

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Economic Development Agency & TLMA - Planning Department

SUBMITTAL DATE:
May 19, 2005

SUBJECT: PROCESS FOR ADDRESSING AIRPORT LAND USE COMPATIBILITY PLAN IMPLEMENTATION ISSUES – Second, Third, and Fourth Supervisorial Districts – Location: Areas within the vicinity of Bermuda Dunes, Blythe, Chiriaco Summit, Flabob, French Valley, and Riverside Municipal Airports.

RECOMMENDED MOTION: That the Board of Supervisors direct Planning Department and Economic Development Agency staff to work together to address airport land use compatibility implementation issues and return to the Board on July 12, 2005 with recommended actions.

BACKGROUND:

In late 2004, the Riverside County Airport Land Use Commission (ALUC) began adopting new Airport Land Use Compatibility Plans for airports throughout the County. The Airport Land Use Commission is an independently appointed body consisting of two county appointees, two city appointees, two aviation experts appointed by an airport manager's selection committee, and one general member appointed by the six other members. The composition of the Commission and its authority is set forth in Public Utilities Code Section 21670-21679.5. The new ALUC Plans were prepared pursuant to this statutory framework and the statutorily required California Land Use Planning Handbook, published in 2002. (Continued)

Robert Johnson
Planning Director

Robin Zimpfer
Managing Director of EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	NA
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: Not Applicable	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

County Executive Office Signature

- Policy
- Consent
- Policy
- Consent
- Dep't Recomm.:
- Per Exec. Ofc.:

Prev. Agn. Ref.: 3.26 of 5/10/05 **District:** 2, 3 & 4 **Agenda Number:** 3 43

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IMPLEMENTATION ISSUES

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The new ALUC Plans expand the Airport Influence areas, increase restrictions on development relative to previously adopted plans, and in many areas provide for a reduced allowable density or a mandated higher density.

Riverside County Planning Staff have identified conflict between the ALUC Plans and the County General Plan in the vicinities of the following airports: Bermuda Dunes, Blythe, Flabob, and French Valley, and to a lesser extent, Chiriaco Summit and Riverside Municipal. Pursuant to Government Code Section 65302.3, the general plan is required to be consistent with the ALUC Plans. It further states that the general plan be amended, as necessary, within 180 days of adoption of the ALUC Plans. There is no penalty prescribed for missing this deadline, except that the ALUC may require all permits to be submitted for their review.

In order to address this situation, EDA and TLMA/Planning Staff have met several times. TLMA/Planning Staff have conducted a detailed analysis of the specific parcels that are subject to incompatibility between the general plan and ALUC Plans. Based on this analysis, staff is formulating parcel-specific recommendations that would include some combination of the following:

- (1) An identification of those properties where changes in Area Plan designations (including possible changes in Foundation Component designations) may be required to achieve consistency between Airport Land Use Compatibility Plans and the County General Plan, pursuant to State law;
- (2) An identification of possible amendments to the Countywide and/or airport-specific policies and criteria of the ALUC Plans that, if adopted by the Riverside County Airport Land Use Commission, would minimize the need for changes in Area Plan designations, especially changes in Foundation Component designations; and
- (3) An identification of properties in the vicinities of those airports where the Board may wish to consider an overrule of land use compatibility criteria and a discussion of the necessary information required for such an overrule.

The attached Technical Supplement contains a detailed analysis of the situation and preliminary determinations of possible conflicts between the ALUC Plans the County General Plan.

Staff recommends that the Board direct staff to continue this collaborative effort and return to the Board in seven weeks (July 12, 2005) with specific recommended actions.

TECHNICAL SUPPLEMENT – AIRPORT LAND USE COMPATIBILITY PLAN IMPLEMENTATION ISSUES

BACKGROUND:

In order to comply with the requirements of the Airport Land Use Commission section of the California Aeronautics Act (California Public Utilities Code Section 21670 et seq.), the Riverside County Airport Land Use Commission has prepared and adopted new Airport Land Use Compatibility Plans for several airports within the County. The new Airport Land Use Compatibility Plans were prepared pursuant to the latest edition of the California Airport Land Use Planning Handbook, published in January 2002 by the State of California Department of Transportation, Division of Aeronautics (also known as the Caltrans Airport Handbook). This document is the guidebook for land use planning in Airport Influence Areas throughout the State of California, which must be used by all agencies (not just the Airport Land Use Commission) in such planning.

The newly adopted Airport Land Use Compatibility Plans (ALUCPs) expand the Airport Influence Areas (in various degrees), increase restrictions on development in some areas relative to previously adopted plans prepared prior to the most recent version of the Airport Land Use Planning Handbook, and in many areas provide for a reduced allowable density or a mandated higher density. While the ALUC and its staff are quick to point out that they do not establish land use designations, the provisions of State law requiring consistency between the General Plan of the local jurisdiction and the ALUCPs, in the absence of overrule by the local jurisdiction, convey the State's interest in furthering the goals specified in the legislation authorizing this special planning for land within Airport Influence Areas. Also in compliance with an Opinion of the California Attorney General's Office pertaining to exemptions from Airport Compatibility Plan compliance requirements, none of the Compatibility Plans exempt adopted specific plans from the criteria included therein. The elimination of this exemption as it previously existed for the environs of the French Valley Airport has generated considerable concern on the part of property owners in that area, the Building Industry Association, and even from legal counsel representing the Executive Office in its role as financial caretaker for the County's Community Facilities Districts.

