



City of Arts & Innovation

# City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL      DATE: AUGUST 20, 2024

FROM: COMMUNITY & ECONOMIC DEPARTMENT      WARD: 4

SUBJECT: SCHEDULE A PUBLIC HEARING FOR DECEMBER 3, 2024, AT 3 P.M., TO CONSIDER THE OVERRULE AND ASSOCIATED APPEAL AND ENTITLEMENTS RELATED TO PLANNING CASE PR-2022-001359 – LOCATED AT 375 ALESSANDRO BOULEVARD – SITUATED ON THE NORTHWEST CORNER OF MISSION GROVE PARKWAY AND MISSION VILLAGE DRIVE (FORMER K-MART BUILDING) AND REVIEW AND SEND THE DRAFT FINDINGS TO OVERRULE THE RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION (ALUC) DETERMINATION TO CALIFORNIA DIVISION OF AERONAUTICS AND TO THE ALUC

## **ISSUES:**

Schedule a Public Hearing to consider the Override of the ALUC determination of inconsistency, project appeals and project entitlements including a General Plan Amendment, Specific Plan Amendment, Rezone, Tentative Parcel Map, and Design Review to facilitate the construction of a multi-family residential development consisting of 347 residential units on 9.92 acres located in ALUC Zone C2 of the March Air Reserve Base Land Use Compatibility Plan (MARB LUCP); and review and send the draft Resolution to Override the Riverside County Airport Land Use Commission (ALUC) determination to the California Division of Aeronautics and to the ALUC for comment; and Schedule a Public Hearing to consider the Override of the ALUC for comment.

## **RECOMMENDATIONS:**

That the City Council:

1. Schedule a public hearing on December 3, 2024 for consideration of the ALUC override for Planning Case PR-2022-001359 General Plan Amendment, Specific Plan Amendment, Rezone, Tentative Parcel Map, Design Review, and Environmental Impact Report; and
2. Review the attached draft resolution (Attachment 2); and provide a copy of the proposed decision and findings to both ALUC and the California Division of Aeronautics, a minimum of 45 days' prior to a public hearing, whether or not to overrule ALUC.

## **BACKGROUND:**

The project site consists of a single 9.92-acre parcel, developed with a vacant 104,321-square foot former retail store (K-Mart), constructed in 1991.

The project site is part of the larger 70-acre Mission Grove Plaza Shopping Center, which is developed with a variety of commercial uses including retail and restaurants, two grocery stores, and a movie theatre. Surrounding uses include commercial to the north, west, and east (across Mission Grove Parkway, and single-family residential to the south (across Mission Village Drive).

The applicant filed a General Plan Amendment, Specific Plan Amendment, Rezone, Tentative Parcel Map, and Design Review to facilitate construction of a multi-family residential development consisting of 347 residential units.

On September 14, 2023, the project was considered by the Riverside County Airport Land Use Commission (ALUC). The project was determined to be inconsistent with the Airport Land Use Compatibility Plan, Although determined to be inconsistent, state law, 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 July 18, 2024, the Planning Commission (CPC) recommended to City Council to approve the requested General Plan Amendment, Specific Plan Amendment, Rezone, Tentative Parcel Map, Design Review, and the Draft EIR by a vote of 6-0-1 (Attachment 3 and 4).

## **DISCUSSION:**

### **Riverside County Airport Land Use Commission**

On September 14, 2023, the Riverside County Airport Land Use Commission (ALUC), by a vote of 5-0, determined City of Riverside Planning Case PR-2022-001359 to be inconsistent with the 2014 March Air Reserve Base/Inland Port Airport Land Use Compatibility Plan (“ALUCP”), due to the site's location within Compatibility Zone C2 of the March Air Reserve Base.

- The project's proposed residential density of 35.0 dwelling units per acre is inconsistent with the Zone C2 maximum residential density criteria of 6.0 dwelling units per acre.
- The project's proposed Mixed-Use – Urban land use designation and zoning as well as the Specific Plan Amendment allow for a maximum 40.0 dwelling units per acre, which is inconsistent with the Zone C2 maximum residential criteria of 6.0 dwelling units per acre. Additionally, the project is inconsistent with the City's adopted General Plan and Zoning Ordinance.

