



July 17, 2024

City of Riverside
Community & Economic Development Department, Planning Division
3900 Main Street, 3rd Floor
Riverside, California 92522
Attn: Brian Norton, Principal Planner

RE: Arlington Mixed-Use Project – Response to ALUC Comment on City’s Intent to Override

As you know, Riverside Property Owner, LLC (“Applicant”) appealed the decision of the Riverside County Airport Land Use Commission (“ALUC”) on January 12, 2023, finding the Arlington Mixed Use Development Project (Planning Case PR-2022-001252 – General Plan Amendment, Rezone, Site Plan Review, Tentative Parcel Map, and Certificate of Appropriateness) (the “Project”) inconsistent with the 2005 Riverside Municipal Airport Land Use Compatibility Plan (ALUC File No. ZAP1107RI22). ALUC’s finding of inconsistency was transmitted to the City of Riverside (“City”) and the Applicant following ALUC’s hearing on January 12, 2023. The Applicant appealed ALUC’s finding and requested the City Council to override ALUC’s decision. On June 25, 2024, the City Council confirmed its intent to override ALUC’s determination. The following week, ALUC responded to the City’s intent to override its determination. Accordingly, we respectfully submit the attached Technical Memorandum (“Memo”) to rebut the comments set forth by ALUC in its response to the City’s intent to override.

The Memo further demonstrates that the Project does not present any risk based on the proposed residential density, non-residential intensity, prohibited use, and open area criteria beyond that which already exists. This is supported by the fact that ALUC’s criteria used to determine Project inconsistency is based on conservative, outdated projections that are not applicable to current trends or operations. Under these circumstances, the Project as proposed does not run afoul of ALUC’s sole purpose of protecting the public’s health, safety, and welfare.

Additionally, this Memo recognizes the competing State law requirements for the City to make its Regional Housing Needs Allocation (“RHNA”). In recent years, the City of Riverside, along with the State in general, has been plagued with a growing, critical housing emergency. Based on this urgency, the State has issued an exceptionally high RHNA number to the City due to the chronic under-production of housing. However, the City contains limited land to develop and lacks housing in general to meet this State’s housing requirements. The Project’s residential portion presents a perfect opportunity to provide housing that will greatly assist the City in reaching its RHNA. The City’s increasing need for housing greatly outweighs ALUC’s finding of inconsistency based on outdated trends and operations.



Additionally, ALUC recommends the City apply the conditions included in ALUC's staff report on the project. We have reviewed ALUC's proposed conditions in the event of an override and are in concurrence with the conditions as written with the exception of conditions 2(e) and 10, for the reasons stated in our Appeal of ALUC's inconsistency determination.

We appreciate the City's consideration of the project, as well as its careful exercise of its land use authority in balancing the urgent need for housing and redevelopment of a blighted site, with airport compatibility concerns. We are happy to provide any additional information or answer any questions the Council may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jamie Chapman', written over a light blue horizontal line.

Jamie Chapman
Riverside Property Owner, LLC
12435 Park Potomac Avenue, Suite 200
Potomac, MD 20854

Enclosures: (1) Technical Memorandum

Technical Memorandum



To: Jim Ivory, Foulger Pratt
From: Nick Johnson, Johnson Aviation, Inc.
Date: July 10, 2024

Subject: Arlington Mixed-Use Project –Response to ALUC Comment on City’s Intent to Overrule

Purpose

This technical memorandum addresses the Arlington Mixed Use Development Project (“Project”) within the City of Riverside, California (“City”) that is subject to discretionary review and approval by the City Council. The Project site is located within the Airport Influence Area (AIA) of the Riverside Municipal Airport (“Airport,” “RMA,” or RAL) as established by the Riverside County Airport Land Use Commission (ALUC) and subject to the 2005 Riverside County Airport Land Use Compatibility Plan (ALUCP) for the Airport, pursuant to the California State Aeronautics Act¹. The Project was submitted to the ALUC for a consistency determination and, after a hearing on the Project on January 12, 2023, found the Project inconsistent with the ALUCP. The Airport is also owned and operated by the City.

