



AIRPORT LAND USE COMMISSION

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

AGENDA ITEM 4

May 16, 2024

TO: Commissioners/Alternates
FROM: Interim Executive Officer
SUBJECT: Administrative Status Report

The following attachments are provided for your information:

- JWA Statistics for January, February, and March 2024
- Referral Confirmation Letter to County of Orange
- Referral Confirmation Letter to City of Newport Beach
- Incomplete Letter to County of Orange 4/8/2024
- ALUC Comment Letter on Newport Beach Draft PEIR 3/28/2024
- JWA Comment Letter on Newport Beach Draft PEIR 3/28/2024
- ALUC and Caltrans Response letters to Newport Beach 1401 Quail Street
- Newport Beach NOI to Overrule ALUC on 1401 Quail Street
- ALUC and Caltrans Response letter to Newport Beach 1400 Bristol Street
- Newport Beach NOI to Overrule ALUC on 1400 Bristol Street Residences
- Determination Letter to Buena Park Housing Element Implementation
- Determination Letter to Buena Park Craig Avenue Apartments

Respectfully submitted,

A handwritten signature in blue ink that reads "Julie Fitch".

Julie Fitch
Interim Executive Officer

John Wayne Airport Posts March 2024 Statistics

April 26, 2024

(SANTA ANA, CA) – Airline passenger traffic at John Wayne Airport decreased in March 2024 as compared to March 2023. In March 2024, the Airport served 964,073 passengers, a decrease of 3.1% when compared with the March 2023 passenger traffic count of 994,554.

Commercial aircraft operations in March 2024 of 8,112 increased 2.2% and commuter aircraft operations of 412 decreased 13.8% when comparing with March 2023 levels.

Total aircraft operations increased in March 2024 as compared with the same month in 2023. In March 2024, there were 24,690 total aircraft operations (takeoffs and landings) an 16.9% increase compared to 21,118 total aircraft operations in March 2023.

General aviation activity of 16,122 accounted for 65.3% of the total aircraft operations during March 2024, and increased 27.3% compared with March 2023.

The top three airlines in March 2024 based on passenger count were Southwest Airlines (293,048), American Airlines (173,649) and United Airlines (145,222).

John Wayne Airport

Monthly Airport Statistics - March 2024

	March 2024	March 2023	% Change	Year-To-Date 2024	Year-To-Date 2023	% Change
Total passengers	964,073	994,554	-3.1%	2,705,622	2,717,196	-0.4%
Enplaned passengers	484,577	495,721	-2.2%	1,350,023	1,350,861	-0.1%
Deplaned passengers	479,496	498,833	-3.9%	1,355,599	1,366,335	-0.8%
Total Aircraft Operations	24,690	21,118	16.9%	70,025	60,697	15.4%
General Aviation	16,122	12,660	27.3%	45,683	36,654	24.6%
Commercial	8,112	7,934	2.2%	23,064	22,555	2.3%
Commuter ¹	412	478	-13.8%	1,210	1,395	-13.3%
Military	44	46	-4.3%	68	93	-26.9%
Air Cargo Tons ²	1,327	1,215	9.2%	4,412	4,186	5.4%
International Statistics ³	(included in totals above)					
	March 2024	March 2023	% Change	Year-To-Date 2024	Year-To-Date 2023	% Change
Total Passengers	31,127	32,991	-5.7%	85,015	90,302	-5.9%
Enplaned passengers	16,115	16,558	-2.7%	43,407	45,102	-3.8%
Deplaned passengers	15,012	16,433	-8.6%	41,608	45,200	-7.9%
Total Aircraft Operations	248	252	-1.6%	692	723	-4.3%

1. Aircraft used for regularly scheduled air service, configured with not more than seventy (70) seats, and operating at weights not more than ninety thousand (90,000) pounds.

2. All-Cargo Carriers: 1,258 tons
 Passenger Carriers (incidental belly cargo): 69 tons
 Current cargo tonnage figures in this report are for: February 2024

3. Includes all Canada and Mexico Commercial passengers and operations.

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John Wayne Airport (SNA) is owned by the County of Orange and is operated as a self-supporting enterprise that receives no general fund tax revenue. The Airport serves more than 11.3 million passengers annually and reaches more than 40 nonstop destinations in the United States, Canada and Mexico. More information can be found at www.ocair.com. Like us on [facebook.com/johnwayneairport](https://www.facebook.com/johnwayneairport), or follow us on X (formerly Twitter) [@johnwayneair](https://twitter.com/johnwayneair) and [Instagram @johnwayneair](https://www.instagram.com/johnwayneair).

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John Wayne Airport Posts February 2024 Statistics

March 22, 2024

(SANTA ANA, CA) – Airline passenger traffic at John Wayne Airport increased in February 2024 as compared to February 2023. In February 2024, the Airport served 856,665 passengers, an increase of 1.8% when compared with the February 2023 passenger traffic count of 841,593

Commercial aircraft operations in February 2024 of 7,266 increased 4.3% and commuter aircraft operations of 386 decreased 11.3% when comparing with February 2023 levels.

Total aircraft operations increased in February 2024 as compared with the same month in 2023. In February 2024, there were 20,748 total aircraft operations (takeoffs and landings) an 8.3% increase compared to 19,166 total aircraft operations in February 2023.

General aviation activity of 13,089 accounted for 63.1% of the total aircraft operations during February 2024, and increased 11.5% compared with February 2023.

The top three airlines in February 2024 based on passenger count were Southwest Airlines (270,939), American Airlines (151,634) and Alaska Airlines (129,308).

John Wayne Airport
Monthly Airport Statistics - February 2024

	February 2024	February 2023	% Change	Year-To-Date 2024	Year-To-Date 2023	% Change
Total passengers	<u>856,665</u>	841,593	1.8%	1,741,549	1,722,642	1.1%
Enplaned passengers	426,367	417,960	2.0%	865,446	855,140	1.2%
Deplaned passengers	430,298	423,633	1.6%	876,103	867,502	1.0%
Total Aircraft Operations	20,748	<u>19,166</u>	8.3%	45,335	39,579	14.5%
General Aviation	13,089	11,734	11.5%	29,561	23,994	23.2%
Commercial	<u>7,266</u>	6,965	4.3%	14,952	14,621	2.3%
Commuter ¹	<u>386</u>	435	-11.3%	798	917	-13.0%
Military	7	32	-78.1%	24	47	-48.9%
Air Cargo Tons ²	1,203	1,237	-2.7%	3,085	2,971	3.8%
International Statistics ³	(included in totals above)					
	February 2024	February 2023	% Change	Year-To-Date 2024	Year-To-Date 2023	% Change
Total Passengers	27,830	28,373	-1.9%	53,888	57,311	-6.0%
Enplaned passengers	14,242	14,294	-0.4%	27,292	28,544	-4.4%
Deplaned passengers	13,588	14,079	-3.5%	26,596	28,767	-7.5%
Total Aircraft Operations	228	223	2.2%	444	471	-5.7%

1. Aircraft used for regularly scheduled air service, configured with not more than seventy (70) seats, and operating at weights not more than ninety thousand (90,000) pounds.

2. All-Cargo Carriers: 1,133 tons
 Passenger Carriers (incidental belly cargo): 70 tons
 Current cargo tonnage figures in this report are for: January 2024

3. Includes all Canada and Mexico Commercial passengers and operations.

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John Wayne Airport (SNA) is owned by the County of Orange and is operated as a self-supporting enterprise that receives no general fund tax revenue. The Airport serves more than 11.3 million passengers annually and reaches more than 40 nonstop destinations in the United States, Canada and Mexico. More information can be found at www.ocair.com. Like us on [facebook.com/johnwayneairport](https://www.facebook.com/johnwayneairport), or follow us on X (formerly Twitter) @[@johnwayneair](https://twitter.com/johnwayneair) and Instagram @[@johnwayneair](https://www.instagram.com/johnwayneair).

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John Wayne Airport Posts January 2024 Statistics

February 21, 2024

(SANTA ANA, CA) – Airline passenger traffic at John Wayne Airport increased in January 2024 as compared to January 2023. In January 2024, the Airport served 884,884 passengers, an increase of 0.4% when compared with the January 2023 passenger traffic count of 881,049.

Commercial aircraft operations in January 2024 of 7,686 increased 0.4% and commuter aircraft operations of 412 decreased 14.5% when comparing with January 2023 levels.

Total aircraft operations increased in January 2024 as compared with the same month in 2023. In January 2024, there were 24,587 total aircraft operations (takeoffs and landings) a 20.4% increase compared to 20,413 total aircraft operations in January 2023.

General aviation activity of 16,472 accounted for 66.9% of the total aircraft operations during January 2024, and increased 34.4% compared with January 2023.

The top three airlines in January 2024 based on passenger count were Southwest Airlines (280,796), American Airlines (149,607) and United Airlines (135,022).