The Riverside County Airport Land Use Commission (ALUC) adopted new Countywide policies and new Airport Land Use Compatibility Plans for the Blythe, Banning, and Corona Municipal Airports, and for the Chiriaco Summit and Desert Center Airports, on October 14, 2004. The Airport Land Use Commission adopted new Airport Land Use Compatibility Plans for the Bermuda Dunes, Flabob, and French Valley Airports on December 9, 2004. More recently, on March 10, 2005, the ALUC adopted new ALUCPs for Palm Springs International and Riverside Municipal Airports.

Riverside County Planning Department staff and/or the consultant to the Airport Land Use Commission (Mr. Kenneth Brody of Mead & Hunt) have identified potential direct conflicts between ALUCP land use compatibility criteria and Area Plan designations in the vicinities of the following airports: Bermuda Dunes, Blythe, Flabob, and French Valley, and, to a lesser extent, Chiriaco Summit and Riverside Municipal Airports that require further study to determine whether changes in either the County's General Plan or the ALUCP, or overrule action. There are no direct conflicts between ALUCP land use compatibility criteria and Area Plan designations in unincorporated areas in the

vicinities of the Banning, Corona, Desert Center, and Palm Springs Airports. In the cases of the Banning, Corona, and Desert Center Airports, a text amendment and new table reflecting the new criteria will be sufficient, and no land use designation changes are required in the unincorporated County. The Palm Springs Airport Influence Area is confined to areas within city limits.

The new policies as set forth in the ALUC Plans in some cases are more restrictive than the policies included in the older underlying Airport Land Use Compatibility Plans in effect at the time of adoption of the Riverside County General Plan adopted in October, 2003. Those older Plans varied widely in terminology, but had generally provided for an Inner Safety Zone, an Outer Safety Zone, an Area of Significant Safety Concern, and the remainder of the Airport Influence Area, where only unusual land uses and structures of extraordinary height would require review. New residential development within “Areas of Significant Safety Concern” was typically limited to a maximum intensity of 0.4 dwelling units per acre (2½ acre minimum lot size). Many of these areas were designated 2½ Acre Minimum (also known as Residential Category 3B) on previous Community Plans, and many received the new designation of Estate Density Residential upon adoption of the new General Plan. A considerable amount of these areas would be required to be designated for five acre or larger minimum lot sizes pursuant to the new ALUCPs.

It should be noted that land use designations for properties with existing or approved uses (tentative maps, approved use permits and plot plans) need not be changed for the General Plan and the ALUCP to be consistent with each other; however, adoption of a specific plan is not considered to be a sufficient “entitlement” for this provision to apply, pursuant to a recent Attorney General’s opinion. (Existing General Plan designations and zoning are also not considered “entitlements”.)

Additionally, the Countywide compatibility policies include a number of provisions that allow flexibility in situations where the previously adopted Plans were more restrictive. Countywide standards include provisions expressly allowing for the development of a single-family home on any legal lot of record, criteria for finding higher levels of development than would otherwise be allowed consistent with the Plans in infill situations, and allowances for expansion and alteration of nonconforming uses.

There are also Special Conditions policies included in the Countywide compatibility criteria, and there are provisions allowing for variation from Countywide compatibility criteria for individual airports, should the ALUC find such variations to be appropriate. For example, the Airport Land Use Commission recently found a project with a density of 4.8 units per acre in Airport Zones C and D to be acceptable based on a number of findings, including the similarity of the proposed project to densities in the surrounding area, location outside the 55 dB(A) noise contour, set aside of a substantial portion of the Zone C area as open space, and expanded buyer awareness provisions.

IMPLICATIONS OF INACTION:

What would be the result if the Board elected to take no action with regard to the inconsistency that now exists between the General Plan/Area Plan land use designations and the adopted ALUCPs?

As a result of the adoption of the new ALUCPs and the existence of direct conflicts between ALUCP land use compatibility criteria and General Plan/Area Plan land use

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designations, the County's General Plan and the ALUCPs are now inconsistent with each other. Until such time as the ALUC finds that a local agency's general plan or specific plan is consistent with the ALUCP or such time as the local agency has overruled the ALUC's determination of inconsistency, state law provides that the ALUC may require all actions, regulations, and permits involving land within an airport influence area be referred to the ALUC for review. Pursuant to the ALUCP, only the following major land use actions would be required to be reviewed:

