



**SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
Airport Land Use Commission
STAFF REPORT**

Item No.

5

Meeting Date: **JULY 7, 2011**

Subject:

Consistency Determination – Marine Corps Air Station Miramar Airport Land Use Compatibility Plan – Construction of Restaurant at 9210 Scranton Road, City of San Diego

Recommendation:

Adopt Resolution No. 2011-0012 ALUC, making the determination that the project is not consistent with the Marine Corps Air Station Miramar Airport Land Use Compatibility Plan.

Background/Justification:

Project Application

The City of San Diego submitted an application for determination of consistency with the Marine Corps Air Station (MCAS) Miramar Airport Land Use Compatibility Plan (ALUCP) for a project located at 9210 Scranton Road. ALUC staff deemed the City's application for determination of consistency complete on June 16, 2011.

Project Description

The project proposes the construction of a fast-food restaurant of 2,588 square feet on a property of 0.63 acres. The application included documentation which indicates that the vacant property is situated within a planned industrial development which was originally permitted by the City of San Diego in 1987 and granted a time extension in 1993. For clarification, the MCAS Miramar ALUCP, adopted in October 2008, provides that a "long-term project" is vested to pursue buildout under a prior ALUCP provided that the original project (a) obtained a consistency determination with the prior ALUCP, and (b) obtained final approval within 15 years of the effective date of the current ALUCP (MIR 2.3.2(e)). The proposed project does meet either criterion. The development received final approval in 1987 and was granted a time extension in June 1993. There is no record indicating that either the original permit or its time extension were reviewed by the San Diego Association of Governments (SANDAG) as the designated ALUC at those times.

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Project Interests Disclosure

The property is owned by Sorrento Parcels LLC of Newport Beach. The project sponsor is Jack in the Box of San Diego. The project architect is PM Design Group of Rocklin. The civil engineer is TLA Engineering & Planning of Roseville. The landscape architect is Olive Street of Petaluma.

Noise Contours

The subject property is located within the 60-65 decibel Community Noise Equivalent Level (dB CNEL) noise contour. That ALUCP identifies eating & drinking establishments located within the 60-65 dB CNEL noise contour as compatible with airport uses.

Airspace Protection Surfaces

The maximum height of the proposed structures will be 22 feet above ground level. The height of the proposed project is consistent with the ALUCP because it does not exceed an airspace threshold which would require an obstruction evaluation from the Federal Aviation Administration (FAA).

Safety Zones

The proposed project site lies within Accident Potential Zone (APZ) 2. The ALUCP identifies eating & drinking establishments located within APZ 2 as incompatible with airport uses. Moreover, the project would not qualify as infill development because the ALUCP prohibits non-residential infill development within APZ 2 (MIR 2.11.1(b)). Though the ALUC does not have jurisdiction over existing land uses in the project vicinity, it does have the statutory authority to apply the compatibility standards of the adopted ALUCP to newly proposed land uses within the airport influence area as designated by the ALUCP.

Airport Operator Review of Project

Correspondence from MCAS Miramar to the City of San Diego expresses opposition to the project due to its incompatibility with the safety zone use allowances within APZ 2 (Attachment A). MCAS Miramar expressed opposition to a similarly proposed but never constructed restaurant use of the site in 2004, and as operator of Naval Air Station Miramar, the U. S. Navy also objected to a restaurant use of the site in 1984. The City of San Diego opted to permit the planned industrial development which contained the subject property as a restaurant-designated site in 1987 with a time extension granted in 1993.

Staff Recommendation

Based upon the project being an incompatible land use within APZ 2, its ineligibility to qualify as infill development, the long-standing objections to incompatible land uses at the site by the airport operator per the AICUZ, and because the ALUC is charged with upholding the safety of people and property both in the air and on the ground as codified within the adopted ALUCP, this project is not consistent with the MCAS Miramar ALUCP.

Fiscal Impact:

ALUC functions are funded through the Airport Planning FY12 operating budget.

