5.2 No Project/Office Redevelopment Alternative

CEQA Guidelines §15126.6(e) requires that an alternative be included that describes what would reasonably be expected to occur on the property in the foreseeable future if the Project were not approved, based on current plans and consistent with available infrastructure and community services (i.e., the "no project" alternative). The City's General Plan identifies the Project site as being within Statistical Area L1 and designates the Project site for "Regional Commercial Office (CO-R)" land uses, subject to the development limits established for Anomaly 35, which limits "CO-R" development square footage within the Anomaly area to 199,095 S.F. The "CO-R" land use designation is intended to provide for administrative and professional offices that serve local and regional markets, with limited accessory retail, financial, service, and entertainment uses. Given other existing development in the block (Anomaly 35), this alternative evaluates redevelopment of the property with an approximately 10,500 S.F. office building having a height of 32 feet with a flat roof or 37 feet with a sloped roof, with surface parking. A Site Development Review (SDR) would be required to construct this alternative because it entails a building with 10,000 S.F. of gross floor area or greater.

The implementation of the No Project/Office Redevelopment Alternative would reduce but not avoid the Project's significant impacts to cultural resources, tribal cultural resources, paleontological resources (potential presence of significant subsurface resources that could be unearthed and disturbed during ground excavation) and geology/soils (temporary unstable geologic units or soil conditions and the potential for expansive soils to be encountered during ground excavation). Impacts to biology (habitat removals that could potentially contain active migratory bird nests) would be identical under this alternative and the proposed Project. All of the Project's significant impacts would be mitigated to below a level of significance, and the same mitigation measures would apply to this alternative. This alternative slightly reduces impacts associated with the potential discovery of

cultural resources, tribal cultural resources, and paleontological resources and reduces potential impacts associated with geology/soils during the construction process due to the limited need for subsurface excavation. This alternative reduces impacts associated with construction noise because construction would occur over a shorter timeframe and reduces greenhouse gas (GHG) emissions because fewer vehicle trips would travel to and from the site and the building would be smaller than the building that would occur under the Proposed project, reducing area-source and energy-source emissions. Because the No Project/Office Redevelopment Alternative results in a lower traffic volume than would the proposed Project, this alternative would result in a corresponding reduction in mobile source air quality emissions and vehicular-related operational noise. No impacts to land use and planning would occur because the alternative would be consistent with the site's zoning and General Plan designations and would have potentially reduced aesthetic effects because the building height would be lower than the building height proposed by the Project.

In regards to the Project objectives, the No Project/Office Redevelopment Alternative would meet three of the Project's ten objectives (Objective A, B, and J). The No Project/Office Redevelopment Alternative would fail to meet the other seven Project objectives (Objective C through I). Specifically, the No Project/Office Redevelopment Alternative would not meet the Project objectives related to providing residential development in Newport Center.

ES.5.3 Commercial/Restaurant Redevelopment Alternative

The Commercial/Restaurant Redevelopment Alternative evaluates redevelopment of the Project site with an approximately 10,500 S.F. single-story or two-story restaurant with 105 surface parking spaces. This alternative would provide for the highest intensity of commercial development allowed under the property's existing General Plan "Regional Commercial Office (CO-R)" land use designation and "OR (Office Regional Commercial)" Zoning District designation. This alternative would require City approval of a Conditional Use Permit (CUP) or Minor Use Permit (MUP) in order to operate a food service business in the OR Zoning District. A Site Development Review (SDR) would also be required to construct a building with 10,000 S.F. of gross floor area or greater. Depending on the characteristics of the restaurant proposed, a parking waiver may be required to reduce the number of required parking spaces.

The implementation of the Commercial/Restaurant Redevelopment Alternative would reduce, but not avoid, the Project's significant impacts to cultural resources, tribal cultural resources, paleontological (potential presence of significant subsurface resources that could be unearthed and disturbed during ground excavation) and geology/soils (temporary unstable geologic units or soils, and the potential for expansive soils to be encountered during ground excavation). Impacts to biology (habitat removals that could potentially contain active migratory bird nests) would be identical under this alternative as with the proposed Project. All of the Project's significant impacts would be mitigated to below a level of significance, and the same mitigation measures would apply to this alternative. This alternative would have decreased impacts associated with construction noise because construction would occur over a shorter timeframe. Because the Commercial/Restaurant Redevelopment Alternative would result in a higher traffic volume than would the proposed Project,

this alternative would result in a corresponding increase in vehicular-related air quality emissions, GHG emissions, and operational noise. Few if any impacts to land use and planning would occur because the alternative would be consistent with the site's zoning and General Plan designations and would have reduced aesthetic effects because the building height would be slightly lower than the building height proposed by the Project.

In regards to the Project objectives, the Commercial/Restaurant Redevelopment Alternative would meet 4 of the Project's 10 objectives (Objectives A, B, H and J) but would fail to meet the remaining 6 objectives. Specifically, the Commercial/Restaurant Redevelopment Alternative would not meet the Project objectives related to providing residential development in Newport Center.

ES.5.4 Multiple Unit Residential (RM) Alternative

The Multiple Unit Residential (RM) Alternative evaluates redevelopment of the Project site with a multi-family townhome development that offers 20 market-rate ownerships units. The 20 residential townhome buildings would each include a two-car garage with two levels of residential above, in compliance with the RM maximum height standards (28 feet/33 feet maximum). A total of 40 private garage spaces and 10 guest parking spaces would be provided. Additional guest parking spaces would be provided as surface parking spaces within the site; subsurface excavation would be limited to that needed for footings and utilities. Access to the site would be the same as the access points proposed by the Project, with vehicular access provided by driveways along Anacapa Drive and from the shared access to the south of the site.

The implementation of the Multiple Unit Residential (RM) Alternative would reduce, but not avoid, the Project's significant impacts to cultural resources, tribal cultural resources, paleontological resources (potential presence of significant subsurface resources that could be unearthed and disturbed during ground excavation) and geology/soils (geologic units or soils and expansive soils that may be unstable). Impacts to biology (habitat removals that could potentially contain active migratory bird nests) would be identical under this alternative and the proposed Project. All of the Project's significant impacts would be mitigated to below a level of significance, and the same mitigation measures would apply to this alternative. This alternative would have decreased impacts regarding cultural resources, tribal cultural resources, paleontological resources, and geology/soils due to the limited need for subsurface excavation for a subterranean parking structure. This alternative would have decreased impacts associated with construction noise because construction would occur over a shorter timeframe. Because the Multiple Unit Residential (RM) Alternative would result in a slightly lower daily traffic volume than would the proposed Project, this alternative would have slightly reduced vehicular-related air quality emissions and operational noise. Similar impacts to land use and planning would occur because, like the proposed Project, this alternative would require a change in the property's General Plan and zoning designations from commercial to residential, although this alternative would result in a shorter building than the proposed Project. Reduced aesthetic effects would occur because the building height would be lower than the building height proposed by the Project. However, the townhome design would be less consistent with the surrounding commercial and office development.

The Multiple Unit Residential (RM) Alternative is identified as an Environmentally Superior Alternatives that is not the No Project Alternative; however, the Multiple Unit Residential (RM) Alternative would fail to meet six of the Project's ten objectives (Objectives C, D, E, F, H, and I).

ES.6 Summary of Impacts, Mitigation Measures, and Conclusions

ES.6.1 Effects Found Not to be Significant

The scope of detailed analysis in this EIR includes the 11 environmental topic areas identified in the Initial Study prepared by the City of Newport Beach pursuant to CEQA Guidelines § 15063 and CEQA Statute § 21002(e), as well as consideration of public comments received by the City on this EIR's NOP and at the Project's NOP Scoping Meeting. The Initial Study, NOP, and public comments received in response to the NOP, are attached to this EIR as *Technical Appendix A*. Environmental topic areas for which the City concluded that impacts clearly would be less than significant and that do not warrant further analysis in this EIR include: 1) Agriculture and Forestry Resources; 2) Energy; 3) Hydrology and Water Quality; 4) Mineral Resources, 5) Population and Housing; 6) Public Services; 7) Recreation; 8) Utilities and Service Systems; and 9) Wildfire. This EIR addresses these topics in EIR Subsection 5.0, *Other CEQA Considerations*.

ES.6.2 Impacts of the Proposed Project

Table ES-1 on the following pages provides a summary of the proposed Project's environmental impacts, as required by CEQA Guidelines § 15123(a). Also presented are the mitigation measures recommended by the City of Newport Beach to further avoid adverse environmental impacts or to reduce their level of significance. After the application of all feasible mitigation measures, the Project would not result in any unavoidable environmental effects.

Table ES-1 Mitigation Monitoring and Reporting Program

Potential Environmental Impact	Mitigation Measures (MM) Applicable to the Project	Implementation Stage	Responsible /Monitoring Party	Significance Determination
4.3 Biological Resources				
Threshold a): The Project would not result in impacts to sensitive natural plant communities, special-status plants, or special-status animals. However, the Project has the potential to impact nesting birds if habitat is removed during the nesting season (February 1 through August 31), which is considered a significant impact. Impacts to nesting birds are prohibited by the MBTA and CFGC. Therefore, migratory bird species protected by the MBTA could be impacted by the Project if active nests are present on the site at the time that nesting habitat (exterior structures, trees and shrubs) are removed.	**MM 4.3-1** As a condition of demolition permits, tree removal permits, clearing permits, and any other permits that would authorize the disturbance to and removal of potential bird nesting habitat shall be prohibited during the migratory bird nesting season (February 1 through August 31) unless a migratory bird nesting survey is completed. If demolition and/or vegetation removal is planned to occur during the migratory bird nesting season (February 1 – August 31), then a migratory bird nesting survey shall be completed in accordance with the following requirements: a) Within three (3) days prior to initiating demolition, tree removals and/or vegetation clearing, a nesting bird survey shall be conducted by a qualified biologist within the suitable habitat to be removed and within a 250-foot radius. b) If the survey reveals no active nesting, the proposed action may proceed. c) If the survey identifies the presence of	Prior to demolition permits, tree removal permits, clearing permits, or any permit that would authorize removal of nesting bird habitat (applies February 1 through August 31)	Project Applicant, Qualified biologist, City of Newport Beach	Less than Significant Impact with Mitigation Incorporated.

Potential Environmental Impact	Mitigation Measures (MM) Applicable to the Project	Implementation Stage	Responsible /Monitoring Party	Significance Determination
	active sensitive bird nests, then the nests shall not be disturbed unless the qualified biologist verifies through non-invasive methods that either (i) the adult birds have not begun egg-laying and incubation; or (ii) the juveniles from the occupied nests are capable of independent survival. d) If the biologist is not able to verify any of the conditions from sub-item "b," above, then no disturbance shall occur within a buffer zone specified by the qualified biologist for each nest or nesting site. The buffer zone shall be species-appropriate (no less than 100-foot radius around the nest for non-raptors and no more than a 500-foot radius around the nest for raptors, or as otherwise determined by the qualified biologist) and shall be sufficient to protect the nest from direct and indirect impacts from construction activities. The nests and buffer zones shall be field checked approximately weekly by a qualified biological monitor. The approved buffer zone shall be marked in the field with construction fencing, within which no vegetation clearing or ground disturbance shall commence until the qualified biologist with City concurrence verify that the nests are no longer occupied			

Potential Environmental Impact	Mitigation Measures (MM) Applicable to the Project	Implementation Stage	Responsible /Monitoring Party	Significance Determination
	and/or juvenile birds can survive independently from the nests.			
4.4 Cultural Resources				
Threshold b): Due to the depth of the excavation required for the proposed subterranean parking structure, there is a potential that previously unearthed archeological resources may be encountered where excavation depths exceed the depth of disturbance associated with previous construction activities not associated with the proposed Project. If archaeological resources are unearthed during the Project's excavation activities that meet the CEQA Guidelines § 15064.5 definition of significant resources, and they are not property identified and treated, a potentially significant impact could occur.	**MM 4.4-1** Prior to the issuance of the first grading permit or permit for ground disturbance activities, the applicant shall provide evidence to the satisfaction of the City of Newport Beach that a qualified archaeological monitor and a qualified Native American Tribal monitor have been retained. In the event that cultural resources (prehistoric archaeological, historical, tribal cultural) are inadvertently unearthed during excavation and grading activities, the contractor, archaeological monitor, and/or Native American Tribal monitor shall immediately cease all earth-disturbing activities within a 100-foot radius of the area of discovery. The archaeological monitor or other qualified professional archaeologist approved by the City of Newport Beach, in consultation with the consulting Native American tribe, shall evaluate the significance of the resource and determine the appropriate course of action for documentation and treatment. Any unique archaeological resource that is discovered and that meets the CEQA Guidelines Section 15064.5 definition of a significant resource shall be treated in	Prior to the issuance of the first grading permit or permit for ground disturbance activities.	Project Applicant, City of Newport Beach, qualified archaeological monitor, qualified Native American tribal monitor.	Less than Significant with Mitigation Incorporated.

Potential Environmental Impact	Mitigation Measures (MM) Applicable to the Project	Implementation Stage	Responsible /Monitoring Party	Significance Determination
	accordance with Public Resources Code § 21083.2, which may include avoidance, capping or covering the resource with a layer of soil before building over the resource, or excavating and removing the resource for documentation and/or curation. After the resource has been appropriately avoided or mitigated to the satisfaction of the City of Newport Beach, construction work in the area may resume.			
4.5 Geology and Soils				
Threshold c): During excavation and construction of the proposed Project's subterranean parking structure, there is a potential for impacts associated with soils that may unstable, or that would become unstable as a result of the construction of the proposed Project, if water seepage occurs that may result in sloughing, slumping or other instability of vertical excavations.	**MM 4.5-1** Slopes created during subsurface excavations associated with the Project's construction process shall be shored in accordance with OSHA excavation safety regulations (Title 29 Code of Federal Regulations, Part 1926.650-652 [Subpart P]) to the satisfaction of the City of Newport Beach Building Official. Prior to the issuance of a grading permit, the Building Official or his/her designee shall ensure that the grading plan indicates the methods by which adequate shoring will occur. The shoring methods must ensure that the subsurface excavation will not slough or slump. The Construction Contractor shall implement the shoring requirements throughout the subsurface excavation period and allow inspection of the shoring method by the City of Newport	Prior to the issuance of a grading permit; during subsurface excavations associated with the Project's construction process.	Project Applicant, City of Newport Beach Building Official, Construction Contractor(s)	Less than Significant with Mitigation Incorporated.

Potential Environmental Impact	Mitigation Measures (MM) Applicable to the Project	Implementation Stage	Responsible /Monitoring Party	Significance Determination
	Beach. **MM 4.5-2** Expansive soils shall not be present as fill material below the building slab and footings. During the property's site preparation and grading phases, expansive soils shall be mixed with other soil material to provide a uniform blend of material, compacted to a minimum of 90 percent relevant compaction, to the satisfaction of the City of Newport Beach Building Official. Prior to the issuance of a grading permit, the Building Official or his/her designee shall ensure that the grading plan indicates a subsurface soil content that is non-expansive and compacted to at least 90 percent. The Construction Contractor shall implement the requirements throughout the site preparation and grading process and allow inspection of grading by the City of Newport Beach. .	Prior to the issuance of a grading permit; ongoing during the property's site preparation and grading phases.	Project Applicant, City of Newport Beach Building Official, Construction Contractor(s)	
Threshold d): The expansion potential of onsite soils is anticipated to generally range from "Very Low" to "Medium" within the terrace and existing fill materials. Soils with "High" expansion are likely to be encountered in the	MM 4.5-1 and MM 4.5-2 shall apply.			Less than Significant with Mitigation Incorporated.

Potential Environmental Impact	Mitigation Measures (MM) Applicable to the Project	Implementation Stage	Responsible /Monitoring Party	Significance Determination
siltstone/claystone of the Monterey Bedrock. The potential for expansive soils to be encountered at the Project site represents a potentially significant impact, because the presence of expansive soil could lead to structural instability if the soils are not properly treated during the construction process.				
Threshold f): Due to the depth of the excavation required for the proposed subterranean parking structure, there is a potential that previously unearthed paleontological resources may be encountered where excavation depths exceed the depth of disturbance associated with previous construction activities. If paleontological resources are unearthed during the Project's excavation activities and they are not properly identified and treated, a potentially significant impact could occur.	**MM 4.5-3** Prior to the issuance of grading permits, the Director of Community Development shall ensure that following provision is included on the grading plan(s), and the construction contractor(s) shall be required to comply with the provision. "If evidence of subsurface paleontological resources is found during construction, excavation and other construction activity in that area shall cease and the construction contractor shall contact the City of Newport Beach Community Development Director. With direction from the Community Development Director, a qualified paleontologist meeting the Secretary of the Interior Professional Qualification for Paleontology shall evaluate the find. If warranted, the paleontologist shall prepare and complete a standard Paleontological	Prior to the issuance of grading permits,	Project Applicant, City of Newport Beach Community Development Department, qualified paleontologist.	Less than Significant with Mitigation Incorporated.

Potential Environmental Impact	Mitigation Measures (MM) Applicable to the Project	Implementation Stage	Responsible /Monitoring Party	Significance Determination
	Resources Mitigation Program for the salvage and curation of identified resources."			
4.11 Tribal Cultural Resources				
Threshold a): The Project site does not contain any known tribal cultural resources (TCRs). If TCRs are unearthed during the Project's excavation activities, a potentially significant impact could occur if the resources are not properly identified and treated.	MM 4.4-1 shall apply.	Prior to the issuance of the first grading permit or permit for ground disturbance activities.	Project Applicant, City of Newport Beah, qualified archaeological monitor, qualified Native American tribal monitor.	Less than Significant with Mitigation Incorporated.

1.0 INTRODUCTION

This Environmental Impact Report (EIR) is an informational document that evaluates the physical environmental effects that could result from construction and operation of the proposed Residences at Newport Center (hereafter, "Project"), a proposed 28-unit luxury condominium project on the existing site of the "Newport Beach Car Wash." This EIR represents the independent judgment of the City of Newport Beach (hereafter, sometimes referred to as the "City") serving as the Lead Agency pursuant to the California Environmental Quality Act (CEQA). To implement the Project, the Project Applicant is seeking the City's approval of a Development Agreement (DA2020-001), a General Plan Amendment (GP2020-001), a Zoning Code Amendment (CA2020-008), a Planned Community Development Plan (PC2020-001) (referred to as the Residences at Newport Center Planned Community Development Plan (PCDP)), a Major Site Development Review (SD2020-001), and a Tentative Tract Map (NT2020-001). The City collectively refers to these applications as file number PA2020-020.

When the term "Project" is used in this EIR with the initial letter capitalized, the term shall mean all aspects of the planning, construction, and operation of the proposed Residences at Newport Center, including all discretionary and ministerial approvals and permits required for its implementation. When the term "Project Applicant" is used with the initial letters capitalized, the term shall mean Newport Center Anacapa Associates, LLC which is the entity that submitted applications to the City of Newport Beach to entitle the Project site as proposed and as evaluated in this EIR.

1.1 TYPE OF EIR

As the first step in the CEQA compliance process, the City of Newport Beach prepared an Initial Study pursuant to CEQA Guidelines Section 15063. The Initial Study determined that the Project has the potential to cause or contribute to significant environmental effects, and a Project EIR, as defined by CEQA Guidelines Section 15161, is required. Accordingly, this document serves as a Project EIR.

Pursuant to CEQA Guidelines Section 15161, this Project EIR shall "focus primarily on the changes in the environment that would result from the development project," and "examine all phases of the project including planning, construction, and operation." Also, in conformance with CEQA Guidelines Section 15121(a), the purposes of this EIR are to: (1) disclose information by informing public agency decision makers and the public, generally of the significant environmental effects associated with all phases of the Project, (2) identify possible ways to minimize or avoid those significant effects, and (3) to describe a reasonable range of alternatives to the Project that would feasibly attain most of the basic Project objectives but would avoid or substantially lessen its significant environmental effects.

1.2 LIST OF PROJECT APPROVALS

As noted above and as more fully described in EIR Section 3.0, *Project Description*, the Project Applicant submitted applications to the City of Newport Beach for DA2020-001, GP2020-001,

CA2020-008, PC2020-001, SD2020-001, and NT2020-001. Provided below is a brief description of the Project's applications that are under consideration by the Lead Agency. Refer to EIR Section 3.0, *Project Description*, for a more comprehensive description of the Project's discretionary applications.

- **Development Agreement No. DA2020-001** is proposed to provide the Project Applicant with assurance that the Project can be developed pursuant to the City's rules and regulations in effect at the time of Project approval. The Development Agreement also provides the City with assurance that the Project Applicant will meet certain obligations, including but not limited to, the installation of infrastructure improvements, the Applicant's contribution toward the funding of community improvements, and other conditions.

- **General Plan Amendment No GP2020-001** is proposed to change the Project site's land use designation from Regional Commercial Office (CO-R) to Multiple Residential (RM). An amendment to General Plan Table LU2 (Anomaly Locations) is required to authorize a maximum development limit of 28 units for the Project site. The new Anomaly would accommodate the increase in dwelling units within Statistical Area L1.

- **Zoning Code Amendment No. CA2020-008** is proposed to change the site's zoning classification from "OR (Office-Regional)" to "PC (Planned Community District)."

- **Planned Community Development Plan No. PC2020-001** is proposed to ensure broader coordination and consistency with the surrounding neighborhood, including a higher level of architectural quality that complements Newport Center.

- **Major Site Development Review No. SD2020-001** is proposed to fulfill the requirements of Newport Beach Municipal Code Section 20.52.080 (Site Development Reviews) and enable the City to review the Project's development plans for compliance with the proposed Planned Community Development Plan (PCDP) text.

- **Tentative Tract Map No. NT2020-001** is proposed to establish a condominium subdivision map for 28 residential condominium units on the 1.26-acre Project site. The Tentative Tract Map provides the Project site's legal description and shows the location of existing and proposed sewer lines and laterals, existing driveway easements, fire hydrants, domestic and irrigation water lines, fire water lines, electric vaults, and the location of the existing improvements on the site to be demolished. The Tentative Tract Map would allow each condominium to be sold individually.

1.3 STATEMENT OF LEGAL AUTHORITY

This EIR has been prepared in accordance with all criteria, standards, and procedures of CEQA (California Public Resource Code Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Section 15000 et seq.).

Pursuant to CEQA Statute 21067 and CEQA Guidelines Article 4 and Section 15367, the City of Newport Beach is the Lead Agency under whose authority this EIR has been prepared. "Lead Agency" refers to the public agency that has the principal responsibility for carrying out or approving a project. Serving as the Lead Agency and before taking action to approve the Project, the City of Newport Beach has the obligation to: (1) ensure that this EIR has been completed in accordance with CEQA; (2) review and consider the information contained in this EIR as part of its decision making process; (3) make a statement that this EIR reflects the City's independent judgment; (4) ensure that all significant effects on the environment are eliminated or substantially lessened where feasible; and, if necessary (5) make written findings for each unavoidable significant environmental effect stating the reasons why mitigation measures or Project alternatives identified in this EIR are infeasible and citing the specific benefits of the Project that outweigh its unavoidable adverse effects (CEQA Guidelines Section 15090 through 15093).

Pursuant to CEQA Guidelines Sections 15040 through 15043, and upon completion of the CEQA review process, the City of Newport Beach will have the legal authority under CEQA – and in conjunction with discretionary powers granted to the City by other laws – to do any of the following:

- Approve the Project;
- Require feasible changes in any or all activities involved in the Project in order to substantially lessen or avoid significant effects on the environment;
- Not approve the Project, if necessary, to avoid one or more significant effects on the environment that would occur if the Project was approved as proposed; or
- Approve the Project even though the Project would cause a significant effect on the environment if the City makes a fully informed and publicly disclosed decision that: 1) there is no feasible way to lessen the effect or avoid the significant effect; and 2) expected benefits from the Project will outweigh significant environmental impacts of the Project.

This EIR fulfills the CEQA environmental review requirements for the proposed DA2020-001, GP2020-001, CA2020-008, PC2020-001, SD2020-001, and NT2020-001, collectively referred to by the City of Newport Beach as file number PA2020-020, and all other governmental discretionary and ministerial actions related to the Project.

1.4 Responsible and Trustee Agencies

The California Public Resource Code (Section 21104) requires that the Lead Agency consult with and request comments on the EIR by responsible and trustee agencies (see also CEQA Guidelines Section 15082 and Section 15086(a)). As defined by CEQA Guidelines Section 15381, "the term 'Responsible Agency' includes all public agencies other than the Lead Agency that have discretionary approval power over the project." A "Trustee Agency" is defined in CEQA Guidelines Section 15386 as "a state agency having jurisdiction by law over natural resources affected by a

project which are held in trust for the people of the State of California." The Project would require approval from the following Trustee and Responsible Agencies:

- Santa Ana Regional Water Quality Control Board (RWQCB), National Pollutant Discharge Elimination System (NPDES) Permit. NPDES permits apply to construction sites of one acre or more. Project construction would disturb more than one acre of land; therefore, a NPDES Permit from the Santa Ana RWQCB would be required.

- Orange County Health Care Agency (OCHCA), Approvals for Underground Storage Tank Removal. The Project would require approval from the OCHCA, which oversees the underground storage tank (UST) inspection program throughout Orange County, including the City of Newport Beach. The purpose of the OCHCA UST inspection program is to ensure that hazardous materials stored in USTs are not released into the environment. The Project entails the removal of three existing 12,000-gallon USTs during the construction process; therefore, to ensure that no hazardous materials are released during the removal process, the OCHCA would be required to approve the removal.

There are no other known Trustee Agencies or Responsible Agencies identified for the Project. Regardless, this EIR can be used by any Trustee Agency or Responsible Agency, whether identified in this EIR or not, as part of their decision-making processes in relation to the proposed Project.

1.5 SCOPE OF THE EIR

1.5.1 EIR SCOPE

The City of Newport Beach prepared a CEQA Environmental Initial Study to determine the scope of the EIR and filed a Notice of Preparation (NOP) with the California Office of Planning and Research (State Clearinghouse) to indicate that an EIR would be prepared to evaluate the Project's potential to impact the environment. The NOP was filed with the State Clearinghouse and distributed to potential Responsible Agencies, Trustee Agencies, and other interested parties on November 5, 2020, for a 30-day public review period. The NOP was distributed for public review to solicit responses that would help the City identify the full scope and range of potential environmental concerns associated with the Project so that these issues could be fully examined in this EIR. The City of Newport Beach also provided the NOP and accompanying Initial Study on the City's website at: http://www.newportbeachca.gov/ceqa and paper copies were available for review during business hours at the City of Newport Beach Community Development Department located at 100 Civic Center Drive, First Floor Bay B, Newport Beach, California, 92660.

In addition, a publicly-noticed EIR Scoping Meeting was held on November 30, 2020. Due to the State of Emergency related to COVID-19 and as allowed pursuant to Executive Order N-29-20, the City of Newport Beach hosted the EIR Scoping Meeting via an internet-based video and phone conferencing service. The EIR Scoping Meeting provided public agencies, interested parties, and members of the general public an additional opportunity to learn about the Project, the CEQA review

process, and how to submit comments on the scope and range of potential environmental concerns to be addressed in this EIR.

The NOP, public review distribution list, and written comments received by the City during the NOP public review period are provided in *Technical Appendix A* to this EIR. Substantive issues raised in response to the NOP and during the Scoping Meeting are summarized below in Table 1-1, *Summary of NOP and Scoping Meeting Comments.* The purpose of this table is to present a summary of the environmental topics that were expressed by public agencies, interested parties, and members of the general public to be of primary interest. Table 1-1 does not list every comment received by the City during the NOP review period. Regardless of whether or not an environmental or CEQA-related comment is listed in the table, all relevant comments received in response to the NOP and the EIR Scoping Meeting are addressed in this EIR.

Table 1-1 Summary of NOP and Scoping Meeting Comments

Commenter	Date	Comment	Location in this EIR where comment is addressed
Stage Agencies			
California Department of Transportation District 12 (Caltrans)	December 7, 2020	- Suggests that the Project's design include designated parking, pick-up, and drop-off areas for delivery vehicles and provide adequate wayfinding signage to nearby transit stops.	- Section 3.0, *Project Description* and Subsection 4.10, *Transportation*
		- Confirms that there are currently no Caltrans projects that may impact the traffic circulation within the Project site and requests verification whether there will be other on-going Caltrans projects as the project draws closer to construction.	- Section 3.0, *Project Description* and Subsection 4.10, *Transportation*
		- Suggests that the Project's design include secure bicycle parking.	- Section 3.0, *Project Description* and Subsection 4.10, *Transportation*
		- Requests coordination with Caltrans in order to meet the requirements for any work within or near State Right-of-Way.	- Section 3.0, *Project Description* and Subsection 4.10, *Transportation*
State and Regional Organizations			
Native American Heritage Commission (NAHC)	November 10, 2020	- Provides information regarding required Native American consultation pursuant to Senate Bill 18 and Assembly Bill 52.	- Subsection 4.3, *Cultural Resources*, and Subsection 4.9, *Tribal Cultural Resources*
South Coast Air	December 3,	- Recommends that the Lead Agency use	- Subsection 4.1, *Air*

Commenter	Date	Comment	Location in this EIR where comment is addressed
Quality Management District (SCAQMD)	2020	the SCAQMD's CEQA Air Quality Handbook and website as guidance when preparing the Project's air quality and greenhouse gas analyses. - Recommends that the Lead Agency quantify criteria pollutant emissions and compare the emissions to SCAQMD's CEQA regional pollutant emissions significance thresholds and localized significance thresholds (LSTs) to determine the significance of air quality impacts. - Requests that the Lead Agency identify any potential adverse air quality impacts that could occur from all phases of the proposed Project and all air pollutant sources related to the proposed Project. - Requests that in the event that the proposed Project results in significant air quality impacts, that all feasible mitigation measures be utilized to minimize these impacts.	*Quality* and Subsection 4.6, *Greenhouse Gas Emissions* - Subsection 4.1, *Air Quality* and Subsection 4.6, *Greenhouse Gas Emissions* - Subsection 4.1, *Air Quality* and Subsection 4.6, *Greenhouse Gas Emissions* - Subsection 4.1, *Air Quality* and Subsection 4.6, *Greenhouse Gas Emissions*
Local Agencies and Organizations			
California Cultural Resource Preservation Alliance, Inc.	November 23, 2020	- Recommends monitoring during Project construction activities.	- Subsection 4.3, *Cultural Resources*, and Subsection 4.9, *Tribal Cultural Resources*
City of Irvine	December 3, 2020	- Confirms receipt of the NOP and informs that the City of Irvine has no comments.	- Not Applicable
Gabrieleno Band of Mission Indians - Kizh Nation	November 9, 2020	- Requests Native American consultation pursuant to Senate Bill 18 and Assembly Bill 52.	- Subsection 4.3, *Cultural Resources*, and Subsection 4.9, *Tribal Cultural Resources*
Juaneño Band of Mission Indians, Acjachemen Nation	November 10, 2020	- Requests Native American consultation pursuant to Senate Bill 18 and Assembly Bill 52.	- Subsection 4.3, *Cultural Resources*, and Subsection 4.9, *Tribal Cultural Resources*
Irvine Ranch Water District (IRWD)	November 16, 2020	- Confirms that the Project site is outside of IRWD's service area.	- Not Applicable

Commenter	Date	Comment	Location in this EIR where comment is addressed
Orange County Transportation Authority (OCTA)	December 7, 2020	- Informs that Jamboree Road and MacArthur Boulevard are part of the Congestion Management Program Highway System (CMPHS). - Informs that Newport Center Drive is planned as a Major (six-lane divided) Arterial per the Orange County Master Plan of Arterial Highways. - Requests that the Lead Agency ensure that the proposed Project does not preclude the planned buildout of Newport Center Drive at it relates to Right-of Way needs. - Informs that OCTA requires level of service analysis to monitor CMPHS performance per the CMP Traffic Analysis Requirements.	- Subsection 4.10, *Transportation* - Subsection 4.10, *Transportation* - Subsection 4.10, *Transportation* - Subsection 4.10, *Transportation*
Orange County Sanitation District (OC San)	January 20, 2021	- Informs that OC San does not allow parking structure drains to be connected to the sewer system.	- Section 3.0, *Project Description* and Section 5.0, *Other CEQA Considerations*
Individuals and Interested Parties			
Jim Mosher	November 30, 2020 (Public Scoping Meeting)	- Requests that the height of the building and its potential effects on ocean views be analyzed. - Requests that the potential impact on the Project from noise emanating from nearby restaurants, in particular Muldoon's Irish Pub, be analyzed. - Inquires whether a Planned Community Development Plan (PCDP) would be new or be part of an existing PCDP.	- Subsection 4.1, *Aesthetics* - Subsection 4.9, *Noise* - Section 3.0, *Project Description* and Subsection 4.8, *Land Use and Planning*
Irvine Company	December 7, 2020	- Requests that the EIR address the existing easement along the southern boundary of the Project site that provides for ingress/egress. - Requests that the EIR address site circulation and the Project's traffic trips	- Section 3.0, *Project Description* and Subsection 4.10, *Transportation*. - Section 3.0, *Project Description* and

Commenter	Date	Comment	Location in this EIR where comment is addressed
		in relation to the Newport Center Statistical Area.	Subsection 4.10, *Transportation*.
		- Requests that the EIR analyze pedestrian access and adequacy of on-site parking.	- Subsection 4.10, *Transportation*.
		- Requests that the EIR identify if the Project anticipates sidewalk use for the temporary parking of moving vans and delivery trucks.	- Section 3.0, *Project Description* and Subsection 4.10, *Transportation*.
		- Requests that the EIR analyze the movement of trash trucks.	- Subsection 4.10, *Transportation*.
		- Requests that the EIR contemplate drainage from the Project site.	- Section 3.0, *Project Description*
		- Requests that all water quality-related improvements be located on the Project site.	- Section 3.0, *Project Description*
		- Requests that the EIR analyze construction-related parking, potential construction-related lane closures and potential impacts on Anacapa Drive and Newport Center Drive.	- Section 3.0, *Project Description* and Subsection 4.10, *Transportation*.
		- Requests that the EIR include a Phasing Plan, Construction Staging Exhibit, Traffic Control Plan and/or Construction Management Plan.	- Section 3.0, *Project Description* and Subsection 4.10, *Transportation*
		- Requests that the EIR describe the proposed lighting plan and the landscaping proposed along the western edge of the Project site adjacent to the Gateway Plaza parking lot.	- Section 3.0, Project Description and Subsection 4.1, *Aesthetics*
		- Requests that the EIR provide justification for the proposed building height and a potential consequence of other property owners in the block requesting similar building height increases.	- Subsection 4.1, *Aesthetics* and *Subsection 4.8, Land Use and Planning*
		- Suggests that the Project be referred to the ALUC.	- *Subsection 4.7, Hazards and Hazardous Materials*

In consideration of the Initial Study's conclusions and all comments received by the City of Newport Beach in response to the NOP and the EIR Scoping Meeting, this EIR provides a detailed analysis of the Project's potential to cause adverse effects under the following topic areas:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Land Use and Planning
- Noise
- Transportation
- Tribal Cultural Resources

Analyses related to the topics listed above are provided in EIR Section 4.0, *Environmental Analysis*. Sub-topics related to the topics listed above that the City determined through the Initial Study process did not warrant detailed study in this EIR are addressed in EIR Section 5.0, *Other CEQA Considerations*.

Based on the analysis provided in the Initial Study prepared for the Project (see T*echnical Appendix A*), the City of Newport Beach concluded that the Project would clearly result in no or less-than-significant impacts to nine environmental topic areas, including: 1) Agriculture and Forestry Resources; 2) Energy; 3) Hydrology and Water Quality; 4) Mineral Resources, 5) Population and Housing; 6) Public Services; 7) Recreation; 8) Utilities and Service Systems; and 9) Wildfire. Potential effects to these topic areas are summarized in EIR Section 5.0, *Other CEQA Considerations*.

1.5.2 EIR Format and Content

This EIR contains all of the information required to be included in an EIR as specified by the CEQA Statute and Guidelines (California Public Resources Code, Section 21000 et. seq. and California Code of Regulations, Title 14, Chapter 5). CEQA requires that an EIR contain, at a minimum, certain specified content. Table 1-2, *Location of CEQA Required Topics in this EIR*, provides a quick reference for locating the CEQA-required sections within this document. This EIR is organized as follows:

- **Section S.0, Executive Summary**, provides an overview of the EIR document and CEQA process. The Project, including its objectives, is described, and the location and regional setting of the Project site is documented. In addition, the Executive Summary discloses potential areas of controversy related to the Project and identifies the potential alternatives to the proposed Project as required by CEQA. Finally, the Executive Summary provides a summary of the Project's impacts, mitigation measures, and conclusions, including a table to be used as the basis of the Project's Mitigation, Monitoring, and Reporting Program (MMRP).

- **Section 1.0, Introduction,** provides introductory information about the CEQA process and the responsibilities of the City of Newport Beach, serving as the Lead Agency for

this EIR, a brief description of the Project, the purpose of the EIR, and an overview of the EIR format.

- **Section 2.0, Environmental Setting**, describes the environmental setting, including descriptions of the Project site's physical conditions and surrounding context used as the baseline for analysis in this EIR.

- **Section 3.0, Project Description,** serves as the EIR's Project Description for purposes of CEQA and contains a level of specificity commensurate with the level of detail proposed by the Project, including the summary requirements pursuant to CEQA Guidelines Section 15123. This Section provides a detailed description of the Project, including its location, purpose, main objectives, design features, construction characteristics, and operational characteristics expected over the Project's foreseeable lifetime. In addition, the discretionary actions required of the City of Newport Beach and other government agencies to authorize implementation of the Project are discussed.

- **Section 4.0, Environmental Analysis**, provides an analysis of potential direct, indirect, and cumulatively considerable impacts that may occur with implementation of the Project. A conclusion concerning significance is reached for each discussion; mitigation measures are presented as warranted. The environmental changes identified in Section 4.0 and throughout this EIR are referred to as "effects" or "impacts" interchangeably. The CEQA Guidelines also describe the terms "effects" and "impacts" as being synonymous (CEQA Guidelines Section 15358).

  The analyses in Section 4.0 are based in part upon technical reports that are appended to this EIR. Information also is drawn from other sources of analytical materials that directly or indirectly relate to the Project and are cited in Section 7.0, *References*. Where the analysis demonstrates that a physical adverse environmental effect may or would occur without undue speculation, feasible mitigation measures are recommended to reduce or avoid the significant effect. Mitigation measures must be fully enforceable, have an essential nexus to a legitimate governmental interest, and be "roughly proportional" to the impacts of the Project. The discussion then indicates whether the identified mitigation measures would reduce impacts to below a level of significance. In all cases, implementation of the mitigation measures would reduce the Project's adverse environmental impacts to below a level of significance.

- **Section 5.0, Other CEQA Considerations**, includes specific topics that are required by CEQA. These include a discussion of the significant and irreversible environmental changes that would occur should the Project be implemented, as well as potential growth-inducing impacts of the Project. Section 5.0 also includes a discussion of the environmental subjects that were found not to be significant during preparation of the Initial Study and this EIR and provides a summary statement that the Project would result in no significant and unavoidable environmental effects. All of the Project's significant

impacts on the environment would be less than significant or would be mitigated to less than significant.

- **Section 6.0, Project Alternatives**, describes and evaluates alternatives to the Project that could reduce or avoid the Project's adverse environmental effects. CEQA does not require an EIR to consider every conceivable alternative to the Project but rather to consider a reasonable range of alternatives, including a "No Project" alternative that will foster informed decision making and public participation.

- **Section 7.0, References**, cites all reference sources used in preparing this EIR and lists the agencies and persons that were consulted in preparing this EIR. Section 7.0 also lists the persons who authored or participated in preparing this EIR.

Table 1-2 Location of CEQA Required Topics in this EIR

CEQA Required Topic	CEQA Guidelines Reference	Location in this EIR
Table of Contents	§ 15122	Table of Contents
Summary	§ 15123	S.0 (Executive Summary)
Project Description	§ 15124	Section 3.0
Environmental Setting	§ 15125	Section 2.0
Consideration and Discussion of Environmental Impacts	§ 15126	Sections 4.0
Significant Environmental Effects Which Cannot be Avoided if the Proposed Project is Implemented	§ 15126.2(c)	Section 4.0 & Section 5.1
Significant Irreversible Environmental Changes Which Would be Caused by the Proposed Project Should it be Implemented	§ 15126.2(d)	Subsection 5.2
Growth-Inducing Impact of the Proposed Project	§ 15126.2(e)	Subsection 5.3
Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects	§ 15126.4	Section 4.0 and Table S-1
Consideration and Discussion of Alternatives to the Project	§ 15126.6	Section 6.0
Effects Not Found to be Significant	§ 15128	Subsection 5.14
Organizations and Persons Consulted	§ 15129	Section 7.0 and Technical Appendices
Discussion of Cumulative Impacts	§ 15130	Section 4.0
Energy Conservation	§15126.2(b) and Appendix F, CEQA Guidelines	Subsection 5.4

1.6 INCORPORATION BY REFERENCE

CEQA Guidelines Section 15147 states that the "information contained in an EIR shall include summarized…information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public," and that the "[p]lacement of highly technical and specialized analysis and data in the body of an EIR shall be avoided through the inclusion of supporting information and analyses as appendices to the main body of the EIR." CEQA Guidelines Section 15150 allows for the incorporation "by reference all or portions of another document… [and is] most appropriate for including long, descriptive, or technical materials that provide general background but do not contribute directly to the analysis of a problem at hand." The purpose of incorporation by reference is to assist the Lead Agency in limiting the length of this EIR. Where this EIR incorporates a document by reference, the document is identified in the body of the EIR, citing the appropriate section(s) of the incorporated document and describing the relationship between the incorporated part of the referenced document and this EIR. Refer to EIR Section 7.0, *References*, for a list of documents incorporated into this EIR by reference.

This EIR also relies on a number of Project-specific technical reports and information that are bound separately as Technical Appendices. The individual technical studies, reports, and supporting documentation that comprise the Technical Appendices are as follows:

A: Initial Study, Notice of Preparation, and Written Comments on the NOP
B: Planned Community Development Plan
C: Air Quality and Greenhouse Gas Memorandum
D: Cultural Resources Assessment
E: Geotechnical Feasibility Report
F: ESA File Review, Phase II ESA, and Phase I ESA
G: Noise Impact Analysis
H: Trip Generation Assessment
I: Utilities Waiver

Other reference sources that are incorporated into this EIR by reference are listed in Section 7.0, *References*. In most cases, documents or websites not included in the EIR's Technical Appendices are cited by a link to the online location where the document/website can be viewed. The Project's Technical Appendices and other references relied upon by this EIR are available for public review on the City's website at: http://www.newportbeachca.gov/ceqa and at the City of Newport Beach Community Development Department located at 100 Civic Center Drive, First Floor Bay B, Newport Beach, California, 92660.

2.0 ENVIRONMENTAL SETTING

2.1 REGIONAL SETTING AND LOCATION

At the regional level, the approximately 1.26-acre Project site is located in Section 36 of Township 6 South, Range 10 West, as shown on the United States Geological Survey (USGS) Laguna Beach 7.5-minute quadrangle map. The site is located on Assessor Parcel Number (APN) 442-231-12 at the physical address of 150 Newport Center Drive in the City of Newport Beach, Orange County, California. As shown on Figure 2-1, *Regional Map*, Orange County abuts San Diego County to the south, Los Angeles County to the north, San Bernardino County to the northeast, and Riverside County to the east.

The Project site is located in the western portion of the City of Newport Beach, to the south of the City of Costa Mesa and to the west of the City of Irvine. John Wayne Airport (JWA) is located approximately 3.6 miles north/northeast of the Project site and is the nearest public airport to the Project site. State Route 1 (SR-1), also known as East Coast Highway, is located approximately 0.31-mile south of the Project site. MacArthur Boulevard is located approximately 0.3-mile east of the Project site and provides access to California State Route 73 (SR-73), located approximately 2.0 miles northeast of the Project site. Newport Harbor is located approximately 0.71-mile to the southwest of the Project site and the Pacific Ocean is located approximately 1.4 miles to the south of the Project site.

2.2 LOCAL SETTING AND LOCATION

At the local level, as shown on Figure 2-2, *Vicinity Map*, the Project site is located immediately south of Newport Center Drive, immediately west of Anacapa Drive, and immediately northeast of an existing office park (Gateway Plaza). The Project site is located south of a regional shopping center (Fashion Island) which is located north of Newport Center Drive. According to the City's General Plan Figure LU3, Statistical Area Map, the Project site is within the City of Newport Beach's Newport Center/Fashion Island Sub-Area (Statistical Area L1) (City of Newport Beach, 2006a)

According to the State of California Department of Finance (DOF), as of January 1, 2020, the City of Newport Beach was estimated to have a population of 85,378 people with 2.19 persons per household (DOF, 2020). The Project site is located within the Newport-Mesa Unified School District (NMUSD).

2.3 SURROUNDING LAND USES

As shown on Figure 2-3, *Aerial Photograph,* the Project site is within an urbanized portion of the City of Newport Beach that is fully developed with a variety of office, residential, retail, and service commercial land uses. As shown on Figure 2-4, *Surrounding Land Uses and Development*, the Project site is fronted on the north by Newport Center Drive, on the east by Anacapa Drive, on the south by an existing office building with underground parking, and on the west by Gateway Plaza and an existing parking facility that services Gateway Plaza. The Gateway Plaza office complex is

comprised of eight low-rise office buildings, and associated surface parking. Muldoon's Irish Pub and a commercial office building are located east of the Project site and east of Anacapa Drive at the southeast corner of the Newport Center Drive/Anacapa Drive intersection. To the north of the Project site, and north of Newport Center Drive, is Fashion Island, a regional shopping center. Two restaurant buildings currently occupied by Red O and Fig & Olive are located at the southern edge of the Fashion Island parking lot, north of Newport Center Drive.

Under existing conditions, the Project site is the location of the "Newport Beach Car Wash." The closest other car wash to the Project site is located near Jamboree and San Joaquin Hills Road, approximately 0.9-mile to the northwest of the Project site. There are a number of other car washes within 4.0 miles of the Project site, including but not limited to: 1) Newport Car Wash located at 3767 Birch St., Newport Beach; 2) The Car Spa located at 1200 West Coast Hwy., Newport Beach; 3) Newport Coast Car Wash located at 4200 Birch St., Newport Beach; 4) Car-Wash Newport Beach located at 2285 Newport Blvd., Costa Mesa; 5) Beach Cities Car Wash located at 1645 Superior Ave., Costa Mesa; 6) Newport Car Wash & Detail Center located at 3793 Birch St., Newport Beach; and 7) Newport Mesa Car Wash & Services located at 2015 Harbor Blvd. #B, Costa Mesa.

2.4 LOCAL PLANNING CONTEXT

2.4.1 GENERAL PLAN LAND USE DESIGNATIONS AND ZONE CLASSIFICATIONS

At the time this Draft EIR was prepared, the City of Newport Beach was in the process of updating its General Plan. Currently, the City of Newport Beach is in Phase 1 (Housing and Circulation Element) of 3 of the General Plan Update process, which the City approximates to be a three-year process. Because the Newport Beach General Plan Update was under the early stages of preparation and not adopted at the time this EIR was prepared, the prevailing planning document for the Project site and surrounding area is the currently-adopted City of Newport Beach General Plan (hereafter, "General Plan").

The General Plan identifies the Project site as being within Statistical Area L1 and designates the Project site for "Regional Commercial Office (CO-R)" land uses, subject to the development limits established for Anomaly 35, which limits "CO-R" development square footage within the Anomaly area to 199,095 S.F. (City of Newport Beach, 2006a Figure LU1, Table LU2). The "CO-R" land use designation is intended to provide for administrative and professional offices that serve local and regional markets, with limited accessory retail, financial, service, and entertainment uses (City of (City of Newport Beach, 2006a, p. 3-13).

The Project site is within the "Office - Regional (OR)" Zoning District (City of Newport Beach, 2019). According to the City of Newport Beach Zoning Code, the "OR" Zoning District is intended to provide for areas appropriate for corporate offices, administrative and professional offices that serve local and regional markets, with limited accessory financial, retail, service, and entertainment uses. (City of Newport Beach, 2020, Title 20)

2.4.2 Surrounding General Plan Land Use Designations and Zone Classifications

As shown in the City's General Plan Figure LU13, *Statistical Areas F1, L1, L2, M1-M5*, the L1 Statistical Area is comprised of several land use categories including: Regional Commercial (CR), Mixed-Use Horizontal (MU-H), Multiple Unit Residential (RM), General Commercial (CG), Public Facilities (PF), Open Space (OS), Parks and Recreation (PR), Visitor Serving Commercial (CV), General Commercial Office (CO-G), Medical Commercial Office (CO-M), and Regional Commercial Office (CO-R). The General Plan designations surrounding the Project site include Regional Commercial (CR) to the north and CO-R to the south, east, and west (City of Newport Beach, 2006a, Figure LU1).

Zoning designations surrounding the Project site include Planned Community Zoning District (PC) PC-56 (North Newport Center Planned Community) to the north and west and OR (Office Regional) Zoning District to the east and south (City of Newport Beach, 2019)). The PC Zoning District is intended to provide for the development of coordinated, comprehensive projects that result in a superior environment and to allow diversification of land uses while maintaining the spirit and intent of the City's Zoning Code and consistency with the General Plan, through the adoption of a development plan and related text containing development standards (City of Newport Beach, 2020a, Title 20).

2.4.3 Airport Environs Land Use Plan for John Wayne Airport

John Wayne Airport (JWA) is located approximately 3.6 miles north/northeast of the Project site and is the nearest public airport. The Airport Land Use Commission (ALUC) for Orange County prepared a land use compatibility plan for JWA, the Airport Environment Land Use Plan (AELUP), which is the 20-year planning document for the airport. Specifically, the AELUP establishes requirements for notifying the Orange County ALUC and the Federal Aviation Administration (FAA) of certain construction activities and alterations to existing structures within the AELUP Part 77 Notification Area, to ensure there are no obstructions to navigable airspace. According to the ALUC for Orange County, as shown on Figure 2-5, *AELUP Notification Area for JWA*, the Project site is not located within the AELUP Notification Area (20,000 feet radius at 100:1 slope) for JWA. (ALUC for Orange County, 2008).

2.5 Existing Physical Site Conditions

CEQA Guidelines Section 15125(a)(1) recommends that the physical environmental condition that existed at the time an EIR's NOP is released for public review normally be used as the comparative baseline for the EIR analysis. The NOP for this EIR was released for public review on November 5, 2020, and the following pages include a description of the Project site's physical environmental condition ("existing conditions") as of that approximate date.

2.5.1 Land Use

Under existing conditions, the Project site is the location of the "Newport Beach Car Wash." In a letter to the City of Newport Beach, the current owner of the Project site, which through an affiliated

company operates the car wash on the site, reports that the car wash does not support the land value and purchase price of the property. (Newport Center Anacapa Associates, LLC, 2020). Pursuant to an ALTA survey, the Project site contains a single-story building that is approximately 2,085 square feet in size and operates as a car wash facility with associated convenience market and gas station with ancillary lighting, signage, and associated improvements (JRN Engineering, 2013). The car wash building includes an indoor waiting area and an outdoor waiting area with a sound amplification system that broadcasts music. Advertised business hours are 8:00 AM to 6:00 PM seven days per week. Car wash services include the washing of vehicles within the wash facility, which uses several mechanical components including car dryers. Vacuums are provided near the fuel pumps and vehicle detailing services occur in the facility's parking lot areas.

All portions of the Project site are fully developed with the car wash and ancillary gas station and convenience market. There are approximately 28 ornamental trees on the property. A paved parking area is located along the western edge of the Project site, and ornamental landscaping areas occur primarily along the perimeter of the site. Street trees, shrubs, groundcover, and sidewalks are located along the Project site's frontage with Newport Center Drive and Anacapa Drive. Streetlights are located near the intersection of Anacapa Drive and Newport Center Drive and along Newport Center Drive and Anacapa Drive. Additionally, the Project site contains three 12,000-gallon underground storage tanks (USTs) within the central portion of the site and a private catch basin in the southwest corner of the Project site that collects stormwater.

Access to the Project site is provided from Anacapa Drive via the shared driveway to Gateway Plaza and then via a direct ingress/egress driveway to the gas station facility. Because the site's existing use is a fully operating commercial use, the use consumes energy and domestic water and generates air quality and greenhouse gas emissions, daily traffic, traffic-related noise, and noise related to the operation of the car wash and gas station.

2.5.2 Aesthetics and Topographic Features

As shown on Figure 2-6, *USGS Topographic Map,* the Project site is relatively flat, gently sloping toward the southwest. Project site elevations vary from a low of approximately 158.5 feet above mean sea level (AMSL) in the southwest corner to a high elevation of 170.3 feet AMSL in the northeast corner. Slopes and retaining walls are located along the northern and eastern perimeter of the site, ascending up to Newport Center Drive and Anacapa Drive, varying in height from 2 to 8 feet. (NMG, 2020, p. 2)

The Project site is fully developed as a car wash with ancillary convenience market and gas station under existing conditions, which includes exterior lighting. Street lighting also exists along Anacapa Drive and Newport Center Drive, as well as lighting sources that emanate from adjacent and surrounding uses. The washing and mechanical drying operation of the existing car wash is in a single-story building comprised of a concrete structure with windows. Cars line up for the car wash outside of the building. The car wash building is at an elevation slightly below the grade of Anacapa Drive and Newport Center Drive. Foliage and trees are located along the northern, eastern and

western boundaries of the car wash, which partially screens views of the car wash and fueling station from adjacent areas, including the surrounding roadways.

2.5.3 Agricultural and Forestry Resources

According to the California Department of Conservation's California Important Farmland Finder, the Project site and immediately surrounding areas do not contain any lands that are mapped by the California Resources Agency as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance ("Important Farmland") and the Project site is designated as "Urban and Built-Up Land." (DOC, 2016)

There are no lands within the City of Newport Beach, including the Project site and properties surrounding the Project site, that are zoned for forest land, timberland, or timberland zoned Timberland Production (City of Newport Beach, 2019).

2.5.4 Air Quality and Climate

The Project site is located in the South Coast Air Basin (SCAB) within the jurisdiction of the South Coast Air Quality Management District (SCAQMD). The SCAQMD has jurisdiction over an approximately 10,743 square-mile area consisting of the four-county Basin. In these areas, the SCAQMD is principally responsible for air pollution control, and works directly with the Southern California Association of Governments (SCAG), county transportation commissions, local governments, as well as state and federal agencies to reduce emissions from stationary, mobile, and indirect sources to meet state and federal ambient air quality standards. Currently, these state and federal air quality standards are exceeded in most parts of the SCAB. In response, the SCAQMD has adopted a series of Air Quality Management Plans (AQMP) to meet the state and federal ambient air quality standards. AQMPs are updated regularly in order to more effectively reduce emissions, accommodate growth, and to minimize any negative fiscal impacts of air pollution control on the economy. (Urban Crossroads, 2020a, p. 18)

In March 2017, the AQMD released the *Final 2016 AQMP*. The *2016 AQMP* continues to evaluate current integrated strategies and control measures to meet the National Ambient Air Quality Standards (NAAQS), as well as, explore new and innovative methods to reach its goals. Some of these approaches include utilizing incentive programs, recognizing existing co-benefit programs from other sectors, and developing a strategy with fair-share reductions at the federal, state, and local levels. Similar to the *2012 AQMP*, the *2016 AQMP* incorporates scientific and technological information and planning assumptions, including the *2016 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS)*, a planning document that supports the integration of land use and transportation to help the region meet the federal Clean Air Act requirements. (Urban Crossroads, 2020a, p. 18)

Refer to *EIR Subsections 4.2, Air Quality,* and *4.6 Greenhouse Gas Emissions,* for a more detailed discussion of the existing air quality and climate setting in the Project area.

2.5.5 Biological Resources

The site has been fully developed with a car wash and ancillary services since 1970. Vegetation located on and near the Project site consists of ornamental landscaping; no candidate, sensitive, or special status species are known to be present on the site under existing conditions. The only potential for sensitive biological species to be present is the potential for migratory birds to nest in trees that would be removed to construct the Project. Migratory birds are protected under the federal Migratory Bird Treaty Act (MBTA).

The Project site is not located within or contiguous to any of the Environmental Study Areas (ESAs) identified by the Newport Beach General Plan EIR Figure 4.3-2. The Project site is within the Central and Coastal Orange County Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP); however, the NCCP/HCP does not identify the Project site and surrounding areas for conservation (County of Orange EMA, 1996, Figure 11)

Refer to EIR Subsection 4.3, *Biological Resources*, for a more detailed discussion of the Project's site existing biological setting.

2.5.6 Cultural Resources and Tribal Cultural Resources

The Project site contains one existing building (car wash with an ancillary gas station and convenience market) that would be demolished and removed from the property as part of the Project. A review of building permits for the Project site indicates that the existing improvements were constructed in 1970; therefore, the existing structure is 50+ years old. Accordingly, a historical evaluation of the structure was conducted which concluded that the building does not contain any resources that meet the definition of a historic resource under Section 15064.5 of the CEQA Guidelines. No known archaeological or tribal cultural resources are present on the property, but could exist beneath the surface of the site. Because the Project entails a proposed General Plan Amendment and a Zone Code Amendment, the Project is subject to Native American consultation requirements pursuant to California Assembly Bill 52 and Senate Bill 18; consultation occurred as part of the CEQA compliance process for this EIR, concurring that there is a potential for resources to be located beneath the surface of the site.

Refer to EIR Subsections 4.4, *Cultural Resources*, and 4.11, *Tribal Cultural Resources*, for a more detailed discussion of the cultural and tribal cultural resources setting of the Project area.

2.5.7 Geology and Soils

The Project site is located on the Newport Mesa, approximately ¾-mile inland from the Pacific Ocean. The mesa highland is covered with coastal terrace deposits and is located at the southwestern end of the San Joaquin Hills. Mapping by the State indicates the site is underlain by Quaternary- age marine terrace deposits which overlie Miocene-age sedimentary bedrock of the Monterey Formation. The Fashion Island/Newport Center area exhibits a geologic configuration that is characteristic of a series of distinguishable elevated terraces and wave-cut platforms. The area has undergone regional

uplift since deposition of the marine terrace deposits onto the ancient wave cut benches. These deposits were subsequently uplifted with the oldest deposits exposed along the higher, northern portion of the center and the lower/younger deposits located along the southern portion of the center. The Project site is located on the second elevated terrace deposit, mapped as Qtm (second marine level) by the State. (NMG, 2020, p. 4)) The site is fully developed and there are no known unique geologic features present on the property.

As with much of the southern California region, the Project site is located in a seismically active area. The Project site is not located within an Alquist-Priolo Earthquake Fault Zone and no known faults underlie the site; therefore, there is no potential of ground rupture. According to the Project site's Geotechnical Feasibility Study prepared by NMG Geotechnical, Inc. (NMG), three (3) types of soil conditions were encountered on the Project site: 1) artificial fill, 2) marine terrace deposit, and 3) Monterey formation. Based on laboratory testing, the expansion potential of onsite soils is anticipated to generally range from "Very Low" to "Medium" within the terrace and existing fill materials. Soils with "High" expansion are likely to be encountered in the siltstone/claystone of the Monterey Bedrock. (NMG, 2020, p. 11) Based on seismic Hazard Maps reviewed by NMG, the Project site is not located in an area classified by the State as having soils that are potentially liquefiable, nor is the site mapped as susceptible to seismically induced landslides (NMG, 2020, pp. 5-6)

Refer to EIR Subsection 4.5, *Geology and Soils*, for a more detailed discussion of the Project site's existing geologic setting.

2.5.8 Hazards and Hazardous Materials

A review of the California Environmental Protection Agency's (CalEPA's) Cortese List Data Resources (which lists the facilities/sites identified as meeting the "Cortese List" requirements) indicates that the Project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (DTSC, n.d.). Based on a search of regulatory databases, no present or past uses at the Project site or at any surrounding properties represent a significant hazardous materials risk to the Project site (Fero, 2020, p. 3) Three 12,000-gallon underground storage tanks (USTs) and associated piping and dispensers are located beneath the surface of the site to support the existing onsite gas station. The fueling system is permitted through the Orange County Health Care Agency (OCHCA). (Fero, 2020, p. 1) The fueling system present at the site is reported to not represent a significant environmental threat to the site. The *UST Monitoring System Certification Form* is contained as Attachment A to *Technical Appendix F*.

As discussed above in Subsection 2.4.3, according to the ALUC for Orange County, the Project site is not located within the AELUP Notification Area for JWA; therefore, no potential hazards to air navigation are present (ALUC for Orange County, 2008).

Refer to Subsection 4.7, *Hazards and Hazardous Materials,* of this EIR for a more detailed discussion of the Project site's existing conditions related to hazards and hazardous materials.

2.5.9 Hydrology

The Project site is located in an urbanized area and there are no streams or rivers on the site or adjacent to the site. The Project site is generally flat and under existing conditions drains towards the southwest portion of the site. Under existing conditions, storm water runoff generally sheet flows towards the south-southwest, where an existing 10-inch storm drain line and catch basin intercepts the drainage (Fuscoe, 2020, p. 11)

The entire Project site is located within Federal Emergency Management Agency (FEMA) Flood Zone "X (Unshaded)," indicating that the subject property is located outside of the 100-year floodplain and outside the 500-year floodplain (greater than 0.2% annual chance of flooding) (FEMA, 2019). Additionally, as shown as Figure S3, Flood Hazards, of the City of Newport General Plan, no portion of the Project site is located within a designated 100-year flood hazard area (City of Newport Beach, 2006a). The City of Newport Beach is a coastal city and, therefore, is at risk for tsunami induced inundation. The City provides a tsunami inundation zone map which indicates that the Project site and surrounding area are not located within the tsunami advisory evacuation zone. (City of Newport Beach GIS Division, 2019)

2.5.10 Mineral Resources

The Project site is fully developed with urban uses. No mines, wells, or other resource extraction activity occurs on the property or is known to have ever occurred on the property. According to the City's General Plan EIR, Figure 4.5-4, *Mineral Resource Zones*, which relies on mapping conducted by the California Geological Survey for areas known as Mineral Resources Zones (MRZs), the Project site is mapped as being on the boundary between MRZ-1 and MRZ-3. Areas mapped MRZ-1 are defined as "areas where available geologic information indicates that there is little or no likelihood for the presence of significant mineral resources." Areas mapped MRZ-3 are defined as "areas containing mineral deposits of undetermined significance." Thus, the Project site is not identified as a locally-important mineral resource recovery site delineated on the City's General Plan, a specific plan, or other land use plan and no mineral resource extraction activities occur at or near the Project site in the existing condition. (City of Newport Beach, 2006b, Figure 4.5-4).

2.5.11 Noise

The background ambient noise levels experienced on the site are from on-site traffic associated with the car wash facility and associated convenience market and gas station, the outdoor waiting area with a sound amplification system that broadcasts music, and several mechanical components such as car dryers and vacuums, and vehicle detailing services associated car wash facility. Background traffic noise is experienced from the existing drive aisles and parking lots nearest the site. The primary source of traffic noise affecting the Project site is from vehicles traveling on Newport Center Drive and Anacapa Drive (Urban Crossroads, 2020b, p. 29). 24-hour ambient noise level measurements collected by Urban Crossroads in 2016 indicate that noise levels in the Project area range from 58.6 dBA L_{eq} to 62.0 dBA L_{eq}. (Urban Crossroads, 2020b, p. 24 and Table 5-1) New noise level measurements were not collected due to the reduction in overall traffic and business

operational noise due to the coronavirus pandemic. The 2016 noise measurements are considered representative of a normal operating condition.

Refer to Subsection 4.9, *Noise* of this EIR for a more detailed discussion in the existing noise setting in the Project area.

2.5.12 Parks and Recreation

As detailed in the City's General Plan EIR, the City of Newport Beach contains 12 service areas for parkland and the Project site is within Service Area 9. When the General Plan was last prepared, its Recreation Element and Figure R11 indicated the following for Service Area 9 (which includes the Project site).

- Service Area 9—Newport Center. There is a park surplus within this service area. The Back Bay View Park was completed in the summer of 2005, and a new passive park, Civic Center Park, is planned for development sometime after 2006. *[Note: Civic Center Park has since been constructed and is currently in operation.]*

The Project site has been in use as a car wash with ancillary uses since the 1970s and generates little if any demand on park land because it is not a residential use. Future residents of the Project site are likely to mostly utilize the two closest public parks - Civic Center Park and Irvine Terrace Park. Civic Center Park is located adjacent to Newport Beach City Hall and Library, which is located approximately 0.25-mile northwest of the Project site. This 14-acre park was constructed in 2013 and has a Civic Green, a viewing platform, walking trails, and a dog park. Irvine Terrace Park is located approximately 0.40-mile southwest of the Project site on the west side of East Coast Highway. Irvine Terrace Park has a soccer field, a basketball court, two tennis courts, a tot lot, a sidewalk, and grassy areas.

2.5.13 Transportation

Access to the Project site is provided from Anacapa Drive via the shared driveway to Gateway Plaza and then via a direct ingress/egress driveway to the gas station facility. Local access to the Project vicinity is provided via Newport Center Drive, located north and west of the Project site, Civic Center Drive, located south of the Project site, and Avocado Avenue, located east of the Project site. These streets provide access to State Route 1 (SR-1), also known as East Coast Highway, located approximately 0.31-mile south of the Project site, and to MacArthur Boulevard, located approximately 0.3-mile east of the Project site which provides access to California State Route 73 (SR-73), located approximately 2.0 miles northeast of the Project site.

Sidewalks front the Project site along its Anacapa Drive and Newport Center Drive frontages. An existing Class II (on-road striped) bicycle lane abuts the Project site to the north along Newport Center Drive and a bike lane was recently added on Anacapa Drive and the roadway was restriped in both directions to accommodate the bike lane.

Based on a traffic trip count conducted in 2015 by Kunzman Associates, Inc. the existing car wash and gas station use generates 819 trip-ends per day (2-way trips), with 54 trips generated during the AM peak hour and 75 trips generated during the PM peak hour (Urban Crossroads, Inc., 2020c). New traffic counts were not collected due to the reduction in overall traffic and business operations due to the coronavirus pandemic. The 2016 traffic counts are considered representative of a normal operating condition.

Refer to EIR Subsection 4.10, *Transportation*, for a more detailed discussion of the Project site's existing transportation setting.

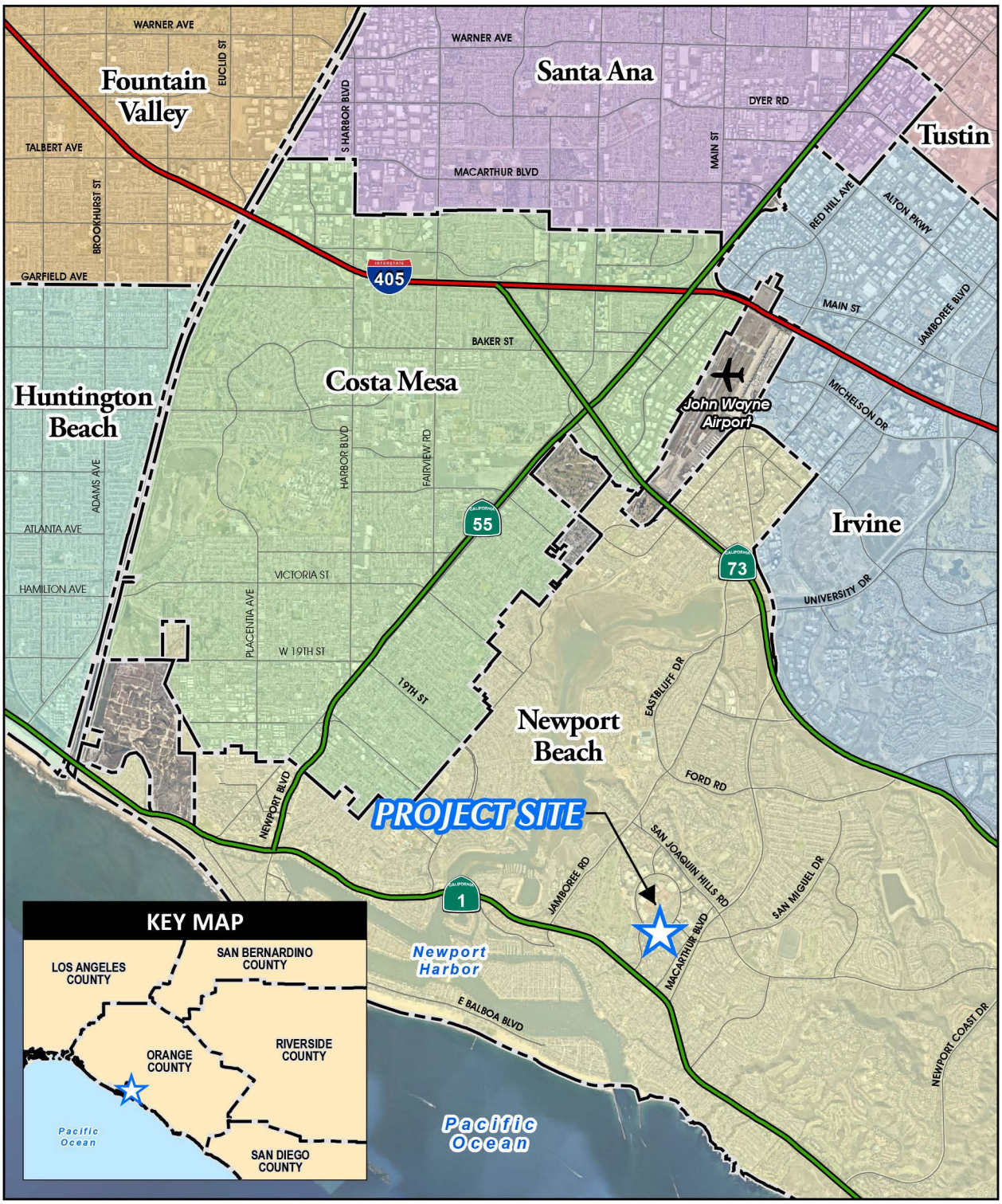
2.5.14 Utilities and Service Systems

The City of Newport Beach provides domestic water to the Project site. The existing car wash and ancillary uses are currently served by an existing 2-inch domestic water service line that connects to an existing 12-inch main located under Newport Center Drive. The existing car wash and ancillary uses are currently served by an 8-inch sanitary sewer lateral that connects to a 15-inch sewer main within Newport Center Drive, and a 6-inch sewer lateral that connects to an existing 8-inch sewer main in Anacapa Drive. The Orange County Sanitation District provides wastewater conveyance and treatment to the Project site (C&V Consulting Inc., 2020). Under existing conditions, storm water runoff generally sheet flows towards the south-southwest, where an existing 10-inch storm drain line and catch basin intercepts the drainage. As for dry utilities, the Project site is served by Southern California Edison (SCE) for electricity and Southern California Gas Company (SCGC) for natural gas. Several internet/cable providers also service the area via the existing fiber optic system.

The site's existing uses are considered in the City's Urban Water Management Plan (UWMP), which concludes that the City's existing entitlements have sufficient water supplies to serve its existing and projected demand. More specifically, according to the City's UWMP, the City of Newport Beach can meet the water demands of its customers in normal, single dry, and multiple dry years between 2020 and 2040 (City of Newport Beach, 2018) .

2.5.15 Rare and Unique Resources

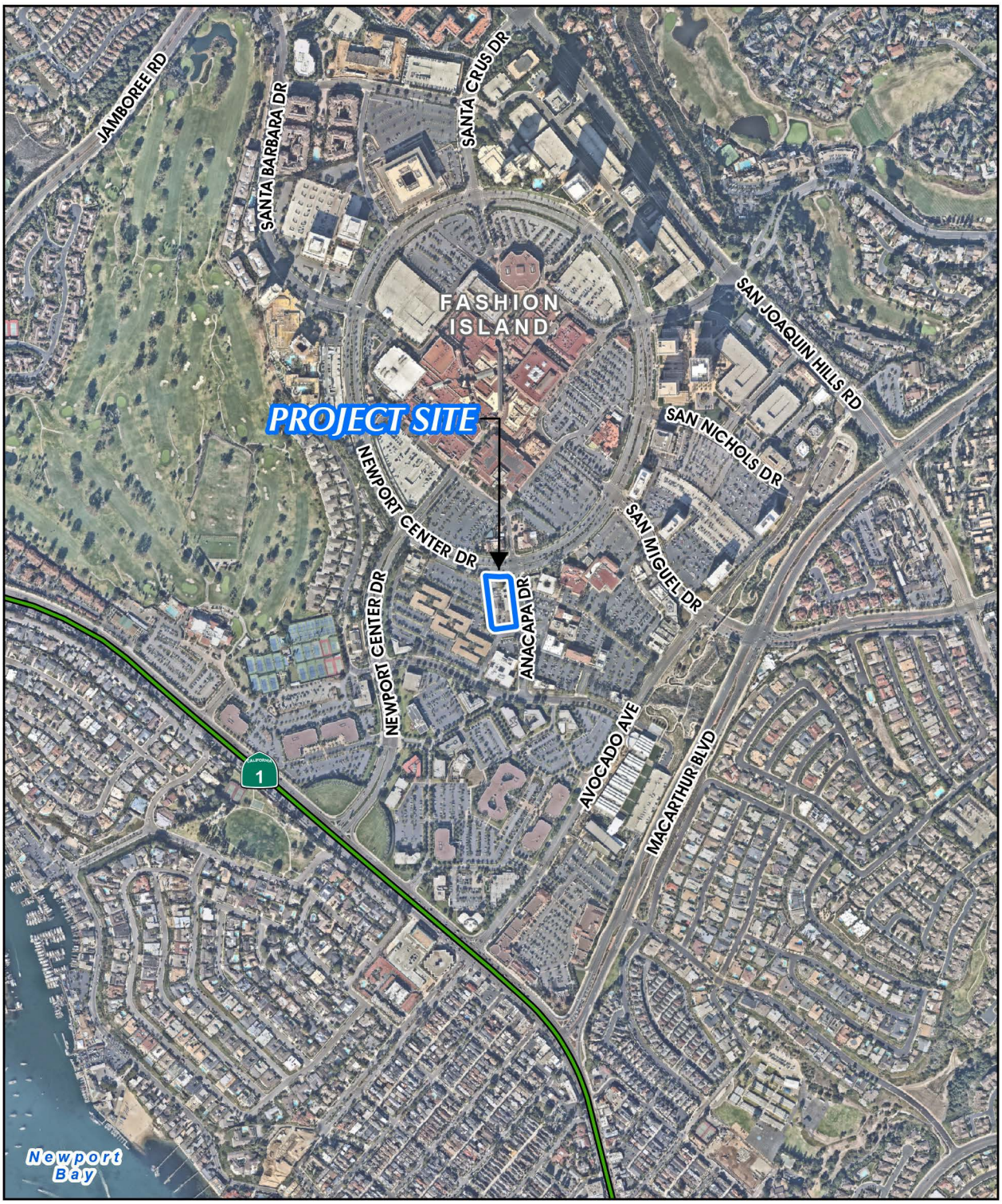
As required by CEQA Guidelines Section 15125(c), the environmental setting should place special emphasis on resources that are rare or unique to that region and that would be affected by a Project. Based on the existing developed conditions of the Project site and surrounding area described above and discussed in more detail in Section 4.0, *Environmental Analysis*, the Project site does not contain any resources that are rare or unique to the region.



Source(s): ESRI, Nearmap Imagery (2020), OC Public Works (2019)

Figure 2-1

Regional Map

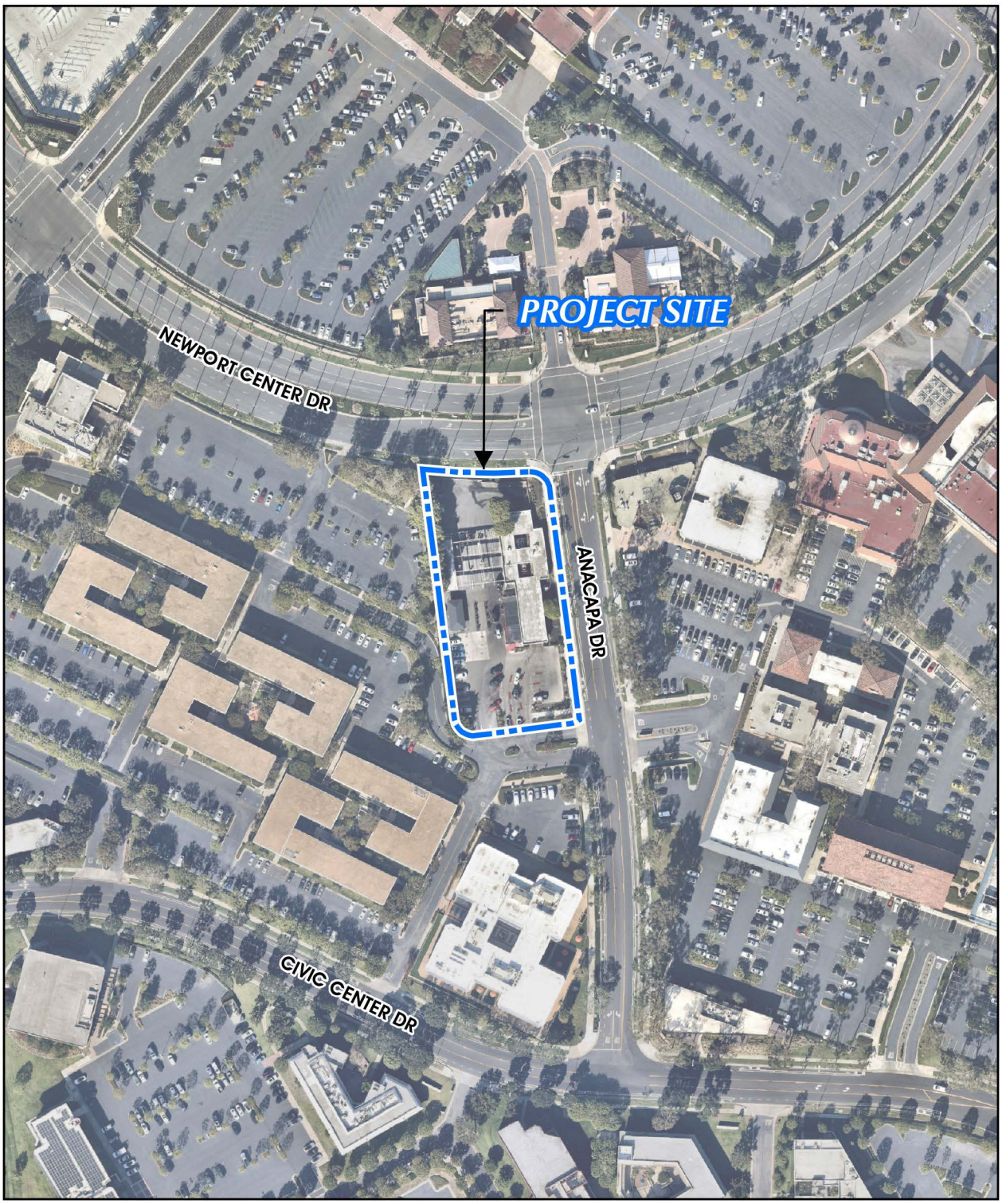


Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

Figure 2-2

0 250 500 1,000 Feet

Vicinity Map



Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

Figure 2-3

0 50 100 200 Feet

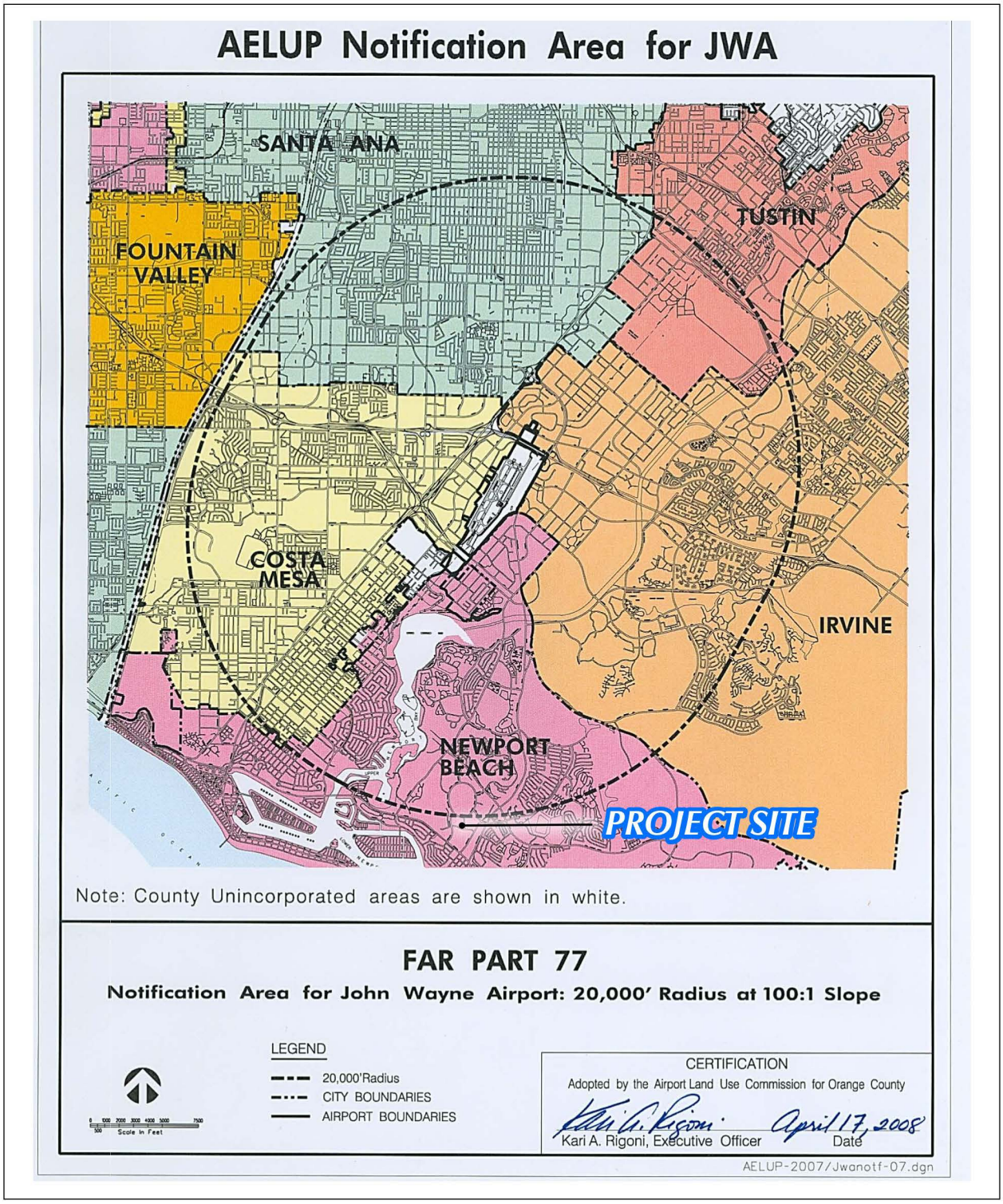
Aerial Photograph

Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

Figure 2-4

0 87.5 175 350 Feet

Surrounding Land Uses and Development

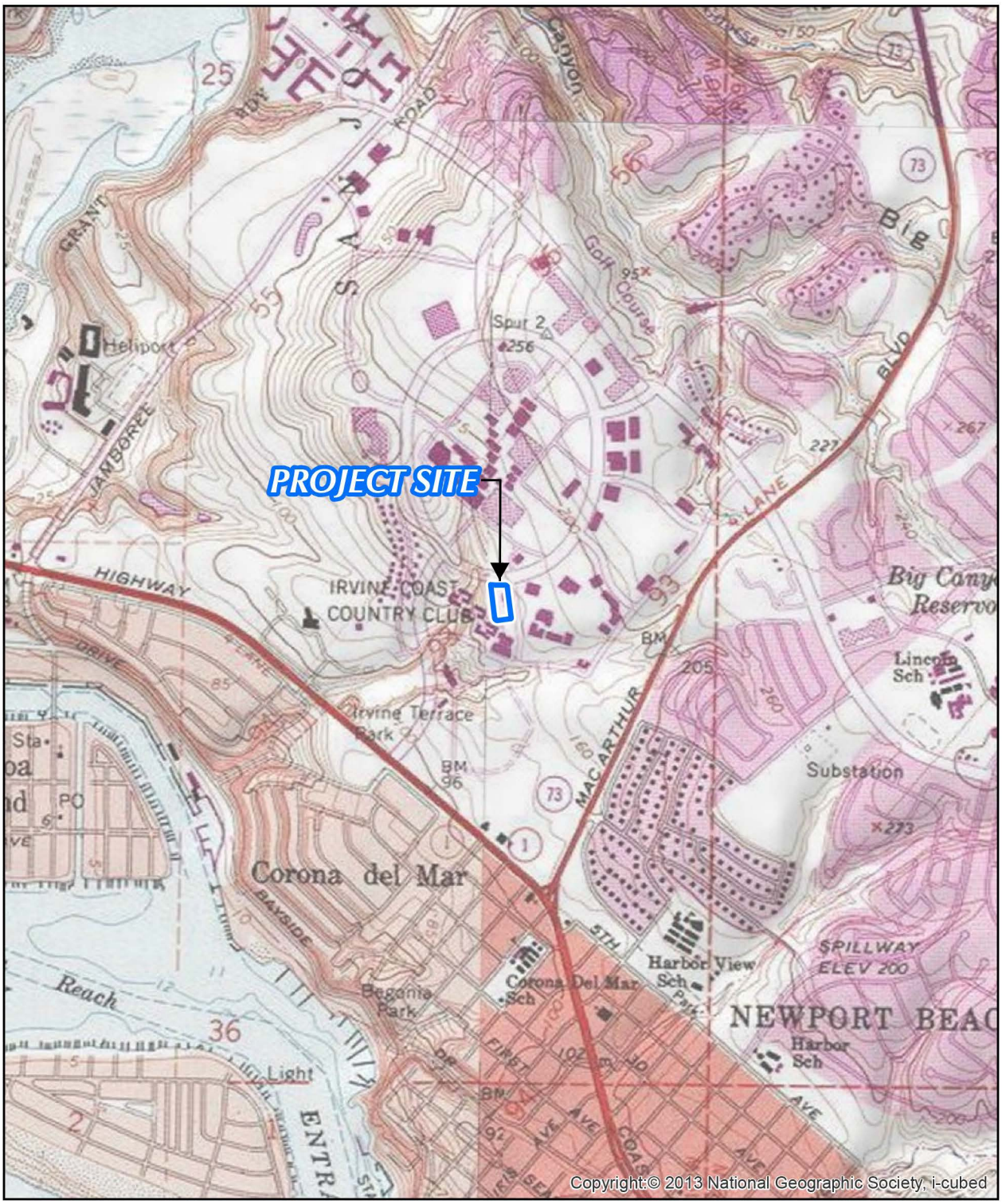


Source(s): OCALUC (2008)

Figure 2-5

Not to Scale

AELUP Notification Area for JWA



Source(s): USGS (2013)

Figure 2-6

0 375 750 1,500 Feet

USGS Topographic Map

3.0 PROJECT DESCRIPTION

This Section provides all of the information required of an EIR Project Description by CEQA Guidelines Section 15124, including a description of the Project's precise location and boundaries; a statement of the Project's objectives; a description of the Project's technical, economic, and environmental characteristics; and a description of the intended uses of this EIR, including a list of the governmental agencies that are expected to use this EIR in their decision-making processes, a list of the permits and approvals that are required to implement the Project, and a list of related environmental review and consultation requirements.

3.1 PROJECT SCOPE

The Project Applicant (Newport Center Anacapa Associates, LLC) submitted applications to the City of Newport Beach for a Development Agreement (DA2020-001), a General Plan Amendment (GP2020-001), a Zoning Code Amendment (CA2020-008), a Planned Community Development Plan (PC2020-001) (referred to as the Residences at Newport Center Planned Community Development Plan (PCDP)), a Major Site Development Review (SD2020-001), and a Tentative Tract Map (NT2020-001). These applications are collectively referred to by the City as file number PA2020-020. File number PA2020-020 involves the proposed entitlement of a 1.26-acre property for the demolition and removal of "The Newport Beach Car Wash" and the redevelopment of the site with a proposed mid-rise residential building to consist of a 28-unit residential condominium building with subterranean parking.

3.2 PROJECT LOCATION

The approximately 1.26-acre Project site is located on Assessor Parcel Number (APN) 442-231-12 at the physical address of 150 Newport Center Drive in the City of Newport Beach, Orange County, California. The Project site is located immediately south of Newport Center Drive, immediately west of Anacapa Drive, and immediately northeast of an existing office park (Gateway Plaza). The Project site is located south of a regional shopping center (Fashion Island) which is located north of Newport Center Drive. According to the City's General Plan Figure LU3, Statistical Area Map, the Project site is within the City of Newport Beach's Newport Center/Fashion Island Sub-Area (Statistical Area L1). Refer to EIR Section 2.0, *Environmental Setting*, for more information related to the regional and local setting of the Project site.

3.3 STATEMENT OF OBJECTIVES

The underlying purpose and goal of the proposed Project is to redevelop an underutilized economically challenged property in the Newport Center area with residential units located within walking distance to employment, shopping, entertainment, and recreation. The following objectives are intended to achieve these underlying purposes:

A. Redevelop an underutilized property with a use that is financially feasible to construct and operate.

B. Make efficient use of existing infrastructure by repurposing a property with a higher and better use than currently occurs on the property.

C. Maximize the surface use of a redeveloped property by accommodating parking underground.

D. Increase the available housing stock within the City of Newport Beach and maximize the development potential of the site by constructing a project with at least 22 dwelling units.

E. Provide housing options for owner-occupied mid-rise multi-family flats in Newport Center to diversify the range of available residential housing unit types.

F. Introduce a luxury, multi-family residential development in Newport Center that can attract households in the surrounding area that are seeking low maintenance and single-level living options.

G. Provide a new multi-family residential development in Newport Center that is within walking distance of, and has pedestrian connections to, employment, shopping, entertainment, public services, and recreation.

H. Maintain high-quality architectural design in Newport Center by adding a building that has a recognizable architectural style and that complements the architectural styles that exist in the surrounding Newport Center community.

I. Implement a residential development that provides on-site amenities for its residents.

J. Redevelop a property that uses outdated operational technologies with a new use that is designed to be energy efficient and avoid the excessive use of energy and water.

3.4 FUTURE POPULATION

According to the State of California Department of Finance (DOF), as of January 1, 2020, the City of Newport Beach was estimated to have a population of 85,378 people with 2.19 persons per household. The proposed Project would consist of the development of a residential building planned for 28 new condominium units. Therefore, based on the DOF statistics, the proposed Project would result in approximately 62 persons living in the 28 condominium units (28 dwelling units x 2.19 persons per household = 61.32 persons, stated herein as 62 persons). (DOF, 2020)

3.5 PROJECT DESIGN COMPONENTS

The Project entails the proposed construction of a 28-unit mid-rise residential building with two levels of subterranean parking. The Project involves applications for a Development Agreement, a General Plan Amendment, a Zoning Code Amendment, Planned Community Development Plan, a Major Site Development Review, and a Tentative Tract Map. These principal discretionary actions required of the City of Newport Beach to implement the Project are described in detail on the following pages.

Additional discretionary and ministerial actions that would be necessary to implement the proposed Project are listed in Subsection 3.8.

3.5.1 Site Plan

The Project is proposed on a 54,949 S.F. lot with a proposed floor to area ratio (FAR) of 1.88. The proposed building footprint (first floor) is approximately 27,006 S.F. resulting in approximately 55% coverage of the existing lot. As shown on Figure 3-1, *Conceptual 1st Floor / Site Plan*, the Project Applicant proposes the construction and operation of a mid-rise residential building having 28 luxury condominium units within the building footprint. The residential units, interior circulation, lobbies, fitness areas, and other communal gathering areas would collectively result in a total gross floor area of approximately 103,158 gross S.F. and be comprised of: a) 1st Floor area of ±27,006 S.F., b) 2nd Floor area of ± 26,551 S.F., c) 3rd Floor area of ±25,554 S.F., and d) 4th Floor area of ± 24,037 S.F. The subterranean parking areas would comprise approximately 71,456 gross S.F. and consist of an upper and lower basement parking area. The podium wall (the outside wall that forms the foundation of the structure) would provide physical separation between the proposed residential units and the adjacent commercial developments to the south and west of the Project site. The podium wall is designed to maintain privacy for the residential tenants.

3.5.2 Unit Mix and Floor Plans

The unit mix includes eight residential units (flats) on the ground floor, eight flats on level 2, eight flats on level 3, and four penthouses on level 4. Each floor is designed to provide a view to the ground level to break up the building mass in to two buildings that are linked together by a structure of stone and glass.

As shown on Figure 3-1, level 1 is designed with a number of amenities including a lobby, lounge, water feature, concierge area, offices, meeting room with access to a catering kitchen, restrooms, elevators, storage areas, stairway to the garage, entrance to the front of the building, exit passageway ramp at the back of the building, courtyard with spa and lap pool, fitness room with sliding doors facing the back of property, an outdoor dog run, and terraces and/or patios associated with the eight flats that are planned for the ground floor. Flat 1, 2, 3, and 4 would be located in the southern portion of the building and all would include either a terrace or a raised terrace. Flat 5, 6, 7, and 8 would be designed in the northern portion of the building and all would include a private patio.

As shown on Figure 3-2, *Conceptual 2nd Floor Plan*, the second floor of the building would be comprised of eight flats (Flat 9, 10, 11, 12, 13, 14, 15, and 16) with elevators and stairways. Flats 9, 10, 11, 14, 15, and 16 would be designed with terraces. Terraces that would be open to the ground floor and that would provide a view to the pool and lounge on the ground floor would be designed between the Flats on the north side of the building and those on the south side of the building. As shown on Figure 3-3, *Conceptual 3rd Floor Plan*, the third floor would be similar to the 2nd floor with flats and terraces. Eight flats (Flat 17, 18, 19, 20, 21, 22, 23, and 24) also would be provided on the third floor. As shown on Figure 3-4, *Conceptual 4th Floor Plan*, the fourth floor would contain four penthouse flats with terraces, identified as Flat 25, 26, 27, and 28.

3.5.3 VEHICLE ACCESS/PARKING

The Project design includes two vehicular access points. Specifically, visitor access would be provided to the building's main entrance from the Project's frontage along Anacapa Drive. Access would be provided mainly for residents via a driveway on an adjacent property[1] that is accessible via Anacapa Drive. As shown on Figure 3-5, *Traffic Circulation - 1st Floor,* the resident vehicle entry to the subterranean parking structure would be provided on the south side of the building via a stop bar and sign. Entrance/exit driveways would provide access to the subterranean parking garage from a shared driveway located south of the Project site that connects with Anacapa Drive.

The resident access driveway would be located on the south side of the building with direct access to parking level B-1, serving residents, visitors, moving vans, service vehicles, emergency vehicles, and trash pickup. A receiving area for loading and unloading would be provided near the resident entry and before the security gate. The resident entry would provide both ingress and egress for vehicles. Once inside the parking structure, residents and visitors will encounter sliding gates and a call box allowing the ingress and egress of residents and guests.

Along the front façade of the building facing Anacapa Drive, would be the visitor entry where a driveway would lead to the building's motor court and drop off area that would also lead to a one-way ramp down to the subterranean parking structure. The entrance facing Anacapa Drive would primarily service guest, residential valet, deliveries, and emergency vehicles and would allow for four timed valet drop off spaces. Both the entry and exit vehicle access driveways are designed to be screened with landscaping.

The Project is designed for two levels of parking. Level B-1 would be partially at grade on the southern edge of the property to allow resident and visitor access. Each residential unit would have a designated private 2-car garage and storage area inside of the subterranean parking structure. The Project would provide a total of 85 parking stalls, consisting of 57 residential parking stalls (56 required) 24 guest parking stalls (14 required), and 4 accessible parking stalls (4 required). The guest parking spaces are designed to be accessed by the valet via a one-way internal ramp at the southern end of the entry driveway and the parking spaces are designated to occur at the B-1 level. Valet service would return the vehicles to the front entrance via the main entrance on Anacapa Drive. Of the 24 guest parking stalls provided, 12 guest stalls would be located on Parking Level 1 and 12 guest stalls would be located on Parking Level 2. Guest stalls can be used by either guests or residents.

3.5.4 PEDESTRIAN ACCESS

Public sidewalks located along the Project site's frontages with Newport Center Drive and Anacapa Drive would be maintained in their current locations upon implementation of the Project. As detailed

[1] The Project site's Preliminary Title Report states that the Project site is comprised of Parcel "A" and Parcel "B". Parcel B is located to the south of the Project site and contains a non-exclusive easement for ingress and egress over Parcel "A" within the Gateway Plaza property immediately adjacent to the southern and western portion of the Project site. The right to access over Parcel "A", PMB 76/32 is granted in the grant deed (Ins. No. 92-99183) transferring Parcel 1 of PMB 29/34 and the right to access over Parcel "A" of PMB 76/32. The easement restrictions would remain in effect should the proposed Project be approved by the City of Newport Beach.

in the proposed Project's grading plan, there also is an existing 18-foot-wide reservation for pedestrian use located along the southern property boundary adjoining the Gateway Plaza office complex. As part of the proposed Project, this existing 18-foot reservation would be modified to a 10-foot width. The Project would maintain the non-exclusive easement for ingress and egress over the Gateway Plaza property, along the southern boundary of the Project site.

3.5.5 Project Frontages

As shown on Figure 3-6, *Conceptual Grading Plan*, the existing curb, gutter, and sidewalks along Anacapa Drive and Newport Center Drive would be reconstructed along the Project site's frontage as part of the Project's construction process. As noted on Figure 3-6, the Project Applicant is required to establish survey points within the public right-of-way along the Project site's frontages of Anacapa Drive and Newport Center Drive east to monitor movement of City facilities (utilities, sidewalk street, etc.) associated with the construction of the proposed Project.

3.5.6 Building Mass and Architectural Features

Architecturally, the Project's building design breaks the building mass to appear as two buildings linked together by a central structure of glass and stone with a water element at the main building entrance. The central building link steps down in height revealing a series of terraced residential amenities that fully breaks the building mass. The height, bulk, and scale of the residential building elements are comparable to building forms and heights found on other properties in the southern half of Newport Center.

