



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: SEPTEMBER 17, 2024

FROM: COMMUNITY & ECONOMIC DEVELOPMENT WARD: 3
DEPARTMENT

SUBJECT: **APPEAL AND OVERRULE OF FINDINGS OF INCONSISTENCY MADE BY THE RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION, APPEAL OF THE RECOMMENDATION OF DENIAL BY THE CULTURAL HERITAGE BOARD, AND CONSIDERATION OF PLANNING CASES - DP-2022-00035 (GENERAL PLAN AMENDMENT), DP-2022-00036 (REZONE), DP-2022-00025 (SITE PLAN REVIEW), SD-2022-00002 (TENTATIVE PARCEL MAP), DP-2022-00047 (CERTIFICATE OF APPROPRIATENESS) AND DP-2022-00048 (CERTIFY ENVIRONMENTAL IMPACT REPORT) – PROPOSAL BY JAMIE CHAPMAN OF RIVERSIDE PROPERTY OWNERS, LLC FOR THE CONSTRUCTION OF A MIXED-USE DEVELOPMENT - 5261 ARLINGTON AVENUE**

ISSUE:

Consideration of the following, to facilitate construction of a mixed-use development consisting of 388 residential units and 25,320 square feet of commercial retail on 17.37-acres, located at 5261 Arlington Avenue:

- Appeal and overrule of Riverside County Land Use Commission (ALUC) inconsistency determination for the proposed project located in Zones B1, C and D of the Riverside County Airport Land Use Compatibility Plan (RCALUCP);
- Appeal of the Cultural Heritage Boards recommendation of denial of the Certificate of Appropriateness - DP-2022-00047 to demolish existing on-site structures;
- Project entitlements (Planning Cases):
 - General Plan Amendment (DP-2022-00035) - To amend the land use designation of the project site from C – Commercial to MU-V – Mixed Use-Village
 - Zoning Code Amendment (DP-2022-00036) - To rezone the project site from CG – Commercial General Zone to MU-V – Mixed Use-Village Zone
 - Site Plan Review (DP-2022-00025) - Site design and building elevations
 - Tentative Parcel Map (TPM-38638) (SD-2022-00002) - To subdivide the 17.37-acre project site into 2 parcels, ranging in size from 2.93-acres to 14.44-acres
 - Certificate of Appropriateness (DP-2022-00047) - For the demolition of the former 192,139 square foot Sears building and all appurtenances
- Certification of the Environmental Impact Report, Findings of Fact and Statement of Overriding Considerations (DP-2022-00048)

RECOMMENDATIONS:

That the City Council:

1. Consider and adopt the attached Resolution making findings overruling Riverside County Airport Land Use Commission's finding of inconsistency with the Riverside County Airport Land Use Compatibility Plan, and if in agreement, adopt the Resolution to Overrule Riverside County Airport Land Use Commissions determination (Attachment 1).

If the Resolution overruling Riverside County Airport Land Use Commission is adopted, then the City Council shall:

1. Adopt the attached Resolution certifying the Final Environmental Impact Report for the Arlington Mixed-Use development, and finding that the Final Environmental Impact Report:
 - a. Has been completed in compliance with the California Environmental Quality Act;
 - b. Was presented to the City Council and the City Council reviewed and considered the information contained in the Final Environmental Impact Report prior to approving the Project; and
 - c. Reflects the City's independent judgment and analysis and making certain findings of fact.
2. Concur with the findings contained in the Final Environmental Impact Report, the attached California Environmental Quality Act Resolution, the case file and the administrative record, and adopt the Findings of Fact attached to the California Environmental Quality Act Resolution;
3. Adopt the Statement of Overriding Considerations, related to cultural resources, greenhouse gases, hazards, land use & planning and transportation, attached to the California Environmental Quality Act Resolution;
4. Adopt the Mitigation Monitoring and Reporting Program attached to the California Environmental Quality Act Resolution;
5. Find that no feasible alternatives to the Project have been proposed that will avoid or substantially lessen the significant environmental effects as set forth in the Final Environmental Impact Report;
6. Reject all late comments as untimely;
7. Uphold the applicant's appeal of the Riverside County Airport Land Use Commission;
8. Uphold the applicant's appeal of the Cultural Heritage Board and approve Planning Case - Certificate of Appropriateness - DP-2022-00047 subject to the findings and staff recommended conditions of approval(Attachment 11 and 12);
9. Adopt the attached Resolution amending the General Plan Land Use Designation;
10. Introduce and subsequently adopt the attached Ordinance amending the Zoning Map; and;
11. Approve Planning Cases - General Plan Amendment - DP-2022-00035, Rezone - DP-2022-00036, Site Plan Review - DP-2022-00025, Tentative Parcel Map - SD-2022-00002, and Environmental Impact Report - DP-2022-00048 based on and subject to the

Planning Commission findings and recommended conditions found in the attached staff report (Attachment 9 and 10).

As a matter of information, a 2/3's majority vote (5 members) of the City Council is required by State Law to overrule Airport Land Use Commission (ALUC) decision.

BACKGROUND:

The project site consists of a single 17.37-acre parcel, developed with a vacant 192,139 square foot former department store (Sears), constructed in 1964. The building includes an 87,900 square foot ground level retail area, a 90,526 square foot basement and a 13,713 square foot automotive center. Additionally, the site contained a vehicle fueling station, along the Streeter Avenue frontage. The fuel station ceased operation around 1985 when underground storage tanks were removed. The remainder of the fueling station island, canopy and distribution lines were completely removed in 1994. Subsequently Sears ceased business operations at the site in 2019. While the vacant main building and automotive center remain, the remainder of the site is developed with a large asphalt surface parking lot and sparse landscaping.

Development in the surrounding area consists of a medical office, community center and single and multifamily development to the north, commercial development to the south (across Arlington Avenue), single-family residential and medical office development to the west (across Streeter Avenue), and single-family residential development to the east.

The applicant filed a General Plan Amendment, Rezone, Site Plan Review, Tentative Parcel Map and Certificate of Appropriateness to facilitate construction of a mixed-use development.

