



AIRPORT LAND USE COMMISSION

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

MINUTES OF REGULAR MEETING

November 18, 2021

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, Alan Murphy,
Schelly Sustarsic

Alternate Commissioners Present: Vern King

COMMISSIONERS ABSENT: Mark Monin, Austin Lombard

STAFF PRESENT: Lea U. Choum, Executive Officer
Jeff Stock, County Counsel
Julie Fitch, Staff Planner
Athena Shaygan, Contractor

PLEDGE: Chairman Bresnahan led all present in the Pledge of
Allegiance

INTRODUCTIONS:

None

APPROVAL OF MINUTES:

Chairman Bresnahan called for a motion to approve the minutes from the September 30, 2021, meeting. Commissioner Murphy made the motion and Commissioner Sustarsic seconded the motion. Minutes were approved by all Commissioners.

NEW BUSINESS:

1. County of Orange Request for Consistency Determination for GPA H 20-01 Housing Element Update

Julie Fitch, Staff Planner, presented the staff report for the County of Orange's request for a consistency determination for the County's proposed Housing Element Update.

Ms. Fitch provided an overview of the proposed update and concluded the staff report by recommending that the Commission find the proposed Housing Element Update inconsistent with the *AEUP for JWA*.

Ms. Fitch reported that representatives from the County of Orange were present at the meeting and were available for any questions.

Chairman Bresnahan asked if the Commissioners had any questions for staff. No questions were asked.

Joanna Chang, Land Use Manager of OC Development Services provided an overview of County of Orange Request for GPA H 20-01 Housing Element Update. Ms. Chang suggested that it is consistent and that buildings would be less than 35 feet in height.

Senior Assistant County Counsel, Nicole Walsh asked that the Commission find this request consistent as the buildings would be less than 35 feet in height, and that the County schedule would not have time to overrule. Ms. Walsh explained that the County of Orange is hoping to go to the Planning Commission again in January and then hoping to go to the Board of Supervisors in February of 2022.

Chairman Bresnahan explained that the Committee finds itself in a unique situation as County Counsel is representing both the County of Orange and the Commission. The County claims that this project can come back to the Commission before anything is built, however what is the vehicle that brings it back to the Commission. If the planning document says that it is residential, there would have to be something that forces it back to the Commission such as exceeding height limits or having a higher density than what the County is planning.

Ms. Chang stated that any development proposals would be sent through the standard County development process for review, and would need to be consistent with John Wayne Airport policy.

Chairman Bresnahan stated that if the Commission finds that this parcel is consistent now, then what is the vehicle that would bring it back to the Commission.

Ms. Walsh stated that when the County processes land use permits under A-1 residential, there are requirements within the Housing Opportunity Overlay to follow. Ms. Walsh stated that zoning regulations would require the County of Orange to bring it back to the Commission, and that the County would have to review the consistency with the AELUP for John Wayne Airport again.

Chairman Bresnahan asked the County to clarify if they do have clearance to build residential sights.

Ms. Chang confirmed that this was accurate. Ms. Walsh explained that it is for single family houses, and that it would be one house per four acres.

Chairman Bresnahan stated that without coming back to the Commission they could build one house every four acres in that parcel, and that if they want to come back and build more than that, then the County of Orange would need to rechange the zoning.

Chairman Bresnahan asked Executive Officer, Lea Choum if that is accurate.

Ms. Choum explained that what triggers ALUC review is a general plan amendment or zone change, if that doesn't happen then those projects do not need to come back.

Ms. Fitch explained that if the the Country Club area would require a zone change, then yes it would come back. For the Back Bay Commercial Center, it is located within the Housing Opportunities Overlay District, which allows for housing and would not need to come back for ALUC review.

Chairman Bresnahan asked if there has always been an overlay on this parcel and if that request came this this Commission.

Ms. Choum stated that she does not believe that it came to ALUC.

Ms. Walsh stated that she is unsure if it came to ALUC.

Chairman Bresnahan explained that it seems as though ALUC had no knowledge of this.

