

October 16, 2015

Honorable Mayor Stephen Mensinger
City of Costa Mesa
77 Fair Dr.
Costa Mesa, CA 92626

Dear Mayor Mensinger,

I am writing on behalf of the Airport Working Group of Orange County (**AWG**) Board of Directors and our over 6,000 members throughout Orange County and especially in Costa Mesa and Newport Beach to express our concern regarding the Planning Commission approval of the application of Mr. Kevin Coleman to place a helipad on the roof of his building located at 3132 Airway Ave. in Costa Mesa next to John Wayne Airport (**JWA**).

You may recall that in 2011 the Costa Mesa Planning Commissioners denied the same application on the ground that it constituted an expansion of the airport.

AWG agreed then with the decision and we would like to express again our opposition to Mr. Coleman application based on the following criteria:

- The project is an indirect expansion of **JWA** beyond its current footprint.
- The application is a violation to the Corridor Cities principles.
- The project will add more noise impact to our communities.
- The increased air traffic will results in a degradation of the environment.

For all of the above reasons, the **AWG** Board of Directors urges you to reject the application during your upcoming City Council meeting review.

Thank you for your consideration.

Sincerely,



Tony Khoury

AWG Board President

C C: Honorable Tom Hatch – Costa Mesa City Manager

LEE, MEL

From: [REDACTED]
Sent: Thursday, October 15, 2015 5:49 PM
To: LEE, MEL
Subject: RE: Concerns Regarding the Helipad Decision

Dear Mr. Lee,

I am writing on behalf of the Airport Working Group of Orange County (**AWG**) Board of Directors and our over 6,000 members throughout Orange County and especially in Costa Mesa and Newport Beach to express our concern regarding the Planning Commission approval of Mr. Kevin Coleman application, to place a Helipad on the roof of his building located at 3132 Airway Avenue, in Costa Mesa next to John Wayne Airport (**JWA**).

You may recall that in 2011 the Costa Mesa Planning Commissioners denied the same application on the ground that it constituted an expansion of the airport.

AWG agreed then with the decision and we would like to express again our opposition to Mr. Coleman application based on the following criteria:

- The project is an indirect expansion of **JWA** beyond its current footprint.
- The application is a violation to the Corridor Cities principles.
- The project will add more noise impact to our communities.
- The increased air traffic will results in a degradation of the environment.

For all of the above reasons, the **AWG** Board is greatly concerned with the Planning Commission decision for approving the Helipad.

Thank you for your consideration.

Sincerely,

Tony Khoury

AWG Board President

LEE, MEL

From: Denis [REDACTED]
Sent: Monday, September 28, 2015 1:31 PM
To: LEE, MEL
Subject: Tonight's PC mtg re PA-11-03

Dear Mr Lee, Please allow me time to speak in opposition to this application . I have been given approval to speak in opposition for 60% of the owners of this condominiumized commercial building.

Thank you,

Denis LaBonge

Owner 3136 Airway Ave, 92626
[REDACTED]

Sent from my iPhone

LEE, MEL

From: David Heil [REDACTED]
Sent: Monday, September 28, 2015 1:41 PM
To: Denis
Cc: LEE, MEL; Michael Gray; Mike Gray
Subject: Re: Tonight's PC mtg re PA-11-03

Yes!

DAVID AUGUST HEIL

Founder | Creative Director | CEO

David August Inc.

Work: 714.545.SUIT
(7848)

[REDACTED]
Fax: 714.545.7880

DA

DAVID AUGUST

3140 AIRWAY AVE. COSTA MESA, CA. 92626

CALIFORNIA | LAS VEGAS | FLORIDA | NEW YORK

Stay In Touch With Us Online: WWW.DAVIDAUGUSTINC.COM

On Sep 28, 2015, at 4:31 PM, Denis [REDACTED] wrote:

Dear Mr Lee, Please allow me time to speak in opposition to this application . I have been given approval to speak in opposition for 60% of the owners of this condominiumized commercial building.

Thank you,
Denis LaBonge
Owner 3136 Airway Ave, 92626
[REDACTED]

Sent from my iPhone

PH-2

LEE, MEL

From: Dale Lyon [REDACTED]
Sent: Thursday, September 24, 2015 8:52 AM
To: LEE, MEL
Subject: Helistop at 3132 Airway

Dear Mr. Lee, Thank you for sending the staff report for the Helipad at 3132 Airway Av.. We are the owners of 3100 Airway. This project consist of four buildings and approximately 70,000 Sq Ft, occupied by +/- 35 individual tenants. We opposed the application back in 2011 and it appears the new application is a renewal of the 2011 one. The noise and safety issues have not changed. Therefore, we are still not in favor of the Helipad. Thank you, Dale M. Lyon

Dale M. Lyon
Senior Vice President, Construction
OLEN DEVELOPMENT CORP.
Seven Corporate Plaza
Newport Beach, CA 92660
(949)719-7221 - Direct
(949)719-7274 - Fax
[www.olenproperties.com](http://www olenproperties.com)

September 23, 2015

Costa Mesa Planning Commission
77 Fair Drive
Costa Mesa, CA 92627

Subject: APP #PA-11-03

Honorable Commissioners:

Attached is a letter I wrote to the City Council when this application was presented in 2011 which I urge you to read. Since that initial letter, flights to Canada and Mexico have already begun and has added to the noise and pollution to my and the homes in the immediate area. My strong objection to this project remains.

I really don't care that the Airport Land Use Commission has approved this - none of its members live here. And I don't care that it has received conditional approval by the Federal Aviation Administration - again, none of its members live here. I resent bureaucrats trying to mandate policies that will not affect them. It's the residents of Costa Mesa who will have to put up with the additional headaches this project will bring; the entities involved reap the benefits while we "lowly" citizens bear the brunt of its consequences. I'm curious as to exactly where these helicopter flights would take /retrieve its passengers and how often. If successful, how many more would be added. We are all aware of the noise the police helicopters create when flying overhead. I have no objection to that; that's law enforcement doing its job. However, I do object to the noise/pollution commercial helicopter operations would bring, as well as the safety issues would be raised.

Approving this could very well result in more such applications, which the city will be hard pressed to deny. However, even more ominous is the fact that this could very well be a catalyst that will enlarge the airport footprint, something that would be absolutely devastating to Costa Mesa and its citizens; something that we absolutely do not want. This is not LAX. John Wayne is still a relatively small airport – regardless of whether you put "International" in its title. The city should be making every effort to avoid steps that might lead to a larger, busier John Wayne Airport.

Two previous City Councils wisely rejected this application. I urge you the same. Please put the quality of life and welfare of the citizens you represent first and foremost.

Sincerely,



Dolores Storme
Attachment

August 23, 2011

Costa Mesa City Council
77 Fair Drive
Costa Mesa, CA 92627

Subject: App #PA-11-03

Honorable Council Members:

I write this letter in opposition to your approving the subject application. I do not believe approving this application request is in the best interests of the citizens of Costa Mesa.

While the proposed helipad will be located atop a building next to the airport runways, it nevertheless may be construed as a way to enlarge the airport footprint. In addition, any helicopters using the helipad will be able to access it by flying over residential areas of Costa Mesa. There is enough air and noise pollution emanating from John Wayne Airport as it is; we do not need any more. I believe there are also safety concerns. We don't need any addition risks (remember the helicopter crash at New York's Pan Am building?) along with what is already present with planes from John Wayne taking off/landing over residential areas. Another thing to consider – just how many helicopter flights are planned – and how many more if this venture is successful.

Approve this application and I am certain Legacy will return with their ambitious plans which would also further enlarge the airport footprint. The previous Council wisely turned Legacy down. Why risk having the camel put his nose under the tent by approving the subject application. This is not far-fetched. The new terminal at John Wayne will have everything needed for easy international travel – customs, immigration, etc. Obviously the airport planners are anticipating expanded service to Canada – and who knows where else. How convenient to have a helipad for passengers wanting to avoid the mess that is LAX. If successful, there will be more applications for helipads. You have to think long term here.

Again, I urge the Council to reject this application – regardless of what governmental agencies have given it their blessings. The citizens of Costa Mesa must come first.

Sincerely,

Dolores Storme



P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200 • (714) 754-5245

City of Costa Mesa

TELEPHONE RECORD

Date: September 15, 2015

Name: Lea Choum, Land Use Manager, John Wayne Airport

Address: 3160 Airway Avenue, Costa Mesa

Call Received by: Mel Lee

COMMENTS: (Use Back or Attach Additional Sheets as Necessary)

Lea Choum confirmed that as long as no changes have been made to the proposed helistop/helipad at 3132 Airway Avenue (PA-11-03), the approval of the location and use by the Airport Land Use Commission (ALUC) on July 21, 2011 is still valid (██████████).
██████████

LEE, MEL

Subject: FW: Proposed Helipad at 3132 Airway Avenue (PA-11-03)
Attachments: MX-3116N_20150909_082502.pdf

From: Brandt, Kim [mailto:KBrandt@newportbeachca.gov]
Sent: Friday, September 11, 2015 4:52 PM
To: LEE, MEL <MEL.LEE@costamesaca.gov>
Cc: FLYNN, CLAIRE <CLAIRE.FLYNN@costamesaca.gov>; ARMSTRONG, GARY <GARY.ARMSTRONG@costamesaca.gov>
Subject: Proposed Helipad at 3132 Airway Avenue (PA-11-03)

Hello Mel,

Thank you for consulting the City of Newport Beach regarding the proposed helipad at 3132 Airway Avenue. As you noted in your email, the City of Newport Beach did send the attached letter dated August 5, 2011 expressing concerns regarding the proposed *Leading Edge Aviation Services* private-use helistop project in view of the Corridor Cities' principles. If indeed, this 2015 helipad proposal is a renewal of the 2011 application, the City of Newport Beach's concerns remain as stated in the attached August 2011 letter.

Should you have any questions, please do not hesitate to call me.

Sincerely,

Kim Brandt, AICP
Community Development Director
949-644-3226
www.newportbeachca.gov





CITY OF NEWPORT BEACH

August 5, 2011

The Honorable Gary Monahan
Mayor, City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92626

Mr. Colin McCarthy
Chairman of the Planning Commission
77 Fair Drive
Costa Mesa, California 92626

RE: Proposed "Leading Edge Aviation Services" Heliport at 3132 Airway Avenue

Dear Mayor Monahan and Chairman McCarthy:

Our City has long appreciated the City of Costa Mesa's cooperative work as a member of the "Corridor Cities" to keep John Wayne Airport (JWA) a "neighborhood-friendly" airport. Additionally, our two cities adopted a Memorandum of Understanding (MOU) in October 2008 (attached) which underscored our collective commitment to protect our citizens from adverse impacts of operations at JWA. Together we have partnered to attempt to limit the expansion of JWA and to block any negative change in JWA's operational characteristics, including operational hours, the passenger caps, and the limits on average daily departures of the loudest commercial planes. It is in the spirit of our mutual commitment that we offer these comments.

At the core of the October 2008 MOU is the philosophy that:

"the Cities believe it is in their respective best interests to foster a closer working relationship between the Cities and to keep each other informed of issues that relate to JWA; to look for opportunities to assist one another, to work together to implement strategies and action plans that are designed to achieve the primary objective of protecting their residents and that the strategies and plans must consider and respect the complex legal, political and economic factors relevant to airport operations and impacts; ..."

Goals within the MOU include:

- A. Ensuring that no actions are taken at JWA which would negatively alter the quality of life, and that any such actions are otherwise in the best long term interests, of the residents of Newport Beach and Costa Mesa;
- B. Ensuring communication by the Cities of Newport Beach and Costa Mesa and their residents and community groups concerned about the impacts of JWA;
- C. Oppose any expansion of JWA beyond its current (2008) boundary footprint; and
- D. Ensure that regional plans are consistent with the legal and practical constraints on air carrier service at JWA;

The Corridor Cities' adopted principles include:

- To oppose any expansion of JWA beyond its current (2007) footprint.

It is JWA's geographic constraints that give both of our communities the added assurance that JWA will remain neighborhood-friendly.

In evaluating the "Legacy Air" project in March 2010, your community cited the Corridor Cities' Principles to limit the potential expansion of the airport footprint. We greatly appreciated Costa Mesa's response to the Legacy Air project. Its 2.7-acre expansion of the security and airport zone, which some might have seen as minor, was seen by both of our communities as a breach in the containment wall along the westside of JWA and a violation of the principles set forth above..

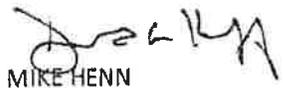
It is with a similar view that our community has looked at the proposed *Leading Edge Aviation Services* private-use helistop at 3132 Airway Avenue in Costa Mesa. As you may be aware, Council Member Leslie Daigle, who serves on the Airport Land Use Commission, could not find that the *Leading Edge* project was consistent with the JWA Airport Land Use Plan. She did so in part because of questions she raised which were not answered satisfactorily – including the lack of a noise study, an inability of any municipality to control flights or limit hours of operation, and questions about the specific number of takeoffs and landings permitted (four versus six).

Our City, of course, is interested in our region's economic development, and we do not wish to attempt to intervene in your economic interests. However, we did want to express our respectful concern about the *Leading Edge* project as viewed through the lens of the Corridor Cities' principles. We have no doubt that your respective decision-making bodies will thoughtfully and carefully examine whether *Leading Edge* should be approved in light of Costa Mesa's strong commitment to the Corridor Cities' principles.

We look forward to working with you on this and other issues of mutual interest, including any discussions you might wish to have on airport and boundary issues. We value your continued cooperation and partnership in municipal governance and protecting the quality of life that our two cities' residents expect.

If you have any questions about this letter, please do not hesitate to contact us.

Sincerely,


MIKE HENN
Mayor of Newport Beach *for*

Attachment: October 2008 MOU between Newport Beach and Costa Mesa

cc: Members of the Newport Beach City Council
Allan Murphy, John Wayne Airport

**MEMORANDUM OF UNDERSTANDING ON JOHN WAYNE AIRPORT
BETWEEN THE CITY OF COSTA MESA
AND
THE CITY OF NEWPORT BEACH, CALIFORNIA**

THIS MEMORANDUM OF UNDERSTANDING AGREEMENT is entered into by and between the **CITY OF NEWPORT BEACH, CALIFORNIA** ("Newport") and the **CITY OF COSTA MESA, CALIFORNIA** ("Costa Mesa"), hereinafter sometimes referred to collectively as the "Cities", this 14th day of October, 2008.

WHEREAS, Newport and Costa Mesa are committed to protecting their respective residents from the adverse impacts of commercial aircraft operations at and from John Wayne Airport (JWA); and

WHEREAS, the Cities believe that airport impacts are now, and will continue to be a significant threat to the quality of life of their respective residents; and

WHEREAS, the Cities believe it is in their respective best interests to foster a closer working relationship between the Cities and to keep each other informed of issues that relate to JWA; to look for opportunities to assist one another, to work together to implement strategies and action plans that are designed to achieve the primary objective of protecting their residents and that the strategies and plans must consider and respect the complex legal, political and economic factors relevant to airport operations and impacts; and

WHEREAS, the Cities recognize that a thorough understanding of airport operations and impacts is necessary in dealing with JWA and the factors include but are not limited to: State and Federal law; the attitudes, philosophy and regulations of the FAA; the regional demand for air transportation; regional and sub-regional planning and transportation programs and policies; the decisions, philosophy and opinions of the Orange County Board of Supervisors and other local, State and Federal representatives and officials; and the opinions and concerns of Orange County residents and business owners; and

WHEREAS, a number of relevant factors and the complexity of the issues related to adverse airport impacts mean that no single approach or simple strategy will be successful in achieving the Cities' primary objectives and that the Cities will be able to achieve their primary objectives only if their strategies and action plans reflect a thorough understanding and consideration of these factors and that if the two (2) Cities work together to achieve their respective goals the likelihood of success increases.

