



AIRPORT LAND USE COMMISSION

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

AGENDA ITEM 3

July 18, 2024

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

The following attachments are provided for your information:

- John Wayne Airport April 2024 and May 2024 Statistics
- City of Newport Beach NOI to Overrule ALUC on 1600 Dove Street - July 10, 2024
- Revised City of Irvine General Plan Amendment Exhibit with JWA Contours - July 9, 2024
- ALUC Response to Newport Beach regarding NOI to Overrule Housing Element Implementation Program Amendments - June 28, 2024, Caltrans Response to Newport Beach regarding NOI to Overrule ALUC - June 21, 2024, and Newport Beach NOI letter to overrule ALUC – May 29, 2024
- Referral Confirmation Letter to City of Cypress - June 28, 2024
- Determination Letter to Newport Beach regarding the Residences at 1600 Dove Street - June 25, 2024
- Determination Letter to Irvine regarding General Plan Update and Associated Zone Change - June 25, 2024
- Certificate of Appreciation from ALUC to Lea Choum - June 20, 2024

Respectfully submitted,

Julie Fitch
Executive Officer

John Wayne Airport Posts May 2024 Statistics

June 25, 2024

(SANTA ANA, CA) – Airline passenger traffic at John Wayne Airport decreased in May 2024 as compared to May 2023. In May 2024, the Airport served 950,740 passengers, a decrease of 8.7% when compared with the May 2023 passenger traffic count of 1,041,342.

Commercial aircraft operations in May 2024 of 7,862 decreased 4.9% and commuter aircraft operations of 420 decreased 0.5% when comparing with May 2023 levels.

Total aircraft operations increased in May 2024 as compared with the same month in 2023. In May 2024, there were 25,061 total aircraft operations (takeoffs and landings) a 10.2% increase compared to 22,748 total aircraft operations in May 2023.

General aviation activity of 16,734 accounted for 66.8% of the total aircraft operations during May 2024, and increased 19.2% compared with May 2023.

The top three airlines in May 2024 based on passenger count were Southwest Airlines (279,803), American Airlines (169,769) and United Airlines (147,621).

John Wayne Airport
Monthly Airport Statistics - May 2024

	May 2024	May 2023	% Change	Year-To-Date 2024	Year-To-Date 2023	% Change
Total passengers	950,740	<u>1,041,342</u>	-8.7%	4,572,914	4,751,107	-3.8%
Enplaned passengers	470,152	515,570	-8.8%	2,274,196	2,360,422	-3.7%
Deplaned passengers	480,588	525,772	-8.6%	2,298,718	2,390,685	-3.8%
Total Aircraft Operations	25,061	<u>22,748</u>	10.2%	118,263	105,077	12.5%
General Aviation	16,734	14,042	19.2%	77,474	64,161	20.7%
Commercial	7,862	8,266	-4.9%	38,653	38,535	0.3%
Commuter ¹	420	422	-0.5%	2,010	2,257	-10.9%
Military	45	18	150.0%	126	124	1.6%
Air Cargo Tons ²	1,292	1,348	-4.2%	6,985	7,137	-2.1%
International Statistics ³	(included in totals above)					
	May 2024	May 2023	% Change	Year-To-Date 2024	Year-To-Date 2023	% Change
Total Passengers	30,384	32,700	-7.1%	144,972	156,433	-7.3%
Enplaned passengers	15,794	16,837	-6.2%	73,720	78,518	-6.1%
Deplaned passengers	14,590	15,863	-8.0%	71,252	77,915	-8.6%
Total Aircraft Operations	248	258	-3.9%	1,179	1,231	-4.2%

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: 1,204 tons
 Passenger Carriers (incidental belly cargo): 88 tons

Current cargo tonnage figures in this report are for: April 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, or follow us on [X \(formerly Twitter\) @johnwayneair](https://twitter.com/johnwayneair) and [Instagram @johnwayneair](https://instagram.com/johnwayneair).

To receive John Wayne Airport news releases automatically, go to www.ocair.com and click [Subscribe](#).

John Wayne Airport Posts April 2024 Statistics

May 30, 2024

(SANTA ANA, CA) – Airline passenger traffic at John Wayne Airport decreased in April 2024 as compared to April 2023. In April 2024, the Airport served 916,552 passengers, a decrease of 7.7% when compared with the April 2023 passenger traffic count of 992,569.

Commercial aircraft operations in April 2024 of 7,727 increased 0.2% and commuter aircraft operations of 380 decreased 13.6% when comparing with April 2023 levels.

Total aircraft operations increased in April 2024 as compared with the same month in 2023. In April 2024, there were 23,177 total aircraft operations (takeoffs and landings) a 7.1% increase compared to 21,632 total aircraft operations in April 2023.

General aviation activity of 15,057 accounted for 64.9% of the total aircraft operations during April 2024, and increased 11.8% compared with April 2023.

The top three airlines in April 2024 based on passenger count were Southwest Airlines (274,703), American Airlines (166,552) and United Airlines (138,724).

John Wayne Airport
Monthly Airport Statistics - April 2024

	April 2024	April 2023	% Change	Year-To-Date 2024	Year-To-Date 2023	% Change
Total passengers	916,552	<u>992,569</u>	-7.7%	3,622,174	3,709,765	-2.4%
Enplaned passengers	454,021	493,991	-8.1%	1,804,044	1,844,852	-2.2%
Deplaned passengers	462,531	498,578	-7.2%	1,818,130	1,864,913	-2.5%
Total Aircraft Operations	23,177	21,632	7.1%	93,202	82,329	13.2%
General Aviation	15,057	13,465	11.8%	60,740	50,119	21.2%
Commercial	7,727	7,714	0.2%	30,791	30,269	1.7%
Commuter ¹	380	440	-13.6%	1,590	1,835	-13.4%
Military	13	13	0.0%	81	106	-23.6%
Air Cargo Tons ²	1,281	1,603	-20.1%	5,693	5,789	-1.7%
International Statistics ³					(included in totals above)	
	April 2024	April 2023	% Change	Year-To-Date 2024	Year-To-Date 2023	% Change
Total Passengers	29,573	33,431	-11.5%	114,588	123,733	-7.4%
Enplaned passengers	14,519	16,579	-12.4%	57,926	61,681	-6.1%
Deplaned passengers	15,054	16,852	-10.7%	56,662	62,052	-8.7%
Total Aircraft Operations	239	250	-4.4%	931	973	-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: 1,207 tons
 Passenger Carriers (incidental belly cargo): 74 tons
 Current cargo tonnage figures in this report are for: March 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/johnwaynearairport, or follow us on X (formerly Twitter) [@johnwaynear](https://twitter.com/johnwaynear) and Instagram [@johnwaynear](https://instagram.com/johnwaynear).

