

RESOLUTION NO. 2024-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA, CALIFORNIA, OVERRULING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION THAT THE PROPOSED RELATED BRISTOL SPECIFIC PLAN IS INCONSISTENT WITH THE AIRPORT ENVIRONS LAND USE PLAN FOR JOHN WAYNE AIRPORT, INCLUDING SUPPORTIVE FINDINGS

WHEREAS, Steven Oh, with RCR Bristol, LLC ("Applicant"), on behalf of Greenville Ranch LLC, BSG West Bristol LLC, and MCG Bristol West LLC ("Property Owners"), is requesting adoption of the Related Bristol Specific Plan (SP No. 5) a change of zone for the Project Site to the new Related Bristol Specific Plan (SP No. 5) designation to facilitate the construction of a mixed-use development ("Project"), known as the Related Bristol Specific Plan Project, at 3600 Bristol Street ("Project Site"); and

WHEREAS, the Project entails, among other things, (1) demolition of the existing sixteen (16) structures on the Project Site; (2) the establishment of a new Related Bristol Specific Plan (SP No. 5) and a change of zone for the Project Site to the new Related Bristol Specific Plan (SP No. 5) designation; (3) redevelopment of the Project Site into 3,750 residential units, up to 350,000 square feet of commercial space, 250 hotel rooms, and 200 senior care units, including 6,520 onsite parking spaces, and 13.1 acres of onsite open space; and (4) approval of Vesting Tentative Tract Map ("VTTM") No. 2023-01; and

WHEREAS, the City of Santa Ana ("City") is located partially within the area contained within the scope of the Airport Environs Land Use Plan for John Wayne Airport (the "AELUP"); and

WHEREAS, consistent with the requirements of California Public Utilities Code Section 21676 et seq., because a portion of the proposed Related Bristol Specific Plan (SP No. 5) is within the area covered by the AELUP, subsequent to its introduction, the Related Bristol Specific Plan (SP No. 5) was submitted to the Orange County Airport Land Use Commission (the "ALUC") for consideration of the Specific Plan's consistency with the AELUP; and

WHEREAS, at its meeting on July 20, 2023, the ALUC determined that the Related Bristol Specific Plan (SP No. 5) is inconsistent with the AELUP; and

WHEREAS, on August 31, 2023 and September 26, 2023, the City provided a notice of intent to overrule ALUC's determination of inconsistency pursuant to California Public Utilities Code section 21676, subdivision (b); and

WHEREAS, on October 24, 2023, ALUC provided a response to the City's notice of intent to overrule ALUC's consistency determination and submitted additional comments; and

WHEREAS, pursuant to California Public Utilities Code Sections 21670 and 21676, if an ALUC determines that a proposed adoption or amendment of a specific plan or zoning ordinance is inconsistent with an AELUP, the referring local agency may, after a public hearing, propose to overrule the ALUC by a two-thirds vote of its governing body, upon making specific findings that the proposed action is consistent with the purposes of the Public Utilities Code Section 21670; and

WHEREAS, pursuant to City Council direction given at a City Council meeting on August 29, 2023, City staff has provided appropriate notice of the City Council's intent to override the ALUC's determination; and

WHEREAS, on September 17, 2024, the City Council held a duly-noticed public hearing regarding the City Council's intent to overrule the ALUC's determination of inconsistency; and

WHEREAS, the City Council finds that the Specific Plan is in the best interests of the City and is consistent with the purposes set forth in Public Utilities Code Section 21670.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Santa Ana as follows:

**Section 1.** The City prepared a Draft Supplemental Environmental Impact Report ("SEIR") that analyzed the Project's environmental impacts in accord with the California Environmental Quality Act (Public Resources Code, §§ 21000 et seq., "CEQA"), the regulations promulgated thereunder (14 Cal. Code of Regulations, §§ 15000 et seq., the "CEQA Guidelines"), and the City's Local CEQA Guidelines. The Draft SEIR was made available for public review for 45 days between July 6, 2023 and August 21, 2023. The document was made available online at the City of Santa Ana website and available for review at City Hall and the City of Santa Ana Public Library in hard copy form. In response to comments received on the Draft SEIR, the City prepared a Final SEIR and released it to the public on August 1, 2024. The Final SEIR in the City Council Resolution approving the Final SEIR is incorporated herein by reference. The City Council Resolution recommends certification of the Final SEIR (SCH No. 2020029087), adoption of findings under CEQA, and adoption of the Mitigation Monitoring and Reporting Program and the Statement of Overriding Considerations, and among other things, properly assesses the environmental impact of the Project in accordance with CEQA. This Resolution incorporates by reference the environmental findings and analysis set forth in the City Council Resolution as if fully set forth herein.