On January 12, 2023 the project was heard by ALUC. The project was found to be inconsistent with the Airport Land Use Compatibility Plan. Although found to be inconsistent, the General Plan and Zoning Code allow the City to overrule the Airport Land Use Commission inconsistency determinations consistent with California Utilities Code § 21670.

On April 17, 2024 the Cultural Heritage Board (CHB) recommended to City Council to deny both the requested Certificate of Appropriateness (COA) and Cultural Resources override portion of the Environmental Impact Report by a vote of 5-2 (Attachment 11).

On April 25, 2024 the Planning Commission (CPC) recommended to City Council to approve the requested General Plan Amendment, Rezone, Site Plan Review, Tentative Parcel Map and the Draft EIR by a vote of 6-0-1 (Attachment 9).

On June 25, 2024 City Council directed staff to send the draft resolution with findings to ALUC and California Department of Aeronautics for its intent to overrule ALUC's determination of inconsistency for the project and set the public hearing date for September 17, 2024.

DISCUSSION:

Proposed Project

The proposed project would include the demolition of the existing structures and the surface parking lot to facilitate development of a mixed-use project containing 388 multifamily residential units and 25,320 square feet of commercial/retail.

Multi-Family Residential

The multifamily residential is located on 14.44 acres adjacent to Streeter Avenue (parcel 1). A

total of 388 units are proposed in 13 three-story stacked unit buildings and 12 two-story townhome buildings. The complex includes 18 studios, 152 one-bedroom, 158 two-bedroom and 60 three-bedroom units. Units range in size from 597 to 1,307 square feet. Private balconies or patios are attached to each unit and range in size from 51 to 243 square feet.

Common useable open space totals 57,071 square feet and includes a recreational pool area, a promenade (playground, bar-b-que stations, outdoor games, picnic areas, multi-use lawn areas), clubhouse/ fitness center and a dog park open to the residence of the community and the public.

A total of 683 parking spaces are provided for the residential component of the project with over 75 percent in either fully enclosed garages or under covered carports. The remaining spaces will be uncovered.

Commercial

The commercial component of the project is located on 2.93-acres adjacent to Arlington Avenue (parcel 2). A total of 25,320 square feet of retail commercial uses are proposed, including a 20,320 square foot ALDI grocery store, and a 5,000 square foot multi-tenant commercial building. ALDI is anticipated to operate from 9:00am to 9:00pm, seven days a week. No tenants have been identified for the multi-tenant building; however, the building has been designed to accommodate a number of uses ranging from restaurant, medical/dental, retail and/or office. A total of 132 parking spaces are provided for the commercial component of the project.

Vehicular and Pedestrian Site Access

The primary vehicular entrance to the residential portion of the site is proposed from Streeter Avenue, with additional secondary access points on Streeter and Arlington Avenues. Primary vehicle access to the commercial component of the project will be from the existing signalized intersection on Arlington Avenue. ALDI delivery trucks will access the loading dock on the west side of the ALDI building with direct access from both Arlington and Streeter Avenues. Delivery trucks will not impact any primary vehicular entrances to either the residential or commercial components of the project and will not impact any pedestrian connectivity throughout the project.

The proposal includes an extensive pedestrian network of walkways, paseos, and protected and shaded walkways throughout the project. Residences within the development have multiple pedestrian connections with the commercial component of the site and to the signalized intersection for additional commercial amenities and conveniences located on the southern side of Arlington Avenue. Surrounding residences in the adjacent neighborhoods can access the extensive pedestrian walkways that lead to the proposed commercial development and amenities and gathering areas available to the public, including the proposed dog park, access to future art installation and commercial gathering /outdoor patio eating areas.

Construction Phasing

Construction is anticipated to take approximately 23 months and will be built in two phases with the first phase being the commercial component of the project, and the second phase being the residential component. Phases will overlap as construction of the residential portion would begin as construction of the commercial component nears completion.

General Plan and Zoning Consistency

General Plan 2025

The project proposes to amend the General Plan Land Use designation from C – Commercial to MU-V – Mixed Use-Village (Attachment 3). The MU-V land use designation provides opportunities for medium to high-density residential development with commercial, office, institutional and business uses, with an emphasis on retail and entertainment activities. Such development is

intended to facilitate the grouping of housing with employment uses, entertainment activities and public gathering spaces, and other community amenities.

The project as designed integrates design features to be consistent with the following Land Use polices, goals and objects:

Consistent

- *Objective LU-8* Emphasize smart growth principles through all steps of the land development process (mix land uses; take advantage of compact building design; create a range of housing opportunities and choices; create walkable neighborhoods; foster distinctive, attractive communities with a strong sense of place).
- *Policy LU-8.2* Avoid density increases or intrusion of nonresidential uses that are incompatible with existing neighborhoods.
- *Policy LU-8.3* Allow for mixed-use development at varying intensities at selected areas as a means of revitalizing underutilized urban parcels.
- *Objective LU-9* Provide for continuing growth within the General Plan Area, with land uses and intensities appropriately designated to meet the needs of anticipated growth and to achieve the community's objectives.
- *Policy LU-9.3* Designate areas for urban land uses where adequate urban levels of public facilities and services exist or are planned, in accordance with the public facilities and service provisions policies of this General Plan.
- *Policy LU-9.4* Promote future patterns of urban development and land use that reduce infrastructure construction costs and make better use of existing and planned public facilities when considering amendments to the Land Use Policy Map.
- *Policy LU-9.7* Protect residentially designated areas from encroachment by incompatible uses and from the effects of incompatible uses in adjacent areas. Uses adjacent to planned residential areas should be compatible with the planned residential uses and should employ appropriate site design, landscaping and building design to buffer the non-residential uses.
- *Objective LU-28* Preserve and enhance the quality and character of Riverside by ensuring compliance with all relevant codes and regulations.
- *Policy LU-28.2* Encourage the rehabilitation or replacement of dilapidated housing units and buildings, discouraging further deterioration. Where necessary, seek to remove unsafe structures.
- *Objective LU-32* Preserve existing residential areas within the Airport Neighborhood.
- *Objective LU-35* Maintain Arlington's sense of community through careful and coordinated planning that builds upon the neighborhood's key assets and reinforces its historic development patterns.
- *Policy LU-35.1* Focus commercial development at major intersections, discouraging "strip" commercial development.