To receive John Wayne Airport news releases automatically, go to www.ocair.com and click [Subscribe](#).



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

100 Civic Center Drive
Newport Beach, California 92660

949 644-3200

newportbeachca.gov/communitydevelopment

RECEIVED

JUL 10 2024

AIRPORT LAND USE COMMISSION

July 10, 2024

Julie Fitch, 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 JFITCH@OCAIR.COM

Subject: Residences at 1600 Dove Street Project – Notice of Intent to Overrule the Orange County Airport Land Use Commission

Dear Ms. Fitch:

On July 9, 2024, the City Council of the City of Newport Beach adopted Resolution No. 2024-45 (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 1600 Dove Street project is inconsistent with the Airport Environs Land Use Plan for the John Wayne Airport. Resolution No. 2024-45 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. 2024-45

RESOLUTION NO. 2024-45

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 1600 DOVE STREET 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 (PA2022-0297)

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 1600 Dove Street and legally described in Exhibit "A," which is attached hereto and incorporated by reference ("Property");

WHEREAS, the Applicant is requesting approval to allow the development of a multi-unit residential project consisting of up to 282 apartment units ("Project"), which require the following approvals:

- General Plan Amendment ("GPA") – A request to add 49 dwelling units above the current General Plan allowance for the Airport Area, and amend Anomaly Number 12 of the General Plan Table LU2 (Anomaly Locations) allocating 49 residential dwelling units to the Property;
- Affordable Housing Implementation Plan ("AHIP") – A plan specifying how the Project would meet the City's affordable housing requirements, in exchange for a 50% increase in density including a request for three development standard waivers related to height, park dedication requirement, and overall residential density along with two development concessions related to the payment of park in-lieu fees and affordable unit mix pursuant to Chapter 20.32 (Density Bonus) of

- the Newport Beach Municipal Code ("NBMC") and Government Code Section 65915 *et seq.* ("State Density Bonus Law");
- 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 for a term of 10 years and provide negotiated public benefits to the City;
 - Traffic Study – A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC; and
 - Addendum No. 9 to the 2006 General Plan Update Program Environmental Impact Report and the 2008-2014 City of Newport Beach Housing Element Update and Initial Study/Negative Declaration ("Addendum No. 9") – An addendum which addresses reasonably foreseeable environmental impacts resulting from the Project;

WHEREAS, the Property is designated Mixed-Use Horizontal 2 (MU-H2) by the General Plan Land Use Element and located within the Newport Place Planned Community (PC-11) Zoning District Professional and Business Office Site 7 with a residential overlay;

WHEREAS, the Property is not located within the coastal zone; therefore, amending the Local Coastal Program or obtaining a coastal development permit is not required;

WHEREAS, the Property is located in the Airport Area Environs ("Airport Area") and is 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, the Property is located within the 60 decibel ("dBA") noise contour Community Noise Equivalent Level ("CNEL") as shown on the updated noise contour maps as part of the 6th Cycle Housing Element Implementation Noise-Related Amendments and the 60 dBA noise contour as shown on the 2008 John Wayne Airport Environs Land Use Plan ("AELUP");

WHEREAS, a public hearing was held by the Planning Commission on May 23, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of the time, place, and purpose of the hearing was given in accordance with

Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 15.45 (Development Agreements), 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. PC2024-008 by a majority vote (4 ayes, 1 nay) recommending the City Council approve the Project;

WHEREAS, California Public Utilities Code ("CPUC") 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 AELUP;

WHEREAS, on June 20, 2024, the 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";
- 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 CPUC, the City Council may, after a public hearing, propose to overrule the ALUC with a two-thirds vote, if it makes specific findings that the Project is consistent with the purpose of Section 21670 of the CPUC to protect 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 July 9, 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 CPUC 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 CPUC and the AELUP to protect 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 define the noise exposure in the 60 dBA to 65 dBA CNEL noise contour (Noise Impact Zone 2) as "Moderate Noise Impact," Section 3, Table 1 (Limitations on Land Use Due to Noise) of the AELUP identifies residential uses as "normally consistent" for the 60 dBA CNEL noise contour. The Project is located within the 60 dBA to 65 dBA CNEL noise contour as shown on the updated noise contour maps as part of the 6th Cycle Housing Element Implementation Noise-Related Amendments and the 60 dBA to 65 dBA noise contour as shown on the AELUP. As a result, the Project will be required to comply with the development standards set forth in Section 20.30.080(F) (Residential Use Proximate to John Wayne Airport) of the NBMC.

Additionally, as part of the future Site Development Review, the Project will be 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 Project is 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 Federal Aviation Administration ("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 analyses.

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 October 24, 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 ("SE") of 54 feet, with a proposed building that is 100 feet above ground level ("AGL"), and 154 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 100-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 adjacent building at 4100 Newport Place Drive that is approximately 234 feet AMSL and the nearby building at 4545 MacArthur (Hyatt Regency) that is approximately 225 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.

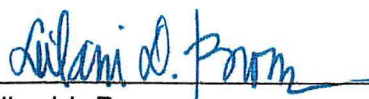
Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 9th day of July, 2024.

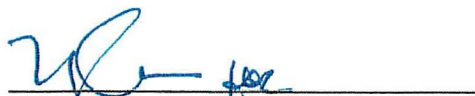


Will O'Neill
Mayor

ATTEST:


Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE


Aaron C. Harp
City Attorney

Attachment: 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:

LOT 3 OF TRACT NO. 7770, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 299, PAGES 15 AND 16 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM THE FULL RIGHTS AND ALL MINERALS, PETROLEUM, GAS AND OTHER HYDROCARBON SUBSTANCES EXISTING BELOW 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 OR THE PURPOSE OF EXPLORING FOR, OR PRODUCING THE MINERALS, PETROLEUM, GAS AND OTHER HYDROCARBON SUBSTANCES AS RESERVED BY DEED RECORDED IN BOOK 10328, PAGE 506 OF OFFICIAL RECORDS.

