

California Department of Transportation

AERONAUTICS PROGRAM
DIVISION OF TRANSPORTATION PLANNING
P.O. BOX 942873, MS-40 | SACRAMENTO, CA 94273-0001
(916) 654-4959
www.dot.ca.gov



March 19, 2024

Mr. Brain Norton

Electronically Sent bnorton@riversideca.gov

Senior Planner
City of Riverside
3900 Main Street 3rd Floor
Riverside, CA 92522

Re: SCH # 2023060428- Arlington Mixed Use Development Project



Dear Mr. Norton

The California Department of Transportation, Caltrans Aeronautics Program has reviewed the Draft Environmental Impact Report (EIR) for the Arlington Mixed Use Development Project. One of the goals of the California Department of Transportation, Aeronautics Program, is to assist cities, counties, and Airport Land Use Commissions (ALUC) or their equivalent, to understand and comply with the State Aeronautics Act pursuant to the California Public Utilities Code (PUC), Section 21001 et seq. Caltrans encourages collaboration with our partners in the planning process and thanks you for including the Aeronautics Program in the review of the Draft EIR.

On January 12, 2023, the Riverside County ALUC determined the Arlington Mixed Use Development Project (Project) to be inconsistent with the Riverside County Airport Land Use Compatibility Plan (RCALUCP). The project site is located approximately one mile of the Airport at the Project's closest point and the majority of the Project site is located within the Compatibility Zone B1 with smaller portions located with Zones C and D.

In accordance with CEQA, Public Resources Code Section 21096, the California Airport Land Use Planning Handbook (Handbook) must be utilized as a resource in the preparation of environmental documents for projects within airport land use compatibility plan boundaries, or if such a plan has not been adopted, within two miles of an airport. The Handbook is a resource for all public use airports and is available online at: <https://dot.ca.gov/-/media/dot-media/programs/aeronautics/documents/californiaairportlanduseplanninghandbook-ally.pdf>

Safety Compatibility Policies

The proposed Project site is in Safety Zone B1 of the Riverside Municipal Airport and therefore must adhere to the safety criteria and restrictions defined in the Airport Land Use Compatibility Plan (ALUCP) adopted by the ALUC pursuant to the PUC, Section 21674. The City of Riverside should consider Safety Zone B1. Compatibility policies stipulated in the ALUCP or Handbook.

Noise Compatibility Policies

The project site is located within the 65 decibel (dB) Community Noise Equivalent Level (CNEL) contour for the Airport as shown in the Riverside County Airport Land Use Compatibility Plan (ALUCP). The proposal appears to be inconsistent with compatibility criteria in the ALUCP.

Due to its proximity to the airport, the project site may be subject to aircraft overflights and subsequent aircraft-related noise impacts. Since communities vary greatly in size and character from urban to rural, the level of noise deemed acceptable in one community is not necessarily the same for another community.

Federal and State regulations regarding aircraft noise do not establish mandatory criteria for evaluating the compatibility of proposed land use development around airports (with the exception of the 65 dB CNEL "worst case" threshold established in the California Code of Regulations (CCR: Title 21 CCR, §5006, §5012) for the designated "noise problem" airports). For most airports in California, 65 dB CNEL is considered too high a noise level to be appropriate as a standard for land use compatibility planning. This is particularly the case for evaluating new development in the vicinity of the airport. The 60 dB CNEL, or even 55 dB CNEL, may be more suitable for new development around most airports.

While airports do not have mitigation requirements for single event noise occurrences under FAA regulations, aircraft operations may cause noticeable noise annoyance from single events that result in impacts such as sleep disturbance. Consideration should also be given to cumulative noise impacts associated with the project site's proximity to roadways and railway lines.

Sound insulation, buyer notification and aviation easements are typical noise mitigation measures. These measures, however, do not change exterior aircraft noise levels. It is likely that some future homeowners and tenants will be annoyed by aircraft noise in this area. Noise mitigation measures are not a substitute for land use compatibility planning for new development.

Noise Sensitive Land uses

The proposed Project is a noise-sensitive land use and project, per the Public Utilities Code 21669.5(3) "Noise-sensitive land use" means residential uses, including detached single-family dwellings, multifamily dwellings, highrise apartments or condominiums, mobilehomes, public and private educational facilities, hospitals, convalescent homes, churches, synagogues, temples, and other places of worship" and (4) "Noise-sensitive project" means a project involving new construction or reconstruction for a planned noise-sensitive land use within an airport's 65 decibels CNEL or higher noise contour."