- (1) Proposed general plan element adoption, general plan amendments, specific plans, specific plan amendments, zoning changes, and zoning ordinance amendments;
- (2) Proposed adoption or modification of the master plan for an existing public-use airport, proposal for a new airport or heliport whether for public use or private use if the facility requires a state airport permit, proposal for expansion of an existing airport or heliport if such expansion would require an amended airport permit from the State;
- (3) Proposed development agreements or amendments to such agreements;
- (4) Proposed residential development, including land divisions, consisting of five or more dwelling units or parcels;
- (5) Any discretionary development proposal for projects having a building floor area of 20,000 square feet or greater unless only ministerial approval (e.g., a building permit) is required;
- (6) Major capital improvements (e.g. water, sewer, or roads) which would promote urban uses in undeveloped or agricultural areas to the extent that such uses are not reflected in a previously reviewed general plan or specific plan;
- (7) Proposed land acquisition by a government entity for any facility accommodating a congregation of people (for example, a school or hospital);
- (8) Any off-airport, nonaviation use of land within Compatibility Zone A (see below);
- (9) Proposals for new development (including buildings, antennas, and other structures) having a height of more than 35 feet within Compatibility Zone B1, B2, or a Height Review Overlay Zone, 70 feet within Compatibility Zone C, or 150 feet elsewhere within the Airport Influence Area;
- (10) Any proposal for construction or alteration of a structure (including antennas and wind energy turbines) taller than 200 feet above the ground level at the site, regardless of location (whether inside or outside an Airport Influence Area);
- (11) Any obstruction reviewed by the Federal Aviation Administration in accordance with Part 77 of the Federal Aviation Regulations that receives a finding of anything other than "not a hazard to air navigation";
- (12) Projects having the potential to cause attraction of birds or other wildlife that can be hazardous to aircraft operations to be increased within the vicinity of an airport;
- (13) Any project having the potential to create electrical or visual hazards to aircraft in flight, including electrical interference with radio communications or navigational signals, lighting which could be mistaken for airport lighting, glare in the eyes of pilots of aircraft using the airport, or impaired visibility near the airport;
- (14) Proposed nonaviation development of airport property if such development has not previously been included in an airport master plan or community general plan reviewed by the ALUC; and,
- (15) Any proposed expansion of the sphere of influence of a city or special district (LAFCO, city, or district actions), and any proposed pre-annexation associated with future annexation of land to a city.

Once the General Plan is amended to be consistent with the ALUCPs and the ALUC verifies such consistency, mandatory review applies only to items (1) and (2), and to those major land use actions involving redevelopment or changes to projects which had been deemed consistent only because they were existing uses at the time of adoption of the ALUCP.

AIRPORT LAND USE COMPATIBILITY ZONES:

The new ALUCPs delineate six airport land use compatibility zones – A, B1, B2, C, D, and E. Airport Land Use Compatibility Zone E has no residential density restrictions and, therefore, does not require land use designation changes between Foundation Components. Zone E only prohibits those uses that are hazards to flight (as do all of the other Airport Land Use Compatibility Zones).

Airport Land Use Compatibility Zone A is the Runway Protection Zone, prohibiting all structures except those with locations set by their aeronautical function, assemblages of people, objects exceeding FAR Part 77 height limits, storage of hazardous materials, and hazards to flight.

Given these severe restrictions, any properties outside airport grounds falling entirely within Zone A would require a designation within the Open Space Foundation Component. Parcels that are partially within Airport Zone A and partially within other designations would need to be evaluated on a case-by-case basis to determine whether the area within Airport Zone A is sufficiently large to mandate an Open Space Foundation Component designation. Fortunately, the number of properties in Zone A is very limited. In most cases, Zone A is confined to properties on airport grounds, where the Public Facilities designation is acceptable. Where this is not the case, the County or the airport operator may wish to consider purchasing this land (or a conservation easement) to assure that safety is not compromised by the development of structures in such areas. Staff would not support overrule of any density restrictions within Airport Zone A.

Airport Land Use Compatibility Zone B1 is the Inner Approach/Departure Zone. New residential development in Zone B1 is limited to 0.05 dwelling units per acre – an average density of one dwelling unit per twenty (20) acres. Nonresidential development may maintain a maximum intensity of twenty-five (25) persons per acre (averaged over a site), with a maximum of 50 (50) persons within any given acre. (An intensity bonus of 30% over the maximum persons within any given acre may be allowed if the building design includes features intended to reduce risks to occupants in the event of an aircraft collision with the building.) Prohibited uses in Zone B1 include “children’s schools, day care centers, libraries, nursing homes, hospitals, places of worship, buildings with more than two aboveground habitable floors, highly noise-sensitive outdoor nonresidential uses, aboveground bulk storage of hazardous materials, critical community infrastructure facilities, and hazards to flight”. Additionally, structures must be located a maximum distance from the extended runway centerline, and a minimum noise level reduction of 25 dB must be achieved in residences (including mobile homes) and office buildings, and airspace review is required for objects greater than 35 feet in height. Overall, 30% of the entire acreage within Zone B1 must be set aside as open land.

Airport Land Use Compatibility Zone B2 is the Adjacent to Runway Zone. This is the

area parallel to the runway, rather than the area underlying areas where aircraft are regularly arriving or departing. New residential development in Zone B2 is limited to 0.1 dwelling units per acre – an average density of one dwelling unit per ten (10) acres. Nonresidential development may maintain a maximum intensity of one hundred (100) persons per acre (averaged over a site), with a maximum of two hundred (200) persons within any given acre and eligibility for the 30% intensity bonus. Prohibited uses in Zone B2 are the same as those in Zone B1, and the requirements for airspace review and noise level reduction are also the same. Structures in Zone B2 must be located a maximum distance from the runway. However, Zone B2 does not have an open land requirement.

Dedication of aviation easements is required for all development in Zones A, B1, and B2.