A podium wall would function as the base of the structure and physically separate the proposed residential units and the adjacent commercial and office developments to the south and west of the Project site. Along the Project site's western edge, the grade would fall from north to south which would expose a portion of the parking garage wall and allow landscaping. The podium deck is designed with a planter for landscaping and walkway, with open guard rails at the edge. Amenities proposed for the building include five elevators, a pool, spa, fitness center, club room and a lounge.

The aesthetics of the proposed building are shown on Figure 3-7, *Conceptual Architectural Elevations – East and West Elevations* and Figure 3-8, *Conceptual Architectural Elevations – North and South Elevations*. The building heights are measured from established grade. The building is on a sloping surface and the measurement of height is taken from the building entrance at 167.75 feet; therefore, established grade is defined at an elevation of 167 feet 9 inches North American Vertical Datum of 1988 (NAVD88). Pursuant to the Project Applicant's proposed Planned Community Development Plan (PCDP) (See *Appendix B*), the building height shall not exceed 52 feet 11 inches from the established grade of the site, or 219 feet 2 inches. The highest point of the open area between the buildings is approximately 24 feet 9 inches above the established grade of the site, or 192.5 feet NAVD88. (City of Newport Beach, 2020b, p. 7)

Architectural features would be allowed to exceed the maximum building height up to 2 feet. Architectural features include the building rooftop edge and other decorative rooftop features defined as visually prominent or formally significant elements of a building that express its architectural style.

Architectural features would be logical extensions of the massing, details, materials, and color of the building which complement and celebrate its overall aesthetic character. Such features would be an extension of the architectural style of the building in terms of materials, design, and color. (City of Newport Beach, 2020b, pp. 7-8). Thus, the maximum height of any vertical structure would be 54 feet 11 inches from the established grade (52 feet 11 inches for maximum building height plus 2 feet for architectural features that extend above the roof).

Rooftop appurtenances are permitted and may exceed the maximum building height by 7 feet, up to 227 feet 8 inches NAVD88. Rooftop appurtenances include, but are not limited to, stairwell and elevator shaft housing, antennae, window washing equipment, and wireless communication facilities. The mechanical equipment for the proposed Project is planned to be located in the subterranean parking garage and not on the roof of the building. Rooftop appurtenances would not exceed 30 percent of the overall roof area and would be focused toward the interior of the building footprint. Rooftop appurtenances are required to be screened from view and the height of rooftop appurtenances would not exceed the height of the screening. Supports for window washing equipment are permitted and are not required to be screened from view. Rooftop appurtenances within the 7-foot height limitation are subject to the review and approval of the Planning Division. (City of Newport Beach, 2020b, p. 7)

3.5.7 Private Open Space and Common Open Space

For a standard multi-family residential use, the City of Newport Beach requires a minimum of 75 S.F. of common open space per dwelling unit. Therefore, the Project is required to provide a minimum of 2,190 S.F. of common open space. The Project includes a series of common outdoor living areas that include a dog run, open plazas, and landscaped seating area adjacent to the lobby and pool area. The pool area and deck (common outdoor open space) provide for approximately 3,600 S.F. of common open space, which complies with the minimum standard. As part of the PCDP application, the applicant may establish standards that deviate from the NBMC. The proposed PCDP requires a minimum of 5% of the lot area for common open space with a minimum dimension of 15 feet, or approximately 2,736 S.F. The proposed 3,600 S.F. of common open space complies with the PCDP standard.

The NBMC requires that a minimum of 5% of the gross floor area per unit shall be provided for private open space, or approximately 2,736 S.F. All of the proposed residential units provide private outdoor living space in the form of private patios and terraces, which provide approximately 12,230 S.F. of private open space in compliance with the NBMC standard. (Stearns Architecture, 2020). The PCDP requires a minimum of 30 S.F. of private open space per dwelling unit (6 feet by 5 feet minimum dimension), or 840 S.F. of private open space. The proposed 12,230 S.F. of private open space is compliant with this standard.

3.5.8 Conceptual Landscape Plan

As depicted on Figure 3-9, *Conceptual Landscape Plan,* landscaping would be provided on the perimeter of the site and throughout the site in open areas. The Project would provide approximately 8,997 S.F. of landscaped area. All setback areas are proposed to be landscaped with a variety of ornamental groundcover, vines, shrubs, and trees meeting City Municipal Code Title 14, Chapter 14.17, Water-Efficient Landscaping, which requires water use reduction associated with landscaping.

As shown on Figure 3-10, *Tree Plan, Notes and Plant Palette,* a variety of shrubs and trees would be planted along the building's perimeter that are suitable to that particular hydrozone, and medium/low enhanced shrubs would be planted in the pool and courtyard area. In the limited site area near the main entry and the front façade of the building facing Anacapa Drive, all tree branches would be trimmed to 8-feet high above finish grade and all shrubs within the limited area would be maintained at 24-inches high maximum. All above-ground utilities would be screened with evergreen plant materials and meet the Newport Beach Fire Department, Southern California Edison (SCE) and Gas Co. clearance requirements. Screen trees would be planted at the western property line. Three existing trees (Mexican Fan Palm) along Newport Center Drive would be protected in place and four existing trees (Brazilian peppertree) would be removed.

3.5.9 Lighting

Proposed exterior site lighting would be installed as necessary for safety, security, and ambiance, including lighting for parking areas, pedestrian walkways, architectural elements, and landscape features. The lighting design would consist of building wall-mounted light fixtures that would provide the required light level to provide adequate security pursuant to the City's Municipal Code without encroaching beyond the site boundary.

Pursuant to the PCDP, all new outdoor lighting shall be designed, shielded, aimed, located and maintained to shield adjacent uses/properties and to not produce glare onto adjacent uses/properties. Lighting plans shall be prepared in compliance with Chapter 20.30.040 (Outdoor Lighting) of the City's Municipal Code. All lighting and lighting fixtures that are provided shall be maintained in accordance with the approved lighting plans. Light fixtures on buildings shall be full cut-off fixtures. Light spillover may not exceed one foot-candle at the subject property line. Lighting of building interior common areas, exteriors and parking entrances shall be developed in accordance with City Standards and shall be designed and maintained in a manner which minimizes impacts on adjacent land uses. Nighttime lighting shall be limited to that necessary for security. (City of Newport Beach, 2020b, p. 9)

3.6 Construction Characteristics

Prior to the construction of the proposed Project, a final construction management plan is required to be prepared by the Project Applicant that would be reviewed and approved by City of Newport Beach. The Project Applicant's *Preliminary Construction Management Plan* is on file with the City of Newport Beach, which contains details including, but not limited to, the expected construction hours, construction equipment fleet, number of construction workers, locations of off-site parking areas for construction worker and equipment parking, the anticipated schedule to shuttle construction workers to and from the Project site, and requirements for secured materials storage. The following narrative is based on the proposed Project's *Preliminary Construction Management Plan* and provides a description of the Project's technical construction characteristics.

3.6.1 Grading and Excavation Plan

The Conceptual Grading Plan indicates that the Project's grading operation would excavate approximately 33,000 cubic yards of raw cut, all of which would be exported from the Project site to the Frank R. Bowerman Landfill in the City of Irvine. Per the Project's civil engineer, the depth to grading for excavation of the Project's subterranean parking structure is estimated to be approximately 22 feet on the north side, adjacent to Newport Center Drive, and approximately 12 feet deep or less on the south side.

3.6.2 Construction Schedule and Equipment

The estimated construction schedule for the proposed Project is expected to commence in early 2022 and continue for the duration of 19 months to mid-2023. Grading and excavation are scheduled to commence in the first quarter of 2022 and vertical construction of the residential building is expected 5 months from completion of the subterranean parking, which is expected to take approximately 7 months. Table 3-1, *Modeled Construction Duration* and Table 3-2, *Modeled Construction Equipment* are based on the Project Applicant's *Preliminary Construction Management Plan* and as modeled for the purposes of the Project's air quality analysis. (Snyder Langston, 2020, p. 5)

Construction activities are restricted by the City to non-holiday weekdays from 7:00 AM to 6:30 PM, per City of Newport Beach Municipal Code Section 10.28.040. On Saturday, construction noise is limited to the hours of between 8:00 AM. and 6:00 PM, and no construction is allowed on federal holidays or Sundays. Although not anticipated at this time, any activity outside of the specified hours is required to be authorized in writing by the Building Official. (Snyder Langston, 2020, p. 5)

Table 3-1 Modeled Construction Duration

Phase Name	Subphases	Phase Modeled in CalEEMod	Days
Site Work	Demolition	Demolition	35
	Street Improvements	Site Preparation	70
	Caisson Placement		
	Lagging		
	Grading	Grading	30
Parking Structure	Concrete Placement	Paving	170
	Site Drainage		
	Shotcrete		
Superstructure	Precast Wall System	Building Construction	125
	Mechanical, Electrical, Plumbing, Wall/Door, and Large Tree Installation		

Interior	Interior Finishes	Architectural Coating	50
	Softscape Installation		
	Hardscape Installation		
	Passenger Elevators Installation		

(Urban Crossroads, Inc., 2020a, Table 3)

Table 3-2 Modeled Construction Equipment

Phase Name	Phase Modeled in CalEEMod	Equipment	Amount	Hours Per Day
Site Work	Demolition	Compressor	1	8
		Concrete Mixer and Pumper	1	8
		Conveyor (electrical)	1	8
		Dozers	1	8
		Drill Rig	1	8
		Dump Trucks	1	8
		Excavators	1	8
		Flatbed Delivery Trucks	1	8
		Loader	1	8
		Ram Hoe	1	8
	Site Preparation	Compressor	1	8
		Concrete Mixer and Pumper	1	8
		Conveyor (electrical)	1	8
		Dozers	1	8
		Drill Rig	1	8
		Dump Trucks	1	8
		Excavators	1	8
		Flatbed Delivery Trucks	1	8
		Loader	1	8
		Ram Hoe	1	8
Site Work	Grading	Compressor	1	8
		Concrete Mixer and Pumper	1	8
		Conveyor (electrical)	1	8
		Dozers	1	8
		Drill Rig	1	8

		Dump Trucks	1	8
		Excavators	1	8
		Flatbed Delivery Trucks	1	8
		Loader	1	8
		Ram Hoe	1	8
Parking Structure	Paving	Backhoe	1	8
		Concrete Mixer and Pumper	1	8
		Crane	1	8
		Flatbed Delivery Trucks	1	8
		Drill Rig	1	8
Superstructure	Building Construction	Compressors	1	8
		Flatbed Delivery Trucks	1	8
		Masonry Saws	1	8
		Metal Stud Plasma Cutter	1	8
		Crane	1	8
		Roto Hammers	1	8
		Shot Pin Applicators	1	8
		Small Stationary Power/Hand Tools	1	8
Interior	Architectural Coating	Compressors	1	8
		Flatbed Delivery Trucks	1	8
		Masonry Saws	1	8
		Roto Hammers	1	8
		Skill Saws	1	8
		Small Stationary Power/Hand Tools	1	8
		Small Cement Mixer	1	8

(Urban Crossroads, Inc., 2020a, Table 5)

3.6.3 Construction Personnel Trip Generation and Parking

The total number of construction personnel at the Project site would vary depending on the construction activity. However, it is expected that there would be an average of 40 workers daily at the jobsite during construction of the site work and parking structure. During construction of the super structure and the interiors, it is expected that there would be an average of 70-80 workers on site. (Snyder Langston, 2020, p. 5)

Construction workers would be prohibited from parking on the Project site or in the public right-of-way during construction of the parking garage. The Project Applicant anticipates securing one or more binding off-site parking agreements to accommodate the varying number of workers needed for each construction stage. A proposed Draft Memorandum of Understanding (MOU) with The Tennis Club

Newport Beach (1602 East Coast Highway) is provided with the Project's *Preliminary Construction Management Plan*. Additional parking is currently being considered by Newport Harbor Lutheran Church and School. The off-site parking location(s) would be within a 5.0-mile radius of the Project site. The final off-site parking agreement(s) would be submitted to the City prior to the issuance of the permits. The agreement(s) would ensure that the off-site parking locations would commit a sufficient number of spaces for the construction workers during the relevant term, and that the off-site location(s) possesses the proper permits and authority to rent the subject spaces. (Snyder Langston, 2020, p. 7)

Shuttles would transfer construction workers from the proposed construction parking area at the Tennis Club to the on-site subcontractor shuttle drop-off destination at the Project site. Two or more, ten (10) passenger shuttle vans as required, would run up to 6-8 trips each morning and evening and up to 5 trips at lunch time, assuming that some workers would stay at the jobsite during lunch. Carpooling among construction workers would be encouraged throughout Project construction. Shuttle drop-off and pick-up would be prohibited in the public right-of-way. (Snyder Langston, 2020, p. 7)

Construction workers would be prohibited from short-term parking on site. Compliance with this prohibition would be monitored daily by the construction valet and flagmen team. This prohibition would not apply to short term visitors to the Project site such as City inspectors, City staff, architects, and consultants. Carpooling would also be encouraged among professionals. Once the parking garage is completed, some workers would be permitted to park within the completed parking areas. At this time, it is anticipated that approximately 75 cars may be able to park on-site in the parking structure on Level B-1 and B-2 in addition to off-site parking. (Snyder Langston, 2020, p. 7)

3.6.4 Staging Areas

During the demolition phase, heavy and light equipment would be stored on-site. After the demolition stage, the drill rig for the shoring beams as well as the excavation equipment would be located on-site within the building footprint. The proposed haul route would be followed to haul away debris. (Snyder Langston, 2020, p. 7)

During excavation, two temporary ramps would be created, one for the entry of trucks and equipment and the other for egress. After excavating down to the B-2 of the parking structure, the two ramps would be removed with a long reach excavator and another piece of equipment would be left down at subgrade to feed the other at-grade excavator. Currently the (closed) County landfill near Newport Coast Drive and San Joaquin Hills (approximately 2.5 miles from the Project site) is proposed as a truck queuing station. Construction equipment would stay on-site during excavation and shoring. Construction truck staging would not be permitted within the public right-of-way. (Snyder Langston, 2020, p. 7)

Once all of the shoring and excavation is complete, placement of rebar and concrete would start. The duration of the rebar and concrete is planned for 7 months. Unloading of rebar would take place in the Loading / Unloading zone on-site. Special requests for a Temporary Street and Sidewalk Closure Permit would be made as necessary for unloading materials from the street if the site cannot accommodate the size of the trucks. Prior to the rebar and necessary forming being performed, the

contractor and owner would determine and convey the most suitable option(s) from those listed below, to the City in order to execute the concrete operation. (Snyder Langston, 2020, p. 8)

The first option would be to request a Temporary Street and Sidewalk Closure Permit to operate the concrete boom-pump from Anacapa Street frontage. Full street closures of Anacapa Drive are not permitted. An Engineered Traffic Control Plan which conforms to California Manual on Uniform Traffic Control Devices (MUTCD) and the City of Newport Beach would be submitted to accommodate the boom pump which would require one of the existing four lanes; one southbound and two northbound lanes would be maintained on Anacapa Drive. The Ready-Mix Trucks would be queued on-site. The current pour sequence consists of up to two separate pour days that would last approximately eight hours which includes set-up and take-down. Once the equipment is taken down for the day, all four lanes would be returned to traffic. The second option would include queuing and unloading of cement trucks and concrete ready mix in a trailer pump hopper to the tower crane, which would eliminate the need for a boom pump and lane closure (Snyder Langston, 2020, p. 8).

From time to time, a temporary street and sidewalk closure permit would be required for short duration, of periods less than two weeks, to allow temporary use of a lane and a (10-foot 5-inches) in the City right-of-way measured from the property line for the purpose of crane erection - dismantling, installation of wet and dry utilities, lifting of mechanical pack units, landscape and hardscape materials on the roof and public street and right-of-way improvements such as curb, asphalt, sidewalk and landscaping. Temporary closures would not be used for parking of personal construction vehicles or staging of construction vehicles. Depending on the construction timeline, vehicle parking would be at an off-site location(s) and upon the completion of the parking garage, on-site at Level B1 of the structure. Closures of lanes or public rights-of-way would not extend beyond two-week periods. (Snyder Langston, 2020, p. 8)

All other interior trades would be able to take advantage of stocking material and small equipment in the parking structure. The parking structure can provide easy access to equipment and materials throughout multiple phases of the project. There would be no off-site storage locations for equipment and material. Small equipment and tools would be stored on-site in the Storage Facility / Lock Boxes. (Snyder Langston, 2020, p. 8)

3.6.5 Construction Office, Materials Storage, and Waste Management

The Project Applicant may lease space in one of the existing buildings surrounding the Project site, for use as a construction office for the Contractor's project staff. The office would be equipped with power, computers, and a printer/scanner. Temporary toilet facilities would be provided on the Project site. Once the 2nd level parking is constructed, dedicated storage areas and lockboxes would be provided for each trade to store their tools and materials on-site for the duration of construction. Lockboxes and construction storage would be located on the northwest end of the site during vertical construction of the building. (Snyder Langston, 2020, pp. 8-9)

3.6.6 Traffic Control During Construction Activities

A. Haul Routes

A haul route permit would be required from the Public Works Department and the proposed haul route operations would be monitored by the contractor. Additional restrictions may be imposed by the Public Works Department if traffic congestion problems arise. During excavation and haul, to reach Highway 73 from the site, turn left on Anacapa, right on Newport Center Drive, right on San Miguel, and left on to MacArthur Boulevard. The trucks that are staged at the County landfill route would exit the parking and turn tight on Newport Coast Drive, right onto San Joaquin Hills Rd, left on San Miguel, left on Newport Center Drive and left on Anacapa Drive. (Snyder Langston, 2020, p. 10)

B. Delivery Requirements

All deliveries would use the Haul Route. As mentioned above, the contractor would request a temporary street and sidewalk closure permit for no more than two weeks. Loading and unloading of all construction materials/equipment and/or construction vehicles would take place on site or within the staging area unless the site cannot accommodate the delivery truck or the equipment materials being unloaded. Loading and unloading would be managed by the construction team and overseen by the contractor. Dump trucks would arrive at the site and no queuing would be permitted in public streets or rights-of-way. On-site, the contractor would optimize the space available to queue the cement trucks as required by the concrete subcontractor so as to provide sufficient capacity for the boom truck to operate. Once the delivery is complete, the trucks would exit the Project area using the approved haul route. All trucks would be required to shut off their engines during the loading/off-loading process. (Snyder Langston, 2020, p. 10)

The majority of the trucks used for construction of the site and parking garage would be dump trucks, cement mixers, and cement boom pumps. Construction of the superstructure and interiors would require mostly flat bed delivery trucks and vans. To prevent obstruction of through traffic lanes adjacent to the site, a flag person would be retained to maintain safety adjacent to existing roadways. (Snyder Langston, 2020, p. 10)

C. Traffic Control Plan

Traffic control would be coordinated with the Police Department and the Public Works Department so that street traffic is not obstructed. A temporary street and sidewalk closure permit is required for the closure of any portion of the public right-of- way. A plan to control pedestrian traffic would be provided in compliance with the Conditions of Approval upon receipt of the project entitlements (Snyder Langston, 2020, pp. 10-11)

D. Construction Safety and Security

The Project site would be temporarily fenced with a 7-foot-high construction fence prior to the start of grading. More specifically, polyethylene mesh covered chain link fencing compliant with STD 230-L-A & STD-L-B would be installed on both sides of the property facing the adjacent neighbors and would be installed to provide a 4-foot path of pedestrian travel. Pedestrian overhead canopies would be

installed in areas where demolition of the existing building is 10 feet or less from the fence line. (Snyder Langston, 2020, p. 11)

Appropriate signage would be posted at the site, including "Hard Hat Area," "Think Safety" and other visitor and delivery information. Daily safety inspections would be done by the onsite superintendent. Snyder Langston would be obligated to prepare and submit a site-specific safety plan to the Construction Superintendent and/or the City Building Official prior to mobilization. (Snyder Langston, 2020, p. 11)

E. Off-Site Improvements

Existing ornamental street trees would be removed along both sides of Anacapa Drive and new trees and landscaping would be planted on both sides of Anacapa Drive to provide enhanced landscaping as part of the Project. The existing median located immediately south of the Project site would be filled in and landscaped to direct traffic flow in and out of the proposed southern garage entry/exit. Property owner authorization to modify the existing median south of the Project site would be required as a condition of approval for the Project.

F. Conceptual Utility Plan

The Project's plans include a conceptual utility plan that depicts the location of existing and proposed electric vaults, sanitary sewer lines, fire hydrants, sewer laterals, water lines, sewer lines, and utility easements. Existing storm drains and private catch basins are also indicated on the plan.

In a letter dated March 9, 2020, the Project Applicant requested a waiver from the City of Newport Beach Utilities Department, in order to minimize the number of street cuts required for connecting to the existing sewer and water lines in Newport Center Drive and Anacapa Drive and to minimize the number of water meters, backflow preventers and sewer lateral lines and cleanouts requiring maintenance. The waiver was also requested to reduce the impact of the utility services on the landscaping between the street curb and the proposed building. (City of Newport Beach Utilities Director, 2020)

Water service to each of the units and the building amenities would be provided by a single 6-inch service, meter and backflow preventer. A separate service and meter would be provided for landscape irrigation. There would be four separate sewer lateral lines running from the building to the sewer main in street, each serving an average of approximately 7 units. Wastewater would be collected from each of the units and combined in a pipe inside the garage. It would then be conveyed to a point of connection outside the garage to a sewer lateral which connects to the main line in the street. (City of Newport Beach Utilities Director, 2020)

In a Memorandum dated April 20, 2020, a waiver of industrial and sewer connections was granted to the Project Applicant by the City of Newport Beach Utilities Department to allow common water and sewer connections, stating that the use would not be detrimental to the residents or tenants of the property or surrounding properties. A Homeowners Association would be formed and would be

responsible for the cost of water and service provided by the City of Newport Beach. (City of Newport Beach Utilities Director, 2020)

All water and sewer connections for the proposed Project would be reviewed for compliance with current City standards and require approval from the Utilities Department through the Building plan check process. (City of Newport Beach Utilities Director, 2020)

G. Demolition Activities

To construct the Project, the existing structures and associated site improvements would be demolished and removed from the site. On-site demolition activities would occur over a period of approximately one month and are projected to be comprised of approximately 80 tons of construction debris, 240 cubic yards of concrete, and 620 cubic yards of asphalt. Demolition debris and excavated soils would be disposed of at the Frank R. Bowerman Sanitary Landfill, located at 11002 Bee Canyon Access Road in Irvine (approximately 15 roadway miles from the Project site). The existing steel fuel tanks used by the existing gas station would be removed and conveyed to a metal scrapping facility and any remnant liquids, including fuel, would be pumped out and disposed of in compliance with all applicable State of California hazardous materials procedures. The scrapping facility would reuse or dispose of the scrapped metal pursuant to its standard business practices. The Project would be subject to the City's Recycling Service Fee pursuant to Municipal Code Title 2, Chapter 2.30 (Recycle Service Fee), which assists the City in meeting its solid waste diversion objective.

3.7 PROPOSED DISCRETIONARY APPROVALS

The Project involves applications for a Development Agreement, a General Plan Amendment, a Zoning Code Amendment, Planned Community Development Plan, a Major Site Development Review, and a Tentative Tract Map as described below.

3.7.1 DEVELOPMENT AGREEMENT NO. DA2020-001

The Project Applicant and the City of Newport Beach propose to enter into a Development Agreement for the proposed Project. California Government Code Sections 65864-65869.5 authorize the use of development agreements between any city, county, or city and county, with any person having a legal or equitable interest in real property for the development of the property. The Development Agreement would provide the Project Applicant with the assurance that the development of the Project may proceed subject to the rules and regulations in effect at the time of Project approval. The Development Agreement also would provide the City of Newport Beach with the assurance that certain obligations of the Project Applicant would be met, including but not limited to, how the Project would be constructed, the required installation of public improvements, the Applicant's contribution toward funding community improvements, and other conditions.

3.7.2 GENERAL PLAN AMENDMENT NO. GP2020-001

The Project Applicant's proposed General Plan Amendment No. GP2020-001 would change the Project site's existing land use designation from Regional Commercial Office (CO-R) to Multiple Residential (RM). Refer to Figure 3-11, *Proposed General Plan Amendment No. GP2020-001*.

As stated in the General Plan, the RM land use designation is intended to provide primarily for multi-family residential development containing attached or detached dwelling units (City of Newport Beach, 2006a, Table LU1). An amendment to the General Plan Table LU2 (Anomaly Locations), would be required to create a new Anomaly Location for the Project site that authorizes a maximum development density of 28 units. The new Anomaly would be created to accommodate the increase in dwelling units within the Statistical Area. The Project site is currently included within Anomaly 35, which allows a maximum development intensity of 199,095 square feet. Therefore, Anomaly 35 would be amended to reduce the allowed commercial square footage from 199,095 square feet to 197,010 square feet, reflecting the removal of the carwash buildings on the project site.

3.7.3 Zoning Code Amendment No. CA2020-008

The City of Newport Beach Zoning Code is contained as Title 20 "Planning and Zoning" of the City's Municipal Code. Under existing conditions, the Project site is located within the "OR (Office Regional) Zoning District." The on-site gas station is an ancillary use to the car wash, which is permitted via a use permit in the OR zone (Use Permit No. UP1461). The Project Applicant's proposed Zoning Code Amendment No. CA2020-008 seeks to change the site's existing zoning classification from OR to the "PC (Planned Community District)" zoning classification as shown in Figure 3-12, *Proposed Zoning Code Amendment No. CA2020-008.* According to City Municipal Code Section 20.26.010(B) (Planned Community Zoning District), the PC Zoning District is intended to provide for areas appropriate for the development of coordinated, comprehensive projects that result in a superior environment (City of Newport Beach, 2020a)

3.7.4 Planned Community Development Plan No. PC2020-001

The Project Applicant proposes a Planned Community (PC) Development Plan (PCDP) to ensure broader coordination and consistency with the surrounding neighborhood, including a higher level of architectural quality supporting the Newport Center environment. Chapter 20.56 (Planned Community Development District Procedures) of the City of Newport Beach Zoning Code regulates the establishment of a PC. The ordinance allows for the diversification of uses as they relate to each other in a physical and environmental arrangement while ensuring substantial compliance with the spirit, intent, and provisions of the Zoning Code. Section 20.56.020 (Area Requirements) of the Zoning Code identifies a minimum acreage requirement of 10 acres of improved land area for the establishment of a PC District. As allowed by this Zoning Code Section, the Project Applicant is requesting City Council to waive the minimum acreage requirement to establish the proposed PC, because the Project site is 1.26 acres in size.

The PC District is a designation given to land for which a PC has been prepared and the PC is the document that identifies land use relationships and associated development standards for that PC District (City of Newport Beach, 2006a, p. 5-85). The Project Applicant's proposed PCDP includes a specific set of standards and procedures for implementation and continuation of dwelling units within Statistical Area L1 while ensuring substantial compliance with the spirit, intent, and provisions of the Zoning Code. The Project's proposed PCDP text identifies general conditions and regulations and provides for land use and development regulations for the Project site. The proposed PC Development Plan Text is under review with the City of Newport Beach. Where the standards of the PC Development Plan Text conflict with the regulations of the Newport Beach Municipal Code, the

regulations contained in the PC Development Plan Text would take precedence. The Newport Beach Municipal Code would continue to regulate all development within the PCDP when such regulations are not provided within the PCDP Text.

3.7.5 Major Site Development Review No. SD2020-001

Because the Project would consist of a residential development with five or more dwelling units with a tentative map, Major Site Development Review No. SD2020-001 is required to fulfill the requirements of Newport Beach Municipal Code Section 20.52.080 (Site Development Reviews). The primary purpose of the site development review is to review the Project plans for compliance with the proposed PCDP text. As part of Major Site Development Review No. SD2020-001, the City would review the Project's Plans, inclusive of the Tentative Tract Map and Site Plan.

3.7.6 Tentative Tract Map No. NT2020-001

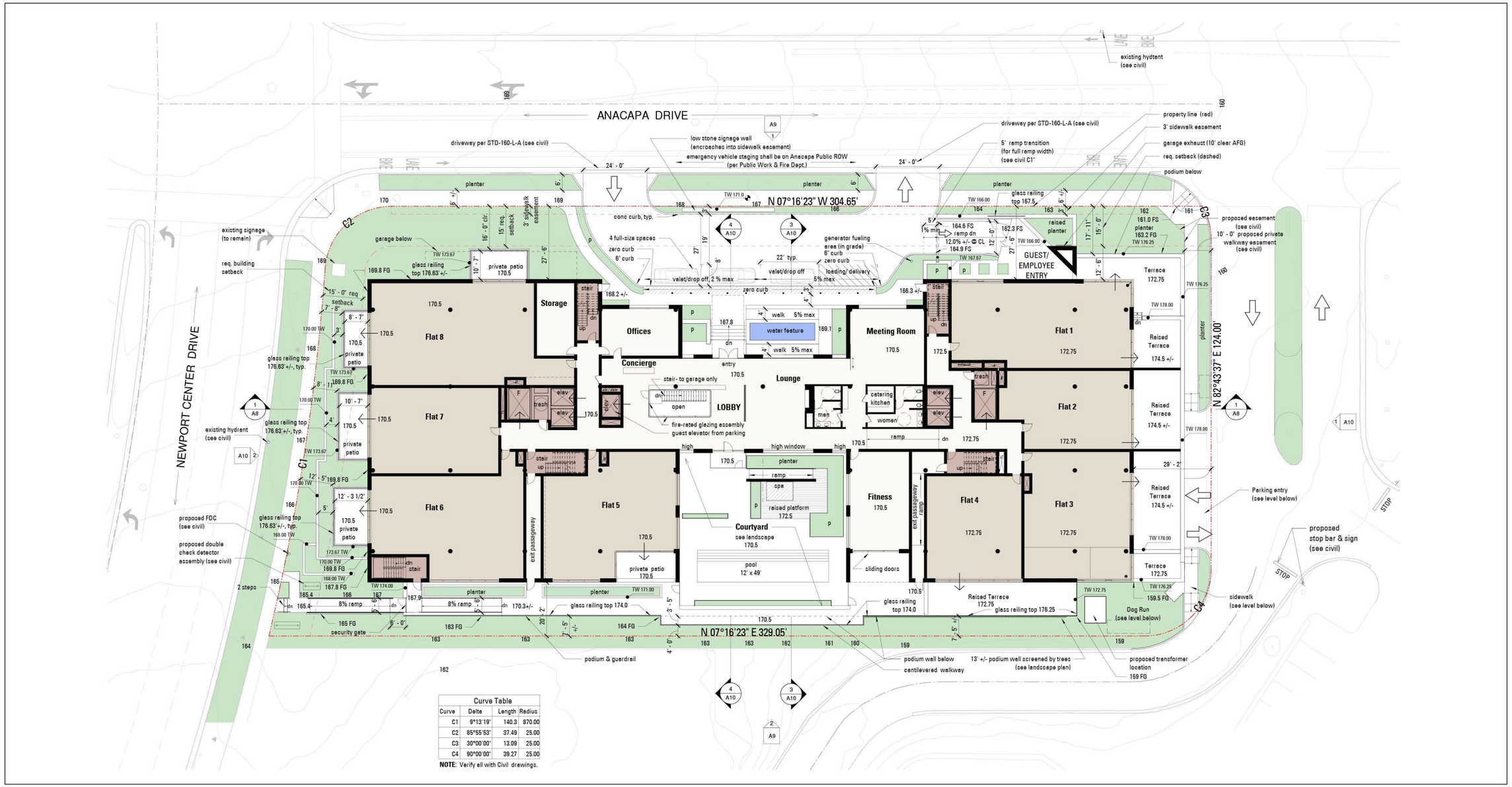
The Applicant proposes a condominium subdivision map to establish a 28-unit residential condominium tract on the 1.26-acre Project site. Tentative Tract Map No. NT2020-001 provides a legal description for the Project site and shows the location of proposed and existing sewer lines, sewer lateral, existing driveway easements, fire hydrants, domestic and irrigation water lines, fire water lines, electric vaults, and the location of the existing building on-site to be demolished. The Tentative Tract Map would allow each condominium unit to be sold individually.

3.8 Approvals Required from Other Agencies

The following are the known approvals that would be required by other agencies:

- *Santa Ana Regional Water Quality Control Board (RWQCB), National Pollutant Discharge Elimination System (NPDES) Permit*. NPDES permits apply to construction sites of one acre or more. Project construction would disturb more than one acre of land; therefore, a NPDES Permit from the Santa Ana RWQCB would be required.

- *Orange County Health Care Agency (OCHCA), Approvals for Underground Storage Tank Removal*. The Project would require approval from the OCHCA, which oversees the underground storage tank (UST) inspection program throughout Orange County, including the City of Newport Beach. The purpose of the OCHCA UST inspection program is to ensure that hazardous materials stored in USTs are not released into the environment. The Project entails the removal of three existing 12,000-gallon USTs during the construction process; therefore, to ensure no hazardous materials are released during the removal process, the OCHCA would be required to approve the removal.



Curve Table			
Curve	Delta	Length	Radius
C1	9°13'19"	140.3	870.00
C2	85°55'53"	37.49	25.00
C3	30°00'00"	13.09	25.00
C4	90°00'00"	39.27	25.00

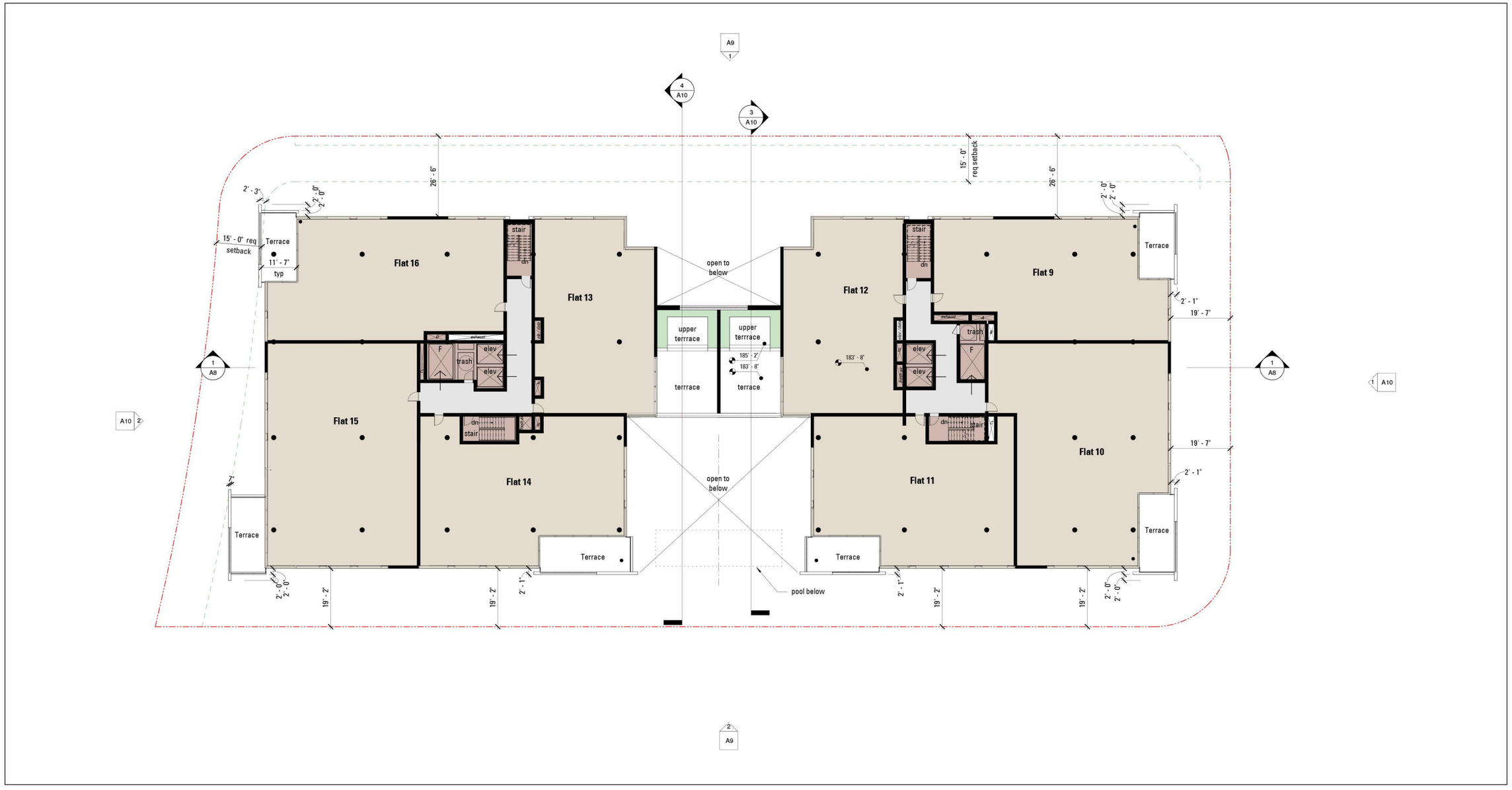
NOTE: Verify all with Civil drawings.

Source(s): Stearns Architecture (03-12-2021)

Figure 3-1

Not to Scale

Conceptual 1st Floor / Site Plan

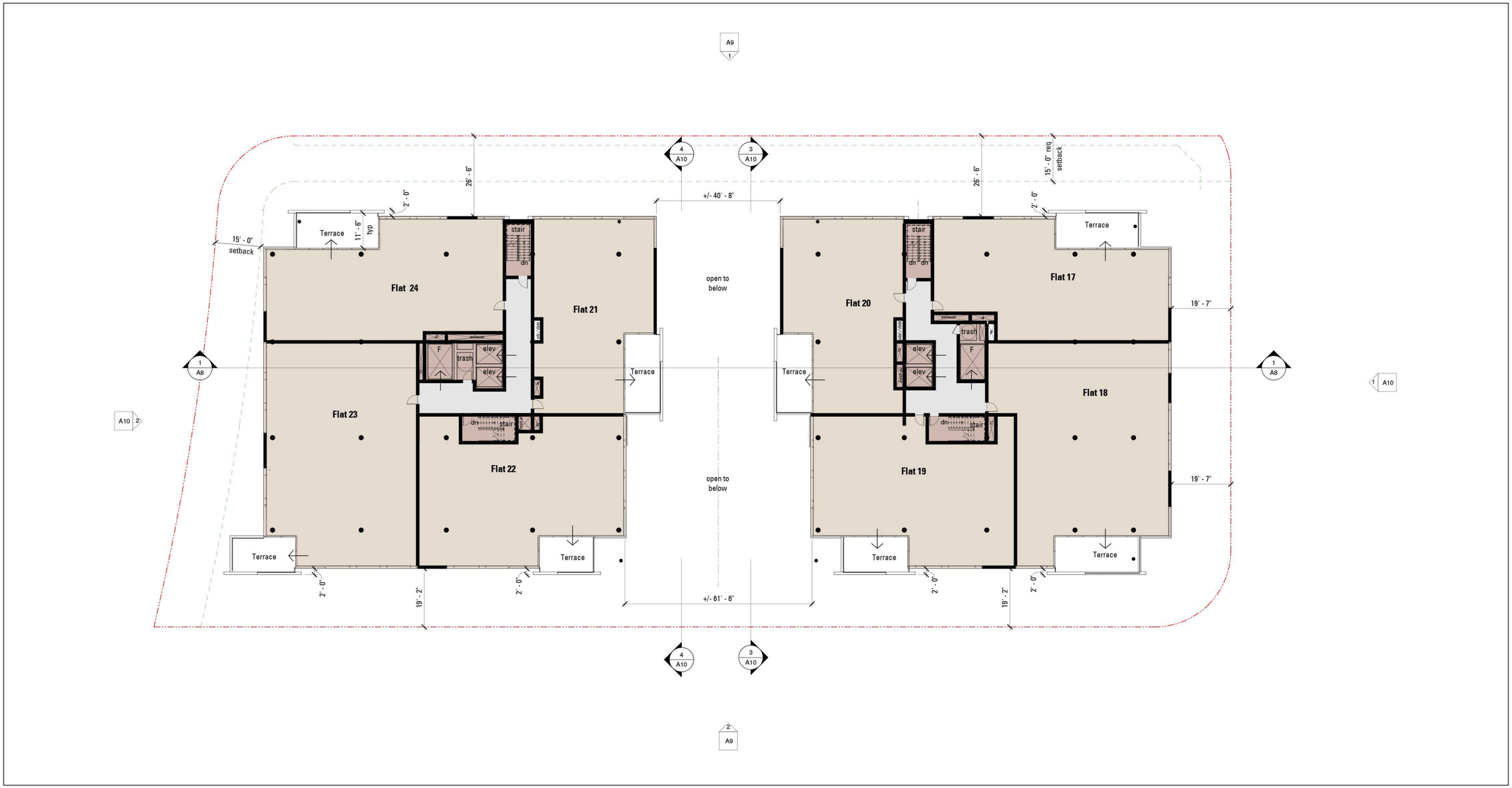


Source(s): Stearns Architecture (03-12-2021)

Figure 3-2

Not to Scale

Conceptual 2nd Floor Plan

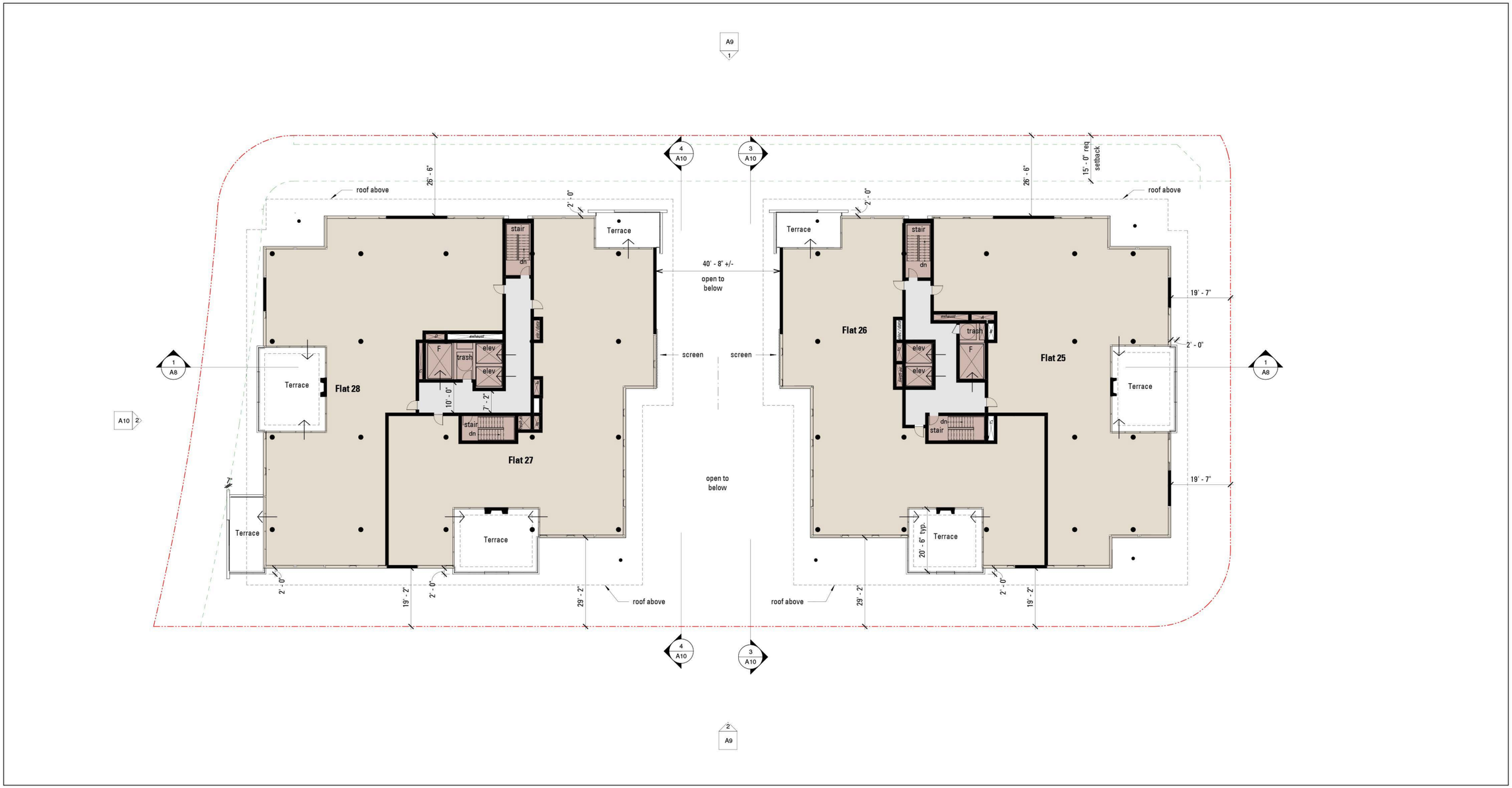


Source(s): Stearns Architecture (03-12-2021)

Figure 3-3

Not to Scale

Conceptual 3rd Floor Plan

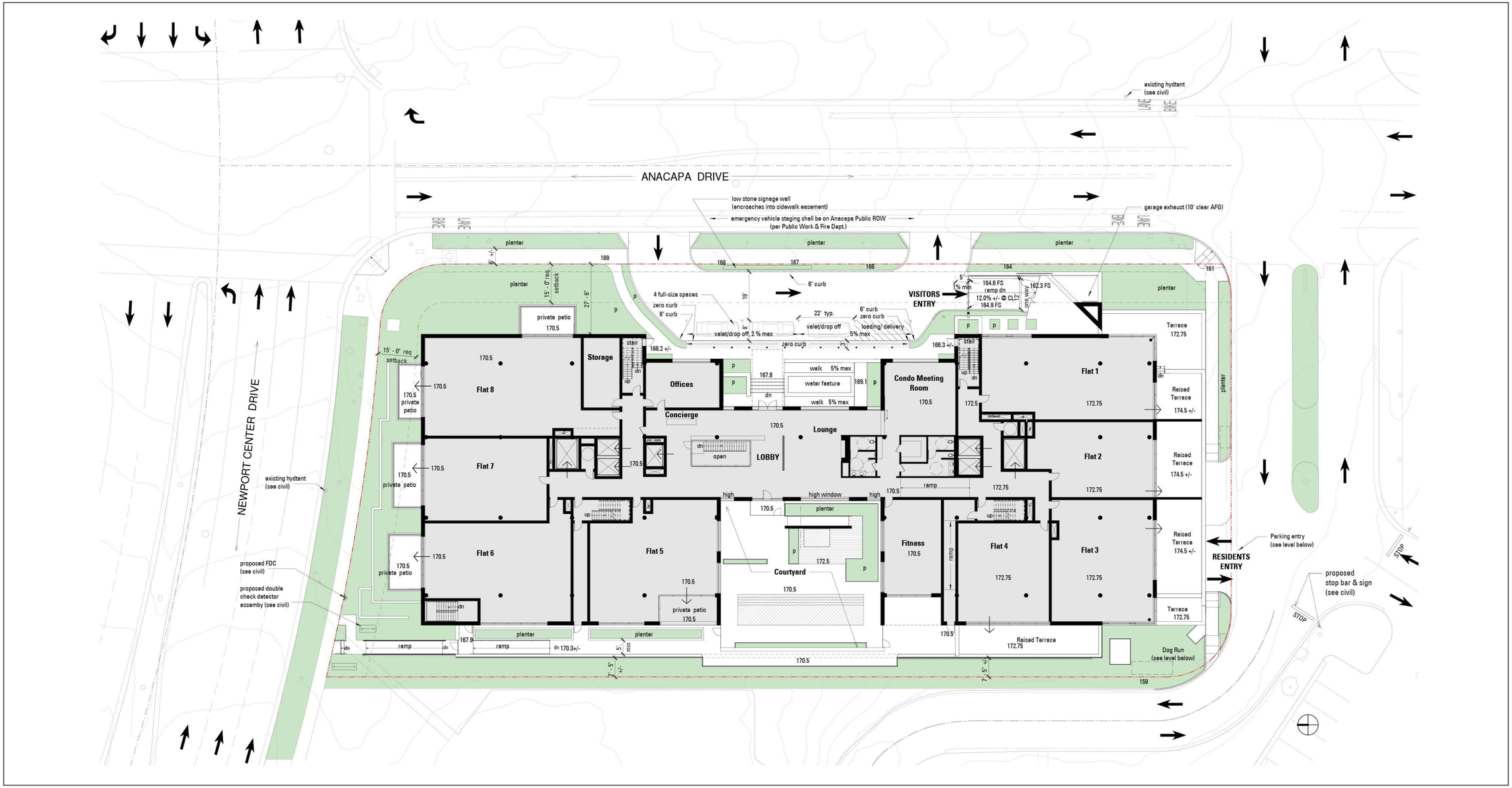


Source(s): Stearns Architecture (03-12-2021)

Figure 3-4

Not to Scale

Conceptual 4th Floor Plan

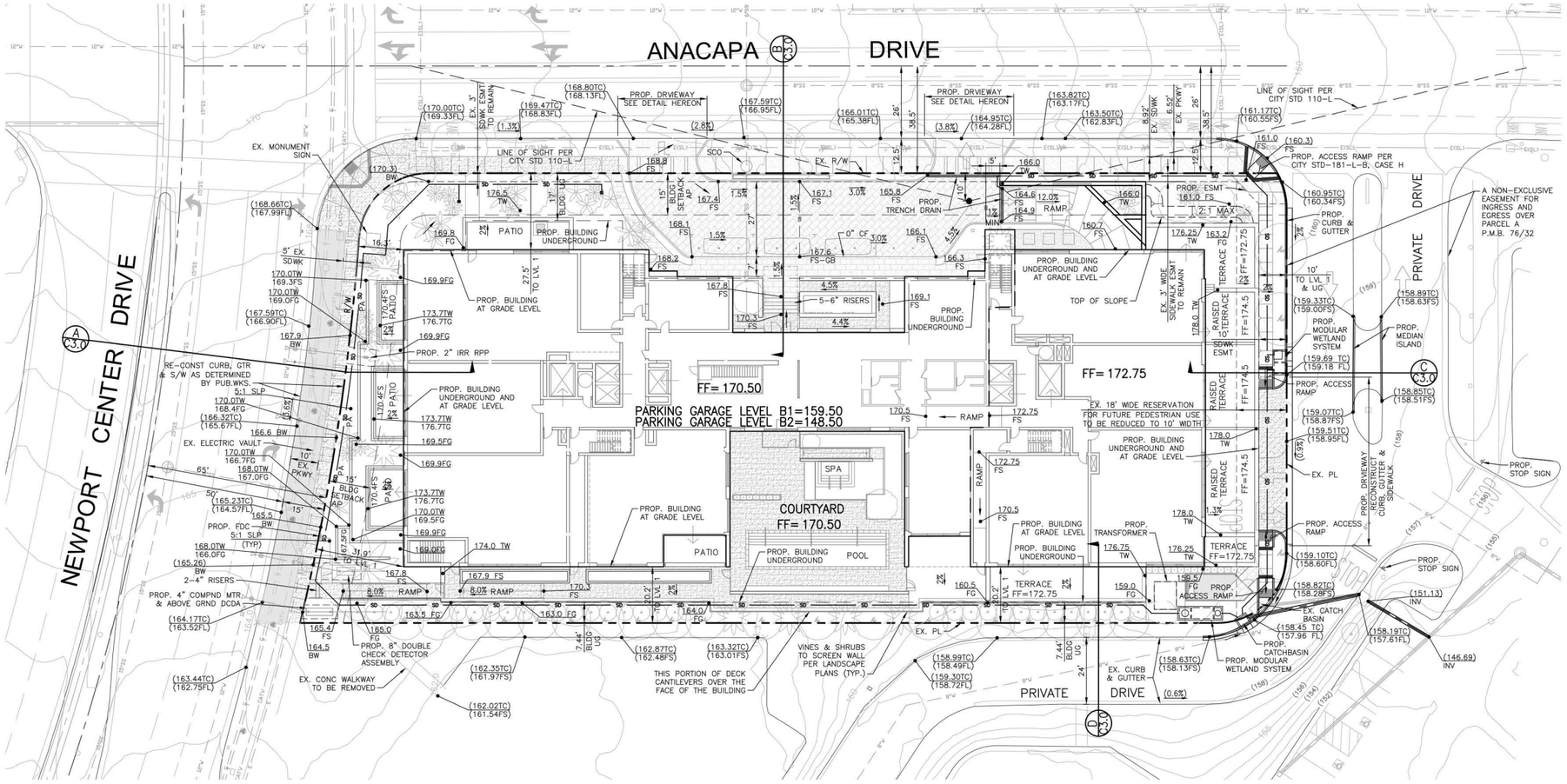


Source(s): Stearns Architecture (03-12-2021)

Figure 3-5

Not to Scale

Traffic Circulation - 1st Floor



NOTES:

1. ANACAPA DRIVE STREET IMPROVEMENTS PLANS TO BE PREPARED DURING CONSTRUCTION DOCUMENT PHASE
2. CURB, GUTTER & SIDEWALK ALONG NEWPORT CENTER DRIVE AND ANACAPA DRIVE TO BE RECONSTRUCTED AS DETERMINED BY PUBLIC WORKS
3. ANACAPA DRIVE AND NEWPORT CENTER DRIVE EAST ARE ON THE CITY'S STREET-CUT MORATORIUM LIST. TRENCHING/DAMAGE TO SAID STREET WILL REQUIRE EXTENSIVE STREET REPAIR PER CITY STANDARD STD-105-L-F
4. APPLICANT SHALL ESTABLISH SURVEY POINTS WITHIN THE PUBLIC RIGHT-OF-WAY ALONG THE PROJECT FRONTAGES OF ANACAPA DRIVE AND NEWPORT CENTER DRIVE EAST TO MONITOR MOVEMENT OF CITY FACILITIES (UTILITIES, SIDEWALK, STREET, ETC) DUE TO THE CONSTRUCTION OF THE PROPOSED PROJECT. ANY DAMAGE TO SAID CITY FACILITIES SHALL BE REPAIRED AT THE PROJECT SOLE EXPENSE.

LEGEND:

AP	ABOVE PODIUM
BLDG	BUILDING
BP	BELOW PODIUM
BW	BACK OF WALK
CF	CURB FACE
CONC	CONCRETE
ESMT	EASEMENT
EX.	EXISTING
FDC	FIRE DEPARTMENT CONNECTION
FL	FLOW LINE
FF	FINISH FLOOR
FG	FINISH GROUND
FS	FINISH SURFACE
GB	GRADE BREAK
H	HEIGHT
INV	INVERT
LVL	LEVEL
MAX	MAXIMUM
MIN	MINIMUM
PD	PODIUM
PKWY	PARKWAY
PL	PROPERTY LINE
POC	POINT OF CONNECTION
PROP	PROPOSED
R/W	RIGHT OF WAY
SCO	SEWER CLEANOUT
SDWK	SIDEWALK
SMH	SEWER MANHOLE
TC	TOP OF CURB
TG	TOP OF GLASS
TW	TOP OF WALL
TGR	TOP OF GUARDRAIL
TYP	TYPICAL

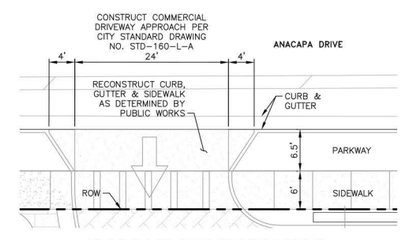
BENCHMARK

BENCHMARK DESIGNATION: ORANGE COUNTY SURVEYOR BENCH MARK "3S-45-79" ADJ. ELEV. = 281.761'

MONUMENT RECOVERY: FD. 3 3/4" OCS ALUMINUM BENCHMARK DISK STAMPED "3S-45-99" SET IN THE TOP NORTHERLY CORNER OF A 4' BY 8' CONCRETE CATCH BASIN. MONUMENT IS LOCATED IN THE EASTERLY CORNER OF THE INTERSECTION OF MACARTHUR BOULEVARD AND SAN JOAQUIN HILLS ROAD, 70' SOUTHEASTERLY OF THE CENTERLINE OF MACARTHUR BOULEVARD AND 135' NORTHEASTERLY OF THE CENTERLINE OF SAN JOAQUIN HILLS ROAD. MONUMENT IS SET LEVEL WITH THE SIDEWALK.

EARTHWORK:

RAWCUT	33,000 CY
RAWFILL	0 CY
EXPORT	33,000 CY



PROPOSED DRIVEWAY DETAIL

Source(s): Stearns Architecture (03-12-2021)

Figure 3-6

Not to Scale

Conceptual Grading Plan

1 East. Elevation
1/16" = 1'-0"

NOTE:
All Spot Elevations Shown In Nav88, typ.

2 West. Elevation
1/16" = 1'-0"

Source(s): Stearns Architecture (03-12-2021)

Not to Scale

Figure 3-7

Conceptual Architectural Elevations – East and West Elevations

3 Courtyard looking South
1/16" = 1'-0"

1 South. Elevation
1/16" = 1'-0"

NOTE:
All Spot Elevations
Shown In Nav88, typ.

SECTION 4/A10

4 Section_Courtyard looking North
1/16" = 1'-0"

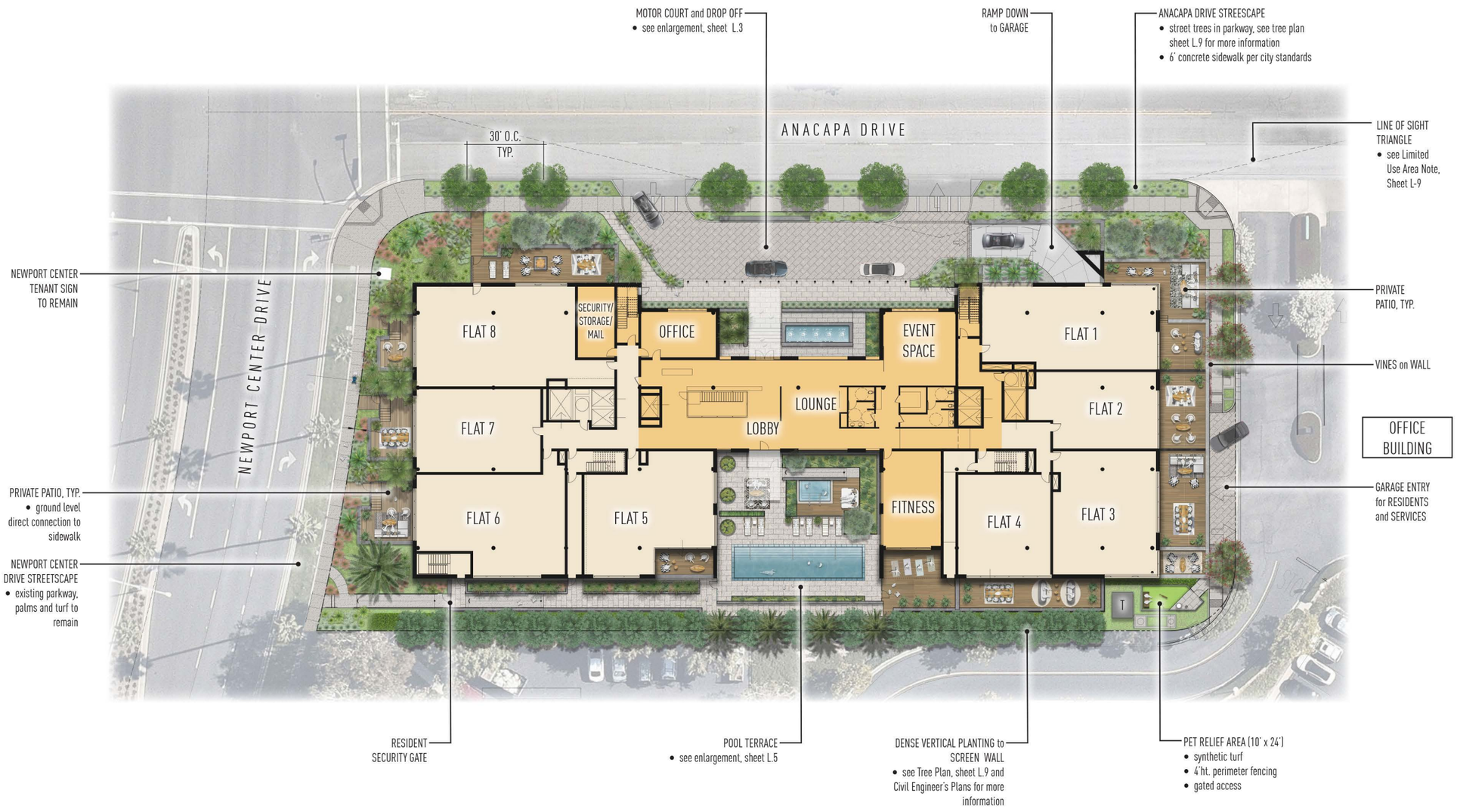
2 North. Elevation
1/16" = 1'-0"

Source(s): Stearns Architecture (03-12-2021)

Not to Scale

Figure 3-8

Conceptual Architectural Elevations – North and South Elevations

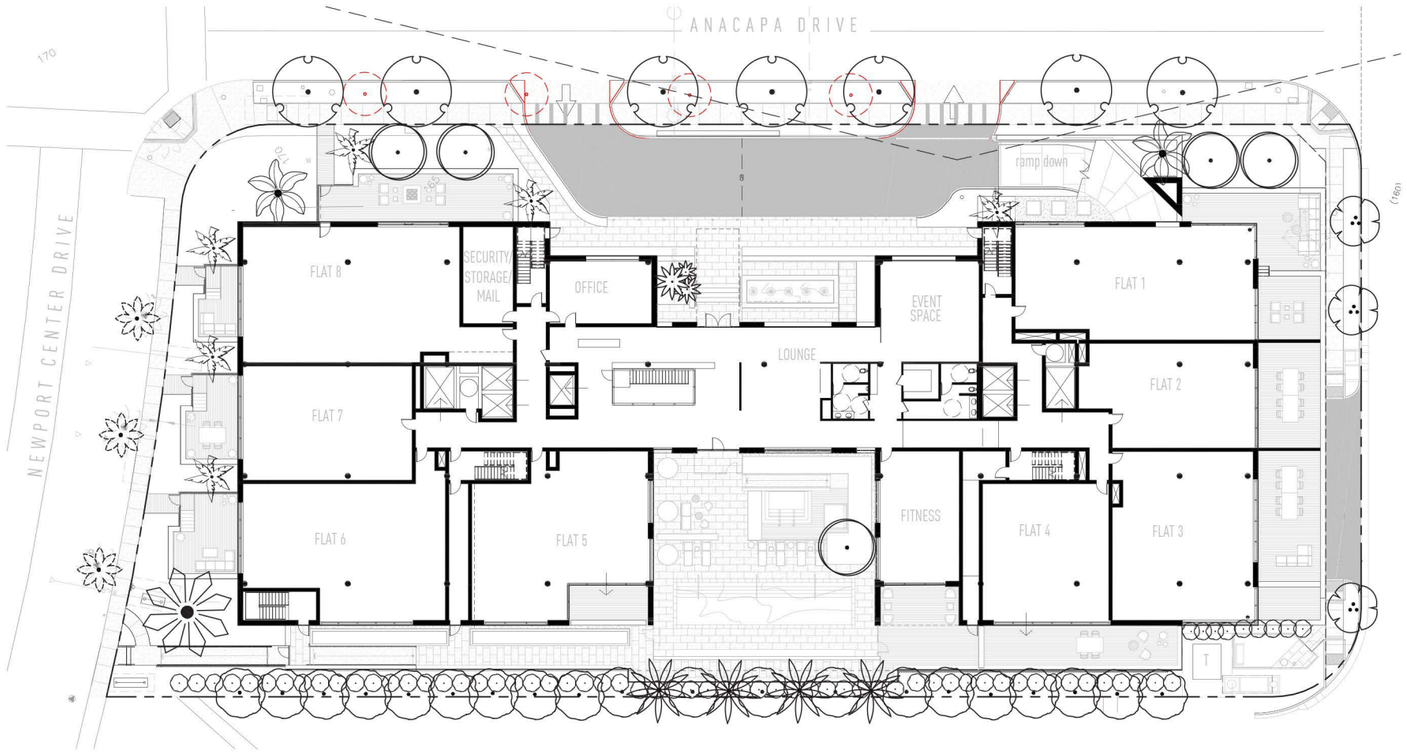


Source(s): MJS (09-18-2020)

Figure 3-9

Not to Scale

Conceptual Landscape Plan



LANDSCAPE DOCUMENTATION NOTE:

A LANDSCAPE DOCUMENTATION PACKAGE BY THE PROJECT APPLICANT IS REQUIRED TO BE SUBMITTED TO THE CITY OF NEWPORT BEACH PURSUANT TO SECTION 2.1 OF THE WATER EFFICIENCY ORDINANCE STANDARDS.

LANDSCAPE PLANS AND WATER USE CALCULATIONS PREPARED BY A PROFESSIONAL LICENSED LANDSCAPE ARCHITECT IN THE STATE OF CALIFORNIA.
MARK SCHATTINGER, ASLA
RLA 3235 EXPIRES MARCH 31, 2021

WATER EFFICIENT LANDSCAPING NOTE:

THE FOLLOWING MEASURES WILL BE INCORPORATED INTO THE PROJECT TO CONSERVE WATER:

1. THE IRRIGATION SYSTEM SHALL MEET THE REQUIREMENTS OF THE CITY OF NEWPORT BEACH LANDSCAPE GUIDELINES FOR WATER EFFICIENT LANDSCAPES.
2. THE ESTIMATED APPLIED WATER USE ALLOWED FOR THE LANDSCAPE AREA SHALL NOT EXCEED THE MAWA CALCULATION.

LIMITED USE AREA (Line of Sight) NOTE:

ALL TREE BRANCHES TO BE TRIMMED TO 8' HIGH ABOVE FINISH GRADE.
ALL SHRUBS WITHIN LIMITED USE AREA TO BE MAINTAINED AT 24" HIGH MAXIMUM.

POOL and SPA NOTES:

1. POOL AND SPA WILL UTILIZE RECIRCULATING WATER SYSTEM EQUIPMENT AND BE CONCEALED IN A VAULT IN THE LANDSCAPE AREA.
2. THE SURFACE AREA OF THE POOLS AND SPAS IS INCLUDED IN THE "HIGH" WATER USE HYDROZONEAREA OF THE WATER BUDGET CALCULATION.

UTILITY SCREENING NOTE:

ALL ABOVE GROUND UTILITIES TO BE SCREENED WITH EVERGREEN PLANT MATERIAL AND MEET THE NBFD, SCE AND GAS CO. CLEARANCE REQUIREMENTS

SHRUBS

BOTANICAL NAME	COMMON NAME	SIZE	WUCOLS
IRRIGATION HYDROZONES 1&2: BUILDING PERIMETER:			
ECHEVERIA GLAUCA	HENS & CHICKS	1 GAL	LOW
ECHEVERIA PEACOCKII	PEACOCK ECHEVERIA	5 GAL	LOW
AEONIUM 'URBICUM' 'SALAD BOWL'	AEONIUM	5 GAL	LOW
AEONIUM ARBOREUM 'SCHWARZKOPF'	AEONIUM	5 GAL	LOW
AGAVE AMERICANA	CENTURY PLANT	15 GAL	LOW
ALOE BAINSII	TREE ALOE	24" BOX	LOW
ALOE STRIATA	CORAL ALOE	5 GAL	LOW
ARBUTUS 'COMPACTA'	DWARF STRAWBERRY	5 GAL	LOW
BOUGAINVILLEA ROSENKA	SHRUB BOUGAINVILLEA	5 GAL.	LOW
CALLISTEMON 'LITTLE JOHN'	DWARF CALLISTEMON	5 GAL	LOW
CAREX DIVULSA	BERKELEY SEDGE	5 GAL.	MEDIUM
CHONDROPETALUYM 'ELEPHANTINUM'	LARGE CAPE RUSH	5 GAL.	LOW
DASYLIRION WHEELERI	DESERT SPOON	15 GAL	LOW
DIANELLA REVOLUTA	LITTLE REV	5 GAL	LOW
DRACAENA DRACO	DRAGON TREE	24" BOX	LOW
HESPERALOE PARVIFLORA	RED YUCCA	5 GAL	VERY LOW
FESTUCA MAIREI	ATLAS FESCUE	1 GAL	LOW
FESTUCA OVINA GLAUCA	BLUE FESCUE	5 GAL	LOW
FICUS NITIDA 'GREEN GEM'	LAUREL FIG	15 GAL	MEDIUM
HETEROMELES ARBUTIFOLIA	TOYON	15 GAL	LOW
KALANCHOE BEHARENSIS	FELT PLANT	15 GAL	LOW
LOMANDRA LONGIFOLIA 'BREEZE'	SPINY-HEADED MAT RUSH	5 GAL	MEDIUM
MUHLENBURGIA CAPILLARIS	PINK MUHLY	5 GAL	LOW
ROSMARINUS PROSTRATUS	DWARF ROSEMARY	5 GAL	LOW
SALVIA CLEVELANDII	CA BLUE SAGE	5 GAL	LOW
SENECIO MANDRALISCAE	SENECIO	1 GAL	LOW
TEUCRIUM CHAMAEDRYS	GERMANDER	5 GAL	LOW
WESTRINGIA FLORIBUNDA	COAST ROSEMARY	5 GAL	LOW
IRRIGATION HYDROZONE 3: MEDIUM / LOW ENHANCED SHRUBS (Pool & Courtyard):			
AGAVE ATTENUATA 'NOVA'	FOXTAIL AGAVE	15 GAL.	LOW
ALYOGYNE HUEGELII	BLUE HIBISCUS	15 GAL.	LOW
ASPARAGUS DENSIPLORUS 'MYERSII'	MYER ASPARAGUS	5 GAL.	LOW
BOUGAINVILLEA 'LA JOLLA'	BOUGAINVILLEA	5 GAL.	MEDIUM
CARISSA M. 'HORIZONTALIS'	NATAL PLUM	5 GAL.	MEDIUM
CRASSULA OVATA	JADE PLANT	15 GAL.	LOW
FURCRACEA FOETIDA 'MEDIOPICTA'	MAURITIUS HEMP	15 GAL.	LOW
PHORMIUM HYBRIDS	NEW ZEALAND FLAX	5 GAL.	LOW
PITTOSPORUM C. 'COMPACTUM'	PITTOSPORUM	5 GAL.	MEDIUM
PITTOSPORUM T. 'GOLF BALL'	'GOLF BALL' KOHUHU	5 GAL.	MEDIUM
PRUNUS ILICIFOLIA SPP. LYONII	CATALINA CHERRY	24" BOX	VERY LOW

ALL PLANTS ARE CAL-IPC NON-INVASIVE and WUCOLS MEDIUM/LOW WATER CONSUMPTIVE (REGION 3 - SOUTH COASTAL) VARIETIES FOR THEIR PROPOSED GROWING CONDITIONS.
THESE PLANTS ARE WATER CONSERVING and USED FOR THEIR DEEP ROOT SYSTEMS WHICH STABILIZES SOIL and MINIMIZES EROSION IMPACTS.

PLANT SCHEDULE

TREES	BOTANICAL / COMMON NAME	SIZE	WUCOLS	QTY
	ALOE BAINESII ALOE	48"BOX	LOW	1
	ARBUTUS X `MARINA` HYBRID STRAWBERRY TREE	36"BOX	LOW	3
	HOWEA FORSTERIANA KENTIA PALM MULTI-TRUNK	24"BOX	MODERATE	6
	LAURUS X `SARATOGA` SARATOGA HYBRID LAUREL	36"BOX	MEDIUM	7
	OLEA EUROPAEA `SWAN HILL` TM SWAN HILL OLIVE MULTI-TRUNK	36"BOX	LOW	5
	PHOENIX CANARIENSIS CANARY ISLAND DATE PALM	16` B.T.H	LOW	1
	PHOENIX DACTYLIFERA `MEDJOOL` DATE PALM	16` B.T.H	LOW	4
	PHOENIX RECLINATA SENEGAL DATE PALM MULTI-TRUNK	48"BOX	LOW	2
	PODOCARPUS GRACILIOR YEW PINE	24"BOX	MEDIUM	67
	TRISTANIA CONFERTA BRISBANE BOX LOW BRANCHING	36"BOX	MODERATE	20
EXISTING TREES ALONG NEWPORT CENTER DRIVE - PROTECT IN PLACE				
	WASHINGTONIA ROBUSTA MEXICAN FAN PALM (Existing to be protected-in-place, establish Tree Protection Zone per City of Newport Beach M.O.D. Guidelines)			3
EXISTING TREES ALONG ANACAPA DRIVE - TO BE REMOVED				
	SCHINUS TEREBINTHIFOLIA BRAZILIAN PEPPERTREE			4

TOTAL LANDSCAPE AREA:

REQUIRED : 8,242 S.F.
PROVIDED: 9,978 S.F.

TRISTANIA CONFERTA 36" BOX

PODOCARPUS GRACILIOR 24" BOX

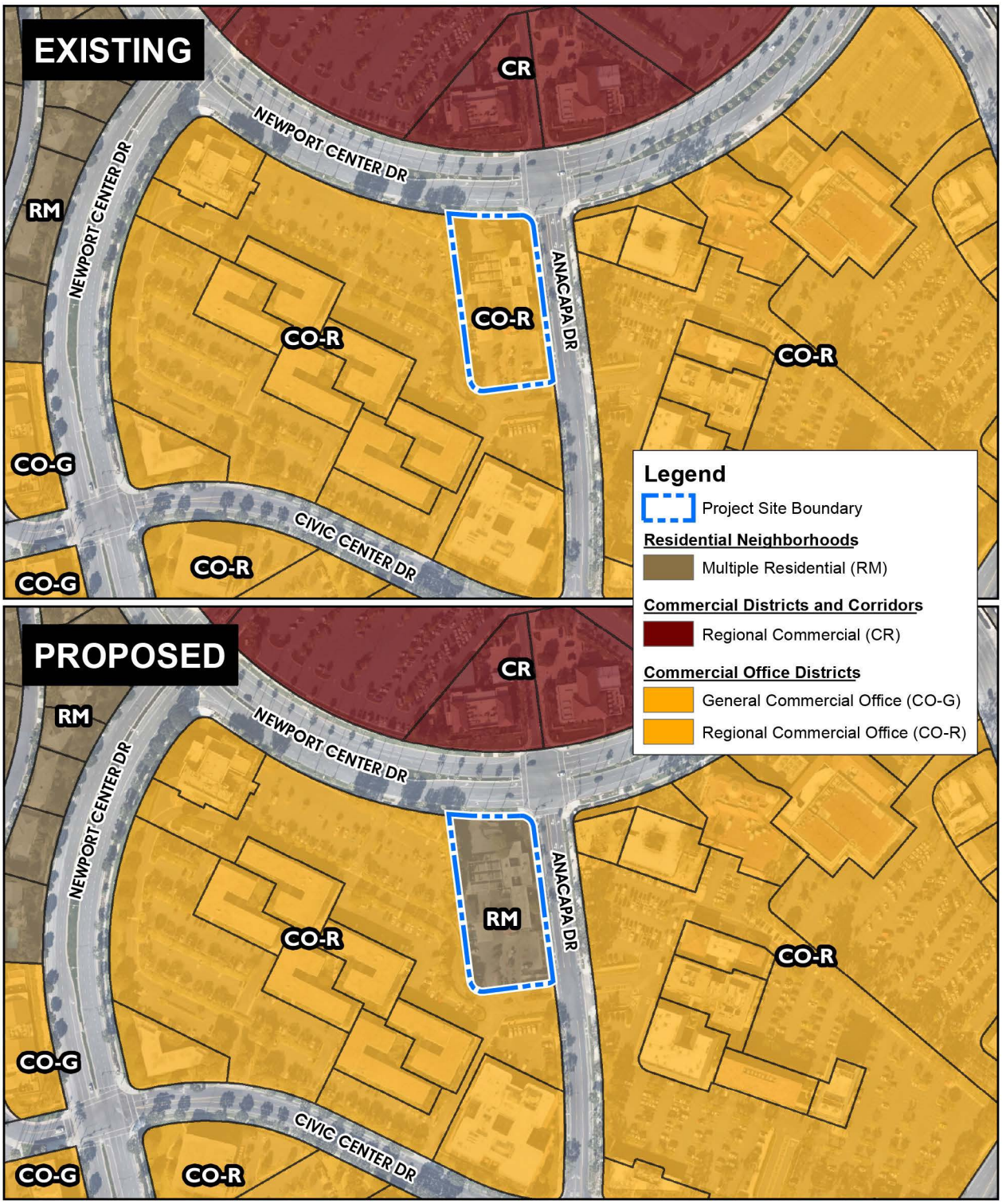
SCREEN TREES AT WEST PROPERTY LINE

Source(s): MJS (09-18-2020)

Figure 3-10

Not to Scale

Tree Plan, Notes and Plant Palette

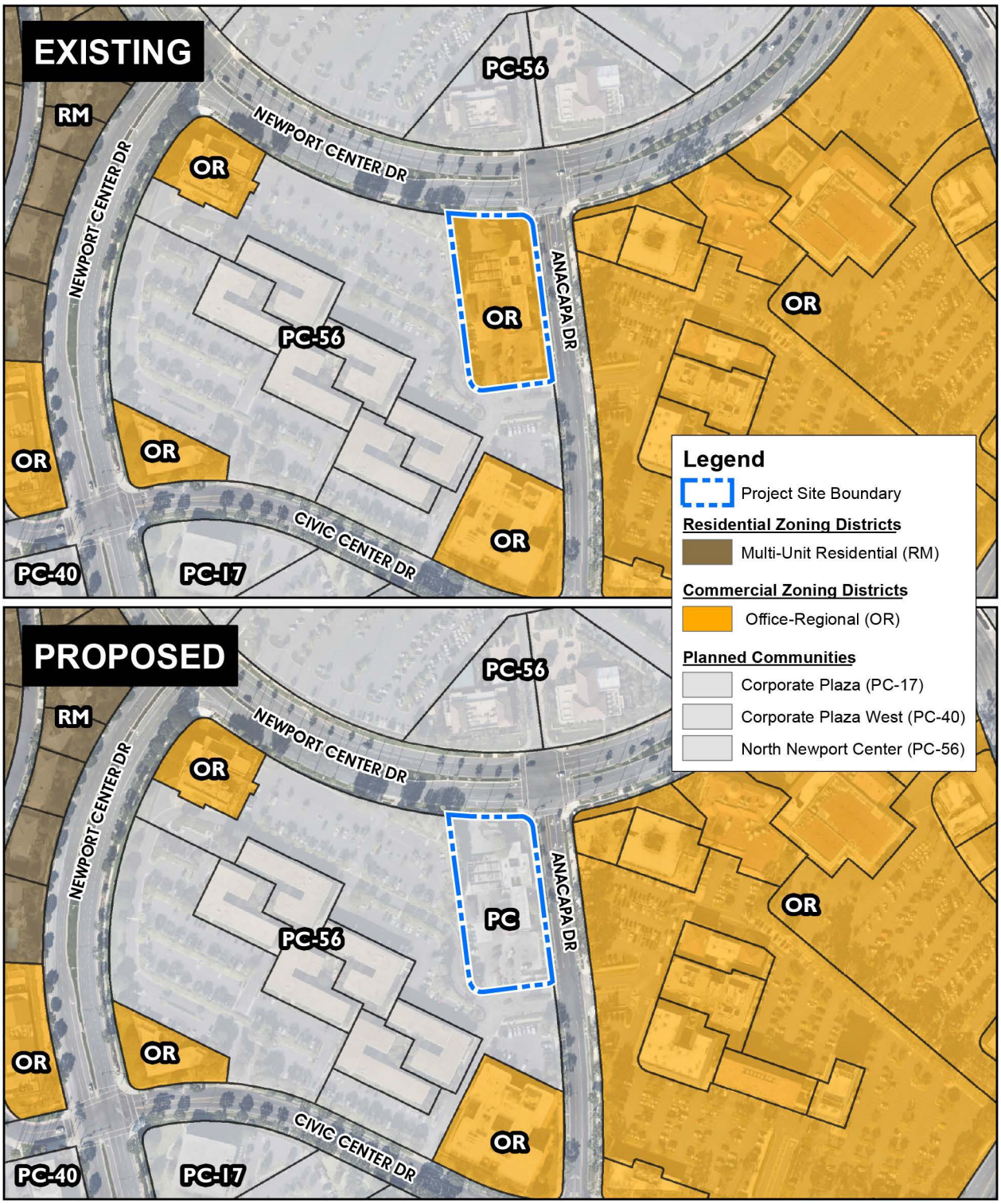


Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

Figure 3-11

0 75 150 300 Feet

Proposed General Plan Amendment No. GP2020-001



Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

Figure 3-12

0 75 150 300 Feet

Proposed Zoning Code Amendment No. CA2020-008

4.0 ENVIRONMENTAL ANALYSIS

4.0.1 SUMMARY OF EIR SCOPE

In accordance with CEQA Guidelines Sections 15126-15126.4, this EIR Section includes analyses of potential direct, indirect, and cumulatively-considerable impacts that could result from the planning, construction, and/or operation of the proposed Project.

An Initial Study was prepared to determine the scope of environmental analysis for this EIR (refer to *Technical Appendix A*). The City of Newport Beach made the Initial Study available on its website for review and mailed a Notice of Preparation (NOP) to public agencies and interested individuals to solicit input on the scope of study for this EIR. The City of Newport Beach also held an EIR Scoping Meeting via telephone and video conference to solicit input from the general public regarding the scope of study for this EIR. Taking all known information and public comments into consideration, topics falling under 11 environmental subject areas are evaluated in detail in this EIR Section 4.0, as listed below. Each Subsection in Section 4.0 evaluates specific topics related to the primary environmental subject, and excludes from detailed analysis those thresholds that were determined, as part of the Initial Study and NOP process, to be less than significant. The title of each Subsection is not limiting; therefore, please refer to each Subsection for a full account of the specific subject matters addressed therein.

4.1. Aesthetics
4.2. Air Quality
4.3. Biological Resources
4.4. Cultural Resources
4.5. Geology and Soils
4.6. Greenhouse Gas Emissions
4.7. Hazards and Hazardous Materials
4.8. Land Use and Planning
4.9. Noise
4.10. Transportation
4.11. Tribal Cultural Resources

Based on the analysis provided in the Initial Study prepared for the Project (see *Technical Appendix A*), the City of Newport Beach concluded that the Project would clearly result in no or less-than-significant impacts to several environmental topic areas, including: 1) Agriculture and Forestry Resources; 2) Energy; 3) Hydrology and Water Quality; 4) Mineral Resources, 5) Population and Housing; 6) Public Services; 7) Recreation; 8) Utilities and Service Systems; and 9) Wildfire. Potential effects to these nine topic areas are summarized in EIR Section 5.0, *Other CEQA Considerations.*

4.0.2 Scope of Cumulative Effects Analysis

CEQA requires that an EIR contain an assessment of the cumulative impacts that may be associated with a proposed project. As noted in CEQA Guidelines Section 15130(a), "an EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable." "A cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects creating related impacts" (CEQA Guidelines Section 15130(a)(1)). As defined in CEQA Guidelines Section 15355:

> *'Cumulative Impacts' refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.*
> *(a) The individual effects may be changes resulting from a single project or a number of separate projects.*
> *(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.*

CEQA Guidelines Section 15130(b) describes two acceptable methods for identifying a study area for purposes of conducting a cumulative impact analysis. These two approaches include: "1) a list of past, present, and probable future projects producing related or cumulative impacts, including if necessary, those projects outside the control of the agency ['the list of projects approach'], or 2) a summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or area wide conditions contributing to the cumulative impact ['the summary of projections approach']."

The cumulative analysis presented in this EIR relies on the list of projects approach. This approach was determined to be appropriate by the City of Newport Beach because the Project area is built out, and the summary of projections approach would not adequately account for ambient and other growth (e.g., redevelopment) in the Project's cumulative study area. The list of projects was provided by the City of Newport Beach and represents the list of the City's cumulative projects at the time of NOP release. The City considers cumulative projects as projects that are planned, under construction, or entitled and built but not yet fully occupied. Specific development projects included in the cumulative analysis covering the entire City of Newport Beach are listed below in Table 4.0-1, *List of Cumulative Development Projects.* This approach is considered conservative because the cumulative study area encompasses a large area surrounding the Project site and it is unlikely that the Project's impacts would directly or indirectly interact with impacts from all of the identified past, present, and reasonably foreseeable projects in the City that are listed in Table 4.0-1. In instances where a wider or different geographic cumulative effects area is appropriate, the rationale for determining the area is described in the relevant Subsection of this EIR Section 4.0 under the subheading "Cumulative Effects."

4.0.3 Analysis Format

Subsections 4.1 through 4.11 of this EIR evaluate the 11 environmental subjects warranting detailed analysis as determined by the City of Newport Beach in consideration of preliminary research findings, public comments, and technical studies. The format of discussion is standardized as much as possible in each Subsection for ease of review. The environmental setting is discussed first, followed by a discussion of the potential environmental impacts that would result from implementation of the Project (which is based on specified thresholds of significance used as criteria to determine whether potential environmental effects are significant).

The thresholds of significance used in this EIR are based on the thresholds of significance identified in Appendix G to the CEQA Guidelines, as most recently updated in December 2018. The thresholds are intended to assist the reader of this EIR in understanding how and why this EIR reaches a conclusion that an impact would or would not occur, and whether the impact would be significant or less than significant.

Serving as the CEQA Lead Agency for this EIR, the City of Newport Beach is responsible for determining whether an adverse environmental effect identified in this EIR should be classified as significant or less than significant. The standards of significance used in this EIR are based on the independent judgment of the City of Newport Beach, taking into consideration the City of Newport Beach General Plan; the City of Newport Beach Municipal Code and adopted City policies; the judgment of the technical experts that prepared this EIR's technical appendices; performance standards adopted, implemented, and monitored by regulatory agencies; and significance standards recommended by regulatory agencies.

As required by CEQA Guidelines Section 15126.2(a), Project-related effects on the environment are characterized in this EIR as direct, indirect, cumulatively-considerable, short-term, long-term, on-site, and/or off-site impacts. A summarized "impact statement" is provided in each subsection following the analysis. Each subsection also includes a discussion or listing of the applicable regulatory criteria (laws, policies, regulations) that the Project and its implementing actions are required to comply with (if any). If impacts are identified as significant after mandatory compliance with regulatory criteria, feasible mitigation measures are presented that would either avoid the impact or reduce the magnitude of the impact. For any impact identified as significant and unavoidable, the City of Newport Beach would be required to adopt a statement of overriding considerations pursuant to CEQA Guidelines Section 15093 in order to approve the Project despite its significant impact(s) to the environment. The statement of overriding considerations would list the specific economic, legal, social, technological, and other benefits of the Project, supported by substantial evidence in the Project's administrative record, that outweigh the unavoidable impacts. However, because this EIR does not identify any significant and unavoidable impacts, no statement of overriding considerations will be required.

