



AIRPORT LAND USE COMMISSION

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

AGENDA ITEM 2

January 19, 2023

TO: Commissioners/Alternates
FROM: Lea U. Choum, Executive Officer
SUBJECT: Proposed Consistent and Inconsistent Agency Definitions

Background

At the September 15, 2022, Airport Land Use Commission (ALUC) meeting during the discussion of Agenda Item 3: Update on City of Seal Beach Overrule and Consistency Status, Chairman Bresnahan requested that staff recommend a definition of the phrase “inconsistent agency” and “consistent agency” and describe how staff would incorporate the use of these terms in the ALUC agendas moving forward.

Proposed Definitions:

- Inconsistent Agency
A local agency will be referred to by ALUC as an “inconsistent agency” if any of the following criteria apply:
 - (a) a local agency that failed to submit an item/plan/project (hereafter collectively an “action”) to the ALUC for consistency review and the ALUC determines that action, or any part thereof, is inconsistent with an Airport Environs Land Use Plan (AELUP);
 - (b) a local agency that submitted an action to the ALUC for consistency review and the ALUC determined that action, or any part thereof, was inconsistent with an AELUP, and the local agency has not overruled the ALUC in accordance with California Public Utilities Code (PUC) Section 21676;
 - (c) a local agency that the ALUC has determined has failed to revise its specific plan or general plan or failed to overrule the ALUC on a particular action;
 - (d) in accordance with Government Code Sections 65302.3(b)-(c), a local agency that has been notified by ALUC of an amendment to an AELUP and has not provided evidence of general plan and/or specific plan consistency with the AELUP within 180 days of notification and has not adopted findings pursuant to PUC Section 21676.

A local agency that meets any of the above criteria may be referred to by the ALUC as an “inconsistent agency” until the time the local agency properly overrules the ALUC, or pertinent consistency findings are made by the ALUC. An inconsistent agency is also subject to Public Utilities Code Section 21676.5, whereby, generally, the ALUC may require a local agency to submit all future actions, regulations and permits to the ALUC for review until the local agency takes appropriate steps to revise its action or overrule the ALUC.

- Consistent Agency

A local agency will be referred to by the ALUC as a “consistent agency” if it is not an “inconsistent agency.” Local agencies that have properly overruled the ALUC will be referred to as a “consistent agency” despite the ALUC’s prior inconsistent findings and/or concerns about an action.

Please note that PUC Sections 21670 through 21679.5, that govern the activities and responsibilities of the ALUC, do not refer to or define “Inconsistent” or “Consistent Agencies.” Therefore, staff recommends changing the ALUC agenda to remove the standing Agenda Items titled: “Proceedings with Consistent Agencies” and “Proceedings with Inconsistent Agencies,” and adding an Agenda Item titled “Determinations of Inconsistency” (see Attachment 1, Sample Agenda). The intent of this proposed Agenda Item would be to track inconsistency determinations and monitor local agencies’ overrule status.

Additionally, during the September 15, 2022, ALUC meeting, the Commission suggested the ALUC send a letter to the City of Seal Beach clarifying why it is referred to as an “inconsistent agency.” In response to this request, ALUC’s County Counsel has drafted a letter to the City of Seal Beach providing a general response to the City’s letter to the ALUC dated March 17, 2022, for your consideration (see Attachment 2, Letter to City of Seal Beach)

Recommendation

- 1) That Commission provide input to staff regarding the use and definitions of “Inconsistent” and “Consistent” agencies. If the Commission agrees to the definitions, Commission shall direct staff to include the definitions in the next amendments to each AELUP.
- 2) That the Commission provide direction to staff on future ALUC agendas regarding removal of “Proceedings with Consistent Agencies” and “Proceedings with Inconsistent Agencies” and consider adding an Agenda Item titled “Determinations of Inconsistency.”
- 3) That the Commission consider the draft letter to the City of Seal Beach and incorporate the proposed definitions for “Inconsistent” agency and “Consistent” agency for submittal to the city (if still desired) and authorize the letter be sent to the City of Seal Beach in substantially the same form as attached.

Respectfully submitted,



Lea U. Choum
Executive Officer



AIRPORT LAND USE COMMISSION

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

**REGULAR MEETING OF THE
AIRPORT LAND USE COMMISSION
FOR ORANGE COUNTY**

MEETING DATE

PLEASE NOTE LOCATION

TIME: 4:00 p.m. PLACE: John Wayne Airport
3160 Airway Avenue
SUBJECT: Regular Meeting Costa Mesa, CA 92626
Airport Commission Hearing Room

NOTICE

PERSONS ADDRESSING THE COMMISSION ARE REQUESTED TO GIVE THEIR NAMES AND ADDRESSES FOR THE RECORD.

EXCEPT AS OTHERWISE PROVIDED BY LAW, NO ACTION WILL BE TAKEN ON ANY ITEM NOT APPEARING IN THE FOLLOWING AGENDA. THE RECOMMENDED ACTIONS STATED IN THE AGENDA ITEM OR UNDERLYING STAFF REPORTS SIMPLY REFLECT THE RECOMMENDATION OF THE COMMISSION STAFF AND THE DISCUSSION AND ACTION TAKEN BY THE COMMISSION MAY DEVIATE THEREFROM.