Environmental Review:

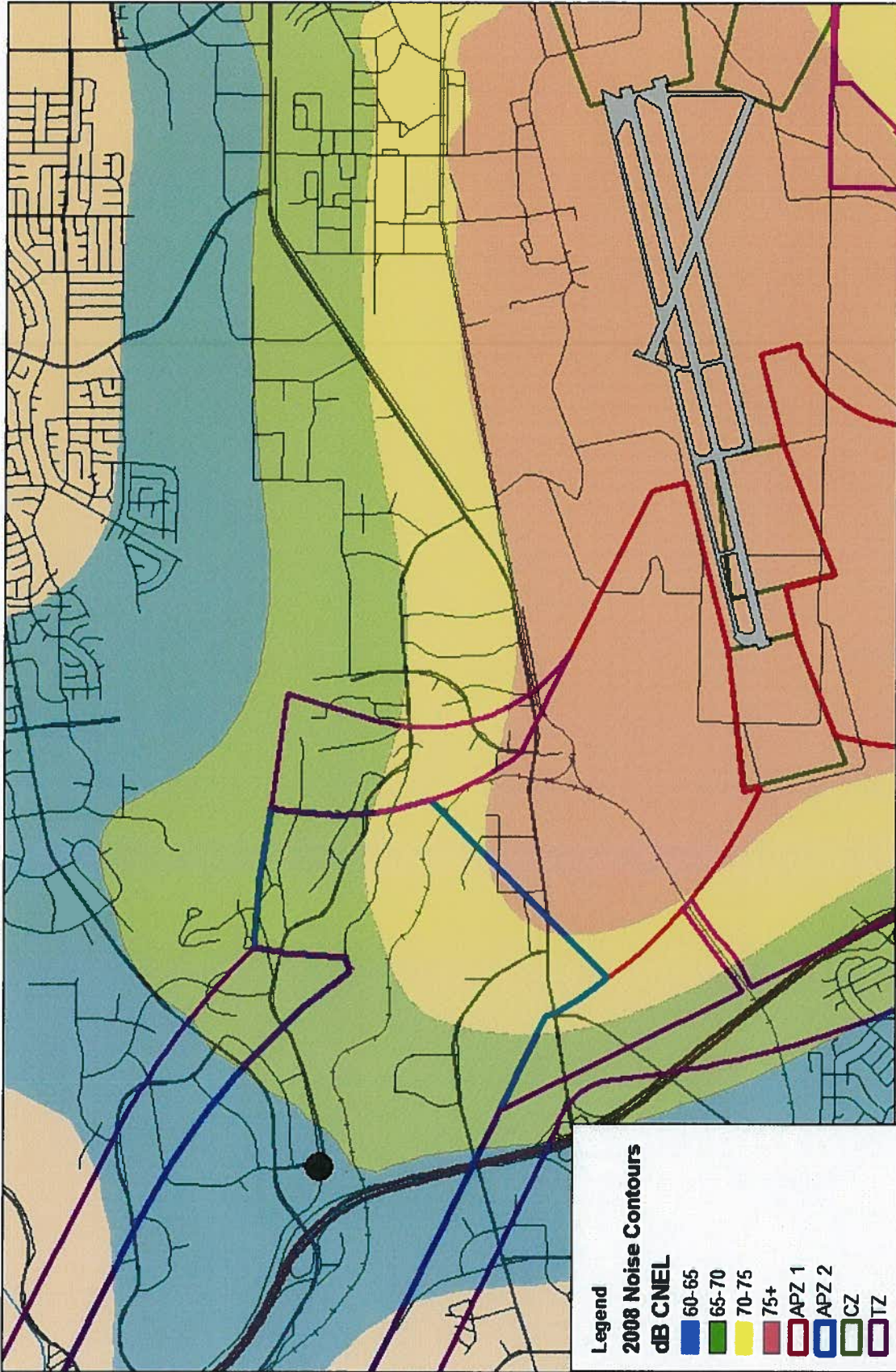
- A. This ALUC action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act (CEQA), as amended. 14 Cal. Code Regs. §15378. This ALUC action is not a "project" subject to CEQA. Pub. Res. Code §21065.
- B. This ALUC action is not a "development" as defined by the California Coastal Act. Pub. Res. Code §30106.