John Wayne Airport

Monthly Airport Statistics - January 2024

	January 2024	January 2023	% Change	Year-To-Date 2024	Year-To-Date 2023	% Change
Total passengers	884,884	881,049	0.4%	884,884	881,049	0.4%
Enplaned passengers	439,079	437,180	0.4%	439,079	437,180	0.4%
Deplaned passengers	445,805	443,869	0.4%	445,805	443,869	0.4%
Total Aircraft Operations	24,587	20,413	20.4%	24,587	20,413	20.4%
General Aviation	16,472	12,260	34.4%	16,472	12,260	34.4%
Commercial	7,686	7,656	0.4%	7,686	7,656	0.4%
Commuter ¹	412	482	-14.5%	412	482	-14.5%
Military	17	15	13.3%	17	15	13.3%
Air Cargo Tons ²	1,882	1,734	8.5%	1,882	1,734	8.5%

International Statistics ³

(included in totals above)

	January 2024	January 2023	% Change	Year-To-Date 2024	Year-To-Date 2023	% Change
Total Passengers	26,058	28,938	-10.0%	26,058	28,938	-10.0%
Enplaned passengers	13,050	14,250	-8.4%	13,050	14,250	-8.4%
Deplaned passengers	13,008	14,688	-11.4%	13,008	14,688	-11.4%
Total Aircraft Operations	216	248	-12.9%	216	248	-12.9%

1. Aircraft used for regularly scheduled air service, configured with not more than seventy (70) seats, and operating at weights not more than ninety thousand (90,000) pounds.

2. All-Cargo Carriers: 1,813 tons

Passenger Carriers (incidental belly cargo): 69 tons

Current cargo tonnage figures in this report are for: December 2023

3. Includes all Canada and Mexico Commercial passengers and operations.

-###-

John Wayne Airport (SNA) is owned by the County of Orange and is operated as a self-supporting enterprise that receives no general fund tax revenue. The Airport serves more than 11.3 million passengers annually and reaches more than 40 nonstop destinations in the United States, Canada and Mexico. More information can be found at www.ocair.com. Like us on [facebook.com/johnwayneairport](https://www.facebook.com/johnwayneairport), or follow us on [X \(formerly Twitter\) @johnwayneair](https://twitter.com/johnwayneair) and [Instagram @johnwayneair](https://www.instagram.com/johnwayneair).

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AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

May 3, 2024

Ben Zdeba, Principal Planner
City of Newport Beach
Community Development
100 Civic Center Drive
Newport Beach, CA 92660

Re: ALUC Submittal - City of Newport Beach Housing Element Implementation Program Amendments (Proposed Amendments to the General Plan Land Use Element, Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC), and Local Coastal Program

Dear Mr. Zdeba:

This is to confirm that Airport Land Use Commission (ALUC) staff has received the April 26, 2024 referral request for a consistency review of the subject items ("Project"). Your April 26, 2024 submittal is hereby deemed complete for a consistency review at the next Commission meeting of May 16, 2024, unless otherwise noticed. Your attendance at the meeting would be appreciated in case there are questions regarding this item. The meeting will be held at 4:00 p.m. at:

JWA/Airport Commission Room
3160 Airway Avenue (back entrance)
Costa Mesa, CA 92626

A link to the meeting agenda and staff report regarding your item will be emailed to you prior to the Commission meeting. Feel free to contact us at (949) 252-5170 or at alucinfo@ocair.com if you have any questions.

Sincerely,

Julie Fitch, AICP
Interim Executive Officer



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

May 3, 2024

Justin Kirk, Deputy Director
OC Development Services
601 North Ross Street, Santa Ana, CA 92701
P.O. Box 4048, Santa Ana, CA 92702-4048

Re: ALUC Submittal – County of Orange Proposed General Plan Amendment LU 24-01 (Land Use Element), Zoning Code Amendment CA 24-01 (Mixed-Use District, Housing Opportunities Overlay District, and Technical Revisions), and Zone Change ZC 24-01 (Select properties in unincorporated areas)

Dear Mr. Kirk:

This is to confirm that Airport Land Use Commission (ALUC) staff has received the May 1, 2024 referral request for a consistency review of the subject items (“Project”). Your May 1, 2024 submittal is hereby deemed complete for a consistency review at the next Commission meeting of May 16, 2024, unless otherwise noticed. Your attendance at the meeting would be appreciated in case there are questions regarding this item. The meeting will be held at 4:00 p.m. at:

JWA/Airport Commission Room
3160 Airway Avenue (back entrance)
Costa Mesa, CA 92626

A link to the meeting agenda and staff report regarding your item will be emailed to you prior to the Commission meeting. Feel free to contact us at (949) 252-5170 or at alucinfo@ocair.com if you have any questions.

Sincerely,

Julie Fitch, AICP
Interim Executive Officer

Cc: Cindy Salazar, Planning Division Manager
Nicole Walsh, Senior Assistant County Counsel



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

April 8, 2024

Justin Kirk, Deputy Director
OC Development Services
601 North Ross Street, Santa Ana, CA 92701
P.O. Box 4048, Santa Ana, CA 92702-4048

Re: ALUC Submittal Incomplete– County of Orange Proposed General Plan Amendment LU 24-01 (Land Use Element), Zoning Code Amendment CA 24-01 (Mixed-Use District, Housing Opportunities Overlay District, and Technical Revisions), and Zone Change ZC 24-01 (“Project”)

Dear Mr. Kirk:

Thank you for submitting the subject Project to the Airport Land Use Commission (ALUC) for a consistency review at the April 18, 2024, meeting. As indicated in your April 1, 2024, letter, the Project includes parcels in both the John Wayne Airport (JWA) and Joint Forces Training Base (JFTB) – Los Alamitos Notification Areas.

While Attachment #5 to your submittal includes exhibits depicting the location of Project parcels within the Notification Areas, Part 77 Obstruction Surfaces, and Safety Zones for both JWA and JFTB-Los Alamitos, ALUC also requests exhibits showing the Project parcels in relation to the noise contours (even if they are not located within the 60 or 65 dB CNEL contours) for both airports. Also, as mentioned in a phone conversation with Cindy Salazar earlier today, please provide a table showing the existing and proposed heights for each of the parcels within the Notification Areas that will undergo General Plan and/or Zoning Code changes.

Section 4.8 of the AELUP states that the Commission requests that items be submitted and agendaized for review after Planning Commission hearing but before Board of Supervisors approval. The submittal indicates that the Project will not be scheduled for Planning Commission until May of 2024, which is after the requested ALUC meeting date. To ensure that ALUC reviews a project that is supported by the County Planning Commission, the review of this submittal will be deferred until May 16th and/or after Planning Commission review. You may contact me at (949) 252-5170 or at jfitch@ocair.com if you have any questions regarding the submittal of this project. Thank you!

Sincerely,

Julie Fitch
Interim Executive Officer

cc: ALUC Commissioners



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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March 28, 2024

Ben Zdeba, AICP Principal Planner
City of Newport Beach
Community Development Department, Planning Division
100 Civic Center Drive, Bay B
Newport Beach, CA 92660

Subject: Comments on the Draft Program Environmental Impact Report for the Housing Implementation Program (PA2022-0245) (SCH No. 2023060699)

Dear Mr. Zdeba:

Thank you for the opportunity to review the Draft Program Environmental Impact Report (DPEIR) for the City of Newport Beach (City) Housing Implementation Program in the context of the Airport Land Use Commission's *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)*.

The Housing Implementation Program (the Project) outlines the actions the City proposes to achieve its share of the 2021-2029 Regional Housing Needs Allocation (RHNA). The DPEIR analyzes 247 housing opportunity sites within six Focus Areas located in the City. Three of these focus areas fall within the Airport Planning Area/Notification for JWA: Airport Area, Dover/Westcliff, and Newport Center.

The City is located within the AELUP Notification Area for JWA. On August 17, 2023, the ALUC for Orange County found the proposed Housing Element Implementation - Noise Related Amendments to be inconsistent with the *AELUP for JWA* on a 4-0 vote. The inconsistent finding was based on AELUP Sections 2.1.1, 2.1.2, and 2.1.4. and PUC Sections 21674(a) and 21674(b). The City overruled the ALUC's inconsistent finding on November 14, 2023.

As the DPEIR states, on November 28, 2023, the City Council adopted changes to the General Plan and Municipal Code to reflect the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment EIR No. 617 as well as updated General Plan Land Use and Noise Element policies and additional noise attenuation measures for future housing units proximate to John Wayne Airport. The City also amended the Noise Element to allow for residential development in the 65 dBA CNEL.

Pursuant to Section 1.2 of the *AELUP for JWA*, the purpose of the AELUP is to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the AELUP seeks to protect the public from the adverse

effects of aircraft noise to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace.

At the August 17, 2023, ALUC meeting, and included in the ALUC staff report for Item 1: Housing Implementation/Noise-Related Amendments, "the AELUP continues to reflect the EIR 508 noise contours for purposes of determining whether a project is consistent with the AELUP noise policies and provisions. Therefore, for purposes of the AELUP consistency analysis, the City and ALUC are required to utilize the noise contours that are provided in the AELUP. Neither the City nor the ALUC can provide a consistency analysis based on different and updated noise contours unless and until those noise contours have been included in the AELUP. Rather, any submittal must be based on the policies and contours currently in the existing AELUP." Including the EIR No. 617 noise contours in the General Plan and the DPEIR is not supported by ALUC and should be removed.

Specifically, regarding *Criteria for Implementing Housing in the 65 dB CNEL*, the DPEIR does not explain how the City would determine that sites in the 65 dB CNEL contour are needed to meet their RHNA allocation. Since development of sites in the 65 dB CNEL contour would only be allowed if the City determines that these sites would be required to satisfy the City's RNHA mandate, the development of housing in the 65 dB CNEL should be delayed to allow the opportunity for the other sites *identified* in the Housing Element to be developed. The DPEIR should identify what type of substantial evidence would be required to show that development in the 65 dB CNEL is required or the City will not meet their RHNA allocation, especially given that the City purports to be providing sites that could accommodate nearly double the needed area number of units, It is also recommended that the City limit the number of residential units in the Airport Focus Area to the 2,577 units (i.e., if 2,577 units are constructed no more units would be allowed in the Airport Focus Area).

