

County of Santa Clara
Airport Land Use Commission

Wednesday, July 25, 2007
Minutes

Regular Meeting

1. Call to Order/ Roll Call.

The regular meeting of the Airport Land Use Commission (ALUC) is called to order by Chairperson Sturdivant at 6:00 p.m. in Room 157, County Government Center, 70 West Hedding Street, San Jose. A quorum is present.

Members Present:

Robert Sturdivant

E. Ronald Blake

Ralph Britton

Arthur Knopf

Jack Morton (arrives 6:35 p.m.)

Barbara Spector

Walter Windus

Ex-Officio Members Present:

Cary Greene, San Jose International
Airport

Ex-Officio Members Absent:

Carl Honaker, County Airports

On order of the Chairperson, there being no objection, it is ordered that the agenda be taken out of order.

3. Approve minutes of May 23, 2007.

Chairperson Sturdivant states that the abbreviation for San Jose International Airport should be changed to SJC, to reflect its call symbol assigned by the Federal Aviation Administration (FAA).

Ex-Officio Commissioner Greene states that page 6, the last full sentence should be amended to read, "...the City of San Jose staff position is that it would not approve the proposed project at the proposed height..."

On motion of Commissioner Windus, seconded by Commissioner Blake, it is ordered on a vote of 5 to 0, with Commissioner Spector abstaining and Commissioner Morton absent, that the minutes of May 23, 2007 be approved, as amended.

2. Public Presentations

Andy Faber, General Growth, states that General Growth owns the Eastridge Mall and distributes a map of the proposed location for an automobile dealership near the Reid-Hillview Airport (RHV). Mr. Faber advises that this is a new proposed location for a proposal that was formerly considered by the ALUC. He reports that the ALUC found the proposal to be consistent with the General Plan and found the zoning to be inconsistent, and that the City of San Jose found the same. He notes that this is a new proposal for a more appropriate exchange. Mr. Faber explains that that the new proposal would rezone one portion of the property and the remainder of the property would contain a no-build easement. He further offers that General Growth would agree to remove the World Savings building when the lease expires in approximately two years. He notes that in the revised Comprehensive Land Use Plan (CLUP) the area for the proposed automobile dealership is located in a turning zone, which has less restrictive requirements. He concludes by stating that General Growth intends to file a formal application with the City of San Jose for this revised proposal, which will generate a referral to the ALUC, and he requests the input of the Commission prior to applying with the City.

Chairperson Sturdivant comments that he would like representatives of Valley Transportation Authority (VTA), Beshoff Motor Cars, General Growth, and the Director of County Airports to be present at the next meeting to discuss this proposal. In response to an inquiry from Commissioner Windus, Mr. Faber responds that he has access to the proposed revised boundaries of the Safety Zone. Commissioner Windus indicates that it would be advantageous to include information about the proposed revised boundaries in the proposal. Commissioner Windus inquires about the owner of the triangular shaped property to the

South of the proposed project, and Mr. Faber responds that this parcel is owned by VTA. He indicates that General Growth has been negotiating with VTA for approximately one year regarding a land swap for this parcel.

Chairperson Sturdivant states that this project will be included on the next agenda for consideration and discussion.

4. **Consider recommendations relating to a Rezoning request from the City of San Jose on behalf of San Jose International Airport, to rezone a 1.37-acre portion of a 8.53 gross acre site from A- (Agriculture) to HI- (Heavy Industrial) for the construction of a Jet Fuel Storage Facility for San Jose International Airport.**

Mark Connolly, Planner III, County of Santa Clara Planning Department, states that this proposed project is a request from the City of San Jose on behalf of San Jose International Airport (SJC) to rezone a 1.37 acre portion of the site. He advises that the request is to change the zoning from Agriculture to Heavy Industrial, and that the staff recommendation is to find the rezoning request consistent with ALUC policies, with two conditions. He continues by reporting that the two conditions recommended by staff are that the City will grant aviation easements and that any changes to the proposed project will comply with with FAA Part 77 maps or the Airport Obstruction Study, whichever is most restrictive.

