



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

AGENDA ITEM 1

September 21, 2023

TO: Commissioners/Alternates
FROM: Lea U Choum, Executive Officer
SUBJECT: Submittal Requirement Options for City of Los Alamitos

Background

On August 21, 2023, the City of Los Alamitos (City) held a public hearing to overrule the Airport Land Use Commission's (ALUC) January 19, 2023 inconsistency determination for the City's 2021-2029 Housing Element Update ("General Plan Amendment"). The overrule failed with a 3-2 vote (four affirmative votes were required).

The Airport Environs Land Use Plan (AELUP) states that each local agency having jurisdiction over any area within an airport planning area is required to submit amendments to its general plan, specific plans and zoning ordinances to ALUC for a consistency determination in accordance with PUC Section 21676.

As a result of the City's failure to overrule, the ALUC may impose requirements on the City to submit all subsequent actions, regulations and permits to ALUC for consistency review until the City's general plan is revised or the specific overrule findings are made pursuant to Public Utilities Section (PUC) Section 21676.5.

For reference, PUC Section 21676.5(a) states:

"If the commission finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670, the commission may require that the local agency submit all subsequent actions, regulations, and permits to the commission for review until its general plan or specific plan is revised or the specific findings are made. If, in the determination of the commission, an action, regulation, or permit of the local agency is inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may

propose to overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.”

The Commission may consider making the following findings and adopting one of the following options:

- Option #1: As it pertains to the City’s General Plan Amendment, the ALUC finds that the City has not revised its general plan or overruled the ALUC’s inconsistency finding by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4, Part 1, Division 9 of the Public Utilities Code as stated in Section 21670; therefore, pursuant to Public Utilities Code Section 21676.5 the ALUC requires the City to submit the following discretionary actions to the ALUC for a consistency review with the AELUP for JFTB, Los Alamitos, until the City’s general plan is either revised and re-submitted to ALUC for review or the City makes the requisite overrule findings related to its general plan.

Discretionary actions that must be submitted: development agreements and amendments, administrative use permits, conditional use permits, site development permits, tentative and vesting parcel and tract maps, variances, and zoning consistency reviews. The submittal of the above discretionary actions does not excuse the City from continuing to separately submit all general plan amendments, specific plan amendments, zoning ordinance/map amendments to ALUC pursuant to the Public Utilities Code.

- Option #2: As it pertains to the City’s General Plan Amendment, the ALUC finds that the City has not revised its general plan or overruled ALUC’s inconsistency finding by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4, Part 1, Division 9 of the Public Utilities Code as stated in Section 21670; therefore, pursuant to Public Utilities Code Section 21676.5 the ALUC requires that the City submit the following discretionary actions, related to the three sites listed below, to the ALUC for a consistency review with the AELUP for JFTB, Los Alamitos, until the City’s general

plan is either revised and re-submitted to ALUC for review or the City makes the requisite overrule findings related to its general plan.

Site 6 located at 4655 Lampson Avenue

Site 7 Laurel Park APN 241-241-35

Site 10 located at 5030-5084 Katella

Attachment 1 includes a map showing the proposed opportunity sites including 6, 7, and 10 above and a table with additional details that were included in the City’s 2021-2029 Housing Element Update submittal package to the ALUC.

Discretionary actions that must be submitted: development agreements and amendments, administrative use permits, conditional use permits, site development permits, tentative and vesting parcel and tract maps, variances, and zoning consistency reviews. The submittal of the above discretionary actions does not excuse the City from continuing to separately submit all general plan amendments, specific plan amendments, zoning ordinance/map amendments to ALUC pursuant to the Public Utilities Code.

- Option #3: Take no action regarding submittal requirements; do not impose any additional submittal requirements on the City regarding its General Plan Amendment.

Below is a table indicating the discretionary approvals the City may issue pursuant to its Zoning Code.

17.30.020 Discretionary Permits and Actions—Authority

Table 5-01 (Review Authority) identifies the City official or authority responsible for reviewing and making decisions on each type of application or land use entitlement required by this Zoning Code.

Table 5-01: Review Authority

Type of Entitlement or Decision	Chapter	Director ⁽¹⁾	Planning Commission	City Council
Legislative Actions				
** Development Agreements	17.62		Recommend	Decision
** Development Agreement Amendments	17.62	Decision		Appeal/Call for Review
* General Plan Amendments	17.64		Recommend	Decision
* Specific Plans and Specific Plan Amendments	17.58		Recommend	Decision
* Zoning Code Amendments	17.58		Recommend	Decision
* Zoning Map Amendments	17.58		Recommend	Decision
Planning Permits and Approvals and Administrative Actions				
** Administrative Use Permits	17.32	Decision	Appeal	Appeal/Call for Review
** Conditional Use Permits	17.32		Decision	Appeal/Call for Review
Covenants for Easements	17.34		Recommend	Decision
Home Occupation Permits	17.36	Decision	Appeal	Appeal/Call for Review

