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CITY OF SANTA ANA
Planning and Building Agency
20 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
www.santa-ana.org/pba

August 31, 2023 – Revised September 26, 2023

Also sent via email to: LChoum@ocair.com

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

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

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

On August 29, 2023, the Santa Ana City Council met and (1) approved issuing a Notice of Intent to overrule and (2) determined to give notice to the ALUC of its decision to overrule as required by California Public Utilities Code (PUC) Section 21676(b). On August 31, 2023, the City issued its Notice of Intent to overrule, but subsequently received communication from ALUC staff that the notice did not reprint and contain therein the findings provided by the City in its June 30, 2023 submission to ALUC.

The City's June 30, 2023 submission to the ALUC for its July 20 consideration of the project included initial draft findings of consistency in sections 3 (draft Specific Plan) and 8 (Airport Land Use Compatibility Analysis). The City is attaching to this revised letter its draft consistency findings for the Project (Attachment A).

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

The City looks forward to receiving comments within the timeframes mandated by the PUC. At this time, the proposed Related Bristol Specific Plan has not been scheduled for public hearing for certification of its draft supplemental environmental impact report or its associated entitlement applications.

SANTA ANA CITY COUNCIL

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City of Santa Ana Notice of Intent to Overrule & Findings – Related Bristol Specific Plan
3600 South Bristol Street
September 26, 2023
Page 2 of 2

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Ali Pezeshkpour', with a long horizontal flourish extending to the right.

Ali Pezeshkpour, AICP
Planning Manager

Attachment:

A: Draft Overrule Consistency Findings

- A. The City of Santa Ana is required to provide findings supporting the overrule of the Orange County ALUC determination 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) 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.
- B. The proposed 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. This Project would not add any new residential or commercial noise impacts to the JWA 65 dBA Community Noise Equivalent Level (CNEL) noise area.
- C. It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to PUC Section 21669 and to prevent the creation of new noise and safety problems.
- D. To provide for the orderly development of JWA and the area surrounding the airport, the ALUC adopted the 2008 AELUP on April 17, 2008. The 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).
- E. 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. The AELUP has not been updated to incorporate the Handbook nor has it updated 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).
- 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

Attachment A

the imaginary surface of a 100:1 slope extending outward for 20,000 feet from the nearest runway. The Project site is located within the 206-foot-high imaginary surface area for JWA, thus requiring FAA notification. 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.

- 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. 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.
- I. 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.
- J. 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.
- K. 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.
- L. 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:
 - a. The ALUC lacks evidence of the Project's inconsistency with the AELUP. The proposed zone change under the Project allows establishment of a specific plan, which 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. 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

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existing high-rises in the vicinity, FAA notification requirements for buildings exceeding 200 feet in height, and that the Final Supplemental Environmental Impact Report ("SEIR") for the Project would contain a mitigation measure 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.

- c. **Noise.** The residential and commercial land uses under the proposed Project are consistent with the aircraft noise standards of the AELUP.
- i. 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. 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.
 - ii. 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.
 - iii. The Project includes required measure notifying future residents. The conditions of approval including notification measures, which includes required measure 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

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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.
- ii. 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. The Project site is located outside of both the airport's planned and actual 60 CNEL contours of JWA. Therefore, 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 standards. Also, the airport related noise at the Project site does not exceed the City's municipal code permissible noise levels. Additionally, 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. These restrictions substantially limit the aircraft noise during the noise sensitive nighttime hours for residential use.
- d. **Safety.** The residential and commercial land uses under the proposed project are consistent with the safety standards of the AELUP. 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."
- i. 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.

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- ii. 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. 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.
- iii. In this case it is important to first establish what entity has authority over the use of airspace over the project site. "The United States Government has exclusive sovereignty of airspace of the United States" (49 U.S.C. § 40103(a)(1)).
- iv. In order to use this airspace, the FAA Administrator is responsible for: (1) Plans and policy for the safe use of the navigable airspace (49 U.S.C. § 40103(b)(1); and (2) "[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)).
- v. 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).
- vi. The City of Santa Ana has the local police powers to control land use on the site (Cal. Const., art. XI 11, § 7). This constitutional authority is acknowledged in State law (PUC §21670 and §21676) and the ALUC process (AELUP §4.11) allowing for overrule of an ALUC finding of inconsistency.
- vii. 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.
- viii. 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."