NOW, THEREFORE, the Cities of Newport Beach and Costa Mesa desire to work together to achieve the following objectives and take the following action and agree as follows:

OBJECTIVES

1. Establish a working relationship between Newport Beach and Costa Mesa and provide support to one another regarding JWA. This objective can be achieved by encouraging joint meetings between the elected officials of the two (2) Cities; joint meetings between staff of the respective Cities, including but not limited to having a designated representative of the City of Costa Mesa attend the monthly Aviation Committee meeting of the City of Newport Beach with full membership on the Committee.
2. Establish a dialogue and forum between the Cities to discuss ways in which the two Cities can protect their residents from the adverse impacts of commercial aircraft operations at and from John Wayne Airport. These objectives can be achieved by the exchange of information, including but not limited to technical information as it relates to the JWA, by and among, elected officials and the staff of the two (2) Cities; the involvement of community groups within the Cities. Encourage a joint public forum of the elected officials, with the participation of technical experts, consultants and resident groups at least once a year. Meanwhile each City will identify a principal contact for the purposes of exchanging information and meeting with a representative of the other City on a continuing basis regarding JWA. The Cities expect that the joint forum will develop a plan of action; review and assess cooperative activities between the Cities; recommend ways to improve cooperation and undertake such activities as the Cities deem necessary.
3. Establish a working relationship by and between staff on an as needed basis, with exchange of information as it relates to airport operations and impacts. The foregoing exchange of information should include but not be limited to: State and Federal law; Environmental impacts, noise, air quality, water quality, the attitudes, philosophy and regulations of the FAA; Regional and sub-regional planning and transportation programs and policies; the decisions, philosophy and opinions of the Orange County Board of Supervisors and other local, State and Federal representatives and officials; and the opinions and concerns of Orange County residents. The meeting of staff should occur no less than once (1) a month.
4. Use the established relationship of the Cities to work with other cities in Orange County California, including but not limited to the "Corridor Cities" of Santa Ana, Orange, Anaheim, Tustin and Irvine, all of whom are adversely impacted by commercial aircraft operations at JWA and explore mechanisms for formalizing the relationship of the Corridor Cities.
5. Establish a working relationship with the County of Orange and continually exchange information as it relates to airport operations and impacts.

6. Establish a mechanism for the joint financing by the Cities of the foregoing stated objectives and the attainment of the goals as hereinafter set forth.

GOALS

7. The objectives as outlined above would be adopted with the goals of:
 - A. Ensuring that no actions are taken at JWA which would negatively alter the quality of life, and that any such actions are otherwise in the best long term interests, of the residents of Newport Beach and Costa Mesa;
 - B. Ensuring that there be no modification to the County's airport noise curfew including but not limited to opposing any change to air carrier or general aviation noise ordinances;
 - C. Ensuring that no actions would be taken that could lead to the construction of a second air carrier runway at JWA or extension of the existing runway(s);
 - D. Ensuring that any and/or all steps necessary be taken to protect and preserve the validity of the John Wayne Airport Settlement Agreement, including but not limited to any amendments thereto;
 - E. Ensuring communication by the Cities of Newport Beach and Costa Mesa and their residents and community groups concerned about the impacts of JWA;
 - F. Oppose any expansion of JWA beyond its current (2008) boundary footprint;
 - G. Oppose any significant reduction in general aviation operations/facilities;
 - H. Ensure that regional plans are consistent with the legal and practical constraints on air carrier service at JWA;
 - I. Oppose any attempt by out-of county entities to assume any ownership of, or operational control over, JWA;
 - J. In cooperation with the Orange County Board of Supervisors and other public agencies, actively support development and implementation of proposals that enable Orange County residents and businesses to conveniently access underused out-of-county airports using roadway improvements and air passenger rail links.

MISCELLANEOUS

8. **Termination.** This Memorandum of Understanding ("MOU") shall take effect as of the date first set forth hereinabove and shall remain effective until terminated by the Cities hereto. Either party to this MOU may terminate this MOU without cause at anytime by giving a thirty (30) day written notice to the other party. Any notice provided hereunder shall be deemed given when personally delivered to the other party or three (3) days after the date the notice is deposited in the United States mail, first-class postage paid, and addressed to the appropriate representative as specified in this MOU.
9. **Modifications.** Modifications within the scope of this MOU shall be made by mutual consent of the Parties, by the issuance of an executed written modification, signed and dated by all Parties.
10. **Voluntary.** This MOU reflects an entirely voluntary commitment between the Parties. This MOU in no way obligates or restricts the activity of any party nor shall it in any way interfere with the governance by the Cities of their respective Cities. No Party shall have any right, power, or authority to create any obligation, express or implied, on behalf of any other Party or Parties.
11. **Indemnify.** The City of Newport Beach agrees to defend, indemnify and hold the City of Costa Mesa, its elected and appointed officials, officers, agents, employees and volunteers harmless against and from any and all losses, claims, actions, damages, expenses or liabilities, including reasonable attorney's fees, arising out of or in any way connected with the City of Newport Beach's negligent performance of this MOU. Newport Beach assumes worker's compensation liability for injury or death of its officers, agents, employees and volunteers, and assumes no worker's compensation responsibility for the elected and appointed officials, officers, and employees of Costa Mesa.

The City of Costa Mesa agrees to defend, indemnify and hold the City of Newport Beach, its elected and appointed officials, officers, agents, employees and volunteers harmless against and from any and all losses, claims, actions, damages, expenses or liabilities, including reasonable attorney's fees, arising out of or in any way connected with Costa Mesa's negligent performance of this MOU. Costa Mesa assumes worker's compensation liability for injury or death of its elected and appointed officials, officers, and employees, and assumes no worker's compensation responsibility for the officers, agents, employees and volunteers of Newport Beach.
12. **No Assignment.** This MOU may not be assigned or transferred by either Party without the express written consent of the other Party.

13. **Notice.** The Cities have designated the following representatives to receive notices and act on their City's behalf in the administration of this MOU:

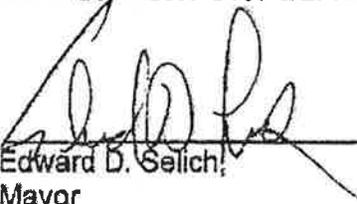
City of Newport Beach
Homer L. Bludau, City Manager
3300 Newport Blvd.
PO Box 1768
Newport Beach, CA 92658

City of Costa Mesa
Allan Roeder, City Manager
77 Fair Drive
Costa Mesa, CA 92626

14. **Additional Documents.** The Cities agree promptly to execute or cause to be executed any and all documents now or hereafter necessary to effectuate the purpose of this MOU.
15. **Headings.** The headings used in this MOU appear strictly for the Cities' convenience in identifying the provisions of this MOU and shall not affect the construction or interpretation of the provisions of this MOU.
16. **No Third Party Beneficiary.** No third party is an intended or implied beneficiary of this MOU.

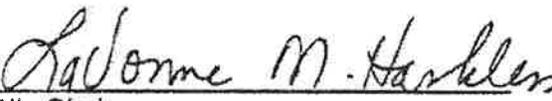
IN WITNESS WHEREOF THE PARTIES HAVE CAUSED THIS MEMORANDUM
OF UNDERSTANDING TO BE EXECUTED THE DATE FIRST ABOVE WRITTEN.

CITY OF NEWPORT BEACH,



Edward D. Selich,
Mayor
for the City of Newport Beach

ATTEST:


City Clerk
for the City of Newport Beach

LEE, MEL

From: Denis LaBonge [REDACTED]
Sent: Wednesday, June 27, 2012 5:19 AM
To: LEE, MEL
Cc: Dave Kiff
Subject: Helipad application PA-11-03 at 3132 Airway Ave

Dear Mr Lee,

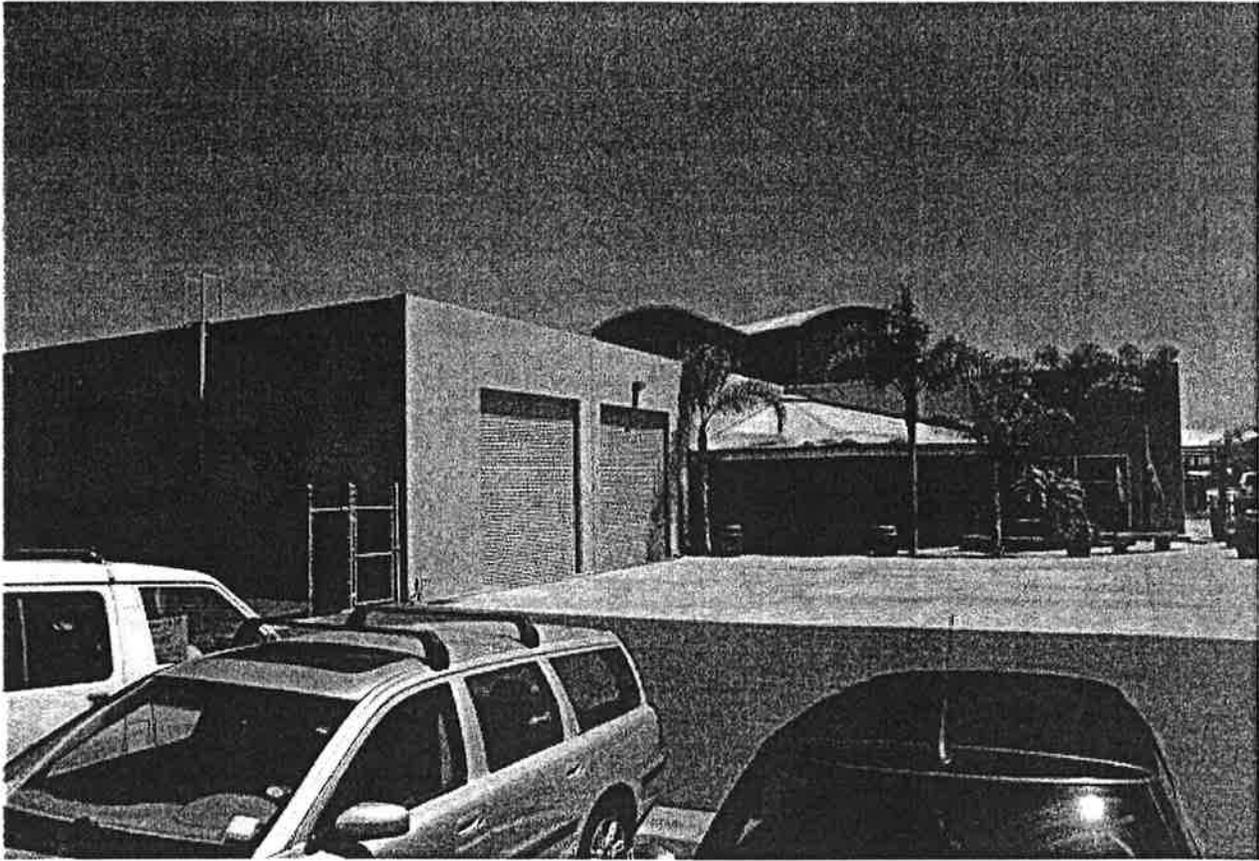
The following photos additionally demonstrate the clear risk to safety. These High Voltage wires are DIRECTLY in the claimed ingress /egress flight path and nearly same elevation noted in Conditional Use Application PA -11-03.

There are 6 occupied privately owned business condominiums .Three owners have submitted written opposition to the Costa Mesa City Council to the application (I own 3136 Airway), one abstains at last count. That means a majority on this site opposes this proposed Helipad that serves only one man , one company , who is already well served when he parks his helicopter within the existing SNA boundaries. I am out of town until July 17th. I am asking that you forward this letter and photos to the entire Costa Mesa City Council and postpone any further discussion on this matter until I return. The applicant, Mr Coleman, has certainly been granted several extensions previously, as I do now. Thank you for your consideration.

Denis LaBonge

[REDACTED]
Newport Coast, 92657
[REDACTED]

