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7-25-06

ORDINANCE NUMBER O- 19521 (NEW SERIES)

DATE OF FINAL PASSAGE AUG - 4 2006

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 13, ARTICLE 2, DIVISION 2, OF THE SAN DIEGO MUNICIPAL CODE RELATING TO THE AIRPORT APPROACH OVERLAY ZONE.

WHEREAS, the primary purpose of the Airport Approach Overlay Zone (AAOZ) is to provide supplemental regulations for the property surrounding the approach path for San Diego International Airport (SDIA) – Lindbergh Field; and

WHEREAS, it is proposed that the AAOZ be amended to bring it into consistency with the Downtown Community Plan and the Airport Land Use Compatibility Plan (ALUCP) for SDIA-Lindbergh Field; and

WHEREAS, the Centre City Development Corporation [CCDC], as the agent for the Redevelopment Agency within the downtown area, has proposed amendments to conform the AAOZ to these documents; and

WHEREAS, the Planning Commission of the City of San Diego has considered and recommended approval of the proposed amendments at a duly noticed public hearing on February 23, 2006; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 13, Article 2, Division 2, of the San Diego Municipal Code is amended to read as follows:

Article 2: Overlay Zones

Division 2: Airport Approach Overlay Zone

§132.0201 Purpose of the Airport Approach Overlay Zone

The purpose of the Airport Approach Overlay Zone is to provide supplemental regulations for the property surrounding the approach path for San Diego International Airport, Lindbergh Field. The intent of these regulations is to help ensure the following:

- (a) That the provisions of the Federal Aviation Act of 1958, as implemented through the Federal Aviation Administration (FAA) obstruction evaluation programs, are satisfied;
- (b) That the applicable provisions of California Public Utilities Code Section 21659, as administered by the California Department of Transportation (CALTRANS), are satisfied;
- (c) That the San Diego County Regional Airport Authority (Airport Authority), as the proprietor of San Diego International Airport, Lindbergh Field, is provided the opportunity to participate in the evaluation process conducted by the FAA and CALTRANS; and
- (d) That minimum vertical buffers are provided between the FAA-established approach paths as identified on Map No. C-926 and *structures* constructed within the Airport Approach Overlay Zone.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§132.0202 Where the Airport Approach Overlay Zone Applies

- (a) This overlay zone applies to property surrounding San Diego International Airport, Lindbergh Field that is located within the boundaries shown on Map No. C-926, filed in the office of the City Clerk as Document No.

00-19521 This property is shown generally on Diagram 132-02A.

- (b) Table 132-02A shows the sections that contain the supplemental regulations and the type of permit required by this division, if any, for specific types of *development* in this overlay zone.

