



Agenda Report

Item #: 26-387

Meeting Date: 09/01/2026

TITLE: RESOLUTION OF THE CITY'S INTENT TO OVERRULE THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S INCONSISTENCY DETERMINATION FOR THE CITY OF COSTA MESA NEIGHBORHOODS WHERE WE ALL BELONG ZONING UPDATES AND HOUSING ELEMENT IMPLEMENTATION

DEPARTMENT: COMMUNITY DEVELOPMENT DEPARTMENT/ADVANCED PLANNING DIVISION

PRESENTED BY: MICHELLE HALLIGAN, SENIOR PLANNER AND ANNA MCGILL, PLANNING MANAGER

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RECOMMENDATION:

Staff recommends the City Council:

1. Conduct a public hearing and adopt a Resolution regarding the City's intent to overrule the Orange County Airport Land Use Commission's inconsistency determination for the City of Costa Mesa Neighborhoods Where We All Belong Zoning Updates and Housing Element Implementation.
2. Direct City staff to forward the Resolution to the Airport Land Use Commission (ALUC), and after 45 days, schedule a City Council public hearing to consider overruling ALUC's determination.

APPLICANT OR AUTHORIZED AGENT:

This is a City-initiated activity.

BACKGROUND:

Pursuant to Public Utilities Code (PUC) section 21676(b), when a jurisdiction proposes a substantial amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the Airport Land Use Commission (ALUC), the City must refer the proposed action to the ALUC to determine whether the action is consistent with the Airport Environs Land Use Plan (AELUP). If the ALUC determines that the action is inconsistent with the AELUP, the City may overrule the Commission by a two-thirds vote of the City Council. State law indicates that the ALUC serves as a limited "advisory body" and therefore the Costa Mesa City Council has the final authority to make land use decisions in the City.

In the 6th Cycle Housing Element planning period, the City of Costa Mesa was challenged with the highest Regional Housing Needs Allocation (RHNA) in the City's history, as well as being limited to making zoning and land use changes within the boundaries of Measure K. Neighborhoods Where We All Belong Zoning Updates and Housing Element Implementation (NWWAB) is the City of Costa Mesa's name for an effort to allow residential and mixed-use development on Measure K sites (all

Housing Element sites except for the Fairview Developmental Center site are within Measure K), and implement numerous Housing Element programs. NWWAB includes amendments to the Zoning Code, several General Plan elements, and specific plans to encourage and facilitate residential and mixed-use residential development. While no direct development is proposed as part of NWWAB, the amendments would apply the Mixed-Use Overlay District (MOUD) to approximately 1,000 Measure K sites. Development would occur when property owners choose to redevelop or develop their properties. More information on the NWWAB community visioning process can be found at www.costamesaneighborhoods.com.

Proposed regulations would require project applicants utilizing the MUOD to supply a noise study prepared by a qualified acoustical engineer. Applicable MUOD projects include those abutting a freeway or within the Airport Planning Area, as defined by the AELUP for John Wayne Airport (JWA). The noise study must certify compliance with CMMC Title 13, Chapter XIII (Noise Control) and the AELUP. MUOD projects on properties located within the Airport Planning Area, as defined by the AELUP for JWA, must comply with applicable requirements of the AELUP, unless overruled pursuant to state law.

On July 16, 2026, ALUC considered the NWWAB scope and determined the scope to be inconsistent with the AELUP on a 7-0 vote. The ALUC staff report noted that the project was inconsistent with five AELUP sections: 1) 2.1.1 Aircraft Noise, 2) 2.1.2 Safety Compatibility Zones, 3) 3.2.1 General Policy, 4) 3.2.3 Noise Impact Zone "1", and 5) 3.2.5 Runway Protection Zone. The conclusion of the report stated that "The Project would allow new residential and mixed-use development within the 65-and-above dBA CNEL for JWA; within Safety Zones 1, 2, 3 and 6; and would continue to allow development that would exceed the obstruction imaginary surfaces for JWA (North Costa Mesa Specific Plan)."