DSC_0599

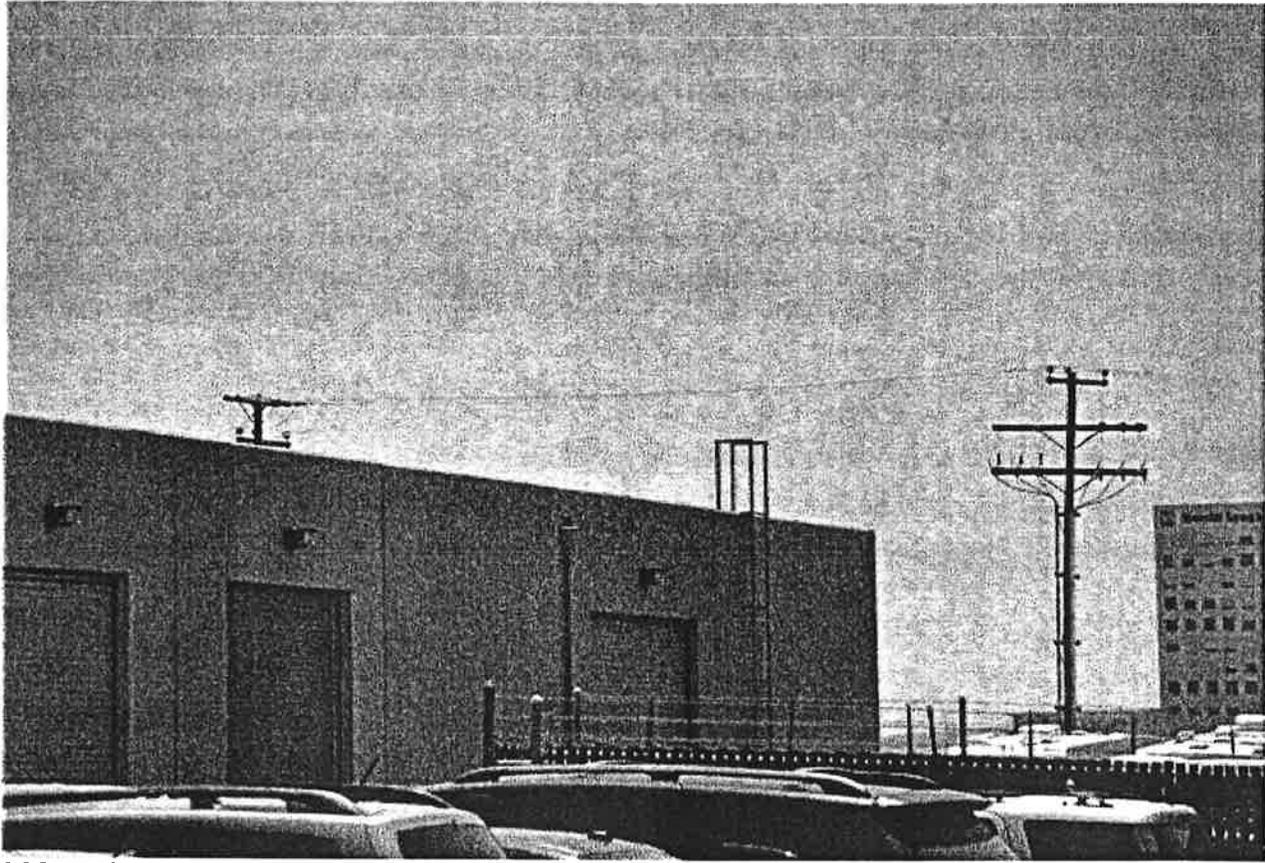


DSC_0602



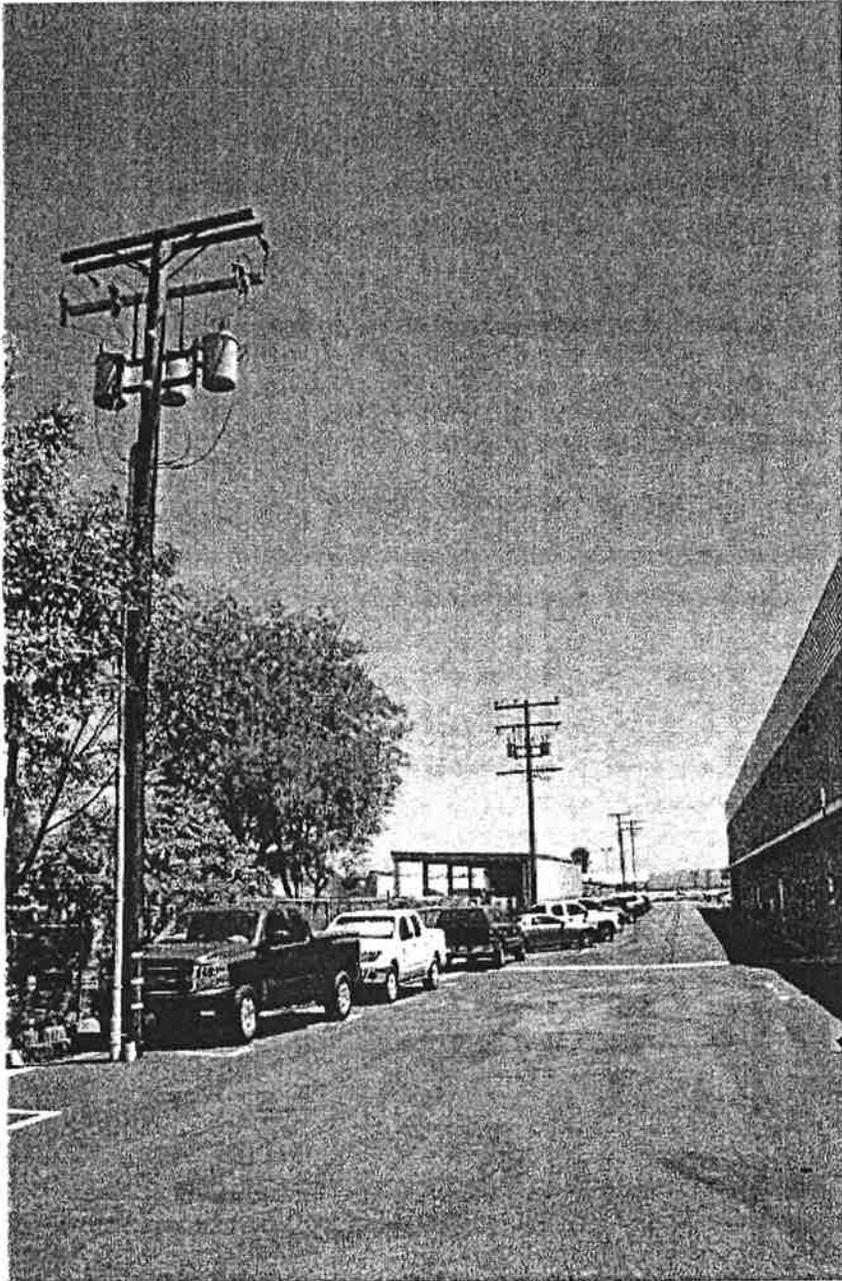
DSC_0603

-46-



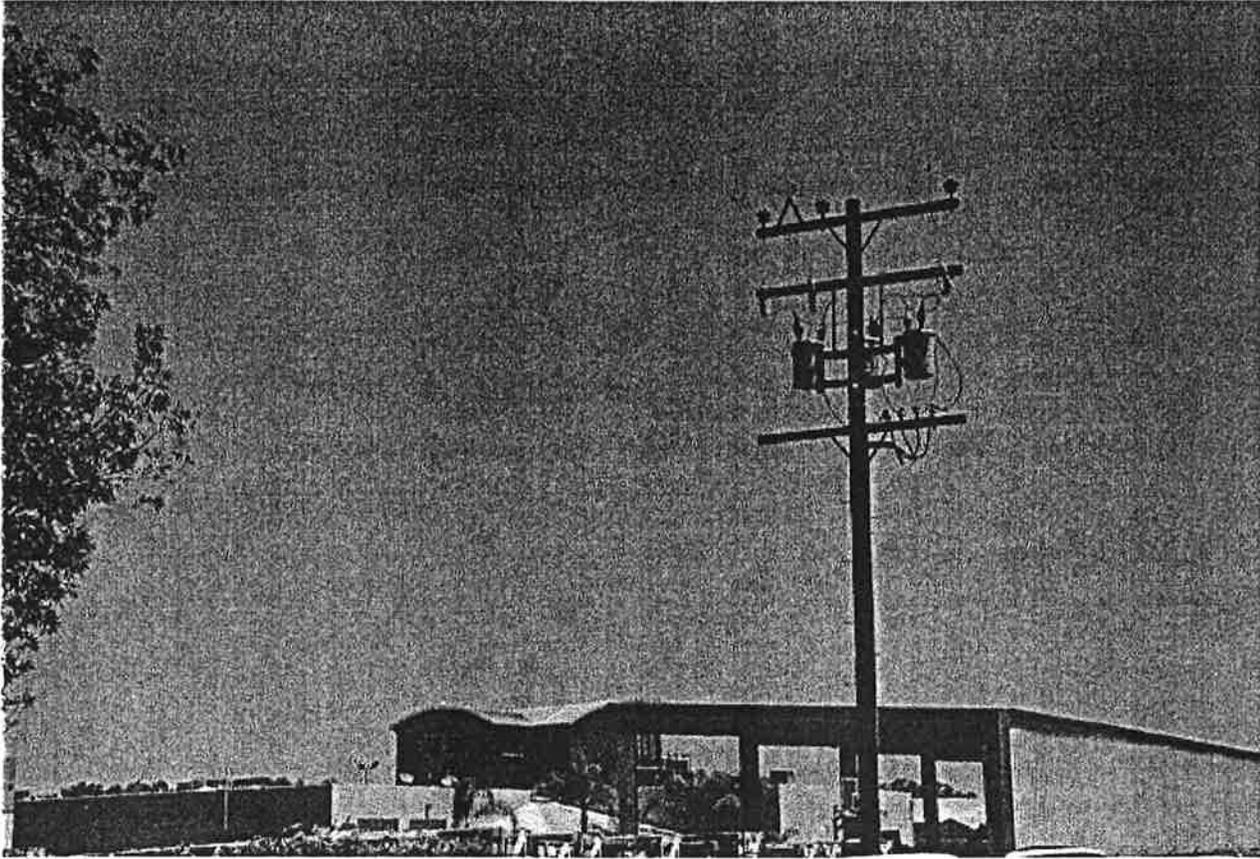
DSC_0606

-47-



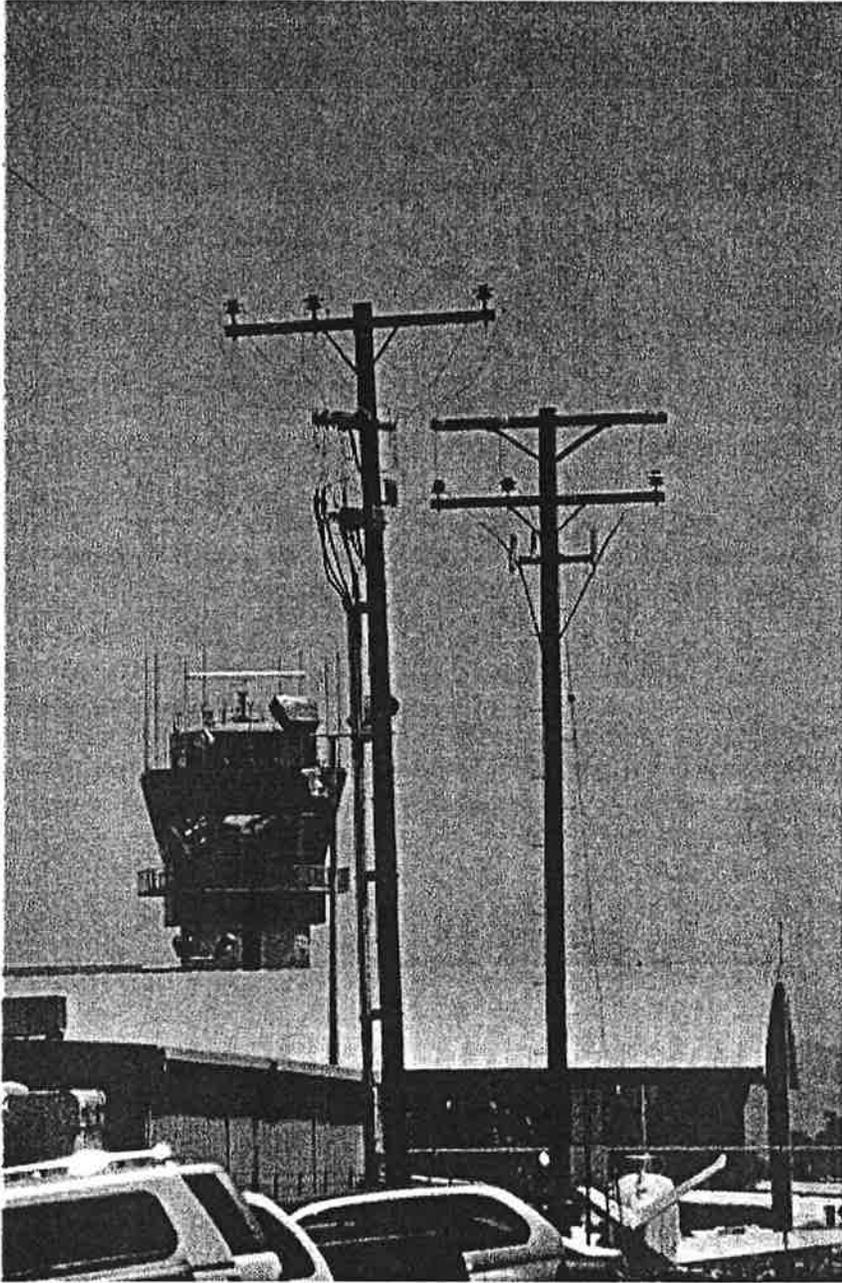
DSC_0608

-48-

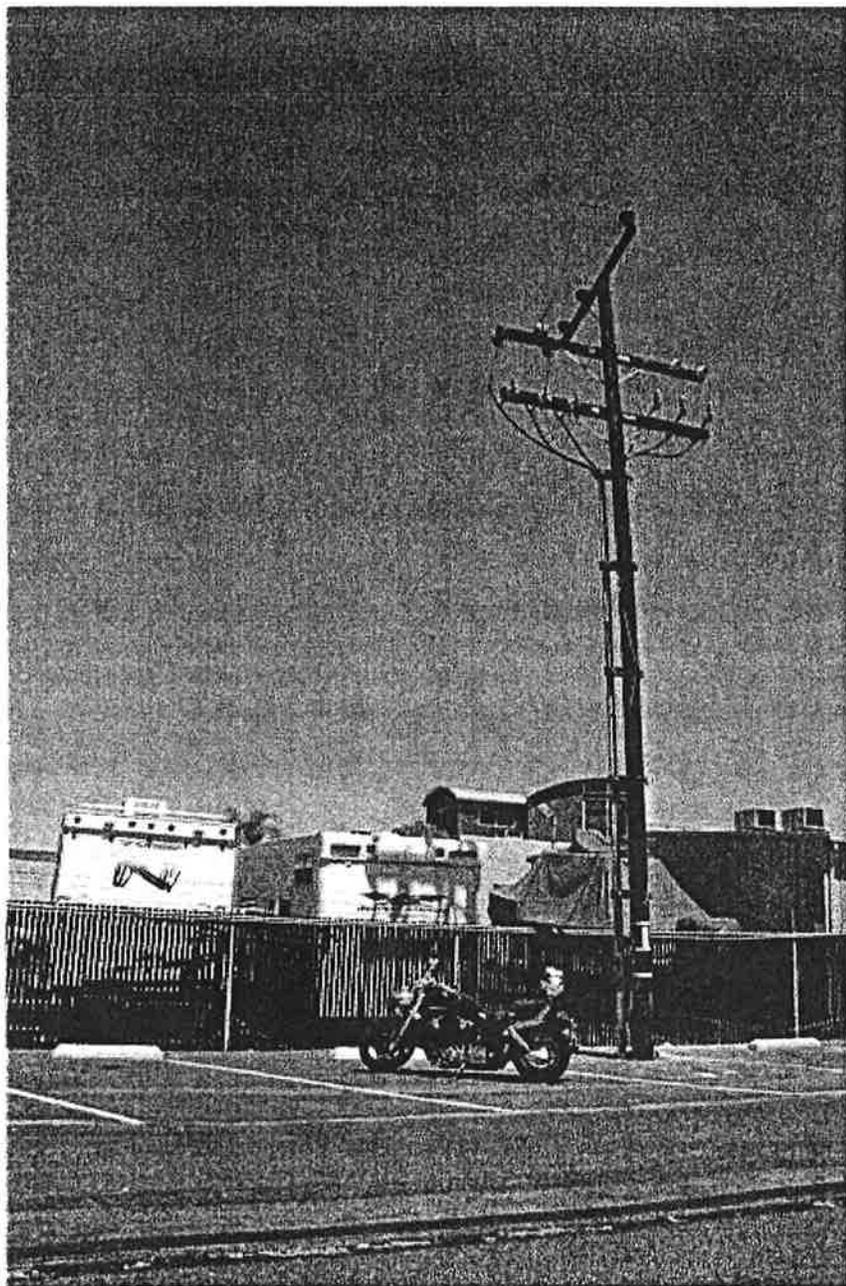


DSC_0609

-49-

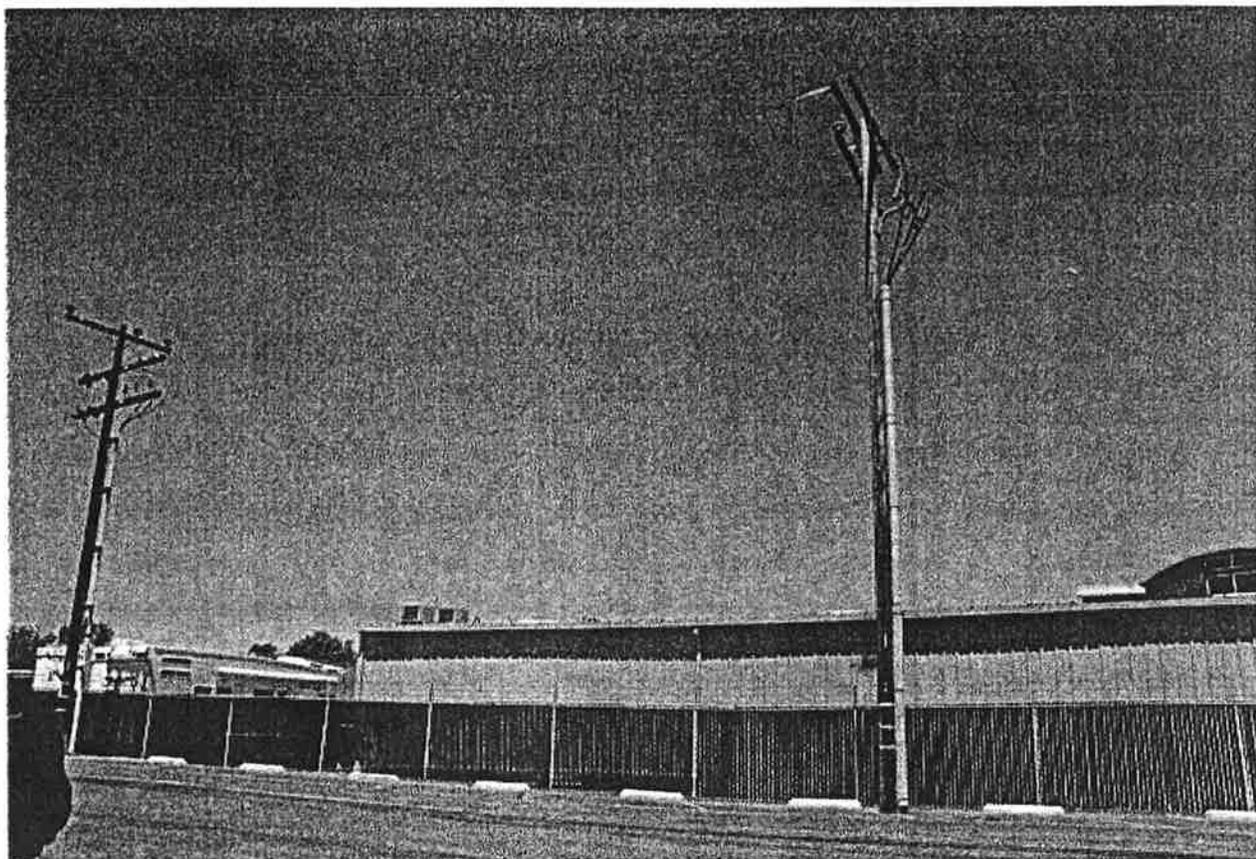


DSC_0610

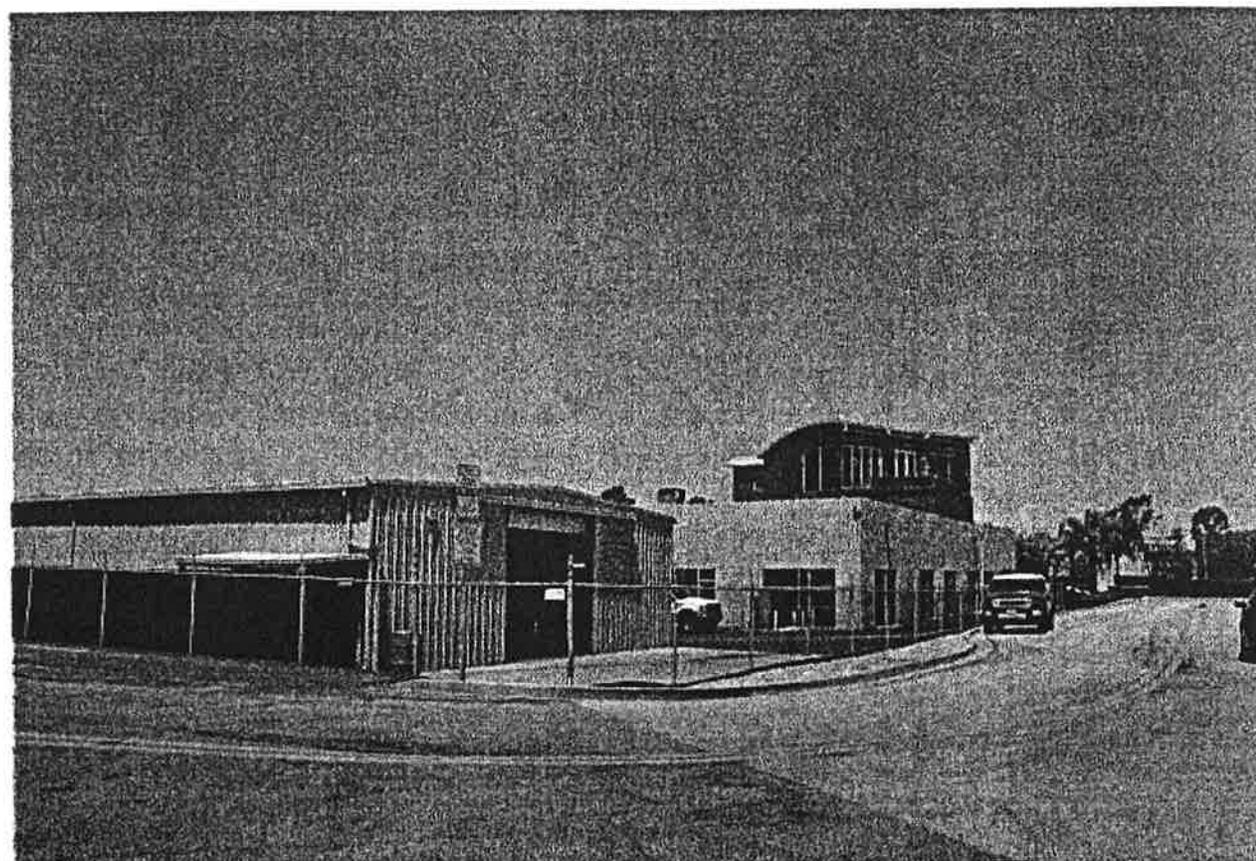


DSC_0611

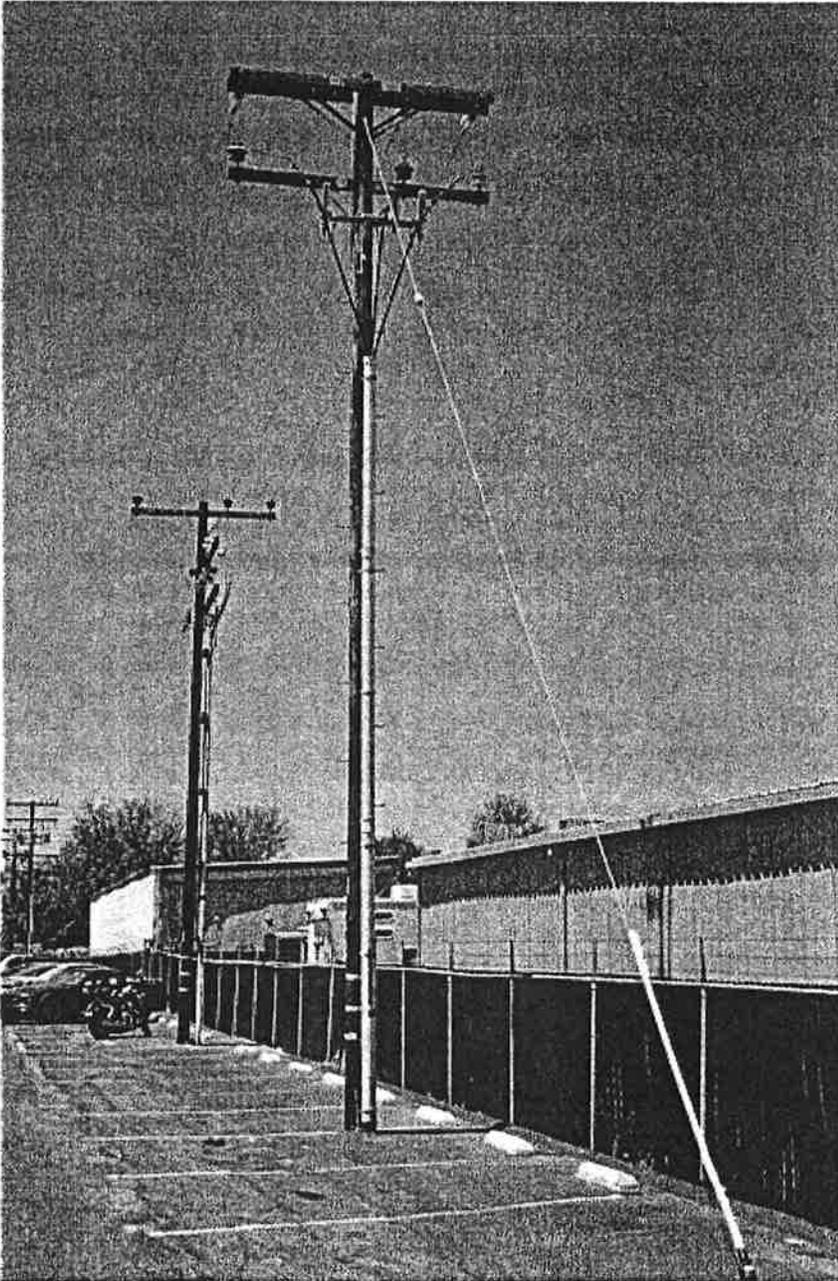
-51-



DSC_0612

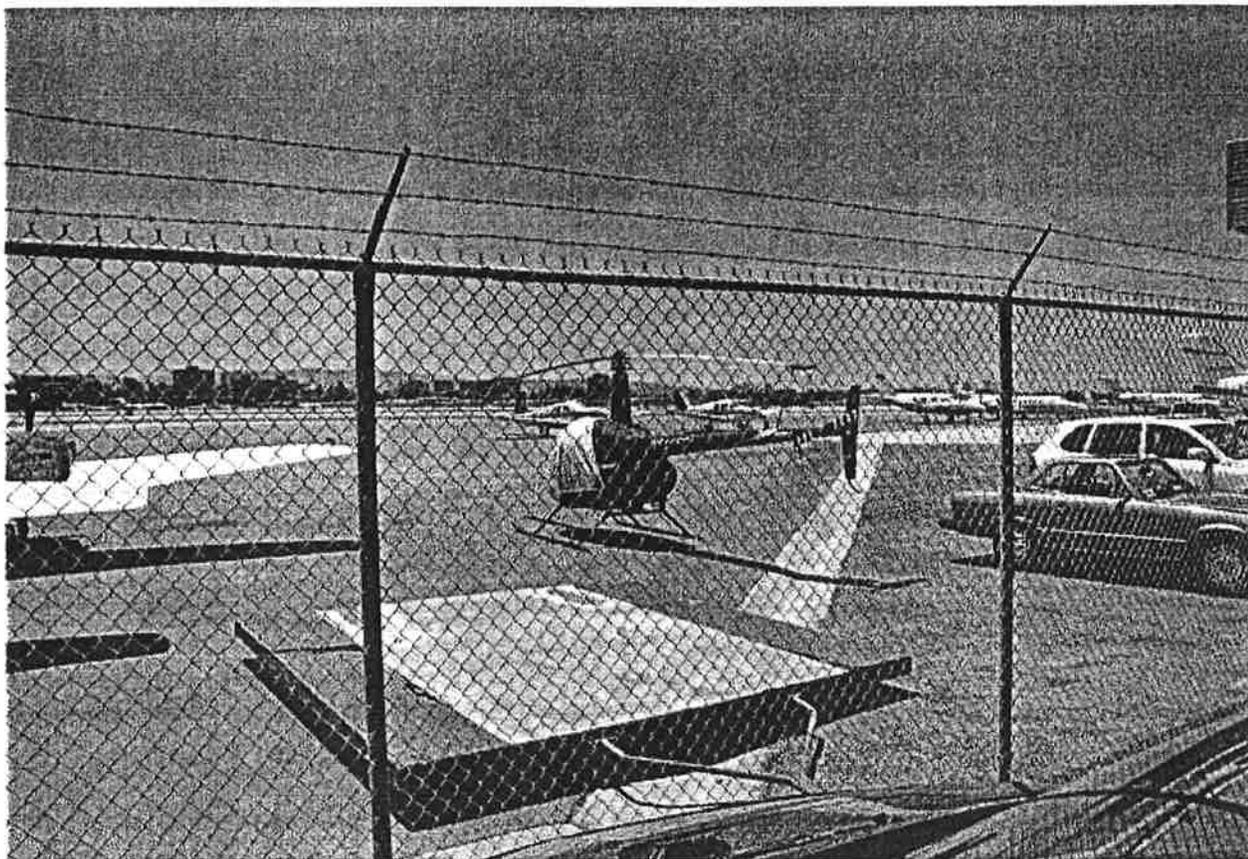


DSC_0613



DSC_0614