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- ix. 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.
- x. 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].”
- xi. Caltrans Division of Aeronautics – Caltrans publishes the California Airport Land Use Planning Handbook (“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.
- xii. 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

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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:

- xiii. 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.
- xiv. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use

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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.

- e. **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.
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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

Attachment A

navigation.

- f. **Overflight.** “Close to the JWA approach centerline” as identified by the ALUC is neither an FAA nor an AELUP standard.
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. 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.
- g. **Heliports.** Heliports are not a part of the Project.
- h. **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.
- i. ALUC offers no substantiation that overflights of new residents

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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.

- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.

Attachment A

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August 31, 2023 – Revised September 26, 2023

Also sent via email to: Aeronautics@dot.ca.gov

Division Chief, Division of Aeronautics
California Department of Transportation
1120 N Street, MS 40
Sacramento, CA 95814

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

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

On August 29, 2023, the Santa Ana City Council met and (1) approved issuing a Notice of Intent to overrule and (2) determined to give notice to the ALUC of its decision to overrule as required by California Public Utilities Code (PUC) Section 21676(b). On August 31, 2023, the City issued its Notice of Intent to overrule, but subsequently received communication from ALUC staff that the notice did not reprint and contain therein the findings provided by the City in its June 30, 2023 submission to ALUC.

The City's June 30, 2023 submission to the ALUC for its July 20 consideration of the project included initial draft findings of consistency in sections 3 (draft Specific Plan) and 8 (Airport Land Use Compatibility Analysis). The City is attaching to this revised letter its draft consistency findings for the Project (Attachment A).

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

The City looks forward to receiving comments within the timeframes mandated by the PUC. At this time, the proposed Related Bristol Specific Plan has not been scheduled for public hearing for certification of its draft supplemental environmental impact report or its associated entitlement applications.

SANTA ANA CITY COUNCIL

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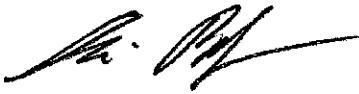
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City of Santa Ana Notice of Intent to Overrule & Findings – Related Bristol Specific Plan
3600 South Bristol Street
September 26, 2023
Page 2 of 2

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

Sincerely,

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Ali Pezeshkpour, AICP
Planning Manager

Attachment:

A: Draft Overrule Consistency Findings

- A. The City of Santa Ana is required to provide findings supporting the overrule of the Orange County ALUC determination 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) 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.
- B. The proposed 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. This Project would not add any new residential or commercial noise impacts to the JWA 65 dBA Community Noise Equivalent Level (CNEL) noise area.
- C. It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to PUC Section 21669 and to prevent the creation of new noise and safety problems.
- D. To provide for the orderly development of JWA and the area surrounding the airport, the ALUC adopted the 2008 AELUP on April 17, 2008. The 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).
- E. 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. The AELUP has not been updated to incorporate the Handbook nor has it updated 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).
- 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

Attachment A

the imaginary surface of a 100:1 slope extending outward for 20,000 feet from the nearest runway. The Project site is located within the 206-foot-high imaginary surface area for JWA, thus requiring FAA notification. 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.

- 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. 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.
- I. 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.
- J. 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.
- K. 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.
- L. 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:
 - a. The ALUC lacks evidence of the Project’s inconsistency with the AELUP. The proposed zone change under the Project allows establishment of a specific plan, which 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. 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

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existing high-rises in the vicinity, FAA notification requirements for buildings exceeding 200 feet in height, and that the Final Supplemental Environmental Impact Report ("SEIR") for the Project would contain a mitigation measure 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.

c. **Noise.** The residential and commercial land uses under the proposed Project are consistent with the aircraft noise standards of the AELUP.