Potentially Inconsistent

- *Objective LU-22* Avoid land use/transportation decisions that would adversely impact the long-term viability of the March Air Reserve Base/March Inland Port, Riverside Municipal and Flabob Airports.

- *Policy LU-22.3* Work to limit the encroachment of uses that potentially pose a threat to continued airport operations, including intensification of residential and/or commercial facilities within identified airport safety zones and areas already impacted by current or projected airport noise.
- *Policy LU-22.7* Prior to the adoption or amendment of the General Plan or any specific plan, zoning ordinance or building regulation affecting land within the airport influence areas of the airport land use compatibility plan for Riverside Municipal Airport, Flabob Airport or March Air Reserve Base/Inland Port Airport, refer such proposed actions for determination and processing by the ALUC as provided by Public Utilities Code Section 21670.

While, the project is consistent with a number of policies, objectives and goals, the development is also inconsistent with the following objectives and policies:

- *Policy LU-22.2* Work cooperatively with the Riverside County Airport Land Use Commission in developing, defining, implementing, and protecting airport influence zones around the MARB/MIP, Riverside Municipal and Flabob Airports and in implementing the new Airport Land Use Compatibility Plan.
- *Policy CCM-11.2:* Limit building heights and land use intensities beneath airport approaches and departure paths to protect public safety consistent with the Riverside County Airport Land Use Compatibility Plan, the 2014 March Air Reserve Base/Inland Port Airport Land Use Compatibility Plan, and all other applicable State and Federal regulations.
- *Policy PSE-3:* Protect the community from hazards related to air and ground transportation.

As noted above the project is both consistent and inconsistent with policies, goals and objectives within the General Plan. In this case, inconsistencies are primarily related to those policies related to the Riverside Municipal Airport and Airport Land Use Compatibility standards. The General Plan and Zoning Code grants local agencies the ability to overrule ALUC inconsistency determinations consistent with California Utilities Code § 21670 the following should also be taken into consideration:

- The project would increase the diversity in housing types in the Magnolia Center, Airport and Ramona neighborhoods by providing multifamily residences within a mixed-use development, promoting the overall objectives of the housing element.
- The site is located within a dense urban area, with little to no undeveloped land within proximity to the project site.
- The site is currently developed with a large multi-story department store, with a building height of approximately 36-feet.
- The project would redevelop an underutilized, vacant site with a well-planned, infill development in a strategic location.
- The project would add more community services (grocery store) and commercial services to serve residences and increase revenue for the City.
- The area surrounding the project site is substantially developed with residential and commercial uses, including; 304 single family residences, 188 multifamily units and 113,800 square feet of commercial within Airport Zone B1; and 844 single family residences, 27 multifamily units and 200,500 square feet of commercial development in Airport Zone C.
- During hours associated with tower operations at Riverside Municipal Airport (7:00am –

8:00pm), the existing permitted commercial use would bring a greater number of people to the site, than the proposed mixed-use development as outlined in the figure below:

Calculation Based on California Building Code			
Use	Min. Sq. Ft. per Occupant	Sq. Ft.	Total People
Existing			
Retail	60	192,139	3,202
Proposed			
Apartments	200	380,150	1,901
Swimming Pool	50	2,240	45
Pool Deck	15	8,069	538
Clubhouse/Fitness	15	2,655	177
Leasing Office	200	1,748	9
Grocery	100	20,320	203
Retail	60	5,000	83
Total			2,956

Calculation Based on Parking Space Requirements			
Use	Metric	Parking Spaces	Total People
Existing			
Retail	1.5ppl/space	978	1467
Proposed			
Mixed-Use	1.5ppl/space	815	1223

Calculations per ALUCP Appendix C

- The proposed project would transform a blighted site into a high quality project, with a new residential community, community serving commercial uses, amenities and gathering spaces.
- The project would provide 388 residential units that would be credited towards the City’s RHNA requirement of 18,415 housing units.

Zoning Code Compliance

The project proposes to rezone the project site from CG – Commercial General to MU-V – Mixed Use-Village (Attachment 4). The MU-V Zone provides for medium to high-density residential development with retail, office and service uses primarily at street level to facilitate a pedestrian environment. It is intended to encourage new housing opportunities that are nearby to commercial services. Plazas, courtyards, outdoor dining, transit stops and other public gathering spaces and community amenities, such as art in public spaces, are strongly encouraged. The focus of the development and design standards is to provide buffering techniques for transitions from developed commercial areas to lower density residential neighborhoods.

The project has been designed to be consistent with the purpose of the Mixed Use Zones:

- To encourage a mixture of compatible and synergistic land uses, such as residential with compatible nonresidential uses including office, retail, personal services, public spaces and other community amenities;
- To strengthen the interaction between residential, commercial and employment uses in order to reduce dependency on automobiles, improve air quality, decrease urban sprawl, facilitate use of transit and encourage conservation of land resources;
- To revitalize deteriorating commercial areas by integrating residential uses into the commercial fabric to create an active street life and enhance the vitality of businesses;
- To foster pedestrian-oriented activity nodes by providing a mix of uses in compact, walkable areas;
- To increase the area available for residential development and provide alternative types of housing;

- To encourage medium- and high-density residential development to occur in close proximity to employment and services; and
- To allow for a greater variety of land uses and structures, including flexibility in site planning.

As designed, the project strengthens the interaction between the proposed mix of uses, creating a pedestrian-oriented environment while ensuring the overall design and proposed uses are compatible with uses in the surrounding neighborhoods by incorporating specific site design practices, which reduce massing and height and increase setbacks along edges with existing single-family residential. As proposed the project is consistent with the purpose and all applicable development standards of the Zoning Code.

Riverside County Airport Land Use Commission

Riverside Airport Land Use Compatibility Plan

On January 12, 2023, the Riverside County Airport Land Use Commission (ALUC), by a vote of 6-0, found the City of Riverside Planning Cases DP-2022-00035 General Plan Amendment, DP-2022-00036 Zoning Code Amendment, DP-2022-00025 Site Plan Review and SD-2022-00002 Tentative Parcel Map inconsistent with the 2005 Riverside Municipal Airport Land Use Compatibility Plan, due to the site's location within Compatibility Zones B1, C and D of the Riverside Municipal Airport.

