



AIRPORT LAND USE COMMISSION

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

AGENDA ITEM 2

September 21, 2023

TO: Commissioners/Alternates
FROM: Lea U. Choum, Executive Officer
SUBJECT: Administrative Status Report

The following attachments are for your review and information:

- ALUC Comments on Santa Ana Draft Supplemental EIR for Related Bristol SP
- ALUC Comments on Irvine NOP Program EIR for General Plan Update
- ALUC Determination for Newport Beach Housing Element Implementation
- Santa Ana Notice of Intent to Overrule ALUC on Related Bristol Specific Plan

Respectfully submitted,

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

August 16, 2023

Ali Pezeshkpour, Planning Manager
City of Santa Ana Planning and Building Agency
P.O. Box 1988, M-20
Santa Ana, CA 92702

Subject: Comments on the Notice of Availability of Draft Supplemental Environmental Impact Report (EIR) for Related Bristol Specific Plan Project

Dear Mr. Pezeshkpour:

Thank you for the opportunity to review the Notice of Availability (NOA) for the Draft Supplemental EIR (DSEIR) for Related Bristol Specific Plan Project in the context of the *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)*. We wish to offer the following comments for your consideration as you proceed with your Supplemental EIR.

The proposed project consists of a 41.1-acre site approximately 1.5 miles northwest of John Wayne Airport. The proposed mixed-use development would allow for up to 3,750 multi-family residential units; up to 350,000 square feet of commercial uses; a hotel with up to 250 rooms; a senior living continuum of care use with up to 200 units; and approximately 13.1 acres of parks, pedestrian paseos and common open space.

The proposed project area is located within the Federal Aviation Administration (FAA) Federal Aviation Regulation (FAR) Part 77 Horizontal Obstruction Imaginary Surface for JWA which would be penetrated at 206' above mean sea level (AMSL). The airspace above 206' AMSL is reserved for air navigation. As discussed in the DSEIR, the Specific Plan would allow buildings up to 25 stories and/or 285 feet in height and therefore would penetrate the horizontal surface and enter airspace reserved for air navigation. Table 5.8-2 in Section 5.8 (Land Use and Planning) of the DSEIR discusses consistency with John Wayne Airport plan policies, however, the DSEIR does not discuss or analyze the proposed project's location within the FAA FAR Part 77 Horizontal Obstruction Imaginary Surface for JWA.

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 the FAA FAR Part 77. The “imaginary surfaces” are defined by means of elevations heights and slopes in relation to individual airports, the spaces above which are reserved for air navigation. To ensure the safe operation of aircraft activity at JWA, structures anywhere in the JWA airport planning area should not exceed the applicable elevations defined in FAR Part 77 (Objects Affecting Navigable Air Space).

At the ALUC meeting held on July 20, 2023, the Commission found the proposed Related Bristol Specific Plan inconsistent with the *AELUP for JWA* per Section 3.2.1 which states that “within the boundaries of the AELUP, any land use may be found to be inconsistent with the AELUP which... permits structures of excessive heights in areas which would affect adversely the continued operation of the airport; or permits activities or facilities that would affect adversely aeronautical operations.”

We recommend that the DSEIR include a discussion of the project’s location within the Horizontal Obstruction Imaginary Surface for JWA and further evaluate the proposed project’s consistency with AELUP policies 3.2.1, 3.2.6, and 3.2.7 based on the project’s potential to penetrate the horizontal obstruction imaginary surface. Related to Policy 3.2.1, the DSEIR states that the structure heights would not affect airport operations. For Policy 3.2.6, the DSEIR discusses the JWA notification surface but not the obstruction imaginary surfaces for JWA. With respect to AELUP Policy 3.2.7, Table 5.8-2 of the DSEIR currently states that the proposed project is not located within an area, and would not extend into areas, that would adversely affect the SNA operations or result in a hazard.

Thank you again for the opportunity to comment on the DSEIR for Related Bristol Specific Plan Project. Please contact our office at (949) 252-5170 or via email at alucinfo@ocair.com should you have any questions related to the Airport Land Use Commission for Orange County.

Sincerely,



Lea U. Choum
Executive Officer

cc: Airport Land Use Commissioners



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

August 21, 2023

Marika Poynter
City of Irvine
1 Civic Center Plaza
Irvine, CA 92606-5207

Subject: Notice of Preparation of a Program EIR for the Irvine 2045 General Plan Update

Dear Ms. Poynter:

Thank you for the opportunity to provide comments on the Notice of Preparation (NOP) of a Program EIR for the Irvine 2045 General Plan Update. In the context of the Airport Environs Land Use Plan for John Wayne Airport (*AELUP for JWA*), the Airport Land Use Commission for Orange County (ALUC) offers the following comments and requests consideration of these comments as you proceed with your DEIR and General Plan Update.