Equal Opportunity Program:

Not applicable.

Prepared by:

KEITH WILSCHETZ
DIRECTOR, AIRPORT PLANNING



**9210 Scranton Road
(APN: 341-321-54)**



Legend

2008 Noise Contours

dB CNEL

- 60-65
- 65-70
- 70-75
- 75+
- APZ 1
- APZ 2
- CZ
- TZ
- fwy
- majorrds
- roads

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UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
P.O. BOX 452001
SAN DIEGO, CA 92145-2001

11103
CP&L/235526
May 18, 2011

CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
SUBMITTED PLANS PROCESSING
ATTN: GLENN GARGAS
1222 FIRST AVENUE MS 302
SAN DIEGO, CA 92101-4154

RE: MIRA MESA COMMUNITY PLAN; JACK IN THE BOX RESTAURANT (SORRENTO SOUTH CORPORATE CENTER), 9210 SCRANTON ROAD (NW CORNER), PN 235526, APN 341-321-54

Dear Mr. Gargas,

This is in response to the project submittal for Sorrento South Corporate Center which proposes construction of a commercial restaurant within the Mira Mesa Community Planning area. The United States Marine Corps (USMC) will continue to oppose the approval of any project which is inconsistent with the adopted safety guidelines of the 2005 Marine Corps Air Station (MCAS) Miramar Air Installations Compatible Use Zones (AICUZ) Study Update.

This use and location was reviewed by the USMC in 2004 (Enclosure 1). The United States Navy also expressed concerns about a similar use in 1984 (Enclosure 2).

On October 2, 2008, the Airport Land Use Commission (ALUC) approved the adoption of a revised MCAS Miramar 2008 MCAS Miramar Airport Land Use Compatibility Plan (CLUP) that is consistent with the 2005 MCAS Miramar AICUZ Update. As a result, any future development on this site is subject to those guidelines and recommendations consistent with the 2005 AICUZ Update, and will be examined using these safety, height, noise and overflight standards.

The proposed site is contained within the "MCAS Miramar AICUZ Study Area" identified in the 2005 AICUZ Update for MCAS Miramar. It has been determined that this project is: 1) within the adopted 2008 MCAS Miramar ALUCP Airport Influence Area (AIA) Review Area I, 2) within the 60-65 dB Community Noise Equivalent Level (CNEL)

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noise contours, 3) within Accident Potential Zone II, 4) beneath the Outer Horizontal Surface of MCAS Miramar (Federal Aviation Regulation Part 77), and 5) beneath and/or near establish fixed and rotary-wing flight corridors for aircraft transiting to and from MCAS Miramar.

Specifically, the project is not consistent with safety compatibility recommendations as identified in Table 3 (Eating and Drinking Establishment, Standard Land Use Coding Manual Category #58) for land uses in APZ II. Furthermore, the MCAS Miramar ALUCP also deems small eating/drinking establishments in free standing buildings (Table MIR-2) as incompatible land uses in APZ II. Accident Potential Zones continue to possess a measurable potential for aircraft mishaps with significant safety impacts at this location, therefore, considerable thought should be given and significant findings made prior to approving any incompatible land uses in safety sensitive areas.

The structural height does not appear to penetrate the Federal Aviation Administration (FAA) Part 77 Outer Horizontal Surface and/or any Terminal Instrument Procedures (TERPS) surfaces. However, please note that the FAA is the only agency that can officially determine if a structure exceeds an airspace surface and/or what impact it would have on air navigation.

Any project at this location will experience significant noise impacts from the Julian, Seawolf and Ground Controlled Approach (GCA) Box Pattern Flight Corridors for fixed-wing operations. The site will also experience noise impacts from the Beach, Fairways and GCA Box Pattern Flight Corridors for helicopter operations.

Occupants will routinely see and hear military aircraft and experience varying degrees of noise and vibration. Consequently, we are recommending full disclosure of noise and visual impacts to all initial and subsequent purchasers, lessees, or other potential occupants.

Since the project is within the AIA for the MCAS Miramar ALUCP, and to ensure that the project is consistent with ALUCP guidelines, we recommend that the project be submitted to the ALUC for an official consistency determination.