- The project's residential density of 28.0 dwelling units per acre in Zone B1 and 1.0 dwelling unit per acre in Zone C are inconsistent with the Zone B1 maximum residential density criteria of 0.05 dwelling units per acre and Zone C maximum residential density criteria of 0.2 dwelling units per acre.
- The project's non-residential intensity for the multi-family amenity facility (leasing office and gym) results in an average intensity 49 people per acre and a single acre intensity of 769 people, both of which are inconsistent with Zone B1 average intensity criterion of 25 people per acre, and maximum single acre intensity of 50 people.
- The project's non-residential intensity for the grocery store building in Zone B1 results in an average intensity of 81 people per acre and a single acre intensity of 203 people, both of which are inconsistent with Zone B1 average intensity criterion of 25 people per acre, and maximum single acre intensity of 50 people.
- The project's non-residential intensity for the retail store building in Zone C results in an average intensity of 134 people per acre, which is inconsistent with Zone C average intensity criterion of 75 people per acre.
- The project's proposed three-story buildings are inconsistent with Zone B1 criteria prohibiting buildings with more than two aboveground habitable floors.
- The project does not provide the required 4.99 acres of ALUC qualified open area and is therefore inconsistent with the Zone B1, C, and D open area criteria.
- The project's proposed general plan amending the site's general plan land use designation from Commercial to Mixed Use Village and rezoning the site from Commercial General Zone to Mixed Use -Village Zone, are inconsistent with the airport land use compatibility criteria for the reasons indicated above.

Appeal of the ALUC's Decision/Findings

The applicant filed an appeal of ALUC's decision to the City Council (Attachment 5). Pursuant to Public Utilities Code section 21676, the City Council has the authority to overrule ALUC's determination based on specific findings that the proposal is consistent with the purposes of ALUC law "to protect public health, safety and welfare by ensuring: 1) the orderly expansion of airports; and 2) the adoption of land use measures that minimize 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."

While the project is inconsistent with the specific ALUC standards, as noted above, the General Plan, Zoning Code and California Government Code § 21676 grants local agencies (City Council) the ability to overrule inconsistency determinations, based upon the following findings:

1. The Project will not affect the orderly expansion of the Riverside Municipal Airport (RMA).
 - a. The Project is consistent with residential development surrounding RMA, specifically in Zone B1. The Project involves the redevelopment of an underutilized commercial parcel with multifamily residential and commercial development. The Project's proposed General Plan designation and zoning designation of Mixed Use-Village, is consistent with surrounding development, and would assist in transitioning land use between commercial and single-family residential uses.
 - b. The Project site is located north of the Heritage Plaza commercial shopping center, the Arlington Square Shopping Center and multiple multifamily developments, which have General Plan Land Use Designations of C – Commercial and HDR – High Density Residential and zoned CR – Commercial Retail, CG – Commercial General, O – Office, R-3-1500 Multifamily residential and R-3-2000 – Multifamily residential. Directly west of the Project is additional single-family residential, office, and commercial uses, which have a General Plan Land Use Designation of MDR – Medium Density Residential, O – Office, C – Commercial, and PF – Public Facilities and is zoned CG – Commercial General, O – Office, and R-1-7000 – Single Family Residential. Directly north, the Project site is bordered by more single-family residential, office and vacant uses with a General Plan Land Use Designation of O – Office, PF – Public Facilities, and C – Commercial and is zoned CG – Commercial General and R-1-7000 – Single Family Residential. And lastly, the Project is bordered on the east with single-family residential and office uses with a General Plan Land Use Designation of MDR – Medium Density Residential and O – Office and is zoned R-1-7000 Single Family Residential and O – Office.
 - c. The surrounding residential uses exceeds the 0.05 dwelling units per acre requirement of Zone B1 and the 0.2 dwelling units per acre requirement of Zone C. Of note, several multifamily residential and commercial uses are located in Zone B1, near the Project. Apartment complexes, Phoenix Gardens Apartments, located at 6930 Phoenix Avenue, and Concord Place, located at 5657 Arlington Avenue, are within proximity to the Project Site, closer to the airport. Additionally, large neighborhoods of single residential houses are directly east of the Project site in Zone C. The Heritage Plaza and Arlington Square Shopping Center, directly across the street from the Project site, host over fifteen commercial businesses, such as Ross Dress for Less, Big Lots, and Smart & Final Extra. Lastly, the total number of people concentrated on the site does not increase with the proposed project. In fact, given the nature of residential living, there are less people on the site during daytime hours as residents go to work, school, etc.,

which coincides with regular airport operational hours. The existing commercial permitted use would bring more people to the site during airport operational hours. The project is consistent with other residential and commercial developments in the B1 and C Zones.