Thank you for the opportunity to provide these comments.

Sincerely,



Lea U. Choum
Executive Officer



March 28, 2024

Mr. Benjamin Zdeba, AICP Principal Planner
City of Newport Beach
Community Development Department, Planning Division
100 Civic Center Drive, Bay B
Newport Beach, CA 92660

Subject: Comments on the Draft Program Environmental Impact Report for the Housing Implementation Program (PA2022-0245) (SCH No. 2023060699)

Dear Mr. Zdeba:

Thank you for the opportunity to review the Draft Program Environmental Impact Report (DPEIR) for the City of Newport Beach (City) Housing Implementation Program. The following comments on the DPEIR are submitted by the County of Orange acting in its capacity as the airport owner and operator of John Wayne Airport, Orange County (JWA) (SNA).

The Housing Implementation Program (the Project) outlines the actions the City proposes to achieve its share of the 2021-2029 Regional Housing Needs Allocation (RHNA). The DPEIR analyzes 247 housing opportunity sites within six Focus Areas located in the City. Three of these focus areas fall within the Airport Planning Area/Notification for JWA: Airport Area, Dover/Westcliff, and Newport Center.

JWA provided comments on the noise-related amendments to the General Plan, Zoning Code, and Specific Plans required for implementation of the Housing Element. The Airport's letter, dated October 9, 2023, is attached and hereby incorporated as part of the Airport's comments on the DPEIR.

Project Description

The presentation of the Project Description in the DPEIR is difficult to follow because defining elements of the Project are not clearly being presented in Section 3, Project Description or elsewhere in the document. Although the CEQA Guidelines do not require the project description to be exhaustive, it should supply the necessary detail for project evaluation. The EIR is a Program EIR and the City will not be implementing the actual development; therefore, specific details on design and building placement is not known. However, the project description makes it difficult to understand the level of development proposed at the sites and the assumptions used in the analysis. Recommended changes that would strengthen the DPEIR are:

- *Elimination of Sites where Housing is not Reasonable or Feasible*--A review of the sites makes it clear that a number of the sites are not suitable for residential development because of existing environmental factors or existing development, which is unlikely to be

Charlene V. Reynolds
Airport Director

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displaced. Specifically, the County has expressed concern about the 28 sites within the 65 dB CNEL contour adjacent to the Airport. These sites should not be included as housing opportunity because of known noise impacts associated with Airport operations. Inclusion of these sites goes against the nearly four decades of efforts by the County and City to protect residential uses from noise levels in excess of State regulations.

- *Vague Project Description and Lack of Detail For Airport Focus Area*--The document states the intent is that the Airport Focus Area would support a density between 30 and 50 dwelling units per acre. However, the DPEIR identifies a projected build-out of 2,577 units for the Airport Focus Area. Given the DPEIR identified 176 buildable acres in the Airport Focus Area, the average number of units could be as low as 15 units per acre and still meet the housing target for the Focus Area (2,577 units divided by 176 acres). Even at a Program level, a more refined Project Description would be feasible based on known constraints, such as consideration of restrictions in the Airport Safety Zones. This would provide a better understanding of the City's assumptions on the number of units that would or could be constructed on each site. The Airport is particularly interested in the number of units assumed in the 65 dB CNEL contour or in each of the designated Airport Safety Zones.
- *Criteria for Implementing Housing in the 65 dB CNEL*--The DPEIR does not explain how the City would determine that sites in the 65 dB CNEL contour are needed to meet their RHNA allocation. Since development of sites in the 65 dB CNEL contour would only be allowed if the City determines that these sites would be required to satisfy the City's RNHA mandate, the development of housing in the 65 dB CNEL should be delayed to allow the opportunity for the other sites identified in the Housing Element to be developed. The DPEIR should identify what type of substantial evidence would be required to show that development in the 65 dB CNEL is required or the City will not meet their RHNA allocation, especially given that the City purports to be providing sites that could accommodate nearly double the needed area number of units. It is also recommended that the City limit the number of residential units in the Airport Focus Area to the 2,577 units (i.e., if 2,577 units are constructed no more units would be allowed in the Airport Focus Area).

The Project Description should better identify the assumptions for each of the sites, including the Airport Focus Area to enable the reader to better understand the potential impacts associated with the housing opportunities provided by the Housing Element. A caveat can be given that the actual number of units would be determined at the time that the development approval is processed. This would also allow the City decisionmakers and the public to understand if the subsequent submittals for development are consistent with the analysis in this DPEIR.

Lack of Detailed Analysis

Section 15168 of the CEQA Guidelines recommends that a Program EIR "deals with the effects of the program as specifically and comprehensively as possible." The following are examples of areas that require more analysis.

- *Land Use and Planning*-- Threshold 4.1-2 does not apply just to the City's land use plans, policies, or regulations, but to "any land use plan, policy or regulation adopted for the

purpose of avoiding or mitigating an environmental effect." This would include Federal and State regulations established to protect noise sensitive uses. The analysis of the Project's consistency with applicable plans and policies is insufficient because it does not address applicable plans and policies by other jurisdictions (i.e., State requirements) that have been adopted to avoid environmental impacts.

- *Noise* --Threshold 4.11-3 reads, "For a Project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the project area to excessive noise levels?" The DPEIR makes a finding of less than significant although the Project proposes construction of new housing in the 65 to 70 dB CNEL contour, knowing that these locations exceed the State standard for exterior noise levels for sensitive land uses.

Conclusion

The Airport and the City of Newport Beach have worked cooperatively since 1985 to reasonably protect the environmental interests and concerns of persons residing in the vicinity of JWA, Cooperatively, the County and City have been able to balance the competing interests of the air transportation and aviation community and local residents living in the vicinity of the Airport. The Airport would like to continue the dialogue with the City to balance the City's need for providing housing to meet their RHNA allocations, while minimizing potential land use incompatibility with the Airport. The additional analysis and detail requested will greatly facilitate additional informed discussions between the City and the County.

Sincerely,



Charlene V. Reynolds
Airport Director

Attachments: Letter from the County of Orange to the City of Newport Beach, dated October 9, 2023, signed by Charlene V. Reynolds and directed to Rosalinh Ung (incorporated into this comment letter)

cc: Frank Kim, County Executive Officer
Lilly Simmering, Deputy County Executive Officer
Leon Page, County Counsel
Nicole Walsh, Senior Assistant County Counsel



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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March 12, 2024

Liz Westmoreland, Senior Planner
Community Development Department
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: Response to Notice of Intent to Overrule the Airport Land Use Commission
Determination Regarding 1400 Bristol Street Residences

Dear Ms. Westmoreland,

We are in receipt of the City of Newport Beach (City) letter dated February 14, 2024, and City Council Resolution No. 2024-9 notifying the Airport Land Use Commission (ALUC) for Orange County of the City's intent to overrule the ALUC's inconsistency determination on the proposed 1400 Bristol Street Residences. In accordance with Section 21676 of the Public Utilities Code, the ALUC submits the following comments addressing the proposed overrule findings for the above-referenced project. These comments shall be included in the public record of a final decision to overrule the ALUC.

Please be advised that California Public Utilities Code (PUC) Section 21678 states: "With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation."

Background

On January 18, 2024, the ALUC for Orange County found the proposed 1400 Bristol Street Residences to be inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)* on a 6-0 vote. The inconsistent finding was based on AELUP Sections 2.1.1, 2.1.2, and 3.2.1.

Pursuant to Section 1.2 of the AELUP for JWA, the purpose of the AELUP is to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the AELUP seeks to protect the public from the adverse effects of aircraft noise to ensure that people and facilities are not concentrated in areas

susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace. Additionally, Section 2.1.4 of the AELUP for JWA and PUC Section 21674 charge the Commission to coordinate at the local level to ensure compatible land use planning. The City's proposed project would place residential uses within the 65 dBA Community Noise Equivalent Levels (CNEL) and Safety Zones 4 and 6, which would result in exposure to significant risks, noise and aircraft overflight, the City's proposed actions are inconsistent with the AELUP.

ALUC has the following additional comments regarding the findings and facts of support included in Resolution No. 2024-9.

Response to Finding and Fact in Support A - Regarding Noise Standards:

Pursuant to AELUP Section 2.1.1, "... aircraft noise emanating from airports may be incompatible with the general welfare of the inhabitants within the vicinity of an airport. . . ." As noted in the City's discussion, the CNEL standards are set forth in the AELUP. As part of the review of the proposed Residences at 1401 Quail Street, it was noted that the project site is within the JWA 65 dBA noise contour. The ALUC believes that the proposed residential uses would be highly affected by airport noise due to the close proximity to the airport and that the past and current land use designation of General Commercial Office (CO-G) is the appropriate designation for this site.

Finding of Fact A states that "the project is located within the updated 60 dBA CNEL contour consistent with the approved 6th Cycle Housing Element Implementation Noise-Related Amendments." This "updated 60 dBA CNEL contour" was included as part of the Housing Element Implementation/Noise Related Amendments which was found inconsistent by the ALUC on August 17, 2023 and overruled by the City on November 14, 2023. With the 2023 Noise Amendments, the City replaced the existing noise contours which are currently consistent with the adopted *AELUP for JWA*, with more narrow noise contours which were included in 2014 Settlement Agreement EIR 617, which did not provide an analysis of the potentially significant impacts of placing future residential uses within the 65 dB CNEL contour.