Type of Entitlement or Decision	Chapter	Director ⁽¹⁾	Planning Commission	City Council
Local Landmarks Designation	17.38		Decision	Appeal/Call for Review
Local Landmarks Alteration—Director Review	17.38	Decision	Appeal	Appeal/Call for Review
Local Landmarks Alteration—Planning Commission Review	17.38		Decision	Appeal/Call for Review
Minor Modifications	17.40	Decision	Appeal	Appeal/Call for Review
Reasonable Accommodation	17.42	Decision	Appeal	Appeal/Call for Review
** Site Development Permit—Major	17.44		Decision	Appeal/Call for Review
** Site Development Permit—Minor	17.44	Decision	Appeal	Appeal/Call for Review
Temporary Use Permits	17.46	Decision	Appeal	Appeal/Call for Review
** Variances	17.48		Decision	Appeal/Call for Review
** Zoning Consistency Review	17.50	Decision	Appeal	Appeal/Call for Review

** Items currently required for ALUC review.*

*** Additional items to be submitted to ALUC (plus tentative and vesting parcel and tract maps).*

Recommendation:

- 1) That the ALUC consider and discuss Options 1 through 3 above and move to adopt the option the ALUC desires to pursue, and
- 2) Approve the draft letter (Attachment 3) from the ALUC to be transmitted to the City of Los Alamitos and parties listed therein, with minor edits approved by County Counsel to conform to the findings made in this meeting.

Respectfully submitted,



Lea U. Choum
 Executive Officer

Attachments:

1. Location and details of opportunity sites
2. Draft letter to the City of Los Alamitos with attached ALUC Fact Sheet

HECER: [unclear]
DEC 97 2022



**Table B-2
Sites Inventory and Projected Units**

Sites Description

Site ID	APN	Address	Acres	Existing GP	Existing Zoning	Proposed Zoning	Projected Density	Max# Units
1	242-203-27	10909 Los Alamitos Blvd	0.85	Mixed Use	TCMU	TCMU	60	86
	242-203-28	10877 Los Alamitos Blvd	0.58	Mixed Use	TCMU	TCMU	60	
2a	242-171-02	10956 Los Alamitos Blvd	0.68	Mixed Use	TCMU	TCMU	60	41
2b	242-171-07	10900 Los Alamitos Blvd	3.1	Mixed Use	TCMU	TCMU	60	186
2c	242-172-01	10900 Pine Street	0.48	Mixed Use	TCMU	TCMU	60	29
2d*	242-172-02	10902 Pine Street	0.17	Mixed Use	TCMU	TCMU	60	10
3	222-091-01	11021 Reagan Street	0.35	Mixed Use	TCMU	TCMU	60	63
	222-091-21	3636 Katella Avenue	0.7	Mixed Use	TCMU	TCMU	60	
4a	222-093-12	11182 Los Alamitos Blvd	0.74	Mixed Use	TCMU	TCMU	60	44
4b	222-093-13	11232 Los Alamitos Blvd	0.13	Mixed Use	TCMU	TCMU	60	8
* 6	130-012-35	4655 Lampson Ave	12.4	Community & Institutional	C-F	R3	20	310
7	241-241-35	Laurel Park	2 of 4	Community & Institutional	C-F	R4	30	72
8	242-212-11	3191 Katella/City Hall	3.2	Retail Business	C-G	R4	30	115
	242-212-08							
	242-212-10							
9	241-251-14	4142 Cerritos Ave	5	Community & Institutional	C-F	R4	30	180
* 10	222-181-01 222-181-02	5030-5084 Katella	3	Retail Business	C-G	R4	30	108
11	242-222-06	3370 Cerritos Ave	1.2	Multi Family	R3	R4	30	43

1,295
Total

* Sites located within the 60 dB CNEL

 Sites with proposed new land use designations (Zoning Code Change required)

*Table adapted from: City of Los Alamitos website January 2023
Administrative Draft Housing Element 2021-2029 Appendix B Residential Land Resources*

<https://www.losalamitos.org/3751/housing-Element>



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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September 21, 2023

Chet Simmons
City Manager, City of Los Alamitos
3191 Katella Avenue
Los Alamitos, CA 90702

DRAFT

Subject: Vote to Overrule the Airport Land Use Commission

Dear Mr. Simmons:

As you are aware, the City of Los Alamitos (City) submitted its 2021-2029 General Plan Amendment for its Housing Element Update to the Airport Land Use Commission for Orange County (ALUC) for a consistency review. On January 19, 2023, ALUC found the City's proposed Housing Element Update inconsistent with the Airport Environs Land Use Plan for Joint Forces Training Base Los Alamitos (AELUP) and the City was notified of ALUC's determination.

On February 21, 2023, the City took its first step toward overruling ALUC by adopting a notice of intent to overrule. The City provided notice to ALUC and Caltrans and both, in turn, provided advisory comments for the City to consider at its impending overrule hearing. At the same meeting, the City approved its General Plan Amendment.

On August 21, 2023, the City held its public hearing to overrule ALUC's January 19, 2023, inconsistency determination and voted 3-2 to overrule it. However, four affirmative votes were required, and thus, the City's overrule of ALUC's inconsistency determination failed. (Public Utilities Code (PUC) § 21676(b).)

