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Agenda Date: 8/18/2021

Agenda Placement: 9A

Airport Land Use Commission Board Agenda Letter

TO: Airport Land Use Commission

FROM: Brian Bordona for David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: John McDowell, Supervising Planner - 299-1354

SUBJECT: Oat Hill Residential Project # P21-00056-ALUC

RECOMMENDATION

OAT HILL RESIDENTIAL PROJECT / CITY OF AMERICAN CANYON / RH HESS DEVELOPMENT COMPANY - RESPONSE TO NOTICE OF INTENT TO OVERRULE #P21-00056-ALUC

Request: Discussion and possible action to send a response to a City of American Canyon's Notice of Intent to Overrule the Airport Land Use Commission's June 23, 2021, determination that the proposed Oat Hill Residential Project to construct a 291 dwelling unit condominium project, including a General Plan Amendment and Rezoning, on two parcels totaling approximately 20.8 acres, is inconsistent with the Napa County Airport Land Use Compatibility Plan. The property is located on the land feature commonly known at Oat Hill, which is located within the City of American Canyon on Hess Drive approximately 0.25 miles west of the intersection of State Routes 29 and Napa Junction Road within Napa County Airport Compatibility Zones D and E (Assessor's Parcel Numbers 058-380-008, and 058-320-001).

Staff Recommendation: Review draft letter to be provided prior to the meeting, and direct staff to send the letter to City of American Canyon.

Staff Contact: John McDowell, (707) 299-1354 or john.mcdowell@countyofnapa.org

EXECUTIVE SUMMARY

Proposed Action:

Direct ALUC Staff and Counsel to file a comment letter on the City of American's Notice of Intent to Overrule the Airport Land Use Commission.

Discussion:

On June 23, 2021, the ALUC conducted a public hearing to consider a Consistency Determination on the proposed Oat Hill Residential Project located within the City of American Canyon. The project includes a General Plan Amendment and Rezoning to designate two parcels totaling 20.8 acres located within the City of American Canyon generally 1.75 miles south of the Napa County Airport. Parcel A consists of a 13.2 site with 206 proposed dwelling units, of which 51 units are located within Compatibility Zone D which prohibits residential units. The remaining 155 units are located within Compatibility Zone E which normally allows residential units, however Parcel A's hilltop location penetrates navigable airspace requiring scrutiny to ensure the project does not result in significant hazards to aircraft and persons on the ground. Parcel B, comprising 7.2 acres and 85 dwelling units, is located within Compatibility Zone E and below navigable airspace where residential uses are normally acceptable.

At the conclusion of the hearing, the ALUC voted 6-0 (1 absent) to find the project inconsistent with the Napa County Airport Land Use Compatibility Plan (ALUCP). In finding the project inconsistent, the ALUC provided guidance for the City of American Canyon on changes to the project which could be implemented to achieve consistency. These included redesigning the project to eliminate residences from Zone D, conducting complete analysis of potential for noise and hazard evaluations with project design adjusted accordingly, if necessary, and resolving internal inconsistencies with the City's General Plan which state that residential uses are prohibited within Zone D.

Subsequent to the ALUC's June 23, 2021 meeting, City of American Canyon Staff informed ALUC Staff that the City intended to move forward with an override (overruling) of the ALUC's action. In accordance with State Aeronautics Law, the City is required to provide the ALUC and Caltrans Aeronautics their findings for the override at least 45 days prior to the City taking final action to override. Upon receipt of the findings, both the ALUC and Caltrans Aeronautics have 30 days in which to respond to the findings. Any comments on the findings received by the City within the prescribed timelines must be included in the City's Administrative Record for the project.

Attached is the City's Notice of Intent to Overrule. ALUC Staff and Counsel are preparing a draft response letter, which will be provided to the Commission prior to the August 18th meeting. Staff requests that the ALUC review the Notice of Intent to Overrule, and the draft response letter, and direct Staff to issue a finalized letter. For reference, the Background Section of this report contains ALUC analysis from the June 23, 2021 Staff Report which details the deficiencies of the City's airport land use compatibility analysis.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed:

ENVIRONMENTAL IMPACT

The City of American Canyon is the Lead Agency responsible for implementing the project and has prepared a draft Mitigated Negative Declaration. The draft document is inadequate in its evaluation of potential for aviation related noise impacts and aviation-related hazards. See Background Section below regarding action necessary to achieve consistency with the ALUCP, including recommendations to update CEQA analysis.