Airport Land Use Compatibility Zone C is the Extended Approach/Departure Zone. This area extends out from Zones A and B1 as one moves farther out from the runway ends. New residential development in Zone C is limited to 0.2 dwelling units per acre - an average density of one dwelling unit per five (5) acres. Nonresidential development may maintain a maximum intensity of seventy-five (75) persons per acre (averaged over a site), with a maximum of one hundred fifty (150) persons within any given acre and eligibility for the 30% intensity bonus. Prohibited uses in Zone C include “children’s schools, day care centers, libraries, nursing homes, hospitals, buildings with more than three aboveground habitable floors, highly noise-sensitive outdoor nonresidential uses, and hazards to flight.” A minimum noise level reduction of 20 dB must be achieved in residences (including mobile homes) and office buildings, and airspace review is required for objects greater than 70 feet in height. Overall, 20% of the entire acreage within Zone C must be set aside as open land.

Airport Land Use Compatibility Zone D is the Primary Traffic Patterns and Runway Buffer Area. New residential development in Zone D is limited to either a maximum density of 0.2 dwelling units per acre (average density of one dwelling unit per five (5) acres) or a minimum density of not less than five (5) dwelling units per acre, but not at a density level greater than 0.2, but less than 5.0, dwelling units per acre. Nonresidential development may maintain a maximum intensity of one hundred (100) persons per acre (averaged over a site), with a maximum of three hundred (300) persons within any given acre and eligibility for the 30% intensity bonus. Children’s schools, hospitals, and nursing homes are “discouraged” in Zone D, while highly noise-sensitive outdoor nonresidential uses and hazards to flight are prohibited. Airspace review is required for objects greater than 70 feet in height, and 10% of the entire acreage within Zone D must be set aside as open land.

COMPONENT ONE – CHANGES IN LAND USE DESIGNATIONS:

Clearly an amendment to the Riverside County General Plan will be required to recognize the new boundaries of the Airport Influence Areas in situations where these boundaries have changed as a result of the adoption of the new ALUCPs. (The only significant expansion of an Airport Influence Area boundary was at Bermuda Dunes.) The Board does not have jurisdiction to overrule the boundaries of the Airport Influence Areas established by the ALUCPs, pursuant to State law. This amendment can either be included with any required amendments to the Area Plans or can be included in the “correction cycle” amendment for 2005-06.

However, unless the Board of Supervisors is willing to undertake a massive overrule or the Airport Land Use Commission dramatically changes its ALUCPs, it is apparent that land use designation changes will be required in the vicinities of the Bermuda Dunes, Blythe, Flabob, and French Valley Airports, and probably in the vicinities of the Chiriaco Summit and Riverside Municipal Airports as well. The adoption of these new ALUCPs is an unusually compelling event in that the designations of properties on the various Area Plan maps (Jurupa in the Second Supervisorial District, Southwest Area in the Third Supervisorial District, and Eastern Coachella Valley, Western Coachella Valley, and Palo Verde Valley in the Fourth Supervisorial District) conflict with the land use density and intensity restrictions established in the ALUCPs for these airports. Thus, Board acceptance of the ALUCPs as adopted by the ALUC and integration into the Area Plans by reference (simple replacement of the existing references with reference to the new ALUCPs) would create an internally inconsistent Land Use Element and General Plan.

Land Use Element Policy LU 14.3 requires that the County “review subsequent amendments to any airport land use compatibility plan and either adopt the plan as amended or overrule the Airport Land Use Commission as provided by law.” State law requires that city and county jurisdictions either bring their General Plans into conformity with Airport Land Use Compatibility Plans or overrule the Airport Land Use Commission. At a minimum, “direct conflicts” must be eliminated. “Direct conflict” exists when the General Plan provides for development at a range of residential densities that exceeds the maximum permissible density in the applicable Airport Zone, or when the General Plan provides for nonresidential land uses that characteristically would result in land use intensities in persons per acre exceeding the maximum permissible intensity in that Airport Zone.

The adoption of these new Airport Land Use Compatibility Plans (ALUCPs) is a new condition or circumstance that justifies modifying the General Plan in order to avoid creation of an internal inconsistency within the General Plan Land Use Element. Any amendments to land use designation changes processed will be the minimum necessary in order to bring the Area Plan Land Use Map designations into consistency with the adopted Airport Land Use Compatibility Plans.

In the course of the processing of such amendments, a determination would need to be made as to whether the modifications would conflict with the overall Riverside County Vision. If this determination is made, staff may recommend that the Board overrule the Airport Land Use Compatibility Plans relative to restrictions on land use densities included in such plans. However, as noted in our discussion of Component Three below, overrule is not a simple process or one that should be selected without a sober understanding of the implications of such action.

Planning staff has conducted a preliminary analysis of the conflicts between Area Plan land use designations and ALUCP land use compatibility criteria in the vicinities of the Bermuda Dunes, Blythe, Chiriaco Summit, Flabob, French Valley, and Riverside Municipal Airports and is available to advise Board members and/or their staffs as to the results of this preliminary analysis of implementation issues associated with each of these individual airports. Each airport presents different primary issues which are briefly discussed below. (Staff expects that compatibility issues may also result from the adoption of the proposed ALUCP for Jackie Cochran (a.k.a. Desert Resorts, a.k.a. Thermal) Regional Airport, which has not yet been adopted.)