**Section 2.** The City Council is required to provide findings of fact supporting the overrule of ALUC's determination of inconsistency as required by California Public Utilities Code Section 21676, subdivision (b). The City Council of the City of Santa Ana hereby adopts the findings set forth in Exhibit "A" to this Resolution, attached hereto and incorporated herein by this reference (the "Findings").

**Section 3.** Based on these Findings and the associated substantial evidence in the public record, the City Council of the City of Santa Ana hereby finds that the proposed action by the City on the Related Bristol Specific Plan (SP No. 5) is consistent with the purposes of the State Aeronautics Act as stated in California Public Utilities Code Section 21670, and consistent with the AELUP.

**Section 4.** Based on the above evidence and Findings made, and the remainder of the record in this matter, the City Council of the City of Santa Ana hereby overrules the ALUC's determination that the Related Bristol Specific Plan (SP No. 5) is inconsistent with AELUP.

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

**Section 6.** The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Santa Ana City Hall, 20 Civic Center Plaza, Santa Ana, CA 92701. The City Clerk is the custodian of records for the record of proceedings.

**Section 7.** The Applicant shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, and other and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (collectively "Actions"), brought against the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the Project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve the legal counsel providing the City's defense, and that Applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the Applicant of any Action brought and City shall cooperate with Applicant in the defense of the Action.

**Section 8.** If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council of the City of Santa Ana hereby declares that

it would have adopted this Resolution and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

ADOPTED this 17th day of September, 2024.

\_\_\_\_\_  
Valerie Amezcua  
Mayor

APPROVED AS TO FORM:  
SONIA R. Carvalho  
City Attorney

By: Laura A. Rossini  
Laura A. Rossini  
Chief Assistant City Attorney

AYES: Councilmembers: \_\_\_\_\_

NOES: Councilmembers: \_\_\_\_\_

ABSTAIN: Councilmembers: \_\_\_\_\_

NOT PRESENT: Councilmembers: \_\_\_\_\_

**CERTIFICATE OF ATTESTATION AND ORIGINALITY**

I, Jennifer L. Hall, City Clerk, do hereby attest to and certify the attached Resolution No. 2024-XXX to be the original ordinance adopted by the City Council of the City of Santa Ana on September 17, 2024.

Date: \_\_\_\_\_

\_\_\_\_\_  
Jennifer L. Hall  
City Clerk  
City of Santa Ana

**EXHIBIT A**  
**FINDINGS OF FACT**

**SUBJECT:** CITY OF SANTA ANA NOTICE OF INTENT TO OVERRULE THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION OF INCONSISTENCY FOR THE RELATED BRISTOL SPECIFIC PLAN PROJECT

**I. INTRODUCTION**

The City of Santa Ana ("City") is required to provide findings supporting the overrule of the Orange County Airport Land Use Commission's ("ALUC") determination of inconsistency as required in the California Public Utilities Code ("PUC") Section 21676(b). Based on the following Findings of Fact and the associated substantial evidence in the public record, the proposed action by the City on the Related Bristol Specific Plan Project ("Project") is consistent with the purposes of the State Aeronautics Act as stated in PUC Section 21670, which provides, in relevant part:

It is the purpose of this article to protect 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."

Specifically, the City's proposed action on the Project provides for the orderly development of John Wayne Airport ("JWA"), and its surrounding area and promotes the overall goals and objectives of the State noise standards by avoiding new noise and safety problems, and protecting the public health, safety and welfare through the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards to the extent that this area is not already devoted to incompatible uses.

**II. FRAMEWORK**

It is in the public interest to: ( 1) provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to ( 2) promote the overall goals and objectives of the California airport noise standards adopted pursuant to PUC Section 21669 and to ( 3) prevent the creation of new noise and safety problems.