As stated in our December 5, 2023 letter to you, and in the August 17, 2023 ALUC Staff Report for Item 1: Housing Implementation/Noise-Related Amendments, "*the AELUP continues to reflect the EIR 508 noise contours for purposes of determining whether a project is consistent with the AELUP noise policies and provisions. Therefore, for purposes of the AELUP consistency analysis, the City and ALUC are required to utilize the noise contours that are provided in the AELUP. Neither the City nor the ALUC can provide a consistency analysis based on different and updated noise contours unless and until those noise contours have been included in the AELUP. Rather, any submittal must be based on the policies and contours currently in the existing AELUP.*"

The proposed Housing Element Implementation - Noise Related Amendments would allow residential uses which are not suitable and would subject the future residents to excessive

noise regardless of which noise contours are utilized. The ALUC has historically found residential uses in the vicinity of JWA to be inconsistent with the *AELUP for JWA*.

Response to Fact in Support B - Regarding Safety:

Pursuant to AELUP Section 2.1.2, “[s]afety and compatibility zones depict which land uses are acceptable and which are unacceptable in various portions of airport environs. 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.”

The proposed project is located in Safety Zone 6 – Traffic Pattern Zone. According to the California Airport Land Use Planning Handbook, noise and overflight should be considered in Safety Zone 6. Flight tracks for the property were included in the ALUC staff report which show a high number of flights over the proposed project site. Considering the proposed density, proximity to JWA and the number of flights over the property, this project is an inappropriate use for the site.

Response to Fact in Support C - Regarding “Intent of the AELUP”:

By virtue of being clearly stated in *AELUP for JWA* Sections 1.2 “Purpose and Scope” and 2.0 “Planning Guidelines,” the ALUC understands the complex legal charge to protect public airports from encroachment by incompatible land use development, while simultaneously protecting the health, safety and welfare of citizens who work and live in the airport’s environs. To this end, and as also statutorily required, ALUC proceedings are benefited by several members having expertise in aviation. Based upon careful consideration of all information provided, and input from ALUC members with expertise in aviation, the ALUC unanimously found the proposed 1400 Bristol Street Residences to be inconsistent with the *AELUP for JWA*.

We urge the City Council to take ALUC’s concerns into consideration in its deliberations prior to deciding whether to overrule ALUC. Thank you for the opportunity to provide these comments.

Sincerely,

DocuSigned by:

09C77A2D7F24488...
Mark Monin
Vice-Chairman

cc: Airport Land Use Commission for Orange County
Jonathan Huff, Caltrans/Division of Aeronautics



Making Conservation
a California Way of Life.

DEPARTMENT OF TRANSPORTATION

AERONAUTICS Program— M.S. #40
1120 N STREET
P. O. BOX 942874
SACRAMENTO, CA 94274-0001
PHONE (916) 654-4959
FAX (916) 653-9531
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www.dot.ca.gov

March 12, 2024

Liz Westmoreland, AICP, Principal Planner
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport, CA 92660-3267

Electronically Sent

lwestmoreland@newportbeachca.gov

Dear Ms. Westmoreland:

The Aeronautics Program (Program) at the California Department of Transportation (Caltrans) appreciates receiving the Notice of Intent dated February 14, 2024, from the City of Newport Beach (City), to overrule a determination of the Orange County Airport Land Use Commission (ALUC). The ALUC has reported that the 1400 Bristol Project (Project) is inconsistent with the Airport Environs Land Use Plan (AELUP) for the John Wayne Airport (JWA). The Notice of Intent concerns the City's Resolution (No.) 2024-9 (Resolution), and specific "Facts in Support" related to the AELUP. In advance of a public hearing on the Resolution to consider overruling the ALUC's determination, the Program is providing the following comments pursuant to California Public Utilities Code (PUC) section 21676. The Program strongly recommends that the City modify the Project to address the issues raised by the ALUC.

Facts in Support #1 – The Project is consistent with the noise standards of the AELUP.

Citing AELUP section 3.2.3 for "residential uses to be developed with advanced insulation systems to bring the sound after attenuation to no more than 45 dB inside" overlooks a key provision of the section that is seen prior to quoting the conclusion of the section that says, "residential uses within the 65- 70 dBA CNEL noise contour are required to be 'indoor - oriented' to preclude noise impingement on outdoor living areas." The provision in between states, "All residential units are inconsistent in this area unless it can be shown conclusively that such units are sufficiently sound attenuated for present and projected noise exposures, which shall be the energy sum of all noise impacting the project, so as not to exceed an interior standard of 45 dB CNEL."

In addition, though the city notes that it intends to require noise attenuation to be addressed during design, the city, as the permitting authority, can, as a provision of final occupancy permit issuance, require the developer to demonstrate interior noise attenuation below 45 dB. As flight tracks demonstrate, it will not be difficult to find a representative time of day to test noise with multiple flights over the project. This will ensure that the end user, be it homeowner or renter, is not left with the arduous task of perusing legal action against all the relevant parties to have their new home rebuilt with proper noise attenuation.

Furthermore, though the city intends to require disclosures related to aircraft noise, pollution and odors, again, as a condition of the permit, should require aviation easements that will protect the airport from litigation related to noise, nuisance, and pollution.

Facts in Support #2 – The proposed Project is consistent with the safety standards of the AELUP.

This Fact in Support is deficient for not adequately citing the reference to Safety Zone 6 (Traffic Pattern Zone) of the AELUP. As used in the Notice of Intent, the statement that states, "risk factors associated with Safety Zone 6 generally include a low likelihood of accident occurrence," is drawn from the AELUP, but it overlooks the AELUP's reference to the 2002 California Airport Land Use Planning Handbook (Handbook; published by the Program). It is Table 9B in the 2002 Handbook that refers to "a low likelihood of accident occurrence." Unfortunately, the AELUP does not account for the current Handbook of 2011. The City also does not account for it.

The 2011 Handbook allows for low risk of accidents in the zone for an airport traffic pattern, but it goes further to quantify accident risk (Chapter 4, page 4-25). Owing to a relatively large area, the Handbook indicates 18-29 percent of accidents near a runway could occur in the traffic pattern zone (attributable also to lower and slower flight profiles for less time and altitude to recover from distress). The 2011 Handbook also allows for residential land use in the traffic pattern zone, but with the condition that says, "where ambient noise levels are low."

By accounting for this discrepancy, the Program recommends that the City evaluate ambient noise levels in the JWA Safety Zone 6 before taking further action on the proposed ALUC overrule. It would be a prudent means for abiding by PUC section 21670 "to prevent new noise and safety problems."

Facts in Support #3 – The proposed Project is consistent with the purpose and intent of the AELUP and will not result in incompatible land uses adjacent to JWA.

Citing the City's intention related to the Project that states, "any development on the proposed housing opportunity sites will comply with the noise criteria and safety standards," contained in Sections 2 and 3 of the AELUP, is appreciated by the Program. Sections 2 and 3 of AELUP provide overall policies for planning and land use around JWA, including certain specific criteria. The points made in this letter concerning specific criteria should be considered for their value to ensure accurate compliance with PUC section 21670. Otherwise, the Program contends that any less effort compromises both the City's declared position in the Notice of Intent and the public's welfare.

As noted, the Program strongly recommends that the City modify the Project to address the issues raised by the ALUC, but in the event that the City overrules the ALUC determination of inconsistency, please include these comments in the public record for this agenda item. If you have further questions, or we can assist in any way, please reach out at the phone number or email below.

Sincerely,

Originally signed by

Jonathan Huff
Associate Transportation Planner

*"Provide a safe, sustainable, integrated, and efficient transportation system
to enhance California's economy and livability"*

Ms. Liz Westmoreland
March 12, 2024
Page 3

c: Lea U. Choum, Executive Officer, Orange County Airport Land Use Commission; ALUCinfo@ocair.com

bc: Lan Zhou, Deputy District Director, District 12; lan.zhou@dot.ca.gov



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

100 Civic Center Drive
Newport Beach, California 92660
949 644-3200
newportbeachca.gov/communitydevelopment

February 14, 2024

Lea Choum, Executive Officer
Airport Land Use Commission for Orange County
John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA 92626

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL TO LCHOUM@OCAIR.COM

Subject: Residences at 1400 Bristol Street Project – Notice of Intent to Overrule the Orange County Airport Land Use Commission

Dear Ms. Choum:

On February 13, 2024, the City Council of the City of Newport Beach adopted Resolution No. 2024-09 (attached) to notify the Orange County Airport Land Use Commission (ALUC) and Aeronautics Program, Division of Transportation Planning at Caltrans of the City's intent to overrule the Orange County Airport Land Use Commission's determination that the Residences at 1400 Bristol Street project is inconsistent with the Airport Environs Land Use Plan for the John Wayne Airport. Resolution No. 2024-09 includes specific findings, which will be considered during the public hearing to consider overruling ALUC's determination, that the project is consistent with the purposes of the State Aeronautics Act.

Pursuant to Section 21676(b) of Public Utilities Code, the Orange County Airport Land Use Commission may provide comments to the City. Comments should be sent to:

Liz Westmoreland, Senior Planner
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, CA 92660

If you have any questions regarding this matter, or require any additional information, please feel free to contact me at lwestmoreland@newportbeachca.gov or 949-644-3234.