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Westcliff Plaza Restaurants	A conditional use permit and traffic study to allow for a reduction in off-street parking and reconfiguration of the parking lot at an existing shopping center and construct a new 7,400- square-foot building for future restaurant uses.	1000-1150 Irvine Avenue	Application submitted on December 12, 2019. Traffic consultant has been contracted by the City. Project is currently incomplete due to revisions required for the parking study.	• Conditional Use Permit No. UP2019-059 • Traffic Study
1400 Bristol St. Medical Offices	A tentative parcel map, condominium conversion, and conditional use permit for an office complex that comprises of two, two-story buildings totaling 37,515 square feet of net floor area (26,287 sq. ft. in Bldg. 1400 and 11,228 sq. ft. in Bldg. 1420). A conditional use permit is required since there is a 23-space parking deficit.	1400 Bristol St. N.	Application submitted April 1, 2020. Application incomplete due to revisions required for the parking study.	• Conditional Use Permit No. UP2020-185 • Condominium Conversion No. CC2020-002 • Tentative Parcel Map No. NP2020-003
Newport Beach Porsche	A coastal development permit, conditional use permit, and major site development review to demolish an existing, single story Porsche dealership and construct a new two-level, 143,494 square-foot dealership building which includes 37 service bays, show room, parts storage, offices, and parking. Parking is also proposed on the rooftop of the building. The existing 3,961-square-foot Bentley dealership is to remain.	445 East Coast Highway	Application submitted November 3, 2020. Project is currently reviewed by all City departments.	• Major Site Development Review SD2020-### • Coastal Development Permit No. CD2020-### • Conditional Use Permit No. UP2020-### (PA2020-319)
215 Riverside Office and Parking Structure (PA2019023)	A coastal development permit to demolish an existing restaurant/office building, and associated surface parking lot and to construct a new 41-space two level parking structure and a 2,744- square-foot office building.	215 Riverside Avenue	Class 32 Exemption. Application on appeal to California Coastal Commission. City Council approved on May 12, 2020.	• Conditional Use Permit • Coastal Development Permit

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
The Garden Restaurant (PA2019-006)	A coastal development permit, conditional use permit, traffic study, and operator license for conversion of an existing retail building for a new 7,705- gross-square-foot fine restaurant and 2,535-square-foot roof top outdoor dining terrace.	2902 West Coast Highway	Class 32 Exemption under preparation. Traffic study completed. Parking management plan requested from applicant. No current application activity.	• Coastal Development Permit • Conditional Use Permit • Operator License • Site development review • Traffic Study
Newport Village (PA2017-253)	A coastal development permit, major site development review, tentative tract map, traffic study, and EIR for the demolition of all structures on-site (with the exception of buildings at 2241 West Coast Highway and 2244 West Coast Highway) and the construction of 128,640 square feet of nonresidential uses (retail, vehicle/boat sales, office and food service), 108 apartment units, 14 condominiums, and subterranean/surface parking garages with 827 parking spaces. The project includes a new public walkway along the waterfront and marina improvements. The maximum height of buildings on the north parcel is 26 feet for a flat roof and 31 feet for a pitched roofline measured from established grade. The maximum height of buildings on the south parcel is 35 feet for a flat roof measured from established grade.	2200-2244 West Coast Highway and 2001-22241 West Coast Highway Newport Village (former Ardell site)	Application submitted on December 4, 2017. Revised project plans submitted on July 2020, deemed incomplete by Staff September 2020. NOP and EIR Scoping meeting held November of 2019. Draft EIR under preparation.	• Approval in Concept No. AIC2018001 • Coastal Development Permit No. CD2017-108 • Conditional Use Permit No. UP2017-032 • Site Development Review No.SD2017-011 • Traffic Study No. TS2018- 001 • Tentative Tract Map No. NT2017-006 • Environmental Impact Report No. ER2017-002

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Residences at 4400 Von Karman (PA2020-061)	312 apartment units atop an 825-space parking structure, a separate 294-space, free-standing parking structure, and one-acre public park.	4400 Von Karman Avenue	Application submitted on April 21, 2020. Addendum to 2006 General Plan Program EIR is completed. Planning Commission recommended approval of project. Tentative January 12, 2021 City Council meeting is scheduled	• Planned Community Development Plan Amendment No. PD2020-001 • Site Development Plan No. SD2020-006 • Lot Line Adjustment No. LA2020-002 • Affordable Housing Implementation Plan No. AAH2020-003 • Traffic Study No. TS2020-001 • Development Agreement No DA2020- 002 • Addendum No. ER2020-003
Newport Airport Village Mixed-use (PA2014-225)	General Plan amendment to re- designate 16 acres of Campus Tract from Airport Office and Supporting Uses (AO) to Mixed Use Horizontal 2 (MU-H2) to allow for 329 replacement dwelling units, a zoning code amendment to change the zoning district from Office Airport (OA) to Planned Community (PC) and approval of Planned Community Development Plan and, approval of an Development Agreement.	4341 Birch St 4401 Birch St 4320 Campus Dr 4340 Campus Dr 4360 Campus Dr 4500 Campus Dr 4540 Campus Dr 4570 Campus Dr 4600 Campus Dr 4630 Campus Dr 4647 MacArthur Blvd	Planning Commission recommended approval 06/04/20. City Council approved 09/22/20.	• General Plan Amendment No. GP2014-004 • Code Amendment No. CA2014-225 • Planned Community Development Plan No. PC2020-02 • Development Agreement No. DA2014- 003 • EIR Addendum No. ER2020-02

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
ExplorOcean (PA2014-069)	Demolition of an existing one-story, 26,219 square foot commercial building and a 55-space subterranean parking garage; and the construction of a 70,295 square-foot, 4-story ocean literacy facility located on the 600 East Bay parcel; removal of a 63-metered space surface parking lot (aka: Palm Street Parking Lot) located on the 209 Washington Street, 600 and 608 Balboa Avenue, and 200 Palm parcels and the construction of a 388-space, 141,000 square foot, 5-level off-site parking structure; and a 6,500 square footage floating classroom to be located on the waterside of the project.	600 East Bay, 209 Washington Street, 600 and 608 Balboa Avenue, and 200 Palm	Application submitted 04/22/2014. On hold per applicant's request. Preliminary discussions for shark tank TI April 1, 2020.	• General Plan Amendment • Coastal Land Use Plan Amendment • Zoning Code Amendment (Zone Change) • Planned Community Development Plan Adoption • Transfer Development Allocation • Site Development Review • Conditional Use Permit • Traffic Study pursuant to City's Traffic Phasing Ordinance (TPO) • Tentative Parcel Map and Alley Vacation • Harbor Development Permit • Coastal Development Permit (by California Coastal Commission) • Environmental Impact Report

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
2510 PCH Mixed- Use Development	Demolition of a 4,487 square foot boat sales and construct a new mixed-use development. Project includes a 10,975 square foot boutique automobile showroom and 35 dwelling units. 33 units will be market rate and 3 will be affordable.	2510 West Coast Hwy 2530 West Coast Hwy	Application submitted, but deemed incomplete on 10/22/2020	• Coastal Development Permit • Tentative Parcel Map • Conditional Use Permit • Major Site Development Review
*UCI North Campus Hospital Project	Construct new 350,000 sq. ft. hospital that will include emergency services, a 200,000 sq. ft. ambulatory care center, a central plant, and parking structure.	UCI North Campus, West of Jamboree and Birch	EIR currently under preparation by UCI.	• EIR • LRDP Amendment
*UCI North Campus Child Health/Medical Office	Replace buildings near the intersection of Jamboree and Birch Street with 168 k GSF, 5-story Center for Child Health/Medical Office building and 800-space parking garage.	UCI North Campus, West of Jamboree and Birch	MND Public Review Period ended late February 2020. If adopted by UCI, PW will review proposed restriping on Jamboree within the City's boundaries.	• IS/MND
Newport Crossings (PA2017-107)	A Site Development Review for the development of a mixed-use residential project consisting of 350 rental units, 7,500 square feet of commercial use, and a 0.5-acre public park on a 5.7-acre property known as MacArthur Square. The application includes a request for density bonus and development incentive/waivers.	1701 Corinthian Way, 4251, 4253 & 4255 Martingale Way, 4200, 4220 & 4250 Scott Drive and 1660 Dove Street	Application submitted on May 31, 2017. Draft EIR completed. Approved by Planning Commission on February 21, 2019. Plan check submitted 11/17/20.	• Site Development Review No. SD2017-004 • Lot Line Adjustment No. LA2018-004 • Affordable Housing Implementation Plan No. AH2018- 001
Mesa Drive Town Homes (PA2014-218)	8-unit condominium	1501 Mesa Dr. 20462 Santa Ana Ave.	City Council Upheld Planning Commission Approval on August 18,2019. Class 32 CEQA Exemption. Project is in plan check.	• Tentative Map No. NT2017-003 • Site Development Review No. SD2017-008

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Vivante Senior Living (PA2018-185)	General Plan amendment, Planned Community Development Plan amendment, development agreement, major site development review, conditional use permit, and lot merger for 90-units of senior housing and 27-bed memory care facility.	850 & 856 San Clemente Drive	Project approved by City Council on September 10, 2019. Projects issued on October 1, 2020 and project is in under construction.	• General Plan Amendment No. GP2018-003 • Planned Community Development Plan No. PC2018-001 • Site Development Review No. SD2018-003 • Conditional Use Permit No. UP2018-019 • Lot Merger No. LM2018-004 • Development Agreement No. DA2018-005 • Addendum to Environmental Impact Report No.ER2016-002
ENC Preschool (PA2015-079)	Environmental Nature Center Preschool	745 Dover Drive	Building finalized and occupied in September of 2019. Building permits issued Jul. 2, 2018; Planning Commission Approved 01/21/2016. Class 32 CEQA Exemption.	• Minor Use Permit No. UP2015-020 • Traffic Study No. TS2015-001

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Birch Newport Executive Center (PA2014-121)	The project includes the re- subdivision of four lots into three lots for commercial development and for condominium purposes, and the construction of two, 2-story medical office buildings totaling 64,000 square feet in gross floor area and a 324-space surface parking lot.	20350 & 20360 Birch Street (Formerly 20352 – 20412 Birch St)	Application submitted on 08/05/2014. Application and Addendum to MND approved by Planning Commission on 02/19/2015. Shell permits finaled in April 2017. 100% occupied June, 2019	• Site Development Review No. SD2014-005 • Minor Use Permit No. UP2014-032 • Traffic Study No. TS2014-006 • Parcel Map No. NP2014-017 • Addendum to Mitigated Negative Declaration (PA2006- 280)
Ebb Tide (PA2014-110)	The project includes a Tentative Tract Map application to subdivide a 4.7-acre site for 83 residential lots and a Site Development Review application for the construction of 83 single-unit residences, private streets, common open space, and landscaping. The Planned Community Development Plan is proposed to establish guidelines for development of the project site consistent with the General Plan. The Code Amendment is proposed to amend the Zoning Map to change the Zoning District from Multiple-Unit Residential (RM) to Planned Community (PC).	1560 Placentia Drive	Application submitted on 06/20/2014. An MND was prepared. The project was approved and the MND was adopted by the Planning Commission on August 6, 2015. Under construction. Initial 4 of 8 phases are complete and occupied and the remaining are under construction; however, a construction defect has rendered the initial phases uninhabitable. The developer is correcting the issue.	• Tentative Tract Map No. NT2014-002 • Traffic Study No. TS2014-007 • Planned Development Permit No. PL2015- 001 • Mitigated Negative Declaration No. ND2015-002

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Westcliff Medical (PA2013-154)	Construction of two building and a three-level parking structure, an addition to an existing building, and the demolition of 25,339 square feet of building area. The project would result in four buildings totaling 73,722 square feet. The total amount of off-street parking would be 382 spaces.	2011, 2043, 2121, and 2131 Westcliff Drive. Bounded by Westcliff Drive, Irvine Avenue, and Sherington Place.	Class 32 CEQA exemption. Construction completed. Occupancy estimated at late 2018.	• Site Development Review • Traffic Study • Lot Merger
Lido Villas (DART) (PA2012-146)	Request for the demolition of an existing church and office building and legislative approvals for the development of 23 attached three- story townhome condominiums.	3303 and 3355 Via Lido Generally bounded by Via Lido, Via Oporto, and Via Malaga.	Project construction is complete and occupied as of November, 2020. Building permits issued Apr. 17, 2018. Discretionary applications are still valid since tract map was submitted to Public Works for recordation. Application approved November 12, 2013. CLUP Amendment approved by CCC on March 12, 2014. CDP application Approved by CCC on 10/09/2014.	• General Plan Amendment • Coastal Land Use Plan Amendment • Zoning Code Amendment • Planned Community Development Plan • Site Development Review • IS/Mitigated Negative Declaration • Tentative Tract Map

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Uptown Newport Mixed Use Development (PA2011-134)	Development of 1,244 residential units and 11,500 sf. of commercial retail	4311 & 4321 Jamboree Rd	EIR, Tentative Tract Map, Traffic Study, and AHIP were approved by City Council on 2/26/2013. The PC Development Plan and Development Agreement were approved on 3/12/2013. North and South Buildings have been completed with a total of 366 market rate units and 92 affordable units. 1-acre public park completed and occupied. Plan check submitted for a 30- unit condominium development. Commercial component on hold.	• PC Development Plan Amendment and Adoption • Tentative Tract Map • Traffic Study (TPO) • AHIP • DA • Airport Land Use Commission • Environmental Impact Report
10 Big Canyon (PA2010-092)	Mitigated Negative Declaration for rough grading for development of a single-family residence.	10 Big Canyon	IS/MND approved 12/20/2011. Project has not been constructed.	• IS/MND
Plaza Corona del Mar (PA2010-061)	Development of 1,750 sf new office space and six (6) detached townhomes.	3900-3928 East Coast Highway	Application approved by Planning Commission on 1/03/13. Staff Approval No. SA2013-015 (PA2013-245) approved December 10, 2013 and Staff Approval No. SA2014-April 10, 2015 to allow the reconstruction of Gallo's and reduction of commercial scope. CEQA Class 32 exemption. Building permits for residential portion issued 03/17/2017. Commercial portion issued Feb. 1, 2018.Under construction.	• Site Development Review • Variance • Conditional Use Permit • Tentative Tract Map • Modification Permit

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Old Newport GPA Project (PA2008-047)	Demolition of 3 existing buildings to construct a new 25,000-sf medical office building.	328, 332, and 340 Old Newport Blvd	IS/MND and project approved on March 9, 2010. Shell building completed February 2020. Medical office TI submitted 10/28/20	• Modification Permit • Traffic Study • Use Permit • GP Amendment • Mitigated Negative Declaration
Hoag Memorial Hospital Presbyterian Master Plan Update Project (PA2007-073	Reallocation of up to 225,000 sf of previously approved (but not constructed) square footage from the Lower Campus to the Upper Campus.	1 Hoag Dr; northwest of West Coast Hwy and Newport Blvd	Final EIR certified and project approved on May 13, 2008. No new major development has been constructed or is planned in the near future.	• EIR • GP Amendment • Planned Community Development Plan (PC) Text Amendment • Development Agreement Amendment • CDP (CCC)
AERIE Project (PA2005-196)	Residential development including the following: (a) the demolition of the existing residential structures on the 1.4-acre site; (b) the development of 8 residential condominium units; and (c) the replacement, reconfiguration, and expansion of the existing gangway platform, pier walkway, and dock facilities on the site.	201–207 Carnation Ave and 101 Bayside Pl; southwest of Bayside Drive between Bayside Pl and Carnation Ave, Corona del Mar	Final EIR was certified and project approved by the City on July 14, 2009. A CDP has been approved by the Coastal Commission. Project is under construction with completion anticipated by the end of 2020.	• EIR • GP Amendment • Coastal Land Use Plan (CLUP) Amendment • Zone Change • Tract Map • Modification Permit • CDP (CCC)
Vue Newport (PA2001-210)	A mixed-use development consisting of 27 residential units and approximately 36,000 square feet of retail and office uses	2300 Newport Boulevard	FEIR certified in February 2006. Construction is 100% completed. Leasing of the commercial and sales of the residential are slow	• Site Plan Review • Use Permit • Tentative Tract Map • Environmental Impact Report

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Mariners' Pointe (PA2010-114)	A 19,905-sf, two-story commercial building and a three-story parking structure.	100 West Coast Highway	An IS/MND was released for public review on April 11, 2011. The MND was certified and the project approved by the City Council on August 9, 2011. Last suite TI finaled on 3/18/20.	• GP Amendment • Code Amendment • CUP • Variance • Site Development Review • Traffic Study • Mitigated Negative Declaration
Newport Business Plaza Project (PA2008-164)	Demolition of 2 existing connected buildings to construct a new 46,044 gross square foot business plaza.	4699 Jamboree Road and 5190 Campus Drive	4699 Jamboree Road and 5190 Campus Drive	• GP Amendment • PC text amendment • Tentative Parcel Map • Mitigated Negative Declaration
PRES Office Building B Project (PA2007-213)	Increase the maximum allowable entitlement by 11,544 gross sf; increase the maximum allowable entitlement in office suite B by 9,917 net sf to allow for development of a new 2-level office building over a ground-level parking structure.	4300 Von Karman Ave	An IS/MND was released for public review on May 19, 2010. The MND was certified and the project approved by the City Council on February 22, 2011. Project has not been constructed.	• GP Amendment • PC Text Amendment • Parcel Map • Mitigated Negative Declaration
Saint Mark Presbyterian Church (PA2003-085)	Church complex with sanctuary, fellowship hall, administration building and pre-school. Total square footage is 33,867 square feet.	2200 san Joaquin Hills Road	EIR was released for 45-day public released on July 21, 2004. Project approved by City Council October 12, 2004. Pre- school not entirely constructed.	• GP Amendment • PC Text Amendment • Parcel Map • Use Permit • Traffic Study (TPO) • EIR

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Mariners' Square (PA2017-248)	Site Development Review, Tentative Tract Map, and Modification Permit to allow the demolition of an existing 114-unit residential apartment complex and redevelopment of the site with a new 92-unit residential condominium complex. The application includes a request to establish grade and allow the residential units facing Irvine Avenue to encroach 2 feet into the 20-foot front setback with portions of the upper levels for architectural relief and articulation.	1244 Irvine Avenue	Approved. Under construction	• Site Development Review No. SD2017-010 • Tentative Tract Map No. NT2017-005 • Modification Permit No. MD2017-009
Harbor Pointe Senior Living (PA2015-210)	General Plan Amendment, Planned Community Text Amendment, Conditional Use Permit, and Major Site Development Review for a new approximately 85,000-square-foot convalescent and congregate care facility with 121 beds (about 101 care units). As proposed, the facility will be developed with one level of subterranean parking and four levels of living area. The project site is currently developed with a single- story restaurant and supporting surface parking area.	101 Bayview Place	Scoping meeting held on August 15, 2016. Project being revisited and redesigned by applicant/developer. EIR preparation on hold as of June 8, 2017. Approved by Planning Commission on Dec. 6, 2018. Approved by City Council on Feb. 12, 2019.	• General Plan Amendment No. GP2015-004 • Planned Community Text Amendment No. PD2015-005 • Site Development Review No. SD2015-007 • Conditional Use Permit No. UP2015- 047 • Mitigated Negative Declaration

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Back Bay Landing (PA2011-216)	Request for legislative approvals to accommodate the future redevelopment of a portion of the property with a mixed-use waterfront project. The Planned Community Development Plan would allow for the development of a new enclosed dry stack boat storage facility for 140 boats, 61,534 square feet of visitor-serving retail and recreational marine facilities, and up to 49 attached residential units.	300 E. Coast Highway Generally located at the northwesterly corner of east Coast Highway and Bayside Drive	The project was approved by City Council on February 11, 2014. The Coastal Land Use Plan Amendment for the project was approved by the California Coastal Commission on December 10, 2015. Site Development Review and Coastal Development Permit anticipated to be filed late 2021.	• General Plan Amendment, Coastal Land Use Plan Amendment, Code Amendment, Planned Community Development Plan, Lot Line Adjustment, Traffic Study, and Environmental Impact Report – approved • CLUP Amendment approved • Site Development Review & Coastal Development Permit required
Balboa Marina Expansion (PA2012-103) (PA2015-113)	City of Newport Beach Public Access and Transient Docks and Expansion of Balboa Marina • 24 boat slips • 14,252 SF restaurant • 664 SF marina restroom	201 E. Coast Highway	IS/MND was approved by City Council on November 25, 2014. SDR and CUP were approved by the City in February 2016. The CDP was approved by the CCC in February 2017. Plan check never submitted.	• IS/MND • Site Development Review • Conditional Use Permit • CDP (Coastal Commission)

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Ullman Sail Lofts (PA2017-059)	A conditional use permit, minor site development review, tentative tract map, and coastal development permit to demolish an existing 9,962-square- foot commercial building and construct a new mixed-use structure with 694 square feet of retail floor area and one 2,347 square foot dwelling unit on Lot 17 and construct three residential dwelling units ranging from 2,484 square feet to 2,515 square feet over Lots 18 and 19.	410 and 412 29th Street	Planning Commission approved on July 20, 2019. Class 32 CEQA Exemption. Project is under construction with building permits issued September 1, 2020.	• Coastal Development Permit No. CD2017-025 • Site Development and Use Permit No. SD2017-003, • Conditional Use Permit No. UP2017-005 • Tract Map No. NT2017-001 (County Tentative Parcel Map No. 18108)
Confined Aquatic Disposal (CAD) and Harbor Dredging	An EIR for harbor dredging and safe disposal of unsuitable materials in a confined aquatic disposal facility within Newport Harbor.	Lower Newport Harbor between Lido Isle and Bay Island.	Project initiated in 2019. Anticipated NOP release and scoping meeting in November/December 2019. Draft EIR, NOA/NOC, and public comment period anticipated for late November of 2020.	• Focused EIR • Capital Improvement Program, City Council
Junior Lifeguard	New 4,500 square-foot Junior Lifeguard building and recreation event center.	Balboa Village Parking Lot	Class 32 exemption under consideration (supporting studies to be prepared). Conceptual project plans have been prepared. City Council review of project anticipated in late January of 2020.	• CDP to CCC • PBR recommendation to City Council • Class 32 exemption (TBD)
Fire Station	New fire station	2807 Newport Blvd	Class 32 Exempt Plan check approved.	• Class 32 Exemption • CDP and Site Development Review for increased height – to PC

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Sunset Ridge Park Bridge and parking lot	Pedestrian and Bicycle Bridge across Superior Ave, parking lot, and recreation area	4850 W Coast Hwy	MND NOD to County Clerk 11/21/2020 CDP application submitted, included addendum to MND	• Waiver of Development Standards • Adopt MND • CDP to ZA • Amendment of Park CDP to CCC
Big Canyon Coastal Habitat Restoration and Adaptation Plan-Phase 2A (PA2018-078)	A mitigated negative declaration for Phase 2A of habitat restoration at an 11.3-acre site located at the mouth of Big Canyon.	1900 Back Bay Drive	Final MND adopted on January 29, 2019. CDP approved by Coastal Commission on September 11, 2019. Project under way. Planning work and feasibility studies for Phase 2B/2C have begun.	• Mitigated Negative Declaration
Little Corona Infiltration (PA2015- 096) (15X14)	Installation of a diversion and infiltration device on a public beach area.	Little Corona Beach	Final MND adopted on March 22, 2016. Project is on hold due to difficulties presented at Coastal Commission review.	• Mitigated Negative Declaration • Capital Improvement Program, City Council
Old Newport Blvd./West Coast Hwy Widening (15R19)	Widens the westbound side of West Coast Highway at Old Newport Boulevard to accommodate a third through lane, a right turn pocket and a bike lane. Realignment of Old Newport Boulevard maximizes the right turn pocket storage length and improves roadway geometrics.	Intersection of Old Newport Boulevard and West Coast Highway	Consultant was selected for project design in March of 2016. Negative Declaration draft is completed. City is requesting lead agency status from Cal Trans.	• IS/Negative Declaration • Capital Improvement Program, City Council

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Arches Storm Drain Diversion (16X11)	Arches drain outlet is the endpoint for two large storm drains that collect and deliver runoff from neighboring areas to Newport Harbor. The west storm drain collects runoff from Hoag Hospital and areas upstream and the east storm drain runs along Old Newport Boulevard and into Costa Mesa upstream of 15th Street. A conceptual plan to divert dry weather flows from these two subwatersheds to the sanitary sewer system has been prepared.	Newport Boulevard north of Coast Highway	Project initiated in 2015. CEQA determination TBD (exemption?). Anticipated project start date, September 2016.	• Capital Improvement Program, City Council
Bayview Heights Drainage Treatment (15X11)	Restores a drainage reach subject to erosion and creates a wetland at the end of the reach to benefit environmental water quality.	Headlands area of Upper Bay downstream of Mesa Drive	City Council authorized project in May of 2015. Agency permit applications were submitted March of 2016. CEQA determination TBD (exemption?)	• Capital Improvement Program, City Council
Big Canyon Rehab Project (15X12)	Divert about one third of the dry- weather flow from the creek into a bioreactor. The bioreactor strips selenium and other impurities from the flow. Clean flow is returned to the creek to reduce the concentration of pollutants within the stream by 30-35 percent. Storm flows from Jamboree Road also will be directed to the top level of this bioreactor/wetlands to strip roadway pollutants from the flow before the flow rejoins the creek. Partial streambed and canyon restoration are components of this project.	Big Canyon, downstream of Jamboree Road and south of Big Canyon Creek	Resource agency applications submitted March of 2016. Draft MND issued for public comment March 4, 2016.	• Mitigated Negative Declaration • Capital Improvement Program, City Council

Table 4.0-1 List of Cumulative Development Projects

Project	Proposed Land Uses/Project Description	Location	Determination/Status	Discretionary Actions
Bay Crossings Water Main Replacement (16W12)	Replaces deteriorating water transmission mains pursuant to the Water Master Plan and Bay Crossing Water Transmission Study.	Newport Harbor	A consultant has been selected for the project design. CEQA TBD	• Capital Improvement Program, City Council
Library Lecture Hall	Construct an 8-10k square foot auditorium with approximately 275 seats at the Central Library Site	Central Library near Avocado Avenue and Bamboo Courtyard	An architect has been selected for the project design. Design process ongoing. Public Hearings anticipated early 2021.	• SLUR Amendment • Zoning Exemptions • Funding Agreement • CEQA Categorical Exemptions

*Not Located within the City of Newport Beach.

AELUP: Airport Environs Land Use Plan; CDP: Coastal Development Permit; CUP: Conditional Use Permit; cy: cubic yards; DA: Development Agreement; DTSP: Downtown Specific Plan; EIR: Environmental Impact Report; FAA: Federal Aviation Administration; GPA: General Plan Amendment; gsf: gross square feet; HBGS: Huntington Beach Generating Station; I- 405: Interstate 405 freeway; IBC: Irvine Business Complex; IS: Initial Study; ITC: Irvine Technology Center; LAFCO: Local Agency Formation Commission; LCP: Local Coastal Program; LRDP: Long Range Development Plan; MCAS: Marine Corps Air Station; MND: Mitigated Negative Declaration; ND: Negative Declaration; PA: Planning Area; PC: Planned Community; sf: square feet; SP: Specific Plan; SR-73: State Route 73; TDR: transfer of development rights; TPM: Tentative Parcel Map; TTM: Tentative Tract Map; VTTM: Vesting Tentative Tract Map; ZC: Zone Change

4.1 AESTHETICS

The analysis in this Subsection is based on field observations and a photographic inventory collected by T&B Planning on August 28, 2020; view simulations produced by Fuscoe Engineering (provided herein as Figure 4.1-6 through Figure 4.1-11); available aerial photography (Google Earth, 2020); Project application materials (Project Applicant, 2020); the City of Newport Beach General Plan (Newport Beach, 2006a); and the City of Newport Beach General Plan 2006 Update EIR (SCH No. 2006011119) (Newport Beach, 2006b).

Based on analyses conducted as part of the Project's Initial Study, and the substantive evidence cited in the Initial Study (EIR *Technical Appendix A*), the City determined that the Project would clearly result in a less-than-significant impact under one of the thresholds identified in Section I (Aesthetics) of Appendix G to the CEQA Guidelines. Specifically, the Project's Initial Study concluded that the Project would result in a less-than-significant impact under Threshold (b):

> b. *Would the Project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?*

Accordingly, no additional analysis of the above-listed threshold is required and this Subsection instead focuses on the Project's potential to have a substantial adverse effect on a scenic vista; conflict with applicable zoning and other regulations governing scenic quality in an urbanized area; or to create a new source of substantial light or glare which would adversely affect day or nighttime views in the area. Refer to the Project's Initial Study (EIR *Technical Appendix A*) and Subsection 5.4 for a complete discussion and analysis of the above-listed threshold.

4.1.1 EXISTING CONDITIONS

A. *Existing Aesthetic Setting*

As discussed in Section 2.0, *Environmental Setting*, the Project site is located immediately south of Newport Center Drive, immediately west of Anacapa Drive, and immediately northeast of an existing office park (Gateway Plaza). The Project site is located south of a regional shopping center (Fashion Island) that is located north of Newport Center Drive. According to the City's General Plan Figure LU3, Statistical Area Map, the Project site is within the City of Newport Beach's Newport Center/Fashion Island Sub-Area (Statistical Area L1). (Newport Beach, 2006a) State Route 1 (SR-1), also known as East Coast Highway, is located approximately 0.31-mile south of the Project site. MacArthur Boulevard is located approximately 0.3-mile east of the Project site and provides access to California State Route 73 (SR-73), located approximately 2.0 miles northeast of the Project site. Newport Harbor is located approximately 0.71-mile to the southwest of the Project site and the Pacific Ocean is located approximately 1.4 miles to the south of the Project site. See Figure 2-1, *Regional Map* and Figure 2-2, *Vicinity Map*.

Under existing conditions, the Project site is fully developed as a car wash with ancillary convenience market and gas station, which includes exterior lighting. Street lighting also exists along Anacapa Drive and Newport Center Drive, as well as lighting sources that emanate from

adjacent and surrounding uses. The mechanical washing and drying operation of the existing car wash is in a single-story building comprised of a concrete structure with windows. Cars line up for the car wash outside of the building. The car wash building is at an elevation slightly below the grade of Anacapa Drive and Newport Center Drive. Foliage and trees are located along the northern, eastern and western boundaries of the car wash, which partially screens views of the car wash and fueling station from adjacent areas, including the surrounding roadways.

The Project site is within an urbanized portion of the City of Newport Beach that is fully developed with a variety of office, residential, retail, and service commercial land uses. The Project site is fronted on the north by Newport Center Drive, on the east by Anacapa Drive, on the south by an existing office building with underground parking, and on the west by Gateway Plaza and an existing parking facility that services Gateway Plaza. The Gateway Plaza office complex is comprised of eight low-rise office buildings, and associated surface parking. Muldoon's Irish Pub and a commercial office building are located east of the Project site and east of Anacapa Drive at the southeast corner of the Newport Center Drive/Anacapa Drive intersection. To the north of the Project site, and north of Newport Center Drive, is Fashion Island, a regional shopping center. Two restaurant buildings currently occupied by Red O and Fig & Olive are located at the southern edge of the Fashion Island parking lot, north of Newport Center Drive.

B. Existing Physical Site Conditions

As discussed in Section 2.0, *Environmental Setting*, the Project site is relatively flat, gently sloping toward the southwest. Project site elevations vary from a low of approximately 158.5 feet above mean sea level (AMSL) in the southwest corner to a high elevation of 170.3 feet AMSL in the northeast corner. Slopes and retaining walls are located along the northern and eastern perimeter of the site, ascending up to Newport Center Drive and Anacapa Drive, varying in height from 2 to 8 feet. (NMG, 2020, p. 2) The Project site does not have any existing natural landforms nor is the Project site in proximity to or part of a natural landform.

C. Site Photographs

Figure 4.1-1 through Figure 4.1-4 include site photographs that depict the existing urban visual character of the Project site and surrounding area. A corresponding index map that identifies the vantage point and direction of the view is included on each exhibit. These photographs were taken from ground-level public vantage points at a height of 5 feet 5 inches (representing average human eye level) and are representative views from the surrounding roadways and pedestrian facilities. Each of the viewsheds presented in Figure 4.1-1 through Figure 4.1-4 are described below.

- **Views 1 through 6.** Views 1 through 6, shown in Figure 4.1-1, represent existing views from vantage points located along Newport Center Drive; north of Newport Center Drive in the area of Fashion Island; and from San Miguel Drive. As shown in these photographs, the Project site's surrounding area is fully developed. The surrounding roadway rights-of-way contain ornamental landscaping, street lighting, and paved

sidewalks and the ornamental trees provide partial screening of the Project site's existing structures. A description of each view is provided below.

- View 1 is the view from a vantage point on the north side of Newport Center Drive, looking southeast towards the Project site. As shown in the photograph, the Project site is located in the background of the View. View 1 provides a partial distant view of the northern portion of the Project site situated along Newport Center Drive. The view of the site from this location is partially obstructed by buildings, streetlights, and trees and landscaping; therefore, a clear view of the Project site is not provided from this vantage point.

- View 2 is the view from the vantage point of the Macy's terrace at Fashion Island looking south towards Newport Center Drive and the northern portion of the Project site. A Fashion Island parking lot that is located on the northern side of Newport Center Drive is in the foreground of this view. Beyond the parking lot, the Fig & Olive restaurant and the Red O restaurant are visible. The Project site is in the background of View 2 and is obstructed by the existing restaurant buildings (Fig & Olive and Red O). In the location beyond the Project site, tall palm trees are visible beyond which is the horizon above the Pacific Ocean.

- View 3 is the view from a vantage point at the intersection of Newport Center Drive and Anacapa Drive, looking southwest towards the northern portion of the Project site. In the foreground of this photograph is the intersection and street lights. Beyond the streetlights, sidewalk, trees, and commercial/retail signage is the Project site. From this intersection a direct view of the Project site is visible with minor view obstructions due to existing street lights, trees, commercial/retail signage and utility boxes. As shown in View 3, the Project site's existing building visually appears below grade of Newport Center Drive and has a low-height profile. Mature ornamental trees are located within the northern portion of the Project site and along the Project site's frontage with Anacapa Drive. The Project site's car wash, retaining walls, ornamental palm trees, and signage along Newport Center Drive are visible from this vantage point. Direct views of the Pacific Ocean are obscured by landscaping and intervening development from this location.

- View 4 is the view from the vantage point on the south side of Newport Center Drive, east of Anacapa Drive, looking southwest towards the Project site. Commercial and office buildings are visible in the foreground of this photograph on the south side of Newport Center Drive as well as roadway, ornamental landscaping, mature trees, a landscaped roadway median, and tall palm trees. The Project site is visible in the background of this photograph. Beyond the Project site, office buildings that are taller than the on-site car wash facility and associated improvements are visible. The Pacific Ocean is visible in the far distance.

- View 5 is the view from a vantage point on the northeast corner of Newport Center Drive and San Miguel Drive, looking southwest toward the Project site. In the foreground of this photograph are roadway, ornamental landscaping, a landscaped median, tall palm trees, and tall street lights. Commercial and retail establishments, including the Edwards Theater, are visible on the left-hand side of the photograph and Fashion Island is visible on the right-hand side of the photograph including parking areas and the Fig & Olive restaurant. The Project site is visible in the background. Beyond the Project site the Pacific Ocean is visible. From this view, if a driver were rounding the corner making a left turn from San Miguel Drive to Newport Center Drive, a view of the Pacific Ocean would be available over the Project site. As Newport Center Drives descends in elevation toward the Project site, the ocean becomes less visible and just beyond View 4 (described above), the ocean is no longer visible.

- View 6 is the view from San Miguel Drive, west of its intersection with Newport Center Drive, looking southwest towards the Project site. Edwards Theater with its associated improvements is visible in the foreground of the photograph, as well as ornamental landscaping, tall palm trees, and tall street light poles, and the southeast corner of the intersection of San Miguel Drive and Newport Center Drive. In the background of the photograph, partial views of the Fig & Olive restaurant and other commercial/retail buildings are provided. The Project site's existing structures are not visible from View 6. Beyond the Project site in the far distance is a view of the Pacific Ocean.

- **Views 7 through 13.** Views 7 through 13, as shown in Figure 4.1-2, *Views 7-13*, provide views of the Project site and surrounding area from vantage points along Newport Center Drive (east of the site); Anacapa Drive, looking north and west; and from within the Gateway Plaza, looking east and north. These views further depict the urban and the fully developed nature of the Project site and surrounding area. The views from these vantage points do not provide any views to any natural landforms. A description of each view is provided below.

  - View 7 is a view from the vantage point of Newport Center Drive, looking east from Newport Center Drive towards the Project site. Newport Center Drive is in the immediate foreground and the direct view is of Gateway Plaza. The Project site's existing structure is not clearly visible from View 7. This roadway segment is designated as a Coastal View Road in Figure NR3 of the Newport Beach General Plan.

  - View 8 is a view from a vantage point immediately west of the Project site and within Gateway Plaza near the physical address of 120 Newport Center Drive. This view provides partial views of the western boundary of the Project site. As shown in View

8, the Project site's existing building and outside waiting area are partially visible from this vantage point. Additionally, surface parking for the surrounding office buildings and a portion of the 140 Newport Center Drive office building are visible. As shown in View 8, ornamental landscaping and directional signage are located throughout the Gateway Plaza. The Gateway Plaza contains paved internal drive aisles.

- View 9 is a view from a vantage point slightly south of View 8 and near the physical address of 140 Newport Center Drive. As shown in View 9, the Project site's existing building and outside waiting area are partially visible from this vantage point. The Project site's existing building does not protrude above the ornamental trees. The existing ornamental landscaping from within the Project site and within the Gateway Plaza partially screens the Project site's existing structure.

- View 10 is a view from a vantage point directly south of the Project site from within Gateway Plaza near 180 Newport Center Drive. View 10 provides unobstructed views of the Project site's southern boundary. As shown in View 10, the Project site's existing building, outside waiting area, and gas pumps are visible from this vantage point. Additionally, the Project site's ornamental landscaping and light poles are visible. Partial views of the Red O restaurant building, the Fashion Island Hotel building, and three high-rise office buildings are visible from the View 10 vantage point. Moreover, ornamental palm trees are visible in the background.

- View 11 is a view from a vantage point from the Anacapa Drive/Civic Center Drive intersection, looking slightly northwest towards the Project site. Office buildings and partial views of Fashion Island are visible in this photograph. The Project site's existing structures are obstructed by buildings, ornamental landscaping, tall trees, and tall street light poles. The roof of the Project site's existing structure is partially visible in the left-hand side of this photograph.

- View 12 is a view from the vantage point from the eastern side of Anacapa Drive, looking slightly northwest to the Project site. As shown in View 12, the Project site's existing building, outside waiting area and ornamental landscaping are visible throughout the Project site. Partial views of the office buildings located west and southwest of the Project site within Gateway Plaza are provided and partial views of Fashion Island located north of the Project site are provided.

- View 13 is a view from a vantage point on the east side of Anacapa Drive, looking directly west on to the Project site. Tall street light poles, as well as ornamental landscaping are visible in the foreground of the photograph. The Project site's existing structures, ornamental landscaping, lighting fixtures, and outside waiting area are visible from this vantage point. Mature ornamental trees are visible in the

background as well as buildings that are a part of Gateway Plaza. View 13 is the view from standing on the sidewalk along Anacapa Drive; however, if a driver, traveling south on Anacapa Drive (in the right (Project site adjacent) lanes), was looking towards the Pacific Ocean, and was looking in the direction of the Project site's existing parking area and car drying area, a small partial view of the Pacific Ocean would be visible on the horizon in the far distance.

- **Views 14 through 17.** All of these views are from vantage points southeast of the Project site, east and south of Anacapa Drive, as well as east of Avocado Avenue and west of MacArthur Boulevard. Views 14 through 16, shown on Figure 4.1-3, *Views 14-17* provide views towards the Project site from Civic Center Park, looking west and northwest. View 17 is located just east of Macarthur Boulevard, adjacent to Sea Lane, looking northwest. These vantage points illustrate the existing views experienced from the walking trails within the Civic Center Park and public rights-of-way in the existing residential neighborhoods east of the Project site and at a higher elevation than the Project site. A description of each view is provided below.

    - View 14 provides views of the Project area looking west from the eastern side of the pedestrian bridge at Civic Center Park. San Miguel Drive and Avocado Avenue are visible in the foreground of the photograph as well as ornamental landscaping, street lighting, tall trees, and mid and high-rise buildings. Views of the Pacific Ocean are provided from the pedestrian bridge; however, a view of the Pacific Ocean is not in the direct line of sight when looking towards the Project site. The Project site and its existing structures are not visible from this vantage point.

    - View 15 provides views of the Project area looking west from the western side of the pedestrian bridge at Civic Center Park. Visible in this photograph are Avocado Avenue and San Miguel Drive, tall trees, ornamental landscaping, tall street light poles, commercial and retail buildings and mid and high-rise buildings. As shown in View 15, due to intervening structures and tall trees, the Project site and its existing structures are not visible from this vantage point. Partial views of the Pacific Ocean are visible from this View; however, that view of the Pacific Ocean is not in the direct line of sight or near the direct line of site when looking towards the Project site.

    - View 16 provides views of the Project area looking northwest from the Civic Center Park, east of Avocado Avenue. Visible in this photograph is Civic Center Park, ornamental landscaping, tall trees, tall street light poles and mid-to-high rise buildings. As shown in View 16, due to the elevation of this vantage point and intervening structures and ornamental landscaping, the Project site and its existing structures are not visible from this vantage point. This vantage point does not provide clear views of the Pacific Ocean.

- View 17 provides views of the Project area looking northwest from Sea Lane within the residential neighborhood located east of the Project site and east of MacArthur Boulevard. The City of Newport Beach City Hall building and associated parking structure are in the foreground of the photograph. Tall trees and mid-level office buildings are visible in the right-hand section of the photograph. Due to the lower elevation of the Project site and the distance to the Project site from View 17, a view of the Project site and its associated structures is not visible from this particular view. Partial views of the Pacific Ocean are visible from View 17; however, views of the Pacific Ocean are not in the direct line of sight or near the direct line of site when looking towards the Project site.

- **Views 18 & 19**. Views 18 and 19 shown on Figure 4.1-4, *Views 18 & 19*, provide views from Avocado Avenue looking towards the Pacific Ocean. These views depict the urban character of the Project area and illustrate the views of travelers and pedestrians travelling along Avocado Avenue towards the Pacific Ocean. At certain points along Avocado Avenue, partial views of the Pacific Ocean are visible. A description of each vantage point is provided below.

  - View 18 provides views along Avocado Avenue just north of San Miguel Drive. Visible in this photograph is the intersection of Avocado Avenue and San Miguel Drive, as well as tall trees, landscaping, buildings, as well as a partial view of the Civic Center pedestrian bridge. From this view, the Pacific Ocean is visible straight down Avocado Avenue driving south/southwest. The Project site is located to the west of View 18 and is not visible from this view. The Project site is situated lower in grade and blocked from view by intervening landscaping and the structure located at the southwest corner of Avocado Avenue and San Miguel Drive.

  - View 19 provides a view from Avocado Avenue south of San Miguel Drive and north of Civic Center Drive. Visible in this photograph is the intersection of Avocado Avenue and Newport Center Drive as well as commercial/retail buildings, tall trees and landscaping. From this view, a direct view of the Pacific Ocean is provided from Avocado Avenue. The Project site is located to the northwest and is blocked by intervening landscaping and structures and is therefore not visible from View 19.

- **Views 20 & 21.** Views 20 and 21 shown on Figure 4.1-5, *Views 20 & 21* provide views from MacArthur Boulevard looking southwest toward the Project site. These views depict the urban character of the Project area and illustrate the views experienced by travelers and pedestrians travelling along MacArthur Boulevard. At certain points along MacArthur Boulevard partial views of the Pacific Ocean are visible. A description of each vantage point is provided below.

- View 20 provides views along MacArthur Boulevard looking southwest from the western side of MacArthur Boulevard near the Dog Park. As shown in View 20, existing ornamental trees along the MacArthur Boulevard right-of-way obstruct views to the Project site and surrounding area. The City of Newport Beach identifies MacArthur Boulevard, south of San Joaquin Hills Road, as a Costal View Road. As illustrated in View 20, passengers traveling south along MacArthur Boulevard experience distant views of the Pacific Ocean.

- View 21 provide views from MacArthur Boulevard looking southwest from the eastern side of MacArthur Boulevard. As shown in View 21, existing ornamental landscaping and office buildings obstruct views of the Project site and surrounding area. This vantage point does not provide views to the Pacific Ocean.

4.1.2 Regulatory Setting

A. State Regulations

1. California Coastal Act Policy 30251

According to the California Coastal Act Policy 30251, the scenic and visual qualities of coastal areas shall be considered and protected as resources of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. (Newport Beach, 2006b, p. 4.1-14)

B. Local Regulations

1. City of Newport Beach General Plan

The General Plan identifies strategies for the re-use of land to provide opportunities for new housing that will complement and enhance Newport Beach's character and livability (Newport Beach, 2006a, p. 1-3). The City of Newport Beach General Plan Land Use Element and Natural Resources Element contain goals and policies related to the topic of aesthetics. The Land Use Element presents goals and policies pertaining to how existing development is to be maintained and enhanced and how new development is to occur (Newport Beach, 2006a, p. 1-12). The Natural Resources Element provides direction regarding the conservation, development, and utilization of natural resources (Newport Beach, 2006a, p. 1-13). The goals and policies from the Land Use Element and Natural Resources Element that are related to aesthetics and that are applicable to the proposed Project are listed below.

- **Goal LU 1:** A unique residential community with diverse coastal and upland neighborhoods, which values its colorful past, high quality of life, and community bonds, and balances the needs or residents, businesses and visitors through the recognition that Newport Beach is primarily a residential community.

- **Policy LU 1.6: Public Views.** Protect, and where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, and harbor from public vantage points.

- **Goal LU 3:** A development pattern that retains and complements the City's residential neighborhoods, commercial, and industrial districts, open spaces, and natural environment.

- **Policy 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 level of service.

- **Goal LU 6.14:** A successful mixed-use district that integrates economic and commercial centers serving the needs of Newport Beach residents and the subregion, with expanded opportunities for residents to live close to jobs, commerce, entertainment, and recreation, and is supported by pedestrian-friendly environment.

- **Policy LU 6.14.4: Development Scale.** Reinforce the original design concept for Newport Center by concentrating the greatest building mass and height in the northeasterly section along San Joaquin Hills Road, where the natural topography is highest and progressively scaling down building mass and height to follow the lower elevations toward the southwesterly edge along East Coast Highway.

- **Goal NR 20:** Preservation of significant visual resources.

  Policy NR 20.1: Enhancement of Significant Resources. Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from public vantage points, as shown in Figure NR3.

- **Policy NR 20.2. New Development Requirements.** Require new development to restore and enhance the visual quality in visually degraded areas, where feasible, and provide view easements or corridors designed to protect public views or to restore public views in developed areas, where appropriate.

- **Policy NR 20.3: Public Views.** Protect and enhance public view corridors from the following roadway segments (shown in Figure NR3), and other locations may be identified in

the future: (note: only those roads that are near the Project site or have a potential viewshed of the Project site are noted below.)

- Avocado Avenue from San Joaquin Hills Road to Coast Highway
- MacArthur Boulevard from San Joaquin Hills Road to Coast Highway
- Newport Center Drive from Newport Center Drive E/W to Farallon Drive/Granville Drive
- San Miguel Drive from San Joaquin Hills Road to MacArthur Boulevard

- **Goal NR 21:** Minimize visual impacts of signs and utilities.

- **Policy NR 21.1: Signs and Utility Siting and Design.** Design and site signs, utilities, and antennas to minimize visual impacts.

- **Policy NR 21.3: Overhead Utilities.** Support programs to remove and underground overhead utilities, in new development as well as existing neighborhoods.

2. *City of Newport Beach Municipal Code*

Title 15, Section 15.32.015 (Underground Utilities Service Connection)

The Project is subject to the requirements specified in Title 15 (Buildings and Construction), Section 15.32.015 (Underground Utilities Service Connection) of the City's Municipal Code. Section 15.32.015 of the Municipal Code requires that the Building Official shall, as a condition of the issuance of an electrical service permit, require the electrical service located within the exterior boundary lines of any lot or parcel of property to be installed underground when: 1) the property is to be developed with a new or replacement buildings or 2) an addition to an existing building exceeds 50 percent of the gross floor area of the existing building. (City of Newport Beach, 2020)

Title 20 (City of Newport Beach Zoning Code)

While the General Plan provides long-range and broad categories of land use, the Municipal Code Title 20 (Zoning Code), provides specific development standards that influence the City of Newport Beach's views and visual character, and address lighting requirements. The Zoning Code is intended to carry out the policies of the City of Newport Beach General Plan. It is also the intent of the Zoning Code to promote the orderly development of the City; promote and protect the public health, safety, peace, comfort, and general welfare; protect the character, social and economic vitality of neighborhoods, and to ensure the beneficial development of the City (City of Newport Beach, 2020, Section 20.10.020) The Zoning Code establishes development standards and requirements that include, but are not limited to, the following:

- Minimum lot area;

- Building setbacks;
- Lot coverage, building area and floor/area ratio;
- Maximum height;
- Fencing and walls; and
- Landscaping.

Development standards for areas under a Planned Community District (PC) (Chapter 20.26, Special Purpose Zoning Districts [OS, PC, PF, PI, and PR]) are discussed under Threshold c) in Section 4.1.4, below.

Other sections of the Zoning Code relevant to aesthetic quality of the Project include:

- **Title 20, Section 20.30.070 (Outdoor Lighting).** The Project is subject to the building and development standards specified in Title 20 (Planning and Zoning), Section 20.03.070 (Outdoor Lighting) of the City's Municipal Code. Section 20.30.070 of the Municipal Code establishes the following outdoor lighting standards applicable to all new development in the City, including the proposed Project:

  "All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties and to not produce glare onto adjacent properties or roadways. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures." (City of Newport Beach, 2020, Section 20.30.070.A.1)

  "Spotlighting or floodlighting used to illuminate buildings, statues, signs, or any other objects mounted on a pole, pedestal, or platform or used to accentuate landscaping shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the object intended to be illuminated to minimize glare, sky glow, and light trespass. The beam width shall not be wider than that needed to light the feature with minimum spillover. The lighting shall not shine directly into the window of a residence or directly into a roadway. Light fixtures attached to a building shall be directed downward." (City of Newport Beach, 2020, Section 20.30.070.C)

- **Title 20, Section 20.30.100 (Pubic View Protection).** The Project is subject to Title 20, Section 20.30.100 (Public View Protection), which provides regulations to preserve significant visual resources (public views) from public view points and corridors. The provisions of this section shall apply only to discretionary applications where a project has the potential to obstruct public views from public view points and corridors, as identified on General Plan Figure NR 3, *Coastal Views*, to the Pacific Ocean, Newport Bay and Harbor, offshore islands, the Old Channel of the Santa River (the Oxbow Loop), Newport Pier, Balboa Pier, designated landmark and historic structures, parks, coastal and inland bluffs, canyons, mountains, wetlands, and permanent passive open space. (City of Newport Beach, 2020)

4.1.3 Basis for Determining Significance

The proposed Project would result in a significant impact to aesthetic resources if the Project or any Project-related component would:

a. *Have a substantial adverse effect on a scenic vista;*

c. *In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality; or*

d. *Create a new source of substantial light or glare which would adversely affect day or nighttime views.*

Thresholds (a), (c) and (d) are taken directly from Appendix G of the State CEQA Guidelines. The use of these thresholds for the evaluation of Project-related impacts is intended to ensure that the proposed Project's impacts to aesthetic resources are appropriately evaluated and that feasible mitigation measures are applied for any impacts that are determined to be significant.

Regarding the determination of significance under Threshold a), the scenic vistas available in the vicinity of the Project site are views of the Pacific Ocean; as such, if views of the Pacific Ocean would be blocked, obscured, or substantially and adversely affected as seen from a coastal view road or a public view point identified on Figure NR3, *Coastal Views*, of the City's General Plan, the impact will be regarded as significant. Effects to scenic vistas from other public locations and private properties will not be considered significant in this EIR because the City's General Plan expressly calls for the protection of ocean views from the locations and roadway corridors identified on General Plan Figure NR3 (refer to General Plan Policies NR 20.1, NR 20.2, and NR 20.3) and the City does not have any ordinances, plans, or policies in place that call for the protection of views from other locations or from privately-owned property.

Regarding the determination of significance under Threshold c), because the Project site is located in an urbanized area, the Project would result in a significant impact if it were to conflict with applicable zoning and other regulations governing scenic quality.

Regarding the determination of significance under Threshold d), if the Project would result in new source of substantial light and glare that may adversely affect daytime and nighttime views, the impact would be regarded as significant. In this context, "substantial" will mean light that produces more than one-foot candle of light spillover.

4.1.4 IMPACT ANALYSIS

Threshold a: Would the Project have a substantial adverse effect on a scenic vista?

Less than Significant Impact

The Project site is located in the Newport Center area, from which views of the Pacific Ocean are available from some locations looking west and southwest, and views of distant landforms are available from some locations looking north, east and northeast. Due to distance and intervening development, construction of the proposed four-story building on the approximately 1.26-acre Project site would not substantially or adversely affect views to distant landforms from public viewing areas. This includes, but is not limited to, views to the northeast (San Joaquin Hills and Santa Ana Mountains) and views to the northwest (the Palos Verdes Peninsula in Los Angeles County). The San Joaquin Hills are located approximately five miles from the Project site and the peak of the Santa Ana Mountains and the Palos Verdes Peninsula are located more than 20 miles from the Project site, and the San Gabriel Mountains (visible on clear days from the Newport Center area) are located approximately 50 miles north of the Project site. Due to the distance to these features, they are large features part of the distant horizon view. Looking east toward the hills and mountains from lower elevations, the Project's building would be lower in stature than the horizon; hill and mountain views would remain visible beyond the building. Looking north towards the Palos Verdes Peninsula from higher elevations; the Project's building on a 1.26-acre site has no potential to substantially block a wide horizon view located more than 20 miles in the distance. As such, the remaining analysis is focused on the Project's potential impact to ocean views as seen from a Coastal View Road or Public View Point identified on General Plan Figure NR3.

Figure NR3, *Coastal Views*, of the City's General Plan Natural Resources Element, identifies locations in the City where the City has determined that coastal views should be preserved. Figure NR3 shows that the closest Coastal View Road to the Project site is the segment of Newport Center Drive that runs parallel to Anacapa Drive, about 800 feet west of the Project site, from Newport Center Drive E/W to Farallon Drive/Granville Drive. Figure NR3 also identifies the segment of MacArthur Boulevard from San Joaquin Hills Road to Coast Highway (located approximately 0.3 miles east of the Project site) and Avocado Avenue from San Joaquin Hills Road to Coast Highway (located approximately 0.2 miles east of the Project site) as Coastal View Roads. (Newport Beach, 2006a, Figure NR3).

- **Newport Center Drive:** In the viewshed of the Pacific Ocean as seen from the segment of Newport Center Drive that is designated a Coastal View Road, the Project site is not visible. Along this roadway segment, views of the Pacific Ocean are toward the southwest, whereas views of the Project site are due west to northwest. As shown on View 1 of Figure 4.1-1, even when looking due west toward the Project site from the intersection of Newport Center Drive with Newport Center Drive E/W, the Project site is in the distant background, not highly visible, and not in the viewshed of the Pacific Ocean. Implementation of the proposed Project would have no impact on scenic ocean views as seen from this segment of Newport Center Drive.

- **Avocado Avenue:** In the viewshed of the Pacific Ocean as seen from the segment of Avocado Avenue that is designated a Coastal View Road, the Project site is not visible. Along this roadway segment, views of the Pacific Ocean are seen straight down Avocado Avenue to the south/southwest, whereas views of the Project site are due west/northwest. As shown on View 18 and 19 of Figure 4.1-4, views toward the Project site are obscured by buildings and landscaping and the Project site is not in the viewshed of the Pacific Ocean. Implementation of the proposed Project would have no impact on scenic ocean views as seen from this segment of Newport Center Drive.

- **MacArthur Boulevard:** In the viewshed of the Pacific Ocean as seen from the segment of MacArthur Boulevard that is designated a Coastal View Road, the Project site is not visible. Along this roadway segment, views of the Pacific Ocean are seen straight down MacArthur Boulevard to the south/southwest, whereas views of the Project site are due west/northwest. As shown on View 20 of Figure 4.1-5 views toward the Project site are obscured by landscaping and the Project site is not in the viewshed of the Pacific Ocean. Implementation of the proposed Project would have no impact on scenic ocean views as seen from this segment of MacArthur Boulevard.

As depicted on General Plan Figure NR3, the nearest Public View Point designated by the General Plan is located at Irvine Terrace Park, south of the Project site and south of East Coast Highway. (Newport Beach, 2006a, Figure NR3). Civic Center Park, located between MacArthur Boulevard and Avocado Avenue, approximately 0.2-mile east of the Project site, was constructed after the General Plan was adopted and affords public views of the Pacific Ocean, including from an elevated pedestrian viewing platform (Google Earth, 2020). As such, Civic Center Park is also considered a Public View Point for purposes of analysis in this EIR.

- **Irvine Terrace Park:** The viewshed of the Pacific Ocean as seen from Irvine Terrace Park is due west, looking in the opposite direction of the Project site. As such, the Project site is not in the viewshed of the Pacific Ocean as seen from Irvine Terrace Park. Implementation of the proposed Project would have no impact on scenic ocean views as seen from this park.

- **Civic Center Park:** In the viewshed of the Pacific Ocean as seen from Civic Center Park, the Project site is partially visible although is mostly blocked from view by intervening structures and landscaping as shown on Views 14, 15, and 16 of Figure 4.1-3. Implementation of the proposed Project would have a less-than-significant impact on scenic ocean views as seen from this park because due to the descending ground elevation between Civic Center Park and the Project site and the proposed height of the building, the proposed building would appear lower in profile than the horizon ocean view. Refer to discussion of Visual Simulation 6, below, for more information.

During construction activities, construction equipment, including cranes, would be used that may temporarily be visible on the skyline when looking across the Project site from any direction. However, the use of such construction equipment would be temporary in duration and the equipment

would be removed at the end of the construction period. Equipment such as cranes would not be of any substantive mass to block or substantially obscure a scenic ocean view. Accordingly, there would be no substantial change to public views from Coastal View Roads or Public View Points during the Project's short-term temporary construction activities.

Based on the foregoing analysis, the proposed Project would have a less than significant impact on scenic vistas. Regardless, additional analysis is provided below for information purposes for other locations in the surrounding community where there may be concerns regarding views. It should be noted that the City's General Plan Figure NR3 does not identify any of these locations as Coastal View Roads or Public View Points, and as such, any effects to views are regarded as less than significant.

Figure 4.1-6, *Visual Simulation 1*, through Figure 4.1-11, *Visual Simulations 7 and 8*, depict the Project's proposed structure and provide visual representation of the anticipated appearance of the proposed building from various locational perspectives. Although the analyses for these public and private views is not required because the City has not designated these locations as Coastal View Roads or Public View Points on General Plan Figure NR3, the analysis provides information about the Project's potential to adversely affect views of the Pacific Ocean. These view simulations represent simulated views that would be experienced by individuals looking toward the Project site in daytime hours at approximately 6 feet above ground surface. These simulated views are described below.

- Visual Simulation 1 – From the backyard of a private residence at Ebbtide Road, looking northwest toward the Project site (Figure 4.1-6): As shown in Figure 4.1-6, the Project's proposed building is partially obstructed from view by intervening ornamental trees that exist within the existing development and along surrounding roadways. The three uppermost floors and roof of the proposed building are partially visible in the distance. The scale and height of the building is comparable with the surrounding buildings. Views to the Pacific Ocean are provided from this viewpoint looking southwest.

- Visual Simulation 2 – From the backyard of a private residence at Surfline Way, looking west toward the Project site (Figure 4.1-7): As shown in Figure 4.1-7, *View Simulations 2 and 3*, the Project's proposed building is partially obstructed from view by intervening ornamental trees that exist within existing development and along surrounding roadways. The three uppermost floors and roof of the proposed building are partially visible in the distance. The scale and height of the building is comparable with the surrounding buildings. Views to the Pacific Ocean are provided from this viewpoint looking southwest.

- Visual Simulation 3 – From the sidewalk at the intersection of Crown Drive and Sea Lane, looking west toward the Project site (Figure 4.1-7): As shown in Figure 4.1-7, the Project site's proposed building is partially obstructed from view by intervening ornamental trees and buildings. The three uppermost floors and roof of the proposed building are partially visible in the distance. The scale and height of the building is comparable with the surrounding

buildings. Partial views to the Pacific Ocean are provided from this viewpoint looking southwest.

- Visual Simulation 4 – From the backyard of a private residence at Blue Water Drive, looking west toward the Project site (Figure 4.1-8): As shown in Figure 4.1-8, *Visual Simulation 4*, the Project's proposed building is obstructed by existing structures and trees and is not visible. Intervening private residences and ornamental landscaping obstruct views of the Project's proposed building. Partial views to the Pacific Ocean and Newport Bay are provided from this viewpoint looking west.

- Visual Simulation 5 – From the terrace near Macy's at Fashion Island, looking south toward the Project site (Figure 4.1-9): As shown in Figure 4.1-9, *Visual Simulation 5*, the Project site's proposed building is partially obstructed from view by intervening ornamental landscaping along Newport Center Drive and the Red O restaurant building. The two uppermost floors and the roof of the proposed building are partially visible. The scale and height of the building is comparable with the surrounding buildings. Partial views of the Pacific Ocean are visible from this viewpoint.

- Visual Simulation 6 – From the pedestrian bridge at Civic Center Park, looking west toward the Project site (Figure 4.1-10): As shown in Figure 4.1-10, *Visual Simulation 6*, the Project's proposed building is obstructed by existing structures and trees and is not visible. The view of the Project's proposed building would be obstructed by intervening ornamental landscaping and commercial/office buildings. Partial views of the Pacific Ocean are provided from this viewpoint looking southwest.

- Visual Simulation 7 – From Newport Center Drive near the Red O restaurant building, looking southwest toward the Project site (Figure 4.1-11): As shown in Figure 4.1-11, *Visual Simulations 7 and 8*, the Project's proposed building is prominently visible from Newport Center Drive. Street trees partially obstruct the western façade of the structure. The Project's proposed building scale and height is comparable with the surrounding buildings. Views of the Pacific Ocean are not visible from this viewpoint.

- Visual Simulation 8 – From Newport Center Drive near the Edwards movie theater building, looking southeast toward the Project site (Figure 4.1-11): As shown in Figure 4.1-11, the Project's proposed building is prominently visible from Newport Center Drive. The Project's proposed building height is taller than immediately surrounding buildings but comparable to other buildings in the southern half of Newport Center. Distant partial views of the Pacific Ocean that are currently available by looking over the Project site and over the roof of the existing car wash structure from the intersection of San Miguel Drive/Newport Center Drive and continuing along Newport Center Drive toward the Project site for approximately 500 feet (before reaching the Fig & Olive restaurant) would be blocked by the Project's 4-story building.

Threshold c: Would the Project in a non-urbanized area, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Less than Significant Impact.

The Project site is located in an urbanized area of the City of Newport Beach. As such, the potential impacts under this threshold are assessed based on whether the Project would conflict with applicable zoning and other regulations governing scenic quality. The Project Applicant proposes a General Plan Amendment (GP2020-001), Zoning Code Amendment (CA2020-008), and a Planned Community Development Plan (PC2020-001) to allow for a proposed 28-unit residential condominium building, whereas the Project site is currently zoned and designated for regional commercial office use.

As previously identified in Section 4.1.2, regulations governing scenic quality are established through the City of Newport Beach Municipal Code (Title 20), and the City of Newport Beach General Plan includes policies relevant to scenic quality, as discussed below.

A. City of Newport Beach Zoning Code

Under existing conditions, the Project site is located within the "OR (Office Regional) Zoning District." The Project Applicant's proposed Zoning Code Amendment No. CA2020-008 seeks to change the site's existing zoning classification from "OR" to the "PC (Planned Community District)" zoning classification.

According to City Municipal Code Section 20.26.010(B), *Purposes of Special Purpose Zoning Districts*, the PC zoning classification is intended to provide for areas appropriate for the development of coordinated, comprehensive projects that result in a superior environment; to allow diversification of land uses as they relate to each other in a physical environmental arrangement while maintaining the spirit and intent of the City of Newport Beach Zoning Code; and to include a variety of land uses, consistent with the General Plan through the adoption of a development plan and related text that provides land use relationships and associated development standards (City of Newport Beach, 2020). The proposed Project would be required to be designed in accordance with the PC zoning classification. The Project's Planned Community Development Plan (PCDP) is attached to this EIR as *Technical Appendix B*. Compliance with the design standards of the PCDP would be ensured through the City's review of the Site Development Review application and future review of building permits. Compliance with the requirements of the PCDP-text would ensure that the development of the site would occur in a manner that would not substantially degrade the existing visual character or quality of the Project site and its surroundings.

The existing car wash building that is located on the Project site is approximately 12.5 feet high. As detailed in the PCDP-text for the Project, the proposed Project includes a new four-story building at a

maximum height of 52 feet 11 inches from the established grade (167 feet 9 inches NAVD88 datum) of the site or 220 feet 8 inches AMSL.

In comparison, pursuant to City of Newport Beach building permits, the range of heights of existing structures located in the vicinity of the Project site are as follows:

- Block 100 office buildings: The existing height of buildings is listed in building permits as ranging from approximately 24 feet 11 inches in height to 38 feet 3 inches in height.
- Edwards movie theater to the northeast: The existing height is listed in building permits as approximately 42 feet 6 inches with architectural projections reaching up to approximately 52 feet.
- Block 200 buildings east of the Project site and on the opposite side of Anacapa Drive: The existing structures consist of 2 and 3-story buildings listed in building permits as heights ranging from approximately 20 feet 3 inches to 74 feet 4 inches in height.
- Restaurant buildings (currently Red O and Fig & Olive) to the north across Newport Center Drive: The existing height listed in building permits for the two restaurants is approximately 32 feet 4 inches and 33 feet 9 inches in height, respectively.

Pursuant to the OR Zoning District requirements, development on the subject parcel is currently restricted to a maximum height limit of 32 for a flat roof and 37 feet for a sloped roof. The Newport Beach Municipal Code limits building heights in the immediately surrounding area to a maximum of 32 feet to 37 feet for properties to the east across Anacapa Drive (OR Zoning District), to 50 feet for Block 100 (the designated block in which the proposed Project is located), and to 75 feet for mall buildings in Fashion Island. Although the Project's proposed building would be 2 feet 11 inches taller than currently allowed on adjacent parcels (PC-56) and roughly 16 feet taller than currently allowed on the subject site for commercial development, the new residential building would be comparable with the height of other existing buildings in the Newport Center area. The General Plan Land Use Element includes Policy LU 6.14.14 (Development Scale) that encourages the concentration of the greatest building mass and height in Newport Center in the northeasterly section along San Joaquin Hills Road with a progressive scaling down of building mass and height toward the southwesterly edge along East Coast Highway. As discussed in Section 4.10, *Land Use and Planning*, the Project's proposed building would be lower in height and mass when compared to the existing office towers 21 stories (300 feet) in height located along San Joaquin Hills Road in the northern portion of Newport Center. Additionally, within Newport Center, there are 13 buildings that are seven stories or taller (greater than 100 feet), primarily located north of San Miguel Drive and Santa Barbara Drive. On the south end of Newport Center (south of San Miguel Drive), existing buildings range from 21-74 feet in height. The proposed Residences at Newport Center building is proposed to be constructed to a maximum height of 52 feet 11 inches with high-quality exterior building materials in an architectural design that complements surrounding development. Refer to EIR Section 3.0, *Project Description*, for more information about the building's design elements.

Compliance with the requirements of the Project's proposed PCDP-text would ensure that the Project would not conflict with the City of Newport Beach Zoning Code. A building height that is 16 feet taller than currently permitted by the site's existing OR zoning designation and 2 feet 11 inches taller than currently permitted on adjacent parcels, would not demonstrate adverse aesthetic impacts.

1. City of Newport Beach General Plan

The City's General Plan contains various policies that are applicable to the topic of scenic quality. The analysis below in Table 4.1-1, *Consistency with General* Plan , identifies applicable policies and determines whether the proposed Project would be in conflict with any of the policies.

Table 4.1-1 Consistency with General Plan Policies Pertaining to Scenic Quality

General Plan Policy	Project Consistency
Land Use Element	
Goal LU 1: *A unique residential community with diverse coastal and upland neighborhoods, which values its colorful past, high quality of life, and community bonds, and balances the needs or residents, businesses and visitors through the recognition that Newport Beach is primarily a residential community.*	
Policy LU 1.6: Public Views. Protect, and where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, and harbor from public vantage points.	**No conflict.** As discussed under Threshold a), the Coastal View Road segments nearest to the Project site include Avocado Avenue, Newport Center Drive, and MacArthur Boulevard and the nearest designated Public View Point is in Irvine Terrace Park. The Project site is not within the viewshed of these viewing corridors and public view point when looking towards the Pacific Ocean. Additionally, the Project would not block views to other visual resources such as distant landforms due to the small scale of the Project in relation to the large scale of the landform views in the distance. The Project would not conflict with this policy.
Goal LU 3: *A development pattern that retains and complements the City's residential neighborhoods, commercial, and industrial districts, open spaces, and natural environment.*	
Policy 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	**No conflict.** The Project site is the location of the Newport Beach Car Wash, which the Project Applicant has indicated does not support the land value and purchase price of the property, and thus is economically underperforming. (Newport Center Anacapa Associates, LLC, 2020). The Project Applicant proposes to redevelop the Project site with a 28-unit condominium building on the 1.26-

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 level of service.	acre site. The proposed use would assist the City in meeting its housing allocation goals and requirements and also reduce the commuting distance between the new housing units and nearby jobs, services, and entertainment. The site is located in the Newport Center/Fashion Island area, an area of both high- and low-rise offices and retail. The implementation of the Project would not interfere with the City of Newport Beach's ability to implement this policy and would not conflict with this policy.
Goal LU 6.14: *A successful mixed-use district that integrates economic and commercial centers serving the needs of Newport Beach residents and the subregion, with expanded opportunities for residents to live close to jobs, commerce, entertainment, and recreation, and is supported by pedestrian-friendly environment.*	
Policy LU 6.14.4: Development Scale. Reinforce the original design concept for Newport Center by concentrating the greatest building mass and height in the northeasterly section along San Joaquin Hills Road, where the natural topography is highest and progressively scaling down building mass and height to follow the lower elevations toward the southwesterly edge along East Coast Highway.	**No conflict.** The proposed building would be constructed to a maximum structural height of 52 feet and 11 inches from the established grade with additional height for rooftop appurtenances and screening. The Project's proposed building mass is architecturally well-articulated and although the building height is taller than buildings on adjacent parcels, the proposed height is comparable to other buildings in the surrounding area and allowed building heights in Block 100. As shown in Figure 4.1-6 through Figure 4.1-11, the Project's proposed building would have a scaled-down mass and height compared to the buildings positioned closer to San Joaquin Hills Road. The Project would not conflict with this policy.
Natural Resources Element	
Goal NR 20: *Preservation of significant visual resources*	
Policy NR 20.1: Enhancement of Significant Resources. Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from public vantage points, as shown in Figure NR3.	**No conflict.** As discussed under Threshold a), the Coastal View Road segments nearest to the Project site include Avocado Avenue, Newport Center Drive, and MacArthur Boulevard and the nearest designated Public View Point is in Irvine Terrace Park. The Project site is not within the viewshed of these viewing corridors and public view point when looking towards the Pacific Ocean. Additionally, the Project would not block views to other visual resources such as distant landforms due to the small scale of the Project in relation to the large scale of the landform views in the distance. The Project would not conflict with this policy.

Policy NR 20.2: New Development Requirements. Require new development to restore and enhance the visual quality in visually degraded areas, where feasible, and provide view easements or corridors designed to protect public views or to restore public views in developed areas, where appropriate.	**No conflict.** The Project site is located in Newport Center which is not a visually degraded area. However, the development of an aesthetically pleasing mid-rise residential building would enhance the visual quality of the Project site as compared to its existing use as a car wash built in 1970-1971**.**
Policy NR 20.3: Public Views. Protect and enhance public view corridors from the roadway segments shown in Figure NR3, and other locations may be identified in the future:	**No conflict.** As discussed under Threshold a), the viewing corridors towards the Pacific Ocean identified in Figure NR3 nearest to the Project site include Avocado Avenue, Newport Center Drive, and MacArthur Boulevard. The Project site is not within the viewshed of these viewing corridors when looking towards the Pacific Ocean views. Additionally, the Project does not propose any improvements to these view corridor roadways. The implementation of the Project would not interfere with the City's ability to implement this policy. The Project would not conflict with this policy.
***Goal NR 21**: Minimize visual impacts of signs and utilities.*	
Policy NR 21.1: Signs and Utility Siting and Design. Design and site signs, utilities, and antennas to minimize visual impacts. **Policy NR 21.3: Overhead Utilities.** Support programs to remove and underground overhead utilities, in new development as well as existing neighborhoods.	**No conflict.** In accordance with City Municipal Code Section 15.32.015 (Underground Utilities Service Connection), the Project's utility connections would be installed underground. The Project would not conflict with this policy.

The Project would not conflict with City of Newport Beach General Plan policies related to aesthetics and scenic quality; therefore, impacts would be less than significant.

Threshold d: Create a new source of substantial light or glare which would adversely affect day or nighttime views.

Less than Significant Impact.

The Project site is within a portion of the City of Newport Beach that is developed with urban uses and experiences a substantial amount of ambient light from artificial lighting associated with these urban uses (e.g., glass building facades, streetlights, parking lot lighting, automotive headlights, illuminated signs, etc.). Under existing conditions, the Project site is developed as a car wash with ancillary convenience market and gas station, which includes exterior lighting. Street lighting also exists along Anacapa Drive and Newport Center Drive, as well as lighting sources that emanate from

adjacent and surrounding uses. The implementation of the Project would intensify the lighting generated at the Project site under existing conditions due to the exterior lighting fixtures that would illuminate the exterior of the building and lights along sidewalks and Anacapa Drive and Newport Center Drive. Additionally, there would be a corresponding increase in lighting levels generated by the new interior light sources associated with the 28 residential units that could be seen from the exterior through windows. Although the Project would contain more artificial light fixtures as compared to number of fixtures present at the existing car wash and ancillary gas station with convenience market, these new sources of light would not represent a substantial increase of lighting levels in the surrounding area; the Project's lighting sources would produce illumination levels that are similar to the lighting levels produced by other developed properties in the surrounding area, including, but not limited to, retail and restaurant buildings, hotels and theater buildings, and office buildings located throughout the Newport Center area.

The nighttime lighting generated by the Project would likely be visible from residences located approximately 0.15-mile from the Project site within a private gated residential community (Granville) and 0.3-mile east of the Project site and east of MacArthur Boulevard within the Harbor View Hills and Broadmoor communities. Due to topographic variation and surrounding development within the vicinity, the proposed Project would have limited visibility, if any, from the Granville community. Views of the proposed building from the Harbor View Hills and Broadmoor communities would be mostly screened by intervening landscaping and development in the Newport Center area. Therefore, the visibility of Project-related lighting in these residential areas east of MacArthur Boulevard would be limited and less than significant. The Project's lighting visibility would be similar to that of other buildings in the general Project vicinity. The Project would not directly illuminate any residential property due to the Project site distance from existing residences.

In accordance with City of Newport Beach Title 20, Section 20.30.070 (Outdoor Lighting), the Project would incorporate lighting controls for exterior lighting that are intended to minimize light pollution during the nighttime. Compliance with Title 20, Section 20.30.070, of the City's Municipal Code would ensure that the Project would not produce substantial amounts of light or glare from artificial sources of light that would adversely affect day or nighttime view, and would also preclude substantial light spill on adjacent properties. Additionally, in accordance with Title 20, Section 20.30.070, the Project Applicant would be required to prepare a photometric study prior to the issuance of building permits. In addition, the Project would be required to comply with the PCDP-text as related to the standards for outdoor lighting.

None of the Project's proposed building materials would consist of reflective materials, except for windows, which would not be mirrored and would have similar glare characteristics as other glass windows on buildings in the surrounding area. The proposed building does not include any components that would generate substantial amounts of reflective surfaces to the Project vicinity; therefore, impacts associated with glare would be less than significant

Mandatory compliance with the PCDP-text and the City's Zoning Code would be assured by the City of Newport Beach through the Site Development Review application and review of building permit

applications, to ensure that all lighting and building design elements proposed as part of the proposed development are designed to prevent the creation of substantial light or glare that could affect daytime or nighttime views in the area. Moreover, as part of the conditions of approval in accordance with Chapter 20.30.070 (Outdoor Lighting) of the City's Municipal Code, a photometric study will be required as part of the building permit process to verify that the Project's lighting plan complies with the PCDP-text and Municipal Code requirements. Accordingly, implementation of the Project would result in a less-than-significant impact related to new sources of light or glare.

4.1.5 Cumulative Impact Analysis

The City of Newport Beach maintains a comprehensive list of development projects in the City that are planned, under construction, and constructed but not yet fully occupied. At the time the NOP for this EIR was released (November 2020), the City's cumulative project list was dated April 14, 2020, and as such is the list of cumulative projects relied upon in this EIR. See Table 4.0-1, *List of Cumulative Development Projects* in Section 4.0, E*nvironmental Analysis* (City of Newport Beach, 2020c) The City is unaware of any other applications for planned projects within the visual viewshed of the Project site that were submitted between April 2020 and November 2020. The nearest cumulative development project is Vivante Senior Living, which is located at 850 and 856 San Clemente Drive and currently under construction. The Vivante Senior Living project is located on the opposite side of Fashion Island, northwest of the site and approximately 3,340 feet away.

In regards to potential cumulative impacts to ocean views from the locations identified on Figure NR3, *Coastal Views*, of the City's General Plan, there are no projects identified on the cumulative development projects list in Table 4.0-1, *List of Cumulative Development Projects*, that would be in the immediate Project vicinity or would otherwise be located within the same viewshed as the Project. Therefore, none of the cumulative development projects could combine with the Project to cumulatively block or otherwise adversely affect scenic coastal vistas.

Regarding distant scenic vistas, including views to the northeast (San Joaquin Hills and Santa Ana Mountains) and views to the northwest (the Palos Verdes Peninsula in Los Angeles County), the potential exists that several cumulative projects would be visible to an observer at a public viewing location looking at the horizon toward these distant scenic features. However, there is already substantial existing urban development in the foreground of these distant views, which are located more than five miles (San Joaquin Hills) and more than 20 miles (Santa Ana Mountains and the Palos Verdes Peninsula) from the Project site. Due to the distance to these features, the Project's building and other cumulative development would be lower in stature than the horizon; hill and mountain views would remain visible beyond the cumulative foreground development. Similarly, looking north towards the Palos Verdes Peninsula approximately 20 miles away from higher elevations; the Project's building on a 1.26-acre site and other cumulative development in an observer's viewshed would have no potential to substantially block the wide horizon view. As such, cumulative impacts are less than significant and the Project's impact to scenic vistas would be less than cumulatively considerable.

Regarding Threshold (c), the Project would not result in a conflict with the City of Newport Beach's Zoning Code or City of Newport Beach General Plan policies related to aesthetics and scenic quality. All the other pending development projects listed in Table 4.0-1, *List of Cumulative Development Projects*, are located too far from the Project site to be seen at ground-level from the same public vantage points such that architectural design details of two or more projects would be discernable from the same viewpoint. Any future development within the same viewshed as the Project site, would also be required to comply with applicable municipal regulations addressing scenic quality. The Project would not result in a cumulatively considerable contribution to a significant aesthetic impact related to scenic quality.

As discussed in Threshold (d), the Project is designed to adhere to the outdoor lighting restrictions set forth in the City of Newport Beach Municipal Code, mandatory compliance with which would ensure that the Project does not produce substantial amounts of light or glare that could adversely affect day or nighttime views. All the pending development project listed in Table 4.0-1, *List of Cumulative Development Projects*, are located far enough from the Project site such that the such that the lighting and potential glare effects of these projects could not combine to produce a substantially adverse cumulative effect. Further, the Project's proposed PCDP-text states that light spillover cannot exceed one foot-candle at the Project site's property line. The Project's contribution to such nighttime lighting effects in Newport Center would be less than cumulatively considerable given the outdoor lighting restrictions (such as the preparation of a photometric study prior to the issuance of building permits) that would be imposed on the Project as set forth in the City of Newport Beach Municipal Code and proposed PCDP-text. As such, the Project would have a less-than-significant cumulatively considerable effect.

4.1.6 Significance of Impacts Before Mitigation

Threshold a): Less than Significant Impact. The Project would not have a substantial adverse effect on a scenic vista.

Threshold c): Less than Significant Impact. The Project would not conflict with any City General Plan Policy pertaining to scenic quality. The Project is required to be designed in compliance with applicable provisions of the City of Newport Beach Municipal Code, as well as the Project's proposed Planned Community Development Plan (PCDP), and would therefore not conflict with applicable zoning and other regulations governing scenic quality.

Threshold d): Less than Significant Impact. The Project is required to be in compliance with light restriction provisions contained in the City of Newport Beach Municipal Code, as well as the Project's proposed Planned Community Development Plan (PCDP), and would therefore not create a new source of substantial light or glare which would adversely affect day or nighttime views.

4.1.7 Mitigation

Impacts would be less than significant; therefore, no mitigation is required.

Site Photo 1: Northwest of the Project Site, along Newport Center Drive, looking Southeast.

Site Photo 2: North of the Project Site, at Fashion Island (regional shopping center), looking South.

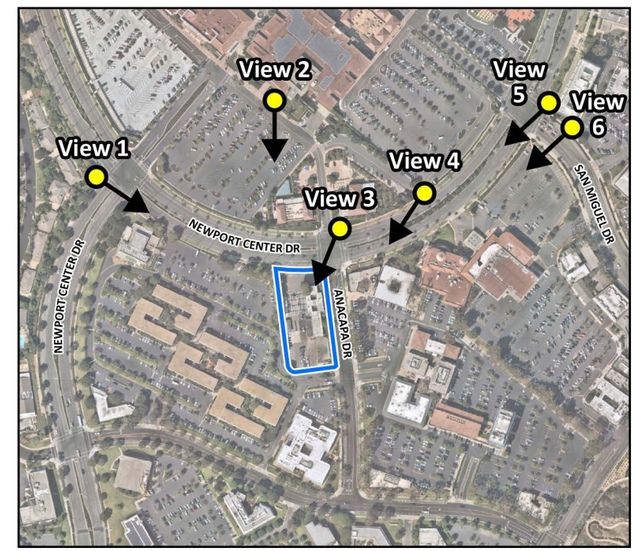
Site Photo 3: Northeast of the Project Site,
at the intersection of Newport Center Drive & Anacapa Drive, looking Southwest.

Site Photo 4: Northeast of the Project Site, along Newport Center Drive, looking Southwest.

Site Photo 5: Northeast of the Project Site,
at the intersection of Newport Center Drive & San Miguel Drive, looking Southwest.

Site Photo 6: Northeast of the Project Site, along San Miguel Drive, looking Southwest.

Key Map



Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

Figure 4.1-1

Not to Scale

Views 1 - 6

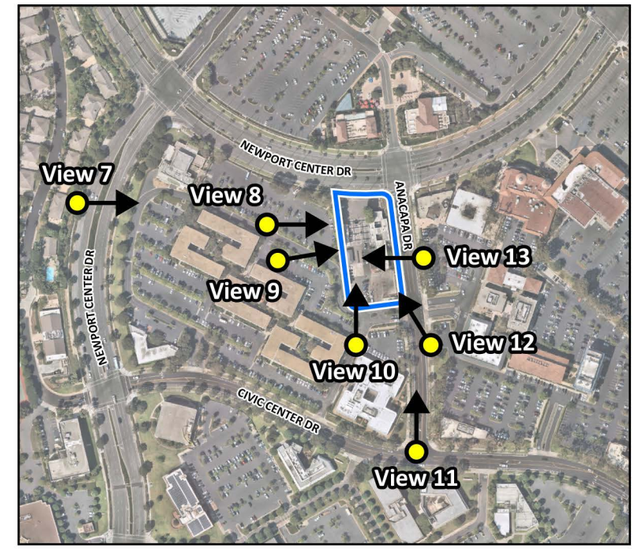
Site Photo 7: West of the Project Site, along Newport Center Drive, looking East.

Site Photo 8: West of the Project Site, at Gateway Plaza, looking East.

Site Photo 9: West of the Project Site, at Gateway Plaza, looking Northeast.

Site Photo 10: Southwest of the Project Site, at Gateway Plaza, looking North.

Key Map



Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

Site Photo 11: Southeast of the Project Site, along Anacapa Drive, looking North.

Site Photo 12: Southeast of the Project Site, along Anacapa Drive, looking Northwest.

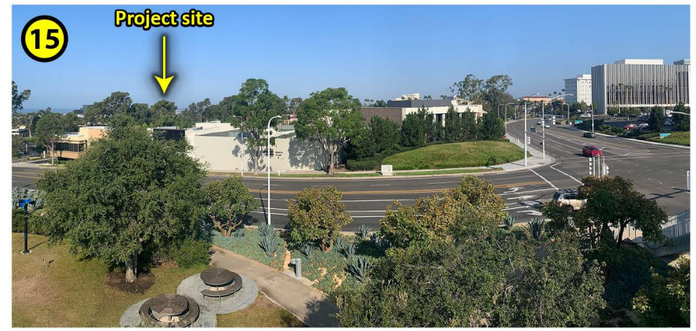
Site Photo 13: East of the Project Site, along Anacapa Drive, looking West.

Figure 4.1-2

Not to Scale

Views 7 - 13

Site Photo 14: East of the Project Site, at Civic Center Park (northeast of San Miguel Drive), looking West.

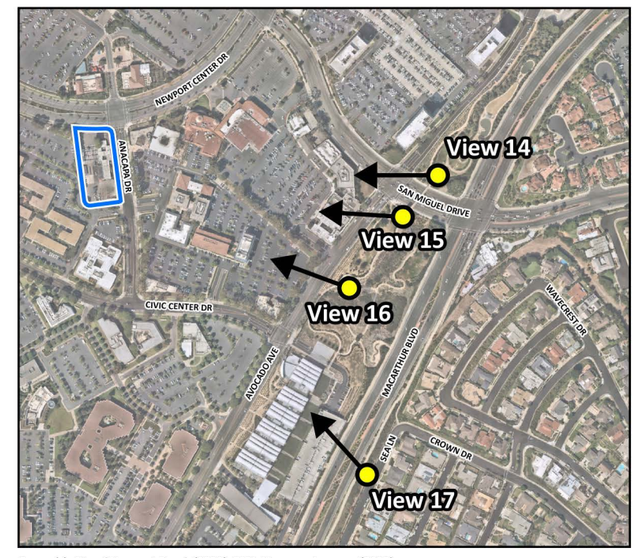


Site Photo 15: East of the Project Site, at Civic Center Park (southwest of San Miguel Drive), looking West.

Site Photo 16: Southeast of the Project Site, at Civic Center Park (east of Avocado Avenue), looking Northwest.

Site Photo 17: Southeast of the Project Site, along Sea Lane, looking Northwest.

Key Map



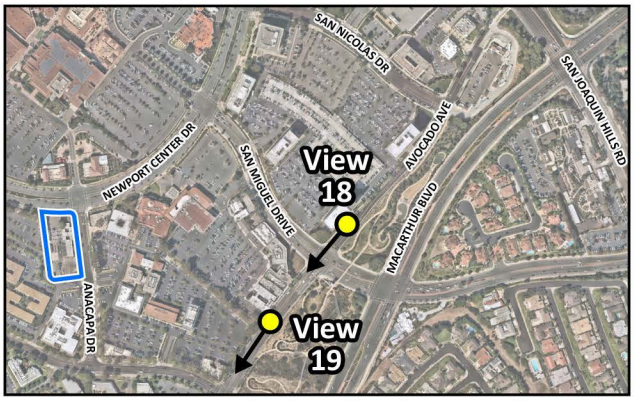
Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

Figure 4.1-3

Not to Scale

Views 14 - 17

Key Map



Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

Site Photo 18: East of the Project Site, along Avocado Avenue, looking Southwest.

Site Photo 19: Southeast of the Project Site, along Avocado Avenue, looking Southwest.

Figure 4.1-4

Not to Scale

Views 18 & 19

Key Map

Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

Site Photo 20: Northeast of the Project Site, along MacArthur Boulevard, looking Southwest.

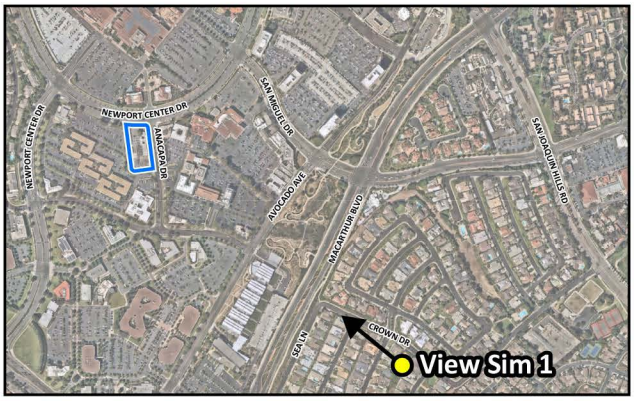
Site Photo 21: Northeast of the Project Site, along MacArthur Boulevard, looking Southwest.

Figure 4.1-5

Not to Scale

Views 20 & 21

Key Map



Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

View Simulation 1

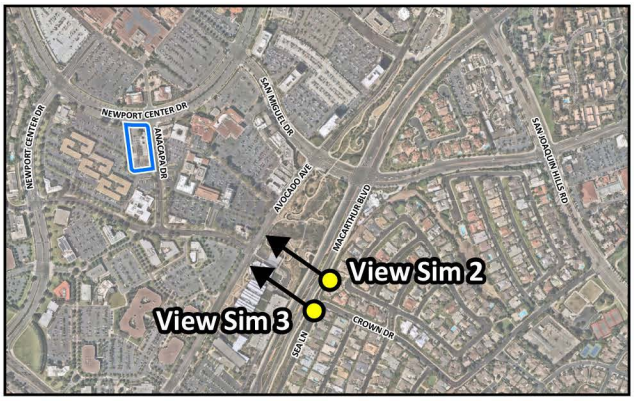
Source(s): Fuscoe Engineering (11-03-2020)

Figure 4.1-6

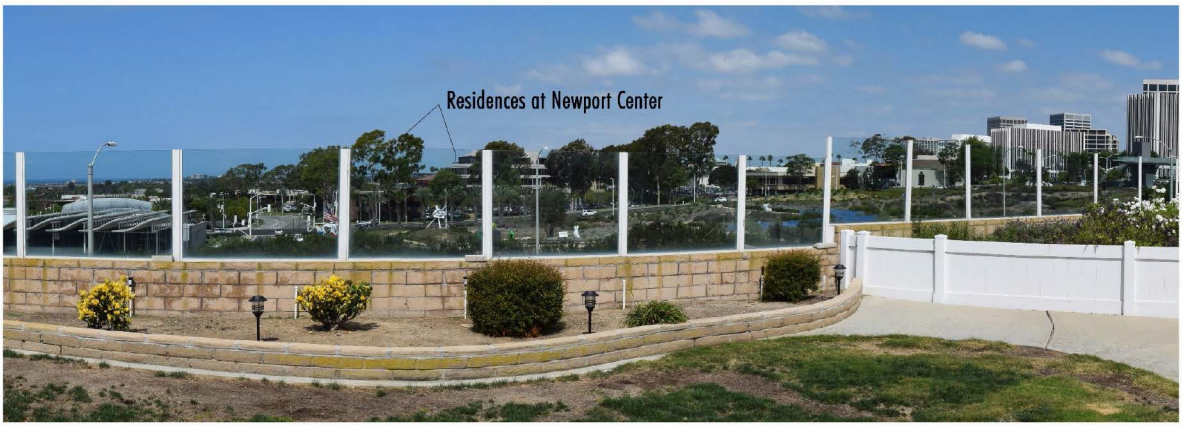
Not to Scale

View Simulation 1

Key Map



Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)



View Simulation 2

View Simulation 3

Source(s): Fuscoe Engineering (11-03-2020)

Figure 4.1-7

Not to Scale

View Simulations 2 and 3

Key Map

Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

View Simulation 4

Source(s): Fuscoe Engineering (11-03-2020)

Figure 4.1-8

Not to Scale

View Simulation 4

Key Map

Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

View Simulation 5

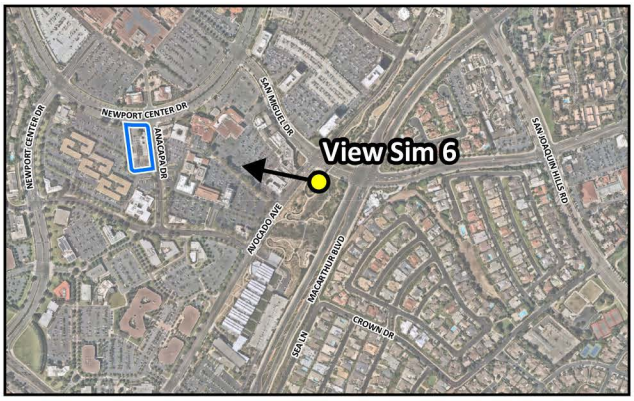
Source(s): Fuscoe Engineering (11-03-2020)

Figure 4.1-9

Not to Scale

View Simulation 5

Key Map



Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

View Simulation 6

Source(s): Fuscoe Engineering (11-03-2020)

Figure 4.1-10

Not to Scale

View Simulation 6

Key Map

Source(s): City of Newport Beach (2020), ESRI, Nearmap Imagery (2020)

View Simulation 7

View Simulation 8

Source(s): Fuscoe Engineering (11-03-2020)

Figure 4.1-11

Not to Scale

View Simulations 7 and 8

4.2 AIR QUALITY

This Subsection is based primarily on a technical study that was prepared by Urban Crossroads, Inc. to evaluate the potential for Project-related construction and operational activities to result in adverse effects on local and regional air quality. The report is titled, "Residences at Newport Center Air Quality & Greenhouse Gas Memorandum," dated April 12, 2021, and is included as *Technical Appendix C* to this EIR (Urban Crossroads, 2021a). Refer to Section 7.0, *References*, for a complete list of reference sources used in this Subsection.

Based on analyses conducted as part of the Project's Initial Study, and the substantive evidence cited in the Initial Study (EIR *Technical Appendix A*), the City determined that the Project would clearly result in a less-than-significant impact under one of the thresholds identified in Section III (Air Quality) of Appendix G to the CEQA Guidelines. Specifically, the Project's Initial Study concluded that the Project would result in a less-than-significant impact under Threshold (d):

> d. *Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?*

Accordingly, no additional analysis of the above-listed threshold is required, and this Subsection instead focuses on the Project's potential to conflict with the applicable air quality plan, result in a cumulatively-considerable net increase of any criteria pollutant for which the Project region is in non-attainment under an applicable federal or State ambient air quality standard, or to expose sensitive receptors to substantial pollutant concentrations. Refer to the Project's Initial Study (EIR Technical Appendix A) and Subsection 5.4 for a complete discussion and analysis of the above-listed threshold.

4.2.1 EXISTING CONDITIONS

A. *Atmospheric Setting*

The Project site is located in the South Coast Air Basin (SCAB) which is under the jurisdiction of the South Coast Air Quality Management District (SCAQMD). Standards for air quality are documented in the SCAQMD's *2016 Air Quality Management Plan (AQMP*). The SCAB encompasses approximately 6,745 square miles and includes portions of Los Angeles, Riverside, and San Bernardino Counties, and all of Orange County. The SCAB is bound by the Pacific Ocean to the west; the San Gabriel, San Bernardino, and the San Jacinto Mountains to the north and east, respectively; and the San Diego County line to the south. (SCAQMD, 1999)

B. *Regional Climate and Meteorology*

The regional climate – temperature, wind, humidity, precipitation, and the amount of sunshine – have a substantial influence on air quality. The SCAB's distinctive climate is determined by its terrain and geographical location, which comprises a coastal plain connected to broad valleys and low hills bounded by the Pacific Ocean in the southwest quadrant and high mountains forming the remainder of the perimeter. The SCAB is semi-arid, with average annual temperatures varying from the low-to-middle 60s, measured in degrees Fahrenheit (F); however, because of the presence of a marine layer,

the air near the land surface is quite moist on most days. This shallow layer of sea air is an important modifier of the SCAB's climate. Humidity restricts visibility in the SCAB and the relative high humidity heightens the conversion of sulfur dioxide to sulfates. The marine layer provides an environment for that conversion process, especially during the spring and summer months.

More than 90 percent of the SCAB's rainfall occurs between November and April. The annual average rainfall within the SCAB varies between approximately nine inches in Riverside to 14 inches in downtown Los Angeles. Monthly and yearly rainfall totals are extremely variable. Summer rainfall usually consists of widely scattered thunderstorms near the coast and slightly heavier shower activity in the eastern portion of the SCAB. Due to its generally clear weather, about three-quarters of available sunshine is received in the SCAB; the remaining one-quarter is absorbed by clouds. The abundant amount of sunshine (and its associated ultraviolet radiation) is a key factor to the photochemical reactions of air pollutants in the SCAB. (SCAQMD, 2017c)

Dominant airflow direction and speed are the driving mechanisms for transport and dispersion of air pollution. During the late autumn to early spring rainy season, the SCAB is subjected to wind flows associated with storms moving through the region from the northwest. This season also brings five to 10 periods of strong, dry offshore winds, locally termed "Santa Anas" each year, with each windy period lasting from a single day to several days. During the dry season, which coincides with the months of maximum photochemical smog concentrations, the wind flow is bimodal, typified by a daytime onshore sea breeze and a nighttime offshore drainage wind. Summer wind flows are created by the pressure differences between the relatively cold ocean and the unevenly heated and cooled land surfaces that modify the general northwesterly wind circulation over southern California. During the nighttime, heavy, cool air descends mountain slopes and flows through the mountain passes and canyons as it follows the lowering terrain toward the Pacific Ocean. Another characteristic wind regime in the SCAB is the "Catalina Eddy," a low level cyclonic (counter-clockwise) flow centered over Santa Catalina Island which results in an offshore flow to the southwest. On most spring and summer days, some indication of an eddy is apparent in coastal sections. (SCAQMD, 2017c)

In the SCAB, there are two distinct temperature inversion structures that control the vertical mixing of air pollution. During the summer, warm high-pressure descending (subsiding) air is undercut by a shallow layer of cool marine air. The boundary between these two layers of air is a persistent marine subsidence/inversion. This boundary prevents vertical mixing which effectively acts as an impervious lid to pollutants over the entire SCAB. The mixing height for the inversion structure is normally situated 1,000 to 1,500 feet above mean sea level (AMSL). A second inversion-type forms in conjunction with the drainage of cool air off the surrounding mountains at night followed by the seaward drift of this pool of cool air. The top of this layer forms a sharp boundary with the warmer air aloft and creates nocturnal radiation inversions. These inversions occur primarily in the winter, when nights are longer and onshore flow is weakest and are typically only a few hundred feet AMSL. These inversions effectively trap pollutants, such as nitrogen oxides and carbon monoxide, as the pool of cool air drifts seaward. Winter is therefore a period of high levels of primary pollutants along the coastline. (SCAQMD, 2017c)

C. *Air Quality Pollutants and Associated Health Effects*

The federal government and State of California have established maximum permissible concentrations for common air pollutants that may pose a risk to human health or would otherwise degrade air quality and adversely affect the environment. These regulated air pollutants are referred to as "criteria pollutants." An overview of the common criteria air pollutants in the SCAB, their sources, and associated effects to human health are summarized on the following pages.

- **Carbon Monoxide (CO)** is a colorless, odorless gas produced by the incomplete combustion of carbon-containing fuels, such as gasoline or wood. CO concentrations tend to be the highest in the winter during the morning, when there is little to no wind and surface-based inversions trap the pollutant at ground levels. CO is emitted directly from internal combustion engines; therefore, motor vehicles operating at slow speeds are the primary source of CO and the highest ambient CO concentrations in the SCAB are generally found near congested transportation corridors and intersections. Inhaled CO does not directly affect the lungs but affects tissues by interfering with oxygen transport and competing with oxygen to combine with hemoglobin present in the blood to form carboxyhemoglobin (COHb). Therefore, health conditions with an increased demand for oxygen supply can be adversely affected by exposure to CO. The most common symptoms associated with CO exposure include headache, nausea, vomiting, dizziness, fatigue, and muscle weakness. Individuals most at risk to the effects of CO include fetuses, patients with diseases involving heart and blood vessels, and patients with chronic oxygen deficiency. (SCAQMD, 2005a, p. 1-3)

- **Sulfur Dioxide (SO_2)** is a colorless gas or liquid. SO_2 enters the atmosphere as a pollutant mainly as a result of burning high sulfur-content fuel oils and coal and from chemical processes occurring at chemical plants and refineries. When SO_2 oxidizes in the atmosphere, it forms sulfates (SO_4). Collectively, these pollutants are referred to as sulfur oxides (SO_X). SO_2 is a respiratory irritant, in particular to those afflicted with asthma. After a few minutes' exposure to low levels of SO_2, asthma sufferers can experience breathing difficulties, including airway constriction and reduction in breathing capacity. Although healthy individuals do not exhibit similar acute breathing difficulties in response to SO_2 exposure at low levels, animal studies suggest that very high levels of exposure can cause lung edema (fluid accumulation), lung tissue damage, and sloughing off of cells lining the respiratory tract. (SCAQMD, 2005a, p. 1-5)

- **Nitrogen Oxides (NO_X)** consist of nitric oxide (NO), nitrogen dioxide (NO_2) and nitrous oxide (N_2O) and are formed when nitrogen (N_2) combines with oxygen (O_2). NOx are colorless and odorless gases. Their lifespan in the atmosphere ranges from one to seven days for nitric oxide and nitrogen dioxide, to 170 years for nitrous oxide. Nitrogen oxides are typically created during combustion processes, and are major contributors to smog formation and acid deposition. NO_2 is a criteria air pollutant, and may result in numerous adverse health effects; it absorbs blue light, resulting in a brownish-red cast to the atmosphere, and reduced visibility. Of the nitrogen oxide compounds, NO_2 is the most

abundant in the atmosphere. As ambient concentrations of NO_2 are related to traffic density, commuters in heavy traffic may be exposed to higher concentrations of NO_2 than those indicated by regional monitoring stations. Population-based studies suggest that an increase in acute respiratory illness, including infections and respiratory symptoms in children (not infants), is associated with long-term exposure to NO_2. Short-term exposure to NO_2 can result in resistance to airflow and airway contraction in healthy subjects. Exposure to NO_2 can result in decreased lung functions in individuals with asthma or chronic obstructive pulmonary diseases (e.g., chronic bronchitis, emphysema). (SCAQMD, 2005a, p. 1-3)

- **Ozone (O_3), commonly known as "smog"** is a highly reactive and unstable gas that is formed when volatile organic compounds (VOCs) and nitrogen oxides (NO_X), both byproducts of internal combustion engine exhaust, undergo slow photochemical reactions in the presence of sunlight. Ozone concentrations are generally highest during the summer months when direct sunlight, warm temperatures, and light wind conditions are favorable to the formation of this pollutant. Short-term exposure (lasting for a few hours) to ozone at levels typically observed in southern California can result in breathing pattern changes, reduction of breathing capacity, increased susceptibility to infections, inflammation of the lung tissue, and some immunological changes. Individuals exercising outdoors, children, and people with pre-existing lung disease, such as asthma and chronic pulmonary lung disease, are considered to be the most susceptible sub-groups for ozone effects. Children who participate in multiple outdoor sports and live in communities with high ozone levels have been found to have an increased risk for asthma. (SCAQMD, 2005a, p. 1-4)

- **Particulate Matter less than 10 microns (PM_{10}) and less than 2.5 microns ($PM_{2.5}$)** are air pollutants consisting of tiny solid or liquid particles of soot, dust, smoke, fumes, and aerosols that are 10 microns or smaller or 2.5 microns or smaller, respectively. These particles are formed in the atmosphere from primary gaseous emissions that include sulfates formed from SO_2 release from power plants and industrial facilities and nitrates that are formed from NO_X release from power plants, automobiles, and other types of combustion sources. The chemical composition of fine particles is highly dependent on location, time of year, and weather conditions. The small size of PM_{10} and $PM_{2.5}$ allows them to enter the lungs where they may be deposited, resulting in adverse health effects. Elevated ambient concentrations of fine particulate matter (PM_{10} and $PM_{2.5}$) have been linked to an increase in respiratory infections, number, and severity of asthma attacks, and increased hospital admissions. Some studies have reported an association between long-term exposure to air pollution dominated by fine particles and increased mortality, reduction in life-span, and an increased mortality from lung cancer. Daily fluctuations in $PM_{2.5}$ concentration levels have also been related to hospital admissions for acute respiratory conditions in children, to a decrease in respiratory lung volumes in normal children, and to increased medication use in children and adults with asthma. Recent studies show lung function growth in children is reduced with long-term exposure to particulate matter. The elderly, people with pre-existing respiratory or cardiovascular

disease, and children, appear to be the most susceptible to the effects of high levels of PM_{10} and $PM_{2.5}$. (SCAQMD, 2005a, pp. 1-4 and 1-5)

- **Volatile Organic Compounds (VOCs) and Reactive Organic Gasses (ROGs)** are a family of hydrocarbon compounds (any compound containing various combinations of hydrogen and carbon atoms) that exist in the ambient air. Both VOCs and ROGs are precursors to ozone and contribute to the formation of smog through atmospheric photochemical reactions. Individual VOCs and ROGs have different levels of reactivity; that is, they do not react at the same speed or do not form ozone to the same extent when exposed to photochemical processes. VOCs often have an odor, including such common VOCs as gasoline, alcohol, and the solvents used in paints. Odors generated by VOCs can irritate the eye, nose, and throat, which can reduce respiratory volume. In addition, studies have shown that the VOCs that cause odors can stimulate sensory nerves to cause neurochemical changes that might influence health, for instance, by compromising the immune system. (SCAQMD, 2005a, p. 1-5)

- **Lead (Pb)** is a heavy metal that is highly persistent, and naturally present in the environment as well as manufactured products. Historically, the primary source of lead in the air was emissions from vehicles burning leaded gasoline. Currently, emissions of lead are largely limited to stationary sources such as lead smelters. Exposure to low levels of lead can adversely affect the development and function of the central nervous system, leading to learning disorders, distractibility, inability to follow simple commands, and lower intelligence quotient. In adults, increased lead levels are associated with increased blood pressure. Lead poisoning can cause anemia, lethargy, seizures, and death. Fetuses, infants, and children are more sensitive than others to the adverse effects of lead exposure. (SCAQMD, 2005a, p. 1-5)

D. Existing Air Quality

Air quality is evaluated in the context of ambient air quality standards published by the federal and State governments. These standards are the levels of air quality that are considered safe, with an adequate margin of safety, to protect the public health and welfare. The National Ambient Air Quality Standards (NAAQS) and the California Ambient Air Quality Standards (CAAQS) currently in effect are detailed in Table 4.2-1, *Ambient Air Quality Standards*. In California, a region's air quality is determined to be healthful or unhealthful by comparing pollutant levels in ambient air samples to the applicable NAAQS and CAAQS (as presented in Table 4.2-1).

Table 4.2-1 Ambient Air Quality Standards

Pollutant	Averaging Time	California Standards [1]		National Standards [2]		
		Concentration [3]	Method [4]	Primary [3,5]	Secondary [3,6]	Method [7]
Ozone (O_3)[8]	1 Hour	0.09 ppm (180 μg/m^3)	Ultraviolet Photometry	—	Same as Primary Standard	Ultraviolet Photometry
	8 Hour	0.070 ppm (137 μg/m^3)		0.070 ppm (137 μg/m^3)		
Respirable Particulate Matter (PM10)[9]	24 Hour	50 μg/m^3	Gravimetric or Beta Attenuation	150 μg/m^3	Same as Primary Standard	Inertial Separation and Gravimetric Analysis
	Annual Arithmetic Mean	20 μg/m^3		—		
Fine Particulate Matter (PM2.5)[9]	24 Hour	—	—	35 μg/m^3	Same as Primary Standard	Inertial Separation and Gravimetric Analysis
	Annual Arithmetic Mean	12 μg/m^3	Gravimetric or Beta Attenuation	12.0 μg/m^3	15 μg/m^3	
Carbon Monoxide (CO)	1 Hour	20 ppm (23 mg/m^3)	Non-Dispersive Infrared Photometry (NDIR)	35 ppm (40 mg/m^3)	—	Non-Dispersive Infrared Photometry (NDIR)
	8 Hour	9.0 ppm (10 mg/m^3)		9 ppm (10 mg/m^3)	—	
	8 Hour (Lake Tahoe)	6 ppm (7 mg/m^3)		—	—	
Nitrogen Dioxide (NO_2)[10]	1 Hour	0.18 ppm (339 μg/m^3)	Gas Phase Chemiluminescence	100 ppb (188 μg/m^3)	—	Gas Phase Chemiluminescence
	Annual Arithmetic Mean	0.030 ppm (57 μg/m^3)		0.053 ppm (100 μg/m^3)	Same as Primary Standard	
Sulfur Dioxide (SO_2)[11]	1 Hour	0.25 ppm (655 μg/m^3)	Ultraviolet Fluorescence	75 ppb (196 μg/m^3)	—	Ultraviolet Flourescence; Spectrophotometry (Pararosaniline Method)
	3 Hour	—		—	0.5 ppm (1300 μg/m^3)	
	24 Hour	0.04 ppm (105 μg/m^3)		0.14 ppm (for certain areas)[11]	—	
	Annual Arithmetic Mean	—		0.030 ppm (for certain areas)[11]	—	
Lead[12,13]	30 Day Average	1.5 μg/m^3	Atomic Absorption	—	—	High Volume Sampler and Atomic Absorption
	Calendar Quarter	—		1.5 μg/m^3 (for certain areas)[12]	Same as Primary Standard	
	Rolling 3-Month Average	—		0.15 μg/m^3		
Visibility Reducing Particles[14]	8 Hour	See footnote 14	Beta Attenuation and Transmittance through Filter Tape	No National Standards		
Sulfates	24 Hour	25 μg/m^3	Ion Chromatography			
Hydrogen Sulfide	1 Hour	0.03 ppm (42 μg/m^3)	Ultraviolet Fluorescence			
Vinyl Chloride[12]	24 Hour	0.01 ppm (26 μg/m^3)	Gas Chromatography			

Source: (CARB, 2016)

1. *Regional Air Quality*

❑ Criteria Pollutants

The SCAQMD monitors levels of various criteria pollutants at 39 monitoring stations and four single-pollutant source Pb air monitoring sites throughout its jurisdiction (SCAQMD, 2020a, p. 2). The attainment status for criteria pollutants within the SCAB is summarized in Table 4.2-2, *SCAB Criteria Pollutant Attainment Status*.

