



August 2, 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 Caltrans 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. On July 25, 2024, Caltrans 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 Caltrans 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 This is supported by the fact that ALUC’s criteria used to determine Project inconsistency is based on conservative, outdated projections that are not applicable to current trends or operations.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: August 2, 2024



Subject: Arlington Mixed-Use Project –Response to Caltrans Comments 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 Caltrans in their July 25, 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.

Caltrans Comment Letter Review

The Caltrans Letter states that the agency has reviewed the City’s draft Findings in the intent to overrule resolution and determined the findings “are insufficient to warrant the proposed overrule.” Caltrans does not address if it actually reviewed the entire record of the Project that the City cites as basis for its proposed ALUC determination overrule. Had Caltrans reviewed the entire record, it would find the exhaustive process that the City has followed to assess the Project and properly balance the many competing objectives of State law and local housing needs to arrive at their summary draft findings. Further, Caltrans supports the ALUC determination based on an outdated 2005 ALUCP that is inconsistent with the 2010 updated Airport Master Plan adopted by the City and its own 2011 Airport Land Use Compatibility Planning Handbook (“Handbook”). Finally, while Caltrans may disagree with the City’s decision to overrule the ALUC, it does not have the authority to “determine” if the City’s findings are sufficient or if the overrule is warranted. Only the City is empowered with land use decisions within its jurisdiction. State law supports this position and provides the City with the final discretionary decision-making authority through the PUC⁵ when it has fully followed the planning and environmental process and properly weighed all the competing interests and legal requirements as the City has done so with this Project.

³ California Code, Public Utilities Code – PUC § 21676.5

⁴ California Code, Public Utilities Code – PUC § 21670

⁵ Ibid.

Caltrans cites four main comments in response to the City’s full set of Findings and entire Project record in the intent to overrule resolution. The following is a review and rebuttal, where necessary, of the comments included in the Caltrans Letter.

1. **Caltrans Comment:** The Division disagrees with Finding #1. The proposed project results in a density of 28 dwelling units per acre in Compatibility Zone B1, which is 560 times more than the ALUCP’s maximum density of 0.05 dwelling units per acre per Chapter 3.1.3 of the Riverside County ALUCP (RCALUCP). This departure from the RCALUCP sets a concerning precedent for future development near the Airport and compounds already existing incompatible land uses in this area that likely jeopardizes long-term airport operations. Caltrans cannot agree with this approach. The project proposes two commercial buildings on 3.14 acres, distributed between Zones B1 (2.52 acres) and C (0.62 acres). In Zone B1, a proposed grocery store will yield an average intensity of 81 people per acre, exceeding the permitted 25 people per acre by over 320%, per RCALUCP Chapter 3.1.4. Zone C hosts a retail space with an average intensity of 134 people per acre, far surpassing the allowable limit stated in the RCALUCP of 75 people per acre by nearly 80%. Additionally, the non-residential intensity for the multi-family amenity facility averages 49 people per acre, almost doubling the maximum allowed of 25 people per acre, with a single-acre intensity reaching 769 people—over 15 times the maximum allowed by the RCALUCP. The Division does not agree with the increase in non-residential density, as it poses significant concerns the health, safety, and welfare of the surrounding general public.

Rebuttal to Caltrans 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 Caltrans 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.
- Caltrans 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. Instead, the 2010 Airport Master Plan suggests extending Runway 27 to the east for departures to the west only. The additional runway length would not be usable to the east and thereby avoids the impacts to homes and roads located east of the Airport. The landing location on this extended section of runway would remain in the existing threshold location and thereby keep aircraft approaching the runway from the east in the same altitude and location relative to surrounding land uses that they currently arrive.
- The FAA-reported RAL total aircraft operations in 2023 was 126,719, according to the FAA’s Air Traffic Activity System (ATADS)⁶. The noise contours for the ALUCP are based

⁶ 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>.