- ALUC staff report: https://files.ocair.com/media/2026-07/3.%20Costa%20Mesa%20Neighborhoods%20Where%20We%20All%20Belong.pdf?VersionId=6jZGsJI76e_E.Bz3H5OvuD9j7Jk37tb.

ALUC Overrule Process

To overrule the ALUC inconsistency decision regarding the NWWAB Zoning Updates and Housing Element Implementation, the City Council must make two findings, with an affirmative two-thirds vote, that the project is consistent with the purposes of PUC Division 9, Part 1, Chapter 4, Article 3.5 as stated in section 21670. If the City Council makes these findings, the City is required to provide ALUC a notice of the intent to overrule the ALUC inconsistency determination with the applicable PUC findings at least 45 days prior to the City's final decision to overrule ALUC. Overruling an ALUC inconsistency determination also requires two public hearings: one hearing for the City Council to resolve to notify ALUC of its intention to overrule the ALUC decision, and a second public hearing for the City Council to consider any additional ALUC comments and adopt the findings to overrule the ALUC determination. ALUC may provide comments to the City upon receiving the notice and findings. The City must include the ALUC comments in the public record of any final decision to overrule ALUCs determination.

ANALYSIS:**NWWAB Parcels as Related to the AELUP**

NWWAB proposes to amend and apply the MUOD to most Measure K sites. This would enable housing and mixed-use development on over 1,000 properties to help address the local, regional, and statewide housing crisis. To safeguard against compatibility issues with JWA, the proposed MUOD amendment includes two airport related regulations:

- Applicable MUOD projects shall be subject to a noise study prepared by a qualified acoustical engineer. Applicable MUOD projects include those abutting a freeway or within the Airport Planning Area, as defined by the Airport Environs Land Use Plan (AELUP) for John Wayne Airport. The noise study shall certify compliance with CMMC Title 13, Chapter XIII (Noise Control) and the AELUP.
- MUOD projects on properties located within the Airport Planning Area, as defined by the Airport Environs Land Use Plan (AELUP) for John Wayne Airport, shall comply with applicable requirements of the AELUP, unless overridden per State law.

Of the 1,079 parcels within the boundaries of Measure K, only 16 sites are wholly or partially within the 65 dBA CNEL contour (only 1.5 percent of NWWAB sites). Following the July 16, 2026, ALUC meeting, City staff adjusted the scope of the NWWAB project to not apply the MUOD to non-Housing Element Measure K sites within the 65 A-weighted decibels Community Noise Equivalent Level (dBA CNEL) contour.

One Housing Element site, located at 1400 Bristol Street, remains within the contour. This site is currently under construction for a motel conversion project to convert existing motel rooms into 78 single-room occupancy units (76 very-low income and 2 manager's units). This project is anticipated to complete construction in August 2026. The affordable housing units support the City's obligation to satisfy its 6th Cycle Housing Element RHNA of 11,760 units, of which 2,919 units must be affordable to very low-income households. It is appropriate and necessary for the City to encourage and facilitate the development of housing, including lower and moderate-income housing, to meet State law. Implementation of the 6th Cycle Housing Element, including implementing Measure K, is required to ensure the provision of adequately zoned land to accommodate the largest RHNA in Costa Mesa history, the City's share of regional growth, and to comply with State Housing Law. Additionally, as a motel conversion site, this project is within an existing building does not add any additional height, square footage or lot coverage to the existing site.

- A 1,000-square-foot corner of one Measure K property is located within Safety Zone 1, and one property is within Safety Zone 2. The City proposes to address this issue by not applying the MUOD to those properties.
- There are Measure K properties, including one Housing Element site, located in Safety Zone 3 where the Handbook states to "Allow infill at the average of surrounding residential area." The City proposes to address this issue by modifying the project to not apply the MUOD to non-Housing Element Measure K sites within Safety Zone 3.