- i. 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. 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.
- ii. 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.
- iii. The Project includes required measure notifying future residents. The conditions of approval including notification measures, which includes required measure 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

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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.
- ii. 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. The Project site is located outside of both the airport's planned and actual 60 CNEL contours of JWA. Therefore, 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 standards. Also, the airport related noise at the Project site does not exceed the City's municipal code permissible noise levels. Additionally, 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. These restrictions substantially limit the aircraft noise during the noise sensitive nighttime hours for residential use.
- d. **Safety.** The residential and commercial land uses under the proposed project are consistent with the safety standards of the AELUP. 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."
- i. 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.

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- ii. 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. 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.
- iii. In this case it is important to first establish what entity has authority over the use of airspace over the project site. "The United States Government has exclusive sovereignty of airspace of the United States" (49 U.S.C. § 40103(a)(1)).
- iv. In order to use this airspace, the FAA Administrator is responsible for: (1) Plans and policy for the safe use of the navigable airspace (49 U.S.C. § 40103(b)(1); and (2) "[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)).
- v. 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).
- vi. The City of Santa Ana has the local police powers to control land use on the site (Cal. Const., art. XI 11, § 7). This constitutional authority is acknowledged in State law (PUC §21670 and §21676) and the ALUC process (AELUP §4.11) allowing for overrule of an ALUC finding of inconsistency.
- vii. 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.
- viii. 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."

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- ix. 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.
- x. 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]."
- xi. Caltrans Division of Aeronautics – Caltrans publishes the California Airport Land Use Planning Handbook ("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.
- xii. 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

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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:

- xiii. 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.
- xiv. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use

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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.

- e. **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.
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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

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navigation.

- f. **Overflight.** “Close to the JWA approach centerline” as identified by the ALUC is neither an FAA nor an AELUP standard.
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. 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.
- g. **Heliports.** Heliports are not a part of the Project.
- h. **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.
- i. ALUC offers no substantiation that overflights of new residents

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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.

- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.

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AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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October 24, 2023

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

Subject: Response to Notice of Intent to Overrule ALUC's July 20, 2023 Inconsistent Determination for Related Bristol Specific Plan

Dear Mr. Pezeshkpour:

We are in receipt of the City of Santa Ana's August 31, 2023 letter with attached City Council Resolution No. 2023-060, and the September 26, 2023 revised letter with attached findings, which notify the Airport Land Use Commission (ALUC) for Orange County of the City's intent to overrule the ALUC's inconsistency determination on the proposed Related Bristol Specific Plan. 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 July 20, 2023, the ALUC for Orange County found the proposed Related Bristol Specific Plan to be inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)* on a 5-0 vote. The inconsistent finding was based on AELUP Section 3.2.1 which states, "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 permits activities or facilities that would affect adversely aeronautical operations." The proposed Related Bristol Specific Plan would allow buildings up to 25 stories and/or 285 feet which would penetrate the Federal Aviation

Regulation (FAR) Part 77 Horizontal Obstruction Imaginary Surface for JWA. ALUC has the following additional comments regarding the findings and facts of support included in the September 26, 2023 letter.

Response to Finding and Fact in Support “a” Regarding Height:

The City contends that since the proposed zone change would allow the establishment of a specific plan, but “does not specify exact locations and heights of each implementing development that falls within the scope of the specific plan,” that the ALUC lacks evidence of the Project’s inconsistency with the AELUP.” The proposed specific plan would allow for buildings with residential uses up to 25 stories or 285 feet in height which would penetrate the 206 feet Horizontal Surface for JWA regardless of where they are located within the specific plan boundaries. Such structures have potential to adversely impact the continued operation of the airport and other aeronautical operations.

