



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY
3160 Airway Avenue Costa Mesa, CA 92626 (949) 252-5170 Fax (949) 252-6012

AGENDA ITEM 2

July 16, 2020

TO: Commissioners/Alternates
FROM: Lea U. Choum, Executive Officer
SUBJECT: Administrative Status Report

The following attachments are for your review and information:

- JWA Statistics for May 2020
- Notice of Intent from the City of Santa Ana to Overrule the Determination of Inconsistency for the Bowery Mixed-Use Development
- Referral package confirmation letter for the City of Newport Beach - Newport Airport Village Project
- Determination Letter for the City of Costa Mesa - One Metro West Mixed-Use Project

Respectfully submitted,

Lea U. Choum
Executive Officer



June 23, 2020

John Wayne Airport Posts May 2020 Statistics

SANTA ANA, Calif. - Airline passenger traffic at John Wayne Airport decreased in May 2020 as compared with May 2019. In May 2020, the Airport served 82,342 passengers, a decrease of 91.3% when compared with the May 2019 passenger traffic count of 942,680.

Commercial aircraft operations decreased 78.0% and commuter aircraft operations decreased 73.2% when compared with May 2019 levels.

Total aircraft operations decreased in May 2020 as compared with the same month in 2019. In May 2020, there were 17,352 total aircraft operations (take-offs and landings), a 34.5% decrease compared to 26,509 total aircraft operations in May 2019.

General aviation activity, which accounted for 88.7% of the total aircraft operations during May 2020, decreased 14.5% when compared with May 2019.

The top three airlines in May 2020 based on passenger count were Southwest Airlines (33,828), American Airlines (20,136) and Alaska Airlines (8,798).

John Wayne Airport
Monthly Airport Statistics May 2020

	May 2020	May 2019	% Change	Year-To-Date 2020	Year-To-Date 2019	% Change
Total passengers	82,342	942,680	-91.3%	2,016,528	4,374,150	-53.9%
Enplaned passengers	41,165	469,225	-91.2%	1,009,305	2,185,392	-53.8%
Deplaned passengers	41,177	473,455	-91.3%	1,007,223	2,188,758	-54.0%
Total Aircraft Operations	17,352	26,509	-34.5%	89,554	123,708	-27.6%
General Aviation	15,392	18,000	-14.5%	65,258	83,771	-22.1%
Commercial	1,742	7,926	-78.0%	22,091	37,518	-41.1%
Commuter ¹	134	500	-73.2%	1,940	2,059	-5.8%
Military	84	83	1.2%	265	360	-26.4%
Air Cargo Tons ²	1,261	1,452	-13.2%	7,253	7,742	-6.3%

International Statistics³ (included in totals above)

	May 2020	May 2019	% Change	Year-To-Date 2020	Year-To-Date 2019	% Change
Total Passengers	0	19,663	-100.0%	17,246	81,554	-78.9%
Enplaned passengers	0	10,014	-100.0%	8,703	41,306	-78.9%
Deplaned passengers	0	9,649	-100.0%	8,543	40,248	-78.8%
Total Aircraft Operations	0	186	-100.0%	172	825	-79.2%

¹ Aircraft used for regularly scheduled air service, configured with not more than seventy (70) seats, and operating at weights not more than ninety thousand (90,000) pounds.

² All-Cargo Carriers: 1,205 tons
Passenger Carriers (incidental belly cargo): 56 tons
(Current cargo tonnage figures in this report are for April 2020)

³ Includes all Canada and Mexico Commercial passengers and operations.

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John Wayne Airport (SNA) is owned by the County of Orange and is operated as a self-supporting enterprise that receives no general fund tax revenue. The Airport serves more than 10 million passengers annually and reaches more than 20 nonstop destinations in the United States, Canada and Mexico. More information can be found at www.ocair.com. Like us on [facebook.com/johnwayneairport](https://www.facebook.com/johnwayneairport), or follow us on [Twitter @johnwayneairport](https://twitter.com/johnwayneairport) and [Instagram @johnwayneairport](https://www.instagram.com/johnwayneairport).

