

AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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MINUTES OF REGULAR MEETING

JANUARY 17, 2019

- PLACE:** John Wayne Airport Administration Building
Airport Commission Hearing Room
3160 Airway Avenue
Costa Mesa, California 92626
- TIME:** Regular Meeting called to order at 4:00 p.m. by Chairman
Bresnahan
- COMMISSIONERS PRESENT:** Gerald Bresnahan, Stephen Beverburg, Schelly Sustarsic,
Alan Murphy, Jeff Herdman, Mark Monin, Jeff Mathews
Alternate Commissioners Present: Vern King, Patti Campbell
- COMMISSIONERS ABSENT:**
- STAFF PRESENT:** Kari Rigoni, Executive Officer
Lea Choum, Staff Planner
Jack Golden for Jeff Stock, County Counsel
- PLEDGE:** Chairman Gerald Bresnahan led all present in the Pledge of
Allegiance.

APPROVAL OF MINUTES:

A correction to page 3 of the November 15, 2018 meeting minutes related to the VOR approach discussion was requested by Commissioner Beverburg to reflect the direction for the VOR approach from Seal Beach to Fullerton. A motion to approve the minutes with this correction for the November 15, 2018 ALUC meeting minutes was made by Commissioner Beverburg and seconded by Commissioner Sustarsic. Commissioners voted unanimously for the approval of the minutes from November 15, 2018.

Introductions:

Welcome to Jack Golden, County Counsel who filled in for County Counsel Jeff Stock.

NEW BUSINESS:

1. City of Newport Beach

Staff Planner Choum reported that the City of Newport Beach is proposing development of a three-story, 85,000-square-foot senior convalescent and congregate care facility. The project site is approximately 1.5 acres and is located at the corner of Bristol Street and Bayview Place. The proposed development would contain 101 assisted living and memory care units (120 beds), ancillary uses, and subsurface parking. Separate interior corridors would offer seating, outdoor dining and landscaping. The units would consist of 42 assisted living studios, 27 assisted living one-bedroom units, 12 assisted living two-bedroom units, 13 memory care one-bedroom units, and 7 memory care two-bedroom units.

There is an existing single story restaurant on the site that will be demolished to accommodate this project. The proposed building height is 39 feet 6 inches. The max building height for this site is 45 feet. The proposed project is about .7 miles southeast of John Wayne Airport.

The project was referred to the ALUC because it requires a general plan amendment and zone change from general/commercial office to private institution and the Bayview Planned Community Development Standards would be updated to include this proposed facility.

Ms. Choum further explained the AELUP issues associated with the proposed project. The project is located in the 60 CNEL noise contour for John Wayne Airport. The AELUP recommends that residential units in this contour either be limited or excluded. Residential uses would be allowed only if noise attenuation requirements are met. The EIR for the proposed project did include a mitigation measure requiring interior noise levels to be 45 decibels or less.

The AELUP also recommends signage be provided for outdoor, common or recreational areas within the 60 CNEL noise contour. The EIR did not address the signage issue but did include mitigation stating prior to the issuance of the certificate of occupancy, the

applicant shall produce a notice for perspective residents stating that the property is subject to airport overflight from John Wayne Airport.

Related to height restrictions, the proposed project did penetrate the notification surface for JWA. The project proponent filed form 7460-1 with the FAA and received a determination of no hazard. The project is located within the horizontal surface of John Wayne Airport, which limits heights to 206 feet AMSL. The proposed project remained below the horizontal surface at 91 feet AMSL.

With respect to safety zones, this project is located within safety zone 6. Per the California Planning Airport Handbook, residential uses are normally allowed in this zone and uses such as children's schools, large daycare centers, hospitals and nursing homes are limited. The handbook defines limited, as an acceptable use only if density intensity restrictions are met. There are no limitations for these types of uses in safety zone 6, however noise and overflight should be considered when developing in this zone.

The EIR discussed that the project does not fit the definition of a nursing home. The proposed project is defined as a Residential Care Facility for the Elderly (RCFE) and is licensed by the California Department of Social Services, whereas nursing homes are licensed by the Department of Public Health.

Heliports are not part of the proposed project and are not allowed within the planned community. The General Plan does have language that states any new heliport requests must be submitted to the ALUC for consistency review.

Ms. Choum recommended that the City of Newport Beach amend the proposed Mitigation Measure NOI-4 to emphasize that not only should the mitigation be based on build out traffic noise conditions but should also be in compliance with the *AELUP for John Wayne Airport*. Staff also recommended that the City adopt a condition of approval regarding signage for outdoor recreation areas within the 60 CNEL noise contour informing the public of the presence of operating aircraft.

Ms. Choum recommended that the Commission find the City of Newport Beach Harbor Pointe Senior Living Project to be Consistent with the *AELUP for John Wayne Airport* and the *AELUP for Heliports*, with the modification to noise mitigation measure NOI-4, and addition of a condition of approval requiring outdoor signage informing the public of the presence of operating aircraft.

Ms. Choum introduced Greg Ramirez, Principal Planner for the City of Newport Beach and Anne Fox, Consultant for the project to the Commission. Ms. Choum noted that the City and the developer are in agreement with the recommended action.

Commissioner Beverburg questioned if flight tracks were mapped over this project site. Ms. Choum clarified the inclusion of flight track information is triggered if imaginary surfaces are penetrated. Commissioner Beverburg thought including flight tracks would be beneficial for reviewing this particular project and to include for all projects.