Ex-Officio Commissioner Greene, Airport Planner, San Jose International Airport, advises that the zone change is on Airport property and will bring the zoning into conformance with the Airport Master Plan. Chairperson Sturdivant inquires about the relationship between the Airport Master Plan and the City of San Jose General Plan for zoning and which of the two takes precedence. Ex-Officio Commissioner Greene responds that the remainder of the Airport is currently zoned Heavy Industrial, and this request will change this 1.37 acre parcel to match, and therefore the Master Plan and General Plan are both in agreement with the proposed change. Chairperson Sturdivant inquires if the Airport will have any problem with the second condition, and Ex-Officio Commissioner Greene responds that there is no problem with meeting the proposed conditions. Ex-Officio Commissioner Greene clarifies that the airlines will build and operate the fuel storage facility, and not the City of San Jose.

On motion of Commissioner Britton, seconded by Commissioner Windus, it is ordered on a vote of 5 to 0, with Commissioner Spector abstaining and Commissioner Morton absent, that the rezoning request be found to be consistent with ALUC height and noise policies, as defined in the Land Use Plan for Areas Surrounding Santa Clara County Airports, with the following two conditions:

1. An Avigation Easement shall be granted to the City of San Jose for San Jose International Airport in accordance with Policy G-3, on parcel 101 -03-009, located straddling U.S. 101, westerly of the Guadalupe River, at the northerly terminus of Airport Boulevard.
2. If the development proposal changes as a result of City Council action, the specific development project shall have the height restrictions imposed in conformance with FAA Part 77 restrictions or if the City of San Jose adopts height restrictions as a result of the Airport Obstruction Study for the Downtown Area, the project shall be in conformance with whatever standard is in effect at the time of permit issuance.
5. **Consider recommendations relating to the Zone Change application from RR-5ac-sr to A1-5ac-sr for a property located at 13635 Sycamore Avenue, in San Martin. Property of Diana Dufur / Randy & Kim Scianna. County of Santa Clara File No. 1323 -72 -32 -06GP-06E-07A-07Z; APN #825-14-051.**

Chairperson Sturdivant states that this is a zone change application for a property located at 13635 Sycamore Avenue in San Martin. In response to an inquiry from Chairperson Sturdivant, Mr. Connolly clarifies that this property is located on the Northeast corner near Sycamore Avenue, adjacent to Highway 101. Mr. Connolly explains that this is a rezone request to follow up on a General Plan Amendment that was found to be consistent with ALUC policies in January 2007 and approved by the Board of Supervisors on March 20, 2007. He further advises that the zone change requested is from Rural Residential to A1 General Use. Mr. Connolly states that an avigation easement was recommended to be included in the approval, and he provides an overview of the noise and safety policies of the ALUC. He concludes by advising that the California Environmental Quality Act (CEQA)

document utilized was the Initial Study for the General Plan Amendment, and that the overall recommendation of staff is to find the rezoning request consistent with ALUC policies.

Randy Scianna, property owner, states that he purchased the property approximately two years ago and that it was zoned as rural residential, however, the site had a special use permit. He informs the Commission that the site currently has a nursery on it, which has approximately 2,850 customers each month. He advises that the proposed use would have approximately 250 to 350 customers each month, and that the use of the property will be a store that sells horse trailers, recreational vehicles and small used tractors. He reports that the site already contains a 3200 square foot building with parking and the proposed project will utilize the same building. He continues by noting that the "hot-house" buildings currently on the site will be dismantled and removed, and that more than 60 fruit trees will be planted adjacent to Highway 101. Mr. Scianna concludes by commenting that there is substantial community support for the proposed project.

In response to an inquiry from the Commission, Mr. Scianna reports that the site will provide sales only and any needed repair service will be provided by Camping World. In response to an inquiry from Chairperson Sturdivant, Mr. Scianna states that the noise level will not pose a problem for the proposed project.