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

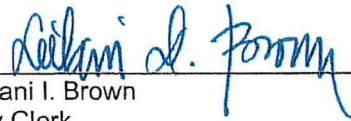
I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2024-45 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 9th day of July, 2024; and the same was so passed and adopted by the following vote, to wit:

AYES: Councilmember Brad Avery, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Erik Weigand

NAYS: None

RECUSED: Mayor Will O'Neill, Mayor Pro Tem Joe Stapleton

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 10th day of July, 2024.



Leilani I. Brown
City Clerk
Newport Beach, California



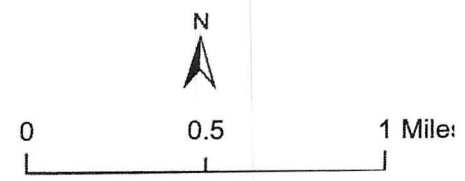
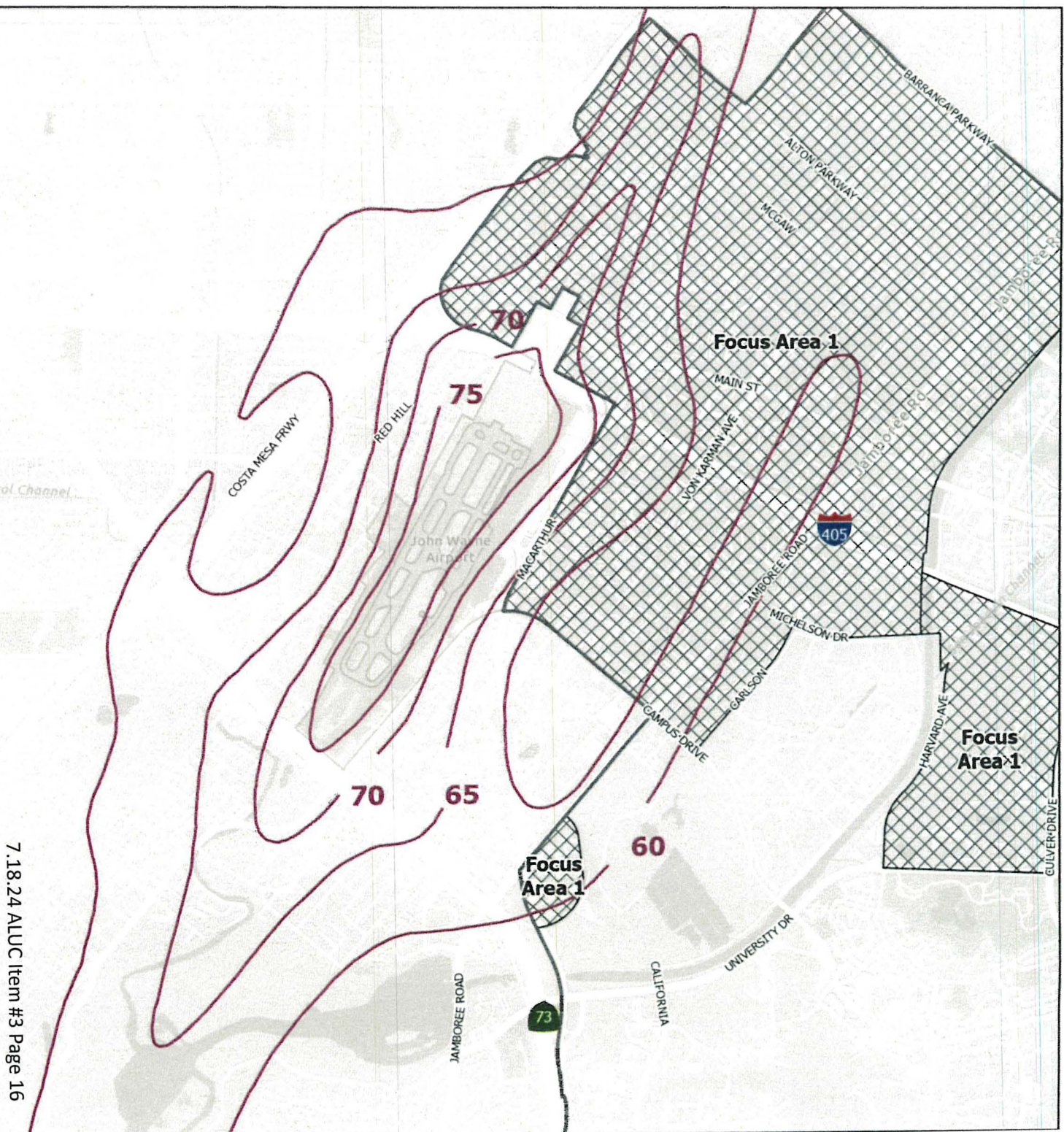
Airport Noise Impact Zones

RECEIVED
 JUL 09 2024



AIRPORT LAND USE COMMISSION

The project includes a General Plan Amendment and Zone Change to allow a new Residential and Residential Mixed-Use Overlay over Focus Area 1 consistent with goals set forth in the Housing Element that was approved by the City of Irvine and certified by the California Department of Housing and Community Development in 2022. The project does NOT contemplate or include the construction of any specific development projects within Focus Area 1, but rather would allow for the future development of residential and residential mixed-use projects under the proposed overlay.





AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

June 28, 2024

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

Subject: Response to Notice of Intent to Overrule the Airport Land Use Commission for Orange County Determination on Housing Element Implementation Program Amendments

Dear Mr. Zdeba,

We are in receipt of the City of Newport Beach (City) letter dated May 29, 2024, and City Council Resolution No. 2024-32 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 Housing Element Implementation Program Amendments including 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. 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 August 17, 2023, the City submitted Housing Element Implementation - Noise Related Amendments for a consistency review. The proposed amendments included amendments to the General Plan including the replacement of the *AELUP* noise contours with more narrow noise contours which were included in 2014 Settlement Agreement EIR 617. ALUC found the Noise-Related Amendments to be inconsistent with the *AELUP for JWA*, and the City overruled that determination and adopted the Amendments.

