



December 20, 2023

Honorable Mayor and City Council
City of Riverside
3900 Main Street
Riverside, CA 92522

**Re: Arlington Mixed Use Development Project
Planning Case PR-2022-001252: Appeal and Request for Override of
ALUC Finding of Inconsistency**

Honorable Mayor and City Council:

Riverside Property Owner, LLC ("Applicant") hereby appeals 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), for the reasons set forth in this letter and in the attached Findings of Fact. As you may be aware, 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 immediately informed the City that they would be appealing ALUC's determination. Since that time, the Applicant and City have been working through the entitlement process based on the understanding that ALUC's inconsistency determination was appealed. To perfect the City's appeal process, we are submitting this letter and accompanying fee outlining the basis of the appeal of ALUC's determination.

In order to support the City in reaching their Regional Housing Needs Allocation ("RHNA") and provide much-needed housing, the Arlington Mixed Use Development Project proposes to redevelop 17.37 net acre parcel currently developed with 178,426 square feet ("sf") vacant retail building (former Sears). The Project proposes 576,203 sf of residential and commercial-retail uses. The residential buildings will allow for a total of 388 dwelling units and be divided between 13, 3-story garden style buildings providing for 318 dwelling units and 14, 2-story townhome buildings providing for 70 dwelling units. The residential portion will 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 will include one 5,000 sf multi-tenant retail speculative pad and a 20,320 sf grocery store pad. The residential portion will assist the City in reaching their RHNA, which, as the City knows, is an exceptionally high number due to the chronic under-production of housing across the state of California.

The Project site is located at the northeast corner of Arlington Avenue and Streeter Avenue. The Project site consists of assessor parcel number (APN) 226-180-015-1; specifically located at 5261 Arlington Avenue, Riverside CA 92506. The Project site is located directly across from the Heritage Plaza Shopping Mall and Arlington Square Shopping Center which is developed with retail uses, such as Ross Dress for Less, Big Lots, and Smart & Final Extra. Directly west and east of the Project is additional multi-family residential, office, and commercial uses. Directly north, the Project site is also bordered by multi-family residential, office and vacant uses.

Most of the Project site is located within Land Use Compatibility Zone B1 while smaller portions are located with Zones C and D. The majority of the surrounding commercial and residential uses discussed above, are within Compatibility Zone B1 of the Riverside Municipal Airport Land Use Compatibility Plan ("ALUCP"). Zone B1 restricts residential density to a maximum of 0.05 dwelling units per acre, Zone C restricts residential density to 0.2 dwelling units per acre, and Zone D restricts dwelling units to below 0.2 or above 4.0 dwelling units per acre.

The Project proposes a residential density of 28.0 dwelling units per acre in Zone B1 and 2.0 dwelling units per acre in Zone C, exceeding the maximum residential density in Zone B1 and Zone C. Additionally, the Project's proposed clubhouse/fitness/leasing area and grocery uses exceed the allowable average and single acre intensity in Zone B1 and the proposed retail exceeds the maximum average acre intensity in Zone C. Because of these density exceedances, ALUC deemed the Project inconsistent with the 2005 ALUCP. Additionally, the Project proposes three-story buildings, which include more than two above ground habitable floors and does not contain 4.99 acres of ALUC qualified open area. Otherwise, the Project is consistent with the ALUCP.

Because the Project will redevelop an underutilized site and greatly assist the City in reaching its RHNA by providing much needed housing in the area, the Applicant respectfully requests the City Council override the ALUC decision on appeal.

Additionally, 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 10.¹ To allow the Project to provide much needed housing, and keeping with the intent of condition 2(e) to avoid certain land uses in this area, the Applicant requests condition 2(e) be modified to state the following:

Children's schools, day care centers, libraries, hospitals, nursing homes, places of worship, buildings with more than three aboveground habitable floors and exceeding height requirements set forth by Riverside Municipal Code Section

¹ As written, condition 2(e) prohibits the following uses: "Children's schools, day care centers, libraries, hospitals, nursing homes, places of worship, buildings with more than two aboveground habitable floors, critical community infrastructure facilities, and aboveground bulk storage of 6,000 gallons or more of flammable or hazardous materials." Condition 10 requires: "At least 4.99 of ALUC-eligible open areas (at least 75 feet in width and 300 feet in length_ shall be kept obstacle and obstruction free per ALUC open area definition (no objects greater than four feet in height with a diameter of four inches or greater)."

December 20, 2023

Page 3

19.120.050, critical community infrastructure facilities, and aboveground bulk storage of 6,000 gallons or more of flammable or hazardous materials.