On motion of Commissioner Windus, seconded by Commissioner Britton, it is ordered on a vote of 5 to 0, with Commissioner Spector abstaining and Commissioner Morton absent, that the proposed Zone Change application be found to be consistent with ALUC policies, as defined in the Land Use Plan for Areas Surrounding Santa Clara County Airports, and that a favorable recommendation be forwarded to the Planning Commission and subsequently to the Board of Supervisors to approve the proposed Zone Change.

6. **Discuss updates to be included in the Santa Clara County Comprehensive Land Use Plan amendment.**

On order of the Chairperson, there being no objection, this item is held until the next regular

meeting.

7. **Introduction and discussion of the Reid–Hillview Airport Comprehensive Land Use Plan (CLUP).**

Chairperson Sturdivant advises that the ALUC is scheduled to vote on approval of the proposed amendments to the Santa Clara County Comprehensive Land Use Plan (CLUP) in August 2007. Mr. Connolly provides a brief update of changes since the last time the Commission reviewed the CLUP and clarification of some of the changes proposed.

(Commissioner Morton arrives at 6:35 p.m.)

Mr. Connolly reports that the revised CLUP has been in draft form since 2004, and that the purpose of reviewing the CLUP at the meeting this date is informational only and no action is expected to be taken. He advises that the maps included in the CLUP have been digitized in Geographic Information Systems (GIS), including the map of the Airport Influence Area (AIA), the map of the Noise Contours, and the map of the Safety Zone.

Mr. Connolly narrates a presentation entitled Santa Clara County Airport Land Use Commission Reid–Hillview Airport Comprehensive Land Use Plan. He provides information about proposed changes to several maps that are included in the CLUP, and he states that the final document is scheduled for approval by the ALUC in August 2007. Commissioners and staff discuss the flight tracts, the Airport Layout Plan, and expected future changes. Mr. Connolly advises that state law allows for a County–wide CLUP or for a specific airport CLUP or a combination of both. He reports that the ultimate goal in Santa Clara County is to have an airport–specific CLUP for all four airports in the County.

Mr. Connolly continues by clarifying that the General Plan is the land use document that the City of San Jose utilizes. He notes that the land adjacent to Reid–Hillview Airport (RHV) includes the Eastridge Mall, office space, an Industrial Park area, and Agriculture zoning, according to the Land Use designations included in the General Plan. Mr. Connolly directs attention to the map of the Community Noise Equivalent Level (CNEL) Noise Contours. He

advises that the map contains both the old and new CNEL boundaries, and he reports that the CNEL Noise Contour for 60 decibels (db) has increased by 155 acres in the proposed map, and the CNEL Noise Contour for 65 db has increased by 46.4 acres.

Commissioner Windus informs the Commission that the new noise contours reduce the noise at the northwest tip of the contour, bringing the boundary inside Tully Drive and widening it out so that it extends to a portion of the Eastridge Mall parking area. Lizanne Reynolds, County Counsel, explains that the City of San Jose argues that there will be a displacement effect of increased urban sprawl because of height restrictions near the Airports, and she notes that the analysis of any displacement effect will be included in the CEQA document. Commissioner Windus advises that the major issue for the City of San Jose relates to the 65 CNEL, and that the revised 60 CNEL affects a minimal area.

Mr. Connolly provides an overview of anticipated changes to the appearance of the maps. Commissioner Windus informs the Commission that the lack of symmetry in the FAR Part 77 map of the runway turning zones is due to runway A1 R being an instrument approach landing area. He explains that this causes the turning zone to be smaller than that of the other runway because only aircraft using instruments may land and visual landings often require more area for the pilot to safely turn and prepare to land.

Mr. Connolly directs attention to the map of the Safety Zones and its irregular shape. Commissioner Windus comments that the shape is due to an agreement with the City of San Jose to include a playing field and park area that is planned by the City and to pull back from Capitol Expressway. Commissioners and staff discuss the play area's usage. Chairperson Sturdivant inquires about the buildings currently at Quimby Street and if any existing structures are planned to be removed. Mr. Connolly responds that he has not confirmed any plans to remove existing structures at this location.