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1000 JOHN WAYNE AVENUE • SANTA ANA, CA 92701 • 714.241.2000



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Sonia R. Carvalho
CLERK OF THE COUNCIL
Daisy Gomez

CITY OF SANTA ANA

Planning and Building Agency
20 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pba

June 30, 2020

Lea U. Choum, Executive Officer
Orange County Airport Land Use Commission
3160 Airway Avenue
Costa Mesa, CA 92626

via email at lchoum@ocair.com

RE: NOTICE OF INTENT TO OVERRULE THE DETERMINATION OF INCONSISTENCY FOR THE BOWERY MIXED-USE DEVELOPMENT PROJECT PROPOSED AT 2300, 2310 AND 2320 SOUTH REDHILL AVENUE

The purpose of this letter is to inform you of the City of Santa Ana's intention to recommend that the Santa Ana City Council adopt the attached findings to overrule the May 21, 2020 Airport Land Use Commission's (ALUC) determination of inconsistency for The Bowery Mixed-Use Development project proposed at 2300, 2310 and 2320 South Redhill Avenue. The project consists of a mixed-use commercial and residential community that would contain up to 1,100 residential units, 80,000 square feet of leasable commercial area, landscaping, onsite amenities for the public and the community's residents, and parking.

On June 16, 2020, the Santa Ana City Council met and (1) approved the issuance of a Notice of Intent to overrule and (2) determined to give notice to the ALUC of its decision to overrule as required by California Public Utilities Code (PUC) Section 21676(b).

Pursuant to PUC Section 21676, the City hereby respectfully gives proper notice of its intention to overrule and submitted the attached findings (attached hereto as Exhibit A) for review. PUC Section 21676(b) requires that a public agency making a decision to overrule shall give notice to the California Department of Transportation (Caltrans), Aeronautics Division, and the ALUC at least 45 days prior to the final decision to overrule. After this notification, the ALUC and Caltrans have 30 days from the receipt of this notice to provide advisory comments to the City.

SANTA ANA CITY COUNCIL

Miguel A. Pulido
Mayor
mpulido@santa-ana.org

Juan Villegas
Mayor Pro Tem, Ward 5
villegas@santa-ana.org

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

David Penaloza
Ward 2
dpenaloza@santa-ana.org

Jose Solorio
Ward 3
solorio@santa-ana.org

Phil Bacerra
Ward 4
pbacerra@santa-ana.org

Nelida Mendoza
Ward 6
nmendoza@santa-ana.org

City of Santa Ana Notice of Intent to Overrule & Findings
June 30, 2020
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This letter shall commence the 45-day notification period, with the City looking forward to receiving comments within 30 days hereof. The Bowery Mixed-Use Development project has been tentatively scheduled for its City Council public hearing on Tuesday, August 18, 2020.

Thank you for your prompt attention on this matter. Should you have any questions regarding this notice and/or on the proposed project, please feel free to contact me by phone at (714) 667-2713 or by email at VFregoso@santa-ana.org.

Sincerely,



Vince Fregoso, AICP
Planning Manager

C: Minh Thai, Executive Director of Planning & Building Agency
Lisa Storck, Assistant City Attorney
Ali Pezeshkpour, Senior Planner
Jerry Guevara, Assistant Planner I

Exhibit A: Draft Resolution with Supportive Findings to Overrule ALUC's Determination

RESOLUTION NO. 2020-xx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA OVERRULING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION OF INCONSISTENCY FOR THE BOWERY MIXED-USE DEVELOPMENT PROJECT LOCATED 2300, 2310 AND 2320 SOUTH REDHILL WITH THE AIRPORT ENVIRONS LAND USE PLAN FOR JOHN WAYNE AIRPORT, INCLUDING SUPPORTIVE FINDINGS

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

WHEREAS, Article 5 of Chapter 3 of Division 1 of Title 7 (commencing with Section 65300) of the Government Code requires the City to prepare and adopt a comprehensive, long-term general plan for the physical development of the City; and

