



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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AGENDA ITEM 2

March 17, 2022

TO: Commissioners/Alternates

FROM: Lea U. Choum, Executive Officer

SUBJECT: City of Costa Mesa Request for Consideration of 2021-2029 6th Cycle Housing Element Update

Background

The City of Costa Mesa ("City") has submitted its Housing Element Update ("Update") for the 2021–2029 planning period. California Government Code, Section 65588, requires that local governments review and revise the Housing Element of their comprehensive General Plans no less than once every eight years. Before the 6th Cycle Housing Element Update for the 2021–2029 planning period, Costa Mesa's Housing Element was last updated in January 2014 for the 5th Cycle (2013–2021). The 5th Cycle Housing Element Update was not referred to the ALUC for a consistency review.

The California Government Code requires that a Housing Element be included in a city's General Plan as one of seven mandatory elements that express the community's values, goals, and vision for the future. The Housing Element identifies and analyzes the City's existing and projected housing needs and contains a detailed outline and work program of the City's goals, policies, quantified objectives, and programs for the preservation, improvement, and development of housing for a sustainable future.

The Housing Element Update is required to identify potential candidate housing sites by income category to meet the Regional Housing Needs Assessment (RHNA) allocation. The sites identified within the Update represent the City's ability to plan for housing at the designated income levels within the 2021-2029 planning period. The development capacity for each site depends largely on its location within the City, a specific plan or urban plan area, and known development factors.

The Southern California Association of Governments (SCAG) has determined the City's RHNA share of affordable housing needs for the Orange County region and quantified Costa Mesa's local share by income category. The City's 2021-2029 RHNA total housing needs allocation is 11,760 units, including, 2,919 for very low income, 1,794 low income, 2,088 moderate income and 4,959 above moderate-income households. The City's Update includes the identification of specific candidate housing sites for the purposes of meeting the site inventory requirements of the California Department of Housing and Community Development (HCD). The proposed Update exceeds the RHNA allocation and could accommodate approximately 17,531 additional units, including

accessory dwelling units (*Costa Mesa Housing Element 6th Cycle - 2021-2029* (<https://www.costamesaca.gov/home/showpublisheddocument/6602/636490563866670000>), Page 3-92). The proposed Update identifies 99 potential future candidate housing sites on 352 acres. Attachment 1 shows the location of the sites in relation to the *Airport Environs Land Use Plan* (AELUP) Notification Area for John Wayne Airport (“JWA” or “Airport”).

The Housing Element Update requires a General Plan Amendment. No other entitlements, such as zone changes or specific development projects are proposed as a part of this effort. Future zoning actions to implement specific programs in the Update will be required in the future, including increased densities to accommodate the RHNA allocation, but no changes to existing height limitations are expected. The City will submit any required implementation proposals occurring as a result of the Update to ALUC as required.

The City of Costa Mesa completed its scheduled public hearings on the proposed Housing Element Update as follows:

December 13, 2021	Planning Commission
February 1, 2022	City Council (Approved by a vote of 6-1)

AELUP for JWA Issues

The table below provides a summary of the candidate housing sites within the JWA Notification area. Attachment 2 provides additional details for those sites including the City’s General Plan land use designation, zoning, existing residential densities, future maximum densities and height limitations, as provided by the City.

Overlay Description	Candidate Housing Site of Concern	Notes
JWA Noise Impact Zones	142, 206, 207, and 178	Four candidate housing sites are within the 60 CNEL. No sites are within the 65 CNEL.
JWA Safety Zone Reference Map	142, 206, 207, 144, 202, 190, 176, 178, 179, 208, 180, 188, 189, 190, 191, 193	Several sites are within the Safety Zone 6 – Traffic Pattern Zone. However, safety zone 6 does allow for residential uses.
AELUP Notification Area	All sites EXCEPT 100,75,76,77,78,79	AELUP notification area covers a majority of the City. All candidate housing sites except the following sites mentioned are within the notification area.
JWA Obstruction Imaginary Surfaces	142, 146, 147, 139, 145, 202, 144, 197, 188, 208, 179, 181, 193, 182, 183, 184, 191, 187, 177, 185, 186, 190, 176, 189, 178, 180, 43, 41, 42, 44, 40, 45, 38, 54, 53, 137, 138, 206, 207,39,141, 205, 140, 201	BUILDING HEIGHT RESTRICTIONS – For JWA, the Commission, by reference, has adopted Part 77, Objects Affecting Navigable Airspace, of the Federal Aviation Regulations as a guideline to describe the ultimate height of structures under the imaginary surfaces as defined in FAR Part 77.