Mr. Connolly directs attention to Figure 8, Reid–Hillview Airport Influence Area (AIA). He advises that this Figure demonstrates the difference between the old AIA and the proposed AIA, and notes that the proposed AIA is largely residential and includes an

increase of 1,059 acres. Commissioner Windus informs the Commission that this was the largest area of contention with the City of San Jose, and that concerns have now been resolved. He notes that City staff have expressed understanding of the need for aviation easements in the proposed AIA areas. He provides background information about the extension of the AIA and the new requirements for home buyers and builders in that area. Mr. Connolly clarifies that the City of San Jose is required to adopt this CLUP into their General Plan within a specific time frame, and agreement with the City has been paramount. He concludes by informing the Commission that the revised CLUP will follow the same layout structure as usual, with policy at the beginning followed by implementation documents.

8. Review of the schedule for the Reid–Hillview Airport (RHV) CLUP and Initial Study.

Mr. Connolly reports that there will be a public hearing regarding the RHV CLUP and Initial Study scheduled in August, and that within 10 days of the public hearing a CEQA document must be published. He advises that the next step will be to provide public notice and adopt the documents. He continues by discussing the noticing period of 20 days and methods that may be utilized for noticing, and he notes that the City of San Jose has offered to place the Notice on their web site as well. Lizanne Reynolds, County Counsel, advises that because the AIA is county–wide for structures over 500 feet in height, all Cities in the county will need to be notified. Chairperson Sturdivant requests that the August meeting be moved to the Isaac Newton Senter Auditorium because of anticipated public attendance.

9. Consider verbal report on conference call with City of San Jose Planning Department regarding RHV CLUP outstanding items.

Mr. Connolly informs the Commission that he has been working with staff from the City of San Jose on a variety of issues for more than a year to avoid any potential concerns. He reports that he participated in a conference call last week with the Stan Ketchum, City of San Jose Planning Department and the new Director of Planning. He notes that lot combinations and mergers in the AIA will trigger aviation easements, and that an aviation easement is triggered when there is an increase of 45 percent or more in lot size. Mr. Connolly explains that this means that the City would identify these property increases in the normal permitting process and that there is now an informal agreement with the City of San Jose to proceed. Chairperson Sturdivant comments that the Commission has tried to

facilitate the process so that the City can administer the new aviation easements through its normal permitting process, and that he does not foresee any problems with issuing the aviation easements. Mr. Connolly further advises that the language for the aviation easements was taken directly from the City's Planning and Development Guide.

Commissioner Britton acknowledges that the negotiations with the City of San Jose have been difficult, and he commends City staff for their assistance and cooperation with the Commission. Commissioner Windus directs attention to the draft revised CLUP, and provides an overview of three additional changes made since the last review by the Commission. Commissioner Morton suggests that the Chairperson send a letter to the new Director of Planning at the City of San Jose to acknowledge the improved relationship and to thank him and his Department for their work.

14. **Correspondence/Announcements**

a. **Update on the Strong Neighborhoods Initiative public outreach for the RHV CLUP.**

Mr. Connolly advises that he and Commissioner Windus attended meetings of the Strong Neighborhoods Initiative (SNI), and he notes that three SNI groups are located within the Airport Influence Area (AIA) of the Reid–Hillview Airport (RHV). He provides an overview of the presentation that was made to each SNI group, and expresses the opinion that the community outreach was positive and effective. He reports that developers are most heavily impacted by the CLUP, and that there has not been much opposition from developers. Mr. Connolly continues by narrating the presentation that was used at the SNI meetings, which provides an overview of the ALUC and the CLUP.

10. **Accept verbal report relating to minor project referrals.**

Mr. Connolly announces that there are currently no minor project referrals to review.