WHEREAS, on February 2, 1998, the City of Santa Ana adopted the Land Use Element of the General Plan, which has since been amended from time to time; and

WHEREAS, Jeremy Oodnick, representing Arrimus Capital ("Applicant"), seeks to develop the Bowery Mixed-Use Commercial and Residential Project ("proposed Project") on a 14.69-acre site at 2300, 2310, and 2320 South Redhill Avenue in Santa Ana, California ("Project Site"); and

WHEREAS, Jeremy Oodnick, representing Arrimus Capital ("Applicant"), seeks to develop The Bowery Mixed-Use Development Project ("proposed Project"), on a 14.69-acre site at 2300, 2310, and 2320 South Redhill Avenue in Santa Ana, California ("Project Site"); and

WHEREAS, the Project as currently proposed entails, among other things, (1) demolition of the existing three (3) structures on the Project Site; (2) redevelopment of the Project Site with a commercial and residential mixed-use development consisting of up to 80,000 square feet leasable commercial area, 1,100 residential units, 2,600 onsite parking spaces, and onsite landscaping and amenities; (3) approval of General Plan Amendment (GPA) No. 2020-02, which would change the Project Site's existing land use designation of Professional & Administration Office (PAO) to District Center (DC); and (4) approval of Amendment Application (AA) No. 2020-01, which would change the zoning of the Project Site from Light Industrial (M-1) to Specific Development No. 96 (SD-96) designation; and

WHEREAS, the requested General Plan Amendment would change the General Plan land use designation of the property from Professional and Administrative Office (PAO) to District Center (DC) and to update text portions of the City's Land Use Element to reflect this change in order to allow for development of the mixed-use commercial and residential Project; and

WHEREAS, California Public Utilities Code (PUC) Section 21676(b) requires the City of Santa Ana to refer projects requiring a general plan amendment or a zone change to the Orange County Airport Land Use Commission (ALUC) for consistency with the 2008 John Wayne Airport (JWA) Environs Land Use Plan (AELUP); and

WHEREAS, the ALUC is charged with the adoption of an AELUP, establishing guidelines for compatible development in the vicinity of an airport within the jurisdiction of the County of Orange. PUC Section 21670(a) sets forth the fundamental purpose of the AELUP as: (1) "... to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems" and (2) "... to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses;" and

WHEREAS, on May 21, 2020, the ALUC found the proposed project to be inconsistent with the 2008 JWA AELUP by a 6-0 vote. ALUC's findings were made pursuant to AELUP Sections 1.2 and 2.1.4, and PUC Section 216749(a). These sections empower the ALUC "to assist local agencies in ensuring compatible land uses in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses," and "to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare;" and

WHEREAS, pursuant to PUC Section 21676(b), the City may, after a public hearing, propose to overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of Article 3.5 Airport Land Use Commission of the PUC. At least 45 days prior to the decision to overrule the ALUC, the local agency governing body shall provide the ALUC and the State Division of Aeronautics a copy of the proposed decision and findings. The commission and the Division of Aeronautics may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the ALUC and State Division of Aeronautics comments are not available within this time limit, the local agency governing body may act without them. Should comments be received, the City Council must include the comments from the ALUC in the public record of any final decision to overrule the ALUC. This decision shall be determined at a public hearing to make the specific findings that the proposed overruling is consistent with the purposes stated in PUC Section 21670.

WHEREAS, on June 16, 2020, the City Council of the City of Santa Ana adopted a resolution (Resolution No. 2020-051) authorizing the Planning Division to initiate the preparation and drafting of findings and determination overruling the Orange County ALUC's determination of inconsistency associated with the proposed Bowery Mixed-Use Development and to provide notice in accordance with PUC Section 21676(b) to the ALUC and the State Division of Aeronautics; and

WHEREAS, on June 29, 2020, the Planning Division of the City of Santa Ana provided a Notice of Intent to overrule the Orange County ALUC's determination that the Bowery Mixed-Use Development project is inconsistent with the AELUP of JWA and findings to the ALUC and the State Division of Aeronautics; and

WHEREAS, all correspondences received by the ALUC and State Division of Aeronautics have been included in the public record; and