Response to Fact in Support “b” Regarding Mitigation Measures:

The City states that during the July 20, 2023 meeting, City staff and the project applicant provided additional information indicating that the City will review projects within the specific plan area and require Federal Aviation Administration (FAA) notification for buildings exceeding 200 feet in height, and stated that the Final Supplemental Environmental Impact Report for the project would contain a mitigation measure requiring “Notice of Airport in Vicinity” to be included in all lease/rental agreements and outdoor signage informing the public of the presence of operating aircraft. The City asserts that these measures would demonstrate consistency with AELUP Section 3.2.1. The ALUC appreciates the inclusion of these mitigation measures, however the ALUC determination was based on the fact that the proposed specific plan would allow for buildings with residential uses up to 25 stories or 285 feet in height which would penetrate the 206 feet Horizontal Surface for JWA.

Response to Fact in Support “c” Regarding Noise:

The City states that because the project is located outside of the 60 and 65 dBA CNEL noise contours, and because mitigation measures will be required that the project is consistent with the AELUP. While the ALUC appreciates that the project will not place residents within the 60 and 65 dBA noise contours, noise was not a sole factor in ALUC’s determination of inconsistency.

Response to Fact in Support “d” Regarding Safety:

The City states that because the project is outside of the Safety Zones for JWA, and because the City will require FAA Determinations of No Hazard to Air Navigation that the project is consistent with the AELUP. Section 3.2.1 of the AELUP states, “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 permits activities or facilities that would affect adversely aeronautical operations.” Moreover, a finding of No Hazard to Air Navigation from the FAA does not equate to a

consistency determination by the ALUC. The ALUC may find a project Inconsistent based on other determinations. The ALUC may also utilize criteria for protecting aircraft traffic patterns at airports which may differ from those contained in FAR Part 77, if evidence of health, welfare, or air safety justify such an action. As described herein, the ALUC found evidence of air safety issues, among other things.

Response to Fact in Support “e” Regarding Height:

The proposed project area is located within the FAA FAR Part 77 Horizontal Obstruction Imaginary Surface for JWA which would be penetrated at 206’ above mean sea level (AMSL). The airspace above 206’ AMSL is reserved for air navigation. The Specific Plan would allow buildings up to 25 stories and/or 285 feet in height and therefore would penetrate the horizontal surface and enter airspace reserved for air navigation.

In Section 2.1.3 of the *AE LUP for JWA*, the Commission has incorporated the standards for height limits for determining obstructions and has incorporated the definitions of “imaginary surfaces” for airports as defined in the FAA FAR Part 77. The “imaginary surfaces” are defined by means of elevations heights and slopes in relation to individual airports, the spaces above which are reserved for air navigation. To ensure the safe operation of aircraft activity at JWA, structures anywhere in the JWA airport planning area should not exceed the applicable elevations defined in FAR Part 77 (Objects Affecting Navigable Air Space).

Response to Fact in Support “f” Regarding Overflight:

The July 20, 2023 ALUC staff report included flight tracks over the City of Santa Ana on a typical weekday, on a reverse-flow weekday and on a typical Saturday in January. The ALUC recommends that the maximum structure heights, including all rooftop equipment and/or architectural details, be reduced to below 206 feet AMSL, in order to protect the airspace reserved for air navigation.

Response to Fact in Support “g” Regarding Heliports:

As the City states, heliports were not included as part of this project, therefore heliports were not reviewed by ALUC.

Response to Fact in Support “h” Regarding Zone Change:

Finding “h” summarizes Findings “a” through “g” and refers to flight tracks. The Inconsistent Finding by ALUC was not based on flight tracks alone but based on the fact that the proposed Related Bristol Specific Plan would allow buildings to penetrate the FAR Part 77 Horizontal Obstruction Imaginary Surface for JWA and enter airspace reserved for air navigation. This is problematic for the safe operation of the airport and other aeronautical operations.

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

Sincerely,

Lee U. Chown, Executive Officer

Gerald A. Bresnahan *for*
Chairman

cc: Members of the Airport Land Use Commission for Orange County
Members of Santa Ana City Council
Jonathan Huff, Caltrans/Division of Aeronautics