The City’s Planning Commission approved the Project after a hearing on April 25, 2024. On June 25, 2024 the City Council held a hearing and adopted preliminary findings and a resolution of their intent to overrule the ALUC inconsistency determination on the Project. Notice of the City’s intent to overrule the ALUC’s inconsistency determination was sent to the ALUC and to California Department of Transportation (Caltrans), Division of Aeronautics for review and comment. The ALUC comments and any comments received from the Division of Aeronautics will be included in the final record of any final decision by the City Council to overrule the ALUC determination, consistent with State Law².

The purpose of this memo is to directly rebut the comments provided by the ALUC in their July 2, 2024 letter to Mr. Brian Norton, the City’s Principal Planner for the Project (“Letter”), regarding the City’s potential actions on the Project and the City’s resolution of the intent to overrule the ALUC’s inconsistency determination.

Project Description

The Arlington Mixed Use Development Project (Planning Case PR-2022-001252 – General Plan Amendment, Rezone, Site Plan Review, Tentative Parcel Map, and Certificate of Appropriateness) (“Project”) proposes to redevelop a 17.37 net acre parcel currently developed with 192,139 square feet (“sf”) of vacant retail buildings (former Sears) and all appurtenances. The Project site consists of Assessor Parcel Number (APN) 226-180-015-1, located at 5261 Arlington Avenue, Riverside CA 92506. Specifically, the Project proposes 576,203 sf of residential and commercial-retail uses within an existing established urbanized residential and commercial area in the City. The residential buildings would allow for a total of 388 dwelling units and be divided between 13, three-story garden style buildings providing for 318 dwelling units and 14, two-story townhome buildings providing for 70 dwelling units. The residential portion would also include indoor and outdoor amenities, including a leasing office, club room, and fitness center, and outdoor amenities including a dog park, pedestrian promenade, picnic, pool and spa, shade structures, and outdoor seating and dining area. The commercial-retail portion would include one 5,000 square foot multi-tenant retail speculative pad and a 20,320 square foot grocery store pad. The Project

¹ 2022 California Code, Public Utilities Code Section 21001, et seq., (CA Pub Util Code § 21001 (2022)).

² PUC § 21676(b).

site is located approximately one mile east of the Airport’s east end of Runway 9/27 (east/west oriented primary runway).

Planning Process Background

The Project is proceeding through a detailed planning process to meet the State and local laws and requirements for the City to render a discretionary land use decision to allow the Project to be entitled and built. The City is preparing an Environmental Impact Report (EIR) for the Project pursuant to the California Environmental Quality Act (CEQA) to fully study and disclose the impacts of the project to other agencies and the public. Because the Project is located within the AIA and includes a rezone and General Plan Amendment, the City referred it to the ALUC for review and hearing.

The ALUC staff reviewed the Project in relation to the 2005 ALUCP and recommended to the ALUC that the Project be found inconsistent with that plan. On January 12, 2023 the ALUC held a public hearing on the Project and voted to affirm the staff recommendation and find the Project inconsistent with the ALUCP. The City, acting under State law³, may propose to overrule the ALUC finding of inconsistency by a two-thirds vote if it makes specific findings that the proposed Project is consistent with the purposes of the law to “minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these area are not already devoted to incompatible uses⁴.”

On March 13, 2024, a detailed Foulger Pratt report and associated detailed findings (“Findings”) were prepared for the City’s consideration in countering the ALUC findings of inconsistency with the ALUCP. The purpose of this report and Findings is to meet the requirements of State law to support an ALUC overrule and to also raise the competing State law requirements for the City to meet its Regional Housing Needs Allocation (RHNA). The Planning Commission and City Council are charged with balancing these competing interests when evaluating and deciding the potential impacts of the Project.

ALUC Comment Letter Review

The ALUC Letter cites three main comments in response to the City’s Findings in the intent to overrule resolution. The Letter concludes with a recommendation that the City apply the conditions included in the ALUC’s staff report on the Project to minimize impacts on the continued use of the Airport and to notify the public of their proximity to the Airport. The following is a review and rebuttal, were necessary, of the comments included in the ALUC Letter.