On May 16, 2024, the ALUC for Orange County found the proposed Housing Element Implementation Program Amendments to be inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)* on a 7-0 vote. The inconsistent finding was based on AELUP Sections 2.1.1, 2.1.2, 2.1.4, 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. Therefore, because of the City's proposed amendments allowing for residential uses within Community Noise Equivalent Levels (CNEL) 60 and 65, and Safety Zones 4 and 6, which include 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. 2024-32:

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. The proposed Housing Element Implementation Program Amendments would further allow residential uses within the JWA 65 dBA and 60 dBA CNEL noise contours. The ALUC believes that these residential units would be highly affected by airport noise due to the close proximity to the airport (some within less than one mile from the runway end and others directly across the street from the airport), regardless of which noise contours are utilized.

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 housing sites in the Housing Element Update, the Noise-Related Amendments, and the Housing Element Implementation Program Amendments include property located in Safety Zone 4 – Outer Approach/Departure Zone, and Safety Zone 6 – Traffic Pattern Zone 6. Many of the sites located in Safety Zones 4 and 6 are also located in the 65 dB CNEL contour. According to the California Airport Land Use Planning Handbook, noise and overflight should be considered in Safety Zone 6 and residential uses should be limited to low density in Safety Zone 4. Flight tracks for the property were included in the ALUC staff report and are attached

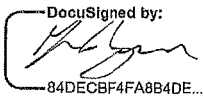
to this letter. Considering the proposed densities, proximity to JWA and the number of flights over the property, Housing Element Implementation Program Amendments are inappropriate.

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 Housing Element Implementation Program Amendments 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. In the event the City overrules ALUC's determinations, ALUC requests that individual projects within the airport influence area are submitted to ALUC for review. Thank you for the opportunity to provide these comments.

Sincerely,

DocuSigned by:


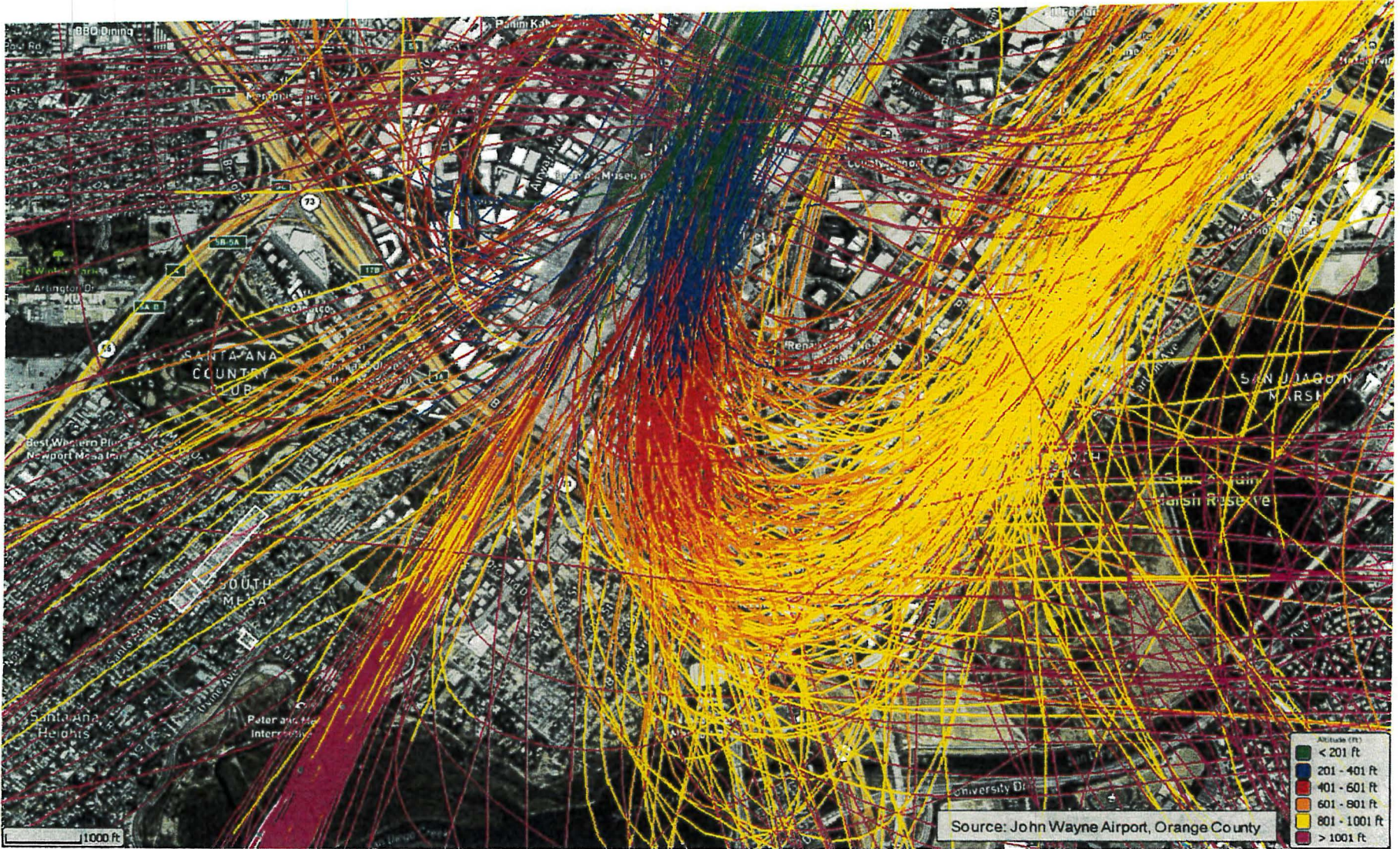
84DECBF4FA8B4DE...
Gerald A. Bresnahan
Chairman