Table 4.2-2 SCAB Criteria Pollutant Attainment Status

Criteria Pollutant	State Designation	Federal Designation
Ozone – 1-hour standard	Nonattainment	No Standard
Ozone – 8-hour standard	Nonattainment	Nonattainment
PM_{10}	Nonattainment	Attainment
$PM_{2.5}$	Nonattainment	Nonattainment
Carbon Monoxide	Attainment	Attainment
Nitrogen Dioxide	Attainment	Attainment
Sulfur Dioxide	Attainment	Attainment
Lead[1]	Attainment	Attainment

[1]The Federal nonattainment designation for lead is only applicable towards the Los Angeles County portion of the South Coast Air Basin.
Source: (CARB, 2018)

The SCAB has been one of the most unhealthful air basins in the United States and has experienced unhealthful air quality since World War II. However, as a result of the region's air pollution control efforts over the last 60+ years, criteria pollutant concentrations in the SCAB have reduced dramatically and are expected to continue to improve in the future as State regulations become more stringent. Emissions of O_3, NO_X, VOC, and CO have been decreasing in the SCAB since 1975 and are projected to continue to decrease beyond 2020. These decreases result primarily from motor vehicle controls and reductions in evaporative emissions. (CARB, 2013)

2. *Local Air Quality*

❑ Criteria Pollutants

Ambient air pollutant concentrations in the Project area are summarized in the air quality data tables on SCAQMD's *Historical Data By Year*. Local air quality data was collected from the SCAQMD air quality monitoring station located nearest to the Project site: North Orange County Coastal monitoring station (Sierra Wade Associates, 1999). Data was collected for the three most recent years for which data was available (2017-2019) and identifies the number of days ambient air quality standards for ozone, $PM_{2.5}$, and PM_{10} were exceeded for the study area, which is considered to be representative of the local air quality of the Project site (SCAQMD, 2017a; SCAQMD, 2018; SCAQMD, 2019).

❑ *Air Pollutant Emissions from Existing Project Site Operations*

Under existing conditions, the Project site contains an approximately 2,085 gross square foot single-story building that is operating as a car wash facility with associated convenience market and gas station with ancillary lighting, signage, and associated improvements. The car wash building includes an indoor waiting area and an outdoor waiting area. Advertised business hours are 8:00 AM to 6:00 PM seven days per week. Car wash services include the washing of vehicles within the wash facility, which uses several mechanical components including car dryers.

According to the Project's trip generation assessment prepared by Urban Crossroads (refer to *Technical Appendix H*), the existing operation (i.e., car wash, gas station, convenient market) generates approximately 819 trip-ends per day (two-way trips) with 54 trips generated during the AM peak hour and 75 trips generated during the PM peak hour (Urban Crossroads, Inc., 2020c, p. 1). However, it should be noted that the Project's air quality analysis conservatively reports operational emissions without taking credit for closure of the existing use. Therefore, operational-source air pollutant emissions for the existing car wash, ancillary gas station, and convenience market operation are summarized in Table 4.2-3, *Existing Operational Emissions* for informational purposes only. As shown in Table 4.2-3, the calculated daily amount of air pollutants emitted by the car wash and ancillary convenience market and gas station operation do not exceed the SCAQMD's regional thresholds of significance.

Table 4.2-3 Existing Operational Emissions

Source	Emissions (lbs/day)					
	VOC	NO_X	CO	SO_X	PM_{10}	$PM_{2.5}$
Summer						
Area Source	2.00	0.49	2.52	3.09E-03	0.05	0.05
Energy Source	6.86E-03	0.06	0.03	3.70E-04	4.74E-03	4.74E-03
Mobile Source	0.32	0.52	3.41	0.01	1.11	0.30
Total Maximum Daily Emissions	**2.33**	**1.07**	**5.96**	**0.01**	**1.16**	**0.36**
SCAQMD Regional Threshold	55	55	550	150	150	55
Threshold Exceeded?	**NO**	**NO**	**NO**	**NO**	**NO**	**NO**
Winter						
Area Source	2.00	0.49	2.52	3.09E-03	0.05	0.05
Energy Source	6.86E-03	0.06	0.03	3.70E-04	4.74E-03	4.74E-03
Mobile Source	0.33	0.55	3.28	0.01	1.11	0.30
Total Maximum Daily Emissions	**2.34**	**1.10**	**5.82**	**0.01**	**1.16**	**0.36**
SCAQMD Regional Threshold	55	55	550	150	150	55
Threshold Exceeded?	**NO**	**NO**	**NO**	**NO**	**NO**	**NO**

Source: (Urban Crossroads, 2021a, Table 8)

4.2.2 Regulatory Setting

The following is a brief description of the federal, State, and local environmental laws and related regulations related to the issue of air quality.

A. Federal Plans, Policies, and Regulations

1. Federal Clean Air Act

The Clean Air Act (CAA; 42 U.S.C. § 7401 *et seq.*) is the comprehensive federal law that regulates air emissions from stationary and mobile sources. Among other things, this law authorizes the Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants, which include O_3, CO, NO_X, SO_2, PM_{10}, $PM_{2.5}$, and lead. (EPA, 2020a)

The sections of the federal CAA most directly applicable to the development of the Project site include Title I (Non-Attainment Provisions) and Title II (Mobile Source Provisions). Title I provisions address the urban air pollution problems of ozone (smog), carbon monoxide (CO), and particulate matter (PM_{10}). Specifically, it clarifies how areas are designated and re-designated "attainment." It also allows the EPA to define the boundaries of "nonattainment" areas: geographical areas whose air quality does not meet federal air quality standards designed to protect public health. (EPA, 2020b) Mobile source emissions are regulated in accordance with the CAA Title II provisions. These standards are intended to reduce tailpipe emissions of hydrocarbons, CO, and NO_X on a phased-in basis that began in model year 1994. Automobile manufacturers also are required to reduce vehicle emissions resulting from the evaporation of gasoline during refueling. These provisions further require the use of cleaner burning gasoline and other cleaner burning fuels such as methanol and natural gas. (EPA, 2020c)

B. State Plans, Policies, and Regulations

1. California Clean Air Act (CCAA)

The California Clean Air Act (CCAA) establishes numerous requirements for district plans to attain State ambient air quality standards for criteria air contaminants. The CCAA mandates achievement of the maximum degree of emissions reductions possible from vehicular and other mobile sources in order to attain the State's ambient air quality standards, the CAAQS, by the earliest practical date. The CARB established the CAAQS for all pollutants for which the federal government has NAAQS and, in addition, established standards for sulfates, visibility, hydrogen sulfide, and vinyl chloride. Generally, the CAAQS are more stringent than the NAAQS. For districts with serious air pollution, its attainment plan should include no net increase in emissions from new and modified stationary sources and best available retrofit technology for existing sources. (SCAQMD, 2020c)

2. Air Quality Management Planning

The California Air Resources Board (CARB) and local air districts throughout the State are responsible for developing clean air plans to demonstrate how and when California will attain air quality standards established under both the CAA and CCAA. For the areas within California that have not attained air

quality standards, CARB works with local air districts to develop and implement State and local attainment plans. In general, attainment plans contain a discussion of ambient air quality data and trends; a baseline emissions inventory; future year projections of emissions, which account for growth projections and already adopted control measures; a comprehensive control strategy of additional measures needed to reach attainment; an attainment demonstration, which generally involves complex modeling; and contingency measures. Plans may also include interim milestones for progress toward attainment. Air quality planning activities undertaken by CARB also include the development of policies, guidance, and regulations related to State and federal ambient air quality standards; coordination with local agencies on transportation plans and strategies; and providing assistance to local districts and transportation agencies. (CARB, 2019)

C. Local Plans, Policies, and Regulations

1. SCAQMD Air Quality Management Plan

Under existing conditions, the NAAQS and CAAQS are exceeded in most parts of the SCAB. In response, and in conformance with California Health & Safety Code Section 40702 *et seq.* and the CCAA, the SCAQMD adopted an AQMP to plan for the improvement of regional air quality. AQMPs are updated regularly in order to more effectively reduce emissions and accommodate growth. Each version of the plan is an update of the previous plan and has a 20-year horizon with a revised baseline. The SCAQMD's most recent iteration of the AQMP was adopted in March 2017 (the Final *2016 Air Quality Management Plan (AQMP)*), which incorporates the latest scientific and technological information and local and regional land development plans, including the Southern California Association of Governments (SCAG) *2020-2045 Regional Transportation Plan/ Sustainable Communities Strategy (RTP/SCS)*. The Final *2016 AQMP* is based on current emissions modeling data, recent motor vehicle emissions information, and demographic data/projections provided by SCAG. The air quality pollutant levels projected in the Final *2016 AQMP* are based on the assumption that buildout of the region will occur in accordance with local general plans and specific plans, and in accordance with growth projections identified by SCAG in its *2020 RTP/SCS*. (SCAQMD, 2017b)

❑ Applicable SCAQMD Rules

The SCAQMD Rules that are currently applicable to construction and operation of the proposed Project include, but are not limited to: Rule 401 (Visible Emissions); Rule 402 (Nuisance Odors); Rule 403 (Fugitive Dust); Rule 445 (Wood-Burning Devices); Rule 1113 (Architectural Coatings); and Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities). While particular SCAQMD Rules are noted here, land development projects, such as the proposed Project, are required to comply with all SCAQMD Rules that apply. Required compliance with the SCAQMD Rules is not considered "mitigation" by CEQA.

Rule 401 is intended to prevent the discharge of pollutant emissions that result in visible emissions. Specifically, the rule prohibits the discharge of any air contaminant into the atmosphere by a person from any single source of emission for a period or periods aggregating more than three minutes in any one hour that is as dark as or darker than designated No. 1 on the Ringelmann Chart, as published by the US Bureau of Mines. Rule 402 prohibits the discharge of air contaminants that cause nuisance or

annoyance (odor) to any considerable number of persons or to the public. Rule 403 requires the implementation of best available dust control measures (BACMs) during activities capable of generating fugitive dust. Rule 403 is intended to reduce the amount of particulate matter entrained in the ambient air as a result of anthropogenic (man-made) fugitive dust sources by requiring actions to prevent and reduce fugitive dust emissions. Rule 445 applies to new residential or commercial development that begins construction on or after March 9, 2009, to only install gaseous-fueled fireplaces and stoves. In other words, the installation of wood-burning fireplaces and stoves is not allowed. Rule 1113 requires all buildings within the SCAB to adhere to the VOC limits for architectural coatings. Rule 1403 specifies work practice requirements to limit asbestos emissions from building demolition and renovation activities, including the removal and associated disturbance of asbestos-containing materials (ACMs). (SCAQMD, n.d.) (Urban Crossroads, 2021a, pp. 4-5)

2. City of Newport Beach General Plan

The Natural Resources Element of the City's General Plan provides direction regarding the conservation, development, and utilization of natural resources. This element addresses water supply, water quality, air quality, terrestrial and marine biological resources, open space, archeological and paleontological resources, mineral resources, visual resources, and energy. The following goals and policies associated with air quality are applicable to the Project

- **Goal NR 6:** Reduced mobile source emissions.

- **Policy NR 6.1: Walkable Neighborhoods.** Provide for walkable neighborhoods to reduce vehicle trips by siting amenities such as services, parks, and schools in close proximity to residential areas.

- **Policy NR 6.8: Accessible Alternative Fuel Infrastructure.** Support the development of alternative fuel infrastructure that is available and accessible to the public, and provide incentives for alternative fuel vehicles.

- **Goal NR 7**: Reduced air pollutant emissions from stationary sources.

- **Policy NR 7.2: Source Emission Reduction Best Management Practices.** Require the use of Best Management Practices (BMP) to minimize pollution and to reduce source emissions.

- **Goal NR 8:** Reduced air pollutant emissions from construction activities.

- **Policy NR 8.1: Management of Construction Activities to Reduce Air Pollution**. Require developers to use and operate construction equipment, use building materials and paints, and control dust created by construction activities to minimize air pollutants.

4.2.3 Basis for Determining Significance

Based on the results of the Project's Initial Study (*Technical Appendix A*), it was determined that the Project has the potential to result in a significant impact to air quality if the Project or any Project-related component would:

a. *Conflict with or obstruct implementation of the applicable air quality plan;*

b. *Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard; or*

c. *Expose sensitive receptors to substantial pollutant concentrations.*

The above-listed thresholds are derived directly from Section III of Appendix G to the CEQA Guidelines and address the typical, adverse effects related to air quality that could result from development projects. Refer also to the Project's Initial Study (*Technical Appendix A*) for a discussion of potential impacts to air quality that were determined to be less than significant as part of the Project's scoping process.

The Project would result in a significant impact under Threshold (a) if the Project were determined to conflict with the SCAQMD *2016 AQMP*. Pursuant to Chapter 12, Sections 12.2 and 12.3, of the SCAQMD CEQA Air Quality Handbook, a project would conflict with the *AQMP* if either of the following conditions were to occur:

- The Project would increase the frequency or severity of existing NAAQS and/or CAAQS violations, cause or contribute to new air quality violations, or delay the attainment of interim air quality standards; or

- The Project would exceed the *2016 AQMP's* future year buildout assumptions.

For evaluation under Threshold (b), implementation of the Project would result in a direct and cumulatively-considerable impact if the Project's construction and/or operational activities exceed one or more of the SCAQMD's "Regional Thresholds" for criteria pollutant emissions. The "Regional Thresholds" established by SCAQMD for criteria pollutants are summarized in Table 4.2-4, *SCAQMD's Maximum Daily Emissions Thresholds*. (Urban Crossroads, 2021a, p. 4)

Table 4.2-4 SCAQMD's Maximum Daily Emissions Thresholds

Pollutant	Construction	Operations
NO_X	100 lbs/day	55 lbs/day
VOC	75 lbs/day	55 lbs/day
PM_{10}	150 lbs/day	150 lbs/day
$PM_{2.5}$	55 lbs/day	55 lbs/day
SO_X	150 lbs/day	150 lbs/day
CO	550 lbs/day	550 lbs/day
Lead	3 lbs/day	3 lbs/day

Lbs/day: Pounds per day
Source: Regional Thresholds presented in this table are based on the SCAQMD Air Quality Significance Thresholds, March 2015.
Source: (Urban Crossroads, 2021a, Table 1)

For evaluation under Threshold (c), the Project would result in a significant impact if any of the following were to occur:

- The Project's construction localized criteria pollutant emissions would exceed one or more of the SCAQMD "Localized Thresholds" listed in Table 4.2-5, *SCAQMD Maximum Daily Emissions Construction Localized Thresholds*; and/or
- The Project would cause or contribute to a CO "Hot Spot."

Table 4.2-5 SCAQMD Maximum Daily Emissions Construction Localized Thresholds

Pollutant	Construction Localized Threshold
Demolition and Grading	
NO_X	92 lbs/day
CO	665 lbs/day
PM_{10}	61 lbs/day
$PM_{2.5}$	27 lbs/day

Source: (Urban Crossroads, 2021a, Table 9)

4.2.4 Methodology for Calculating Project-Related Air Quality Emissions

On October 17, 2017, the SCAQMD released the latest version of the California Emissions Estimator Model (CalEEMod v 2016 3.2). The use of this computer model is an industry-standard method for calculating air pollutant emissions generated by development projects in California. CalEEMod v 2016 3.2 was used to calculate Project-related emissions of criteria pollutants NO_X, VOC, PM_{10}, $PM_{2.5}$, SO_X, and CO, from direct and indirect sources during the Project's construction phase and long-term operation. (Urban Crossroads, 2021a, Attachment A). Refer to EIR Section 3.0, *Project Description,* for information regarding the Project's construction and operational-related characteristics that were assumed for purposes of analysis in this EIR.

A. Methodology for Calculating Project Construction Emissions

1. Regional Pollutant Emissions

The duration of construction activity was based on a projected 2023 Opening Year. For purposes of analysis, construction is expected to commence in early 2022 and continue for a duration of 19 months into 2023. The construction schedule utilized in the air quality impact analysis and herein, represents a "worst-case" analysis scenario because, should construction occur later than the dates anticipated in the analysis, construction equipment emissions would be lower than presented herein due to emission regulations becoming more stringent over time and the continual retirement of older (higher-polluting) equipment and replacement with newer (less-polluting) pieces of equipment in response to State regulations or service needs. The air quality model for Project construction assumes the operation of the equipment listed in EIR Section 3.0, *Project Description* and in Table 5 of *Technical Appendix C*. The analysis assumptions for Project construction duration and Project construction equipment are based on information provided by the Project Applicant. (Urban Crossroads, 2021a, p. 5)

2. Localized Pollutant Emissions

Project-related localized pollutant emissions were calculated in accordance with the SCAQMD's *Final Localized Significance Threshold Methodology*. The SCAQMD has established that impacts to air quality are significant if there is a potential to contribute or cause localized exceedances of the federal and/or State ambient air quality standards (NAAQS/CAAQS). Collectively, these are referred to as Localized Significance Thresholds (LSTs). LSTs represent the maximum emissions from a project that will not cause or contribute to an exceedance of the most stringent applicable federal or State ambient air quality standard at the sensitive receptor. (Urban Crossroads, 2021a, p. 13)

Receptor locations are off-site locations where individuals may be exposed to emissions from Project activities. Some people are especially sensitive to air pollution and are given special consideration when evaluating air quality impacts from projects. These groups of people include children, the elderly, individuals with pre-existing respiratory or cardiovascular illness, and athletes and others who engage in frequent exercise. Structures that house these persons or places where they gather to exercise are defined as "sensitive receptors," and they are also known to be locations where an individual can remain for 24 hours. (Urban Crossroads, 2021a, p. 14)

Per the *LST Methodology*, commercial, office, and industrial facilities are not included in the definition of sensitive receptor because employees and visitors do not typically remain onsite for a full 24 hours but instead are typically only onsite for approximately eight hours. However, the LST Methodology explicitly states that "LSTs based on shorter averaging periods, such as the NO_2 and CO LSTs, could also be applied to receptors such as industrial or commercial facilities since it is reasonable to assume that a worker at these sites could be present for periods of one to eight hours" Consistent with the SCAQMD's Final LST Methodology, the nearest industrial or commercial use to the Project site was used by Urban Crossroads to determine operational and construction air impacts for emissions of NO_2 and CO. (Urban Crossroads, 2021a, p. 14)

Sensitive receptors in the Project study area are as described below.(Urban Crossroads, 2021a, p. 14)

- R1: Location R1 represents the existing residence at 1110 Granville Drive, approximately 746 feet west of the Project site. Receptor R1 is placed at the private outdoor living area (backyard) facing the Project site.

- R2: Location R2 represents existing office and commercial use at 210 Newport Center Drive, approximately 165 feet east of the Project site. Receptor R2 is placed at the building façade.

- R3: Location R3 represents the Civic Center Park at 100 Civic Center Drive, approximately 1,002 feet southeast of the Project site. Receptor R3 is placed at the park boundary.

- R4: Location R4 represents existing office use at 160 Newport Center Drive, approximately 99 feet south of the Project site. Receptor R4 is placed at the building façade.

The SCAQMD recommends that the nearest sensitive receptor be considered when determining the Project's potential to cause an individual or a cumulatively significant impact. The nearest land use where an individual could remain for 24 hours to the Project site was used to determine localized construction and operational air quality impacts for emissions of PM_{10} and $PM_{2.5}$ (since PM_{10} and $PM_{2.5}$ thresholds are based on a 24-hour averaging time). The nearest receptor used for evaluation of localized impacts of PM_{10} and $PM_{2.5}$ is represented by location R1, which represents the existing residence at 1110 Granville Drive, approximately 746 feet from the Project site. For purposes of analysis, the 746-feet distance was used for evaluation of localized PM_{10} and $PM_{2.5}$ emission impacts. (Urban Crossroads, 2021a, p. 16)

As previously stated, and consistent with LST Methodology, the nearest industrial/commercial use to the Project site was used to determine construction and operational LST air impacts for emissions of NO_X and CO as the averaging periods for these pollutants are shorter (8 hours or less) and it is reasonable to assume that an individual could be present at these sites for periods of one to eight hours. Thus, the nearest receptor used for evaluation of localized impacts of NO_X and CO is represented by location R4, which represents the existing offices at 160 Newport Center Drive, located approximately 99 feet from the Project site. As such, the 99-foot distance was used for evaluation of localized NO_X and CO emission impacts. (Urban Crossroads, 2021a, p. 16)

B. Methodology for Calculating Project Operational Emissions

1. Regional Pollutant Emissions

The Project's operational-related regional pollutant emissions analysis quantifies air pollutant emissions from area source emissions (i.e., architectural coatings, consumer products, hearths/fireplaces, and landscape maintenance equipment), energy source emissions, mobile source emissions, and on-site equipment emissions (Urban Crossroads, 2021a, p. 11).

The Project-related operational air quality emissions derive primarily from vehicle trips generated by the Project, including resident and visitor trips to and from the Project site. Based on the trip

characteristics available from the Project's Trip Generation Assessment (TGA) (*Technical Appendix H*) the proposed Project was analyzed to generate a total of approximately 152 two-way vehicular trips per day (76 inbound and 76 outbound). (Urban Crossroads, 2021a, p. 12)

2. *Localized Pollutant Emissions*

The Project site is 1.26 acres. According to SCAQMD LST methodology, LSTs would apply to the operational phase of a proposed project, if the project includes stationary sources, or attracts mobile sources that may spend long periods queuing and idling at the site (e.g., transfer facilities and warehouse buildings). The proposed Project does not include such uses, and thus, due to the lack of significant stationary source emissions, no long-term localized significance threshold analysis is needed. (Urban Crossroads, 2021a, p. 17)

4.2.5 IMPACT ANALYSIS

Threshold a: Would the Project conflict with or obstruct implementation of the applicable air quality plan?

Less than Significant Impact.

The SCAQMD *2016 AQMP*, which is the applicable air quality plan for the Project area, addresses long-term air quality conditions for the SCAB. The criteria for determining consistency with the *2016 AQMP* are analyzed below.

- *Consistency Criterion No. 1: The proposed project will not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP.*

Consistency Criterion No. 1 refers to violations of the NAAQS and CAAQS. Violations of the NAAQS and/or CAAQS would occur if the emissions resulting from the Project were to exceed the SCAQMD's localized emissions thresholds. As a conservative measure, the Project's regional emissions of VOC, NO_X, PM_{10}, and $PM_{2.5}$ also are considered in the consistency determination because if the Project's emissions of any of these pollutants would exceed the applicable SCAQMD regional thresholds, then these emissions could delay the SCAB's attainment of federal and/or State ozone or particulate matter standards. As disclosed under the analysis for Thresholds (b) and (c), below, Project-related activities would not exceed SCAQMD regional or localized emissions thresholds during construction or long-term operation. Accordingly, the Project would be consistent with Consistency Criterion No. 1. (Urban Crossroads, 2021a, p. 20)

- Consistency Criterion No. 2: The proposed project will not exceed the assumptions in the AQMP based on the years of project buildout phase.

The air quality conditions presented in the *2016 AQMP* are based on the growth forecasts identified by SCAG in its *2016-2040 RTP/SCS*. The *2016-2040 RTP/SCS* anticipates that development in the various incorporated and unincorporated areas within the SCAB will occur in accordance with the adopted general plans for these areas. As such, development projects that propose to change the land use and/or increase the development intensity of an individual property may result in increased stationary area source emissions and/or mobile source emissions when compared to the *2016 AQMP* assumptions. If a development project does not exceed the growth projections in the applicable local general plan, then the project is considered to be consistent with the growth assumptions in the AQMP. (Urban Crossroads, 2021a, p. 20)

The City of Newport Beach is currently in the process of updating its General Plan. Based on the current General Plan, the Project site is designated for "Regional Commercial Office (CO-R)" uses. The CO-R designation is intended to provide for administrative and professional offices that serve local and regional markets, with limited accessory retail, financial, service, and entertainment uses. (Urban Crossroads, 2021a, p. 20)

As stated above in Subsections 4.2.1 and 4.2.4, respectively, the existing operation (i.e., car wash, gas station, convenient market) generates approximately 819 trip-ends per day (two-way trips) whereas the proposed Project is expected to generate 152 trip ends per day (two-way trips). Although the Project, which proposes the development of 28 condominium units would change the land use, the Project would generate less vehicular traffic and consequently fewer emissions than if the Project site were developed consistent with its CO-R designation. Stated another way, although the Project entails changing the site's land use, development of the proposed Project would result in a decrease in development intensity and subsequent air emissions that would result from the Project. Thus, the Project would not exceed the assumptions of the *AQMP* and it would be consistent with Consistency Criterion No. 2. (Urban Crossroads, 2021a, p. 21)

For the reasons stated above, because the Project would not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP and would not exceed the growth assumptions in the AQMP, the Project would be consistent with the AQMP and impacts would be less-than-significant.

Threshold b: Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard?

Less than Significant Impact.

The SCAB has a "non-attainment" designation for ozone (1- and 8-hour) and particulate matter ($PM_{2.5}$ and PM_{10}) under existing conditions. Refer to Subsection 4.2.1 for more information on existing air quality conditions in the SCAB.

A. Construction Emissions Impact Analysis

Peak Project construction emissions are summarized in Table 4.2-6, *Peak Regional Daily Construction Emissions Summary*. Detailed air model outputs are presented in Attachment A of *Technical Appendix C*.

As shown in Table 4.2-6, peak Project construction emissions of VOCs, NO_X, CO, SO_X, and particulate matter (PM_{10} and $PM_{2.5}$) would not exceed the applicable SCAQMD regional thresholds. Accordingly, the Project's daily construction activities would not emit substantial concentrations of these pollutants and would not contribute to an existing or projected air quality violation on a direct or cumulatively-considerable basis. Because the Project's construction activities would not emit substantial concentrations of VOCs, NO_X, CO, SO_X, PM_{10} and $PM_{2.5}$ and would not contribute to an existing or projected air quality violation on a direct or cumulatively-considerable basis, Project construction impacts related to these emissions would be less than significant and no mitigation is required. (Urban Crossroads, 2021a, p. 10)

Although no mitigation is required, as noted in Subsection 4.2.2, construction contractors would still be obligated to comply with applicable SCAQMD Rules, including but not limited to, Rule 401 (Visible Emissions); Rule 402 (Nuisance Odors), Rule 403 (Fugitive Dust), Rule 1113 (Architectural Coatings), and Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities).

Table 4.2-6 Peak Regional Daily Construction Emissions Summary

Overlap	Emissions (lbs/day)					
	VOC	NO_X	CO	SO_X	PM_{10}	$PM_{2.5}$
Summer						
2022	4.07	58.96	35.04	0.16	7.14	3.41
2023	16.79	44.70	52.74	0.11	3.68	2.39
Winter						
2022	4.12	59.32	35.41	0.16	7.15	3.41
2023	16.84	44.72	52.54	0.11	3.68	2.39
Maximum Daily Emissions	**16.84**	**59.32**	**52.74**	**0.16**	**7.15**	**3.41**
SCAQMD Regional Threshold	75	100	550	150	150	55
Threshold Exceeded?	**NO**	**NO**	**NO**	**NO**	**NO**	**NO**

Source: (Urban Crossroads, 2021a, Table 6)

B. Operational Emissions Impact Analysis

Operational activities associated with the Project would result in emissions of CO, VOCs, NO_X, SO_X, and particulate matter (PM_{10} and $PM_{2.5}$). Operation of the Project would result in emissions typical of a residential use, from area sources, energy sources, mobile sources, and on-site equipment. Area source emissions include hearths/ fireplaces, evaporation of solvents in architectural coatings, organic compounds from consumer products, and fuel from landscape maintenance equipment. Energy source

emissions include combustion emissions associated with natural gas and electricity. Mobile source emissions include emissions from vehicles and fugitive dust related to vehicular travel. (Urban Crossroads, 2021a, pp. 11-12)

The Project's peak daily operational emissions are presented in Table 4.2-7, *Peak Daily Operational Emissions Summary*. Detailed air model outputs are presented in Attachment A of *Technical Appendix C*.

Table 4.2-7 Peak Daily Operational Emissions Summary

Source	Emissions (lbs/day)					
	VOC	NO_X	CO	SO_X	PM_{10}	$PM_{2.5}$
Summer						
Area Source	2.00	0.49	2.52	3.09E-03	0.05	0.05
Energy Source	6.86E-03	0.06	0.03	3.70E-04	4.74E-03	4.74E-03
Mobile Source	0.32	0.52	3.41	0.01	1.11	0.30
Total Maximum Daily Emissions	**2.33**	**1.07**	**5.96**	**0.01**	**1.16**	**0.36**
SCAQMD Regional Threshold	55	55	550	150	150	55
Threshold Exceeded?	**NO**	**NO**	**NO**	**NO**	**NO**	**NO**
Winter						
Area Source	2.00	0.49	2.52	3.09E-03	0.05	0.05
Energy Source	6.86E-03	0.06	0.03	3.70E-04	4.74E-03	4.74E-03
Mobile Source	0.33	0.55	3.28	0.01	1.11	0.30
Total Maximum Daily Emissions	**2.34**	**1.10**	**5.82**	**0.01**	**1.16**	**0.36**
SCAQMD Regional Threshold	55	55	550	150	150	55
Threshold Exceeded?	**NO**	**NO**	**NO**	**NO**	**NO**	**NO**

Source: (Urban Crossroads, 2021a, Table 8)

As shown in Table 4.2-7, the Project's operation (28 condominimum units) would result in peak daily emissions of VOCs, NO_X, CO, SO_X, and particulate matter (PM_{10} and $PM_{2.5}$) that would fall far below the applicable SCAQMD regional thresholds. Therefore, the Project would not emit substantial concentrations of these pollutants and would not contribute to an existing or projected air quality violation on a direct or cumulatively-considerable basis. Because the Project would not emit substantial concentrations of VOCs, NO_X, CO, SO_X, PM_{10} and $PM_{2.5}$ and would not contribute to an existing or projected air quality violation on a direct or cumulatively-considerable basis, impacts associated with these operational emissions would be less than significant and no mitigation is required.

Threshold c: Would the Project expose sensitive receptors to substantial pollutant concentrations?

Less than Significant Impact.

A. Localized Criteria Pollutant Analysis

1. Construction Analysis

As shown in Table 4.2-8, *Peak Daily Construction Localized Emissions* Summary, the Project's localized NO_X, CO, and particulate matter (PM_{10} and $PM_{2.5}$) emissions would not exceed applicable SCAQMD thresholds during Project construction. Therefore, because the Project's localized NO_X, CO, and particulate matter (PM_{10} and $PM_{2.5}$) emissions would not exceed applicable SCAQMD thresholds during Project construction, Project construction would not expose any sensitive receptors in the vicinity of the Project site to substantial criteria pollutant concentrations. Therefore, impacts would be less than significant and no mitigation is required. (Urban Crossroads, 2021a, p. 16)

Table 4.2-8 Peak Daily Construction Localized Emissions Summary

On-Site Emissions	Emissions (lbs/day)			
	NO_X	CO	PM_{10}	$PM_{2.5}$
Demolition				
Maximum Daily Emissions	**26.73**	**23.71**	**1.26**	**1.16**
SCAQMD Localized Threshold	92	665	61	27
Threshold Exceeded?	**NO**	**NO**	**NO**	**NO**
Crushing				
Maximum Daily Emissions	**26.73**	**23.71**	**4.00**	**2.49**
SCAQMD Localized Threshold	92	665	61	27
Threshold Exceeded?	**NO**	**NO**	**NO**	**NO**
Grading				
Maximum Daily Emissions	**26.73**	**23.71**	**4.05**	**2.50**
SCAQMD Localized Threshold	92	665	61	27
Threshold Exceeded?	**NO**	**NO**	**NO**	**NO**

Source: (Urban Crossroads, 2021a, Table 9)

2. Operational Analysis

The Project site is 1.26 acres. According to SCAQMD LST methodology, LSTs would apply to the operational phase of a proposed project, if the project includes stationary sources, or attracts mobile sources that may spend long periods queuing and idling at the site (e.g., transfer facilities and warehouse buildings). The proposed Project does not include such uses, and thus, due to the lack of significant stationary source emissions, no long-term localized significance threshold analysis is needed. (Urban Crossroads, 2021a, p. 17)

B. CO Hot Spot Impact Analysis

A CO "hot spot" is an isolated geographic area where localized concentrations of CO exceeds the CAAQS one-hour (20 parts per million) or eight-hour (9 parts per million) standards. A Project-specific CO "hot spot" analysis was not performed because CO attainment in the SCAB was thoroughly analyzed as part of SCAQMD's 2003 AQMP and the 1992 Federal Attainment for Carbon Monoxide

Plan (1992 CO Plan). As identified in the SCAQMD's 2003 AQMP and the 1992 CO Plan, peak CO concentrations in the SCAB were the byproduct of unusual meteorological and topographical conditions and were not the result of traffic congestion. For context, the CO "hot spot" analysis performed for the 2003 AQMP recorded a CO concentration of 9.3 parts per million (8-hour) at the Long Beach Boulevard/Imperial Highway intersection in Los Angeles County; however, only a small portion of the recorded CO concentrations (0.7 parts per million) were attributable to traffic congestion at the intersection. The vast majority of the recorded CO concentrations at the Long Beach Boulevard/Imperial Highway intersection (8.6 parts per million) were attributable to ambient air concentrations. (Urban Crossroads, 2021a, pp. 17-18)

In comparison, at buildout of the proposed Project, the highest daily traffic volumes generated at the roadways within the vicinity of the Project are expected to generate less than the highest daily traffic volumes generated at the CO "hot spot" analysis. Data from several air districts/studies indicate that under existing and future vehicle emission rates, a given project would have to increase traffic volumes at a single intersection by more than 44,000 vehicles per hour – or 24,000 vehicles per hour where vertical and/or horizontal air does not mix – in order to generate a significant CO impact. The Project would not produce the volume of traffic required to generate a CO hotspot based on the referenced studies. Therefore, based on the relatively low traffic congestion levels, low existing ambient CO concentrations, and the lack of any unusual meteorological and/or topographical conditions in the Project vicinity, the Project is not expected to cause or contribute to a CO "hot spot." (Urban Crossroads, 2021a, pp. 17-18) Impacts would be less than significant and no mitigation is required.

4.2.6 Cumulative Impact Analysis

The CAAQS designates the Project site's area as non-attainment for O_3 and $PM_{2.5}$ while the NAAQS designates the Project site's area as non-attainment for O_3 and $PM_{2.5}$. The SCAQMD *2016 AQMP* evaluates regional conditions within the SCAB and sets regional emission significance thresholds for both construction and operation of development projects that apply to project-specific impacts and cumulatively-considerable impacts. Thus, if a project exceeds the SCAQMD regional emissions thresholds, project-specific impacts would also result in a cumulatively-considerable increase in emissions for those pollutants for which the basin in is non-attainment. (Urban Crossroads, 2021a, pp. 22-23) As described under the analysis for Threshold a), Project implementation would not conflict with the SCAQMD's *2016 AQMP*; therefore, impacts would be less than cumulatively-considerable.

Based on SCAQMD guidance, any exceedance of a regional or localized threshold for criteria pollutants also is considered to be a cumulatively-considerable effect, while air pollutant emissions that fall below applicable regional and/or localized thresholds are not considered cumulatively considerable. As discussed in the response to Threshold (b), none of the SCAQMD regional thresholds would be exceeded during Project construction and operation. Therefore, impacts would be less-than -cumulatively-considerable.

As discussed under the analysis for Threshold (c), all Project-related construction and operational localized air pollutant emissions would not exceed the applicable SCAQMD thresholds and, therefore, would be less-than-cumulatively considerable.

4.2.7 Significance of Impacts Before Mitigation

Threshold a): Less than Significant Impact. The Project would not conflict with or obstruct implementation of the *2016 AQMP*.

Threshold b): Less than Significant Impact. Project-related construction activities and long-term operational activities would not exceed any of the applicable SCAQMD regional thresholds for air pollutant emissions.

Threshold c): Less than Significant Impact. Implementation of the Project would not: 1) exceed applicable SCAQMD localized criteria pollution emissions thresholds during construction and operation; and 2) would not cause or contribute to the formation of a CO "hot spot."

4.2.8 Mitigation

Impacts would be less than significant; therefore, no mitigation is required.

4.3 BIOLOGICAL RESOURCES

This Subsection evaluates the potential for Project-related activities to impact sensitive biological resources. The analysis is based in part on the Orange County Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) (Orange County, 2019), Google Earth Images (Google Earth, 2020), City of Newport Beach Council Policy Manual (City of Newport Beach, 2021), City of Newport Beach Municipal Code (City of Newport Beach, 2020a), City of Newport Beach General Plan (City of Newport Beach, 2006a), and the City of Newport Beach General Plan Environmental Impact Report (City of Newport Beach, 2006b).

Based on analyses conducted as part of the Project's Initial Study, and the substantive evidence cited in the Initial Study (*Technical Appendix A*), it was determined that the Project would clearly result in no impacts or less-than-significant impacts under several of the thresholds identified in Section IV (Biological Resources) of Appendix G to the CEQA Guidelines. Specifically, the Project's Initial Study concluded that the Project would result in no impacts or less-than-significant impacts under Thresholds (b), (c), (d), (e), and (f):

b. *Would the Project have a substantially adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

c. *Would the Project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

d. *Would the Project interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

e. *Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

f. *Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state habitat conservation plan?*

Accordingly, and based on the analysis contained in the Project's Initial Study, no additional analysis of the above-listed thresholds is required. This Subsection instead focuses on the Project's potential to adversely affect, either directly or through habitat modifications, species identified as a candidate, sensitive, or special status species. Refer to the Project's Initial Study (EIR *Technical Appendix A)* and Subsection 5.4 of this EIR for a complete discussion and analysis of the above-listed thresholds.

4.3.1 Existing Conditions

A. On-Site Vegetation

The 1.26-acre Project site is fully developed with an existing car wash and ancillary gas station with convenience market, a surface parking lot, ornamental landscaping, and hardscape. There are approximately 28 ornamental trees on the property. A paved parking area is located along the western edge of the Project site, and ornamental landscaping areas occur primarily along the perimeter of the site. Street trees, shrubs, groundcover, and curb-adjacent sidewalks are located along the Project site's frontage with Newport Center Drive and Anacapa Drive.

As indicated in the City of Newport Beach General Plan EIR, the Project site is not identified as containing any sensitive biological resources and is not located within any Environmental Study Areas that have the potential to support sensitive biological resources (City of Newport Beach, 2006b, pp. 4.3-10 and Figures 4.3-1 and 4.3-2) . The Project site does not contain any natural vegetation and is located in a fully developed area with existing urbanized uses. Existing vegetation on-site consists of 28 mature ornamental trees and associated ornamental shrubs and landscaping.

B. Off-Site Vegetation

The Project site occurs in a highly urbanized area surrounded by developed properties. Neighboring properties contain ornamental landscaping and no natural vegetation or undisturbed land occurs in the immediate vicinity of the Project site. City street trees within landscaped parkways are located on both sides of Anacapa Drive and Newport Center Drive.

4.3.2 Regulatory Setting

The following is a brief description of the federal, State, and local environmental laws and related regulations governing the protection of biological resources.

A. Federal Regulations

1. Endangered Species Act (ESA)

The purpose of the federal Endangered Species Act (ESA) is to protect and recover imperiled species and the ecosystems upon which they depend. It is administered by the United States Fish and Wildlife Service (USFWS) and the Commerce Department's National Marine Fisheries Service (NMFS). The USFWS has primary responsibility for terrestrial and freshwater organisms, while the responsibilities of NMFS are mainly marine wildlife such as whales and anadromous fish such as salmon. Under the ESA, species may be listed as either endangered or threatened. "Endangered" means a species is in danger of extinction throughout all or a significant portion of its range. "Threatened" means a species is likely to become endangered within the foreseeable future. All species of plants and animals, except pest insects, are eligible for listing as endangered or threatened. (USFWS, 2017)

The ESA makes it unlawful for a person to take a listed animal without a permit. Take is defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any

such conduct." Through regulations, the term "harm" is defined as "an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering." Listed plants are not protected from take, although it is illegal to collect or maliciously harm them on federal land. Protection from commercial trade and the effects of federal actions do apply for plants. Section 7 of the ESA requires federal agencies to use their legal authorities to promote the conservation purposes of the ESA and to consult with the USFWS and NMFS, as appropriate, to ensure that effects of actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species. (USFWS, 2017)

2. Migratory Bird Treaty Act (16 USC Section 703-712)

The Migratory Bird Treaty Act (MBTA) makes it illegal for anyone to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such a bird except under the terms of a valid permit issued pursuant to federal regulations. The migratory bird species protected by the MBTA are listed in 50 CFR 10.13. The USFWS has statutory authority and responsibility for enforcing the MBTA (16 U.S.C. 703-712). The MBTA implements Conventions between the United States and four countries (Canada, Mexico, Japan, and Russia) for the protection of migratory birds. (USFWS, 2020)

B. State Regulations

1. California Endangered Species Act (CESA)

The California Endangered Species Act (CESA) states that all native species of fishes, amphibians, reptiles, birds, mammals, invertebrates, and plants, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation, will be protected or preserved. The California Department of Fish and Wildlife (CDFW) works with interested persons, agencies, and organizations to protect and preserve such sensitive resources and their habitats. CESA prohibits the take of any species of wildlife designated by the California Fish and Game Commission as endangered, threatened, or candidate species. CDFW may authorize the take of any such species if certain conditions are met. (CDFW, 2020a)

Section 2081 subdivision (b) of the California Fish and Game Code (CFGC) allows CDFW to authorize take of species listed as endangered, threatened, candidate, or a rare plant, if that take is incidental to otherwise lawful activities and if certain conditions are met. These authorizations are commonly referred to as incidental take permits (ITPs). If a species is listed by both the federal ESA and CESA, CFGC Section 2080.1 allows an applicant who has obtained a federal incidental take statement (federal Section 7 consultation) or a federal incidental take permit (federal Section 10(a)(1)(B)) to request that the Director of CDFW find the federal documents consistent with CESA. If the federal documents are found to be consistent with CESA, a consistency determination (CD) is issued and no further authorization or approval is necessary under CESA. A Safe Harbor Agreement (SHA) authorizes incidental take of a species listed as endangered, threatened, candidate, or a rare plant, if implementation of the agreement is reasonably expected to provide a net conservation benefit to the species, among other provisions. (CDFW, 2020a)

2. *Natural Community Conservation Planning Act (NCCP)*

CDFW's Natural Community Conservation Planning (NCCP) program takes a broad-based ecosystem approach to planning for the protection and perpetuation of biological diversity. The NCCP program began in 1991 as a cooperative effort to protect habitats and species. An NCCP identifies and provides for the regional protection of plants, animals, and their habitats, while allowing compatible and appropriate economic activity. Working with landowners, environmental organizations, and other interested parties, a local agency oversees the numerous activities that compose the development of an NCCP. CDFW and the USFWS provide the necessary support, direction, and guidance to NCCP participants. There are currently 13 approved NCCPs (includes 6 subarea plans) and 22 NCCPs in the active planning phase (includes 10 subarea plans) in the State of California, which together cover more than 7 million acres and will provide conservation for nearly 400 special status species and a wide diversity of natural community types throughout California. (CDFW, 2020b)

3. *Native Plant Protection Act (NPPA) of 1977*

The Native Plant Protection Act (NPPA) was enacted in 1977 and allows the Fish and Game Commission to designate plants as rare or endangered. There are 64 species, subspecies, and varieties of plants that are protected as rare under the NPPA. The NPPA prohibits take of endangered or rare native plants, but includes some exceptions for agricultural and nursery operations; emergencies; and after properly notifying CDFW for vegetation removal from canals, roads, and other sites, changes in land use, and in certain other situations. (CDFW, 2020c)

4. *Unlawful Take of Destruction of Nests or Eggs (CFGC Sections 3503.5-3513)*

Section 3503.5 of the CFGC specifically protects birds of prey, stating: "It is unlawful to take, possess, or destroy any . . . [birds-of-prey] or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto." Section 3513 of the CFGC duplicates the federal protection of migratory birds, stating: "It is unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act." (CA Legislative Info, n.d.)

C. *Local Regulations*

1. *City of Newport Beach General Plan*

The City of Newport Beach General Plan Natural Resources Element provides goals and policies regarding the conservation, development, and utilization of natural resources, which include biological resources. Under existing conditions, the Project site is fully disturbed with an operational car wash facility with associated convenience market and gas station with ancillary lighting, signage, and associated improvements. In addition, the Project site is located in a highly urbanized portion of the City of Newport Beach. Due to the fully developed and disturbed conditions of the Project site and its surroundings, no biological resources occur on the site under existing conditions; therefore, no General Plan policies directly related to existing biological resources apply to the proposed Project.

2. *City of Newport Beach Municipal Code*

Chapter 7.26 of the City's Municipal Code (Protection of Natural Habitat for Migratory and Other Waterfowl), protects migratory waterfowl and other birds such as ducks, gulls, terns, and pelicans (City of Newport Beach, 2020a).

3. *City Council Policies*

- **City Council Policy G-1: Retention or Removal of Trees.** The purpose of City Council Policy G-1 is to establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest with an inventory that the City can reasonably maintain in a healthy and non-hazardous condition. All encroachment permits (permits for private property development which are proposed to encroach upon the City right of way) or demolition permits that involve the removal or replacement of City tree(s) must be specifically noticed by the property owner to City staff prior to the building and/or demolition permit process whenever possible. The proposed construction plans must indicate preservation of existing City trees wherever possible (exempt: dead, dying, or in an advanced state of decline). If the proposed development, as deemed by the General Services Director, requires the removal of City trees, the property owner must submit a tree removal request to the General Services Director, shall pay all related tree removal and replacement costs (one for one replacement) and meet all provisions of Council Policies L-2 and L-6 and City Ordinances 13.08 and 13.09. Approval or disapproval of all tree removal/replacement requests associated with encroachment and demolition permits will be the responsibility of the General Services Director or a designee. (City of Newport Beach, 2021)

- **City Council Policy G-3: Preservation of Views.** The importance of Policy G-3 is to identify the importance of views lost to excessive plant growth. (City of Newport Beach, n.d.)

4.3.3 Basis for Determining Significance

Based on the results of the Initial Study, it was determined that the Project has the potential to result in a significant impact to biological resources if the Project or any Project-related component would:

> a. *Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.*

The above-listed threshold is derived directly from Section IV of Appendix G to the CEQA Guidelines and addresses the typical, adverse effects related to biological resources that could result from development projects. Refer also to the Project's Initial Study (*Technical Appendix A*) for a discussion of potential impacts to biological resources that were determined to be less than significant as part of the Project's scoping process.

4.3.4 Impact Analysis

Threshold a: Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Significant Direct and Cumulatively Considerable Impact.

The Project site has been fully developed with a car wash and ancillary services since 1970. No native habitat or undeveloped areas occur on the Project site or within the immediate Project vicinity; all vegetation located on or near the Project site is ornamental landscaping. Due to the developed nature of the Project site and the highly urbanized vicinity, none of the areas planned for physical impact or development by the proposed Project contain species, or habitat for species, identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations by the USFWS. Furthermore, the Project site is not located within or contiguous to any of the Environmental Study Areas (ESAs) identified by the Newport Beach General Plan EIR Figure 4.3-2. The Project site is within the Central and Coastal Orange County NCCP/HCP; however, the NCCP/HCP does not identify the Project site and surrounding areas for conservation (Orange County, 2019).

The only potential for sensitive biological species to be present is the potential for migratory birds to nest on the site. Impacts to nesting birds are prohibited by the MBTA and CFGC. Therefore, migratory bird species protected by the MBTA could be impacted by the Project if active nests are present on the site at the time that nesting habitat (exterior structures, trees and shrubs) are removed. With the Project's mandatory compliance with the MBTA, a less than significant impact would occur associated with the Project's impacts on migratory birds. Although migratory birds are protected under the federal MBTA, the City of Newport Beach applies Mitigation Measure MM 4.3-1 as a condition of approval for development projects in the City to ensure compliance with the MBTA.

4.3.5 Cumulative Impact Analysis

As indicated under the analysis of Threshold (a), impacts to biological resources that may occur as a result of the proposed Project would be limited to potential impacts to active migratory bird nests containing sensitive bird species if vegetation is removed during the nesting season (February 1 to August 31) and active nests are present. Other projects within the Newport Beach area, including other development projects within the Project area, would similarly have the potential to impact protected nesting birds and be subject to compliance with the MBTA. Therefore, the Project's potential impact to nesting birds would be cumulatively considerable absent compliance to federal and State regulation.

4.3.6 Significance of Impacts Before Mitigation

Threshold a) Significant Direct and Cumulatively-Considerable Impact. The Project would not result in impacts to sensitive natural plant communities, special-status plants, or special-status animals. However, the Project has the potential to impact nesting birds if habitat is removed during the nesting season (February 1 through August 31), which is considered a significant impact.

4.3.7 MITIGATION

MM 4.3-1 As a condition of demolition permits, tree removal permits, clearing permits, and any other permits that would authorize the disturbance to and removal of potential bird nesting habitat shall be prohibited during the migratory bird nesting season (February 1 through August 31) unless a migratory bird nesting survey is completed. If demolition and/or vegetation removal is planned to occur during the migratory bird nesting season (February 1 – August 31), then a migratory bird nesting survey shall be completed in accordance with the following requirements:

a) Within three (3) days prior to initiating demolition, tree removals and/or vegetation clearing, a nesting bird survey shall be conducted by a qualified biologist within the suitable habitat to be removed and within a 250-foot radius.

b) If the survey reveals no active nesting, the proposed action may proceed.

c) If the survey identifies the presence of active sensitive bird nests, then the nests shall not be disturbed unless the qualified biologist verifies through non-invasive methods that either (i) the adult birds have not begun egg-laying and incubation; or (ii) the juveniles from the occupied nests are capable of independent survival.

d) If the biologist is not able to verify any of the conditions from sub-item "b," above, then no disturbance shall occur within a buffer zone specified by the qualified biologist for each nest or nesting site. The buffer zone shall be species-appropriate (no less than 100-foot radius around the nest for non-raptors and no more than a 500-foot radius around the nest for raptors, or as otherwise determined by the qualified biologist) and shall be sufficient to protect the nest from direct and indirect impacts from construction activities. The nests and buffer zones shall be field checked approximately weekly by a qualified biological monitor. The approved buffer zone shall be marked in the field with construction fencing, within which no vegetation clearing or ground disturbance shall commence until the qualified biologist with City concurrence verify that the nests are no longer occupied and/or juvenile birds can survive independently from the nests.

4.3.8 SIGNIFICANCE OF IMPACTS AFTER MITIGATION

Threshold a): Less than Significant Impact with Mitigation Incorporated. Implementation of Mitigation Measure MM 4.3-1 would eliminate the Project's potential to result in an adverse effect to nesting birds by requiring that habitat removal activities either occur outside of the nesting bird season (generally identified as between February 1 and August 31) or that a qualified biologist ensure that no active nests are present. If nesting migratory birds are present, the mitigation requires avoidance of active bird nests in conformance with accepted protocols and regulatory requirements. With implementation of the required mitigation, impacts to nesting migratory birds protected by the federal MBTA and/or California Fish and Game Code would be reduced to below a level of significance.

4.4 CULTURAL RESOURCES

The analysis in this Subsection is primarily based on a report prepared by Duke Cultural Resources Management (CRM) titled, "Cultural Resources Assessment for the Newport Center Residences Project, City of Newport Beach, California," dated October 12, 2020, and included as *Technical Appendix D* to this EIR (Duke CRM, 2020).

Based on analyses conducted as part of the Project's Initial Study, and the substantive evidence cited in the Initial Study (EIR *Technical Appendix A*), the City determined that the Project would clearly result in no impacts under one threshold identified in Section V (Cultural Resources) of Appendix G to the CEQA Guidelines. Specifically, the Project's Initial Study concluded that the Project would result in no impact under Threshold (c):

> c. *Would the Project disturb any human remains, including those interred outside of formal cemeteries?*

Accordingly, and based on the analysis contained in the Project's Initial Study, no additional analysis of the above-listed threshold is required, and this Subsection instead focuses on the Project's potential to cause a substantial adverse change in the significance of a historical resource or archaeological resource as defined in CEQA Guidelines Section 15064.5. Refer to the Project's Initial Study (EIR *Technical Appendix A*) and EIR Subsection 5.4 for a complete discussion and analysis of the above-listed threshold.

4.4.1 EXISTING CONDITIONS

Under existing conditions, the Project site is the location of the "Newport Beach Car Wash" and contains an approximately 2,085 gross square foot single-story building that is operating as a car wash facility with associated convenience market and gas station with ancillary lighting, signage, and associated improvements. Roughly 90 percent of the Project site is concrete and about 10 percent of the Project site consists of ornamental trees, bushes, mulch, and planters (Duke CRM, 2020, p. 2).Based on geotechnical investigations conducted on the Project site, NMG determined that the site is underlain by native marine terrace deposits and bedrock of the Monterey Formation. Existing artificial fill overlies these native deposits and was found to be 9 to 14+ feet thick at the Project site. (NMG, 2020, p. 4)

A. Historical Resources

A review of building permits for the Project site indicates that the existing improvements were constructed in 1970; therefore, the existing structure is 50+ years old. Accordingly, a historical evaluation of the structure was conducted by Duke CRM for the proposed Project to assess whether the existing building contains any resources that meet the definition of a historic resource under Section 15064.5 of the CEQA Guidelines.

On September 18, 2020, Duke CRM conducted an intensive field survey of the Project site to evaluate the property for listing in the California Register of Historic Resources (CRHR). Under CEQA, the term "historical resource" includes "any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California" (PRC Section 5020.1(j)). In 1992, the California legislature established the CRHR "to be used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change" (PRC Section 5024.1(a)). The criteria for listing resources on the CRHR, enumerated below, were developed to be in accordance with previously established criteria developed for listing in the National Register of Historic Places (NRHP). (Duke CRM, 2020, p. 3)

According to PRC Section 5024.1(c)(1–4), a resource is considered historically significant if it (i) retains "substantial integrity," and (ii) meets at least one of the following criteria:

(1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
(2) Is associated with the lives of persons important in our past;
(3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; and/or
(4) Has yielded, or may be likely to yield, information important in prehistory or history.

In order for a property to be eligible under any criteria, it must retain integrity. The National Park Service, along with state and local agencies, define integrity as retaining location, design, setting, materials, workmanship, feeling, and association. (Duke CRM, 2020, p. 3)

Pursuant to CRM's historic evaluation of the existing building on the Project site, in applying Criterion 1 of the CRHR, the subject property does not appear to have been a key element of "Fashion Island," a retail complex that was located within a defined circle and whose name recognition drew upon a number of important architects of the 1960s. Under Criterion 2 of the CRHR, there is no evidence to suggest that John Martin Shea, the founder of the Beacon Bay Auto Wash chain, played a significant role in the history of Fashion Island or Newport Beach. Under CRHR Criterion 3, the Newport Center Drive Beacon Bay Auto Wash facility, while representing modern architecture of the 1960s-70s, does not appear to be a significant example of this form of architecture, nor is there any information to suggest that this particular facility was more cutting-edge as it relates to technologies associated with full-service car washes in southern California than the other five facilities in Orange County owned by Shea. Under Criterion 4 of the CRHR, further study of the property is unlikely to yield information important in prehistory or history. Therefore, CRM concluded that the subject property does not appear to meet the CRHR criteria for listing on the register. Therefore, CRM's evaluation of the subject property using CRHR criteria concluded that

existing structures within the Project site are not eligible for the CRHR and do not represent a "historical resources" as defined in CEQA. (Duke CRM, 2020, pp. 3-4)

B. Cultural Resources

Duke CRM conducted a records search and field survey, and a historic evaluation of the Project site as part of the cultural resource evaluation. In September 2020 Duke CRM requested a records search at the South Central Coastal Information Center (SCCIC). The SCCIC is part of the California Historical Resources Information System (CHRIS). The records search included a review of all recorded cultural resources and reports within a one-mile radius of the Project site. In addition, CRM examined the California Built Environment Resources Directory (BERD), which includes the National Register of Historic Places (NRHP), California Register of Historical Resources (CRHR), California Historical Landmarks (CHL), and California Points of Historical Interest (CPHI). (Duke CRM, 2020, p. 1)

According to the SCCIC, 63 cultural resource reports have previously been completed within a one-mile radius of the Project site. Out of the 63 cultural resource reports, three include the Project site. It is noted that the three reports previously that were previously conducted and include the Project site were overview reports and did not include field surveys of the Project site. No cultural resources were recorded on the Project site in any of the three reports. (Duke CRM, 2020, pp. 1-2)

In addition to investigative reports, the SCCIC provided data on cultural resources recorded within one mile of the Project site. Thirty-five cultural resources are recorded within one mile of the Project site and one cultural resource is recorded within the Project boundaries. Of those 35 cultural resources, 29 are prehistoric and consist of shell middens and stone tool scatters. The six remaining cultural resources are historic and include a concrete cattle crossing, a fire station, a church, a Bloomindales department store, the Hyatt Regency Hotel, and a Jolly Rogers restaurant building. (Duke CRM, 2020, p. 2)

The one cultural resource recorded within the Project site's boundary and larger surrounding area is the site of the 1953 National Boy Scout Jamboree (P-30-162284). In 1977, Jason Keyes of the Boy Scouts of America Troop 35, submitted a request to acknowledge the 1953 National Boy Scout Jamboree as a California Point of Historical Interest or a Historical Landmark. The Jamboree was held on 3,000 acres of the Irvine Ranch where the Newport Center is now located and was the only Boy Scout Jamboree in California. The purpose of the Jamboree was to promote leadership skills and to illustrate the ideals of scouting to the United States and to the rest of the world. On June 14, 1977, the Orange County Board of Supervisors approved the site of the 1953 National Boy Scout Jamboree as a California Point of Historical Interest (CPHI# Ora-009). Artifacts have been discovered and documented at the nearby Harbor Cove residential development. It is unlikely that any component of the Jamboree remains intact buried beneath the existing car wash due to prior construction of the existing car wash on the Project site in 1970-1971. (Duke CRM, 2020, p. 2) (Duke CRM, 2020 Attachment C. DPR523 Series Site Record)

4.4.2 Regulatory Setting

The following is a brief description of the federal, State, and local environmental laws and related regulations governing the protection of cultural resources.

A. Federal Regulations

1. National Historic Preservation Act

The National Historic Preservation Act of 1966 (NHPA) was passed primarily to acknowledge the importance of protecting our nation's heritage. While Congress recognized that national goals for historic preservation could best be achieved by supporting the drive, enthusiasm, and wishes of local citizens and communities, it understood that the federal government must set an example through enlightened policies and practices. In the words of the Act, the federal government's role would be to "provide leadership" for preservation, "contribute to" and "give maximum encouragement" to preservation, and "foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony." (NPS, 2020a)

Section 106 of NHPA granted legal status to historic preservation in federal planning, decision-making, and project execution. Section 106 requires all federal agencies to take into account the effects of their actions on historic properties, and provide the Advisory Council on Historic Preservation with a reasonable opportunity to comment on those actions and the manner in which federal agencies are taking historic properties into account in their decisions. (NPS, 2020a) A number of additional executive and legislative actions have been directed toward improving the ways in which all federal agencies manage historic properties and consider historic and cultural values in their planning and assistance. Executive Order 11593 (1971) and, later, Section 110 of NHPA (1980, amended 1992), provided the broadest of these mandates, giving federal agencies clear direction to identify and consider historic properties in federal and federally assisted actions. The National Historic Preservation Amendments of 1992 further clarified Section 110 and directed federal agencies to establish preservation programs commensurate with their missions and the effects of their authorized programs on historic properties. (NPS, 2020a)

2. National Register of Historic Places (NRHP)

The National Register of Historic Places is the official list of the Nation's historic places worthy of preservation. Authorized by the National Historic Preservation Act of 1966, the NPS's National Register of Historic Places (NRHP) is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources. To be considered eligible, a property must meet the National Register Criteria for Evaluation. This involves examining the property's age, integrity, and significance. Nominations can be submitted to a State Historic Preservation Office (SHPO) from property owners, historical societies, preservation organizations, governmental agencies, and other individuals or groups. The SHPO notifies affected property owners and local governments and solicits public comment. If the owner (or a majority of owners for a district nomination) objects, the property cannot be listed but may be forwarded to the National Park Service (NPS) for a Determination of Eligibility (DOE). Listing in the National

Register of Historic Places provides formal recognition of a property's historical, architectural, or archeological significance based on national standards used by every state. Under federal law, the listing of a property in the National Register places no restrictions on what a non-federal owner may do with their property up to and including destruction, unless the property is involved in a project that receives federal assistance, usually funding or licensing/permitting. National Register listing does not lead to public acquisition or require public access. (NPS, 2020b)

B. State Regulations

1. California Administrative Code, Title 14, Section 4308

Section 4308, Archaeological Features, of Title 14 of the California Administrative Code provides that: "No person shall remove, injure, disfigure, deface, or destroy any object of archaeological, or historical interest or value." (NPS, 2009)

2. California Code of Regulations Title 14, Section 1427

California Code of Regulations Title 14, Section 1427 provides that: "No person shall collect or remove any object or thing of archeological or historical interest or value, nor shall any person injure, disfigure, deface or destroy the physical site, location or context in which the object or thing of archeological or historical interest or value is found." (NAHC, 2020)

3. California Register of Historic Resources

The State Historical Resources Commission has designed this program for use by State and local agencies, private groups, and citizens to identify, evaluate, register, and protect California's historical resources. The Register is the authoritative guide to the state's significant historical and archeological resources. The California Register program encourages public recognition and protection of resources of architectural, historical, archeological, and cultural significance; identifies historical resources for state and local planning purposes; determines eligibility for state historic preservation grant funding; and affords certain protections under CEQA. (OHP, 2020)

In order for a resource to be included on the Register of Historic Resources, the resources must meet one of the following criteria:

- Associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States (Criterion 1).
- Associated with the lives of persons important to local, California or national history (Criterion 2).
- Embodies the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values (Criterion 3).
- Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation (Criterion 4). (OHP, 2020)

For resources included on the Register of Historic Resources, environmental review may be required under CEQA if property is threatened by a project. Additionally, local building inspectors must grant code alternatives provided under State Historical Building Code. Further, the local assessor may enter into contract with property owner for property tax reduction pursuant to the Mills Act. A property owner also may place his or her own plaque or marker at the site of the resource. Consent of owner is not required, but a resource cannot be listed over an owner's objections. The State Historical Resources Commission (SHRC) can, however, formally determine a property eligible for the California Register if the resource owner objects. (OHP, 2020)

4. California Code of Regulations Section 15064.5

The California Code of Regulations, Title 14, Chapter 3, § 15064.5 (CEQA Guidelines) establishes the procedure for determining the significance of impacts to archeological and historical resources, as well as classifying the type of resource. Cultural resources are aspects of the environment that require identification and assessment for potential significance. The evaluation of cultural resources under CEQA is based upon the definitions of resources provided in CEQA Guidelines § 15064.5, as follows: (WestLaw, 2020)

- *A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code § 5024.1, Title 14 CCR, Section 4850 et seq.).*
- *A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.*
- *Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code § 5024.1, Title 14 CCR, Section 4852) including the following:*
    - *Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;*
    - *Is associated with the lives of persons important in our past;*

- *Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or*
- *Has yielded, or may be likely to yield, information important in prehistory or history.*

- *The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.*

C. Local Regulations

1. City of Newport Beach Council Policy K-5

City Council Policy K-5 contains Paleontological and Archeological Resource Protection Guidelines, which are used to ensure that potential impacts to paleontological and archaeological resources by public or private development are properly evaluated and mitigated in accordance with the City's General Plan, Local Coastal Program, and CEQA. (City of Newport Beach, 2017)

2. City of Newport Beach General Plan

The City of Newport Beach General Plan Natural Resources Element provides goals and policies regarding the conservation, development, and utilization of natural resources, which include archeological and paleontological resources. Goal NR-18 and the following policies from the City's General Plan Natural Resources Element are applicable to the Project:

- **Goal NR 18:** Protection and preservation of important paleontological and archaeological resources.

- **Policy NR 18.1: New Development.** Require new development to protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources in accordance with the requirements of CEQA. Through planning policies and permit conditions, ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA.

- **Policy NR 18.3: Potential for New Development to Impact Resources**. 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.

- **Policy NR 18.4: Donation of Materials.** Require new development, where on-site preservation and avoidance are not feasible, to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible.

4.4.3 Basis for Determining Significance

Based on the results of the Initial Study, it was determined that the Project has the potential to result in a significant impact to cultural resources if the Project or any Project-related component would:

a. *Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5; or*
b. *Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.*

The above-listed thresholds are derived directly from Section V of Appendix G to the CEQA Guidelines and addresses the typical, adverse effects related to cultural resources that could result from development projects. Refer also to the Project's Initial Study (*Technical Appendix A*) for a discussion of potential impacts for which it was determined that the Project would have no impact as part of the Project's scoping process.

4.4.4 Impact Analysis

Threshold a: Would the Project cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?

No Impact.

Pursuant to CRM's historic evaluation of the existing building on the Project site, CRM concluded that the subject property does not meet the CRHR criteria for listing on the register. Therefore, CRM's evaluation of the subject property using CRHR criteria concluded that existing structures within the Project site are not eligible for the CRHR and do not represent a "historical resources" as defined in CEQA. (Duke CRM, 2020, pp. 3-4) Because the Project site does not contain historic resources, development of the proposed Project has no potential to cause an adverse change in the significance of a historical resource pursuant to Section 15064.5. No impact would occur.

Threshold b: Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Potentially Significant Direct Impact.

Under existing conditions, the Project site is fully disturbed to a depth of 9 to 14 feet and developed on the surface with a car wash, ancillary gas station and convenience market, and a parking lot and associated features. Per the Project's civil engineer, the depth to grading for excavation of the

Project's subterranean parking structure is estimated to be approximately 22 feet on the north side, adjacent to Newport Center Drive, and approximately 12 feet deep or less on the south side. Due to the depth of the excavation required for the proposed subterranean parking structure, there is a potential that previously unearthed archeological resources may be encountered where excavation depths exceed the depth of disturbance associated with previous construction activities not associated with the proposed Project. If archaeological resources are unearthed during the Project's excavation activities that meet the CEQA Guidelines § 15064.5 definition of significant resources, and they are not property identified and treated, a potentially significant impact could occur.

4.4.5 Cumulative Impact Analysis

This cumulative impact analysis considers development of the proposed Project in conjunction with other development projects in the vicinity of the Project site resulting from full build-out of the City of Newport Beach General Plan.

As indicated under the discussion and analysis of Threshold (a), although the Project would demolish the existing building and remove it from the property, the structure does not meet the criteria for listing in the CRHR and is therefore not a historical resource pursuant to Section 15064.5 of the CEQA Guidelines. Because the Project would not result in impacts to historical resources on the Project site, it would not contribute to a cumulatively-considerable impact to historical resources when combined with the impacts of other development projects within the City of Newport Beach. Therefore, cumulative impacts associated with historical resources would be less than significant.

As indicated under the discussion and analysis of Threshold (b), although unlikely, there is a remote possibility that archaeological resources could be encountered during site grading activities, which would result in a site-specific potentially significant impact to archeological resources. Mitigation is identified in Subsection 4.4.7 below to reduce this potential impact to less than significant. Other development projects throughout the City of Newport Beach that require excavation of undisturbed soils may result in similar site-specific impacts to archeological resources, which would also require mitigation in order to reduce their respective impact(s) to a less than significant level. However, the proposed Project does not include any components that would affect potentially significant off-site archeological resources or would otherwise result in an increase in the likeliness that such resource would be encountered when combined with the impacts of other cumulative projects. Therefore, cumulative impacts to archeological resources would be less than significant.

4.4.6 Significance of Impacts Before Mitigation

Threshold a): No Impact. Because no historic resources, as defined by CEQA Guidelines Section 15064.5, exist on the Project site, there is no potential for the proposed Project to cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5.

Threshold b): Potentially Significant Impact. If archaeological resources are unearthed during the Project's excavation activities that meet the CEQA Guidelines § 15064.5 definition of significant

resources, a potentially significant impact could occur if the resources are not properly identified and treated.

4.4.7 Mitigation

MM 4.4-1 Prior to the issuance of the first grading permit or permit for ground disturbance activities, the applicant shall provide evidence to the satisfaction of the City of Newport Beach that a qualified archaeological monitor and a qualified Native American Tribal monitor have been retained. In the event that cultural resources (prehistoric archaeological, historical, tribal cultural) are inadvertently unearthed during excavation and grading activities, the contractor, archaeological monitor, and/or Native American Tribal monitor shall immediately cease all earth-disturbing activities within a 100-foot radius of the area of discovery. The archaeological monitor or other qualified professional archaeologist approved by the City of Newport Beach, in consultation with the consulting Native American tribe, shall evaluate the significance of the resource and determine the appropriate course of action for documentation and treatment. Any unique archaeological resource that is discovered and that meets the CEQA Guidelines Section 15064.5 definition of a significant resource shall be treated in accordance with Public Resources Code § 21083.2, which may include avoidance, capping or covering the resource with a layer of soil before building over the resource, or excavating and removing the resource for documentation and/or curation. After the resource has been appropriately avoided or mitigated to the satisfaction of the City of Newport Beach, construction work in the area may resume.

4.4.8 Level of Significance After Mitigation

Threshold b): Less than Significant Impact with Mitigation Incorporated. MM 4.4-1 would require the implementation of an archaeological monitoring and treatment program during the Project's construction activities, should unique archaeological resources be found. Treatment of significant resources in compliance with Public Resources Code § 21083.2 would reduce the Project's potentially significant impact to less than significant. Therefore, with compliance with MM 4.4-1, the Project's potential to cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5 would be reduced to less than significant.

4.5 GEOLOGY AND SOILS

The analysis in this Subsection is primarily based on a technical study that was prepared by NMG Geotechnical Inc. (hereafter, "NMG"), titled, "Geotechnical Feasibility Report for Proposed Newport Center Condominium Site Development, 150 Newport Center Drive, City of Newport Beach, California," dated September 10, 2020, and is included as *Technical Appendix E*. Additional sources of information used to support the analysis in this Subsection include the Final Environmental Impact Report (EIR) prepared for the City of Newport Beach General Plan (City of Newport Beach, 2006b) and the Newport Beach Municipal Code (City of Newport Beach, 2020a). Refer to Section 7.0, *References*, for a complete list of reference sources used in this analysis.

Based on analyses conducted as part of the Project's Initial Study, and the substantive evidence cited in the Initial Study (EIR *Technical Appendix A*), the City determined that the Project would clearly result in no impacts or less-than-significant impacts under several of the thresholds identified in Section VII (Geology and Soils) of Appendix G to the CEQA Guidelines. Specifically, the Project's Initial Study concluded that the Project would result in no impacts or less-than-significant impacts under Thresholds (a), (b), and (e):

a. *Would the Project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:*

   i) *Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?*
   ii) *Strong seismic ground shaking?*
   iii) *Seismic-related ground failure, including liquefaction?*
   iv) *Landslides?*

b. *Would the Project result in substantial soil erosion or the loss of topsoil?*

e. *Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

Accordingly, and based on the analysis contained in the Project's Initial Study, no additional analysis of the above-listed thresholds is required, and this Subsection instead focuses on the Project's potential to be located on unstable or expansive soils which could result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse, or the Project's potential to directly or indirectly impact a unique paleontological resource or site or unique geologic feature. Refer to the Project's Initial Study (EIR *Technical Appendix A)* and EIR Subsection 5.4 for a complete discussion and analysis of the above-listed thresholds.

4.5.1 Existing Conditions

Under existing conditions, the Project site is fully disturbed and developed with a car wash and ancillary gas station and convenience market, and associated improvements. The car wash was constructed on the subject property in 1970-1971. The Project site elevations vary from a low of approximately 158.5 feet above mean sea level (AMSL) in the southwest corner to a high elevation of 170.3 feet AMSL in the northeast corner. Slopes and retaining walls are located along the northern and eastern perimeter of the site, ascending up to Newport Center Drive and Anacapa Drive, varying in height from 2 to 8 feet. (NMG, 2020, p. 2)

A. Geologic Setting

The Project site is located on the Newport Mesa, approximately 0.75-mile inland from the Pacific Ocean. The mesa highland is covered with coastal terrace deposits and is located at the southwestern end of the San Joaquin Hills. Mapping by the State indicates the site is underlain by Quaternary- age marine terrace deposits which overlie Miocene-age sedimentary bedrock of the Monterey Formation.

The Fashion Island/Newport Center area exhibits a geologic configuration that is characteristic of a series of distinguishable elevated terraces and wave-cut platforms. The area has undergone regional uplift since deposition of the marine terrace deposits onto the ancient wave cut benches. These deposits were subsequently uplifted with the oldest deposits exposed along the higher, northern portion of the Newport Center and the lower/younger deposits located along the southern portion of Newport Center. The Project site is located on the second elevated terrace deposit, mapped as Qtm2 (second marine level) by the State. (NMG, 2020, p. 4)

B. Grading History of the Project Site and Project Area

Historically, the subject site was a gently sloping area located on a marine terrace/old wave-cut platform with natural elevations ranging from 140 feet AMSL along the southwestern portion of the site to an elevation of 160 feet AMSL along the northeastern portion of the site. A stream-cut draw (canyon) trending northeast lies to the west of the site and can be seen in early United States Geological Survey (USGS) topographic maps and on aerial photographs from 1939. The canyon was in-filled with artificial fill during early grading activities and was documented during prior investigations. (NMG, 2020, p. 2)

The historic aerial photos reviewed by NMG suggest that the subject property was originally graded in the mid-1960s in conjunction with the grading that occurred in conjunction with the construction of Fashion Island. The property was graded again in the early 1970s and geotechnical investigations were performed to create a level pad for the existing uses. As shown on aerial photographs, by 1972, the property was in its current state, Fashion Island was built, and the majority of the adjacent streets were constructed or were being graded. The adjacent office buildings to the west and the theatre to the east, within the 100 and 300 blocks of Newport Center Drive, were constructed between 1972 and 1975 and by 1992, and the Project site was in its current state. (NMG, 2020, p. 2)

C. *Earth Units*

NMGs evaluation of the onsite data indicates that the Project site is underlain by native marine terrace deposits and bedrock of the Monterey Formation. Existing artificial fill overlies these native deposits and was found to be 9 to 14+ feet thick at the site. The characteristics of the soil conditions encountered on the Project site are summarized below.

1. Artificial Fill (Af)

Based on review of the prior geotechnical report for the site at the time the existing car wash structure was built, there was between 9 feet to 14+ feet of existing artificial fill across the Project site. The bottom of the existing fill was not encountered in the western portion of the site. The fill materials were found to consist of brown to dark brown and reddish-brown sand, silty sand, and clayey sand that was generally damp to moist and medium dense. Gray to dark gray clay and sandy clays were also encountered and were found to be damp to moist and stiff to very stiff. The materials below the fill, at the top of the native marine terrace deposits, were described as dark brown silty sand with undisturbed grass. (NMG, 2020, p. 4)

2. Marine Terrace Deposit (Qtm)

Quaternary-age marine terrace deposits underlie the existing artificial fill and overlie the Monterey Formation bedrock. These deposits consist primarily of yellowish-brown, dark brown, reddish-brown and grayish-brown clean fine to medium sands with local zones of silty and/or clayey fine to medium sands. The terrace deposits were encountered in two of the five test pits excavated in 1970 and the terrace material was found to be damp and medium dense. The basal portions of these deposits often contain rounded cobbles, fragments of the underlying bedrock, and sometimes shells. It is not known whether the terrace deposits underlie the fill in the southern portion of the site. (NMG, 2020, pp. 4-5)

3. Monterey Formation (Tm)

Bedrock of the Miocene-age Monterey Formation underlies the marine terrace deposits and generally consists of olive gray interbedded fine sandstone, siltstone and claystone. Bedding thickness varies from thin to laminated, with localized thin beds of cemented siltstone (or shale, up to ½ inch thick). The bedrock underlying the wave cut bench near the contact is typically found to be highly weathered. Bedrock was not encountered during the 1970's geotechnical investigation at the Project site. The marine terrace/bedrock contact at the site is estimated to be at elevations of 152 to 160 feet AMSL, based on boring data by NMG. In addition, a boring by others for a location 170 feet south of the subject site had the terrace bedrock contact reportedly near an elevation of 133 feet AMSL and a boring by others for a location 170 feet southwest of the subject site encountered the contact at an elevation of 121 feet AMSL. Some of the siltstone within the Monterey Formation has been found to be diatomaceous and was encountered during a geotechnical exploration for the nearby Edwards Cinema to the east of the subject site. The diatomaceous bedrock was generally medium stiff to very stiff, with low dry densities (67 to 87 pcf) and high moisture content (27 to 36 percent). The bedrock

encountered by NMG to the north of the Project site consisted of interbedded light gray to yellow brown sandstone and olive gray siltstone. (NMG, 2020, p. 5)

D. Soil Expansion

Based on laboratory testing, the expansion potential of onsite soils is anticipated to generally range from "Very Low" to "Medium" within the terrace and existing fill materials. Soils with "High" expansion are likely to be encountered in the siltstone/claystone of the Monterey Bedrock. (NMG, 2020, p. 11)

E. Liquefaction

The Project site is not located in an area classified by the State of California as having soils that are potentially liquefiable, nor is it mapped as susceptible to seismically induced landslides. (NMG, 2020, pp. 5-6 and Figure No. 1).

F. Groundwater

Groundwater at the site is estimated to occur at least 45 feet or greater below the ground surface, as previous geological investigations for the adjacent office buildings did not encounter groundwater at a depth of 45 feet. In 2012, groundwater was not encountered in borings drilled to depths of up to 41 feet on land to the north of the Project site. (NMG, 2020, p. 7)

G. Topography and Slopes

The Project site is relatively flat, gently sloping toward the southwest. Project site elevations vary from a low of approximately 158.5 feet AMSL in the southwest corner to a high elevation of 170.3 feet AMSL in the northeast corner. Slopes and retaining walls are located along the northern and eastern perimeter of the site, ascending up to Newport Center Drive and Anacapa Drive, varying in height from 2 to 8 feet. (NMG, 2020, p. 2)

H. Paleontological Setting

According to the City of Newport Beach General Plan EIR, the presence of aquatic fossils throughout the region indicates that Orange County, for much of its geological history, was underwater. During the Miocene Epoch (26 million years ago [mya] to 7 mya), tectonic forces produced uplifts that resulted in the formation of mountains and initiated movement on the nascent San Andreas Fault system, forming numerous coastal marine basins, including the Los Angeles Basin, of which Orange County is a part. As the sea retreated, the County became a shallow bay surrounded by jungle and savannah areas, as indicated by the mix of aquatic and terrestrial fossils found in rocks of Miocene age. The Project site is underlain by rock associated with the Monterey Formation, which is known to have yielded fossils in other locations within the City of Newport Beach (City of Newport Beach, 2006b, p. 4.4-3 through 4.4-4)

4.5.2 Regulatory Setting

The following is a brief description of the relevant federal, State, and local environmental laws and related regulations governing issues related to geology and soils and the thresholds evaluated herein.

A. State Regulations

1. California Building Standards Code (Title 24)

California Code of Regulations (CCR) Title 24 is reserved for state regulations that govern the design and construction of buildings, associated facilities, and equipment. These regulations are also known as building standards (reference California Health and Safety Code § 18909). Health and Safety Code (state law) § 18902 gives CCR Title 24 the name California Building Standards Code (CBSC). The CBSC in CCR Title 24 is published by the California Building Standards Commission and it applies to all building occupancies (see Health and Safety Code §§ 18908 and 18938) throughout the State of California. Cities and counties are required by state law to enforce CCR Title 24 (reference Health and Safety Code §§ 17958, 17960, 18938(b), and 18948). Cities and counties may adopt ordinances making more restrictive requirements than provided by CCR Title 24, because of local climatic, geological, or topographical conditions. Such adoptions and a finding of need statement must be filed with the California Building Standards Commission (Reference Health and Safety Code §§ 17958.7 and 18941.5). (CBSC, 2019, p. 1)

B. Local Plans, Policies, and Regulations

1. City of Newport Beach Municipal Code

The City of Newport Beach Municipal Code Section 15.10.060 requires geology reports to be prepared for development projects to identify site-specific geologic and seismic conditions and provide site-specific recommendations to preclude adverse impacts from unstable soils and strong seismic ground-shaking. These reports are required to recommend corrective action to preclude any structural damage/hazards that may be caused by geological hazards or unstable soils. (City of Newport Beach, 2020a)

2. City of Newport Beach Council Policy K-5

Council Policy K-5 contains Paleontological and Archeological Resource Protection Guidelines, which are used to ensure that potential impacts to paleontological and archaeological resources by public or private development are properly evaluated and mitigated in accordance with the City's General Plan, Local Coastal Program, and CEQA. (City of Newport Beach, n.d.)

3. City of Newport Beach General Plan

The Safety Element of the City of Newport Beach General Plan provides goals and policies regarding geologic and seismic hazards, among other hazards affecting the City. The following goal and policy from the City's General Plan Safety Element are applicable to the proposed Project.

- **Goal S 4:** Adverse effects caused by seismic and geologic hazards are minimized by reducing the known level of risk to loss of life, personal injury, public and private property damage, and social dislocation, and disruption of essential services.

- **Policy S 4.7: New Development.** Conduct further seismic studies for new development in areas where potentially active faults may occur.

The Natural Resources Element of the City of Newport Beach General Plan provides goals and policies regarding the conservation, development, and utilization of natural resources, which include archeological and paleontological resources. The following goal and policies from the City's General Plan Natural Resources Element are applicable to the Project:

- **Goal NR 18:** Protection and preservation of important paleontological and archaeological resources.

- **Policy NR 18.1: New Development.** Require new development to protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources in accordance with the requirements of CEQA. Through planning policies and permit conditions, ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA.

- **Policy NR 18.3: Potential for New Development to Impact Resources.** 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.

- **Policy NR 18.4: Donation of Materials.** Require new development, where on-site preservation and avoidance are not feasible, to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible.

4.5.3 Basis for Determining Significance

Based on the results of the Project's Initial Study (*Technical Appendix A*), it was determined that the Project has the potential to result in a significant impact to geology and soils if the Project or any Project-related component would:

c. *Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse;*

d. Be located on expansive soil, as defined in Table 18- 1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property; or

f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

The above-listed thresholds are derived directly from Section VII of Appendix G to the CEQA Guidelines and address the typical, adverse effects related to geology and soils that could result from development projects. Refer also to the Project's Initial Study (*Technical Appendix A*) for a discussion of potential impacts to geology and soils that were determined to be less than significant as part of the Project's scoping process.

4.5.4 IMPACT ANALYSIS

***Threshold c:* Would the Project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**

Potentially Significant Impact.

The Project site is not located in an area classified by the State as having soils that are potentially liquifiable nor is it mapped as susceptible to seismically induced landslides (NMG, 2020, pp. 6; 9; Figure 1). Under existing conditions, the Project site is relatively flat and does not contain any natural slopes. Manufactured slopes and retaining walls are located along the northern and eastern perimeter of the site, ascending up to Newport Center Drive and Anacapa Drive, varying in height from 2 to 8 feet.

The Project site is proposed to be redeveloped as a residential mid-rise condominium building with subterranean parking and there is a planned pool area on the lowest residential level of the structure. Per the Project's civil engineer, the depth to grading for excavation of the Project's subterranean parking structure is estimated to be approximately 22 feet on the north side, adjacent to Newport Center Drive, and approximately 12 feet deep or less on the south side. The Geotechnical Feasibility Report (*Technical Appendix E*) indicates that during Project construction, temporary slopes for the subterranean garage are anticipated to expose up to 16 feet of bedrock, with an estimated 2 to 8 feet of terrace deposits and 9 to 14+ feet of artificial fill overlying the bedrock. NMG expects the main geotechnical issues for the proposed Project would include a) the presence of varying earth units across the site, b) the possible presence of perched water along the terrace/bedrock contact, c) the possible presence of saturate soils at the fill/terrace contact, and d) the possibility of the presence of weathered/low density bedrock at the terrace/bedrock contact. (NMG, 2020, pp. i -ii)

Therefore, based on review of past geotechnical investigations of the site and the surrounding area, NMG expects that there may be local seepage and wet sands within the fill/terrace and terrace/bedrock contacts and that locally, these slopes could slough or potentially slump along the contact. The bedding orientation in the bedrock is not known at this time. Also, the onsite fill and

terrace sands have a high potential for erosion (during rainy periods or uncontrolled runoff). These deposits are considered subject to gross instability in vertical excavations. (NMG, 2020, p. 8).

Based on the foregoing analysis, the execution of construction activities in unstable soil conditions could lead to environmental effects associated with lengthening the construction process (temporary air emission and construction-related noise, for example). Therefore, a potentially significant construction-related impact associated with unstable soils would occur during Project construction.

Based on NMG's review of the site, past geotechnical investigations for the site and for the surrounding area, NMG determined that the Project site is suitable for the development of the proposed Project from a geotechnical standpoint, provided the Project is designed and constructed in accordance with the geotechnical considerations and recommendations (NMG, 2020, p. ii). In addition, as with every development project, mandatory adherence to the California Building Standards Code (CBSC) would be required. As a standard condition of Project approval, the Project would be required to comply with the site-specific recommendations contained in the Project-specific geotechnical report (*Technical Appendix E)*. However, in an abundance of caution, mitigation is recommended. The application of MM 4.5-1 would require that the Building Official or his/her designee shall ensure that the grading plan indicates the methods by which adequate shoring would occur. The application of MM 4.5-1 would ensure that the subsurface excavation would not slough or slump.

Threshold d: ***Would the Project be located on expansive soil, as defined in Table 18- 1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?***

Potentially Significant Impact.

On-site soil testing conducted by the Project's geotechnical engineer, NMG (*Technical Appendix E*), concluded that the expansion potential of onsite soils is anticipated to generally range from "Very Low" to "Medium" within the terrace and existing fill materials. Soils with "High" expansion are likely to be encountered in the siltstone/claystone of the Monterey Bedrock. The potential for expansive soils to be encountered at the Project site represents a potentially significant impact, because the presence of expansive soil could lead to structural instability if the soils are not properly treated during the construction process.

Based on NMG's review of the site, past geotechnical investigations for the site and for the surrounding area, NMG determined that the Project site is suitable for the development of the proposed Project from a geotechnical standpoint, provided the Project is designed and constructed in accordance with the geotechnical considerations and recommendations (NMG, 2020, p. ii). In addition, as with every development project, mandatory adherence to the California Building Standards Code (CBSC) would be required. As a standard condition of Project approval, the Project would be required to comply with the site-specific recommendations contained in the Project-specific geotechnical report (*Technical Appendix E)*. However, in an abundance of caution, mitigation is

recommended. The application of MM 4.5-2 would require that the Building Official or his/her designee shall ensure that the grading plan indicates a subsurface soil content that is non-expansive and compacted to at least 90 percent. The application of MM 4.5-2 would ensure that expansive soils are blended with other soil material and compacted so as not to create a geologic hazard.

Threshold f: ***Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?***

Potentially Significant Impact.

Under existing conditions, the Project site is fully disturbed to a depth of 9 to 14 feet and developed on the surface with a car wash, ancillary gas station and convenience market, and a parking lot and associated features. Per the Project's civil engineer, the depth to grading for excavation of the Project's subterranean parking structure is estimated to be approximately 22 feet on the north side, adjacent to Newport Center Drive, and approximately 12 feet deep or less on the south side. Due to the depth of the excavation required for the proposed subterranean parking structure, there is a potential that previously unearthed paleontological resources may be encountered where excavation depths exceed the depth of disturbance associated with previous construction activities. If paleontological resources are unearthed during the Project's excavation activities and they are not properly identified and treated, a potentially significant impact could occur.

Implementation of MM 4.5-3 would ensure proper identification and subsequent treatment of any significant paleontological resource, site, or unique geologic feature that may be encountered during ground-disturbing activities associated with Project excavation activities on the Project site. With implementation of MM 4.5-3 the Project's potential to impact paleontological resources on the Project site would be reduced to less than significant.

4.5.5 Cumulative Impact Analysis

Potential geologic and soils effects are inherently restricted to the areas proposed for development on the Project site and would not contribute to cumulative impacts associated with other existing, planned, or proposed development. That is, issues including unstable or expansive soils would involve effects to (and not from) the proposed development and are specific to on-site conditions. Mandatory adherence to the California Building Standards Code (CBSC) and the recommendations given in the Project's Geotechnical Feasibility Report (*Technical Appendix E*) would address the site-specific geologic and soil conditions through site specific design and construction efforts that have no relationship to, or impact on, off-site areas. Because of the site-specific nature of these potential geotechnical issues, and the measures to address them, there would be no connection to similar potential issues or cumulative effects to or from other properties. As such, the Project would have a less than cumulatively considerable effect related to impacts associated with geology and soils.

As indicated under the discussion and analysis of Threshold (f), although unlikely, there is a remote possibility that paleontological resources could be encountered during site grading activities, which would result in a site-specific potentially significant impact to paleontological resources. Mitigation

is identified to reduce this impact to less than significant. Other development projects throughout the City of Newport Beach that require excavation of undisturbed soils may result in similar site-specific impacts to paleontological resources, which would also require mitigation in order to reduce their respective impact(s) to a less than significant level. However, the proposed Project does not include any components that would affect potentially significant off-site paleontological resources or would otherwise result in an increase in the likeliness that such resources would be encountered when combined with the impacts of other cumulative projects. Therefore, cumulative impacts to paleontological resources would be less than significant.

4.5.6 Significance of Impacts Before Mitigation

Threshold c): Potentially Significant Impact. During excavation and construction of the proposed Project's subterranean parking structure, there is a potential for impacts associated with soils that may unstable, or that would become unstable as a result of the construction of the proposed Project, if water seepage occurs that may result in sloughing, slumping or other instability of vertical excavations.

Threshold d): Potentially Significant Impact. Development of the proposed Project on an expansive soil has the potential to create a substantial direct or indirect risk to life or property.

Threshold f): Potentially Significant Impact. Grading and excavation activities have the potential to unearth previously uncovered paleontological resources that may exist below the ground surface. If significant paleontological resources are unearthed there is a potential for a significant impact if the resources are not properly identified and treated.

4.5.7 Mitigation

MM 4.5-1 Slopes created during subsurface excavations associated with the Project's construction process shall be shored in accordance with OSHA excavation safety regulations (Title 29 Code of Federal Regulations, Part 1926.650-652 [Subpart P]) to the satisfaction of the City of Newport Beach Building Official. Prior to the issuance of a grading permit, the Building Official or his/her designee shall ensure that the grading plan indicates the methods by which adequate shoring will occur. The shoring methods must ensure that the subsurface excavation will not slough or slump. The Construction Contractor shall implement the shoring requirements throughout the subsurface excavation period and allow inspection of the shoring method by the City of Newport Beach.

MM 4.5-2 Expansive soils shall not be present as fill material below the building slab and footings. During the property's site preparation and grading phases, expansive soils shall be mixed with other soil material to provide a uniform blend of material, compacted to a minimum of 90 percent relevant compaction, to the satisfaction of the City of Newport Beach Building Official. Prior to the issuance of a grading permit, the Building Official or his/her designee shall ensure that the grading plan indicates a

subsurface soil content that is non-expansive and compacted to at least 90 percent. The Construction Contractor shall implement the requirements throughout the site preparation and grading process and allow inspection of grading by the City of Newport Beach.

MM 4.5-3 Prior to the issuance of grading permits, the Director of Community Development shall ensure that following provision is included on the grading plan(s), and the construction contractor(s) shall be required to comply with the provision.

> "If evidence of subsurface paleontological resources is found during construction, excavation and other construction activity in that area shall cease and the construction contractor shall contact the City of Newport Beach Community Development Director. With direction from the Community Development Director, a qualified paleontologist meeting the Secretary of the Interior Professional Qualification for Paleontology shall evaluate the find. If warranted, the paleontologist shall prepare and complete a standard Paleontological Resources Mitigation Program for the salvage and curation of identified resources."

4.5.8 Significance of Impacts After Mitigation

Threshold c): Less than Significant Impact with Mitigation Incorporated. With compliance with MM 4.5-1 and MM 4.5-2, the Project's potential for impacts associated with unstable soils would be reduced to less than significant.

Threshold d): Less than Significant Impact with Mitigation Incorporated. With compliance with MM 4.5-1 and MM 4.5-2, the Project's potential to be constructed on expansive soil, creating substantial direct or indirect risks to life or property, would be reduced to less than significant.

Threshold f): Less than Significant Impact with Mitigation Incorporated. With compliance with MM 4.5-3, the Project's potential to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature, would be reduced to less than significant.

4.6 GREENHOUSE GAS EMISSIONS

The analysis in this Subsection is based primarily on a technical study that was prepared by Urban Crossroads, Inc. titled, "Residences at Newport Center Air Quality & Greenhouse Gas Memorandum," dated April 12, 2021, and is included as *Technical Appendix C* to this EIR (Urban Crossroads, Inc., 2021a). Refer to Section 7.0, *References*, for a complete list of reference sources.

An individual project like the proposed Project cannot generate enough greenhouse gas (GHG) emissions to affect a discernible change in global climate. However, the proposed Project may participate in the potential for Global Climate Change (GCC) by its incremental contribution of GHGs combined with the cumulative increase of all other sources of GHGs, which when taken together constitute potential influences on GCC. (EPA, 2020f)

4.6.1 EXISTING CONDITIONS

A. *Introduction to Global Climate Change (GCC)*

Global Climate Change (GCC) is defined as the change in average meteorological conditions on the earth with respect to temperature, precipitation, and storms. Global temperatures are regulated by naturally occurring atmospheric gases such as water vapor, carbon dioxide (CO_2), nitrous oxide (N_2O), methane (CH_4), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6). These particular gases are important due to their residence time (duration they stay) in the atmosphere, which ranges from 10 years to more than 100 years. These gases allow solar radiation into the earth's atmosphere, but prevent radioactive heat from escaping, thus warming the earth's atmosphere. GCC can occur naturally as it has in the past with the previous ice ages. (EPA, 2020f)

Gases that trap heat in the atmosphere are often referred to as greenhouse gas (GHG) emissions. GHGs are released into the atmosphere by both natural and anthropogenic (human-made) activity. A major source of GHGs today is fossil fuel emissions. Without the natural GHG effect, scientists believe that the earth's average temperature would be approximately 61 degrees Fahrenheit (°F) cooler than it is currently. The cumulative accumulation of these gases in the earth's atmosphere is considered to be the cause for the observed increase in the earth's temperature. The majority of scientists believe that the climate shift that has occurred since the Industrial Revolution is occurring at a quicker rate and magnitude than in the past. Scientific evidence suggests that GCC is the result of increased concentrations of GHGs in the earth's atmosphere, including CO_2, CH_4, N_2O, and fluorinated gases. The majority of scientists believe that this increased rate of climate change is the result of GHGs resulting from human activity and industrialization over the past 200 years. (EPA, 2020f)

B. *Greenhouse Gases*

1. *Greenhouse Gases and Health Effects*

GHGs trap heat in the atmosphere, creating a GHG effect that results in global warming and climate change. Many gases demonstrate these properties and are discussed below. For the purposes of analysis, emissions of CO_2, CH_4, and N_2O were evaluated because these gases are the primary contributors to GCC from development projects. Although there are other substances such as

fluorinated gases that also contribute to GCC, these fluorinated gases were not evaluated as their sources are not well-defined and do not contain accepted emissions factors or methodology to accurately calculate these gases. (EPA, 2020f)

The potential health effects related directly to the emissions of CO_2, CH_4, and N_2O are still being debated in the scientific community. Increases in Earth's ambient temperatures could result in more intense heat waves, causing more heat-related deaths. Scientists also purport that higher ambient temperatures would increase disease survival rates and result in more widespread disease. Some scientists believe that climate change will cause shifts in weather patterns, potentially resulting in devastating droughts and food shortages in some areas.

Provided below is a description of GHGs, their sources, and their health effects.

❑ Water Vapor

Water is the most abundant, important, and variable GHG in the atmosphere. Water vapor is not considered a pollutant; in the atmosphere it maintains a climate necessary for life. Changes in its concentration are primarily considered to be a result of climate feedbacks related to the warming of the atmosphere rather than a direct result of industrialization. A climate feedback is an indirect, or secondary, change, either positive or negative, that occurs within the climate system in response to a forcing mechanism. The feedback loop in which water is involved is critically important to projecting future climate change. There are no known direct health effects related to water vapor at this time. It should be noted however that when some pollutants react with water vapor, the reaction forms a transport mechanism for some of these pollutants to enter the human body through water vapor. (NOAA, n.d.)

❑ Carbon Dioxide (CO_2)

CO_2 is an odorless and colorless GHG. Since the industrial revolution began in the mid-1700s, the sort of human activity that increases GHG emissions has increased dramatically in scale and distribution. Data from the past 50 years suggests a corollary increase in levels and concentrations. As an example, prior to the industrial revolution, CO_2 concentrations were fairly stable at 280 parts per million (ppm). Today, they are around 370 ppm, an increase of more than 30%. Left unchecked, the concentration of CO_2 in the atmosphere is projected to increase to a minimum of 540 ppm by 2100 as a direct result of anthropogenic sources. (NOAA, n.d.)