WHEREAS, on August 6, 2020, the City gave public notice of a City Council public hearing for consideration of overruling ALUC's determination on the proposed Bowery Mixed-Use Development project by advertising in the Orange County Register, a newspaper of general circulation, by mailing to owners of property and residents within 500 feet of the Project, and posting a notice on site; and

WHEREAS, August 18, 2020, the City Council conducted a duly noticed public hearing to consider the Environmental Impact Report (EIR) No. 2020-01, General Plan Amendment No. 2020-02, Amendment Application No. 2020-01, and the ALUC overruling determination of inconsistency action and at which hearing members of the public were afforded an opportunity to comment upon such actions.

Section 2. The City Council of the City of Santa Ana made the following findings:

- A. The City of Santa Ana is required to provide findings supporting the overrule of the Orange County ALUC determination as required in the California PUC Section 21676(b). Based on the following Findings of Fact and the associated substantial evidence in the public record, the proposed action by the City on the Bowery Mixed-Use Development Project at 2300, 2310 and 2320 Red Hill Avenue and related zoning change and General Plan Amendment are consistent with the purposes of the State Aeronautics Act as stated in PUC Section 21670.
- B. The proposed Project provides for the orderly development of JWA, and its surrounding area and promotes the overall goals and objectives of the State noise standards by avoiding new noise and safety problems, and protecting the public health, safety and welfare through the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards to the extent that this area is not already devoted to incompatible uses. This Project would not add any new residential or commercial noise impacts to the JWA 65 dBA Community Noise Equivalent Level (CNEL) noise area.

- C. It is in the public interest to: provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to PUC Section 21669 and to prevent the creation of new noise and safety problems.
- D. To provide for the orderly development of JWA and the area surrounding the airport, the ALUC adopted the 2008 AELUP on April 17, 2008. The AELUP guides development proposals to provide for orderly development of the airport and the area surrounding the airport through implementation of the standards in Section 2.1 (aircraft noise, safety compatibility zones, building height restrictions).
- E. The ALUC is required to use the California Airport Land Use Planning Handbook (Handbook) that was updated by the California Department of Transportation, Division of Aeronautics (Caltrans) in 2010. The AELUP has not been updated to incorporate the Handbook nor has it updated information about the operation and environmental effects of JWA as reflected in its most recent Final Environmental Impact Report (EIR) certified by the Orange County Board of Supervisors on June 25, 2019 for the General Aviation Improvement Program (GAIP).
- F. On May 21, 2020, the City of Santa Ana presented the Bowery Mixed-Use development to the ALUC for a determination of consistency with the JWA AELUP. The ALUC staff report dated May 21, 2020, finds that with regard to AELUP issues of aircraft noise, building heights, safety zones and heliports, that the proposed project, zone change, and General Plan Amendment are each consistent. Despite consistency with each stated criteria of the AELUP, the ALUC staff recommended, "[t]hat the Commission find the proposed ...Bowery Mixed Use Project inconsistent with the AELUP for JWA per AELUP Sections 1.2 and 2.1.4 and PUC Section 21674.
- G. The Project is consistent with the AELUP of JWA and with the purposes of the State Aeronautics Act based on the following Findings of Fact and substantial evidence:
- a. Lack of evidence of inconsistency by the ALUC.
 - b. There was no evidence presented by or to the ALUC at its hearing on May 21, 2020, to support if finding of inconsistency, nor was there a request to provide supplemental information. The ALUC staff made a presentation at the Commission hearing based on the staff report. The only addition made by the ALUC staff to the staff report published with the meeting agenda was their acknowledgment of the City's letter on May 20, 2020 stating that the Final EIR for the Project would reinstate a mitigation measure requiring "Notice of Airport in Vicinity," to be included in all lease/rental agreements and post outdoor signage informing the

public of the presence of operating aircraft, which demonstrates further compliance with the AELUP and to minimize potential future noise complaints.