BACKGROUND AND DISCUSSION

The following is from the June 23, 2021 Staff Report:

Airport Land Use Compatibility Factors:

1. Location –The 20.8 acre project site is located on the land feature commonly known as Oat Hill about a quarter mile west of State Route 29 (Broadway) and Napa Junction Road. The site ranges from approximately 9,400 feet to 10,800 feet south of the Napa County Airport. Development will occur on two parcels. Parcel A is 13.6 acres and located on the upper reaches of Oat Hill, and would contain 206 residential units of which 51 units fall within Compatibility Zone D, and the remaining 155 units lie within Compatibility Zone E. Parcel B, which is located at the eastern base of Oat Hill contains 85 dwelling units that are entirely within Compatibility Zone E although the northern portions of the parcel lie under Zone D.

Zone D represents the Common Traffic Pattern, which is an area of common overflight at elevations typically ranging from 300 ft. to 1,000 ft. above ground level. Zone E is the Outer Airport Environ where overflights more commonly consist of aircraft entering or existing airport approach and departure paths. Typical overflights of the project site consist of aircraft departures from the main runways (Runway 1L and 1R) for traffic heading southeast or east, and downwind circling to land approach traffic to Runway 6/24, which is the less frequently used crosswind runway.

Oat Hill is a natural feature that penetrates navigable airspace. Navigable airspace within 10,000 ft of the runways is defined as a horizontal surface 150 ft. above the height of the runways, or in this case 183 ft. above Mean Sea Level (MSL). Beyond 10,000 ft. is the conical surface where navigable airspace rises by 1 ft. for every 20 ft. beyond the 10,000 foot arc. The runways have a defined MSL of 33 feet. Structures are allowed on such natural features that penetrate navigable airspace but the Federal Aviation Administration (FAA) regulations requires evaluation of structures for hazards and determines if structures must be marked as an obstruction.

2. Land Use – The project site lies within Compatibility Zones D and E. Zone D prohibits residential uses, whereas residential uses are "normally acceptable" within Zone E. It should be noted that normally acceptable uses does not mean that the land use is automatically consistent. A normally acceptable use may still be inconsistent with airport operations based on the nature of the proposal and its location in relation to airport operations. Oat Hill, given its penetration of navigable airspace and relationship to overflights, is an area that warrants thoughtful attention and substantive evidentiary support to conclude that residential uses are suitable within those portions of the site that are within the Zone E environ.

In 2010, the ALUC found the City of American Canyon General Plan consistent with the ALUCP. The Land Use and Noise Elements of that plan contain policies, figures, and tables referencing and tiering in the ALUCP, which formed the basis for the ALUC to find the General Plan consistent with the ALUCP. The proposed project directly conflicts with several of the City's requirements addressing airport land use compatibility as follows. See attachments F and G for the relevant sections of the City's General Plan.

City of American Canyon General Plan Land Use Element:

Objective 1.27 - This objective calls for the City to ensure that development protects citizens from noise and operational impacts of the airport while not adversely constraining the Napa County Airport. The City has prepared a Mitigated Negative Declaration concluding the project has no potential for its citizens to be impacted by aviation, but as noted in this report, aviation related noise and hazard evaluations are incomplete or have not yet been conducted.

Policy 1.27.1 - This policy requires the development to comply with City General Plan Tables 1-1, 1-2 and Figure 1-3. These tables and figure match the ALUCP and state that residential uses are prohibited within Zone D. The project results in residential units within Zone D.

Policy 1.27.7 - This policy calls for the City to recognize the importance of the Napa County Airport to City residents and ensure land use decisions do not negatively impact Airport operations. This policy appears to have not been addressed as all potential for aviation-related noise and hazard impacts have not been conducted, and residential land uses are proposed in a location where the ALUCP and City General Plan prohibit the use.

Figure 1-3 - This figure depicts the Napa County Airport Land Use Compatibility Zones matching those contained in the ALUCP. The Oat Hill project plans filed by the City of American reflect that the project site lies within both Zones D and E.

Table 1-1 - This tables states the definitions of the Compatibility Zones matching those definitions contained in the ALUCP. The City's General Plan states that areas meeting the definition of Zone D as shown in Figure 1-3 constitute the Common Traffic Pattern where residential uses are a prohibited use. Subsequent ALUC application materials (City Attorney letter date May 7, 2021) assert that the Oat Hill should be found consistent by the ALUC because there is evidence in the record that the Zone D boundary line should be changed. However, that boundary has not changed in either the ALUCP or City General Plan.

Table 1-2 - This table states the Airport Vicinity Land Use Compatibility Criteria matching those criteria contained in the ALUCP. The criteria state that residential uses are prohibited in Zone D.

City of American Canyon General Plan Noise Element:

Figure 11-1 - This figure depicts the Napa County Airport Land Use Compatibility Zones matching those contained in the ALUCP. The Oat Hill project plans filed by the City of American reflect that the project site lies within both Zones D and E.