CO_2 is emitted from natural and manmade sources. Natural sources include the decomposition of dead organic matter; respiration of bacteria, plants, animals, and fungus; evaporation from oceans; and volcanic outgassing. Anthropogenic sources include the burning of coal, oil, natural gas, and wood. CO_2 is naturally removed from the air by photosynthesis, dissolution into ocean water, transfer to soils and ice caps, and chemical weathering of carbonate rocks. (EPA, 2020d)

Outdoor levels of CO_2 are not high enough to result in negative health effects at this time. According to the National Institute for Occupational Safety and Health (NIOSH), high concentrations of CO_2 can

result in health effects such as headaches, dizziness, restlessness, difficulty breathing, sweating, increased heart rate, increased cardiac output, increased blood pressure, coma, asphyxia, and/or convulsions. It should be noted that current concentrations of CO_2 in the earth's atmosphere are estimated to be approximately 370 ppm, the actual reference exposure level (level at which adverse health effects typically occur) is at exposure levels of 5,000 ppm averaged over 10 hours in a 40-hour work week and short-term reference exposure levels of 30,000 ppm averaged over a 15-minute period. (NIOSH, 2019a)

❑ Methane (CH_4)

CH_4 is an extremely effective absorber of radiation, although its atmospheric concentration is less than CO_2 and its lifetime in the atmosphere is brief (10-12 years), compared to other GHGs. CH_4 has both natural and anthropogenic sources. It is released as part of the biological processes in low oxygen environments, such as in swamplands or in rice production (at the roots of the plants). Over the last 50 years, human activities such as livestock and other agricultural production, using natural gas, mining coal, treating wastewater, and the decomposition of human-generated solid waste have added to the atmospheric concentration of CH_4. Other anthropocentric sources include fossil-fuel combustion and biomass burning. (NOAA, n.d.) CH_4 is extremely reactive with oxidizers, halogens, and other halogen-containing compounds. Exposure to high levels of CH_4 can cause asphyxiation, loss of consciousness, headache and dizziness, nausea and vomiting, weakness, loss of coordination, and an increased breathing rate.

❑ Nitrous Oxide (N_2O)

Nitrous oxide (N_2O), also known as laughing gas, is a colorless GHG. Concentrations of N_2O began to rise at the beginning of the industrial revolution. (NOAA, n.d.) N_2O is produced by microbial processes in soil and water, including those reactions which occur in fertilizer containing nitrogen. In addition to agricultural sources, some industrial processes (fossil fuel-fired power plants, nylon production, nitric acid production, and vehicle emissions) also contribute to its atmospheric load. It is used as an aerosol spray propellant, in such items as whipped cream bottles, it is used in potato chip bags to keep chips fresh, and it is used in rocket engines and in race cars. N_2O can be transported into the stratosphere, be deposited on the earth's surface, and be converted to other compounds by chemical reaction. (EPA, 2020e) N_2O can cause dizziness, euphoria, and sometimes slight hallucinations. In small doses, it is considered harmless. However, in some cases, heavy and extended use can cause Olney's Lesions (brain damage). (NIOSH, 2019b)

❑ Chlorofluorcarbons (CFCs)

Chlorofluorocarbons (CFCs) are gases formed synthetically by replacing all hydrogen atoms in CH_4 or ethane (C_2H_6) with chlorine and/or fluorine atoms. CFCs are nontoxic, nonflammable, insoluble and chemically unreactive in the troposphere (the level of air at the earth's surface). CFCs have no natural source but were first synthesized in 1928. They were used for refrigerants, aerosol propellants, and cleaning solvents. Due to the discovery that they are able to destroy stratospheric ozone, a global effort to halt their production was undertaken and was extremely successful, so much so that levels of the major CFCs are now remaining steady or declining. However, their long atmospheric lifetimes

mean that some of the CFCs will remain in the atmosphere for over 100 years. (NOAA, n.d.) In confined indoor locations, working with CFC-113 or other CFCs is thought to result in death by cardiac arrhythmia (heart frequency too high or too low) or asphyxiation (NIOSH, 2019c)

- **Hydrofluorocarbons (HFCs)**

Hydrofluorocarbons (HFCs) are synthetic, man-made chemicals that are used as a substitute for CFCs. Out of all the GHGs, they are one of three groups with the highest global warming potential (GWP). The HFCs with the largest measured atmospheric abundances are (in order), Fluoroform (HFC-23), 1,1,1,2-tetrafluoroethane (HFC-134a), and 1,1-difluoroethane (HFC-152a). Prior to 1990, the only significant emissions were of HFC-23. HCF-134a emissions are increasing due to its use as a refrigerant. HFCs are manmade for applications such as automobile air conditioners and refrigerants. No health effects are known to result from exposure to HFCs. (EPA, 2020g)

- **Perfluorocarbons (PFCs)**

Perfluorocarbons (PFCs) have stable molecular structures and do not break down through chemical processes in the lower atmosphere. High-energy ultraviolet rays, which occur about 60 kilometers above earth's surface, are able to destroy the compounds. Because of this, PFCs have very long lifetimes, between 10,000 and 50,000 years. Two common PFCs are tetrafluoromethane (CF_4) and hexafluoroethane (C_2F_6). The Environmental Protection Agency (EPA) estimates that concentrations of CF_4 in the atmosphere are over 70 parts per trillion (ppt). The two main sources of PFCs are primary aluminum production and semiconductor manufacture. No health effects are known to result from exposure to PFCs. (EPA, 2020g)

- **Sulfur Hexafluoride (SF_6)**

Sulfur hexafluoride (SF_6) is an inorganic, odorless, colorless, nontoxic, nonflammable gas. It also has the highest GWP of any gas evaluated (23,900). SF_6 is used for insulation in electric power transmission and distribution equipment, in the magnesium industry, in semiconductor manufacturing, and as a tracer gas for leak detection. In high concentrations in confined areas, the gas presents the hazard of suffocation because it displaces the oxygen needed for breathing. (EPA, 2020g)

- **Nitrogen Trifluoride (NF_3)**

Nitrogen trifluoride (NF_3) is a colorless gas with a distinctly moldy odor. The World Resources Institute (WRI) indicates that NF_3 has a 100-year GWP of 17,200. NF_3 is used in industrial processes and is produced in the manufacturing of semiconductors, Liquid Crystal Display (LCD) panels, types of solar panels, and chemical lasers. Long-term or repeated exposure may affect the liver and kidneys and may cause fluorosis. (EPA, 2020g)

2. Global Warming Potential (GWP)

GHGs have varying Global Warming Potential (GWP) values. The GWP of a GHG indicates the amount of warming a gas causes over a given period of time and represents the potential of a gas to trap heat in the atmosphere. CO_2 is utilized as the reference gas for GWP, and thus has a GWP of 1.

CO_2 equivalent (CO_2e) is a term used for describing the difference GHGs in a common unit. CO_2e signifies the amount of CO_2 which would have the equivalent GWP. (EPA, 2020h)

3. GHG Emissions Inventories

Global

Worldwide anthropogenic GHG emissions are tracked by the Intergovernmental Panel on Climate Change (IPCC) for industrialized nations (referred to as Annex I) and developing nations (referred to as Non-Annex I). Human GHG emissions data for Annex I nations are available through 2017. Based on the latest available data, the sum of these emissions totals approximately 28,977,103.06 gigagram (Gg) CO_2e as summarized in Table 4.6-1, *Top GHG Producing Countries and the European Union*.

Table 4.6-1 Top GHG Producing Countries and the European Union

Emitting Countries	GHG Emissions (Gg CO_2e)
China	11,580,000.00
United States	6,488,234.64
European Union (28-member countries)	4,224,358.28
India	3,240,000.00
Russia Federation	2,155,270.61
Japan	1,289,239.53
Total	**28,977,103.06**

Source: (UNCC, 2018; ClimateWatch, 2016)

United States

As noted in Table 4.6-1, the United States, as a single country, was the number two producer of GHG emissions in 2018.

State of California

California has significantly slowed the rate of growth of GHG emissions due to the implementation of energy efficiency programs as well as adoption of strict emission controls, but is still a substantial contributor to the United States emissions inventory total. The California Air Resource Board (CARB) compiles GHG inventories for the State of California. Based upon the 2020 GHG inventory data (i.e., the latest year for which data are available) for the 2000-2017 GHG emissions period, California emitted an average 424.3 million metric tons of CO_2e per year ($MMTCO_2e$/yr). (CARB, 2020d, p. 21)

C. Effects of Climate Change in California

1. Public Health

Higher temperatures may increase the frequency, duration, and intensity of conditions conducive to air pollution formation. For example, days with weather conducive to ozone formation could increase from 25 to 35% under the lower warming range to 75 to 85% under the medium warming range. In addition, if global background ozone levels increase as predicted in some scenarios, it may become impossible to meet local air quality standards. Air quality could be further compromised by increases

in wildfires, which emit fine particulate matter that can travel long distances, depending on wind conditions. The Climate Scenarios report indicates that large wildfires could become up to 55% more frequent if GHG emissions are not significantly reduced. In addition, under the higher warming range scenario, there could be up to 100 more days per year with temperatures above 90°F in Los Angeles and 95°F in Sacramento by 2100. This is a large increase over historical patterns and approximately twice the increase projected if temperatures remain within or below the lower warming range. Rising temperatures could increase the risk of death from dehydration, heat stroke/exhaustion, heart attack, stroke, and respiratory distress caused by extreme heat. (CCCC, 2006, pp. 26-27)

2. *Water Resources*

A vast network of man-made reservoirs and aqueducts captures and transports water throughout the State from northern California rivers and the Colorado River. The current distribution system relies on the Sierra Nevada snowpack to supply water during the dry spring and summer months. Rising temperatures, potentially compounded by decreases in precipitation, could severely reduce spring snowpack, increasing the risk of summer water shortages. If temperatures continue to increase, more precipitation could fall as rain instead of snow, and the snow that does fall could melt earlier, reducing the Sierra Nevada spring snowpack by as much as 70 to 90%. Under the lower warming range scenario, snowpack losses could be only half as large as those possible if temperatures were to rise to the higher warming range. How much snowpack could be lost depends in part on future precipitation patterns, the projections for which remain uncertain. However, even under the wetter climate projections, the loss of snowpack could pose challenges to water managers and hamper hydropower generation. Winter tourism could be adversely affected, under the lower warming range, the ski season at lower elevations could be reduced by as much as a month. If temperatures reach the higher warming range and precipitation declines, there could be many years with insufficient snow for skiing and snowboarding. The State's water supplies are also at risk from rising sea levels. An influx of saltwater could degrade California's estuaries, wetlands, and groundwater aquifers. Saltwater intrusion caused by rising sea levels is a major threat to the quality and reliability of water within the southern edge of the Sacramento/San Joaquin River Delta – a major fresh water supply. (CCCC, 2006, pp. 14-16)

3. *Agriculture*

Increased temperatures could cause widespread changes to the agriculture industry reducing the quantity and quality of agricultural products statewide. First, California farmers could possibly lose as much as 25% of the water supply needed. Although higher CO_2 levels can stimulate plant production and increase plant water-use efficiency, California's farmers could face greater water demand for crops and a less reliable water supply as temperatures rise. Crop growth and development could change, as could the intensity and frequency of pest and disease outbreaks. Rising temperatures could aggravate ozone pollution, which makes plants more susceptible to disease and pests and interferes with plant growth. Plant growth tends to be slow at low temperatures, increasing with rising temperatures up to a threshold. However, faster growth can result in less-than-optimal development for many crops; therefore, rising temperatures could worsen the quantity and quality of yield for a number of California's agricultural products. Products likely to be most affected include wine grapes, fruits, and nuts. In addition, continued GCC could shift the ranges of existing invasive plants and weeds and alter

competition patterns with native plants. Range expansion could occur in many species while range contractions may be less likely in rapidly evolving species with significant populations already established. Should range contractions occur, new or different weed species could fill the emerging gaps. Continued GCC could alter the abundance and types of many pests, lengthen pests' breeding season, and increase pathogen growth rates. (CCCC, 2006, pp. 19-20)

4. Forests and Landscapes

GCC has the potential to intensify the current threat to forests and landscapes by increasing the risk of wildfire and altering the distribution and character of natural vegetation. If temperatures rise into the medium warming range, the risk of large wildfires in California could increase by as much as 55%, which is almost twice the increase expected if temperatures stay in the lower warming range. However, since wildfire risk is determined by a combination of factors, including precipitation, winds, temperature, and landscape and vegetation conditions, future risks will not be uniform throughout the State. In contrast, wildfires in northern California could increase by up to 90% due to decreased precipitation. Moreover, continued GCC has the potential to alter natural ecosystems and biological diversity within the State. For example, alpine and subalpine ecosystems could decline by as much as 60 to 80% by the end of the century as a result of increasing temperatures. The productivity of the State's forests has the potential to decrease as a result of GCC. (CCCC, 2006, p. 22)

5. Rising Sea Levels

Rising sea levels, more intense coastal storms, and warmer water temperatures could increasingly threaten the state's coastal regions. Under the higher warming range scenario, sea level is anticipated to rise 22 to 35 inches by 2100. Elevations of this magnitude would inundate low-lying coastal areas with saltwater, accelerate coastal erosion, threaten vital levees and inland water systems, and disrupt wetlands and natural habitats. Under the lower warming range scenario, sea level could rise 12-14 inches. (CCCC, 2006, pp. 10-12) According to Kopp et al. 2014, sea-level rise due to both climate change and non-climatic factors threatens coastal settlements, infrastructure, and ecosystems. Projections of mean global sea-level (GSL) rise provide insufficient information to plan adaptive responses; local decisions require local projections that accommodate different risk tolerances and time frames and that can be linked to storm surge projections. (Kopp, 2014)

The *State of California Sea-Level Rise Guidance Document* provides information and recommendations to enhance consistency across agencies in their development of approaches to sea-level rise. Because of their differing mandates and decision-making processes, state agencies will interpret and use the document in a flexible manner, taking into consideration risk tolerances, timeframes, economic considerations, adaptive capacities, legal requirements and other relevant factors. Although the estimates of future sea-level rise provided in the *SLR Guidance* are intended to enhance consistency across California state agencies, the document is not intended to prescribe that all State agencies use specific or identical estimates of sea-level rise as part of their assessments or decisions. The underlying premise of the *SLR Guidance* is that sea-level rise potentially will cause many harmful economic, ecological, physical and social impacts and that incorporating sea-level rise into agency decisions can help mitigate some of these potential impacts. For example, sea-level rise

will threaten water supplies, coastal development, and infrastructure, but early integration of projected sea-level rise into project designs will lessen these potential impacts. (COPC, 2021)

4.6.2 Regulatory Setting

A. *International Regulations*

1. *Kyoto Protocol*

The Kyoto Protocol is an international agreement linked to the United Nations Framework Convention on Climate Change, which commits its parties by setting internationally binding emission reduction targets. Recognizing that developed countries are principally responsible for the current high levels of GHG emissions in the atmosphere as a result of more than 150 years of industrial activity, the Protocol places a heavier burden on developed nations under the principle of "common but differentiated responsibilities." (UNFCCC, 2020a)

2. *The Paris Agreement*

The Paris Agreement's central aim is to strengthen the global response to the threat of climate change by keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius. Additionally, the agreement aims to strengthen the ability of countries to deal with the impacts of climate change. The Paris Agreement requires all parties to put forward their best efforts through "nationally determined contributions" (NDCs) and to strengthen these efforts in the years ahead. This includes requirements that all parties report regularly on their emissions and on their implementation efforts. In 2018, parties took stock of the collective efforts in relation to progress towards the goal set in the Paris Agreement and to inform the preparation of NDCs. There will be a global stock-taking every five years to assess the collective progress towards achieving the purpose of the Agreement and to inform further individual actions by parties. The Paris Agreement entered into force on November 4, 2016, thirty days after the date on which at least 55 parties to the Convention accounting in total for at least an estimated 55% of the total global greenhouse gas emissions have deposited their instruments of ratification, acceptance, approval, or accession with the Depositary. (UNFCCC, 2020b)

B. *Federal Regulations*

1. *Clean Air Act*

Coinciding with the 2009 meeting of international leaders in Copenhagen, on December 7, 2009, the EPA issued an Endangerment Finding under § 202(a) of the Clean Air Act (CAA), opening the door to federal regulation of GHGs. The Endangerment Finding notes that GHGs threaten public health and welfare and are subject to regulation under the CAA. To date, the EPA has not promulgated regulations on GHG emissions, but it has begun to develop them. Previously, the EPA had not regulated GHGs under the CAA because it asserted that the CAA did not authorize it to issue mandatory regulations to address GCC and that such regulation would be unwise without an unequivocally established causal link between GHGs and the increase in global surface air temperatures. In Massachusetts v. Environmental Protection Agency et al. (127 S. Ct. 1438 [2007]); however, the U.S. Supreme Court

held that GHGs are pollutants under the CAA and directed the EPA to decide whether the gases endangered public health or welfare. The EPA had also not moved aggressively to regulate GHGs because it expected Congress to make progress on GHG legislation, primarily from the standpoint of a cap-and-trade system. However, proposals circulated in both the U.S. House of Representative and Senate have been controversial and it may be some time before the U.S. Congress adopts major climate change legislation. The EPA's Endangerment Finding paves the way for federal regulation of GHGs with or without Congress. (EPA, 2020a; DOJ, 2015)

C. State Regulations

1. Title 24 Building Energy Standards

California's Energy Efficiency Standards for Residential and Nonresidential Buildings was first adopted in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficient technologies and methods. Energy efficient buildings require less electricity. The 2019 version of Title 24 was adopted by the California Energy Commission (CEC) and became effective on January 1, 2020. The CEC anticipates that residential buildings will use approximately 53% less energy compared to the prior code. The CalEEMod defaults for Title 24 – Electricity and Lighting Energy were reduced by 53% in order to reflect consistency with the 2019 Title 24 standard. (Urban Crossroads, 2021a, pp. 11-12).

2. 2002 California Assembly Bill No. 1493: Vehicular Emissions: Greenhouse Gases (AB 1493)

AB 1493 required CARB to adopt the nation's first GHG emission standards for automobiles. On September 24, 2009, CARB adopted amendments to the "Pavley" regulations that reduce greenhouse gas (GHG) emissions in new passenger vehicles from model year 2009 through 2016. These amendments were part of California's commitment toward a nation-wide program to reduce new passenger vehicle GHGs from 2012 through 2016. CARB's September amendments cement California's enforcement of the Pavley regulations starting in 2009 while providing vehicle manufacturers with new compliance flexibility. The amendments also prepare California to harmonize its rules with the federal rules for passenger vehicles. With the granting of the waiver on June 30, 2009, it is expected that the Pavley regulations reduced GHG emissions from California passenger vehicles by about 22 percent in 2012 and about 30 percent in 2016, all while improving fuel efficiency and reducing motorists' costs. The CARB has adopted a new approach to passenger vehicles – cars and light trucks – by combining the control of smog-causing pollutants and greenhouse gas emissions into a single coordinated package of standards. The new approach also includes efforts to support and accelerate the numbers of plug-in hybrids and zero-emission vehicles in California. (CARB, 2020a)

3. Executive Order S-3-05

Executive Order (EO) S-3-05 documents GHG emission reduction goals, creates the Climate Action Team and directs the Secretary of the California EPA to coordinate efforts with meeting the GHG reduction targets with the heads of other state agencies. The EO requires the Secretary to report back

to the Governor and Legislature biannually to report: progress toward meeting the GHG goals; GHG impacts to California; and applicable Mitigation and Adaptation Plans. EO S-3-05 goals for GHG emissions reductions include: reducing GHG emissions to 2000 levels by the year 2010; reducing GHG emissions to 1990 levels by the year 2020; and reducing GHG emissions to 80 percent below 1990 levels by 2050.

4. California Assembly Bill 32 – Global Warming Solutions Act of 2006

In September 2006, Governor Schwarzenegger signed Assembly Bill 32 (AB 32), the California Climate Solutions Act of 2006. AB 32 requires California to reduce its GHG emissions to 1990 levels by 2020, which represents a reduction of approximately 15 percent below emissions expected under a "business as usual" scenario. Pursuant to AB 32, the CARB must adopt regulations to achieve the maximum technologically feasible and cost-effective GHG emission reductions. The full implementation of AB 32 will help mitigate risks associated with climate change, while improving energy efficiency, expanding the use of renewable energy resources, cleaner transportation, and reducing waste. (CARB, 2020b)

In January 2017, CARB released the draft Second Update to the Scoping Plan, which identifies the State's post-2020 reduction strategy. The Second Update reflects the 2030 target of a 40 percent reduction below 1990 levels, set by Senate Bill (SB) 32. Key GHG emissions reductions programs that the Second Update proposes to build upon include the Cap-and-Trade Regulation, the Low Carbon Fuel Standard, and much cleaner cars, trucks and freight movement, utilizing cleaner, renewable energy, and strategies to reduce methane emissions from agricultural and other wastes. The Second Update was approved by CARB in November 2017. (CARB, 2017)

5. California Senate Bill No. 1368 (SB 1368)

In 2006, the State Legislature adopted Senate Bill (SB) 1368 (Perata, Chapter 598, Statutes of 2006), which directs the California Public Utilities Commission (CPUC) to adopt a GHG emission performance standard (EPS) for the future power purchases of California utilities. SB 1368 seeks to limit carbon emissions associated with electrical energy consumed in California by forbidding procurement arrangements for energy longer than five years from resources that exceed specified emissions criteria. Accordingly, SB 1368 effectively prevents California's utilities from investing in, otherwise financially supporting, or purchasing power from new coal plants located in or out of the State. SB 1368 will lead to dramatically lower GHG emissions associated with California energy demand. (CEC, 2020)

6. Executive Order S-01-07

Executive Order S-01-07 is effectively known as the Low Carbon Fuel Standard (LCFS). The Executive Order seeks to reduce the carbon intensity of California's passenger vehicle fuels by at least 10 percent by 2020. The LCFS requires fuel providers in California to ensure that the mix of fuel they sell into the California market meet, on average, a declining standard for GHG emissions measured in CO2e grams per unit of fuel energy sold.

7. Senate Bill 1078 (SB 1078)

SB 1078 establishes the California Renewables Portfolio Standard Program, which requires electric utilities and other entities under the jurisdiction of the California Public Utilities Commission to meet 20% of their renewable power by December 31, 2017 for the purposes of increasing the diversity, reliability, public health, and environmental benefits of the energy mix.

8. Senate Bill 107 (SB 107)

SB 107 directed California Public Utilities Commission's Renewable Energy Resources Program to increase the amount of renewable electricity (Renewable Portfolio Standard) generated per year, from 17% to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010.

9. Executive Order S-14-08

On November 17, 2008, Governor Schwarzenegger signed Executive Order S-14-08, revising California's existing Renewable Portfolio Standard (RPS) upward to require all retail sellers of electricity to serve 33% of their load from renewable energy sources by 2020. In order to meet this new goal, a substantial increase in the development of wind, solar, geothermal, and other "RPS eligible" energy projects will be needed. Executive Order S-14-08 seeks to accelerate such development by streamlining the siting, permitting, and procurement processes for renewable energy generation facilities. To this end, Executive Order S-14-08 issues two directives: (1) the existing Renewable Energy Transmission Initiative will identify renewable energy zones that can be developed as such with little environmental impact, and (2) the California Energy Commission (CEC) and the California Department of Fish and Wildlife (CDFW) will collaborate to expedite the review, permitting, and licensing process for proposed RPS-eligible renewable energy projects. (OG, 2008)

10. Senate Bill 97 (SB 97)

By enacting SB 97 in 2007, California's lawmakers expressly recognized the need to analyze GHGs as a part of the CEQA process. SB 97 required the Governor's Office of Planning and Research (OPR) to develop, and the Natural Resources Agency to adopt, amendments to the CEQA Guidelines addressing the analysis and mitigation of greenhouse gas emissions. Those CEQA Guidelines amendments clarified several points, including the following: (CA Legislative Info, n.d.)

- Lead agencies must analyze the GHG emissions of proposed projects, and must reach a conclusion regarding the significance of those emissions. (See CEQA Guidelines § 15064.4.)
- When a project's GHG emissions may be significant, lead agencies must consider a range of potential mitigation measures to reduce those emissions. (See CEQA Guidelines § 15126.4(c).)
- Lead agencies must analyze potentially significant impacts associated with placing projects in hazardous locations, including locations potentially affected by climate change. (See CEQA Guidelines § 15126.2(a).)

- Lead agencies may significantly streamline the analysis of GHGs on a project level by using a programmatic GHG emissions reduction plan meeting certain criteria. (See CEQA Guidelines § 15183.5(b).)
- CEQA mandates analysis of a proposed project's potential energy use (including transportation-related energy), sources of energy supply, and ways to reduce energy demand, including through the use of efficient transportation alternatives. (See CEQA Guidelines, Appendix F.)

As part of the administrative rulemaking process, the Natural Resources Agency developed a Final Statement of Reasons explaining the legal and factual bases, intent, and purpose of the CEQA Guidelines amendments. The amendments to the CEQA Guidelines implementing SB 97 became effective on March 18, 2010. Of note, the current guidelines state that a lead agency shall have discretion to determine whether to use a quantitative model or methodology, or in the alternative, rely on a qualitative analysis or performance-based standards. Pursuant to CEQA Guidelines § 15064.4(a), "A lead agency shall have discretion to determine, in the context of a particular project, whether to: (1) Quantify greenhouse gas emissions resulting from a project; or (2) Rely on a qualitative analysis or performance-based standards." (CA Legislative Info, n.d.)

The CEQA Guideline amendments do not identify a threshold of significance for GHG emissions, nor do they prescribe assessment methodologies or specific mitigation measures. Instead, they call for a "good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project." The amendments encourage lead agencies to consider many factors in performing a CEQA analysis and preserve lead agencies' discretion to make their own determinations based upon substantial evidence. The amendments also encourage public agencies to make use of programmatic mitigation plans and programs from which to tier when they perform individual project analyses.

11. 2018 CEQA Guidelines Update

In January 2018, Governor's Office of Planning and Research (OPR) transmitted its proposal for comprehensive updates to the CEQA Guidelines to the California Natural Resources Agency. The updated Guidelines became effective on December 28, 2018, and include changes to CEQA Guidelines § 15064.4 related to determining the significance of impacts from GHG emissions. The changes to § 15064.4 include clarification in how to determine the significance of a project's GHG emissions, indicate that the lead agency has discretion to use a model or methodology to estimate GHG emissions resulting from a project, and allow for the use of environmental standards as thresholds of significance in order to promote consistency in significance determinations.

12. Senate Bill 375

The Sustainable Communities and Climate Protection Act of 2008 (Sustainable Communities Act, SB 375, Chapter 728, Statutes of 2008) supports the State's climate action goals to reduce greenhouse gas (GHG) emissions through coordinated transportation and land use planning with the goal of more sustainable communities. Under the Sustainable Communities Act, CARB sets regional targets for

GHG emissions reductions from passenger vehicle use. In 2010, CARB established these targets for 2020 and 2035 for each region covered by one of the State's metropolitan planning organizations (MPO). CARB will periodically review and update the targets, as needed. (CARB, 2020c)

Each of California's MPOs must prepare a "sustainable communities strategy" (SCS) as an integral part of its regional transportation plan (RTP). The SCS contains land use, housing, and transportation strategies that, if implemented, would allow the region to meet its GHG emission reduction targets. Once adopted by the MPO, the RTP/SCS guides the transportation policies and investments for the region. CARB must review the adopted SCS to confirm and accept the MPO's determination that the SCS, if implemented, would meet the regional GHG targets. If the combination of measures in the SCS would not meet the regional targets, the MPO must prepare a separate "alternative planning strategy" (APS) to meet the targets. The APS is not a part of the RTP. (CARB, 2020c)

The Sustainable Communities Act also establishes incentives to encourage local governments and developers to implement the SCS or the APS. Developers can get relief from certain environmental review requirements under CEQA if their new residential and mixed-use projects are consistent with a region's SCS (or APS) that meets the targets (see Cal. Public Resources Code §§ 21155, 21155.1, 21155.2, 21159.28.). (CARB, 2020c)

13. Executive Order B-30-15

On April 29, 2015, Governor Brown issued Executive Order B-30-15, which sets a goal to reduce GHG emissions in California to 40 percent below 1990 levels by 2030. The 2030 target serves as a benchmark goal on the way to achieving the GHG reductions goal set by former Governor Schwarzenegger via Executive Order S-3-05 (i.e., 80 percent below 1990 greenhouse gas emissions levels by 2050).

14. Senate Bill 32

On September 8, 2016, Governor Jerry Brown signed the Senate Bill (SB) 32 and its companion bill, Assembly Bill 197. SB 32 requires the State to reduce statewide GHG emissions to 40% below 1990 levels by 2030, a reduction target that was first introduced in Executive Order B-30-15. The new legislation builds upon the AB 32 goal of 1990 levels by 2020 and provides an intermediate goal to achieving S-3-05, which sets a statewide greenhouse gas reduction target of 80% below 1990 levels by 2050. (CA Legislative Info, n.d.)

D. Local and Regional Regulations

1. South Coast Air Quality Management District (SCAQMD)

SCAQMD is the agency responsible for air quality planning and regulation in the SCAB. The SCAQMD addresses the impacts to climate change of projects subject to SCAQMD permit as a lead agency if they are the only agency having discretionary approval for the project and act as a responsible agency when a land use agency must also approve discretionary permits for the project. The SCAQMD acts as an expert commenting agency for impacts to air quality. This expertise carries over to GHG

emissions, so the agency helps local land use agencies through the development of models and emission thresholds that can be used to address GHG emissions. (SCAQMD, 2008)

In 2008, SCAQMD formed a Working Group to identify GHG emissions thresholds for land use projects that could be used by local lead agencies in the SCAB. The Working Group developed several different options that are contained in the SCAQMD Draft Guidance Document – Interim CEQA GHG Significance Threshold, that could be applied by lead agencies. The working group has not provided additional guidance since release of the interim guidance in 2008. The SCAQMD Board has not approved the thresholds; however, the Guidance Document provides substantial evidence supporting the approaches to significance of GHG emissions that can be considered by the lead agency in adopting its own threshold. The current interim thresholds consist of the following tiered approach: (SCAQMD, 2008)

- Tier 1 consists of evaluating whether or not the project qualifies for any applicable exemption under CEQA.
- Tier 2 consists of determining whether the project is consistent with a GHG reduction plan. If a project is consistent with a qualifying local GHG reduction plan, it does not have significant GHG emissions.
- Tier 3 consists of screening values, which the lead agency can choose, but must be consistent with all projects within its jurisdiction. A project's construction emissions are averaged over 30 years and are added to the project's operational emissions. If a project's emissions are below one of the following screening thresholds, then the project is less than significant:
  - Residential and commercial land use: 3,000 $MTCO_2e$/yr
  - Industrial land use: 10,000 $MTCO_2e$/yr
  - Based on land use type: residential: 3,500 $MTCO_2e$/yr; commercial: 1,400 $MTCO_2e$/yr; or mixed use: 3,000 $MTCO_2e$/yr
- Tier 4 has the following options:
  - Option 1: Reduce Business-as-Usual (BAU) emissions by a certain percentage (this percentage is currently undefined)
  - Option 2: Early implementation of applicable AB 32 Scoping Plan measures
  - Option 3: 2020 target for service populations (SP), which includes residents and employees: 4.8 $MTCO_2e$ per SP per year for projects and 6.6 $MTCO_2e$ per SP per year for plans;
  - Option 4: 2035 target of 3.0 $MTCO_2e$ per SP per year for projects and 4.1 $MTCO_2e$ per SP per year for plans
- Tier 5 involves mitigation offsets to achieve target significance threshold.

The SCAQMD's interim thresholds used the Executive Order S-3-05-year 2050 goal as the basis for the Tier 3 screening level. Achieving the Executive Order's objective would contribute to worldwide efforts to cap CO_2 concentrations at 450 ppm, thus stabilizing global climate. SCAQMD only has authority over GHG emissions from development projects that include air quality permits. The

residential Project evaluated herein would not include stationary sources of emissions subject to SCAQMD permits. (SCAQMD, 2008)

2. City of Newport Beach Energy Action Plan

The City adopted the Newport Beach Energy Action Plan (EAP) in July 2013. The EAP is the City of Newport Beach's long-range plan to reduce local GHG emissions through reductions in energy used in facility buildings and operations. As part of the EAP, the City of Newport Beach selected a goal to reduce the City's existing GHG emissions to 1990 levels by 2020, which the City determined would achieve the GHG emissions reduction mandates of AB 32 and also would be consistent with the recommendations contained in the CARB AB 32 Scoping Plan to meet the State's GHG reduction goals (City of Newport Beach, 2013, p. 23). The Project Applicant proposes to develop a private residential structure. Because the goals and policies in the EAP are focused on energy efficiency and sustainability of City facilities, the EAP is not directly applicable to the Project. (Urban Crossroads, 2021a, p. 26)

4.6.3 Basis for Determining Significance

While estimated Project-related GHG emissions can be quantified, the direct impacts of such emissions on GCC and global warming cannot be determined on the basis of available science. There is no evidence at this time that would indicate that the emissions from a project the size of the proposed Project would directly or indirectly affect the global climate.

AB 32 states, in part, that "[g]lobal warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California." Because global warming is the result of GHG emissions, and GHGs are emitted by innumerable sources worldwide, the proposed Project would have no potential to result in a direct impact to global warming; rather, Project-related contributions to GCC, if any, only have potential significance on a cumulative basis. Therefore, the analysis below focuses on the Project's potential to contribute to GCC in a cumulatively-considerable way.

Based on the results of the Initial Study, it was determined that the Project has the potential to result in a significant impact due to greenhouse gas emissions if the Project or any Project-related component would:

a. *Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or*

b. *Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.*

The above-listed thresholds are derived directly from Section VIII. (Greenhouse Gas Emissions) of Appendix G to the CEQA Guidelines and address the typical, adverse effects related to greenhouse gas emissions that could result from development projects.

The City of Newport Beach has not adopted its own numeric threshold of significance for determining impacts with respect to GHG emissions. The SCAQMD's adopted numerical threshold of 3,000 $MTCO_2e$ per year is based on the SCAQMD staff's proposed GHG screening threshold for stationary source emissions for non-industrial projects (Tier 3), as described in the SCAQMD's Interim CEQA GHG Significance Threshold for Stationary Sources, Rules and Plans ("SCAQMD Interim GHG Threshold"). The SCAQMD Interim GHG Threshold identifies a screening threshold to determine whether additional analysis is required. This approach is a widely accepted screening threshold used by the City of Newport Beach and numerous agencies in the SCAB. (Urban Crossroads, 2021a, p. 24)

4.6.4 Impact Analysis

***Threshold a:* Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?**

Less than Significant Impact.

The City of Newport Beach utilizes a screening threshold of 3,000 metric tons of carbon monoxide equivalent of $MTCO_2e$ per year to determine if additional analysis is required. This approach is a widely accepted screening threshold used by the City of Newport Beach and numerous agencies in the SCAB. (Urban Crossroads, 2021a, p. 24)

The annual GHG emissions associated with the operation of the proposed Project are summarized in Table 4.6-2 *Project GHG Emissions Summary*. As shown, the Project would generate approximately 357.28 $MTCO_2e$/yr. Therefore, implementation of the Project would not exceed the significance threshold of 3,000 $MTCO_2e$ per year and, thus, impacts would be less than significant. (Urban Crossroads, 2021a, p. 25)

Table 4.6-2 Project GHG Emissions Summary

Emission Source	Emissions (MT/yr)			
	CO_2	CH_4	N_2O	Total CO_2e
Annual construction-related emissions amortized over 30 years	41.67	0.01	0.00	41.91
Area Source	7.20	5.90E-04	1.20E-04	7.25
Energy Source	115.68	4.50E-03	1.11E-03	116.12
Mobile Source (Passenger Car)	171.11	0.01	0.00	171.36
Mobile Source (Truck)	2.61	0.15	0.00	6.48
On-Site Equipment	12.22	0.06	1.50E-03	14.16
Waste	41.67	0.01	0.00	41.91
Water Usage	7.20	5.90E-04	1.20E-04	7.25
Total CO_2e (All Sources)	**357.28**			

MT/yr = metric tons per year
Source: (Urban Crossroads, 2021a, Table 12)

***Threshold b:* Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?**

Less than Significant Impact.

Pursuant to Section 15604.4 of the CEQA Guidelines, a lead agency may rely on qualitative analysis or performance-based standards to determine the significance of impacts from GHG emissions. As such, the Project's consistency with SB 32 (2017 Scoping Plan), is discussed below. It should be noted that the Project's consistency with the 2017 Scoping Plan also satisfies consistency with AB 32 since the 2017 Scoping Plan is based on the overall targets established by AB 32. Consistency with the 2008 Scoping Plan is not necessary, since the target year for the 2008 Scoping Plan was 2020, and the Project's buildout year is 2023. As such the 2008 Scoping Plan does not apply and consistency with the 2017 Scoping Plan is relevant.

A. SB 32/2017 Scoping Plan Consistency

The Project would not conflict with any of the 2017 Scoping Plan elements as any regulations adopted would apply directly or indirectly to the Project. Further, recent studies show that the State's existing and proposed regulatory framework will allow the State to reduce its GHG emissions level to 40% below 1990 levels by 2030. (Urban Crossroads, 2021a, p. 26)

B. City of Newport Energy Action Plan Consistency

The City's Energy Action Plan (EAP) is not directly applicable to the proposed Project because the goals and policies in the plan are focused on energy efficiency and sustainability of City facilities. However, because the Project is required to comply CALGreen and Title 24 standards, the Project would not conflict with the community-wide energy use goals of the EAP. (Urban Crossroads, 2021a, p. 26)

The Project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases, and impacts would be less than significant.

4.6.5 Cumulative Impact Analysis

As discussed in Subsection 4.6.1 there is no evidence to indicate that the emissions from a project the size of the proposed Project would directly or indirectly affect the global climate. As such, Project impacts due to GHG emissions are inherently cumulative in nature.

As discussed under the analysis of Threshold (a), the Project would result in the emissions of 357.28 $MTCO_2e$/year; thus, the proposed Project would not exceed the SCAQMD's screening threshold of 3,000 $MTCO_2e$/yr. Because the proposed Project would not exceed the SCAQMD's screening threshold of 3,000 $MTCO_2e$/yr, the Project would not result in a cumulatively-considerable impact on the environment with respect to GHG emissions.

As discussed under the analysis of Threshold (b), the Project would be consistent with or otherwise would not conflict with the CARB 2017 Scoping Plan or the City's EAP. As such, the Project would result in less-than-cumulatively-considerable impact due to a conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs.

4.6.6 Significance of Impacts Before Mitigation

Threshold a): Less than Significant Impact. The Project would result in approximately 357.28 $MTCO_2e$ per year; thus, the proposed Project would not exceed the City's screening threshold of 3,000 $MTCO_2e$ per year and impacts would be less than significant.

Threshold b): Less than Significant Impact. The Project would be consistent with or otherwise would not conflict with, applicable regulations, policies, plans, and policy goals that would further reduce GHG emissions.

4.6.7 Mitigation

Impacts would be less than significant; therefore, no mitigation is required.

4.7 HAZARDS & HAZARDOUS MATERIALS

The analysis in this Subsection is based on three technical studies that were prepared for the Project site by Fero Environmental Engineering, Inc. (Fero): 1) a letter titled, "Results of File Review Related to Potential Environmental Impacts Newport Beach Car Wash 150 Newport Center Drive, Newport Beach, California," dated October 31, 2020, that discusses the results of a limited investigation on the potential for environmental impacts on the Project site (Fero, 2020); 2) a report titled "Results of Phase II Subsurface Investigations at 150 Newport Center Drive, Newport Beach, California," dated January 15, 2014 that presents the results of a Phase II subsurface investigation consisting of a near surface soil gas survey conducted proximate to the fueling system present on the Project site under existing conditions (Fero, 2014); and 3) a report titled, "Phase I Environmental Site Evaluation 150 Newport Center Drive, Newport Beach, California 92660," dated November 25, 2013 that addresses the potential presence or absence of toxic substances and/or hazardous materials on the Project site under existing conditions (Fero, 2013). The three assessments all prepared by Fero are included as *Technical Appendix F*. Refer to Section 7.0, *References*, for a complete list of reference sources.

Based on analyses conducted as part of the Project's Initial Study, and the substantive evidence cited in the Initial Study (EIR *Technical Appendix A*), the City determined that the Project would clearly result in no impacts or less-than-significant impacts under several of the thresholds identified in Section IX (Hazards and Hazardous Materials) of Appendix G to the CEQA Guidelines. Specifically, the Project's Initial Study concluded that the Project would result in no impacts or less-than-significant impacts under Thresholds (c), (d), (e), (f), and (g):

> c. *Would the Project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*
>
> d. *Would the Project be located on a site which is included on a list of hazardous materials sites which complied pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*
>
> e. *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?*
>
> f. *Would the Project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*
>
> g. *Would the Project expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?*

Accordingly, and based on the analysis contained in the Project's Initial Study, no additional analysis of the above-listed thresholds is required, and this Subsection instead focuses on the Project's

potential to create a significant hazard for the public or the environment through the routine transport, use, disposal of hazardous materials, or through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Refer to the Project's Initial Study (EIR *Technical Appendix A*) and EIR Subsection 5.4 for a complete discussion and analysis of the above-listed thresholds.

4.7.1 Definitions of Toxic Substance, Hazardous Material, Hazardous Waste, and Recognized Environmental Conditions (RECs)

In this EIR the term "toxic substance" is defined as a substance that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may present an unreasonable risk of injury to human health or the environment. Toxic substances include chemical, biological, flammable, explosive, and radioactive substances.

In this EIR the term "hazardous material" is defined as a substance that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may: 1) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, disposed of, or otherwise mismanaged; or 2) cause or contribute to an increase in mortality or an increase in irreversible or incapacitating illness.

Hazardous waste is defined in the California Code of Regulations, Title 22, Section 66261.3. The defining characteristics of hazardous waste are: ignitability (oxidizers, compressed gases, and extremely flammable liquids and solids), corrosivity (strong acids and bases), reactivity (explosives or generates toxic fumes when exposed to air or water), and toxicity (materials listed by the United States Environmental Protection Agency (USEPA) as capable of inducing systemic damage to humans or animals). Certain wastes are called "Listed Wastes" and are found in the California Code of Regulations, Title 22, Sections 66261.30 through 66261.35. Wastes appear on the lists because of their known hazardous nature or because the processes that generate them are known to produce hazardous wastes (which are often complex mixtures).

The term "recognized environmental condition" (REC) is used to identify the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. The term includes hazardous substances or petroleum products even under conditions in compliance with laws. (Fero, 2013, p. 5)

4.7.2 Existing Conditions

Under existing conditions, the Project site is the location of the "Newport Beach Car Wash" and contains a single-story building that is operating as a car wash facility with an associated convenience market and gas station with ancillary lighting, signage, and associated improvements. A paved parking area is located along the western edge of the Project site, and ornamental landscaping areas occur primarily along the perimeter of the site. Street trees, shrubs, groundcover, and curb-

adjacent sidewalks are located along the Project site's frontage with Newport Center Drive and Anacapa Drive. Streetlights are located near the intersection of Anacapa Drive and Newport Center Drive and along Newport Center Drive and Anacapa Drive. Additionally, the Project site contains three 12,000-gallon underground storage tanks (USTs) and piping and dispensers, within the southwest portion of the site. The current fueling system on the Project site has a continuous leak detection system. The car wash also has a reclaimed water system with a three-stage "clarifier". (Fero, 2020, p. 1)

A. Historical Use

Fero reviewed various sources of information to determine the historical use of the Project site, including historic building permits, aerial photos, Sanborn Fire Insurance maps, city directories, historic topographic maps, and previous environmental reports. According to historical aerial photos, the Project site and vicinity were both vacant and undeveloped between 1938 and 1963. By 1972, the current car wash building and parking lot were constructed on the Project site and the Project site vicinity was developed to its current state. At that time, commercial developments existed to the north and east and areas to the south and west of the site remained vacant. Between 1977 and 2012, office buildings and parking areas were constructed to the south and west of the Project site. (Fero, 2013, pp. 9-10)

B. Environmental Site Assessment - Investigation History

Fero conducted a Phase I Environmental Assessment (ESA) for the Project site in November 2013 which identified low levels of residual fuel organics left in place after dispenser and piping were replaced with a double wall protected system in 2003. The local oversight agency, the Orange County Health Care Agency (OCHCA), determined at that time that the organics concentrations were acceptable and that a cleanup case would not be opened. Based on the OCHCA conclusions, Fero recommend no further investigations; however, a confirmation assessment was requested by the land owner. Therefore in 2014, Fero conducted a Phase II subsurface investigation consisting of a near surface soil gas survey conducted proximate to the fueling system on the Project site. In 2020, Fero, who conducted a Phase I ESA and a Phase II ESA for the site, conducted a file review related to the potential environmental impacts of the Project site under existing conditions (Fero, 2020, p. 1). The 2020 file review report served as confirmation that the existing conditions cited in previous reports remained valid and accurate as of the date of the report.

Fero confirmed that the only hazardous materials identified at the Project site were two grades of gasoline contained in a fueling system which consisted of three 12,000-gallon underground storage tanks (USTs) and associated piping and dispensers. The fueling system is permitted through the OCHCA and the SCAQMD. Fero reviewed the OCHCA UST file for the Site on October 29, 2013 as part of the Phase I ESA. The file indicated that the soils tested at the site during removal of the original USTs in 1989 were "clean". When the dispensers and piping were replaced/upgraded in 2003, some residual Total Petroleum Hydrocarbons - gasoline ("TPHg") and Benzene, Toluene, Ethyl Benzene and Xylenes ("BTEX") were detected below two of the dispensers. The regulatory agency was not concerned with the concentrations detected and did not require any cleanup.

According to Fero, the current fueling system has a continuous leak detections system and appears to be in compliance with the OCHCA. Fero notes that no auto repairs occur at the site and no oil or antifreeze are sold onsite. Fero also confirms that the carwash has a reclaimed water system with a three-stage "clarifier" that is permitted through the City of Newport Beach and that the solids that settle out in the clarifier are pumped and disposed of as non-hazardous.

According to Fero, the primary potential compound of concern on the Project site is the gasoline. Fero conducted a soil vapor survey at the site on January 7, 2014, the results of which indicated that only two samples collected proximate to the USTs contained volatile organic compounds (VOCs) above the detection limits. In 2003, the tanks and piping for the gas station were replaced /upgraded to a double wall protected system with leak detection. Fero received and reviewed an *Underground Storage Tank Monitoring System Certification Form*, dated February 14, 2020 certifying the monitoring system for the tanks and the fueling system at the site. The certification expiration date was listed as December 9, 2020 with monitoring system training and certification for Veeder Root system listed as January 24, 2020. Section IV Comments of the form indicated, "Tested all components. All Components passed." The system was operating properly with no leaks. A copy of the certification form is included in Appendix A of *Technical Appendix F*. Upon review of the Phase I and Phase II ESA's and the certification form, Fero concluded that the fueling system at the Project site does not represent a significant environmental threat to the site. (Fero, 2020, pp. 2-3)

In an effort to determine whether any sites in the area of the Project site presented a potential environmental threat to the Project site, Fero accessed the RWQCB's Geotracker, environmental information repository and the CalEPA Department of Toxic Substances Control's, EnviroStor, environmental information repository. These repositories provide information related to any sites around the Project site which are of environmental significance including, Federal Superfund, State Response, Voluntary Cleanup, Leaking Underground Storage Tank (LUST), UST, etc. No sites with environmental concerns were identified within 0.25 mile (1,320 feet) of the Project site on either repository. The nearest site of interest was the Newport Center Cleaners (SLT8R0803963), a closed "Cleanup Program Site" located approximately 1,800 feet northeast of the Project site. The closest "active" site is the Mobil #18-PLR (T0605942769) which is a leaky underground storage tank ("LUST") site undergoing remediation. The Mobil #18-PLR LUST is located lateral to the Project site with respect to groundwater flow. Fero determined that none of the area sites represent a significant environmental threat to the Project site. (Fero, 2020, p. 3). Mobil #18-PLR is located at 2500 San Joaquin Hills Road approximately 0.6 miles east of the Project site ((Google Earth Pro, 2020)

C. Building Materials

1. Asbestos Containing Materials

The use of asbestos containing materials (ACMs) (a known carcinogen) and lead paint (a known toxin) was common in building construction prior to 1978. Because the existing on-site structures were built prior to 1978 when the use of asbestos-containing materials (ACMs) were banned in

building materials, it is possible that ACMs are present in some of the on-site building materials such as flooring or roofing materials (Fero, 2013, p. 8).

2. Poly-chlorinated biphenyls

Poly-chlorinated biphenyls (PCBs) were manufactured and used in the United States from 1929 to 1979, at which time they were banned. The USEPA indicates that "[d]ue to their non-flammability, chemical stability, high boiling point, and electrical insulating properties, PCBs were used in hundreds of industrial and commercial applications including electrical, heat transfer, and hydraulic equipment; as plasticizers in paints, plastics, and rubber products; in pigments, dyes, and carbonless copy paper; and many other industrial applications." Fero did not identify any structures on the site that likely contain PCBs. (Fero, 2013, p. 8)

4.7.3 REGULATORY SETTING

Hazardous materials and hazardous wastes are regulated by various federal, State, and local regulations to protect public health and the environment. The following is a brief description of the federal, State, and local environmental laws and related regulations governing issues related to hazards and hazardous materials.

A. Federal Plans, Policies, and Regulations

1. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Superfund Amendments and Reauthorization Act (SARA)

The Comprehensive Environmental Response, Compensation, and Liability Act, also known as CERCLA or Superfund, provides a Federal "Superfund" to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through CERCLA, the Environmental Protection Agency (EPA) was given power to seek out those parties responsible for any release and assure their cooperation in the cleanup. The Superfund Amendments and Reauthorization Act (SARA) reauthorized CERCLA to continue cleanup activities around the United States. Several site-specific amendments, definitions clarifications, and technical requirements were added to the legislation, including additional enforcement authorities. Also, Title III of SARA authorized the Emergency Planning and Community Right-to-Know Act (EPCRA). (EPA, 2020j)

2. Resource Conservation and Recovery Act (RCRA)

The Resource Conservation and Recovery Act (RCRA) gives the EPA the authority to control hazardous waste from the "cradle-to-grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also set forth a framework for the management of non-hazardous solid wastes. The 1986 amendments to RCRA enabled EPA to address environmental problems that could result from underground tanks storing petroleum and other hazardous substances. The Federal Hazardous and Solid Waste Amendments (HSWA) are the 1984 amendments to RCRA that focused on waste minimization and phasing out land disposal of hazardous waste as well as corrective action for releases. Some of the other mandates of this law

include increased enforcement authority for EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program. (EPA, 2020k)

3. Hazardous Materials Transportation Act (HMTA)

The Hazardous Materials Transportation Act of 1975 (HMTA) empowered the Secretary of Transportation to designate as hazardous material any "particular quantity or form" of a material that "may pose an unreasonable risk to health and safety or property" (OSHA, n.d.). The HMTA (Section 112, 40 U.S.C. 1811) preempts state and local governmental requirements that are inconsistent with the statute, unless that requirement affords an equal or greater level of protection to the public than the HMTA requirement. (OSHA, n.d.)

4. Hazardous Materials Transportation Uniform Safety Act of 1990

In 1990, Congress enacted the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) to clarify the maze of conflicting state, local, and federal regulations. Like the HMTA, the HMTUSA requires the Secretary of Transportation to promulgate regulations for the safe transport of hazardous material in intrastate, interstate, and foreign commerce. The Secretary also retains authority to designate materials as hazardous when they pose unreasonable risks to health, safety, or property. The statute includes provisions to encourage uniformity among different state and local highway routing regulations, to develop criteria for the issuance of federal permits to motor carriers of hazardous materials, and to regulate the transport of radioactive materials. (OSHA, n.d.)

5. Occupational Safety and Health Act (OSHA)

Congress passed the Occupational and Safety Health Act (OSHA) to ensure worker and workplace safety. Their goal was to make sure employers provide their workers a place of employment free from recognized hazards to safety and health, such as exposure to toxic chemicals, excessive noise levels, mechanical dangers, heat or cold stress, or unsanitary conditions. In order to establish standards for workplace health and safety, the Act also created the National Institute for Occupational Safety and Health (NIOSH) as the research institution for OSHA. OSHA is a division of the U.S. Department of Labor that oversees the administration of the Act and enforces standards in all 50 states. (EPA, 2020l)

6. Toxic Substances Control Act

The Toxic Substances Control Act of 1976 provides the EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics, and pesticides. TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon, and lead-based paint. (EPA, 2020m)

B. State Plans, Policies, and Regulations

1. Cal/OSHA and the California State Plan

Under an agreement with OSHA, since 1973 California has operated an occupational safety and health program in accordance with Section 18 of the federal OSHA. The State of California's Department of Industrial Relations administers the California Occupational Safety and Health Program, commonly referred to as Cal/OSHA. The State of California's Division of Occupational Safety and Health (DOSH) is the principal agency that oversees plan enforcement and consultation. In addition, the California State program has an independent Standards Board responsible for promulgating State safety and health standards, and reviewing variances. It also has an Appeals Board to adjudicate contested citations and the Division of Labor Standards Enforcement to investigate complaints of discriminatory retaliation in the workplace. (OSHA, n.d.)

Pursuant to 29 CFR 1952.172, the California State Plan applies to all public and private sector places of employment in the State, with the exception of federal employees, the United States Postal Service, private sector employers on Native American lands, maritime activities on the navigable waterways of the United States, private contractors working on land designated as exclusively under federal jurisdiction and employers that require federal security clearances. Cal/OSHA is the only agency in the State authorized to adopt, amend, or repeal occupational safety and health standards or orders. The Cal/OSHA enforcement unit conducts inspections of California workplaces in response to a report of an industrial accident, a complaint about an occupational safety and health hazard, or as part of an inspection program targeting industries with high rates of occupational hazards, fatalities, injuries or illnesses. (OSHA, n.d.)

2. California Hazardous Waste Control Law

The Hazardous Waste Control Law (HWCL) (Health and Safety Code [HSC], Division 20, Chapter 6.5, Article 2, Section 25100, et seq.) is the primary hazardous waste statute in California. The HWCL implements RCRA as a "cradle-to-grave" waste management system in the State. It specifies that generators have the primary duty to determine whether their wastes are hazardous and to ensure its proper management. The HWCL also establishes criteria for the reuse and recycling of hazardous wastes used or reuse as raw materials. The HWCL exceeds federal requirements by mandating source reduction planning and broadening requirements for permitting facilities that treat hazardous waste. It also regulates a number of waste types and waste management activities not covered by federal law (RCRA). (CA Legislative Info, n.d.)

3. California Code of Regulations (CCR), Titles 5, 17, 22, and 26

A variety of California Code of Regulation (CCR) titles address regulations and requirements related to hazardous materials and hazardous waste. Title 5 contains the California Plumbing Code which, in Appendix H, establishes detailed standards for the capping, removal, fill, and disposal of cesspools, septic tanks, and seepage pits (see H 1101.0). CCR Title 17, Division 1, Chapter 8, defines and regulates handling and disposal of lead-based paint. Any detectable amount of lead is regulated. Title 22 contains detailed compliance requirements for hazardous waste generators,

transporters, and facilities for treatment, storage, and disposal. Because California is a fully-authorized state according to RCRA, most regulations (i.e., 40 CFR 260, *et seq.*) have been duplicated and integrated into Title 22. However, because the Department of Toxic Substances Control (DTSC) regulates hazardous waste more stringently than the EPA, the integration of State and federal hazardous waste regulations that make up Title 22 does not contain as many exemptions or exclusions as does 40 CFR 260. As with the HSC, Title 22 also regulates a wider range of waste types and waste management activities than does RCRA. To aid the regulated community, California has compiled hazardous materials, waste, and toxics-related regulations from CCR, Titles 3, 8, 13, 17, 19, 22, 23, 24 and 27 into one consolidated listing: CCR Title 26 (Toxics). However, the hazardous waste regulations are still commonly referred to collectively as "Title 22." (DTSC, n.d.; DTSC, 2019)

C. Local Plans, Policies, and Regulations

1. Underground Storage Tank Regulations

The Orange County Health Care Agency (OCHCA), Environmental Health Division, acts as the Certified Unified Program Agency (CUPA) to implement and enforce applicable underground storage tank regulations in Newport Beach and other cities of Orange County. The purpose of the underground storage tank inspection program is to ensure that hazardous materials stored in underground tanks are not released into the environment, potentially polluting ground and surface waters. The OCHCA is also responsible for overseeing the closure and removal of USTs, including, but not limited to, compliance with the Code of Federal Regulations (CFR) Title 40 (Protection of the Environment), Chapter 1 (Environmental Protection Agency), Subchapter 1 (Solid Wastes), Part 280 (Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs)), Subpart G (Out-of-Service UST Systems and Closure), §§ 280.70 - 74. This federal law requires that proper procedures are undertaken during temporary and permanent closure of USTs such that impacts to the environment are avoided. (Orange County, n.d.)

2. SCAQMD Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities

Rule 1403 requires the implementation of specific work practices to limit asbestos emissions from building demolition and renovation activities, including the removal and associated disturbance of asbestos-containing materials (ACM). The requirements for demolition and renovation activities include asbestos surveying, notification, ACM removal procedures and time schedules, ACM handling and clean-up procedures, and storage, disposal, and landfilling requirements for asbestos-containing waste materials (ACWM). (SCAQMD, 2007)

3. City of Newport Beach General Plan

The primary goal of the Safety Element is to reduce the potential risk of death, injuries, property damage, and economic and social dislocation resulting from natural and human-induced hazards. This element specifically addresses coastal hazards, geologic hazards, seismic hazards, flood hazards, wildland and urban fire hazards, hazardous materials, aviation hazards, and disaster planning. The

following Safety Element goals and policies are applicable to the Project and pertain to the topic of hazards and hazardous materials analyzed in this EIR Subsection:

- **Goal S 7:** Exposure of people and the environment to hazardous materials associated with methane gas extraction, oil operations, leaking underground storage tanks, and hazardous waste generators is minimized.

- **Policy S 7.1:** Require proponents of projects in known areas of contamination from oil operations or other uses to perform comprehensive soil and groundwater contamination assessments in accordance with American Society for Testing and Materials standards, and if contamination exceeds regulatory action levels, require the proponent to undertake remediation procedures prior to grading and development under the supervision of the County Environmental Health Division, County Department of Toxic Substances Control, or Regional Water Quality Control Board (depending upon the nature of any identified contamination).

The remaining goals and policies of the Safety Element pertaining to hazards and hazardous materials are not applicable to the proposed Project.

4. City of Newport Beach Municipal Code

The City of Newport Beach Municipal Code Chapter 9.04 (Fire Code) incorporates and adopts the "California Fire Code 2019 Edition," which establishes a variety of regulations related to hazards such as: recommendations for development on land containing or emitting toxic substances, hazardous materials documentation procedures, hazardous materials management plan, storage tank regulations, etc. (City of Newport Beach, 2020a)

5. Orange County Household Hazardous Waste Collection Program

The County of Orange has an extensive and efficient household hazardous waste collection program, which provides locations where hazardous waste can be disposed of safely and in compliance with applicable regulations. The four permanent collection facilities are located in the Cities of Anaheim, Irvine, Huntington Beach, and San Juan Capistrano. (City of Newport Beach, 2020b)

4.7.4 Basis for Determining Significance

The proposed Project would result in a significant impact if it would:

a. *Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; or*

b. *Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.*

4.7.5 IMPACT ANALYSIS

Threshold a: Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Threshold b: Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Less than Significant Impact.

A. Impact Analysis for Existing Site Conditions

1. Fueling System / Underground Storage Tanks

As discussed above in Subsection 4.7.2, in 2020, Fero, who conducted a Phase I ESA and a Phase II ESA for the site, conducted a file review related to the environmental potential impacts of the Project site under existing conditions. Fero confirmed that the only hazardous materials identified at the Project site were two grades of gasoline contained in a fueling system which consisted of three 12,000-gallon underground storage tanks (USTs) and associated piping and dispensers. The fueling system is permitted through the OCHCA and the SCAQMD. According to Fero, the current fueling system has a continuous leak detection system and appears to be in compliance with the OCHCA. Fero notes that no auto repairs occur at the site and no oil or anti-freeze are used onsite. Fero also confirms that the carwash has a reclaimed water system with a three-stage "clarifier" that is permitted through the City of Newport Beach and that the solids that settle out in the clarifier are pumped and disposed of as non-hazardous. (Fero, 2020, p. 1)

According to Fero, the primary potential compound of concern on the Project site is the gasoline. Fero conducted a soil vapor survey at the site on January 7, 2014 and determined that only two samples collected proximate to the USTs contained VOCs above the detection limits. (Fero, 2020, p. 2) Also, in 2020, Fero received and reviewed an Underground Storage Tank Monitoring System Certification Form, dated February 14, 2020 certifying the monitoring system for the tanks and the fueling system at the Project site. The certification expiration date was listed as December 9, 2020 with monitoring system training and certification for Veeder Root system listed as January 24, 2020. Section IV Comments of the form indicated, " Tested all components. All Components passed." The system was operating properly with no leaks. A copy of the certification form is included in Appendix A of *Technical Appendix F*. Upon review of the Phase I and Phase II ESA's and the certification form, Fero concluded that the fueling system at the Project site does not represent a significant environmental threat to the site. (Fero, 2020, p. 3)

The existing USTs, dispensers, and piping would be required to be removed, handled, and disposed of in accordance with all applicable local and State regulations. Because existing USTs, dispensers, and piping would be required to be removed, handled, and disposed of in accordance with all applicable local and State regulations, implementation of the Project would not expose the public or

the environment to significant hazards associated with the removal and disposal of the on-site USTs, dispensers, and piping from the Project site. Therefore, impacts would be less than significant.

2. Building Materials

Because the Project site contains structures known to be constructed before 1978, there is the potential that ACMs and/or lead paint is present on the Project site. Asbestos is a carcinogen and is categorized as a hazardous air pollutant by the federal EPA. Federal asbestos requirements are found in National Emission Standards for Hazardous Air Pollutants (NESHAP) within the Code of Federal Regulations (CFR) Title 40, Part 61, Subpart M, and are enforced in the Project area by the SCAQMD. In conformance with the NESHAP, SCAQMD Rule 1403 establishes survey requirements, notification, and work practice requirements to prevent asbestos emissions from emanating during building renovation and demolition activities. Assuming that ACMs are present in the existing construction debris and/or structures located on the property, then Rule 1403 requires notification of the SCAQMD prior to commencing any demolition or renovation activities. Rule 1403 also sets forth specific procedures for the removal of asbestos, and requires that an on-site representative trained in the requirements of Rule 1403 be present during the stripping, removing, handling, or disturbing of ACM. Mandatory compliance with the provisions of Rule 1403 would ensure that construction-related grading, clearing and demolition activities do not expose construction workers or nearby sensitive receptors to significant health risks associated with ACMs. Because the Project would be required to comply with SCAQMD Rule 1403 during demolition activities, impacts due to asbestos would be less than significant.

During demolition of the existing structures on-site, there also is a potential to expose construction workers to health hazards associated with lead-based paint (LBP). Title 17, California Code of Regulations (CCR), Division 1, Chapter 8: Accreditation, Certification and Work Practices for Lead-Based Paint and Lead Hazards, defines and regulates lead-based paint. Any detectable amount of lead is regulated. The Project would be required to comply with Title 17, California Code of Regulations (CCR), Division 1, Chapter 8, which includes requirements such as employer provided training, air monitoring, protective clothing, respirators, and hand washing facilities. Mandatory compliance with these mandatory requirements would ensure that construction workers and the public are not exposed to significant LBP health hazards during demolition and/or during transport of demolition waste to an appropriate disposal facility, and would ensure that impacts related to LBP remain less than significant.

B. Impact Analysis for Temporary Construction-Related Activities

Heavy equipment (e.g., dozers, excavators, tractors) would be operated on the Project site during implementation of the Project. This heavy equipment likely would be fueled and maintained by petroleum-based substances such as diesel fuel, gasoline, oil, and hydraulic fluid, which are considered hazardous if improperly stored or handled. In addition, materials such as paints, adhesives, solvents, and other substances typically used in building construction would be located on the Project site during construction. Improper use, storage, or transportation of hazardous materials can result in accidental releases or spills, potentially posing health risks to workers, the public, and

the environment. This is a standard risk on all construction sites, and there would be no greater risk for improper handling, transportation, or spills associated with the Project than would occur on any other similar construction site. Construction contractors would be required to comply with all applicable federal, State, and local laws and regulations regarding the transport, use, and storage of hazardous construction-related materials, including but not limited requirements imposed by the EPA, DTSC, and the Santa Ana RWQCB. With mandatory compliance with applicable hazardous materials regulations, the Project would not create significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials during the construction phase. Therefore, impacts would be less than significant.

C. *Impact Analysis for Long-Term Operational Activities*

In the underground parking levels for the proposed Project, storage areas would be provided for use by Project residents. Due to the residential nature of the proposed land use and the absence of the need to store acutely hazardous materials for use in a residential structure, it is reasonable to conclude that acutely hazardous materials would not be kept within these storage areas. It is likely, however, that household goods would be used within the proposed residences and throughout the common areas of the Project site that contain common household toxic substances, such as cleaning supplies, paint, and pesticides. These household goods are typically low in concentration and limited in amount; therefore, there is no significant risk to humans or the environment from the use of such household goods. Residents are required to dispose of household hazardous waste including pesticides, batteries, old paint, solvents, used oil, antifreeze, and other chemicals at a Household Hazardous Waste Collection Facility (City of Newport Beach, 2020b). Accordingly, impacts would be less than significant.

Based on the foregoing information, potential hazardous materials impacts associated with long-term operation of the Project are regarded as less than significant and no mitigation is required.

4.7.6 Cumulative Impact Analysis

1. *Hazardous Materials - Construction-Related Effects*

As discussed in Thresholds (a) and (b) above, based on the findings of a Phase I ESA and the Phase II ESA as well as the File review conducted for the Project site by Fero, the Project site does not contain any environmental hazards that could pose a threat to future Project residents or the environment. The existing building that would be demolished and removed from the site as part of the Project could potentially contain ACMs which have the potential to expose construction workers and/or nearby sensitive receptors to health risks during demolition activities. However, the demolition of structures containing ACMs is strictly regulated by SCAQMD Rule 1403, which identifies specific requirements that must be adhered to during demolition of buildings containing ACMs. Adherence to SCAQMD Rule 1403 would reduce the Project's direct impact to less-than-significant. Similarly, if ACMs were to be present in other buildings in the surrounding area that are undergoing demolition or remodeling, those projects also would be required by law to comply with SCAQMD Rule 1403. With mandatory compliance to SCAQMD Rule 1403, cumulative impacts

would be less than significant and the Project's potential contribution to the impact would be less-than-cumulatively-considerable.

The proposed Project includes the removal of the three existing 12,000-gallon gasoline USTs on the Project site. The removal of the fuel tanks could result in the accidental release of the fuel tank contents, which would result in a potentially significant impact. However, adherence to the mandatory requirements of 40 CFR §§ 280.70 – 280.74 would ensure that the removal of the fuel tanks would not result in the accidental release of the fuel tank contents during demolition and/or grading activities. Thus, the Project's direct impact would be less than significant. To assess the potential for cumulative effects, a review was conducted for other sites in the surrounding area that contain USTs.

As discussed in Subsection, 4.7.2, in an effort to determine whether any sites in the area of the Project site presented a potential environmental threat to the Project site, Fero accessed the Regional Water Quality Control Board' s, Geotracker, environmental information repository and the California EPA Department of Toxic Substances Control's, Envirostor, environmental information repository and determined that none of the area sites represent a significant environmental threat to the Project site. (Fero, 2020, p. 3)

Regarding materials such as paints, adhesives, solvents, and other substances typically used in building construction, these materials would be located on the Project site during construction of the Project. Improper use, storage, or transportation of hazardous materials can result in accidental releases or spills, potentially posing health risks to workers, the public, and the environment. This is a standard risk on all construction sites and as such, the Project would have a less-than-significant impact in this regard. The presence of similar materials on other properties in the surrounding area would not yield a significant cumulative effect, as it is not reasonably foreseeable that such materials would be improperly handled, transported, or spilled given that compliance with federal and State hazardous materials requirements is required by law.

2. Hazardous Materials - Operational-Related Effects

Pursuant to State law and local regulations, residents of the Project's proposed condominium building would be required to dispose of household hazardous waste (e.g., batteries, used oil, paint, etc.) at a permitted household hazardous waste collection facility. Similarly, any other developments in the area proposing land uses with the potential for use, storage, or transport of household hazardous materials also would be required to comply with applicable federal, State, and local regulations. Given that the proper use, storage, and disposal of household hazardous materials are required by law, it is not reasonably foreseeable that such materials would be used, stored, or disposed of improperly. Therefore, the Project's potential to contribute to a cumulatively-considerable impact associated with hazardous materials during the Project's operation would be less than significant.

4.7.7 Significance of Impacts before Mitigation

Threshold a) and b): Less than Significant Impact. During Project construction and operation, mandatory compliance to federal, State, and local regulations would ensure that the proposed Project would not create a significant hazard to the environment due to routine transport, use, disposal, or upset of hazardous materials.

4.7.8 Mitigation

Impacts would be less than significant; therefore, no mitigation is required.

4.8 LAND USE AND PLANNING

This Subsection discusses the Project's consistency with applicable land use and planning policies adopted by the City of Newport Beach and other governing agencies for the purpose of avoiding or reducing adverse effects on the physical environment. Information used to support the analysis in this Subsection was obtained from the proposed Project's application materials, the Project's Planned Community Development Plan (PC2020-001) (referred to as the Residences at Newport Center Planned Community Development Plan (PCDP), as well as the City of Newport Beach General Plan (City of Newport Beach, 2006a), the City of Newport Beach General Plan Environmental Impact Report (Newport Beach, 2006b), the City of Newport Beach Municipal Code (City of Newport Beach, 2020a), the Orange County Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) (Orange County, 1996), and SCAG's *2020-2045 RTP/SCS* (hereafter, "Connect SoCal") (SCAG, 2020a). Refer to Section 7.0, *References*, for a complete list of reference sources.

Based on analyses conducted as part of the Project's Initial Study, and the substantive evidence cited in the Initial Study (EIR *Technical Appendix A*), the City determined that the Project would clearly result in a less-than-significant impact under one of the thresholds identified in Section XI (Land Use and Planning) of Appendix G to the CEQA Guidelines. Specifically, the Project's Initial Study concluded that the Project would result in a less-than-significant impact under Threshold (a):

> *a. Would the Project physically divide an established community?*

Accordingly, no additional analysis of the above-listed threshold is required, and this Subsection instead focuses on the Project's potential to conflict with applicable land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. Refer to the Project's Initial Study (EIR *Technical Appendix A*) and EIR Subsection 5.4 for a complete discussion and analysis of the above-listed threshold.

4.8.1 EXISTING CONDITIONS

A. *Existing Land Use and Development*

At the time this Draft EIR was prepared, the City of Newport Beach was in the process of updating its General Plan. Currently, the City of Newport Beach is in Phase 1 (Housing and Circulation Element) of 3 of the General Plan Update process, which the City approximates to be a three-year process. Because the Newport Beach General Plan Update was under the early stages of preparation and not adopted at the time this EIR was prepared, the prevailing planning document for the Project site and surrounding area is the currently-adopted City of Newport Beach General Plan (hereafter, "General Plan").

The General Plan identifies the Project site as being within Statistical Area L1 and designates the Project site for "Regional Commercial Office (CO-R)" land uses, subject to the development limits established for Anomaly 35, which limits "CO-R" development square footage within the Anomaly

area to 199,095 S.F. (City of Newport Beach, 2006a, Figure LU1, Table LU2). The "CO-R" land use designation is intended to provide for administrative and professional offices that serve local and regional markets, with limited accessory retail, financial, service, and entertainment uses (City of Newport Beach, 2006a. p. 3-13)

The Project site is within the "Office - Regional (OR)" Zoning District (City of Newport Beach, 2019) According to the City of Newport Beach Zoning Code, the "OR" Zoning District is intended to provide for areas appropriate for corporate offices, administrative and professional offices that serve local and regional markets, with limited accessory financial, retail, service, and entertainment uses. (City of Newport Beach, 2020a, Title 20)

As discussed in EIR Section 2.0, *Environmental Setting*, under existing conditions, the Project site is the location of the "Newport Beach Car Wash." In a letter to the City of Newport Beach, the current owner of the Project site, which through an affiliated company operates the car wash on the site, reports that the car wash does not support the land value and purchase price of the property. (Newport Center Anacapa Associates, LLC, 2020). The Project site contains an approximately 2,085 gross S.F. single-story building that is operating as a car wash facility with associated convenience market and gas station with ancillary lighting, signage, and associated improvements. The car wash building includes an indoor waiting area and an outdoor waiting area with a sound amplification system that broadcasts music. Advertised business hours are 8:00 AM to 6:00 PM seven days per week. Car wash services include the washing of vehicles within the wash facility, which uses several mechanical components such as car dryers.

All portions of the Project site are fully developed with the car wash and ancillary gas station and convenience market. There are approximately 28 ornamental trees on the property. A paved parking area is located along the western edge of the Project site, and ornamental landscaping areas occur primarily along the perimeter of the site. Street trees, shrubs, groundcover, and curb-adjacent sidewalks are located along the Project site's frontage with Newport Center Drive and Anacapa Drive. Streetlights are located near the intersection of Anacapa Drive and Newport Center Drive and along Newport Center Drive and Anacapa Drive. Additionally, the Project site contains three 12,000-gallon underground storage tanks (USTs) within the central portion of the site and a private catch basin in the southwest corner of the Project site that collects stormwater.

Access to the Project site is provided from Anacapa Drive via the shared driveway to Gateway Plaza and then via a direct ingress/egress driveway to the gas station facility. Because the site's existing use is a fully operating commercial use, the use consumes energy and domestic water and generates air quality and greenhouse gas emissions, daily traffic, traffic-related noise, and noise related to the operation of the car wash and gas station.

At the local level, as shown on Figure 2-2, *Vicinity Map*, the Project site is located immediately south of Newport Center Drive, immediately west of Anacapa Drive, and immediately northeast of an existing office park (Gateway Plaza). The Project site is located south of a regional shopping center

(Fashion Island) which is located north of Newport Center Drive. According to the City's General Plan Figure LU3, Statistical Area Map, the Project site is within the City of Newport Beach's Newport Center/Fashion Island Sub-Area (Statistical Area L1) (City of Newport Beach, 2006a)

According to the State of California Department of Finance (DOF), as of January 1, 2020, the City of Newport Beach was estimated to have a population of 85,378 people with 2.19 persons per household (DOF, 2020). The Project site is located within the Newport-Mesa Unified School District (NMUSD).

As shown on Figure 2-3, *Aerial Photograph*, the Project site is within an urbanized portion of the City of Newport Beach that is fully developed with a variety of office, residential, retail, and service commercial land uses. As shown on Figure 2-4, *Surrounding Land Uses and Development*, the Project site is fronted on the north by Newport Center Drive, on the east by Anacapa Drive, on the south by an existing office building with underground parking, and on the west by Gateway Plaza and an existing parking facility that services Gateway Plaza. The Gateway Plaza office complex is comprised of eight low-rise office buildings, and associated surface parking. Muldoon's Irish Pub and a commercial office building are located east of the Project site and east of Anacapa Drive at the southeast corner of the Newport Center Drive/Anacapa Drive intersection. To the north of the Project site, and north of Newport Center Drive, is Fashion Island, a regional shopping center. Two restaurant buildings currently occupied by Red O and Fig & Olive are located at the southern edge of the Fashion Island parking lot, north of Newport Center Drive.

Under existing conditions, the Project site is the location of the "Newport Beach Car Wash." The closest other car wash to the Project site is located near Jamboree and San Joaquin Hills Road, approximately 0.9-mile to the northwest of the Project site. There are a number of other car washes within 4.0 miles of the Project site, including but not limited to: 1) Newport Car Wash located at 3767 Birch St., Newport Beach; 2) The Car Spa located at 1200 West Coast Hwy., Newport Beach; 3) Newport Coast Car Wash located at 4200 Birch St., Newport Beach; 4) Car-Wash Newport Beach located at 2285 Newport Blvd., Costa Mesa; 5) Beach Cities Car Wash located at 1645 Superior Ave., Costa Mesa; 6) Newport Car Wash & Detail Center located at 3793 Birch St., Newport Beach; and 7) Newport Mesa Car Wash & Services located at 2015 Harbor Blvd. #B, Costa Mesa.

4.8.2 Regulatory Setting

The following is a brief description of the federal, State, and local environmental laws and related regulations related to land use and planning.

A. State Plans, Policies, and Regulations

1. California Planning and Zoning Law

The legal framework in which California cities and counties exercise local planning and land use functions is set forth in the California Planning and Zoning Law, §§ 65000 - 66499.58. Under State of California planning law, each city and county must adopt a comprehensive, long-term general plan. State law gives cities and counties wide latitude in how a jurisdiction may create a general plan, but

there are fundamental requirements that must be met. These requirements include the inclusion of seven mandatory elements described in the Government Code, including a section on land use. Each of the elements must contain text and descriptions setting forth objectives, principles, standards, policies, and plan proposals; diagrams and maps that incorporate data and analysis; and mitigation measures. (OPR, 2020)

2. Office of Planning and Research (OPR) General Plan Guidelines

Each city and county in California must prepare a comprehensive, long term general plan to guide its future. To assist local governments in meeting this responsibility, the Governor's Office of Planning and Research (OPR) is required to adopt and periodically revise guidelines for the preparation and content of local general plans pursuant to Government Code § 65040.2. The General Plan Guidelines is advisory, not mandatory. Nevertheless, it is the state's only official document explaining California's legal requirements for general plans. Planners, decision-making bodies, and the public depend upon the General Plan Guidelines for help when preparing local general plans. The courts have periodically referred to the General Plan Guidelines for assistance in determining compliance with planning law. For this reason, the General Plan Guidelines closely adheres to statute and case law. It also relies upon commonly accepted principles of contemporary planning practice. (OPR, 2017b, p. 1)

B. Local Plans, Policies, and Regulations

1. Southern California Association of Governments (SCAG)

The Southern California Association of Governments (SCAG) is a Joint Powers Authority (JPA) established pursuant to CA Gov. Code § 6500, Joint Powers Authority law. SCAG is designated as a Council of Governments (COG), a Regional Transportation Planning Agency (RTPA), and a Metropolitan Planning Organization (MPO). The SCAG region encompasses six counties (Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura) and 191 cities in an area covering more than 38,000 square miles. SCAG serves as an area-wide clearinghouse for regionally significant projects. SCAG reviews the consistency of local plans, projects, and programs with regional plans. Guidance provided by this review process is intended to assist local agencies and project sponsors to take actions that contribute to the attainment of regional goals and policies. Additionally, SCAG develops long-range regional transportation plans including sustainable communities strategy and growth forecast components, regional transportation improvement programs, regional housing needs allocations and other plans for the region. (SCAG, 2020b)

The Project site is located within the Orange County Transportation Authority (OCTA)/Orange County Council of Governments (OCCOG) sub-region of SCAG. SCAG's *2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS)*, which is referred to herein as *Connect SoCal* (refer to the description of *Connect SoCal*, below) was adopted by SCAG in September 2020.

2. *SCAQMD Air Quality Management Plan*

An AQMP is a plan for the regional improvement of air quality. The SCAQMD *2016 AQMP* is the applicable AQMP for the South Coast Air Basin and was approved by the SCAQMD Governing Board in March 2017 (SCAQMD, 2017b). The Project's consistency with the *2016 AQMP* was analyzed in detail in EIR Subsection 4.2, *Air Quality*, and as such is not further evaluated in this Subsection 4.8.

3. *City of Newport Beach General Plan*

The City of Newport Beach General Plan, adopted July 25, 2006, is a policy document that reflects the City's vision for the future of the City of Newport Beach. The General Plan is organized into 10 separate elements that contain a series of policies to guide the City's vision for future development. The relevant elements from the City of Newport Beach General Plan are summarized below:

- **Land Use Element:** The Land Use Element provides guidance regarding the ultimate pattern of development for Newport Beach at build-out. As such, it is based on and correlates the policies from all elements into a set of coherent development policies, which serve as the central organizing element for the General Plan as a whole. The General Plan Land Use Map captures and communicates the City's long-term desires for the future use and development of their land resources. (City of Newport Beach, 2006a, pp. 3-2 and 3-3) The General Plan identifies the Project site as being within Statistical Area L1 (Newport Center/Fashion Island Sub-Area) and designates the Project site for Regional Commercial Office (CO-R) land uses, subject to the development limits established for Anomaly 35, which limits CO-R development square footage within the Anomaly area to 199,095 S.F. (City of Newport Beach, 2006a, Figure LU1, Table LU2) The CO-R land use designation is intended to provide for administrative and professional offices that serve local and regional markets, with limited accessory retail, financial, service, and entertainment uses. (City of Newport Beach, 2006a, p. 3-13)

- **Harbor and Bay Element:** The goals and policies of the Harbor and Bay Element intend to guide the content of regulations related to development of, and the activities conducted on, the water. Additional goals and policies recognize the important component of land use decisions related to waterfront property around Newport Harbor. The aim of the Harbor and Bay Element goals and policies are to preserve the diversity and charm of existing uses without unduly restricting the rights of the waterfront property owner. Goals and policies within the Harbor and Bay Element have been organized to address both water and land related issues, provision of public access, water quality and environmental issues, visual characteristics, and the administration of the Harbor and Bay. (City of Newport Beach, 2006a, pp. 4-2 and 4-3)

- **Housing Element:** The City of Newport Beach's Housing Element details the City's strategy for enhancing and preserving the community's character, identifies strategies for expanding housing opportunities and services for all household types and income groups, and provides the primary policy guidance for local decision-making related to housing. The Housing

Element provides in-depth analysis of the City's population, economic, and housing stock characteristics as well as a comprehensive evaluation of programs and regulations related to housing. Through this evaluation and analysis, the City identifies priority goals, polices, and programs that directly address the housing needs of current and future City residents. (City of Newport Beach, 2006a, p. 5-2) The City Council adopted the *2008-2014 Housing Element* update on November 22, 2011 and on December 29, 2011, the Department of Housing and Community Development (HCD) made a final determination finding that the Housing Element is in full compliance with State housing element law. At the time of this EIR, the City is updating the Housing Element for the next planning period; therefore, the Housing Element that is applicable to the proposed Project is the adopted *2014-2021 Housing Element*. (City of Newport Beach, 2021) (Newport Beach, 2013)

Regarding the City of Newport Beach Housing Plan, the Regional Housing Needs Assessment (RHNA) is mandated by State Housing Law as part of the periodic process of updating local housing elements of the General Plan. The RHNA quantifies the need for housing within each jurisdiction during specified planning periods. As part of the RHNA process, the State Department of Housing and Community Development (HCD) provides a regional housing need determination to the Southern California Association of Governments (SCAG), the region's council of governments. The *6th Cycle Final RHNA Allocation Plan*, which covers the planning period October 2021 through October 2029 was adopted in March 2021. For the 6th cycle, the allocation is 1,341,827 total housing units for Orange County. For Newport Beach, SCAG's methodology results in a RHNA allocation of 4,845 total dwelling units that the City must plan for in the October 2021-October 2029 Housing Element planning period. Every jurisdiction must plan for its RHNA allocation in the housing element of its General Plan by ensuring there are enough sites and zoning to accommodate their RHNA allocation. (City of Newport Beach, 2020) (SCAG, 2021a; SCAG, 2021b)

- **Historical Resources Element:** The Historical Resources Element addresses the protection and sustainability of Newport Beach's historic and paleontological resources. Goals and policies presented within this Element are intended to recognize, maintain, and protect the community's unique historical, cultural, and archeological sites and structures. Preserving and maintaining these resources helps to create an awareness and appreciation of the City's rich history. (City of Newport Beach, 2006a, p. 6-2)

- **Circulation Element:** The Circulation Element governs the long-term mobility system of the City of Newport Beach. The goals and policies in this Element are closely correlated with the Land Use Element and are intended to provide the best possible balance between the City's future growth and land use development, roadway size, traffic service levels and community character. The Element is also consistent with the Transportation Demand Management Ordinance and the Local Coastal Program which is currently being updated by the City of Newport Beach. (City of Newport Beach, 2006a, p. 7-2)

- **Recreation Element:** The primary purpose of the Recreation Element is to ensure that the balance between the provision of sufficient parks and recreation facilities are appropriate for the residential and business population of Newport Beach. Specific recreational issues and policies contained in this Recreation Element include: parks and recreation facilities, recreation programs, shared facilities, coastal recreation and support facilities, marine recreation, and public access. (City of Newport Beach, 2006a, p. 8-2)

- **Arts and Cultural Element:** The goals and policies of the Arts and Culture Element are intended to be a guide for meeting the future cultural needs of the community. This Element is intended to serve as a mechanism for integrating these resources in order to provide improved and expanded arts and cultural facilities and programs to the community. (City of Newport Beach, 2006a, p. 9-2)

- **Natural Resources Element:** The primary objective of the Natural Resources Element is to provide direction regarding the conservation, development, and utilization of natural resources. It identifies Newport Beach's natural resources and provides goals and policies for their preservation, development, and wise use. This Element addresses: water supply (as a resource) and water quality (includes bay and ocean quality, and potable drinking water), air quality, terrestrial and marine biological resources, open space, archaeological and paleontological resources, mineral resources, visual resources, and energy. (City of Newport Beach, 2006a, p. 10-2)

- **Safety Element:** The primary goal of the Safety Element is to reduce the potential risk of death, injuries, property damage, and economic and social dislocation resulting from natural and human-induced hazards. This Element recognizes and responds to public health and safety risks that could cause exposure to the residents of Newport Beach. The Safety Element specifically addresses coastal hazards, geologic hazards, seismic hazards, flood hazards, wildland and urban fire hazards, hazardous materials, aviation hazards, and disaster planning. (City of Newport Beach, 2006a, p. 11-2)

- **Noise Element:** The Noise Element is a tool for including noise control in the planning process in order to maintain compatible land use with environmental noise levels. This Element identifies noise sensitive land uses and noise sources, and defines areas of noise impact for the purpose of developing policies to ensure that Newport Beach residents will be protected from excessive noise intrusion. The Noise Element provides the framework to achieve compatible land uses and provide baseline levels and noise source identification for local noise ordinance enforcement. (City of Newport Beach, 2006a, p. 12-2)

4. City of Newport Beach Zoning Code

The Project site is within the "Office - Regional (OR)" Zoning District (City of Newport Beach, 2019). According to the City of Newport Beach Zoning Code, the OR Zoning District is intended to provide for areas appropriate for corporate offices, administrative and professional offices that serve local and

regional markets, with limited accessory financial, retail, service, and entertainment uses. (City of Newport Beach, 2020a, Title 20)

4.8.3 Basis for Determining Significance

Based on the results of the Initial Study, it was determined that the Project has the potential to result in a significant impact to land use and planning if the Project or any Project-related component would:

> b. *Cause a significant environmental impact due to a conflict with any land use plan, policy or regulation adopted for the purpose of avoiding or mitigating an environmental effect.*

4.8.4 Impact Analysis

Threshold b:	***Would the Project cause a significant environmental impact due to a conflict with any land use plan, policy or regulation adopted for the purpose of avoiding or mitigating an environmental effect?***

Less than Significant Impact

A. Impact SCAG Regional Transportation Plan and Sustainable Communities Strategy

As shown in Table 4.8-1, *SCAG's RTP/SCS Goal Consistency Analysis*, the Project would not conflict with the adopted goals of *Connect SoCal*.

Table 4.8-1 SCAG's RTP/SCS Goal Consistency Analysis

RTP/SCS Goal	Goal Statement	Project Consistency Discussion
Connect SoCal		
1	Encourage regional economic prosperity and global competitiveness.	No conflict. This policy would be implemented by cities and the counties within the SCAG region as part of comprehensive local and regional planning efforts. The Project would have no adverse effect on such planning efforts.
2	Improve mobility, accessibility, reliability, and travel safety for people and goods.	No conflict. As discussed in Section 3.0, *Project Description*, the Project would provide a visitor entry along the front facade of the building facing Anacapa Drive as well as an access driveway on the south side of the building that would provide direct access to the subterranean parking structure. The development of the Project as a residential use provides a pedestrian and bicycle-friendly housing option that improves accessibility to neighboring goods and services as well as employment options. As analyzed in EIR Subsection 4.10, *Transportation*, because the Project would be consistent with the City's Traffic Phasing

Table 4.8-1 SCAG's RTP/SCS Goal Consistency Analysis

RTP/SCS GOAL	GOAL STATEMENT	PROJECT CONSISTENCY DISCUSSION
Connect SoCal		
		Ordinance (TPO) guidelines, the Project's impacts to the City's circulation system would be less than significant. The Project is not expected to attract large volumes of pedestrian or bicycle traffic because the Project is expected to accommodate up to only approximately 62 new residents. There is an existing sidewalk along the Project site's frontage on Newport Center Drive and an existing sidewalk along the Project site's frontage on Anacapa Drive. There are also existing Class II bicycle lanes along the Project site's frontage on Newport Center Drive and Anacapa Drive. According to the City's General Plan and Bicycle Master Plan, there are no new proposed sidewalks, bicycle lanes, or trails abutting the Project site or within the Project site vicinity. The Project would not interfere with the existing sidewalks and bicycle lanes along the Project site's frontage on Newport Center Drive and Anacapa Road. In addition, there are three existing bus stops within 400 feet of the Project site along Newport Center Drive and the Project site is close, (less than 0.50) mile from the transit hub. Because the Project site is in close proximity to the existing sidewalks, bicycle lanes, and bus stop, as well as the transit hub, Project residents would have multiple travel choices within the transportation system. The Project would not conflict with a program, plan, ordinance, or policy addressing the circulation system; therefore, no conflict is identified.
3	Enhance the preservation, security, and resilience of the regional transportation system.	No conflict. This policy would be implemented by the cities and the counties within the SCAG region as part of the overall planning and maintenance of the regional transportation system. The Project would have no adverse effect on such planning or maintenance efforts.

Table 4.8-1 SCAG's RTP/SCS Goal Consistency Analysis

RTP/SCS GOAL	GOAL STATEMENT	PROJECT CONSISTENCY DISCUSSION
Connect SoCal		
4	Increase person and goods movement and travel choices within the transportation system.	No conflict. The Project involves a residential development in close proximity to the Newport Center/Fashion Island area. Bicycle lanes, as well as sidewalks exist along Newport Center Drive and Anacapa Drive that abut the Project site. In addition, there are three existing bus stops within 400 feet of the Project site along Newport Center Drive and the Project site is close, (less than 0.50) mile from the transit hub. Because the Project would be in close proximity to the existing sidewalks, bicycle lanes, bus stops, and the transit hub, Project residents would have multiple travel choices within the transportation system.
5	Reduce greenhouse gas emission and improve air quality.	No conflict. Air quality and greenhouse gas emissions are addressed in EIR Subsection 4.2, *Air Quality*, and EIR Subsection 4.6, *Greenhouse Gas Emissions*, respectively. The proposed Project involves a residential development that is estimated to generate 62 residents and is therefore not known to be a source of a large quantity of air and greenhouse gas emissions. The Project would not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP; therefore, the Project would be consistent with the AQMP. In addition, the Project would not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP.
6	Support healthy and equitable communities.	No conflict. This policy pertains to health and equitable communities, and these issues are addressed through goals and policies outlined in the Safety Element of the City's General Plan. Relevant to the Project, the proposed building design would support the health of occupants and users by using non-toxic building materials and finishes per the California Building Code, and by using windows and design features to maximize natural light and ventilation.
7	Adapt to a changing climate and support an integrated regional development pattern and transportation network.	No conflict. The Project involves the redevelopment of a property utilized as a car wash, with residential development that would reduce the commuting distance between home and jobs by placing housing near the Newport Center/Fashion Island area, an area of both high- and low-rise offices and retail.

Table 4.8-1 SCAG's RTP/SCS Goal Consistency Analysis

RTP/SCS GOAL	GOAL STATEMENT	PROJECT CONSISTENCY DISCUSSION
Connect SoCal		
8	Leverage new transportation technologies and data-driven solutions that result in more efficient travel.	No conflict. *Connect SoCal* indicates that the advancement of automation is expected to have considerable impacts throughout regional supply chains. The Project Applicant's proposed residential development would not interfere with the City's ability to encourage new transportation technologies and data-driven solutions that result in more efficient travel.
9	Encourage development of diverse housing types in areas that are supported by multiple transportation options.	No conflict. The Project Applicant proposes 28 condominium units, which would introduce a new housing type (residential flats) to the housing stock in the area that is in close proximity to multiple existing transportation options (i.e., sidewalks along Newport Center Drive and Anacapa Drive, bicycle lanes along Newport Center Drive and Anacapa Drive, and three bus stops along Newport Center Drive).
10	Promote conservation of natural and agricultural lands and restoration of habitats.	No conflict. The Project site is currently developed/built-out with an operating car wash. As disclosed in EIR Subsection 4.3, *Biological Resources*, mitigation is applied to the Project site to protect potential impacts to migratory nesting birds, if the species are present prior to construction. The Project site and off-site improvement areas are fully developed and do not contain any sensitive habitat. Therefore, implementation of the Project would not interfere with City's ability to promote the conservation of natural and agricultural lands and the restoration of habitats. Additionally, the Project site does not include any land designated for agricultural uses.

B. Analysis of Consistency with the SCAQMD Air Quality Management Plan

As discussed in EIR Subsection 4.2, *Air Quality*, because the Project would not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP and would not exceed the growth assumptions in the AQMP, the Project would be consistent with the AQMP and impacts would be less-than-significant.

C. Analysis of Consistency with the City of Newport Beach General Plan

The General Plan identifies the Project site as being within Statistical Area L1 and designates the Project site for "Regional Commercial Office (CO-R)" land uses, subject to the development limits established for Anomaly 35, which limits "CO-R" development square footage within the Anomaly area to 199,095 S.F. (City of Newport Beach, 2006a, Figure LU1, Table LU2). The "CO-R" land use designation is intended to provide for administrative and professional offices that serve local and

regional markets, with limited accessory retail, financial, service, and entertainment uses (City of Newport Beach, 2006a, p. 3-13)

Prior to the approval of the proposed General Plan Amendment (and in the absence of such approval), the proposed Project would be inconsistent with the land use designation for the Project site. However, with the approval of the proposed General Plan Amendment, the Project would be consistent with the land use designations in the General Plan, as modified by the Project. Moreover, as identified in Table 4.8-2, *Project Consistency with the City of Newport Beach General Plan*, which lists applicable General Plan Policies and provides an analysis as to the Project's consistency with each respective policy, the Project would be consistent with the applicable General Plan policies.

Throughout this EIR, analysis is presented that evaluates the environmental effects of redeveloping the Project site with a mid-rise residential condominium project. Impacts are found to be less than significant or less than significant with mitigation incorporated. Although the Project proposes a General Plan Amendment, no impacts associated with the land use change would be significant and unavoidable.

CEQA's requirement is that "inconsistencies" with general plan policies and municipal ordinances be analyzed. Where project elements are determined to be consistent with planning policies, only brief statements to that effect are necessary. See Marin Mun. Water Dist. v. KG Land Cal. Corp. (1991) 235 Cal.App.3d 1652, 1668 (upholding a brief discussion of project consistency with local general plan). Also, the ultimate decision on whether a project is consistent with planning policies is made by the Planning Commission and City Council when considering project approval.