The City has identified the following five “Focus Areas” where the candidate housing sites would be located:

- Focus Area 1: North Costa Mesa and Home Ranch
- Focus Area 2: North Costa Mesa, North Costa Mesa - Sakioka Lot 2 (SL-2), and SoBECA
- Focus Area 3: Harbor Mixed-Use and Fairview Developmental
- Focus Area 4: SoBECA
- Focus Area 5: Harbor Mixed-Use and 19 West

Attachment 3 includes exhibits showing Focus Areas 1 – 5. These exhibits can be referenced for the following discussion.

Regarding Aircraft Noise Impacts:

The City's Update identifies four candidate housing sites within the 60 dB CNEL contour (sites 142, 206 and 207 in Focus Area 2 and a portion of site 178 in Focus Area 4), and no new sites within the 65 dB CNEL contour. Per Section 3.2.4 of the *AELUP for JWA*, Noise Impact Zone 2, Moderate Noise Impact (60 dB CNEL or greater and less than 65 dB CNEL), states that "although the Commission would not find residential units incompatible in this area, the Commission strongly recommends that residential units be limited or excluded from this area unless sufficiently sound attenuated. The residential use interior sound attenuation requirement shall be a CNEL value not exceeding an interior level of 45 dB." The City's General Plan Noise Element currently addresses noise in residential and mixed-use areas in Policies N-1.1, N-1.5, N-1.6, N-1.7, N-2.4 and N-2.6. Policy N-2.6 specifically states that, "The interior standard of 45 dBA CNEL shall be enforced for any new residential project."

Regarding Height Restrictions:

Portions of the City are within the Federal Aviation Administration (FAA) Notification Area and the Federal Aviation Regulation (FAR) Part 77 Obstruction Imaginary Surfaces for JWA. The five Focus Areas are subject to FAA height limits as determined by Part 77 of the FAA regulations and are discussed below.

Focus Area 1: North Costa Mesa and North Costa Mesa – Home Ranch (HR)

The City has identified three candidate housing sites in Focus Area 1 that are within the conical surface for JWA (North Costa Mesa – HR sites 137, 138 and 198). According to the Update, allowable height limits for these areas are from 60 feet to 180 feet above ground level (AGL). Ground elevation at site 138, nearest to JWA is approximately 28 feet. Since the JWA transitional surface elevations above this focus area range from approximately 350 feet to over 400 feet AMSL, the building height elevations would be below these surfaces at a maximum of 208 feet.

Six candidate housing sites in the North Costa Mesa portion of Focus Area 1 (sites 131-134, 136 and 196) are located within the JWA Notification Area, but are not within the imaginary surfaces for JWA.

Focus Area 2: North Costa Mesa, Sakioka Lot 2 (SL2)

All of the candidate housing sites in Focus Area 2 are located within the horizontal surface for JWA (elevation 206 feet AMSL). Three candidate housing sites (145-147) within the North

Costa Mesa portion of Focus Area 2 have a maximum permitted building height of 85 feet AGL. The ground elevation at these sites is approximately 36 feet. Total building elevations would be approximately 121 feet AMSL and would not penetrate the JWA horizontal surface of 206 feet AMSL.

Sites 144, 206 and 207 within the North Costa Mesa portion of Focus Area 2, have a City maximum permitted height of 180 feet AGL. The ground elevation at site 144 is 29 feet, creating a total potential building height of 209 feet AMSL, and penetrating the 206 feet AMSL JWA horizontal surface by three feet. The ground elevation at sites 206 and 207 is 31 feet creating a total potential building height elevation of 211 feet AMSL. Therefore, proposed residential buildings at these two sites (206 and 207) would penetrate the JWA horizontal surface by five feet.

