

#330
12/14/2021

(R-2022-186)

RESOLUTION NUMBER R- 313849

DATE OF FINAL PASSAGE DEC 17 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ADOPTING THE FINAL DECISION TO OVERRULE THE SAN DIEGO AIRPORT LAND USE COMMISSION'S DETERMINATION THAT THE PROPOSED AMENDMENT TO THE AIRPORT LAND USE COMPATIBILITY OVERLAY ZONE IS INCONSISTENT WITH THE AIRPORT LAND USE COMPATIBILITY PLAN FOR THE SAN DIEGO INTERNATIONAL AIRPORT AND MARINE CORPS AIR STATION MIRAMAR.

WHEREAS, the City of San Diego adopted an amendment to the Airport Land Use Compatibly Overlay Zone (Project); and

WHEREAS, the Airport Land Use Compatibility Overlay Zone (ALUCOZ) implements the Airport Land Use Compatibility Plans (ALUCPs) within the Brown Field, Gillespie Field, Gibbs-Montgomery Executive Airport, Marine Corps Air Station (MCAS) Miramar, Naval Outlying Field (NOLF) Imperial Beach, and Naval Air Station (NAS) North Island, and San Diego International Airport (SDIA); and

WHEREAS, the amendment was submitted to the San Diego County Regional Airport Authority (SDCRAA), serving as the Airport Land Use Commission (ALUC), for a consistency determination with the ALUCPs; and

WHEREAS, at its meeting on April 1, 2021, the SDCRAA, acting in its capacity as the ALUC, reviewed the amendment and determined it inconsistent with the ALUCP for the SDIA and the MCAS Miramar because it eliminates the limit of residential units within mixed-use developments to no more than 50 percent of the calculated total people per acre permissible for the project within certain safety zones of the SDIA ALUCP, increases the maximum number of residential units per acre within the Transition Zone of the MCAS Miramar ALUCP from 20 to

60 units per acre, and applies the entire structure to the standards of the noise contour range in which 50 percent or more of a structure's gross floor area lies instead of applying the highest noise contour standards to the entire building as specified in the MCAS Miramar ALUCP; and

WHEREAS, California Public Utilities Code (Public Utilities Code) section 21676.5(a) grants the City Council the authority to overrule a determination of inconsistency from the ALUC if the governing body undertakes a two-part process, with both parts requiring a two-thirds vote as follows: (1) makes proposed findings regarding purpose and intent of Public Utilities Code section 21670, and (2) approves the overrule at a noticed public hearing; and

WHEREAS, San Diego Municipal Code (Municipal Code) section 132.1555 requires that for the San Diego City Council (City Council) to overrule a determination of inconsistency it must adopt not only the proposed findings regarding purpose and intent set forth in Public Utilities Code section 21670, but also findings that the development is not detrimental to the public health, safety, and welfare, and that the development will minimize the public's exposure to excessive noise and safety hazards to the extent feasible; and

WHEREAS, on October 19, 2021, the City Council voted unanimously to proceed with a future hearing to decide on the overrule of the ALUC's determination of inconsistency related to amendments to the Airport Land Use Compatibility Overlay Zone supplemental development regulations; and

WHEREAS, on October 25, 2021, the City provided its proposed decision to overrule the determination of inconsistency and the findings to SDCRAA, California Department of Transportation, Division of Aeronautics, and the airport operators for the airport influence areas; and

WHEREAS, the matter on the final overrule decision was set for public hearing on December 14, 2021, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, pursuant to Public Utilities Code section 21676.5(a) and Municipal Code section 132.1555, a two-thirds vote of the City Council is required for passage of this resolution;

NOW, THEREFORE,

BE IT RESOLVED that the City Council overrules the ALUC, finding that the Project is consistent with the purposes of Public Utilities Code section 21670, and adopts these findings as set forth in Municipal Code section 132.1555:

- 1. The proposed development will not be detrimental to the public health, safety, and welfare.**