Condition 10 cannot be met given the current size of the Project site. But, for the reasons stated below, the Project is as safe as possible despite the requested acreage by this condition.

Thank you for your consideration of this issue. We are happy to provide any additional information or answer any questions the Council may have.

Sincerely,



Jamie Chapman
Riverside Property Owner, LLC
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Potomac, MD 20854

Enclosures: (1) Findings of Fact

(2) Riverside County Airport Land Use Commission Staff Report, Agenda Item 3.2

(3) January 18, 2023 Letter from Riverside County Airport Land Use Commission to Brian Norton re Airport Land Use Commission (ALUC) Development Review

FINDINGS OF FACT

The City Council of the City of Riverside, by a two-thirds vote, has the authority to overrule the Riverside County Airport Land Use Commission's ("ALUC") decision based on specific findings that the proposal is consistent with the purposes of ALUC law to protect public health, safety and welfare 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. The Project is consistent with the purpose and intent of ALUC law and the Riverside Municipal Airport Land Use Compatibility Plan ("ALUCP") for the following reasons:

1. The Project will not affect the orderly expansion of the Riverside Municipal Airport ("RMA").

The Project is consistent with the residential development surrounding RMA, specifically in Zone B1, and will not result in the encroachment of incompatible residential densities affecting current or future RMA operations. The Project involves the redevelopment of an underutilized commercial parcel with multi-family residential and commercial development. The Project's proposed General Plan designation and zoning of Mixed Use-Village, is consistent with surrounding development, and would assist in transitioning between commercial and single-family residential uses.

The Project site is located directly across from the Heritage Plaza Shopping Mall and Arlington Square Shopping Center, which has a General Plan Land Use Designation of C – Commercial and HDR – High Density Residential and is zoned CR – Commercial Retail, CG – Commercial General, and O – Office, and is developed with retail uses. 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.

The surrounding residential uses appear to exceed 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 multi-family residential and commercial uses are located in Zone B1, near the Project. Apartment complex, Phoenix Gardens Apartments, located at 6930 Phoenix Avenue, is adjacent to the Project Site across Streeter Avenue. Large neighborhoods of single or multi-family 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. The Project is consistent with other residential and commercial developments in the B1 and C Zones.

Additionally, the Project consists of infill development of an underutilized commercial site. The vast majority of Zone B1 in the City has 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.

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 multi-family 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.

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.)

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.

- b. 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.
- c. The Project will have no impact on Federal Aviation Administration Federal Aviation Regulations (FAA FAR) Part 77.

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 ("AMSL"). At a distance of approximately 5,151 feet from the project to the nearest point on the runway, Federal Aviation Administration ("FAA") review would be required for any structures with top of roof exceeding 867 feet AMSL. The site's finished floor elevation is approximately 791 feet AMSL and proposed building height is maximum 41.5 feet, resulting in a top point elevation of 832.5 feet AMSL. Therefore, review of the building for height/elevation reasons by the FAA Obstruction Evaluation Service ("FAAOES") is not required.

- d. The Project will not impose a safety hazard due to height.

The Project proposes to develop 27 residential apartment buildings consisting of 2 and 3-story structures and two commercial buildings with a maximum height of 41.5 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 Mixed Use – Village (MU-V) maximum height of 45 feet (RMC § 19.120.050), and well below the current Commercial Retail (CR) 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 reduced maximum height than what currently exists for the site and for 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.

- e. The Project will not utilize equipment that would interfere with aircraft communications.

There are no radar transmission or receiving facilities within the site. The Project's solar panels are low profile 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.

- f. The Project site identifies 2.14 acres as open space and provides 815 parking spaces across the entirety of the Project. As such, ample open space is provided adjacent to the Project in the event an aircraft requires an emergency landing. Additionally, the Project is located at the intersection of Arlington Avenue and Streeter Avenue, both streets providing additional open area.
- g. The Project will comply with all feasible recommended ALUC conditions.

The Project will comply with the majority of 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 minor modifications, to continue to ensure safety, but allow for the best available use of the Project site. Condition 10 cannot be met based on the current size of the Project site. Similar to the surrounding uses such as the Heritage Plaza

Shopping Mall and Arlington Square Shopping Center, neighboring residential areas, and adjacent offices, there is no available acreage that could adhere to this requirement. Condition 2(e) can be properly revised to accommodate habitable floors within the City's permitted building height. As demonstrated above, the Project will be designed and constructed in the safest manner possible to align with ALUC's purpose of minimizing safety hazards within areas around public airports while at the same time satisfying the City's great need for housing.