



AIRPORT LAND USE COMMISSION

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

AGENDA ITEM 3

September 17, 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 June 2020
- JWA Statistics for July 2020
- Response letter to Santa Ana - Notice of Intent to Overrule ALUC (Bowery)
- Caltrans response letter to the City of Santa Ana regarding Notice of Intent to Overrule ALUC (Bowery)
- Determination Letter for the City of Newport Beach - Newport Airport Village
- Notice of Intent to Overrule the Airport Land Use Commission from the City of Newport Beach (Newport Airport Village)
- Response letter to Newport Beach - Notice of Intent to Overrule ALUC (Newport Airport Village)
- Caltrans response letter to the City of Newport Beach regarding Notice of Intent to Overrule ALUC (Newport Airport Village)
- Referral package confirmation letter for the City of Newport Beach – Shvets Residential Subdivision
- Referral package confirmation letter for the City of Newport Beach – Shell Service Station Car Wash Addition
- Referral confirmation letter for the City of Santa Ana – General Plan Update

Respectfully submitted,

A handwritten signature in blue ink that reads "Lea U. Choum".

Lea U. Choum
Executive Officer

July 23, 2020

JOHN WAYNE AIRPORT POSTS JUNE 2020 STATISTICS

SANTA ANA, Calif. - Airline passenger traffic at John Wayne Airport decreased in June 2020 as compared with June 2019. In June 2020, the Airport served 181,486 passengers, a decrease of 80.2% when compared with the June 2019 passenger traffic count of 918,810.

Commercial aircraft operations decreased 66.3% and commuter aircraft operations decreased 36.8% when compared with June 2019 levels.

Total aircraft operations decreased in June 2020 as compared with the same month in 2019. In June 2020, there were 19,231 total aircraft operations (take-offs and landings), a 24.7% decrease compared to 25,531 total aircraft operations in June 2019.

General aviation activity, which accounted for 85% of the total aircraft operations during June 2020, decreased 6.5% when compared with June 2019.

The top three airlines in June 2020 based on passenger count were Southwest Airlines (81,739), American Airlines (39,379) and Alaska Airlines (21,488).

John Wayne Airport
Monthly Airport Statistics - June 2020
REVISED August 28, 2020

	June 2020	June 2019	% Change	Year-To-Date 2020	Year-To-Date 2019	% Change
Total passengers	181,486	918,810	-80.2%	2,198,014	5,292,960	-58.5%
Enplaned passengers	90,600	460,390	-80.3%	1,099,905	2,645,782	-58.4%
Deplaned passengers	90,886	458,420	-80.2%	1,098,109	2,647,178	-58.5%
Total Aircraft Operations	19,231	25,531	-24.7%	108,785	149,239	-27.1%
General Aviation	16,357	17,496	-6.5%	81,615	101,267	-19.4%
Commercial	2,534	7,512	-66.3%	24,625	45,030	-45.3%
Commuter¹	285	454	-37.2%	2,225	2,513	-11.5%
Military	55	69	-20.3%	320	429	-25.4%
Air Cargo Tons²	1,411	1,554	-9.2%	8,664	9,296	-6.8%

International Statistics³ (Included in totals above)

	June 2020	June 2019	% Change	Year-To-Date 2020	Year-To-Date 2019	% Change
Total Passengers	0	16,712	-100.0%	17,246	98,266	-82.4%
Enplaned passengers	0	8,409	-100.0%	8,703	49,715	-82.5%
Deplaned passengers	0	8,303	-100.0%	8,543	48,551	-82.4%
Total Aircraft Operations	0	150	-100.0%	172	975	-82.4%

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: 1,403 tons
Passenger Carriers (incidental belly cargo): 8 tons
(Current cargo tonnage figures in this report are for May 2020)

3 Includes all Canada and Mexico Commercial passengers and operations.

John Wayne Airport
Monthly Airport Statistics - June 2020

	June 2020	June 2019	% Change	Year-To-Date 2020	Year-To-Date 2019	% Change
Total passengers	181,486	918,810	-80.2%	2,198,014	5,292,960	-58.5%
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Total Aircraft Operations	19,231	25,531	-24.7%	108,785	149,239	-27.1%
General Aviation	16,357	17,496	-6.5%	81,615	101,267	-19.4%
Commercial	2,532	7,512	-66.3%	24,623	45,030	-45.3%
Commuter¹	287	454	-36.8%	2,227	2,513	-11.4%
Military	55	69	-20.3%	320	429	-25.4%
Air Cargo Tons²	1,411	1,554	-9.2%	8,664	9,296	-6.8%

International Statistics³ (included in totals above)

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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 @johnwaynear](https://twitter.com/johnwaynear) and [Instagram @johnwaynear](https://www.instagram.com/johnwaynear).

To receive John Wayne Airport news releases automatically, go to www.ocair.com and click [Subscribe](#).

August 25, 2020

JOHN WAYNE AIRPORT POSTS JULY 2020 STATISTICS

SANTA ANA, Calif. - Airline passenger traffic at John Wayne Airport decreased in July 2020 as compared with July 2019. In July 2020, the Airport served 239,120 passengers, a decrease of 74.7% when compared with the July 2019 passenger traffic count of 945,962.

Commercial aircraft operations decreased 49.2% and commuter aircraft operations decreased 11.7% when compared with July 2019 levels.

Total aircraft operations decreased in July 2020 as compared with the same month in 2019. In July 2020, there were 23,694 total aircraft operations (take-offs and landings), a 13.9% decrease compared to 27,520 total aircraft operations in July 2019.

General aviation activity, which accounted for 81.2% of the total aircraft operations during July 2020, increased 0.3% when compared with July 2019.

The top three airlines in July 2020 based on passenger count were Southwest Airlines (96,301), American Airlines (54,732) and United Airlines (29,968).

John Wayne Airport
Monthly Airport Statistics - July 2020
REVISED August 28, 2020

	July 2020	July 2019	% Change	Year-To-Date 2020	Year-To-Date 2019	% Change
Total passengers	239,120	945,962	-74.7%	2,437,134	6,238,922	-60.9%
Enplaned passengers	119,946	470,962	-74.5%	1,219,851	3,116,744	-60.9%
Deplaned passengers	119,174	475,000	-74.9%	1,217,283	3,122,178	-61.0%
Total Aircraft Operations	23,694	27,520	-13.9%	132,479	176,759	-25.1%
General Aviation	19,249	19,194	0.3%	100,864	120,461	-16.3%
Commercial	3,924	7,719	-49.2%	28,549	52,749	-45.9%
Commuter¹	460	523	-12.0%	2,685	3,036	-11.6%
Military	61	84	-27.4%	381	513	-25.7%
Air Cargo Tons²	1,594	1,399	13.9%	10,258	10,695	-4.1%

International Statistics³ (Included in totals above)

	July 2020	July 2019	% Change	Year-To-Date 2020	Year-To-Date 2019	% Change
Total Passengers	0	16,004	-100.0%	17,246	114,270	-84.9%
Enplaned passengers	0	8,155	-100.0%	8,703	57,870	-85.0%
Deplaned passengers	0	7,849	-100.0%	8,543	56,400	-84.9%
Total Aircraft Operations	0	136	-100.0%	172	1,111	-84.5%

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: 1,519 tons
 Passenger Carriers (incidental belly cargo): 75 tons
 (Current cargo tonnage figures in this report are for June 2020)

3 Includes all Canada and Mexico Commercial passengers and operations.

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AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

July 29, 2020

Vince Fregoso, Planning Manager
City of Santa Ana
20 Civic Center Plaza
P.O. Box 1988
Santa Ana, CA 92702

SUBJECT: City of Santa Ana Notice of Intent to Overrule ALUC Action on the proposed Bowery Project

Dear Mr. Fregoso:

We are in receipt of the City of Santa Ana's June 30, 2020, letter and draft resolution notifying the Airport Land Use Commission (ALUC) for Orange County of the city's intent to overrule ALUC's inconsistency determination on the Bowery Project located at 2300, 2310, and 2320 Red Hill Avenue. In accordance with Section 21676 of the California Public Utilities Code, the ALUC submits the following comments addressing the proposed overrule findings for the above-referenced project.

Please be advised that California Public Utilities Code Section 21678 states: "With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5 or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation."

On May 21, 2020, the ALUC found the proposed Bowery project to be inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)* with a vote of 6 to 0. The determination was made in accordance with AELUP Sections 1.2 and 2.1.4, and PUC Section 21674 which state that the commission is charged by PUC Section 21674(a) "to assist local agencies in ensuring compatible land uses in the vicinity of ...existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses," and PUC Section 21674(b) "to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare."

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 operation

of the airport. Specifically, the plan seeks to protect the public from the adverse effects of aircraft noise to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace.

Additionally, Section 2.1.4 of the *AELUP for JWA* and PUC Section 21674 charge the commission to coordinate planning to protect the public health, safety and welfare. Therefore, because the proposed zone change, General Plan amendment and the project's inclusion of residential uses, the proposed project location within the primary approach corridor for JWA and the existing significant aircraft overflight above the proposed project site, the project is inconsistent with the *AELUP*.

The City of Santa Ana Draft Resolution No. 2020-xx ("Draft Resolution") states that the proposed project does not add any new residential or commercial noise impacts to the JWA 65 dBA CNEL noise areas. While the project is located outside of the 60 and 65 dBA noise contours (Attachment 1 hereto), changing the site's General Plan designation from Professional and Administrative Office (PAO) to District Center (DC), and allowing up to 1,100 residential units in the aircraft approach corridor for JWA would subject residents to noise from overflight of commercial and general aviation aircraft (Attachment 2).

Exhibits showing flight tracks in relation to the proposed project site were provided at the May 21, 2020 ALUC meeting (Attachment 3 & 4). Attachment 3 shows a day's worth of normal aircraft arrival operations and has a corresponding table listing each flight, the time of day and elevation above the proposed project site. The table shows that the majority of flights over the property are in range of 750 to 800 feet above ground level and arrive in very close intervals. Attachment 4 has also been included for your information and shows a day's worth of reverse flow departure flight tracks. The reverse departure flow occurs approximately 5% of the time, primarily due to weather factors. During reverse flow circumstances, departing aircraft may be higher in altitude, but louder over the project area. Based upon these aircraft arrival, departure and altitude statistics, future residents of the proposed Bowery Project *will* experience significant aircraft overflight and single event noise.

It has been the ALUC's experience that residential uses located under aircraft approach and departure corridors generate a significant number of noise complaints from the affected residents. The city should give consideration as to how these noise complaints will be addressed should the City Council overrule the ALUC and approve the proposed project. These complaints will likely contact the JWA Noise Office and not the city, despite the fact that the city will have overruled ALUC's valid concerns for the welfare of its future residents. The complainants will then be directed to the city, as the approving authority, and thus, noise concerns should be addressed by the city's regulations or by including noise attenuation conditions of approval. These are not conditions that ALUC can place on the project, but that the city should consider for the protection of their own residents.

Finding "F" on page four of Draft Resolution states that the ALUC staff report for the subject item found 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.” This is incorrect, as ALUC staff indicated that the proposed project met the specific technical criteria, but not the general land use policies of the AELUP, including the protection of public health and safety of residents living near the airport (Attachment 5).

Page nine of the Draft Resolution, paragraph (G)(f) refers to overflight and incorrectly states that “the FAA is the only authoritative source of aviation safety data...”. While the FAA defines Safety Zones in the immediate vicinity of runways, the California Airport Land Use Planning Handbook states that “the FAA has no authority over off-airport land uses,” and that “state and local agencies are free to set more stringent land use compatibility policies.” Section 3.0 of the *AELUP for JWA* includes general and specific land use policies. Section 3.2.1 states that “within the boundaries of the AELUP, any land use may be found to be inconsistent with the AELUP which: 1) Places people so that they are affected adversely by aircraft noise, and 2) Concentrates people in areas susceptible to aircraft accidents...” The staff report for the Bowery project recommended, and the commission found, that the proposed project, General Plan Amendment and Zone change were inconsistent with the general policies of the AELUP.

The Draft Resolution makes several references to Final Environmental Impact Report (EIR) 627 which was prepared for the General Aviation Improvement Program at JWA and certified on June 25, 2019. This EIR, and its technical reports has not been incorporated into the *AELUP for JWA*, and therefore, does not provide additional criteria for ALUC review. As per PUC Sections 21670-21679.5 and the Caltrans Airport Land Use Planning Handbook, the commission is charged with reviewing proposed projects, General Plan Amendments, and Zoning changes in relation to the *AELUP for JWA*. The ALUC has the responsibility to consider the broader perspective in matters affecting the public’s well-being and the viability of public aviation facilities. The ALUC accomplishes these overall goals by applying its discretion to evaluate individual projects based upon a wide range of facts and factors gathered through public testimony and commissioners’ knowledge, in addition to informative analysis provided by staff.

By virtue of being clearly stated in the *AELUP for JWA* Sections 1.2 “Purpose and Scope” and 2.0 “Planning Guidelines,” every commissioner understands their complex legal charge to protect the public airport environs from encroachment by incompatible land use development, while simultaneously protecting the health, safety and welfare of citizens who work and live in the airport’s environs. To this end, and as also statutorily required, our ALUC proceedings are benefited by several members “having expertise in aviation.” Based upon our careful consideration of all information provided, and input from our members with expertise in aviation, a majority of the ALUC found the proposed Bowery Project to be inconsistent with the *AELUP for JWA*.

We support the city’s inclusion of the mitigation measure in the Final EIR for the proposed project providing future residents with a “Notice of Airport in Vicinity” and posting outdoor signage informing the public of the presence of operating aircraft (as indicated in the May 20, 2020 letter to ALUC (Attachment 6), and agreed to at the ALUC meeting). Please be advised that California Business & Professions Code Section 11010 requires the following statement to be included on sale/lease disclosure documents for developments within an ALUC’s “Airport

Influence Area,” and thus, the city should condition approval of the proposed Bowery Project on inclusion of this Notice in the sale/lease disclosure documents:

“NOTICE OF AIRPORT IN VICINITY”

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (For example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.”

