



# AIRPORT LAND USE COMMISSION

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FOR ORANGE COUNTY

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October 1, 2026

Michelle Halligan, Senior Planner  
City of Costa Mesa  
Community Development Department  
77 Fair Drive, Costa Mesa, CA 92626

Subject: Response to Notice of Intent to Overrule the Airport Land Use Commission Determination Regarding the Neighborhoods Where We All Belong Zoning Updates and Housing Element Implementation ("Project")

Dear Ms. Halligan,

We received the City of Costa Mesa (City) letter dated September 2, 2026, along with City Council Resolution No. 2026-39 notifying the Airport Land Use Commission (ALUC) for Orange County of the City's intent to overrule the ALUC's inconsistency determination on the subject Project. In accordance with Section 21676 of the Public Utilities Code, the ALUC submits the following comments which shall be included in the public record of a final decision to overrule the ALUC.

Pursuant to Section 1.2 of the *AEUP for JWA*, the purpose of the *AEUP for JWA* is to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the *AEUP for JWA* seeks to protect the public from the adverse effects of aircraft noise, ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable airspace.

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 16, 2026, the ALUC for Orange County found the proposed Project inconsistent with the *Airport Environs Land Use Plan (AEUP) for John Wayne Airport (JWA)*. The project included amendments to the General Plan (Housing and Land Use Elements), Specific Plans (Newport

Boulevard, North Costa Mesa, and One Metro West) and Zoning Code incorporating the MUOD. The inconsistency determination was based on AELUP Noise and Safety Sections 2.1.1, 2.1.2, 3.2.1, 3.2.3, and 3.2.5. Following the ALUC hearing, the City modified the Project – without resubmitting its revisions to ALUC -- and removed some sites from the MUOD that would have been located within the 65 dBA CNEL contour for JWA and within Safety Zones 1, 2, and 3. While the removal of these sites from the MUOD is a step toward airport land use compatibility, there are remaining concerns and ALUC offers the following comments in response to Resolution No. 2026-39.

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

Resolution No. 2026-39 states that residential uses are “conditionally consistent” within the 65 dBA CNEL contour when appropriate sound attenuation is provided. The City cites its Noise Element and Land Use Element policies, Title 24 requirements, future acoustical studies, site and building design measures, disclosure signage, the 45 dBA CNEL interior noise standard, and the removal of non-Housing Element Measure K properties that were located within the adopted 65 dBA CNEL contour.

The ALUC acknowledges the City’s requirements and reductions of the Project area. However, AELUP Section 3.2.3 states that the ALUC does not support residential development within the 65 dB CNEL noise contour. Residential units within this area are inconsistent unless it can be shown conclusively that the units will be sufficiently sound attenuated for present and projected noise exposure so as not to exceed an interior standard of 45 dB CNEL. Section 3.2.3 also provides that an aviation easement may be required and that residential units are to be sufficiently indoor-oriented to preclude noise impingement on outdoor living areas.

The Resolution and modified Plan do not provide acoustical information demonstrating that residential development authorized on the remaining Housing Element sites within the adopted 65 dBA CNEL contour will satisfy these requirements. Title 24 requirements and the 45 dBA CNEL standard address interior noise exposure but do not address aircraft noise affecting outdoor living areas. Disclosure signage informs future occupants of aircraft activity but does not reduce noise exposure. Future acoustical studies establish a review requirement but do not provide the conclusive showing required by Section 3.2.3 as part of the current action.

The MUOD provision requiring compliance with the AELUP “unless overridden per State law” also does not ensure compliance with Section 3.2.3. The provision allows an exception to AELUP compliance, but this is not a noise attenuation or land use compatibility measure. Thus, the inconsistency with the AELUP remains.

The City also states that advances in aircraft technology and the noise modeling prepared for EIR No. 617 demonstrate that the 1985 AELUP noise contours have decreased in size. The ALUC acknowledges that the 2014 Settlement Agreement noise contours reflect more recent modeling. However, those contours have not been adopted by ALUC or incorporated into the *AELUP for JWA*. For purposes of an AELUP consistency determination, the noise contours in the adopted AELUP remain applicable unless and until the AELUP is amended.

Therefore, while the City's modifications reduce the number of affected properties, Finding and Fact in Support A does not demonstrate that residential uses authorized on the remaining Housing Element sites will comply with AELUP Section 3.2.3.

Response to Finding and Fact in Support B - Regarding Safety and Height:

Pursuant to AELUP Section 2.1.2, "[s]afety and compatibility zones depict which land uses are acceptable and which are unacceptable in various portions of airport environs. The purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA."

The ALUC acknowledges that the City removed the MUOD from properties within Safety Zones 1 and 2 and from non-Housing Element properties within Safety Zone 3. However, one Housing Element site at 1400 Bristol Street would still remain subject to the MUOD within Safety Zone 3.

The City states that the site is a former two-story motel that was converted to very-low-income single-room occupancy units and cites the California Airport Land Use Planning Handbook provision allowing residential infill in Safety Zone 3 at the average density of the surrounding residential area. The ALUC recognizes the City's Housing Element and Regional Housing Needs Allocation obligations. However, the Resolution does not compare the residential density authorized by the MUOD with the average density of the surrounding residential area. The existing use and the City's housing obligations do not demonstrate that the additional density authorized by the MUOD satisfies the cited Safety Zone 3 criterion.