Table 11-1 - This tables states the definitions of the Compatibility Zones matching those definitions contained in the ALUCP, and as noted for Table 1-1, the boundary has not changed so assertions from the City that the boundary should be changed are not relevant to the consistency of the proposal to the currently adopted ALUCP and City General Plan. The City is not proposing to change Tables 1-1 or 11-1, or Figures 11-1 and 1-3 as part of the project submitted to the ALUC for a consistency determination.

Table 11-2 - This table states the Airport Vicinity Land Use Compatibility Criteria matching those criteria contained in the ALUCP. Residential uses are prohibited in Zone D.

Policy 11.1.1 - This policy calls for the implementation of the noise standards identified in Figure 11-2 for design of new developments. This figure states in three locations that all residential land uses are prohibited in Zone D.

Objective 11.4 - This objective seeks to minimize adverse impacts of aircraft noise on residential uses. Allowing residences closer to an airport than City General Plan and ALUCP policies permit conflict with this objective.

Policy 11.4.2 - This policy requires new development to comply with the noise standards of the ALUCP. The noise standards of the ALUCP prohibit residential uses within Zone D due to the inherent conflicts between residential uses and airport operations.

Policy 11.4.3 - This policy calls for the City to work closely with the Napa County Airport to ensure that airport operations do not cause adverse noise conditions in the City. No evidence has been presented to the ALUC that the City has worked with the Napa County Airport regarding this project. The project could result adverse aviation

related noise impacts upon the future residents of the project resulting in placing homes closer to the airport than what the City General Plan and ALUCP allow.

3. Lighting and Glare – The City of American Canyon will impose conditions of approval that specify that all exterior lighting, including landscape lighting, shall be shielded so as not to create offside glare which is consistent with airport compatibility requirements. Night-time lighting should not result in light and glare impacts to airport operations.

4. Communications – No electronic equipment is proposed as part of this facility that could interfere with airport communication.

5. Building Materials – Proposed structures will feature a wide variety of common muted building materials including concrete last and metal roofing, and stucco and cement board and batten siding. These materials are non-reflective and comply with the Airport Land Use Commission's requirements. The project building materials are compatible with airport operations.

6. Caltrans Aeronautics – It is unknown if the City referred the application to Caltrans Division of Aeronautics. In the event the ALUC finds the project inconsistent with the ALUCP and the City moves forward to override/overrule the ALUC, the City is obligate to under State Aeronautic Act to provide the ALUC and Division of Aeronautics a copy of the proposed decision and their findings in advance of considering the override.

7. Processing – ALUCP Policy 2.1.9 requires referral of a project to the ALUC prior to the local governing body's final action to allow the local jurisdiction to consider the ALUC's finding prior to acting on a project. The project was reviewed by the City of American Canyon Planning Commission in March, 2021, and on March 26, 2021 an incomplete referral application to the ALUC was filed by the City of American Canyon. ALUC issued a formal application status letter on April 23, 2021 listing items necessary for a complete submittal. On May 6 and 7, 2021, the City of American Canyon filed responses to the April 23, 2021 ALUC letter, which did not provide all of the information requested. On May 21, 2021, ALUC Staff issued a second application status letter requesting required information be provided and setting a June 23, 2021 ALUC hearing date. Due to the lack of essential information in the incomplete referral, ALUC Staff was unable to fully review the Project for consistency with the ALUCP. ALUC Staff offered to assist the City in providing the necessary information, but the City requested that the ALUC consider the referral as submitted.

After the ALUC's action, the American Canyon City Council will consider the project. If the City chooses to revise the project to address recommended actions to achieve consistency, a new ALUC referral application will need to be filed. ALUCP Policy 1.4.2 requires the ALUC to make its consistency finding on the project as it has been proposed. The ALUC does not have the ability to require changes to the project, offer conditional approval, or modify proposed conditions of approval. The ALUC's range of decision making options are limited to either finding the project consistent or inconsistent with the ALUCP.

8. Airport Land Use Compatibility Plan Policies - Listed below are the noise, safety, airspace protection and overflight criteria from Chapter 3 of the Airport Land Use Compatibility that shall be considered when evaluating projects for consistency. These policies are considered in concert with Tables 3.1 and 3.2 which are Airport Vicinity Land Use Compatibility Criteria. Following each Policy is ALUC Staff's consistency finding recommendation, as well as recommendations on actions to achieve consistency for those policies where the project results in conflicts. When finding a project inconsistent with the ALUCP, Policy 1,4,2 directs that that ALUC may provide direction to the local agency on the steps that can be taken to achieve consistency.