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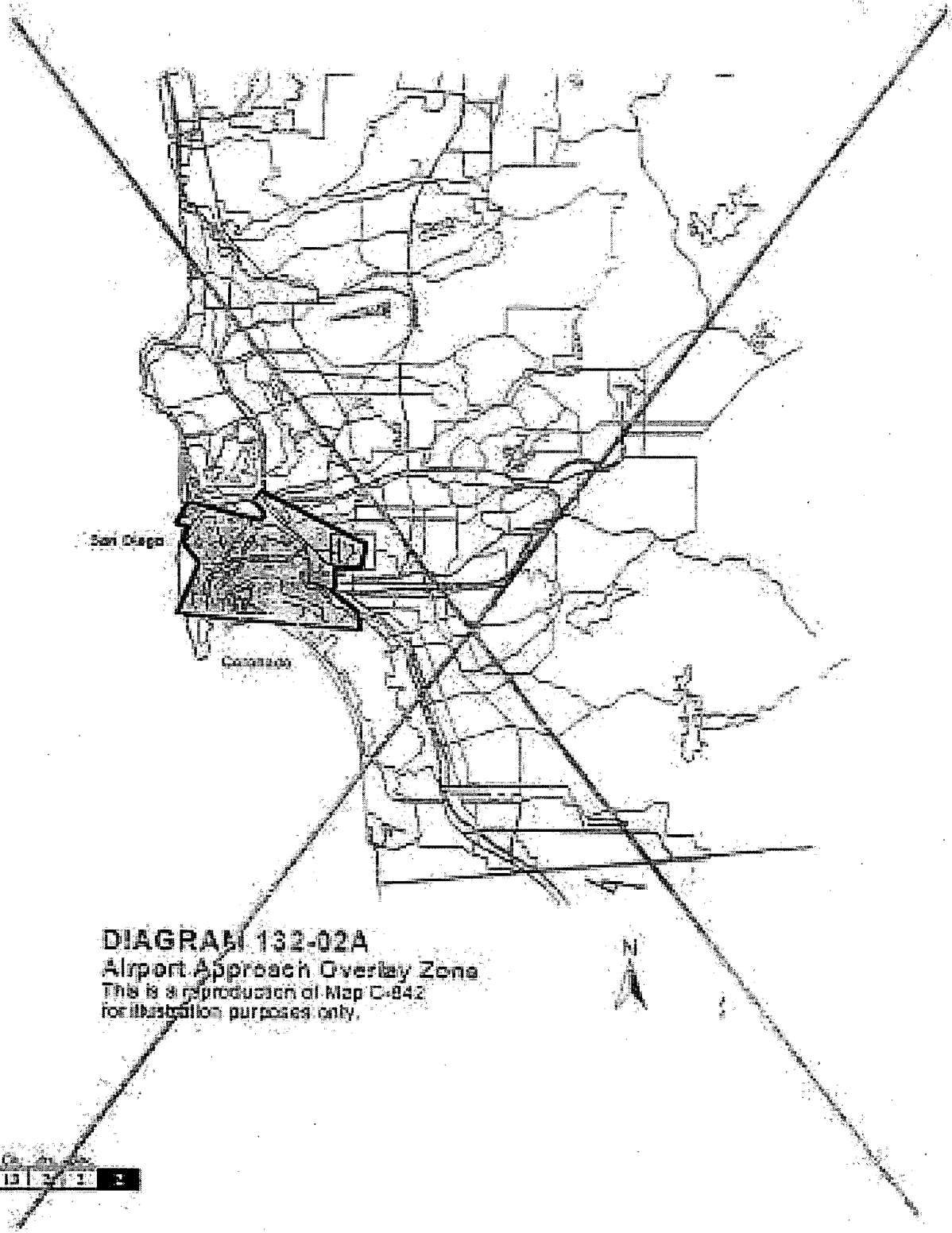


DIAGRAM 132-02A
Airport Approach Overlay Zone
This is a reproduction of Map C-842
for illustration purposes only.