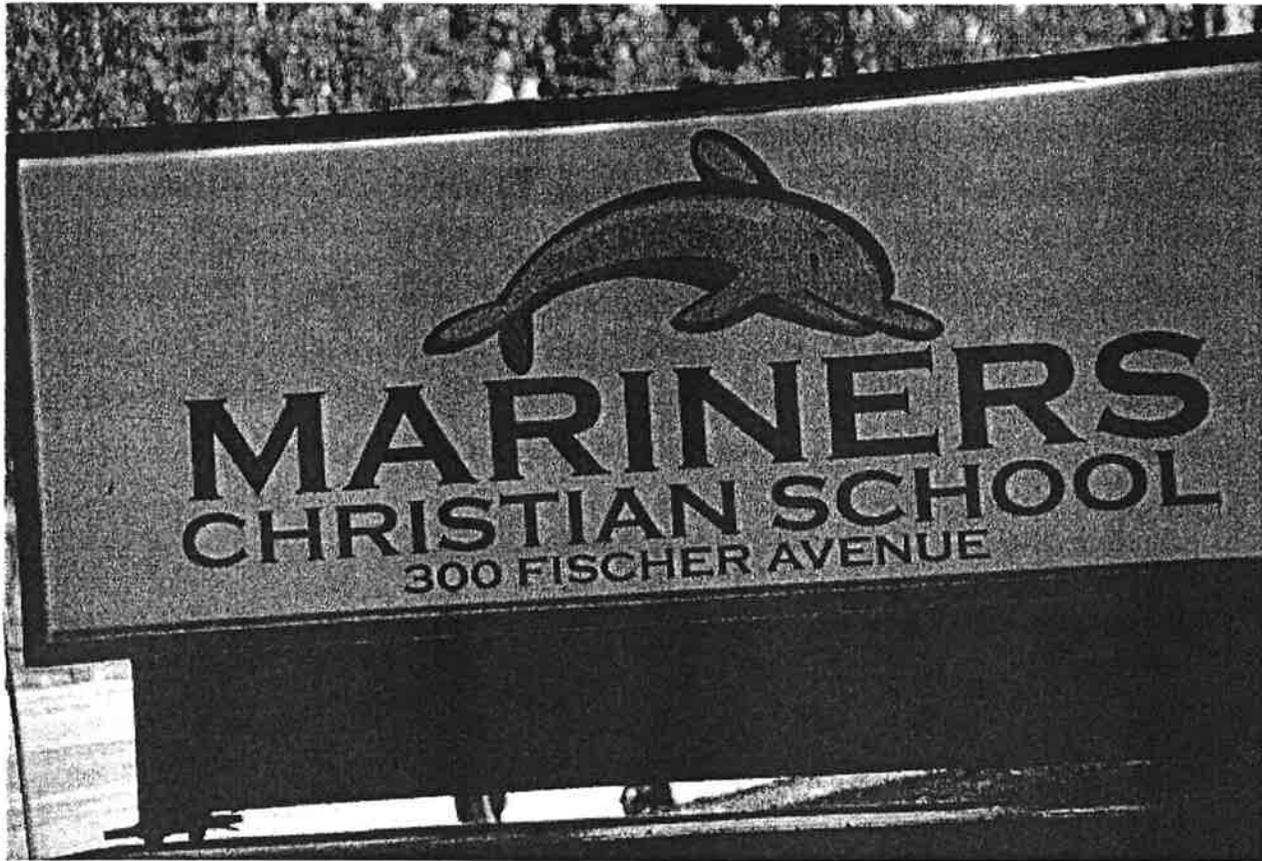
-53-



DSC_0615



DSC_0616



DSC_0617

Law Offices of Robert C. Hawkins

110 Newport Center Drive, Suite 200

Newport Beach, California 92660

(949) 650-5550

Fax: (949) 650-1181

FAX COVER SHEET

TRANSMITTED TO:

NAME	FAX NUMBER	PHONE NUMBER
Julie Folcik, City Clerk	(714) 754-4942	
Mel Lee, AICP, Senior Planner	(714) 754-4856	

From: Robert C. Hawkins

Client/Matter: General

Date: June 12, 2012

Documents: Comment Letter for Planning Application PA-11-03 for a Proposed Heliport,
3132 Airway Ave.