- d. Additionally, the Project consists of infill development of an underutilized commercial site. The vast majority of properties within the Zone B1 Zone have been built out, largely by residences and commercial uses. Few infill sites, such as the Project, are available for development. As such, the Project would not encourage other developments to exceed Zone B1 density standards or encroach upon RMA operations.
2. The project minimizes the public's exposure to excessive noise and safety hazards within areas around the RMA.
 - a. The Project is consistent with the aircraft noise standards of the ALUCP and the requirements of PUC Section 21670.
 - i. The RMA ALUCP provides the CNEL considered normally acceptable for new residential uses in the vicinity of RMA is 65 dBA. (ALUCP, § RI.2(2.1).) The Project site is approximately one mile from the end of the RMA Runway 9/27. The RMA ALUCP depicts the site as being below the 60 CNEL range from aircraft noise. Therefore, ALUC found no special measures were required to mitigate aircraft-generated noise. Because the Project is consistent with the noise standards in the RMA ALUCP, the Project also complies with the noise standards in the City of Riverside General Plan. (General Plan Noise Element, Figure N-10.) While multifamily or mixed uses are not defined in the City's General Plan Noise Element, the "normally acceptable" noise level for an infill single family residential use is between 55 and 65 dBA CNEL. Accordingly, noise exposure from RMA would not exceed normally acceptable levels for the Project site.
 - ii. The Project will comply with Riverside Municipal Code requirements regarding construction noise and will not compound noise related to RMA operations. All construction would take place between 7:00 a.m. and 7:00 p.m. on weekdays, 8:00 a.m. and 5:00 p.m. on Saturdays, and would not take place at any time on Sunday or a federal holiday. (RMC, § 7.35.020.)
 - iii. The Project will also comply with ALUC noticing conditions and will provide a "Notice of Airport in Vicinity" to all prospective purchasers and occupants of the property.
 3. The Project does not propose any uses specifically prohibited or discouraged in Compatibility Zone B1 (highly noise-sensitive outdoor nonresidential uses), such as major spectator-oriented sports stadiums, amphitheaters, concert halls and drive-in theaters. The Project also does not propose noise sensitive uses such as children's schools, day care centers, libraries, hospitals, or nursing homes.
 4. The Project will have no impact on Federal Aviation Administration Federal Aviation Regulations (FAA FAR) Part 77.
 - a. The FAA FAR Part 77 Surface Map is a map used by the FAA and the ALUC to identify potential obstructions and hazards to aviation traffic. The ALUC uses the map as a height restriction boundary for purposes of making consistency determinations with its ALUCP. The elevation of Runway 9/27 at its northerly terminus is 815.8 feet above mean sea level ("MSL"). At a distance of approximately 5,151 feet from the project to the nearest point on the runway, FAA review would be required for any structures with

top of roof exceeding 867 feet MSL. The site's highest finished floor elevation is approximately 791 feet MSL with the highest proposed building height at 39-feet 11-inches, resulting in a top point elevation of roughly 831 feet MSL. Therefore, review of the building for height/elevation reasons by the FAA Obstruction Evaluation Service ("FAAOES") is not required.

5. The Project will not impose a safety hazard due to height.
 - a. The Project proposes to develop 27 residential apartment buildings consisting of 2 and 3-story structures and two commercial buildings. Of the thirteen 3-story residential buildings only one building tops out at 39-feet, 11 inches and the remainder are 38-feet, 1-inch. The fourteen 2-story residential buildings have a maximum height of 28-feet, 8-inches. Both the grocery store and multi-tenant commercial building both have maximum height just short of 31-feet. Zone B1 criteria prohibit buildings with more than two aboveground habitable floors, however, the maximum height of these buildings is well below City standards and FAA standards. Project height is below the proposed MU-V - Mixed Use – Village zone maximum height of 45 feet (RMC § 19.120.050), and well below the current CR - Commercial Retail Zone maximum height of 75 feet (RMC § 19.110.030). Development of the Project, as well as the proposed General Plan Amendment and change of zone, will result in a maximum height similar to what currently exists for the site and less than any project that could potentially be developed onsite if the current zoning is maintained. Thus, the Project will not create an obstruction or hazard to air navigation within the meaning of 14 C.F.R. Part 77 nor does it create a safety hazard pursuant to PUC Section 21670.
6. The Project will not utilize equipment that would interfere with aircraft communications.
 - a. There are no radar transmission or receiving facilities within the site. The Project's solar panels are low profile, oriented to limit glare, and present little risk of interfering with radar transmission. In addition, solar panels do not emit electromagnetic waves over distances that could interfere with radar signal transmissions, and any electrical facilities that do carry concentrated current will be buried beneath the ground and away from any signal transmission.
7. The Project cannot comply with the ALUC Open Area requirement. A 4.99-acre open area, 300 feet x 75 feet, with objects no greater than 4 feet in height with a diameter of 4 inches is not conducive to a multifamily development in an urban area. Alternatively, options exist for emergency landing locations, including: Arlington Avenue, Central Avenue, the SR-91 freeway, and parks to the north of the airport. (See Exhibit D in Applicants response to ALUC)

While ALUC deemed the project inconsistent with the ALUC Compatibility Plan, ALUC Conditions of Approval were provided in the event the City Council approved the project and an overrule was granted. The Project as designed complies with all recommended ALUC conditions, with the exception of Condition 2e and 10, included in the appeal, and as outlined below:

- a. Condition 2e prohibits a number of specific sensitive receptors (day cares, schools, hospitals, etc) and limits buildings to no more than two aboveground habitable floors. Condition 10, requires at least 4.99-acres of ALUC eligible open space area, kept free of obstacle and obstructions. The Project will comply with all other recommended ALUC conditions of approval, including restrictions on maximum building height, noise attenuation measures, and notices and informational brochures for prospective purchasers and tenants. The Project also will comply with recommended conditions related to land uses with the minor requested modifications below, to continue to ensure safety, but allow for the best available use of the Project site.

- i. Condition 2(e) Habitable Floors – The applicant is seeking to modify this condition to allow up to three habitable floors on a portion of the proposed residential buildings. Based upon the discussion above the condition would be amended allowing habitable floors not to exceed the proposed MU-V Zone maximum height of 45 feet. As demonstrated above and through project plans the site’s tallest building is 39-feet, 11-inches, roughly 3-feet taller than the existing Sears building. Additionally, the height is consistent with both the Zoning Code and FAA regulations based upon glide slope from runway 9/27.
- ii. Condition 10 Open Space - cannot be met based on the current size of the Project site. Similar to surrounding uses such as the Heritage Plaza Shopping Center and Arlington Square Shopping Center, neighboring residential areas, and adjacent offices, there is no available acreage that could adhere to this requirement.

Process to Overrule ALUC’s Determination

The process to overrule ALUC’s determination involves the following process and actions by City Council:

- January 12, 2023 – ALUC found the proposed project inconsistent with the Riverside Municipal Airport Land Use Compatibility Plan
- December 20, 2023 - Applicants filed an appeal of ALUC determination of inconsistency consistent with Zoning Code section 19.149.090 – Overrule Procedures
- June 25, 2024 – City Council directed staff to provide a copy of the proposed draft resolution findings to both ALUC and the California Division of Aeronautics, and set a public hearing, no less than 45-days from June 25, 2024, for consideration of ALUC Overrule;
- June 26, 2024 - Draft resolution distributed to ALUC and California Division of Aeronautics for a 30-day review.
- July 25, 2024 – Comments from both ALUC and California Division of Aeronautics received by Staff in response to draft resolution findings. Comments in both letters, contain similar concerns to those raised at the ALUC meeting in January 2023 and outlined above. Comment letters received from both agencies and response to agency comments have been included as attachments (Attachment 6 and 7).
- September 17, 2024 – Project public hearing. As part of the public hearing; including EIR overrides, appeal of CHB determination and project entitlements; Council will consider the appeal to overrule ALUC’s determination.