The City's premature adoption of its General Plan amendment is void as a matter of law for failing to comply with PUC § 21676. If a local agency does not revise its general plan or overrule ALUC's inconsistency finding, it cannot enact its proposed general plan amendment. "Any local agency seeking to amend its general plan in a way that affects an area governed by an airport land use compatibility plan must first refer its proposed action to the responsible commission for a determination whether the proposed action is consistent with the airport land use plan. If the commission determines the amendment is not consistent, the agency may not enact it unless a two-thirds supermajority of the agency's governing body votes to override the commission's disapproval and the agency makes specific findings that its proposed action is consistent with the purposes of the

State Aeronautics Act.” (*Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 385; PUC § 21676(b).)

Due to the fact the City has not yet revised its general plan (and its recent overrule vote failed), ALUC may impose requirements on the City to submit all subsequent actions, regulations, and permits to the commission for consistency review until its general plan is revised or the specific overrule findings are made. (PUC § 21676.5.)

At the ALUC meeting on September 21, 2023, ALUC considered imposing conditions on the City and ultimately voted to _____. [this will be filled in depending on ALUC’s decision] Should ALUC find any of those actions, regulations, and/or permits inconsistent with the AELUP, the City would then need to go through the same steps as it would need to go through to overrule an inconsistency finding on a general plan. (PUC § 21676.5(a).) If the City eventually revises its general plan and submits it to ALUC, or properly overrules the January 19, 2023, inconsistency finding, then the City’s actions, regulations and permits would no longer need to be reviewed by ALUC unless the City and ALUC agree that they should be, or the City voluntarily submits them to ALUC. (PUC § 21676.5(b).)

Please let us know if the City plans to revise its general plan (or will consider another overrule) and the timeline for doing so. As always, ALUC will continue to assist the City to ensure compatible land uses exist in the vicinity of the Joint Forces Training Base at Los Alamitos and will continue to coordinate planning activities to provide for the orderly development of air transportation while simultaneously protecting public health, safety, and welfare. In the meantime, we look forward to reviewing the City’s discretionary land use actions as noted above.

Due to the public interest regarding this item, an ALUC Fact Sheet is attached. Should any questions arise, please contact Lea Choum, Executive Officer at (949) 252-5170 or at alucinfo@ocair.com.

Sincerely,

Gerald A. Bresnahan
Chairman

Attachment: ALUC Fact Sheet

cc: City Council Members, City of Los Alamitos
Ron Noda, Development Services Director, City of Los Alamitos
Jonathon Huff, Caltrans/Division of Aeronautics
Melinda Coy, Housing and Community Development



AIRPORT LAND USE COMMISSION (ALUC) FOR ORANGE COUNTY

The Airport Land Use Commission (ALUC) was established in accordance with California Public Utilities Code (PUC) sections 21670-21679.5 to assist local agencies in ensuring land uses in the vicinity of airports are compatible with the applicable Airport Environs Land Use Plans (AELUPs) and to coordinate planning at the state, regional, and local levels.

What does ALUC do?

The ALUC strives to protect the public from adverse effects of aircraft noise, ensure that people and facilities are not concentrated in areas susceptible to aircraft incidents, and to ensure that no structure or land use activities adversely affect the operational integrity of the airports or their navigable airspace.

How does the ALUC process work?

Any local agency proposing to amend its General Plan, Zoning Code, Specific Plans and or building regulations in areas within the airport planning areas must submit the proposed changes to ALUC. The ALUC reviews proposed projects for consistency with the applicable AELUP, and determines whether the proposal is consistent, consistent with conditions, or inconsistent.

What if a project is found inconsistent?

The local agency may resubmit a revised plan or project for additional ALUC review, or proceed with an overrule if it makes specific findings that the proposed action is consistent with the purposes of PUC section 21670. The local agency must approve the overrule with a 2/3 vote.

Note: If a local agency overrules an ALUC inconsistency finding, the operator of the airport shall be immune from liability for damages to property or personal injury caused by the public agency's decision to override the ALUC's action or recommendation.

What if a local agency fails to overrule ALUC?

If a local agency fails to overrule ALUC with a two-thirds vote, that agency's plan or project remains inconsistent with the AELUP and ALUC may require that the local agency submit all subsequent actions, regulations, and permits to ALUC for a consistency review until its general plan, zoning code and/or specific plan is revised, or the specific findings required by PUC sections 21670 and 21676 are made.

Who is on the Commission?

The ALUC consists of seven members. Two Commissioners are appointed by the Orange County Board of Supervisors, two are appointed by the League of California Cities Selection Committee and two are appointed by the public airports. The seventh member is appointed by the other Commissioners to represent the general public.

When and where do they meet?

ALUC meets at 4:00 pm on the third Thursday of each month at the Airport Commission Room of the John Wayne Airport Administrative Building, 3160 Airway Avenue, Costa Mesa, CA 92626.

Where can I find ALUC agendas and staff reports?

The monthly agendas and staff reports are publicly posted and also available on the ALUC website at:

<https://www.ocair.com/about/administration/airport-governance/commissions/airport-land-use-commission/>

How do I contact ALUC?

You may attend a meeting, email ALUC at alucinfo@ocair.com, or call (949) 252-5170.