

## Technical Memorandum



To: Michelle Rubin, President  
Regional Properties, Inc.  
From: Nick Johnson, Johnson Aviation, Inc.  
Date: October 10, 2024

Subject: Mission Grove Apartments Project –Response to ALUC Comment on City’s Intent to Overrule

### Purpose

This technical memorandum addresses the Mission Grove Apartments 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 March Air Reserve Base (“Airport,” “March ARB,” or RIV) as established by the Riverside County Airport Land Use Commission (ALUC) and subject to the 2014 Riverside County Airport Land Use Compatibility Plan (ALUCP) for the March ARB, pursuant to the California State Aeronautics Act<sup>1</sup>. The Project was submitted to the ALUC for a consistency determination and, after a hearing on the Project on September 14, 2023, found the Project inconsistent with the ALUCP. March ARB is a “joint-use” civilian and military Airport and Base owned and operated by the March Joint Powers Authority (“March JPA”).

The City’s Planning Commission approved the Project after a hearing on July 18, 2024. On August 20, 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 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 Law<sup>2</sup>.

The purpose of this memo is to directly rebut the comments provided by the ALUC in their September 4, 2024, letter to Ms. Veronica Hernandez, the City’s Senior Planner for the Project (“ALUC Letter”), and similar comments received from Caltrans Aeronautics in their September 25, 2024, letter (“Caltrans 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 Mission Grove Apartments Development Project (Planning Case PR-2022-001359 – General Plan Amendment, Rezone, Tentative Parcel Map, and Design Review (“Project”) to facilitate the construction of a multifamily development consisting of 347 residential units, 2,963 square feet of leasing office area, 1,001 square feet of pool area, 1,293 square feet of club area, 2,386 square feet of fitness area, and 604 parking spaces on 9.92 acres, located at 375 Alessandro Boulevard (former Kmart building) and situated on the northwest corner of Mission Grove Parkway and Mission Village Drive. The current General Plan Land Use Designation is Commercial, the Zoning Designation is Commercial Retail and Mission Grove Specific Plan Overlay Zones and the site is developed with retail uses. The Project site is located approximately 3.3 miles northwest of the closest point on the north end of Runway 14/32 of the March ARB primary runway and 2.0 miles west of the Runway 14/32 centerline extended where aircraft are on final approach to landing to the south and initial climb to the north.

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

<sup>2</sup> PUC § 21676(b).

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## 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 March ARB Airport Influence Area (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 2014 ALUCP and recommended to the ALUC in their Staff Report (“ALUC Staff Report”) that the Project be found inconsistent with that plan. On September 14, 2023 the ALUC held a public hearing on the Project and voted to affirm the staff recommendation and find the Project inconsistent with the 2014 ALUCP. The City, acting under State law<sup>3</sup>, 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 uses<sup>4</sup>.”

On August 20, 2024, a detailed Staff Report and associated detailed findings (“Findings”) were prepared for the City Council’s consideration in countering the ALUC findings of inconsistency with the ALUCP. The purpose of this report and Findings is to meet the requirements of State law to support an ALUC overrule and to also raise the competing State law requirements for the City to meet its Regional Housing Needs Allocation (RHNA). The Planning Commission and City Council are charged with balancing these competing interests when evaluating and deciding the potential impacts of the Project.

## ALUC Comment Letter Review

The ALUC Letter cites three main comments in response to the City’s Findings of the intent to overrule resolution. These same ALUC comments are echoed in the Caltrans Letter. The three comments all focus on the proposed residential density and purport that this density introduces a new safety risk beyond that which already exists with the current Commercial land use designation. The Letter concludes with a recommendation that the City apply the conditions included in the ALUC Staff Report on the Project to minimize impacts on the continued use of March ARB and to notify the public of their proximity to the Airport. The following is a review and rebuttal, were necessary, of the comments included in the ALUC Letter.