- c. **Noise.** The residential and commercial land uses under the proposed Project are consistent with the aircraft noise standards of the AELUP.
- i. Project is located outside of the JWA 60 to 65 dBA CNEL aircraft noise contours. Aircraft noise analysis was completed in the Project's EIR and presented at the ALUC hearing. The JWA GAIP EIR also contains noise analysis demonstrating that the Project is outside of the 60 dBA CNEL noise contour. This noise analysis is based on one year's worth of aircraft operations in all runway operating configurations with both existing aircraft fleet mixes and future fleet forecasts. This analysis includes the time of day of all operations and includes noise penalties for evening (7 pm to 10 pm) and night (10 pm to 7 am) aircraft operations of five and ten decibels per operation. Residential land uses are normally consistent in areas impacted by aircraft noise up to 60 dBA CNEL and commercial land uses up to 65 dBA CNEL as shown in the AELUP Table 3. These are the same noise standards used by the FAA and the State of California to identify compatible land uses near airports.
 - ii. The project is located outside of the JWA single-event aircraft noise contours. The detailed aircraft noise analysis completed as part of the JWA GAIP EIR included analysis of single event aircraft noise. This analysis included single event noise contours for the noisiest aircraft making regular use of JWA. The Project developer's consultant provided analysis and information at the ALUC hearing showing the Project site is located outside of the JWA 85 dB single event noise contours for all aircraft making regular use of the Airport.
 - iii. The project includes mitigation measure notifying future residents. The Final EIR for the Project revised on May 22, 2020 includes a mitigation measure requiring "Notice of Airport in Vicinity," to be included in all lease/rental agreements and post outdoor signage informing the public of the presence of operating aircraft, which demonstrates further compliance with the AELUP and to minimize potential future noise complaints.
- d. **Safety.** The residential and commercial land uses under the proposed project are consistent with the safety standards of the AELUP. Project is not in any of the AELUP safety zones. The project is located more than a mile from the outer edge of AELUP Zone 6, Traffic Pattern Zone as depicted in Appendix D. Further, AELUP Appendix D states the "Basic

Compatibility Qualities" of Zone 6 as "Allow residential uses" and "Allow most nonresidential uses."

- i. Project is not in the JWA runway protection zones (RPZ). The Project is located nearly two miles from the outer edge of the nearest JWA RPZ.
- ii. The FAA's Determinations of No Hazard to Air Navigation for The Bowery Mixed Use development structures are the only source of authoritative, aviation safety findings regarding the project. The FAA conducted an aeronautical study (49 U.S.C. §44718 and 14 CFR Part 77) and issued its Determinations on March 5, 2020 that structures associated with the project "do not exceed standards and would not be a hazard to air navigation" and that "[b]ased on this evaluation, marking and lighting are not necessary for aviation safety." The FAA's Determinations establish that the Project would be neither an obstruction nor a hazard to air navigation.
- iii. In this case it is important to first establish what entity has authority over the use of airspace over the project site. "The United States Government has exclusive sovereignty of airspace of the United States" (49 U.S.C. § 40103(a)(1)).
- iv. In order to use this airspace, the FAA Administrator is responsible for: (1) Plans and policy for the safe use of the navigable airspace (49 U.S.C. § 40103(b)(1)) and (2) "[R]egulations on the flight of aircraft (including regulations on safe altitudes) for navigating, protecting and identifying aircraft; protecting individuals and property on the ground; using the navigable airspace efficiently; and preventing collision between aircraft, between aircraft and land or water vehicle, and between aircraft and airborne objects" (49 U.S.C. § 40103(b)(2)).
- v. The FAA's aeronautical studies for the Bowery Mixed Use project structures are the definitive standard for assessing compliance with federal aviation safety laws and regulations (49 U.S.C. § 771(o)). This federal authority is recognized in State law (Cal. PUC §21240).
- vi. The City of Santa Ana has the local police powers to control land use on the site (Cal. Const., art. XI 11, § 7). This constitutional authority is acknowledged in State law (Cal. PUC §21670 and §21676) and the ALUC process (AELUP §4.11) allowing for overrule of an ALUC finding of inconsistency.
- vii. The other entities that have processed or commented on this project have aviation safety duties and responsibilities related to this matter. Each of these entities relies on or ultimately defers to

the FAA's authoritative aviation safety role in airspace determinations.