- A. To provide for the orderly development of JWA and the area surrounding the airport, the ALUC adopted the 2008 Airport Environs Land Use Plan for John Wayne Airport ("JWA AELUP") on April 17, 2008. The JWA AELUP guides development proposals to provide for orderly development of the airport and the area surrounding the airport through implementation of the standards in Section

2.1 (aircraft noise, safety compatibility zones, building height restrictions).

- B. The ALUC also adopted a separate Airport Environs Land Use Plan for Heliports ("Heliports AELUP") on June 19, 2008.
- C. The ALUC is required to use the California Airport Land Use Planning Handbook ("Handbook") that was updated by the California Department of Transportation, Division of Aeronautics ("Caltrans") in 2011. Neither the JWA AELUP nor the Heliports AELUP have been updated to incorporate the Handbook's guidance. Likewise, the JWA AELUP has not been updated with information about the operation and environmental effects of JWA as reflected in its most recent Final Environmental Impact Report ("EIR"), certified by the Orange County Board of Supervisors on June 25, 2019 for the General Aviation Improvement Program ("GAIP").
- D. The City of Santa Ana is required to provide findings supporting the overrule of the Orange County ALUC determination as required in PUC Section 21676(b). Based on the following Findings of Fact and the associated substantial evidence in the public record, the proposed action by the City on the Project at 3600 South Bristol Street and related zoning change (amendment application) are consistent with the purposes of the State Aeronautics Act as stated in PUC Section 21670.
- E. The proposed Project provides for the orderly development of JWA, and its surrounding area and promotes the overall goals and objectives of the State noise standards by avoiding new noise and safety problems, and protecting the public health, safety and welfare through the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards to the extent that this area is not already devoted to incompatible uses. This Project would not add any new residential or commercial noise impacts to the JWA 65 dBA Community Noise Equivalent Level (CNEL) noise area.
- F. As the Project proposes a zone change and adoption of a Specific Plan, and pursuant to PUC Section 21676, the City of Santa Ana referred the proposed Project to the ALUC for review.
- G. The ALUC has adopted FAR Part 77 as the criteria for determining height restrictions in Orange County. FAR Part 77 requires notification to FAA for any project that would be more than 200 feet in height above ground level or within the imaginary surface of a 100:1 slope extending outward for 20,000 feet from the nearest runway. Here, the Project site is located within the 206-foot-high imaginary surface area for JWA, and the proposed mixed-use buildings that are a part of the Project would be a maximum of 25 stories high, with the tallest point on the buildings being 285 feet above the existing ground level. Thus, FAA notification is required.
- H. On July 20, 2023, the City of Santa Ana presented the Project to the ALUC for a determination of consistency with the JWA AELUP.

- I. The ALUC staff report for that hearing recommended that the ALUC find the proposed Project consistent with AELUP issues of aircraft noise, flight tracks and safety, and heliports. The staff report noted that with regard to AELUP issues of height restrictions, the Project is inconsistent per Section 3.2.1 of the AELUP, which states that “within the boundaries of the AELUP, any land use may be found to be inconsistent with the AELUP which...permits structures of excessive height in areas which would affect adversely the continued operation of the airport; or permit activities or facilities that would affect adversely aeronautical operations.” The proposed Project would allow buildings up to 25 stories and/or 285 feet, which would penetrate the FAR Part 77 Horizontal Obstruction Imaginary Surface for JWA.
- J. On July 20, 2023, the ALUC held a public hearing and, by unanimous vote, adopted a resolution finding the Project inconsistent with the AELUP for the stated reasons set forth in the staff report.
- K. The City of Santa Ana has the general police power to control land use within its territorial jurisdiction. (Cal. Const., art. XI 11, § 7). This constitutional authority is acknowledged in State law (PUC §§ 21676, 21676.5) and the ALUC process allowing for overrule of an ALUC finding of inconsistency.
- L. Pursuant to PUC Section 21676(b), the City may overrule the commission by a two-thirds vote of the City Council if it makes specific findings that the Project is consistent with the purposes of the State Aeronautics Act.
- M. The City finds that the Project is consistent with the AELUP and with the purposes of the State Aeronautics Act based on the following Findings of Fact and substantial evidence.