1. **ALUC Comment 1:** [City] Finding #1 argues that the Project (the subject matter of the City’s proposed overrule) will not affect the orderly expansion of the March Air Reserve Base (the Base), and is consistent with residential development around the Base, specifically in Zone C2, and will not result in the encroachment of incompatible residential densities affecting the Base operations. However, the Project’s density is 35.0 dwelling units per acre. In the immediate surrounding residential communities around the Project, the densities are between 4.0 to 6.0 dwelling units per acre. Therefore, it is noted that the Project’s density is almost 6 times greater than the surrounding residential densities. Even in the general vicinity where the City states there are existing multifamily residential uses with densities of up to 17.3 dwelling units per acre, it is

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<sup>3</sup> California Code, Public Utilities Code – PUC § 21676.5

<sup>4</sup> California Code, Public Utilities Code – PUC § 21670

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still noted that the Project’s density is almost 2 times greater. It is emphasized that existing uses are exempt from review by the March Air Reserve Base/Inland Port Airport Land Use Compatibility Plan [March ALUCP] and some may have been built before the March ALUCP was adopted in 2014 by the ALUC. However, new land uses, like the Project, are subject to the provisions and criteria of the March ALUCP. Ignoring the March ALUCP criteria in the case of the Project sets a dangerous precedence for the City to willfully bypass the safety guidance established by the March ALUCP for future development around the Base, which could lead to encroachment of incompatible uses on the Base and possibly jeopardizing its long-term operations viability. Lastly, finding #1d states that the vast majority of Zone C2 has been built out, largely by single-family residences, and that few infill sites exist, such as the Project, and concludes by saying the Project would not encourage other developments to exceed Zone C2 density stands or encroach upon Base operations. The City’s position that the Project’s density should just be accepted outright based on the fact that there are no more vacant sites in Zone C2 is extremely misleading as redevelopment of any existing land uses can be made at any time. As stated above, the Project results in a density almost 6 times greater than the March ALUCP’s required maximum density of 6.0 dwelling units per acre, which is very significant when considering that the intent and purpose of Zone C2 is to restrict residential density in order to limit the potential risk of off-field aircraft landing. Moreover, Zone C2 is identified as the flight corridor where risk level and noise impacts are considered “moderate” in the ALUC Countywide policies Table 3A Compatibility Zone Factors. Zone C2 has a moderate-risk level due to the aircraft turns from base to final approach legs of standard traffic pattern and descend from traffic pattern altitude where approximately 10% to 15% of off-runway general aviation accidents near airports take place. The City does not address nor considers the moderate risk of harm that will be placed on the Project site. As a reminder, in 2019, an F-16 fighter jet crashed into a warehouse in Zone B2 of March ALUCP and fortunately with zero casualties. This crash highlights the unexpected nature of aviation and emphasizes the role of the March ALUCP in trying to avoid significant catastrophes. The Project unnecessarily increases the harm potential to the general public and those who will occupy the residences as a result of the Project’s incompatible densities.

**Rebuttal to ALUC Comment 1:** The Project will not affect the orderly expansion of the March ARB. It is located 3.3 miles from the closest point on Runway 14/32 and surrounded by fully developed, existing residential and commercial land uses. The Project site is in a dense, urban neighborhood that is more than 9,300 feet west of the nearest point of Runway 14 Accident Potential Zone II (APZ-II) and this site has coexisted with the Airport for decades with no aircraft accidents or incidents within the Compatibility Zone C2. The existing Commercial land use designation allows for more intense use and people per acre than the Project’s proposed density. The following are specific points of rebuttal to the ALUC comment.

- The ALUC Comment 1 draws a distinction without a difference between the proposed high density residential at 35 dwelling units per acre and the existing allowed Compatibility Zone C2 Commercial average intensity at 200 people per acre and 500 people per single acre that is highlighted in the ALUC Staff Report. Using the ALUC’s intensity calculation methodology, average intensity for the Project would be calculated by the 1,217 total people<sup>5</sup> on 9.92 acres resulting in a Project intensity of 123 people per acre. or about 61.3 percent of the allowable 1,984 total people or 200 people per acre

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<sup>5</sup> Project Occupancy: (604 parking spaces x 1.5 people per car = 906 people) + 311 people for amenities = 1,217 total people ÷ 9.92 acres = 123 people per acre average intensity.