on an unrealistic and outdated forecast of 220,000 annual aircraft operations and a fundamental shift to jet aircraft⁷ (one percent of operations growing to 20 percent of operations) from the actual training fleet of small, single-engine aircraft⁸. The FAA’s Terminal Area Forecast for RAL tops out in 2050 with 134,124 annual operations⁹ 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 east¹⁰. 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 fully considering the ALUCP as part of the overall Project review. 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 City has studied the actual safety profile of operations at the Airport. 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 increased¹¹.
- 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 for landings further to the east. The extension to the east would only be used for departures to the west. 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. **Caltrans Comment:** The Division disagrees with Finding #1c. Introducing this Project into an environment already characterized by numerous incompatible developments markedly amplifies the risk profile. This cumulative effect substantially raises the potential severity of outcomes in the event of a catastrophic incident, posing significant safety concerns. Therefore, approving this

⁷ 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.

⁸ Riverside County ALUCP, West County Airports Background Data (March 2005), Exhibit RI-3, Airport Activity Data Summary, Riverside Municipal Airport.

⁹ 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/>.

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

¹¹ 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>.

project warrants careful reconsideration to mitigate these heightened risks and ensure the overall safety and resilience of the area.

Rebuttal to Caltrans Comment 2: Caltrans is simply wrong in their assertion that this Project “markedly amplifies the risk profile.” The risk of aircraft accidents is based on the operational profile of aircraft and pilots using the airport and the weather conditions prevailing throughout the year. The actual accident risk has been studied and disclosed as part of the Project review process. The following are specific points of rebuttal to the Caltrans comment.

- The City has studied the actual safety profile of operations at the Airport. 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 increased¹².
 - 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 for landings further to the east. The extension to the east would only be used for departures to the west. 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.
3. **Caltrans Comment:** The Division disagrees with Finding #3. The Project proposes three-story residential buildings in Compatibility Zone B1, designated as a 'prohibited use' under Countywide policies. This designation explicitly prohibits such developments due to safety concerns from the risk associated with this zone where Chapter 4.2.2. of the RCALUCP states, “The principal means of reducing risks to people on the ground is to restrict land uses so as to limit the number of people who might gather in areas most susceptible to aircraft accidents”.

Rebuttal to Caltrans Comment 3: As stated previously, the Zone B1 is based on the incorrect assumption that Runway 27 will be extended 1,000 feet to the east for landings further to the east. The extension to the east would only be used for departures to the west. The more appropriate outer approach/departure zone from the Handbook shows a “moderate risk” with two to six percent of the “near-runway” accidents. The Project is located in an area that would be Zone C if the ALUCP were properly updated to be consistent with the City’s adopted Airport Master Plan. In Zone C buildings with up to three habitable floors are allowed.

4. **Caltrans Comment:** The Division disagrees with this finding. The Project fails to meet the RCALUCP’s open area requirement essential for multi-family developments, which is crucial for ensuring safety during aircraft emergencies. The RCALUCP emphasizes prioritizing the maximum safety standards in site design. The finding suggests alternatives such as local roads, freeways, and nearby parks could fulfill the open area mandate. The City has confirmed in its findings that

¹² 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>.

this area already has abundant land uses that are incompatible with the RCALUCP, and this underscores the importance of maintaining enforceable open space on-site as per the RCALUCP. Neglecting this requirement in Zone B1 at Riverside Municipal Airport heightens public safety concerns and risks associated with residential occupancy.

Rebuttal to Caltrans Comment 4: 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 community¹³. 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).
- Zone B1 is based on the incorrect assumption that Runway 27 will be extended 1,000 feet to the east for landings further to the east. The extension to the east would only be used for departures to the west. The more appropriate outer approach/departure zone from the Handbook shows a “moderate risk” with two to six percent of the “near-runway” accidents. The Project is located in an area that would be Zone C if the ALUCP were properly updated to be consistent with the City’s adopted Airport Master Plan. In Zone C buildings with up to three habitable floors are allowed.

¹³ US Bureau of Transportation Statistics, U.S. General Aviation Safety Data, <https://www.bts.gov/content/us-general-aviation-safety-data>

Figure 1 – RAL Airport Noise Abatement Procedure Map