### III. FINDINGS OF FACT

- A. **Related Bristol Specific Plan Project.** The Project consists of a specific plan for a 42-acre site to allow up to 3,750 residential units, up to 350,000 square feet of commercial space, 250 hotel rooms, and 200 senior care units, including 6,520 onsite parking spaces, and 13.1 acres of onsite open space. The Project requires discretionary approval of a tentative tract map, amendment application (zone change) for a specific plan, development agreement, and inclusionary housing plan. The specific plan contains permissive uses and development standards, but does not specify exact locations and heights of each implementing development that falls within the scope of the specific plan.
- B. The comments in ALUC’s staff report and ALUC’s determination of inconsistency found the Project inconsistent with AELUP for JWA per Section 3.2.1 because the Project would allow buildings up to 25 stories and/or 285 feet which would penetrate the FAR Part 77 Horizontal Obstruction Imaginary Surface for JWA.

C. During the July 20, 2023 ALUC hearing on the Project, City staff and the project applicant provided supplemental information about the nature of a specific plan, how implementing projects will be reviewed, information on existing high-rises in the vicinity, and FAA notification requirements for buildings exceeding 200 feet in height, and that conditions of approval for the Project would contain a condition requiring “Notice of Airport in Vicinity,” to be included in all lease/rental agreements and post outdoor signage informing the public of the presence of operating aircraft, which demonstrates further compliance with the AELUP and to minimize potential future noise complaints. Despite this information, the ALUC voted to find the Project inconsistent per Section 3.2.1 of the AELUP.

**D. Justification for Finding Project Consistent with the Purposes of PUC Section 21670.**

1. **Noise.** The residential and commercial land uses under the proposed Project are consistent with the aircraft noise standards of the AELUP and the requirements of PUC Section 21670.
  - a. The Project is located outside of the JWA 60 to 65 dBA CNEL aircraft noise contours. Aircraft noise analysis was completed in the Project’s SEIR (State Clearinghouse No. 2020029087) and presented at the ALUC hearing.
    - 1) The AELUP establishes aircraft noise exposure exterior noise level compatibility thresholds for new development by land use category. According to the exterior noise thresholds outlined in the AELUP, multi-family residential development is considered normally consistent with exterior noise levels of less than 60 dBA CNEL, conditionally consistent with exterior noise levels between 60 and 65 dBA CNEL and normally inconsistent with exterior noise level above 65 Dba cnel. For commercial retail land use, exterior noise levels are considered normally consistent with exterior noise levels of less than 65 dBA CNEL and conditionally consistent with exterior noise level above 65 dBA CNEL.
  - b. According to Section 5.9 of the SEIR, the Project site is located outside of both the airport’s planned and actual (2019) 60 CNEL contours of JWA. Thus, according to the AELUP, the Project residential, open space, and commercial retail land uses are normally consistent with JWA aircraft noise exposure exterior noise level compatibility thresholds.
  - c. The airport related noise on the Project site does not exceed the City’s Municipal Code permissible noise levels.
  - d. The County’s General Aviation Noise Ordinance prohibits commercial

aircraft departures between the hours of 10:00 p.m. and 7:00 a.m. and arrivals between the hours of 11:00 p.m. and 7:00 a.m.

- e. Based on the foregoing, these restrictions substantially limit the aircraft noise during the noise sensitive nighttime hours for residential use. Thus, noise impacts related to JWA would be less than significant.
- f. The JWA GAIP EIR also contains noise analysis demonstrating that the Project is outside of the 60 dBA CNEL noise contour. This noise analysis is based on one year's worth of aircraft operations in all runway operating configurations with for both existing aircraft fleet mixes and future fleet forecasts. This analysis includes the time of day of all operations and includes noise penalties for evening (7 pm to 10 pm) and night (10 pm to 7 am) aircraft operations of five and ten decibels per operation. Residential land uses are normally consistent in areas impacted by aircraft noise up to 60 dBA CNEL and commercial land uses up to 65 dBA CNEL as shown in the AELUP Table 1. These are the same noise standards used by the FAA and the State of California to identify compatible land uses near airports.
- g. The Project is located outside of the JWA single-event aircraft noise contours. The detailed aircraft noise analysis completed as part of the JWA GAIP EIR included analysis of single event aircraft noise. This analysis included single event noise contours for the noisiest aircraft making regular use of JWA. The Project developer's consultant provided analysis and information at the ALUC hearing showing the Project site is located outside of the JWA 85 dB single event noise contours for all aircraft making regular use of the Airport.
- h. The Project includes a condition of approval notifying future residents. The conditions of approval also include notification measures, which includes a "Notice of Airport in Vicinity," to be included in all lease/rental agreements and post outdoor signage informing the public of the presence of operating aircraft, which demonstrates further compliance with the AELUP and to minimize potential future noise complaints.
- i. The General Plan Update (GPU) in 2022 addresses noise, safety, hazards, and other related impacts from development in the vicinity of the Airport. Projects approved under the GPU would be required to comply with FAA airspace protection regulations using the AELUP consistency determination process.
- j. Based on the foregoing, the Project will not result in the exposure of City residents to excess noise within the meaning of PUC Section 21670.