Normal hours of operation at MCAS Miramar are as follows:

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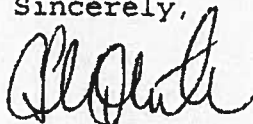
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May 18, 2011

Monday through Thursday	7:00 a.m. to 12:00 midnight
Friday	7:00 a.m. to 6:00 p.m.
Saturday, Sunday, Holidays	8:00 a.m. to 6:00 p.m.

MCAS Miramar is a master air station, and as such, can operate 24 hours per day, 7 days per week. Fiscal and manpower constraints, as well as efforts to reduce the noise impacts of our operations on the surrounding community, impose the above hours of operation. Circumstances frequently arise which require an extension of these operating hours.

Thank you for the opportunity to review this land use proposal. If we may be of any further assistance, please contact Mr. Juan Lias at (858) 577-6603.

Sincerely,



C. L. THORNTON
Community Plans and Liaison Officer
By direction of the Commanding Officer

Copy to:
Mira Mesa Community Planning Group, Chair, Bari Vaz
San Diego County Regional Airport Authority, Ed Gowens

Enclosure:
(1) December 14, 2004 MCAS Miramar Letter
(2) October 30, 1984 NAS Miramar Letter

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UNITED STATES MARINE CORPS
MARINE CORPS AIR BASES WESTERN AREA MIRAMAR
P.O. BOX 42801
SAN DIEGO, CA 92143-2801

11103
G-5/55444
December 14, 2004

CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPT
ATTN ROBERT TUCKER
1722 FIRST AVENUE N5501
SAN DIEGO CA 92101-9155

RE: MIRA MESA COMMUNITY PLAN; SORRENTO SOUTH RETAIL SUBSTANTIAL
CONFORMANCE REVIEW, PN 55444

Dear Mr. Tucker:

This is in response to your project submittal of November 4, 2004, which addresses industrial construction of a one-story, 12,000 square foot convenience retail pad building, and a one-story, 8,000 square foot restaurant, within the Mira Mesa Community Planning area. The Marine Corps opposes this project, which contradicts adopted land use compatibility guidelines, violates the safety impact standards of the 1992 Miramar Comprehensive Land Use Plan (CLUP), and Airport Environs Overlay Zone (AEVZ).

The proposed project would be directly affected by routine overflights and implicates significant identified safety concerns for this location. This area is contained within the "Miramar Airport Influence Area" and is directly beneath the Julian and Seawolf Departures, Field Carrier Landing Practice, Touch and Go and Ground Controlled Approach (GCA) Box Pattern Flight Corridors for fixed-wing operations. In addition, this property is affected by the GCA Box Pattern, Beach and Fairways Flight Corridors for helicopter operations. The proposed project is contained within the Accident Potential Zone (APZ) I and is within the adopted and projected 60-65 dB Community Noise Equivalent Level (CNEL) noise contours for Miramar Operations. Occupants will routinely see and hear military aircraft and experience varying degrees of noise and vibration. Consequently, we are recommending full disclosure of noise and visual impacts to all initial and subsequent purchasers, lessees, or other potential occupants.

Most important, the proposed location within APZ I is inconsistent with considerations attendant to public safety, health and welfare. Assembly areas are incompatible under the

Enclosure (1)

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G-5/55444

December 14, 2004

Miramar CLUP for APZ I. Furthermore, the CLUP for Miramar under Land Use Compatibility in APZ's on page 13, figure 4 states "Assembly areas...restaurants...are incompatible within APZ I." In addition, the Miramar CLUP states, "lot coverage...should be less than 25% in APZ I," and not greater than 50 persons per acre. To ensure compliance with the adopted land use compatibility guidelines of the Miramar CLUP and AEOZ, a formal consistency determination by the San Diego County Regional Airport Authority and San Diego Association of Governments (SANDAG) is requested and recommended.