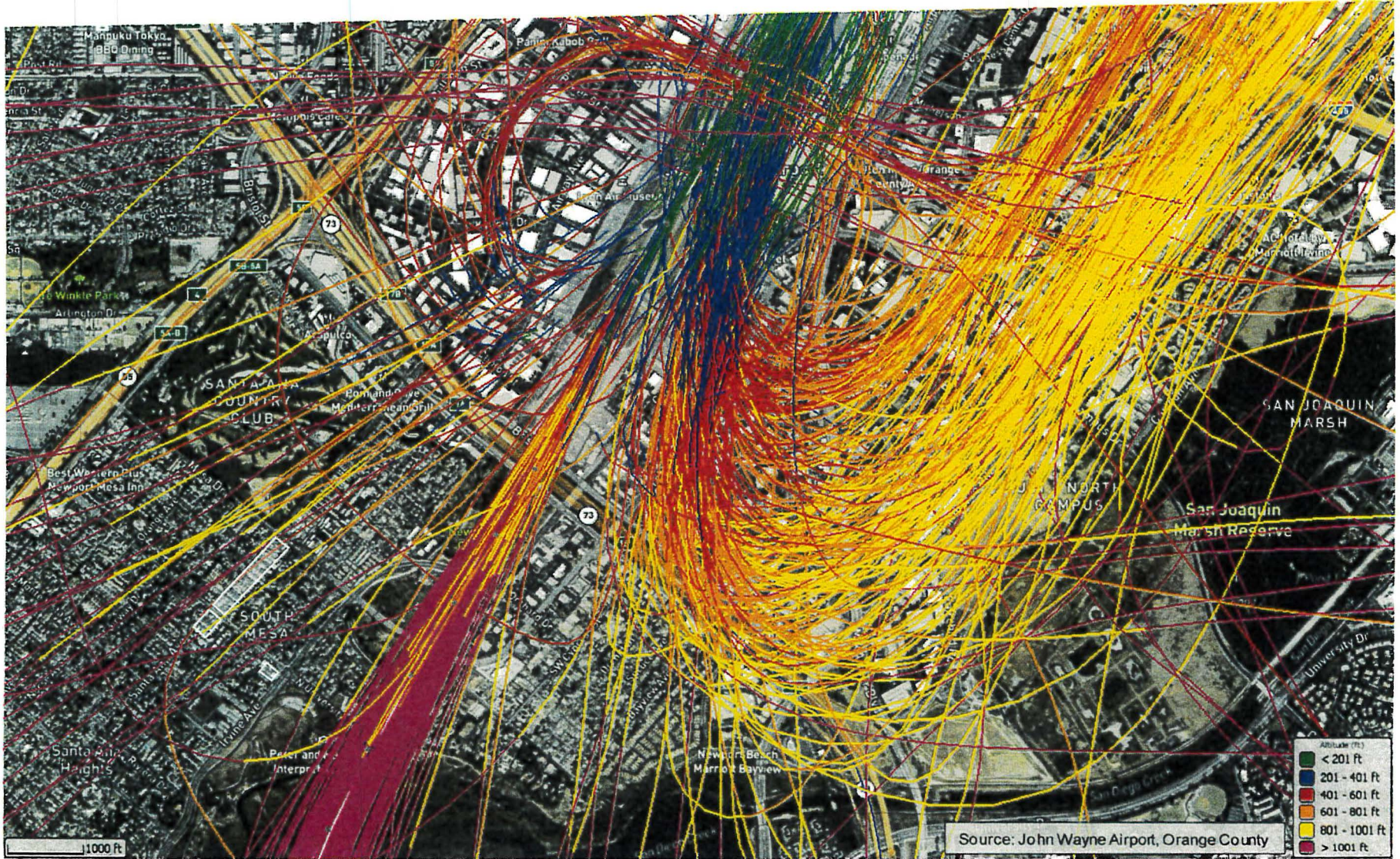
Attachment: John Wayne Airport Flight Tracks

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



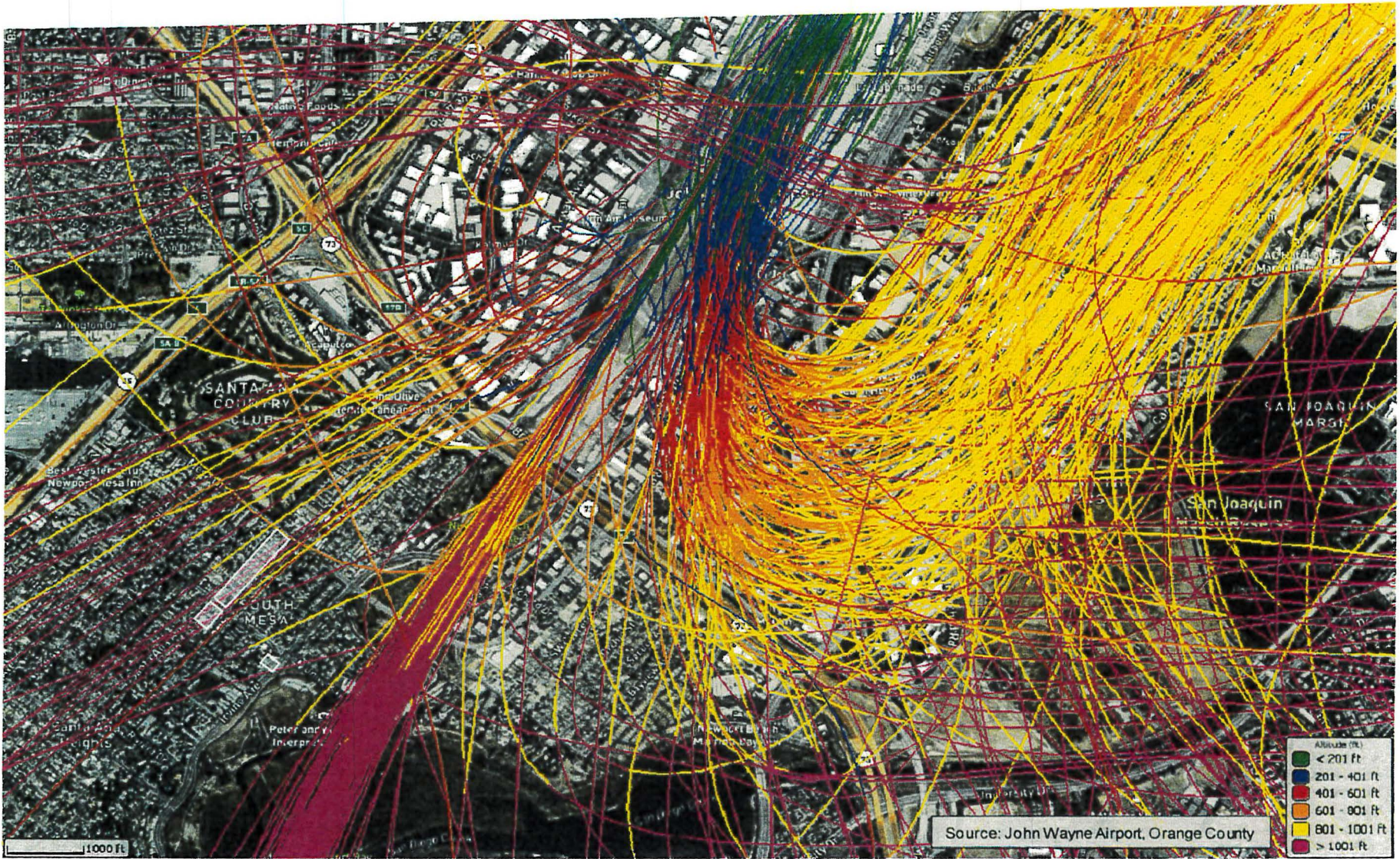
John Wayne Airport Altitude Analysis
629 Operations
Tuesday, April 2, 2024