Sincerely,

Liz Westmoreland, ACIP, Senior Planner

Attachment: Resolution No. 2024-09

RESOLUTION NO. 2024- 9

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, NOTIFYING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION AND STATE DEPARTMENT OF TRANSPORTATION, AERONAUTICS PROGRAM OF THE CITY'S INTENTION TO FIND THAT THE RESIDENCES AT 1400 BRISTOL PROJECT IS CONSISTENT WITH THE PURPOSE OF THE STATE AERONAUTICS ACT AND OVERRULE THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION THAT THE PROJECT IS INCONSISTENT WITH THE 2008 JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN (PA2022-0296)

WHEREAS, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules, and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, an application was filed by The Picerne Group ("Applicant"), with respect to the property located at 1400 Bristol Street, and legally described in Exhibit A, which is attached hereto and incorporated by reference ("Property");

WHEREAS, the Applicant is requesting approval to demolish two existing office buildings and develop 229 apartment units including a 422 space parking structure ("Project") which require the following approvals:

- General Plan Amendment ("GPA") – An amendment to the existing General Plan Land Use designation from General Commercial Office (CO-G) to Mixed Use Horizontal 2 (MU-H2), to increase the General Plan allowance for the additional 64 dwelling units, and revise Anomaly 16 of the General Plan Table LU2 (Anomaly Locations) to allow 64 residential dwelling units;
- Planned Community Development Plan Amendment ("PCDP Amendment") – An amendment to the Newport Place Planned Community (PC-11) Development Plan to include the Property within the Residential Overlay;

- Major Site Development Review (“SDR”) – A site development review in accordance with the Newport Place Planned Community (PC-11) and Section 20.52.080 (Site Development Reviews) of the Newport Beach Municipal Code (“NBMC”), to construct the Project;
- Affordable Housing Implementation Plan (“AHIP”) – A program specifying how the Project would meet the City’s affordable housing requirements in exchange for a request of a 50% increase in density; and including a request for six development standard waivers related to park land dedication, building setbacks, building height, private open space, common open space along with a development concession related to the mix of affordable units pursuant to Chapter 20.32 (Density Bonus) of the NBMC and Government Code Section 65915 *et seq.*;
- Development Agreement (“DA”) – A Development Agreement between the Applicant and the City, pursuant to Section 15.45.020 (Development Agreement Required) of the NBMC, which would provide the Applicant with the vested right to develop the Project while also providing negotiated public benefits to the City;
- Addendum to the 2006 General Plan Update Program Environmental Impact Report (“Addendum”) – An Addendum to the 2006 General Plan Update Program Environmental Impact Report pursuant to the California Environmental Quality Act (“CEQA”), which addresses the reasonably foreseeable environmental impacts resulting from the Project; and
- Traffic Study – A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC;

WHEREAS, the Property is designated General Commercial Office (CO-G) by the City of Newport Beach General Plan (“General Plan”) Land Use Element and is located within the Newport Place Planned Community – Industrial Site 3A (PC-11) Zoning District;

WHEREAS, the Project is not located in the coastal zone; therefore, amending the Local Coastal Program or a coastal development permit is not required;

WHEREAS, the Property is located in the Airport Area Environs (“Airport Area”) of the 6th Cycle Housing Element as one of the 62 new housing opportunity sites allocated in the certified 6th Cycle Housing Element to meet the City’s Regional Housing Needs Assessment (“RHNA”) allocation of 4,845 new housing units;

WHEREAS, on November 14, 2023, the City Council approved Resolution Nos. 2023-20 and 2023-21 and Ordinance Nos. 2023-20 and 2023-21, authorizing amendments to the Noise Element and Land Use Element of the General Plan, Title 20 (Planning and Zoning) ("Title 20") of the NBMC, Newport Place Planned Community Development Plan (PC-11), and Newport Airport Village Planned Community Development Plan (PC-60) to update the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 ("EIR No. 617"), allowing residential units identified by the certified 6th Cycle Newport Beach Housing Element to be located within the 65 decibel ("65 dBA") Community Noise Equivalent Level ("CNEL") noise contour maps analyzed in EIR No. 617, and incorporating additional noise attenuation measures for future housing units proximate to John Wayne Airport ("6th Cycle Housing Element Implementation Noise-Related Amendments");

WHEREAS, the Property is located within the 60 dBA noise contour as shown on the updated noise contour maps adopted as part of the 6th Cycle Housing Element Implementation Noise-Related Amendments;

WHEREAS, a public hearing was held by the Planning Commission on December 7, 2023, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* (Ralph M. Brown Act), and Chapter 15.45 (Development Agreements), Chapter 20.56 (Planned Community District Procedures), and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2023-043 by a majority vote (6 ayes, 0 nays, 1 absent) recommending that the City Council approve the Project;

WHEREAS, California Public Utilities Code ("PUC") Section 21676(b) requires the City to refer the Project to the Orange County Airport Land Use Commission ("ALUC") to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan ("AELUP");

WHEREAS, on January 18, 2024, ALUC determined (6 ayes, 0 nays) the Project is inconsistent with the following provisions of the AELUP:

- a. Section 2.1.1 (Aircraft Noise), which provides that the “aircraft noise emanating from airports may be incompatible with the general welfare of the inhabitants within the vicinity of an airport”;
- b. Section 2.1.2 (Safety Compatibility Zones), which provides “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”; and
- c. Section 3.2.1 (General Policy), which provides that “[w]ithin the boundaries of the AELUP, any land use may be found to be Inconsistent with the AELUP [if it] ... (1) [p]laces people so that they are affected adversely by aircraft noise [or] (2) concentrates people in areas susceptible to aircraft accidents...”;

WHEREAS, pursuant to Section 21670 and 21676 of the PUC, the City Council may, after a public hearing, propose to overrule ALUC by a two-thirds vote, if it makes specific findings that the Project is consistent with Section 21670 of the PUC’s purpose of protecting the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses; and

WHEREAS, a public hearing was held by the City Council on February 13, 2024, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with PUC Section 21676(b) and the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council finds the Project consistent with the purposes of Section 21670 of the PUC and the AELUP of protecting the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

Findings and Facts in Support of Findings

A. *The Project is consistent with the noise standards of the AELUP.*

The AELUP guides development proposals to provide for the orderly development of John Wayne Airport ("JWA") and the surrounding area through implementation of the standards in Section 2 (Planning Guidelines) and Section 3 (Land Use Policies). Implementation of these standards are intended to protect the public from the adverse effects of aircraft noise, ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable airspace.

Section 2.1.1 of the AELUP sets forth the CNEL standards, and Sections 3.2.3 and 3.2.4 of the AELUP defines the noise exposure in the 60 dBA to 65 dBA CNEL noise contour (Noise Impact Zone 2) as "Moderate Noise Impact" and in the 65 dBA to 70 dBA CNEL noise contour (Noise Impact Zone 1) as "High Impact." Section 3, Table 1 (Limitations on Land Use Due to Noise) of the AELUP identifies residential use as "conditionally consistent" within the 60 dBA to 65 dBA CNEL noise contour and "normally inconsistent" within the 65 dBA to 70 dBA CNEL noise contour. However, residential uses are not outright prohibited. Instead, Section 3.2.3 of the AELUP requires the residential uses be developed with advanced insulation systems to bring the sound attenuation to no more than 45 dBA within the interior of the building. In addition, residential uses within the 65 dBA CNEL noise contour area are required to be "indoor-oriented" to preclude noise impingement on outdoor living areas.

The Project is located within the updated 60 dBA CNEL noise contour, consistent with the approved 6th Cycle Housing Element Implementation Noise-Related Amendments. Additionally, the Project has been conditioned to provide an acoustical report which describes the best design features of the structure that will satisfy noise standards, be attenuated to provide a maximum interior noise level of 45 dBA and provide advanced air filtration systems to promote cleaner air without the opening of windows. These conditions of approval mitigate noise issues for the Project and is consistent with the 45 dBA interior noise standards of the AELUP.

B. The proposed Amendments are consistent with the safety standards of the AELUP.

Section 2.1.2 (Safety Compatibility Zones) of the AELUP sets forth zones depicting which land uses are acceptable in various portions of JWA environs. Allowed uses in Safety Zone 6 include residential and most nonresidential uses, excepting outdoor stadiums and similar uses with very high intensities. Uses that should be avoided include children's schools, large day-care centers, hospitals, and nursing homes. Risk factors associated with Safety Zone 6 generally include a low likelihood of accident occurrence.

The Project is located within Safety Zone 6 and residential uses are allowed in the zone. The City's General Plan Safety Element Policy S 8.6 demonstrates that the City acknowledges the importance of the JWA Safety Zones in providing, "S 8.6 John Wayne Airport Traffic Pattern Zone - Use the most currently available John Wayne Airport (JWA) Airport Environs Land Use Plan (AELUP) as a planning resource for evaluation of land use compatibility and land use intensity in areas affected by JWA operations. In particular, future land use decisions within the existing JWA Clear Zone/Runway Protection Zone (Figure S5) should be evaluated to minimize the risk to life and property associated with aircraft operations."

The Project complies with the policies and regulations within the JWA Airport Planning Area and follows the safety standards of the AELUP as it is located within Safety Zone 6 and is not within the JWA Clear Zone/Runway Protection Zone.

C. *The Project is consistent with the height standards of the AELUP.*

Section 2.1.3 (Building Height Restrictions) of the AELUP sets forth building height restrictions. Section 2.1.3 provides that ALUC consider only one standard as provided in 14 Code of Federal Regulations (“C.F.R.”) Part 77 (also referred to as the Federal Aviation Regulations). Section 2.1.3 provides that the Federal Aviation Regulations are the only definitive standard available and the standard most generally used. Section 2.1.3 identifies the FAA as the single “Authority” for analyzing project impact on airport or aeronautical operations, or navigational-aid siting, including interference with navigational-aids or published flight paths and procedures along with reporting results of such studies and project analysis.