11. **Accept verbal reports from Ex–Officio Commissioners.**

a. **Airport Planner, San Jose International Airport**

Ex–Officio Commissioner Greene directs attention to the document entitled FAA Obstruction Evaluation Actions within SJC Referral Area. He notes that four of the

projects listed have been on the list before and are still awaiting FAA action. Chairperson Sturdivant inquires if the ALUC has taken action on any of these projects, and Ex-Officio Commissioner Greene responds that in some cases the City has not received a permit application yet and the developers are seeking an FAA determination prior to applying for a permit. He further advises that in two cases the projects were for permits only, and that none of these proposed projects has resulted in a referral to the ALUC.

Chairperson Sturdivant inquires about the Adobe project, and Ex-Officio Commissioner Greene responds that this proposed project is for an additional three buildings on a second campus. Chairperson Sturdivant inquires about the time frame for response by the FAA, and Ex-Officio Commissioner Greene responds that the FAA will make a determination after the deadline dates listed in the report, and that he will update the report as determinations are made.

Commissioner Spector inquires about which proposed projects would be referred to the ALUC and by whom, and Ms Reynolds advises that referrals to the ALUC will come from the City of San Jose. Ms Reynolds clarifies that only amendments to the General Plan, Specific Plan or Zoning must be referred to the ALUC and that other permit applications can be voluntarily referred.

b. **Director of County Airports**

There is no report.

On Commission consensus, it is ordered that the report be accepted.

12. **Accept Chairperson's verbal report.**

Chairperson Sturdivant reports that the Commission is scheduled to approve the Santa Clara County CLUP in August 2007, and then to approve the RHV CLUP. He advises that beginning in November or December 2007, the Commission will discuss creating a CLUP for Palo Alto Airport (PAO) and South County Airport (E16). Mr. Connolly explains that the goal is to eventually complete a CLUP for San Jose International Airport (SJC) as well. Commissioner Windus informs the Commission that he anticipates further negotiations

with the City of San Jose relating to the CLUP for SJC, and he notes that the Commission will need to ensure exactly what is being approved because of the limitation of only one CLUP revision per year. Ms Reynolds offers to prepare a Resolution with specific language and changes enumerated.

Commissioner Morton inquires about whether the CLUP for PAO will include information about the Sea Scout building, and he notes that the Sea Scout organization believes that the County maps are incorrect. Commissioner Britton responds that the current map is in error because it provides a runway protection zone for a runway that was never built; however, he notes that it is unclear whether the Sea Scout building is entirely within that runway protection zone only. Mr. Connolly offers to contact the City of Palo Alto to determine which runway protection zone(s) the building sits within. Commissioner Britton states that it is problematic that the current document includes a drawing that is inappropriate for the runway that currently exists. Mr. Connolly notes that the Sea Scout building is defined as a school facility, and therefore a CEQA document will be required. Commissioners and staff discuss the CEQA requirement and the City of Palo Alto.

On Commission consensus, it is ordered that the Chairperson's verbal report be accepted.

13. **Consider verbal update relating to the court case of Muzzy Ranch Co. vs ALUC of Solano County, and ramifications for the ALUC.**

Ms. Reynolds advises that the court case of Muzzy Ranch Co. vs ALUC of Solano County broke new ground relating to CEQA in only one area. She reports that Muzzy Ranch Co. brought a case against Solano County because the AIA was defined very broadly by Solano County and no CEQA document was completed. Ms Reynolds continues by explaining that Solano County claimed a common sense exemption, meaning that it was obvious that there were no environmental impacts and therefore a CEQA document was unnecessary. She states that Solano County argued that because adoption of a CLUP is only advisory and a City or other jurisdiction may override it, there is no real environmental impact resulting from the CLUP amendment. Ms Reynolds informs the Commission that the court found against this argument; however, because the CLUP amendment was consistent with the General Plan, the court ruled that the Commission can use the CEQA document that was

completed for the General Plan to fulfill the CEQA requirement.

15. **Adjournment**

On order of the Chairperson, there being no objection, it is ordered that the meeting be adjourned at 8:05 p.m. to the next workshop session on August 22, 2007 at 6:00 p.m. in Room 157, County Government Center, 70 West Hedding Street, San Jose.

Respectfully submitted,

JoLene Mittelsteadt
Deputy Clerk