John Wayne Airport Altitude Analysis
561 Operations
Saturday, April 6, 2024



California Department of Transportation



AERONAUTICS PROGRAM
 DIVISION OF TRANSPORTATION PLANNING
 P.O. BOX 942873, MS-40 | SACRAMENTO, CA 94273-0001
 (916) 654-4959
www.dot.ca.gov

June 21, 2024

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

Electronically Sent
[<bzdeba@newportbeachca.gov>](mailto:bzdeba@newportbeachca.gov)

Dear Mr. Zdeba:

The Aeronautics Program (Program) at the California Department of Transportation (Caltrans) thanks the City of Newport Beach (City) for providing the Notice of Intent, dated May 29, 2024, to overrule a determination of the Orange County Airport Land Use Commission (ALUC). The ALUC has reported that the Housing Element Implementation Program Amendments 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.) 2024-32 (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 supports the position of the ALUC in noting that the City has provided insufficient support for an Override.

The ALUC has noted the following reasons this Project update is incompatible with the AELUP:

1. Section 2.1.1, Aircraft Noise that the "aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport."
2. Section 2.1.2, Safety Compatibility Zones in which "the purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA."
3. Section 2.1.4, and PUC Section 21674 which state that the Commission is charged by PUC Section 21674(a) "to assist local agencies in ensuring compatible land uses in the vicinity of ... existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses," and PUC Section 21674(b) "to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare."
4. Section 3.2.1, General Policy of the AELUP which states that the General Land Use policy of the Airport Land Use Commission for Orange County shall be "Within the

boundaries of the AELUP, any land use may be found to be Inconsistent with the AELUP which ... places people so that they are affected adversely by aircraft noise..."

The Program notes that the intent of the Handbook guidance aims to ensure the safety of both the aviation community and the community members surrounding an airport. Within this framework, the ALUC has determined that the City has inadequately addressed the safety concerns related to the proposed significant increase of housing density within airport safety zones.

The Project also proposes to raise the allowed height of structures in close proximity to JWA. The Program emphasizes that many, if not all, of the proposed height increases will require a Federal Aviation Administration (FAA) obstruction analysis to ensure that structures will not penetrate Federal Aviation Regulation (FAR) Part 77 surfaces, or the evaluation may specify obstruction mitigation.

Lastly, the Program notes that many proposed housing sites are within the 65 CNEL noise contour. The Program strongly recommends that the Lead Agency or authority having jurisdiction require developers to adequately design structures to ensure interior noise levels below 45 dB and to hold final permitting until the developer can demonstrate adequate interior noise attenuation.

The Program concurs with the ALUC's determination that the Housing Element Implementation Program Amendments Project is inconsistent with the Airport Environs Land Use Plan for John Wayne Airport. This conclusion is based on insufficient findings by the City and the safety concerns for public health and welfare posed by allowing housing in incompatible safety zones and noise contours.

In addition, 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.

Please note: The Program comments are to be included in the public record of any decision to overrule the ALUC. If you have questions or if we may be of further assistance, please contact me by email at jonathan.huff@dot.ca.gov or call (916) 879-6528.

Sincerely,

Originally signed by

Jonathan Huff
Associate Transportation Planner
Caltrans Aeronautics

c: Lea U. Choum, Executive Officer, Orange County Airport Land Use Commission
<ALUCinfo@ocair.com>; Matthew Friedman, Chief of Aviation Planning, Caltrans Aeronautics
<matthew.friedman@dot.ca.gov>

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

May 29, 2024

Julie Fitch, Interim 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 JFITCH@OCAIR.COM

Subject: City of Newport Beach Housing Element Implementation Program Amendments – Notice of Intent to Overrule the Orange County Airport Land Use Commission

Dear Ms. Fitch:

On May 28, 2024, the City Council of the City of Newport Beach unanimously (7 ayes, 0 noes) adopted Resolution No. 2024-32 (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 ALUC's May 16, 2024, determination that the City of Newport Beach Housing Element Implementation Program Amendments project is inconsistent with the Airport Environs Land Use Plan (AELUP) for the John Wayne Airport. Resolution No. 2024-32 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, ALUC may provide comments to the City. Comments should be sent to:

Benjamin M. Zdeba, AICP, Principal 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 bzdeba@newportbeachca.gov or 949-644-3253.

Sincerely,

Benjamin M. Zdeba, AICP
Principal Planner

Attachment: Resolution No. 2024-32

RESOLUTION NO. 2024-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, NOTIFYING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION (ALUC) AND STATE DIVISION OF AERONAUTICS PROGRAM OF THE CITY'S INTENTION TO FIND THAT AMENDMENTS TO THE GENERAL PLAN, COASTAL LAND USE PLAN, AND TITLE 20 (PLANNING AND ZONING) AND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE NECESSARY TO IMPLEMENT THE GENERAL PLAN 6TH CYCLE HOUSING ELEMENT ARE CONSISTENT WITH THE PURPOSE OF THE STATE AERONAUTICS ACT AND OVERRULE ALUC'S DETERMINATION THAT THE AMENDMENTS ARE INCONSISTENT WITH THE 2008 JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN (PA2022-0245)

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, the City Council adopted the 6th Cycle Housing Element covering the 2021-2029 period ("6th Cycle Housing Element") on September 13, 2022, and it was certified by the State Department of Housing and Community Development ("HCD") on October 5, 2022, as being statutorily compliant;