We urge the City Council of the City of Santa Ana to take all these matters into consideration in their deliberations prior to deciding whether to overrule the ALUC. Thank you for the opportunity to provide these comments.

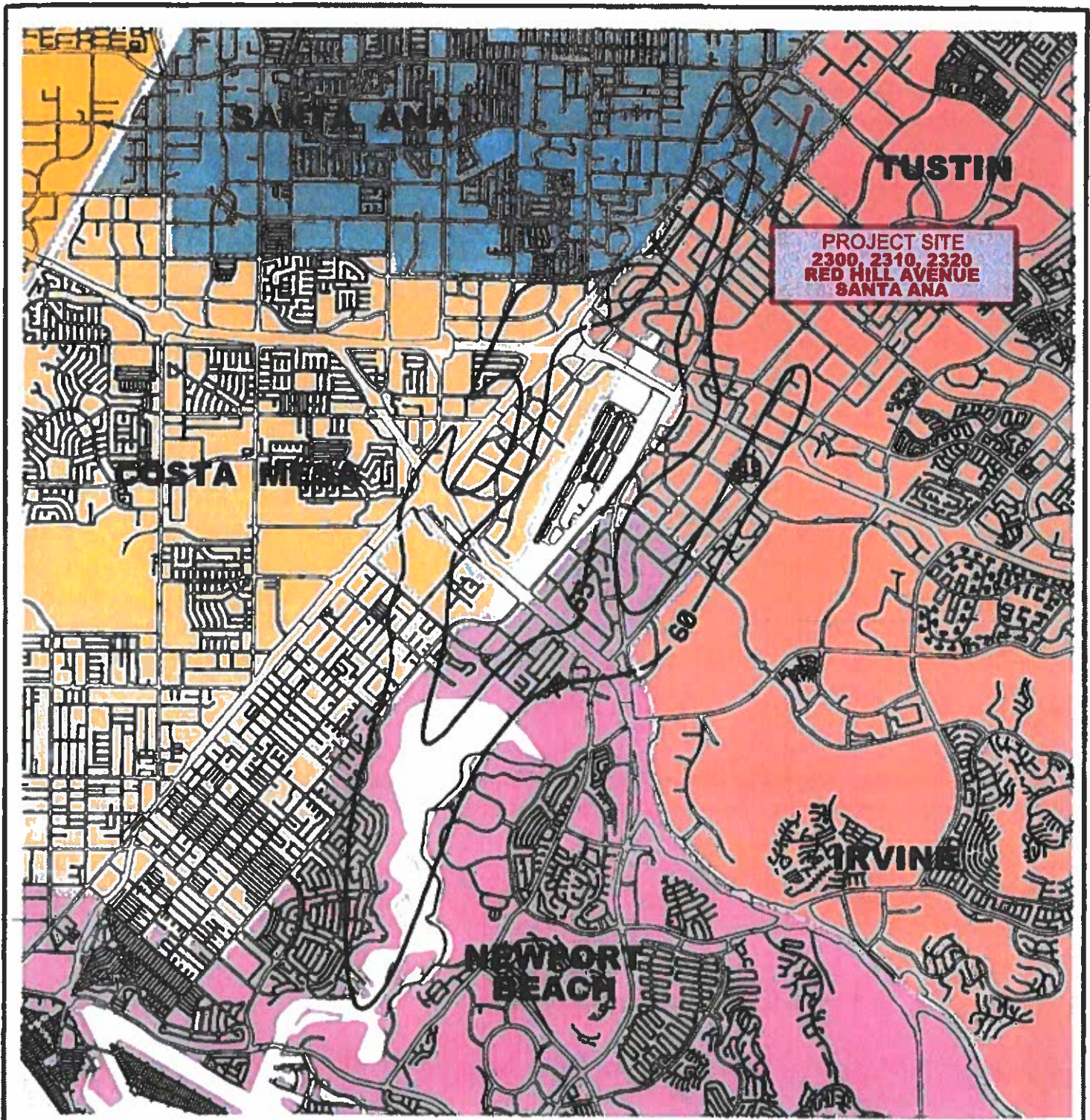
Sincerely,

A handwritten signature in black ink, appearing to read 'Gerald A. Bresnahan', with a long horizontal line extending to the right.

Gerald A. Bresnahan
Chairman

cc: Members of the Airport Land Use Commission for Orange County
Members of City of Santa Ana City Council
Kevin Ryan, Caltrans/Division of Aeronautics

ATTACHMENT 1



Note: County Unincorporated areas are shown in white.

John Wayne Airport Impact Zones

LEGEND

- 65— CNEL CONTOUR
- - - - RUNWAY PROTECTION ZONE
- · - · - CITY BOUNDARIES
- AIRPORT BOUNDARIES



Composite contour from
John Wayne Airport Project
Case-1990 and 2005
(see section 2.2.1)

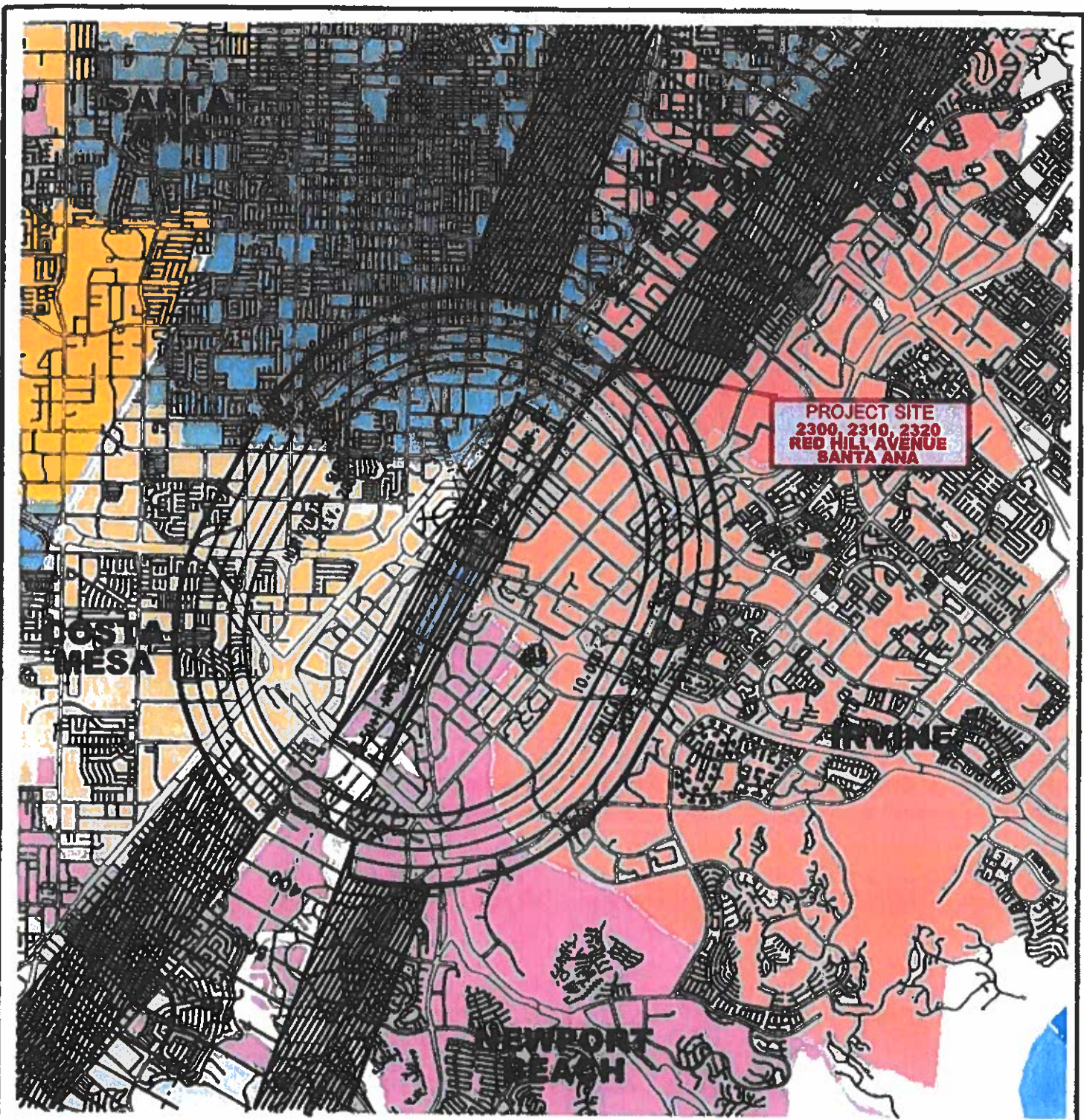
CERTIFICATION

Adopted by the Airport Land Use Commission for Orange County

Lea Chourm, Executive Officer

Date

ATTACHMENT 2



PROJECT SITE
2300, 2310, 2320
RED HILL AVENUE
SANTA ANA

Note: County Unincorporated areas are shown in white.

FAR PART 77

John Wayne Airport Obstruction Imaginary Surfaces



LEGEND

- CITY BOUNDARIES
- AIRPORT BOUNDARIES

CERTIFICATION

Adopted by the Airport Land Use Commission for Orange County

Lea Choum, Executive Officer

Date

ATTACHMENT 3



JWA Arrivals
Wednesday, January 8, 2020



179 Arrivals
Average Altitude - 790 ft.
2300, 2310, 2320 Red Hill Ave.
Santa Ana, CA 92705

Flight Tracks for 2300, 2310, and 2320 Red Hill Avenue

Wednesday, January 8, 2020 - Arrivals

Time	Aircraft Type	Altitude (ft.)	Time	Aircraft Type	Altitude (ft.)
7:13:21	C680	817	11:10:17	A320	800
7:27:10	B737	781	11:19:43	B752	835
7:38:08	C182	839	11:21:49	C56X	883
7:49:33	B737	796	11:23:18	PA24	1,276
7:51:19	E75L	822	11:44:37	B737	755
8:06:12	C414	828	11:46:19	A321	789
8:08:06	B737	793	11:49:25	A320	779
8:14:10	CL35	825	11:54:25	C172	603
8:15:32	B737	790	11:58:39	B738	753
8:19:52	B737	766	12:07:18	B738	778
8:32:23	A320	795	12:09:43	B737	760
8:34:33	B738	775	12:12:19	BE36	790
8:39:35	A320	791	12:14:28	C560	837
8:42:05	A320	796	12:18:17	B738	775
8:44:44	PC12	755	12:20:28	B738	765
8:48:44	B737	759	12:25:37	B737	759
8:53:52	BE58	747	12:31:32	B737	763
9:01:05	B738	803	12:39:47	E300	781
9:04:50	PC12	808	12:42:03	C25A	1,055
9:14:01	B737	781	12:47:33	E55P	774
9:17:47	PA46	898	12:49:39	E75L	731
9:22:43	B737	759	12:51:59	BCS1	801
9:26:12	E75L	745	12:58:16	B737	761
9:28:18	PA12	788	13:01:23	A319	778
9:30:38	E135	787	13:06:59	C172	553
9:34:53	BCS1	775	13:17:11	B752	808
9:40:02	C25A	807	13:19:53	C25A	807
9:43:25	C510	793	13:25:09	C172	906
9:47:54	E75L	783	13:30:13	GLF4	812
9:49:59	B738	773	13:34:16	E75L	805
10:01:41	B738	808	13:45:16	B737	769
10:03:21	E75L	802	13:46:47	B738	776
10:05:18	G280	769	13:48:31	B737	828
10:06:46	B752	801	13:53:50	B350	805
10:09:24	C550	764	13:56:53	SF50	809
10:21:58	P28A	820	14:03:28	C68A	793
10:24:10	E135	752	14:06:28	E75L	765
10:25:40	B737	775	14:08:28	E55P	767
10:27:05	E75L	744	14:09:57	A320	792
10:28:57	B738	777	14:11:46	CL30	808
10:31:50	TBM7	773	14:15:12	P28R	728
10:34:42	A319	762	14:19:07	B737	797
10:39:30	B737	778	14:22:09	C414	914
10:43:02	B737	753	14:25:11	B738	833
10:52:04	B738	767	14:28:17	E135	790

Flight Tracks for 2300, 2310, and 2320 Red Hill Avenue

Wednesday, January 8, 2020 - Arrivals

Time	Aircraft Type	Altitude (ft.)	Time	Aircraft Type	Altitude (ft.)
14:29:55	B738	752	18:29:46	E135	801
14:33:10	B737	754	18:31:49	B350	764
14:35:32	B737	765	18:37:57	B738	756
14:47:00	PA44	832	18:39:57	E75L	716
14:49:06	C56X	797	18:41:33	B738	760
14:54:25	C750	796	18:50:44	B737	778
14:58:14	BE36	824	18:57:15	B737	769
15:12:17	C560	736	19:10:55	A320	793
15:22:50	EXP	877	19:27:45	B737	746
15:23:32	B738	770	19:29:24	C56X	831
15:35:56	B738	785	19:31:41	CL60	806
15:38:15	GL5T	777	19:35:59	B738	770
15:42:34	B737	884	19:44:58	A320	749
15:50:23	E75L	770	19:49:27	B737	756
15:52:35	B737	749	19:54:13	CRJ7	737
15:56:00	BCS1	764	19:56:07	A319	791
16:09:39	P32R	660	19:57:38	B737	789
16:11:36	BE40	902	20:10:19	B737	777
16:19:54	CL30	1,075	20:30:05	E75L	786
16:23:02	BE40	841	20:31:49	B738	787
16:29:06	B738	758	20:33:40	B737	777
16:40:09	B737	763	20:42:41	A319	776
16:45:18	C172	789	21:02:31	B738	792
16:48:06	FA7X	775	21:09:51	B738	753
16:51:07	E75L	761	21:12:20	E75L	760
17:02:05	A320	802	21:17:28	A320	794
17:19:23	E75L	812	21:20:42	B737	793
17:24:51	B737	771	21:23:33	B737	783
17:28:04	B752	812	21:27:01	C68A	801
17:32:12	A306	780	21:30:00	A319	773
17:35:12	C414	850	21:33:41	B752	785
17:37:21	E135	792	21:37:32	E75L	806
17:39:08	B737	779	21:42:11	B737	781
17:41:06	BCS1	775	21:43:57	E135	794
17:53:32	E75L	750	21:45:31	A321	761
17:55:46	E75L	745	21:47:14	BCS1	761
18:01:11	CL60	799	21:48:59	E75L	755
18:10:09	B737	766	21:54:02	B737	766
18:13:21	BE20	814	22:01:09	B737	823
18:16:11	B737	777	22:03:43	B737	770
18:20:03	TBM8	821	22:06:38	GLF4	838
18:21:47	B737	774	22:09:00	B738	780
18:24:00	BE20	699	22:12:36	B738	762
18:25:32	B738	753	22:51:46	GLF4	812
18:27:21	B738	771	Average		790