3.1 Noise

3.1.1 The evaluation of airport/land use noise compatibility shall consider the future Community Noise Equivalent

Level (CNEL) contours of each airport. These contours are calculated based upon aircraft activity forecasts which are set forth in adopted airport master plans or which are considered by the Commission to be plausible (refer to Part II for noise exposure maps).

Finding: Consistent – The noise analysis prepared for the project relies upon the CNEL contours depicted in the ALUCP and airport master plan.

3.1.2 The locations of CNEL contours are one of the factors used to define compatibility zone boundaries and criteria. Noise compatibility criteria should be applied at the general plan or specific plan level. Because of the inherent variability of flight paths, the depicted contour boundaries are not absolute determinants of the compatibility or incompatibility of a given land use. For this reason, noise contours should not be used as site design criteria. Noise contours can only quantify noise impacts in a general manner. Site conditions, terrain, and actual flight patterns and frequency should also be evaluated.

Finding: Inconsistent – The City's environmental impact evaluation of aviation related noise impacts is incomplete as it relies solely on the CNEL contours and does not consider potential overflight noise impacts relating to the site's conditions, terrain and elevation relative to flight patterns. The project site is elevated on a hill directly under common flight paths. Noise levels from aircraft overflights are often more noticeable in hillside and hill top properties. On several occasions ALUC Staff has requested that the City conduct a complete noise analysis, and the City has responded that the CNEL contour analysis was sufficient. Therefore, the City's conclusion that the project results in no potential noise impacts is based on an incomplete analysis.

Further, the proposal is inconsistent with the City's Noise Element and Land Use Element, which were previously found by the ALUC to be consistent with the ALUCP in 2010. The City's Land Use and Noise Elements contain the same Airport Vicinity Land Use Compatibility Criteria (Tables 3.1, 3.2, and Figure 3A) as contained in the Napa County ALUCP (See City General Plan Figures 1-3 and 11-1, and Tables 1-1 and 1-2 attached). The City's General Plan Figures 1-3 and 11-1 also depict Airport Land Use Compatibility Zones (A through E) matching those contained the ALUCP, and thus the ALUC was able to find the documents consistent with the ALUCP.

City General Plan Table 1-1 states that the maximum allowable residential density within Compatibility Zone D is zero persons per acre, which correlates with City General Plan Table 1-2 that states that all residential uses are prohibited in Zone D, which again aligns with the ALUCP. Residential uses are prohibited within Compatibility Zone D due in part to the inherent conflict between residential uses and aviation overflights and noise. However, this proposed General Plan Amendment and Rezoning changes the City's Land Use and Zoning Map boundaries to allow residential in an area where the City's General Plan (Tables 1-1, 1-2, and 11.1) clearly indicates that the residential uses are prohibited. This is not only inconsistent with ALUCP, but inconsistent with State Planning and Zoning Law, which require a city/county General Plan to be internally consistent (Gov. Code § 65300.5; *Sierra Club v. Board of Supervisors of Kern County (1981) 126 Cal.App.3d 698*), and requires a zoning ordinance to be consistent with the General Plan.

Actions to Achieve Consistency: The project should be re-designed such that no residential units are located within Compatibility Zone D. For the remaining residential uses within Zone E, the draft Mitigated Negative Declaration and supporting noise analysis should be updated to address potential for significant noise impacts resulting from single-event overflights and any potential for CNEL noise impacts resulting from unique site/terrain characteristics.

3.1.3 The maximum CNEL considered normally acceptable for most residential uses in the vicinity of the airports covered by this plan is 55 dBA. This standard is appropriate for areas with low ambient noise levels. In areas with higher ambient noise levels, the maximum CNEL considered normally acceptable for residential uses shall be 60 dBA. Factors which determine whether to apply the higher standard include the presence of: major highways, large concentrations of residences, or large-scale commercial and industrial uses.

Finding: Partially consistent – The noise analysis for this project is inadequate in addressing potential for aviation related noise impact. The City’s draft Mitigated Negative Declaration dedicates a paragraph to the topic, and bases its conclusion of less-than-significant impacts solely on the CNEL contour exhibit. This information is partially correct, but it falls short of capturing the full range of potential aviation related noise impacts. The aviation analysis does not account for site conditions, most notably the elevated terrain (for Parcel A), where CNEL noise levels can be higher. The analysis also does not address nighttime aviation noise impacts to proposed residential uses. Lastly, the Land Use and Planning Impact Section of the Mitigated Negative Declaration (Section XI.b) fails to acknowledge the direct conflicts the project has with both the ALUCP and the City’s General Plan Land Use and Noise Elements pertaining the airport land use compatibility. The direct conflict (i.e. - residences proposed where they are expressly prohibited) is a significant impact.