New Residential Development in 65 CNEL

Pursuant to the California Code of Regulations (CCR: Title 21 CCR, §5006), 65 CNEL is "the level of noise acceptable to a reasonable person residing in the vicinity of an airport" and is the standard basis for an acceptable level of aircraft noise per the Airport Noise Standard, CCR: Title 21 CCR, §5012.

While construction practices can reduce interior noise levels to 45 dB, residents would not be expected to remain indoors continuously. When outside or when opening windows or doors, they would remain subjected to 65 dB from regular aircraft overflights. These considerations are consistent with Caltrans Aeronautics California Land Use Planning Handbook (Handbook). The Handbook's guidance with the California Building Code (Title 24 CCR, Handbook PG 3-4) seeks to minimize the number of people exposed to frequent and/or high levels of aircraft noise capable of disrupting noise sensitive activities. Title 24 CCR discusses interior noise levels further for "dwellings other than detached single-family residences." For purposes of airport land use compatibility planning, Caltrans advises that 65 dB CNEL is not an appropriate criterion for new noise-sensitive development around most airports. At a minimum, communities should assess the suitability and feasibility of setting a lower standard for new residential and other noise-sensitive development. (Handbook, PG 4-7).

If new residential development is allowed within the airport's 65dB CNEL contour, all residential units should be constructed to ensure an interior CNEL due to aircraft noise of 45 dB or less in all habitable rooms. Additionally, to prevent this project from increasing the airport's noise impact area (NIA), each residential unit should grant to the airport proprietor an avigation easement for aircraft noise. The construction methods and the easement, however, will not change exterior aircraft noise levels. It is likely that future residents will be annoyed by the aircraft noise in this area. The Federal Aviation Administration (FAA), Neighborhood Environmental Survey (2021) may also be reviewed as supplementary research material to understand the impacts of aircraft noise exposure on communities around commercial service airports in the United States. The percentage of those surveyed who were highly annoyed by aircraft noise increased monotonically with increasing noise exposure. Moreover, the Lead Agency

should consider the negative health affects attributed to increased exposure to aircraft noise.

Airspace Protection Policies

The proposed Project must also address requirements from the Federal Aviation Administration (FAA), specified in Title 14 of the Code of Federal Regulations, Part 77. (14 CFR Part 77). Title 14 CFR Part 77.9 provides vertical and horizontal criteria for construction near an airport. The California Public Utilities Code Section 21659 prohibits structural hazards near airports. Should any of the proposed structures exceed 200 feet AGL (above ground level) in height, a Notice of Proposed Construction or Alteration (Form 7460-1) will be required by the Federal Aviation Administration (FAA) in accordance with Federal Aviation Regulation, Part 77 "Objects Affecting Navigable Airspace." To ensure compliance notices should be submitted to the FAA's Obstacle Evaluation Group (OEG) online at the following site: <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>. OEG Determinations are not building permits, but the Determinations may specify obstruction mitigation.

Wildlife Attractants & Hazards

Land use practices that attract or sustain hazardous wildlife populations on or near airports can significantly increase the potential for wildlife-aircraft collisions. The Federal Aviation Administration (FAA) recommends that landfills, wastewater treatment facilities, surface mining, wetlands and other uses that have the potential to attract wildlife, be restricted in the vicinity of an airport. FAA Advisory Circular (AC) 150/5200-33B entitled "Hazardous Wildlife Attractants on or Near Airports" and AC 150/5200-34 entitled "Construction or Establishment of Landfills Near Public Airports" address these issues. For further information, please refer to the FAA website [Wildlife Hazard Mitigation | Federal Aviation Administration \(faa.gov\)](#). For additional information concerning wildlife damage management, you may wish to contact the United States Department of Agriculture, Wildlife Services, at (916) 979-2675.

Hazardous Materials

The project site is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5, compatibility restrictions should be reviewed per the ALUCPs Table 3-2 and Section 3.3.2.8(e).

Basic Statement of Compatibility Concerns (Hazards to Flight)

Compatibility concerns regarding airport obstructions and hazards to flight (such as wildlife attractants, lighting, or glare i.e., solar, etc.) should also be considered for further review upon site specific updates or projects. Proposed structures that exceed

FAA Regulations Part 77 height criteria are subject to an Obstruction Evaluation/Airspace Analysis for determination.