AT THE CONCLUSION OF THE MEETING ON ITEMS LISTED IN THIS AGENDA, MEMBERS OF THE PUBLIC MAY ADDRESS THE COMMISSION ON ITEMS OF INTEREST TO THE PUBLIC THAT ARE WITHIN THE SUBJECT MATTER JURISDICTION OF THE COMMISSION.

ALL SUPPORTING DOCUMENTATION IS AVAILABLE FOR PUBLIC REVIEW IN THE EDDIE MARTIN ADMINISTRATION BUILDING LOCATED AT 3160 AIRWAY AVENUE, COSTA MESA, CA 92626 DURING REGULAR BUSINESS HOURS, 8:00 A.M. – 5:00 P.M. MONDAY THROUGH FRIDAY. AGENDA ITEMS ARE ALSO AVAILABLE BY CALLING (949) 252-5170 OR ONLINE AT [HTTPS://WWW.OCAIR.COM/COMMISSIONS/ALUC/](https://www.ocair.com/commissions/aluc/)

AGENDA

CALL TO ORDER

PLEDGE

APPROVAL OF MINUTES

Regular Meeting of:

Commissioners Present:

Alternate Commissioners Present:

Commissioners Absent:

NEW BUSINESS:

1. **New Item**
2. **Administrative Status Report**
3. **Determinations of Inconsistency**

List City, Project, Date of ALUC Determination, Overrule Status/Date (This also could be in table format).

4. ~~Proceedings with Consistent Agencies~~

~~Aliso Viejo (April 15, 2004), Anaheim, Buena Park, Costa Mesa (October 17, 2008), Cypress (August 16, 2001), Fullerton (June 17, 2004), Garden Grove, Huntington Beach, Irvine, Laguna Hills, Lake Forest (June 15, 2006) Los Alamitos, Mission Viejo, Newport Beach (2006), Santa Ana (December 18, 2008), Stanton, Tustin, Westminster, and County of Orange.~~

5. ~~Proceedings with Inconsistent Agencies~~

~~Laguna Woods (April 19, 2001) and Seal Beach.~~

6. Items of Interest to the Commissioners

Commissioners may comment on agenda or non-agenda matters, and ask questions of or give direction to staff, provided that no action may be taken on off-agenda items.

7. Items of Interest to the Public

Members of the public may address the Commission regarding any item within the subject matter jurisdiction of the Airport Land Use Commission provided that no action may be taken on off-agenda items unless authorized by law.

ADJOURNMENT

Next Regular Meeting:



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

January __, 2023

Alexa Smittle
Community Development Director
City of Seal Beach
211 Eighth Street
Seal Beach, CA 90740
(ASmittle@sealbeachca.gov)

Subject: Seal Beach's March 17, 2022, Letter to Orange County Airport Land Use Commission
RE: 2021-2029 Housing Element Update

Dear Ms. Smittle,

As you know, in 2022, the Airport Land Use Commission (ALUC) for Orange County reviewed the City of Seal Beach's (City) General Plan Amendment for its 2021-2029 Housing Element Update (General Plan Amendment) and made various findings related thereto. As you also know, ALUC received your letter dated March 17, 2022, regarding the City's General Plan Amendment. Although some time has passed since your letter, and despite the City overruling ALUC pursuant to Public Utilities Code (PUC) Section 21676, ALUC believes this letter will assist in future compatibility planning.

Rather than focus on the fact that ALUC and the City likely disagree on many points set forth in your letter, *i.e.* whether ALUC's inconsistency findings were valid and applicable, whether other General Plan Amendments by the City should have been submitted to ALUC for review, and whether ALUC and the City acted prematurely or appropriately, ALUC agrees that the City must submit applicable future land use proposals to ALUC according to PUC Sections 21670 *et seq.* As pointed out by Caltrans' May 12, 2022 letter to you regarding the City's desire to overrule ALUC, collaboration with partners in the planning process is encouraged to develop and implement policies that protect the safety and general welfare of communities in the vicinity of airports. To this end, ALUC looks forward to an open dialog with the City for future submittals and to maintain the spirit of the law and safety of Orange County's residents.

ALUC also would like to clarify the use of its term "Inconsistent Local Agency." The term itself is colloquially used as a reference to local agencies that meet any of the following criteria: [insert definitions approved by ALUC or delete/modify this paragraph according to direction from ALUC]

ALUC does not import any independent or significant meaning to the term inconsistent agency, other than to differentiate among local agencies that have shown evidence to ALUC of general plan/zoning/specific plan consistency, and those that have not.

We look forward to continued cooperation and dialogue as land use planning decisions arise.

Sincerely,

Gerald A. Bresnahan
Chairman

Attachments: Seal Beach's Letter to ALUC dated March 17, 2022

cc: Members of Airport Land Use Commission for Orange County
Craig A. Steele, City Attorney
Jill Ingram, City Manager