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It must be noted here that the following analyses are based on comparisons between Area Plan land use designations established through the 2003 (RCIP) Riverside County General Plan and the specific land use compatibility criteria of the Airport Zones as described above. Over the course of the next few weeks, staff will conduct more detailed analysis. It may turn out that there is no conflict on some of these sites because a property may be fully developed with existing uses, or because a property is the site of an approved project that has achieved its final discretionary approval.

An additional point is that, in some cases, the conflict may not be a new one, and that Planning staff may be uncovering conflicts that would have existed even if the previous editions of the ALUCPs were still in effect. It is not clear that the Airport Land Use Planning Handbook was utilized in the crafting of the General Plan "Vision" (Alternative 3) Area Plans, and in many cases "last minute" changes were needed to eliminate direct conflicts between the Alternative 3 Area Plan map designations and the requirements of the pre-existing Plans. At this time, however, it really does not matter whether there is a new conflict or whether a pre-existing conflict is being uncovered, since State law requires that the conflicts be either resolved, or acknowledged and overruled. The concept underlying this work is to identify all possible conflicts and then "weed out" the situations that are not in conflict as the study continues.

In the final version, staff will identify situations where the conflict is new in relation to situations where the conflict would also have existed with the pre-existing ALUCPs to assist the Board in making its judgment as to the appropriate course of action relative to the particular situation.

Fourth Supervisorial District – Bermuda Dunes, Blythe, Chiriaco Summit

In the vicinity of the Bermuda Dunes Airport, the major impact is that the area that is subject to airport-related land use density and intensity restrictions has been significantly increased relative to the areas that were previously located in the old "Area of Significant Safety Concern". The old "Area of Significant Safety Concern" did not extend westerly of Yucca Lane, and the only portion of that area located northerly of Interstate 10 and westerly of Jefferson Street was a triangular area located southerly of 40th Avenue, westerly of Adams Street, and northeasterly of the freeway. In contrast, the new ALUCP airport zone land use compatibility criteria would require residential density limits and nonresidential intensity limits for a large area northerly of Interstate 10, both easterly and westerly of Washington Street, as well as for properties located along the easterly side of Washington Street, southerly of Interstate 10.

8 parcels designated Light Industrial lie partially or wholly within Airport Zone A. 11 parcels designated Estate Density Residential – Community Development and 15 parcels designated Commercial Retail or Light Industrial lie partially or wholly within Airport Zone B1. 11 parcels designated Medium Density Residential, Low Density Residential, Very Low Density Residential, and Estate Density Residential are located partially or wholly within Airport Zone B2. 8 parcels designated Very Low Density Residential and Estate Density Residential and 5 parcels designated Commercial Retail, Commercial Tourist, and Light Industrial are located partially or wholly within Airport Zone C. 66 parcels designated Medium Density Residential, Low Density Residential, Very Low Density Residential, and Estate Density Residential lie partially or wholly within Airport Zone D. The General Plan density ranges and intensity limits of 124 parcels in this area will need to be evaluated in light of the new Bermuda Dunes ALUCP.

While this preliminary analysis excludes existing developed parcels within small-lot residential subdivisions, it does not at this time exclude properties that may not require General Plan change because they are included in a tentatively approved subdivision or because they may meet infill exemption criteria. These are among the factors that will require study over the course of the next few weeks.

The Blythe Airport presents the prime example of a situation where the greatest effect on the Foundation Component designation of properties would be in Airport Zone D. The Palo Verde Valley Area Plan has provided for opportunities for the expansion of the Mesa Grande/Nicholls Warm Springs community, but unless sewer service is made available to that area, it would not be practical to establish densities greater than five dwelling units per acre at that location. Therefore, consistency with the ALUCP for Blythe Airport would appear to require Foundation Component Amendments to Rural Residential (one dwelling unit per five acres) for the larger undeveloped parcels in Airport Zone D. Over 75% of the parcels requiring evaluation in light of the new Blythe ALUCP are in Airport Zone D. 3 parcels designated Business Park and Commercial Retail and 1 parcel designated Medium Density Residential lie partially or wholly within Airport Zone B1. 2 parcels designated Commercial Tourist and Business Park lie partially within Airport Zone B2. 3 parcels designated Commercial Retail and Business Park lie partially within Airport Zone C, and 8 parcels designated Medium Density Residential, Low Density Residential, Very Low Density Residential, and Estate Density Residential lie partially or wholly within Airport Zone C. 60 parcels designated Medium Density Residential, Low Density Residential, Very Low Density Residential, and Estate Density Residential lie partially or wholly within Airport Zone D. The General Plan density ranges and intensity limits of 77 parcels in this area will need to be evaluated in light of the new Blythe ALUCP. This is a situation where the best solution would be extension of sewer service to the community, which would allow housing needs to be met and properties to be upgraded to a Medium High Density Residential designation.