Actions to Achieve Consistency: The City should prepare a comprehensive evaluation of aviation-related noise impacts including a CNEL evaluation that is updated to address site conditions and terrain. The City’s CEQA document should be updated to fully disclose the requirements of Tables 1-1, 1-2, and 11-1, and note the direct conflict between adopted land use regulations and the proposed project.

3.1.4 This policy does not apply because it relates to non-residential land uses.

3.1.5 The extent of outdoor activity associated with a particular land use is an important factor to be considered in evaluating its compatibility with airport noise. In most locations, noise level reduction measures are only effective in reducing interior noise levels. Also, source reduction measures implemented by airport authorities are not within the scope of this plan.

Finding: Inconsistent – The noise analysis does not address potential noise impacts to project residents when located outside of their homes.

Actions to Achieve Consistency: The noise analysis should be updated to address potential for aviation related noise to impact project inhabitants when they are not within their residences.

3.1.6 Single-event noise levels should be addressed when evaluating the compatibility of highly noise-sensitive land uses such as schools, libraries, and outdoor theaters. Single-event noise levels are particularly important in areas which are regularly overflown by aircraft, but which do not produce significant CNEL contours. Flight patterns for each airport (illustrated in Part II) should be considered in the review process for such uses. Noise attenuation measures may be required based upon the criteria contained in Appendix C.

Finding: Inconsistent – Potential for single-event noise impacts has not been addressed. City responses to ALUC Staff’s request that this be addressed are attached and simply reiterate the City’s view that potential for noise impacts are limited to CNEL contours. CNEL is a form of noise measurement that looks at the composite noise levels over a 24 hour period of time. It is quite different than a Single Event Noise Exposure Level (SENEL) evaluation, which captures the sound level of a single noise event, such as an aircraft overflight, measured over the time interval for which the sound exceeds a designated threshold, which is 55 dBA in relation to indoor/outdoor residential uses, and 50 dBA for sleeping quarters. The City has not conducted a SENEL evaluation. Frequent single event noise intrusions upon residents of projects in proximity to an airport are a significant factor that can result in erosion of compatibility between airports and nearby land uses.

Residential uses are considered a highly noise-sensitive land use, especially in relation to an airport that is open 24 hours a day. Single-event overflights can occur at any point in the day or night. Aircraft departing from the main runways (Runway 1R and 1L) regularly overfly the property on southeastern and eastern departure paths. Approach traffic over the site also occurs for aircraft circling to land on Runway 24, although this is a less frequently used pattern due to prevailing wind conditions at the airport. Departure overflight noise tends to be significantly louder than overflight noise for aircraft on approach, because engines are operating at higher intensity as the aircraft

climbs.

Actions to Achieve Consistency: The project should be re-designed such that no residential units are located within Compatibility Zone D. The draft Mitigated Negative Declaration and supporting noise analysis should be updated to address potential for significant noise impacts resulting from single-event overflights. This analysis should factor in the site's conditions, terrain and actual flight patterns.

3.2 Safety

3.2.1 The intent of land use safety compatibility criteria is to minimize the risks with an off-airport aircraft accident or emergency landing. (a) Risks both to people and property in the vicinity of an airport and to people on board the aircraft shall be considered. (b) More stringent land use controls shall be applied to the areas with greater potential risk.

Finding: Inconsistent – A large portion of the project site lies upon a land feature that penetrates navigable airspace. Generally all areas of the project site that are above 183 ft. and ranging to approximately 200 ft. MSL, which corresponds roughly to the 206 units on the upper 13.6 acre Parcel A, fall within this sensitive area. Construction is generally permissible within these areas, however, pursuant to FAA regulations an evaluation of obstruction hazards to aircraft needs to be performed and the project designed so as not to result in hazards to persons on the ground or aircraft. Obstruction hazards increase potential for aircraft accidents, and thus increase risks to people and property. That required analysis has not been performed nor addressed in the City's CEQA document. Instead, the City is requesting conditional approval from the ALUC based on the analysis being conducted at a later date. The City's last correspondence indicated that the applicant has prepared this information and submitted it to the FAA but that documentation was not provided to ALUC Staff.

This approach is not permissible under ALUCP Policy 1.4.2, and is inconsistent with State Aeronautic Law, FAA Regulations and CEQA. The City has a responsibility to conduct a meaningful and adequate analysis of all potential environmental impacts prior to project approval. Policy 1.4.2 expressly states that ALUC cannot find a project conditionally consistent subject to inclusion of certain conditions. The ALUC's action choices are to find the project, as submitted, either consistent or inconsistent with the ALUCP.

Actions to Achieve Consistency: The obstruction hazard evaluation needs to be conducted, and the project design and supporting CEQA document updated accordingly based on the outcome of the obstruction hazard evaluation.