The remaining six candidate housing sites (139, 140, 141, 201, 202 and 205) located in the North Costa Mesa area of Focus Area 2 are part of the Cultural Arts Center¹ area and have existing height limitations of 315 feet AGL, and ground elevations ranging from 32 to 36 feet. Therefore, proposed residential buildings on these sites would penetrate the JWA 206 feet AMSL horizontal surface by 141 to 145 feet. Sites in this area were previously reviewed by ALUC in 2006 and 2007 for proposed residential uses. At that time, the FAA determined that the project was an obstruction by exceeding the standards of FAR Part 77, Subpart C, by (1) surpassing the 200 feet AGL threshold and (2) exceeding the horizontal surface for JWA, but determined it was not a hazard to air navigation. Although the FAA issued a Determination of No Hazard for the project, this did not automatically equate to an ALUC consistency determination, and the ALUC found the project to be inconsistent with the *AELUP for JWA* because it penetrated the JWA horizontal obstruction surface. The City took steps to overrule the ALUC in accordance with PUC Sections 21676 and 21676.5 prior to approving the projects.

The City's height limitations for Sakioka Lot 2 (site 142) within Focus Area 2 are listed in the City's ALUC submittal table as 60 feet to 180 feet AGL (see Attachment 2). However, the City notified ALUC staff that 180 feet AGL is in error and should be 120 feet AGL, based on action taken by the City in 2016 following ALUC review of this site. On May 19, 2016, the ALUC found the Sakioka site to be consistent with the *AELUP for JWA* with a maximum building height of 120 feet AGL. The ground elevation of this site at the nearest point to JWA is approximately 34 feet, creating a total maximum elevation of approximately 154 feet AMSL. No penetration of the JWA 206 feet AMSL horizontal surface would occur.

Focus Area 3: Harbor Mixed Use and Fairview Developmental

According to the Housing Element Update, the height limit for Focus Area 3 is 60 feet/four stories. The Harbor Mixed-Use area includes nine sites (sites 39-45, 53 and 54) that are within a portion of the conical imaginary surface; however, the imaginary surface above these areas is over 350 feet AMSL. The nearest site to JWA (site 40) has a ground elevation of 65 feet.

¹ This area is designated Cultural Arts Center (CAC) by the General Plan and has a zoning designation of Town Center (TC). The property is located in the North Costa Mesa Specific Plan and portions of the site are under a Development Agreement which will expire in August of 2023. The City's 6th Cycle analysis includes an assumption of 535 dwelling units.

Therefore, the maximum building height would be 125 feet AMSL, well below the conical imaginary surface in this area. The ground elevation at site 54 at its nearest point to JWA is 79 feet, creating a maximum allowable building height of 139 feet AMSL, also below the conical imaginary surface.

The conical imaginary surface above the Fairview Developmental area (site 38) is over 400 feet AMSL and the majority of this site is outside the limits of the conical surface for JWA. The City's maximum height for this site is four stories (60 feet). Building height elevations would not penetrate the JWA conical imaginary surface.

Focus Area 4: SoBECA

All of the 18 candidate housing sites in Focus Area 4 (sites 176-191, 193, and 208) are located within the horizontal surface of (elevation 206 feet AMSL) for JWA. The City's permitted height for this area is 60 feet AGL, and the ground elevation at the nearest site to JWA (site 178) is 40 feet; therefore, a maximum total height of 100 feet AMSL would not penetrate the JWA horizontal surface.

Focus Area 5: Harbor Mixed-Use and 19 West

The Harbor Mixed-Use area has two sites (sites 53 and 54) within JWA conical imaginary surface that were addressed in the Focus Area 3 discussion above. The remaining Harbor Mixed Use sites are within the JWA Notification Area, but not under an imaginary surface.

Six sites (sites 19-24) in the 19 West area of Focus Area 5 are within the JWA transitional surface. The ground elevation at the nearest site to JWA (site 24) is approximately 85 feet and the City's maximum permitted building height is 60 feet AGL, creating a maximum building height elevation of 145 feet AMSL. The transitional surface above site locations in the 19 West area are at elevations above 1050 feet AMSL and would not be penetrated.

In all development areas within the City, future specific development proposals that include the construction or alteration of structures more than 200 feet above ground level require filing with the FAA and ALUC notification. Projects meeting this threshold must comply with procedures provided by Federal and State law, with the referral requirements of ALUC, and with all conditions of approval imposed or recommended by FAA and ALUC including filing a Notice of Proposed Construction or Alteration (FAA Form 7460-1).

Regarding Flight Tracks and Safety Zones

One candidate housing site in Focus Area 2 (Sakioka Lot 2, site 142) is within the Safety Zone 6 Traffic Pattern Short Zone. In Focus Area 4, there are ten sites within Outer Safety Zone 6 (sites 176-180, 188-191 and 208). The California Airport Land Use Planning Handbook states that residential uses are allowed in Safety Zone 6, but that noise and overflight should be considered. See Attachment 4 to view the candidate housing sites in relation to the Safety Zones for JWA.