- There are non-Housing Element Measure K properties located within the 65 dBA CNEL noise contour. Again, the City proposes to address this issue by not applying the MUOD to those properties.
- The North Costa Mesa Specific Plan allows building heights up to 315 feet, which could exceed the obstruction imaginary surfaces for JWA. NWWAB proposes a maximum building height of 108-feet in the North Costa Mesa Specific Plan area and would not exceed the obstruction imaginary surfaces for JWA.
- Approximately 140 Measure K sites (including Housing Element sites) are located in Safety Zone 6, where the California Airport Land Use Planning Handbook allows residential development without a maximum density. California Airport Land Use Planning Handbook: <https://dot.ca.gov/-/media/dot-media/programs/aeronautics/documents/californiaairportlanduseplanninghandbook-a11y.pdf>

Following the ALUC meeting, City staff adjusted the proposed scope of the NWWAB project to not apply the MUOD to Measure K sites within the 65 dBA CNEL contour around the airport (except the Homekey motel conversion site on Bristol), Safety Zone 1, Safety Zone 2, and non-Housing Element Measure K sites in Safety Zone 3. The City has diligently addressed ALUC's recommendations from the July 16, 2026, meeting, where feasible.

Override Findings

The two required override findings pursuant to PUC section 21670 are shown in bold below, followed by the City's justification to override.

PUC Override Finding No. 1- Provide for the orderly development of areas surrounding airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.

PUC Finding No. 1 justification for override:

Section 2.1.1 of the AELUP establishes community CNEL guidance. The AELUP defines noise exposure in the 65 dBA CNEL noise contour as "High Impact" while also identifying residential uses as "conditionally consistent" in the 65 dBA CNEL noise contour. The AELUP does not prohibit residential uses in the 65 dBA CNEL noise contour; it requires residential uses to have insulation or other systems to bring sound attenuation to no more than 45 dB indoors.

The Noise Element of the City's General Plan includes several policies to address potential airport/residential noise impacts.

- N-1.1: Enforce the maximum acceptable exterior noise levels for residential areas at 65 CNEL.
- N-1.4: Ensure that appropriate site design measures are incorporated into residential developments, when required by an acoustical study, to obtain appropriate exterior and interior noise levels. When necessary, require field testing at the time of project completion to demonstrate compliance.

- N-1.5: Apply the standards contained in Title 24 of the California Code of Regulations as applicable to the construction of all new dwelling units.
- N-1.6: Discourage sensitive land uses from locating within the 65 CNEL noise contour of John Wayne Airport. Should it be deemed by the City as appropriate and/or necessary for a sensitive land use to locate in the 65 CNEL noise contour, ensure that appropriate interior noise levels are met and that minimal outdoor activities are allowed.
- N-1.7: Support alternative methods for the reduction of noise impacts at John Wayne Airport while continuing to maintain safety and existing limitations on aircraft daily departures.
- N-2.1: Require the use of sound walls, berms, interior noise insulation, double-paned windows, and other noise mitigation measures, as appropriate, in the design of new residential or other new noise-sensitive land uses that are adjacent to arterials, freeways, or adjacent to industrial or commercial uses.
- N-2.4: Require that all proposed projects are compatible with adopted noise/land use compatibility criteria.
- N-2.6: Allow a higher exterior noise level standard for infill projects in existing residential areas adjacent to major arterials if it can be shown that there are no feasible mechanisms to meet the exterior noise levels. The interior standard of 45 dBA CNEL shall be enforced for any new residential project.

The City's Land Use Element includes Policy LU-3.17: New residential developments within the 60 dB CNEL noise contour of the airport shall provide designated outdoor signage informing the public of the presence of operating aircraft.

The proposed MUOD amendment includes two airport related regulations:

- Applicable MUOD projects shall be subject to a noise study prepared by a qualified acoustical engineer. Applicable MUOD projects include those abutting a freeway or within the Airport Planning Area, as defined by the Airport Environs Land Use Plan (AELUP) for John Wayne Airport. The noise study shall certify compliance with CMMC Title 13, Chapter XIII (Noise Control) and the AELUP.
- MUOD projects on properties located within the Airport Planning Area, as defined by the Airport Environs Land Use Plan (AELUP) for John Wayne Airport, shall comply with applicable requirements of the AELUP, unless overridden per State law.