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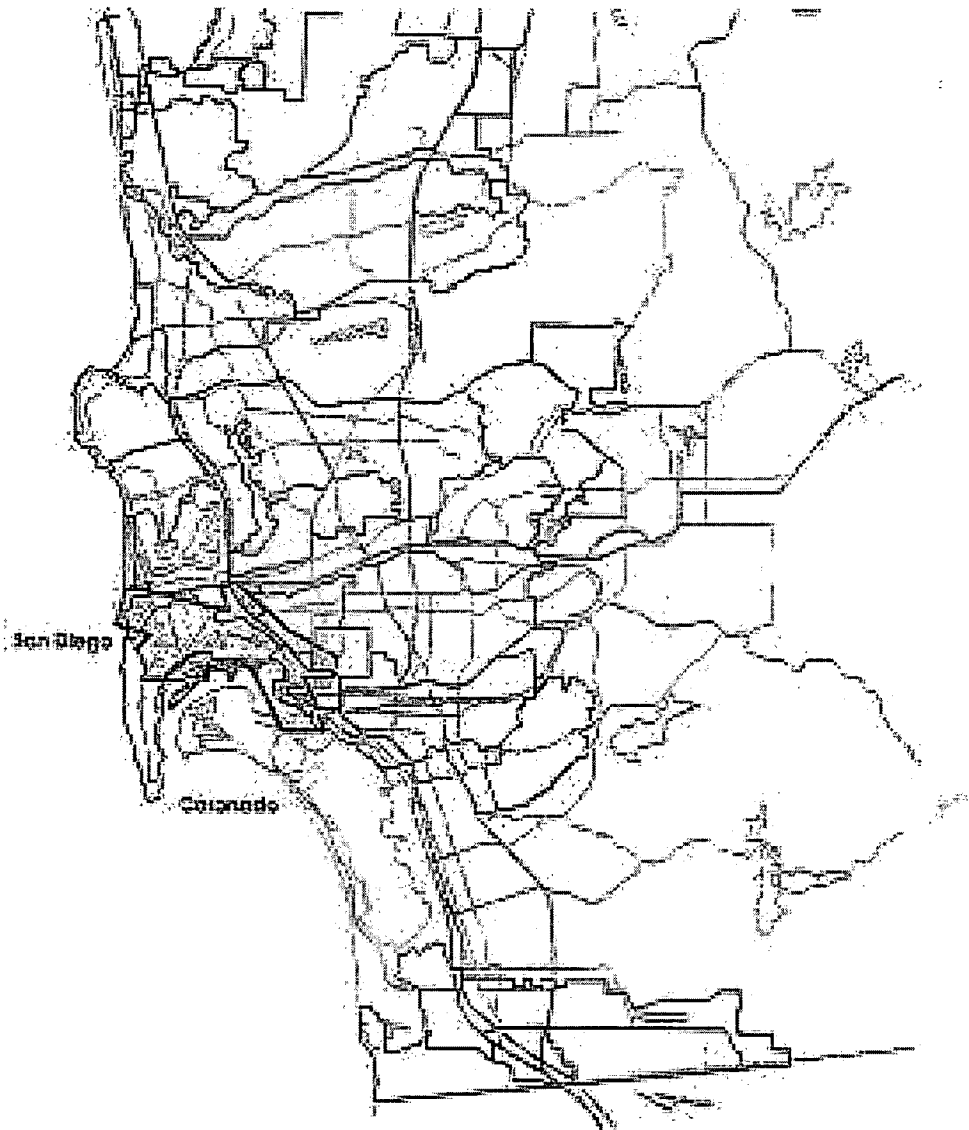


DIAGRAM 132-02A

Airport Approach Overlay Zone
This is a reproduction of Map No. C-926
for illustration purposes only.



City of San Diego
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Table 132-02A

Airport Approach Overlay Zone Applicability

Type of <i>Development</i> Proposal	Supplemental Development Regulations	Required Permit Type/ Decision Process
(1) Interior modifications of existing <i>structures</i> that do not increase the height of the <i>structure</i>	None--Exempt from this division	No permit required by this division
(2) <i>Development</i> of <i>structures</i> that will not exceed 30 feet in height, except if the proposed <i>development</i> is located between Interstate 5, Ivy Street, Nutmeg Street, and Lindbergh Field	None--Exempt from this division	No permit required by this division
(3) Construction or alteration of any <i>structure</i> , or establishment of a new use that is not exempt under (1) or (2) of this table, and for which the FAA has issued a Determination of No Hazard	See Sections 132.0205-132.0208	No permit required by this division
(4) Construction or alteration of any <i>structure</i> , or establishment of a new use that is not exempt under (1) or (2) of this table, and for which the FAA has issued a Determination of Hazard	See Sections 132.0205-132.0209	No permit required by this division

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§132.0205 Supplemental Development Regulations--Airport Approach Path Buffer

No *structure* shall be constructed or altered and no use shall be established that results in any permanent encroachment within 50 feet of the FAA-established approach paths as set forth in Drawing No. C-926. Proposed *structures* or uses that are 40 feet in height or less, measured from the grade of the property as established by Map No. C-926 or by the City Manager, shall not be limited by this section.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§132.0206 Notification Requirements

Upon receipt of an application for a Building Permit or *development permit* that is subject to this overlay zone, the City Manager will provide a notice of the proposed permit to the FAA and the Airport Authority.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§132.0207 Supplemental Regulations for an FAA Determination of No Hazard and Airport Authority Concurrence