The FAA conducted an aeronautical study for the Project consistent with the Federal Aviation Regulations. The FAA issued a Determination of No Hazard to Air Navigation on January 17, 2023, thereby finding the development does not exceed obstruction standards and would not be a hazard to air navigation. The FAA reviewed the proposed height of the project assuming an existing site elevation of 54 feet, with a proposed building that is 85 feet above ground level, and 139 feet above mean sea level (“AMSL”). The FAA further found that marking and lighting of the Project are not necessary for aviation safety. Any increase in height of the structure above the proposed 85-foot building height would require a revised Determination of No Hazard to Air Navigation from the FAA. Additionally, there are other buildings in the vicinity of the project that are taller than the Project including the building at 1500 Quail Street that is approximately 144 feet AMSL.

Section 2: Based on the foregoing findings, the City Council provides this notice of intention to overrule the ALUC’s determination that the Project is inconsistent with the AELUP.

Section 3: The City Council hereby directs City staff to provide ALUC and State Department of Transportation, Aeronautics Program, with notice of the City’s intention to overrule ALUC’s determination that the Project is inconsistent with the AELUP.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Specifically, the resolution does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment because it is limited to the notification of the City's intent to overrule the ALUC determination and it does not authorize the development of the Property or commit the City to approve the Project. Potential project impacts will be analyzed when the City Council considers the Project.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 13th day of February, 2024.



Will O'Neill
Mayor

ATTEST:



Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment(s): Exhibit A – Legal Description

Exhibit "A"

Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF NEWPORT BEACH, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF BLOCK 50 OF IRVINE'S SUBDIVISION, AS SHOWN ON A MAP RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS RECORDS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, TOGETHER WITH THAT PORTION OF TRACT 706, AS SHOWN ON A MAP RECORDED IN BOOK 21, PAGE 25 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY, DESCRIBED AS FOLLOWS:

PARCEL 2 IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 54, PAGE 11 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

EXCEPT THE FULL RIGHTS TO ALL MINERALS, PETROLEUM, GAS AND OTHER HYDROCARBON SUBSTANCES EXISTING BELOW FIVE HUNDRED (500) FEET FROM THE SURFACE OF SAID REAL PROPERTY DESCRIBED ABOVE, PROVIDED, HOWEVER, THAT GRANTOR HEREBY EXPRESSLY WAIVES THE RIGHT TO ENTER UPON THE SURFACE OF SAID REAL PROPERTY FOR THE PURPOSE OF EXPLORING FOR, OR PRODUCING THE MINERALS, PETROLEUM, GAS AND OTHER HYDROCARBON SUBSTANCES SO RESERVED IN DEED RECORDED JULY 1, 1977.

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2024-9 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 13th day of February, 2024; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Will O'Neill, Mayor Pro Tem Joe Stapleton, Councilmember Brad Avery, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Erik Weigand
NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 14th day of February, 2024.



Leilani I. Brown
City Clerk
Newport Beach, California





AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

March 12, 2024

David Lee, Senior Planner
Community Development Department
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: Response to Notice of Intent to Overrule the Airport Land Use Commission
Determination Regarding the Residences at 1401 Quail Street

Dear Mr. Lee,

We are in receipt of the City of Newport Beach (City) letter dated February 14, 2024, and City Council Resolution No. 2024-10 notifying the Airport Land Use Commission (ALUC) for Orange County of the City's intent to overrule the ALUC's inconsistency determination on the proposed Residences at 1401 Quail Street. In accordance with Section 21676 of the Public Utilities Code, the ALUC submits the following comments addressing the proposed overrule findings for the above-referenced project. These comments shall be included in the public record of a final decision to overrule the ALUC.

Please be advised that California Public Utilities Code (PUC) Section 21678 states: "With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation."

Background

On January 18, 2024, the ALUC for Orange County found the proposed Residences at 1401 Quail Street to be inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)* on a 6-0 vote. The inconsistent finding was based on AELUP Sections 2.1.1, 2.1.2, and 3.2.1.

Pursuant to Section 1.2 of the AELUP for JWA, the purpose of the AELUP is to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the AELUP seeks to protect the public from the adverse effects of aircraft noise to ensure that people and facilities are not concentrated in areas

susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace. Additionally, Section 2.1.4 of the AELUP for JWA and PUC Section 21674 charge the Commission to coordinate at the local level to ensure compatible land use planning. The City's proposed project would place residential uses within the 65 dBA Community Noise Equivalent Levels (CNEL) and Safety Zones 4 and 6, which would result in exposure to significant risks, noise and aircraft overflight, the City's proposed actions are inconsistent with the AELUP.

ALUC has the following additional comments regarding the findings and facts of support included in Resolution No. 2024-10.

Response to Finding and Fact in Support A - Regarding Noise Standards:

Pursuant to AELUP Section 2.1.1, "... aircraft noise emanating from airports may be incompatible with the general welfare of the inhabitants within the vicinity of an airport. . . ." As noted in the City's discussion, the CNEL standards are set forth in the AELUP. As part of the review of the proposed Residences at 1401 Quail Street, it was noted that the project site is within the JWA 65 dBA noise contour. The ALUC believes that the proposed residential uses would be highly affected by airport noise due to the close proximity to the airport and that the past and current land use designation of General Commercial Office (CO-G) is the appropriate designation for this site.

Finding of Fact A states that "the project is located within the updated 60 dBA CNEL contour consistent with the approved 6th Cycle Housing Element Implementation Noise-Related Amendments." This "updated 60 dBA CNEL contour" was included as part of the Housing Element Implementation/Noise Related Amendments which was found inconsistent by the ALUC on August 17, 2023 and overruled by the City on November 14, 2023. With the 2023 Noise Amendments, the City replaced the existing noise contours which are currently consistent with the adopted *AELUP for JWA*, with more narrow noise contours which were included in 2014 Settlement Agreement EIR 617, which did not provide an analysis of the potentially significant impacts of placing future residential uses within the 65 dB CNEL contour.

As stated in our December 5, 2023 letter to you, and in the August 17, 2023 ALUC Staff Report for Item 1: Housing Implementation/Noise-Related Amendments, "*the AELUP continues to reflect the EIR 508 noise contours for purposes of determining whether a project is consistent with the AELUP noise policies and provisions. Therefore, for purposes of the AELUP consistency analysis, the City and ALUC are required to utilize the noise contours that are provided in the AELUP. Neither the City nor the ALUC can provide a consistency analysis based on different and updated noise contours unless and until those noise contours have been included in the AELUP. Rather, any submittal must be based on the policies and contours currently in the existing AELUP.*"

The proposed Housing Element Implementation - Noise Related Amendments would allow residential uses which are not suitable and would subject the future residents to excessive

noise regardless of which noise contours are utilized. The ALUC has historically found residential uses in the vicinity of JWA to be inconsistent with the *AELUP for JWA*.

Response to Fact in Support B - Regarding Safety:

Pursuant to AELUP Section 2.1.2, “[s]afety and compatibility zones depict which land uses are acceptable and which are unacceptable in various portions of airport environs. 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.”

The proposed project is located in Safety Zone 6 – Traffic Pattern Zone. According to the California Airport Land Use Planning Handbook, noise and overflight should be considered in Safety Zone 6. Flight tracks for the property were included in the ALUC staff report which show a high number of flights over the proposed project site. Considering the proposed density, proximity to JWA and the number of flights over the property, this project is an inappropriate use for the site.

Response to Fact in Support C - Regarding “Intent of the AELUP”:

By virtue of being clearly stated in *AELUP for JWA* Sections 1.2 “Purpose and Scope” and 2.0 “Planning Guidelines,” the ALUC understands the complex legal charge to protect public airports from encroachment by incompatible land use development, while simultaneously protecting the health, safety and welfare of citizens who work and live in the airport’s environs. To this end, and as also statutorily required, ALUC proceedings are benefited by several members having expertise in aviation. Based upon careful consideration of all information provided, and input from ALUC members with expertise in aviation, the ALUC unanimously found the proposed Residences at 1401 Quail Street to be inconsistent with the *AELUP for JWA*.

We urge the City Council to take ALUC’s concerns into consideration in its deliberations prior to deciding whether to overrule ALUC. Thank you for the opportunity to provide these comments.

Sincerely,

DocuSigned by:

09C77A2D7F24488...
Mark Monin
Vice-Chairman

cc: Airport Land Use Commission for Orange County
Jonathan Huff, Caltrans/Division of Aeronautics


DEPARTMENT OF TRANSPORTATION

AERONAUTICS Program— M.S. #40
 1120 N STREET
 P. O. BOX 942874
 SACRAMENTO, CA 94274-0001
 PHONE (916) 654-4959
 FAX (916) 653-9531
 TTY 711
www.dot.ca.gov

Making Conservation
 a California Way of Life.

March 15, 2024

David Lee
 City of Newport Beach
 Community Development Department
 100 Civic Center Drive
 Newport, CA 92660-3267

Electronically Sent
dlee@newportbeachca.gov

Dear Mr. Lee:

Dear Mr. Lee

One of the goals of the California Department of Transportation (Caltrans), Division of Transportation Planning, Aeronautics Program (Aeronautics), is to assist cities, counties, and Airport Land Use Commissions (ALUC) in the development and implementation of policies that protect the safety and general welfare of their communities where aeronautical activities take place. We encourage collaboration with our partners in the planning process and thank you for including us in the review of the proposed overrule of the Orange County ALUC.