No Foundation Component Amendments are expected to be needed in the vicinity of the Chiriaco Summit Airport. Portions of three parcels designated Commercial Retail are located partially within Airport Zone C, but it is possible that the addition of appropriate intensity restriction policies and the addition of an Airport Zone C Overlay will allow for retention of the underlying Commercial Retail designation. Here and elsewhere, the General Plan Overlay system could be expanded to provide for airport zone overlays that establish land use intensity restrictions on properties designated for commercial and industrial development. The ALUC Executive Director has pointed out that the new ALUCP for Chiriaco Summit is actually less restrictive than the pre-existing Plan, which had included a greater area of the Commercial Retail designated parcels in the Inner Safety Zone, which did not allow for any expansion or alteration of “prohibited uses”.

Second Supervisorial District – Flabob, Riverside Municipal

Flabob Airport presents the prime example of a situation where a large number of residentially designated properties fall within Airport Zones A, B1, B2, and C, and could, therefore, require Foundation Component Amendments from the Community Development Foundation Component to the Rural Foundation Component. However, the surrounding area, except for areas very close to the airport, is largely divided into small lots, such that, in many cases, there is no purpose in applying a designation requiring a larger lot size than the existing lot size. Here there are 12 parcels designated

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High Density Residential, Medium High Density Residential, Medium Density Residential, and Estate Density Residential that lie partially or wholly within Airport Zone A; however, of these twelve parcels, two are owned by Riverside County Flood Control District and should be designated Public Facilities, the six parcels designated Estate Density Residential are already under 2½ acres in size, and one property is a developed mobile home park, leaving only 3 parcels that may require a change in General Plan designation.

As an example, 46 parcels designated High Density Residential, Medium High Density Residential, Medium Density Residential, Estate Density Residential, Commercial Retail, and Business Park lie wholly or partially within Airport Zone B1. Twenty of these parcels are designated Estate Density Residential (one unit per two acres), and are already smaller than four acres in area; in this situation, establishing a designation more restrictive than Estate Density Residential would not be useful, since the lots cannot be further divided. An additional six parcels designated Estate Density Residential are larger than four acres in size and could be considered for a Foundation Amendment to Rural Residential, but may qualify for an infill exemption. Of the remaining 20 parcels, three are designated Commercial Retail and may be able to retain that designation, provided that the limitations of Airport Zone B1 are applied. Three other parcels are owned by Riverside County Flood Control District, and one is owned by Rubidoux Community Services District. Those four should be considered for a change to Public Facilities. Two additional parcels are owned by Riverside County Regional Park and Open Space District, and should be considered for a change to Open Space – Recreation. This leaves 11 parcels of concern. Among these, five parcels are designated Medium Density Residential and are the sites of existing homes, but are sufficiently large to allow for further land division. The designations of these parcels could be considered for change to Low Density Residential and Estate Density Residential within the Community Development Foundation Component. The remaining five parcels are large privately owned vacant parcels that could potentially be changed to the Rural Residential designation, but are also the subject of a property owner-initiated proposal to upgrade the General Plan designation and zoning and develop the property for residential purposes (GPA00688/CZ06921/TR31503). Of these 46 parcels, then, less than half would require a Foundation Component Amendment.

Overall, at least 58 parcels within the Flabob Airport Influence Area within Airport Zones A and B1 will require review. Staff has not yet completed its analysis of Airport Zones C and D in relation to this airport. These tasks will be conducted over the next few weeks.

As its name implies, Riverside Municipal Airport is located in the City of Riverside. Airport Zones A, B1, and B2 are confined to land within Riverside city limits, and unincorporated portions of Airport Zone C are within areas designated as Open Space. Thus, the area of major concern here is Airport Zone D. Preliminary analysis indicated that no Foundation Component Amendments would be required on privately owned land in the Riverside Municipal Airport Zone D area. The only residentially designated lots larger than 2½ acres in area here are owned by the Jurupa Area Recreation and Park District, and these properties should be re-designated as Open Space – Recreation. Airport Zone D also includes a residential area located southwesterly of Van Buren Boulevard and northerly of the Santa Ana River predominantly designated Low Density Residential within the Rural Community Foundation Component. It may be appropriate to re-designate the larger properties in this area to Very Low Density Residential or Estate Density Residential within the same Rural Community Foundation Component so

as to prohibit further land division. However, this is another situation where re-designation as Rural Residential would serve no purpose.

Third Supervisorial District – French Valley Airport

The French Valley Airport Influence Area presents a different set of issues. French Valley Airport is located easterly of Winchester Road and largely southerly of Auld Road, and the Airport Land Use Compatibility Zones are elongated along the north-northeast to south-southwest runway axis. Here most of the properties in Land Use Compatibility Zones A, B1, and B2 are already designated for commercial or industrial use. Except within Zone A, the changes for most of these parcels will involve the application of the height, intensity, and usage limitations of Zones B1 and B2, rather than changes in General Plan Foundation Component designations.

Much of Airport Zone A is located within the French Valley Airport grounds and designated Public Facilities. However, Zone A also extends offsite into areas designated Light Industrial, Business park, and Open Space – Conservation. 26 parcels, including 15 privately owned parcels, are located partially or wholly within Airport Zone A. In most cases, the privately owned parcels include sufficient land outside Airport Zone A as to allow some commercial or industrial land use; however, it may be appropriate to consider purchase of up to six of the privately owned parcels for airport use.