3.2.2 The principal means of reducing risks to people on the ground is to restrict land uses so as to limit the number of people permitted to occupy a given area. Methods for determining the concentration of people for various land uses is provided in Appendix D. (a) Greater restrictions shall be placed upon the number of people permitted in a building than upon the number within an open area because of the greater difficulty of evacuating a building in the event of its involvement in an aircraft accident.

Finding: Inconsistent – The portion of the proposed project that lies within Compatibility Zone D exceeds the allowable density. Zone D sets a maximum residential density of zero persons per acre (residential uses are prohibited). The project will result in 52.9 persons per acre on Parcel A where the encroachment into Zone D occurs. As noted in Policy 3.2.1, the upper portion of the project site also lies within navigable airspace, and required FAA obstruction hazard analysis has not occurred. Residential densities within the portions of the site lying within Compatibility Zone E and within navigable airport may also require limitations, but that cannot be determined until the required review occurs. Potential for an off airport aircraft incident has not been addressed in the Mitigated Negative Declaration as well.

Actions to Achieve Consistency: The project should be re-designed such that no residential units are located within Compatibility Zone D. The required FAA obstruction analysis should be conducted and any hazards should be

addressed in the re-design.

3.2.3 This Policy does not apply because it relates to land uses with occupants that have reduced effective mobility.

3.2.4 This Policy does not apply because relates to land uses with potential for aboveground explosions.

3.2.5 In the event that an aircraft is forced to land away from an airport, the risks to people on board aircraft and damage to property can best be minimized by providing as much open land area as possible within the airport vicinity. This concept is based upon the fact that the large majority of aircraft accidents occurring away from an airport runway are controlled emergency landings in which the pilot has reasonable opportunity to select the landing site. (a) For purposes of this Plan, "open land" shall be defined as an area that is typically: (1) free of structures and other major obstacles such as walls, large trees, and overhead wires; and (2) have minimum dimensions of at least 75 feet wide, and at least 300 feet or more in length. Certain roads are acceptable as open land areas if they meet the preceding criteria.

Finding: Consistent – The overall project site contains a large open area meeting the criteria, which is located generally between lower and upper portions of the development.

3.2.5(b) The most critical areas for preserving open land are within the approach zones and beneath the traffic pattern (Zones A, B, C, and D). Within an airport's traffic areas, land presently designated for open space uses (i.e., agricultural lands, golf courses, etc.) should be preserved as open land areas to the maximum extent feasible. The following criteria should be used to retain/preserve open land areas within proposed development. (1) Within the approach/departure zones (Zones A, B, C and [D]), buildings should be set back from the extended runway centerline to the maximum extent feasible. (2) Within the traffic pattern areas (Zone D), open land areas at the periphery of the traffic pattern areas should be preserved.

Finding: Consistent – The project is not located within extended runway centerline areas. It is located within outer departure and approach paths, and contains substantial consolidated open land area located generally on the hillside located between the upper and lower portions of the development.

3.2.5(c) Clustering of development and providing contiguous landscaped and parking areas is encouraged as a means of maximizing open land and providing continuity of open land areas between developments.

Finding: Partially Consistent – As noted in the finding for Policy 3.2.5(b), the project contains a large open land area between the upper and lower portions of the development that maximizes open land area. The project represents clustered development, except that the location of clusters should be adjusted to remove prohibited residential units from the portion of the project site that falls within Compatibility Zone D.

Actions to Achieve Consistency: Project redesign should be undertaken to eliminate residential units from Compatibility Zone D. This could be achieved by either eliminating the residential units within Zone D from the project or shifting those units to portions of the site within Zone E, or some combination of both. There is sufficient open land area between the upper and lower portions should reductions of these areas be necessary to accommodate units shifted into Zone E, although it is recognized that the property contains slopes that may pose challenges for increasing densities in those areas.

3.2.5(d) This Policy does not apply as it pertains to projects within 100 ft. of an approach zone.

3.3 Airspace Protection

3.3.1 The criteria for limiting the height of structures, trees, and other objects in the vicinity of an airport shall be set

in accordance with Part 77, Subpart C, of the Federal Aviation Regulations and within the United States Standard for Terminal Instrument Procedures (TERPS). Airspace plans for each airport which depict the critical area for airspace protection are provided in Part III. TERPS height limitations are only applicable at Napa County Airport where an instrument approach has been established. The private airfield has only visual approaches.

Finding: Inconsistent – The project submitted for ALUC review did not address compliance with FAA FAR Part 77, Subpart C standards or TERPS.

Action to Achieve Consistency: The evaluation needs to be conducted, and the project redesigned if conflicts result.