ATTACHMENT 4



JWA Reverse Flow Departures
Monday, January 6, 2020



160 Departures
Average Altitude - 2,171 ft.
2300, 2310, 2320 Red Hill Ave.
Santa Ana, CA 92705

**Flight Tracks for 2300, 2310, and 2320 Red Hill Avenue
Monday, January 6, 2020 - Reverse Flow (Departures)**

Time	Aircraft Type	Altitude (ft.)	Time	Aircraft Type	Altitude (ft.)
6:16:15	B350	3,074	9:29:50	B738	2,182
6:30:45	LJ45	1,933	9:31:31	B737	1,777
6:40:43	CL60	2,271	9:34:46	C210	2,839
7:01:42	B737	1,802	9:42:38	C560	2,179
7:03:12	B738	1,811	9:48:40	B737	1,915
7:04:43	B738	2,036	9:49:58	B350	2,346
7:07:18	B738	2,018	9:52:02	A321	2,598
7:08:32	A319	2,658	10:06:59	B738	2,087
7:10:20	B737	1,671	10:27:10	C56X	3,138
7:11:55	B737	2,070	10:32:19	B737	2,029
7:13:25	B738	2,387	10:39:10	B738	1,869
7:16:48	E75L	2,332	10:41:25	B737	1,977
7:18:29	E145	3,127	10:48:05	BCS1	2,679
7:20:01	B752	2,625	10:53:59	A320	2,241
7:21:08	B738	1,866	10:58:30	B738	2,092
7:24:21	E75L	1,985	11:04:01	PC12	2,433
7:25:51	B738	2,038	11:07:35	E75L	1,858
7:27:26	BCS1	2,769	11:10:17	PRM1	1,667
7:29:14	B737	1,917	11:11:36	E50P	2,112
7:30:45	B350	2,035	11:18:37	B722	2,829
7:32:37	B737	1,871	11:26:28	B737	2,205
7:36:12	B737	1,930	11:28:01	B737	1,866
7:45:21	E55P	3,917	11:29:31	B738	1,903
7:46:56	B738	2,186	11:36:47	E75L	2,324
7:48:37	B738	1,973	11:42:52	B738	1,916
7:51:10	B737	1,881	11:45:26	A320	2,616
7:52:52	CL60	2,585	11:46:53	B738	1,947
8:03:59	B737	1,816	11:49:52	B737	2,004
8:05:33	A319	2,801	11:51:54	B752	2,849
8:07:39	B737	2,037	11:53:31	E135	3,152
8:12:43	B738	2,107	11:56:41	E75L	2,005
8:17:23	E75L	2,065	12:05:13	E75L	2,203
8:20:38	E75L	2,262	12:08:56	B738	1,825
8:24:46	F2TH	2,576	12:12:08	H25C	1,650
8:30:54	B738	2,039	12:29:29	B752	2,409
8:33:05	A319	2,736	12:41:29	A20N	2,155
8:35:13	A320	2,219	12:45:38	A321	2,206
8:44:21	B737	2,053	12:52:30	E75L	2,064
8:53:34	B737	2,186	12:55:37	B737	1,927
8:55:31	E75L	2,289	13:08:44	B738	1,742
9:02:24	B350	2,031	13:11:44	B738	1,919
9:05:04	E55P	3,506	13:17:26	E75L	2,019
9:06:49	B737	2,012	13:19:21	BCS1	2,608
9:16:12	PA27	2,230	13:26:27	B738	1,974
9:28:16	B737	2,101	13:35:13	B736	2,024

**Flight Tracks for 2300, 2310, and 2320 Red Hill Avenue
Monday, January 6, 2020 - Reverse Flow (Departures)**

Time	Aircraft Type	Altitude (ft.)	Time	Aircraft Type	Altitude (ft.)
13:36:43	B737	1,947	18:03:45	B738	2,134
13:38:25	E135	2,980	18:10:44	B738	1,795
13:42:16	B737	2,162	18:29:14	B737	1,732
13:46:35	B738	1,995	18:32:28	E75L	1,739
13:49:32	B738	1,965	18:34:42	BCS1	2,764
13:53:33	GLF4	2,886	18:40:00	B737	1,707
13:55:07	A320	2,307	18:46:31	E75L	1,931
13:58:35	B737	2,106	19:11:10	A306	2,262
14:02:02	E55P	2,228	19:16:54	B737	1,708
14:17:47	A319	2,704	19:18:39	B738	1,718
14:43:31	B737	1,730	19:23:15	B752	2,323
14:45:56	B737	1,902	19:24:53	B737	1,830
14:47:56	GLF4	1,455	19:28:01	A320	2,069
14:54:06	B738	1,966	19:43:48	B738	2,133
15:01:44	E75L	2,296	19:45:25	E135	2,064
15:05:03	C206	2,563	19:50:37	E75L	1,985
15:19:32	B737	1,840	19:52:13	E145	2,574
15:21:47	LJ60	2,432	20:02:15	B737	1,852
15:23:27	E75L	2,181	20:09:50	B737	1,576
15:31:01	B738	1,777	20:26:27	B737	2,154
15:34:19	E75L	1,980	20:48:10	B737	1,749
15:35:58	B737	1,892	21:09:54	B737	2,301
15:41:07	B737	1,607	21:18:07	B738	1,902
15:44:07	B738	1,688	21:22:29	CRJ7	2,520
15:50:18	B737	2,418	21:28:19	B737	1,630
15:51:57	E135	2,340	Average		2,171
15:57:02	E75L	2,009			
16:00:02	C550	2,792			
16:03:46	B752	2,802			
16:14:35	C56X	3,117			
16:27:51	E75L	2,199			
16:35:27	CL30	3,404			
16:37:38	B737	1,854			
16:40:57	E75L	1,885			
16:43:09	B738	1,960			
16:45:38	B738	1,783			
16:57:54	B737	2,226			
17:01:06	BCS1	2,514			
17:04:04	E75L	1,742			
17:22:21	C56X	2,379			
17:41:59	A320	1,871			
17:43:47	B737	1,796			
17:45:29	B737	1,750			
17:51:16	B738	1,869			
17:58:23	E75L	1,741			

ATTACHMENT 5



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

AGENDA ITEM 2

May 21, 2020

TO: Commissioners/Alternates

FROM: Lea Choum, Executive Officer

SUBJECT: City of Santa Ana Request for Consistency Finding of the Proposed General Plan Amendment and Zone Change for the Bowery Mixed-Use Development at 2300, 2310, and 2320 Red Hill Avenue

Background

The Bowery is a proposed mixed-use project on a 14.6 acre site located at the southwest corner of Red Hill Avenue and Warner Avenue, approximately 2.25 miles from John Wayne Airport (see Attachment 1 for location). The property is currently zoned by the City of Santa Ana as Light Industrial (M-1), and designated in the General Plan as Professional and Administrative Office (PAO). The current zoning allows uses such as warehouses, wholesale operations and manufacturing uses as well as support commercial businesses. The property has three existing 3-story industrial buildings currently used for warehousing and distribution, research and development, and a temporary City of Santa Ana homeless shelter.

The applicant is proposing to redevelop the site with a four-phase mixed-use development that would include up to 1,150 multi-family residential units and up to 80,000 square feet of commercial retail and restaurant space. The project would consist of three five-story mixed-use buildings, one five-story residential building, two single-story commercial buildings and four parking structures six to six-and-a-half stories above ground. In addition, the project would provide approximately 220,000 square feet of open space and recreation amenities for residents including common areas, courtyards, and rooftop decks.

The project is being referred to your Commission because of the project's location within the Airport Planning Area for JWA and because the project requires a General Plan Amendment and a Zoning Code change. The applicant is requesting to change the zoning designation from Light Industrial (M-1) to Specific Development (SD), and the City is proposing a General Plan Amendment that would change the designation of the site from Professional and Administrative Office (PAO) to District Center (DC), which would allow the construction of a mixed-use development.

The project is approximately .3 miles northeast of a similar mixed-use project, the Heritage, which was brought to your Commission in October 2015. Your Commission found the Heritage project inconsistent with the Airport Environs Land Use Plan (AELUP) for John Wayne Airport, and the City of Santa Ana subsequently overruled the Commission's finding as per Public Utilities Code 21676(b) and proceeded with development.

On March 16, 2020, ALUC staff met with the Bowery project applicant, at the applicant's request, to discuss the need for this project to be referred to ALUC for a consistency review. The applicant disagreed with the ALUC staff definition of "Planning Area," and requested a legal response. ALUC's legal counsel/County Counsel met via teleconference with the project applicant's legal representative on April 21, 2020. The project applicant has maintained that this location is not included in ALUC's Planning Area.

Separate from (not a part of) this proposal, the City of Santa Ana is in the process of conducting a comprehensive General Plan update. The City has identified a "55 Freeway/Dyer Road Focus Area," in which the properties along Red Hill Avenue, between Warner and Dyer, are proposed for the District Center designation, which would allow for more mixed-use development along Red Hill Avenue. ALUC staff will continue to monitor the City's General Plan Update and provide comments on the Draft Environmental Impact Report (DEIR) when it is available.

The City of Santa Ana has scheduled the following public hearings for the proposed project:

May 11, 2020 - Planning Commission (*continued*)

May 26, 2020 - Planning Commission

June 2, 2020 - City Council

AELUP Issues

The proposed project, zone change and General Plan Amendment have been evaluated for conflicts with respect to aircraft noise, building heights, flight tracks, safety zones and the development of heliports.

Regarding Aircraft Noise Impacts

The site of the proposed project is not located within the JWA 60 or 65 dBA CNEL noise contours (see Attachment 2). The Draft Environmental Impact Report (DEIR) for the proposed project included Mitigation Measure LU-2 stating that all prospective residents of the project site would be notified of airport related noise (via Notice of Airport in Vicinity language in lease/rental agreements). The City revised the EIR however, and removed that mitigation measure as well as the *AELUP for JWA* Section 3.2.4 requirement to provide outdoor signage informing the public of the presence of operating aircraft.

Regarding Height Restrictions

In Section 2.1.3 of the *AELUP for JWA*, the Commission has incorporated the standards for height limits for determining obstructions and has incorporated the definitions of "imaginary

surfaces” for airports as defined in Federal Aviation Regulations (FAR) Part 77. The proposed project is located within the FAR Part 77 “imaginary surfaces” referral area. The proposed maximum height for the project is 156 feet above mean sea level (AMSL) which does not penetrate the notification surface of 172.4 feet AMSL (see Attachment 3).

Attachment 4 shows that the proposed project is located within the approach corridor for JWA which would be penetrated at 300 feet AMSL. The maximum building height proposed for this project is 156 feet AMSL, which would not penetrate the impact areas reserved for air navigation. The project applicant filed Form 7460-1 with the Federal Aviation Administration (FAA) for each of the proposed buildings, and has received four Determinations of No Hazard to Air Navigation. FAA Aeronautical Study Nos. 2020-AWP-1999-OE, 2020-AWP-3470-OE, 2020-AWP-3471-OE, and 2020-AWP-2002-OE are included as Attachment 5.

Regarding Flight Tracks and Safety Zones

As shown in Attachment 4, the proposed project site is close to the JWA approach centerline, where residents would be subject to overflight of both commercial and general aviation aircraft. Attachment 6 shows the flight tracks over the proposed project site. Exhibits were prepared to demonstrate the elevations of planes flying over the property. The first exhibit in Attachment 6 shows a day’s worth of normal operation arrivals. The next exhibit shows a day’s worth of reverse flow (departure) flight tracks. Each exhibit also has a corresponding list of each flight, time of day, and elevation above the proposed project site. Under normal arrival operations, the average altitude of flights over the property is 790 feet above ground level. As shown in the Attachment 6 arrivals table, between 9 a.m. and 10 a.m. on January 8, 2020, aircraft were flying over the property with intervals between two (2) and eight (8) minutes between flights. For the 8 p.m. to 9 p.m. hour on the same day, planes flew over the property with the longest interval being at twenty (20) minutes and shortest interval being one (1) minute between flights.

Attachment 7 contains the Safety Zones exhibit showing that the proposed project site is not within the safety zone areas for JWA.

Heliports

Heliports are not proposed as part of project. The City of Santa Ana General Plan includes language that states proposed heliport projects must comply with FAA Regulations, Caltrans Division of Aeronautics and the *AELUP for Heliports* in the development of heliports.