Chairman Bresnahan questioned the definition of a nursing home and if it matters to the commission. Staff commented that when developing the staff report, the project was considered a residential and a nursing home project. Both uses were taken into account.

Chairman Bresnahan asked if anyone from the public would like to comment and to please provide their name and affiliation.

Ronda Watkins provided comment and explained she owns property adjacent to the project. She wanted the commission to know this is primarily a memory care facility and feels that people with memory care issues would not do well in this area. She feels the original zoning of the property is appropriate and should not be changed.

Paul Watkins spoke next and wanted the commission to find the project inconsistent with the AELUP. He stated this project is in the wrong place for people with dementia, memory loss and Alzheimer's. His concern is loud noises at a memory care facility will not be well received.

Public comments were also provided by Lyle Brakob who lives on property adjacent to the project. He commented he has been following the project closely and does not feel the project is a good fit for the area. He commented on the noise and traffic issues of the area and recommends looking at the flight patterns over the project site.

Mr. Ramirez was asked about the outdoor decks and gardens by Chairman Bresnahan, He verified that these are part of the proposed project. Mr. Ramirez also verified that the City is in agreement with the signage recommendation and informed the commission that this facility is licensed by the State of California who reviews these facilities with respect to operation and layout.

Commissioner Herdman had a comment for City staff and asked if the item was heard by the city council. Mr. Ramirez verified that only the Planning Commission reviewed this project at their December 6, 2018 public hearing and made a unanimous recommendation for approval to the city council.

Commissioner Herdman commented that if approved, changes will need to be made to the general plan and zoning. City Staff said the amendment to the General Plan would be to change the commercial designation to the institutional designation.

Commissioner Herdman referenced the third paragraph in Agenda Item 1, which says the project was referred to the ALUC because a general plan amendment and zoning change was required. Commissioner Herdman asked for clarification as to why this item needed ALUC review.

Executive Officer Rigoni explained per state law, with the formation of Airport Land Use Commissions, projects located within an airport planning area and requiring a general plan amendment or zone change must submit their projects for consistency review with the

ALUC. The proposed project is located within the airport planning for JWA and requires a general plan and amendment and zone change by the City. Because both of these conditions are met, that is why this project is before the commission.

Commissioner Herdman asked if the project was found inconsistent, what happens next. Staff informed him that the City has an option to override the ALUC. Ms. Rigoni further discussed the override process and explained that a city council can override the inconsistency finding by the commission with a 2/3 vote.

Anne Fox, consultant for the project, clarified the facility will only be 10% memory care. The memory care portion of the project will stay on the ground floor and outdoor amenities will be on the first floor. The roof deck faces the interior of the building on the second floor. The assisted living community's average age is 82.

Commissioner Monin asked Ms. Fox the definition for memory care and what makes it different from assisted living. Ms. Fox explained assisted living facilities have staff but not medical staff. The memory care portion of the facility is secured and have medical staff that care for individuals who have lapses in memory and are not aware of what is happening.

Commissioner Herdman asked about the noise attenuation issues. Ms. Fox informed him that during the city plan check process, acoustical reports will be provided and the facility will be noise attenuated.

Commissioner Bresnahan acknowledged the project site would be overflown, loud and have noise issues. He feels the area is a poor place for the project.

Alternate Campbell asked County Counsel to clarify that if a city overrides the ALUC, the liability shifts from the Commission to the City. Counsel stated there were no court cases he could cite related to the liability issue.

A motion was made to approve staff recommendation by Commissioner Murphy and seconded by Commissioner Monin, with a unanimous approval by the Commission.

2. Administrative Status Report

Kari Rigoni, Executive Officer spoke on the various pieces of correspondence provided to the Commission. She referred to the JWA monthly statistics and the correspondence with the City of Newport Beach regarding Agenda Item 1.

3. Proceedings with Consistent Agencies:

No issues

4. Proceedings with Inconsistent Agencies:

Ms. Rigoni explained that staff continues to work with the City of Seal Beach to evaluate its General Plan in order to bring the City into consistency with the *AELUP for JFTB, Los Alamitos*. Commissioner Monin asked about Laguna Woods and its inconsistency status. Ms. Rigoni explained staff had reached out to the city some time ago and recommended language to include in their general plan to obtain consistency. The City had agreed to make the ALUC suggested changes during a future general plan update. The City of Laguna Woods remains an inconsistent agency.

5. Items of Interest to the Commissioners:

A discussion took place regarding what the commission can do to prevent encroachment of residential areas. Commissioner Bresnahan stated that updates to the AELUPs would provide an opportunity for the Commission to help with these issues and incorporate the proper guidelines.

6. Items of Interest to the Public:

A member of the public Sue Devorak, who resides in the bluffs stated she was just observing the ALUC meeting and spoke about attending a SPON meeting where they spoke about an upcoming update to the City of Newport Beach General Plan. She commented that this was not the appropriate time for the City to approve the proposed Harbor Pointe Senior Center since changes to the City of Newport Beach General Plan would be forthcoming.

ADJOURNMENT:

There being no further business before the Commission, the meeting was adjourned at approximately 5:00 p.m.

Respectfully submitted,



Kari A. Rigoni
Executive Officer