1. **ALUC Comment:** Finding #1 argues that the Project will not affect the orderly expansion of the Airport as it is consistent with surrounding existing development such as existing commercial, single-family, and multi-family residential uses located in Zones B1 and C. Existing uses are exempt from review by the Riverside Municipal Airport Land Use Compatibility Plan (ALUCP) and some may have been built before the ALUCP was adopted in 2005 by ALUC. However, new land uses, like the Project, are subject to the provisions and criteria of the ALUCP. ALUC believes it is misleading to say that the Project is consistent with surrounding existing multi-family residential uses when the density of both of those projects are 22 dwelling units per acre and are less than the proposed Project density of 28 dwelling units per acre, but in both cases exceeds the Zone B1 maximum residential criteria of 0.05 dwelling units per acre. Ignoring the ALUCP criteria in the case of the Project sets a dangerous [precedent] for the City to willfully bypass the safety protocol

³ California Code, Public Utilities Code – PUC § 21676.5

⁴ California Code, Public Utilities Code – PUC § 21670

established by the ALUCP for future development around the Airport, which could lead to encroachment of incompatible uses on the Airport and possibly jeopardizing its long-term operations viability. Lastly, finding #1c states that the total number of people on the site does not increase with the proposed Project, and infers that the proposed residential living is a safer option than the current existing commercial use. It is the historical opinion of the ALUC that residences are more of a riskier proposition than commercial as residential uses are usually occupied 24 hours, whereas commercial uses are usually limited to business hours. More importantly, the proposed project results in a density of 28 dwelling units per acre in Zone B1 that is 560 times more than the ALUCP’s required maximum density of 0.05 dwelling units per acre, which is very significant when considering that the intent and purpose of Zone B1 is to restrict residential density in order to limit the potential risk of off-field aircraft landing. It is noted that Zone B1 is identified as the inner approach/departure zone where risk level and noise impacts are considered “high” in the ALUC Countywide policies Table 3A Compatibility Zone Factors. Zone B1 has a high-risk level due to encompassing areas overflowed by aircraft at low altitude and approximately 10% to 20% of off-runway general aviation accidents near airports take place here. Since the City of Riverside identifies Riverside Municipal Airport as the 2nd busiest airport in California with a FAA contract tower and 22nd busiest airport out of 54 airports in California, there is a greater potential for a significant catastrophe based on the proposed parameters of the project thereby unnecessarily increasing the harm potential to the general public and those who will occupy the residences.

Rebuttal to ALUC Comment 1: The Project will not affect the orderly expansion of the Airport. The Project is located in a dense, urban neighborhood that has coexisted with the Airport for decades. The following are specific points of rebuttal to the ALUC comment.

- The ALUCP was adopted in 2005 by the ALUC and has not been updated since the 2011 Update to the Caltrans Airport Land Use Planning Handbook and other ALUCP documents for other airports in the County.
- The ALUC draws a distinction between 22 and 28 dwelling units per acre instead of acknowledging that high density land uses are preferred to low density developments in urban environments given the higher ambient noise levels in urban areas and dense residential developments such that residents are likely less sensitive to higher noise levels.
- The compatibility Zone B1 is associated with an outdated Airport Master Plan and operations forecast. The original plan to extend Runway 27 end to the east has been found infeasible on multiple occasions due to construction costs, land acquisitions, resident relocations.
- The FAA-reported RAL total aircraft operations in 2023 was 126,719, according to the FAA’s Air Traffic Activity System (ATADS)⁵. The noise contours for the ALUCP are based on an unrealistic and outdated forecast of 220,000 annual aircraft operations and a fundamental shift to jet aircraft⁶ (one percent of operations growing to 20 percent of

⁵ Federal Aviation Administration, Air Traffic Activity System (ATADS), Airport Operations, Query for Riverside Municipal Airport (RAL), Calendar Year 2023, <https://aspm.faa.gov/opsnet/sys/airport.asp>.