Previous objections by the Navy, on this submittal, have been addressed. In a letter dated October 30, 1984, to Mr. Paul Fiske, Senior Planner, City of San Diego, the Navy states, "While restaurants are a 'compatible' land use in the 65-70 CNEI contour, it cannot change nor mitigate the unacceptable land use criteria for restaurants in Accident Potential Zone 'B'." APZ B is now recognized as APZ I in the adopted Miramar CLUP. Operationally, fixed-wing aircraft will remain concentrated in this area. APZ I continues to possess a measurable potential for aircraft mishaps with significant safety impacts in this location. This substantive change of land use within Accident Potential Zone I needs further review by the Airport Land Use Commission at this time.

Further, we are always concerned with the storage of petroleum products in this location. The Miramar (CLUP) under Wholesale Stores, Manufacturing for Hazardous Materials states:

"Siting of facilities in the Accident Potential Zones shall be in accordance with the most stringent Federal, State, and local ordinances and regulations. ...Those businesses that propose to use acutely hazardous materials will be reviewed by the Board of Directors for a determination regarding the compatibility of their proposals...with Miramar operations. All other types of hazardous materials shall be stored in accordance with the most stringent federal, state and local ordinances and regulations."

In addition, possible activities within the proposed project could interfere with aircraft from MCAS Miramar. Hazards to aircraft safety must be identified and prevented or mitigation measures implemented. The most common areas of potential hazard areas are as follows:

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December 14, 2004

Substances released in the air which could impair the visibility or otherwise interfere with the operations of the aircraft, such as, but not limited to, steam, dust and smoke;

Electro-magnetic emissions that might affect aircraft or ground instrumentation or electronic facilities;

Light emissions, either direct or indirect (reflective), which might interfere with pilot vision. This could dilute effectiveness of mission essential training operations;

The growing of certain types of vegetation or other land uses which would unnecessarily attract birds.

This location is directly affected by the Julian and Seawolf Departures and Ground Controlled Approach (GCA) Box Pattern Flight Corridors for fixed-wing operations. In addition, this location is affected by the Beach and Fairways and GCA Box Pattern Flight Corridors for helicopter operations.

Normal hours of operation at MCAS Miramar are as follow:

Monday through Thursday	7:00 a.m. to 12:00 midnight
Friday	7:00 a.m. to 6:00 p.m.
Saturday, Sunday, Holidays	8:00 a.m. to 6:00 p.m.

MCAS Miramar is a master air station, and as such, can operate 24 hours per day, 7 days per week. Fiscal and manpower constraints, as well as efforts to reduce the noise impacts of our operations on the surrounding community, impose the above hours of operation. Circumstances frequently arise which require an extension of these operating hours.

Thank you for the opportunity to review this land use proposal. If we may be of any further assistance, please contact Ms. Maria Skrzynski at (858) 577-6603.

Sincerely,



P. S. PARKHURST
Colonel, U.S. Marine Corps
Community Plans and Liaison Officer

By direction of the Commander

Copy to:
SDCRRRA (Juan Lias)
DOT (DOA)
MMPG

C00030



DEPARTMENT OF THE NAVY

NAVAL AVIATION WING
SAN DIEGO, CA 92161

5726

Ser OOH/ 00260

OFF 4 0 1984

City of San Diego
Environmental Quality Division
Attn: Paul Fiske, Senior Planner
202 "C" Street, N.E. 1A
San Diego, CA 92101

Dear Mr. Fiske:

Thank you for the opportunity to respond to EQD No. 84-0617, Lusk Mira Mesa Business Park, Lots 6 and 7, in the Western Mira Mesa Community. As unequivocally stated in our letter of 30 August 1984 to the City Planning Department, the U.S. Navy and NAS MIRAMAR are very strongly opposed to the proposed zoning change.

According to the criteria established by the Comprehensive Land Use Plan for NAS MIRAMAR, the proposed hotel lies in the northeast corner of Accident Potential Zone "B", in which transient lodging is clearly unacceptable. "The exposure to accident potential at the site is so severe, due to potential loss of life and property, that performance of land use activities is prohibitive."

The site lies between the 65 and 70 decibel Community Noise Equivalency Level (CNEL), almost at the 70 CNEL. It states that transient lodging is incompatible past the 65 CNEL and "the outdoor environment would be intolerable for outdoor activities associated with such land use."