The City of Irvine is located within the AELUP Notification Area for JWA. The DEIR and General Plan should address height restrictions and imaginary surfaces by discussing Federal Aviation Administration (FAA) Federal Aviation Regulation (FAR) Part 77 as the criteria for determining height restrictions for projects located within the airport planning area. To ensure the safe operation of aircraft activity at JWA, structures anywhere in the JWA airport planning area should not exceed the applicable elevations defined in FAR Part 77 (Objects Affecting Navigable Air Space). The General Plan should include height policy language and a mitigation measure in the DEIR that states that no buildings will be allowed to penetrate the FAR Part 77 imaginary surfaces for JWA to ensure the protection of its airspace.

Development proposals within the City, which include the construction or alteration of structures more than 200 feet above ground level, require filing with the FAA and Airport Land Use Commission (ALUC) notification. Projects meeting this threshold must comply with procedures provided by Federal and State law, and with all conditions of approval imposed or recommended by FAA and ALUC including filing a Notice of Proposed Construction or Alteration (FAA Form 7460-1). Depending on the maximum building heights that will be allowed within the General Plan, the City may wish to consider a mitigation and condition of approval specifying this 200 feet above ground level height threshold. In addition, any project that penetrates the Notification Surface for JWA is required to file FAA Form 7460-1.

Portions of the City of Irvine fall within the 60 and 65 dB CNEL noise contours for JWA including sections of the Irvine Business Complex (Planning Area 36) located to the north and west of the Airport. ALUC does not support residential uses within the 65 dB CNEL contour. In

accordance with the *AELUP for JWA* Section 3.2.3, all residential units within the 65 dB CNEL contour are inconsistent in this area unless it can be shown conclusively that such units are sufficiently sound attenuated for present and projected noise exposure so as not to exceed an interior standard of 45 dB CNEL.

As for residential development within the 60 dB CNEL contour, the ALUC may not find residential units incompatible in this area but would strongly recommend that residential units be limited or excluded from this area unless sufficiently sound attenuated not to exceed an interior level of 45 db. Because of the IBC proximity to airport noise, any prospective resident should be notified of the presence of aircraft overflight. We recommend that the DEIR include reference to where in the City's General Plan or Zoning Code this notification requirement can be found.

Portions of the City of Irvine are located within Safety Zones 2, 3, 4 and 6, and the primary approach corridor for JWA. The DEIR and General Plan should include a discussion of how to minimize locating residential and other noise-sensitive uses within these Safety Zones.

We also recommend that the DEIR and the General Plan Update identify if the development of heliports will be allowed within your jurisdiction. Should the development of heliports occur within your jurisdiction, proposals to develop new heliports may be submitted through the City to the ALUC for review and action pursuant to Public Utilities Code Section 21661.5. Proposed heliport projects must comply fully with the state permit procedure provided by law and with all conditions of approval imposed or recommended by FAA, by the ALUC for Orange County and by Caltrans/Division of Aeronautics.

To address consistency with the *AELUP for Heliports* we suggest adding the following language to your General Plan Update and inclusion as a mitigation measure in the DEIR:

“The City will ensure that development proposals including the construction or operation of a heliport or helistop comply fully with permit procedures under State law, including referral of the project to the ALUC by the applicant, and with all conditions of approval imposed or recommended by the Federal Aviation Administration (FAA), ALUC, and Caltrans, including the filing of a Form 7480-1 (Notice of Landing Area Proposal) with the FAA. This requirement shall be in addition to all other City development requirements.”

Section 21676 of the PUC requires that prior to the adoption or amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the Airport Land Use Commission pursuant to Section 21675, the local agency shall first refer the proposed action to the ALUC. We recommend that the City include policy in its General Plan and a mitigation measure in the DEIR that states that the City shall refer projects to the Airport Land Use Commission (ALUC) for Orange County as required by Section 21676 of the California Public Utilities Code to determine consistency of projects with the *AELUP for JWA*.

With respect to submittals, please note that the Commission requests that referrals be submitted - to the ALUC for a determination between the Planning Commission and City Council hearings. Since the ALUC meets on the third Thursday afternoon of each month, complete submittals must be received in the ALUC office by the first of the month to ensure sufficient time for review, analysis, and agendaing. A General Plan submittal form is available at:

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

A separate form should be used for each element of the General Plan that is being amended. Thank you for the opportunity to comment on this Notice of Preparation. Please contact Julie Fitch at (949) 252-5284 or via email at jfitch@ocair.com with any questions.

Sincerely,

A handwritten signature in black ink that reads "Lea U. Choum". The signature is written in a cursive style with a long horizontal flourish at the end.