Airport Zone B1 extends northerly and southerly from French Valley Airport, encompassing properties designated Light Industrial, Business Park, Commercial Retail, Mixed Use Planning Area, and Open Space – Conservation. Fortunately, residential areas are not located in the portion of Airport Zone B1 in the unincorporated area. However, Planning staff has already received communication from the owners of some of the land in this area indicating that the Airport Zone B1 nonresidential intensity restrictions (overall intensity not to exceed 25 persons per acre) are sufficiently strict as to render most commercial and industrial uses, other than warehousing/distribution, infeasible. 46 properties are located partially or wholly within Airport Zone B1 – all but four privately owned. An additional 18 properties are located partially or wholly within Airport Zone B2.

In contrast, much of the area within Airport Zones C and D is designated for residential development at suburban densities. A total of 79 properties not partially within Zones A, B1, or B2 are located partially or wholly within Airport Zone C, including portions of the residential French Valley Specific Plan (Specific Plan No. 312) and some portions of the Dutch Village Specific Plan (Specific Plan No. 106). Foundation Component designation changes may be required for residential properties in Airport Zones C and D if the Airport Land Use Commission declines to adopt the strategies outlined below in Component Two, unless an overrule occurs.

A total of 169 parcels in this airport vicinity require additional evaluation. This does not include parcels in Airport Zone D; however, a Component Two strategy is proposed for those parcels.

COMPONENT TWO – AMENDMENTS TO AIRPORT LAND USE COMPATIBILITY PLANS

The fundamental purpose of an Airport Land Use Commission is to promote land use compatibility around airports. The Introduction to Riverside County's Airport Land Use Compatibility Plan states that the purpose is "to protect public health, safety, and welfare by ensuring the orderly expansion of airports and 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."

The Airport Land Use Commission's concerns relate to potential impacts associated with exposure to aircraft noise, protection of public safety with respect both to people on the ground and the occupants of aircraft, protection of airport airspace, and general concerns associated with aircraft overflight. The new Airport Land Use Compatibility Plans apply State law (as interpreted through the most recent version of the Airport Land Use Planning Handbook) to existing conditions at each airport.

However, Planning staff would note that the density and intensity ranges incorporated in the Countywide land use compatibility criteria (see attached Table 2A from the Riverside County Airport Land Use Commission's Countywide Policies document) adopted by the Riverside County Airport Land Use Commission, while based on the Handbook principles, are not specifically mandated by State law and, therefore, may be amended or modified by the Riverside County ALUC through the ALUCP amendment process.

Within Zones B1, B2, C, and D, the residential density limitations are much more restrictive than the nonresidential intensity limitations if compared strictly as a matter of persons per acre. For example, Zone B1 allows an average of 25 persons per acre for nonresidential development, but limits density to one dwelling unit per twenty acres. In fact, a residential development at a density of three units per acre would normally result in a population density of less than 25 persons per acre. Zone D allows an average of 100 persons per acre for nonresidential development, but limits density to either not greater than one dwelling unit per five acres or not less than five dwelling units per acre. Again, a residential development at a density of three units per acre would result in a population density less than 25% as intense as the nonresidential development permitted average, but would not be allowed pursuant to the ALUCP Countywide criteria. It is apparent that the ALUCP criteria for residential density limitations extend beyond safety to other concerns such as noise; however, these criteria are applied even to those portions of Zone D outside the 55dB CNEL noise contours.

Planning staff expressed these concerns at the final public hearing held by the Airport Land Use Commission prior to adoption of the Bermuda Dunes, Flabob, and French Valley ALUCPs. The Airport Land Use Commission at that time declined to support the changes recommended by County Planning staff; however, the Commissioners advised that such an amendment proposal could potentially be considered in 2005. State law allows the Airport Land Use Commission to amend any given ALUCP not more than once per year.

Component Two of the strategy for addressing ALUCP implementation issues involves amending the Airport Land Use Compatibility Plans in such a manner as to minimize the number of parcels that would require changes in General Plan/Area Plan land use

designations, especially changes between Foundation Component designations resulting in reduction in the value of private properties. Two options that are being explored are partial recognition of existing Specific Plan commitments, and allowance for development at any density up to fourteen units per acre in those portions of Airport Zone D outside the 55dB(A) future noise contours.

Planning staff and Economic Development Agency staff are working together to develop a provision intended to establish that projects (Specific Plan Amendments, tract maps, parcel maps, use permits, and plot plans) within the boundaries of Specific Plans adopted prior to the new ALUCP and not located within Airport Zones A, B1, and B2 would be eligible for a consistency finding with the provisions of the new ALUCP, provided that the proposed project would not increase the density or intensity of the area relative to the previous project approval or Specific Plan land use designation map or otherwise increase potential impacts upon the affected airport and that all applicable conditions of approval imposed upon the original approval by the local jurisdiction at the request of the ALUC have been incorporated and/or accomplished.

County Counsel is currently studying the effect of an initial proposal offered by Mr. Robert Field, Deputy Director of the Economic Development Agency, and Mr. Robert Johnson, Planning Director to determine whether the proposal would ameliorate the need for general plan amendments in these circumstances, and has advised that some changes may be in order if that is the intent of the proposal. In particular, this would probably only be effective for that purpose if such projects are either defined as existing uses or as infill projects. The text as proposed does not accomplish this task; consequently, it is Counsel's opinion that the initial draft of the text would not relieve the County of the need to either amend the adopted Specific Plan to conform to the adopted ALUCP or overrule such adopted ALUCP.