- viii. The AELUP for JWA, Section 2.1.3 Building Height Restrictions states, "In adopting criteria for building height restrictions in the vicinities of airports, the Commission considered only one standard and that was Federal Aviation Regulations Part 77 ([14 CFR] Part 77) entitled, *Objects Affecting Navigable Airspace*. "These regulations **are the only definitive standard available** [emphasis added] and the standard most generally used."
- ix. Section 2.1.3 also recognizes FAA aeronautical studies beyond 14 CFR Part 77 surfaces as the standard for review, "In addition to the 'imaginary surfaces,' the Commission will use all of the FAR Part 77.23 standards along with the results of FAA aeronautical studies, [emphasis added] for other studies deemed necessary by the Commission, in order to determine if a structure is an 'obstruction.'" This section goes on to state "The Commission considers and recognizes the FAA as the single "Authority" for analyzing project impact on airports or aeronautical operations, or navigational aid siting, including interference with navigational-aids or published flight paths and procedures. The Commission also considers the FAA as the "Authority" for reporting the results of such studies and project analyses. The Commission will not consider the findings of reports or studies conducted by parties other than the FAA unless the FAA certifies and adopts such findings as true and correct.
- x. Section 2.1.3 adds reference to FAA Advisory Circular 150/5190-4A, A Model Zoning Ordinance to Limit Height of Objects Around Airports for Commission Review. This FAA Advisory Circular provides specific guidance for establishing zoning regulations along with specific guidance on a "variance" process for potential obstructions. At Section 3.b., "The Federal Aviation Administration (FAA) conducts aeronautical studies on obstructions which examine their effect on such factors as: aircraft operational capabilities; electronic and procedural requirements; and, airport hazard standards. **If an aeronautical study shows that an obstruction, when evaluated against these factors, has no substantial adverse effect upon the safe and efficient use of navigable airspace, then the obstruction is considered not to be a hazard to air navigation** [emphasis added]."
- xi. CalTrans Division of Aeronautics – Caltrans publishes the California Airport Land Use Planning Handbook ("Handbook") in accordance with State Law with the purpose to, " provide information to ALUCs, their staffs, airport proprietors, cities, counties, consultants, and the public; to identify the requirements

and procedures for preparing effective compatibility planning documents; and define exemptions where applicable (Caltrans, 2011)." The Handbook provides specific guidance for assessing potential airspace obstructions in Section 4.5 Airspace Protection.

- xii. JWA – The FAA requires airport sponsors like Orange County to accept specific grant assurances when they accept federal funding. Hazard Removal and Mitigation and Compatible Land Use are two of these assurances (49 U.S.C. § 47107(a)(9) and (10)). For hazard removal, the Airport relies on the FAA's aeronautical study to meet its requirement. For compatible land use, the Airport relies on coordination with the surrounding cities and the ALUC. The following are the specific assurances:
 - xiii. Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
 - xiv. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.
- e. **Height.** The residential and commercial land uses under the proposed project are consistent with the height standards of the AELUP.
 - i. The proposed buildings associated with the Project would not exceed the sloping, three-dimensional 100:1 (one percent sloping surface from the nearest runway over 3,200 feet in actual length) FAA notification surface to require the Filing of FAA Form 7460-1. This fact is stated in the ALUC staff report and was repeated at the ALUC hearing on the Project. Despite this fact, the Project proponent filed with the FAA and received a Determination of No Hazard to Air Navigation on March 5, 2020.
 - ii. The Project does not exceed the sloping, three-dimensional 50:1 FAA precision instrument Approach Surface to JWA Runway 20R. This fact is stated in the ALUC staff report and was repeated at

the ALUC hearing on the Project. Despite this fact, the Project proponent filed with the FAA and received a Determination of No Hazard to Air Navigation on March 5, 2020.