The proposed restaurants are normally unacceptable because "the exposure to accident potential is significantly more severe, so that unusual density restrictions are necessary to insure adequate safety of life and property."

While restaurants are a "compatible" land use in the 65 to 70 CNEL contour, it cannot change nor mitigate the unacceptable land use criteria for restaurants in Accident Potential Zone "B".

The Mira Mesa Community Plan continually addresses the Noise and Safety impacts from NAS MIRAMAR. It states that "Jet aircraft noise emanating from NAS MIRAMAR affects the Mira Mesa Community and is an important consideration for future development in the western portion of the community plan area."

In referring specifically to the Lusk Corporation Industrial Park, the plan states that in industrial parks the development of retail commercial uses catering to through traffic on Mira Mesa Boulevard is to be discouraged."

Among other objectives, the Mira Mesa Community Plan states that:

"Through the proper assessment of land uses, avoid noise impacts on the residents and employees of the Mira Mesa Community."

"Promote public safety by taking into account aircraft accident potential in placement of structures and activities."

"Provide for the safe operation of NAS MIRAMAR through the preservation of established departure corridors."

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Enclosure (2)

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The noise element of the Progress Guide and General Plan notes that transient housing uses in the 65/70 CNEL is an **incompatible** land use and indicates the projected site and surrounding area is to be used for general industrial or open space.

The concept that noise contours and accident potential zones as defined, may be capricious, is resistant to long established, verified criteria and has no legitimate basis for discussion at this time. Study after study has been completed substantiating the established criteria.

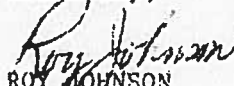
The Comprehensive Land Use Plan for NAS MIRAMAR was completed and adopted by the Community Planning Organization (CPO), now SANDAG, sitting as the Airport Land Use Commission to insure the **continual useability** of the airport and **compatible development** of surrounding land. It utilized the Accident Potential Zones Guidelines for AICUS studies contained in the Federal Register in preparing the plan, which explains that NAS MIRAMAR's accident history is unusually well documented, enabling a more thorough assessment of accident potential. It states the zones, **as established**, are legitimate and will retain their value with some specific variations as set forth. The accident potential zones in the "Seawolf Departure Corridor" is a refinement of all the aforementioned studies and is a proper application **well within the deviation parameters** and while not crash history related, the analysis indicates the area has a **reasonable potential for a crash**.

Further, safety being a relative term, the objective is to realize the **greatest degree of safety** that can **reasonably** be obtained. Although not a statistically precise science, the accident potential criteria continues to be an **accepted methodology** used to define danger areas generated from airports.

Standards for land use compatibility within various noise contours and accident potential zones as set forth above have been adopted by all applicable and concerned agencies. The noise and accident matrix used therein are all the same. They are based on **accepted thresholds of significance**, are applied to noise from any source and are to be used considering **both current and projected** noise levels in determining proper land use.

Based on the above preponderance of land use criteria and existing edicts against the proposed zoning change and development, it is formally requested that this project be **denied in its entirety** and the denial be extended to any appeal process.

Sincerely,


ROY JOHNSON
By direction

Encl: (1) Ltr of 30 Aug 1984

Copy to:

Doug Lemaire, WESTNAVFACENGCOMBRO, Code 92A, 1220 Pacific Hwy, San Diego, CA 92132

Jack Koerper, San Diego Association of Governments, Security Pacific Plaza

Suite 524, 1200 Third Avenue, San Diego, CA 92101

Alan Zusman, NAVFACENGCOM, 200 Stovall St., Alexandria, VA 22332

RESOLUTION NO. 2011-0012 ALUC

A RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR SAN DIEGO COUNTY MAKING A DETERMINATION THAT THE PROPOSED PROJECT: CONSTRUCTION OF RESTAURANT AT 9210 SCRANTON ROAD, CITY OF SAN DIEGO, IS NOT CONSISTENT WITH THE MARINE CORPS AIR STATION MIRAMAR AIRPORT LAND USE COMPATIBILITY PLAN.