Amending a General Plan / General Plans

Per the California Public Utilities Code Section 21001 et seq. relating to the State Aeronautics Act, Section 21676(b) prior to the amendment of a general plan...within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. Any proposed development in the defined safety zones, therefore, must adhere to the safety criteria and restrictions defined in the Airport Land Use Compatibility Plan(s) adopted by the ALUC pursuant to the PUC, Section 21674.

Housing

Caltrans Aeronautics stresses the importance of considering the compatibility policies in the ALUCP, with references in the Caltrans Aeronautics Handbook for supplemental guidance. Additionally, as an unfortunate commonality in California, Caltrans Aeronautics understands that the City/County is facing affordable housing supply shortages and is looking for new areas to accommodate residential developments. Consequently, environmental justice and equity concerns should also be reviewed for consistency with goals identified in the California Transportation Plan 2050 (CTP 2050) and the California Aviation System Plan 2020 (CASP 2020). Caltrans Aeronautics notes that new laws regarding the provision of housing do not supersede existing laws, including Section 21670 of the California Public Utilities Code, which require counties to establish ALUCs and compatibility plans to protect public health, safety, and welfare.

Intent to Overrule

If the ALUC determines that the proposed action is inconsistent with the airport land use compatibility plan, the referring agency shall be notified. The local agency may, after a public hearing, propose to overrule the ALUC by a two-thirds vote of its governing body after it makes specific findings. At least 45 days prior to the decision to overrule the ALUC, the local agency's governing body shall provide to the ALUC and Caltrans a copy of the proposed decision and findings. Caltrans reviews and comments on the specific findings a local government intends to use when proposing to overrule an ALUC. Also, pursuant to the PUC 21670 et seq., findings should show evidence that the local agency is minimizing "...the public's exposure to excessive

noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.”

The intent to override an ALUCP should not be taken lightly. PUC Section 21675.1 (f) provides: “If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the City/County decision to proceed with the action, regulation, or permit.”

Regional Transportation Plans

Portions identified in the RTP, and project sites may be located within an Airport Influence Area (AIA), or safety zone of an Airport Land Use Compatibility Plan (ALUCP) formed by the ALUC pursuant to the PUC, Section 21674. Density and Intensity compatibility around airports should also be considered as a potential impact given the long-range nature of the plan. Sensitive land uses such as residential areas, schools, hospitals, senior homes, etc. should also be reviewed for airport land use compatibility. Proposed projects may also be subject to 14 CFR Part 77 Conical Surface standards and CNEL contours noise compatibility of an airport, which may require noise reduction measures. Please be aware, Public Utilities Code, Section 21659, “Hazards Near Airports Prohibited” prohibits structural hazards near airports. To ensure compliance with Federal Aviation Regulation, Part 77, “Objects Affecting Navigable Airspace,” submission of a Notice of Proposed Construction or Alteration (Form 7460-1) to the Federal Aviation Administration (FAA) may be required. In addition, any proposed projects identified as hazardous material sites compiled pursuant to Government Code Section 65962.5, compatibility restrictions should be reviewed per the ALUCP of an airport.

While given the regional scale of the environmental impact analysis it may be difficult to ensure impacts to airport-related noise and safety hazards to be fully mitigated, therefore project-level agencies should consider project-level mitigation measures and adherence to the local ALUCP of an airport for compatibility guidelines and restrictions.

Closing Statements

An ALUCP is crucial in minimizing noise nuisance and safety hazards around airports while promoting the orderly development in the vicinity of airports, as declared by the California Legislature. A responsibility of the ALUC is to assess potential risk to aircraft and persons in airspace and people occupying areas within the vicinity of the airport.

These comments reflect the areas of review by Caltrans Aeronautics with respect to airport-related noise, safety, and land use planning issues. Thank you for the

Mr. Norton, Senior Planner
March 19, 2024
Page 7

opportunity to review and comment on this proposal. If you have any questions, please contact me at (916) 907-2219, or by email at vincent.ray@dot.ca.gov.

Sincerely,

Vincent Ray
Aviation Planner

c: Matthew.friedman@dot.ca.gov , Senior Planner, Caltrans Aeronautics