Mixed-Use Development Limitation (SDIA) – California Public Utilities Code (CPUC) section 21670 directs Caltrans to prepare an Airport Land Use Planning Handbook (Handbook) to provide guidance to local ALUCs when preparing an ALUCP. Within high-density areas, the Handbook allows for infill development at the average density and intensity of existing uses. The ALUCP for SDIA limits residential density and non-residential intensity for proposed uses by safety zone and neighborhood based on the average existing development intensity and density. Residential uses are measured by dwelling units per acre and commercial uses are measured by people per acre. For mixed-use development, the ALUCP allows for residential density to be converted to intensity measured by people per acre, based on a people per household factor in the ALUCP, which is then added to the commercial intensity for the total project intensity. A maximum of 50 percent of the maximum site intensity criteria (Policy S.8) may be applied for residential portion of a mixed-use development. The resulting density is typically less than the maximum allowed by the underlying community plan and base zone. The 50 percent limit also precludes the use of the state and City affordable housing density bonus program as well as the complete community's density bonus program. The proposed amendment would allow residential mixed-use development with affordable housing up to the maximum people per acre threshold allowed by the ALUCP. This encourages additional housing and affordable housing along transit corridors consistent with the General Plan and community plans, as well as implement the Climate Action Plan within the Uptown, Midway - Pacific Highway, and Peninsula communities. Future mixed-use development would still be limited to the maximum people per acre thresholds in the ALUCP for SDIA. The proposed amendment would continue to limit intensity to the existing average intensity consistent with the Handbook.

Transition Zone Residential Density (MCAS Miramar) – The ALUCP for MCAS Miramar limits residential density to 20 dwelling units per acre within the Transition Zone. The Air Installations Compatible Use Zones (AICUZ) Study for MCAS Miramar does not contain a transition zone, nor does the Handbook recommend the establishment of a transition zone. State law requires that the ALUCP be consistent with noise and safety recommendations in the AICUZ Study for military airports. The consultant preparing the ALUCP created the Transition Zone to apply a transition in residential density from areas without limitations to the Accident Potential Zones, which significantly limits future residential development. The Transition Zone primarily affects commercial and industrial land uses within the Kearny Mesa, University, and Mira Mesa communities. The proposed amendment would increase the allowed residential density to 60 dwelling units per acre. This would support the development of employment/residential mixed-use urban villages that are being considered as part of the University and Mira Mesa community plan updates. This would allow for the future development of residential with employment uses consistent with the General Plan. The proposed amendment limits future residential density compared to areas outside of the Transition Zone thereby consistent with the intent of the ALUCP.

Noise Contour Applicability (MCAS Miramar) – The ALUCP for MCAS Miramar applies the noise standards of the highest noise contour to a building when it is split by a noise contour. If any portion of a building is within a higher noise contour, then the restrictions of those noise contours are applied to the entire building. The intent is to site buildings in the lower noise contours on larger sites. While this may be feasible when the sites are vacant, most new scientific research and office development are infill development on existing sites and have less of ability to site new buildings fully outside of a higher noise contour on a site. The proposed amendment would apply the higher noise limitations if 50 percent or more of a building is within the higher noise contour. This would still encourage siting buildings within the lower noise contour while acknowledging that it may not be feasible to locate 100 percent of the building in the lower noise contour due to site constraints and feasible building design. The proposed amendment is also consistent with ALUCP for SDIA, which also uses the proposed 50 percent criteria. State law requires that the ALUCP be consistent with noise and safety recommendations in the Air Installation Compatible Use Zone (AICUZ) Study for military airports. The AICUZ for MCAS Miramar prepared by the US Marine Corps does not contain a recommendation to apply the high noise contour limitations when a building is split between by noise contour. The proposed amendment would apply the regulation to properties within the ALUCP noise contour for MCAS Miramar consistent within the ALUCP for SDIA.

The amendments to the Airport Land Use Compatibly Overlay Zone are consistent with the intent of ALUCP for SDIA and MCAS Miramar and will not be detrimental to the public health, safety, and welfare.

2. The proposed development will minimize the public's exposure to excessive noise and safety hazards to the extent feasible.

The amendments to the Airport Land Use Compatibility Overlay Zone will continue to minimize the public's exposure to excessive noise and safety hazards to the extent feasible.

Mixed-Use Development Limitation (SDIA) – Future residential mixed-used development would still be limited to the maximum people per acre thresholds in the ALUCP for SDIA. The proposed amendment continues to limit intensity to the existing average intensity consistent with the Handbook.

Transition Zone Residential Density (MCAS Miramar) – The AICUZ Study for MCAS Miramar does not contain a transition zone, nor does the Handbook recommend the establishment of a transition zone. The proposed amendment limits future residential density compared to areas outside of the Transition Zone and is thereby consistent with the intent of the ALUCP.

Noise Contour Applicability (MCAS Miramar) – The proposed amendment is consistent with ALUCP for SDIA, which also uses the proposed 50 percent criteria. The AICUZ for MCAS Miramar does not contain a recommendation to apply the high noise contour limitations when a building is split by noise contour. The proposed amendment would apply the regulation to properties within the ALUCP noise contour for MCAS Miramar consistent within the ALUCP for SDIA.