WHEREAS, the Board of the San Diego County Regional Airport Authority, acting in its capacity as the Airport Land Use Commission (ALUC) for San Diego County, pursuant to Section 21670.3 of the Public Utilities Code, was requested by the City of San Diego to determine the consistency of a proposed development project: Construction of Restaurant at 9210 Scranton Road, City of San Diego, which is located within the Airport Influence Area (AIA) for the Marine Corps Air Station (MCAS) Miramar Airport Land Use Compatibility Plan (ALUCP), originally adopted in 2008 and amended in 2010; and

WHEREAS, the plans submitted to the ALUC for the proposed project indicate that it would involve the construction of a fast-food restaurant; and

WHEREAS, the proposed project would be located within the 60-65 decibel (dB) Community Noise Equivalent Level (CNEL) noise contour, and the ALUCP identifies eating and drinking establishment uses located within the 60-65 dB CNEL noise contour as compatible with airport uses; and

WHEREAS, the proposed project is in compliance with the ALUCP airspace protection surfaces because it does not exceed an airspace threshold which would require an obstruction evaluation from the Federal Aviation Administration (FAA); and

WHEREAS, the proposed project is located within Accident Potential Zone (APZ) 2 and the ALUCP identifies eating and drinking establishment uses located within APZ 2 as not compatible with airport uses; and

WHEREAS, the proposed project does not qualify to be permitted as infill development because non-residential infill development is not allowed within APZ 2 by the ALUCP; and

WHEREAS, the ALUC has considered the information provided by staff, including information in the staff report and other relevant material regarding the project; and

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WHEREAS, the ALUC has provided an opportunity for the City of San Diego, the U.S. Marine Corps, and interested members of the public to present information regarding this matter; and

WHEREAS, the U.S. Marine Corps, as operator of MCAS Miramar, has expressed its objection to the proposed project in correspondence to the City of San Diego based upon safety concerns of locating an eating and drinking establishment within APZ 2; and

WHEREAS, the 2005 Air Installation Compatible Use Zone (AICUZ) study for MCAS Miramar upon which the ALUCP is based and with which it is consistent, per Public Utilities Code Section 21675(b), designates eating and drinking establishments as an incompatible land use with military airport operations;

NOW, THEREFORE, BE IT RESOLVED that the ALUC determines that the proposed project: Construction of Restaurant at 9210 Scranton Road, City of San Diego, is not consistent with the MCAS Miramar ALUCP, which was adopted in 2008 and amended in 2010, based upon the following facts and findings:

- (1) The proposed project involves the construction of a fast-food restaurant.
- (2) The proposed project is located within the 60-65 dB CNEL noise contour. The ALUCP identifies eating and drinking establishment uses located within the 60-65 dB CNEL noise contour as compatible with airport uses.
- (3) The proposed project is in compliance with the ALUCP airspace protection surfaces because it does not exceed an airspace threshold which would require an obstruction evaluation from the FAA.
- (4) The proposed project is located within APZ 2. The ALUCP identifies eating and drinking establishment uses located within APZ 2 as not compatible with airport uses.
- (5) The proposed project does not qualify to be permitted as infill development because non-residential infill development is not allowed within APZ 2 by the ALUCP.
- (6) The AICUZ upon which the ALUCP is based and with which it is consistent pursuant to State law designates eating and drinking establishments as an incompatible land use within APZ 2.

- (7) The airport operator, MCAS Miramar, has expressed its objection to the proposed project in written correspondence to the City of San Diego.
- (8) Therefore, the proposed project is not consistent with the adopted MCAS Miramar ALUCP.

BE IT FURTHER RESOLVED that this ALUC determination is not a "project" as defined by the California Environmental Quality Act (CEQA), Pub. Res. Code Section 21065, and is not a "development" as defined by the California Coastal Act, Pub. Res. Code Section 30106.

PASSED, ADOPTED AND APPROVED by the ALUC for San Diego County at a regular meeting this 7th day of July, 2011, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST:

TONY R. RUSSELL
DIRECTOR, CORPORATE SERVICES/
AUTHORITY CLERK

APPROVED AS TO FORM:

BRETON K. LOBNER
GENERAL COUNSEL

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