Pages: 2*

COMMENTS:

The information contained in this facsimile message is information protected by attorney-client and/or the attorney/work product privilege. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by facsimile. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via U.S. Postal Service.

* NOT COUNTING COVER SHEET. IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE US IMMEDIATELY AT (949) 650-5550.

LAW OFFICES OF ROBERT C. HAWKINS

June 12, 2012

Via Facsimile Only

The Honorable Eric R. Bever, Mayor
Members of the City Council
c/o Mel Lee, AICP, Senior Planner
City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92628

Re: **Application PA-11-03 for a Condition Use Permit for a
Helipad/Helistop/Heliport on the roof of an existing industrial building at
3132 Airway Avenue; Finding of Exemption for Accessory Structures**

Greetings:

Thank you for the opportunity to comment on the captioned project. As you may know, this firm represents individuals and groups including the Mariners Community Association in Newport Beach, AirFair, a local group focused keeping John Wayne Airport at its current size as well as others in the Orange County area. These individuals and groups have an interest in the Project and related projects, and environmental issues in the area.

As you know, we have opposed this Project from the beginning. The Planning Commission agreed with our arguments and recommended that you deny the captioned Project. In its August 25, 2011 Staff Report, Planning Staff recommended denial of the Project based upon the Planning Commission's recommendation. At that time, the applicant requested a continuance, which you granted and continued the matter to November 1, 2011. On October 20, 2011, the applicant made a second request for continuance, which you granted and continued the matter to March 6, 2011. On February 13, 2011, the applicant wrote: "I formally request a second continuance from the Helistop Project at 3132 Airway Avenue until the June 19, 2012 City Council meeting."

Now, after all of this delay and continuances, Mr. Lee, the Project Planner for the City, informs that, when June 19th looms, the Applicant has requested that the Project be put on an "indefinite hold."

As with the earlier requested continuances, this requires several comments which we have made before. First, as indicated above and as evident in the administrative record, this is the **fourth** continuance requested by the applicant **without any statement of the reasons for such requests**. Second, although the applicant prepared a noise study, it falls far short of the studies required and the studies referenced in our earlier comments to the Planning Commission.

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

-57-

Eric R. Bever, Mayor
Members of the City Council

- 2 -

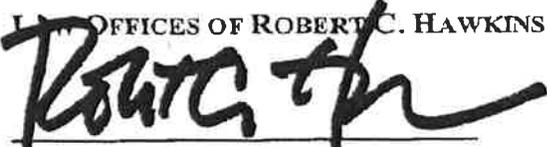
June 12, 2012

Third, almost a year has passed since the Planning Commission rejected this Project and noted that environmental review was required for this Project to proceed. The applicant has failed to conduct such review, and its noise study is inadequate. Fourth, and most importantly, as recognized by the Planning Commission, this Project constitutes an expansion of John Wayne Airport and takes airport uses off the airport footprint. The City has long opposed expansion of JWA.

The City Council should deny this Project, or at least, deny the Project with leave to renew its application, begin this process again, and provide fresh documentation including full environmental review. Having this application languish burdens City staff and creates a cloud for our clients.

Again, thank you for the opportunity to comment on the captioned document for the captioned Project. As before, please provide us with notices, if any, for any subsequent public hearings, determinations, actions, and/or findings. Of course, should you have any questions, please do not hesitate to contact us.

Sincerely,

LAW OFFICES OF ROBERT C. HAWKINS

By: Robert C. Hawkins

RCH/kw

cc: City Clerk (via fax only)

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

MARCH 6 2012 RE PA 11-03 PROPOSED HELIPAD.

GOOD EVENING COSTA MESA CITY COUNCIL MEMBERS,
I AM SPEAKING ON BEHALF OF 50% OF THE PROPERTY OWNERS
OF THE COMMERCIAL PROPERTY LOCATED AT 3130 ~ 3140
AIRWAY, COSTA MESA CA 92626, WHO OPPOSE THIS APPLICATION.

THERE ARE 6 SEPERATLEY OWNED SUBDIVIDED UNITS THAT WILL
BE AFFECTED BY THE PROPOSED HELICOPTER HELIPAD ABOVE
THIS BUILDING. IT IS A SINGLE BUILDING WITH 6 SUB DIVIDED
PROPERTY TAX TITLES. IT HAS COMMON EXTERIOR WALLS AND
MOST IMPORTANTLY, ONE SINGLE COMMON ROOF.

I SUBMITTED MY WRITTEN OPPOSITION TO THIS APPLICATION TO
THE COUNCIL ON NOV 1ST 2011. THE APPLICANT HAS NOW
EXTENDED THE MATTER FROM TONIGHT TO JUNE 2012.

ATTACHED ARE LETTERS FROM THE OWNERS WHO ARE IN
OPPOSITION WHICH I WILL HAND TO EACH OF YOU TONIGHT.
THESE LETTERS SUMMARIZE THE EXTREME HARDSHIP THIS
HELIPAD WILL IMPOSE ON THEIR BUSINESS OPERATIONS OR
IDENTIFY SAFETY THREATS TO THE COMMUNITY AT LARGE.

I REMIND THE COUNCIL THIS HELIPAD WILL SERVE ONLY THE
SOLE PURPOSE OF ONE MAN AND ONE BUSINESS IN ORDER TO
PARK HIS HELICOPTER IMMEDIATELY OUTSIDE HIS OFFICE.
CURRENTLY THIS NEED IS BEING QUITE SAFELY HANDLED 100%
INSIDE AND WITHIN THE AIRPORT PERIMIETER. THE NET EFFECT
WILL BE AN INCREASE IN NUMEROUS SAFETY RELATED MATTERS,
BUSINESS DISRUPTION AND INSURANCE ISSUES. OF THE 6 UNITS
THERE ARE 3 OPPOSED, 1 ABSTAINING AND 2 IN FAVOR.

I AM ASKING THE CITY COUNCIL TO ABIDE BY THEIR PLANNING
COMMISSION'S "NO" RECOMMENDATION RE THIS MATTER AND
REJECT THE APPLICATION ONCE AND FOR ALL.

DENIS LABONGE, OWNER
3136 AIRWAY, 92626



Denis LaBonge



Fwd: Commercial Property Owner Opposition to Application # PA 11-03, a proposed helipad serving one company.

1 message

Denis LaBonge <[redacted]> Tue, Oct 18, 2011 at 5:30 PM

To: Gary.Monahan@costamesaca.gov, Jim.Righeimer@costamesaca.gov, Eric.Bever@costamesaca.gov, Wendy.Leece@costamesaca.gov, Stephen.Messinger@costamesaca.gov
Cc: planningcommission@ci.costa-mesa.ca.us, Darrin Smith [redacted] David [redacted] Gene Salas [redacted] James Golden [redacted] Airway Association [redacted]

Dear Costa Mesa City Council and Planning Commission Members,
Please consider the points I have raised in the email below re the matter titled # PA 11-03, due for Council hearing and public comment on Nov 1st.
NOTE WELL: CORRECTION to the text below: I just now received email communication from Mr Coleman re my request for an HOA meeting, he indicates it will be scheduled as soon as possible.
The other cc recipients noted above are other owners or responsible parties of this commercial complex.
Thank you for your time and consideration. I know these times are very hectic for you all.

Denis LaBonge
Owner
3136 Airway
Costa Mesa, Ca
92626

----- Forwarded message -----

From: Denis LaBonge [redacted]
Date: Tue, Oct 18, 2011 at 4:11 PM
Subject: Commercial Property Owner Opposition to Application # PA 11-03, a proposed helipad serving one company.
To: mlee@ci.costa-mesa.ca.us
Cc: Darrin Smith [redacted], David [redacted], Gene Salas [redacted], James Golden [redacted]

Dear Mr Lee and all Members of the Costa Mesa City Council,

This communication is concerning a Council Hearing re PA 11-03, scheduled for Nov 01, 2011 @ 7 pm at City Council Chambers.

I am one of 6 property owners of the industrial unit located at Baker and Airway [3140, 3138, 3136, 3134, 3132, 3130 Airway] .
I own 3136 Airway and I am the original buyer when the complex was developed in 2003/4 and sold by Mr Coleman to me.

At that time he expressed a great personal commitment to keep the development low profile, quiet and low impact. I and my tenant are opposed to this helipad. I depend on this rental income from this property as I am retired. In today's commercial real estate market, having a good tenant, who pays on time is a lucky matter. They indicate if a helipad goes in, they have no intention of remaining as a tenant. I will loose money.
From a valuation point of view, local real estate agents I have spoken with indicate the value of the building will likely go down due to the risk and noise .
Costa Mesa should be thoughtful re the re- assessed lower property tax value for mine and all adjacent properties if this happens to be the case.

The owner of the units at 3130/3132 Airway, Mr Kevin Coleman, has applied for a City of Costa Mesa Conditional Use Permit PA 11-03 to allow a helicopter landing pad to be constructed and used above his unit at 3132 Airway.

-60-

This complex of units is governed by the Airway Business Park Owners Association C,C & R's , and Mr Coleman handles all aspects of the association's matters [architectural approvals, financial, landscaping ,meetings,etc etc] I have attempted to advise and request Mr Coleman to call for an official HOA meeting to record a formal owners vote re which property owners are in favor of ... and which owners are opposed.

Mr Coleman has been advised of my travel schedule.

As of this hour, 3:30 pm Tuesday Oct 17th, I have received no response from Mr Coleman re my email requests to him [and cc'd to his assistant] re this matter.

I am out of town now until Monday Oct 24th.

It is my opinion that there are other unit owners of this development who have voiced opposition to the proposed helipad. I am cc'ing them a copy of this email to keep them aware of my opposition.

It is solely up to them, of course, to communicate to you if they choose. I am solely speaking for my property at 3136 Airway.

I am opposed to the Conditional Use Permit Application # PA 11-03 for the following reasons:

1. There is a huge personal safety risk, financial risk, quiet enjoyment and peace of mind risk to all tenants in common, to have a helicopter landing 6' above their common roof on a 40'x40' pad.
One need only to refer to the helicopter crash in New York OCT 4th, 2011 upon take off. People died.
To help everybody visualize 40 feet ... if you are a football fan, you know 40 feet is just a bit over the 10 yd line for a 1st down.
Big chopper, small target zone. 25 feet of drop-off
2. There is a huge risk in the proposed ingress/ egress flight path that the FAA stipulates the chopper must cross! Immediately in line of this path are three SCE High Power poles and heavy duty lines at approximately 20 to 40 feet in elevation.
Nearly at the same elevation as the proposed helipad. These lines directly cross the proposed FAA path.
Any shift in winds, fog, western setting sun light, pilot or mechanical error and/or an errant landing path or the choppers landing skids hits these lines and ... you can fill in the blanks.
3. I am not a pilot, but I do know that the OC sheriff's helicopter pilot I have asked preferred to take off into the wind. The proposed FAA path for this application is nearly opposite, at 180 degrees opposite of the prevailing winds. This does not bode well for any tenant's west of 3132 helipad if the pilot elects, for safety reason, to take off in a westerly direction and that is a concern of mine.
Regardless of the approved FAA path, a pilot's # 1 rule is aircraft safety, we all know that.
4. There are so many unknown dangers involved from flying debris, from established prop wash winds during take off or landing above this small multi unit complex, both from loose roof tile sand [a natural roof material degrading process and always present], loose debris of any nature , trash , etc etc that simply are uncontrollable risks 24/7.
5. Additionally this complex has individual air conditioning units that will be subject to prop wash winds due to dust, sand and debris blown into their intake fans, as well as the existing 12 or more skylights which are, by design, open slotted for ventilation, thus allowing for more debris flying into the units below. Debris inside the 6 units is a normal minor occurrence during Santa Ana winds. Can you imagine what that debris will be like under 200 mph prop wash winds? Even Mr Coleman himself noticed this risk during a roof top inspection we took.
6. No mention has been made re spewing tiny airborne jet fuel droplets from the chopper's exhaust under heavy take off and landing engine load conditions. There are over 60 cars parked in the lot immediately below the proposed helipad who are tenants, customers or employers of the businesses at that site.
7. Of major concern to me is the fact my current insurance carrier indicated they will NOT RENEW my commercial insurance if a helipad is approved. So now I must seek to find a new carrier that will insure me.
Additionally there is an obvious potential for increased insurance /liability risk that will be assigned to the Airway Business Park Owners Association in general for the common area, thus increasing my association dues in a matter I have no economic benefit or participation. In addition, there will be unknown but obvious increased maintenance fees to allow for increased wear and tear to the roof material due to prop wash.
8. The applicant, Mr Coleman's tenant for 3132 Airway currently lands his chopper on the concrete ground [big target+big pad+ wide berth] at JWA Martin Aviation, merely 150 feet from his new office at 3132 Airway. Is it asking too much of The City Council of Costa Mesa to reject this application on the grounds the risks to employers, employees, current tenants, their visiting customers, nearby citizens et al, are not worth the SINGULAR BENEFIT

ONE PERSON ... all for the purpos to park one's personal chopper outside his office door, 25 feet off the ground on a 40x40 pad ???

Thank you for considering these points and I urge you to REJECT application # PA 11-03.

Denis LaBonge
Property Owner
3136 Airway
Costa Mesa, Ca
92626.

[REDACTED]
92657



March 5, 2012

City of Costa Mesa

Dear City Council Members:

Vortex Industries, Inc. has invested well over \$1.5 million in the Vortex Training Center which occupies 3138 Airway. We have developed a state-of-the-art facility unlike anything in our industry and we take great pride in it. We hold training sessions, manager meetings, customer presentations, and business meetings continuously in this facility through out the year. A helicopter pad will be extremely disruptive to our operation.

We would not have located our training center in this building had the helicopter pad been on the roof and may have also moved it out of Costa Mesa. Our training classes are a week long and we house our employees in local hotels and provide their meals from local Costa Mesa restaurants and thereby further benefiting the local economy.

In addition to our training center at 3138 Airway, our corporate office is located at 3198-M Airport loop which employs about 25 full-time people. We also operate service centers in Fullerton and Santa Ana each one employing about 25 full and part-time employees.

A helicopter landing on our shared roof is a hazard that is unacceptable to us, the health and safety risks are obvious but there may be other hazards we can not foresee. We ask that you deny the CUP to operate the helicopter landing pad and allow us the continued quiet enjoyment of our training center.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth T. Everett", written in a cursive style.

