

County of Santa Clara  
Airport Land Use Commission

Wednesday, September 26, 2007  
Minutes

**Regular Meeting**

1. **Call to Order/ Roll Call.**

The regular meeting of the Airport Land Use Commission is called to order by Chairperson Sturdivant at 6:10 p.m. in the Isaac Newton Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose. A quorum is present.

**Members Present:**

Ralph Britton

Rolayne Edwards, Alternate for E. Ronald Blake

Arthur Knopf

Jack Morton

Barbara Spector

Robert Sturdivant, Chairperson

Walter Windus

2. **Public Presentations**

There are no public presentations.

3. **Approve minutes of July 25, 2007.**

Commissioner Windus advises that page 7, second paragraph, should be amended to read "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 map of the runway protection zones (RPZ) is due to runway 3 1 Right being an instrument approach runway. He explains that this causes the RPZ to be larger than the other runway because aircraft using instruments to land need more area for the pilots to safely prepare to land."

On motion of Commissioner Morton, seconded by Commissioner Spector, it is unanimously ordered that the minutes of July 25, 2007 be approved, as amended.

4. **Elect Chairperson and Vice-Chairperson for Fiscal Year 2007 -2008.**

Chairperson Sturdivant notes that the bylaws of the ALUC indicate that officer elections will be held in January each year. He reports that he was elected in March 2006, and an election should have taken place in January 2007. He advises that the Commission can elect new officers at the meeting this date, or they can hold the elections until January 2008.

On motion of Commissioner Windus, seconded by Commissioner Spector, it is unanimously ordered that the election of officers be held to January 2008.

5. **Adopt Reid Hillview Comprehensive Land Use Plan (CLUP) and amendments to the Santa Clara County Airport Land Use Commission's Land Use Plan for Areas Surrounding Santa Clara County Airports ("County CLUP") by the Airport Land Use Commission. The project location consists of all of the public use airports in Santa Clara County, (Palo Alto, San Jose International, South County, Reid Hillview), and areas surrounding these airports.**

Chairperson Sturdivant advises that the Commission may adopt the Negative Declaration, the Reid-Hillview Airport CLUP, and several amendments to the County CLUP. He reports that the City of San Jose has requested that adoption of the CLUP and amendments be held to October 2007. He inquires about how the Commission would like to proceed.

Commissioner Spector suggests that the Commission consider public comments prior to determining its action, and Mark Connolly, Planner III, County of Santa Clara Planning Department, provides an overview of proposed changes. He reminds the Commission that the Federal Aviation Administration (FAA) Part 77 maps will be incorporated by reference so that any changes to the maps are automatically incorporated into the CLUPs. He recommends striking the reference to Part 77 as a height restriction in the County CLUP if it is approved at the meeting this date, because the City of San Jose has not had an opportunity to fully review this item. He advises that minor project reviews will be handled by staff in compliance with the CLUP.

Mr. Connolly continues by narrating a presentation relating to the proposed revisions to

maps included in the CLUP. He references the safety policy chart on page 4.8, table 4.2 and notes that there is no maximum population density for turning protection safety zones (tpsz). He clarifies that a high population density venue such as a sports stadium would not be allowed, and that there are no residential restrictions in the tpsz. Mr. Connolly informs the Commission that part of the Negative Declaration included analyzing vacant land and the impact of development restrictions, including other impacts if development is moved elsewhere, such as increased traffic or urban sprawl. He advises that the City of San Jose is required to review its General Plan and determine if any amendments are needed within 180 days of the adoption of this CLUP. He reports that the overall analysis indicates that there is no significant impact on development.

Mr. Connolly further reports that the City of San Jose received the Negative Declaration in a timely manner, however, the Initial Study was not received and the City is requesting additional time to review and respond. He notes that the requirements for noticing the documents include providing them to the City, and direct mailing, or publishing in a newspaper. He informs the Commission that extensive additional outreach was conducted in the County, including presentations at Strong Neighborhoods Initiative meetings, and distributing to the affected school districts, libraries, and posting on City and County websites.