On February 13, 2024, the Aeronautics received an email that included City Resolution No. #2024-10 declaring an intent to overrule the ALUC's January 18, 2024, inconsistency determination for the proposed Residences at 1401 Quail Street Project (Project) with the Airport Environs Land Use Plan for John Wayne Airport (ALEUP for JWA)).

The Project includes the construction of 67 for-sale condominium units and a 146-corner space parking structure at the northwest of Quail Street and Spruce Street. Implementation of the proposed project would require demolition of the existing 22,956-square-foot office building and surface parking on the 1.71-acre site. The proposed multi-unit residential building consists of six stories including one level of on-grade parking and one level of subterranean parking. The building height would be approximately 132 feet above ground level, including architectural elements, parapet, rooftop mechanical equipment, and roof access.

The proposed Project, Lot 1 Parcel 1 PMB 44 / 38, is in the airport influence area of the John Wayne Airport at 18601 Airport Way, Santa Ana, CA 92707. The approximate distance from the runway nearest to the Project is 0.41 miles, or 2,156 feet.

Aeronautics shares the same concerns as the ALUC for this Project as notes below:

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. General Policy (in pertinent part): "Within the boundaries of the AELUP, any land use may be found to be Inconsistent with the AELUP which: (1) Places people so that they are affected adversely by aircraft noise, [or] (2) Concentrates people in areas susceptible to aircraft accidents ... "

Aeronautics also share's the same concerns as Charlene V. Reynolds Director of John Wayne Airport in her letter to the city of Newport Beach dated October 9, 2023, regarding "Newport Beach Housing Element Noise-Related Amendments". Specifically, the comments from this letter noted below:

"The City's proposed Housing Element Noise Update has the potential to increase incompatible land use within the 65 dB CNEL noise contour, which could result in significant land use compatibility, noise, safety, and overflight impacts and additional encroachment of incompatible land uses within the airport environs...In addition, the City's proposed Housing Element Noise Update is inconsistent with the 2006 Cooperative Agreement entered into between the City and the County. Revisions are required to the Update to remove any residential uses within the 65 and 60 dB CNEL noise contours to ensure continued compliance with this important Agreement."

Aeronautics strongly encourages the City to work with both the ALUC and the Airport to address their concerns and work together to ensure the development of this area is one that is consistent with the ALEUP for JWA.

It should also be noted that new laws regarding the provision of housing do not supersede existing laws, including Section 21670 of the California Public Utilities Code, which requires counties to establish ALUCs and compatibility plans to protect public health, safety, and welfare.

PUC Section 21675.1(f) provides: If a city or county overrules the commission pursuant to subdivision(d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit.

Pursuant to PUC Section 21676(a), the Division and ALUC comments shall be included in the public record of any decision to overrule the ALUC. If you have questions or we may be of further assistance, please contact me at Vincent.Ray@dot.ca.gov or I can be reached at (916) 907-2219.

Ms. Liz Westmoreland
March 15, 2024
Page 2

Sincerely,

Vincent Ray
Aviation Planner

c: Matt Friedman, Senior Transportation Planner, Division of Aeronautics
Julie Fitch, Planner, Airport Land Use Commission for Orange County
Lan Zhou, Deputy District Director, Caltrans District 12



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

100 Civic Center Drive
Newport Beach, California 92660
949 644-3200
newportbeachca.gov/communitydevelopment

February 14, 2024

Lea Choum, Executive Officer
Airport Land Use Commission for Orange County
John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA 92626

SENT VIA CERTIFIED MAIL AND ELECTRONIC MAIL TO LCHOUM@OCAIR.COM

Subject: Residences at 1401 Quail Street Project – Notice of Intent to Overrule the Orange County Airport Land Use Commission

Dear Ms. Choum:

On February 13, 2024, the City Council of the City of Newport Beach adopted Resolution No. 2024-10 (attached) to notify the Orange County Airport Land Use Commission (ALUC) and Aeronautics Program, Division of Transportation Planning at Caltrans of the City's intent to overrule the Orange County Airport Land Use Commission's determination that the Residences at 1401 Quail project is inconsistent with the Airport Environs Land Use Plan for the John Wayne Airport. Resolution No. 2024-10 includes specific findings, which will be considered during the public hearing to consider overruling ALUC's determination, that the project is consistent with the purposes of the State Aeronautics Act.

Pursuant to Section 21676(b) of Public Utilities Code, the Orange County Airport Land Use Commission may provide comments to the City. Comments should be sent to:

David Lee, Senior Planner
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, CA 92660

If you have any questions regarding this matter, or require any additional information, please feel free to contact me at dlee@newportbeachca.gov or 949-644-3225.

Sincerely,

David Lee, Senior Planner

Attachment: Resolution No. 2024-10

RESOLUTION NO. 2024-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, NOTIFYING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION AND STATE DEPARTMENT OF TRANSPORTATION, AERONAUTICS PROGRAM OF THE CITY'S INTENTION TO FIND THAT THE RESIDENCES AT 1401 QUAIL PROJECT IS CONSISTENT WITH THE PURPOSE OF THE STATE AERONAUTICS ACT AND OVERRULE THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION THAT THE PROJECT IS INCONSISTENT WITH THE 2008 JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN (PA2023-0040)

WHEREAS, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules, and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, an application was filed by Intracorp Homes ("Applicant") with respect to the property located at 1401 Quail Street, and legally described as Parcel 1 of Resubdivision No. 341 ("Property");

WHEREAS, the Applicant is requesting approval to demolish an existing office building and develop 67 for-sale condominium units including a 146 space parking structure ("Project") which require the following approvals:

- General Plan Amendment ("GPA") – An amendment to the General Plan Land Use designation of the Property from General Commercial Office (CO-G) to Mixed-Use Horizontal 2 (MU-H2);
- Planned Community Development Plan Amendment ("PCDP Amendment") – An amendment to the Newport Place Planned Community (PC-11) Development Plan to include the Property within the Residential Overlay;
- Major Site Development Review ("SDR") – A site development review in accordance with the Newport Place Planned Community (PC-11) and Section 20.52.080 (Site Development Reviews) of the Newport Beach Municipal Code ("NBMC"), to construct the Project;

- Tentative Vesting Tract Map (“VTM”) – Vesting Tentative Tract Map No. 19261 pursuant to Title 19 (Subdivisions) of the NBMC for the 67 condominium dwelling units;
- Affordable Housing Implementation Plan (“AHIP”) – A program specifying how the Project would meet the City’s affordable housing requirements in exchange for a request of a 27.5% increase in density; and including a request for four development standard waivers related to park land dedication, building setbacks, and building height along with two development concessions related to the mix of affordable units and a partial payment of the park in-lieu fee pursuant to Chapter 20.32 (Density Bonus) of the NBMC and Government Code Section 65915 *et seq.*;
- Development Agreement (“DA”) – A Development Agreement between the Applicant and the City, pursuant to Section 15.45.020 (Development Agreement Required) of the NBMC, which would provide the Applicant with the vested right to develop the Project while also providing negotiated public benefits to the City; and
- Addendum to the 2006 General Plan Update Program Environmental Impact Reports (“Addendum”) – An Addendum to the 2006 General Plan Update Program Environmental Impact Report pursuant to the California Environmental Quality Act (“CEQA”), which addresses the reasonably foreseeable environmental impacts resulting from the Project;

WHEREAS, the Property is designated General Commercial Office (CO-G) by the City of Newport Beach General Plan (“General Plan”) Land Use Element and is located within the Newport Place Planned Community – Industrial Site 3A (PC-11) Zoning District;

WHEREAS, the Project is not located in the coastal zone; therefore, amending the Local Coastal Program or a coastal development permit is not required;

WHEREAS, the Property is located in the Airport Area Environs (“Airport Area”) of the 6th Cycle Housing Element as one of the 62 new housing opportunity sites allocated in the certified 6th Cycle Housing Element to meet the City’s Regional Housing Needs Assessment (“RHNA”) allocation of 4,845 new housing units;

WHEREAS, on November 14, 2023, the City Council approved Resolution Nos. 2023-20 and 2023-21 and Ordinance Nos. 2023-20 and 2023-21 authorizing amendments to the Noise Element and Land Use Element of the General Plan, Title 20 (Planning and Zoning) ("Title 20") of the NBMC, Newport Place Planned Community Development Plan (PC-11), and Newport Airport Village Planned Community Development Plan (PC-60) to update the noise contours identified by the 2014 John Wayne Airport Settlement Agreement Amendment Environmental Impact Report No. 617 ("EIR No. 617"), allowing residential units identified by the certified 6th Cycle Newport Beach Housing Element to be located within the 65 decibel ("65 dBA") Community Noise Equivalent Level ("CNEL") noise contour maps analyzed in EIR No. 617, and incorporating additional noise attenuation measures for future housing units proximate to John Wayne Airport ("6th Cycle Housing Element Implementation Noise-Related Amendments");

WHEREAS, the Property is located within the 60 dBA noise contour as shown in the updated noise contour maps adopted as part of the 6th Cycle Housing Element Implementation Noise-Related Amendments;

WHEREAS, a public hearing was held by the Planning Commission on December 21, 2023, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* (Ralph M. Brown Act), and Chapter 15.45 (Development Agreements), Chapter 19.20 (Vesting Tentative Map), Chapter 20.56 (Planned Community District Procedures), and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2023-047 by a majority vote (6 ayes, 0 nays, 1 absent) recommending that the City Council approve the Project;