- f. **Overflight.** "Close to the JWA approach centerline" as identified by the ALUC is neither an FAA nor an AELUP standard.
- i. The FAA is the only authoritative source of aviation safety data and the FAA does not have a "close to the JWA approach centerline" standard. The FAA's Aeronautical Study of the Project and Determinations of No Hazard to Air Navigation issued on March 5, 2020 are the only authoritative source of airspace impact information as stated in the AELUP.
 - ii. The AELUP clearly identifies its airport land use planning standards around aircraft noise, safety, and height. Objective measures of these standards are clearly identified in AELUP Section 2.1. The Project is consistent with each of these objective standards.
 - iii. Two-dimensional flight tracks and a list of unassociated aircraft do nothing to inform the impact of overflights. The ALUC provided one day of arrival flight tracks, one day of departure flight tracks and lists of aircraft by time of day and altitude that were purported to have produced these flight tracks.
 - iv. The Project proponent prepared three-dimensional models of the ALUC-provided flight track information to depict actual overflight proximity to a scaled model of the Project. These three-dimensional models show that some residents and users of the property would likely be able to see aircraft flying past the property from certain locations. Aircraft noise information from the AELUP, the JWA GAIP EIR and from the Project EIR demonstrate that the noise impact would be less than 60 dBA CNEL and less than single event noise standards identified in the JWA GAIP EIR.
 - v. Aircraft noise contours used to objectively measure noise impact already assume flight tracks and actual operating conditions for a full year including future operations. One day of arrival flight tracks and one day of departure flight tracks are simple anecdotes and not substantive evidence.
 - vi. The project is located outside of the JWA single event noise exposure areas documented in the JWA General Aviation Improvement Program EIR certified on June 25, 2019. The project developer presented this information to the ALUC Commission at its hearing on May 21, 2020.

vii. ALUC Commissioners Monin and Murphy asked for but did not receive evidence of general aviation aircraft using Runway 2R/20L would “be turning right in front of the site.” In fact, the GA aircraft pattern and voluntary noise abatement procedures for Runway 2R/20L operate within one to two miles from the end of the runway north of the airport and on a 15-degree offset from the extended runway centerline to avoid airspace conflicts with aircraft arriving Runway 20R. This location places GA aircraft south of Barranca Parkway and aligned with the Tustin Legacy property southeast of the Project site. These regular GA aircraft flight tracks are substantiated in the presentation by JWA staff on April 6, 2019 at a Town Hall meeting about the GAIP.

g. **Heliports.** Heliports are not a part of the Project.

h. **Zone Change and General Plan Amendment.** The proposed zone change, and General Plan Amendment are consistent with the objective AELUP aircraft noise, safety and height standards and are therefore consistent with the larger planning role of the ALUC. “Close to the JWA approach centerline” is not an FAA or an ALUC standard.

i. ALUC offers no substantiation that overflights of new residents would be disturbed or annoyed. On the contrary, the ALUC demonstrates that the Project is located outside of the 60 dBA CNEL noise contour. As such, the Project would not add any new residential or commercial noise impacts to the JWA 65 dBA Community Noise Equivalent Level (CNEL) noise area.

ii. Flight tracks for one day of arrivals and one day of departures are not unique and are fully accounted for in the one year of overflights used to measure CNEL noise impacts associated with JWA.

iii. Flight tracks for one day of arrivals and one day of departures are not unique and are fully accounted for in the single-event noise contours produced for the JWA GAIP EIR. The Project is located outside of these single-event noise contours.

iv. The JWA comments on the Project conflict with its own noise analysis contained in the GAIP EIR. The ALUC staff report states, “Because of the project location within the primary approach corridor and its proximity to JWA (2.25 miles), JWA stated it is not supportive of the proposed residential portion of the project.” The objective analysis and conclusions of the JWA GAIP EIR find that the objective aircraft noise analysis demonstrate that the Project would be located outside of the 60 dBA CNEL noise contour and would have no impact on operations at JWA due to height.