2. **Safety.** The residential and commercial land uses under the proposed project are consistent with the safety standards of the AELUP.
  - a. Section 2. 1. 2 of the JWA AELUP describes the airport's safety compatibility zones.
    - 1) Per Section 2. 1. 2 of the JWA AELUP, " Safety and compatibility zones depict which land uses are acceptable and which are unacceptable in various portions of airport environs."
    - 2) The purpose of these zones, per the JWA AELUP, 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."
  - b. The JWA AELUP identifies the following Safety Zones:
    - 1) Zone 1: Runway Protection Zone
    - 2) Zone 2: Inner Approach/ Departure
    - 3) Zone 3: Inner Turning Zone
    - 4) Zone 4: Outer Approach/ Departure Zone
    - 5) Zone 5: Sideline Zone
    - 6) Zone 6: Traffic Pattern Zone
  - c. According to the ALUC staff report, the Project is not in any of the AELUP safety zones. The Project is located outside of the airport's 60 CNEL contours. Table 1 of the Airport Environs Land Use Plan for JWA shows that residential land uses outside of the 60 CNEL contour are "normally consistent." The Project is located more than 0.29 miles from the outer edge of AELUP Zone 6, Traffic Pattern Zone as depicted in Appendix D. Further, AELUP Appendix D states the "Basic Compatibility Qualities" of Zone 6 as "Allow residential uses" and "Allow most nonresidential uses."
  - d. The Project is not in the JWA runway protection zones (RPZ). The Project is located nearly two miles from the outer edge of the nearest JWA RPZ.
  - e. No part of the Project will be inconsistent with the policies set forth in Section 2.1.2 of the JWA AELUP regarding Safety Compatibility

Zones. Furthermore, the ALUC did not find, and cannot find, that the Project is inconsistent with Section 2.1.2 of the JWA AELUP.

- f. Based on the foregoing, the Project will not result in the exposure of City residents to excessive safety hazards within the meaning of PUC Section 21670.
3. **Height.** The residential and commercial land uses under the proposed Project are consistent with the height standards of the AELUP. The allowable height of structures surrounding an airport is described in FAR Part 77 as the allowable height at which safe movement of aircraft occurs. The regulation requires that notice be given to the FAA if there is a proposal to construct a structure that would exceed a 100:1 slope of an imaginary surface extending outward for 20,000 feet from the nearest runway at JWA. Beyond the 100:1 imaginary surface, FAR Part 77 requires notification to FAA for any project that will be more than 200 feet in height above the ground level.
- a. The proposed buildings associated with the Specific Plan would not exceed the sloping, three-dimensional 100:1 (one percent sloping surface from the nearest runway over 3,200 feet in actual length) FAA notification surface to require the Filing of FAA Form 7460-1. This information was provided by the Project applicant's representative during the ALUC hearing on the Project.
  - b. The buildings exceeding 200 feet in height in the Specific Plan area will not exceed the sloping, three-dimensional 50:1 FAA precision instrument Approach Surface to JWA Runway 20R. This information was provided by the Project applicant's representative during the ALUC hearing on the Project.
  - c. Each future site-specific implementing development under the Project will be required to be submitted through the City's development review process, at which point if a specific building is proposed within the Federal Aviation Administration (FAA) Notification Area that exceeds 200 feet in height, FAA notification compliance would be required through the development review process.
  - d. In addition to requiring FAA notification for any buildings exceeding 200 feet in height within the Project area, AELUP and FAR Part 77 require an FAA aeronautical study to be conducted to ensure that the proposed structures would not constitute a hazard to air navigation.
  - e. The FAA's Determinations of No Hazard to Air Navigation for the Mixed-Use development structures are the only source of authoritative, aviation safety findings regarding the Project because:
    - 1) "The United States Government has exclusive sovereignty of

airspace of the United States” (49 U.S.C. § 40103(a)(1)).