WHEREAS, California Public Utilities Code ("PUC") Section 21676(b) requires the City to refer the Project to the Orange County Airport Land Use Commission ("ALUC") to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan ("AELUP");

WHEREAS, on January 18, 2024, ALUC determined (6 ayes, 0 nays) the Project is inconsistent with the following provisions of the AELUP:

- a. Section 2.1.1 (Aircraft Noise), which provides that the “aircraft noise emanating from airports may be incompatible with the general welfare of the inhabitants within the vicinity of an airport”;
- b. Section 2.1.2 (Safety Compatibility Zones), which provides “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”; and
- c. Section 3.2.1 (General Policy), which provides that “[w]ithin the boundaries of the AELUP, any land use may be found to be Inconsistent with the AELUP [if it] ... (1) [p]laces people so that they are affected adversely by aircraft noise [or] (2) concentrates people in areas susceptible to aircraft accidents...”;

WHEREAS, pursuant to Sections 21670 and 21676 of the PUC, the City Council may, after a public hearing, propose to overrule ALUC by a two-thirds vote, if it makes specific findings that the Project is consistent with Section 21670 of the PUC’s purpose of protecting the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses; and

WHEREAS, a public hearing was held by the City Council on February 13, 2024, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with PUC Section 21676(b) and the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council finds the Project consistent with the purposes of Section 21670 of the PUC and the AELUP of protecting the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

Findings and Facts in Support of Findings

A. *The Project is consistent with the noise standards of the AELUP.*

The AELUP guides development proposals to provide for the orderly development of John Wayne Airport ("JWA") and the surrounding area through implementation of the standards in Section 2 (Planning Guidelines) and Section 3 (Land Use Policies). Implementation of these standards are intended to protect the public from the adverse effects of aircraft noise, ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable airspace.

Section 2.1.1 of the AELUP sets forth the CNEL standards, and Sections 3.2.3 and 3.2.4 of the AELUP defines the noise exposure in the 60 dBA to 65 dBA CNEL noise contour (Noise Impact Zone 2) as "Moderate Noise Impact" and in the 65 dBA to 70 dBA CNEL noise contour (Noise Impact Zone 1) as "High Impact." Section 3, Table 1 (Limitations on Land Use Due to Noise) of the AELUP identifies residential use as "conditionally consistent" within the 60 dBA to 65 dBA CNEL noise contour and "normally inconsistent" within the 65 dBA to 70 dBA CNEL noise contour. However, residential uses are not outright prohibited. Instead, Section 3.2.3 of the AELUP requires the residential uses be developed with advanced insulation systems to bring the sound attenuation to no more than 45 dBA within the interior of the building. In addition, residential uses within the 65 dBA CNEL noise contour area are required to be "indoor-oriented" to preclude noise impingement on outdoor living areas.

The Project is located within the updated 60 dBA CNEL contour, consistent with the approved 6th Cycle Housing Element Implementation Noise-Related Amendments. Additionally, the Project has been conditioned to provide an acoustical report which describes the best design features of the structure that will satisfy noise standards, be attenuated to provide a maximum interior noise level of 45 dBA and provide advanced air filtration systems to promote cleaner air without the opening of windows. These conditions of approval mitigate noise issues for the Project and are consistent with the 45 dBA interior noise standards of the AELUP.

B. The proposed Amendments are consistent with the safety standards of the AELUP.

Section 2.1.2 (Safety Compatibility Zones) of the AELUP sets forth zones depicting which land uses are acceptable in various portions of JWA environs. Allowed uses in Safety Zone 6 include residential and most nonresidential uses, excepting outdoor stadiums and similar uses with very high intensities. Uses that should be avoided include children's schools, large day-care centers, hospitals, and nursing homes. Risk factors associated with Safety Zone 6 generally include a low likelihood of accident occurrence.

The Project is located within Safety Zone 6 and residential uses are allowed in that zone. The City's General Plan Safety Element Policy S 8.6 demonstrates that the City acknowledges the importance of the JWA Safety Zones in providing, "S 8.6 John Wayne Airport Traffic Pattern Zone - Use the most currently available John Wayne Airport (JWA) Airport Environs Land Use Plan (AELUP) as a planning resource for evaluation of land use compatibility and land use intensity in areas affected by JWA operations. In particular, future land use decisions within the existing JWA Clear Zone/Runway Protection Zone (Figure S5) should be evaluated to minimize the risk to life and property associated with aircraft operations."

The Project complies with the policies and regulations within the JWA Airport Planning Area and follows the safety standards of the AELUP as it is located within Safety Zone 6 and is not within the JWA Clear Zone/Runway Protection Zone.

C. *The Project is consistent with the height standards of the AELUP.*

Section 2.1.3 (Building Height Restrictions) of the AELUP sets forth building height restrictions. Section 2.1.3 provides that ALUC consider only one standard as provided in 14 Code of Federal Regulations (“C.F.R.”) Part 77 (also referred to as the Federal Aviation Regulations). Section 2.1.3 provides that the Federal Aviation Regulations are the only definitive standard available and the standard most generally used. Section 2.1.3 identifies the FAA as the single “Authority” for analyzing project impact on airport or aeronautical operations, or navigational-aid siting, including interference with navigational aids or published flight paths and procedures along with reporting results of such studies and project analysis.

The FAA conducted an aeronautical study for the Project consistent with the Federal Aviation Regulations. The FAA issued a Determinations of No Hazard to Air Navigation on August 21, 2023, thereby finding the development does not exceed obstruction standards and would not be a hazard to air navigation. The FAA reviewed the proposed building height of the Project assuming an existing site of 51 feet, with a proposed building that is 81 feet above ground level, and 132 feet above mean sea level (“AMSL”). The FAA further found that marking and lighting of the Project are not necessary for aviation safety. Any increase in height of the structure above the proposed 81-foot building height would require a revised Determination of No Hazard to Air Navigation from the FAA. Additionally, there are other buildings in the vicinity of the Project that are taller than the Project including the building located at 1500 Quail Street that is approximately 144 feet AMSL.

Section 2: Based on the foregoing findings, the City Council provides this notice of intention to overrule the ALUC’s determination that the Project is inconsistent with the AELUP.

Section 3: The City Council hereby directs City staff to provide ALUC and State Department of Transportation, Aeronautics Program, with notice of the City’s intention to overrule ALUC’s determination that the Project is inconsistent with the AELUP.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Specifically, the resolution does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment because it is limited to the notification of the City's intent to overrule the ALUC determination and it does not authorize the development of the Property or commit the City to approve the Project. Potential project impacts will be analyzed when the City Council considers the Project.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 13th day of February, 2024.



Will O'Neill
Mayor

ATTEST:


Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE


Aaron C. Harp
City Attorney

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2024-10 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 13th day of February, 2024; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Will O'Neill, Mayor Pro Tem Joe Stapleton, Councilmember Brad Avery,
Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember
Lauren Kleiman, Councilmember Erik Weigand
NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 14th day of February, 2024.



Leilani I. Brown
City Clerk
Newport Beach, California





AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

February 21, 2024

Swati Meshram, PhD, AICP, Planning Manager
City of Buena Park
6650 Beach Blvd., P.O. Box 5009
Buena Park, CA 92622-5009

Subject: ALUC Determination for City of Buena Park General Plan Amendment (Land Use Map), Zone Change (Zoning Map), Specific Plan Amendment (Creating the Objective Design and Development Standards Regulating Housing Incentive Overlays), and Zone Text Amendment for Housing Element Implementation

Dear Dr. Meshram:

During the public meeting held on February 15, 2024, the Airport Land Use Commission (ALUC) for Orange County considered the subject item. The matter was duly discussed and with a 5-0 vote, the Commission found the proposed City of Buena Park General Plan Amendment (Land Use Map), Zone Change (Zoning Map), Specific Plan Amendment (Creating the Objective Design and Development Standards Regulating Housing Incentive Overlays), and Zone Text Amendment for Housing Element Implementation to be Consistent with the *Airport Environs Land Use Plan (AELUP) for Fullerton Municipal Airport* and the *AELUP for Joint Forces Training Base Los Alamitos*, with the following condition:

“Applicants proposing buildings or structures that penetrate the Notification Surface for FMA or JFTB Los Alamitos shall file a Form 7460-1 Notice of Proposed Construction or Alteration with the Federal Aviation Administration and provide a copy of the FAA determination to the City and the ALUC.”

Please contact me at lchoum@ocair.com or Julie Fitch at jfitch@ocair.com or (949) 252-5170 if you have any questions regarding this proceeding.

Sincerely,

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

February 21, 2024

Swati Meshram, PhD, AICP, Planning Manager
City of Buena Park
6650 Beach Blvd., P.O. Box 5009
Buena Park, CA 92622-5009

Subject: ALUC Determination for City of Buena Park Craig Avenue Apartment Development

Dear Dr. Meshram:

During the public meeting held on February 15, 2024, the Airport Land Use Commission (ALUC) for Orange County considered the subject item. The matter was duly discussed and with a 5-0 vote, the Commission found the proposed apartment development located at 7682, 7692, 7712, and 7722 Craig Avenue, to be Consistent with the *Airport Environs Land Use Plan (AELUP) for Fullerton Municipal Airport*.

Please contact me at lchoum@ocair.com or (949) 252-5170 if you have any questions regarding this proceeding.

Sincerely,

Lea U. Choum
Executive Officer