Mr. Connolly reports that the Reid-Hillview Airport Influence Area (AIA) increased, however, there is no vacant land in the expanded area on which future development would be impacted. Chairperson Sturdivant explains the process for determining the AIA. Commissioner Windus reports that there is a significant increase in the safety zones, with the largest addition being approximately 2800 acres added to the tpsz. He notes that there are minimal restrictions in this area. He further advises that approximately 489 acres have been added to other safety zones, including approximately 30 acres of sideline safety zone and approximately 100 additional acres of turning safety zone. He notes that in the previous CLUP the safety zone ended 200 feet beyond the end of the runway, and the proposed amendments will create a safety zone that runs with the runway.

Commissioner Spector thanks Mr. Connolly for his work on these documents. She requests clarification relating to his recommendation to strike the requirement that Part 77 Surfaces be made the new height restriction in the County CLUP. Mr. Connolly explains that this amendment was not circulated as widely as the Reid-Hillview CLUP and the City of San Jose did not have sufficient time to review this. Commissioner Spector inquires whether the circulation was legally insufficient and so the ALUC cannot adopt the County CLUP, or Mr. Connolly recommends against adopting it even though the legal requirement was met. Mr. Connolly responds that the circulation was sufficient per the legal requirements, however, the specific details may not have been discussed sufficiently. Commissioner Windus points out that incorporating the Part 77 surfaces into the Reid-Hillview CLUP is a separate issue from redefining the height restriction in the County CLUP, because the County CLUP impacts San Jose International Airport (SJC) as well. Commissioners and staff discuss the proposed amendment, utilizing Part 77 surfaces as a height restriction, and No Hazard Determinations from the FAA.

Commissioner Windus explains that the existing County CLUP does not contain any policy that establishes height restrictions. He notes that the position of the ALUC has historically been that any proposed development which exceeds the Part 77 surfaces is not consistent with ALUC policies, however, this has never been documented in the CLUP.

Stan Ketchum, City of San Jose Planning Department, thanks Mr. Connolly and the Commissioners for the meetings and negotiation that has taken place. He states that the project description took City staff by surprise relating to Part 77 surfaces being applied as a height restriction for SJC. He requests that consideration of adoption of the County CLUP be continued in order for a dialogue to take place similar to the one relating to the RHV CLUP. He notes that the City is currently in the process of conducting an analysis of One Engine Inoperative (OEI) Surfaces for SJC. He requests that any surfaces affecting SJC be discussed and incorporated into the CLUP amendment for 2008. He further advises that City staff believe that the City of San Jose should be included in the Environmental Analysis as a "Responsible Agency" because the CLUP amendment will trigger a review of the City General Plan. He notes that the California Environmental Quality Act (CEQA)

requires that the County complete an Initial Study to project future impacts of any changes to the County CLUP, and he states that the height restrictions are not referenced in the Initial Study. He asserts that the height restrictions could affect future housing in San Jose.

Commissioner Morton inquires if adopting the amendments to the County CLUP and excluding SJC from any height restriction requirements at this time would address the concerns expressed by Mr. Ketchum, and Mr. Ketchum responds that it would.

Commissioner Spector states that the City of San Jose is approving the construction of tall buildings and has plans for additional high rises. She requests clarification about how the City intends to make consistent a request for continuance in light of the ongoing construction of high rises. Mr. Ketchum responds that the inconsistency is between the San Jose General Plan, which states that a proposed project that receives a No Hazard Determination from the FAA will be approved, and the Part 77 surface requirement. He expresses the opinion that establishing the Part 77 surfaces as the height restriction is premature. Commissioners and staff discuss timelines for making any necessary amendments and negotiating with the City of San Jose for a mutually acceptable alternative.

Chairperson Sturdivant requests public comments relating to the CLUP amendments. There are no public comments. Mr. Ketchum states that he continues to have a concern that the Initial Study does not reflect the City of San Jose as a Responsible Agency under CEQA. Mr. Connolly expresses the opinion that the City is not a Responsible Agency in the CLUP amendment, however, pursuant to the requirements of CEQA the City will have to take action to review the General Plan. He states that the review of the General Plan will provide an opportunity to address any issues. Commissioners and Mr. Ketchum discuss the number and seriousness of the issues Mr. Ketchum believes remain outstanding.

Commissioner Britton moves that further consideration of the Item be held to October 2007 and a special meeting be requested for October 24, 2007. Commissioner Knopf seconds the motion.

Commissioner Windus states that it is important that the amended Initial Study be published

quickly. He recommends amending the Initial Study to exclude SJC and to include the Part 77 Surfaces as a height restriction for areas surrounding the other airports in the County. Commissioner Britton and Commissioner Knopf agree to amend the motion accordingly.