Environmental Compliance

A Draft Environmental Impact Report (DEIR) was prepared as the CEQA documentation to analyze the potential impacts of the project. ALUC staff provided comments on the Notice of Preparation (NOP) on August 28, 2019, and on the DEIR on February 18, 2020. Both letters are attached, as well as the City’s response to the DEIR comments (See Attachment 8). The letters emphasized that the proposed project is located under the primary aircraft approach corridor to JWA and stated that future residents would be exposed to significant aircraft overflight and single event noise due to the project’s location. Additionally, during reverse flow operations at

JWA (approximately five percent (5%) of the time) new residents would experience noise associated with aircraft departures. The letters also recommended outdoor signage informing the public of the presence of operating aircraft/aircraft overflight. The City had included Mitigation Measures NOI-3 regarding noise and LU-2 regarding signage in the Draft EIR, but then removed those measures in the revised EIR, which will be considered by the Santa Ana Planning Commission and City Council at their upcoming meetings (see Attachment 11).

Conclusion

Attachment 9 to this report contains excerpts from the project submittal package received from the City of Santa Ana for your reference. ALUC staff has reviewed this project, zone change and General Plan Amendment with respect to compliance with the *AELUP for JWA*, including review of height restrictions, imaginary surfaces, flight tracks, heliports and environmental compliance. The proposed project is not located within the noise contours or safety zones for JWA and does not penetrate the notification or the obstruction imaginary surfaces for JWA. The project is, however, located within the primary aircraft approach corridor to JWA.

The proposed project, with the associated zone change and General Plan Amendment would introduce mixed-uses (residential) to this site, which has been historically light industrial and office. This would subject many individuals to overflight activity and likely create disturbances and annoyances for many of the new inhabitants, especially during morning and evening arrivals. As noted in the DEIR comments from the ALUC, in addition to regular arrival operations, future residents will also be exposed to reverse flow (departure) operations at JWA, which take place approximately five percent (5%) of the time.

On August 28, 2019, JWA also provided comments on the NOP, emphasizing the same points discussed above (See Attachment 10). 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 this project. Residents would be subject to significant aircraft overflight, noise and annoyance as approaching aircraft fly overhead at an average altitude of 790 feet above ground level. Additionally, during reverse flow circumstances, departing aircraft may be higher in altitude, but louder over the project area. It has been JWA's experience that residential uses located under aircraft approach and departure corridors generate a significant number of noise complaints from affected residents. JWA also suggested that the City should give consideration as to how these noise complaints will be addressed should the project be approved.

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 operation of the airport. Specifically, the plan seeks to protect the public from the adverse effects of aircraft noise to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace. 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. Therefore, because of the proposed zone change, General Plan amendment and the project's proposed residential uses, the project's location within the primary approach corridor for JWA and the

existing significant aircraft overflight above the proposed project site, staff is recommending the following:

Recommendation:

1. That the Commission find the proposed zone change, general plan amendment and 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 which state that the commission is charged by PUC Section 21674(a) "to assist local agencies in ensuring compatible land uses in the vicinity of ...existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses." and PUC Section 21674(b) "to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare."

Respectfully submitted,



Lea U. Choum
Executive Officer

Attachments:

1. Project Location Map
2. JWA CNEL Contours
3. FAR Part 77 AELUP Notification Area for JWA
4. FAR Part 77 JWA Obstruction Imaginary Surfaces
5. FAA Aeronautical Studies (4 Determination Letters)
6. Flight Tracks Over Proposed Project with Corresponding Tables
7. JWA Airport Safety Zone Reference Map
8. ALUC Comment Letters on NOP and DEIR
9. Submittal Package Excerpts from City of Santa Ana
10. JWA Comment Letter on NOP
11. Revisions to EIR

ATTACHMENT 6

MAYOR
Miguel A. Pulido
MAYOR PRO TEM
Juan Villegas
COUNCILMEMBERS
Phil Bacerra
Cecilia Iglesias
David Penaloza
Vicente Sarmiento
Jose Solorio



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
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
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May 20, 2020

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

RE: May 21, 2020 Airport Land Use Commission Determination of Consistency for The Bowery Project Located at 2300, 2310, and 2320 South Redhill Avenue in Santa Ana

Dear Ms. Choum,

I am in receipt of the ALUC staff report for The Bowery project that is scheduled for review by your commission on May 21st. The purpose of this letter is to highlight a few items that may assist you in making a determination of consistency for the project.

First, the proposed project is not within a Safety Zone, Noise Contour Zone, nor does it penetrate the notification surface of 172.4 feet above mean sea level (AMSL), which minimizes potential complaints from residents of the development. Second, the project site is not located under an established flight path, also eliminating complaints from the development of residential uses on the site. The City believes that the project is in compliance with all metrics used by the ALUC in order to make a determination of consistency.

To minimize potential future complaints by the project's tenants, the City of Santa Ana will add a policy to the mitigation monitoring and reporting program requiring the owner to include a "Notice of Airport in Vicinity" within the leases for the project and post outdoor signage informing the public of the presence of operating aircraft to address the concerns of the ALUC.

It should also be noted that there are existing residential uses on both this site and a site that is 0.3 miles closer to the airport and closer to the "Approach Corridor;" neither of these sites has had any noise complaints from residents. This precedent should serve to assuage any concerns about this project.

SANTA ANA CITY COUNCIL

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mpulido@santa-ana.org

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Lea Choum, Executive Officer
Orange County Airport Land Use Commission
Page 2 of 2

That, coupled with the agreed upon mitigation measures, will assist your Commission in determining that the project will not result in any adverse impact to the operation of the John Wayne Airport. Feel free to give me a call if you have any questions.

Respectfully,



On behalf of:

Vince Fregoso, AICP
Planning Manager

Vfletters/ OBP NOD letter

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS – M.S. #40

1120 N STREET

P. O. BOX 942874

SACRAMENTO, CA 94274-0001

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August 13, 2020

*Making Conservation
a California Way of Life.*

Mr. Vince Fregoso, AICP, Planning Manager
City of Santa Ana
Planning and Building Agency
20 Civic Center Plaza
Santa Ana, CA 92701-4058

Electronically Sent
vfregoso@santa-ana.org

Dear Mr. Fregoso:

One of the goals of the California Department of Transportation (Caltrans), Division of Aeronautics (Division), is to assist cities, counties, and Airport Land Use Commissions (ALUC) in the development and implementation of policies that protect the safety and general welfare of their communities in which aeronautical activities take place. We encourage collaboration with our partners in the planning process and thank you for including us in the review of the Notice of Intent to overrule the Orange County ALUC determination of inconsistency with the Airport Environs Land Use Plan for the John Wayne Airport (JWA).

On July 6, 2020, the Division received a notification letter by Certified Mail from the City of Santa Ana (City) regarding a proposed overrule for the proposed Bowery Mixed-Use Development Project (Project), including an 80,000-square foot leasable commercial area and 1,100 residential units on a 14.69-acre site. The location of the proposed Project is 2300, 2310, and 2320 South Red Hill Avenue, Santa Ana, California, approximately 2.25 miles northeast of JWA. The City's proposed land use change, Light Industrial to Specific Development No. 96 (SD-96), is outside the Airport Land Use Planning Handbook safety zones. However, since the proposed site is within the Approach/Departure path of the primary runway end 20R, the Division agrees with the JWA and the Orange County ALUC that the City's proposed General Plan amendment and subsequent zoning change could eventually subject residents to a very high frequency of commercial passenger aircraft overflights.

Despite the Federal Aviation Administration Determination of No Hazard for each of the proposed new buildings on May 21, 2020, the proposed Project was found inconsistent with the current Airport Environs Land Use Plan (AELUP) for

Mr. Vince Fregoso

August 13, 2020

Page 3

Please note: The Division's comments are to be included in the public record of any decision to overrule the ALUC.

If you have questions or we may be of further assistance, please contact me via email at kevin.ryan@dot.ca.gov .

Sincerely,

Originally signed by

KEVIN RYAN, Aviation Planner
Office of Aviation Planning

c: Ms. Lea Choum, Executive Officer, Orange County Airport Land Use
Commission, 3160 Airway Avenue, Costa Mesa, CA 92626-4608; lchoum@ocair.com



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

July 21, 2020

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

Subject: ALUC Determination for Newport Airport Village

Dear Mr. Blumenthal:

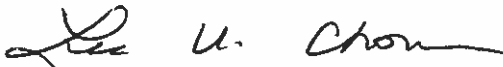
During the public meeting held on July 16, 2020, the Airport Land Use Commission (ALUC) for Orange County considered the subject project. The matter was duly discussed, and with a unanimous vote of 6-0, the Commission found the proposed General Plan Amendment, Zoning Code Amendment and proposed Newport Airport Village project located at 4320, 4340, 4360, 4400, 4500, 4520, 4540, 4570, 4600, and 4630 Campus Drive; 4525, 4533 and 4647 MacArthur Boulevard; and 4341, 4361, and 4501 Birch Street, to be Inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)* per:

- Section 2.1.1 Aircraft Noise that the “aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport.”
- Section 2.1.2 Safety Compatibility Zones in which “the purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA.”
- Section 2.1.3 Building Height Restrictions which states that “the results of an aeronautical study conducted by the FAA... will be utilized to help determine if a structure will have an adverse effect on the airport or on aeronautical operations.” The Aeronautical study provided was for structures 124 feet AMSL, while the General Plan Amendment and Development Plan indicate the maximum height would be 129 feet AMSL, and
- Section 2.1.4, and PUC Section 21674 which state that the Commission is charged by PUC Section 21674(a) “to assist local agencies in ensuring compatible land uses in the

vicinity of ...existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses,” and PUC Section 21674(b) “to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare.”

Please contact Julie Fitch at jfitch@ocair.com or at (949) 252-5284 if you require additional information or have questions regarding this proceeding.

Sincerely,

A handwritten signature in black ink that reads "Lea U. Choum". The signature is fluid and cursive, with the first name "Lea" being the most prominent.

Lea U. Choum
Executive Officer

cc: ALUC



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

100 Civic Center Drive
Newport Beach, California 92660
949 644-3200
newportbeachca.gov/communitydevelopment

July 30, 2020

Lea Choum, Executive Officer
Airport Land Use Commission for Orange County
John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA 92626

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL TO LUMNAS@OCAIR.COM

Subject: Newport Airport Village Project – Notice of Intent to Overrule the Orange County Airport Land Use Commission

Dear Ms. Choum:

On July 28, 2020, the City Council of the City of Newport Beach adopted Resolution No. 2020-73 (attached) to notify the Orange County Airport Land Use Commission (ALUC) and Caltrans Division of Aeronautics of the City's intent to overrule the Orange County Airport Land Use Commission's determination that the Newport Airport Village Project is inconsistent with the Airport Environs Land Use Plan for the John Wayne Airport. Resolution No. 2020-73 includes specific findings, which will be considered during the public hearing to consider overruling ALUC's determination, that the Newport Airport Village project is consistent with the purposes of the State Aeronautics Act.

Pursuant to Section 21676(b) of Public Utilities Code, the Orange County Airport Land Use Commission may provide comments to the City. Comments should be sent to:

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

If you have any questions regarding this matter, or require any additional information, please feel free to contact me at dblumenthal@newportbeachca.gov or (949) 644-3204.

Sincerely,

David Blumenthal, AICP
Planning Consultant

Attachment: Resolution No. 2020-73

RESOLUTION NO. 2020-73

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, NOTIFYING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION AND THE STATE DIVISION OF AERONAUTICS OF THE CITY'S INTENTION TO FIND THAT THE NEWPORT AIRPORT VILLAGE PLANNED COMMUNITY DEVELOPMENT PLAN IS CONSISTENT WITH THE PURPOSES OF THE STATE AERONAUTICS ACT AND TO OVERRULE THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION THAT THE NEWPORT AIRPORT VILLAGE PLANNED COMMUNITY DEVELOPMENT PLAN IS INCONSISTENT WITH THE AIRPORT ENVIRONS LAND USE PLAN FOR JOHN WAYNE AIRPORT (PA2014-225)

WHEREAS, an application was filed by Saunders Property Company ("Applicant") with respect to property located at 4341, 4361, and 4501 Birch Street; 4320, 4340, 4360, 4400, 4500, 4520, 4540, 4570, 4600 and 4630 Campus Drive; and 4525, 4533, and 4647 MacArthur Boulevard within the northerly portion of the Campus Tract, generally bounded by Birch Street, Campus Drive, MacArthur Boulevard and the extension of Corinthian Way, legally described on Exhibit A, which is attached hereto and incorporated herein by reference ("Property");

WHEREAS, the Property is designated AO (Airport Office and Supporting Uses) by the City of Newport Beach General Plan ("General Plan") Land Use Element and is located within the OA (Office-Airport) Zoning District;

WHEREAS, the Applicant proposes a Planned Community Development Plan that would allow redevelopment of the 16.46-acre Property with up to 329 residential dwelling units, exclusive of any density bonus as allowed pursuant to California Government Code Section 65915 and up to 297,572 square feet of office, retail, and commercial use ("Project") which require the following approvals from the City of Newport Beach ("City"):

- General Plan Amendment (GP2014-004) ("GPA") – A request to amend the General Plan Land Use Designation of the Property from AO (Airport Office and Supporting Uses) to MU-H2 (Mixed-Use Horizontal 2) and to amend Table LU2 (Anomaly Locations) to add Anomaly No. 86 to allow for the development of 329 dwelling units, exclusive of any permitted density bonus, and 297,572 square feet of commercial uses;

- Zoning Code Amendment (CA2014-009) – A request to change the zoning district of the Property from OA (Office-Airport) to PC-60 (Newport Airport Village Planned Community);
- Planned Community Development Plan (PC2020-002) – A request to adopt the Newport Airport Village Planned Community Development Plan (“PCDP”). The PCDP sets the development design and use standards for the Property;
- Development Agreement (DA2014-003) (“DA”) – A request for a Development Agreement between the Applicant and the City, which would provide vested rights to develop the Property, while also providing negotiated public benefits; and
- Addendum to the 2006 General Plan Update and the 2014 General Plan Land Use Element Amendment Environmental Impact Reports (ER2020-002) – Pursuant to the California Environmental Quality Act (“CEQA”), the Addendum to the Environmental Impact Reports will address reasonably foreseeable environmental impacts resulting from the Project;

WHEREAS, a public hearing was held by the Planning Commission on June 4, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapter 20.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2020-020 by a majority vote (6 ayes, 0 nays) recommending the City Council approve the Project;

WHEREAS, due to the proposed amendments to the General Plan and the Property’s zoning regulations, California Public Utilities Code Section 21676(b) requires the City to refer the Project to the Orange County Airport Land Use Commission (“ALUC”) for a determination of the Project’s consistency with the Airport Environs Land Use Plan (“AELUP”) for John Wayne Airport;

WHEREAS, on July 16, 2020, the ALUC voted (6 ayes, 0 nays) finding the Project inconsistent with the AELUP;

WHEREAS, pursuant to California Public Utilities Code Sections 21670 and 21676, the City Council may, after a public hearing, propose to overrule ALUC by a two-thirds vote of the City Council, if it makes specific findings that the Project is consistent with California Public Utilities Code Section 21670 purpose of protecting the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses; and

WHEREAS, a public hearing was held by the City Council on July 28, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with Public Utilities Code Section 21676(b), the Ralph M. Brown Act, and Chapter 20.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

Section 1: The City Council finds the Project is consistent with the legislative purpose set forth in California Public Utilities Code Section 21670(a)(2) of protecting the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

Facts in Support

1. *The Project is consistent with the noise standards of the AELUP.*

The AELUP guides development proposals to provide for the orderly development of John Wayne Airport and the surrounding area through implementation of the standards in AELUP Section 2 (Planning Guidelines) and Section 3 (Land Use Policies). Implementation of these standards are intended to protect the public from the adverse effects of aircraft noise, ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable airspace.