Elizabeth T. Everett

Owner of 3138 Airway

and

C.E.O. of Vortex Industries, Inc.

-63-



Law Offices of Robert C. Hawkins

110 Newport Center Drive, Suite 200

Newport Beach, California 92660

(949) 650-5550

Fax: (949) 650-1181

FAX COVER SHEET

TRANSMITTED TO:

NAME	FAX NUMBER	PHONE NUMBER
Julie Folcik, City Clerk	(714) 754-4942	
Mel Lee, AICP, Senior Planner	(714) 754-4856	

From: Robert C. Hawkins

Client/Matter: General

Date: March 2, 2012

Documents: Comment Letter for Agenda Item No. Public Hearing No. 1: Planning Application PA-11-03 for a Proposed Heliport, 3132 Airway Ave.

Pages: 2*

COMMENTS:

The information contained in this facsimile message is information protected by attorney-client and/or the attorney/work product privilege. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by facsimile. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via U.S. Postal Service.

* NOT COUNTING COVER SHEET. IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE US IMMEDIATELY AT (949) 650-5550.

-6A-

LAW OFFICES OF ROBERT C. HAWKINS

March 2, 2012

Via Facsimile Only

The Honorable Gary Monahan, Mayor
Members of the City Council
c/o Mel Lee, AICP, Senior Planner
City of Costa Mesa
77 Fair Drive
Costa Mesa, California 92628

Re: **Agenda Item No. Public Hearing No. 1: Application PA-11-03 for a Condition Use Permit for a Helipad/Helistop/Heliport on the roof of an existing industrial building at 3132 Airway Avenue; Finding of Exemption for Accessory Structures**

Greetings:

Thank you for the opportunity to comment on the captioned project. As you may know, this firm represents individuals and groups including the Mariners Community Association in Newport Beach, AirFair, a local group focused keeping John Wayne Airport at its current size as well as others in the Orange County area. These individuals and groups have an interest in the Project and related projects, and environmental issues in the area.

As you know, we have opposed this Project from the beginning. The Planning Commission agreed with our arguments and recommended that you deny the captioned Project. In its August 25, 2011 Staff Report, Planning Staff recommended denial of the Project based upon the Planning Commission's recommendation. At that time, the applicant requested a continuance, which you granted and continued the matter to November 1, 2011. On October 20, 2011, the applicant made a second request for continuance, which you granted and continued the matter to March 6, 2011. On February 13, 2011, the applicant wrote: "I formally request a second continuance from the Helistop Project at 3132 Airway Avenue until the June 19, 2012 City Council meeting."

This requires several comments. First, as indicated above and as evident in the administrative record, this is the **third** continuance requested by the applicant **without any statement of the reasons for such requests**. Second, although the applicant prepared a noise study, it falls far short of the studies required and the studies referenced in our earlier comments to the Planning Commission. Third, more than eight months have passed since the Planning Commission rejected this Project and noted that environmental review was required for this Project to proceed. The applicant has failed to conduct such review, and its noise study is inadequate. Fourth, and most importantly, as recognized by the Planning Commission, this

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

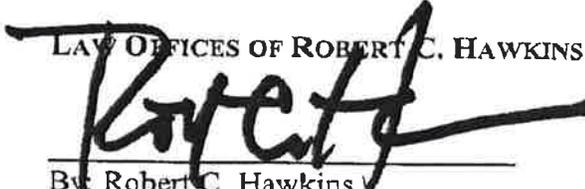
Gary Monahan, Mayor
Members of the City Council

March 2, 2012

Project constitutes an expansion of John Wayne Airport and takes airport uses off the airport footprint. The City has long opposed expansion of JWA. The City Council should deny this Project.

Again, thank you for the opportunity to comment on the captioned document for the captioned Project. Please provide us with notices, if any, for any subsequent public hearings, determinations, actions, and/or findings. Of course, should you have any questions, please do not hesitate to contact us.

Sincerely,

LAW OFFICES OF ROBERT C. HAWKINS

By: Robert C. Hawkins

RCH/kw

cc: City Clerk (via fax only)

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

66-

DAVID AUGUST

— LIFESTYLE OUTFITTERS —

6 Feb 2012

All members of the Costa Mesa City Council,

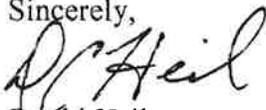
My business, David August, Inc has been operating in Costa Mesa since August 2003 serving clients of Orange County, Los Angeles, Santa Barbara, San Diego and several major locations in the United states. In addition to the 3,000 clients we serve, I have 18 employees that work in the offices to which I am charged with providing a safe work place.

With the potential addition of a helipad on the premises I am concerned about the impact on safety, the quality of the business environment, the work environment and potential impact on property value this may cause. The addition of the helipad presents potential safety problems for our employees and our clients through possible accidents as well as debris. With this risk of accidents, any disruption would impair our business through loss of client product and in retail business interruption. In the worst case scenario that a terrible accident may occur, our business would be irreparably harmed by the interruption caused. This is a risk I am not willing to take and it was never is consideration when I decided to place my operation at this address.

More immediately, I also have concerns about what the operation of the helipad will have on the current working environment and the selling environment for my business, its employees and our clients through noise, traffic, and debris. Our clients don't expect to have low flying aircraft landing on the building as they visit our showroom. Lastly, it is unknown what impact the addition of a helipad will have on the value of the property that I own.

For these reasons, I am opposed to adding the helipad operation to the 3140 Airway property.

Sincerely,



David Heil

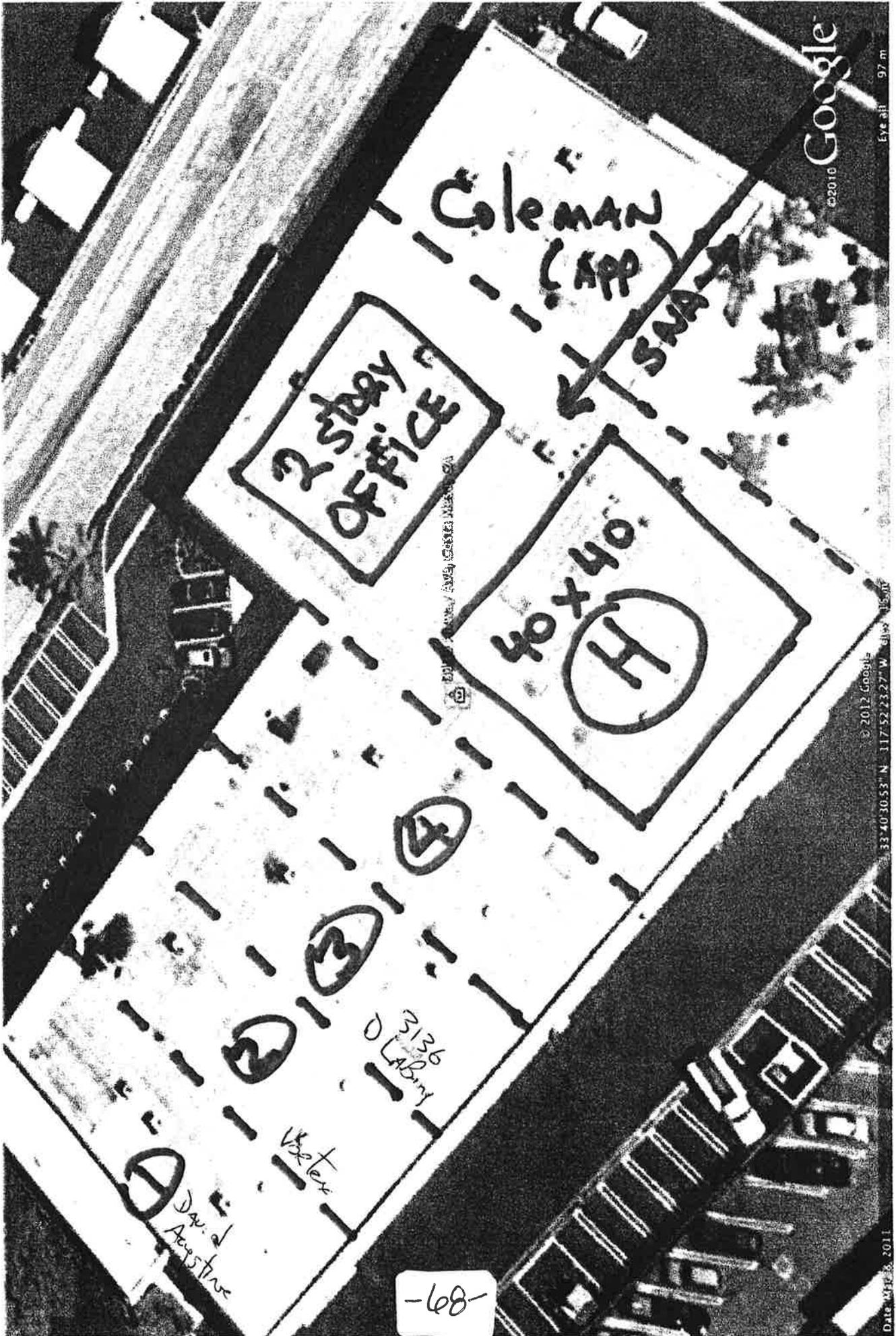
Owner ,3140 Airway

Owner, David August Inc

-67-

HAND-TAILORED WARDROBES FOR THE SUPERSTARS OF BUSINESS, SPORTS AND ENTERTAINMENT

3140 Airway Avenue, Costa Mesa, California 92626 • Tel: (714) 545-SUIT (7848) Fax: (714) 545-7880
E-mail: Info@DavidAugustInc.com • Website: DavidAugustInc.com



3rd story
OFFICE

Coleman
(APP)

SWAY

40x40

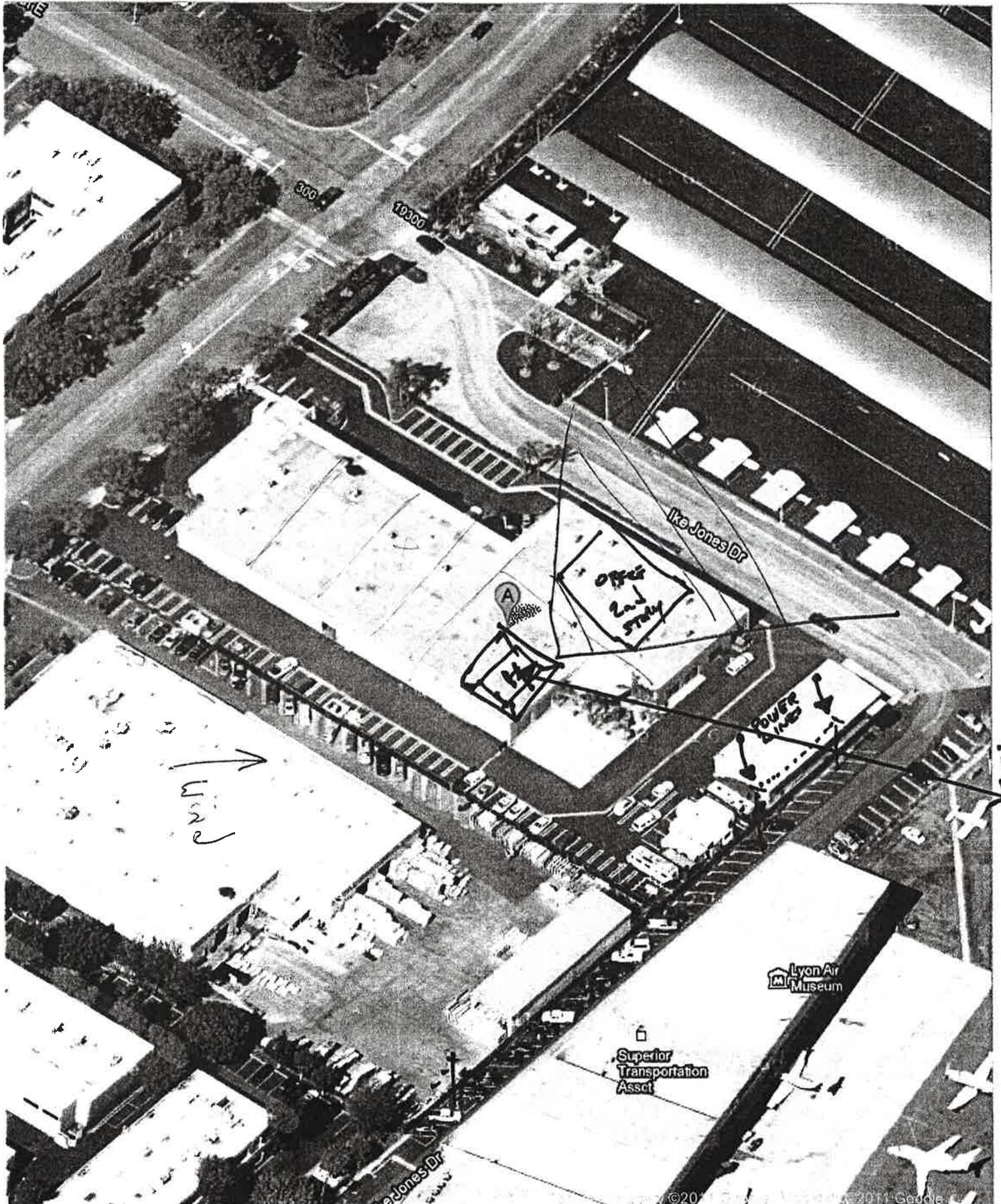
H

3136
O Labing

Vertex

David
Augustine

-68-



LEE, MEL

From: LEE, MEL
Sent: Tuesday, October 18, 2011 4:14 PM
To: FOLCIK, JULIE; CORDON, CHRISTINE; NGUYEN, KHANH; FLYNN, CLAIRE
Subject: FW: Commercial Property Owner Opposition to Application # PA 11-03, a proposed helipad serving one company.

From: Denis LaBonge [mailto: [REDACTED]]
Sent: Tuesday, October 18, 2011 4:12 PM
To: LEE, MEL
Cc: Darrin Smith; David; Gene Salas; [REDACTED] James Golden
Subject: Commercial Property Owner Opposition to Application # PA 11-03, a proposed helipad serving one company.

Dear Mr Lee and all Members of the Costa Mesa City Council,

This communication is concerning a Council Hearing re PA 11-03, scheduled for Nov 01, 2011 @ 7 pm at City Council Chambers.

I am one of 6 property owners of the industrial unit located at Baker and Airway [3140, 3138, 3136, 3134, 3132, 3130 Airway] .

I own 3136 Airway and I am the original buyer when the complex was developed in 2003/4 and sold by Mr Coleman to me.

At that time he expressed a great personal commitment to keep the development low profile, quiet and low impact. I and my tenant are opposed to this helipad. I depend on this rental income from this property as I am retired.

In today's commercial real estate market, having a good tenant, who pays on time is a lucky matter. They indicate if a helipad goes in, they have no intention of remaining as a tenant. I will loose money. From a valuation point of view, local real estate agents I have spoken with indicate the value of the building will likely go down due to the risk and noise .

Costa Mesa should be thoughtful re the re- assessed lower property tax value for mine and all adjacent properties if this happens to be the case.

The owner of the units at 3130/3132 Airway, Mr Kevin Coleman, has applied for a City of Costa Mesa Conditional Use Permit PA 11-03 to allow a helicopter landing pad to be constructed and used above his unit at 3132 Airway.