- v. The ALUC staff report states that, "per Section 1.2 of the AELUP for JWA, the purpose of the AELUP is to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operations of the airport." The method by which the ALUC achieves this purpose is through the application of the objective standards contained in Section 2.1 of the AELUP. As demonstrated in the ALUC staff report and, in these Findings, the Project is consistent with each of the standards. As a result, the ALUC has met their duty under Section 1.2 by ensuring that the Project meets these standards.
- vi. The ALUC staff report states that, "Additionally, Section 2.1.4 of the AELUP for JWA and PUC Section 21674 charge the Commission to coordinate at the local level to ensure compatible land use planning." The method by which the ALUC achieves this charge is through the application of the objective standards contained in Section 2.1 of the AELUP. As demonstrated in the ALUC staff report and, in these Findings, the Project is consistent with each of the standards. As a result, the ALUC has met their duty under Section 2.1.4 and PUC Section 21674 by ensuring that the Project meets these standards.

Section 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT: The City Council has reviewed and certified Environmental Impact Report No. 2020-01; adopted the Mitigation Monitoring and Reporting Program (MMRP); and adopted the Statement of Overriding Consideration for the proposed Project.

Section 4. INDEMNIFICATION. The Applicant shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, and other proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (collectively "Actions"), brought against the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that Applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the

Applicant of any Action brought and City shall cooperate with Applicant in the defense of the Action.

Section 5. CITY COUNCIL ACTION: Based on the above evidence and Findings made, and the remainder of the record in this case, the City Council of the City of Santa Ana hereby resolves to overrule the Orange County ALUC's determination that the Bowery Mixed-Use Development Project is inconsistent with the Orange County AELUP.

Section 6. EXECUTION OF RESOLUTION. The Mayor shall sign this Resolution and the Clerk of the Council shall attest and certify to the adoption thereof.

ADOPTED this ____ day of _____, 2020.

Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: _____
Lisa E. Storck
Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, DAISY GOMEZ, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2020-xx to be the original resolution adopted by the City Council of the City of Santa Ana on _____, 2020.

Date: _____

Clerk of the Council
City of Santa Ana

DRAFT



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

July 3, 2020

David Blumenthal, AICP
Planning Consultant
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: ALUC Referral Package Confirmation

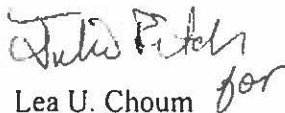
Dear Mr. Blumenthal:

This is to confirm that Airport Land Use Commission (ALUC) staff has received the City of Newport Beach referral request for the Newport Airport Village project in the area bound by Campus Drive, MacArthur Boulevard and Birch Street.

Your request for a review and consistency determination by the Commission is hereby accepted and deemed complete on July 3, 2020, and will be agendaized for the next Commission meeting of July 16, 2020, unless otherwise noticed. Please note that consistent with the Governor's Order N 27-20 issued on March 17, 2020, the meeting will be held with a teleconferencing option. We will provide call-in details when the agenda is posted. Your attendance at the meeting (in person or via teleconference) would be appreciated in case there are questions regarding this item.

A copy of the meeting agenda and staff report regarding your item will be provided to you prior to the Commission meeting. Please contact Julie Fitch at (949) 252-5284 or at jfitch@ocair.com if you need additional information regarding the Commission's review of this project.

Sincerely,


Lea U. Choum *for*
Executive Officer



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

July 9, 2020

Barry Curtis, Director
Economic and Development Services
City of Costa Mesa
77 Fair Drive
P.O. Box 1200
Costa Mesa, CA 92628

Subject: One Metro West Mixed-Use Development at 1683 Sunflower Avenue

Dear Mr. Curtis:

During the meeting held on June 18, 2020, the Airport Land Use Commission (ALUC) for Orange County considered the subject project. The matter was duly discussed, moved, seconded and carried unanimously by the Commission to find the City of Costa Mesa's proposed One Metro West Mixed-Use Development Project and related General Plan Amendment and Zoning Code Change to be Consistent with the Commission's *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)*.

Please contact Julie Fitch, Land Use Manager at (949) 252-5284 or via email at JFitch@ocair.com if you require additional information or have questions regarding this proceeding.

Sincerely,

Lea U. Choum
Executive Officer