Certificate of Appropriateness

The project proposes to demolish the former Sears Department Store and Auto Service Center, designed by notable architect Charles Luckman in the Mid-Century Modern Style of architecture and constructed in 1964. As part of the DEIR preparation, a Cultural Resources Technical Report was completed by Heather McDaniel McDevitt of Dudek. The report found the former Sears structure was eligible for listing in the National Register of Historic Places (NRHP) and California Register of Historical Resources (CRHR) under criterion C/3 as an example of Mid-century Modern department store architecture and as it represents the work of a prominent architect, Charles Luckman. The report also found that the structure is eligible for City Landmark designation under criteria 1, 3, 5, and 7, as the structure is an excellent example of the Mid-

Century Modern style and the history of Modernism in Riverside, represents the work of a prominent architect (Luckman), possesses high artistic value and represents an architectural achievement, and is one of two Mid-Century Modern department stores in the City of Riverside. As the former Sear Building has been found eligible for designation a Certificate of Appropriateness (COA) is required for the demolition of the building.

Cultural Heritage Board Workshop

An applicant requested workshop for the proposed project was held before the Cultural Heritage Board (CHB) on January 17, 2024. Comments from CHB members included that the existing structure be reused rather than demolished, if possible, and for the character-defining features of the former Sears Building to be reflected in the proposed new construction. Board Members provided specific comments as follows:

- The proposed design should include the strong horizontal of the existing structure.
- Secondary features, such as the sawtooth rear canopy, should remain secondary and not elevated in prominence.
- The project should reuse existing materials, if feasible.
- The design of the primary structures should reflect the design of the existing structures.
- Potential for integration of the saw canopy design into the pedestrian walkways.
- The proportion of the existing building should be clearly reflected in the design.
- The height of the project should be compatible with the height of the existing building and surrounding residential.
- The project should include acknowledgement of the architect.

Following the workshop, the applicant met individually with the majority of CHB members to gain specific feedback on the proposed project. Comments included suggested modifications to the proposed new construction to better reflect the design of the existing building and the desire for the inclusion of project components that provide a community benefit.

While the COA request only applies to the demolition of the former Sear Building, the project applicant has made effort to incorporate the character-defining features of the existing building into the proposed project to showcase the history of the project site. Based on the feedback from CHB, the applicant made significant changes to the architectural design of the project to make reference to the Mid-century Modern design to the former Sears Building, including but not limited to:

- Focus on horizontality;
- Asymmetrical block like massing;
- Rectangular roof overhangs that wrap the sides of the building;
- Flat canopies extending past the edges of the building;
- Folded plant freestanding canopies;
- Materials that reflect the existing structure, including concrete screen blocks, stucco cladding, and reuse of metal screens as possible;
- Aldi elevations revised to include the horizontal canopy;
- Signage to reflect the historic "Sears" script font; and,
- A public art piece to showcase the history of the site and to provide information regarding that history.
- Interpretive history display within the leasing office/clubhouse.

Adaptive Reuse Feasibility

As recommended by CHB, an adaptive reuse feasibility study was completed and included as an attachment to the Cultural Resources Report. The report reviews building improvements necessary to reuse the building as either multi-family residential or as self-storage. Self-storage was investigated as it would require the lowest level improvements of any commercial reuse and would meet ALUC requirements. The report found that due to the type of construction, with a large subterranean basement, significant structural improvements would be required for any type of adaptive reuse, residential or commercial, would be significant; therefore, being cost prohibitive. Additionally, if the building were to be adaptively reused for residential, windows for lighting, ventilation, and emergency will be required to be added. The lack of windows is a significant feature of the building because Sears building post-1930s lacked windows to control lighting of merchandise from the interior; therefore, the addition of windows to the structure will have a significant impact on the character-defining features of the building.

In addition to adaptive reuse of the building, the study investigated re-tenant the building with retail, including multi-tenant and big box retail. The study indicates that to re-tenant the space would also require significant upgrades to structural, electrical, and mechanical systems. The conversion to a multi-tenant structure would require additional openings and changes to the exterior of the building to divide the space. The necessary exterior changes would impact character-defining features of the building. The study found that most big box retailers with buildings between 100,000 – 200,000 square feet of space require specific prototype buildings. Additionally, many of the big box retail and entertainment tenants with buildings of this size currently have locations within close proximity to the project site, not expanding in California, or seek locations in retail hubs rather than standalone neighborhood locations. The study concludes due to required modification to the structure and retail market trends, to re-tenant the former Sear building would be technically and economically infeasible and would result in significant impacts to the historic character of the building.

Cultural Heritage Board Review

On April 17, 2024, CHB reviewed Planning Case DP-2022-00047 (COA), a COA request for the demolition of the former Sears Building and all appurtenances. CHB's discussion included concerns about the extent of the adaptive reuse in the analysis and number of alternatives included in the DEIR, expressing that the analysis and alternatives did not explore the reuse as a museum or other commercial alternatives. Additional comments included the architectural design of the Aldi building as it relates to the project, the orientation of the commercial structure facing the parking lot rather than Arlington, and the impact on the history of Ward 3 due to the demolition. Board members acknowledged the developer's efforts to address CHB comments in the revised architectural design. Following discussion, the Cultural Heritage Board found the project to be inconsistent with Title 20 section 20.25.050 and recommended that the City Council deny Planning Case DP-2023-00047 (COA), by a vote of 5 Ayes, 2 Noes, and 1 Recused.

Appeal of CHB recommendation

The applicant filed a timely appeal of the CHB recommendation to deny the COA (Attachment 12). The applicant's appeal is based on the following:

1. The Purpose of the Project is to Provide Much-Need Housing.
 - a. The 5th Cycle Housing Element Update, covering the 2013-2021, included a Regional Housing Needs Allocation (RHNA) of 10,025 new residential units. Only a small portion of these units were constructed.
 - b. The 6th Cycle Housing Element Update, covering the 2021-2029, included a RHNA

of an additional 18,415 new residential units.