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intensity. March ARB Air Installation Compatible Use Zone (AICUZ) Study<sup>6</sup> projects that 92.4 percent of all flight operations take place between 7 am and 10 pm. As a result, more people are exposed to the vast majority of March ARB flight operations in the existing land use during normal business hours than residents would be during nighttime hours.

- The City is not “ignoring the March ALUCP criteria” but rather scrutinizing the purported logic and lack of supporting evidence for these criteria and their application to this Project. The City is weighing the actual evidence for this Project as it would carefully do so with any other similar project. While the ALUC Comment 1 theorizes that if the City overrules the ALUC that it will create a “slippery slope” for all other future projects to encroach on the Base, this assertion ignores the lengthy, expensive and arduous entitlement process necessary for a General Plan Amendment and zone change. It also ignores the numerous opportunities for ALUC input as well as public input.
- The ALUC Comment 1 suggests that “redevelopment of any existing land uses can be made at any time” to counter the unique nature of this Project and the lack of sites available to undertake a similar action. In fact, there are no other proposed projects or similar sites anywhere in the vicinity and none have been proposed.
- The ALUC Comment 1 statement that “intent and purpose of Zone C2 is to restrict residential density in order to limit the potential risk of off-field aircraft landing” is simply false. Zone C2 is an overflight zone that is below 60 dB CNEL noise levels where residential disclosure is necessary. If there were any evidence of an off-airfield landing risk in this area, then it would not allow any residential development as is the case with Clear Zones (CZ) and Accident Potential Zones (APZ) at the ends of the March ARB runways. The ALUCP does not require an open land area in the Compatibility Zones around March ARB because there is no evidence-based safety reason to do so.
- The ALUC Comment 1 statement that “Zone C2 has a moderate-risk level due to the aircraft turns from base to final approach legs of standard traffic pattern and descend from traffic pattern altitude where approximately 10% to 15% of off-runway general aviation accidents near airports take place” is also simply false. The general aviation pattern area for Runway 14/32 is generously one mile beyond the end of the runway and one mile abeam the west side of the runway centerline. The project site is 3.3 miles from the runway end and 2 miles west of the runway centerline extended.
- The ALUC Comment 1 statement that, “The City does not address nor considers the moderate risk of harm that will be placed on the Project site” is false. The City is fully studying the actual risk for the actual site as compared to documented evidence to come to a reasoned decision on the Project. “Moderate” risk of harm is a relative term with no comparison to make it discernable as to the effect on the Project site. There have been no aircraft accidents or incidents in Compatibility Zone C2 with daily overflights of the area.
- The ALUC Comment 1 states, “in 2019, an F-16 fighter jet crashed into a warehouse in Zone B2 of March ALUCP and fortunately with zero casualties.” This crash took place

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<sup>6</sup> 2018 Air Force Reserve Command, *Final Air Installations Compatible Use Zones Study*, March Air Reserve Base, Table 4-2. Annual Aircraft Flight Operations for March ARB 2018 AICUZ Noise Zones.

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1,816 feet west of the Runway 14/32 centerline in Zone B2. The Project site is 17,945 feet from the Runway 14 end and 11,000 feet west of the runway centerline extended north.

- The ALUC Comment 1 statement, “The Project unnecessarily increases the harm potential to the general public and those who will occupy the residences as a result of the Project’s incompatible densities” is not supported by any evidence and to the contrary, the existing allowable commercial intensity is more than six times greater than the proposed Project.
2. **ALUC Comment 2:** [City] Finding #2 states that the Project minimizes the public’s exposure to excessive noise and safety hazards within areas around the airport. While the ALUC concurs with this statement regarding minimal impact to public exposure from aircraft related noise, the ALUC submits that this finding does not clearly identify how the Project minimizes the public’s exposure to safety hazards specifically. It has already been noted in response to Finding #1 that the Project’s density of 35.0 dwelling units per acre already exceeds the maximum density criteria for Zone C2 of 6.0 dwelling units per acre, and is a major safety risk.