Following the ALUC meeting, City staff adjusted the proposed scope of the NWWAB project to remove non-Housing Element Measure K sites within the 65 dBA CNEL contour around the airport, Safety Zone 1, Safety Zone 2, and non-Housing Element Measure K sites in Safety Zone 3 from the MUOD. By modifying the scope of the application of the MUOD, the City has diligently addressed airport noise while also pursuing compliance with State Housing Law. The NWWAB effort will provide for orderly development in areas surrounding JWA and elsewhere in Costa Mesa. Therefore, the City is able to make the finding to overrule the ALUC inconsistency determination in regard to PUC Finding No. 1.

Additionally, the CNEL noise contours of the AELUP Master Plan were established in 1985. Advances in aircraft technology, including quieter fleets, warrant study and subsequent revisions to the noise contours. The Noise Chapter of EIR No. 617 for the 2014 John Wayne Settlement Agreement

Amendment utilized contemporary modeling (FAA Integrated Noise Model Version 7.0d) to describe how dBA CNEL noise contours have decreased in size. EIR No. 617 explained that “one of the most important factors in generating accurate noise contours is the collection of accurate operational data.”

PUC Overrule Finding No. 2- Protect public health, safety, and welfare by ensuring the adoption of land use measures that minimize the public’s exposure to safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

PUC Funding No. 2 justification for overrule:

Safety Compatibility Zones of the AELUP recommend which land uses are acceptable in various JWA environments. As indicated in the above section entitled “Justification for overrule,” the City’s Noise Element Policies adequately address the public exposure to excessive noise.

As originally proposed, of 1,079 sites within the Measure K boundary, an approximately 1,000-square-foot corner of one Measure K property is located within Safety Zone 1, one parcel is within Safety Zone 2, and seven other parcels are within Safety Zone 3. After the July 16, 2026, ALUC meeting, the City modified the project to not apply the MUOD to properties in Safety Zone 1, Safety Zone 2, and non-Housing Element Measure K properties in Safety Zone 3.

With the project modification, the MUOD would only be applied to one site (1400 Bristol Street) within Safety Zone 3. The California Airport Land Use Planning Handbook states that Safety Zone 3 can “allow infill at the average of surrounding residential area.” The one NWWAB site that remains in Safety Zone 3 is an existing two-story motel that was recently converted to very low income single-room occupancy units. As previously stated herein, the very low-income affordable housing units support the City’s obligation to satisfy its 6th Cycle Housing Element RHNA of 11,760 units, of which 2,919 units must be affordable to very low-income households. It is appropriate and necessary for the City to encourage and facilitate the development of housing, including lower and moderate-income housing, to meet State Housing Law. Implementation of the 6th Cycle Housing Element, including implementing Measure K, is required to ensure the provision of adequately zoned land to accommodate the largest RHNA in Costa Mesa history, the City’s share of regional growth, and comply with State Housing Law.

The NWWAB project will apply the MUOD to Measure K sites within Safety Zone 6, where the California Airport Land Use Planning Handbook establishes a maximum density of “no limit” and an average number of people per gross acre of “no limit.”

The ALUC staff report concludes that the application of the MUOD to sites south of JWA along Bristol Street could have maximum heights that “would come very close” to penetrating the JWA transitional surface of 92 feet but would “not penetrate the Obstruction Imaginary Surfaces for JWA.” The City is no longer proposing to apply the MUOD to sites on Bristol Street between Santa Ana Avenue and City of Newport Beach City Limits. Additionally, the City of Costa Mesa General Plan includes policies regarding airport and land use compatibility including:

- LU-3.14: Certain development proposals which may include the construction or alteration of structures more than 200 feet above ground level may require filing with the Federal Aviation Administration (FAA) and Airport Land Use Commission (ALUC) pursuant to federal and State law. If a filing requirement is determined to be necessary in accordance with the procedures

provided by State/federal agencies, the filing of a Notice of Proposed Construction or Alteration (FAA Form 7460-1) shall be required prior to review and consideration of the proposed development.” Land Use Element (page LU-18) refers to the threshold stated above. It shall be amended to refer to Filing FAA Form 7460-1 Notice of Construction and Alteration, and not to Form 7480-1.