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan

POLICY OR PROGRAM	PROJECT CONSISTENCY DISCUSSION
Land Use Element	
Policy 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.	No conflict. The Project Applicant proposes residential land uses on a fully developed site in Newport Center, which is located in an urbanized portion of the City of Newport Beach. Adding housing within walking distance to shopping, entertainment, and employment opportunities would be expected to reduce the need to drive a motor vehicle, and reduce impacts associated with traffic and vehicular-related air emissions and noise. The Project site does not contain any open space or natural resources and would not impede the preservation of open space and natural resources elsewhere in the City of Newport Beach. Therefore, the Project would be consistent with Policy LU 1.4.
Policy LU 1.6. Public Views. Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains,	No conflict. The Project would introduce one mid-rise multi-family residential building to a portion of Newport Beach that is built-out with existing high-rise

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan	
POLICY OR PROGRAM	**PROJECT CONSISTENCY DISCUSSION**
canyons, ridges, ocean, and harbor from public vantage points.	and low-rise office buildings and hotels, as well as the Fashion Island Shopping Center located directly north of the Project site. The Project's architectural design has been designed to be complementary in type, form, scale, and character with existing and planned surrounding land uses. A detailed analysis regarding the potential impacts to scenic and visual resources in relation to public vantage points is provided in Subsection 4.1, *Aesthetics* of this EIR, which concludes that potential impacts to public views would be less than significant. Therefore, the Project would be consistent with Policy LU 1.6.
Policy 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.	No conflict. The Project site is the location of the Newport Beach Car Wash, which the Project Applicant has indicated does not support the land value and purchase price of the property, and thus is economically underperforming (Newport Center Anacapa Associates, LLC, 2020). The Project Applicant proposes to redevelop the Project site with a 28-unit mid-rise residential building on the 1.26-acre site. The proposed use would assist the City in meeting its housing allocation goals and requirements and also reduce the commuting distance between the new housing units and nearby jobs, services, and entertainment. The site is located in the Newport Center/Fashion Island area, an area of both high- and low-rise offices and retail. The implementation of the Project would not interfere with the City of Newport Beach's ability to implement this policy; therefore, the Project would be consistent with Policy LU 3.2.
Policy LU 3.3, Opportunities for Change. Provide opportunities for improved development and enhanced environments for residents in the following districts and corridors, as specified in Polices 6.3.1 through 6.22.7: Fashion Island/Newport Center: expanded retail uses and hotel rooms and development of residential in proximity to jobs and services, while limiting increases in office development	No conflict. The Project would provide for 28 condominium units in proximity to jobs and services in the Fashion Island/Newport Center area. The Project would diversify the land use mixture in the area and would not result in an increase of office development in this portion of the City. Therefore, the Project would be consistent with Policy LU 3.3.
Policy LU 5.1.1, Compatible but Diverse Development. Establish property development regulations for residential projects to create	No conflict. The Project Applicant proposes a Planned Community that would establish the development regulations for the Project including architectural design characteristics, development standards, and site

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan	
POLICY OR PROGRAM	**PROJECT CONSISTENCY DISCUSSION**
compatible and high-quality development that contributes to neighborhood character.	development review procedures. These components are intended to result in an architecturally compatible and high-quality Project design within Newport Center. Therefore, the Project would result in a high-quality development that contributes to neighborhood character. Therefore, the Project would be consistent with Policy LU 5.1.1.
Policy LU 6.14.2. Newport Center ["MU-H3," "CO-R," "CO-M," and "RM" designations]. Provide the opportunity for limited residential, hotel, and office development in accordance with the limits specified by Tables LU1 and LU2.	Inconsistent, but No Resulting Unavoidable Environmental Effects. The Project would redevelop the site within the Newport Center area of Newport Beach with a mid-rise multi-family residential condominium project that would add limited residential use to the area through a General Plan Amendment to accommodate the additional residential density. However, no impacts associated with the land use change would be significant and unavoidable. Thus, the proposed Project would be inconsistent with Policy LU 6.14.2, however, no impacts would be significant and unavoidable. If approved, the Project would become consistent with General Plan Policy LU6.14.2 because Table LU2 of the Land Use Element would be updated to include the proposed residential units as part of the limited residential development identified in this policy.
Policy LU 6.14.4. Development Scale. Reinforce the original design concept for Newport Center by concentrating the greatest building mass and height in the northeasterly section along San Joaquin Hills Road, where the natural topography is highest and progressively scaling down building mass and height to follow the lower elevations toward the southwesterly edge along Pacific Coast Highway.	No conflict. The Project's proposed building mass is architecturally well-articulated and although the building height is taller than buildings on adjacent parcels, the proposed height is comparable to other buildings in the surrounding area. The Project's proposed building would have a scaled-down mass and height compared to the buildings positioned closer to San Joaquin Hills Road. The Project would not conflict with Policy LU 6.14.4.
Policy LU 6.15.23. Sustainable Development Practices. Require that development achieves a high level of environmental sustainability that reduces pollution and consumption of energy, water, and natural resources. This may be accomplished through the mix and density of uses, building location and design, transportation modes, and other techniques. Among the strategies that should be considered are the integration of residential with jobs-generating uses, use of alternative transportation modes, maximized	No conflict. Compliance with California Building Standards Code, Title 24, Part 6, Energy Efficiency Standards and California Green Building Standards Code (CALGreen) is considered demonstrable evidence of efficient use of energy. The proposed building would be required to promote and provide for energy efficiencies as required by CALGreen, and in so doing would meet all California Building Standards Code Title 24 standards. G. The Project would provide a new multi-family residential development in Newport Center that is within walking distance of, and has

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan	
POLICY OR PROGRAM	**PROJECT CONSISTENCY DISCUSSION**
walkability, use of recycled materials, capture and re-use of storm water on-site, water conserving fixtures and landscapes, and architectural elements that reduce heat gain and loss.	pedestrian connections to, employment, shopping, entertainment, public services, and recreation. The Project would redevelop a property that uses outdated operational technologies with a new use that is designed to be energy efficient and avoid the excessive use of energy and water.
Harbor and Bay Element	
The goals and policies of the Harbor and Bay Element intend to guide the content of regulations related to development of, and the activities conducted on, the water. Additional goals and policies recognize the important component of land use decisions related to waterfront property around Newport Harbor. Because the proposed Project is not located in a harbor or a bay; there are no policies from the General Plan Harbor and Bay Element that would be applicable to the proposed Project.	
Policy LU 6.14.6. Pedestrian Connectivity and Amenity. Encourage that pedestrian access and connections among uses within the district be improved with additional walkways and streetscape amenities concurrent with the development of expanded and new uses.	No conflict. The Project includes a pedestrian walkway and pedestrians would be able to travel to and from the Project site via the existing crosswalk at the intersection of Anacapa Drive and Newport Center Drive. The crosswalks connect to Fashion Island regional shopping center to the north and to the commercial development directly to the east. Additionally, streetscape amenities such as new street trees are proposed along Anacapa Drive. Accordingly, the Project would be consistent with Policy LU 6.14.6
Housing Element	
No conflict. Because the proposed Project is adding 28 residential units to the City's housing inventory, development of the Projects helps the City to meet its housing goals.	
Historical Resources Element	
HR 2.1 New Development Activities. Require that, in accordance with CEQA, new development protect and preserve paleontological and archaeological resources from destruction, and avoid and mitigate impacts to such resources. Through planning policies and permit conditions, ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA.	No conflict. The proposed Project has the potential to result in impacts to paleontological and archaeological resources during excavation. However, mitigation measures identified in this EIR would reduce potential impacts to paleontological and archaeological resources to a less than significant level. Refer to EIR Subsection 4.4, *Cultural Resources,* for a detailed discussion of impacts to cultural resources and refer to EIR Subsection 4.5, *Geology and Soils,* for a detailed discussion of the Project's potential to impact paleontological resources.
Circulation Element	
Policy CE 4.1.4:Land Use Densities Supporting Public Transit. Accommodate residential densities sufficient to support transit patronage, especially in mixed use areas such as the Airport Area.	No conflict. The vicinity of the Project site is served by the Orange County Transportation Agency (OCTA), a public transit agency serving Orange County. The Newport Transportation Center/Park-and-Ride, located at the intersection of Avocado Avenue and San

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan	
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	Nicholas, provides access to the following OCTA bus routes in the Project area on Newport Center Drive via Routes 1, 57, and 79. The three nearest bus stops each with Routes 1, 57, and 79 are located approximately 124 feet north of the Project site, approximately 150 feet east of the Project site, and approximately 390 feet west of the Project site. No bus stops are located along Anacapa Drive. Approximately 0.6 mile from the Project site is the Newport Transportation Center, from which OCTA bus routes 1, 55, 57, and 79 arrive. The proposed Project does not include any components that would impede the use of these transit facilities. Accordingly, the Project would be consistent with Circulation Element Policy CE 4.1.4.
Policy CE 5.1.2:Pedestrian Connectivity. Link residential areas, schools, parks, and commercial centers so that residents can travel within the community without driving.	No conflict. The Project would reduce existing vehicular traffic volumes from the car wash and develop a residential building in an urban setting that has an established pedestrian and bicycle network. As detailed in the grading plan for the proposed Project, the existing three-foot sidewalk easement, along the northern and eastern boundaries of the Project site, would be maintained. Thus, pedestrians would have access from the Project site to sidewalks, commercial centers, and nearby park uses in the Project vicinity. Accordingly, the Project would be consistent with Circulation Element Policy CE 5.1.2.
Policy CE 5.1.3:Pedestrian Improvements in New Development Projects. Require new development projects to include safe and attractive sidewalks, walkways, and bike lanes in accordance with the Master Plan, and, if feasible, trails.	Consistent. The Project will utilize an existing network of pedestrian improvements. With regard to pedestrian movement around the Project site, sidewalks are located along Anacapa Drive bordering the Project site to the east and along Newport Center Drive bordering the Project site to the north. Crosswalks are located at the intersection of Anacapa Drive and Newport Center Drive and provide pedestrian access to nearby businesses and the Fashion Island shopping center. Pedestrian activity in the Project area is generally from persons walking to/from nearby offices and the Fashion Island shopping center. Existing Class II (on-road striped) bicycle lanes abuts the Project site to the north along Newport Center Drive

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan	
POLICY OR PROGRAM	**PROJECT CONSISTENCY DISCUSSION**
	and along Anacapa Drive. No existing equestrian trails or hiking trails are located along Newport Center Drive bordering the Project site to the north or along Anacapa Drive bordering the Project site to the east.
Policy CE 5.1.16: Bicycle and Pedestrian Safety. Provide for the safety of bicyclists and pedestrians through provision of adequate facilities, including maintenance of extra sidewalk width where feasible.	No conflict. The Project includes a pedestrian walkway and pedestrians would be able to travel to and from the Project site via the existing crosswalk at the intersection of Anacapa Drive and Newport Center Drive. The crosswalks connect to Fashion Island regional shopping center to the north and to the commercial development directly to the east. In addition, existing Class II (on-road striped) bicycle lanes abuts the Project site along Newport Center Drive and Anacapa Drive bordering the Project site.
Policy CE 7.1.1:Required Parking. Require that new development provide adequate, convenient parking for residents, guests, business patrons, and visitors.	No conflict. The Project is designed for two levels of parking. Level B-1 would allow resident and visitor access. Each residential unit would have a designated private 2-car subterranean garage. The Project would provide a total of 85 parking stalls, consisting of 57 residential parking stalls (56 required) 24 guest parking stalls (14 required). Of the 24 guest parking stalls, 4 would be accessible (4 required). The guest parking spaces are designed to be accessed by the valet via a one-way internal ramp at the southern end of the entry driveway. Valet service would return the vehicles to the front entrance via the main entrance on Anacapa Drive. A total of 24 guest parking stalls would be provided with 12 guest stalls on Parking Level 1 and 12 guest stalls on Parking Level 2. Guest stalls can be used by either guests or employees. Accordingly, the Project would provide adequate parking and would therefore be consistent with Circulation Element Policy 7.1.1.
Recreation Element	
Policy R 1.1 New Residential Subdivisions. Require developers of new residential subdivisions to provide parklands at five acres per 1,000 persons, as stated in the City's Park Dedication Fee Ordinance, or to contribute in-lieu fees for the development of public recreation facilities meeting demands generated by the development's resident population, as required in the City's Park Dedications Fees Ordinance.	No conflict. Due to the small size of the Project site (1.26 acres), the Project does not include any on-site parkland. The Project Applicant would be required to pay in-lieu park fees for 28 dwelling units, as required by the City of Newport Beach.
Arts and Cultural Element	

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POLICY OR PROGRAM	**PROJECT CONSISTENCY DISCUSSION**
Because the proposed Project is not planned for arts and cultural uses, there are no policies from the General Plan Arts and Cultural Element that would be applicable to the proposed Project.	
Natural Resources Element	
Policy NR 1.1 Water Conservation in New Development. Enforce water conservation measures that limit water usage, prohibit activities that waste water or cause runoff, and require the use of water–efficient landscaping and irrigation in conjunction with new construction projects.	No conflict. As depicted on Figure 3-9, *Conceptual Landscape Plan,* landscaping would be provided on the perimeter of the site and throughout the site in open areas. All setback areas are proposed to be landscaped with a variety of ornamental groundcover, vines, shrubs, and trees meeting City Municipal Code Title 14, Chapter 14.17, Water-Efficient Landscaping, which requires water use reduction associated with landscaping. As shown on Figure 3-10, T*ree Plan, Notes and Plant Palette*, a variety of shrubs and trees would be planted along the building's perimeter that are suitable to that particular hydrozone, and medium/low enhanced shrubs would be planted in the pool and courtyard area. In the limited site area near the main entry and the front façade of the building facing Anacapa Drive, all tree branches would be trimmed to 8-feet high above finish grade and all shrubs within the limited area would be maintained at 24-inches high maximum. All above-ground utilities would be screened with evergreen plant materials and meet the Newport Beach Fire Department, Southern California Edison (SCE) and Gas Co. clearance requirements.
Policy NR 1.2 Use of Water Conserving Devices. Establish and actively promote use of water conserving devices and practices in both new construction and major alterations and additions to existing buildings. This can include the use of rainwater capture, storage, and reuse facilities.	No conflict. See response to Policy NR 1.1
Policy NR 3.4 Storm Drain Sewer System Permit. Require all development to comply with the regulations under the City's municipal separate storm drain system permit under the National Pollutant Discharge Elimination System.	No conflict. Pursuant to the requirements of the Santa Ana RWQCB and the City of Newport Beach, the Project Applicant would be required to obtain a NPDES Municipal Storm Water Permit for construction activities. The NPDES permit is required for all projects that include construction activities, such as clearing, grading, and/or excavation that disturb at least one acre of total land area. In addition, the Project would be required to comply with the Santa Ana RWQCB's Santa Ana River Basin Water Quality Control Program.

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	Compliance with the NPDES permit and the Santa Ana River Basin Water Quality Control Program.
Policy NR 3.9 Water Quality Management Plan. Require new development applications to include a Water Quality Management Plan (WQMP) to minimize runoff from rainfall events during construction and post-construction.	No conflict. A Preliminary Water Quality Management Plan (WQMP) was prepared for the proposed Project and was submitted to the City as part of the Project's application materials reviewed by City staff. The WQMP is available for review as part of the Project's Administrative Record on file at the City of Newport Beach. Pursuant to the requirements of the Santa Ana RWQCB and the City of Newport Beach, the Project Applicant would be required to obtain a NPDES Municipal Storm Water Permit for construction activities. The NPDES permit is required for all projects that include construction activities, such as clearing, grading, and/or excavation that disturb at least one acre of total land area. In addition, the Project would be required to comply with the Santa Ana RWQCB's Santa Ana River Basin Water Quality Control Program. Compliance with the NPDES permit and the Santa Ana River Basin Water Quality Control Program involves the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) for construction-related activities. The SWPPP would specify the Best Management Practices (BMPs) that the Project would be required to implement during construction activities to ensure that all potential pollutants of concern (including sediment) are prevented, minimized, and/or otherwise appropriately treated prior to being discharged from the subject property. Mandatory compliance with the SWPPP would ensure that the Project does not violate any water quality standards or waste discharge requirements during construction activities.
Policy NR 3.11 Site Design and Source Control. Include site design and source control BMPs in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality as required by the National Pollutant Discharge Elimination System (NPDES), structural treatment BMPs will be implemented along with site design and source control measures.	No conflict. The WQMP for the proposed Project contains both site design and source control best management practices (BMPs).

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan	
POLICY OR PROGRAM	**PROJECT CONSISTENCY DISCUSSION**
Policy NR 3.14 Runoff Reduction on Private Property. Retain runoff on private property to prevent the transport of pollutants into natural water bodies, to the maximum extent practicable.	No conflict. Mandatory compliance with the Project's WQMP would ensure that the Project does not violate any water quality standards or waste discharge requirements during long-term operation. Additionally, the Project and its WQMP are required to comply with provisions set forth in the Orange County Drainage Area Management Plan (DAMP), including the implementation of appropriate BMPs identified in the DAMP, to control stormwater runoff on-site so as to prevent any deterioration of water quality that would impair subsequent or competing beneficial uses of the water (City of Newport Beach, 2006a, p. 4.7-31). As detailed in the Project's Preliminary WQMP on file with the City and prepared by Fuscoe Engineering, the Project would not substantially alter the chemical composition of storm water runoff discharged from the subject property as compared to existing conditions (Fuscoe, 2020)). Storm water pollutants commonly associated with residential land uses include suspended solids/sediments, nutrients, pathogens (bacteria/ viruses), pesticides, and trash/debris ((Fuscoe, 2020, p. 8). These urban types of storm water pollutants are also characteristic of the land uses that occupy the Project site under existing conditions (i.e., car wash, ancillary gas station, and surface parking lot). As detailed in the Project's Preliminary WQMP, the Project would not result in a substantial increase in the potential for polluted storm water runoff to occur compared to the existing condition. As also detailed in the Project's Preliminary WQMP, under the proposed conditions, the runoff will continue to drain towards the southwest portion of the site where a new area storm drain section will be constructed on the south, east and northern sections of the site. The new storm drain lines will tie into the existing 10" storm drain and catch basin at the southwest most end of the site. The storm drain system would discharge into the City's MS4 along Civic Center Drive towards SR-1, where it is conveyed west to the Lower Newport Bay where it is ultimately discharged ((Fuscoe, 2020, p. 9).

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan	
POLICY OR PROGRAM	**PROJECT CONSISTENCY DISCUSSION**
Policy NR 3.15 Street Drainage Systems. Require all street drainage systems and other physical improvements created by the City, or developers of new subdivisions, to be designed, constructed, and maintained to minimize adverse impacts on water quality. Investigate the possibility of treating or diverting street drainage to minimize impacts to water bodies.	No conflict. See response for Policy NR 3.14 above.
Policy NR 3.19 Natural Drainage Systems. Require incorporation of natural drainage systems and stormwater detention facilities into new developments, where appropriate and feasible, to retain stormwater in order to increase groundwater recharge.	No conflict. See response for Policy NR 3.14 above.
Policy NR 3.20 Impervious Surfaces. Require new development and public improvements to minimize the creation of and increases in impervious surfaces, especially directly connected impervious areas, to the maximum extent practicable. Require redevelopment to increase area of pervious surfaces, where feasible.	No conflict. See response for Policy NR 3.14 above.
Policy NR 6.1: Walkable Neighborhoods. Provide for walkable neighborhoods to reduce vehicle trips by siting amenities such as services, parks, and schools in close proximity to residential areas.	No conflict. The Project includes a pedestrian walkway and pedestrians would be able to travel to and from the Project site via the existing crosswalk at the intersection of Anacapa Drive and Newport Center Drive. The crosswalks connect to Fashion Island regional shopping center to the north and to the commercial development directly to the east.
Policy NR 6.8: Accessible Alternative Fuel Infrastructure. Support the development of alternative fuel infrastructure that is available and accessible to the public, and provide incentives for alternative fuel vehicles**.**	No conflict. The Project's subterranean parking structure would provide for electric vehicle (EV) parking.
Policy NR 7.2: Source Emission Reduction Best Management Practices. Require the use of Best Management Practices (BMP) to minimize pollution and to reduce source emissions.	No conflict. The Project's construction contractors would be required to comply with all applicable SCAQMD Rules.
Policy NR 8.1: Management of Construction Activities to Reduce Air Pollution. Require developers to use and operate construction equipment, use building materials and paints, and control dust created by construction activities to minimize air pollutants.	No conflict. The Project's construction contractors would be required to comply with all applicable SCAQMD Rules.

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan	
POLICY OR PROGRAM	**PROJECT CONSISTENCY DISCUSSION**
Policy NR 18.1 New Development. Require new development to protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources in accordance with the requirements of CEQA. Through planning policies and permit conditions, ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA	No conflict. As analyzed in EIR Subsection 4.4, *Cultural Resources*, the Project's grading and excavation activities have the potential to unearth previously uncovered archaeological resources that may exist below the ground surface. If significant archaeological resources are unearthed there is a potential for a significant impact if the resources are not properly identified and treated. Mitigation measures are identified in this EIR to reduce potential impacts to archaeological and paleontological resources to a less than significant level. Refer to EIR Subsection 4.4, *Cultural Resources* for a detailed discussion of the Project's potential to impact archaeological resources and refer to EIR Subsection 4.5, *Geology and Soils*, for a detailed discussion of the Project's potential to impact paleontological resources.
Policy NR 18.3 Potential for New Development to Impact Resources. 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.	No conflict. Because the proposed Project includes a General Plan Amendment, the City of Newport Beach is subject to the requirements associated with the SB 18 process for Native American consultation as well as the requirements of AB 52. SB 18 and AB 52 require CEQA lead agencies to consult with California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project, if requested by affiliated tribes. The City of Newport Beach complied with the provisions of each of these regulations in relation the proposed Project. Details regarding compliance with the provisions of AB 18 and AB 52 are provided in EIR Subsection 4.11, *Tribal Cultural Resources.*
Policy NR 18.4. Donation of Materials. Require new development, where on site preservation and avoidance are not feasible, to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible.	No conflict. See response for Policy NR 18.3 above.
Policy NR 20.1. Enhancement of Significant Resources. Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and	No conflict. The Coastal View Road segments nearest to the Project site include Avocado Avenue, Newport Center Drive, and MacArthur Boulevard and the one nearby designated Public View Point is in Irvine Terrace Park. The Project site is not within the viewshed

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan	
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harbor from public vantage points, as shown in Figure NR3.	of these viewing corridors and public view point when looking towards the Pacific Ocean. Additionally, the Project would not block views to other visual resources such as distant landforms due to the small scale of the Project in relation to the large scale of the landform views in the distance. The Project would not conflict with this policy.
Policy NR 20.2. New Development Requirements. Require new development to restore and enhance the visually degraded areas, where feasible, and provide view easements or corridors designed to protect public views or to restore public views in developed areas, where appropriate.	No conflict. See response for Policy NR 20.1 and Policy 20.3.
Policy NR 20.3. Public Views. Protect and enhance public view corridors from the roadway segments shown in Figure NR3, and other locations may be identified in the future.	No conflict. The viewing corridors towards the Pacific Ocean identified in Figure NR3 nearest to the Project site include Avocado Avenue, Newport Center Drive, and MacArthur Boulevard. The Project site is not within the viewshed of these viewing corridors when looking towards the Pacific Ocean views. Additionally, the Project does not propose any improvements to these view corridor roadways. The implementation of the Project would not interfere with the City's ability to implement this policy. The Project would not conflict with this policy.
Policy NR 21.1. Signs and Utility Siting. Design and site signs, utilities, and antennas to minimize visual impacts.	No conflict. In accordance with City Municipal Code Section 15.32.015 (Underground Utilities Service Connection), the Project's utility connections would be installed underground. The Project would not conflict with this policy.
Policy NR 21.3. Overhead Utilities. Support programs to remove and underground overhead utilities, in new development as well as existing neighborhoods.	No conflict. In accordance with City Municipal Code Section 15.32.015 (Underground Utilities Service Connection), the Project's utility connections would be installed underground. The Project would not conflict with this policy.
Safety Element	
Policy S 4.7 New Development. Conduct further seismic studies for new development in areas where potentially active faults may occur.	No conflict. A Geotechnical Feasibility Report for the Project site was prepared by NMG Geotechnical Inc. (NMG), dated September 20, 2020 and appended to this EIR as *Technical Appendix E*. The primary purpose of the Geotechnical Feasibility Report was to provide a summary of the geologic and geotechnical conditions of

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	the site to identify potential geotechnical issues that might impact, and/or be caused by, the proposed Project. The technical report indicated that no potentially active faults are known to occur within the Project site or immediate surrounding area. The City of Newport Beach will require that a site-specific geotechnical study is prepared prior to the issuance of building permits as a mandatory condition of approval for the Project.
Noise Element	
Policy N 1.1 Noise Compatibility of New Development. Require that all proposed projects are compatible with the noise environment through use of Table N2, and enforce the interior and exterior noise standards shown in Table N3.	No conflict. The proposed Project is required by the City's noise ordinance to comply with the City's interior and exterior noise standards as they relate to the proposed residential land use. The Project would comply with the City's noise ordinance through the incorporation of conventional residential construction components, which will include a fresh air supply system and/or air conditioning system. The incorporation of these components would accommodate closed-window conditions that would typically attenuate interior noise to a level that would satisfy interior noise standards. Additionally, any unusual noise generated by individual residents would be regulated by Chapter 10.28 (Loud and Unreasonable Noise) of the Newport Beach Municipal Code (NBMC); any future residents that violate the provisions of Chapter 10.28 would be subject to penalties as set forth in the ordinance. Any noise generated by the heating, ventilation, and air conditioning (HVAC) system, pool, or valet would be regulated under Chapter 10.28 (Loud and Unreasonable Noise) of the NBMC.
Policy N 1.2 Noise Exposure Verification for New Development. Applicants for proposed projects that require environmental review and are, located in areas projected to be exposed to a CNEL of 60 dBA and higher, as shown on Figure N4, Figure N5, and Figure N6 may conduct a field survey, noise measurements or other modeling in a manner acceptable to the City to provide evidence that the depicted noise contours do not adequately account for local noise exposure circumstances due to such factors as, topography, variation in traffic	No conflict. General Plan Figure N4 shows the future 60 and 65 dBA CNEL contours along Newport Center Drive affecting the Project site along the roadway frontage. The proposed Project is required by the City's noise ordinance to comply with the City's interior and exterior noise standards as they relate to the proposed residential land use.

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speeds, and other applicable conditions. These findings shall be used to determine the level of exterior or interior, noise attenuation needed to attain an acceptable noise exposure level and the feasibility of such mitigation when other planning considerations are taken into account.	
Policy N 1.4 New Developments in Urban Areas. Require that applicants of residential portions of mixed-use projects and high-density residential developments in urban areas (such as the Airport Area and Newport Center) demonstrate that the design of the structure will adequately isolate noise between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code.	No conflict. The proposed Project is required to comply with the California Building Standards Code (CBSC) and City's Noise ordinance and meet interior and exterior noise standards as they relate to the proposed residential land use.
Policy N 1.8: Significant Noise Impacts. Require the employment of noise mitigation measures for existing sensitive uses when a significant noise impact is identified. A significant noise impact occurs when there is an increase in the ambient CNEL produced by new development impacting existing sensitive uses.	No conflict. The Project would generate short-term construction and long-term operational noise but would not generate noise levels during construction and/or operation that exceed the standards established by the City of Newport Beach General Plan or Municipal Code.
Policy N 2.1 New Development. Require that proposed noise-sensitive uses in areas of 60 dBA and greater, as determined the analyses stipulated by Policy N1.1, demonstrate that they meet interior and exterior noise levels.	No conflict. General Plan Figure N4 shows the future 60 and 65 dBA CNEL contours along Newport Center Drive affecting the Project site along the roadway frontage. The proposed Project is required by the City's noise ordinance to comply with the City's interior and exterior noise standards as they relate to the proposed residential land use. The Project would comply with the City's noise ordinance through the incorporation of conventional residential construction components, which will include a fresh air supply system and/or air conditioning system. The incorporation of these components would accommodate closed-window conditions that would typically attenuate interior noise to a level that would satisfy interior noise standards. Additionally, any unusual noise generated by individual residents would be regulated by Chapter 10.28 (Loud and Unreasonable Noise) of the Newport Beach Municipal Code (NBMC); any future residents that violate the provisions of Chapter 10.28 would be subject to penalties as set forth in the ordinance. Any noise generated by the heating, ventilation, and air

Table 4.8-2 Project Consistency with the City of Newport Beach General Plan	
POLICY OR PROGRAM	**PROJECT CONSISTENCY DISCUSSION**
	conditioning (HVAC) system, pool, or valet would be regulated under Chapter 10.28 (Loud and Unreasonable Noise) of the NBMC.
Policy N 2.2 Design of Sensitive Land Uses. Require the use of walls, berms, interior noise insulation, double-paned windows, or other noise mitigation measures, as appropriate, in the design of new residential or other new noise sensitive land uses that are adjacent to major roads. Application of the Noise Standards in Table N3 shall govern this requirement.	No conflict. General Plan Figure N4 shows the future 60 and 65 dBA CNEL contours along Newport Center Drive affecting the Project site along the roadway frontage. The proposed Project is required by the City's noise ordinance to comply with the City's interior and exterior noise standards as they relate to the proposed residential land use.
Policy N 4.1: Stationary Noise Sources. Enforce interior and exterior noise standards outlined in Table N3, and in the City's Municipal Code to ensure that sensitive noise receptors are not exposed to excessive noise levels from stationary noise sources, such as heating, ventilation, and air conditioning equipment.	No conflict. The Project would generate short-term construction and long-term operational noise but would not generate noise levels during construction and/or operation that exceed the standards established by the City of Newport Beach General Plan or Municipal Code.
Policy N 4.6: Maintenance or Construction Activities. Enforce the Noise Ordinance noise limits and limits on hours of maintenance or construction activity in or adjacent to residential areas, including noise that results from in-home hobby or work-related activities.	No conflict. Because Project construction activities would occur within the allowed days and hours stated in the City's Municipal Code and the Project's construction noise levels would be less than FTA's acceptable noise level of 80 dBA Leq for sensitive receiver locations, the noise impact due to Project construction noise levels would be less than significant impact at all of the nearest sensitive receiver locations.
Policy N 5.1: Limiting Hours of Activity. Enforce the limits on hours of construction activity.	No conflict. Because Project construction activities would occur within the allowed days and hours stated in the City's Municipal Code and the Project's construction noise levels would be less than FTA's acceptable noise level of 80 dBA Leq for sensitive receiver locations, the noise impact due to Project construction noise levels would be less than significant impact at all of the nearest sensitive receiver locations.

D. Analysis of Consistency with the City of Newport Beach Zoning Code

The City of Newport Beach Zoning Code is contained as Title 20 "Planning and Zoning" of the City's Municipal Code. Under existing conditions, the Project site is within the "Office - Regional (OR)" Zoning District (City of Newport Beach, 2019). The on-site gas station is an ancillary use to the car wash, which is permitted via a use permit in the OR zone (Use Permit No. UP1461).

The Project Applicant's proposed Zoning Code Amendment No. CA2020-008 would apply the "PC (Planned Community District)" zoning designation to the entire 1.26-acre site. According to City Municipal Code Section 20.26.010(B) (Planned Community Zoning District), the PC Zoning District is intended to provide for areas appropriate for the development of coordinated, comprehensive projects that result in a superior environment (City of Newport Beach, 2020a). The PC Zoning District requirements would be met by the Project Applicant's preparation of development standards and plans for the development of the Project site with the proposed 28-unit condominium units in one building. The Project Applicant has requested a waiver of the 10-acre minimum requirement for the establishment of a Planned Community. Section 20.56.020 (Area Requirements) of the City's Zoning Code indicates that the City Council may waive the minimum acreage requirement. The Planned Community standards that were prepared for the proposed Project are intended to integrate the Project design and land use with a greater consideration of land uses, design, and development standards found throughout the Newport Center area. Because the Project Site is not owned in common with other properties located within the North Newport Center Planned Community, a separate Planned Community was requested by the Project Applicant in order to better facilitate the implementation of development standards.

Proposed Zoning Code Amendment No. CA2020-008 would apply the "Planned Community District (PC)" Zoning district to the entire 1.26-acre site and establish development standards for building heights and setbacks that vary from the height and setback standards of the City's Zoning Code. Approval of the Zoning Code Amendment, Planned Community Development Plan No. PC2020-001, and Site Development Review No. SD2020-001 would ensure that the Project is fully compatible with the site's zoning designations, surrounding land uses, and requirements. As detailed in Zoning Code Section 20.52.080 (Site Development Review), the City may approve or conditionally approve a site development review application, only after first finding that the proposed development is: 1) allowed within the subject zoning district; 2) in compliance with all of the applicable criteria identified in subsection (C)(2)(c) of this section; and 3) not detrimental to the harmonious and orderly growth of the City, nor endangers, jeopardizes, or otherwise constitutes a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development. Although the Project proposes a Zoning Code Amendment, no impacts associated with the zone change would be significant and unavoidable. Thus, the Project would have a less-than-significant impact in this regard.

E. Analysis of Consistency with the City Charter Section 423

The Project site is located within Statistical Area L1 of the General Plan Land Use Element, and would result in an increase of 28 dwelling units to Statistical Area L1. In conjunction with the Planning Commission and City Council review and action regarding the proposed Project, City staff shall conduct an analysis pursuant to City Charter Section 423 and City Council Policy A-18 to determine whether a vote by the electorate of the proposed Project is mandated, if City Council approves the proposed Project.

As required by Section 423 of the City Charter, the Planning Division tracks development limits increases approved by general plan amendments for a period of ten years. If a proposed amendment exceeds the established thresholds of 40,000 square feet of non-residential development, 100 dwelling units, or 100 AM peak hour traffic trips or 100 PM peak hour traffic trips on its own or, when combined with 80% of previously approved General Plan amendment(s) located in the same Statistical Area, the amendment is considered a "major amendment". Approval or denial of a "major amendment" is determined by a vote of the electorate. (City of Newport Beach, 2021)

The Project Applicant proposes to demolish the existing car wash building and construct a 28 dwelling unit residential building. The Project is not subject to the 40,000 square foot threshold for non-residential development because the proposed project is residential. The proposed Project would not exceed 100 dwelling units and combined with 80% of previously approved General Plan Amendments for Statistical Area L-1, the Project would not exceed the 100 dwelling unit limit. Lastly, the proposed Project would result in a net decrease in AM and PM peak hour trips and would not exceed the 100 AM or PM peak hour trip threshold. Therefore, the proposed Project does not constitute a "major amendment' pursuant to City Charter 423. Therefore, the Project would not be inconsistent with City Charter 423. No impact would occur.

F. Analysis of Consistency with the City of Newport Beach Height Restrictions (Sight Plane Ordinance and Zoning Code)

The Project site is located outside of the areas subject to the City's Sight Plane Ordinance. The properties that are subject to the Sight Plane Ordinance are generally located south of Civic Center Drive, west of MacArthur Boulevard, north of East Coast Highway and northwest of the intersection of Newport Center Drive and East Coast Highway. These areas are located to the south and west of the Project site. Because the Project site is located north and east of the geographic area covered by the Sight Plane Ordinance, the Project has no potential to conflict with the ordinance. In addition, the development of the proposed Project would have no potential to obstruct ocean views available from structures that benefit from the geographic area covered by the Sight Plane Ordinance because the Project site is located inland of these structures.

The base height limits established in Part 2 of the Municipal Code (Zoning Districts, Allowable Land Uses, and Zoning District Standards) may be increased within specified areas with the adoption of a Planned Community District, adoption of a specific plan, or approval of a planned development permit, or site development review. (Newport Beach, 2015a, Section 20.20.060).

As discussed in Subsection 4.1, *Aesthetics*, the existing car wash building that is located on the Project site is approximately 12.5 feet high. As detailed in the PC-text for the Project, the proposed Project includes a new residential building at a maximum height of 52 feet 11 inches from the established grade (167 feet 9 inches NAVD88 datum) of the site or 220 feet 8 inches AMSL.

In comparison, the height of existing structures in the vicinity of the Project site are as follows:

- Block 100 office buildings: The existing height of buildings is listed in building permits as ranging from approximately 24 feet 11 inches in height to 38 feet 3 inches in height.
- Edwards movie theater to the northeast: The existing height is listed in building permits as approximately 42 feet 6 inches with architectural projections reaching up to approximately 52 feet.
- Block 200 buildings east of the Project site and on the other side of Anacapa Drive: The existing structures consist of 2 and 3-story buildings listed in building permits as heights ranging from approximately 20 feet 3 inches to 74 feet 4 inches in height.
- Restaurant buildings (currently Red O and Fig & Olive) to the north across Newport Center Drive: The existing height listed in building permits for the two restaurants is approximately 32 feet 4 inches and 33 feet 9 inches in height, respectively.

The subject parcel is currently limited to building heights of 32 to 37 feet maximum, pursuant to the OR Zoning District limits. The Newport Beach Municipal Code limits building heights in the immediately surrounding area to a maximum of 32 feet to 37 feet for properties to the east across Anacapa Drive (OR Zoning District), to 50 feet for Block 100 (the designated block in which the proposed Project is located), and to 75 feet for mall buildings in Fashion Island. Although the Project's proposed building would be 2 feet 11 inches taller than currently allowed on adjacent parcels (PC-56) and roughly 16 feet taller than currently allowed on the subject site for commercial development, the new residential building would be comparable with the height of other existing buildings in the Newport Center area. The General Plan Land Use Element includes Policy LU 6.14.14 (Development Scale) that encourages the concentration of the greatest building mass and height in Newport Center in the northeasterly section along San Joaquin Hills Road with a progressive scaling down of building mass and height toward the southwesterly edge along East Coast Highway. The Project's building would be lower in height and mass when compared to the existing office towers 21 stories (300 feet) in height located along San Joaquin Hills Road in the northern portion of Newport Center. Additionally, within Newport Center, there are 13 buildings that are seven stories or taller (greater than 100 feet), primarily located north of San Miguel Drive and Santa Barbara Drive. On the south end of Newport Center (south of San Miguel Drive), existing buildings range from 21-74 feet in height. The proposed Project's building would be constructed to a maximum height of 52 feet 11 inches with high-quality exterior building materials in an architectural design that complements surrounding development. Refer to EIR Section 3.0, *Project Description*, for more information about the building's design elements.

Compliance with the requirements of the PCDP-text would ensure that the Project would not conflict with the City of Newport Beach Zoning Code. A building height that is 16 feet taller than currently permitted by the site's existing zoning designation and 2 feet 11 inches taller than currently permitted on adjacent parcels, would not demonstrate adverse aesthetic impacts.

4.8.5 Cumulative Impact Analysis

As discussed in Section 4.0, *Environmental Analysis*, the City's list of cumulative projects represents the City's cumulative projects at the time of this Project's NOP release date. At the time of the NOP

release for the proposed Project, according to the City's list of cumulative projects, there were no other projects that were planned, under construction, or entitled and built but not yet fully occupied, in the Newport Center area.

Because there were no other planned, under construction, or entitled and built but not yet fully occupied development projects in the Newport Center area at the time of the proposed Project's NOP release date, the Project's change to the General Plan land use and zoning designations for the Project site, would not be cumulatively considerable because there were no other projects in the Newport Center area to consider. Therefore, the Project would not result in cumulatively considerable impacts associated with Threshold (b). Although the proposed Project would result in a change to the General Plan land use and zoning designations for the Project site, these changes when considered with those that would occur with the other cumulative projects in the Newport Center area would not result in a conflict with applicable plans, policies, or regulations adopted for the purpose of avoiding or reducing an environmental effect. Accordingly, no cumulatively significant physical environmental impacts would occur regarding conflict with land use policies or regulations.

4.8.6 Significance of Impacts Before Mitigation

Threshold b): Less than Significant Impact. The Project's proposed General Plan Amendment and Zoning Map Amendment would eliminate inconsistencies between the proposed on-site land use and the site's existing zoning classifications and land use designations. The Project would not result in significant land use and planning conflicts in the context of compliance with applicable environmental plans, policies, and regulations beyond those identified in other Subsections of this EIR.

4.8.7 Mitigation

Impacts would be less than significant; therefore, no mitigation is required.

4.9 NOISE

This Subsection addresses the environmental issue of noise, including existing noise levels in the Project area and the Project's potential to introduce new or elevated sources of noise. The analysis contained herein incorporates information contained in a Noise Impact Analysis (herein, "NIA") entitled, "Residences at Newport Center Noise Impact Analysis," prepared by Urban Crossroads, Inc. (herein, "Urban Crossroads"), dated April 14, 2021, and included as *Technical Appendix G* to this EIR (Urban Crossroads, 2021b). Refer to EIR Section 7.0, *References*, for a complete list of reference sources.

Based on analyses conducted and substantial evidence cited as part of the Project's Initial Study (EIR *Technical Appendix A*), the City determined that the Project would clearly result in a less-than-significant impact under one of the thresholds identified in Section XIII (Noise) of Appendix G to the CEQA Guidelines. Specifically, the Project's Initial Study concluded that the Project would result in a less-than-significant impact under Threshold (c):

> c. *For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?*

Accordingly, and based on the analysis contained in the Project's Initial Study, no additional analysis of the above-listed threshold is required, and this Subsection instead focuses on the Project's potential to result in construction- or operational-related noise impacts that could adversely affect sensitive receptors. Refer to the Project's Initial Study (EIR *Technical Appendix A*) and EIR Subsection 5.4 for a discussion and analysis of the above-listed threshold.

4.9.1 NOISE FUNDAMENTALS

A. *Noise Definitions*

Noise is simply defined as "unwanted sound." Sound becomes unwanted when it interferes with normal activities, when it causes actual physical harm or when it has adverse effects on health. Noise is measured on a logarithmic scale of sound pressure level known as a decibel (dB). A-weighted decibels (dBA) approximate the subjective response of the human ear to broad frequency noise source by discriminating against very low and very high frequencies of the audible spectrum. They are adjusted to reflect only those frequencies which are audible to the human ear. Table 4.9-1, *Typical Noise Levels*, presents a summary of the typical noise levels and their subjective loudness and effects that are described in more detail below. (Urban Crossroads, 2021b, p. 7)

Since the range of intensities that the human ear can detect is so large, the scale frequently used to measure intensity is a scale based on multiples of 10, the logarithmic scale. The scale for measuring intensity is the decibel scale. Each interval of 10 decibels indicates a sound energy ten times greater than before, which is perceived by the human ear as being roughly twice as loud. The most common

sounds vary between 40 dBA (very quiet) to 100 dBA (very loud). Normal conversation at three feet is roughly at 60 dBA, while loud jet engine noises equate to 110 dBA at approximately 100 feet, which can cause serious discomfort. Another important aspect of noise is the duration of the sound and the way it is described and distributed in time. (Urban Crossroads, 2021b, p. 7)

Table 4.9-1 Typical Noise Levels

COMMON OUTDOOR ACTIVITIES	COMMON INDOOR ACTIVITIES	A - WEIGHTED SOUND LEVEL dBA	SUBJECTIVE LOUDNESS	EFFECTS OF NOISE
THRESHOLD OF PAIN		140	INTOLERABLE OR DEAFENING	HEARING LOSS
NEAR JET ENGINE		130		
		120		
JET FLY-OVER AT 300m (1000 ft)	ROCK BAND	110		
LOUD AUTO HORN		100	VERY NOISY	
GAS LAWN MOWER AT 1m (3 ft)		90		
DIESEL TRUCK AT 15m (50 ft), at 80 km/hr (50 mph)	FOOD BLENDER AT 1m (3 ft)	80		SPEECH INTERFERENCE
NOISY URBAN AREA, DAYTIME	VACUUM CLEANER AT 3m (10 ft)	70	LOUD	
HEAVY TRAFFIC AT 90m (300 ft)	NORMAL SPEECH AT 1m (3 ft)	60		
QUIET URBAN DAYTIME	LARGE BUSINESS OFFICE	50	MODERATE	
QUIET URBAN NIGHTTIME	THEATER, LARGE CONFERENCE ROOM (BACKGROUND)	40		SLEEP DISTURBANCE
QUIET SUBURBAN NIGHTTIME	LIBRARY	30	FAINT	NO EFFECT
QUIET RURAL NIGHTTIME	BEDROOM AT NIGHT, CONCERT HALL (BACKGROUND)	20		
	BROADCAST/RECORDING STUDIO	10	VERY FAINT	
LOWEST THRESHOLD OF HUMAN HEARING	LOWEST THRESHOLD OF HUMAN HEARING	0		

Source: (Urban Crossroads, 2021b, Exhibit 2-A)

B. Noise Descriptors

Environmental noise descriptors are generally based on averages, rather than instantaneous, noise levels. The most used figure is the equivalent level (L_{eq}). Equivalent sound levels are not measured directly but are calculated from sound pressure levels typically measured in A-weighted decibels (dBA). The equivalent sound level (L_{eq}) represents a steady state sound level containing the same total energy as a time varying signal over a given sample period (typically one hour) and is commonly used to describe the "average" noise levels within the environment. (Urban Crossroads, 2021b, p. 8)

Peak hour or average noise levels, while useful, do not completely describe a given noise environment. Noise levels lower than peak hour may be disturbing if they occur during times when quiet is most desirable, namely evening and nighttime (sleeping) hours. To account for this, the Community Noise Equivalent Level (CNEL), representing a composite 24-hour noise level is utilized. The CNEL is the weighted average of the intensity of a sound, with corrections for time of day, and averaged over 24 hours. The time-of-day corrections require the addition of 5 decibels to

dBA L_{eq} sound levels in the evening from 7:00 PM to 10:00 PM, and the addition of 10 decibels to dBA L_{eq} sound levels at night between 10:00 PM and 7:00 AM. These additions are made to account for the noise sensitive time periods during the evening and night hours when sound appears louder. CNEL does not represent the actual sound level heard at any time, but rather represents the total sound exposure. The City of Newport Beach relies on the 24-hour CNEL level to assess land use compatibility with transportation related noise sources. (Urban Crossroads, 2021b, p. 8)

C. *Sound Propagation*

When sound propagates over a distance, it changes in level and frequency content. The way noise reduces with distance depends on the factors discussed below. (Urban Crossroads, 2021b, p. 8)

1. *Geometric Spreading*

Sound from a localized source (i.e., a stationary point source) propagates uniformly outward in a spherical pattern. The sound level attenuates (or decreases) at a rate of 6 dB for each doubling of distance from a point source. Highways consist of several localized noise sources on a defined path and hence can be treated as a line source, which approximates the effect of several point sources. Noise from a line source propagates outward in a cylindrical pattern, often referred to as cylindrical spreading. Sound levels attenuate at a rate of 3 dB for each doubling of distance from a line source. (Urban Crossroads, 2021b, p. 8)

2. *Ground Absorption*

The propagation path of noise from a roadway to a receiver is usually very close to the ground. Noise attenuation from ground absorption and reflective wave canceling adds to the attenuation associated with geometric spreading. Traditionally, the excess attenuation has also been expressed in terms of attenuation per doubling of distance. This approximation is usually sufficiently accurate for distances of less than 200 feet. For acoustically hard sites (i.e., sites with a reflective surface between the source and the receiver, such as a parking lot or body of water), no excess ground attenuation is assumed. For acoustically absorptive or soft sites (i.e., those sites with an absorptive ground surface between the source and the receiver such as soft dirt, grass, or scattered bushes and trees), an excess ground attenuation value of 1.5 dB per doubling of distance is normally assumed. When added to the cylindrical spreading, the excess ground attenuation results in an overall drop-off rate of 4.5 dB per doubling of distance from a line source. (Urban Crossroads, 2021b, pp. 8-9)

3. *Atmospheric Effects*

Receivers located downwind from a source can be exposed to increased noise levels relative to calm conditions, whereas locations upwind can have lowered noise levels. Sound levels can be increased at large distances (e.g., more than 500 feet) due to atmospheric temperature inversion (i.e., increasing temperature with elevation). Other factors such as air temperature, humidity, and turbulence can also have significant effects. (Urban Crossroads, 2021b, p. 9)

4. Shielding

A large object or barrier in the path between a noise source and a receiver can substantially attenuate noise levels at the receiver. The amount of attenuation provided by shielding depends on the size of the object and the frequency content of the noise source. Shielding by trees and other such vegetation typically only has an "out of sight, out of mind" effect. That is, the perception of noise impact tends to decrease when vegetation blocks the line-of-sight to the nearest residents. However, for vegetation to provide a substantial, or even noticeable, noise reduction, the vegetation area must be at least 15 feet in height, 100 feet wide and dense enough to completely obstruct the line-of sight between the source and the receiver. This size of vegetation may provide up to 5 dBA of noise reduction; however, the Federal Highway Administration (FHWA) does not consider the planting of vegetation to be a noise abatement measure. (Urban Crossroads, 2021b, p. 9)

D. Response to Noise

Approximately ten percent of the population has a very low tolerance for noise and will object to any noise not of their making. Consequently, even in the quietest environment, some complaints will occur. Twenty-five percent of the population will not complain even in very severe noise environments. Thus, a variety of reactions can be expected from people exposed to any given noise environment. Despite this variability in behavior on an individual level, the population as a whole can be expected to exhibit the following responses to changes in noise levels: an increase of 1 dBA cannot be perceived except in carefully controlled laboratory experiments; a change of 3 dBA is considered "barely perceptible;" and a change of 5 dBA is considered "readily perceptible." (Urban Crossroads, 2021b, p. 10)

E. Vibration

Vibration is the periodic oscillation of a medium or object. Sources of groundborne vibration include natural phenomena (e.g., earthquakes, volcanic eruptions, sea waves, landslides) or human-made causes (e.g., explosions, machinery, traffic, trains, construction equipment). Vibration sources may be continuous, such as factory machinery, or transient, such as explosions. As is the case with airborne sound, groundborne vibrations may be described by amplitude and frequency. Vibration is often described in units of velocity (inches per second) and decibels (dB) and is denoted as VdB. (Urban Crossroads, 2021b, p. 11)

The background vibration-velocity level in residential areas is generally 50 VdB. Ground-borne vibration is normally perceptible to humans at approximately 65 VdB. For most people, a vibration-velocity level of 75 VdB is the approximate dividing line between barely perceptible and distinctly perceptible levels. (Urban Crossroads, 2021b, p. 11)

4.9.2 Existing Noise Conditions

A. Existing Study Area Ambient Noise Conditions

Noise level measurements were collected by Urban Crossroads on and around the Project site on Wednesday, August 10, 2016. Due to the COVID-19 stay-at-home orders that were in place when the

NOP for this EIR was released for public review, there was less outdoor activity, less traffic, and thereby lower noise as compared to when the 2016 noise level measurements were collected. In 2016, the existing use at the Project site was its current use a car wash, which includes noise sources such as pressure washers, cars pulling in and out of the lot, vacuums, and dryers. Background traffic noise was present from vehicles traveling on Anacapa Drive, Newport Center Drive, and other roadways in the area. Thus, the 2016 noise level measurements are considered to better represent a normal operating condition than noise level measurements that would have been taken during the COVID-19 pandemic, and thus the 2016 noise measurements are used herein to represent normal baseline noise levels.

To assess the existing noise level environment in 2016, Urban Crossroads recorded 24-hour noise level measurements at three locations in the vicinity of the Project site. Refer to Figure 4.9-1, *Noise Measurement Locations,* which shows the locations where noise meters were placed and where the noise levels were measured. The results of the existing noise level measurements are summarized below. Refer to Appendix 5.2 of *Technical Appendix G* for the noise measurement worksheets used to calculate the noise levels, including a summary of the hourly noise levels and the minimum and maximum observed noise levels at each measurement location. (Urban Crossroads, 2021b, pp. 23-24)

Table 4.9-2, *24-Hour Ambient Noise Level Measurement*, provides the (energy average) noise levels used to describe the daytime and nighttime ambient conditions. These daytime and nighttime energy average noise levels represent the average of all hourly noise levels observed during these time periods expressed as a single number. (Urban Crossroads, 2021b, p. 24)

Table 4.9-2 24-Hour Ambient Noise Level Measurement

Location[1]	Description	Energy Average Noise Level (dBA L_{eq})[2]		CNEL
		Daytime	Nighttime	
L1	Located at the northern property line of the Project site adjacent to Newport Center Drive.	60.4	53.3	62.0
L2	Located adjacent to the western Project site boundary and an existing parking lot, south of Newport Center Drive.	58.7	50.6	59.8
L3	Located south of the Project site adjacent to Anacapa Drive and an existing parking lot.	57.5	49.2	58.6

[1]See Figure 4.9-1 for the noise level measurement locations.
[2]Energy (logarithmic) average levels. The long-term 24-hour measurement worksheets are included in Appendix 5.2 of *Technical Appendix G.*
"Daytime" = 7:00 AM to 10:00 PM; "Nighttime" = 10:00 PM to 7:00 AM
Source: (Urban Crossroads, 2021b, Table 5-1)

B. Existing Groundborne Vibration

Based on the nature of the existing operational car wash on the site, there are no sources of groundborne vibration on the Project site because no heavy machinery is used on the site. No sources of groundborne vibration occur in the Project site's vicinity because the primarily office and commercial/retail land uses that exist in the vicinity of the Project site do not have operational characteristics that would generate groundborne vibration.

4.9.3 Regulatory Setting

The following is a brief description of the federal, State, and local environmental laws and related regulations related to noise.

A. Federal Regulations

1. Noise Control Act of 1972

The Noise Control Act of 1972 establishes a national policy to promote an environment for all Americans free from noise that jeopardizes their health and welfare. The Act also serves to (1) establish a means for effective coordination of federal research and activities in noise control; (2) authorize the establishment of federal noise emission standards for products distributed in commerce; and (3) provide information to the public respecting the noise emission and noise reduction characteristics of such products. While primary responsibility for control of noise rests with State and local governments, federal action is essential to deal with major noise sources in commerce, control of which require national uniformity of treatment. The Environmental Protection Agency (EPA) is directed by Congress to coordinate the programs of all federal agencies relating to noise research and noise control. (EPA, 2020m)

2. Federal Transit Administration

The Federal Transit Administration (FTA) published a Noise and Vibration Impact Assessment (NVIA), which provides guidance for preparing and reviewing the noise and vibration sections of environmental documents (FTA, 2006, p. 1-1). In the interest of promoting quality and uniformity in assessments, the manual is used by project sponsors and consultants in performing noise and vibration analyses for inclusion in environmental documents. The manual sets forth the methods and procedures for determining the level of noise and vibration impact resulting from most federally-funded transit projects and for determining what can be done to mitigate such impact.

3. Federal Highway Administration

The Federal Highway Administration (FHWA) is the agency responsible for administering the federal-aid highway program in accordance with federal statutes and regulations. The FHWA developed the noise regulations as required by the Federal-Aid Highway Act of 1970 (Public Law 91-605, 84 Stat. 1713). The regulation, 23 CFR 772 Procedures for Abatement of Highway Traffic Noise and Construction Noise, applies to highway construction projects where a State department of transportation has requested Federal Government funding for participation in the project. The

regulation requires the highway agency to investigate traffic noise impacts in areas adjacent to federally-aided highways for proposed construction of a highway on a new location or the reconstruction of an existing highway to either significantly change the horizontal or vertical alignment or increase the number of through-traffic lanes. If the highway agency identifies impacts, it must consider abatement. The highway agency must incorporate all feasible and reasonable noise abatement into the project design. (FHWA, 2017)

4. Construction-Related Hearing Conservation

The Occupational Safety and Health Administration (OSHA) hearing conservation program is designed to protect workers with significant occupational noise exposures from hearing impairment even if they are subject to such noise exposures over their entire working lifetimes. Standard 29 CFR, Part 1910 indicates the noise levels under which a hearing conservation program is required to be provided to workers exposed to high noise levels. (OSHA, 2002)

B. State Regulations

1. Building Standards Code

The State of California's noise insulation standards are codified in the California Code of Regulations, Title 24, Building Standards Administrative Code, Part 2, and the California Building Standards Code. These noise standards are applied to new construction in California for the purpose of controlling interior noise levels resulting from exterior noise sources. The regulations specify that acoustical studies must be prepared when noise-sensitive structures, such as residential buildings, schools, or hospitals, are developed near major transportation noise sources, and where such noise sources create an exterior noise level of 60 dBA CNEL or higher. Acoustical studies that accompany building plans for noise-sensitive land uses must demonstrate that the structure has been designed to limit interior noise in habitable rooms to acceptable noise levels. For new residential buildings, the acceptable interior noise limit for new construction is 45 dBA CNEL. (BSC, 2020)

2. California Noise Insulation Standards

The California Noise Insulation Standards (CCR Title 25 Section 1092) establish uniform minimum noise insulation performance standards for new hotels, motels, dormitories, apartment houses, and dwellings other than detached single-family dwellings. Specifically, Title 25 specifies that interior noise levels attributable to exterior sources shall not exceed 45 dBA Ldn/CNEL (i.e., the same levels that the EPA recommends for residential interiors) in any habitable room of a new dwelling. An acoustical study must be prepared for proposed multiple unit residential and hotel/motel structures where outdoor Ldn/CNEL is 60 dBA or greater. The study must demonstrate that the design of the building would reduce interior noise to 45 dBA Ldn/CNEL or lower. Because noise levels can increase over time in developing areas, Title 25 also specifies that dwellings are to be designed so that interior noise levels will meet this standard for at least ten years from the time of building permit application.

3. *OPR General Plan Guidelines*

Though not adopted by law, the 2017 California General Plan Guidelines, published by the California Governor's Office of Planning and Research (OPR), provides guidance for local agencies in preparing or updating General Plans. The Guidelines provide direction on the required Noise Element portion of the General Plans. The purpose of the Noise Element is to limit the exposure of the community to excessive noise levels. Local governments must "analyze and quantify" noise levels and the extent of noise exposure through actual measurement or the use of noise modeling. Technical data relating to mobile and point sources must be collected and synthesized into a set of noise control policies and programs that "minimizes the exposure of community residents to excessive noise." Noise level contours must be mapped and the conclusions of the element used as a basis for land use decisions. The element must include implementation measures and possible solutions to existing and foreseeable noise problems. Furthermore, the policies and standards must be sufficient to serve as a guideline for compliance with sound transmission control requirements. The noise element directly correlates to the Land Use, Circulation, and Housing Elements. The Noise Element must be used to guide decisions concerning land use and the location of new roads and transit facilities since these are common sources of excessive noise levels. The noise levels from existing land uses, including mining, agricultural, and industrial activities, must be closely analyzed to ensure compatibility, especially where residential and other sensitive receptors have encroached into areas previously occupied by these uses. (OPR, 2017)

C. *Local Regulations*

1. *City of Newport Beach General Plan Noise Element*

The City of Newport Beach General Plan Noise Element identifies noise sensitive land uses and noise sources, and defines areas of noise impact for the purpose of developing policies to ensure that Newport Beach residents would be protected from excessive noise intrusion. The following goals and policies from the General Plan Noise Element are applicable to the Project:

- **Goal N 1: Noise Compatibility** - Minimized land use conflicts between various noise sources and other human activities.

- **Policy N 1.1: Noise Compatibility for New Development.** Require that all proposed projects are compatible with the noise environment through use of Table N2, and enforce the interior and exterior noise standards shown in Table N3.

- **Policy N 1.2: Noise Exposure Verification for New Development.** Applicants for proposed projects that require environmental review and are, located in areas projected to be exposed to a CNEL of 60 dBA and higher, as shown on Figure N4, Figure N5, and Figure N6 may conduct a field survey, noise measurements or other modeling in a manner acceptable to the City to provide evidence that the depicted noise contours do not adequately account for local noise exposure circumstances due to such factors as, topography, variation in traffic speeds, and other applicable conditions. These findings

shall be used to determine the level of interior, noise attenuation needed to attain an acceptable noise exposure level and the feasibility of such mitigation when other planning considerations are taken into account.

- **Policy N 1.4: New Developments in Urban Areas.** Require that applicants of residential portions of mixed-use projects and high-density residential developments in urban areas (such as the Airport Area and Newport Center) demonstrate that the design of the structure will adequately isolate noise between adjacent uses and units (common floor/ceilings) in accordance with the California Building Code.

- **Policy N 1.8: Significant Noise Impacts**. Require the employment of noise mitigation measures for existing sensitive uses when a significant noise impact is identified. A significant noise impact occurs when there is an increase in the ambient CNEL produced by new development impacting existing sensitive uses. The CNEL increase is shown in the table below.

CNEL (dBA)	*dBA increase*
55	3
60	2
65	1
70	1
Over 75	Any increase is considered significant

- **Goal N 2:** Minimized motor vehicle traffic and boat noise impacts on sensitive noise receptors.

- **Policy N 2.1: New Development.** Require that proposed noise-sensitive uses in areas of 60 dBA and greater, as determined the analyses stipulated by Policy N 1.1, demonstrate that they meet interior and exterior noise levels.

- **Policy N 2.2: Design of Sensitive Uses.** Require the use of walls, berms, interior noise insulation, double paned windows, or other noise mitigation measures, as appropriate, in the design of new residential or other new noise sensitive land uses that are adjacent to major roads. Application of the Noise Standards in Table N 3 shall govern this requirement.

- **Goal N 4: Minimization of Non-Transportation-Related Noise** - Minimized non-transportation-related noise impacts on sensitive noise receptors.

- **Policy N 4.1: Stationary Noise Sources.** Enforce interior and exterior noise standards outlined in Table N3, and in the City's Municipal Code to ensure that sensitive noise receptors are not exposed to excessive noise levels from stationary noise sources, such as heating, ventilation, and air conditioning equipment.

- **Policy N 4.6: Maintenance or Construction Activities**. Enforce the Noise Ordinance noise limits and limits on hours of maintenance or construction activity in or adjacent to residential areas, including noise that results from in-home hobby or work-related activities.

- **Goal N 5:** Minimized excessive construction-related noise.

- **Policy N 5.1: Limiting Hours of Activity**. Enforce the limits on hours of construction activity.

2. City of Newport Beach Municipal Code

The City of Newport Beach Municipal Code Chapter 10.26, *Community Noise Control* and Chapter 10.28, *Loud and Unreasonable Noise*, provides performance standards and noise control guidelines for activities within the City limits, as described below.

❑ Construction Noise Standards

The City of Newport Beach has set restrictions to control noise impacts associated with the construction of the proposed Project. According to the City of Newport Beach Municipal Code Section 10.28.040, construction activities are considered exempt from the noise standards of the noise ordinance if work is performed on any weekday, which is not a federal holiday, between the hours of 7:00 AM to 6:30 PM and if work is performed on a Saturday, in any area that is not designated a high-density area, between the hours of 8:00 AM to 6:00 PM (City of Newport Beach, 2020a)

❑ Operational Noise Standards

The City of Newport Beach Municipal Code Chapter 10.26 establishes the permissible exterior noise levels that may intrude into a neighboring property. According to Section 10.26.025(A) exterior noise levels at single-, two or multiple-family residential land uses (Noise Zone 1) shall not exceed 55 dBA L_{eq} during the daytime hours (7:00 AM to 10:00 PM) and 50 dBA L_{eq} during the nighttime hours (10:00 PM to 7:00 AM). For commercial uses, exterior noise levels shall not exceed 65 dBA L_{eq} during the daytime hours (7:00 AM to 10:00 PM) and 60 dBA L_{eq} during the nighttime hours (10:00 PM to 7:00 AM). According to Section 10.26.025(C), in the event the ambient noise level exceeds the noise standard, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level. While the Section 10.26.025(C) of the City of Newport Beach Municipal Code permits the use of the existing ambient noise level to describe the base exterior noise level standards, this analysis relies on the more conservative and restrictive standards in Section 10.26.025(A). (City of Newport Beach, 2020a)

4.9.4 Basis for Determining Significance

Based on the results of the Project's Initial Study (*Technical Appendix A*), it was determined that the Project has the potential to result in a significant impact to the noise environment if the Project or any Project-related component would:

a. *Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; or*

b. *Generation of excessive groundborne vibration or groundborne noise levels.*

The above-listed thresholds are derived directly from Section XIII of Appendix G to the CEQA Guidelines and address the typical, adverse effects related to noise and vibration that could result from development projects. Refer also to the Project's Initial Study (*Technical Appendix A*) for a discussion of potential impacts due to airport-related noise that were determined to be less than significant as part of the Project's scoping process.

A. Significance Criteria for Construction Noise and Vibration

In relation to Thresholds (a) and (b), the City of Newport Beach Municipal Code Section 10.28.040 is the only relevant, established construction noise standard that would be applicable to the Project site. Pursuant to the Newport Beach Municipal Code, construction activities are considered exempt from the noise standards of the noise ordinance if work is performed on any weekday, which is not a federal holiday, between the hours of 7:00 AM to 6:30 PM and if work is performed on a Saturday, in any area that is not designated a high-density area, between the hours of 8:00 AM to 6:00 PM (City of Newport Beach, 2020a). Therefore, the Project's construction noise and vibration impacts would be potentially significant if Project-related construction activities that generate noise are not in compliance with the City of Newport Beach Municipal Code Section 10.28.040.

Neither the City of Newport Beach General Plan Noise Element or Municipal Code establish numeric maximum acceptable construction source noise levels at potentially affected receivers. Therefore, a numerical comparison for informational purposes only is provided in the analysis based on the FTA Transit Noise and Vibration Impact Assessment Manual, which considers a daytime exterior construction noise level of 80 dBA L_{eq} as reasonable for noise sensitive residential land use. (Urban Crossroads, 2021b, p. 17)

In relation to Threshold (b), the Newport Beach Municipal Code does not define the numeric level at which a development project's vibration levels are considered "excessive." For purposes of this EIR, the metric used to evaluate whether the Project's vibration levels are considered "excessive" during either construction or operation is adapted from the FTA, Transit Noise and Vibration Impact Assessment Manual. Therefore, for evaluation under Threshold (b), vibration levels are considered significant if Project-related activities would exceed FTA's vibration threshold of 78 VdB at residential daytime use. (Urban Crossroads, 2021b, p. 21)

B. *Significance Criteria for Operational Noise*

In relation to Threshold (a), the Project's operational noise impacts would be significant if any of the following occur (Urban Crossroads, 2021b, pp. 21-22):

- If Project-related operational (stationary-source) noise levels exceed the exterior 55 dBA L_{eq} daytime or 50 dBA L_{eq} nighttime noise level standards at nearby noise sensitive residential receiver locations (City of Newport Beach Municipal Code, Section 10.26.025).

- If Project-related operational (stationary source) noise levels exceed the exterior 65 dBA L_{eq} daytime or 60 dBA L_{eq} nighttime noise level standards at nearby commercial receiver locations (City of Newport Beach Municipal Code, Section 10.26.025).

- If the existing ambient noise levels at the noise-sensitive receivers near the Project site:

    - are less than 55 dBA CNEL and the Project creates a barely perceptible 3 dBA CNEL or greater Project-related noise level increase; or

    - range from 55 to 60 dBA CNEL and the Project creates a 2 dBA CNEL or greater Project-related noise level increase; or

    - range from 60 to 75 dBA CNEL and the Project creates a 1 dBA CNEL or greater Project-related noise level increase; or

    - already exceed 75 dBA CNEL, and the Project create any noise level increase.

In summary, noise impacts would be considered significant if the Project were to exceed the noise level thresholds identified in Table 4.9-3, *Significance Criteria Summary*.

CEQA requires than an EIR address the potential impacts of a proposed project on the environment, and not the reverse (impacts of the environment on the project) unless the project would potentially impact the environment by exacerbating an existing environmental hazard (See California Building Industry Association v. Bay Area Air Quality Management District (2015) 62 Cal.4th 369. (California Building Industry Association, Plaintiff and Respondent, v. Bay Area Air Quality Management District, Defendant and Appellant, 2015) Noise from the types of uses that surround the Project site (restaurants, office, and retail uses) is not considered an environmental hazard. As with all properties throughout the City of Newport Beach, the nearby uses are subject to the City's noise regulations contained in the City of Newport Beach Municipal Code Chapter 10.26, Community Noise Control.

Table 4.9-3 Significance Criteria Summary

Analysis	Receiving Land Use	Condition(s)	Significance Criteria	
			Daytime	Nighttime
On-Site Traffic Noise[1]	Residential	Interior Noise Level Standard	45 dBA CNEL	
Operational Noise	Residential[2]	Exterior Noise Level Standards	55 dBA L_{eq}	50 dBA L_{eq}
	Commercial[2]	Exterior Noise Level Standards	65 dBA L_{eq}	60 dBA L_{eq}
	Noise-Sensitive[3]	If ambient is < 55 dBA CNEL	≥ 3 dBA CNEL Project Increase	
		If ambient is 55 - 60 dBA CNEL	≥ 2 dBA CNEL Project Increase	
		If ambient is 60 - 75 dBA CNEL	≥ 1 dBA CNEL Project Increase	
		If ambient is > 75 dBA CNEL	Any Project Increase	
Construction	All[4]	Noise Level Threshold	Compliance with Municipal Code Section 10.28.040	
	Residential[5]	Vibration Level Threshold	78	n/a

[1]City of Newport Beach General Plan Noise Element Land Use Compatibility Matrix (Table N2)
[2]City of Newport Beach Municipal Code, Section 10.26.025
[3]City of Newport Beach General Plan Policy N 1.8
[4]Federal Transit Administration Transit Noise and Vibration Impact Assessment Manual
[5]City of Newport Beach 2006 General Plan EIR
"Daytime" = 7:00 AM to 10:00 PM; "Nighttime" = 10:00 PM to 7:00 AM;
"n/a" = No nighttime construction activity is permitted, so no nighttime construction noise level limits are identified; "VdB" = Vibration Decibels
Source: (Urban Crossroads, 2021b, Table 4-1)

4.9.5 Methodology for Calculating Project-Related Noise Impacts

A. *Sensitive Receiver Locations*

To assess the potential for long-term operational and short-term construction noise impacts, four sensitive receiver locations, as shown on Figure 4.9-2, *Sensitive Receiver Locations* were identified as representative locations for analysis. Sensitive receivers are generally defined as locations where people reside or where the presence of unwanted sound could otherwise adversely affect the use of the land. Noise-sensitive land uses are generally considered to include schools, hospitals, single-family dwellings, mobile home parks, churches, libraries, and recreation areas. Moderately noise-sensitive land uses typically include multi-family dwellings, hotels, motels, dormitories, outpatient clinics, cemeteries, golf courses, country clubs, athletic/tennis clubs, and equestrian clubs. Land uses that are considered relatively insensitive to noise include business, commercial, and professional developments. Land uses that are typically not affected by noise include: industrial, manufacturing, utilities, agriculture, undeveloped land, parking lots, warehousing, liquid and solid waste facilities, salvage yards, and transit terminals. (Urban Crossroads, 2021b, p. 33)

To describe the potential off-site noise levels attributable to the Project, four sensitive receiver locations in the vicinity of the Project site were identified. All distances are measured from the

Project site boundary to the outdoor living areas (e.g., private backyards) or at the building façade, whichever is closer to the Project site. The selection of receiver locations is based on FHWA guidelines and is consistent with additional guidance provided by Caltrans and the FTA, as discussed above. Other sensitive land uses in the Project study area that are located at greater distances than those identified would experience lower noise levels than those presented due to the additional attenuation from distance and the shielding of intervening structures. Distance is measured in a straight line from the Project site boundary to each receiver location. (Urban Crossroads, 2021b, p. 33)

- R1: Location R1 represents the existing noise sensitive residence at 1110 Granville Drive, approximately 746 feet west of the Project site. Receiver R1 is placed at the private outdoor living area (backyard) facing the Project site. (Urban Crossroads, 2021b, p. 33)

- R2: Location R2 represents existing office use at 210 Newport Center Drive, approximately 165 feet east of the Project site. Receiver R2 is placed at the building façade. (Urban Crossroads, 2021b, p. 33)

- R3: Location R3 represents Civic Center Park at 100 Civic Center Drive, approximately 1,002 feet southeast of the Project site. Receiver R3 is placed at the park boundary along Avocado Avenue. (Urban Crossroads, 2021b, p. 33)

- R4: Location R4 represents existing office use at 160 Newport Center Drive, approximately 99 feet south of the Project site. Receiver R4 is placed at the building façade. (Urban Crossroads, 2021b, p. 33)

B. Construction Noise Analysis Methodology

Noise generated by the Project's construction equipment would include a combination of trucks, power tools, concrete mixers, and portable generators operating simultaneously that when combined can reach high levels. The number and mix of construction equipment are expected to occur in the following stages: demolition, site preparation, grading, building construction, paving, and architectural coating. The construction noise analysis was prepared using reference noise level measurements taken by Urban Crossroads, Inc. to describe the typical construction activity noise levels for each stage of Project construction. The construction reference noise level measurements represent a list of typical construction activity noise levels. Noise levels generated by heavy construction equipment can range from approximately 68 dBA to more than 80 dBA when measured at 50 feet. However, these noise levels diminish with distance from the construction site at a rate of 6 dBA per doubling of distance. For example, a noise level of 80 dBA measured at 50 feet from the noise source to the receiver would be reduced to 74 dBA at 100 feet from the source to the receiver, and would be further reduced to 68 dBA at 200 feet from the source to the receiver. (Urban Crossroads, 2021b, p. 43)

To describe the Project's typical construction noise levels, measurements were collected for similar activities at several construction sites. Table 4.9-4, *Typical Construction Reference Noise Levels*,

provides a summary of the construction reference noise level measurements. Because the reference noise levels were collected at varying distances of 30 feet and 50 feet, all construction noise level measurements presented on Table 4.9-4 have been adjusted for consistency to describe a uniform reference distance of 50 feet. (Urban Crossroads, 2021b, p. 44)

Table 4.9-4 Typical Construction Reference Noise Levels

Construction Stage	Reference Construction Activity[1]	Reference Noise Level @ 50 Feet (dBA L_{eq})	Highest Reference Noise Level (dBA L_{eq})
Demolition	Demolition Activity	67.9	71.9
	Backhoe	64.2	
	Water Truck Pass-By & Backup Alarm	71.9	
Site Preparation	Scraper, Water Truck, & Dozer Activity	75.3	75.3
	Backhoe	64.2	
	Water Truck Pass-By & Backup Alarm	71.9	
Grading	Rough Grading Activities	73.5	73.5
	Water Truck Pass-By & Backup Alarm	71.9	
	Construction Vehicle Maintenance Activities	67.5	
Building Construction	Foundation Trenching	68.2	71.6
	Framing	62.3	
	Concrete Mixer Backup Alarms & Air Brakes	71.6	
Paving	Concrete Mixer Truck Movements	71.2	71.2
	Concrete Paver Activities	65.6	
	Concrete Mixer Pour & Paving Activities	65.9	
Architectural Coating	Air Compressors	65.2	65.2
	Generator	64.9	
	Crane	62.3	

[1]Reference construction noise level measurements taken by Urban Crossroads, Inc.
Source: (Urban Crossroads, 2021b, Table 10-1)

C. *Operational Noise Analysis Methodology*

The operational noise analysis describes the noise level impacts associated with expected typical operational activities related to residential use at the Project site. The on-site Project-related operational noise sources are expected to include: roof-top mechanical exhaust, dog run activity, and pool activity. (Urban Crossroads, 2021b, p. 35)

To estimate the Project operational noise impacts, reference noise level measurements were collected from similar types of activities to represent the noise levels expected with the development of the proposed Project. The reference noise level measurements shown on Table 4.9-5, *Reference Operational Noise Level Measurements*, were used to estimate the Project operational noise impacts. It is important to note that the projected noise levels assume the worst-case noise environment with

the roof-top mechanical exhaust, dog run activity, and pool activity. Refer to Subsection 9.2 of the Project's NIA (*Technical Appendix G*) for a description of the measurement procedures used to collect the reference operational noise levels, and for a detailed description of the noise measurement procedures for operational noise sources. (Urban Crossroads, 2021b, pp. 35-37)

To fully describe the exterior operational noise levels from the Project, Urban Crossroads developed a noise prediction model using the CadnaA (Computer Aided Noise Abatement) computer program. CadnaA can analyze multiple types of noise sources using the spatially accurate Project site plan, georeferenced Nearmap aerial imagery, topography, buildings, and barriers, in its calculations to predict outdoor noise levels. Refer to Subsection 9.3 of the Project's NIA (*Technical Appendix G*) for a description of the CadnaA Noise Prediction Model parameters. (Urban Crossroads, 2021b, pp. 37-38)

Table 4.9-5 Reference Operational Noise Level Measurements

Noise Source	Ref. Distance (Feet)	Noise Source Height (Feet)	Min./Hour[4]		Reference Noise Level (dBA L_{eq})	
			Day	Night	@ Ref. Dist.	@ 50 Feet
Roof-Top Mechanical Exhaust[1]	5'	5'	60	60	67.3	47.3
Dog Park Activity[2]	5'	5'	60	60	62.5	42.5
Pool Activity[3]	5'	4'	60	0	68.7	48.7

[1]Reference Daikin submittal data sheet for 6-Ton VRV-IV Heat Recovery Unit REQ272TTJU
[2]As measured by Urban Crossroads, Inc. at La Paws Dog Park in the City of Mission Viejo
[3]As measured by Urban Crossroads, Inc. in the outdoor patio area of Louie's by the Bay
[4]Anticipated duration (minutes within the hour) of noise activity during typical hourly conditions expected at the Project site. "Daytime" = 7:00 AM to 10:00 PM; "Nighttime" = 10:00 PM to 7:00 AM
Source: (Urban Crossroads, 2021b, Table 9-1)

D. Traffic Noise Analysis Methodology

The expected roadway noise level increases from vehicular traffic were calculated by Urban Crossroads, Inc. using a computer program that replicates the FHWA Traffic Noise Prediction Model- FHWA-RD-77-108. This is consistent with the approach used for the City of Newport Beach 2006 General Plan Update EIR. The FHWA Model arrives at a predicted noise level through a series of adjustments to the Reference Energy Mean Emission Level (REMEL). In California, the national REMELs are substituted with the California Vehicle Noise (Calveno) Emission Levels. Adjustments are then made to the REMEL to account for: the roadway classification (e.g., collector, secondary, major or arterial), the roadway active width (i.e., the distance between the center of the outermost travel lanes on each side of the roadway), the total average daily traffic (ADT), the travel speed, the percentages of automobiles, medium trucks, and heavy trucks in the traffic volume, the roadway grade, the angle of view (e.g., whether the roadway view is blocked), the site conditions ("hard" or "soft" relates to the absorption of the ground, pavement, or landscaping), and the percentage of total ADT which flows each hour throughout a 24-hour period. Research conducted by Caltrans has

shown that the use of soft site conditions is appropriate for the application of the FHWA traffic noise prediction model used in this analysis. (Urban Crossroads, 2021b, p. 27)

The on-site roadway parameters including the average daily traffic (ADT) volumes used for this study are presented on Table 4.9-6, *On-Site Roadway Parameters*. Based on the City of Newport Beach General Plan Circulation Element, Newport Center Drive is classified as a Major Road and Anacapa Drive is classified as a Secondary Road. To predict the future on-site noise environment at the Project site, parameters including the number of lanes and the future buildout average daily traffic volumes were obtained from the City of Newport Beach General Plan Update EIR, Table 4.13-1. (Urban Crossroads, 2021b, p. 27)

For the purposes of this analysis, soft site conditions were used to analyze the on-site traffic noise impacts for the Project study area. Soft site conditions account for the sound propagation loss over natural surfaces such as normal earth and ground vegetation. Research by Caltrans has shown that the use of soft site conditions is appropriate for the application of the FHWA traffic noise prediction model used in this analysis. (Urban Crossroads, 2021b, p. 27)

Table 4.9-6 On-Site Roadway Parameters

Roadway	Lanes	Classification[1]	Average Daily Traffic Volume[2]	Speed (mph)[3]	Site Conditions
Newport Center Dr.	6	Major	51,000	40	Soft
Anacapa Dr.	4	Secondary	23,000	40	Soft

[1]City of Newport Beach General Plan Figure CE1 Master Plan of Streets and Highways
[2]City of Newport Beach General Plan Update EIR Table 4.13-1
[3]Posted speed limit.
Source: (Urban Crossroads, 2021b, Table 6-1)

4.9.6 Impact Analysis

Threshold a. Would the Project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Less than Significant Impact.

The analysis presented on the following pages summarizes the Project's potential construction noise levels and operational noise levels, including operational noise that would be generated on-site as well as off-site noise on the roadway system that would be generated by the Project's traffic. The detailed noise calculations for the analysis presented here are provided in Appendices 7.1 and 9.1 of Project's NIA (*Technical Appendix G*). This analysis does not evaluate the noise exposure of construction workers within the Project site based on CEQA requirements, and instead, evaluates the

Project-related construction noise levels at the nearby sensitive receiver locations in the Project study area. Further, periodic exposure to high noise levels in short duration, such as Project construction, is typically considered an annoyance and not impactful to human health. It would take several years of exposure to high noise levels to result in hearing impairment.

A. Construction-Related Noise Impact Analysis

Using the reference construction equipment noise levels, calculations of the Project's construction noise level impacts at the nearest sensitive receiver locations were completed. To assess the worst-case construction noise levels, the construction noise analysis relies on the highest noise level impacts when the equipment with the highest reference noise level is operating at the closest point from the edge of primary construction activity (Project site boundary) to each receiver location. As shown on Table 4.9-7, *Project Construction Noise Level Summary*, the construction noise levels are expected to range from 44.6 to 66.4 dBA L_{eq}, and the highest construction levels are expected to range from 54.7 to 66.4 dBA L_{eq} at the nearest receiver locations. Appendix 10.1 to the Project's NIA (*Technical Appendix G*) includes the detailed calculations for the Project construction noise levels. (Urban Crossroads, 2021b, p. 46)

Table 4.9-7 Project Construction Noise Level Summary

Receiver Location[1]	Construction Noise Levels (dBA L_{eq})						
	Demolition	Site Preparation	Grading	Building Construction	Paving	Architectural Coating	Highest Levels[3]
R1	53.5	56.9	55.1	53.2	52.8	46.8	56.9
R2	63.0	66.4	64.6	62.7	62.3	56.3	66.4
R3	51.3	54.7	52.9	51.0	50.6	44.6	54.7
R4	63.8	67.2	65.4	63.5	63.1	57.1	67.2

[1]Noise receiver locations are shown on Figure 4.9-2.
[2]Construction noise level calculations based on distance from the Project site boundaries (construction activity area) to nearby receiver locations. CadnaA construction noise model inputs are included in Appendix 10.1 of *Technical Appendix H.*
Source: (Urban Crossroads, 2021b, Table 10-2)

As discussed under Subsection 4.9.3, construction activities are considered exempt from the noise standards of the noise ordinance if limited to the hours of 7:00 AM to 6:30 PM on Mondays to Fridays, and 8:00 AM to 6:00 PM on Saturdays, with no activity allowed on Sundays or national holidays. For informational purposes, the Project's construction noise levels are compared against the FTA's acceptable noise level of 80 dBA L_{eq} for sensitive receiver locations. Table 4.9-7 shows the highest construction noise levels at the potentially impacted receiver locations are estimated to range from 54.7 to 67.2 dBA L_{eq}. Because Project construction activities would occur within the allowed days and hours stated in the City's Municipal Code and the Project's construction noise levels would be less than FTA's acceptable noise level of 80 dBA L_{eq} for sensitive receiver locations, the noise impact due to Project construction noise levels would be less than significant impact at all of the nearest sensitive receiver locations.

B. *Operational-Related Noise Impact Analysis – Stationary Noise*

❑ Project Operational Noise Levels

Using the reference noise levels to represent the operational activities that would occur on the Project site, which would include, but are not limited to, roof-top mechanical exhaust, dog run activity, and swimming pool activity, Urban Crossroads, Inc. calculated the operational source noise levels that are expected to be generated at the Project site and the related noise level increases that would be experienced at each of the sensitive receiver locations. Table 4.9-8, *Daytime Project Operational Noise Levels*, shows the Project operational noise levels during the daytime hours of 7:00 AM to 10:00 PM. As indicated on Table 4.9-8, the daytime hourly noise levels at the off-site receiver locations are expected to range from 29.5 to 48.8 dBA L_{eq}. (Urban Crossroads, 2021b, p. 38)

Table 4.9-8 Daytime Project Operational Noise Levels

Noise Source[1]	Operational Noise Levels by Receiver Location (dBA Leq)			
	R1	R2	R3	R4
Roof-Top Mechanical Exhaust	23.2	32.9	21.5	26.9
Dog Park Activity	32.0	16.6	28.6	47.8
Pool Activity	41.2	24.6	14.3	41.9
Total (All Noise Sources)	**41.8**	**33.6**	**29.5**	**48.8**

[1]See Exhibit 9-A of *Technical Appendix G* for the noise source locations. CadnaA noise model calculations are included in Appendix 9.1 of *Technical Appendix G*.
Source: (Urban Crossroads, 2021b, Table 9-3)

Table 4.9-9, *Nighttime Project Operational Noise Levels*, shows the Project operational noise levels during the nighttime hours of 10:00 PM to 7:00 AM. As indicated on Table 4.9-9, the nighttime hourly noise levels at the off-site receiver locations are expected to range from 28.6 to 46.9 dBA L_{eq}. The differences between the daytime and nighttime noise levels are largely related to the duration of noise activity (refer to Table 4.9-5).

Table 4.9-9 Nighttime Project Operational Noise Levels

Noise Source[1]	Operational Noise Levels by Receiver Location (dBA Leq)			
	R1	R2	R3	R4
Roof-Top Mechanical Exhaust	23.2	32.9	21.5	26.9
Dog Park Activity	31.0	15.6	27.6	46.9
Pool Activity	0.0	0.0	0.0	0.0
Total (All Noise Sources)	**31.7**	**33.0**	**28.6**	**46.9**

[1]See Exhibit 9-A of *Technical Appendix G* for the noise source locations. CadnaA noise model calculations are included in Appendix 9.1 of *Technical Appendix G*.
Source: (Urban Crossroads, 2021b, Table 9-4)

❑ Project Operational Noise Level Compliance

To demonstrate compliance with local noise regulations, the Project-only operational noise levels are evaluated against exterior noise level thresholds based on the City of Newport Beach exterior noise level standards at the nearest noise-sensitive receiver locations. For the noise-sensitive residential land use, the City of Newport Beach has established exterior noise level standards of 55 dBA L_{eq} during the daytime hours (7:00 AM to 10:00 PM) and 50 dBA L_{eq} during the nighttime hours (10:00 PM to 7:00 AM). Table 4.9-10, *Operational Noise Level Compliance*, indicates that the operational noise levels associated with the proposed Project would satisfy the City of Newport Beach exterior noise level standards at all nearby receiver locations. Because the operational noise levels associated with the proposed Project would satisfy the City of Newport Beach exterior noise level standards at all nearby receiver location, impacts would be less than significant (Urban Crossroads, 2021b, p. 39).

Table 4.9-10 Operational Noise Level Compliance

Receiver Location[1]	Project Operational Noise Levels (dBA Leq)[2]		Noise Level Standards (dBA Leq)[3]		Noise Level Standards Exceeded?[4]	
	Daytime	Nighttime	Daytime	Nighttime	Daytime	Nighttime
R1	41.8	31.7	55	50	No	No
R2	33.6	33.0	55	50	No	No
R3	29.5	28.6	55	50	No	No
R4	48.8	46.9	55	50	No	No

[1]See Exhibit 9-A of *Technical Appendix G* for the noise source and receiver locations.
[2]Proposed Project operational noise levels as shown on Tables 4.9-8 and 4.9-9.
[3]Base exterior noise level standards as shown on Table 3-1 of *Technical Appendix H*. If the ambient level exceeds allowable exterior L_{eq} noise level, the ambient shall be the standard per Section 10.26.025(C) of the City of Newport Beach Municipal Code.
[4]Do the estimated Project operational noise source activities exceed the noise level standards?
"Daytime" = 7:00 AM to 10:00 PM; "Nighttime" = 10:00 PM to 7:00 AM
Source: (Urban Crossroads, 2021b, Table 9-5)

❑ Project Operational Noise Level Increases

To describe the Project's operational noise level increases, the Project operational noise levels are combined with the existing ambient noise levels measurements for the nearest receiver locations potentially impacted by Project operational noise sources, as described in more detail in Subsection 9.6 of the Project's NIA (*Technical Appendix G*). The difference between the combined Project and ambient noise levels describes the Project noise level increases to the existing ambient noise environment. As indicated on Table 4.9-11, *Daytime Project Operational Noise Level Increases*, and Table 4.9-12, *Nighttime Project Operational Noise Level Increases*, the Project would generate daytime and nighttime operational noise level increases ranging from 0.1 to 2.0 dBA L_{eq} at the nearest receiver locations. Therefore, Project-related operational noise level increases would satisfy the operational noise level increase significance criteria presented on Table 4.9-3. Thus, the incremental Project operational noise level increase is considered less than significant at all receiver locations. (Urban Crossroads, 2021b, p. 40)

Table 4.9-11 Daytime Project Operational Noise Level Increases

Receiver Location[1]	Total Project Operational Noise Level[2]	Measurement Location[3]	Reference Ambient Noise Levels[4]	Combined Project and Ambient[5]	Project Increase[6]	Threshold[7]	Threshold Exceeded?[7]
R1	41.8	L1	60.4	60.5	0.1	1	No
R2	33.6	L2	58.7	58.7	0.0	2	No
R3	29.5	L3	57.5	57.5	0.0	2	No
R4	48.8	L3	57.5	58.1	0.6	2	No

[1]See Exhibit 9-A of *Technical Appendix Gf* or the noise source and receiver locations.
[2]Total Project daytime operational noise levels as shown on Table 4.9-8.
[3]Reference noise level measurement locations as shown on Exhibit 5-A of *Technical Appendix G.*
[4]Observed daytime ambient noise levels as shown on Table 5-1 of *Technical Appendix G.*
[5]Represents the combined ambient conditions plus the Project daytime operational activities.
[6]The noise level increase expected with the addition of the proposed Project daytime operational activities.
[7]Significance Criteria as defined in Section 4 of *Technical Appendix G.*
Source: (Urban Crossroads, 2021b, Table 9-6)

Table 4.9-12 Nighttime Project Operational Noise Level Increases

Receiver Location[1]	Total Project Operational Noise Level[2]	Measurement Location[3]	Reference Ambient Noise Levels[4]	Combined Project and Ambient[5]	Project Increase[6]	Threshold[7]	Threshold Exceeded?[7]
R1	31.7	L1	53.3	53.3	0.0	3	No
R2	33.0	L2	50.6	50.7	0.1	3	No
R3	28.6	L3	49.2	49.2	0.0	3	No
R4	46.9	L3	49.2	51.2	2.0	3	No

[1]See Exhibit 9-A of *Technical Appendix G* for the noise source and receiver locations.
[2]Total Project daytime operational noise levels as shown on Table 4.9-8.
[3]Reference noise level measurement locations as shown on Exhibit 5-A of *Technical Appendix G.*
[4]Observed daytime ambient noise levels as shown on Table 5-1 of *Technical Appendix G*.
[5]Represents the combined ambient conditions plus the Project nighttime operational activities.
[6]The noise level increase expected with the addition of the proposed Project nighttime operational activities.
[7]Significance Criteria as defined in Section 4 of *Technical Appendix G.*
Source: (Urban Crossroads, 2021b, Table 9-7)

C. *Off-Site Traffic Noise Impact Analysis*

An on-site exterior noise impact analysis was completed to determine the traffic noise exposure and to identify potential necessary noise abatement measures for the proposed Project. The primary source of traffic noise affecting the Project site is anticipated to be from Newport Center Drive and Anacapa Drive. The Project also would experience some background traffic noise impacts from nearby drive aisles and parking lots, however, due to the low traffic volumes, distance and intervening structures, these are not anticipated to make a significant contribution to the exterior noise levels at the Project site. (Urban Crossroads, 2021b, p. 29)

❑ Exterior Traffic Noise Analysis

As identified in Table 4.9-13, *Exterior Traffic Noise Levels,* future unmitigated on-site exterior traffic noise levels in private outdoor living patios are estimated to range from 66.2 to 69.7 dBA CNEL at residential dwelling units proposed adjacent to Newport Center Drive and Anacapa Drive. With the planned 3.5 to 6-foot-high screen walls for the private terraces and patios, the future on-site exterior traffic noise levels are estimated to range from 60.9 to 63.2 dBA CNEL. This satisfies the City of Newport Beach's 65 dBA CNEL normally compatible exterior land use compatibility criteria for residential use. Therefore, future exterior traffic noise impacts would be less than significant. Refer to Appendix 7.1 of *Technical Appendix G* for the on-site traffic noise level calculations.

Table 4.9-13 Exterior Traffic Noise Levels

Flat	Roadways	Exterior Noise Level (dBA CNEL)	Mitigated Exterior Noise Level (dBA CNEL)[2]	Exterior Noise Level Threshold (dBA CNEL)[3]	Planned Barrier Height (feet)	Threshold Exceeded?
Flat 1	Anacapa Dr.	66.2	62.2	65	3.5	No
Flat 6	Newport Center Dr.	69.5	62.7	65	6.0	No
Flat 8	Newport Center Dr.	69.7	63.2	65	6.0	No
Flat 8	Anacapa Dr.	67.8	60.9	65	6.0	No

[1]As shown on the Project site plan (Exhibit 1-B of *Technical Appendix G*)
[2]Combined future exterior noise levels at the building façade. Calculations are included in Appendix 7-1 of *Technical Appendix G.*
[3]City of Newport Beach Land Use Noise Compatibility Thresholds Table N2 (Exhibit 3-A of *Technical Appendix G*).
Source: (Urban Crossroads, 2021b, Table 7-1)

❑ Interior Traffic Noise Analysis

To ensure that the interior noise levels comply with the City of Newport Beach 45 dBA CNEL interior noise level standards, future noise levels were calculated at the building façades. Table 4.9-14, *First Floor Interior Noise Levels*, indicates that the future exterior noise levels at the first-floor residential building façade are expected to approach 62.9 dBA CNEL. Noise levels at the second, third and fourth floor residential building façade are expected to range from 65.5 to 68.8 dBA CNEL as shown in Table 4.9-15 through Table 4.9-17. Table 4.9-14 through Table 4.9-17 show that the estimated interior noise levels using typical building construction and standard windows would provide an interior noise level reduction of 25 dBA. With the standard windows, units facing Newport Center Drive and Anacapa Drive would experience interior levels of up to 43.8 dBA CNEL. This satisfies the City of Newport Beach 45 dBA CNEL interior noise level standards. Therefore, future interior traffic noise impacts would be less than significant.

Table 4.9-14 First Floor Interior Noise Levels

1st Floor Building Facade	Floor	Noise Level at Façade[1]	Required Interior NR[2]	Typical Interior NR[3]	Interior Noise Level	Threshold	Threshold Exceeded?
Flat 1	1	56.8	11.8	25.0	31.8	45	No
Flat 6	1	62.8	17.8	25.0	37.8	45	No
Flat 8	1	62.9	17.9	25.0	37.9	45	No
Flat 8	1	60.5	15.5	25.0	35.5	45	No

[1]Exterior noise level at the façade with a windows-closed condition requiring a means of mechanical ventilation (e.g., air conditioning).
[2]Noise reduction required to satisfy the 45 dBA CNEL interior noise standard for residential uses.
[3]Typical building construction interior noise reduction with the standard windows.
"NR" = Noise Reduction
Source: (Urban Crossroads, 2021b, Table 7-2)

Table 4.9-15 Second Floor Interior Noise Levels

2nd Floor Building Façade Above	Floor	Noise Level at Façade[1]	Required Interior NR[2]	Typical Interior NR[3]	Interior Noise Level	Threshold	Threshold Exceeded?
Flat 1	2	67.2	22.2	25.0	42.2	45	No
Flat 6	2	68.6	23.6	25.0	43.6	45	No
Flat 8	2	68.8	23.8	25.0	43.8	45	No
Flat 8	2	66.7	21.7	25.0	41.7	45	No

[1]Exterior noise level at the façade with a windows-closed condition requiring a means of mechanical ventilation (e.g., air conditioning).
[2]Noise reduction required to satisfy the 45 dBA CNEL interior noise standard for residential uses.
[3]Typical building construction interior noise reduction with the standard windows.
"NR" = Noise Reduction
Source: (Urban Crossroads, 2021b, Table 7-3)

Table 4.9-16 Third Floor Interior Noise Levels

3rd Floor Building Façade Above	Floor	Noise Level at Façade[1]	Required Interior NR[2]	Typical Interior NR[3]	Interior Noise Level	Threshold	Threshold Exceeded?
Flat 1	3	66.0	21.0	25.0	41.0	45	No
Flat 6	3	68.6	23.6	25.0	43.6	45	No
Flat 8	3	68.8	23.8	25.0	43.8	45	No
Flat 8	3	66.7	21.7	25.0	41.7	45	No

[1]Exterior noise level at the façade with a windows-closed condition requiring a means of mechanical ventilation (e.g., air conditioning).
[2]Noise reduction required to satisfy the 45 dBA CNEL interior noise standard for residential uses.
[3]Typical building construction interior noise reduction with the standard windows.

"NR" = Noise Reduction
Source: (Urban Crossroads, 2021b, Table 7-4)

Table 4.9-17 Fourth Floor Interior Noise Levels

4th Floor Building Façade Above	Floor	Noise Level at Façade[1]	Required Interior NR[2]	Typical Interior NR[3]	Interior Noise Level	Threshold	Threshold Exceeded?
Flat 1	4	65.5	20.5	25.0	40.5	45	No
Flat 6	4	68.2	23.2	25.0	43.2	45	No
Flat 8	4	68.4	23.4	25.0	43.4	45	No
Flat 8	4	66.1	21.1	25.0	41.1	45	No

[1]Exterior noise level at the façade with a windows-closed condition requiring a means of mechanical ventilation (e.g., air conditioning).
[2]Noise reduction required to satisfy the 45 dBA CNEL interior noise standard for residential uses.
[3]Typical building construction interior noise reduction with the standard windows.
"NR" = Noise Reduction
Source: (Urban Crossroads, 2021b, Table 7-5)

Threshold b. Would the Project result in generation of excessive groundborne vibration or groundborne noise levels?

Less than Significant Impact.

Construction activity can result in varying degrees of ground vibration, depending on the specific construction activities and equipment used. It is expected that ground-borne vibration from Project construction activities would cause only intermittent, localized intrusion. Ground-borne vibration levels resulting from typical construction activities occurring within the Project site were estimated by data published by the FTA. Ground vibration levels associated with various types of construction equipment are summarized on Table 10-4 of the Project's NIA (*Technical Appendix G*). Based on the representative vibration levels presented for various construction equipment types, it is possible to estimate the potential Project construction vibration levels using the following vibration assessment methods defined by the FTA. (Urban Crossroads, 2021b, pp. 48-49)

Table 4.9-18, *Construction Equipment Vibration Levels*, presents the expected vibration levels attributable to construction activity associated with the Project site at the nearby receiver locations. At distances ranging from 99 feet (at location R4) to 1,002 feet (at location R3) from the Project site boundary, the highest construction vibration levels are estimated to range from 38.9 to 69.1 VdB and would remain below the FTA Transit Noise and Vibration Impact Assessment Manual maximum acceptable vibration criteria of 78 VdB for daytime residential uses at all receiver locations. Furthermore, vibration levels at the site of the closest sensitive receiver would not be sustained during the entire construction period but would occur rather, only during the times that heavy construction equipment is operating. Because the Project's highest construction vibration levels

would not exceed FTA's threshold of 78 VdB for daytime residential uses, the Project-related vibration impacts during construction-related activities would be less than significant. (Urban Crossroads, 2021b, p. 49)

Table 4.9-18 Construction Equipment Vibration Levels

Receiver Location[1]	Land Use	Distance to Construction Activity (Feet)	Receiver Vibration Levels (VdB)[2]					Threshold (VdB)[3]	Threshold Exceeded?[4]
			Small Bulldozer	Jack-hammer	Loaded Trucks	Large Bulldozer	Highest Vibration Levels		
R1	Residential	746'	13.8	34.8	41.8	42.8	42.8	78	No
R2	Office	165'	33.4	54.4	61.4	62.4	62.4	78	No
R3	Park	1,002'	9.9	30.9	37.9	38.9	38.9	78	No
R4	Office	99'	40.1	61.1	68.1	69.1	69.1	78	No

[1]Noise receiver locations are shown on Exhibit 10-A of *Technical Appendix G*.
[2]Based on the Vibration Source Levels of Construction Equipment included on Table 10-4 of *Technical Appendix G*
[3]Federal Transit Administration, Transit Noise and Vibration Impact Assessment
[4]Does the vibration level exceed the FTA acceptable vibration level for the given land use?
Source: (Urban Crossroads, 2021b, Table 10-5)

4.9.7 Cumulative Impact Analysis

The cumulative impact analysis considers construction and operation of the proposed Project in conjunction with other development projects in the vicinity of the Project site that have the potential to collectively increase noise above existing levels.