### **Appeal of the ALUC's Decision/Findings**

The applicant filed an appeal of ALUC's decision to the City Council (Attachment 1). 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 Public Utilities Code section 21676 grants local agencies (such as the City Council) the ability to overrule inconsistency determinations, based upon the following findings:

1. The Project will not affect the orderly expansion of the March Air Reserve Base (MARB).
  - a. The Project is consistent with residential development surrounding MARB, specifically in Zone C2 and will not result in the encroachment of incompatible residential densities affecting current or future MARB operations. The Project involves the redevelopment of an underutilized commercial parcel with a multifamily residential development. The Project's proposed General Plan designation and zoning designation of Mixed Use-Urban 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 within the Mission Grove Plaza shopping center and is bordered on the north, west, and east (across Mission Grove Parkway) by shopping centers, which have a General Plan Land Use Designation of C – Commercial and is zoned CR-SP – Commercial Retail and Specific Plan (Mission Grove) Overlay Zones and is developed with retail uses. Multi-family residences are located further north (across Alessandro Boulevard), which have a General Plan Land Use Designation of HDR – High-Density Residential and are zoned R-3-3000-SP – Multi-Family Residential and Specific Plan (Mission Grove) Overlay Zones. The project site is bordered on the south by a single-family residential neighborhood (across Mission Village Drive), which has a General Plan Land Use Designation of Medium High-Density Residential (MHDR) and is zoned R-1-7000-SP – Single-Family Residential and Specific Plan (Mission Grove) Overlay Zones.
  - c. The surrounding residential uses exceed the 6.0 dwelling units per acre requirement of Zone C2. Of note, several multi-family residential uses are located in Zone C2, near the Project. Mission Villas Condominium complex (located at 200 E. Alessandro Boulevard), Mission Grove Park Apartments (located at 7450 Northrop Drive), and Estancia (located at 7871 Mission Grove Parkway South) are within proximity to the Project Site; Mission Grove Park Apartments and Estancia are both located closer to MARB than the project site. Mission Grove Park consists of 432 units and has a density of 16 dwelling units per acre; Estancia consists of 208 units and has a density of 17.3 dwelling units per acre. The project is consistent with other multi-family residential developments in the C2 Zone.
  - d. Additionally, the Project consists of infill development of an underutilized commercial site. The vast majority of properties within Zone C2 have been built out, largely by single-family residences. Few infill sites, such as the Project, are available for development. As such, the Project would not encourage other developments to exceed Zone C2 density standards or encroach upon MARB 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 Public Utilities Code section 21670.
    - i. The MARB ALUCP provides the CNEL considered normally acceptable for new residential uses in the vicinity of MARB is 65 dBA. (ALUCP, § 2.3(a)). The Project site is approximately 3.3 miles from the end of Runway 14-30 at MARB. The MARB 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 MARB 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 MARB 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 MARB 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 utilize standard construction techniques to ensure interior noise levels from aviation-related sources are no more than CNEL 40 dB (ALUC, § 2.3(b)(1))
  - 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 C2 (highly noise-sensitive outdoor nonresidential uses or hazards to flight), such as major spectator-oriented sports stadiums, amphitheatres, concert halls and drive-in theaters.
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 14-32 at its northerly terminus is 1,535 feet above mean sea level ("AMSL"). At a distance of approximately 17,464 feet from the project to the nearest point on the runway, FAA review would be required for any structures with top of roof exceeding 1,710 feet AMSL. The site's highest finished floor elevation is approximately 1,595 feet AMSL with the highest proposed building height at 56 feet, resulting in a top point elevation of roughly 1,651 feet AMSL. 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 five, 4-story residential apartment buildings with a maximum height of 57 feet, 2 inches. This is below the Mixed-Use – Urban Zone maximum height of 60 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 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.
6. The Project is consistent with non-residential density calculations.