**Rebuttal to ALUC Comment 2:** To restate, the ALUC Comment 2 draws a distinction without a difference between the proposed high density residential at 35 dwelling units per acre and the existing allowed Compatibility Zone C2 Commercial average intensity at 200 people per acre and 500 people per single acre that is highlighted in the ALUC Staff Report. The Project’s average intensity would be 123 people per acre or approximately 61.3 percent of the allowable 200 people per acre. No actual safety risk has been documented by the ALUC within the ALUCP or the ALUC Staff Report. The one cited F-16 accident crashed 3.3 miles from the Project site 1,816 feet west of the Runway 14/32 centerline in Zone B2 near the runway and CZ and APZs where there is a documented safety risk.

3. **ALUC Comment 3:** ALUC contends that the Project proposal of amending the site’s General Plan land use designation from C-Commercial to MU-U-Mixed Use Urban, and rezoning the site from the site from CR-Commercial Retail to MU-U-Mixed Use-Urban, and a specific plan amendment to amend the Mission Grove Specific Plan to permit mixed use/multi-family residential units on the Project site, is not consistent with the City’s General Plan and Zoning Ordinance.

The City’s adopted General Plan land use element specifically references the importance of the March Air Reserve Base and its goal of limiting conflicting land uses:

“Residential development within areas close to March and/or potentially impacted by March could lead to increased conflict with the March operations and would have negative consequences for the base in any subsequent round of BRAC review. To ensure that March continues in its military and trade missions which have brought enormous economic benefit to the City and the region as a whole, Riverside will need to ensure that its future land use decisions do not pose potential adverse impacts to ongoing operations at March”.

ALUC contends that the Project’s proposed density of 35.0 dwelling units per acre that significantly exceeds the Zone C2 maximum density requirement of 6.0 dwelling units per acre is contrary to the City’s General Plan policy of protecting March and its operations. ALUC believes the Project could lead to an increased conflict with March’s operations thereby placing its economic benefit to the region in jeopardy due to the encroachment of incompatible residential densities which influences a BRAC review.

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The adopted land use element also contains objectives and policies regarding March Air Reserve Base and airport land use compatibility that the City has disregarded:

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 Airport, Riverside, Municipal Airport, and Flabob Airports.

ALUC contends that the Project’s proposed 35.0 dwelling units per acre high density land use designation would have an encroaching impact on the long-term viability of the March Air Reserve Base.

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 March Air Reserve Base/Inland Port Airport, Riverside Municipal Airport, and Flabob Airport, and in implementing the new Airport Land Use Compatibility Plan.

ALUC contends that the City’s adopted General Plan and Zoning Ordinance contain sufficient guidance and regulations to implement safe and appropriate airport land use compatibility in its projects. In the case of the proposed Project, the proposed density of 35.0 dwelling units per acre is inconsistent with what the City adopted in its General Plan and Zoning Ordinance and fails to protect airport influence areas.

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.

ALUC contends that the permittance of the Project’s 35.0 dwelling units per acre will lead to the gradual eroding of the airport land use compatibility criteria which will pave the way for incompatible intensification of high density in inappropriate airport compatibility zones resulting in the encroachment on the Base.

Policy LU-22.4: Adopt and utilize an Airport Protection Overlay Zone and the Riverside County Airport Land Use Compatibility Plan as it affects lands within the City of Riverside.

ALUC contends that the City should utilize its adopted General Plan and Zoning Ordinance in implementing its adopted March Air Reserve Base/Inland Port Airport Land Use Compatibility Plan on the Project.