- Policy LU-3.15. The City will ensure that development proposals, including the construction or operation of a heliport or helistop comply fully with permit procedures under State law, including referral of the project to the ALUC by the applicant, and with all conditions of approval imposed or recommended by the Federal Aviation Administration, ALUC, and Caltrans, including the filing of Form 7480-1 (Notice of Landing Area Proposed) with the FAA. This requirement shall be in addition to all other City development requirements.
- Policy LU-3.16. The City shall refer certain projects to the Airport Land Use Commission for Orange County, as required by section 21676 of the California Public Utilities Code to determine consistency of the project(s) with the Airport Environs Land Use Plan for John Wayne Airport.

Additionally, the MUOD includes regulations to address potential airport-related conflicts such as:

- MUOD projects on properties located within the Airport Planning Area, as defined by the Airport Environs Land Use Plan (AELUP) for John Wayne Airport, shall comply with applicable requirements of the AELUP, unless overridden per State law.

AELUP as related to the North Costa Mesa Specific Plan

At the July 16, 2026, meeting, ALUC expressed that the heights allowed in the existing North Costa Mesa Specific Plan permit a maximum building height that could result in building construction which exceeds the 206-foot JWA Imaginary Horizontal Surface. ALUC’s determination of inconsistency is not based on proposed regulations in the NWWAB MUOD, but rather existing provisions of the North Costa Mesa Specific Plan. NWWAB would apply the MUOD, with a maximum building height of 108 feet in the North Costa Mesa Specific Plan area, to Measure K sites. This is a lower maximum building height than allowed in the specific plan. Should a property owner choose to develop via the provisions of the MUOD instead of the specific plan, the development would not exceed the obstruction imaginary surfaces.

In 2007, the City submitted a project for ALUC consideration that included a mixed-use development with both hotel and residential uses (The Wyndham Hotel and High Rise Residential Project) in the South Coast Plaza Town Center area. This area already contains Plaza Tower and Center Tower which exceed 20 stories. The project included a General Plan Amendment, a Specific Plan Amendment, an Environmental Impact Report (EIR), a Final Master Plan and a proposed subdivision. The ALUC determined that the project and the General Plan/Specific Plan amendments were inconsistent in regard to the inclusion of height standards that penetrate the AELUP horizontal imaginary surface, and the City subsequently overruled the ALUC determination. The City’s overrule finding was based on the Federal Aviation Administration (FAA) findings that the then proposed building height of 304 feet AMSL “would not adversely affect air safety” and the FAA subsequently issued a “no hazard determination.” Additionally, the FAA conditioned that any future buildings proposed in this area with height proposed above 173 feet above grade level would require a specific determination of “no hazard” by the FAA in order to move forward. This requirement is included in the height standards of the North Costa Mesa Specific Plan. Therefore, potential safety risks associated with future construction on the five Housing

Element sites in the North Costa Mesa Specific Plan area are addressed by the FAA requirement and the Specific Plan requirements. It should be noted that the AELUP declares the FAA as the authority to determine impacts on airport or aeronautical operations. It is inappropriate for the ALUC to make a secondary finding of inconsistency for the same issue. Based on the above facts, the City is justified in making the finding to overrule the ALUC inconsistency determination in regard to PUC Finding No. 2

RECOMMENDATION:

Staff is recommending that the City Council adopt a Resolution indicating its intent to overrule the ALUC finding of inconsistency in regard to the City's NWWAB Zoning Updates and Housing Element Implementation. The recommended action would authorize staff to formally provide notice to the ALUC pursuant to Public Utilities Code section 21676(b) of the City's intention and to move forward with scheduling a second public hearing.