3.3.2 With the approaches to a public airport, the owner of any property proposed for development should be required to dedicate an aviation easement to the jurisdiction owning the airport. In the case of a private airport, a height-limit easement should be dedicated to the jurisdiction controlling the land use. Examples of these easements are provided in Appendix E.

Finding: Consistent – The project's proposed conditions of approval require the dedication of an easement to Napa County airport prior to commencing construction. However, see Policy 3.3.3 discussion below because application of the standard overflight easement does not fully address those portions of the site that penetrate navigable airspace.

3.3.3 Other than within the approach/departure zones, Compatibility Zones A, B and C, height restrictions may allow up to 35 feet above the level of the ground on which are located, or as similarly provided by local ordinance. (a) In locations where terrain, structure, or any object (including clearances over roads and railroads) penetrate Federal Aviation Regulations Part 77 surfaces, an aviation easement shall be required in accordance with Policy 3.3.2 which limits the height to 35 feet above the ground and enables the marking or lighting of any potential hazard to air navigation. Trees or other natural material may exceed the height limitation provided that the aviation easement allows for removal, marking, or lighting of potential aircraft hazards.

Finding: Inconsistent – The proposed project conditions of approval do not require an aviation (aviation) easement that limits structure height to 35ft as required by 3.3.3(a), nor addresses marking or lighting of any potential hazards to air navigation. As currently proposed, apartment buildings exceed the 35 ft. height limit. Furthermore, an assessment of the project's potential to result in hazards to air navigation has not occurred as previously noted.

Actions to Achieve Consistency: The required FAA FAR Part 77 evaluation needs to occur and the project needs to be redesigned if necessary to avoid the need for marking, lighting and/or special flight procedures. In addition, project conditions of approval should be amended to reflect that the required aviation easement limits buildings to 35 ft. in height, and that enables the Napa County Airport to mark or light any potential hazard to air navigation within the portions of the site penetrating navigable airspace.

3.3.4 Proponents of a project which may exceed a Part 77 Surface must notify the Federal Aviation Administration as required by FAA Part 77, Subpart B, and by the California State Public Utilities Code 21658 and 21659. (Notification to the Federal Aviation Administration under FAR Part 77, Subpart B, is required even for certain proposed construction that does not exceed the height limits allowed by Subpart C of the regulations. Refer to Appendix B for the specific Federal Aviation Administration notification requirements.)

Finding: Inconsistent – The required FAA FAR Part 77 notification and analysis has not occurred. The City proposes that such review occur after ALUC review occurs.

Actions to Achieve Consistency: The required FAA FAR Part 77 evaluation needs to occur and the project

redesigned if necessary to avoid the need for marking, lighting and/or special flight procedures.

3.3.4(a) Local jurisdictions shall inform project proponents of the requirements for notification to the Federal Aviation Administration.

Finding: Possibly Inconsistent – ALUC Staff informed the City and applicant that this requirement had not been accomplished, and requested it be addressed. City responses, attached, incorrectly assert that the review can be deferred until after ALUC review, and that the ALUC can grant a conditional endorsement of the project, which is inconsistent with ALUCP Policy 1.4.2 and State Aeronautics Act. The City's May 5, 2021 letter indicates that the project proponent has moved forward with the FAA documentation, but that information has not been provided to the ALUC nor addressed in the City's processing documents.

Actions to Achieve Consistency: The City should require the review to be performed, and then update the project, project conditions of approval, and CEQA document based on the results of the evaluation. Upon completion of those tasks, the project should be referred back to the ALUC to enable the ALUC to conduct an evaluation on a complete application submittal.

3.3.4(b) The requirement for notification to the Federal Aviation Administration shall not necessarily trigger review of an individual property by the Airport Land Use Commission if the project is otherwise in conformance with the compatibility criteria established in the Airport Land Use Plan.

Finding: Not applicable – State Law mandates that any General Plan Amendment and Rezoning within an Airport Influence Area is subject to ALUC review, and therefore this Policy, which calls for ALUC review of projects subject to FAA evaluation that are not otherwise required to be reviewed, is not applicable. The project is subject to ALUC review with or without the FAA FAR Part 77 requirement.

3.3.4(c) – Any project coming before the Airport Land Use Commission for reason of height-limit issues shall include a copy of FAR Part 77 notification to the Federal Aviation Administration.

Finding: Inconsistent – The upper portion of the site generally above 183 ft. MSL lies within navigable airspace as noted previously. Policy 3.3.3 limits building heights to 35 ft. in these areas. The proposed buildings have a total height of 38 ft. 2 in., exceeding the maximum height by 3 ft. 2 inches. The required FAR Part 77 review has not occurred, but apparently was started on May 10, 2021. Therefore, the ALUC cannot determine that the project is consistent with this Policy until the required documentation has been prepared and submitted.