2) In order to use this airspace, the FAA Administrator is responsible for:

i. Plans and policy for the safe use of the navigable airspace (49 U.S.C. § 40103(b)(1); and

ii. “[R]egulations on the flight of aircraft (including regulations on safe altitudes) for navigating, protecting and identifying aircraft; protecting individuals and property on the ground; using the navigable airspace efficiently; and preventing collision between aircraft, between aircraft and land or water vehicle, and between aircraft and airborne objects” (49 U.S.C. § 40103(b)(2)).

3) The FAA’s aeronautical studies for project structures are the definitive standard for assessing compliance with federal aviation safety laws and regulations (49 U.S.C. § 77.1(c)). This federal authority is recognized in State law (Cal. PUC §21240).

f. The FAA will conduct an aeronautical study (49 U.S.C. §44718 and 14 CFR Part 77) and issue its Determinations for individual implementing projects that exceed 200 feet in height and are submitted within the Specific Plan area.

g. The Project is an approval only as to the specific plan. No specific structures are contemplated as part of the Project. Therefore, nothing in the Project will create an obstruction or hazard to air navigation within the meaning of 14 CFR Part 77, and no part of the Project involves the proposed construction or alteration of any structures. Accordingly, no aeronautical study is required as part of the Project. See 49 USC 44718; 14 CFR Part 77; FAA Order JO 7400.2M.

h. Based on the foregoing, the Project is consistent with AELUP’s height standards.

i. The other entities that have processed or commented on this project have aviation safety duties and responsibilities related to this matter. Each of these entities relies on or ultimately defers to the FAA’s authoritative aviation safety role in airspace determinations.

1) The AELUP for JWA, Section 2.1.3 Building Height Restrictions states, “In adopting criteria for building height restrictions in the vicinities of airports, the Commission considered only one standard and that was Federal Aviation Regulations Part 77 ([14

CFR] Part 77) entitled, *Objects Affecting Navigable Airspace*. "These regulations **are the only definitive standard available** [emphasis added] and the standard most generally used."

- 2) Section 2.1.3 also recognizes FAA aeronautical studies beyond 14 CFR Part 77 surfaces as the standard for review, "In addition to the 'imaginary surfaces,' the Commission will use all of the FAR Part 77.23 standards along with the results of FAA aeronautical studies, [emphasis added] or other studies deemed necessary by the Commission, in order to determine if a structure is an 'obstruction.'" This section goes on to state: The Commission considers and recognizes 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. The Commission also considers the FAA as the "Authority" for reporting the results of such studies and project analyses. The Commission will not consider the findings of reports or studies conducted by parties other than the FAA unless the FAA certifies and adopts such findings as true and correct.
  
- 3) Section 2.1.3 adds reference to FAA Advisory Circular 150/5190-4A, A Model Zoning Ordinance to Limit Height of Objects Around Airports for Commission Review. This FAA Advisory Circular provides specific guidance for establishing zoning regulations along with specific guidance on a "variance" process for potential obstructions. At Section 3.b., "The Federal Aviation Administration (FAA) conducts aeronautical studies on obstructions which examine their effect on such factors as: aircraft operational capabilities; electronic and procedural requirements; and, airport hazard standards. ***If an aeronautical study shows that an obstruction, when evaluated against these factors, has no substantial adverse effect upon the safe and efficient use of navigable airspace, then the obstruction is considered not to be a hazard to air navigation*** [emphasis added]."
  
- 4) CalTrans Division of Aeronautics – Caltrans publishes the Handbook in accordance with State Law with the purpose to, " provide information to ALUCs, their staffs, airport proprietors, cities, counties, consultants, and the public; to identify the requirements and procedures for preparing effective compatibility planning documents; and define exemptions where applicable (Caltrans, 2011)." The Handbook provides specific guidance for

assessing potential airspace obstructions in Section 4.5 Airspace Protection.