A. *Construction Noise*

Construction activities associated with the proposed Project, especially activities involving heavy equipment, would create intermittent periods of noise when construction equipment is in operation and cause a short-term increase in ambient noise levels. The list of cumulative projects that have the potential to collectively increase noise is provided in Table 4.0-1 in Section 4.0, *Environmental Analysis*, of this EIR. As detailed on that list, there are no ongoing or imminent construction projects in the immediate vicinity of the proposed Project site. The Project's contribution to any cumulative traffic noise concern would be less than significant, because the volume of construction traffic would be less than the volume of traffic generated by the existing on-site car wash operation. Therefore, the Project would have less than significant and less than cumulatively-considerable construction-related noise impacts.

B. *Stationary Noise*

The analysis presented for Threshold (a) addresses the Project's contribution of noise to existing cumulative noise sources (i.e., ambient noise) in the Project area. As previously shown in Table 4.9-10, the Project's noise contribution would not be perceptible to noise-sensitive receptors in the Project area during daytime or nighttime hours. Because the Project's noise contribution would not exceed any applicable significance thresholds, the Project's stationary noise impacts would not be cumulatively-considerable.

C. *Off-Site Traffic Noise*

The analysis presented under Threshold (a) evaluates the effect of off-site traffic noise along Newport Center Drive and Anacapa Drive on the Project site. As summarized in Table 4.9-13 through Table 4.9-17, the off-site traffic noise contributions along Newport Center Drive and Anacapa Drive would not exceed applicable significance thresholds and, therefore, would not be cumulatively-considerable under near- or long-term conditions.

D. *Groundborne Vibration and Noise*

As indicated under the analysis of Threshold (b), the proposed Project would have a less-than-significant impact regarding groundborne vibration and groundborne noise because any vibration created during Project construction would be temporary in nature. Additionally, based on the cumulative projects list (refer to Table 4.0-1 in EIR Section 4.0), no construction projects would occur in close enough proximity to the Project site that would generate groundborne noise that could combine with the Project's construction activities to create cumulative vibration. No sources of vibration are expected from the Project's construction, or its operation. Persons living in their condominiums in the proposed Project's building would not create or result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels. Based on a review of surrounding land uses, which are comprised of commercial and office land uses, there are no land uses within the Project's vicinity that have the potential to generate noise and vibration in a manner that could result in cumulatively-considerable impacts (Google Earth, 2020). Therefore, Project-related groundborne noise and vibration associated with short-term construction and long-term Project operation would be less-than-cumulatively-considerable.

4.9.8 Significance of Impacts Before Mitigation

Threshold a): Less than Significant Impact. The Project would generate short-term construction and long-term operational noise but would not generate noise levels during construction and/or operation that exceed the standards established by the City of Newport Beach General Plan or Municipal Code.

Threshold b): Less than Significant Impact. The Project's construction activities would not result in excessive groundborne vibration or noise.

4.9.9 Mitigation

Impacts would be less than significant; therefore, no mitigation is required.

LEGEND:

N ▲ Measurement Locations

Source(s): Urban Crossroads (11-06-2020)

Figure 4.9-1

Not to Scale

Noise Measurement Locations

LEGEND:

N

Receiver Locations

Distance from receiver to Project site boundary (in feet)

Source(s): Urban Crossroads (11-06-2020)

Figure 4.9-2

Not to Scale

Sensitive Receiver Locations

4.10 TRANSPORTATION

The analysis in this Subsection is primarily based on a report prepared by Urban Crossroads, Inc. titled, "Residences at Newport Center Trip Generation Assessment," dated December 10, 2020 and included as *Technical Appendix H* to this EIR. The Project's trip generation assessment determines whether additional traffic analysis is necessary for the proposed Project based on the guidelines identified in the City of Newport Beach Chapter 15.40 Traffic Phasing Ordinance (TPO Guidelines) (Urban Crossroads, 2020c, p. 1). Refer to Section 7.0, *References*, for a complete list of references.

This Subsection assesses transportation impacts resulting from implementation of the Project. In accordance with Senate Bill (SB) 743, further discussed under Subsection 4.10.3 below, the California Natural Resources Agency (CNRA) adopted changes to the CEQA Guidelines in December 2018, which identify that starting on July 1, 2020, vehicle miles traveled (VMT) is the appropriate metric to evaluate a project's transportation impacts. As of July 1, 2020, automobile delay, as measured by "level of service" (LOS) and other similar metrics, no longer constitutes a significant environmental effect under CEQA. Lead agencies in California are required to use VMT to evaluate project-related transportation impacts.

Based on analyses conducted as part of the Project's Initial Study, the substantive evidence cited in the Initial Study (EIR *Technical Appendix A*), the City determined that the Project would clearly result in no impacts or less-than-significant impacts under two of the thresholds identified in Section XVII (Transportation) of Appendix G to the CEQA Guidelines. Specifically, the Project's Initial Study concluded that the Project would result in less-than-significant impacts under Thresholds (c) and (d):

> c. *Would the Project substantially increase hazards to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?*
>
> d. *Would the Project result in inadequate emergency access?*

Accordingly, no additional analyses of the above-listed thresholds are required, and this Subsection instead focuses on the Project's potential to conflict with applicable programs, plans, ordinances, or policies addressing the circulation system, or the Project's potential to result in significant VMT-related traffic impacts.

4.10.1 EXISTING CONDITIONS

The Project site is located within the Newport Center area, a highly urbanized portion of the City of Newport Beach that is fully developed with a variety of office, retail, and residential land uses. Under existing conditions, the Project site is the location of the "Newport Beach Car Wash." In a letter to the City of Newport Beach, the current owner of the Project site, which through an affiliated company operates the car wash on the site, reports that the car wash does not support the land value and purchase price of the property. (Newport Center Anacapa Associates, LLC, 2020). The Project

site contains a single-story building that is operating as a car wash facility with associated convenience market and gas station with ancillary lighting, signage, and associated improvements. The car wash building includes an indoor waiting area and an outdoor waiting area. Advertised business hours are 8:00 AM to 6:00 PM seven days per week. All portions of the Project site are fully developed with the car wash and ancillary gas station and convenience market. A paved parking area is located along the western edge of the Project site.

A. Site Access

Access to the Project site is provided from Anacapa Drive via the shared driveway to Gateway Plaza and then via a direct ingress/egress driveway to the gas station facility. Sidewalks front the Project site along its Anacapa Drive and Newport Center Drive frontages. Local access to the Project vicinity is provided via Newport Center Drive, located north and west of the Project site, Civic Center Drive, located south of the Project site, and Avocado Avenue, located east of the Project site. These streets provide access to State Route 1 (SR-1), also known as East Coast Highway, located approximately 0.31-mile south of the Project site, and to MacArthur Boulevard, located approximately 0.3-mile east of the Project site which provides access to California State Route 73 (SR-73), located approximately 2.0 miles northeast of the Project site.

B. Trip Generation

To capture the site's existing trip generation, and as part of a previous application for development filed for the Project site in 2015, traffic counts were conducted at the existing site on Tuesday, Wednesday, and Thursday March 24-26, 2015, which are presented in a Trip Generation Memo prepared by Kunzman Associates, Inc., dated April 7, 2016 (Kunzman, 2016). Due to the COVID-19 stay-at-home orders that were in place when the NOP for this EIR was released for public review, there was less outdoor activity and less traffic, as compared to when the 2015 traffic counts were collected. In 2015, the existing use at the Project site was the same as it is at present time. Traffic was present from vehicles traveling on Anacapa Drive, Newport Center Drive, and other roadways in the area. Thus, the 2015 traffic counts are considered to better represent a normal operating condition than traffic counts that would have been taken during the COVID-19 pandemic, and thus the 2015 traffic counts are used herein to represent normal baseline noise levels.

The 3-day average trip generation for the existing site is summarized in Table 4.10-1, *Existing Trip Generation Summary*. As indicated in Table 4.10-1, the existing use as a car wash generates 819 trip-ends per day (2-way trips), with 54 trips generated during the AM peak hour and 75 trips generated during the PM peak hour. (Urban Crossroads, 2020c, p. 1)

Table 4.10-1 Existing Trip Generation Summary

	AM Peak Hour			PM Peak Hour			
Existing Use	In	Out	Total	In	Out	Total	Daily
Newport Beach Car Wash[1]	30	24	54	33	42	75	819

[1] Source: Trip Generation Memo, prepared by Kunzman Associates, Inc., dated April 7, 2016. Data shown is 3-day average (March 24-26, 2015).
Source: (Urban Crossroads, 2020c, Table 1)

C. *Existing Transit Services*

The vicinity of the Project site is served by the Orange County Transportation Agency (OCTA), a public transit agency serving Orange County. The Newport Transportation Center/Park-and-Ride, located at the intersection of Avocado Avenue and San Nicholas, provides access to the following OCTA bus routes in the Project area on Newport Center Drive via Routes 1, 57, and 79. The three nearest bus stops each with Routes 1, 57, and 79 are located approximately 124 feet north of the Project site, approximately 150 feet east of the Project site, and approximately 390 feet west of the Project site. (Google Earth, 2020).

D. *Existing Bicycle and Pedestrian Facilities*

With regard to pedestrian movement around the Project site, sidewalks exist along Anacapa Drive bordering the Project site to the east and along Newport Center Drive bordering the Project site to the north. As discussed in Section 3.0, *Project Description* and as detailed in the Project's grading plan, there is also an existing 18-foot-wide reservation for pedestrian use located along the southern property boundary adjoining the Gateway Plaza office complex. As part of the proposed Project, the existing reservation would be modified to a 10-foot width and the Project would maintain the non-exclusive easement for ingress and egress over the Gateway Plana property, along the southern boundary of the Project site. Crosswalks are located at the intersection of Anacapa Drive and Newport Center Drive and provide pedestrian access to nearby businesses and the Fashion Island shopping center. Pedestrian activity in the Project area is generally from persons walking to/from nearby offices and the Fashion Island shopping center. (Google Earth, 2020)

An existing Class II (on-road striped) bicycle lane abuts the Project site to the north along Newport Center Drive. In addition, a bike lane was recently added on Anacapa Drive in each direction and the roadway was restriped in both directions to accommodate the bike lane. No existing equestrian trails or hiking trails are located along Newport Center Drive bordering the Project site to the north or along Anacapa Drive bordering the Project site to the east.

4.10.2 Regulatory Setting

The following is a brief description of the federal, State, and local environmental laws and related regulations related to the issue of transportation.

A. *Senate Bill 743 and VMT Based Analysis*

Senate Bill 743, which was codified in Public Resources Code (PRC) Section 21099, required changes to the CEQA Guidelines regarding the analysis of transportation impacts. Pursuant to PRC Section 21099, the criteria for determining the significance of transportation impacts must "promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses." To that end, in developing the criteria, the Office of Planning and Research (OPR) proposed, and the California Natural Resources Agencies (CNRA) certified and adopted changes to the CEQA Guidelines in December 2018, which entailed changes to the thresholds of significance for the evaluation of impacts to transportation.

The updated CEQA Guidelines include the addition of CEQA Guidelines Section 15064.3, of which Subdivision (b) establishes criteria for evaluating a project's transportation impacts based on project type and using automobile VMT as the metric. As identified in Section 15064.3(b)(4) of the CEQA Guidelines, a lead agency has the discretion to choose the most appropriate methodology to evaluate a project's VMT. The City of Newport Beach adopted its VMT thresholds of significance and published its updated City Council Policy K-3, "Implementation Procedures for the California Environmental Quality Act" on June 9, 2020. The metric for determining a significant impact under CEQA is based on VMT.

B. SCAG Regional Transportation Plan/Sustainable Communities Strategy

The Southern California Association of Governments (SCAG) is a regional agency established pursuant to California Government Code § 6500, also referred to as the Joint Powers Authority law. SCAG is designated as a Council of Governments (COG), a Regional Transportation Planning Agency (RTPA), and a Metropolitan Planning Organization (MPO). The Project Site is within SCAG's regional authority. In September 2020, SCAG's Regional Council adopted *Connect SoCal* (*2020-2045 Regional Transportations Plan/Sustainable Communities Strategy* (herein, "*2020 RTP/SCS*").

The *2020-2045 RTP/SCS* includes long-range regional transportation plans, regional transportation improvement programs, regional housing needs allocations, and other plans for the region. The *2020-2045 RTP/SCS* also provides objectives for meeting emissions reduction targets set forth by the California Air Resources Board (ARB); these objectives were provided in a direct response to Senate Bill 375 (SB 375) which was enacted to reduce greenhouse gas emissions from automobiles and light trucks through integrated transportation, land use, housing and environmental planning. (SCAG, 2020b) The *2020-2045 RTP/SCS* is updated periodically to allow for the consideration and inclusion of new transportation strategies and methods.

C. City of Newport Beach General Plan Circulation

The City's General Plan Circulation Element governs the long-term mobility system of the City. The goals and policies in the Circulation Element are closely correlated with the Land Use Element and are intended to provide the best possible balance between the City's future growth and land use development, roadway size, traffic service levels, and community character. The following policies are applicable to the Project:

- **Goal CE 2.1:** A roadway system that provides for the efficient movement of goods and people of the City of Newport Beach, while maintaining the community's character and its residents' quality of life.

- **Policy CE 2.1.1**: Level of Services Standards. Plan the arterial roadway system to accommodate projected traffic at the following level of service standards:
  - Level of Service (LOS) "D" throughout the City, unless otherwise noted.
  - LOS "E" at any intersection in the Airport Area shared with [the City of] Irvine.

- LOS "E" at Coast Highway (EW) and Dover Drive (NS) due to right-of-way limitations.
- LOS "E" at Marguerite Avenue (NS) and Coast Highway (EW) in the pedestrian-oriented area of Corona del Mar.
- LOS "E" at Goldenrod Avenue (NS) and Coast Highway (EW) in the pedestrian-oriented area of Corona del Mar.

- **Goal CE 5.1.** Convenient trail systems that satisfy recreational desires and transportation needs.

- **Policy CE 5.1.2: Pedestrian Connectivity.** Link residential areas, schools, parks, and commercial centers so that residents can travel within the community without driving.

- **Policy CE 5.1.3: Pedestrian Improvements in New Development Projects.** Require new development projects to include safe and attractive sidewalks, walkways, and bike lanes in accordance with the Master Plan, and, if feasible, trails.

- **Policy CE 5.1.16: Bicycle and Pedestrian Safety.** Provide for the safety of bicyclists and pedestrians through provision of adequate facilities, including maintenance of extra sidewalk width where feasible.

- **Goal 7.1:** An adequate supply of convenient parking throughout the City.

- **Policy CE 7.1.1: Required Parking.** Require new development projects to include safe and attractive sidewalks, walkways, and bike lanes in accordance with the Master Plan, and, if feasible, trails.

D. City of Newport Beach Traffic Phasing Ordinance (TPO)

The City of Newport Beach's TPO Guidelines Section 15.40.030, *Standards for Approval-Findings-Exemptions*, indicates any project that generates fewer than 300 average daily tips or increases trips by fewer than 1% on any leg of any primary intersection during morning and evening peak period are exempt from provisions in the chapter (Urban Crossroads, 2020c, p. 3).

E. City of Newport Beach Bicycle Master Plan

The City of Newport Beach Bicycle Master Plan, adopted on October 28, 2014, is intended to guide the development and maintenance of a comprehensive bicycle network and set of programs within the City for the next 20 years. The Newport Beach Bicycle Master Plan provides a broad vision, as well as strategies and actions, to improve conditions for bicycling throughout the City and provides direction for expanding the existing bicycle network, connecting gaps within the City and connecting to adjacent cities. (City of Newport Beach, 2014, p. 1)

4.10.3 Transportation Impact Analysis Methodology

The Project's VMT analysis summarized in this Subsection, relies on the analysis methodologies described below.

A. *Vehicle Miles Traveled (VMT) Evaluation Criteria and Methodology*

In June 2020, the City of Newport Beach amended City Council Policy K-3, "Implementation Procedures for the California Environmental Quality Act," which describes specific "screening thresholds" that can be used to identify when a proposed land use project is anticipated to result in a less-than-significant impact without conducting a more detailed project level VMT analysis. Screening thresholds are described for two types of projects – a land use project and a transportation project. A land use project and/or transportation project that meet one or more of the criteria provided in Subsection (2)(a) and or (2)(b) are considered to have a less-than-significant impact on transportation and no further VMT analysis is required. (City of Newport Beach, 2020d) The Project site is a land use project therefore only the land use project criteria is described below:

Land Use Project Screening
For Land Use Projects, the screening criteria includes:

i. The Land Use Project is located within 0.5 mile of an existing Major Transit Stop or a High-Quality Transit Corridor unless the Land Use Project is inconsistent with the Regional Transportation Plan/Sustainable Transportation Communities plan, has a floor area ratio (FAR) of less than 0.75, provides parking in excess of the Newport Beach Municipal Code requirements, or reduces the number of affordable residential units.
ii. The Land Use Project is located in areas with lower than 85 percent of the countywide average VMT per capita trips for residential projects. or lower than 85 percent of the countywide average VMT per employee for office or other employee-based Land Use Projects average. See Figures 2 and 3 of the City SB 743 VMT Implementation Guide.
iii. Locally serving retail space of less than 50,000 square feet.
iv. The Land Use Project has a high level of affordable housing units, as determined by the Community Development Department.
v. The Land Use Project generates a net increase of 300 or less daily trips, utilizing the most current Institute of Transportation Engineers (ITE) Trip Generation Manual. Credit may apply for existing uses generating traffic on the site, as outlined in Chapter 15.40 (Traffic Phasing Ordinance) of the Newport Beach Municipal Code.
vi. Institutional/Government and public service uses including, but not limited to, police stations, fire stations, community centers, and refuse centers.

B. Cumulative Projects

CEQA Guidelines Section 15130 requires that this EIR disclose the impact from the Project along with the incremental impacts from closely-related past, present, and reasonably foreseeable future projects (i.e., cumulative impact analysis). As previously described in EIR Section 4.0, *Environmental Analysis*, the Project's cumulative traffic impact analysis utilizes a summary of projections approach plus a list of projects approach in order to provide a conservative analysis of cumulative impacts. The location of each cumulative project can be found in EIR Table 4.0-1. VMT analysis is inherently cumulative.

4.10.4 Basis for Determining Significance

Based on the results of the Initial Study, it was determined that the Project has the potential to result in a significant impact to transportation if the Project or any Project-related component would:

a. *Conflict with an applicable program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities;*

b. *Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b).*

The above-listed thresholds are derived directly from Section XVII of Appendix G to the CEQA Guidelines and address the typical, adverse effects related to transportation that could result from development projects. Refer also to the Project's Initial Study (*Technical Appendix A*) for a discussion of potential impacts due to transportation that were determined to be less than significant as part of the Project's scoping process.

4.10.5 Impact Analysis

Threshold a: Would the Project conflict with an applicable program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

Less than Significant Impact.

A. SCAG 2020-2045 RTP/SCS

Section 4.8 (Land Use and Planning) of this EIR, addresses the Project's consistency with the *2020-2045 RTP/SCS*. As demonstrated through that analysis, implementation of the Project would be consistent with the goals and policies of SCAG's regional planning program, including the following goals related to vehicular and non-vehicular circulation:

- Improve mobility, accessibility, reliability, and travel safety for people and goods.
- Increase person and goods movement and travel choices within the transportation system.
- Encourage development of diverse housing types in areas that are supported by multiple transportation options.

Because the Project is consistent with the goals and policies of SCAG's *2020-2045 RTP/SCS*, the Project would not conflict with this applicable program that addresses the City's circulation system.

B. City of Newport Beach Bicycle Master Plan

An existing bicycle lane is located on Newport Center Drive north of the Project site. Although Figure 2-4 of the City of Newport Beach Bicycle Master Plan, does not show any bicycle lanes on Anacapa Drive abutting the Project site, a bike lane was recently added on Anacapa Drive in each direction and the roadway was restriped in both directions to accommodate the bike lanes. The bike lanes would remain with implementation of the Project. Therefore, the Project is consistent with the Bicycle Master Plan.

C. City of Newport Beach General Plan Circulation Element

The following discussion provides an analysis of the Project's consistency with applicable General Plan policies addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. As indicated below, the Project would be consistent with all applicable General Plan policies addressing the circulation system. Therefore, Project impacts to the City's circulation system would be less than significant.

- **Policy CE 2.1.1: Level of Service Standards.** Plan the arterial roadway system to accommodate projected traffic at the level of service standards stated in Subsection 4.10.2.

Using data provided by the Institute of Transportation Engineers (ITE) in their Trip Generation Manual (10th edition, 2017), as indicated in Table 4.10-2, *Project Trip Generation Summary,* the proposed Project is calculated to generate approximately 152 trip-ends per day (including inbound and outbound trips), with 11 trips during the morning peak hour and 13 trips during the evening peak hour (Urban Crossroads, 2020c, p. 2).

Table 4.10-2 Project Trip Generation Summary

			AM Peak Hour			PM Peak Hour			
Proposed Use	Quantity	Units[1]	In	Out	Total	In	Out	Total	Daily
Residences at Newport Center	28	DU	3	8	11	8	5	13	152

[1] DU = Dwelling Units

(Urban Crossroads, 2020c, Table 3)

As indicated in Table 4.10-2, the Project is anticipated to generate fewer than 300 vehicles per day with no more than 13 peak hour trips (during the PM peak hour). Because the Project's 152 trips are less than the 300 trips criteria in the City's TPO guidelines, the Project would be exempt from provisions in the City's TPO and would not result in substantial adverse effects on the circulation network. (Urban Crossroads, 2020c, p. 3)

As shown in Table 4.10-3, *Project Trip Comparison*, based on a comparison of the trip generation from the existing car wash use and the proposed Project, the proposed Project is anticipated to

generate 667 fewer daily trips, with 43 fewer AM peak hour trips and 62 fewer PM peak hour trips. As such, the development of the proposed Project would result in a net reduction in traffic in comparison to the existing use (Newport Beach Car Wash). (Urban Crossroads, 2020c, p. 2)

Because the Project would be consistent with the City's TPO guidelines, the Project's impacts to the City's circulation system would be less than significant.

Table 4.10-3 Project Trip Comparison

	AM Peak Hour			PM Peak Hour			
	In	Out	Total	In	Out	Total	Daily
Proposed: Residences at Newport Center	3	8	11	8	5	13	152
Existing: Newport Beach Car Wash	30	24	54	33	42	75	819
Net Change in Project Trip Generation	**-27**	**-16**	**-43**	**-25**	**-37**	**-62**	**-667**

(Urban Crossroads, 2020c, Table 4)

Customers of the existing car wash that would be demolished as part of the proposed Project would be able to get their cars washed at other car wash locations. However, because there is no data to indicate where the existing car wash customers are traveling from (point of origin) to reach the Project site, or where these customers would choose to get their cars washed once the on-site car wash is closed, an analysis of trip displacement is not necessary as it is highly speculative and not based on any fact-based information. As discussed in Section 2.0, *Environmental Setting*, the closest other car wash to the Project site is located near Jamboree and San Joaquin Hills Road, approximately 0.9-mile to the northwest of the Project site. There are a number of other car washes within 4.0 miles of the Project site, including but not limited to: 1) Newport Car Wash located at 3767 Birch St., Newport Beach; 2) The Car Spa located at 1200 West Coast Hwy., Newport Beach; 3) Newport Coast Car Wash located at 4200 Birch St., Newport Beach; 4) Car-Wash Newport Beach located at 2285 Newport Blvd., Costa Mesa; 5) Beach Cities Car Wash located at 1645 Superior Ave., Costa Mesa; 6) Newport Car Wash & Detail Center located at 3793 Birch St., Newport Beach; and 7) Newport Mesa Car Wash & Services located at 2015 Harbor Blvd. #B, Costa Mesa.

- **Policy CE 5.1.2: Pedestrian Connectivity.** Link residential areas, schools, parks, and commercial centers so that residents can travel within the community without driving.

The Project Applicant proposes construction of 28 condominiums, which would be located approximately 0.1-mile south of the City's regional attraction and largest retail center, Fashion Island. Also, as mentioned previously, the Project site is located approximately 124 to 390 feet from three bus stops on Newport Center Drive. Because the Project would be located in close proximity to Fashion Island and public transportation, implementation of the Project would provide the opportunity for Project residents to utilize public transportation and walk and bike to nearby destinations such as Fashion Island and nearby offices, professional and personal service businesses, and other destinations.

- **Policy CE 5.1.3: Pedestrian Improvements in New Development Projects.** Require new development projects to include safe and attractive sidewalks, walkways, and bike lanes in accordance with the Master Plan, and, if feasible, trails.

- **Policy CE 5.1.16: Bicycle and Pedestrian Safety.** Require that new development provide adequate convenient parking for residents, guests, business patrons, and visitors.

The Project is not expected to attract large volumes of pedestrian or bicycle traffic because the Project is expected to accommodate up to only approximately 62 new residents. There is an existing sidewalk along the Project site's frontage on Newport Center Drive and an existing sidewalk along the Project site's frontage on Anacapa Drive. The existing approximately 9-foot-wide sidewalk along Anacapa Drive would be removed and replaced as part of the proposed project, in compliance with the City of Newport Beach Public Works standards. The sidewalk would be reconstructed as an approximately 6-foot-wide sidewalk with a 6-foot-wide parkway separating the sidewalk from the curb. The City's existing 3-foot pedestrian sidewalk easement that is located on the subject property would be retained as part of the Project. There also is an existing Class II bicycle lane along the Project site's frontage on Newport Center Drive and on Anacapa Drive. According to the City's General Plan and Bicycle Master Plan, there are no new proposed sidewalks, bicycle lanes, or trails abutting the Project site or within the Project site vicinity. In addition, the Project would not interfere with the existing sidewalks and bicycle lane along the Project site's frontage on Newport Center Drive and Anacapa Road.

Threshold b: Would the Project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

Less than Significant Impact.

The Project's traffic was evaluated against screening criteria to determine if it could clearly be determined that the Project would not generate substantial vehicle miles traveled (VMT) – and, therefore, be consistent with CEQA Guidelines Section 15064.3(b) – or if additional analysis was needed to determine the significance of Project-related VMT. The screening criteria used in the Project analysis are established in the City's Council Policy K-3, "Implementation Procedures for the California Environmental Quality Act." Pursuant to City Council Policy K-3, land use projects that generate a net increase of 300 or fewer daily trips are considered to have a less-than-significant impact related to VMT. Because the Project is calculated to generate 667 fewer daily traffic trips than the Project site's existing use as a car wash, the Project would be consistent with City Council Policy K-3 and generate a less-than-significant environmental impact related to VMT. Therefore, implementation of the Project would not generate excessive VMT, which is defined in CEQA Guidelines section 15064.3(b) as the metric used to evaluate project-related transportation impacts. In addition, the Project site is close, (less than 0.50) mile from the transit hub.

Because there is no data to indicate where the existing car wash customers are traveling from (point of origin) to reach the Project site, or where these customers will choose to get their cars washed once the on-site car wash is closed, an analysis of trip displacement would be highly speculative and not based on any fact-based information. Even if it is assumed that all of the existing car wash's customers would use the nearest car washes to the Project site (near Jamboree and San Joaquin Hills Road, approximately 0.9-mile to the northwest of the Project site), it cannot be known with any degree of certainty if this location is actually closer or further from the customer travel trip's origin. Making a reasonable assumption about car wash customer behavior, based on consumer convenience, it is probable that people seeking to have their car washed would utilize a car wash location that is most convenient to them, and predicting which other location would be most convenient to a wide spectrum of customers would be nothing more than a wild guess. The DEIR properly evaluates the Project's traffic based on a comparison of the Project to the Project site's existing condition (a car wash with ancillary gas station and convenience market). The fact that the on-site car wash would be removed from the site would eliminate all of the existing traffic trips traveling to and from the site under the existing condition. Thus, the net trips (existing car wash trips minus the Project's projected trips) utilized in the analysis is an appropriate basis for the evaluation of environmental impacts.

4.10.6 Cumulative Impact Analysis

The analysis under Threshold (a) discloses the Project's potential to conflict with General Plan objectives and policies related to the transportation network. Because the Project would be fully consistent with all applicable programs, plans, ordinances, or policies addressing the City's circulation system, including transit, roadway, bicycle, and pedestrian facilities, Project impacts due to a conflict with applicable programs, plans, ordinances, and policies would be less-than-cumulatively considerable.

The analysis under Threshold (b) evaluates the Project's potential to generate substantial VMT. Implementation of the Project would result in 667 fewer daily trips to and from the site than the site's existing use as a car wash. Because the Project would generate fewer trips than under existing conditions, the Project would be consistent with City Council Policy K-3 and would not generate substantial VMT. Therefore, a cumulatively-considerable VMT impact would not occur.

4.10.7 Significance of Impacts Before Mitigation

Threshold a): Less than Significant Impact. The Project would not conflict with a program, plan, ordinance, or policy addressing the circulation system; therefore, impacts would be less than significant.

Threshold b): Less than Significant Impact. Because the Project's 152 trips are less than the 300 trips criteria in the City's TPO guidelines, the Project would be exempt from provisions in the City's TPO and would not result in substantial adverse effects on the circulation network. In addition, the Project would generate 667 fewer daily trips than the site's existing use, which results in the project being

screened out from additional VMT analysis. Therefore, the Project would not generate substantial VMT and impacts would be less than significant.

4.10.8 MITIGATION

Impacts would be less than significant; therefore, no mitigation is required.

4.11 TRIBAL CULTURAL RESOURCES

The analysis in this Subsection is primarily based on a report prepared by Duke Cultural Resources Management (CRM) titled, "Cultural Resources Assessment for the Newport Center Residences Project, City of Newport Beach, California," dated October 12, 2020, and included as Technical Appendix D to this EIR (Duke CRM, 2020). In addition, the analysis in this Subsection is based on City of Newport Beach coordination efforts pursuant to California Senate Bill (SB 18) and California Assembly Bill 52 (AB52). Much of the written and oral communication between Native American tribes and the City of Newport Beach is considered confidential in respect to places that have traditional tribal cultural significance (Gov. Code § 65352.4), and although relied upon in part to inform the preparation of this EIR Subsection, those communications are treated as confidential and are not available for public review. Under existing law, environmental documents must not include information about the location of archeological sites or sacred lands or any other information that is exempt from public disclosure pursuant to the Public Records Act (Cal. Code Regs. § 15120(d)).

4.11.1 EXISTING CONDITIONS

Refer to EIR Subsection 4.4.1 for a complete description of the cultural setting, existing site conditions, and the archaeological and historical resources assessment.

4.11.2 REGULATORY SETTING

The following is a brief description of the environmental laws and related regulations addressing Tribal Cultural Resources (TCRs). Refer also to EIR Subsection 4.4.2 for a complete description of federal, State, and local environmental laws and regulations governing the protection of cultural resources.

A. Federal Regulations

1. American Indian Religious Freedom Act

The American Indian Religious Freedom Act (AIRFA) requires each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies also are required to maintain the confidentiality of sacred sites. Each executive branch agency with statutory or administrative responsibility for the management of Federal lands are required to implement procedures to ensure reasonable notice is provided of proposed actions or land management policies that may restrict future access to or ceremonial use of, or adversely affect the physical integrity of, sacred sites. (NOAA, n.d.)

2. Native American Graves Protection and Repatriation Act (NAGPRA)

The Native American Graves Protection and Repatriation Act (NAGPRA; Public Law 101-601; 25 U.S.C. 3001-3013) describes the rights of Native American lineal descendants, Indian tribes, and Native Hawaiian organizations with respect to the treatment, repatriation, and disposition of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony, referred to collectively in the statute as cultural items, with which they can show a relationship of lineal descent or cultural affiliation. (NPS, 2019)

One major purpose of this statute is to require that federal agencies and museums receiving Federal funds inventory holdings of Native American human remains and funerary objects and provide written summaries of other cultural items. The agencies and museums must consult with Indian Tribes and Native Hawaiian organizations to attempt to reach agreements on the repatriation or other disposition of these remains and objects. Once lineal descent or cultural affiliation has been established, and in some cases the right of possession also has been demonstrated, lineal descendants, affiliated Indian Tribes, or affiliated Native Hawaiian organizations normally make the final determination about the disposition of cultural items. Disposition may take many forms from reburial to long term curation, according to the wishes of the lineal descendent(s) or culturally affiliated Tribe(s). (NPS, 2019)

The second major purpose of the statute is to provide greater protection for Native American burial sites and more careful control over the removal of Native American human remains, funerary objects, sacred objects, and items of cultural patrimony on Federal and tribal lands. NAGPRA requires that Indian tribes or Native Hawaiian organizations be consulted whenever archeological investigations encounter, or are expected to encounter, Native American cultural items or when such items are unexpectedly discovered on Federal or tribal lands. Excavation or removal of any such items also must be done under procedures required by the Archaeological Resources Protection Act. This NAGPRA requirement is likely to encourage the in-situ preservation of archaeological sites, or at least the portions of them that contain burials or other kinds of cultural items. (NPS, 2019)

Other provisions of NAGPRA: (1) stipulate that illegal trafficking in human remains and cultural items may result in criminal penalties; (2) authorizes the Secretary of the Interior to administer a grants program to assist museums and Indian Tribes in complying with certain requirements of the statute; (3) requires the Secretary of the Interior to establish a Review Committee to provide advice and assistance in carrying out key provisions of the statute; authorizes the Secretary of the Interior to penalize museums that fail to comply with the statute; and, (5) directs the Secretary to develop regulations in consultation with this Review Committee. (NPS, 2020c; NPS, 2019)

B. State Regulations

1. California Administrative Code, Title 14, Section 4308

Section 4308, Archaeological Features, of Title 14 of the California Administrative Code provides that: "No person shall remove, injure, disfigure, deface, or destroy any object of archaeological, or historical interest or value." (NPS, n.d.)

2. California Code of Regulations Title 14, Section 1427

California Code of Regulations Title 14, Section 1427 provides that: "No person shall collect or remove any object or thing of archeological or historical interest or value, nor shall any person injure, disfigure, deface or destroy the physical site, location or context in which the object or thing of archeological or historical interest or value is found." (NAHC, n.d.)

3. Traditional Tribal Cultural Places Act (SB 18)

Senate Bill 18 (SB 18) requires local (city and county) governments to consult with California Native American tribes to aid in the protection of traditional tribal cultural places ("cultural places") through local land use planning. SB 18 also requires the Governor's Office of Planning and Research (OPR) to include in the General Plan Guidelines advice to local governments for how to conduct these consultations. (OPR, 2005)

The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places. The purpose of involving tribes at these early planning stages is to allow consideration of cultural places in the context of broad local land use policy, before individual site-specific, project-level land use decisions are made by a local government. (OPR, 2005)

SB 18 requires local governments to consult with tribes prior to making certain planning decisions and to provide notice to tribes at certain key points in the planning process. These consultation and notice requirements apply to adoption and amendment of both general plans (defined in Government Code § 65300 et seq.) and specific plans (defined in Government Code § 65450 et seq.). Although SB 18 does not specifically mention consultation or notice requirements for adoption or amendment of specific plans, existing state planning law requires local governments to use the same processes for adoption and amendment of specific plans as for general plans (see Government Code § 65453). Therefore, where SB 18 requires consultation and/or notice for a general plan adoption or amendment, the requirement extends also to a specific plan adoption or amendment. (OPR, 2005)

4. Assembly Bill 52 (AB 52)

California Assembly Bill 52 (AB 52) (2014) Chapter 532 amended Section 5097.94 of, and added Sections 21073, 21074, 21080.3.1, 21080.3.2, 21802.3, 21083.09, 21084.2 and 21084.3 to the California Public Resources Code, relating to Native Americans. AB 52 was approved on September 25, 2014. By including tribal cultural resources early in the CEQA process, the legislature intended

to ensure that local and Tribal governments, public agencies, and project proponents would have information available, early in the project planning process, to identify and address potential adverse impacts to tribal cultural resources. By taking this proactive approach, the legislature also intended to reduce the potential for delay and conflicts in the environmental review process. (OPR, 2017)

The Public Resources Code now establishes that "[a] project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment." (Pub. Resources Code, § 21084.2.) To help determine whether a project may have such an effect, the Public Resources Code requires a lead agency to consult with any California Native American tribe that requests consultation and is traditionally and culturally affiliated with the geographic area of a proposed project. That consultation must take place prior to the determination of whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project. (Pub. Resources Code, § 21080.3.1.) (OPR, 2017)

If a lead agency determines that a project may cause a substantial adverse change to tribal cultural resources, the lead agency must consider measures to mitigate that impact. Public Resources Code § 20184.3 (b)(2) provides examples of mitigation measures that lead agencies may consider to avoid or minimize impacts to tribal cultural resources. These rules apply to projects that have a notice of preparation for an environmental impact report or negative declaration or mitigated negative declaration filed on or after July 1, 2015. (OPR, 2017)

§ 21074 of the Public Resources Code defines "tribal cultural resources." In brief, in order to be considered a "tribal cultural resource," a resource must be either:

(1) listed, or determined to be eligible for listing, on the national, state, or local register of historic resources, or

(2) a resource that the lead agency chooses, in its discretion, to treat as a tribal cultural resource. (OPR, 2017)

In the latter instance, the lead agency must determine that the resource meets the criteria for listing in the state register of historic resources. In applying those criteria, a lead agency must consider the value of the resource to the tribe. (OPR, 2017)

5. State Health and Safety Code

California Health and Safety Code (HSC) § 7050.5(b) requires that excavation and disturbance activities must cease "In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery…" until the coroner can determine regarding the circumstances, manner, and cause of any death. The coroner is then required to make recommendations concerning the treatment and disposition of the human remains. Further, this section of the code makes it a misdemeanor to intentionally disturb, mutilate or remove interred human remains. § 7051 specifies

that the removal of human remains from "internment or a place of storage while awaiting internment" with the intent to sell them or to dissect them with "malice or wantonness" is a public offense punishable by imprisonment in a state prison. Lastly, HSC §§ 8010-8011 establish the California Native American Graves Protection and Repatriation Act consistent with the federal law addressing the same. The Act stresses that "all California Indian human remains and cultural items are to be treated with dignity and respect." It encourages voluntary disclosure and return of remains and cultural items by publicly funded agencies and museums in California. It also outlines the need for aiding California Indian tribes, including non-federally recognized tribes, in filing repatriation claims. (CA Legislative Information, n.d.)

6. California Code of Regulations Section 15064.5

The California Code of Regulations, Title 14, Chapter 3, § 15064.5 (the State CEQA Guidelines) establishes the procedure for determining the significance of impacts to archeological and historical resources, as well as classifying the type of resource. Cultural resources are aspects of the environment that require identification and assessment for potential significance. The evaluation of cultural resources under CEQA is based upon the definitions of resources provided in CEQA Guidelines § 15064.5, as follows: (CNRA, n.d.)

- *A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code § 5024.1, Title 14 CCR, Section 4850 et seq.).*

- *A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.*

- *Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code § 5024.1, Title 14 CCR, Section 4852) including the following:*

    - *Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;*
    - *Is associated with the lives of persons important in our past;*

- *Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or*
- *Has yielded, or may be likely to yield, information important in prehistory or history.*

- *The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.*

4.11.3 Basis for Determining Significance

Based on the results of the Initial Study, it was determined that the Project has the potential to result in a significant impact to tribal cultural resources (TCRs) if the Project or any Project-related component would:

a. *Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is:*

   i) *Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).*
   ii) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth is subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.*

The above-listed threshold is derived directly from Section XVIII of Appendix G to the CEQA Guidelines and addresses the typical, adverse effects related to TCRs that could result from development projects.

4.11.4 IMPACT ANALYSIS

Threshold a: Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Pursuant to SB 18, in January 2021, the Native American Heritage Commission (NAHC) conducted a Sacred Lands File (SLF) check on the Project site, the results of which were negative (NAHC, 2021).

In compliance with Assembly Bill (AB 52) on December 7, 2020 the City of Newport Beach emailed notices regarding the Proposed project to all of the Native American Tribes that have requested consultation pursuant to AB 52. Notices were emailed to the Gabrieleno Band of Mission Indians – Kizh Nation, the Juaneno Band of Mission Indians, Acjachemnen Nation – Belardes, and the Gabrielino Tongva Tribe. The two tribes that requested to consult on the proposed Project were the Gabrieleno Band of Mission Indians – Kizh Nation and the Juaneno Band of Mission Indians, Acjachemnen Nation – Belardes.

In compliance with Senate Bill (SB 18), the City of Newport Beach mailed and emailed notices regarding the proposed Project to all of the Native American tribes within the Project Site's vicinity. The City received notification from two Native American tribes requesting to initiate consultation on the proposed Project including the Gabrieleno Band of Mission Indians – Kizh Nation and the Juaneno Band of Mission Indians, Acjachemnen Nation – Belardes.

Because the site is fully developed under existing conditions and none of the Tribes identified any known TCRs on the site under existing conditions, it is not expected that the AB 52 and SB 18 consultation process will result in the identification of potential impacts to TCRs beyond what is already evaluated and addressed in EIR Subsection 4.4, *Cultural Resources*.

As documented in EIR Subsection 4.4, *Cultural Resources*, and based on a site-specific technical report prepared by Duke Cultural Resources Management (CRM) titled, "Cultural Resources

Assessment for the Newport Center Residences Project, City of Newport Beach, California," dated October 12, 2020, and included as *Technical Appendix D* to this EIR (Duke CRM, 2020), the Project site does not contain any known archaeological resources. Although Subsection 4.4 notes that there is a potential for uncovering previously-undiscovered archaeological resources (including TCRs) during Project ground-disturbing activities), Mitigation Measure MM 4.4-1 has been identified to require that a qualified archaeological monitor and a qualified Native American Tribal monitor are retained to monitor the Project site during earthmoving activities and implement mitigation to the satisfaction of the City in the event that any significant archaeological or tribal cultural resources are inadvertently unearthed during excavation and grading activities.

4.11.5 Cumulative Impact Analysis

As indicated under the analysis of Threshold (a), the Project would not result in a significant impact to any known TCR. Although unlikely, there is a remote possibility that TCRs could be encountered during site grading activities, which would result in a site-specific potentially significant impact to TCRs. Mitigation is identified in Subsection 4.4 of this EIR as indicated in Subsection 4.11.7 below to reduce this potential impact to less than significant. Other development projects throughout the City of Newport Beach that require excavation of undisturbed soils may result in similar site-specific impacts to TCRs, which would also require mitigation in order to reduce their respective impact(s) to a less than significant level. However, the proposed Project does not include any components that would affect potentially significant off-site TCRs or would otherwise result in an increase in the likeliness that such resource would be encountered when combined with the impacts of other cumulative projects. Therefore, cumulative impacts to TCRs would be less than significant.

4.11.6 Significance of Impacts Before Mitigation

Threshold a): Potentially Significant Impact. The Project site does not contain any known TCRs. If TCRs are unearthed during the Project's excavation activities, a potentially significant impact could occur if the resources are not properly identified and treated.

4.11.7 Mitigation

Mitigation Measure MM 4.4-1, included in EIR Subsection 4.4, *Cultural Resources*, shall apply. No additional mitigation measures are required.

4.11.8 Level of Significance After Mitigation

Threshold a): Less-than-Significant with Mitigation Incorporated. Implementation of Mitigation Measure MM 4.4-1 would ensure the proper identification and subsequent treatment of any TCRs that may be encountered during ground-disturbing activities associated with Project construction. With implementation of the required mitigation, the Project's potential impacts to important subsurface TCRs (if such resources are unearthed during Project construction) would be reduced to less-than-significant levels.

5.0 OTHER CEQA CONSIDERATIONS

5.1 SIGNIFICANT ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED IF THE PROPOSED PROJECT IS IMPLEMENTED

The CEQA Guidelines require that an EIR disclose the significant environmental effects of a project which cannot be avoided if the proposed project is implemented (CEQA Guidelines Section 15126(b)). As described in detail in this EIR, the proposed Project is anticipated to result in no impacts to the environment that cannot be reduced to below a level of significance after the consideration of Project design features, compliance with applicable federal, State and local regulations, and the application of the feasible mitigation measures identified in this EIR. All of the Project's significant impacts on the environment would be less than significant or would be mitigated to less than significant.

5.2 SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES WHICH WOULD BE CAUSED BY THE PROPOSED PROJECT SHOULD IT BE IMPLEMENTED

The CEQA Guidelines require EIRs to address any significant irreversible environmental changes that would be involved with the proposed action should it be implemented (CEQA Guidelines §15126.2(c)). An environmental change would fall into this category if: a) the project would involve a large commitment of non-renewable resources; b) the primary and secondary impacts of the project would generally commit future generations to similar uses; c) the project involves uses in which irreversible damage could result from any potential environmental accidents; or d) the proposed consumption of resources is not justified (e.g., the project results in the wasteful use of energy).

Determining whether the Project may result in significant irreversible environmental changes requires a determination of whether key non-renewable resources would be degraded or destroyed in such a way that there would be little possibility of restoring them. A non-renewable resource is any natural resource that cannot be replenished by natural means at the same rates that it is consumed. The Project site has been developed as a car wash facility with associated convenience market and gas station since 1970. Because the site is fully developed under existing conditions, no non-renewable resources exist on the Project site. Therefore, because there are no non-renewable resources that exist on the site under existing conditions, conversion of the Project site from its current fully developed condition to a residential land use would have no direct effect on any non-renewable resources.

Natural resources in the form of construction materials and energy resources would be used in the construction of the proposed Project. The consumption of these natural resources would represent an irreversible change to the environment. However, implementation of a 28-unit residential condominium building with subterranean parking would have no measurable adverse effect on the availability of such resources, including resources that may be non-renewable (e.g., construction aggregates, fossil fuels). Additionally, the Project is required by law to comply with the California

Building Standards Code (CALGreen), which will minimize the Project's demand for energy, including energy produced from non-renewable sources.

The consumption of non-renewable resources to construct and operate the Project over the long-term would likely commit subsequent generations to the same use of the land and similar patterns of energy consumption, since the development of this Project represents a large investment of capital and thus reduces the likelihood that the completed Project would be demolished and some alternative land uses developed in the near future. However, due to the limited scale of the proposed development on 1.26 acres, and because the Project would occur in Newport Center within a predominately built-out portion of the City of Newport Beach, the proposed Project would not be expected to either directly or indirectly result in significant irreversible environmental changes to the Newport Center area. The Newport Center area is developed with urban uses and will continue to be developed with urban uses into the foreseeable future. Accordingly, the Project and its environmental effects would not compel or commit surrounding properties to land uses other than those that exist today or those that are planned by the City of Newport Beach General Plan. For this reason, the Project would not result in a significant, irreversible change to nearby, off-site properties.

EIR Subsection 4.7, *Hazards and Hazardous Materials*, provides an analysis of the potential for hazardous materials to be transported to/from the Project site and or used on the site during construction and operation. As concluded in the analysis, mandatory compliance with federal, State, and local regulations related to hazardous materials handling, storage, and use by all Project construction contractors (near term) and occupants (long-term) would ensure that any hazardous materials used on-site would be safely and appropriately handled to preclude any irreversible damage to the environment that could result if hazardous materials were released from the site.

As addressed in the Project's Initial Study and in 5.4.6 below, development of the Project would not result in a wasteful, inefficient, or unnecessary consumption of energy. Accordingly, the Project would not result in a significant, irreversible change to the environment related to energy use.

5.3 GROWTH-INDUCING IMPACTS OF THE PROJECT

CEQA requires a discussion of the ways in which the proposed Project could be growth inducing. The CEQA Guidelines identify a project as growth inducing if it would foster economic or population growth or the construction of additional housing, either directly or indirectly, in the surrounding environment (CEQA Guidelines §15126.2(e)). New employees and new residential populations represent direct forms of growth. These direct forms of growth have a secondary effect of expanding the size of local markets and inducing additional economic activity in the area.

A project could indirectly induce growth at the local level by increasing the demand for additional goods and services associated with an increase in population or employment and thus reducing or removing the barriers to growth. This typically occurs in suburban or rural environs where population or employment growth results in increased demand for service and commodity markets responding to the new population of residents or employees. Population growth would likely take place as a result

of the proposed Project's operation as a residential building, but the limited intensity of population growth at the site associated with the construction of 28 residential units with approximately 62 persons would not represent a substantial deviation from the planned growth identified in the City of Newport Beach General Plan. The Project's construction-related and operational-related employees would purchase goods and services in the region, but any secondary increase in employment associated with meeting these goods and services needs would be marginal, accommodated by existing goods and service providers, and highly unlikely to result in any new physical impacts to the environment.

The General Plan identifies the Project site as being within Statistical Area L1 and designates the Project site for Regional Commercial Office (CO-R) land uses, subject to the development limits established for Anomaly 35, which limits the total square footage within the Anomaly area to 199,095 SF (City of Newport Beach, 2006a, Figure LU1, Table LU2). The CO-R land use designation is intended to provide for administrative and professional offices that serve local and regional markets, with limited accessory retail, financial, service, and entertainment uses (City of Newport Beach, 2006a, p. 3-13). The Project Applicant's proposed General Plan Amendment No. GP2020-001 would change the Project site's existing land use designation from Regional Commercial Office (CO-R) to Multiple Residential (RM). As stated in the General Plan, the RM land use designation is intended to provide primarily for multi-family residential development containing attached or detached dwelling units (City of Newport Beach, 2006a, Table LU2). An amendment to the General Plan Table LU2 (Anomaly Locations) would be required to create a new Anomaly Location for the Project site that authorizes a maximum development density of 28 units. The new Anomaly would be created to accommodate the increase in dwelling units within the Statistical Area. The Project site is currently included within Anomaly 35, which allows a maximum development intensity of 199,095 square feet. Therefore, Anomaly 35 would be amended to reduce the allowed commercial square footage from 199,095 S.F. to 197,010 S.F., reflecting the removal of the carwash buildings on the project site. As such, the proposed Project would implement the City's land use Policy LU 3.3 to *"Provide opportunities for improved development and enhanced environments for residents in the following districts and corridors, as specified in Polices 6.3.1 through 6.22.7: Fashion Island/Newport Center: expanded retail uses and hotel rooms and development of residential in proximity to jobs and services, while limiting increases in office development".*

The Project Applicant's proposed Zoning Code Amendment No. CA2020-008 seeks to change the site's existing zoning classification from OR to the "PC (Planned Community District)" zoning classification. According to City Municipal Code Section 20.26.010(B) (Planned Community Zoning District), the PC Zoning District is intended to provide for areas appropriate for the development of coordinated, comprehensive projects that result in a superior environment (City of Newport Beach , 2020)

The area surrounding the Project site is fully built-out and developed with a mix of non-residential uses. As the Project vicinity is built-out, the development of the proposed Project is unlikely to affect the existing uses within the surrounding properties. The proposed Project is limited to the

Project site's boundaries and does not include any components that would indirectly affect growth on existing or planned uses on neighboring properties. Accordingly, the Project would not induce growth in the Newport Center area. The placement of a residential building on the Project site, in the southern portion of Newport Center would not reasonably or foreseeably cause the redevelopment of other properties or cause development on other properties with taller buildings than current zoning designations allow.

The City of Newport Beach adopted a Sight Plane Ordinance in 1971 (Ordinance 1371), which provided height limitations for buildings within the Civic Center site, establishing a "Civic Center Sight Plane." In 1975, the Corporate Plaza Planned Community was adopted by Ordinance 1596 for the Civic Center site, and the sight plane was expanded to cover the entire Corporate Plaza Planned Community area, within the area bounded by East Coast Highway, Avocado Avenue, Carillon Drive and Newport Center Drive. The purpose of the ordinance is to ensure that buildings remain low in stature to preserve ocean views benefitting neighboring residential communities such as Broadmoor Hills. Buildings and structures within this area are limited to 32 feet in height and must not exceed the sight plane established by Ordinance 1596. The Project site is not located within an area that is subject to the Sight Plane Ordinance. However, properties generally located south of Civic Center Drive, west of MacArthur Boulevard, north of East Coast Highway and northwest of the intersection of Newport Center Drive and East Coast Highway, which are located to the south and west of the Project site (closer to the Pacific Ocean than the Project site), are subject to the ordinance, and are precluded from redeveloping with tall buildings.

Furthermore, the Project's potential influence on other nearby properties to redevelop at greater intensities and/or different uses than the City's General Plan, Zoning Code, and Site Plane Ordinance allow is speculative beyond the rule of reason. CEQA does not require the analysis of speculative effects (CEQA Guidelines §151454). If any other property owner were to propose redevelopment of a property in Newport Center or in any part of the City, the redevelopment project would require evaluation under CEQA based on its own merits, including an analysis of direct and cumulatively considerable effects.

Under CEQA, growth inducement is not considered necessarily detrimental, beneficial, or of little significance to the environment. Typically, growth-inducing potential of a project would be considered significant if it fosters growth or a concentration of population in excess of what is assumed in pertinent master plans, land use plans, or in projections made by regional planning agencies such as SCAG. Significant growth impacts also could occur if a project provides infrastructure or service capacity to accommodate growth beyond the levels currently permitted by local or regional plans and policies. In general, growth induced by a project is considered a significant impact if it directly or indirectly affects the ability of agencies to provide needed public services, or if it can be demonstrated that the potential growth significantly affects the environment in some other way. A General Plan Amendment is required as this particular residential development is not currently contemplated in the General Plan. However, the development remains consistent with regional agency projections as discussed below.

According to the State of California Department of Finance (DOF), as of January 1, 2020, the City of Newport Beach was estimated to have a population of 85,378 people with 2.19 persons per household. The proposed Project would consist of the development of a residential building planned for 28 new condominium units. Therefore, based on the DOF statistics, the proposed Project would result in approximately 62 persons living in the 28 condominium units (28 dwelling units x 2.19 persons per household = 61.32 persons, stated herein as 62 persons) (DOF, 2020). The Project's proposed 62-person increase would represent an approximately 0.07% ([62 people ÷ 85,378 people] x 100 = 0.07%) increase in the City's population. None of the improvements proposed as part of the Project would foster an indirect increase in the City's population because the surrounding area is fully developed and the Project is connecting to existing infrastructure systems. The vicinity of the Project site is an urbanized area that already includes a variety of land uses, including office, retail (Fashion Island), restaurant, entertainment, and commercial land uses.

The Project site is located within a highly urbanized portion of the City of Newport Beach and the area surrounding the Project site is primarily characterized by commercial uses including but not limited to retail, food service, medical office, theater, professional office, and civic uses. The proposed Project would help to meet the demand for luxury multi-family residences within Newport Beach and would be served by the existing infrastructure in the Project area, as well as the nearby commercial and employment opportunities. The operation and maintenance of the Project would generate several jobs, but any potential growth-inducing impact of the employment of persons at the Project site would be offset by the removal of the jobs associated with the existing car wash and ancillary fuel operation. Accordingly, the proposed Project would not directly promote growth either at the Project site or at the adjacent and surrounding properties. In conclusion, it is unlikely, speculative, and not reasonably foreseeable that the Project would induce growth in the form of additional economic activity or employment that would result in measurable impacts on the off-site physical environment.

5.4 EFFECTS FOUND NOT TO BE SIGNIFICANT DURING THE EIR PREPARATION PROCESS

As part of the Project's Initial Study (EIR *Technical Appendix A*), it was determined that the Project clearly would have no impact or a less-than-significant impact under certain thresholds of significance under the issue areas of Aesthetics; Air Quality; Biological Resources; Cultural Resources; Geology and Soils; Greenhouse Gas Emissions, Hazards and Hazardous Materials; Land Use and Planning; Noise; and Transportation. As part of the Project's Initial Study (EIR *Technical Appendix A*), the City also determined that implementation of the Project clearly would have no potential to result in significant impacts under nine environmental issue areas: Agriculture and Forestry Resources; Energy; Hydrology and Water Quality; Mineral Resources; Population and Housing; Public Services; Recreation; Utilities and Service Systems; and Wildfire.

Therefore, these issue areas and thresholds of significance were not required to be analyzed in detail in EIR Section 4.0, *Environmental Analysis*. A brief analysis of the Project's impacts to these issue areas is presented below. CEQA Guidelines Section 15128 requires that an EIR *"...contain a*

statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were therefore not discussed in detail in the EIR."

5.4.1 AESTHETICS

Threshold b: Would the Project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?

According to the California Department of Transportation's (Caltrans) List of Eligible and Officially Designated Scenic Highways, there are no Officially Designated State scenic highways in the City of Newport Beach. Portions of SR-1 are identified as "Eligible" for State Scenic Highway designation, including the segment of SR-1 located approximately 0.31-mile south of the Project site. (Caltrans, 2018) Due to intervening development and topography, no portion of the Project site is visible from SR-1 under existing conditions; however, given that the Project's building would be four stories tall, the upper floor of the proposed structure has the potential to be visible from portions of SR-1, in the viewshed looking north toward Fashion Island. The Project site is located north of SR-1 in a highly urbanized area near other similarly sized buildings in and around Fashion Island and south Newport Center. Because the Project site and its existing features are not currently visible from SR-1, the demolition and removal of existing features would have no effect on the viewshed of SR-1. When the Project is developed as proposed, the residential condominium structure would be a compatible height to other nearby structures in Newport Center and has no reasonable potential to damage scenic resources visible from SR-1. Further, because SR-1 is not an Officially Designated State scenic highway corridor, the Project would have no potential impact to scenic resources visible from a State scenic highway. As such, no impact to scenic resources visible from a State scenic highway would occur.

5.4.2 AGRICULTURE AND FORESTRY RESOURCES

Threshold a: Would the Project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

According to the California Department of Conservation's California Important Farmland Finder, the Project site and immediately surrounding areas do not contain any lands that are mapped by the California Resources Agency as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance ("Important Farmland"). The Project site is designated as "Urban and Built-Up Land." (DOC, 2016) Therefore, the Project has no potential to convert Farmland to non-agricultural use. No impact would occur.

Threshold b: Would the Project conflict with existing zoning for agricultural use, or a Williamson Act contract?

Under existing conditions, the Project site is zoned "OR (Office Regional) Zoning District," is not zoned for agricultural use, and is not under a Williamson Act contract. Zoning classifications surrounding the Project site include PC-56 (North Newport Center Planned Community) to the north, PC-56 and OR to the south and east, and OR to the west and do not include lands zoned for agricultural use (City of Newport Beach, 2010). Because the Project site is not zoned for agricultural use, is not under a Williamson Act contract, and is not surrounded by lands zoned for agricultural use, the Project has no potential to conflict with existing zoning for agricultural use or a Williamson Act contract. No impact would occur.

Threshold c: Would the Project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

There are no lands within the City of Newport Beach, including the Project site and properties surrounding the Project site, that are zoned for forest land, timberland, or timberland zoned Timberland Production (City of Newport Beach, 2010). Therefore, the Project has no potential to conflict with existing zoning for, or cause rezoning of, forest land or timberland zoned Timberland Production. No impact would occur.

Threshold d: Would the Project result in the loss of forest land or conversion of forest land to non-forest use?

The City of Newport Beach, including the Project site and properties surrounding the Project site, do not contain any forest lands (City of Newport Beach, 2006b, Table 3-2). Therefore, the Project has no potential to result in the loss of forest land or the conversion of forest land to non-forest use. No impact would occur.

Threshold e: Would the Project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

As indicated in the analysis presented above under the discussion and analysis of Thresholds a) through d) of this section, because the Project site and surrounding areas do not contain any lands that are used for farmland or forest land, the proposed Project would not involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to a non-forest use. No impact would occur.

5.4.3 AIR QUALITY

Threshold d: Would the Project result in other emissions (such as those leading to odors adversely affecting a substantial number of people?

The Project site is a 1.26-acre property that has been developed as a car wash with ancillary gas station and convenience market since approximately 1970. The replacement of these uses with a 28-unit residential condominium building would result in fewer air emissions and odor potential in the long-term, particularly associated with removal of the gas station. A residential structure is a land use that is not typically associated with emitting objectionable air pollutants and odors.

The potential for adverse odor sources associated with the Project is limited to demolition and construction equipment exhaust and the application of asphalt and architectural coatings during construction activities and the temporary storage of typical municipal solid waste (refuse) during the Project's lifetime. Construction-related odors would be temporary, short-term, and intermittent and would cease upon completion of the respective phases of construction activity. These odors are common in urban and suburban areas (such as from construction equipment exhaust, paving, and painting) and are generally not objectionable to a large majority of the population. The Project's application materials and associated Construction Management Plan on file with the City of Newport Beach do not indicate any atypical construction processes, equipment, or materials that would result in unusual air emissions or odor. For these reasons, temporary and intermittent construction-related odors would be less than significant. Further, compliance with SCAQMD Rule 402 is mandatory in the SCAB. Rule 402 prohibits the discharge of air contaminants and other materials which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property. The SCAQMD enforces compliance with Rule 402 in response to nuisance complaints.

During long-term Project operation, the only potential for odor generation is from temporary refuse storage. However, according to City Municipal Code Chapter 6.04, Garbage, Refuse, and Cuttings, the City of Newport Beach requires all refuse containers to be covered with a lid or sufficient cover to prevent odors from escaping the container (City of Newport Beach, 2020a). The Project also would be required to comply with Municipal Code Section 20.30.120 (Solid Waste and Recyclable Materials Storage), which mandates that all multi-unit projects with five or more dwelling units "…provide enclosed refuse and recyclable material storage areas with solid roofs." (City of Newport Beach, 2020a) The Project's building design proposes a trash room on parking garage level B1 within a separate trash area. The potential for objectionable odors to emanate from the Project's refuse containers would be very slight and no different than the potential for refuse-related odors from other residential land uses in the City of Newport Beach. Therefore, impacts associated with odors from Project operation would be less than significant.

5.4.4 BIOLOGICAL RESOURCES

Threshold b: Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

The Project site has been fully developed with a car wash and ancillary services since 1970. Vegetation located on and near the Project site is ornamental landscaping. As shown in Figure NR1, *Biological Resources*, of the City of Newport Beach's General Plan, the Project site and surrounding area do not contain any riparian habitat or other sensitive natural community (City of Newport Beach, 2006a). Implementation of the proposed Project would have no reasonable potential to result in substantial adverse effects on riparian habitat or other sensitive natural community. No impact would occur.

Threshold c: Would the Project have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

The Project site has been fully developed with a car wash and ancillary services since 1970. Vegetation located on and near the Project site is ornamental landscaping. The Project site does not contain any wetland habitat or any other naturally occurring water features; therefore, because no State or federally protected wetlands occur on the site, the proposed Project has no potential to result in a substantial adverse effect on wetlands through direct removal, filling, hydrological interruption, or other means. No impact would occur.

Threshold d: Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impeded the use of native wildlife nursery sites?

The Project site has been fully developed with a car wash and ancillary services since 1970 and is completely surrounded by public roads and office and commercial development. The Project site does not serve as a wildlife corridor, nursery, or otherwise facilitate the movement of native resident or migratory fish or wildlife species. There is no reasonable potential for the Project to substantially interfere with wildlife movement. The only potential for migratory species to be present is the potential for migratory birds to nest in trees that would be removed to construct the Project. Nesting habitat would be replaced as part of Project implementation with the planting of new trees as part of the Project's landscaping plan. Migratory birds are protected under the federal Migratory Bird Treaty Act (MBTA).

Threshold e: Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Project implementation would require tree removals and the planting of new trees. Tree removals would entail 28 existing on-site trees and trees in the Anacapa Drive and Newport Center Drive right-of-way segments fronting the Project site. As part of the Project's landscaping plan, the street

trees would be replaced with new trees and new trees also would be planted on the Project site around the perimeter of the building in open areas. The Project is in compliance with City Council Policy G-1. The purpose of Council Policy G-1 is to "establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest with an inventory that the City can reasonably maintain in a healthy and safe condition through the efficient use of City resources" (City of Newport Beach, n.d.) Pursuant to Council Policy G-1 provisions for "All Other City Trees," (i.e., those not designated as Special or Problem Trees) it is the policy of the City Council to review and approve the Project's landscaping plan during public hearings for the Project. Because the Project Applicant proposes to replace the removed trees, including trees in the Anacapa Drive and Newport Center Drive rights-of-way, and because the City Council will have the authority to review and approve the Project's landscaping plan to ensure overall consistency with City Council Policy G-1, impacts associated with this issue would be less than significant.

The Project site is not located within or contiguous to any of the Environmental Study Areas (ESAs) identified by the Newport Beach General Plan EIR Figure 4.3-2 (City of Newport Beach, 2006b, Figure 4.3-2). No other local policies addressing biological resources apply to the Project. Due to the Project's location within a highly urbanized portion of the City of Newport Beach and because the site contains no natural habitat, Chapter 7.26 of the City's Municipal Code (Protection of Natural Habitat for Migratory and Other Waterfowl) is not applicable. Similarly, General Plan Policy NR 10.1, which requires future development to cooperate with State and federal agencies and private organizations in the protection of biological resources, is not applicable due to the lack of natural habitat and biological resources on the Project site. The Project site does not contain any terrestrial or marine resources that require protection, as the Project site is fully developed under existing conditions. Accordingly, the Project would not involve nor require any consultation with state and federal resource protection agencies or private organizations concerned with the protection of sensitive biological resources. The Project would not conflict with any of the City's other General Plan Policies related to biological resources for the same reason of lack of on-site sensitive biological resources. Impacts would be less than significant.

Threshold f: Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The Project site is within the Central and Coastal Orange County NCCP/HCP, which does not identify the Project site and surrounding areas for conservation (Orange County, 2019). Due to the developed nature of the Project site, the site also does not contain any habitat or any of the plant or animal species addressed by the NCCP/HCP. Accordingly, the Project has no potential to conflict with the NCCP/HCP. There are no additional Habitat Conservation Plans, Natural Community Conservation Plans, or other approved local, regional, or state habitat conservation plans applicable to the Project site or vicinity. Accordingly, no impact would occur.

5.4.5 CULTURAL RESOURCES

Threshold c: Would the Project disturb any human remains, including those interred outside of formal cemeteries?

The Project site is a 1.26-acre property that has been developed as a car wash with ancillary gas station and convenience market since approximately 1970. The Project site is not known to have ever been used as a cemetery and the possibility of uncovering human remains during site grading activities is remote due to the previous development at the site. However, in the unlikely event that human remains are encountered, compliance with California Health and Safety Code Section 7050.5 would be required. Mandatory compliance with these provisions of California state law would ensure that impacts to human remains, if unearthed during construction activities, would be appropriately treated and ensure that potential impacts are less than significant. Potential impacts associated with potential inadvertent discoveries of human remains would be reduced to less than significant through mandatory compliance with California Health and Safety Code Section 7050.5.

5.4.6 ENERGY

Threshold a: Would the Project result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Energy Use During Construction

The Project's construction process would consume electricity and fuel. Project-related construction activities would represent a "single-event" demand and would not require on-going or permanent commitment of energy resources. Fuel consumed by construction equipment and construction worker and vendor trips would be the primary energy resource expended over the course of Project-related construction. The equipment used for Project construction would be required to conform to California Air Resources Board (CARB) regulations and California emissions standards. For example, California Code of Regulations (CCR) Title 13, Motor Vehicles, Section 2449(d)(3) Idling, limits idling times of construction vehicles to no more than five minutes, thereby precluding unnecessary and wasteful consumption of fuel due to unproductive idling of construction equipment. Project-related construction activities are not materially different than other construction projects that occur in Orange County and there are no unusual Project characteristics or construction processes that would require the use of equipment that would be more energy-intensive than is used for comparable construction projects. The expected construction equipment fleet is listed in the Project's Construction Management Plan on file with the City of Newport Beach. All Project-related construction equipment would be required to conform to current emissions standards (and related fuel efficiencies). As supported by the preceding discussion, the Project's construction-related energy consumption would not be considered inefficient, wasteful, or otherwise unnecessary.

Energy Use During Operation

Energy consumption in support of or related to Project operations would include transportation energy demands (energy consumed by passenger car and trucks accessing the Project site) and

facilities energy demands (energy consumed by building operations and site maintenance activities). The Project does not propose uses or operations that would inherently result in excessive and wasteful energy use. Residents and visitors would travel to and from the Project by passenger vehicles, and occasional trucks are assumed for deliveries and to service the building (large item deliveries, trash pickup, etc.) All vehicles are required by law to have enhanced vehicle fuel economies pursuant to federal and State laws, and the transition of passenger vehicles and trucks to alternative energy sources (e.g., electricity, natural gas, bio fuels, hydrogen cells) are expected to decrease gasoline fuel demands in the future. In June 2020, the California Air Resources Board (CARB) adopted a new Advanced Clean Truck Regulation Rule requiring truck manufacturers to transition from diesel trucks and vans to electric zero-emission trucks beginning in 2024. By 2045, every new truck sold in California will be required to be zero-emission electric. In September 2020, California Governor Newsom issued Executive Order N-70-20, which states that it is a goal of the State that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035. Based on the Project's location with shopping, restaurant, entertainment, personal service, and office uses all within a 0.25-mile radius, the provision of electric vehicle (EV) capability in the building's garages and guest spaces, and the transition to zero-emission vehicles in California, Project transportation-related energy consumption would not be considered inefficient, wasteful, or otherwise unnecessary.

The Project would not cause or result in the need for additional energy facilities or an additional or expanded energy delivery system; existing utility connections are site-adjacent. Building operations and site maintenance activities associated with the Project would consume electricity and potentially natural gas. Natural gas would be supplied to the Project by Southern California Gas Company (SoCalGas) and electricity would be supplied by Southern California Edison (SCE). For new development, compliance with California Building Standards Code, Title 24, Part 6, Energy Efficiency Standards and California Green Building Standards Code (CALGreen) is considered demonstrable evidence of efficient use of energy. The proposed building would be required to promote and provide for energy efficiencies as required by CALGreen, and in so doing would meet all California Building Standards Code Title 24 standards. There is no reasonable potential that the Project's operation would result in environmental impacts associated with the wasteful, inefficient, or unnecessary consumption of energy, or the wasteful use of energy resources; therefore, impacts would be less than significant.

Threshold b: Would the Project conflict with or obstruct a State or local plan for renewable energy or energy efficiency?

There are no adopted State plans for renewable energy or energy efficiency that are directly applicable to the proposed Project. Thus, the Project would have no potential to conflict with such plans, and no impact would occur. The Project would be consistent with or otherwise would not conflict with policies and requirements related to energy conservation.

The City of Newport Beach's Energy Action Plan (EAP) focuses on reducing energy usage by City facilities and conducting community-wide energy awareness and outreach programs. The Project is

required to be energy-efficient per the California Building Standards Code Title 24, Part 6, Energy Efficiency Standards (California Energy Code), and thereby consistent with the City's EAP. (Digital Energy, Inc., 2013) California Code of Regulations Title 24 Part 6: California's Energy Efficiency Standards for Residential and Nonresidential Buildings, was first adopted in 1978 in response to a legislative mandate to reduce California's energy consumption. The 2019 version of Title 24 was adopted by the California Energy Commission (CEC) and became effective on January 1, 2020 and is applicable to the Project. Compliance with the applicable Title 24 requirements is enforced through the City of Newport Beach Municipal Code Chapter 15.17, Energy Code. Thus, Project consistency with Title 24 requirements would occur as part of the City's review of building permit applications. The Project's building shell and components, such as windows; roof systems: electrical and lighting systems: and heating, ventilating, and air conditioning systems would be required to meet applicable Title 24 Standards. Because the Project is required by State law and City Municipal Code standards to be designed, constructed, and operated to meet or exceed all applicable energy efficiency standards, the Project would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency. Accordingly, impacts would be less than significant.

5.4.7 GEOLOGY AND SOILS

Threshold a: Would the Project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?

ii) Strong seismic ground shaking?

iii) Seismic-related ground failure, including liquefaction?

iv) Landslides?

As with much of the southern California region, the Project site is in a seismically active area. The Project site is not located within an Alquist-Priolo Earthquake Fault Zone and no known faults underlie the site; therefore, there is no potential of ground rupture. According to the Project site's Geotechnical Feasibility Study prepared by NMG Geotechnical, Inc. (NMG), the Project site is not located in an area classified by the State as having soils that are potentially liquefiable or in an area mapped as susceptible to seismically induced landslides (NMG, 2020, p. 6). Moreover, the Project site is not located in an area that is subject to potential liquefaction hazards. Accordingly, impacts due to seismic-related ground failure (including liquefaction) would be less than significant. Additionally, due to the relatively flat gently sloping nature of the Project site and immediately surrounding areas, the Project site has no potential to be affected by landslides. No impacts would occur.

As with most structures in southern California, the proposed Project could be subject to ground shaking during seismic events along local and regional faults that would occur during the lifetime of the proposed Project. Construction of the Project is required to comply with the California Building

Standards Code (CALGreen) and the City of Newport Beach Municipal Code Title 15, Buildings and Construction, and the Project Applicant would be required by the City of Newport Beach as part of its grading and building permits to implement the recommendations identified in the Project's Geotechnical Feasibility Study prepared by NMG, which is on file with the City. State law requires that all cities and counties in California enforce the building codes as mandated by the California Building Standards Commission. With the Project's mandatory compliance with these standard and site-specific design and construction measures, potential impacts related to seismic ground shaking would be less than significant.

Threshold b: Would the Project result in substantial soil erosion or the loss of topsoil?

The proposed demolition and grading activities associated with the Project would temporarily expose underlying soils to water and air, which would increase erosion susceptibility while the soils are exposed. Exposed soils would be subject to erosion during rainfall events or high winds due to the removal of structures, pavement, and/or stabilizing vegetation and exposure of these erodible materials to wind and water. Erosion by water would be greatest during the first rainy season after grading and before the Project's foundation is constructed and paving and landscaping occur. Erosion by wind would be highest during periods of high wind speeds when soils are exposed. The Project Applicant would be required to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) permit for construction activities. The NPDES permit is required by the Santa Ana Regional Water Quality Control Board (RWQCB) for all projects that include construction activities, such as clearing, grading, and/or excavation that disturb at least one acre of total land area. Additionally, during grading and other construction activities, the Project would be subject to the requirements established in City of Newport Beach Municipal Code, Chapter 23.35, Water Quality Control, and the Project Applicant also would be required to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) that would identify the erosion control measures, such as construction fencing, sandbags, and other erosion-control features, that would be implemented during the construction phase to reduce the potential for soil erosion or the loss of topsoil. In addition, construction activities associated with the Project would be required to comply with SCAQMD Rule 403-Fugitive Dust, which would minimize wind-related erosion hazards during construction activities. Mandatory compliance with the Project's NPDES permit, SWPPP, and the regulatory requirements of the City of Newport Beach and the SCAQMD would ensure that water and wind erosion are minimized and not substantial. As such, construction of the Project would result in a less-than-significant impact.

After construction, the Project would be fully developed with impervious surfaces and landscaping, offering no reasonable potential for substantial erosion to occur. The Project's storm water is proposed to drain towards the southwest portion of the site into a catch basin, and then discharge into the City's municipal separate storm sewer system (MS4). All development within the City of Newport Beach, including the Project, is subject to the provisions of the City's NPDES MS4 Permit and the Orange County Drainage Area Master Plan (DAMP). DAMP provisions include the implementation of appropriate best management practices (BMPs) including a range of methods that minimize off-site erosion, including but not limited to hydrodynamic devices, swales/biofilters,

basins, and various filters. The Project would comply with the DAMP by installing Project design features, as specified in the Project's required Preliminary Water Quality Management Plan (WQMP) prepared by Fuscoe Engineering, which is on file at the City of Newport Beach (Fuscoe, 2020). The Project would result in a nominal increase in the runoff rate and/or runoff volume as compared to the existing condition, which would not result in any significant siltation or erosional effects associated with water discharge. As such, implementation of the Project would result in a less-than-significant impact.

Threshold e: Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

Under existing conditions, the City's municipal sewer system serves the Project site. The Project would include facilities that would also connect to the City's municipal sewer system. No septic tanks or alternative wastewater disposal systems are proposed as part of the Project; therefore, no impact would occur.

5.4.8 HAZARDS AND HAZARDOUS MATERIALS

Threshold c: Would the Project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

The nearest school facility to the Project site is the Harbor View Elementary School, which is located approximately 0.61-mile southeast of the Project site; therefore, there are no existing or proposed schools within one-quarter mile of the site (Google Earth, 2020). The Project entails development of the site with residential land uses, which is a use not associated with hazardous emissions or the storage or use of acutely hazardous materials, substances, or waste. Therefore, the Project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. No impact would occur.

Threshold d: Would the Project be located on a site which is included on a list of hazardous materials sites which compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

A review of the California Environmental Protection Agency's (CalEPA) Cortese List Data Resources (which lists the facilities/sites identified as meeting the "Cortese List" requirements) indicates that the Project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (CalEPA, 2020). Therefore, the Project has no potential to create a significant hazard to the public or the environment due to the presence of an existing hazardous materials site identified on a list compiled pursuant to Government Code Section 65962.5. No impact would occur.

Threshold e: For a project within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

John Wayne Airport (JWA) is located approximately 3.6 miles north/northeast of the Project site and is the nearest public airport to the Project site. Within the Notification Area boundary, ALUC must be notified of any proposed construction or structural alterations involving a land use or legislative amendment in the AELUP Planning Area, development that exceeds 200 feet above ground level, and all heliports or helistops. In addition, projects that surpass 200 feet above ground level must also file Form 7460-1 with the Federal Aviation Administration (FAA). (OCALUC, 2008, p. 4)

Based on the AELUP, the Project would not result in a safety hazard for people residing or working in the area. The Project site is located approximately 19,200 feet south from the nearest point of the JWA runway (Google Earth, 2020). As detailed in the AELUP for JWA, the subject parcel is not located within the AELUP Part 77 Notification Area for JWA. Because the Project's proposed building would not exceed 200 feet in height, and is not located within the FAA notification area, ALUC review would not be required and the Project's proposed building would not pose an obstruction. (OCALUC, 2008)

Additionally, according to the AELUP Appendix D, the Project site is not within the 60 A-weighted decibel (dB) Community Noise Equivalent Level (CNEL) contour, within Runway Protection Zones, or within Safety Zones (OCALUC, 2008). Therefore, the Project would not result in a safety hazard for people residing or working in the area. No impact would occur.

Threshold f: Would the Project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

The City of Newport Beach adopted the City of Newport Beach Emergency Operations Plan (EOP), prepared by the City of Newport Beach Fire Department (NBFD), in September 2011 (NBFD, 2011). The EOP does not identify any specific requirements for the Project site, nor is the site identified by the EOP as being part of an emergency evacuation route, nor is the site directly adjacent to an emergency evacuation route (NBFD, 2011, p. 102). McArthur Boulevard, located 0.3-mile east of the Project site, is the nearest designated tsunami evacuation route identified in the City's Emergency Operations Plan (NBFD, 2011, p. 101).

Although temporary lane closures on surrounding streets may be required during short periods of the Project's construction period in order to construct the Project and connect the Project to the existing utility facilities within the existing roadways, the construction of the Project would not require the complete closure of any public or private streets or roadways during construction. For all temporary closures, which may include single lanes and sidewalk segments, the Project Applicant would be required to obtain a Temporary Street and Sidewalk Closure Permit from the City of Newport Beach Public Works Department. Therefore, there is no potential for the Project to impair implementation

of or physically interfere with an adopted emergency response plan or emergency evacuation plan. No impact would occur.

Threshold g: Would the Project expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

Figure S4, Wildfire Hazards, of the City of Newport Beach General Plan Safety Element indicates that the Project site and surrounding areas are considered to have a low or no susceptibility to wildland fire hazards (City of Newport Beach, 2006a). The Project site is surrounded by highly urbanized uses and is not located adjacent to wildland areas. Therefore, the Project's potential to expose people or structures to a significant risk of loss, injury, or death involving wildland fires would not occur. No impact would occur.

5.4.9 HYDROLOGY AND WATER QUALITY

Threshold a: Would the Project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Construction of the proposed Project would involve the demolition of the existing car wash structure with an ancillary gas station, convenience mart and associated improvements. Pursuant to the requirements of the Santa Ana RWQCB and the City of Newport Beach, the Project Applicant would be required to obtain a NPDES Municipal Storm Water Permit for construction activities. The NPDES permit is required for all projects that include construction activities, such as clearing, grading, and/or excavation that disturb at least one acre of total land area. In addition, the Project would be required to comply with the Santa Ana RWQCB's Santa Ana River Basin Water Quality Control Program. Compliance with the NPDES permit and the Santa Ana River Basin Water Quality Control Program involves the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) for construction-related activities. The SWPPP would specify the Best Management Practices (BMPs) that the Project would be required to implement during construction activities to ensure that all potential pollutants of concern (including sediment) are prevented, minimized, and/or otherwise appropriately treated prior to being discharged from the subject property. Mandatory compliance with the SWPPP would ensure that the Project does not violate any water quality standards or waste discharge requirements during construction activities. Therefore, water quality impacts associated with construction activities would be less than significant.

Mandatory compliance with the Project's Water Quality Management Plan (WQMP) would ensure that the Project does not violate any water quality standards or waste discharge requirements during long-term operation. Additionally, the Project and its WQMP are required to comply with provisions set forth in the Orange County Drainage Area Management Plan (DAMP), including the implementation of appropriate BMPs identified in the DAMP, to control stormwater runoff on-site so as to prevent any deterioration of water quality that would impair subsequent or competing beneficial uses of the water (City of Newport Beach, 2006b, p. 4.7-31). As detailed in the Project's Preliminary WQMP on file with the City and prepared by Fuscoe Engineering, the Project would not substantially alter the chemical composition of storm water runoff discharged from the subject

property as compared to existing conditions (Fuscoe, 2020). Storm water pollutants commonly associated with residential land uses include suspended solids/sediments, nutrients, pathogens (bacteria/viruses), pesticides, and trash/debris (Fuscoe, 2020, p. 8). These urban types of storm water pollutants are also characteristic of the land uses that occupy the Project site under existing conditions (i.e., car wash, ancillary gas station, and surface parking lot). As detailed in the Project's Preliminary WQMP, the Project would not result in a substantial increase in the potential for polluted storm water runoff to occur compared to the existing condition. As also detailed in the Project's Preliminary WQMP, under the proposed conditions, the runoff will continue to drain towards the southwest portion of the site where a new area storm drain section will be constructed on the south, east and northern sections of the site. The new storm drain lines will tie into the existing 10" storm drain and catch basin at the southwest most end of the site. The storm drain system would discharge into the City's MS4 along Civic Center Drive towards SR-1, where it is conveyed west to the Lower Newport Bay where it is ultimately discharged (Fuscoe, 2020, p. 9). Thus, the additional runoff from the Project site would be accommodated by the new storm drain section that will be constructed as part of the Project.

Mandatory compliance with the WQMP would ensure that the Project does not violate any water quality standards or waste discharge requirements during long-term operation. With mandatory regulatory compliance, impacts would be less than significant.

Threshold b: Would the Project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

No groundwater wells are located on the Project site or proposed as part of the Project. Therefore, implementation of the Project would not deplete groundwater supplies associated with water well withdrawal. For these reasons, no impact associated with groundwater supply depletion would occur.

Additionally, as shown in Figure 4.7-1, Water Resources, of the City General Plan EIR, the Project site is not located within a groundwater recharge basin and therefore cannot contribute to the recharge of any regional aquifer or local water table with beneficial potable water uses (City of Newport Beach, 2006b, pp. 4.7-32 and 4.7-33). Implementation of the Project would nominally increase the amount of impervious surfaces on-site from 80% under existing conditions to 85% under proposed conditions. However, given that the Project site is already developed with impervious surfaces since 1970, implementation of the Project would not interfere with groundwater recharge. Moreover, according to the WQMP, due to the geographical conditions on-site, the excavated depth of the proposed building, and the anticipated presence of perched groundwater between the marine terrace deposits and bedrock, infiltration of runoff on-site is considered infeasible (Fuscoe, 2020, p. 12). A less than significant impact would occur.

Threshold c: Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) result in substantial erosion or siltation on- or off-site;

ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site;

iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

iv) impede or redirect flood flows?

The Project site is located in an urbanized area and there are no streams or rivers on the site or adjacent to the site. The Project site is generally flat and under existing conditions drains towards the southwest portion of the site. Under existing conditions, storm water runoff generally sheet flows towards the south-southwest, where an existing 10-inch storm drain line and catch basin intercepts the drainage (Fuscoe, 2020, p. 11). With the implementation of the Project, the site's existing hydrological characteristics would not be substantially altered; under the proposed conditions, the runoff would continue to drain towards the southwest portion of the site and the new on-site storm drain lines would tie into the existing 10-inch storm drain and catch basin at the southwest end of the site. The storm drain system then discharges into the City Municipal Separate Storm Sewer System (MS4) facility along Civic Center Drive towards East Coast Highway, where it is conveyed west to the Lower Newport Bay for discharge as occurs under existing conditions (Fuscoe, 2020, p. 11). Therefore, with the buildout of the Project, there would be no significant alteration of the site's existing drainage pattern.

As detailed in the Preliminary WQMP prepared for the Project, the number of impermeable surfaces on-site would increase by about 5%, from approximately 80% to 85% (Fuscoe, 2020, p. 11). Low-flows and first flush runoff would drain through a proposed biotreatment system to remove water pollutants and sediment prior to discharge at the southwest end of the site. Because the Project would not substantially alter the drainage pattern of the subject property or immediately surrounding area, would install best management practices (BMPs) including but not limited to a biotreatment system as part of its required WQMP, and would not substantially increase the rate or amount of storm water runoff discharged from the site, implementation of the Project would not result in or increase water pollutant discharges or flood hazard risks on- or off-site. Because the existing 10-inch storm drain has sufficient capacity to convey runoff from the Project site under existing conditions, and because the rate and volume of runoff would not substantially increase with the buildout of the Project, the Project also would not create or contribute runoff which would exceed the capacity of any existing or planned storm water drainage system. Impacts would be less than significant.

The entire Project site is located within Federal Emergency Management Agency (FEMA) Flood Zone "X (Unshaded)," indicating that the subject property is located outside of the 100-year floodplain and outside the 500-year floodplain (greater than 0.2% annual chance of flooding)

(FEMA, 2019). Additionally, as shown as Figure S3, Flood Hazards, of the City of Newport General Plan, no portion of the Project site is located within a designated 100-year flood hazard area (City of Newport Beach, 2006a). Therefore, the Project would have no potential to impede or redirect flood flows.

Threshold d: Would the Project in flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

The City of Newport Beach is a coastal city and, therefore, is at risk for tsunami induced inundation. The City provides a tsunami inundation zone map which indicates that the Project site and surrounding area are not located within the tsunami advisory evacuation zone (City of Newport Beach GIS Division, 2019). The site is not located adjacent to a confined body of water; therefore, the potential for the seismic hazard of a seiche (an oscillation of a body of water in an enclosed basin) is considered very low to nil. Additionally, as previously stated, the Project site is located in an area with no reasonable potential of flooding. Based on the foregoing, the Project would not pose a risk of releasing water pollutants due to water inundation. No impact would occur.

Threshold e: Would the Project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Because the Project site is within the Santa Ana River Basin, the Project's related construction and operational activities would be required to comply with the Santa Ana RWQCB's Santa Ana River Basin Water Quality Control Plan by preparing and adhering to a SWPPP and WQMP. With the implementation of the Project-specific SWPPP and WQMP, the Project would not result in any conflicts with the Santa Ana River Basin Plan.

In regards to groundwater management planning, the Project site is within the Coastal Plain of Orange County Basin (Basin 8-1). The California Department of Water Resources (DWR), classifies this basin as a medium-priority basin. According to the Sustainable Groundwater Management Act (SGMA), signed into law by Governor Jerry Brown on September 16, 2014, local public agencies and Groundwater Sustainability Agencies (GSAs) in "high"- and "medium"-priority basins are required to develop and implement Groundwater Sustainability Plans (GSPs) or Alternatives to GSPs (DWR, 2020). GSPs are detailed road maps for how groundwater basins will reach long term sustainability. The GSA for Basin 8-1 is comprised of the OCWD, City of La Habra, and Irvine Ranch Water District (IRWD). These agencies collaborated and submitted an Alternative to a GSP titled Basin 8-1 Alternative on January 1, 2017, to the DWR. This Alternative documents the basin conditions; basin management is based on measurable objectives and minimum thresholds defined to prevent significant and unreasonable impacts on the sustainability indicators defined in the Alternative. The Project is not a water-intensive use and the Project site is not located within a groundwater recharge area. Thus, the Project would have no potential to conflict with or obstruct implementation of the Basin 8-1 Alternative. No impact would occur.

5.4.10 Land Use and Planning

Threshold a: Would the Project physically divide an established community?

The Project site is bounded on two sides by existing roadways to the north and to the east (Newport Center Drive and Anacapa Drive), by a parking lot to the west, and by a complex of low-rise office buildings to the south. Other land uses within the Project vicinity consist of commercial/office land uses, with Fashion Island shopping mall located north of the Project site, and north of Newport Center Drive. No residential uses are located adjacent to the Project site under existing conditions. The nearest existing residential land use to the Project site is the Granville Private Residential Community, which is a gated community located approximately 0.15-mile to the west. The Project would establish a new residential building on a site that is currently used for a car wash and ancillary gas station. As such, the Project has no potential to physically divide an established community. No impact would occur.

5.4.11 Mineral Resources

Threshold a: Would the Project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

The Project site is fully developed with urban uses. No mines, wells, or other resource extraction activity occurs on the property or is known to have ever occurred on the property. According to the City's General Plan EIR, Figure 4.5-4, Mineral Resource Zones, which relies on mapping conducted by the California Geological Survey for areas known as Mineral Resources Zones (MRZs), the Project site is mapped as being on the boundary between MRZ-1 and MRZ-3. Areas mapped MRZ-1 are defined as "areas where available geologic information indicates that there is little or no likelihood for the presence of significant mineral resources." Areas mapped MRZ-3 are defined as "areas containing mineral deposits of undetermined significance." (City of Newport Beach, 2006b, Figure 4.5-4) Accordingly, implementation of the Project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State. No impact would occur.

Threshold b: Would the Project result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

The Project site is not identified as a locally-important mineral resource recovery site delineated on the City's General Plan, a specific plan, or other land use plan (City of Newport Beach, 2006b, Figure 4.5-4). Accordingly, no impact would occur.

5.4.12 Noise

Threshold c: For a project located within the vicinity of a private airstrip or an airport land use land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The only airport in the vicinity of the Project site is John Wayne Airport, which is located approximately 3.6 miles north/northeast of the Project site. There are no private airstrips within the vicinity of the Project site. As shown on Figure N4 of the Newport Beach General Plan, and as similarly presented on the Airport Impact Zones exhibit of the AELUP, the Project site is not subject to airport-related noise levels exceeding 60 A-weighted decibels (dBA) community noise equivalent level (CNEL) (City of Newport Beach, 2006a; OCALUC, 2008). Because the Project would not expose people residing or working in the Project area to excessive airport-related noise levels, no impact would occur.

5.4.13 Population and Housing

Threshold a: Would the Project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

The City of Newport Beach has an average household size of 2.19 persons per household (DOF, 2020). The Project Applicant proposes to redevelop the site with 28 new condominium units, which would result in a population increase of approximately 62 persons. According to the United States Census Bureau (USCB), as of July 2019, the City was estimated to have a population of 84,534 people (USCB, 2020). The Project's proposed 62-person increase would represent an approximately 0.07% ([62 people ÷ 84,534 people] x 100 = 0.07%) increase in the City's population. None of the improvements proposed as part of the Project would foster an indirect increase in the City's population because the surrounding area is fully developed and the Project is connecting to existing infrastructure systems. The vicinity of the Project site is an urbanized area that already includes a variety of land uses, including office, retail (Fashion Island), restaurant, entertainment, and commercial land uses. The approximately 62-person population that the Project would accommodate is not substantial and would not adversely affect the surrounding physical environment. The Project would provide 28 condominium units in Newport Center on a site that was not previously planned for residential development but there is no reasonable potential that the Project would induce unplanned population growth on other properties that would affect the physical environment, as such the Project's potential to induce substantial unplanned population growth in an area, either directly or indirectly would be less than significant.

Threshold b: Would the Project displace substantial numbers of people or existing housing, necessitating the construction of replacement housing elsewhere?

Because there are no residences on the Project site under existing conditions, implementation of the Project would not displace housing or people and would not necessitate the construction of replacement housing elsewhere. No impact would occur.

5.4.14 Public Services

Threshold a: Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: a) Fire protection; b) Police protection; c) Schools; or d) Other public facilities?

Fire Protection Facilities

The Newport Beach Fire Department (NBFD) provides fire protection services in the City of Newport Beach. Based on the most recently available information from 2020, the NBFD's average response time is four minutes and 22 seconds (City of Newport Beach, 2006b). The nearest fire station to the Project site is NBFD Station No. 3 at 868 Santa Barbara Drive, one roadway mile northwest. Implementation of the Project could result in an increase in the site's existing demand for fire protection services (due to medical emergencies and fire protection needs associated with residential uses). Due to the limited scale of the Project being 28 condominium units in one building, the Project is not expected to measurably impact average response times because, under existing conditions, the Project site's existing car wash and ancillary uses are already in the NBFD service area and are adequately served by the existing NBFD service facilities.

The proposed building would be constructed in accordance with current fire codes and would replace the older on-site building that was constructed in 1970. Older buildings prior to the enactment of current fire codes have fewer fire protection features than do buildings of more modern construction. Due to the Project's location approximately one mile from NBFD Station No. 3 in Newport Center, the Project would be adequately served by existing fire services and no new or expanded facilities are warranted. The Project would be required to comply with City of Newport Beach Fire Department Project conditions of approval including the provision of fire alarm systems, fire sprinklers, emergency power outlets, etc. The emergency access staging area on Anacapa Drive would be marked for exclusive use by the Fire Department. Thus, the Project would comply with all required conditions of approval from the City's Fire Department. Accordingly, implementation of the Project would be adequately served by the City's existing fire protection facilities, and the Project would not result in nor require the expansion or construction of any new fire protection facilities. Therefore, impacts would be less than significant.

Police Protection Facilities

Under existing conditions, the Project site's existing car wash and an ancillary gas station are served by the Newport Beach Police Department (NBPD) for police protection services (City of Newport Beach, 2006b, p. 4.10-3). Based on the most recently available information from 2020, the NBPD's average response time for top priority calls (Priority 1) is two minutes and 51 seconds, for emergency calls (Priority 2) is four minutes and 53 seconds, and for non-emergency calls (Priority 3) is six minutes and 38 seconds (Rasmussen, 2020). Due to the limited scale of the Project being 28 condominium units in one building, the Project is not expected to measurably impact average response times because, under existing conditions, the Project site's existing car wash and ancillary uses are already in the NBPD service area and are adequately served by the existing NBPD service facilities. Therefore, impacts would be less than significant.

School Facilities

Under existing conditions, the Project site is occupied by a car wash and ancillary uses, which does not generate any demand for school services. The Project would result in the construction of 28 condominium units anticipated to generate an approximate 62-person increase in the City's population. The Project site is located within the Newport-Mesa Unified School District (NMUSD). The Project has the potential to generate school-aged children who would require school services. Based on the student generation rates assumed in the General Plan EIR, the Project's 28 condominiums would generate approximately 12 school-aged children consisting of six new elementary school students, three middle school students, and three high school students[1] (City of Newport Beach, 2006b, p. 4.11-23)

Based on the school district's school locator application, students from the Project would attend Corona Del Mar High School and Lincoln Elementary School (NMUSD, 2020). The most recent information from the California Department of Education (DOE) shows that the most current (2019-2020) school year enrollment at Corona Dela Mar High School is 2,416 students and at Lincoln Elementary School is 416 students (DOE, 2020). The Project's expected student generation is calculated to increase the student enrollment by approximately 0.24% at Corona Del Mar High School and by approximately 1.4% at Lincoln Elementary School. Accordingly, the Project would result in a nominal increase in student enrollment.

The General Plan EIR notes that policies within the General Plan would assure the provision of appropriate school facilities as necessary to serve the City's growing population. The Project Applicant would be required to pay school fees in accordance with Public Education Code Section

[1]The General Plan EIR assumes that the 14,215-dwelling unit increase associated with the General Plan Update would result in 6,230 new students, consisting of 3,115 elementary school students, 1,557 middle school students, and 1,558 high school students. This was calculated using Department of Finance population projections, and if approximately 20% of the potential increase in population would represent children attending grades K through 12. The number of elementary, middle, and high school students, respectively, was divided by the dwelling unit increase of 14,215 to obtain the following student generation ratios for each grade level: 0.219135 elementary students 0.109532 middle school students, and 0.109603 high school students per household. These student generation ratios were used to estimate the number of students that the proposed Project would generate.

17072.10-18. The provision of school fees would assist the NMUSD in meeting the Project's incremental demand for school services. Although it is possible that the NMUSD may ultimately need to construct new school facilities in the region to serve the growing population within their service boundaries, such facility planning is conducted by the NMUSD and is not the responsibility of the Project. Mandatory payment of school impact fees would reduce the Project's impacts on school facilities to a level below significant.

Library Facilities

Under existing conditions, the Project site's existing car wash and ancillary uses do not generate demand for library facilities. Upon implementation of the Project, the existing uses would be demolished and replaced with a 28-unit condominium building accommodating approximately 62 persons. As such, the demand for library services within the City would be incrementally increased because of the Project's resident population increase. The General Plan Arts and Cultural Element does not establish any quantitative standards for determining the amount of physical library space needed to serve the City's population. Additionally, given changes in technology (i.e., the use of electronic media in lieu of hard copy media), the demand for physical library space based on population-based projections is speculative. The Newport Beach Central Library underwent an approximately 17,000-square-foot expansion in 2013 to service the City's population and the addition of approximately 62 persons to the City's population associated with the Project has no potential to directly or indirectly create the need to construct a new future library or physically expand an existing library facility. According to the City of Newport Beach Municipal Code Section 3.08.020, library services receive funding from property tax. As such, a portion of the Project's tax assessment would be dedicated to the City's Library Fund (City of Newport Beach, 2020a). Impacts would be less than significant.

5.4.15 Recreation

Threshold a: Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

As detailed in the City's General Plan EIR, the City of Newport Beach contains 12 service areas for parkland and the Project site is within Service Area 9. When the General Plan was last prepared, its Recreation Element and Figure R11 indicated the following for Service Area 9 (which includes the Project site). (Of note, the Civic Center Park was subsequently constructed).

Service Area 9 - Newport Center. There is a park surplus within this service area. The Back Bay View Park was completed in the summer of 2005, and a new passive park, Civic Center Park, is planned for development sometime after 2006.

The Project site has been in use as a car wash with ancillary uses since the 1970s and generates little if any demand on park land because it is not a residential use. Future residents of the Project site are likely to mostly utilize the two closest public parks - Civic Center Park and Irvine Terrace Park.