The JWA Noise Office provided flight track exhibits for the City of Costa Mesa on various days for typical approach/departure. As shown on the exhibits, flight track elevations over the City's focus areas are at altitudes generally above 500 feet. (See Attachment 5).

Regarding Heliports:

No heliports are proposed as part of the Update; therefore, consistency with the *AELUP for Heliports* was not evaluated. Proposals for new heliports must be submitted through the City to the ALUC for review and action pursuant to Public Utilities Code Section 21661.5, and must comply with the State permit procedure provided by law and with all conditions of approval imposed or recommended by FAA, by the ALUC for Orange County and by Caltrans/Division of Aeronautics.

Environmental Compliance:

A Negative Declaration (ND) was prepared for the proposed Housing Element Update. The ND was circulated for public review from October 29, 2021, to November 29, 2021. ALUC staff provided comments on the ND on November 29, 2021 (See Attachment 6).

Other Considerations:

Specific housing developments are not proposed at this time, but future discretionary development would be required to undergo environmental and/or development review on a project-by-project basis. Other elements of the City's General Plan may require amendments to accommodate the proposed new residential uses. Any element amendments that the City may propose in the future would require submittal to ALUC for consistency determinations.

Additionally, since the Costa Mesa City Council took action on the Housing Element Update on February 1, 2022, prior to the ALUC taking action, in accordance with PUC Section 21676.5(a), the Commission may wish to consider requiring the City to submit all subsequent City actions, regulations, and permits within JWA's airport influence area to the ALUC for review, until the City's general plan is revised or specific overrule findings are made. See Attachment 7 to view the comment letter from ALUC to the Costa Mesa City Council discouraging Council action on the Housing Element Update prior to ALUC consistency review.

Conclusion

Attachment 8 to this report contains excerpts from the submittal package received from the City of Costa Mesa for your reference. The Housing Element Update and supporting documents are also available on the City's website at <https://www.costamesaca.gov/city-hall/city-departments/development-services/planning/housing-element-update>.

ALUC staff has reviewed the Housing Element Update for compliance with the *AELUP for John Wayne Airport (JWA)* including review of noise, height restrictions, safety and overflight. The recommendation below is based on the Update's inclusion of candidate housing sites in close proximity to the Airport, specifically those sites in Focus Area 2 that would penetrate the 206 feet AMSL horizontal obstruction surface for JWA. (North Costa Mesa sites 144, 206 and 207, and Cultural Arts Center sites 139, 140, 141, 201, 202 and 205)

Recommendation:

That the Commission find the proposed City of Costa Mesa Housing Element Update for the 2021–2029 6th Cycle inconsistent with the *AELUP for JWA* per:

1. Section 2.1.3, which states that a “Determination of No Hazard to Air Navigation [by FAA] does not automatically equate to a Consistency determination by the ALUC. The FAA may also conclude 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. The Commission may utilize criteria for protecting aircraft traffic patterns at individual airports which may differ from those contained in FAR Part 77, should evidence of health, welfare, or air safety surface sufficient to justify such an action.”
2. Section 2.1.4, and PUC Section 21674, which state that the Commission is charged by PUC Section 21674(a) “to assist local agencies in ensuring compatible land uses in the vicinity of ...existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses,” and PUC Section 21674(b) “to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare.”

Additionally, the following recommendation related to future City actions is proposed:

3. In accordance with PUC Section 21676.5.(a), that the Commission require the City to submit all subsequent City actions, regulations, and permits within JWA’s airport influence area to the Commission for review until the City’s general plan is revised or specific overrule findings are made.

Respectfully submitted,



Lea U. Choum
Executive Officer

Attachments:

1. Notification Area with Candidate Housing Sites
2. Table of Candidate Housing Sites within JWA Noise, Safety and Imaginary Surfaces
3. Focus Areas 1 – 5 Candidate Housing Sites
4. Safety Zones with Candidate Housing Sites
5. Flight Tracks over Costa Mesa
6. ALUC Comment Letter to City of Costa Mesa Regarding Negative Declaration
7. ALUC Comment Letter to Costa Mesa City Council
8. City of Costa Mesa Letter and Submittal Form