On motion of Commissioner Britton, seconded by Commissioner Knopf, it is unanimously ordered that the Item be held to October 2007 and a special meeting be requested for October 24, 2007.

Further, it is ordered that the Initial Study be amended to exclude San Jose International Airport from the requirement that FAA Part 77 surfaces be utilized as the height restriction.

6. **Consider recommendations relating to a Rezoning request from the City of San Jose to rezone a 4.53 gross-acre site from A- (Agriculture) to A(PD) (Planned Development) to allow a parking lot for the Beshoff-Infinity Auto Dealership on a 1.3 acre portion of the parcel. The site is located at the Southwest corner of Capitol Expressway and Tully Road. (City of San Jose No. PDC07 -70, APN 491 -04 -046).**

Mr. Connolly clarifies that this application needs to be reviewed in accordance with the existing County CLUP. He notes that the recommended conditions reflect the RHV CLUP policy, and that the recommended conditions may still be utilized provided that references to specific RHV CLUP policies are removed.

Andrew Faber, attorney for Eastridge Mall, reminds the Commission that he spoke at the July ALUC meeting relating to this application, and advises that he has now applied to the City of San Jose for rezoning. He directs attention to the plans for the project, as well as a letter he sent to the Commission. He states that he is pleased with the rezoning request and feels that it provides a win-win solution for the ALUC and Eastridge Mall.

Mr. Faber notes that a straight zoning request was submitted for this property more than one year ago, and the ALUC recommended against that request. He continues by advising that Eastridge Mall asked the City of San Jose to craft custom zoning, identified as Planned Development (PD) zoning. He explains that the proposal is to zone four and a half acres as

PD, which restricts the uses of the property, and to allow 1.3 acres to be utilized as a parking lot only. He notes that the remaining 70 percent of the lot would be restricted by a no-build restriction in the zoning. He clarifies that the lot may have landscaping added to it; however, no structures and no uses would be allowed. Additionally, he states that the zoning request specifies that the World Savings building will be removed when the current lease expires, which is in four years.

Mr. Faber informs the Commission that the letter mentions that this rezoning request is allowed under the existing County CLUP; however, he believes that it is also compatible with the proposed RHV CLUP. He points out that a portion of the lot is in the proposed safety zone and that parking is an allowable use. He requests that the Commission find this rezoning application to be consistent with ALUC policies under the existing County CLUP. He expresses the opinion that it will be helpful to note that the application is also consistent with the RHV CLUP, as it is currently proposed. He concludes by stating that timing is important because this request must also go to the Planning Commission.

Chairperson Sturdivant states that he would not want to consider an application that was inconsistent with the proposed RHV CLUP and expresses appreciation for the demonstration by Mr. Faber that the proposed project is consistent with both. He inquires about the portion of the lot labeled Zone B on the map, which will contain the no-build restriction, and requests clarification about uses allowed under this zoning. Mr. Faber responds that no parking is allowed under a no-build restriction of this type, in addition to no structures. He notes that there may be low landscaping. Commissioners and Mr. Faber discuss dedication as an open space easement and issues relating to maintenance and ownership of the land. Further, they discuss the Limited Use (LU) 1 zoning and the binding zoning restrictions under this type of zoning.

Ken Ronssie, Valley Transportation Authority (VTA), states that the project is not in conflict with the proposed extension of the Light Rail to the Eastridge Mall. He advises that the proposal being presented at the meeting this date eliminates the need of the Eastridge Mall to acquire the VTA property adjacent to the lot. He notes that VTA is looking for

property on which to store trains and that the property adjacent to RHV is not suitable for this use.

Eric Peterson, Assistant Director, County Airports, states that he would like for the property in Zone B of the subject site and the VTA property adjacent to RHV transferred to the County. He further advises that the Airports Department would like the trees in the Eastridge Mall parking lot to be removed, as three aircraft have landed in this parking area.

Chairperson Sturdivant asks Mr. Ketchum for clarification relating to the no-build restriction in the proposed rezoning. Mr. Ketchum advises that PD zoning can be as specific as the City chooses, and that the recommendation of the ALUC will be forwarded to the City Planning Commission for consideration. He clarifies that removal of the World Savings building is a condition of the approval of this application.