The AELUP makes use of the Community Noise Equivalent Level ("CNEL") system for measuring noise impacts. The John Wayne Airport 65 dB CNEL noise contour transects the Property, running from north to south with approximately half of the project area located within the 65 dBA CNEL noise contour and the other half located within the 60 dBA CNEL noise contour. Section 3.2.3 (Noise Impact Zone "1" - High Noise Impact (65 dB CNEL and above)) of the AELUP notes commercial, industrial, and recreational uses are acceptable uses, however, residential development is not supported within the 65 dB CNEL noise contour. Conversely, Section 3.2.4 (Noise Impact Zone "2" - Moderate Noise Impact (60 dB CNEL or greater, less than 65 dB CNEL)) of the AELUP, where the other half of the Project lies, allows residential development, provided that the units have sufficient sound attenuation. In accordance with these policies, the PCDP prohibits residential developments within Noise Impact Zone "1" but allows residential developments within Noise Impact Zone "2". The PCDP requires all dwelling units provide an interior ambient noise level that does not exceed 45 dBA between 7:00 a.m. and 10:00 p.m. and 40 dBA between 10:00 p.m. and 7:00 a.m. Additionally, in the event a neighborhood park is developed, notification to future residents and the public will be required by way of posting signs in outdoor open areas and recreation areas.

The Newport Beach General Plan Noise Element, which the ALUC found to be consistent with the AELUP in 2006, requires residential development in the Airport Business Area to be located outside of the 65 dBA CNEL noise contour and requires residential developers to notify purchasers or tenants of aircraft overflight and noise. As previously noted, the PCDP prohibits residential development within the 65 dBA contour line and requires notice to prospective purchasers and tenants about potential noise generated from John Wayne Airport.

2. *The Project is consistent with the Safety Standards of the AELUP.*

Safety compatibility zones are set forth in Section 2.1.2 (Safety Compatibility Zones) of the AELUP. Safety and compatibility zones depict which land uses are acceptable in various portions of John Wayne Airport environs. Portions of the Project are located with Safety Compatibility Zone 3, with the remainder located in Safety Compatibility Zone 6 for Runway 2R and 20L (formerly 1R and 19L). The Project is located within Safety Compatibility Zone 6 for Runway 2L and 20R (formerly 1L and 19R). Zone 3 precludes high density residential, however, commercial development is allowed. Safety Compatibility Zone 6, which is less restrictive than Safety Compatibility Zone 3, allows all residential uses and commercial development (excepting high intensities uses, such as outdoor stadiums). To protect the public health, safety and welfare, the PCDP prohibits residential developments within Safety Compatibility Zone 3. Furthermore, the

PCDP incorporates nonresidential development within Safety Compatibility Zone 3 that is consistent with the nonresidential uses listed in the AELUP.

3. *The project is consistent with the height standards of the AELUP.*

Section 2.1.3 (Building Height Restrictions) of the AELUP sets forth building height restrictions. This Section provides that ALUC consider only one standard as provided in 14 Code of Federal Regulations ("C.F.R.") Part 77 (also referred to as the Federal Aviation Regulations). Section 2.1.3 provides that the Federal Aviation Regulations are the only definitive standard available and the standard most generally used. Section 2.1.3 identifies the Federal Aviation Administration ("FAA") as the single "Authority" for analyzing project impact on airport or aeronautical operations, or navigational-aid siting, including interference with navigational-aids or published flight paths and procedures along with reporting results of such studies and project analyses.

The FAA conducted an aeronautical study for the Project consistent with the Federal Aviation Regulations. The FAA issued a Determination of No Hazard to Air Navigation on April 28, 2020, thereby finding the structure does not exceed obstruction standards and would not be a hazard to air navigation. The FAA reviewed the following heights: 44 feet site elevation ("SE"), 80 feet above ground level ("AGL"), and 124 feet above mean sea level ("AMSL"). The FAA further found that marking and lighting of the Project are not necessary for aviation safety. Therefore, any buildings constructed to a height of 80 feet within the PCDP area would be consistent with the FAA's findings. While the PCDP currently permits a maximum height of 85 feet AGL and 129 feet AMSL, any increase in height of the structure above the 80-foot height limit would require a revised Determination of No Hazard to Air Navigation from the FAA.

On August 19, 2010, ALUC found the revisions to Title 20 (Planning and Zoning) of the Newport Beach Municipal Code ("2010 Zoning Code Update") to be consistent with the AELUP. The 2010 Zoning Code Update included Section 20.30.060(C)(2)(e) (High Rise Height Area) of the NBMC and Map H-1 (High Rise and Shoreline Height Limit Areas) which authorizes a 300 foot height limit in the High Rise Height Area. The Project is located in the 300 foot High Rise Height Area, however, as indicated above, the maximum allowed building height under the PCDP within the permitted building envelope is 85 feet.

Section 2: The City Council finds the ALUC's determination that the Project is inconsistent with the AELUP is not based on substantial evidence that was introduced, commented on, or identified in support of the inconsistency finding.

Facts in Support

1. The ALUC staff report noted the proposed PCDDP is inconsistent with the AELUP regarding noise, height, and safety zones. The staff report was presented to the ALUC on July 16, 2020, however, no additional information was presented beyond what was contained in the staff report.
2. The ALUC staff report states the Project is not consistent with Section 2.1.1 (Aircraft Noise) in that the aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport.

As noted in Section 1 of this Resolution, the John Wayne Airport 65-dB CNEL noise contour transects the site, running from north to south and approximately half of the project area is located within the 65-dBA CNEL contour. Section 3.2.3 (Noise Impact Zone "1" - High Noise Impact (65 dB CNEL and above)) of the AELUP notes commercial, industrial, and recreational uses are acceptable uses, however, this section does not support residential development is not supported within the 65 dB CNEL noise contour. Conversely, Section 3.2.4 (Noise Impact Zone "2" - Moderate Noise Impact (60 dB CNEL or greater, less than 65 dB CNEL)) of the AELUP allows residential development, provided the units have sufficient sound attenuation. In accordance with these policies, the PCDDP prohibits residential developments within Noise Impact Zone "1". For residential developments within Noise Impact Zone "2", the PCDDP required that all dwelling units provide an interior ambient noise level that does not exceed 45 dBA between 7:00 a.m. and 10:00 p.m. and 40 dBA between 10:00 p.m. and 7:00 a.m. Additionally, in the event a neighborhood park be developed, notification to future residents and the public by way of posting signs in outdoor open areas and recreation area will be required. No information was included in the staff report or presented during the ALUC hearing that demonstrates otherwise.

3. The ALUC staff report further states the Project is not consistent with Section 2.1.2 (Safety Compatibility Zones). The purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA.

The basic compatibility qualities for each of the safety zones are classified in Table 9B (Safety Compatibility Qualities) of Appendix D of the AELUP. Safety Compatibility Zone 3 limits residential development and nonresidential development that has moderate to high usage intensities. The PCDP is consistent with the requirement as Section II(B) explicitly prohibits residential dwelling units within Safety Compatibility Zone 3. Further, the permitted nonresidential uses include lower intensity retail and offices uses, as well as, uses that are currently allowed in the OA (Office-Airport) zone. The remainder of the site is within Safety Compatibility Zone 6, which according to the AELUP has generally low likelihood of accident occurrence. Basic compatibility qualities include residential uses and most nonresidential uses, excluding very high intensity uses, such as outdoor stadiums. In accordance with the AELUP, the PCDP permits residential uses within the zone, as well as a variety of low-intensity nonresidential uses.

The ALUC staff report does not provide evidence that the Project would be inconsistent with the allowed uses of each of the AELUP safety zones. Instead, the staff report notes that allowing residential uses would not be prudent due to overflight. Notwithstanding this, the FAA prepared an aeronautical study to consider the Project with a maximum height of 80 feet AGL and 124 feet AMSL, which resulted in the FAA issuing a Determination of No Hazard to Air Navigation.

4. The ALUC staff report further states the Project is not consistent with Section 2.1.3 (Building Height Restrictions) which states that the results of an aeronautical study conducted by the FAA will be utilized to help determine if a structure will have an adverse effect on the airport or aeronautical operations.

The FAA conducted an aeronautical study for the Project consistent with FAA Part 77 Regulations. The FAA issued a Determination of No Hazard to Air Navigation on April 28, 2020; thereby finding the structure does not exceed obstruction standards and would not be a hazard to air navigation. The FAA reviewed the following heights: 44 feet SE; 80 feet AGL; and 124 feet AMSL. The FAA further found that marking and lighting of the Project are not necessary for aviation safety since the building height does not exceed 80 feet. In the event an increase in height is proposed above the 80-foot height limit, a revised Determination of No Hazard to Air Navigation from the FAA is required.

Section 3: This Resolution is not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

Specifically, the resolution does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment because it is limited to the notification of the City's intent to overrule the ALUC determination and it does not authorize the development of the Property or commit the City to approve the Project. Potential project impacts will be analyzed when the City Council considered the Project.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 28th day of July, 2020.



Will O'Neill
Mayor

ATTEST:



Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment: Exhibit A – Legal Description

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

ADDRESS	APN	LEGAL DESCRIPTION
4361 Birch Street, Newport Beach CA	427-121-23	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>LOTS 7, 8, 9 AND 10 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 190, PAGES 11, 12 AND 13 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.</p> <p>SAID LAND IS ALSO SHOWN AS PARCEL 1 ON LOT LINE ADJUSTMENT 93-5, RECORDED DECEMBER 8, 1993 AS INSTRUMENT NO. 93-0854901. OFFICIAL RECORDS.</p> <p>EXCEPTING THEREFROM ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM, AND OTHER MATERIAL RESOURCES AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE GRANT DEED RECORDED APRIL 9, 1993 AS INSTRUMENT NO. 93-0237996 OF OFFICIAL RECORDS.</p> <p>ALSO EXCEPTING THEREFROM ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER, RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY</p>

ADDRESS	APN	LEGAL DESCRIPTION
		RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN THE GRANT DEED RECORDED APRIL 9, 1993 AS INSTRUMENT NO. 93-0237996, OFFICIAL RECORDS.
4540 Campus Drive Newport Beach, CA	427-111-03	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>PARCEL 1:</p> <p>LOT 18 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 190, PAGES 11 THROUGH 13, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.</p> <p>EXCEPT ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM, AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED JUNE 30, 1992 AS INSTRUMENT NO. 92-440215 OF OFFICIAL RECORDS.</p> <p>ALSO EXCEPTING THEREFROM ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE, AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED</p>

ADDRESS	APN	LEGAL DESCRIPTION
		<p>JUNE 30, 1992 AS INSTRUMENT NO. 92-440215 OF OFFICIAL RECORDS.</p> <p>PARCEL 2:</p> <p>AN EASEMENT FOR DRIVEWAY PURPOSES OVER THE WESTERLY 12 FEET OF THE NORTHERLY 60 FEET OF LOT 17 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 190, PAGES 11 THROUGH 13, INCLUSIVE OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, AS SET FORTH IN THAT CERTAIN DECLARATION OF ACCESS EASEMENT, RECORDED JUNE 30, 1992 AS INSTRUMENT NO. 92-440213 OF OFFICIAL RECORDS, UPON THE TERMS AND CONDITIONS AS THEREIN PROVIDED</p>
4340 Campus Drive Newport Beach, CA	427-121-07	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>LOT 29 OF TRACT NO. 3201, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 130, PAGES 25 TO 30 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.</p> <p>EXCEPTING THEREFROM ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM, ANY OTHER MATERIAL RESOURCES AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED BY THE IRVINE COMPANY IN DEED RECORDED FEBRUARY 4, 1994 AS INSTRUMENT NO. 94-0085581 OF OFFICIAL RECORDS.</p> <p>ALSO EXCEPTING THEREFROM ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE</p>

ADDRESS	APN	LEGAL DESCRIPTION
		<p>SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER, RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS AS RESERVED IN THE DEED RECORDED FEBRUARY 4, 1994 AS INSTRUMENT NO. 94-0085581 OF OFFICIAL RECORDS</p>
<p>4400 Campus Drive Newport Beach, CA</p>	<p>427-121-09</p>	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>LOT 31 OF TRACT NO. 3201, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 130, PAGE(S) 25 THROUGH 30, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.</p> <p>EXCEPTING THEREFROM ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM, ANY OTHER MATERIAL RESOURCES AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED BY THE IRVINE COMPANY IN DEED RECORDED DECEMBER 20, 1991 AS INSTRUMENT NO. 91-702340, OF OFFICIAL RECORDS.</p> <p>ALSO EXCEPTING THEREFROM ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER, RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED,</p>