ALTERNATIVES:

If the City Council is in agreement with the proposed amendments to the NWWAB effort, as described in this staff report, the Council must adopt the attached Resolution related to the Council's intent to overrule the ALUC determination. Alternatively, the City Council could opt to modify the Housing Element to remove the aforementioned site within Safety Zone 3 from the Housing Element. However, given that the property was recently converted from a motel to very low-income housing to help address local and State housing goals, removing it from the Housing Element and the MUOD is not recommended by staff. The City Council could also modify the Housing Element to indicate that the City will amend the North Costa Mesa Specific Plan to lower the maximum building height elevations at the aforementioned candidate sites to below 206 feet AMSL, which would also address ALUC's concern. Staff does not recommend this course of action as the North Costa Mesa Specific Plan's height standards are appropriate, have already been found by the FAA to pose no hazard to air safety, and would reduce longstanding development capacity including accommodating housing at various income levels.

ENVIRONMENTAL DETERMINATION:

The recommended action to overrule the determination of the ALUC is exempt from the California Environmental Quality Act (CEQA), because it is not a "project" within the meaning of CEQA and it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment pursuant to CEQA Guidelines section 15061(b)(3).

An Initial Study and Notice of Preparation, Notice of Availability, and Draft Program Environmental Impact Report (PEIR) were prepared for the NWWAB Zoning Updates and Housing Element Implementation. The Draft PEIR is a high-level environmental review of this large-scale action to apply the MUOD to Measure K sites including Housing Element sites. The Draft PEIR identified that the future development on parcels located within the Safety Zones may have to reduce height or density in order to be found in compliance with the AELUP on a project level. This would result in a less than significant impact, with no mitigation required. Staff's proposal to remove these properties from the MUOD would further reduce any potential for impacts. The Draft PEIR public comment period took place from June 16, 2026, through August 3, 2026. The preparation of responses to comments and the Final PEIR is in progress.

All applicable environmental documents referenced above (IS/NOP, NOA and Draft PEIR) are available on the following City webpage:

<https://www.costamesaca.gov/government/departments-and-divisions/economic-and-development-services/planning/environmental-notice-and-reports>

FISCAL REVIEW:

There are no fiscal impacts associated with this action.

LEGAL REVIEW:

The City Attorney's Office has reviewed this report and approves it as to form.

PUBLIC NOTICE:

Pursuant to Title 13, section 13-29(d), of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. **On-site posting.** A public notice was posted at City Hall and on the City's website on Friday, August 21, 2026.
2. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper on Friday, August 21, 2026.

Any public comments received for the September 1, 2026 City Council meeting, may be viewed at this link: [CITY OF COSTA MESA - Calendar \(legistar.com\)](https://legistar.com/CITY_OF_COSTA_MESA)

CITY COUNCIL GOALS AND PRIORITIES:

The proposed overrule of ALUC's inconsistency determination for the NWWAB effort supports the City Council goal of "Diversity, stabilize and increase housing to reflect community needs."

CONCLUSION:

Section 4.3 of the AELUP and section 21676(b) of the California Public Utilities Code (CPUC) require the City to submit specific amendments and projects to the ALUC for a determination of consistency with the AELUP. On July 16, 2026, the ALUC conducted a public hearing to consider NWWAB, and found the project to be inconsistent with the AELUP. ALUC's staff report is provided as Attachment 2. State law indicates that the ALUC serves as a limited "advisory body" and therefore the Costa Mesa City Council has the final authority to make land use decisions in the City. The NWWAB effort includes applying the MUOD to most Measure K sites and related amendments to specific plans and General Plan elements to encourage and facilitate housing and mixed-use development, and obtain compliance with State Housing Law. Staff recommends the City Council adopt a Resolution directing staff to formally initiate overrule of the Orange County ALUC's determination for NWWAB. A letter to ALUC to initiate the overrule process is provided as Attachment 3.