3. The proposed development will meet the purpose and intent of the California Public Utilities Code section 21670.

The purpose and intent of the California Public Utilities Code section 21670 is to “provide for the orderly development of each public use airport in the state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.” In addition, the purpose and intent of the section is also “to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas located around public airports to the extent that these areas are not already devoted to incompatible uses.”

Mixed-Use Development Limitation (SDIA) – California Public Utilities Code (CPUC) section 21670 directs Caltrans to prepare an Airport Land Use Planning Handbook (Handbook) to provide guidance to local ALUCs when preparing an ALUCP. Within high-density areas, the Handbook allows for infill development at the average density and intensity of existing uses. The ALUCP for SDIA limits residential density and non-residential intensity for proposed uses by safety zone and neighborhood based on the average existing development intensity and density. Residential uses are measured by dwelling units per acre and commercial uses are measured by people per acre. For mixed-use development, the ALUCP allows for residential density to be converted to intensity measured by people per acre, based on a people per household factor in the ALUCP, which is then added to the commercial intensity for the total project intensity. A maximum of 50 percent of the maximum site intensity criteria (Policy S.8) may be applied for

residential portion of a mixed-use development. The resulting density is typically less than the maximum allowed by the underlying community plan and base zone. The 50 percent limit also precludes the use of the state and City affordable housing density bonus program as well as the complete community's density bonus program. The proposed amendment would allow residential mixed-use development with affordable housing up to the maximum people per acre threshold allowed by the ALUCP. This encourages additional housing and affordable housing along transit corridors consistent with the General Plan and community plans, as well as implement the Climate Action Plan within the Uptown, Midway - Pacific Highway and Peninsula communities. Future mixed-used development would still be limited to the maximum people per acre thresholds in the ALUCP for SDIA. The proposed amendment continues to limit intensity to the existing average intensity consistent with the Handbook; and thereby, minimize the public's exposure to safety hazards, which is consistent with CPUC section 21670.

Transition Zone Residential Density (MCAS Miramar) – The ALUCP for MCAS Miramar limits residential density to 20 dwelling units per acre within the Transition Zone. State law requires that the ALUCP be consistent with noise and safety recommendations in the AICUZ Study for military airports. The AICUZ Study for MCAS Miramar does not contain a transition zone, nor does the Handbook recommend the establishment of a transition zone. State law requires that the ALUCP be consistent with noise and safety recommendations in the Air Installation Compatible Use Zone (AICUZ) Study for military airports. The proposed amendment still limits future residential density compared to areas outside of the Transition Zone thereby consistent with the intent of the ALUCP; and therefore, the amendment is consistent with CPUC section 21670.

Noise Contour Applicability (MCAS Miramar) – The ALUCP for MCAS Miramar applies the noise standards of the highest noise contour to a building when it is split by a noise contour. If any portion of a building is within a higher noise contour, then the restrictions of that noise contours are applied to the entire building. The intent is to site buildings in the lower noise contour on larger sites. While this may be feasible when the sites are vacant, most new scientific research and office development are infill development on existing sites and have less ability to site new buildings fully outside of a higher noise contour on a site. The proposed amendment would apply the higher noise limitations if 50 percent or more of a building is within the higher noise contour. This encourages siting buildings within lower noise contours while acknowledging that it may not be feasible to locate 100 percent of the building in the lower noise contour due to site constraints and feasible building design. The proposed amendment is also consistent with ALUCP for SDIA, which also uses the proposed 50 percent criteria. State law requires that the ALUCP be consistent with noise and safety recommendations in the Air Installation Compatible Use Zone (AICUZ) Study for military airports. The AICUZ for MCAS Miramar prepared by the US Marine Corps does not contain a recommendation to apply the high noise contour limitations when a building is split between by noise contour. The Handbook does not contain any criteria for address when a building is split by a noise contour. The proposed amendment would apply the regulation to properties within the ALUCP noise contour for MCAS Miramar consistent within the ALUCP for SDIA; and therefore, the amendment would still minimize the public's exposure to excessive noise, which is consistent with CPUC section 21670.

BE IT FURTHER RESOLVED, that based on the findings hereinbefore adopted by the City Council, the City Council overrules the determination of inconsistency by San Diego County Regional Airport Authority, acting as the Airport Land Use Commission for the San Diego County.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Corrine L. Neuffer
Corrine L. Neuffer
Chief Deputy City Attorney

CLN:cm
November 22, 2021
Or.Dept: Planning
Doc. No.: 2821611

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of DEC 14 2021.

ELIZABETH S. MALAND
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 12/17/21
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on DEC 14 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 17 2021.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 313849