Civic Center Park is located adjacent to Newport Beach City Hall and Library, which is located approximately 0.25-mile northwest of the Project site. This 14-acre park was constructed in 2013 and has a Civic Green, a viewing platform, walking trails, and a dog park. Irvine Terrace Park is located approximately 0.40-mile southwest of the Project site on the west side of East Coast Highway. Irvine Terrace Park has a soccer field, a basketball court, two tennis courts, a tot lot, a sidewalk, and grassy areas. The use of Civic Center Park and/or Irvine Terrace Park by the Project's estimated 62 residents would not result in substantial deterioration to these existing facilities due to the small increase in population associated with the Project. Additionally, the Project includes common and private open space areas as part of the Project design to help meet the recreation needs of future residents. As identified on the Project's Plans, the Project would include approximately 3,600 S.F. of common open space including a dog run, pool, hot tub, fitness center, and private open space on residential patios, which would fully help to meet the leisure and recreational needs of future Project residents.

Based on the City's Parkland Standard of five acres of parkland per 1,000 residents, the Project's estimated population increase of 62 persons would result in a demand for approximately 0.31-acre of parkland. In accordance with General Plan Recreation Element Policy R 1.1, the Project Applicant would be required to contribute in-lieu park fees pursuant to the City's Park Dedication Fee Ordinance and City Resolution No. 2007-30 (City of Newport Beach, 2007b), which is used in part by the City to develop parks and recreational facilities. The Project site is located in Service Area 9 which is one of the two service areas identified within the City as having a park surplus (City of Newport Beach, 2006b, Figure 4.12-1). The surplus, combined with the fact that the Project will provide on-site private recreational amenities and contribute in-lieu park fees, demonstrates that there is no reasonable potential that the Project's projected 62 residents would increase the use of public recreational facilities such that physical deterioration of the facilities would occur. Impacts would be less than significant.

Threshold b: Does the Project include recreational facilities or require the construction of or expansion of recreational facilities which might have an adverse physical effect on the environment?

As discussed under Threshold a) above, there are sufficient existing park facilities to serve Service Area 9 because there is an excess of parkland in the Project area. Because the Project would not directly or indirectly result in the need for new or expanded recreational facilities that could have an adverse physical effect on the environment, impacts would be less than significant.

5.4.16 TRANSPORTATION

Threshold c: Would the Project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Apart from the potential installation of utility tie-backs along the Project site's frontage, the Project does not involve any improvements to off-site roadways or intersections and complete street closures

would not occur during the Project's construction phase. There may be the need to temporarily close a lane in Newport Center Drive and/or Anacapa Drive during the construction of tie-backs. However, due to the temporary nature of the lane closures, and the required implementation of mandatory traffic control measures during lane closures, less-than-significant impacts would occur. Similarly, the location of driveway access points on-site would comply with City roadway standards and the proposed driveways would provide for adequate sight distance. The City of Newport Beach's Transportation Engineer will review the access points regarding adequate site distance so that the Project would conform to City codes. Accordingly, the Project would not increase hazards due to a design feature and impacts would be less than significant.

Threshold d: Would the Project result in inadequate emergency access?

The Project Applicant proposes adequate emergency access to the site via compliance with various conditions of approval from the City Fire Department, including the provision of a marked staging area on Anacapa Drive for exclusive use by the Fire Department. Additionally, the Project would not require the complete closure of any public or private streets or roadways during construction; therefore, any construction within public roadways would not impede use of roads for emergencies or access for emergency response vehicles because emergency vehicles would be able to access the Project site and adjacent properties during construction should a lane be closed. Therefore, the Project would not result in inadequate emergency access, and no impact would occur.

5.4.17 Utilities and Service Systems

Threshold a: Would the Project require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Water Facilities

The City of Newport Beach provides domestic water to the Project site and would continue to serve the Project site upon the implementation of the Project. The existing car wash and ancillary uses are currently served by a 2-inch domestic water service line that connects to a 12-inch main located on Newport Center Drive. The proposed Project is designed to be serviced by a proposed 6-inch domestic water service, 2-inch irrigation service, and 8-inch fire service connection to the same 12-inch main installed beneath Newport Center Drive. The water connection is an inherent part of the Project evaluated in this EIR and no significant environmental effects would result particular to the later water line installations. The Project Applicant proposes to redevelop the Project site with a multi-family residential structure, which is a less water-intensive use as compared to the site's existing carwash use. The Project is anticipated to result in a decrease in demand for domestic water to the site as compared to existing conditions. As such, the Project is not anticipated to require the need for new or expanded water facilities. Impacts would be less than significant.

Wastewater Treatment Facilities

The Orange County Sanitation District provides wastewater conveyance and treatment to the Project site and would continue to serve the Project site upon the implementation of the Project. The existing car wash and ancillary uses sanitary sewer are currently served by an 8" lateral that connects to a 15-inch main line in Newport Center Drive, and a 6-inch lateral that connects to an 8-inch main line in Anacapa Drive. The proposed Project is designed to be serviced by 6-inch lateral connections to the existing main lines. The sanitary sewer connections are an inherent part of the Project evaluated in this EIR and no significant environmental effects would result particular to the lateral sewer line installations. The Project Applicant proposes to redevelop the Project site with a multi-family residential structure, which would generate less wastewater compared to the site's existing use. As such, the Project is not anticipated to require the need for new or expanded wastewater treatment facilities. Impacts would be less than significant.

Stormwater Drainage Facilities

Under existing conditions, storm water runoff generally sheet flows towards the south-southwest, where an existing 10-inch storm drain line and catch basin intercepts the drainage (Fuscoe, 2020, p. 11). With the implementation of the Project, the site's existing drainage pattern would not change. Runoff would continue to drain towards the southwest portion of the site and the new on-site storm drain lines would tie into the existing 10-inch storm drain and catch basin at the southwest end of the site. The storm drain system then discharges into the City Municipal Separate Storm Sewer System (MS4) facility along Civic Center Drive towards East Coast Highway (Fuscoe, 2020, p. 11). The stormwater drainage system is an inherent part of the Project evaluated in this EIR and no significant environmental effects would result particular to the drainage system. Impacts would be less than significant.

Dry Utilities

Under existing conditions, the Project site is served by Southern California Edison (SCE) for electricity and Southern California Gas Company (SCGC) for natural gas. Several internet/cable providers also service the area via the existing fiber optic system. The Project would connect to existing dry utility lines within Newport Center Drive and Anacapa Drive. The dry utility connections are an inherent part of the Project evaluated in this EIR and no significant environmental effects would result particular to the line installations. Impacts would be less than significant.

Threshold b: Would the Project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Under existing conditions, the Project site is developed with a car wash facility with an ancillary gas station and convenience market. The Project's existing use consumes more domestic water than would the proposed Project. The site's existing uses are considered in the City's Urban Water Management Plan (UWMP) (hereby incorporated by reference), which concludes that the City's existing entitlements have sufficient water supplies to serve its existing and projected demand. More specifically, according to the City's UWMP, the City of Newport Beach can meet the water demands of its customers in normal, single dry, and multiple dry years between 2020 and 2040 (City of

Newport Beach, 2018). As the Project would result in a reduced water demand compared to the existing car wash and ancillary uses, the Project would have a less than significant impact on water supply sufficiency. Impacts would be less than significant.

Threshold c: Would the Project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The Orange County Sanitation District (OCSD) provides wastewater treatment for the City of Newport Beach via 2 reclamation plants: Reclamation Plant No. 1 in Fountain Valley and Treatment Plant No. 2 in Huntington Beach. Reclamation Plant No. 1 has a total rated primary capacity of 108 million gallons per day (mgd) and a secondary treatment capacity of 80 mgs. Treatment Plant No. 2 has a total rated primary capacity of 168 mgs and a secondary treatment capacity of 90 mgs. (Carollo, 2020)

Under existing conditions, the Project site is developed with approximately 2,085 gross S.F. of building area for the existing car wash with an ancillary gas station, parking lot, landscape, and hardscape areas. The Project Applicant would demolish the existing structure and redevelop the site with an approximately 174,614 gross S.F. residential structure (103,158 gross S.F. of floor area + 71,456 gross S.F. of parking garage area = 174,614 gross S.F. residential structure). Although the Project Applicant would redevelop the Project site with a larger building and use not anticipated for in the City's General Plan and UWMP, the Project's proposed use would result in a decrease in demand for wastewater treatment services as compared to existing conditions. As such, the OCSD's existing wastewater treatment facilities have adequate capacity to serve the Project's project demand in addition to its existing commitments. Impacts would be less than significant.

Threshold d: Would the Project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

To construct the Project, the existing car wash and gas station building and associated site improvements located on the property would be demolished and cleared from the site. In total, approximately 2,085 square feet of development footprint for the existing car wash with an ancillary gas station, parking lot, landscape, and hardscape areas would be removed to prepare the site for redevelopment. Most of the demolition debris generated as part of the Project is anticipated to go to the Frank R. Bowerman Sanitary Landfill located at 11002 Bee Canyon Access Road in Irvine. According to Cal Recycle, the Frank R. Bowerman Landfill is permitted to accept 11,500 tons of solid waste per day and has enough projected capacity to serve residences and businesses until approximately 2053 (OC Water & Recycling, 2020). Some demolition materials may also go to Dan Copp Crushing, located at 1120 N. Richfield Road in Anaheim (approximately 21 roadway miles from the Project site). Debris would be disposed of during Project construction and demolition. Based on the estimated amount of construction and demolition debris that would be generated by the Project, the Frank R. Bowerman Sanitary Landfill's permitted capacity of 11,500 tons per day can

accommodate the projected amount of debris estimated to be generated by the Project during the demolition and construction phases, resulting in a less-than-significant impact to landfill capacity.

Based on the solid waste generation rates presented in General Plan EIR Table 4.14-14 for multi-family residential uses, the 28 units proposed on the site would result in the long-term generation of approximately 179.5 pounds per day of solid waste (at a rate of 6.41 pounds per unit per day [28 units x 6.41 pounds/unit]) (City of Newport Beach, 2006b). The Project's estimated solid waste would represent approximately 0.005% of the permitted daily tonnage at the Frank R. Bowerman Sanitary Landfill. This amount of solid waste would result in a nominal increase in the amount of solid waste conveyed to the Frank R. Bowerman Sanitary Landfill and that would be met by the landfill's permitted capacity. Therefore, with the implementation of the Project, there would be a less-than-significant impact on the landfill's permitted capacity of 11,500 tons per day.

Threshold e: Would the Project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Public Resources Code Section 40000 et seq. requires that local jurisdictions divert at least 50% of all solid waste generated. The Project would be subject to the City's Recycling Service Fee pursuant to Municipal Code Chapter 2.30, which is intended to assist the City in meeting the 50% diversion objective. Commercial waste haulers within the City are subject to Municipal Code Section 12.63.120 (Recycling Requirement), which states, "No person providing commercial solid waste handling services or conducting a solid waste enterprise shall deposit fifty (50) percent or more of the solid waste collected by the person in the City at any landfill." Furthermore, the Project would be required to comply with Municipal Code Section 20.30.120 (Solid Waste and Recyclable Materials Storage), which mandates that all multi-unit projects with five or more dwelling units "…provide enclosed refuse and recyclable material storage areas with solid roofs." (City of Newport Beach, 2020a) Accordingly, the Project would be fully compliant with all applicable federal, State, and local statutes and regulations related to solid waste, resulting in a less-than-significant impact.

5.4.18 WILDFIRE

Threshold a: ***Would the Project substantially impair an adopted emergency response plan or emergency evacuation plan?***

Threshold b) ***Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?***

Threshold c) ***Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?***

Threshold d) ***Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?***

According to the California Department of Forestry and Fire Protection (CalFire), the Project site and area is within a local responsibility area and is not within proximity to a very high fire hazard severity zone (CalFire, 2020). Additionally, according to the City's General Plan Figure S4, Wildfire Hazards, the Project site is within a low/none fire susceptibility zone (City of Newport Beach, 2006a). As such, because the Project site is not within an SRA or lands classified as a very high fire hazard severity zone, the Project would result in no impacts related to wildfire.

6.0 ALTERNATIVES

Pursuant to CEQA Guidelines §15126.6(a):

> *"An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selection of a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason."*

As discussed in Section 4.0 of this EIR, the proposed Project would not result in any significant adverse environmental effects that cannot be mitigated to below levels of significance after the implementation of the Project design features, mandatory regulatory requirements and feasible mitigation measures. Therefore, this Section is focused on alternatives that could lessen the Project's less than significant effects on the environment, meet some of the Project's objectives, and thereby foster informed decision-making.

6.1 ALTERNATIVES UNDER CONSIDERATION

CEQA Guidelines Section 15126.6(e) requires that an EIR include an alternative that describes what would reasonably be expected to occur on the property in the foreseeable future if the Project were not approved, based on current plans and consistent with available infrastructure and community services (i.e., "no project" alternative). For projects that include a revision to an existing land use plan, the "no project" alternative may be the continuation of the existing land use plan into the future. For projects other than a land use plan (for example, a development project on an identifiable property), the "no project" alternative is considered to be a circumstance under which the project does not proceed (CEQA Guidelines Section 15126(e)(3) (A-B)).

In compliance with CEQA Guidelines Section 15126.6(a), an EIR must describe a range of reasonable alternatives to the project, or to the location of the project, which would avoid or substantially lessen significant effects of the project, even if "these alternatives would impede to some degree the attainment of the project objectives, or would be more costly" (CEQA Guidelines Section 15126.6(b)).

The City of Newport Beach has identified the following alternatives as a range of reasonable alternatives to the proposed Project in accordance with CEQA Guidelines §15126.6. These alternatives are described in more detail and evaluated for their level of environmental effects, compared to the proposed Project's environmental effects, later in this Section.

6.1.1 No Project/No Redevelopment Alternative

CEQA Guidelines §15126.6(e) requires that an alternative be included that describes what would reasonably be expected to occur on the property in the foreseeable future if the Project were not approved, based on current plans and consistent with available infrastructure and community services (i.e., the "no project" alternative). For development projects that would occur on an identifiable property (such as the proposed Project site), the "no project" alternative is considered to be a circumstance under which the project does not proceed (CEQA Guidelines §15126.6(e)(3)(A-B)). Although the current owner of the Project site, which through an affiliated company operates the car wash on the site, reports that the car wash does not support the land value and purchase price of the property and does not intend to continue operation of a car wash on the site (Newport Center Anacapa Associates, LLC, 2020), the No Project/No Redevelopment Alternative considers ongoing operation of the existing uses and not cessation of the uses and the presence of a closed car wash facility. This alternative was selected by the Lead Agency to compare the environmental effects of the proposed Project with an alternative that would leave the property in its existing condition as a fully operational car wash facility.

6.1.2 No Project/Office Redevelopment Alternative

As noted above, CEQA Guidelines §15126.6(e) requires that an alternative be included that describes what would reasonably be expected to occur on the property in the foreseeable future if the Project were not approved, based on current plans and consistent with available infrastructure and community services (i.e., the "no project" alternative).

The General Plan identifies the Project site as being within Statistical Area L1 and designates the Project site for "Regional Commercial Office (CO-R)" land uses, subject to the development limits established for Anomaly 35, which limits "CO-R" development square footage within the Anomaly area to 199,095 S.F. (City of Newport Beach , 2006a , Figure LU1 and Table LU2). The "CO-R" land use designation is intended to provide for administrative and professional offices that serve local and regional markets, with limited accessory retail, financial, service, and entertainment uses (City of Newport Beach , 2006a, p. 3-13). Given other existing development in the block (Anomaly 35), this alternative evaluates redevelopment of the property with an approximately 10,500 S.F. office building having a height of 32 feet with a flat roof or 37 feet with a sloped roof, with surface parking. The No Project/Office Redevelopment Alternative was selected by the Lead Agency to compare the environmental effects of the proposed Project against what could reasonably occur if the Project site were developed with office uses in conformance with the site's existing zoning and General Plan designations.

The Project site is within the "Office - Regional (OR)" Zoning District (City of Newport Beach, 2019). According to the City of Newport Beach Zoning Code, the "OR" Zoning District is intended to provide for areas appropriate for corporate offices, administrative and professional offices that serve local and regional markets, with limited accessory financial, retail, service, and entertainment uses. (City of Newport Beach, 2020, Titile 20). Thus, this alternative evaluates a scenario under which the Project site is redeveloped with an office use consistent with City regulations. A Site Development Review

(SDR) would be required to construct this alternative because it entails a building with 10,000 S.F. of gross floor area or greater.

6.1.3 Commercial/Restaurant Redevelopment Alternative

The Commercial/Restaurant Redevelopment Alternative evaluates redevelopment of the Project site with an approximately 10,500 S.F. single-story or two-story restaurant with 105 surface parking spaces. This alternative would provide for the highest intensity of commercial development allowed under the property's existing General Plan "Regional Commercial Office (CO-R)" land use designation and "OR (Office Regional Commercial)" Zoning District designation. The Commercial/Restaurant Redevelopment Alternative was selected by the Lead Agency to compare the environmental effects of the proposed Project against what could reasonably occur if the Project site were developed to the highest traffic-generating use per existing land use and zoning designations. Although technically this alternative is another version of a no project alternative because it considers redevelopment of the site in accordance with a use that is allowed on the site by property's existing CO-R General Plan and OR Zoning District designation, the Lead Agency has not identified the Commercial/Restaurant Redevelopment Alternative as a true no project alternative, because food service businesses require the approval of a Conditional Use Permit (CUP) or Minor Use Permit (MUP) in order to operate in the OR Zoning District; therefore a food service business is not considered an outright permitted use. A Site Development Review (SDR) would also be required to construct a building with 10,000 S.F. of gross floor area or greater. Depending on the characteristics of the restaurant proposed, a parking waiver may be required to reduce the number of required parking spaces.

6.1.4 Multiple Unit Residential (RM) Alternative

The Multiple Unit Residential (RM) Alternative evaluates redevelopment of the Project site with a multi-family townhome development that offers 20 market-rate ownerships units. The 20 residential townhome buildings would each include a two-car garage with two levels of residential above, in compliance with the RM maximum height standards (28 feet/33 feet maximum). A total of 40 private garage spaces and 10 guest parking spaces would be provided. Additional guest parking spaces would be provided as surface parking spaces within the site; subsurface excavation would be limited to that needed for footings and utilities. Access to the site would be the same as the access points proposed by the Project, with vehicular access provided by driveways along Anacapa Drive and from the shared access to the south of the site. The Multiple Unit Residential (RM) Alternative was selected by the Lead Agency to compare the environmental effects of the proposed Project against what could reasonably occur on the Project site if the site was developed with a different type and number of multi-family residential units that require substantially less subsurface excavation and a shorter construction duration, to reduce the proposed Project's temporary construction-related effects.

6.2 ALTERNATIVES CONSIDERED AND REJECTED

An EIR is required to identify any alternatives that were considered by the Lead Agency but were rejected as infeasible. Among the factors described by CEQA Guidelines Section 15126.6 in determining whether to exclude alternatives from detailed consideration in the EIR are: a) failure to meet most of the basic project objectives, b) infeasibility, or c) inability to avoid significant environmental impacts. With respect to the feasibility of potential alternatives to the proposed Project, CEQA Guidelines Section15126.6(f)(1) notes:

> *"Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries…and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site…"*

In determining an appropriate range of alternatives to be evaluated in this EIR, possible alternatives were initially considered and, for a variety of reasons, rejected. Alternatives were rejected because either: 1) they could not accomplish the basic objectives of the Project, 2) they would not have resulted in a reduction of significant adverse environmental impacts, or 3) they were considered infeasible to construct or operate. A summary of the alternatives that were considered but rejected are described below.

6.2.1 CAR WASH REDEVELOPMENT ALTERNATIVE

The Lead Agency considered but rejected an alternative that would result in redevelopment of the Project site with another car wash. This alternative was rejected because it would not meet any of the Project's 10 fundamental objectives. Furthermore, the current owner of the Project site, which through an affiliated company operates the car wash on the site, reports that the car wash does not support the land value and purchase price of the property and does not intend to continue operation of a car wash on the site (Newport Center Anacapa Associates, LLC, 2020). Therefore, redevelopment of the site with a new car wash is economically unrealistic.

6.2.2 SEVEN-STORY LUXURY HIGH-RISE CONDOMINIUM ALTERNATIVE

The Lead Agency considered but rejected an alternative that involved the demolition and removal of existing uses and redevelopment of the property with a seven-story 49-unit high-rise condominium building with three levels of subterranean parking. The maximum height of the building, including rooftop appurtenances, would be 83 feet 6 inches. The alternative was rejected because it would not be of a height and residential density that would be harmonious with surrounding land uses while minimizing the obstruction of views within the Project area. The proposal would also constitute a major General Plan Amendment, that would be subject to a vote of the electorate.

6.2.3 Office With Subterranean Parking Alternative

The Lead Agency considered but rejected an alternative that involved the demolition and removal of existing uses and redevelopment of the property with a 10,500 S.F. office building with 42 subterranean parking spaces. The maximum height of the building would be 32 feet for a flat roof. The alternative was rejected because it would not meet the basic objectives of the Project and would not be economically viable considering the cost of constructing subterranean parking with only two stories of office space totaling 10,500 S.F.

6.2.4 Alternative Sites

CEQA does not require that an analysis of alternative sites always be included in an EIR. However, if the surrounding circumstances make it reasonable to consider an alternative site, then this alternative should be considered and analyzed in the EIR. In making the decision to include or exclude analysis of an alternative site, the *"key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need to be considered for inclusion in the EIR"* (CEQA Guidelines §15126.6(f) (2)). As documented in Section 4.0, *Environmental Analysis*, of this EIR, the proposed Project would not result in any significant and unavoidable effects.

The Project proposes to redevelop a 1.26-acre property in the Newport Center area of the City of Newport Beach with a mid-rise residential condominium project. The Project's significant effects fall under the topics of biology (habitat removals that could potentially contain migratory bird nests), cultural resources and tribal cultural resources (TCRs), paleontological resources (potential presence of significant subsurface resources), and geology/soils (temporary slope instability and potential for expansive soils to be encountered during ground excavation) would not be avoided or substantially lessened by placing the Project in another location. Implementation of the Project in any other location in or near Newport Center would likely result in potential bird nest habitat removals and would involve the same amount of ground disturbance and subsurface excavations that would occur on the Project site thereby causing the same type of impacts.

Regarding the feasibility of finding another potential location for the Project, every developable property in Newport Center is currently developed and no vacant land having development potential is present that could be used as an alternate location for the proposed Project. Similarly, there are no existing, developed sites for sale that are a similar size as the Project site and that could reasonably be controlled by the Project Applicant for the purpose of developing the proposed Project. Furthermore, the Project Applicant does not hold ownership control over any other parcels of land in or near Newport Center that could be used as an alternative location for the proposed Project. Therefore, because an alternative location is not available that would avoid or substantially lessen the significant environmental effects of the Project, and because the Project Applicant does not have ownership control over, and cannot reasonably obtain ownership control over, any other parcels of land in the nearby area under the jurisdiction of the City of Newport Beach that could accommodate the Project,

an alternative location alternative is not feasible. Accordingly, the analysis of an alternative site is not required for the proposed Project.

6.3 ALTERNATIVES ANALYSIS

The discussion on the following pages compares the impacts from each alternative considered by the City of Newport Beach relative to the impacts of the proposed Project, as detailed in Section 4.0, *Environmental Analysis*, of this EIR.

Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), CEQA Guidelines §15126.6(d) requires that the discussion of alternatives focus on alternatives which are capable of avoiding or substantially lessening the significant effects of the Project. Therefore, the analysis provided herein focuses on a comparison of the Project's significant impacts to the level of impact that would occur under each evaluated alternative. The Project's significant effects fall under the topics of biology (habitat removals that could potentially contain migratory bird nests), cultural resources, tribal cultural resources (TCRs), paleontological resources (potential presence of significant subsurface resources), and geology/soils (temporary slope instability and potential for expansive soils to be encountered during ground excavation). Although the Project's less-than-significant impacts also are mentioned and compared to the alternatives evaluated herein, the emphasis is on the significant impacts of the Project that require mitigation as required by CEQA. Subject areas to which the Project would clearly have no impact or a less-than-significant impact, as discussed in EIR Subsection 5.4, *Effects Found Not to Be Significant as Part of the EIR Process*, are not required to be discussed herein. A conclusion is provided for each significant impact of the Project as to whether the alternative results in one of the following: (1) reduction or elimination of the proposed Project's impact, (2) a greater impact than would occur under the proposed Project, (3) the same impact as the proposed Project, or (4) a new impact in addition to the proposed Project's impacts.

Table 6-1, *Comparison of Environmental Impacts and Ability to Meet Project Objectives by Alternative*, at the end of this Section, compares the significant impacts of the Project with the level of impact that would be caused by the alternatives evaluated herein and identifies the ability of each alternative to meet the fundamental purpose and basic objectives of the Project. As described in EIR Section 3.0, *Project Description*, the underlying purpose and goal of the proposed Project is to redevelop an underutilized economically challenged property in the Newport Center area with residential units located within walking distance to employment, shopping, entertainment, and recreation. The following objectives are intended to achieve these underlying purposes:

A. Redevelop an underutilized property with a use that is financially feasible to construct and operate.

B. Make efficient use of existing infrastructure by repurposing a property with a higher and better use than currently occurs on the property.

C. Maximize the surface use of a redeveloped property by accommodating parking underground.

D. Increase the available housing stock within the City of Newport Beach and maximize the development potential of the site by constructing a project with at least 22 dwelling units.

E. Provide housing options for owner-occupied mid-rise multi-family flats in Newport Center to diversify the range of available residential housing unit types.

F. Introduce a luxury, multi-family residential development in Newport Center than can attract households in the surrounding area that are seeking low maintenance and single-level living options.

G. Provide a new multi-family residential development in Newport Center that is within walking distance of, and has pedestrian connections to, employment, shopping, entertainment, public services, and recreation.

H. Maintain high-quality architectural design in Newport Center by adding a building that has a recognizable architectural style and that complements the architectural styles that exist in the surrounding Newport Center community.

I. Implement a residential development that provides on-site amenities for its residents.

J. Redevelop a property that uses outdated operational technologies with a new use that is designed to be energy efficient and avoid the wasteful use of energy and water.

6.3.1 No Project/No Redevelopment Alternative

The No Project/No Redevelopment Alternative allows decision-makers to compare the environmental impacts of approving the proposed Project to the environmental impacts that would occur if the property were to be unchanged from existing conditions for the foreseeable future. The No Project/No Redevelopment Alternative evaluates no redevelopment of the property and no additional development on the Project site beyond that which occurs under existing conditions. As such, the Project site would remain occupied by the existing car wash with ancillary gas station and convenience market, which this alternative assumes would continue to operate. Although the current owner of the Project site, which through an affiliated company operates the car wash on the site, reports that the car wash does not support the land value and purchase price of the property and does not intend to continue operation of a car wash on the site (Newport Center Anacapa Associates, LLC, 2020), this alternative considers ongoing operation of the uses and not cessation of the uses and the presence of a closed facility. Under this alterative, no substantial physical modifications would be made to the Project site and none of the Project's improvements would occur.

Under existing conditions, the 1.26-acre Project site contains a 2,085 S.F. single-story building that is operating as a car wash with an ancillary convenience market, gas station, and asphalt/concrete parking area. The car wash was built in approximately 1970. Ornamental landscaping, including trees and groundcover, is present on the Project site; no sensitive vegetation communities or special-status plant or wildlife species occur on the site. Project site elevations vary from a low of approximately 158.5 feet above mean sea level (AMSL) in the southwest corner to a high elevation of 170.3 feet AMSL in the northeast corner. Slopes and retaining walls are located along the northern and eastern perimeter of the site, ascending up to Newport Center Drive and Anacapa Drive, varying in height from 2 to 8 feet. (NMG, 2020) Refer to the description of the Project site's existing physical conditions in Section 2.0, *Environmental Setting*, of this EIR.

A. Aesthetics

The Project site does not contain any unique aesthetic resources and is not designated as a scenic view point in the City's General Plan Natural Resources Element. The Project site contains an approximately 2,085 S.F. single-story building that is operating as a car wash facility with associated convenience market and gas station with ancillary lighting, signage, and associated improvements. Under the No Project/No Redevelopment Alternative, the visual character and quality of the site would be maintained in its existing condition.

Due to distance and intervening development, neither the proposed Project or the No Project/No Redevelopment Alternative would substantially or adversely affect views to distant landforms from public viewing areas. Although Section 4.1, *Aesthetics* of this EIR concludes that Project-related impacts associated with scenic vistas and visual resources would be less than significant, the No Project/No Redevelopment Alternative would avoid all visual changes on the site that would occur as a result of the proposed Project.

The existing car wash with ancillary gas station and convenience market features a utilitarian architectural design that is typical of car washes that were constructed in the 1970s and lack any distinctive design elements. The relatively low profile of the existing structure, along with its pad elevation below the abutting streets, combined with the presence of landscaping, minimizes views of the existing car wash operation, gas station pumps, and other on-site features from adjacent and nearby public roadways, including, but not limited to, Newport Center Drive, Anacapa Drive, and MacArthur Boulevard. In comparison, the architecture of the proposed Project's mid-rise residential building would feature a contemporary design with articulation that is compatible with the established architectural character of Newport Center. Although arguments could be made for whether the No Project/No Redevelopment Alternative or the proposed Project would be more in keeping with the existing visual character and quality of the site and area, neither this alternative nor the proposed Project would introduce physical features that would have a demonstratively inconsistent character and/or would be constructed with inferior design characteristics than currently found in the Newport Center area, leading to a substantial degradation of visual quality and character. Less-than-significant impacts would occur in either case.

The existing car wash generates light from nighttime security lighting along the building and parking areas. Moreover, the site does not include any design or operational components that function as substantial sources of glare, such as large glass or metallic surfaces. In comparison to the proposed Project, the No Project/No Redevelopment Alternative would be a continuation of the existing condition and have little to no potential for increased levels of light and glare. Though the proposed Project would not generate significant levels of light or glare as discussed in EIR Subsection 4.1, *Aesthetics*, light would be visible at greater heights above the ground surface (associated with a mid-rise building) than occurs in the existing condition (associated with a one-story building and car washing/fueling activities).

Overall, the selection of the No Project/No Redevelopment Alternative would maintain existing aesthetic conditions, whereas implementation of the Project would change the character of the site from a one-story car wash with ancillary gas station and convenience market to a mid-rise residential building. In either case, impacts would be less than significant.

B. Air Quality

As identified in EIR Subsection 4.2, *Air Quality*, the proposed Project would result in less-than-significant air quality impacts during construction and operation. Under the No Project/No Redevelopment Alternative, the Project's construction-related emissions of criteria pollutants would be avoided because no construction activity would occur.

The existing car wash with ancillary gas station and convenience market generates a higher number of daily vehicular trips when compared to the number of trips that would be generated by the proposed Project (819 trips as compared to 152 trips). Thus, vehicular-related air pollutants associated with trips traveling to and from the Project site would be greater under the No Project/No Redevelopment Alternative than would selection of the proposed Project. Furthermore, redeveloping the Project site to locate residential uses within a short walking distance to employment, shopping, and entertainment uses in Newport Center would likely contribute to a lower number of vehicle miles traveled (VMTs) for the on-site residents compared to the VMTs by other residential developments in the City that are not within walking distance to such uses. Instituting policies and implementing projects at the local level that reduce VMTs is a goal of the State in its efforts to reduce vehicular air pollutant emissions, and particularly those that are considered greenhouse gases (SB 375, 2016). A quantification of the distance that people drive to get their car washed at the Project site under existing conditions is speculative, because the origin of each trip is not known. In some cases, traveling to the next nearest car wash location may actually result in a shorter trip for the car wash patron than traveling to the Project site. In other cases, the travel distance may be up to 0.9-mile further, because the next closest car wash is located at the intersection of Jamboree Road and San Joaquin Hills Road about 0.9 miles away. In any case, the No Project/No Redevelopment Alternative would have a net-zero effect on air quality associated with development on the site by maintaining the existing condition, whereas the proposed Project would generate short-term construction emissions and reduce vehicular-related operational emissions associated with trips to and from the site. In either case, impacts would be less-than-significant.

C. Biological Resources

The No Project/No Redevelopment Alternative would leave the property in its existing condition. No sensitive vegetation communities or plant or wildlife species exist on the property in the existing condition. Because there would be no nesting bird habitat removals under the No Project/No Redevelopment Alternative, the selection of this alternative would avoid potentially significant impacts to nesting birds that would occur with the implementation of the proposed Project. Overall, the implementation of the No Project/No Redevelopment Alternative would avoid this biological resource impact that has the potential to occur under the proposed Project.

D. Cultural Resources

The No Project/No Redevelopment Alternative would leave the property in its existing condition; no grading or subsurface excavation would occur. As such, this alternative would avoid potentially significant impacts to significant subsurface archaeological and paleontological resources that may exist beneath the ground surface and that have the potential to be discovered during the Project's construction process. Similar to the proposed Project, continued operation of the existing car wash and ancillary gas station and convenience market use would not affect significant historical resources, because no such resources occur within the Project site. Overall, the implementation of the No Project/No Development Alternative would avoid potentially significant impacts to cultural resources when compared to the proposed Project.

E. Geology and Soils

The No Project/No Redevelopment Alternative would leave the property in its existing condition; no grading or subsurface excavation would occur. The implementation of this alternative would avoid the excavation of the soils within the site, which would avoid the Project's potentially significant impacts associated with geologic units or soils and expansive soils that may be unstable. Also, because this alternative would avoid the excavation of soils, this alternative would avoid the Project's potentially significant impact associated with paleontological resources and the potential to uncover previously undiscovered paleontological resources.

F. Greenhouse Gas Emissions

Under the No Project/No Redevelopment Alternative, although there would be no new development on the Project site, the site's developed condition with an existing operating car wash that produces greenhouse gas emissions would continue to exist. As discussed in Section 4.6, *Greenhouse Gas Emissions*, the Project would not generate greenhouse gas emissions, either directly or indirectly, that would have a significant impact on the environment nor would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. Therefore, although the No Project/No Redevelopment Alternative would not add any new greenhouse gas emissions, because the existing car wash and associated improvements would remain on the site and continue to operate under this alternative, impacts related to GHG emissions would not be lessened under the No Project/No Redevelopment Alternative. Both the proposed Project and the No Project/No

Redevelopment Alternative would be subject to compliance with applicable plans, policies, or regulations adopted for purposes of reducing the emissions of GHG's.

G. Hazards and Hazardous Materials

Because no development would occur under the No Project/No Redevelopment Alternative, potential Project-related hazardous materials impacts associated with removal of the site's underground storage tanks (USTs) and existing building and other surface features would be avoided. The existing car wash and ancillary gas station operations would remain in place on the site. USTs associated with the existing gas station, as well as other gasoline delivery facilities, would not be removed. Potential asbestos-containing materials (ACMs) in the existing building would remain. Although impacts associated with hazards and hazardous materials were identified as less than significant for the Project in light of mandatory compliance with regulatory requirements that apply to the removal of USTs and ACMs, because USTs and ACMs would not be removed from the site, implementation of the No Project/No Redevelopment Alternative would avoid any potential to expose construction workers to hazards during the removal of these existing hazardous substances.

The continued operation of the existing car wash would result in the ongoing transportation, use, and disposal of common materials associated with car washing, which are used in larger quantities when compared to the use of common household chemicals that would occur under the proposed Project's residential use. Additionally, the operation of the existing ancillary gas station would require the continued delivery of gasoline to the Project site, which represents an increased risk of an accidental release of gasoline at the site, or during transportation of the fuel to the site, as compared to on-site risks associated with the proposed Project's residential use. Therefore, the operational impacts associated with hazards and hazardous materials would be increased under the No Project/No Redevelopment Alternative when compared to the proposed Project.

Overall, the No Project/No Redevelopment Alternative would avoid any construction-related worker exposure to ACMs and the removal of USTs but would increase the potential for the accidental release of hazardous materials during ongoing operation of the car wash and gas station compared to operation of a residential condominium building as proposed by the Project. In either case, impacts would be less than significant with mandatory compliance to regulatory requirements that pertain to the transportation, storage, and use of hazardous substances.

H. Land Use/Planning

The No Project/No Redevelopment Alternative would result in the continued operation of the existing car wash and ancillary gas station and convenience market; therefore, this Alternative would not require the approval of a General Plan amendment, Zoning Code amendment, a planned community development plan, tentative tract map or development agreement to accommodate the Project's proposed change of use from commercial to residential. Although impacts to land use and planning would be less than significant for the proposed Project, the continued operation of the car wash with ancillary convenience market and gas station would avoid the Project's site-specific inconsistencies

with the City's existing Zoning Code designation and General Plan land use designation. The No Project/No Redevelopment Alternative would have no impacts associated with land use.

I. Noise

The No Project/No Redevelopment Alternative would leave the property in its existing condition; no grading, subsurface excavation, or construction activities would occur. Because the existing car wash and ancillary gas station and convenience store generates a higher number of daily vehicular trips when compared to the number of trips that would be generated by the proposed Project (819 trips as compared to 152 trips), the proposed Project would have a corresponding decrease in the amount of operational, vehicular-related noise associated with development on the Project site as compared to continuation of the existing condition. Thus, selection of the No Project/No Redevelopment Alternative would be more impactful on ambient noise levels associated with roadway travel in the Newport Center area. Regarding on-site operations, the existing car wash on the Project site generates noise from vehicular movement on the site, as well as stationary noise that is related to the mechanical components of the car wash operation, including vehicular dryers and vacuums. An outdoor amplification system also broadcasts music in the outdoor customer waiting area. These noise sources would remain. In comparison, the Project would generate on-site noise associated with vehicular operations as well as noise common to a residential use.

In summary, the No Project/No Redevelopment Alternative would maintain the higher volumes of operational noise that occur under existing conditions than would occur under the proposed Project's residential use. The No Project/No Redevelopment Alternative would not lessen noise levels in the area of Newport Center. In either case, operational noise would be less than significant.

J. Transportation

The No Project/No Redevelopment Alternative would maintain the status quo, generating 819 average daily trips. In comparison, the proposed Project would reduce the number of daily vehicular trips (819 trips as compared to 152 trips) traveling to and from the site. VMT for the Project is less than significant. A quantification of the distance that people drive to get their car washed at the Project site under existing conditions is speculative, because the origin of each trip is not known. In some cases, traveling to the next nearest car wash location may result in a shorter trip for the car wash patron than traveling to the Project site. In other cases, the travel distance may be up to 0.9-mile further, because the next closest car wash is located at the intersection of Jamboree Road and San Joaquin Hills Road about 0.9 miles away. VMT would be less than significant. The Project would change the site's existing driveway locations, but there are no components of the existing site configuration or of the proposed Project that would result in an increase in traffic levels or result in substantial safety risks. In the case of either the No Project/No Redevelopment Alterative or the proposed Project, transportation impacts would be less than significant.

K. Tribal Cultural Resources

The No Project/No Redevelopment Alternative would leave the property in its existing condition and no grading or subsurface excavation would occur. As such, this alternative would avoid potentially significant impacts to significant subsurface tribal cultural resources (TCRs) that may exist beneath the ground surface and that have the potential to be discovered during the Project's construction process. Similar to the proposed Project, continued operation of the existing car wash and ancillary gas station and convenience market use would not affect significant TCRs, because no such resources occur within the Project site. Overall, the implementation of the No Project/No Development Alternative would avoid potentially significant impacts to TCRs when compared to the proposed Project.

L. Conclusion

Implementation of the No Project/No Redevelopment Alternative would avoid all of the Project's potentially significant impacts to the environment. The Project's significant effects, which would all be mitigated to below a level of significance, fall under the topics of biology (habitat removals that could potentially contain migratory bird nests), cultural resources, TCRs, paleontological resources (potential presence of significant subsurface resources), and geology/soils (temporary unstable geologic units or soils, and the potential for expansive soils to be encountered during ground excavation).

The No Project/No Redevelopment Alternative would result in no physical environmental impacts beyond those that occur under existing conditions related to the operation and maintenance of the existing car wash with ancillary gas station and convenience market. Because this alternative would avoid all of the Project's impacts, it warrants consideration as the "environmentally superior alternative." However, because the existing car wash with ancillary gas station and convenience market generates more daily traffic to and from the site than would the Project's proposed residential condominium building, effects associated with vehicular-related air pollutant emissions, greenhouse gas emissions, and noise would be greater under the No Project/No Redevelopment Alternative than would occur under the proposed Project. In addition, the on-site use dispenses gasoline, uses chemicals in the car washing operation, generates wastewater as a byproduct of the car washing operation, and produces noise from vacuums, dryers, and an outdoor sound amplification system which would continue to occur on the site. For these reasons, the No Project/No Redevelopment Alternative is not an environmentally superior alternative.

The No Project/No Redevelopment Alternative would also fail to meet all of the Project objectives (A-J) as listed above in Subsection 6.3 and in Table 6-1 which appears at the end of this EIR Section. In addition, retaining the site in its existing condition as a car wash does not support the land value and purchase price of the property and the owner does not plan to continue its use (Newport Center Anacapa Associates, LLC, 2020).

6.3.2 No Project/Office Redevelopment Alternative

The No Project/Office Redevelopment Alternative evaluates redevelopment of the Project site with an approximately 10,500 S.F. office building that would either be 32 feet tall with a flat roof or 37 feet tall with a sloped roof. Depending on the design, the building could be one or two stories. The building would have a contemporary architectural style. A total of 42 parking spaces would be required by City regulations[1], provided in a surface lot. The alternative would be subject to a Site Development Review (SDR) to construct a building 10,000 S.F. or greater. The existing car wash with ancillary gas station, convenience market, and associated improvements would be removed from the property as would occur under the proposed Project to redevelop the site. Construction activities would be less intensive under this alternative because of the smaller building size and lack of need for extensive ground excavation to accommodate subsurface parking. This alternative would provide for an office building that would implement the site's existing Office Regional Commercial (OR) zoning designation and City of Newport Beach General Plan "CO-R (Regional Commercial Office)" land use designation. The No Project/Office Redevelopment Alternative was selected by the Lead Agency to compare the environmental effects of the proposed Project against what could reasonably occur if the Project site were developed with office uses in conformance with the site's existing zoning and General Plan designations and other applicable Municipal Code regulations.

A. Aesthetics

The Project site does not contain any unique aesthetic resources and is not designated as a scenic view point in the General Plan Natural Resources Element. Under existing conditions, the Project site contains an approximately 2,085 S.F. single-story building that is operating as a car wash with an ancillary gas station and convenience market, which would be demolished and removed from the site and replaced with an office building having a height of either 32 feet with a flat roof or 37 feet with a sloped roof. Under the No Project/Office Redevelopment Alternative, the visual character and quality of the site would be similar to what occurs on the site under existing conditions, but with a professional office character instead of a commercial car wash with ancillary gas station and convenience market.

Due to distance and intervening development, neither the proposed Project or the No Project/Office Redevelopment Alternative would substantially or adversely affect views to distant landforms from public viewing areas. Although Section 4.1, *Aesthetics* of this EIR concludes that Project-related impacts associated with scenic vistas and visual resources would be less than significant, the No Project/Office Redevelopment Alternative would represent a slight reduction in the overall height and mass of the building when compared to the mid-rise building proposed by the Project.

The visual character of the property after development of the No Project/Office Building Alternative would consist of a one- or two-story professional office building. Approval of an office building under this Alternative would require a review by City of Newport Beach at plan check in order to ensure compliance with the development standards for the OR (Office-Regional Commercial) Zoning District. In comparison, the Project proposes a mid-rise building with a contemporary design that would be

[1] Parking calculated as 1 parking space per 250 square feet of net floor area.

compatible with the established character of Newport Center. Although arguments could be made for whether a one- or two-story building or the proposed Project's mid-rise building with subterranean parking, would be more in keeping with the existing visual character and quality of the site and area, neither this alternative nor the proposed Project would introduce physical features that would have a demonstratively inconsistent character and/or would be constructed with inferior design characteristics than currently found in the Newport Center area, leading to a substantial degradation of visual quality and character. Less-than-significant impacts would occur in either case.

Exterior lighting would be required for the operation of an office building on the Project site. Light would be visible on the building exterior and through windows to the height of the building (32 feet with a flat roof or 37 feet with a sloped roof). There would be more exterior lighting at the ground level under this alternative due to lighting needed for a surface parking lot, when compared to the proposed Project that does not propose surface parking. Light poles also would be installed to illuminate the site's surface parking lot. Light could be visible on the building exterior and through windows to the height of the building (32 feet with a flat roof or 37 feet with a sloped roof). In comparison, night lighting would not extend as high into the night skyline as would occur under the proposed Project's mid-rise building, making this alternative less visible during nighttime hours from surrounding areas. In both cases, development is required to comply with Section 20.30.070 (Outdoor Lighting) of the City's Municipal Code, which establishes outdoor lighting standards applicable to all new development in the City.

Overall, the redevelopment of the Project site with an 10,500 S.F. office building under the No Project/Office Redevelopment Alternative would result in similar aesthetic impacts when compared to the proposed Project; under both scenarios, aesthetic impacts would be less than significant.

B. Air Quality

As identified in EIR Subsection 4.2, *Air Quality*, the proposed Project would result in less-than-significant air quality impacts during construction and operation. Because the office building footprint would be smaller and extensive subsurface excavation would be avoided due to the use of surface parking, the No Project/Office Redevelopment Alternative would reduce the duration of short-term air quality emissions that would occur during the grading and excavation phase of construction. Implementation of the No Project/Office Redevelopment Alternative also would reduce the overall construction intensity at the Project site due to the smaller size of the building that would be constructed, which would reduce the number of days that certain construction equipment operate, the amount of truck deliveries of construction materials that would be required, and the amount of architectural finishes that would be applied during the construction period. Accordingly, there would be a corresponding decrease in the total amount of criteria pollutants that would be emitted during the construction period under the No Project/Office Redevelopment Alternative when compared to the proposed Project.

The operation of the No Project/Office Redevelopment Alternative would generate slightly fewer vehicular trips associated with employees and visitors accessing the site on weekdays (103 trips[2]) than would be generated by the proposed Project (152 trips). Due to the decreased number of vehicle trips associated with this alternative, there would be a correspondingly decreased impact to air quality associated with vehicular emissions of criteria pollutants during the long-term operation of an office building as compared to operation of the proposed Project. Also, area source and energy source emissions would be reduced based on the smaller building size (10,500 S.F.) compared to the proposed Project's mid-rise residential building (103,158 S.F.)

Overall, the No Project/Office Redevelopment Alternative would require fewer days of construction thereby resulting in fewer construction-related air pollutant emissions. Also, because the building would be smaller and generate fewer weekday vehicle trips as compared to the proposed Project, the No Project/Office Redevelopment Alternative would have decreased operational-related air pollutant emissions when compared to the proposed Project.

C. *Biological Resources*

This alternative would have an identical physical impact footprint as the proposed Project, where all ornamental trees and landscaping on-site would be removed through the demolition and redevelopment process and several trees along Anacapa Drive would be removed. As such, impacts to biological resources that would occur under this alternative are the same as those of the proposed Project described in EIR Subsection 4.3, *Biological Resources*, which includes the potential to impact nesting birds during redevelopment of the site and installation of the associated improvements. No biological resource impacts would be reduced or avoided under this alternative. Both the proposed Project and the No Project/Office Redevelopment Alternative would be subject to the same regulatory requirements and mitigation measures to reduce potential impacts to less-than-significant levels.

D. *Cultural Resources*

No historic resources are located on the Project site; therefore, removal of the car wash and ancillary gas station for redevelopment of the property under either this alternative or the proposed Project would not impact any known historic resources. The No Project/Office Redevelopment Alternative would cause physical impacts to the surface of the Project site and limited subsurface disturbance resulting from excavation needed to install the building foundation and underground utilities. In comparison, the proposed Project would involve subsurface excavation to provide underground parking. Accordingly, the potential to discover and significantly impact archaeological resources that may be present beneath the surface of the site could be slightly reduced with the implementation of the No Project/Office Redevelopment Alternative because the depth of excavation would be less than that required for the proposed Project. In either case, if subsurface cultural resources were to be discovered,

[2] Based on the Institute of Transportation Engineers (ITE) rate of 9.74 trips per 1,000 square feet of general office space and a 10,500 square foot building size (ITE, 10th Edition). Calculated as 10,500/1000 = 10.5 and 10.5 x 9.74 = 102.27 (rounded up to 103 trips).

this alternative and the proposed Project would be subjected to the same regulatory requirements and mitigation measures to reduce impacts to less-than-significant levels.

E. Geology and Soils

The No Project/Office Redevelopment Alternative would cause physical impacts to the surface of the Project site and limited subsurface disturbance resulting from excavation needed to install the building foundation and underground utilities. In comparison, the proposed Project would involve subsurface excavation to provide two levels of underground parking. Potential impacts regarding geologic units or soils and expansive soils that may be unstable and the potential impacts to previously undiscovered paleontological resources would be lessened under the No Project/Office Redevelopment Alternative as compared to the proposed Project because this alternative would substantially minimize subsurface excavation.

Overall, the No Project/Office Redevelopment Alternative would result in slightly reduced impacts associated with development on geologic units or soils and expansive soils that may be unstable. In addition, due to the limited subsurface excavations that would occur under this alternative, there would be a less likely potential to encounter paleontological resources. In comparison, the Project's soil stability, expansive soil, and potential paleontological resource impacts would be reduced to a less-than-significant level with the implementation of mitigation measures.

F. Greenhouse Gas Emissions

As discussed in Section 4.6, *Greenhouse Gas Emissions*, the Project would not generate greenhouse gas emissions, either directly or indirectly, that would have a significant impact on the environment nor would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. Both the proposed Project and this alternative would be subject to compliance with applicable plans, policies, or regulations adopted for purposes of reducing the emissions of GHG's.

The operation of the No Project/Office Redevelopment Alternative would generate slightly fewer vehicular trips associated with employees and visitors accessing the site on weekdays (103 trips[3]) than would be generated by the proposed Project (152 trips). Due to the decreased number of vehicle trips associated with this alternative, there would be a corresponding decrease in GHG emissions that would be generated associated with vehicular emissions of criteria pollutants during the long-term operation of an office building as compared to operation of the proposed Project. Also, area source and energy source emissions would be reduced based on the smaller building size (10,500 S.F.) compared to the proposed Project's mid-rise residential building (103,158 S.F.)

[3] Based on the Institute of Transportation Engineers (ITE) rate of 9.74 trips per 1,000 square feet of general office space and a 10,500 square foot building size (ITE, 10th Edition). Calculated as 10,500/1000 = 10.5 and 10.5 x 9.74 = 102.27 (rounded up to 103 trips).

Overall, the No Project/Office Redevelopment Alternative would require fewer days of construction thereby resulting in fewer construction-related GHG emissions. Also, because the building would be smaller and generate fewer weekday vehicle trips as compared to the proposed Project, the No Project/Office Redevelopment Alternative would have decreased operational-related GHG emissions when compared to the proposed Project.

G. Hazards and Hazardous Materials

As with the proposed Project, the No Project/Office Redevelopment Alternative would redevelop the entire site. Therefore, similar to the proposed Project, the implementation of the No Project/Office Redevelopment Alternative would require the demolition and removal of the existing car wash building and the ancillary gas station and convenience market components. Accordingly, the potential to encounter ACMs would occur under the No Project/Office Redevelopment Alternative, which would require the compliance with applicable regulations as described in Subsection 4.7, *Hazards and Hazardous Materials*, of this EIR. Additionally, the No Project/Office Redevelopment Alternative would require the removal of the USTs, which would also require compliance with applicable regulations. Also, construction materials that may be hazardous would be transported and stored on the site under either scenario. Therefore, the No Project/Office Redevelopment Alternative would result in the same less than significant impacts associated with hazards and hazardous materials during construction activities when compared to the proposed Project.

As with the proposed Project, the operation of a professional office building on the site would result in the routine use of common hazardous cleaning and maintenance materials. Therefore, operational impacts associated with the No Project/Office Redevelopment Alternative would be similar to those that would occur with the proposed Project. Overall, hazards and hazardous materials impacts associated with the No Project/Office Redevelopment Alternative would be similar to those that would occur with the implementation of the proposed Project.

H. Land Use/Planning

The No Project/Office Redevelopment Alternative would result in the development of the entire Project site with a 10,500 S.F. professional office building with surface parking. The implementation of this Alternative would be consistent with the site's existing General Plan "Regional Commercial Office (CO-R)" designation and "Office Regional Commercial (OR)" Zoning District designation, including the maximum floor area ratio and building height limit (32 feet for a flat roof and 37 feet for a sloping roof).

Although impacts to land use and planning would be less than significant for the proposed Project because the Project would not conflict with an applicable land use plan, policy, regulation, or habitat conservation plan that was adopted for the purpose of avoiding or mitigating an environmental effect, redevelopment of the property with a one- or two-story 10,500 S.F. office building with surface parking would avoid the Project's site-specific inconsistencies with the City's Zoning Code designation and General Plan land use designation. No land use and planning impacts would occur under the No

Project/Office Redevelopment Alternative, whereas the proposed Project would result in a less-than-significant impact.

Overall, because the No Project/Office Redevelopment Alternative would comply with the existing Zoning Code and General Plan land use designations for the site, impacts associated with land use and planning would be reduced compared to the proposed Project.

I. Noise

As identified in EIR Subsection 4.9, *Noise,* the proposed Project would not generate noise levels during construction and/or operation that exceed the standards established by the City of Newport Beach General Plan or Municipal Code. The Project's construction activities also would not result in a perceptible groundborne vibration or noise. Because the office building would be smaller and extensive subsurface excavation would be avoided due to the use of surface parking, the No Project/Office Redevelopment Alternative would reduce the duration of the construction-related noise impact. Regardless, the noise levels that would occur when construction is in process would be the same levels that would occur under the proposed Project because the construction equipment to be used would be the same or very similar.

The operation of the No Project/Office Redevelopment Alternative would generate an estimated 103 daily vehicular trips[4] associated with employees and visitors accessing the site on a weekdays as compared to 152 vehicle trips that would occur under the proposed Project. Due to the decreased number of trips associated with this alternative, there would be a corresponding decrease in vehicular noise during the long-term operation of an office building as compared to operation of the proposed Project's residential use.

Overall, the implementation of the No Project/Office Redevelopment Alternative would result in the same levels of construction noise, but for a shorter duration than the proposed Project. Operational noise would be less under the No Project/Office Redevelopment Alternative than the proposed Project due to a decrease in vehicular trips.

J. Transportation

The operation of the No Project/Office Redevelopment Alternative would generate an estimated 103 daily vehicular trips[5] associated with employees and visitors accessing the site compared to 152 vehicle trips that would occur under the proposed Project. Due to the slightly decreased number of trips associated with this alternative, there would be a corresponding decrease in effects to the level of service of roadway intersections and segments in the area during the long-term operation of an office

[4] *Based on the Institute of Transportation Engineers (ITE) rate of 9.74 trips per 1,000 square feet of general office space and an 10,500 square foot building size (ITE, 10th Edition). Calculated as 10,500/1000 = 10.5 and 10.5 x 9.74 = 102.27(rounded up to 103 trips).*

[5] Based on the Institute of Transportation Engineers (ITE) rate of 9.74 trips per 1,000 square feet of general office space and an 10,500 square foot building size (ITE, 10th Edition). Calculated as 10,500/1000 = 8.5 and 8.5 x 9.74 = 102.27 (rounded up to 103 trips).

building as compared to operation of the proposed Project. In the case of this alternative and the proposed Project, either scenario would attract fewer vehicle trips to and from the site on a daily basis as compared to the 819 trips that are generated by the existing car wash with gas ancillary gas station and convenience market that occur on the site under existing conditions.

Overall, impacts to transportation and traffic under the No Project/Office Redevelopment Alternative would be decreased in comparison to the proposed Project.

K. Tribal Cultural Resources

No known TCRs are located on the Project site; therefore, removal of the car wash and ancillary gas station for redevelopment of the property under either this alternative or the proposed Project would not impact any known TCRs. The No Project/Office Redevelopment Alternative would cause physical impacts to the surface of the Project site and limited subsurface disturbance resulting from excavation needed to install the building foundation and underground utilities. In comparison, the proposed Project would involve subsurface excavation to provide underground parking. Accordingly, the potential to discover and significantly impact TCRs that may be present beneath the surface of the site may be slightly reduced with the implementation of the No Project/Office Redevelopment Alternative in comparison to the proposed Project. In either case, if subsurface TCRs were to be discovered, this alternative and the proposed Project would be subjected to the same regulatory requirements and mitigation measures to reduce impacts to less-than-significant levels.

L. Conclusion

The implementation of the No Project/Office Redevelopment Alternative would reduce but not avoid the Project's significant impacts to cultural resources, TCRs, paleontological resources (potential presence of significant subsurface resources that could be unearthed and disturbed during ground excavation) and geology/soils (temporary unstable geologic units or soils, and the potential for expansive soils to be encountered during ground excavation). Impacts to biology (habitat removals that could potentially contain active migratory bird nests) would be identical under this alternative and the proposed Project. All of the Project's significant impacts would be mitigated to below a level of significance, and the same mitigation measures would apply to this alternative. This alternative slightly reduces impacts associated with cultural resources, TCRs, and paleontological resources and reduces impacts associated with geology/soils due to the limited need for subsurface excavation. This alternative reduces impacts associated with construction noise because construction would occur over a shorter timeframe and reduces GHG emissions because fewer vehicle trips would travel to and from the site and the building's area-source and energy-source would be lowered due to its smaller size compared to the Project. Because the No Project/Office Redevelopment Alternative results in a lower traffic volume than would the proposed Project, this alternative reduces traffic impacts and corresponding reduction in mobile source air quality emissions and vehicular-related operational noise. No impacts to land use and planning would occur because the alternative would be consistent with the site's zoning and General Plan designations and would have potentially reduced aesthetic effects because the building height would be lower than the building height proposed by the Project.

In regards to the Project objectives, the No Project/Office Redevelopment Alternative would meet three of the Project's ten objectives (Objective A, B, and J). The No Project/Office Redevelopment Alternative would fail to the other seven Project objectives (Objective C through I). Specifically, the No Project/Office Redevelopment Alternative would not meet the Project objectives related to providing residential development in Newport Center.

6.3.3 COMMERCIAL/RESTAURANT REDEVELOPMENT ALTERNATIVE

The Commercial/Restaurant Redevelopment Alternative evaluates redevelopment of the Project site with an approximately 10,500 S.F. single or two-story restaurant in a contemporary architectural design up to 32 feet in height with a flat roof or 37 feet with a sloping roof. The existing car wash and ancillary convenience market, gas station and associated improvements would be removed from the property as would occur under the proposed Project to redevelop the site. Construction activities would be less intensive under this alternative because of the smaller building size and the elimination of the excavation activities needed to construct a subterranean parking structure. Parking for the restaurant would be accommodated in a surface lot offering 105 parking spaces[6]. This alternative would provide for the highest intensity of commercial development allowed under the property's existing General Plan "Regional Commercial Office (CO-R)" land use designation and "OR (Office Regional Commercial)" Zoning District designation. The Commercial/Restaurant Redevelopment Alternative was selected by the Lead Agency to compare the environmental effects of the proposed Project against what could reasonably occur if the Project site were developed to the highest traffic generating use per existing land use and zoning designations. Although technically this alternative is another version of a no project alternative because it considers redevelopment of the site in accordance with a use that is allowed on the site by property's existing CO-R General Plan and OR Zoning District designation, the Lead Agency has not identified the Commercial/Restaurant Redevelopment Alternative as a true no project alternative, because depending on physical and operational characteristics, many food service businesses require the approval of a Conditional Use Permit (CUP) or Minor Use Permit (MUP) in order to operate in the OR Zoning District. A Site Development Review (SDR) would also be required to construct a building with 10,000 S.F. of gross floor area or greater. Depending on the characteristics of the restaurant proposed, a parking waiver may be required to reduce the number of required parking spaces.

A. Aesthetics

The Project site does not contain any unique aesthetic resources and is not designated as a scenic view point in the General Plan Natural Resources Element. Under existing conditions, the Project site contains an approximately 2,085 S.F. single-story building that is operating as a car wash with an ancillary gas station and convenience market, which would be removed and replaced with a single or two-story restaurant building having a height of either 32 feet with a flat roof or 37 feet with a sloped roof. Under the Commercial/ Restaurant Redevelopment Alternative, the visual character and quality

[6] The parking calculation assumes that 50 percent of the allotted gross floor area would be utilized as net public area for the restaurant. This net public area was then parked at a rate of one parking space per 50 square feet of net public area.

of the site would be similar to what occurs on the site under existing conditions, but with a commercial restaurant character instead of a commercial car wash with ancillary gas station and convenience market.

Due to distance and intervening development, neither the proposed Project or the Commercial/Restaurant Redevelopment Alternative would substantially or adversely affect views to distant landforms from public viewing areas. Although Section 4.1, *Aesthetics,* of this EIR concludes that Project-related impacts associated with scenic vistas and visual resources would be less than significant, the Commercial/Restaurant Redevelopment Alternative would represent a slight reduction in the overall height and mass of the building when compared to the mid-rise building proposed by the Project. However, because the 107 parking spaces would be visible from public vantage points, the surface parking component may impact the aesthetic quality of the site.

The approval of a restaurant building under this Alternative would most likely require a Conditional Use Permit (CUP) or Minor Use Permit (MUP) as well as review by the City of Newport Beach at plan check in order to ensure compliance with the development standards for the OR (Office-Regional Commercial) Zoning District. A SDR would also be required to construct a nonresidential building over 10,000 S.F. In comparison, the Project proposes a mid-rise building with a contemporary design that would be compatible with the established character of Newport Center. Although arguments could be made for whether a one- or two-story restaurant building or the proposed Project's mid-rise building would be more in keeping with the existing visual character and quality of the site and area, neither this alternative nor the proposed Project would introduce physical features that would have a demonstratively inconsistent character and/or would be constructed with inferior design characteristics than currently found in the Newport Center area, leading to a substantial degradation of visual quality and character. Less-than-significant impacts would occur in either case.

Exterior lighting would be required for the operation of a commercial restaurant on the Project site. There would be more exterior lighting at the ground level under this alternative due to lighting needed for a surface parking lot, when compared to the proposed Project that does not propose surface parking. Light poles also would be installed to illuminate the site's surface parking lot. Light would be visible on the building exterior and through windows to the height of the building (32 feet with a flat roof or 37 feet with a sloped roof). In comparison, night lighting would not extend as high into the night skyline as would occur under the proposed Project's mid-rise building, making this alternative less visible during nighttime hours from surrounding areas. In both cases, development is required to comply with Section 20.30.070 (Outdoor Lighting) of the City's Municipal Code, which establishes outdoor lighting standards applicable to all new development in the City.

Overall, the redevelopment of the Project site with a one- or two-story restaurant under the Commercial/Restaurant Redevelopment Alternative would result in a slight reduction in aesthetic impacts when compared to the proposed Project, although under either scenario aesthetic impacts would be less than significant.

B. Air Quality

As identified in EIR Subsection 4.2, *Air Quality*, the proposed Project would result in less-than-significant air quality impacts during construction and operation. Because the restaurant building footprint would be smaller and extensive subsurface excavation would be avoided due to the use of surface parking, the Commercial/Restaurant Redevelopment Alternative would reduce short-term air quality emissions that would occur during the excavation phase of construction. The implementation of the Commercial/Restaurant Redevelopment Alternative also would reduce the overall construction intensity at the Project site due to the reduction in the size of the building that would be constructed, which would reduce the number of days that certain construction equipment operate, the amount of truck deliveries of construction materials would be required, and the amount of architectural finishes that would be applied during the construction period. Accordingly, there would be a corresponding reduction in the total amount of criteria pollutants that would be emitted during the construction period under the Commercial/Restaurant Redevelopment Alternative when compared to the proposed Project.

The operation of the Commercial/Restaurant Redevelopment Alternative would generate approximately 1,178 daily vehicular trips[7] associated with restaurant customers and employees accessing the site. In comparison, the proposed Project would generate approximately 152 vehicle trips on a daily basis. Due to the greater number of trips associated with this alternative, there would be a correspondingly greater impact to air quality associated with vehicular emissions of criteria pollutants during the long-term operation of the restaurant as compared to operation of the proposed Project.

Overall, the Commercial/Restaurant Redevelopment Alternative would result in fewer construction-related air pollutant emissions and increased operational-related air pollutant emissions when compared to the proposed Project.

C. Biological Resources

This alternative would have an identical physical impact footprint as the proposed Project where all ornamental trees and landscaping on-site would be removed through the demolition and redevelopment process and several trees along Anacapa Drive would be removed. As such, impacts to biological resources that would occur under this alternative are the same as those of the proposed Project described in EIR Subsection 4.3, *Biological Resources*, which includes the potential to impact nesting birds during redevelopment of the site and installation of associated off-site improvements. No biological resource impacts would be reduced or avoided under this alternative. Both the proposed Project and the Commercial/Restaurant Redevelopment Alternative would be subject to the same regulatory requirements and mitigation measures to reduce potential impacts to less-than-significant levels.

[7] Based on the Institute of Transportation Engineers (ITE) rate of 112.18 trips per 1,000 square feet of restaurant space and an 10,500 square foot building size (ITE, 10th Edition). Calculated as 10,500/1000 = 10.5 and 105 x 112.18 = 1,177.89 (rounded up to 1,178 trips).

D. Cultural Resources

No historic resources are located on the Project site; therefore, removal of the car wash and ancillary gas station for redevelopment of the property under either this alternative or the proposed Project would not impact any known historic resources. The Commercial/Restaurant Redevelopment Alternative would cause physical impacts to the surface of the Project site and limited subsurface disturbance resulting from excavation needed to install the building foundation and underground utilities. In comparison, the proposed Project would involve subsurface excavation to provide underground parking. Accordingly, the potential to discover and significantly impact archaeological resources that may be present beneath the surface of the site could be slightly reduced with the implementation of the Commercial/Restaurant Redevelopment Alternative because the depth of excavation would be less than that required for the proposed Project. In either case, if subsurface cultural resources were to be discovered, this alternative and the proposed Project would be subjected to the same regulatory requirements and mitigation measures to reduce impacts to less-than-significant levels.

E. Geology and Soils

The Commercial/Restaurant Redevelopment Alternative would cause physical impacts to the surface of the Project site and limited subsurface disturbance resulting from excavation needed to install the building foundation and underground utilities. In comparison, the proposed Project would involve subsurface excavation to provide two levels of underground parking. Potential impacts regarding soil stability and the potential to encounter expansive soils would be reduced under the Commercial/Restaurant Redevelopment Alternative as compared to the proposed Project because this alternative would minimize subsurface excavation and thus the potential for the construction process to create unstable soil conditions or encounter expansive soils during subsurface excavation. The Project's subsurface excavation activities would require the employment of shoring methods, which would not be necessary under this alternative. In addition, there would be a less likely potential to encounter paleontological resources due to the limited subsurface excavations that would occur under this alternative.

Overall, the Commercial/Restaurant Redevelopment Alternative would result in slightly reduced impacts associated with development on geologic units or soils and expansive soils that may be unstable. In addition, due to the limited subsurface excavations that would occur under this alternative, there would be a less likely potential to encounter paleontological resources. In comparison, the Project's soil stability, expansive soil, and potential paleontological resource impacts would be reduced to a less-than-significant level with the implementation of mitigation measures.

F. Greenhouse Gas Emissions

As discussed in Section 4.6, *Greenhouse Gas Emissions*, the Project would not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment nor would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. Both the proposed Project and this alternative would be

subject to compliance with applicable plans, policies, or regulations adopted for purposes of reducing the emissions of GHG's.

The operation of the Commercial/Restaurant Redevelopment Alternative would generate approximately 1,178 daily vehicular trips associated with restaurant customers and employees accessing the site. In comparison, the proposed Project would generate approximately 152 vehicle trips on a daily basis. Due to the increased number of trips associated with this alternative, there would be a corresponding increase in GHG emissions associated with vehicular emissions during the long-term operation of the restaurant as compared to operation of the proposed Project.

Overall, the Commercial/Restaurant Redevelopment Alternative would result in fewer construction-related GHG emissions and greater operational-related GHG emissions when compared to the proposed Project.

G. Hazards and Hazardous Materials

As with the proposed Project, the Commercial/Restaurant Redevelopment Alternative would redevelop the entire site. Impacts associated with hazards and hazardous materials were identified as less than significant for the proposed Project. Therefore, similar to the proposed Project, the implementation of the Commercial/Restaurant Redevelopment Alternative would require the demolition and removal of the existing car wash building with ancillary gas station and convenience market components. Accordingly, the potential to encounter ACMs would occur under the Commercial/Restaurant Redevelopment Alternative, which would require the compliance with applicable regulations as described in Subsection 4.7, *Hazards and Hazardous Materials*, of this EIR. Additionally, the Commercial/Restaurant Redevelopment Alternative would require the removal of the USTs, which would also require compliance with applicable regulations. Also, construction materials that may be hazardous would be transported and stored on the site under either scenario. Therefore, the Commercial/Restaurant Redevelopment Alternative would result in the same impacts associated with hazards and hazardous materials during construction activities when compared to the proposed Project.

As with the proposed Project, the operation of a restaurant on the site would result in the routine use of common hazardous cleaning and maintenance materials. Therefore, operational impacts associated with the Commercial/Restaurant Redevelopment Alternative would be similar to those that would occur with the proposed Project.

Overall, hazards and hazardous materials impacts associated with the Commercial/Restaurant Redevelopment Alternative would be similar to those that would occur with the implementation of the proposed Project.

H. Land Use/Planning

The Commercial/Restaurant Redevelopment Alternative would result in the development of the entire Project site with an 10,500 S.F. restaurant and 105 surface parking spaces. The implementation of this alternative would be consistent with the site's existing land use and zoning designations, although most

food service businesses require the approval of a Conditional Use Permit (CUP) or Minor Use Permit (MUP) depending on their physical and operational characteristics in order to operate in the OR Zoning District. This alternative proposes the maximum amount of development allowed under the existing General Plan "Regional Commercial Office (CO-R)" and "OR (Office Regional Commercial) Zoning District" designations for the Project site, including the maximum floor area limit and maximum building height limit of 32 feet with a flat roof or 37 feet with a sloped roof.

Although impacts to land use and planning would be less than significant for the proposed Project, redevelopment of the property with a one-story 8,500 S.F. restaurant building with surface parking would avoid the Project's site-specific inconsistencies with the City's Zoning Code designation and General Plan land use designation. As such, the Commercial/Restaurant Redevelopment Alternative would have less potential to result in land use and planning impacts than the proposed Project. Also, this alternative would be more consistent with General Plan Policy LU6.14.4 (Development Scale), although the proposed Project is also consistent with the policy.

Overall, because the Commercial/Restaurant Redevelopment Alternative would comply with the existing Zoning Code and General Plan land use designations for the site and would be consistent with the Zoning Code's existing height limits established for the site, impacts associated with land use and planning would be reduced compared to the proposed Project.

I. Noise

As identified in EIR Subsection 4.9, *Noise,* the proposed Project would not generate noise levels during construction and/or operation that exceed the standards established by the City of Newport Beach General Plan or Municipal Code. The Project's construction activities also would not result in a perceptible groundborne vibration or noise. Because the restaurant building would be smaller compared to the proposed Project's building and extensive subsurface excavation would be avoided due to the use of surface parking, the Commercial/Restaurant Redevelopment Alternative would reduce the duration of the noise impact. Regardless, the noise levels that would occur when construction is in process would be the same levels that would occur under the proposed Project because the construction equipment to be used would be the same or very similar.

The operation of the Commercial/Restaurant Redevelopment Alternative would generate 1,178 daily vehicular trips[8] associated with restaurant customers and employees accessing the site compared to 152 trips that would occur under the proposed Project. Due to the increased number of trips associated with this alternative, there would be a corresponding increase in traffic-related noise levels associated with long-term operation of the restaurant, as compared to operation of the proposed Project.

Also, due to frequent food and supply deliveries and patron noise, operation of a restaurant has the potential to result in more intense on-site operational noise than the proposed Project. Municipal Code

[8] Based on the Institute of Transportation Engineers (ITE) rate of 112.18 trips per 1,000 square feet of restaurant space and an 10,500 square foot building size (ITE, 10th Edition). Calculated as 10,500/1000 = 10.5 and 10.5 x 112.18 = 1,177.89 (rounded up to 1,178 trips).

Section 20.48.090(C) (Eating and Drinking Establishments) requires that owners/operators of an eating and drinking establishment that sells, serves, or gives away alcohol shall post signs at clearly visible locations within the establishment and at both on-site and off-site parking areas requesting that patrons keep noise to a minimum. With adherence to mandatory requirements in the City's Municipal Code, operational noise levels associated with the Commercial/Restaurant Redevelopment Alternative would be less-than-significant.

Overall, the implementation of the Commercial/Restaurant Redevelopment Alternative would result in the same levels of construction noise, but for a shorter duration than the proposed Project. Operational noise would be greater under the Commercial/Restaurant Redevelopment Alternative than the proposed Project due to an increase in vehicular trips and on-site operational noise associated with deliveries, restaurant patrons, and sound amplifications that may be associated with its operation.

J. Transportation

The operation of the Commercial/Restaurant Redevelopment Alternative would generate 1,178 daily vehicular trips[9] associated with restaurant customers and employees accessing the site compared to 152 vehicle trips that would occur under the proposed Project. Due to the increased number of trips associated with this alternative, there would be a corresponding increase in traffic impacts associated with the level of service at nearby intersections and roadway segments with long-term operation of the restaurant as compared to operation of the proposed Project. Because the Commercial/Restaurant Redevelopment Alternative would generate more than 300 average daily trips and increase trips by more than 1% at a primary intersection during the morning and evening peak period, the Commercial/Restaurant Redevelopment Alternative would require additional traffic analysis as required by the City's Traffic Phasing Ordinance (TPO) Guidelines.

Therefore, impacts to transportation and traffic under the Commercial/Restaurant Redevelopment Alternative would be greater in comparison to the proposed Project.

K. Tribal Cultural Resources

No known TCRs are located on the Project site; therefore, removal of the car wash and ancillary gas station for redevelopment of the property under either this alternative or the proposed Project would not impact any known TCRs. The Commercial/Restaurant Redevelopment Alternative would cause physical impacts to the surface of the Project site and limited subsurface disturbance resulting from excavation needed to install the building foundation and underground utilities. In comparison, the proposed Project would involve subsurface excavation to provide underground parking. Accordingly, the potential to discover and significantly impact TCRs that may be present beneath the surface of the site would be slightly reduced with the implementation of the Commercial/Restaurant Redevelopment Alternative in comparison to the proposed Project. In either case, if subsurface TCRs were to be

[9] Based on the Institute of Transportation Engineers (ITE) rate of 112.18 trips per 1,000 square feet of restaurant space and an 10,500 square foot building size (ITE, 10th Edition). Calculated as 10,500/1000 = 10.5 and 8.5 x 112.18 = 1,177.89 (rounded up to 1,178 trips).

discovered, this alternative and the proposed Project would be subjected to the same regulatory requirements and mitigation measures to reduce impacts to less-than-significant levels.

L. Conclusion

The implementation of the Commercial/Restaurant Redevelopment Alternative would reduce, but not avoid, the Project's significant impacts to cultural resources, TCRs, paleontological (potential presence of significant subsurface resources that could be unearthed and disturbed during ground excavation) and geology/soils (temporary unstable geologic units or soils, and the potential for expansive soils to be encountered during ground excavation). Impacts to biology (habitat removals that could potentially contain active migratory bird nests) would be identical under this alternative as with the proposed Project. All of the Project's significant impacts would be mitigated to below a level of significance, and the same mitigation measures would apply to this alternative. This alternative would have decreased impacts associated with construction noise because construction would occur over a shorter timeframe. Because the Commercial/Restaurant Redevelopment Alternative would result in a higher traffic volume than would the proposed Project, this alternative would result in a corresponding increase in vehicular-related air quality emissions, GHG emissions, and operational noise. Few if any impacts to land use and planning would occur because the alternative would be consistent with the site's zoning and General Plan designations and would have reduced aesthetic effects because the building height would be slightly lower than the building height proposed by the Project.

In regards to the Project objectives, the Commercial/Restaurant Redevelopment Alternative would meet 4 of the Project's 10 objectives (Objectives A, B, H and J) but would fail to meet the remaining 6 objectives. Specifically, the Commercial/Restaurant Redevelopment Alternative would not meet the Project objectives related to providing residential development in Newport Center.

6.3.4 Multiple Unit Residential (RM) Alternative

The Multiple Unit Residential (RM) Alternative evaluates redevelopment of the Project site with a multi-family townhome development that offers 20 market-rate ownerships units. The 20 residential townhome buildings would each include a two-car garage with two levels of residential above the garage, in compliance with the RM maximum height standards (28 feet/33 feet maximum). A total of 40 private garage spaces and 10 guest parking spaces would be provided[10]. Additional guest parking spaces would be provided as surface parking spaces within the site and subsurface excavation would be limited to that needed for footings and utilities. Access to the site would be the same as the access points proposed by the Project, with vehicular access provided by driveways along Anacapa Drive and from the shared access to the south of the site. The Multiple Unit Residential (RM) Alternative was selected by the Lead Agency to compare the environmental effects of the proposed Project against what could reasonably occur on the Project site if the site was developed with a different type and number of multi-family residential units that require substantially less subsurface excavation and a

[10] Parking required is two parking spaces per unit plus 0.5 guest space for unit; therefore, 40 resident spaces and 10 guest spaces would be required for a total of 50 parking spaces.

shorter construction duration, to reduce the proposed Project's temporary construction-related effects and potential impacts related to subsurface excavation.

A. Aesthetics

The Project site does not contain any unique aesthetic resources and is not designated as a scenic view point in the General Plan Natural Resources Element. Under existing conditions, the Project site contains an approximately 2,085 S.F. single-story building that is operating as a car wash with an ancillary gas station and convenience market, which would be removed and replaced with 20 townhomes having a height of either 28 feet with a flat roof or 33 feet with a sloped roof.

Due to distance and intervening development, neither the proposed Project nor the Multiple Unit Residential (RM) Alternative would substantially or adversely affect views to distant landforms from public viewing areas. Section 4.1, *Aesthetics* of this EIR concludes that Project-related impacts associated with scenic vistas and visual resources would be less than significant.

The Multiple Unit Residential (RM) Alternative would represent a slight reduction in the overall height and mass of the building when compared to the mid-rise building proposed by the Project. In both cases, the buildings would feature a classically-styled contemporary building with a highly articulated architectural design that is compatible with the established character of Newport Center. However, whereas the Project's mid-rise building would introduce physical features that would have a consistent character and be constructed with superior design characteristics that would not lead to a substantial degradation of visual quality and character in the Newport Center area, the Multiple Unit Residential (RM) Alternative would introduce multiple low-rise buildings that would not be consistent with the existing structures in the Newport Center area.

The Multiple Unit Residential (RM) Alternative would have more exterior lighting at the ground level due to lighting needed for a guest surface parking lot, when compared to the proposed Project that does not propose surface parking. More light poles would be installed under this alternative to illuminate the site's surface parking lot and walkways. In regards to lighting associated with the building, this alternative would result in an incremental reduction in the amount of nighttime light generated by the building due to having fewer floors of residential use at the site and eight less residential units. Night lighting would not extend as high into the night skyline, making the Multiple Use Residential (RM) Alternative less visible during nighttime hours from surrounding areas. In both cases, development is required to comply with Section 20.30.070 (Outdoor Lighting) of the City's Municipal Code, which establishes outdoor lighting standards applicable to all new development in the City.

Overall, residential buildings that would be constructed pursuant to the implementation of the Multiple Unit Residential (RM) Alternative would reduce impacts to aesthetics in terms of height when compared to the proposed Project. However, because the (RM) Alternative would be less consistent with the character of the surrounding office and commercial development, it would have a greater potential than the proposed Project to substantially degrade the existing visual character of public views of the site and its surroundings.

B. Air Quality

As identified in EIR Subsection 4.2, *Air Quality*, the proposed Project would result in less-than-significant air quality impacts during construction and operation. Because the multi-family residential building footprint under this alternative would be smaller and extensive subsurface excavation would be avoided due to the use of surface parking, the Multiple Unit Residential (RM) Alternative would reduce air quality emissions that would occur during the excavation phase of construction as compared to the proposed Project. Also, because this alternative would not involve extensive subsurface grading for a subterranean parking structure, the alternative would result in the reduction of the overall construction intensity at the Project site. This would also result in a corresponding reduction in the number of days that certain construction equipment would operate, the amount of truck deliveries of construction materials, and the amount of architectural finishes that would be applied during the construction period. Accordingly, there would be a corresponding reduction in the amount of criteria pollutants that would be emitted during the construction period under the Multiple Unit Residential (RM) Alternative when compared to the proposed Project.

The Multiple Unit Residential (RM) Alternative would result in 20 residential units on the Project site, which would result in 147 vehicle trips.[11] Compared to the Project's 152 daily vehicle trips, this alternative would result in 5 additional daily vehicular trips. The slightly lower volume of daily vehicular trips would result in an associated reduction in the amount of transportation-related emissions of criteria pollutants, representing a slight but not measurable reduction in operational impacts to air quality compared to the proposed Project.

Overall, the Multiple Unit Residential (RM) Alternative would result in reduced impacts to air quality during construction and operation when compared to the proposed Project.

C. Biological Resources

The Multiple Unit Residential (RM) Alternative would have an identical physical impact footprint as the proposed Project where all ornamental trees and landscaping on-site would be removed through the demolition and redevelopment process and several trees along Anacapa Drive would be removed. As such, the potentially significant impacts to nesting birds that would occur under this alternative are the same as those impacts described in EIR Subsection 4.3, *Biological Resources*, for the proposed Project and installation of associated off-site improvements. No biological resource impacts would be reduced or avoided, and no new impacts to biological resources would occur as a result of the implementation of the Multiple Unit Residential (RM) Alternative. Both development scenarios would be subject to the same regulatory requirements and mitigation measures to reduce potential impacts to nesting birds to less-than-significant levels.

Therefore, the Multiple Unit Residential (RM) Alternative would result in the same impacts to biological resources when compared to the proposed Project.

[11] Trips calculated as 7.32 daily trips per unit (7.32 trips x 20 units = 146.4 trips, rounded up to 147).

D. Cultural Resources

No historic resources are located on the Project site; therefore, removal of the car wash and ancillary gas station for redevelopment of the property under either this alternative or the proposed Project would not impact any known historic resources. The Multiple Unit Residential (RM) Alternative would cause physical impacts to the surface of the Project site and limited subsurface disturbance resulting from excavation needed to install the building foundation and underground utilities. In comparison, the proposed Project would involve subsurface excavation to provide underground parking. Accordingly, the potential to discover and significantly impact archaeological resources that may be present beneath the surface of the site could be slightly reduced with the implementation of the Multiple Unit Residential (RM) Alternative because the depth of excavation would be less than that required for the proposed Project. In either case, if subsurface cultural resources were to be discovered, this alternative and the proposed Project would be subjected to the same regulatory requirements and mitigation measures to reduce impacts to less-than-significant levels.

E. Geology and Soils

The Multiple Unit (RM) Alternative would cause physical impacts to the surface of the Project site and limited subsurface disturbance resulting from excavation needed to install the building foundation and underground utilities. In comparison, the proposed Project would involve subsurface excavation to provide two levels of underground parking. Potential impacts regarding soil stability and the potential to encounter expansive soils and paleontological resources would be lessened under this alternative as compared to the proposed Project because this alternative would substantially minimize subsurface excavation and thus the potential for the construction process to create unstable soil conditions or encounter expansive soils or paleontological resources during subsurface excavation. The Project's subsurface excavation activities would require the employment of shoring methods, which would not be necessary under this alternative.

Overall, the RM Alternative would result in slightly reduced impacts associated with development on geologic units or soils and expansive soils that may be unstable. In addition, due to the limited subsurface excavations that would occur under this alternative, there would be a less likely potential to encounter paleontological resources. In comparison, the Project's soil stability, expansive soil, and potential paleontological resource impacts would be reduced to a less-than-significant level with the implementation of mitigation measures.

F. Greenhouse Gas Emissions

As discussed in Section 4.6, *Greenhouse Gas Emissions*, the Project would not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment nor would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. Both the proposed Project and this alternative would be subject to compliance with applicable plans, policies, or regulations adopted for purposes of reducing the emissions of GHG's.

The operation of the Multiple Unit Residential (RM) Alternative would generate approximately 147 daily vehicle trips. Therefore, compared to the Project's 152 daily vehicle trips, this alternative would result in 5 less daily vehicular trips. Due to the slightly fewer number of trips associated with this alternative, there would be a corresponding reduction in GHG emissions associated with vehicular emissions during the long-term operation of the restaurant as compared to operation of the proposed Project.

G. Hazards and Hazardous Materials

Impacts associated with hazards and hazardous materials were identified as less than significant for the proposed Project. The Multiple Unit Residential (RM) Alternative would have the same development footprint as the proposed Project; therefore, as with the proposed Project, the implementation of the Multiple Unit Residential (RM) Alternative would require the demolition and removal of the existing car wash building and the ancillary convenience market and gas station components. Accordingly, the potentially to encounter ACMs identified for the proposed Project would occur under the Multiple Unit Residential (RM) Alternative, which would require the compliance with applicable regulations as described in Subsection 4.7, *Hazards and Hazardous Materials*, of this EIR. Additionally, the Multiple Unit Residential (RM) Alternative would require the removal of the USTs, which would also require compliance with applicable regulations. Therefore, the construction of the Multiple Unit Residential (RM) Alternative would result in the same construction-related impacts associated with hazards and hazardous materials when compared to the proposed Project.

As with the proposed Project, the residential use of the building would result in the routine use of common hazardous household cleaning and maintenance materials. Therefore, operational impacts associated with the Multiple Unit Residential (RM) Alternative would be the same to those that would occur with the proposed Project.

Overall, impacts associated with the Multiple Unit Residential (RM) Alternative would be similar to those that would occur with the implementation of the proposed Project.

H. Land Use/Planning

The implementation of the Multiple Unit Residential (RM) Alternative would require one less approval from the City of Newport Beach in comparison to the proposed Project, including a General Plan Amendment, Zoning Code Amendment, site development review, and a tentative tract map. A Planned Community Development Plan would not be required under this alternative because it would be consistent with the City's existing RM designation.

Impacts to land use and planning would be less than significant for the proposed Project and for the Multiple Unit Residential (RM) Alternative because development of either a maximum 33-foot-high residential building or three-story buildings on the property would not conflict with an applicable land use plan, policy, regulation, or habitat conservation plan that was adopted for the purpose of avoiding or mitigating an environmental effect.

Overall, because the Multiple Unit Residential (RM) Alternative would result in a maximum 33-foot-tall building that does not require a Planned Community Development Plan, the implementation of this alternative would result in reduced impacts associated with land use and planning.

I. Noise

As identified in EIR Subsection 4.9, *Noise*, the proposed Project would result in periodic, loud noise levels during short-term construction activities on the Project site. With mitigation, the short-term construction-related noise would be reduced to below a level of significance. Because subsurface excavation would be avoided due to the use of surface parking, the Multiple Unit Residential (RM) Alternative would reduce the duration of the noise impact. Regardless, the noise levels that would occur when construction is in process would be the same levels that would occur under the proposed Project because the construction equipment to be used would be the same or very similar

The operation of the Multiple Unit Residential (RM) Alternative would result in 20 residential units on the Project site, which would result in 147 vehicle trips.[12] Compared to the Project's 152 daily vehicle trips, this alternative would result in 5 fewer daily vehicular trips. The slightly lower volume of daily vehicular trips would result in an associated reduction in vehicular-related noise during the operation of the Project.

Overall, the implementation of the Multiple Unit (RM) Alternative would result in reduced noise impacts as compared to the proposed Project, with some reductions in noise level during construction and long-term operation.

J. Transportation

The operation of the Multiple Unit Residential (RM) Alternative would result in 20 residential units on the Project site, which would also result in 147 vehicle trips. Compared to the Project's 152 daily vehicle trips, this alternative would result in 5 fewer daily vehicular trips. The slightly lower volume of daily vehicular trips would result in reduction in the Project's less-than-significant traffic impacts during the operation of the Project. The vehicular/pedestrian access components of the Multiple Unit Residential (RM) Alternative would not change in comparison to the proposed Project.

Therefore, the implementation of the Multiple Unit Residential (RM) Alternative would result in a reduction in the less-than-significant impacts associated with transportation when compared to the proposed Project.

K. Tribal Cultural Resources

No historic resources are located on the Project site; therefore, removal of the car wash and ancillary gas station for redevelopment of the property under either this alternative or the proposed Project would not impact any known historic resources. The RM Alternative would cause physical impacts to the

[12] Trips calculated as 7.32 daily trips per unit (7.32 trips x 20 units = 147 trips).

surface of the Project site and limited subsurface disturbance resulting from excavation needed to install the building foundation and underground utilities. In comparison, the proposed Project would involve subsurface excavation to provide underground parking. Accordingly, the potential to discover and significantly impact archaeological resources that may be present beneath the surface of the site could be slightly reduced with the implementation of this alternative because the depth of excavation would be less than that required for the proposed Project. In either case, if subsurface cultural resources were to be discovered, this alternative and the proposed Project would be subjected to the same regulatory requirements and mitigation measures to reduce impacts to less-than-significant levels.

L. Conclusion

The implementation of the Multiple Unit Residential (RM) Alternative would reduce, but not avoid, the Project's significant impacts to cultural resources, TCRs, paleontological resources (potential presence of significant subsurface resources that could be unearthed and disturbed during ground excavation) and geology/soils (geologic units or soils and expansive soils that may be unstable). Impacts to biology (habitat removals that could potentially contain active migratory bird nests) would be identical under this alternative and the proposed Project. All of the Project's significant impacts would be mitigated to below a level of significance, and the same mitigation measures would apply to this alternative. This alternative would have decreased impacts regarding cultural resources, TCRs, paleontological resources, and geology/soils due to the limited need for subsurface excavation for a subterranean parking structure. This alternative would have decreased impacts associated with construction noise because construction would occur over a shorter timeframe. Because the Multiple Unit Residential (RM) Alternative would result in a slightly lower daily traffic volume than would the proposed Project, this alternative would have slightly reduced traffic impacts and a corresponding slight decrease in vehicular-related air quality emissions and operational noise. Similar impacts to land use and planning would occur because, like the proposed Project, this alternative would require a change in the property's General Plan and zoning designations from commercial to residential, although this alternative would result in a shorter building than the proposed Project. Reduced aesthetic effects would occur because the building height would be lower than the building height proposed by the Project. However, the townhome design would be less consistent with the surrounding commercial and office development.

The Multiple Unit Residential (RM) Alternative is identified as an Environmentally Superior Alternatives that is not the No Project Alternative; however, the Multiple Unit Residential (RM) Alternative would fail to meet six of the Project's ten objectives (Objectives C, D, E, F, H, and I).

Table 6-1 Comparison of Environmental Impacts and Ability to Meet Project Objectives by Alternative

ENVIRONMENTAL TOPIC	PROPOSED PROJECT SIGNIFICANCE OF IMPACTS AFTER MITIGATION	LEVEL OF IMPACT COMPARED TO THE PROPOSED PROJECT			
		NO PROJECT/ NO REDEVELOPMENT ALTERNATIVE	NO PROJECT/ OFFICE REDEVELOPMENT ALTERNATIVE	COMMERCIAL / RESTAURANT REDEVELOPMENT ALTERNATIVE	MULTIPLE UNIT RESIDENTIAL (RM) ALTERNATIVE
Aesthetics	Less than Significant	Construction – Avoided Operational - Avoided	Construction – Reduced Operational - Similar	Construction – Reduced Operational - Similar	Construction – Reduced Operational - Similar
Air Quality	Less than Significant	Construction - Avoided Operational - Increased	Construction - Reduced Operational - Reduced	Construction - Reduced Operational - Increased	Construction - Reduced Operational - Reduced
Biological Resources	Less than Significant with Mitigation Incorporated	Construction – Avoided Operational - Similar	Construction – Similar Operational - Similar	Construction – Similar Operational - Similar	Construction – Similar Operational - Similar
Cultural Resources	Less than Significant with Mitigation Incorporated	Construction – Avoided Operational - None	Construction – Reduced Operational - None	Construction – Reduced Operational - None	Construction – Similar Operational - None
Geology and Soils	Less than Significant with Mitigation Incorporated	Construction – Avoided Operational - Similar	Construction – Reduced Operational - Reduced	Construction – Reduced Operational - Similar	Construction – Similar Operational - Similar
Greenhouse Gas Emissions	Less than Significant	Construction - Avoided Operational - Increased	Construction - Reduced Operational - Reduced	Construction - Reduced Operational - Increased	Construction - Reduced Operational - Reduced
Hazards & Hazardous Materials	Less than Significant	Construction – Avoided Operational - Increased	Construction – Similar Operational - Similar	Construction – Similar Operational - Similar	Construction – Similar Operational - Similar
Land Use and Planning	Less than Significant	Construction – None Operational - Avoided	Construction – None Operational - Avoided	Construction – None Operational - Reduced	Construction – None Operational - Reduced
Noise	Less than Significant	Construction – Avoided Noise - Increased	Construction – Reduced Noise – Reduced	Construction – Reduced Noise - Increased	Construction – Reduced Noise - Reduced
Transportation	Less than Significant	Construction – Avoided	Construction – Similar	Construction – Similar	Construction – Similar

		Operational - Increased	Operational – Similar	Operational - Increased	Operational - Reduced
Tribal Cultural Resources	Less than Significant with Mitigation Incorporated	Construction – Avoided Operational - None	Construction – Avoided Operational - None	Construction – Reduced Operational - None	Construction – Similar Operational - Similar
Is the Alternative Environmentally Superior to the Project?		*No*	*Yes*	*No*	*Yes*
PROJECT'S UNDERLYING PURPOSE AND OBJECTIVE		**NO PROJECT/ NO REDEVELOPMENT ALTERNATIVE**	**NO PROJECT/ OFFICE REDEVELOPMENT ALTERNATIVE**	**COMMERCIAL / RESTAURANT REDEVELOPMENT ALTERNATIVE**	**MULTIPLE UNIT RESIDENTIAL (RM) ALTERNATIVE**
Underlying Purpose: To redevelop an underutilized economically challenged property in the Newport Center area with residential units located within walking distance to employment, shopping, entertainment, and recreation.		No	No	No	Yes
Objective A: Redevelop an underutilized property with a use that is financially feasible to construct and operate.		No	Yes	Yes	Yes
Objective B: Make efficient use of existing infrastructure by repurposing a property with a higher and better use than currently occurs on the property.		No	Yes	Yes	Yes
Objective C: Maximize the surface use of a redeveloped property by accommodating parking underground.		No	No	No	No
Objective D: Increase the available housing stock within the City of Newport Beach and maximize the development potential of the site by constructing a project with at least 22 dwelling units.		No	No	No	No
Objective E: Provide housing options for owner-occupied mid-rise multi-family flats in Newport Center to diversify the range of available residential housing unit types.		No	No	No	No
Objective F: Introduce a luxury, multi-family residential development in Newport Center that can attract households in the surrounding area that are seeking low maintenance and single-level living options		No	No	No	No

Objective G: Provide a new multi-family residential development in Newport Center that is within walking distance of, and has pedestrian connections to, employment, shopping, entertainment, public services, and recreation.	No	No	No	Yes
Objective H: Maintain high-quality architectural design in Newport Center by adding a building that has a recognizable architectural style and that complements the architectural styles that exist in the surrounding Newport Center community.	No	No	Yes	No
Objective I: Implement a residential development that provides on-site amenities for its residents.	No	No	No	No
Objective J: Redevelop a property that uses outdated operational technologies with a new use that is designed to be energy efficient and avoid the wasteful use of energy and water.	No	Yes	Yes	Yes
Does the alternative meet most of the Project's objectives?	*No*	*No*	*No*	*No*

7.0 REFERENCES

7.1 PERSONS INVOLVED IN PREPARATION OF THIS EIR

7.1.1 CITY OF NEWPORT BEACH

Liz Westmoreland, Associate Planner

7.1.2 T&B PLANNING, INC.

Tracy Zinn, AICP, Principal
Connie Anderson, Project Manager
Lauren Fujimori, Environmental Analyst
Cristina Maxey, GIS and Graphics Specialist

7.2 DOCUMENTS APPENDED TO THIS EIR

The following reports, studies, and supporting documentation were used in preparing the Newport Center EIR Residences and are bound separately as Technical Appendices. A copy of the Technical Appendices is available for review at the City of Newport Beach Planning Division, 100 Civic Center Drive, Newport Beach, California.

Technical Appendix Letter	***Appendix Name***
Appendix A	CEQA Initial Study Newport Center Residences & Appendices, Notice or Preparation, NOC Form, and Written Comments on the NOP
Appendix B	City of Newport Beach, 2020. *Planned Community Development Plan*, September 21, 2021.
Appendix C	Urban Crossroads, Inc. 2021a. *Residences at Newport Air Quality and Greenhouse Gas Memorandum*. April 12, 2021.
Appendix D	Duke CRM, 2020. *Cultural Resources Assessment for the Newport Center Residences, City of Newport Beach, California*. October 2, 2020.
Appendix E	NMG Geotechnical, Inc., 2020. *Geotechnical Feasibility Report for Proposed Newport Center Condominium Site Development, 150 Newport Center Drive, City of Newport Beach, California*. September 10, 2020.
Appendix F	Fero Engineering, 2020. *Results of File Review Related to Potential Environmental Impacts Newport Beach Car Wash 150 Newport Center Drive, Newport Beach, California*. Date Prepared: October 31, 2020; Fero Engineering, 2014. *Results of Phase II Subsurface Investigations at 150 Newport Center Drive, Newport Beach, California*. January 15, 2014; Fero Environmental Engineering, Inc., 2013. *Phase I Environmental Site Evaluation*. November 25, 2013.

Appendix G	Urban Crossroads, 2021b. *Residences at Newport Noise Impact Analysis City of Newport Beach*. April 14, 2021
Appendix H	Urban Crossroads, 2020. *Residences at Newport Center Trip Generation Assessment*. December 10, 2020.
Appendix I	City of Newport Beach, 2020. *Request of Waiver of Individual Water and Sewer Connections – 150 Newport Center Drive*. Letter to Tod Ridgeway, Newport Center Anacapa Associates LLC. April 20, 2020.

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