- a. The project proposed to construct a 347-unit multi-family development with recreational amenities including 2,963 square feet of leasing office area, 1,001 square feet of pool area, 1,293 square feet of club area, and 2,386 square feet of fitness area. ALUC found this non-residential square footage accommodates a total occupancy of 311 people, resulting in an average intensity of 31 people per acre, which is consistent with Zone C2 average intensity criterion of 200 people per acre.
- b. The project is also consistent with non-density residential requirements calculated by using the parking spaces provided by the Project. ALUC calculated average intensity by multiplying the number of parking spaces provided or required (whichever is greater) by average vehicle occupancy (assumed to be 1.5 persons per vehicle). ALUC misstated the number of spaces provided by the project and found that based on the number of parking spaces provided (misstated as 347 standard vehicles), the total occupancy would be estimated at 521 people for an average intensity of 53 people per acre, which is consistent with the Zone C2 intensity criterion of 200 people per acre.

However, the project provides 604 parking spaces. As such, using ALUC's methodology, the total occupancy would be estimated at 906 people, for an average intensity of 91 people per acre. This remains considerably lower than Zone C2 average intensity criterion of 200 people per acre. Thus, while the unit count may exceed ALUC's residential density requirements, the actual number of people onsite would be much lower than what ALUC would allow in Zone C2 if this were a commercial development, and accordingly would not impose a safety impact due to the intensity of people onsite in the event of an emergency.

7. 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 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.
8. The Project site is currently a part of the Mission Grove Plaza Shopping Center and will continue to share parking spaces with the commercial development upon Project implementation. As such, ample open space is provided adjacent to the Project in the event an aircraft requires an emergency landing.
9. While ALUC deemed the project inconsistent with the ALUCP, Conditions of Approval were provided by the ALUC in the event the City Council approved the project and overrule request. The Project will comply with all feasible recommended ALUC conditions, as outlined below:
  - a. The Project will comply with the recommended ALUC conditions of approval, including restrictions on outdoor lighting, prohibited uses, and notices and informational brochures for prospective purchasers and tenants.
  - b. The Project will also comply with recommended conditions related to light and glare with minor modifications to continue to ensure safety but allow for flexibility in the ultimate design of the Project's required solar panels.

- i. Condition 7 Solar Arrays – The applicant is seeking to modify this condition to allow annual daylight minutes to deviate from the provided solar glare study up to a maximum of 20 percent, consistent with ALUC policy. If the updated solar glare study results in a) more than 20 percent of annual solar glare limits, b) any glare impacting the traffic control tower, or c) creation of any “yellow” or “red” level glare in flight paths, then the amended project shall require a new hearing by the Airport Land Use Commission.

Additional information regarding the project is included as Attachment 3 (Planning Commission Staff Report).

### Process to Overrule ALUC’s Determination

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

- August 20, 2024 - Review the attached draft resolution, direct staff to provide a copy of the proposed findings to both ALUC and the California Division of Aeronautics, and set a public hearing for consideration of ALUC Overrule;
- December 3, 2024 - Public Hearing to consider the associated entitlements and appeal to overrule ALUC’s determination. Please note a 2/3 majority vote by City Council is required at the public hearing for the overrule determination to express its intent to adopt the findings provided in the attached draft resolution.

Should City Council direct staff to provide a copy of the proposed findings to overrule ALUC’s finding of inconsistency, a copy of the City Council’s decision and findings will be provided to both ALUC and the California Division of Aeronautics, as required by the Public Utilities Code, at least 45 days prior to the decision to overrule ALUC. These agencies have 30 days in which to provide comments. Any written comments submitted would be provided to City Council for consideration at the public hearing on December 3, 2024.

### **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 multi-family residential development requires public hearings by the 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 public meeting such as Riverside County Airport Land Use Commission, Planning Commission, and City Council.
2. **Equity** – The proposed multi-family residential development provides housing opportunities that benefits all residences in the community and region.
3. **Fiscal Responsibility** – All project costs are borne by the applicant.
4. **Innovation** – The proposed multi-family residential 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 & 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 related to this report as all project costs are borne by the applicant.

Prepared by:	Veronica Hernandez, Senior Planner
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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 A. Norton, City Attorney

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Name, Chair  
Name of Committee

- Attachments:
1. Applicant ALUC Appeal Request, dated September 25, 2023
  2. Draft Resolution of Intent to Overrule ALUC Decision
  3. Planning Commission Staff Report and Exhibits– July 18, 2024
  4. Planning Commission Minutes – July 18, 2024