⁶ Operations data used by ALUC to establish RAL noise contours assumes business jets grow from one percent of total operations to 20 percent and twin-engine turboprops grow from two percent to 23 percent. This operational change has not happened and is not forecasted by the FAA to take place through 2050.

operations) from the actual training fleet of small, single-engine aircraft⁷. The FAA’s Terminal Area Forecast for RAL tops out in 2050 with 134,124 annual operations⁸ and negligible changes in the existing fleet mix. The Foulger Pratt Report and Findings fully detail the actual basis of the noise contour and the actual flight paths of aircraft in the Runway 27 traffic pattern (See Figure 1). In particular, Foulger Pratt provides additional findings on the City’s own infeasibility analysis for extending Runway 27 to the east⁹. Without this previously assumed runway extension, the Airport’s associated noise contours shift approximately 1,000 feet west and the 65 decibel (dB) Community Noise Equivalent Level (CNEL) contour is contained on existing Airport property. Even without this shift, the Project is still outside of the Airport’s 65 dB CNEL noise contour.

- The City is not “bypassing the ALUCP.” The City is carefully weighing the entire record including the ALUCP in coming to a reasoned and factually supported judgment about the project. ALUCP is one of but many factors for the City to consider. That is why the City is the final arbiter of all land use decisions in their jurisdiction.
- The ALUC’s “historical opinion” that residential uses are “riskier” than commercial uses is not supported by fact. The vast majority of airport operations take place during daylight hours when commercial land uses are open and occupied. General aviation accident rates have continued to decline over the last 20 years even as the number of hours flown have increased¹⁰.
- Zone B1 and the accident and incident information upon which it was developed for the 2002 and 2011 Caltrans Handbook is outdated and not consistent with improving general aviation accident data. Further, the Zone B1 is based on the incorrect assumption that Runway 27 will be extended 1,000 feet to the east. The more appropriate outer approach/departure zone from the Handbook shows a “moderate risk” with two to six percent of the “near-runway” accidents.
- National Transportation Safety Board (NTSB) accident and incident statistics have been reviewed and provided for the last 20 years. No aircraft accidents or incidents have taken place on the Project site.

2. **ALUC Comment:** Finding #7 states that the Project cannot comply with the ALUC open area requirement citing that it is not conducive to multi-family development. The provision of the ALUC open area is to ensure that projects provide a significant amount of open area in the event of an aircraft emergency landing. Like the Fire and Building & Safety Department requirements, ALUC contends that the safety of the pilot and the residents should be given a higher priority in site design and incorporated within the Project in order to protect the public health and safety. Lastly, this finding states that alternatives exist to satisfy the ALUC open area requirement like public roads, freeways, and parks in the vicinity. The ALUCP clearly states that the open area requirement be provided on the Project site where it can be enforced and maintained by the City through conditions of approval. There is no guarantee that the underlying governing authorities

⁷ Riverside County ALUCP, West County Airports Background Data (March 2005), Exhibit RI-3, Airport Activity Data Summary, Riverside Municipal Airport.

⁸ Federal Aviation Administration, Terminal Area Forecast (TAF), Airport Operations Forecast, Query for Riverside Municipal Airport (RAL), Federal Fiscal Year 1990 to 2050, <https://taf.faa.gov/>.

⁹ 2011 Riverside Municipal Airport Master Plan, Page 4-10

¹⁰ Aircraft Owners and Pilots Association (AOPA), The Richard G. McSpadden Report, 33rd AOPA Air Safety Institute Accident Report, <https://www.aopa.org/training-and-safety/air-safety-institute/accident-analysis/richard-g-mcspadden-report>.

of these public roads, freeways, and parks would commit to implement and maintain the ALUC open area criteria within their rights-of-way in perpetuity. Because of the significant risk of harm in Zone B1, as described above, the need for open space becomes more imperative. Failure to account for the required open space on the project property again unnecessarily increases the risk of harm to the general public and those who will occupy the residences.