The decision maker shall not issue a Building Permit or *development permit* within the Airport Approach Overlay Zone until the following have occurred:

- (a) The *applicant* has obtained and provided to the City Manager (1) a letter from the FAA stating that the proposed *development* does not require notice to the FAA or (2) a Determination of No Hazard from the Air Traffic Division of the Western Pacific Regional Office of the FAA, stating that the proposed *development* has been determined not to be a hazard to air navigation and this determination has become final; and
- (b) The Airport Authority has concurred with the FAA determination in one of the following ways:
 - (1) The City Manager has provided the Airport Authority with a copy of the FAA determination and has received a response stating that the Airport Authority is aware of the

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proposed *development* and that it concurs with the determination made by the Regional Office of the FAA; or

- (2) The Airport Authority has not responded within 40 calendar days from the date that the FAA determination was forwarded to the Airport Authority. In this case, the decision maker will assume concurrence and may approve the Building Permit or *development permit*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§132.0208 Supplemental Regulations for an FAA Determination of No Hazard and Airport Authority Appeal

If the Airport Authority does not concur with the FAA determination as described in Section 132.0207, and the Airport Authority has notified the City Manager that it does not concur with the FAA determination and has filed an appeal of the determination with the FAA, the decision maker shall not issue a Building Permit or *development permit* until the following have occurred:

- (a) The City Manager has received a letter of determination from the FAA, National Headquarters Air Traffic Administrator stating that the proposed *development* does not constitute a hazard to air navigation and this determination has become final;
- (b) At least 60 calendar days have elapsed from the date on which the Air Traffic Administrator's determination became final; and
- (c) The proposed *development* complies with Section 132.0205.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§132.0209 Supplemental Regulations for an FAA Determination of Hazard

- (a) If the FAA Regional Office or the National Headquarters issues a Determination of Hazard stating that the proposed construction will constitute a hazard to safe and efficient use of airspace, the *applicant* must obtain a permit from CALTRANS in accordance with California Public Utilities Code, Section 21659, before a Building Permit or a *development permit* can be issued. If CALTRANS issues the permit, the application for a Building Permit or *development permit* will be reviewed by the City Council. The City Manager shall provide the Airport Authority with a copy of the Determination of Hazard and shall notify the Airport Authority of the public hearing to review the permit application.
- (b) The City Council shall consider the following in its review of the permit application:
- (1) Aeronautical studies conducted by the FAA that determine the effect of the proposal upon the operation of air navigation facilities and the safe and efficient use of the navigable airspace;
 - (2) Quantified analyses conducted by the Airport Authority that provide technical and economic statistics of the effect the proposed construction will have on existing airport operations;
 - (3) Consistency with the purpose and intent of the Airport Approach Overlay Zone; and

- (4) The public health, safety, and welfare of the residents and property in the City.
- (c) At the conclusion of the public hearing, the Building Permit or *development permit* may be approved, denied, or delayed as follows:
- (1) *Development Permit Applications.* The City Council may approve or deny the permit or delay issuance of the permit until 120 calendar days following the conclusion of the hearing if the City Council finds that the delayed issuance is in the public interest, based on the information provided at the hearing. A Building Permit application for development that has been approved under a *development permit* issued in accordance with this division shall not be subject to an additional public hearing to determine compliance with this division.
- (2) *Building Permit Applications.* The Building Official may approve or deny the permit or delay issuance of the permit until 120 calendar days following the conclusion of the hearing if the City Council finds that the delayed issuance is in the public interest, based on the information provided at the hearing.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Bruce Bartram
Bruce Bartram
Deputy City Attorney

BB:mm
06/05/06
06/23/06 CORR.COPY
Dept: CCDC
O-2006-149
MMS#3348

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUL 25 2006

ELIZABETH S. MALAND
City Clerk

By Elizabeth S. Maland
Deputy City Clerk

Approved: 8-4-06
(date)

Jerry Sanders
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor