

RESOLUTION NO. 4202

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, OVERRULING THE RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION (ALUC) FINDING OF INCONSISTENCY REGARDING THE PERRIS GENERAL PLAN 2030 (OVERRIDE CASE NO. 08-05-0014).

WHEREAS, on April 26, 2005, the City Council approved the updated Land Use Element of the General Plan 2030 with findings supporting densities for specific residential zoning districts to guide development based on logical development patterns that discourage urban sprawl and provide for quality residential neighborhoods; and

WHEREAS, the City of Perris submitted an application to the Riverside County Airport Land Use Commission (ALUC) on May 29, 2008 to request a consistency determination regarding the Perris General Plan 2030; and

WHEREAS, on July 10, 2008, the ALUC conducted a public hearing and voted to find the Perris General Plan 2030 inconsistent with the 1984 Riverside County Airport Land Use Plan regarding Airport Influence Areas I and II of the March Air Reserve Base, as it applies to residential development at densities greater than one dwelling per 2.5 acres; and

WHEREAS, a public hearing was held on August 26, 2008, at which time the City Council approved a resolution authorizing staff to initiate override of ALUC's determination of inconsistency for the Perris General Plan; and

WHEREAS, an airport land use report was subsequently prepared by Johnson Aviation for the City of Perris; and

WHEREAS, a 45-day Notice of Intent to Override and Draft Findings were provided to ALUC and the Caltrans Division of Aeronautics as required by Sections 21676(b) of the Public Utilities Code regarding Override Case No. 08-05-0014; and

WHEREAS, Override Case No. 08-05-0014 has been duly noticed; and

WHEREAS, a public hearing was held on November 25, 2008, at which time the case was continued to the City Council hearing on January 27, 2009, at which time the case was further continued to the City Council hearing on March 31, 2009; and

WHEREAS, a public hearing was held on March 31, 2009, at which time all interested persons were given full opportunity to be heard and to present evidence; and

NOW THEREFORE, the City Council of the City of Perris does resolve as follows:

Section 1. The above recitals are all true and correct and incorporated herein by reference as if set forth in full.

Section 2. An Environmental Impact Report was prepared pursuant to CEQA and the State CEQA Guidelines for General Plan 2030. A Statement of Findings and Facts in Support of Findings Pertaining to adoption of General Plan 2030 identified significant impacts resulting from adoption of General Plan 2030, with findings with respect to such impacts, and facts in support of such findings, which concluded some impacts were potentially significant and unavoidable, including the inconsistency between General Plan 2030 and the Riverside County Airport Land Use Plan.

Section 3. A Statement of Overriding Considerations was prepared in accordance with Section 21081 of the CEQA Guidelines because the 1984 ALUP was not updated in response to the base realignment in the mid-1990s, and thus does not reflect changes in aircraft operations or aircraft types. Revisions to the ALUP and consideration of surrounding land use patterns was not within the purview of the City of Perris as the lead agency for General Plan 2030, therefore no mitigation was possible. The Final Environmental Impact Report was certified by the City Council on April 26, 2005.

The City Council further finds and determines that the City has complied with the California Environmental Quality Act and the City Council determinations reflect the independent judgment of the City.

Section 4. The City Council hereby overrules the Airport Land Use Commission's findings of inconsistency regarding the General Plan, pursuant to Public Utilities Code Section 21676(b), based on the following findings:

1. The restriction of residential development to densities of one dwelling per 2.5 acre or less in Airport Influence Area II would render the development of residential projects economically infeasible due to under-utilization of valuable land, thereby discouraging needed residential development. A more appropriate designation for Airport Influence Area II is the Draft Joint Land Use Study's proposal of six dwelling units per acre, with exemptions permitted for higher density products such as Senior Housing and Planned Unit Developments that cluster development and provide common amenities. Such exemptions are necessary to comply with State-mandated housing requirements, as found in the City's Housing Element.
2. Within Accident Potential Zone 1 (APZ 1), the ALUC has recommended a 20 percent lot coverage restriction for non-residential land uses, which is in conflict with the 2005 March AICUZ compatible land use guidelines which apply this

recommendation only to residential uses in Accident Potential Zone II (APZ II). Further, the ALUC has failed to show how such a restriction would create safe places for emergency landings or minimize impacts from crash landings. Isolated lot coverage restrictions do not preclude groupings of buildings on adjacent parcels, nor do they create a pattern of development that would accommodate emergency/crash landings of planes, which would require several City blocks of open area. Moreover, a limitation to 20% lot coverage would fail to address the issue of the existing network of streets, which conflict with the angle of aircraft landings.

3. At the specific request of the March Joint Powers Authority, restriction of the center 1,000 feet of APZ I and II was considered as an extension of the Clear Zone. This suggested de facto lengthening of an already long runway does not significantly mitigate for the challenge of a problematic takeoff or landing, as discussed in the AICUZ land use compatibility guidelines. Moreover, such a restriction may constitute a taking of property, potentially requiring compensation to the owners of the 206 affected parcels on the 276 acres that comprise this area. Due to the angle of this area in relation to the parcel and street grid layout, a significant number of adjacent parcels could also be affected in a manner that could limit the private owner's use and therefore potentially require additional compensation.
4. The ALUC's recommended 20 percent lot coverage restriction in APZ 1 could also create remnant parcels that do not conform to zoning standards for development such as minimum lot widths and area, and therefore may not be developable, resulting in a potential taking of not just a portion of the land but the entire parcel. This restriction would further create multiple contiguous non-developable parcels and an erratic development pattern for adjacent lands.
5. To truly comply with the ALUC's recommendation, a planned expansion of the "Clear Zone" would be required. Parcels of land could then be consolidated, streets vacated or realigned, and property owners compensated for loss of development rights. However, the ALUC has failed to provide empirical evidence of the need to extend the Clear Zone, nor are they offering compensation to landowners in affected areas.
6. Since lot coverage restrictions are not effective and an expansion of the Clear Zone is impractical, the best method of regulating risk and reducing exposure to excessive noise, consistent with the purposes of ALUC as set forth in Public Utilities Code (PUC)

Section 21670, is to restrict development on sites to industrial land uses which have an extremely low density of employment. A methodology for determining appropriate densities of employees is set forth in ALUC planning documents, and warehouse/distribution facilities meet ALUC criteria. Allowing such uses on sites zoned for such use would therefore satisfy public safety and excessive noise concerns, while offering property owners an economic return on their investment in a manner that supports and protects use of March Field as a global port.

7. In connection with adoption of General Plan 2030, and the certification of a Final Environmental Impact report for General Plan 2030, the City Council found inconsistencies between the General Plan 2030 Land Use Element and the ALUP and AICUZ to be significant and unavoidable, and adopted the General Plan 2030 with overriding considerations. Thus, the City Council has previously recognized that development within the City has not conformed to the ALUP or the AICUZ land use and density restrictions.
 - i. The boundaries of the March Influence Areas within the City of Perris were adopted as part of the Riverside County ALUP in 1984. The ALUP 1984 influence areas were based largely on a heavily used post-Vietnam, cold war era military installation located in a rural area. Until that time, much of the airport planning area within the City of Perris was agricultural and large lot rural residential development, and the need for more precisely defined Influence Area boundaries were not recognized.
 - ii. In the 1990s, the Federal Government ceased or reduced military operations at several military bases throughout the United States. The bases were “realigned” for civilian use and/or military reserve uses. Subsequent to the base realignment process in 1996, March Air Force Base (MAFB) became March Air Reserve Base (MARB), and portions of the former Air Force base were reserved for use as a commercial airport. The March Joint Powers Authority (MJP) was created to oversee conversion and operation of the commercial airport, March Inland Port.
 - iii. Airport Influence Area boundaries around March AFB were adopted by the County of Riverside Airport Land Use Commission (ALUC) in 1984 (Exhibit C), and became part of Riverside County Airport Land Use Plan (RCALUP). While such plans are required to be updated every five years, the 1984 RCALUP has not been updated, and the

changes in aircraft operations and aircraft types after the base realignment process in the mid-1990s have not yet been considered.

- iv. The City of Perris, like much of Riverside County and Southern California in general, has seen explosive growth and demand for affordable housing. The Perris General Plan policies call for the orderly development of residential land to support a growing population and work force for the Inland Empire. Conformity with the 1984 ALUP would have precluded much of the residential development in the City that began during the late 1980's and continues to the present. It would also have resulted in the type of suburban sprawl that characterizes parts of the Inland Empire, taxing the region's transportation system and inflating home prices.
8. The City of Perris General Plan 2030 includes the following policies to recognize March ARB and ensure that the ALUP is considered as part of new development review:
 - i. Land Use Element - Policy – Restrict development in areas at risk of damage due to disasters. Implementation Measure: Consult hazards maps as part of the review process for all development applications.
 - ii. Safety Element - Goal I – Reduce risk of damage to property or loss of life due to natural or man-made disasters.
 - iii. Safety Element - Policy I.D.: Aircraft – Consult the Air Installation Compatible Use Zone (AICUZ) Land Use Compatibility Guidelines and ALUP Airport Influence Area development restrictions when considering development project applications.
 - iv. Safety Element - Implementation Measures –
 - I.D.1** Participate in March Operations Assurance Task Force to resolve inconsistencies between local land use regulations and AICUZ and ALUP policies.
 - I.D.2** Continue to notify March Air Reserve Base of new development applications and consider their input prior to making land use decisions.
9. The following Conditions of Approval are applied by the City for subdivisions on lands within Airport Influence Area II or III, per PUC Section 21675.1:

- **Avigation Easement.** Prior to project development, recordation of the map, or sale of any entity exempt from the subdivision Map Act, the applicant shall grant to the City of Perris and to the Inland Port Authority an avigation easement in the form and manner approved by the City Attorney and shall cause such easement to be duly recorded at the office of County Recorder.
- **Notice of Airport in the Vicinity.** A Notice of Airport in the Vicinity and aerial photograph identifying the location of March ARB shall be displayed at all leasing or purchase offices for industrial, commercial or residential developments. The following statement shall be distributed to buyers and lessees:

The property is located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

- **Disclosure.** The applicant shall provide full disclosure of the Avigation Easement and Notice of Airport in the Vicinity prior to the sale of individual properties within the project.
 - **Noise Attenuation.** Noise attenuation measures shall be incorporated into building construction to ensure that interior noise levels are at or below 45 CNEL-decibel levels in residential and office interiors.
10. The following standard Conditions of Approval are applied to non-residential development projects located in Air Reserve Base (MARB) Airport Influence Zone I or II:
- a. **Land Use.** Land uses associated with the proposed development and any structures to be constructed on the site shall be consistent with the list of allowable uses identified in the 2005 Air Installation Compatible Use Study (AICUZ).
 - b. **Avigation Easement.** The project shall provide an executed avigation easement to the March Joint Powers

Authority and the City of Perris. Avigation easement forms and instructions are available on the March Joint Powers website, www.marchjpa.com.

- c. **Notice of Airport in the Vicinity.** A Notice of Airport in the Vicinity and aerial photograph identifying the location of March ARB shall be displayed at all leasing or purchase offices for industrial, commercial or residential developments. The following statement shall be distributed to buyers and lessees:

The property is located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

- d. **Disclosure.** The applicant shall provide full disclosure of the avigation easement and Notice of Airport in the Vicinity to all prospective purchasers or tenants.
- e. **Noise Mitigation.** All building office areas shall be constructed with appropriate sound mitigation measures as determined by an acoustical engineer or architect to insure appropriate interior sound levels.
- f. **Form 7460.** The project shall submit and receive approval of FAA Form 7460-1 prior to project construction. Cranes or vertical equipment used during the construction process require a separate Form 7460-1.
- g. **Lighting Plans.** The applicant shall submit the lighting plan to the Planning Division for review and approval. Full cutoff fixtures shall be used to prevent light and glare above the horizontal plan of the bottom of the lighting fixture. Prior to issuance of building permit, lighting plans shall be reviewed and approved by an airport lighting consultant or March Air Reserve Base/March Inland Port (MARB/MIP).

- h. **Development Restrictions.** The following uses shall be prohibited:
- Any use which would direct a steady light or flashing light of red, white, green or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach towards a landing at an airport, other than FAA-approved navigational signal light or visual approach indicator.
 - Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.
 - Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.
11. General Plan 2030 is consistent with the public safety purposes as stated in Public Utilities Code Section 21670, as it requires the City to notify the March Air Reserve Base and consider their input prior to making decisions on land use and development proposals.
12. City land use and development practices will continue to be consistent with the General Plan and the Airport Land Use Guidelines described in the attached MARB Airport Land Use Planning and Compatibility Report dated 3-17-09, prepared by Johnson Aviation.
13. Based on the facts and findings in this Resolution, General Plan 2030 is consistent with the purposes set forth in Public Utilities Code Section 21670 in that it ensures the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses. This consistency is demonstrated and implemented by the policies included within General Plan 2030 as described in Section 6 above (e.g., restrict development, reduce risk of damage or injury, consult ALUP restrictions, consult with March Air Reserve Base). Consistency is also demonstrated and implemented by the requirement to impose specific Conditions of Approval on projects as described in Section 10 above (e.g., aviation easements, noise attenuation, lighting restrictions).

14. Based on the substantial evidence considered by the City Council as identified above, the General Plan 2030 implementation measures protect the public health, safety and welfare by minimizing the public's exposure to excessive noise and safety hazards in areas around public airports.

Section 5. The City Council declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this Resolution shall remain in full force and effect.

Section 6. The Mayor shall sign this Resolution and the City Clerk shall certify to the adoption of this Resolution.

ADOPTED, SIGNED and APPROVED this 31st day of March, 2009.

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Judy L. Haughney

Attachments: Exhibit A: Location – City of Perris
Exhibit B: General Plan Land Use Map
Exhibit C: MARB Influence Areas
Exhibit D: Noise and Accident Potential Zones
CalTrans Division of Aeronautics Letter dated 10-23-08
Riverside County ALUC Staff Report (with attachments), 10-16-08
Riverside County ALUC Staff Report, Inconsistency Determination, 7-22-08
Riverside County ALUC Staff Report, Agenda Item 5.1 (ZAP1051MA08), 7-10-08
MARB Airport Land Use Planning and Compatibility Report, Johnson Aviation, 3-17-09

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, JUDY HAUGHNEY, City Clerk of the City of Perris, do hereby certify that the foregoing Resolution Number 4202 was duly adopted by the City Council of the City of Perris at a regular meeting thereof held on the 31st day of March 2009, by the following vote:

AYES:	COUNCILMEMBERS:	Landers, Evans, Rogers, Yarbrough, Busch
NOES:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None

City Clerk, Judy L. Haughney