- c. Although not a housing element site, the proposed project will construct 388 units that will be counted towards the City's RNHA obligation.

2. The Project is Consistent with CHB's Required Findings.

- a. Section 20.25.050 of the RMC identifies five required finding for the approval of a COA at an individually significant Cultural Resource. As part of the staff report CHB was provided facts for finding to support either approval and denial of the COA (Attachment 11). In summary, the project is consistent as follows:

- i. *Finding:* Consistency or compatibility with the architectural period and the character-defining elements of the historic building, such as colors, textures, materials, fenestration, decorative features, details, height, scale, massing, and method of construction.

Facts: This finding is not applicable as the project involves the removal of the structures from the project site and does not involve any new structures or any addition to existing structures where consistency or compatibility with an architectural period of character -defining elements of historic building is a consideration. However, the new construction incorporates design features of the historic structure, several design features of the historic structure, such as a strong sense horizontality, block like massing, flat canopies, and wrapping roof form.

- ii. *Finding:* The proposed project does not destroy or pose a substantial adverse change to an important architectural, historical, cultural or archaeological feature or features of the Cultural Resource,

Facts: The project will have an impact on a structure found eligible for listing in the NRHP/CRHR and designation as City Landmark, and adoption of a Statement of Overriding Considerations will be required as part of the certification of the Final EIR. While the proposed project will demolish an eligible Cultural Resource, as defined by Section 20.50.010 of the RMC, the proposed new construction incorporated character-defining features of the existing structure to reference to the architectural history of the project site. Additionally, the proposed Mitigation Measures and project design features, such as a public art feature, will adequately document the history of the site and the work of Charles Luckman through HABS level documentations that will be available to through the City Planning Division, the Riverside Public Library, and the Museum of Riverside. Per the Cultural Resources Report, the adaptive reuse of the existing building would also result in significant adverse impacts through necessary upgrades to the existing structural and improvements to meet lighting and ventilation

- iii. *Finding:* Compatibility with context considering the following factors: grading; site development; orientation of buildings; off-street parking; landscaping; signs; street furniture; public areas; relationship of the project to its surroundings.

Facts: While the proposed project will alter the site development, the projects sites relationship to the surrounding neighborhood will remain unaltered and will continue to be surrounded by residential to the east, north, and west, and the commercial to the south. Additionally, the project will not significantly alter

the site grading.

- iv. *Finding:* Consistency with the principles of the Secretary of the Interior's Standards for the Treatment of Historic Properties,

Facts: Consistency with the Secretary of the Interior's Standards is not applicable to the project. The project involves only the removal of the structures from the project site and does not involve any new structures or any addition to existing structures where consistency with the Secretary of the Interior's Standards is a consideration.

Additionally, based on feasibility assessments included as an attachment to the DEIR – Appendix C (Cultural Resources), the adaptive reuse of the structure is technically infeasible due to necessary structural upgrade required because of the large subterranean basement and the necessary upgrades and replacement of electrical and mechanical systems, which have been destroyed by vandalism. Per the National Park Service, “the Standards will be applied taking into consideration the economic and technical feasibility of each project.” As stated in the DEIR, adaptive reuse has been found to be economically and technically infeasible due to necessary structural and systems upgrade need to meet Building Codes for life-safety; therefore, the application of the Standard to the proposed project is not required.

- v. *Finding:* As applicable, consistency with other federal, state, and/or local guidelines.

Facts: An EIR was prepared for the project following CEQA guidelines; therefore, the project is consistent with other applicable state guidelines.

Additional information regarding the project is included as Attachments 9, 10 and 11 (Planning Commission and Cultural Heritage Board Staff Reports and Exhibits).

Environmental Impact Report (EIR)

Pursuant to Section 15060(d) of the CEQA Guidelines, an Initial Study (IS) was prepared for the proposed project to determine if the project would have a significant effect on the environment. The IS and Notice of Preparation (NOP) were circulated on June 15, 2023, with the review period ending July 14, 2023. The analysis in the IS concluded that no impacts would occur to Agriculture & Forestry Resources, Biological Resources, Geology/Soils, Hydrology and Water Quality, Mineral Resources and Wildfire.

The remaining sections in the IS checklist were identified as having a potentially significant impact requiring the preparation of an Environmental Impact Report (EIR), consistent with Sections 15161 and 15126.6 of the CEQA Guidelines and City of Riverside Resolution No. 21106. The EIR includes analysis of potential effects associated with Aesthetics, Air Quality, Cultural Resources, Energy, Greenhouse Gas Emissions, Hazards & Hazardous Materials, Land Use & Planning, Noise, Population & Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, and Utilities & Service Systems (Exhibit 15).

CEQA Guidelines indicate a Project EIR should focus primarily on the changes in the environment that would result from the project. The EIR should describe a range of reasonable alternatives to the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives.

The Draft EIR includes four alternatives to the project:

- Alternative 1 – No Development/Keep Existing Commercial Zoning;
- Alternative 2 – Adaptive Reuse of the existing commercial building to Residential;
- Alternative 3 – ALUC Consistency; and
- Alternative 4 – Reduced Density/Intensity

The EIR concludes that none of the Alternatives would meet any or all of the Project objectives or would result in greater impacts than the proposed project and that with the exception of Cultural Resources, Greenhouse Gas Emissions, Hazards & Hazardous Materials, Land Use & Planning and Transportation, all impacts related to the proposed project have been identified as less than significant or have been reduced to below the level of significance with mitigation. The following impacts would remain significant and unavoidable and a Statement of Overriding Considerations is required to be adopted by the City Council:

- Cultural Resources

As outlined in Section 5.3 – Cultural Resources and Section 7.1.5 – Cultural Resources of the Draft EIR, implementation of the Project will result in significant and unavoidable impacts to a potential historic resource because it involves demolition of a potential historic resource.