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

August 23, 2023

Rosalinh Ung, Principal Planner
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: ALUC Determination for Housing Element Implementation/Noise-Related Amendments including Amendments to the Land Use Element, Noise Element, Zoning Code, Newport Airport Village Planned Community and Newport Place Planned Community

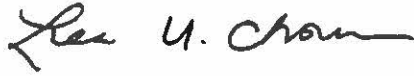
Dear Ms. Ung:

During the public meeting held on August 17, 2023, the Airport Land Use Commission (ALUC) for Orange County considered the subject item. The matter was duly discussed, and with a 4-0 vote, the Commission found the Housing Element Implementation/Noise-Related Amendments including Amendments to the Land Use Element, Noise Element, Zoning Code, Newport Airport Village Planned Community and Newport Place Planned Community to be Inconsistent with the *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)* per:

1. 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.”
2. 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.”
3. 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.”
4. 3.2.1 General Policy of the *AELUP* which states that the General Land Use policy of the Airport Land Use Commission for Orange County shall be “Within the boundaries of the *AELUP*, any land use may be found to be Inconsistent with the *AELUP* which... places people so that they are affected adversely by aircraft noise...”

Please contact Julie Fitch at jfitch@ocair.com or at (949) 252-5170 if you would like additional information or have questions regarding this proceeding.

Sincerely,

A handwritten signature in black ink that reads "Lea U. Choum". The signature is written in a cursive style with a long horizontal flourish at the end.

Lea U. Choum
Executive Officer

cc: ALUC

MAYOR
Valerie Amezcua
MAYOR PRO TEM
Jessie Lopez
COUNCILMEMBERS
Phil Bacerra
Johnathan Ryan Hernandez
David Penaloza
Thai Viet Phan
Benjamin Vazquez



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CITY CLERK
Jennifer L. Hall

CITY OF SANTA ANA

Planning and Building Agency

20 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pba

August 31, 2023

Also sent via email to: LChoum@ocair.com

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

RE: NOTICE OF INTENT TO OVERRULE THE DETERMINATION OF INCONSISTENCY FOR THE RELATED BRISTOL SPECIFIC PLAN PROPOSED ON A 41-ACRE SITE LOCATED AT 3600 SOUTH BRISTOL STREET

The purpose of this letter is to inform you of the City of Santa Ana's intention to recommend that the Santa Ana City Council adopt the attached findings to overrule the July 20, 2023 Airport Land Use Commission's (ALUC) determination of inconsistency for Related Bristol Specific Plan proposed on a 41-acre site located at 3600 South Bristol Street.

On August 29, 2023, the Santa Ana City Council met and (1) approved issuing a Notice of Intent to overrule and (2) determined to give notice to the ALUC of its decision to overrule as required by California Public Utilities Code (PUC) Section 21676(b).

Pursuant to PUC Section 21676, the City hereby respectfully gives proper notice of its intention to overrule and submits the attached findings (attached hereto as Exhibit A) for review. PUC Section 21676(b) requires that a public agency making a decision to overrule shall give notice to the California Department of Transportation (Caltrans), Aeronautics Division, and ALUC at least 45 days prior to the final decision to overrule. After this notification, the ALUC and Caltrans have 30 days from the receipt of this notice to provide advisory comments to the City.

This letter shall commence the 45-day notification period, with the City looking forward to receiving comments within 30 days hereof. At this time, the proposed Related Bristol Specific Plan has not been scheduled for public hearing for certification of its draft supplemental environmental impact report or its associated entitlement applications.

SANTA ANA CITY COUNCIL

Valerie Amezcua
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vamezcua@santa-ana.org

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City of Santa Ana Notice of Intent to Overrule & Findings – Related Bristol Specific Plan
3600 South Bristol Street
August 31, 2023
Page 2 of 2

Should you have any questions regarding this notice and/or on the proposed project, please contact me by phone at (714) 647-5882 or by email at APezeshkpour@santa-ana.org. Thank you for your prompt attention on this matter.

Sincerely,



Ali Pezeshkpour, AICP
Planning Manager

C: Minh Thai, Executive Director of Planning & Building Agency
John M. Funk, Chief Assistant City Attorney

Attachment:
Resolution with Findings to Overrule ALUC's Determination

RESOLUTION NO. 2023-060

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA AUTHORIZING THE PLANNING DIVISION TO INITIATE THE PREPARATION AND DRAFTING OF FINDINGS IN SUPPORT OF OVERRULING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION OF INCONSISTENCY ASSOCIATED WITH A PROPOSED MIXED-USE DEVELOPMENT PROJECT ON A 41-ACRE SITE LOCATED AT 3600 SOUTH BRISTOL STREET AND TO PROVIDE NOTICE IN ACCORDANCE WITH SECTION 21676(B) OF THE PUBLIC UTILITIES CODE TO THE COUNTY OF ORANGE LAND USE COMMISSION AND THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION'S DIVISION OF AERONAUTICS AT LEAST 45 DAYS PRIOR TO THE FUTURE PUBLIC HEARING DATE FOR THE PROPOSED PROJECT AND PROPOSED OVERRULING ACTION BY THE CITY COUNCIL