This complex of units is governed by the Airway Business Park Owners Association C,C & R's , and Mr Coleman handles all aspects of the association's matters [architectural approvals, finance, landscaping ,meetings,etc etc]

I have attempted to advise and request Mr Coleman to call for an official HOA meeting to record a formal owners vote re which property owners are in favor of ... and which owners are opposed.

Mr Coleman has been advised of my travel schedule.

As of this hour, 3:30 pm Tuesday Oct 17th, I have received no response from Mr Coleman re my email requests to him [and cc'd to his assistant] re this matter.

I am out of town now until Monday Oct 24th.

-70-

10/18/2011

It is my opinion that there are other unit owners of this development who have voiced opposition to the proposed helipad. I am cc'ing them a copy of this email to keep them aware of my opposition. It is solely up to them, of course, to communicate to you if they choose. I am solely speaking for my property at 3136 Airway.

I am opposed to the Conditional Use Permit Application # PA 11-03 for the following reasons:

1. There is a huge personal safety risk, financial risk, quiet enjoyment and peace of mind risk to all tenants in common, to have a helicopter landing 6' above their common roof on a 40'x40' pad. One need only to refer to the helicopter crash in New York OCT 4th, 2011 upon take off. People died. To help everybody visualize 40 feet ... if you are a football fan, you know 40 feet is just a bit over the 10 yd line for a 1st down.

Big chopper, small target zone. 25 drop-off

2. There is a huge risk in the proposed ingress/ egress flight path that the FAA stipulates the chopper must cross! Immediately in line of this path are three SCE High Power poles and heavy duty lines at approximately 20 to 40 feet in elevation.

Nearly at the same elevation as the proposed helipad. These lines directly cross the proposed FAA path. Any shift in winds, fog, western setting sun light, pilot or mechanical error and/or an errant landing path or the choppers landing skids hits these lines and ... you can fill in the blanks.

3. I am not a pilot, but I do know that the OC sheriff's helicopter pilot I have asked preferred to take off into the wind. The proposed FAA path for this application is nearly opposite, at 180 degrees opposite of the prevailing winds.

This does not bode well for any tenant's west of 3132 helipad if the pilot elects, for safety reason, to take off in a westerly direction and that is a concern of mine.

Regardless of the approved FAA path, a pilot's # 1 rule is aircraft safety, we all know that.

4. There are so many unknown dangers involved from flying debris, from established prop wash winds during take off or landing above this small multi unit complex, both from loose roof tile sand [a natural roof material degrading process and always present], loose debris of any nature , trash , etc etc that simply are uncontrollable risks 24/7.

5. Additionally this complex has individual air conditioning units that will be subject to prop wash winds due to dust, sand and debris blown into their intake fans, as well as the existing 12 or more skylights which are, by design, open slotted for ventilation, thus allowing for more debris flying into the units below. Debris inside the 6 units is a normal minor occurrence during Santa Ana winds. Can you imagine what that debris will be like under 200 mph prop wash winds? Even Mr Coleman himself noticed this risk during a roof top inspection we took.

6. No mention has been made re spewing tiny airborne jet fuel droplets from the chopper's exhaust under heavy take off and landing engine load conditions. There are over 60 cars parked in the lot immediately below the proposed helipad who are tenants, customers or employers of the businesses at that site.

7. Of major concern to me is the fact my current insurance carrier indicated they will NOT RENEW my commercial insurance if a helipad is approved. So now I must seek to find a new carrier that will insure me.

Additionally there is an obvious potential for increased insurance /liability risk that will be assigned to the Airway Business Park Owners Association in general for the common area, thus increasing my association dues in a matter I have no economic benefit or participation. In addition, there will be

-71-

unknown but obvious increased maintenance fees to allow for increased wear and tear to the roof material due to prop wash.

8. The applicant, Mr Coleman's tenant for 3132 Airway currently lands his chopper on the concrete ground [big target+big pad+ wide berth] at JWA Martin Aviation, merely 150 feet from his new office at 3132 Airway. Is it asking too much of The City Council of Costa Mesa to reject this application on the grounds the risks to employers, employees, current tenants, their visiting customers, nearby citizens et al, are not worth the SINGULAR BENEFIT ONE PERSON ... all for the purpose to park one's personal chopper outside his office door, 25 feet off the ground on a 40x40 pad ???

Thank you for considering these points and I urge you to REJECT application # PA 11-03.

Denis LaBonge
Property Owner
3136 Airway
Costa Mesa, Ca
92626.


92657

-72-

10/18/2011

August 23, 2011

Costa Mesa City Council
77 Fair Drive
Costa Mesa, CA 92627

Subject: App #PA-11-03

Honor Council Members:

I write this letter in opposition to your approving the subject application. I do not believe approving this application request is in the best interests of the citizens of Costa Mesa.

While the proposed helipad will be located atop a building next to the airport runways, it nevertheless may be construed as a way to enlarge the airport footprint. In addition, any helicopters using the helipad will be able to access it by flying over residential areas of Costa Mesa. There is enough air and noise pollution emanating from John Wayne Airport as it is; we do not need any more. I believe there are also safety concerns. We don't need any addition risks (remember the helicopter crash at New York's Pan Am building?) along with what is already present with planes from John Wayne taking off/landing over residential areas. Another thing to consider – just how many helicopter flights are planned – and how many more if this venture is successful.

Approve this application and I am certain Legacy will return with their ambitious plans which would also further enlarge the airport footprint. The previous Council wisely turned Legacy down. Why risk having the camel put his nose under the tent by approving the subject application. This is not far-fetched. The new terminal at John Wayne will have everything needed for easy international travel – customs, immigration, etc. Obviously the airport planners are anticipating expanded service to Canada – and who knows where else. How convenient to have a helipad for passengers wanting to avoid the mess that is LAX. If successful, there will be more applications for helipads. You have to think long term here.

Again, I urge the Council to reject this application – regardless of what governmental agencies have given it their blessings. The citizens of Costa Mesa must come first.

Sincerely,



Dolores Storme

VI.5
PA-11-03

From: Soong Kim [mailto: [REDACTED]]
Sent: Monday, August 08, 2011 3:31 PM
To: LEE, MEL; PLANNING COMMISSION
Cc: Dale Lyon
Subject: App. No. PA-11-03

Honorable Chairman and Planning Commissioners,

Good evening. I represent the ownership of the property at 3100 Airway Avenue, Costa Mesa, a neighboring building to the subject property at 3132 Airway Avenue.

I would like to address the concern(s) involving this project. In search of an answer to my question – the path of ingress and egress to the proposed helipad – I have spoken with Margie Drilling, Airport Planner from FAA. According to her, the applicant has not yet met the conditions of approval posed by FAA, and one condition apparently involves the ingress and egress path. She recommended that I contact Doug Blaul at Air Control Tower agency for more information related to the path. He was not available today, however, so I could not clarify my concern.

As an owner of the neighboring property, we object to the proposed project if its path to and from the helipad is over our or any of the neighboring buildings.

We ask that we be well informed of the approvals that the applicant has to acquire prior to the project's final approval.

Thank you.

Soong Kim
Design/Project Manager
OLEN DEVELOPMENT CORP.
Seven Corporate Plaza
Newport Beach, CA 92660
(949)719-7222 - Direct
(949)719-7274 - Fax
[www.olenproperties.com](http://www olenproperties.com)

LAW OFFICES OF ROBERT C. HAWKINS

VI.5
PA-11-03

August 8, 2011

Via Facsimile and Hand Delivery

The Honorable Colin McCarthy, Chair
Members of the Planning Commission
c/o Mel Lee, AICP, Senior Planner
City of Costa Mesa, Planning Department
77 Fair Drive
Costa Mesa, California 92628

Re: **Planning Commission Agenda Item No. VI 5: Application PA-11-03 for a Condition Use Permit for a Helipad/Helistop/Heliport on the roof of an existing industrial building at 3132 Airway Avenue; Finding of Exemption for Accessory Structures**

Greetings:

Thank you for the opportunity to comment on the captioned project. As you may know, this firm represents individuals and groups including the Mariners Community Association in Newport Beach, AirFair, a local group focused keeping John Wayne Airport at its current size as well as others in the Orange County area. These individuals and groups have an interest in the Project and related projects, and environmental issues in the area.

We have reviewed the original staff report as well as the August 8, 2011 supplemental staff reports on the captioned project and its recommended finding of exemption. Both reports are seriously in error and we object to Staff's recommendation of approval of the CUP and of the finding of exemption.

First, the original staff report erroneously characterizes the Project as a helistop. The Airport Land Use Environs Plan for Heliports ("Heliport AELUP") does not distinguish between a helistop and a heliport; they are governed by the same rules and requirements. Heliport AELUP, page 4.

I. Summary of Objections

We object to the Project and the Finding of Exemption for the following reasons:

- A. The Project expands the footprint of John Wayne Airport in violation of the City of Costa Mesa' commitment to contain the airport in the September 3, 2008 Memorandum of Understanding on John Wayne Airport and its commitment to the Corridor Cities Agreement.

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

75-

- B. The Project is not exempt as an accessory structure under the California Environmental Quality Act, Public Resources Code sections 21000 et seq. ("CEQA"), the Project will have potentially significant environmental impacts including noise, land use, and other impacts, and the City has failed to analyze such impacts as required by CEQA.
- C. The Project is the second of a series of airport related projects in the City; the City cannot provide a piecemeal review and approval of such project without violating CEQA; CEQA requires a programmatic analysis of any efforts by the City to convert the area east of Red Hill Ave. to airport uses.

II. The Heliport is an Expansion of the Footprint of John Wayne Airport.

The City has entered into several agreements to contain the expansion of John Wayne Airport. In 2000, the City entered into the Corridor Cities Agreement which include virtually all of the cities in Orange County along the flight path of John Wayne Airport. Among other things, this Agreement commits all signatories including the City to make every effort to keep John Wayne Airport at its current size and footprint. In addition, on September 30, 2008, the City of Newport Beach and the City entered into a Memorandum of Understanding regarding John Wayne Airport which had as one of its goals keeping the footprint of John Wayne Airport at its 2008 size. Finally, on August 5, 2011, Mayor Henn transmitted a letter to you and Mayor Monahan urging you to reject the Project because among other things it would violate these commitments.

The Project would violate all of this. Currently, the applicant use a helipad on the footprint of John Wayne Airport at Martin Aviation. The Project proposes to move this operation off the footprint of John Wayne Airport and onto private property. This expands the footprint in two ways: (1) it creates new air uses off the John Wayne Airport footprint; and (2) it frees up capacity on John Wayne Airport for other airport uses including storage of planes overnight.

The August 8, 2011 supplemental staff report erroneously concludes that the Project will not expand the existing footprint of John Wayne Airport. Citing Ms. Kari Rigoni, Executive Officer for the Airport Land Use Commission, the report states that the Project is not an expansion because the land is privately owned. It assumes that the footprint is a physical limitation. There are so many problems with this conclusion. First, is City staff seriously maintaining that County personnel can interpret the agreements and commitments of the City and of the City of Newport Beach regarding John Wayne Airport?

Second, although the report may be correct as far as it goes, it stops far short of the spirit and intent of the agreements between the cities: transferring air uses off the airport footprint onto

a private parcel expands that footprint and uses regardless of the ownership of the parcel. The footprint applies both the physical boundaries as well as the uses within those boundaries. Because the Project transfers air uses off John Wayne Airport, it expands the boundaries of air uses.

Third, the Project will free up capacity and land on the airport for additional air uses. This increase in capacity as well as the new capacity off John Wayne Airport is a further example of the Project's expansion of the airport footprint.

The Commission must follow the commitments of the City: comply with its agreements and reject this application.

III. The Project is Not Exempt under CEQA.

Citing CEQA Guidelines section 15311, the Staff Report maintains that the Project—construction of a heliport—is exempt under CEQA as an accessory structure. This is wildly inaccurate and simply wrong.

Section 15311 provides:

“Class 11 consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:

- (a) On-premise signs;
- (b) Small parking lots;
- (c) Placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use.”

None of the examples apply. Moreover, the heliport is not an accessory structure in that it is not like a parking space; it is a parking space for a helicopter which generates substantial noise and other impacts.

The Municipal Code also does not support this conclusion. For instance, Municipal Code section 13-6 includes the following definitions:

“Accessory building. A building or part of a building which is subordinate to, and the use of which is incidental to that of the main building or use on the same lot.”

“Accessory use. A use incidental and subordinate to, and devoted exclusively to the main use of the land or building thereon.”

Neither apply: the heliport is a unique Project; it requires federal, state and county approvals; it is not simply ancillary to the office use. Indeed, it is unique to the office use in Costa Mesa. Moreover, ultimately the City of Costa Mesa will not be able to condition the Project fully. Under the Airport Noise and Capacity Act, 49 U.S.C. §§ 47521, et seq., the Federal Aviation Administration (“FAA”) has sole jurisdiction to control access to airspace including hours of operation. Although the new conditions attempt to control the hours of the Project, ultimately the FAA will decide this and other land use issues.

Indeed, as discussed below, the exemption is improper, because a fair argument exists that the Project may create potentially significant impacts on the environment. Helicopters in a location off the airport create significant environmental impacts for various reasons. First, helicopters are noisy. A helicopter on takeoff generates sound of 105 dB Single-Event Noise Exposure Level (“SENEL”). That is fifty (50%) percent louder than a jack hammer. Moreover, it is 2dB louder than F-18 on takeoff. This is not to say that any noise generated by the Project could not be mitigated; this is only to say that such impacts require analysis.

Federal guidance concerning the evaluation of aircraft noise including helicopters is contained in 14 C.F.R. Part 150, “Airport Noise Compatibility Planning”, December 1984; Federal Aviation Administration (FAA) Order 1050.1E, “Environmental Impacts: Policies and Procedures”, June 2004; FAA Order 5050.4B, “National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions”, April 2006; and, FAA’s “Environmental Desk Reference for Airport Actions”, October 2007. All of these direct that any airport activities require environmental review. As you know, in its June 21, 2011 letter concerning the captioned matter, the Federal Aviation Administration advised that:

“This airspace study did not include an environmental review to determine whether or not the proposed development is environmentally acceptable in accordance with the National Environmental Policy Act (NEPA) of 1969 (Public Law 91-190) as amended.”

Attachment 6, page 26 of the Staff Report. In order to comply with such requirements, the City must conduct its own environmental review under CEQA. The FAA in its airspace study together with its administrative orders and rulings direct as much.

Indeed, the University of California, San Francisco conducted extensive environmental review for its proposed hospital expansion and helipad for medical helicopters. This review included the 2005 LRDP Amendment #2 – Hospital Replacement EIR (“2005 EIR”), the 2008 Environmental Impact Report for UCSF Medical Center at Mission Bay expansion project (“2008 Expansion EIR”), and the 2009 Supplemental Environmental Impact Report for UCSF

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

Medical Center at Mission Bay helicopter operations near residential sites ("2009 Mission Bay Helicopter SEIR"). The Regents of the University of California published the 2009 Mission Bay Helicopter SEIR in order to develop a noise mitigation program for their helipad project which was near residential uses in San Francisco.

Although the Project is not near residential uses, the Mariners Christian School which is about 900 feet away from the Project has over 630 students, which are sensitive receptors plus over 90 teachers, aides and administrators. Clearly, these 630 sensitive receptors and their facility are entitled to the protections of the County's Heliport Airport Environs Land Use Plan and CEQA. Indeed, EIR 508 for the John Wayne Airport Expansion in the 1980's long ago recognized that noise impacts on school children can be severe and long term.