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		<p>STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS AS RESERVED IN THE DEED RECORDED DECEMBER 20, 1991 AS INSTRUMENT NO. 91-702340, OF OFFICIAL RECORDS</p>
<p>4570 Campus Drive Newport Beach, CA</p>	<p>427-111-04</p>	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>PARCEL 1:</p> <p>LOT 17 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 190, PAGES 11 THROUGH 13, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAND COUNTY.</p> <p>EXCEPTING THEREFROM ALL MINERALS, OIL, GAS, PETROLEUM, OTHER HYDROCARBON SUBSTANCES AND ALL UNDERGROUND WATER IN OR UNDER OR WHICH MAY BE PRODUCED FROM SAID LAND WHICH UNDERLIES A PLANE PARALLEL TO AND 500 FEET FROM THE PRESENT SURFACE OF SAID LAND FOR THE PURPOSE OF PROSPECTING FOR, THE EXPLORATION, DEVELOPMENT, PRODUCTION, EXTRACTION AND TAKING OF SAID MINERALS, OIL, GAS, PETROLEUM, OTHER HYDROCARBON SUBSTANCES AND WATER FROM SAID LAND BY MEANS OF MINES, WELLS, DERRICKS, OTHER EQUIPMENT FROM SURFACE LOCATIONS ON ADJOINING OR NEIGHBORING LAND OR LYING OUTSIDE OF THE ABOVE DESCRIBED LAND, IT BEING UNDERSTOOD THAT THE OWNER OF SUCH MINERALS, OIL GAS, PETROLEUM, OTHER HYDROCARBON SUBSTANCES AND WATER AS SET FORTH ABOVE, SHALL HAVE NO RIGHT TO ENTER UPON THE SAID LAND OR ANY PORTION THEREOF ABOVE SAID PLANE PARALLEL TO AND 500 FEET BELOW THE PRESENT SURFACE OF THE SAID LAND FOR ANY PURPOSE WHATSOEVER.</p> <p>AS RESERVED BY THE IRVINE COMPANY, A MICHIGAN CORPORATION IN THE DEED RECORDED FEBRUARY 19, 1993 AS INSTRUMENT NO. 93-107963 OF OFFICIAL RECORDS.</p> <p>PARCEL 2:</p> <p>NON-EXCLUSIVE EASEMENTS AS SET FORTH IN THAT CERTAIN INSTRUMENT ENTITLED "DECLARATION OF ACCESS EASEMENTS (MACARTHUR/CAMPUS)" DATED JANUARY 30, 1992 AND RECORDED FEBRUARY 20, 1992 AS INSTRUMENT NO. 92-101692 AS AMENDED AND RESTATED IN AN INSTRUMENT RECORDED APRIL 16, 1992 AS INSTRUMENT NO. 92-247260, BOTH OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.</p> <p>PARCEL 3:</p> <p>NON-EXCLUSIVE EASEMENTS AS SET FORTH IN THAT CERTAIN</p>

ADDRESS	APN	LEGAL DESCRIPTION
		INSTRUMENT ENTITLED "DECLARATION OF ACCESS EASEMENT, DATED JUNE 17, 1992, AND RECORDED JUNE 30, 1992 AS INSTRUMENT NO. 92- 440213 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.
4341 Birch Street Newport Beach CA	427-121-14	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>LOT 6 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 190, PAGES 11, 12 AND 13 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY.</p> <p>EXCEPT ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM, AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED DECEMBER 31, 1991 AS INSTRUMENT NO. 91-720058 OF OFFICIAL RECORDS.</p> <p>ALSO EXCEPT ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER, RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED DECEMBER 31, 1991 AS INSTRUMENT NO. 91-720058 OF OFFICIAL RECORDS. APN: 427-121-14</p>

ADDRESS	APN	LEGAL DESCRIPTION
4500 and 4520 Campus Drive Newport Beach, CA	427-111-01, 427-111-02 and 427-121-10	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>PARCEL 1 IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 60, PAGE 22 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.</p>
4600 Campus Drive Newport Beach, CA	427-111-05	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>PARCEL 1:</p> <p>LOT 16 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 190, PAGES 11 TO 13 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.</p> <p>EXCEPTING THEREFROM, ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM AND OTHER MATERIAL RESOURCES AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE ON THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED BY THE IRVINE COMPANY, RECORDED FEBRUARY 19, 1993 AS INSTRUMENT NO. 93-107971, OF OFFICIAL RECORDS.</p> <p>ALSO EXCEPTING THEREFROM ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER, RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED,</p>

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		<p>STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN THE DEED BY THE IRVINE COMPANY, RECORDED FEBRUARY 19, 1993 AS INSTRUMENT NO. 93-107971, OFFICIAL RECORDS.</p> <p>PARCEL 2:</p> <p>NONEXCLUSIVE EASEMENTS AS SET FORTH IN THAT CERTAIN INSTRUMENT ENTITLED "AMENDED AND RESTATED OR ACCESS EASEMENTS (MACARTHUR/CAMPUS)", DATED MARCH 25, 1992, RECORDED APRIL 16, 1992 AS INSTRUMENT NO. 92-247260, IN THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.</p>
<p>4360 Campus Drive Newport Beach, CA</p>	<p>427-121-08</p>	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>LOT 30 OF TRACT NO. 3201, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 130, PAGES 25, 26, 27, 28, 29 AND 30 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY CALIFORNIA.</p> <p>EXCEPT ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM, AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED MARCH 15, 1994 AS INSTRUMENT NO. 94-0179376, OFFICIAL RECORDS.</p> <p>ALSO EXCEPT ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER, RIGHTS OR INTERESTS ON ANY OTHER PROPERTY</p>

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		<p>OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED MARCH 15, 1994 AS INSTRUMENT NO. 94-0179376, OFFICIAL RECORDS.</p>
<p>4501 Birch Street Newport Beach, CA</p>	<p>427-111-10</p>	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>PARCEL 1:</p> <p>LOT 12 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 190, PAGES 11 TO 13 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.</p> <p>EXCEPT ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM, AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED JANUARY 10, 1992 AS INSTRUMENT NO. 92-015047, OFFICIAL RECORDS.</p> <p>ALSO EXCEPT ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER, RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE,</p>

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		<p>LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL; BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION, RECORDED JANUARY 10, 1992 AS INSTRUMENT NO: 92-015047, OFFICIAL RECORDS.</p> <p>PARCEL 2:</p> <p>A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER THAT PORTION OF LOT 13 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA. AS PER MAP RECORDED IN BOOK 190, PAGES 11 TO 13 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:</p> <p>BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT; THENCE NORTH 29° 52' 01" WEST 327.33 FEET TO THE MOST WESTERLY CORNER OF SAID LOT; THENCE NORTH 52° 01' 58" EAST 24.24 FEET ALONG THE NORTHWESTERLY LINE OF SAID LOT TO THE NORTHWESTERLY PROLONGATION OF A LINE PARALLEL WITH AND NORTHEASTERLY 24.00 FEET FROM THE SOUTHWESTERLY LINE OF SAID LOT; THENCE SOUTH 29° 52' 10" EAST 331.81 FEET ALONG SAID PROLONGATION, SAID PARALLEL LINE AND THE SOUTHERLY PROLONGATION THEREOF TO A POINT ON A CURVE IN THE SOUTHERLY LINE OF SAID LOT, SAID CURVE BEING CONCAVE SOUTHERLY, HAVING A RADIUS OF 272.00 FEET, A RADIAL TO SAID POINT BEARS NORTH 24° 48' 17" WEST; THENCE WESTERLY 24.03 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 5° 03' 44" OF THE POINT OF BEGINNING.</p>
4630 Campus Drive Newport Beach, CA	427-111-06	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>PARCEL 1:</p> <p>LOT 15 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 190, PAGES 11 TO 13 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.</p> <p>EXCEPTING THEREFROM, ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN GEOTHERMAL STEAM, ANY OTHER MATERIAL RESOURCES AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND INCLUDING THE</p>

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		<p>RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT HOWEVER, THE RIGHT TO DRILL MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OF THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED BY THE IRVINE COMPANY RECORDED FEBRUARY 19, 1993 AS INSTRUMENT NO. 93-107967, OFFICIAL RECORDS.</p> <p>PARCEL 2:</p> <p>NONEXCLUSIVE EASEMENTS AS SET FORTH IN THAT CERTAIN INSTRUMENT ENTITLED "AM ENDED AND RESTATED DECLARATION OF ACCESS EASEMENTS (MACARTHUR/CAMPUS) DATED MARCH 25, 1992 RECORDED APRIL 16, 1992 AS INSTRUMENT NO. 92-247260, IN THE OFFICE RECORDS OF ORANGE COUNTY, CALIFORNIA.</p> <p>PARCEL 3:</p> <p>NONEXCLUSIVE EASEMENTS AS SET FORTH IN THAT CERTAIN INSTRUMENT ENTITLED " RECIPROCAL EASEMENT AGREEMENT AND CONSENT" DATED OCTOBER 14, 1999 RECORDED NOVEMBER 19, 1999 AS INSTRUMENT NO. 19990805278, AND AMENDED BY THE CERTAIN DOCUMENT ENTITLED "WAIVER AND AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT" DATED AUGUST 24, 2015 RECORDED AUGUST 28, 2015 AS INSTRUMENT NO. 2015000446662 IN THE OFFICE RECORDS OF ORANGE COUNTY, CALIFORNIA.</p>
4525, 4533 and 4647 MacArthur Boulevard Newport Beach, CA	427-111-09	<p>THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>PARCEL 1:</p> <p>LOT 13 OF TRACT NO. 5169, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 190, PAGE(S) 11 TO 13 INCLUSIVE, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.</p> <p>EXCEPTING ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM, AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFORE AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE</p>

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		<p>RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED IN THE DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION RECORDED APRIL 16, 1992.</p> <p>ALSO EXCEPTING THEREFROM ANY AND ALL WATER, RIGHTS OR INTERESTS THEREIN, NO MATTER HOW ACQUIRED BY GRANTOR, AND OWNED OR USED BY GRANTOR IN CONNECTION WITH OR WITH RESPECT TO THE LAND, TOGETHER WITH THE RIGHT AND POWER TO EXPLORE, DRILL, REDRILL, REMOVE AND STORE THE SAME FROM THE LAND OR TO DIVERT OR OTHERWISE UTILIZE SUCH WATER RIGHTS OR INTERESTS ON ANY OTHER PROPERTY OWNED OR LEASED BY GRANTOR, WHETHER SUCH WATER RIGHTS SHALL BE RIPARIAN, OVERLYING, APPROPRIATIVE, LITTORAL, PERCOLATING, PRESCRIPTIVE, ADJUDICATED, STATUTORY OR CONTRACTUAL, BUT WITHOUT, HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF THE LAND IN THE EXERCISE OF SUCH RIGHTS, AS RESERVED IN DEED FROM THE IRVINE COMPANY, A MICHIGAN CORPORATION RECORDED APRIL 16, 1992.</p> <p>PARCEL 2:</p> <p>NON-EXCLUSIVE EASEMENTS AS SET FORTH IN THAT CERTAIN INSTRUMENT ENTITLED "DECLARATION OF ACCESS EASEMENTS (MACARTHUR/CAMPUS)" DATED JANUARY 30, 1992 AND RECORDED FEBRUARY 20, 1992 AS INSTRUMENT NO. 92-101692, OFFICIAL RECORDS AND AMENDED BY DOCUMENT RECORDED APRIL 16, 1992 AS INSTRUMENT NO. 92-247260, OFFICIAL RECORDS, IN THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.</p> <p>PARCEL 3:</p> <p>NON-EXCLUSIVE EASEMENTS AS SET FORTH IN THAT CERTAIN INSTRUMENT ENTITLED "DECLARATION OF ACCESS EASEMENTS (BIRCH/MACARTHUR)" DATED JANUARY 30, 1992 AND RECORDED FEBRUARY 20, 1992 AS INSTRUMENT NO. 92-101691 OFFICIAL RECORDS AND AMENDED BY DOCUMENT RECORDED APRIL 16, 1992 AS INSTRUMENT NO. 92-247259 OFFICIAL RECORDS IN THE OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.</p>
4320 Campus Drive Newport Beach, CA	427-121-06	THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH IN THE COUNTY OF ORANGE, STATE

ADDRESS	APN	LEGAL DESCRIPTION
		<p>OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:</p> <p>LOT 28 OF TRACT NO. 3201, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 130, PAGES 25 THROUGH 30, INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.</p> <p>EXCEPTING THEREFROM ANY AND ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM, ANY OTHER MATERIAL RESOURCES AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM THE LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE CONVEYED HEREBY, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES; WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND, AS RESERVED BY THE IRVINE COMPANY, A MICHIGAN CORPORATION, BY DEED RECORDED MAY 6, 1994 AS INSTRUMENT NO. 94-317183 OF OFFICIAL RECORDS.</p>

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2020-73, was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 28th day of July, 2020; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Will O'Neill, Mayor Pro Tem Brad Avery, Council Member Joy Brenner, Council Member Diane Dixon, Council Member Duffy Duffield, Council Member Jeff Herdman, Council Member Kevin Muldoon

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29th day of July, 2020.



Leilani I. Brown
City Clerk
Newport Beach, California





AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

August 27, 2020

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

Subject: Newport Airport Village Project – Response to Notice of Intent to Overrule the Airport Land Use Commission for Orange County

Dear Mr. Blumenthal:

We are in receipt of the City of Newport Beach letter dated July 30, 2020, and City Council Resolution No. 2020-73 notifying the Airport Land Use Commission (ALUC) for Orange County of the City's intent to overrule the ALUC's inconsistency determination on the proposed Newport Airport Village project¹. In accordance with Section 21676 of the Public Utilities Code, the ALUC submits the following comments addressing the proposed overrule findings for the above-referenced project.