Policy LU-22.5: Review all proposed projects within the airport influence area of Riverside Municipal Airport, Flabob Airport or March Air Reserve Base/Inland Port Airport as noted in the Public Safety Element for consistency with all applicable airport land use compatibility plan policies adopted by the Riverside County Airport Land Use Commission and the City of Riverside, to the fullest extent the City finds feasible.

ALUC contends that the proposed Project’s density of 35.0 dwelling units per acre significantly exceeds the Zone C2 maximum density requirement of 6.0 dwelling units per acre which threatens the public health and safety at the Project site in the event of an aircraft off-field landing.

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The following sections are from the City’s adopted Zoning Ordinance with references to the airport land use compatibility plan (ALUCP):

Section 19.149 contains an entire section dedicated to the ALUCP. Sub-section 19.149.020 identifies that: “For property located within a compatibility zone and subject to airport land use compatibility plan policies and criteria, land use, density, and intensity limitations of the ALUCP may be more restrictive than what would otherwise be allowed per City zoning designation applicable to the property. In addition to complying with the Zoning requirements of this title, proposed uses and development on property within an airport compatibility zone must be determined to be consistent with, and comply with the compatibility criteria of the applicable compatibility zone and airport land use compatibility plan”.

ALUC contends that Section 19.149 recognizes that the proposed Project is located within an airport compatibility zone which may be more restrictive than otherwise allowed by the City zoning, and it states that the Project must be determined to be consistent and comply with the compatibility criteria.

Section 19.149.030 provides the purpose of the ALUC “is to conduct airport land use compatibility planning. ALUCs protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports”.

ALUC contends that the Project’s proposed density of 35.0 dwelling units per acre significantly exceeds the Zone C2 maximum density requirement of 6.0 dwelling units per acre, and does not protect the public health, safety and welfare by ensuring the orderly expansion of airports.

Section 19.150.020 is the City’s Permitted Land Uses and it states (sub-section 19.150.020.B) “Airport Land Use Compatibility includes additional Airport Land Use Compatibility Plan requirements for discretionary actions proposed on property located within an Airport Compatibility Zone. When located within an Airport Land Use Compatibility Zone, greater land use, restrictions for airport compatibility may apply per the applicable Airport Land Use Compatibility Plan”. Specifically, the permitted land use table identifies multiple-family dwellings in the Mixed Use Urban zone as a permitted use by the City, but it also identifies (via footnote \*\*\*) that the uses are also subject to the ALUCP criteria “where use may be strictly prohibited”.

ALUC contends that Section 19.150.020 requires that the Project be subject to the airport land use compatibility criteria where use may be strictly prohibited, which the Project’s proposed density of 35.0 dwelling units per acre significantly exceeds the Zone C2 maximum density requirement of 6.0 dwelling units per acre.

**Rebuttal to ALUC Comment 3:** The ALUC Comment 3 focuses on the sections of the General Plan and Zoning Ordinance that incorporates the ALUCP and project review requirements. The City is following this process and consistency with these policies has been fully disclosed and vetted in the EIR for the Project. The City’s Zoning Code and State law also allows for the 19.149.090 Overrule procedures. The City is exploring an Overrule in this case to ensure that the land use needs of the City are fully balanced with the significant competing needs for housing, neighborhood development and efficient use of significantly underutilized commercial property. This requires the City to undertake the difficult balancing of all the communities needs to decide

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land use matters and to redevelop property in a dense, urban, residential and commercial neighborhood of the City.

To restate, the ALUC Comment 3 draws a distinction without a difference between the proposed high density residential at 35 dwelling units per acre and the existing allowed Compatibility Zone C2 Commercial average intensity at 200 people per acre and 500 people per single acre that is highlighted in the ALUC Staff Report. The Project’s average intensity would be 123 people per acre or approximately 61.3 percent of the allowable 200 people per acre. No actual safety risk has been documented by the ALUC within the ALUCP or the ALUC Staff Report. The one cited F-16 accident crashed 3.3 miles from the Project site 1,816 feet west of the Runway 14/32 centerline in Zone B2 near the runway and CZ and APZs where there is a documented safety risk.

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