Actions to Achieve Consistency: The required FAA FAR Part 77 evaluation needs to occur and the project must be redesigned if necessary to avoid the need for marking, lighting and/or special flight procedures, and the evaluation and project should be re-referred to the ALUC for review.

3.3.5 Land uses which may produce hazards to aircraft in flight shall not be permitted within any airport's planning area. Specific characteristics to be avoided include: (1) glare or distracting lights which could be mistaken for airport lights; (2) sources of dust, steam, or smoke which may impair pilot visibility; (3) sources of electrical interference with aircraft communications or navigation; and (4) any use which may attract large flocks of birds, especially landfills and certain agricultural uses.

Finding: Partially Consistent – The project does not include aspects that would cause substantial glare, distracting lights, dust, steam, smoke, electrical or communication interference, or potential to attract large flocks of birds. The project is consistent as it pertains to these aspects. However, as noted previously, the required FAA FAR Part 77 hazard/obstruction analysis has not occurred, so it is unknown if the project will produce hazards to aircraft in flight.

Actions to Achieve Consistency: The required FAA FAR Part 77 evaluation needs to occur and the project redesigned if necessary to avoid the need for marking, lighting and/or special flight procedures.

3.4 Overflight

3.4.1 All locations within an airport's planning area are regarded as potentially subject to routine aircraft overflight. Although sensitivity to aircraft overflights varies from individual to individual, overflight sensitivity is particularly important with respect to residential land uses. (a) Local jurisdictions shall establish some method of providing notification to prospective buyers of new residential uses within an airport's planning area (all compatibility zones). Appropriate measures may include requiring the dedication of avigation or overflight easements, deed noticing, or real estate disclosure statements. Regardless of the method chosen, the notification shall: (1) note that the property is subject to routine overflight by aircraft at low altitudes; and (2) provide positive assurance that a prospective buyer has received this information. Refer to Appendix E for sample easements and deed notices. (b) Local jurisdictions are encouraged to extend the above or similar buyer awareness program to existing residential uses within the airport planning areas.

Finding: Partially Consistent - The proposed conditions of approval require standard overflight easement requirements which serves as an adequate buyer awareness measure for properties where there is not an inherent conflict with ALUCP. Parcel B represents one of these typical properties where the residential uses are located in an area that normally allows these uses, and the project design on Parcel B contains no conflicts with ALUCP Policies. As noted earlier, standard overflight easement requirements are inadequate for Parcel A due to the site's penetration of navigable airspace, and the project design that involves placement of residential units within an area where they are prohibited. Recordation of a standard overflight easement does not ameliorate those issues.

Action to Achieve Consistency: The project should be redesigned to eliminate residential units from Zone D, and project conditions of approval updated to require recordation of an avigation easement for all condominiums located within that portion of Zone E that penetrates navigable airspace to provide Napa County Airport the ability to mark and/or light hazards.

3.4.2 The compatibility of uses in the airport planning areas shall be preserved to the maximum feasible extent. There is presently a high degree of land use compatibility among the existing and planned land uses in the vicinity of airports within Napa County, primarily because no residential land uses are designated within the traffic area. The proposed conversion of land to residential use within any airport's traffic area (Compatibility Zones A, B, C and D) shall be deemed inconsistent with the Airport Land Use Compatibility Plan.

Finding: Inconsistent – This project includes conversion of property within Compatibility Zone D to residential use, which is prohibited. The policy mandates that any proposal to convert land within Zones A through D to residential use shall be deemed inconsistent.

Actions to Achieve Consistency: The project must be redesigned to eliminate residential units from that portion of the site that lies within Compatibility Zone D.

3.4.3 This Policy is not applicable because it pertains to proposals to convert agricultural land to residential use within Airport Influence Areas, and this project does not involve conversion of agricultural lands.

Attachments to this Report

Listed below are attachments containing City of American Canyon submittal materials and documents related to airport land use compatibility review. Additional application materials from the City of American, which appear to be a complete accounting of the project's overall administrative record at the time of application submittal to the ALUC

including traffic, geologic, biological studies, technical appendices to those studies, public comments, etc. can be accessed from this County ALUC link: [Oat Hill Residential project](#)

The City of American Canyon's Oat Hill Project webpage containing all project documents is accessible from this link: [Oat Hill Multifamily PL20-0022 \(cityofamericancanyon.org\)](#)

SUPPORTING DOCUMENTS

A . City of American Canyon Notice of Intent to Overrule

Airport Land Use Commission: Approve

Reviewed By: John McDowell