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

- A. On July 20, 2023, the County of Orange Airport Land Use Commission (ALUC) held a public hearing on the above-referenced project and found a proposed mixed-use development proposed on a 41-acre site at 3600 South Bristol Street, known as the Related Bristol Specific Plan, to be inconsistent with the 2008 Airport Environs Land Use Plan (AELUP) for John Wayne Airport pursuant to AELUP Sections 1.2 and 2.1.4 and Public Utilities Code (PUC) Section 21674.
- B. Following the July 20, 2023 public hearing, the ALUC found the proposed project to be inconsistent with the 2008 John Wayne Airport Environs Land Use Plan on a 6-0 vote. ALUC's findings were made pursuant to AELUP Sections 1.2 and 2.1.4, and Public Utilities Code Section 21674. These sections empower the ALUC "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 "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."

- C. As a final review authority on legislative acts for land use matters within the City, the City Council may choose to overrule the ALUC's decision by following the procedure established in PUC Sections 21676 and 21676.5. Before the decision to overrule the ALUC's Determination of Inconsistency may take place, the City Council must adopt a resolution that authorizes initiation of the two-step overrule process.
- D. At least 45 days prior to any decision to overrule ALUC, the governing body shall provide ALUC and the State Department of Transportation (Caltrans) Division of Aeronautics a copy of the proposed decision to overrule along with supportive findings. ALUC may provide comments to the City Council within 30 days of receiving the proposed decision and findings. If ALUC's comments are not available within this time limit, the City Council may act without them. Should comments be received, the City Council must include the comments from ALUC in the public record of any final decision to overrule ALUC. This decision shall be determined at a public hearing to make the specific findings that the proposed overruling is consistent with the purposes stated in Public Utilities Code Section 21670.
- E. Staff is hereby directed to conduct further studies as necessary in order to draft and provide notice of the findings in support of the overrule. The 45-day period will begin after staff has forwarded the intent to overrule along with the supportive findings.
- F. The Council's adoption of this Resolution is procedural and does not constitute the proposed project's approval nor does it predispose the City's future action on the project or any decision to overrule.
- G. Should the Council adopt this Resolution directing staff to conduct further studies as necessary in order to make the findings in support of the overrule, a public hearing will be required for Council consideration of the final supplemental environmental impact report, and any associated entitlement applications, for the Related Bristol Specific Plan.

Section 2. The City Council finds that the requested action is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines as the proposed action will not have a significant effect on the environment. Environmental Impact Report No. 2022-01 (State Clearinghouse No. 2020029087) has been prepared for the proposed project as a whole and will be presented to the City Council for consideration, along with the requested general plan amendment and amendment application, at a future hearing date.

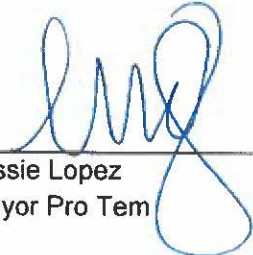
Section 3. The City Council directs staff to forward a letter to the Airport Land

Use Commission and State Department of Transportation Division of Aeronautics, indicating the City of Santa Ana's intent to overrule any determination of the Airport Land Use Commission that the proposed Related Bristol Specific Plan is inconsistent with the 2008 John Wayne Airport Environs Land Use Plan.

Section 4. The City Council directs staff to conduct further studies, as necessary, in order to prepare and forward findings to the Airport Land Use Commission and State Department of Transportation Division of Aeronautics in support of the City's intent to overrule the Airport Land Use Commission's determination that the proposed Related Bristol Specific Plan is inconsistent with the 2008 John Wayne Airport Environs Land Use Plan.

Section 5. This Resolution shall take effect immediately upon its adoption by the City Council, and the Clerk of the Council shall attest to and certify the vote adopting this Resolution.

ADOPTED this 29th day of August, 2023.



Jessie Lopez
Mayor Pro Tem

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney


By: Laura A. Rossini
for John M. Funk
Chief Assistant City Attorney

AYES:	Councilmembers	<u>Bacerra, Hernandez, Lopez, Penaloza, Phan, Vazquez (6)</u>
NOES:	Councilmembers	<u>None (0)</u>
ABSTAIN:	Councilmembers	<u>None (0)</u>
NOT PRESENT:	Councilmembers	<u>Amezcuca (1)</u>

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, JENNIFER L. HALL, City Clerk, do hereby attest to and certify the attached Resolution No. 2023-060 to be the original resolution adopted by the City Council of the City of Santa Ana on August 29, 2023.

Date: 8/31/2023



Jennifer L. Hall
City Clerk
City of Santa Ana