The City also cites the Handbook's identification of "no limit" for residential density and the average number of people per gross acre in Safety Zone 6. However, the Handbook also states that noise and overflight should be considered in Safety Zone 6. The absence of a numerical density limit does not eliminate consideration of noise, overflight, and the general compatibility provisions of AELUP Section 3.2.1.

Regarding height, the ALUC acknowledges that the MUOD would allow a maximum building height of 108 feet in the North Costa Mesa Specific Plan area, which is lower than certain heights permitted by the Specific Plan. However, the Project retains provisions allowing Housing Element sites to use the greater height or capacity permitted by the North Costa Mesa Specific Plan. The Specific Plan permits building heights of up to 315 feet above grade, subject to applicable FAA review requirements. These heights may penetrate the 206-foot AMSL JWA horizontal surface.

Although these heights are contained in the existing Specific Plan, the Project expressly retains their availability for Housing Element sites. The ability of a property owner to use the lower MUOD height does not remove the greater Specific Plan height as an available development option, which is problematic.

The ALUC acknowledges the City's correction of the Land Use Element reference from FAA Form 7480-1 to FAA Form 7460-1 and the policies requiring applicable FAA filings, ALUC referrals, and future review. These policies establish review procedures for individual development proposals but do not change the maximum heights retained by the Project which are inconsistent with the AELUP.

Resolution No. 2026-39 also cites existing high-rise buildings, the City's 2007 overrule for the Wyndham Hotel and High Rise Residential Project, FAA determinations of no hazard, and the Specific Plan requirement for an FAA determination of no hazard for future buildings exceeding 173 feet above grade. The City's prior overrule did not constitute an ALUC determination of consistency or amend the *AELUP for JWA*.

The City further states that the AELUP recognizes the FAA as the authority to determine impacts on airports or aeronautical operations and that it is inappropriate for ALUC to make a secondary finding of inconsistency concerning the same issue. The ALUC recognizes the FAA's authority to determine whether a proposed structure constitutes a hazard to air navigation. However, the FAA's determination is separate from the ALUC's determination of whether a proposed land use action is consistent with the adopted AELUP. In fact, AELUP Section 2.1.3 specifically states:

"A Determination of No Hazard to Air Navigation does not automatically equate to a Consistency determination by the ALUC. The FAA may also conclude in their aeronautical study that a project is an Obstruction but not a Hazard to Air Navigation. The Commission may find a project Inconsistent based on an Obstruction determination."

Therefore, an ALUC inconsistency determination is a land use compatibility determination expressly provided for in the AELUP.

Accordingly, Finding and Fact in Support B does not resolve the remaining safety and height concerns identified by the ALUC. Under *AELUP for JWA* Sections 1.2, "Purpose and Scope," and 2.0, "Planning Guidelines," the ALUC is responsible for protecting public airports from encroachment by incompatible land uses and protecting the health, safety, and welfare of people who live and work within airport environs. In carrying out this responsibility, the Commission considers the information submitted by the local agency, the applicable AELUP standards, and input from members with aviation expertise.

The ALUC recognizes the City's housing obligations and acknowledges that the modifications described in Resolution No. 2026-39 address some of the issues identified in the ALUC staff report, however, the City's findings do not resolve the remaining noise, safety, and height inconsistencies.

Finally, in addition to approving the Notice of Intent to Overrule ALUC on its inconsistency finding for the Neighborhoods Where We All Belong Project (Resolution 2026-39), the City Council also approved the revised Housing Element (Resolution 2026-38), prior to the 45-day review period required by the PUC. The City subsequently transmitted its approved Housing Element to the California Department of Housing and Community Development (HCD) for approval. For the reasons stated below, the City's submittal to HCD was premature.

A City's general plan (which includes its housing element) must be compatible with any applicable AELUP adopted by an ALUC, unless the city properly overrules the commission with a two-thirds vote of its governing body and makes specific findings. (Cal. Gov. Code section 65302.2; PUC section 21676(b).) PUC section 21676(b) mandates that "[a]t least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the [ALUC] and [Caltrans] a copy of the proposed decision and findings. The [ALUC] and [Caltrans] may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings." In this instance, the City provided ALUC with its notice of intent to overrule on September 2, 2026. Accordingly, the soonest it could overrule the ALUC (thereby adopting its housing element) is October 17, 2026. However, the City appears to have adopted its Housing Element and sent it to HCD well in advance of the statutorily mandated 45-day advance notice window to overrule ALUC. Since ALUC had not been provided with a meaningful opportunity to submit these comments, nor had a proper overrule taken place, the City's housing element cannot have been legally adopted for purposes of state law yet.

We urge the City Council to take ALUC's concerns into consideration in its deliberations prior to deciding whether to overrule ALUC and adhere to the mandatory procedural sequence under Public Utilities Code section 21676 in the future. Thank you for the opportunity to provide these comments.

Sincerely,

Signed by:



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Gerald Bresnahan  
Chairman

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