Ms. Choum stated that she does not believe that it was brought to ALUC in 2016, and can double check.

Commissioner Murphy asked if it should have come to the Commission. Commissioner Murphy stated that staff is indicating that they never received a request for overlay. Commissioner Murphy explained that it raises concern because now that that is in place, then those projects would not come back for review before it was adopted, which it sounds like it should have.

Commissioner Sustarsic asked the County to verify if there will be 245 units proposed in the Back Bay Commercial Center.

Commissioner Murphy explained that the Commission is familiar with the Housing Element process, and that jurisdictions are tied to having to meet requirements. Commissioner Murphy stated that he is having a difficult time buying into the concept of not worrying about this large number that is being approved, because the County does not actually have to build it and the County does not have control over that property. Commissioner Murphy explained that County had stated that the zoning is one house per four acres, however the amount that the County is requesting is denser than that.

Commissioner Murphy clarified that the parcel 20491 is zoned as A-1 and what the County is submitting is 398 units, and that the County is claiming that it would not require a zoning change.

Ms. Walsh stated that it is actually .25 units per acre which would be 110 units.

Commissioner Murphy explained that that is substantially denser than what is currently allowed. Commissioner Murphy stated that there would have to be a zoning change.

Ms. Walsh confirmed.

Commissioner Murphy asked if there will be a request for a zoning change from the County.

Ms. Walsh explained that the County would most likely not propose it, because the County of Orange is not the developer of that property. The developers would come to us with a project and propose it.

Commissioner Murphy asked if that would come back to the Commission as a zoning change.

Ms. Walsh confirmed that it would come back to the Commission as a zoning change.

Commissioner Murphy stated that he noticed that the County tried to address the noise issue as far as the 65 CNEL, and they appreciate that although historically the County has not proposed housing within the 60.

Ms. Walsh explained that they have to update the housing element, however they are not changing the zoning.

Commissioner Murphy stated his concern with the idea of the County claiming that the Commission does not need to worry about this now, and the idea of re-reviewing it later. Commissioner Murphy explained that the County does not own the property and that it is privately owned. His concern is that should the Commission approve this request, the private entities may or may not see this as a green light, despite having to go through approvals.

Commissioner Murphy also explained that although the County addressed the noise issue, it does not address the safety zones. Commissioner Murphy asked if the County is willing to modify the proposal to address the safety zone issue, in particular Safety Zone 3.

Commissioner Murphy stated that if it's the existing zoning they could do that, but they could not for density. Commissioner stated concern that that did not come to the Commission.

County representatives requested that staff verify whether or not it was brought to the Commission in 2014.

Commissioner Murphy explained that the County has a short time frame and that if staff goes back and finds that the County did not go through the Commission, what would happen next. Would the County submit previous projects to the Commission to review.

Ms. Choum asked if the overlay was part of the County's 2014 General Plan, or if it was separate?

Ms. Chang stated that it was in 2013.

Ms. Choum stated that the County did submit a Housing Element in 2013.

Ms. Walsh stated that it was part of it and that it was amended in 2014.

Ms. Choum stated that staff can review the County's Housing Element from 2013.

Ms. Walsh stated that it was part of the County's General Plan.

Commissioner Beverburg explained that in the past, statements have been used in one way and then used in another. Commissioner Beverburg stated that he agrees with the staff, in that he does not remember hearing about this overlay. He stated that if it was given a different name that the Commission would not know of it.

Commissioner Sustarsic explained that she is from a city and that they are doing the same process. What was explained was that the city would have 3 years to change all of the zoning to allow housing. Commissioner Sustarsic stated that the County is already allowing housing but it is her understanding that the zoning would need to be changed for the density.

Commissioner Murphy stated what he thinks he is hearing, is that the County would need to rezone that parcel.

Chairman Bresnahan asked if there were any public comments. No public comments were made.