WHEREAS, the 6th Cycle Housing Element identifies the Airport Area, West Newport Mesa, Newport Center, Dover/Westcliff, and Coyote Canyon as "focus areas" that are best suited to accommodate the City's Regional Housing Needs Allocation ("RHNA") planning obligation, with around 30% of the housing capacity planned in the Airport Area Environs and 30% planned in Newport Center;

WHEREAS, a total of 75 new housing opportunity sites are allocated to the Airport Area in the 6th Cycle Housing Element, with 37 of those new housing opportunity sites located wholly or partially outside the updated 65 decibel ("65 dBA") Community Noise Equivalent Level ("CNEL") noise contour boundary set forth in the 1985 John Wayne Airport Master Plan;

WHEREAS, amendments to the Land Use Element of the General Plan, Coastal Land Use Plan, Title 20 (Planning and Zoning), and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code ("NBMC") are necessary to allow residential uses, including mixed-use residential, on housing opportunity sites identified by 6th Cycle Housing Element within the Airport Area, as well as those identified as additional sites in the draft Program Environmental Impact Report ("PEIR") ("Amendments") including:

General Plan Land Use Element:

- Policy LU 3.3 – Opportunities for Change,
- Policy LU 4.4 – Rezoning to Accommodate Housing Opportunities,
- Policy LU 4.5 – Residential Uses and Residential Densities,
- Policy LU 4.6 – Continuation of Existing Development,
- Policy LU 4.7 – Redevelopment and Transfer of Development Rights,
- Policy LU 6.15.4 – Priority Uses (Airport Area – Mixed Use Districts [Subarea C, "MU-H2" designation]), and
- Policy LU 6.15.28 – Priority Uses (Airport Area – Commercial Nodes ["CG" designation Sub-Area C—part]);

Coastal Land Use Plan:

- Policy LU 2.1.2-1,
- Policy LU 2.1.10-1,
- Policy LU 2.1.11-1,
- Policy LU 2.1.11-2,
- Policy LU 2.1.11-3, and
- Policy LU 2.1.11-4;

Title 20 (Planning and Zoning) of the NBMC:

- Section 20.28.050 (Housing Opportunity (HO) Overlay Zoning Districts),
- Section 20.48.185 (Multi-Unit Objective Design Standards); and

Title 21 (Local Coastal Program Implementation Plan) of the NBMC:

- Section 21.28.070 (Housing Opportunity (HO) Overlay Coastal Zoning Districts);

WHEREAS, a public hearing was held by the Planning Commission on April 18, 2024, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") 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 public hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2024-006 (5 ayes, 2 recusals) recommending the City Council approve the Amendments;

WHEREAS, California Public Utilities Code ("PUC") Section 21676(b) requires the City to refer the Amendments 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 May 16, 2024, ALUC unanimously determined the Amendments are 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";
- c. Section 2.1.4 (Air Transportation), which provides that ALUC is charged by Section 21674 of the PUC "to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare"; and
- d. 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 which... [p]laces people so that they are affected adversely by aircraft noise";

WHEREAS, pursuant to Sections 21670 and 21676 of the PUC, the City Council may, after a public hearing, propose to overrule ALUC with a two-thirds vote, if it makes specific findings that the Amendments are consistent with the purpose of Section 21670 of the PUC to protect 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 May 28, 2024, in the City Council Chambers, 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 does hereby find that the Amendments are 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 Amendments are consistent with the noise standards of the AELUP.*

The AELUP guides development proposals to provide for the orderly development of John Wayne Airport and the surrounding area through implementation of the standards in Section 2 (Planning Guidelines) and Section 3 (Land Use Policies) of the AELUP. 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. A total of 75 new housing opportunity sites are identified in the Airport Area. Of those sites, 56 are located wholly or partially outside the updated 65 dBA CNEL contour boundary as identified by the 2014 EIR No. 617. Only 19 new housing opportunity sites are located wholly within the updated 65 dBA CNEL contour boundary. As proposed, residential development would be limited to parcels wholly or partially outside the updated 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the sites wholly within such contour area are needed for the City to satisfy its 6th Cycle Housing Element RHNA mandate.

Sections 3.2.3 and 3.2.4 of the AELUP define 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 uses as "conditionally consistent" in the 60 dBA to 65 dBA CNEL noise contour and "normally inconsistent" in 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 residential uses be developed with advanced insulation systems to bring the sound attenuation to no more than 45 dB inside. 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. This is further substantiated and supported by the proposed specific development standards for the Airport Area Environs Area (HO-1), which include enhanced sound mitigation and the allowance of interior amenities that satisfy open space requirements.

The existing CNEL noise contours of the AELUP Master Plan date back to 1985 ("1985 AELUP Master Plan"). However, advances in technology warrant an adjustment to the noise contours. Specifically, the Noise Chapter of Environmental Impact Report ("EIR No. 617"), for the 2014 John Wayne Airport Settlement Agreement Amendment, described how the dBA CNEL noise contours have decreased in size compared to the 1985 AELUP Master Plan CNEL noise contours. The 1985 AELUP Master Plan CNEL noise contours are considerably larger than the existing noise contours presented in the 2014 John Wayne Airport Settlement Agreement Amendment largely due to a quieter fleet of existing commercial aircraft and a dramatic reduction in the number of general aviation operations. The noise contours in EIR No. 617 are based on more contemporary noise modeling programs, as EIR No. 617 explained that "one of the most important factors in generating accurate noise contours is the collection of accurate

operational data." Airport noise contours generated in the Noise Study for EIR No. 617 used the Integrated Noise Model ("INM") Version 7.0d which was released for use in May 2013, and is the state-of-art in airport noise modeling.

The Amendments are required to ensure the continued and effective implementation of the 6th Cycle Housing Element programs including, but not limited to, the provision of sufficient adequately zoned land to accommodate the City's share of the regional growth and its required share of lower income dwelling units consistent with the RHNA required of the City under State Law. Additionally, by providing uniform and concise conditions of approval identified in the proposed amendments to Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC, the City has taken actions to address potential environmental constraints in the Airport Area and ensure continued feasibility of sites, to meet its RHNA obligation.