Rebuttal to ALUC Comment 2: The ALUC open land provisions are unrealistic and out of step with urban airports and urban environments. The following are specific points of rebuttal to the ALUC comment.

- ALUC open land requirements are meant to be implemented at the entire zone level and are most likely to be achieved as part of a general plan for a “green field” rural airport. Urban airports rarely provide the levels of open land suggested by the ALUC and pilots flying to urban airports take this fact into account when flying to these airports. Pilots will instead look to street corridors, sports fields, and parks if gliding to the airport’s runway protection zone and safety areas near the runways are not possible.
 - While the Project site is larger than 10 acres, even the current parking lots are surrounded by tall palm trees and have tall light standards that would not be conducive to emergency landing.
 - There are substantial open land areas north and west of the Airport that meet the open land requirement.
 - The actual aircraft accident and incident information specific to the Airport and the Project site do not support the generalized assertion by the ALUC that not meeting their open land requirements increases the risk of harm to the general public and Project residents. In fact, the overall safety record of aircraft operations on and around the Airport and the improving national trends in general aviation safety over the last 20 years argue toward one of the safest activities in the community¹¹. The Foulger Pratt Study and Findings provides an analysis of the actual aviation safety and risk level associated with aircraft overflights of the community around the Airport (Foulger Pratt, pp. 6-8).
3. **ALUC Comment:** ALUC contends that the Project is not consistent with the City’s Zoning Ordinance. Section 19.149.020 states that “For property located within a compatibility zone and subject to airport land use compatibility plan policies and criteria, land use, density, and intensity limitations of the ALUCP may be more restrictive than what would otherwise be allowed per City zoning designation applicable to the property. In addition to complying with the Zoning requirements of this title, proposed uses and development on property within an airport compatibility zone must be determined to be consistent with, and comply with the compatibility criteria of the applicable compatibility zone and airport land use compatibility plan”. Section 19.150.020.B also states “Airport Land Use Compatibility includes additional Airport Land Use Compatibility Plan requirements for discretionary actions proposed on property located within an Airport Compatibility Zone. When located within an Airport Land Use Compatibility Zone, greater land use, restrictions for airport compatibility may apply per the applicable Airport Land Use Compatibility Plan”. Specifically, the permitted land use table identifies multiple-family dwellings in the Mixed Use Village zone as a permitted use by the City, but it also identifies (via footnote ***) that the uses are also subject to the ALUCP criteria “where use may be strictly prohibited”.

¹¹ US Bureau of Transportation Statistics, U.S. General Aviation Safety Data, <https://www.bts.gov/content/us-general-aviation-safety-data>

The ALUC contends that the Project, and the City, should be consistent with the ALUCP and these City Zoning Ordinance sections.

In the event that the City Council deems it appropriate to overrule the determination of inconsistency and approve the project, the City is encouraged to apply the conditions included in ALUC’s staff report on the project. Implementation of those conditions would not render the project consistent with the 2005 Riverside Municipal Airport Land Use Compatibility Plan. They are recommended in order to minimize impacts on the continued use of the airport and to notify the public of the risk and the aircraft overflights, but cannot eliminate vulnerability in the event of an aircraft accident.

Rebuttal to ALUC Comment 3: The ALUC Comment focuses solely on the section of the Zoning Ordinance that incorporates the ALUCP and project review requirements. The City is following this process. The City's Zoning Code also allows for the 19.149.080 Variance process and the 19.149.090 Overrule procedures. The City is exploring the latter in this case to ensure that the land use needs of the City are fully balanced with the significant competing needs for housing and neighborhood development. This requires the City to undertake the difficult balancing of all the communities needs to decide land use matters and to redevelop property in a dense, urban, residential and commercial neighborhood of the City.

Should the City decide to overrule the ALUC determination of inconsistency with the ALUCP, the City is considering the recommended general ALUC conditions for the applicability to the to the Project.

Figure 1 – RAL Airport Noise Abatement Procedure Map