Further, the noise discussions in the UCSF Project 2008 Expansion EIR and in the 2009 Mission Bay Helicopter SEIR provide additional guidance regarding the importance of and the need for full environmental review of the Project by the City.

Moreover, helicopters create vibration which can rattle windows in the office buildings near the Project site. Such vibration itself is a potentially significant impact which requires analysis and perhaps mitigation.

Further, the case law does not support Staff's recommendation or the proposed finding for a Class 11 exemption. In Simons v. City of Los Angeles (1977) 72 Cal. App. 3d 924, the City found that construction of a firearms training simulator building adjacent to the police firing range was exempt under Class 11 as an accessory structure. The Court rejected petitioner's challenge that the range required preparation of an environmental impact report. The Court noted that the administrative record indicated that:

"... **no noticeable noise should emanate from the facility.** ... [para.] The proposed construction will not displace any automobile parking area, will apparently not involve increased attendance at the training academy ..."

Id. at 938 (Emphasis supplied). Based upon the lack of any impacts, the Court ruled that the firing range construction was exempt:

"The addition of the firearms training simulator building adjacent to the pistol range is clearly within exempt class 11 (Cal. Admin. Code, tit. 14, § 15111) as a minor structure accessory to existing institutional facilities."

Id. at 938-39.

Here, however, the Project is not accessory to an existing institutional facility; the heliport is a radically new use on the site which requires federal, state and county approvals.

More importantly, a substantial amount of noise will emanate from the facility with the arrival and departure of the noisy helicopters. The Project is not exempt and not an accessory use. The City cannot approve this Project without conducting the appropriate environmental review.

Moreover, even assuming for the sake of argument that the Class 11 Exemption may apply, CEQA Guidelines section 15300.2 entitled "Exceptions" would except the Project from any exemption. Section 15300.2 provides in pertinent part that the City cannot use exemptions in the following situations:

- "(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

(Guidelines section 15300.2 contains other exceptions not applicable here.) In Lewis v. Seventeenth District Agricultural Association (1985) 165 Cal. App.3d 823, the respondent Nevada County approved a contract extension for the continued use of a race track on county fairgrounds for auto racing. The county approved the contract based upon its findings that the project was exempt under the Class 23 exemption for normal operations of existing facilities for public gatherings. Because of the potential for significant noise impacts on the adjacent neighboring residents, the Court of Apply held that the exemption did not apply and cited Guidelines section 15300.2 exception applied.

This Project is similar and each of these exceptions apply; they remove the Project from any claim for an exemption. First, the Project's location is unique and there is a "reasonable possibility" that the Project will have a significant effect on the environment due to usual circumstances. The Project is adjacent to John Wayne Airport. It is a sensitive area because: it requires federal, state and local approvals; it requires analysis of safety issues; it expands the footprint of John Wayne Airport; it is within 1,000 feet of Mariners Christian school.

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

Second, as discussed below, the Project is the second in a series of airport related projects on the west side of John Wayne Airport. City officials appear to seek such airport related projects.

Third, there is a reasonable possibility that the Project will have potentially significant impacts on the environment: aesthetic impacts; land use impacts; impacts on hazards; noise and vibration impacts; and cumulative impacts, all of which require analysis and mitigation. In addition, because the Project will expand the footprint of John Wayne Airport and place helicopters within 1,000 feet of Mariners Christian school, it has the potential to create significant land use impacts: the Project will bring airport related uses and impacts closer to sensitive receptors, office and industrial uses. Further, the Project may have aesthetic impacts from the arrival and departure of helicopters in an area with schools and office parks. All of this requires full environmental analysis.

The August 8, 2011 supplemental staff report relies extensively on the Airport Land Use Commission's ("ALUC") finding and recommendation regarding the consistency of the Project with the Heliport AELUP and the Airport Environs Land Use Plan. ALUC did no environmental review and did not conduct a noise study. Ultimately, as indicated above, neither the FAA nor ALUC conducts the environmental review for the City. That function falls squarely on the shoulders of the Commission and Council, and the environmental review has not been conducted.

IV. The Project Appears to be a Part of a Larger Airport Expansion Project.

As indicated above, the Project is the second in a series of projects which will expand John Wayne Airport. In spring 2010, the City considered a project for a corporate aircraft hangar/office facility on the west side of John Wayne Airport at 2970 Airway Avenue and 3180 Airway Avenue owned by the County of Orange, the owner and operator of John Wayne Airport known as the Legacy Air Center. Although the project proponent withdrew its application, the City's representative on the Airport Land Use Commission indicated that he and many others at the City supported the project. This means that the City will approve more airport related projects on the west side of John Wayne Airport. In order to comply with CEQA, the City must conduct a programmatic environmental review for this airport expansion project. We welcome the opportunity to review and comment on this project. However, the City cannot segment this project into small pieces.

Since its inception, CEQA has forbid "piecemeal" review of the significant environmental impacts of a project. Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 391, fn. 2. This prohibition stems in part from CEQA itself: Public Resources Code section 21002.1(d) requires that an environmental document "consider[] the effects, both individual and collective, of all activities involved in [the] project." Courts have recognized that:

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

"A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal ... and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."

Sacramento Old City Assn. v. City Council (1991) 229 Cal.App.3d 1011, 1023 [280 Cal.Rptr. 478], original italics; Stanislaus Natural Heritage Project v. County of Stanislaus (1996) 48 Cal.App.4th 182, 201.

Further, CEQA Guidelines Section 15165 provides that:

"Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the lead agency shall prepare a single program EIR for the ultimate project as described in Section 15168"

Under the Guidelines, the term "project" is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably indirect physical change in the environment" *Id.* at CEQA Guidelines section 15378(a). At the other end of the spectrum, long-range planning proposals are exempt from EIR requirements: "A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR" CEQA Guidelines section 15262.

As indicated above, the Project is the second in a series of airport related projects. The City cannot comply with CEQA by segmenting the environmental analysis and approve individual airport expansion projects with little or no environmental review and analysis. To the extent that the City proposes such a wholesale conversion of the west side of John Wayne Airport to airport uses, the City must analyze the full programmatic environmental review and analysis for such an airport expansion project.

V. Conclusion

The Commission cannot make the findings necessary to recommend the Project for approval to the Council. The Commission should reject the Project for the following reasons:

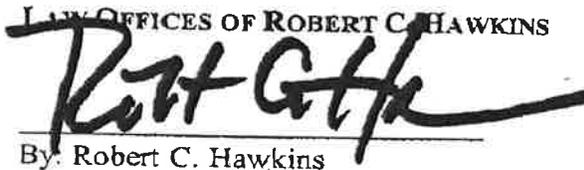
1. The Project expands the footprint of John Wayne Airport in violation of a host of commitments by the City;

2. The Project is not exempt under CEQA and the City must conduct environmental review.
3. The Project appears to be the second in a series of airport expansion projects in the City; the City must conduct programmatic environmental review for this conversion. The City cannot do this in a piecemeal manner.

Public Resources Code section 15021 requires that the City has a duty to minimize environmental damage and balance competing public objectives and that it is required to give major consideration to preventing such damage. The Project has the potential to create such damage and the City must conduct a thorough and adequate review of such impacts.

Again, thank you for the opportunity to comment on the captioned document for the captioned Project. We look forward to participating in the public hearing process, receiving responses to these and other comments, and commenting on those responses at the appropriate public hearings. Of course, should you have any questions, please do not hesitate to contact us.

Sincerely,

LAW OFFICES OF ROBERT C. HAWKINS

By: Robert C. Hawkins

RCH/kw

cc: City Clerk (via fax only)

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

LAW OFFICES OF ROBERT C. HAWKINS

July 21, 2011

Via Facsimile and Hand Delivery

Gerald Bresnahan, Chairman
Airport Land Use Commission for Orange County
John Wayne Airport
Eddie Martin Administration Building
Airport Commission Hearing Room
3160 Airway Avenue
Costa Mesa, California 92626

Re: Agenda Item No. 1: Request for Consideration of Leading Edge Aviation Services Helistop at 3132 Airway Avenue, Costa Mesa, California

Dear Honorable Chairman and Members of the Airport Land Use Commission for Orange County:

This firm represents residents and groups in Newport Beach who are interested in the development of John Wayne Airport. Although I have served on the board of the Airport Working Group and now serve on the board of AirFair, these comments do not represent their views but only the views of my clients.

Leading Edge Aviation Services, Inc. whose headquarters are 19301 Campus Dr., Suite 250 Santa Ana, California 92707 in the Martin facility and adjacent to John Wayne Airport, seeks approval of a helistop at 3132 Airway Avenue, Costa Mesa, California 92626 and across Ike Jones Drive from the Lyon Air Museum. (For the purposes of the ALUC analysis, a helistop requires the same analysis as a heliport.) Pursuant to Public Utilities Code section 21661.5, this application requires a determination by this Commission that this Project for a helistop across Airway from John Wayne Airport is consistent with the Airport Environs Land Use Plan for John Wayne Airport ("JWA AELUP") and the Airport Environs Land Use Plan for Heliports ("Heliport AELUP"). For several reasons, it is not consistent with either plan.

First and by way of introduction, Public Utilities Code section 21661.5 is interesting from several perspectives. First, it is entitled: "**Approval of Plan for Construction of New Airport; Delegation of Responsibility;**" that is, the Project is for the construction of a new airport or in this case a new heliport. Second, section 21661.5(b) authorizes the County to delegate to this Commission the authority for "... the approval of a plan for construction of new helicopter landing and takeoff areas . . ."

110 Newport Center Drive, Suite 200
Newport Beach, California 92660
(949) 650-5550
Fax: (949) 650-1181

-84-

Second, the July 21, 2011 Staff Report recognizes that noise is a significant concern regarding this application. However, no noise study has been performed for this project. The Heliport AELUP states that:

“The Commission shall rely on the acoustical study, prepared for each proposed heliport as necessary, to evaluate the potential noise impact area associated with the facility. The Commission may, on a case by case basis, recommend to the responsible local agency that the heliport’s use be specifically controlled as a means of mitigating noise impacts. Noise Levels of 60 dB CNEL are considered to have potential noise impact on surrounding sensitive land uses.”

Heliport AELUP, Section 2.2.2. Although this application is for a helistop, the same standards apply. See Heliport AELUP, page 4. Indeed, the noise generated will be the same, and Staff is concerned about the noise generated from this Project. The Staff Report notes that the Project is within the Noise Impact Zone 1 with greater than 65 CNEL from the current operations of John Wayne Airport. The Airport generates substantial noise. Nonetheless the Project in proximity to schools and offices may increase that level unacceptably and move the noise contour further into Costa Mesa. In addition, the Project will likely create increases in the significant single event noise exposure levels (“SENEL”) in the vicinity. The Commission should require a noise study; the Heliport AELUP provides no exceptions.

Moreover, placing the Project within the Noise Impact Zone 1 with greater than 65 CNEL does not free the Project from noise analysis. The noise study should also consider and analyze the impact of Single Event Noise Exposure Levels to determine the consistency of the Project with the Heliport AELUP and the AELUP. The Noise Impact Zone 1 is simply noise levels for the Community Noise Equivalent Level which simply averages the noise levels for a 24 hour period. Further, earlier environmental documents may have analyzed the expansion of the Airport but none has analyzed the Project features which will expand the noise contour further into Costa Mesa. At the very least, the Commission should require preparation of an acoustical study before considering this application. Indeed, such a study will be necessary to conduct the environmental analysis for the Project.

Third, the Staff Report discusses the surrounding land uses:

“The project is located in an area zoned Multi Purpose (MP) Industrial Park and is surrounded by John Wayne Airport to the north and east, light industrial/office/research uses to the south, and light industrial/office/research uses and Mariners Christian School to the west. Mariners Christian School is about 900 feet west of the project site but not beneath proposed flight paths.”

Staff Report, page 1. Section 3.2.1 of the Heliport AELUP states:

A proposed heliport site may be found inconsistent with the AELUP if the site is:

- (1) Near places where people may be affected adversely by aircraft noise,
- (2) Near concentrations of people,

-
- (3) Near structures whose height interferes with preferred take-off and approach corridors.

Clearly, the Project is "near places where people may be affected adversely by aircraft noise" and "near concentrations of people:" the Mariners Christian School which is about 900 feet away from the Project has over 630 students, which are sensitive receptors plus over 90 teachers, aides and administrators. Clearly, these 630 sensitive receptors and their facility are entitled to the protections of the Heliport AELUP. Indeed, EIR 508 long ago recognized that noise impacts on school children can be severe and long term.

Further, Section 3.2.1 provides if any application is found inconsistent with these General Policies, the application is inconsistent with the Heliport AELUP. As indicated above, the application is inconsistent with the General Policies and therefore inconsistent with the Heliport AELUP.

Moreover, Public Utilities Code section 21662.5 provides:

"Notwithstanding Section 21006 or Section 21661 or any other provision of law to the contrary, no helicopter may land or depart in any area within 1,000 feet, measured by air line, of the boundary of any public or private school maintaining kindergarten classes or any classes in grades 1 through 12, without approval of the department or by a public safety agency designated by the department, unless the landing or departure takes place at a permitted permanent heliport, or is a designated emergency medical service landing site."

Although the Staff Report indicates that the Department has reviewed the plans and conditionally approved them subject to environmental review and local agency approvals. However, the Staff Report does not state that the Department has reviewed the Project for safety issues as required by Section 21662.5. As indicated above, the Mariners Christian is within 1,000 feet of the Project and requires the Department's safety analysis. That has not happened.

Fourth, the hours of operation of the Project will differ from the hours of operation of John Wayne Airport. The Project proposes to operate from 7 a.m. to 7 p.m. daily. This conflicts with the John Wayne Airport curfew set for Sunday mornings at 8:00 a.m. The Project will generate noise which has not been studied without the background noise of the Airport during this quiet Sunday morning. Clearly, the Commission should require a noise study for this Project.

Fifth, if the Commission finds the Project inconsistent with the Heliport AELUP, then it is inconsistent with the AELUP. See AELUP, Section 2.1.5. See also AELUP, Section 3.2.1 (similar policies to the Heliport AELUP Section 3.2.1.)

Sixth and most importantly, this Project expands the footprint of John Wayne Airport. As indicated above, Public Utilities Code section 21161.5 addresses location of new airports and heliports. This Project is simply the first of what will surely be more applications to expand the Airport into the west side of the Airport and the east side of Costa Mesa. It is the camel's nose, er, nose under the

Airport's tent. The Legacy Project suffered similar problems and withdrew its application after a substantial controversy arose over than Project. This Project will suffer the same fate.

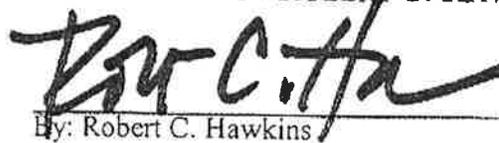
Moreover, the Project proposes to allow the applicant to enter air space without appropriate security protections. The Project is a "through the fence" Project. Passengers can enter the Project facility, board the helicopter, enter regulated air space and then land at the Airport or other airports, all without the benefit of any security clearances or reviews.

For all of these reasons, we urge you to reject the Project and find it inconsistent with the AELUP and the Heliport AELUP. At the very least, the Commission should require preparation of a noise study for the Project.

Thank you for your consideration. Should you have any questions, please do not hesitate to contact me.

Sincerely,

LAW OFFICES OF ROBERT C. HAWKINS



By: Robert C. Hawkins

RCH/kw