Please be advised that California Public Utilities Code Section 21678 states: "With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation."

Background

On July 16, 2020, the ALUC for Orange County found the proposed Newport Airport Village project and the associated general plan amendment and zoning code amendment to be inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)* on a 6-0 vote. The inconsistent finding was based on AELUP Sections 2.1.1, 2.1.2, 2.1.3, and 2.1.4. ALUC for Orange County has the following comments regarding the findings and facts of support included in Resolution No. 2020-73.

Response to "Fact in Support" 1.1 and 2.2 Regarding Noise Standards:

¹ It appears the City is only addressing the inconsistency finding related to the "project" but not the associated inconsistency determinations made by ALUC regarding the General Plan and zoning code amendments.

As noted in the City's discussion, the Community Noise Equivalent Level (CNEL) standards are set forth in the *AELUP for JWA*. As part of the review of the proposed project and its associated general plan and zoning code amendments, it was noted that the project site is within the JWA 65 dBA and 60 dBA CNEL noise contours. The developer is proposing to locate the residential portion of the mixed-use project within the 60 CNEL contour which is outside of, but adjacent to, the 65 CNEL contour. The Commission believes that the proposed residential units would be highly affected by airport noise due to the close proximity to the airport (1,500 feet from the main runway), and that the past and current land use designation of Airport Office is the appropriate designation for this site. The proposed General Plan land use designation change to Mixed-Use Horizontal, which includes residential, is not suitable and would subject the future residents to excessive noise. The ALUC has historically found residential uses in the vicinity of JWA to be inconsistent with the *AELUP for JWA*, and this proposal would allow up to 444 housing units (including low-income units), directly across the street from JWA.

While ALUC found that the proposed General Plan amendment, zoning code amendment and mixed-use project is inconsistent with Section 2.1.1. of the *AELUP for JWA*, we support the city's inclusion of policies in the Planned Community Development Plan (PCDP) to provide sound attenuation in the residential units to not exceed 45 dBA during daytime hours and 40 dBA between 10:00 p.m. and 7:00 a.m.

Response to "Fact in Support 1.2 and 2.3 Regarding Safety:

The proposed property is located in Safety Zone 3 – Inner Turning Zone, and Safety Zone 6 – Traffic Pattern Zone. As stated in the ALUC staff report, the California Airport Land Use Planning Handbook policies for Safety Zone 3 are to avoid residential development and to limit commercial and other nonresidential uses to 100-150 people per acre on average, and no more than 300 to 450 people per single acre in urban areas. While the conceptual plans for proposed project did not include residential use in Zone 3, detailed development plans were not submitted, therefore we were not able to determine the number of people per acre.

The Handbook states that noise and overflight should be considered in Safety Zone 6, and that residential densities be limited to that of the surrounding areas. Flight tracks for the property were included in the ALUC staff report and are attached to this letter. There are no residential uses surrounding the project site, as the area is almost exclusively office/commercial and hotel/retail. Considering the proximity to JWA and the number of flights over the property, ALUC believes that the proposed General Plan amendment, zoning amendment and mixed-use project is inappropriate for this site.

Response to Fact in Support 1.3 and 2.4 Regarding Height:

At the time of the ALUC meeting, the only valid FAA "Determination of No Hazard" for the project site was for a structure height of 80 feet, while the proposed general plan designation would allow for a maximum height 85 feet. This was discussed at the ALUC meeting, and the applicant indicated that he was in the process of resubmitting various Form 7460-1's to the FAA. ALUC staff has learned that on July 28th and 29th of 2020, the FAA provided

“Determination of No Hazard” letters for structures on the site up to 85 feet in height (129’ AMSL). Section 2.1.3. of the *AELUP for JWA*, however, states that a FAA Determination of No Hazard to Air Navigation does not automatically equate to a consistency determination by ALUC, and that the Commission may utilize criteria for protecting aircraft traffic patterns in consideration of health, welfare, or air safety. As part of the staff report, JWA Noise Office provided flight tracks for the property on two separate days in January (attached). As shown on the exhibits, on Sunday, January 19, 2020, there were 19 operations directly over the property with an average altitude of 398 feet AMSL. With a proposed maximum building height of 129 AMSL, these flights would be, on average, only 269 feet above the building with many of the flights closer. On Thursday, January 23, 2020, there were 40 flights directly over the property with an average altitude of 412 feet AMSL. It is the determination of ALUC that the proposed height of this project and its location in the general aviation flight path for John Wayne Airport, is inconsistent with the *AELUP for JWA*.

While ALUC found that the proposed General Plan amendment, zoning code amendment and Newport Airport Village mixed-use project is inconsistent with Section 2.1.1. of the *AELUP for JWA*, we would support the city’s inclusion of policies in the Planned Community Development Plan (PCDP) to provide sound attenuation in the residential units to not exceed 45 dBA during daytime hours and 40 dBA between 10:00 p.m. and 7:00 a.m.

Summary

By virtue of being clearly stated in *AELUP for JWA* Sections 1.2 “Purpose and Scope” and 2.0 “Planning Guidelines,” every Commissioner understands the complex legal charge to protect public airports from encroachment by incompatible land use development, while simultaneously protecting the health, safety and welfare of citizens who work and live in the airport’s environs. To this end, and as also statutorily required, our ALUC proceedings are benefited by several members “having expertise in aviation.” Based upon careful consideration of all information provided, and input from ALUC members with expertise in aviation, the ALUC unanimously found the proposed Newport Beach General Plan amendment, zoning code amendment, and Newport Airport Village Mixed-Use project to be Inconsistent with the *AELUP for JWA*.

Also, please be advised that California Business & Professions Code Section 11010 requires the following statement to be included on sale/lease disclosure documents for developments within an ALUC’s “Airport Influence Area:”

“NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (For example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated

with the property before you complete your purchase and determine whether they are acceptable to you."

We hope the fact that the City posted the Notice of Public Hearing for a Notice of Intent to Overrule ALUC *prior* to ALUC holding the meeting and making a finding of inconsistency does not mean that the City of Newport Beach will disregard these comments. We urge the City Council to take ALUC's concerns into consideration in its deliberations prior to deciding whether to overrule ALUC and approve the project entitlements. Thank you for the opportunity to provide these comments.

Sincerely,



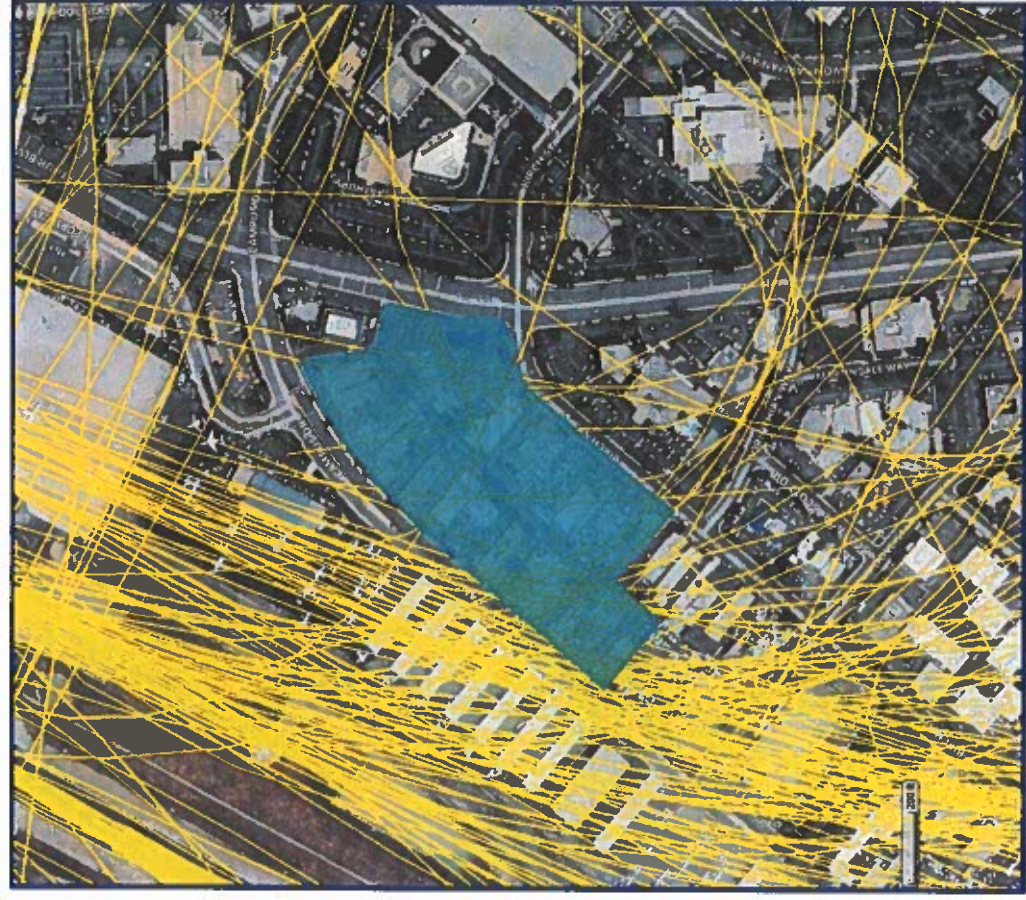
Gerald A. Bresnahan
Chairman

Attachment: John Wayne Airport Flight Tracks for Newport Airport Village

cc: Members of Airport Land Use Commission for Orange County
Members of Newport Beach City Council
Kevin Ryan, Caltrans/Division of Aeronautics



John Wayne Airport Flight Tracks
Newport Airport Village
Sunday, January 19, 2020
19 Operations | Avg. Altitude = 398 ft. MSL



Flight Tracks for Newport Airport Village*

Sunday, January 19, 2020 (Standard Operations)

Time	Aircraft Type	Altitude (Feet AMSL)
9:09:17	C172	613
9:40:08	P28A	295
10:55:52	C172	133
11:57:43	BE33	236
12:11:38	R22	313
12:28:54	P28A	414
12:29:45	EVSS	458
12:46:39	C210	190
13:22:07	C172	405
13:24:10	C172	391
14:21:37	C172	317
14:29:59	C172	260
14:33:46	EVSS	381
14:47:00	E300	737
14:49:36	C172	321
15:54:18	C152	391
16:30:51	EVSS	721
17:20:24	BL8	495
18:24:04	P28A	498
Avg. Alt. (ft) MSL		<hr/> 398

* Includes all flights directly over:

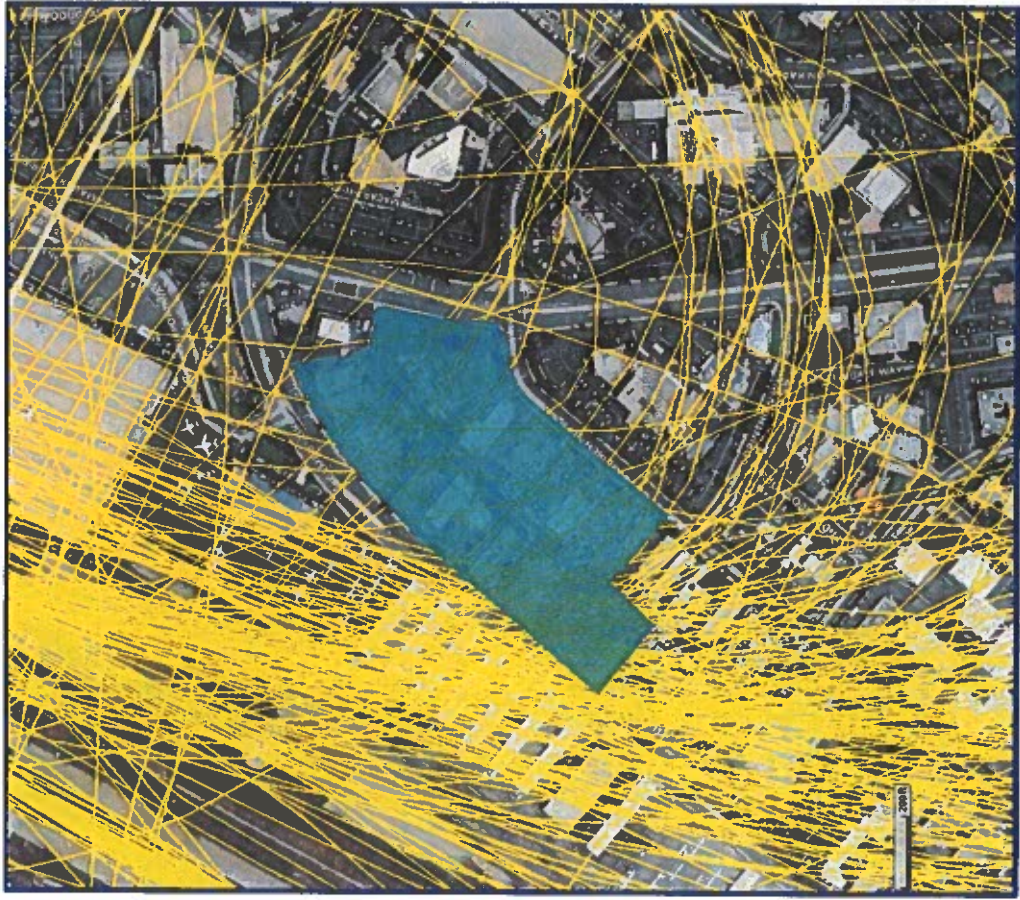
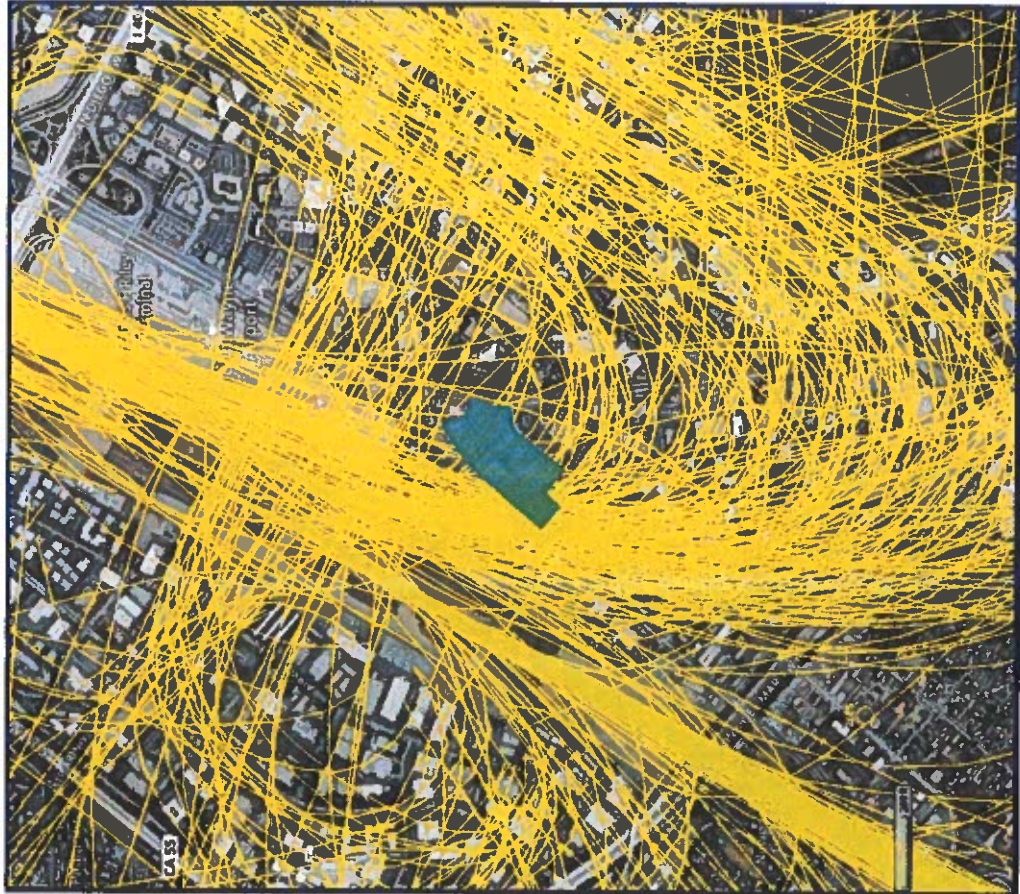
4320, 4340, 4360, 4400, 4500, 4520, 4570, 4600, and 4630 Campus Drive;
 4525, 4533 and 4647 MacArthur Boulevard;
 and 4341, 4361, and 4501 Birch Street.