- Greenhouse Gas

As outlined in Section 5.5 – Greenhouse Gas Emissions and Section 7.1.7 – Greenhouse Gas Emissions of the Draft EIR, implementation of the Project will result in significant and unavoidable impacts to greenhouse gas emissions as the projects greenhouse gas emissions would be 7,374.37 (MT CO₂e per year), exceeding the threshold of 3,000 (MT CO₂e per year).

Although the Project does not conflict with an applicable plan, policy or regulation adopted to reduce GHG, the Project's GHG emissions exceed the SCAQMD draft threshold of 3,000 MTCO₂E/yr which is being utilized as the City's threshold for this Project. Implementation of local, state, and federal regulations as outlined in the Draft EIR in Section 5.5.2, Project design features, and mitigation measures listed will reduce the Project's GHG emissions from mobile sources. However, there are no additional feasible mitigation measures that would reduce the Project's overall GHG emissions to a less than significant level. Therefore, the Project's cumulative GHG impacts will be significant and unavoidable and a statement of overriding considerations will be required prior to Project approval. It should be noted, projects of this size, which include a commercial component typically incur similar mobile source (vehicles) Greenhouse Gas impacts. Further, it's important to note that mobile source emissions are regulated at the state and federal level and do not account for future reductions that will occur through implementation of regulations such as Advanced Clean Cars II program that requires 100 percent of new light-duty vehicle sales be zero emission by 2035.

- Hazards & Hazardous Materials

As outlined in Section 5.6 – Hazards and Hazardous Materials and Section 7.1.8 – Hazards and Hazardous Materials of the Draft EIR, implementation of the Project will result in an inconsistency with Riverside County Airport Land Use Commission policies, such as density of units, intensity of persons, number of above ground habitable floors, and Open Space the inconsistencies result in significant and unavoidable impacts.

- Land Use/Planning

As outlined in Section 5.7 – Land Use and Planning and Section 7.1.9 – Land Use and Planning of the Draft EIR, implementation of the Project will result in an inconsistency with the general plan policies related to airport land use due the projects inconsistency with Riverside County Airport

Land Use Compatibility Plan policies will result in significant and unavoidable impacts.

- Transportation/Traffic

As outlined in Section 7.1.14 – Implementation of the project will result in continued unacceptable Levels of Service (LOS) for the eastbound connector roadway between California Avenue and Arlington Avenue. This is a cumulative impact and not a project specific impact.

As part of the EIR process, a Final EIR has been prepared, which includes an errata, Mitigation Monitoring and Reporting Program (MMRP) and responses to comments received during the 45-day public review period. Staff received a total of five comment letters. Responses to all comments are provided in the Final EIR (Attachment 14). The comment letters do not identify any significant new environmental issues or impacts that were not already addressed in the DEIR. Any changes made to the DEIR clarify, reiterate or make insignificant modifications to the EIR.

Written responses to public agency comments were also provided ten days prior to the City Council meeting. Any clarifications requested on the project do not result in significant new information or additional environmental impacts. Any changes made to the DEIR clarify, reiterate or make insignificant modifications to the EIR.

STRATEGIC PLAN ALIGNMENT:

This project contributes to the Envision Riverside 2025 City Council Strategic Plan Priority 2 – Community Well-Being (Goal 2.1 – Facilitate the development of a quality and diverse housing supply that is available and affordable to a wide range of income).

This item aligns with each of the five Cross-Cutting Threads, as follows:

1. Community Trust: The mixed-use development required public hearings by the Riverside County Airport Land Use Commission, Cultural Heritage Board, Planning Commission and City Council. Additionally, public comment is and was encouraged throughout the process; including through the Notice of Preparation, the project scoping meeting, the 45-day DEIR review period and at all public meetings as identified above.
2. Equity: The proposed mixed-use development provides housing opportunities that benefit all residences in the community and region.
3. Fiscal Responsibility: All project costs are borne by the applicant. Housing and commercial/retail will add to the City’s tax base.
4. Innovation: The proposed mixed-use development meets the growing community’s needs for increased housing opportunities while situating residents adjacent to community services and reducing vehicles miles traveled.
5. Sustainability and Resiliency: All new construction will meet the most up-to-date Building Codes. The proposed development is designed to meet the current and future needs of the community.

FISCAL IMPACT:

There is no impact to the General Fund as all project costs are borne by the applicant.

Prepared by: Brian Norton, Principal Planner and
 Scott Watson, Historic Preservation Officer
 Approved by: Jennifer Lilley, Community & Economic Development Director
 Certified as to

availability of funds: Kristie Thomas, Finance Director/Assistant Chief Financial Officer
Approved by: Mike Futrell, City Manager
Approved as to form: Phaedra Norton, City Attorney

Attachments:

1. Resolution Outlining Findings to Overrule ALUC's Decision
2. Resolution Certifying Final EIR and Adopting the Findings of Fact and Statement of Overriding Conditions and the Mitigation Monitoring and Reporting Program
3. Resolution Amending the General Plan
4. Ordinance Amending the Zoning Code
5. Applicant Appeal Request ALUC Determination – December 20, 2023
6. Riverside County Airport Land Use Commission (RCALUC) Comment Letter – July 2, 2024
- 6a. Applicants Response Letter to RCALUC – July 17, 2024
7. Department of Transportation Aeronautics Division Comment Letter – July 25, 2024
- 7a. Applicants Response Letter to DOT Aeronautics – August 2, 2024
8. City Council Report – June 25, 2024
9. [Planning Commission Report and Exhibits Item 5 – April 25, 2024](#)
10. Revised Conditions of Approval from Planning Commission
11. [Cultural Heritage Board Report and Exhibits Item 5 – April 17, 2024](#)
12. Applicant Appeal of Cultural Heritage Board Determination – April 29, 2024
13. Presentation
14. [Final Environmental Impact Report and Annotated Draft Environmental Impact Report and Appendices](#)
15. [Draft Environmental Impact Report](#)

Final and Draft EIR – Also on File at

- City's Community & Economic Development Department, 3900 Main Street, Riverside, CA 92522;
- Main Riverside Public Library, 3900 Mission Inn Avenue, Riverside, CA 92501; and
- Marcy Library, 6927 Magnolia Avenue Riverside, CA 92506.