Chairman Bresnahan explained that the restrictions are there for a reason and that it may appear to be a line on a map, however it is there to protect citizens. Chairman Bresnahan stated that he has a difficult time finding this proposal consistent as it is an emergency landing area for planes. Chairman Bresnahan stated that he is perplexed by the overlay in 2013, in that a commercial building was constructed and is an appropriate use for that site, but the overlay allows for residential uses on that property. Chairman Bresnahan stated that he did not miss

many meetings back then and does not recall the overlay coming to the ALUC, and for many reasons he supports the staff recommendation.

Chairman Bresnahan asked if there were any comments from the other Commissioners.

Commissioner Murphy stated that the County also operates and owns an airport, and is disappointed that there was not more of an initial discussion and consideration of potential impacts to the other asset that County owns and operates as part of its process. Commissioner Murphy agreed with the Chairman in that the Commission wants to protect the public, as well as the liability of the airport from encroachment and other incompatible uses. Commissioner Murphy stated that staff has been consistent in their review from the other cities, and this should not come as a surprise that the Commission finds it inconsistent. The airport bears the brunt of noise complaints and other concerns from those new residents, and so the Commission has tried to mitigate those problems as these proposals are presented. Commissioner Murphy stated that he is concerned and that staff should investigate the overlay situation and whether or not that ever came to the Commission. Commissioner Murphy stated that he is prepared to support the staff recommendation.

Chairman Bresnahan asked if there were any other comments from the other Commissioners.

Chairman Bresnahan called for a motion. A motion was moved by Commissioner Beverburg and seconded by Commissioner Murphy to support the staff recommendation. A roll call vote was taken. The Commission voted unanimously, 4-0 to find the Housing Element Update inconsistent with the *AELUP for JWA*, per the AELUP and PUC sections regarding noise, safety and compatible land uses listed in the staff report.

2. Election of the Chairman and Vice-Chairman

Lea Choum, Executive Officer, opened nominations for Election of Chairman for the Airport Land Use Commission. Commissioner Beverburg nominated current Chairman Gerald Bresnahan and Commissioner Murphy seconded the motion. A roll call vote was taken. The motion carried unanimously to elect Gerald Bresnahan as the Chairman for the Airport Land Use Commission.

Chairman Bresnahan opened nominations for Vice-Chairman. Chairman Bresnahan nominated current Vice-Chairman Mark Monin, and Commissioner Sustarsic seconded the motion. A roll call vote was taken. The vote carried unanimously for Mark Monin to serve as Vice-Chairman for the Airport Land Use Commission.

3. Administrative Status Report

Ms. Choum spoke of the correspondence that includes JWA Statistics for August and September 2021, ALUC and JWA comments on the County of Orange Draft Housing Element Update, ALUC comments on the City of Los Alamitos Draft Housing Element Update, and

Notice of Intent to Adopt a Negative Declaration, and the Referral Confirmation Letter to the County of Orange for the Draft Housing Element Update.

Ms. Choum also mentioned the City of Newport Beach's plan to override ALUC's decision on their Housing Element Update. Staff received the City's Notice of the Intent (NOI) to Overrule on November 2, 2021. Ms. Choum stated that staff will be putting comments together by December 2, 2021. Chairman Bresnahan explained that with the due date soon approaching, he recommends that if Commissioners have comments on the NOI to contact Ms. Choum, so that everyone's input is received.

4. **Proceedings with Consistent Agencies:**

Nothing new to report.

5. **Proceedings with Inconsistent Agencies:**

Nothing new to report.

6. **Items of Interest to the Commissioners:**

Chairman Bresnahan requested that staff look into the 2013 overlay in the County of Orange's General Plan Housing Element. Chairman Bresnahan stated that to his understanding, the County has to review general plans every 5 years. Jeff Stock County Counsel and Ms. Choum confirmed. Chairman Bresnahan asked if the County has presented one since then. Ms. Choum stated that staff can check the archives.

7. **Items of Interest to the Public:**

Nothing new to report.

Next meeting is scheduled for December 16, 2021.

ADJOURNMENT:

There being no further business before the Commission, the meeting was adjourned at approximately 5:36 p.m.

Respectfully submitted,



Lea U. Choum
Executive Officer