On motion of Commissioner Windus, seconded by Chairperson Sturdivant, it is unanimously ordered that the rezoning request of the City of San Jose PDC 07-70 be found to be consistent with the ALUC height, noise and safety policies as defined in the Santa Clara County Land Use Plan for Areas Surrounding Santa Clara County Airports (CLUP), and is expected to be consistent with the proposed Reid-Hillview Airport Comprehensive Land Use Plan when adopted, with the following conditions:

1. An Avigation Easement shall be granted to the County of Santa Clara for Reid-Hillview Airport in accordance with the applicable avigation easement policy, on parcel 491-04-046, located at the Southwest corner of Capitol Expressway and Tully Road.
2. All new exterior lighting on the property shall be designed so as to create no interference with aircraft operations in accordance with applicable policy. Such lighting shall be constructed and located so that only the intended area is illuminated and off-site glare is fully controlled. The lighting shall be arrayed in such a manner that it cannot be mistaken for airport approach or runway lights by pilots, and all lighting plans shall be verified by the Airport Manager.

3. Future development of the 1.3-acre portion of the site shall be in conformance with the Noise Policies in the Santa Clara County CLUP.
  4. The area designated on the drawing as LU-1 showing Zone B as a No-Build Zone is interpreted to mean that there will not be any building, paving, or temporary use of the site. The area will be designated for the equivalent of open space uses with the option of adding appropriate low landscaping and no trees.
7. **Consider recommendations relating to request to rezone a 2.4 gross-acre site from CO(PD) (Commercial Office Planned Development), LI (Light Industrial), CG (Commercial General) to A(PD), (Planned Development), to allow up to 340 single-family attached residences and 15,000 square feet of retail and commercial uses. The site is located at the southwest corner of North First Street and Century Center (City of San Jose No. PDC05 -114, APN 230 -29 -022).**

Mr. Connolly advises that the City of San Jose is currently reviewing an application to rezone the subject site. He states that the subject site is outside of the safety zone and the noise contours, and that the staff recommendation is to include two conditions, as amended, if the project is approved. Commissioner Spector suggests that the second condition be amended to read "...whatever standard is more restrictive at the time of permit issuance." Mr. Connolly agrees that this amendment should be made.

Ex-Officio Commissioner Greene, Airport Planner, San Jose International Airport, states that SJC has no objection to the staff recommendation. He notes that the maximum height of the proposed project is less than the Part 77 surface.

On motion of Commissioner Morton, seconded by Commissioner Spector, it is unanimously ordered that the rezoning request PDC 05 -114 be found to be consistent with the 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 on parcel 230 -29 -022, located at the southwest corner of North

First Street and Century Center.

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 more restrictive at the time of permit issuance.

8. **Accept verbal staff report.**

a. **Minor project referral report.**

Mr. Connolly reports that there are no minor project referrals at this time.

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

9. **Accept verbal reports from Ex-Officio Commissioners**

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

Ex-Officio Commissioner Greene directs attention to the report entitled FAA Obstruction Evaluation Actions within SJC Referral Area, noting that it contains the same four projects that were listed at the last meeting. He advises that there are changes to the first two projects listed, and that both projects received a No Hazard Determination from the FAA. He reminds the Commissioners that these two projects will be omitted from the next report. He concludes by stating that the second project will be referred to the ALUC if it involves a rezoning application or a General Plan amendment.

b. **Director of County Airports**

Mr. Peterson distributes copies of a pilot handout for each of the three County airports. He notes that the handout was designed by Airports staff member Ken Betts, and that a space was created for Fixed Base Operators to place their own label on the handout for advertisement. The Commissioners compliment the Department on the handouts.

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

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

There is no report.

11. **Correspondence/Announcements**

- a. Boards and Commissions agendas and minutes are now available on the County of Santa Clara website at <http://www.sccgov.org/portal/site/bnc>. Commissioners are requested to provide any comments/feedback to the Deputy Clerk.

12. **Adjournment**

On order of the Chairperson, there being no objection, it is ordered that the meeting be adjourned at 9:02 p.m. to the next regular meeting on October 24, 2007 at 6:00 p.m. in Room 157, County Government Center, 70 West Hedding Street, San Jose.

Respectfully submitted,

JoLene Mittelsteadt  
Deputy Clerk