- a. JWA – The FAA requires airport sponsors like Orange County to accept specific grant assurances when they accept federal funding. Hazard Removal and Mitigation and Compatible Land Use are two of these assurances (49 U.S.C. § 47107(a)(9) and (10)). For hazard removal, the Airport relies on the FAA’s aeronautical study to meet its requirement. For compatible land use, the Airport relies on coordination with the surrounding cities and the ALUC. The following are the specific assurances:
  - b. Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
    - The proposed Project would not result in hazards related to excessive glare, light, steam, smoke, dust, or electronic interference. Exterior lighting fixtures and security lighting would be installed in accordance with the City’s Municipal Code Division 3, Building Security Regulations, which includes specifications for shielding and intensity of security lighting. In addition, the proposed Project would not use highly reflective surfaces, and does not include large areas of glass on the buildings. Therefore, the proposed Project would not generate substantial sources of glare.
    - Operation of the proposed residential and commercial uses would not generate substantial quantities of steam, smoke, or dust emissions. Dust emissions are regulated by SCAQMD requirements and construction related air quality emissions that could include steam, smoke, and dust emissions would be less than significant with implementation of the standard SCAQMD Rules.
    - The proposed Project would include the use of typical electronics, such as computers, televisions, and other electronics with wireless capability. These types of electronics are currently being used by the existing industrial land uses on the site, and other uses in the vicinity

of the site. The new residential and commercial uses on the site would use similar technology that does not cause electronic interference that could affect aircraft. Thus, impacts related to electronic interference with operations of JWA would not occur.

- c. **Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the Project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

4. **Overflight.** “Close to the JWA approach centerline” as identified by the ALUC is neither an FAA nor an AELUP standard.

- a. The FAA is the only authoritative source of aviation safety data and the FAA does not have a “close to the JWA approach centerline” standard.
- b. The AELUP clearly identifies its airport land use planning standards around aircraft noise, safety, and height. Objective measures of these standards are clearly identified in AELUP Section 2.1. The Specific Plan is drafted to be consistent with each of these objective standards.
- c. Two-dimensional flight tracks and a list of unassociated aircraft do nothing to inform the impact of overflights. The ALUC provided limited arrival flight tracks, limited departure flight tracks and lists of aircraft by time of day and altitude that were purported to have produced these flight tracks. The limited nature of the information was commented on by ALUC commissioners during the July 20, 2023 hearing.
- d. Aircraft noise contours used to objectively measure noise impact already assume flight tracks and actual operating conditions for a full year including future operations. Limited

information presented within the staff report packet dated July 20, 2023 of arrival flight tracks and limited information on departure flight tracks are not representative of a general condition and are not substantive evidence.

- e. The project is located outside of the JWA single event noise exposure areas documented in the JWA General Aviation Improvement Program EIR certified on June 25, 2019. The project developer presented this information to the ALUC Commission at its hearing on July 20, 2023.
5. **Heliports.** Heliports are not a part of the Project, therefore ALUC has not reviewed this for consistency and has made no determination.
6. **Zone Change.** The proposed zone change (amendment application) is consistent with the objective AELUP aircraft noise, safety and height standards and is therefore consistent with the larger planning role of the ALUC. “Close to the JWA approach centerline” is not an FAA or an ALUC standard.
- a. ALUC offers no substantiation that overflights of new residents would be disturbed or annoyed. On the contrary, the ALUC demonstrates that the Project is located outside of the 60 dBA CNEL noise contour. As such, the Project would not add any new residential or commercial noise impacts to the JWA 65 dBA Community Noise Equivalent Level (CNEL) noise area.
  - b. Flight tracks limited information for arrivals and departures, which was commented on by Commission members during the hearing, are not unique and are fully accounted for in the one year of overflights used to measure CNEL noise impacts associated with JWA.
  - c. Flight tracks limited information for arrivals and departures, which was commented on by Commission members during the hearing, are not unique and are fully accounted for in the single-event noise contours produced for the JWA GAIP EIR. The Project is located outside of these single-event noise contours.
  - d. Per 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

operations of the airport. The method by which the ALUC achieves this purpose is through the application of the objective standards contained in Section 2.1 of the AELUP. As demonstrated in the ALUC staff report and, in these Findings, the Specific Plan and application for each implementing project is and will be consistent with each of the standards. As a result, the ALUC has met their duty under Section 1.2 by ensuring that the Specific Plan meets these standards.

- e. 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 method by which the ALUC achieves this charge is through the application of the objective standards contained in Section 2.1 of the AELUP. As demonstrated in the ALUC staff report and, in these Findings, the Project is consistent with each of the standards. As a result, the ALUC has met their duty under Section 2.1.4 and PUC Section 21674 by ensuring that the Project meets these standards.