JOHN WAYNE
AIRPORT
ORANGE COUNTY

John Wayne Airport Access & Noise Office

John Wayne Airport Flight Tracks
Newport Airport Village
Thursday, January 23, 2020
40 Operations | Avg. Altitude = 412 ft. MSL



Flight Tracks for Newport Airport Village*

Thursday, January 23, 2020 (Standard Operations)

Time	Aircraft Type	Altitude (Feet AMSL)	Time	Aircraft Type	Altitude (Feet AMSL)
7:18:22	C182	326	12:56:06	C172	267
9:14:39	M20P	415	13:00:43	C172	352
9:16:52	CRUZ	421	13:02:46	C172	289
9:30:55	R44	442	13:09:05	C172	324
9:48:24	C172	390	13:19:48	C182	437
10:01:44	C172	401	13:42:01	P28A	245
10:06:43	C172	392	14:04:24	C172	230
10:35:05	R44	414	14:06:04	C172	498
10:42:33	R44	401	14:14:54	C172	455
11:01:14	A550	311	14:18:22	AL3	521
11:11:33	C172	405	15:16:14	C172	537
11:19:47	C120	189	15:33:24	E300	738
11:20:53	R44	536	15:33:49	RV6	478
11:45:22	E300	887	15:55:08	CH7B	402
11:49:01	EVSS	285	16:37:10	EVSS	61
11:58:29	C172	413	16:40:32	C150	401
12:19:00	C182	359	16:59:21	BL8	299
12:23:53	P28A	277	17:00:37	R22	439
12:35:16	HXA	420	17:13:13	R22	267
12:36:13	C172	367	17:27:37	SR22	1182
			Avg. Alt. (ft) MSL		412

* Includes all flights directly over:

4320, 4340, 4360, 4400, 4500, 4520, 4570, 4600, and 4630 Campus Drive;
 4525, 4533 and 4647 MacArthur Boulevard;
 and 4341, 4361, and 4501 Birch Street.

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS – M.S. #40
1120 N STREET
P. O. BOX 942874
SACRAMENTO, CA 94274-0001
PHONE (916) 654-4959
FAX (916) 653-9531
TTY 711
www.dot.ca.gov



Making Conservation
a California Way of Life.

August 28, 2020

Mr. David Blumenthal, AICP, Planning Consultant
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, CA 92660-3267

Electronically Sent
Dblumenthal@newportbeachca.gov

Dear Mr. Blumenthal:

The California Department of Transportation, Division of Aeronautics' (Division) goal is to assist cities, counties, and Airport Land Use Commissions (ALUC) in the development and implementation of policies that protect the safety and general welfare of the communities in which aeronautical activities take place. We encourage collaboration with our partners in the planning process and thank you for including us in the review of the Notice of Intent to Overrule the Orange County Airport Land Use Commission.

On July 30, 2020, the Division received an email stating that the City Council of the City of Newport Beach (City) voted to adopt Resolution No. 2020-73, a Notice of Intent to Overrule the July 16, 2020, Determination of Inconsistency by the Orange County ALUC. The ALUC Determination states that the Newport Airport Village Project (Project) is inconsistent with the Airport Environs Land Use Plan (AELUP) for John Wayne Airport (SNA) based on potential noise and safety issues and proposed height standards for structures.

The proposed project is located at 4341, 4361, and 4501 Birch Street; 4320, 4340, 4360, 4400, 4500, 4520, 4540, 4570, 4600 and 4630 Campus Drive; and 4525, 4533, and 4647 MacArthur Boulevard. These proposed locations are within the northerly portion of the Campus Tract, generally bounded by Birch Street, Campus Drive, MacArthur Boulevard and the extension of Corinthian Way. The proposed Project provides a Planned Community Development Plan that would allow redevelopment of the 16.46-acre property with up to 329 residential dwelling units, exclusive of any density bonus as allowed pursuant to California Government Code section 65915 and up to 297,572 square feet of office, retail, and commercial use.

The Division has reviewed the "Facts in Support" provided by the City and has determined the findings are insufficient to warrant this proposed overrule. Specifically, the findings are not consistent with the purposes of the statutes set forth in the

Mr. David Blumenthal
August 28, 2020
Page 2

California Public Utilities Code (PUC), section 21670. These findings do not provide substantial evidence that the proposed Project will meet the requirements of PUC, section 21670(a) (1) and (2).

The Division commends the City for locating all residential uses for the proposed Project outside of Safety Compatibility Zone 3, and the 65 Community Noise Equivalent Level noise contour of the AELUP for the SNA. It must be noted that the only valid determination of no hazard to air navigation by the Federal Aviation Administration's (FAA) Aeronautical study No. 2020-AWP-3998-OE was for structures up to 124 feet Above Mean Sea Level (AMSL), while the proposed Project indicates that a maximum height would be 129 feet AMSL. This is incompatible with the AELUP for the SNA, the FAA Aeronautical study No 2020-AWP-3998-OE, and the California Airport Land Use Planning Handbook (Handbook). Although certain non-residential uses are allowed in Safety Zone 3, according to the Handbook, there are also limitations to the types of uses allowed. Additionally, there can only be a maximum average number of people allowed per gross acre and a maximum number of people allowed per single acre.

According to State guidance found in the Handbook, the proposed Project is located within Safety Zones 3 and 6.

Safety Zone 3 is the Inner Turning Zone and considered by the Handbook as having a moderate to high risk level for an aircraft accident. The Handbook states the following for Safety Zone 3:

To prohibit the following uses: Major shopping centers, theaters, meeting halls and other assembly facilities, children's schools, large daycare centers, hospitals, nursing homes, stadiums, and group recreational uses.

To avoid buildings with more than 3 aboveground habitable floors, and hazardous uses.

The maximum non-residential intensities for all allowed uses should be limited to 150 people average per gross acre and a maximum of 450 people for any single gross acre.

Safety Zone 6 is the Traffic Pattern Zone and considered by the Handbook as having a low risk level for an aircraft accident. Although residential uses are allowed in this zone, noise and overflight impacts should be considered where ambient noise levels are low. Additionally, the Handbook states to avoid outdoor stadiums and similar uses with very high intensities and to limit the following uses:

*"Provide a safe, sustainable, integrated, and efficient transportation system
to enhance California's economy and livability"*

Mr. David Blumenthal
August 28, 2020
Page 3

children's schools, large day care centers, hospitals, and nursing homes, as well as processing and storage of bulk quantities of highly hazardous materials.

Please note the PUC reference below, which mandates that local agencies shall be guided by the height, use, noise, safety, and density criteria as established in the Handbook:

California Public Utilities Code, section 21674.7 (b),

It is the intent of the Legislature to discourage incompatible land uses near existing airports. Therefore, prior to granting permits for the renovation or remodeling of an existing building, structure, or facility, and before the construction of a new building, it is the intent of the Legislature that local agencies shall be guided by the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the Division...

Additionally, the Division understands and shares the ALUC's concern for potential safety and noise issues at this location due to continuous overflights associated with the commercial service airport's general aviation runway operations, particularly related to noise generated from a mix of multiengine, turbine-powered, business jet aircraft.

Sincerely,

Original signed by:

KEVIN RYAN, Aviation Planner
Office of Aviation Planning

c: Lea Choum, Executive Officer, Orange County ALUC; LChoum@ocair.com

Seimone Jurjis, Community Development Director, Newport Beach;
sjurjis@newportbeachca.gov



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

September 1, 2020

Melinda Whelan, Assistant Planner
Community Development Department
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: Referral Confirmation for City of Newport Beach Shell Service Station Car Wash
Addition 1600 Jamboree Road

Dear Ms. Whelan:

This is to confirm that the Airport Land Use Commission (ALUC) staff received your submittal package requesting a consistency determination for the proposed Shell Service Station Car Wash Addition located at 1600 Jamboree Road, Newport Beach, California.

Your referral, being complete and sufficient for a review and consistency determination by the Commission, is hereby accepted as of September 1, 2020, and will be agendaized for the next Commission meeting of September 17, 2020, unless otherwise noticed. Your attendance at the meeting will be appreciated in case there are questions regarding this item. The meeting location is included below for your information:

4:00 p.m.
JWA/Eddie Martin Building/Airport Commission Meeting Room
3160 Airway Avenue
Costa Mesa, CA 92626

Please contact Julie Fitch at (949) 252-5284 or via email at JFitch@ocair.com if you need additional details or information regarding the Commission's review of this project.

Sincerely,

Lea U. Choum
Executive Officer



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

September 1, 2020

David Lee, Associate Planner
Community Development Department
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: Referral Confirmation for City of Newport Beach Shvetz Residential Subdivision 2400 Santiago Drive

Dear Mr. Lee:

This is to confirm that the Airport Land Use Commission (ALUC) staff received your submittal package requesting a consistency determination for the proposed Shvetz Residential Subdivision located at 2400 Santiago Drive, Newport Beach, California.

Your referral, being complete and sufficient for a review and consistency determination by the Commission, is hereby accepted as of September 1, 2020, and will be agendized for the next Commission meeting of September 17, 2020, unless otherwise noticed. Your attendance at the meeting will be appreciated in case there are questions regarding this item. The meeting location is included below for your information:

4:00 p.m.
JWA/Eddie Martin Building/Airport Commission Meeting Room
3160 Airway Avenue
Costa Mesa, CA 92626

Please contact Julie Fitch at (949) 252-5284 or via email at JFitch@ocair.com if you need additional details or information regarding the Commission's review of this project.

Sincerely,

Lea U. Choum
Executive Officer



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

September 9, 2020

Verny Carvajal, AICP, Principal Planner
Planning and Building Agency
City of Santa Ana
20 Civic Center Plaza
P.O. Box 1988
Santa Ana, CA 92702

Subject: Referral Submittal for General Plan Update: Golden City Beyond (2045)

Dear Mr. Carvajal:

This is to confirm that the Airport Land Use Commission (ALUC) staff has received the City of Santa Ana submittal letter for the General Plan Update: Golden City Beyond (2045), on August 31, 2020. Upon examining your submittal letter and subsequent draft addendum items, we found that the submittal is not complete. Prior to accepting the submittal as complete, ALUC staff will need the following information:

1. Building heights of structures surrounding the proposed project areas (i.e. focus areas).
2. How the City will incorporate the standards in the *AELUP for JWA* and *AELUP for Heliports*. Specifically, whether the proposed General Plan Update includes policies related to height restrictions and policies related to the development of heliports/helipads as included in the existing Airport Environs Element.
3. A Final submittal addendum including exhibits.

Upon receipt of the information described above by 5:00 p.m. on October 1, 2020, and your referral being complete and sufficient, I would expect your project to be agendaized for the meeting of October 15, 2020, for a consistency determination by the Commission.

A copy of the staff report regarding your item will be provided to you prior to the Commission meeting. It would be helpful if you or a member of your staff could be at the Commission's meeting. Should any questions arise please contact Julie Fitch at (949) 252-5284 or at jfitch@ocair.com.

Sincerely,

Lea U. Choum
Executive Officer