A second possible amendment would involve revising the Countywide land use compatibility criteria, or the land use compatibility criteria in the vicinity of the six airports of interest, for those portions of Airport Zone D outside the future 55dB(A) noise contours. As stated above, new residential development in Zone D is limited to either a maximum density of 0.2 dwelling units per acre (average density of one dwelling unit per five (5) acres) or a minimum density of not less than five (5) dwelling units per acre, but not at a density level greater than 0.2, but less than 5.0, dwelling units per acre. The most popular densities – the range of 0.2 to 5 dwelling units per acre – would not be available within Airport Zone D. The concept for the amendment would be that areas within the 55dB(A) noise contours would still be subject to the "high or low, but not in between" criteria, but that any density up to 14 dwelling units per acre would be permitted in the portions of Airport Zone D outside the 55dB(A) noise contour. It may be noted that in the French Valley Airport Influence Area, Airport Zone D lies entirely outside the future 55dB(A) noise contour. Such a change would vastly reduce the number of properties for which general plan amendments would be required.

As far as Planning staff has been able to determine, the decision of the ALUC to find General Plan designations allowing new development at densities between 0.2 and 5 dwelling units per acre inconsistent within Airport Zone D areas outside the 55 dB(A) noise contour derives not from safety or noise impacts, but on the tendency for areas with such densities to register large numbers of complaints relative to aircraft overflight and noise at general aviation airports. It is the concern of the ALUC Executive Director, and presumably the concern of the ALUC, that such noise and overflight complaints

jeopardize the long-term future of these airports.

A third possibility would be to amend individual airport land use plans to provide special recognition and policies relating to particular neighborhoods. Each airport plan includes a section titled Additional Compatibility Policies. The County could request that text be added through an ALUC amendment. For example, if the ALUC agrees that the Low Density Residential – Rural Community designation of the area southwesterly of Van Buren Boulevard in Riverside Municipal Airport's Zone D is acceptable and that the division of existing one-acre and two-acre lots in the area into half-acre lots is reasonable given the pattern of existing lot sizes in the area, a special policy could be added finding the County's designation of the area to be consistent given the generally built-out nature of the area. This would eliminate the need for the County to change the designations of parcels simply for the purpose of prohibiting future land division.

COMPONENT THREE – OVERRULE OF AIRPORT LAND USE COMPATIBILITY PLANS

The study recommended herein would consider the advisability of an overrule recommendation on certain, yet to be identified, properties affected by the newly adopted ALUC Plans. The Riverside County Building Industry Association has submitted correspondence in support of a simple overrule of the Riverside County Airport Land Use Compatibility Plans for these airports, and any others where the land use compatibility criteria conflict with the adopted Area Plan designations. However, Planning staff and Economic Development Agency staff strongly recommend against such an approach. The overrule process should be considered only as a last resort when all other approaches have failed.

The process of overrule begins with notification that the County's General Plan is inconsistent with the ALUCP. The County must hold a hearing to consider the Commission's notification. Following the hearing, the County may initiate proceedings to overrule by a 2/3 Board action. However, at least 45 days prior to the decision to overrule, the County must provide the ALUC and the California Department of Transportation Division of Aeronautics with a copy of the proposed decision and the specific findings that the proposed action is consistent with the purposes of Sections 21670 through 21679.5 of the Public Utilities Code. The ALUC and the Division of Aeronautics may provide comments to the County within 30 days of their receipt of the proposed decision and findings. A final decision to overrule the ALUC may only be adopted by a 2/3 vote of the Board – in reality, a 4/5 vote if all members are present. Any comments received from the ALUC and Division of Aeronautics must be included with the final decision.

The legal ramification of overrule is that it renders privately operated public use airports (such as Bermuda Dunes and Flabob) immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the ALUC's action or recommendation.

Nevertheless, there may be some parcels where overrule may be the only available option. The French Valley Airport Influence Area includes some parcels within Community Facilities District (CFD) No. 88-4. These parcels include, but are not necessarily limited to, APN 957-371-005 through –008.in Airport Zone B1, where nonresidential land use intensity is limited to a maximum average of 25 persons per

acre. Mr. Timothy Davis of McFarlin & Anderson LLP, representing the Riverside County Executive office, has submitted communications advising that, in the event that the adoption of the ALUCP renders development of these parcels infeasible, this would remove any incentive for the property owners to pay the CFD special tax that had been levied on these properties to pay the debt service on the CFD's bonds, of which \$26.4 million remains outstanding.

On May 10, the Board heard testimony from a representative of Silverhawk Land and Acquisitions in regard to its parcels in the area. The special tax revenue levied on the sixteen parcels under the ownership of Silverhawk Land and Acquisitions alone (including the four parcels referenced above located totally in Airport Zone B1, two parcels split between Airport Zone B1 and Airport Zone C, and ten parcels in Airport Zone C) totals \$638,976.62 annually and represents approximately one-quarter of the amount needed annually to meet debt service on the bonds, according to the e-mail submitted by Mr. Davis.