- 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. Most of the housing opportunity sites, except for portions of six properties, are all within Safety Zone 6. Allowed uses in Safety Zone 6 include residential and most nonresidential uses, except 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 Newport Beach Golf Course and the Young Men's Christian Association properties are included as housing opportunity sites in the 6th Cycle Housing Element. Portions of those properties are within Safety Zone 4 with the remaining portions lying in Safety Zone 6. Safety Zone 4 limits residential uses to very low density (if not deemed unacceptable because of noise) and advises to avoid nonresidential uses having moderate or higher usage intensities. Three small properties along Bristol Street and Zenith Avenue have also been included at the request of the property ownership. Two of these properties are wholly within Safety Zone 3 with the remainder being bisected by both Safety Zones 3 and 6. Safety Zone 3 limits residential uses to very low densities (if not deemed unacceptable due to noise). Given the smaller size of these properties and intervening nonconforming single-unit residential development, a very low density project is most likely to occur at this site location.

The City's General Plan Safety Element Policy S8.6 demonstrates that the City acknowledges the importance of the JWA Safety Zones:

"S8.6 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."

In accordance with Policy S8.6, the Amendments do not include any housing opportunity sites in the JWA Clear Zone/Runway Protection Zone. Compliance with these policies and regulations will ensure that future development within the JWA Airport Planning Area will follow the safety standards of the AELUP.

- C. *The Amendments are consistent with the purpose and intent of the AELUP and will not result in incompatible land uses adjacent to JWA.*

The standards and policies set forth in AELUP Sections 2 and 3 were adopted to prevent the creation of new noise and safety problems. As set forth above, any development on the proposed housing opportunity sites will comply with the noise criteria and safety standards established in Sections 2 and 3, consistent with policies contained in the Amendments to General Plan Land Use Element, Coastal Land Use Plan, Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC, including the enhanced development standards related to noise mitigation and air quality. It is also important to emphasize that parcels bisected by the 65 dBA CNEL noise contour of the updated Noise Element could support future housing; whereas parcels located wholly within the 65 dBA CNEL noise contour could support housing, if deemed necessary to satisfy the RHNA mandate. Lastly, compliance with the AELUP and City standards will be also evaluated and demonstrated at the time development projects are proposed in the future.

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

Section 3: The City Council hereby directs City staff to provide ALUC and Caltrans Department of Transportation, Division of Aeronautics, with notice of the City's intention to overrule the ALUC's determination that the Amendments are 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 City's proposal to overrule the ALUC's determination and does not commit the City to approve the Project. Furthermore, the Project has been independently reviewed and evaluated pursuant to CEQA and a draft program Environmental Impact Report (State Clearinghouse Number 2023060699) ("DEIR") has been prepared in compliance with CEQA set forth in Public Resources Code Section 21000 *et seq.*, the State CEQA Guidelines set forth in 14 California Code of Regulations Section 15000 *et seq.*, and City Council Policy K-3. The City Council will consider the EIR before it takes action on the Project (the Amendments to the General Plan, Coastal Land Use Plan, and Title 20 (Planning and Zoning) and Title 21(Local Coastal Program Implementation Plan) of the NBMC).


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 28th day of May, 2024.



Will O'Neill
Mayor


ATTEST:



Leilani I. Brown
City Clerk



**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**



Aaron C. Harp
City Attorney

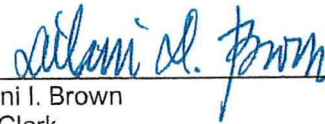
STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

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. 2024-31 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 14th day of May, 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 15th day of May, 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

June 28, 2024

Alicia Velasco, Planning Director
City of Cypress
5275 Orange Ave.
Cypress CA 90630

Subject: ALUC Referral Confirmation for City of Cypress McDonnell Specific Plan Amendments

Dear Ms. Velasco:

This is to confirm that the Airport Land Use Commission (ALUC) staff has received your referral request for a consistency review of the subject items.

Your June 18, 2024 submittal is hereby accepted and deemed complete for a review and consistency determination by the Commission. It will be agendaized for the **July 18th, 2024** meeting of the Commission 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 (Back Entrance)
3160 Airway Avenue
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
Executive Officer



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

June 25, 2024

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

Subject: ALUC Determination for the Residences at 1600 Dove Street - City of Newport Beach General Plan (Land Use) Amendment

Dear Ms. Westmoreland:

During the public meeting held on June 20, 2024, the Airport Land Use Commission (ALUC) for Orange County considered the subject item. The matter was duly discussed, and with a 6-0 vote (Bresnahan, Monin, Murphy, Beverburg, Sustarsic, Klema), the Commission found the Residences at 1600 Dove Street - City of Newport Beach General Plan (Land Use) Amendment to be Inconsistent with the *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA) per:*

1. Section 2.1.1 Aircraft Noise that the “aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport.”
2. Section 2.1.2 Safety Compatibility Zones in which “the purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA.”
3. 3.2.1 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...”

You may contact us at (949) 252-5170 or at jfitch@ocair.com if you have any questions regarding this proceeding.

Sincerely,

Julie Fitch
Executive Officer

cc: ALUC



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

June 24, 2024

Alyssa Mateus, Principal Planner
City of Irvine
1 Civic Center Plaza
P.O. Box 19575
Irvine, CA 92623-9575

Subject: ALUC Determination for City of Irvine 2045 General Plan Update and Associated Zone Change (File Nos: 00921398-PGA and 00832948)

Dear Ms. Mateus:

During the public meeting held on June 20, 2024, the Airport Land Use Commission (ALUC) for Orange County considered the subject item. The matter was duly discussed and with a 6-0 vote, the Commission found the proposed 2045 General Plan Update and Associated Zone Change (File Nos: 00921398-PGA and 00832948) to be Inconsistent with the *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)* per:

- 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.”
- Section 2.1.2 Safety Compatibility Zones in which “the purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA.”
- Section 2.1.4, and PUC Section 21674 which state that the Commission is charged by PUC Section 21674(a) “to assist local agencies in ensuring compatible land uses in the vicinity of ...existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses,” and PUC Section 21674(b) “to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare.”

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

Please contact me at (949) 252-5170 or jfitch@ocair.com with any questions. Thank you!

Sincerely,

A handwritten signature in blue ink that reads "Julie Fitch". The signature is written in a cursive style with a large initial "J" and "F".

Julie Fitch
Executive Officer

cc: ALUC

Certificate of Appreciation

Awarded to:

Lea Choum

In recognition of your 18 years of outstanding service to the Airport Land Use Commission (ALUC) for Orange County, including five years as Executive Officer.

On this 20th day of June 2024



Gerald Bresnahan, Chair

Airport Land Use Commission for Orange County