



Fresno County Airport Land Use Commission

Staffed by: **Fresno Council of Governments**

2035 Tulare Street, Suite 201

Fresno, CA 93721

559-233-4148

www.fresnocog.org

April 3, 2018

Sophia Pagoulatos
Planning Manager, City of Fresno
Development and Resource Management Department
2600 Fresno St., Fresno, Ca 93721
Fresno, CA 93721

Dear Sophia,

The Fresno County Airport Land Use Commission (ALUC) enjoys a successful working relationship with the City of Fresno, supporting their work in building a thriving, safe, economically vibrant economy. However, the ALUC would like to formally address a situation regarding the City's overrule of an ALUC Finding of Inconsistency.

On October 3, 2016 the City of Fresno presented an item to the ALUC with a Finding of Consistency request. The item included plan amendments, a rezone, text amendments and a related Environmental Impact Report for proposed adoption of the Downtown Neighborhood Community Plan and the Fulton Corridor Specific Plan. These applications were referred to the Airport Land Use Commission (ALUC) for mandatory review under the provisions of the State of California Public Utilities Code. Only the portions of the plans that were proposed within the boundaries of the Airport Influence Area of the Fresno Chandler Executive Airport Land Use Compatibility Plan were included for review. They included the following items:

1. PLAN AMENDMENT NO A-16-008
2. PLAN AMENDMENT APPLICATION NO. A-16-011
3. PLAN AMENDMENT APPLICATION NO. A-16-012
4. REZONE APPLICATION NO. R-16-011
5. TEXT AMENDMENT APPLICATION NO. TA-16-001
6. ENVIRONMENTAL IMPACT REPORT SCH No. 2012041009

After much discussion on the items, the ALUC found the proposed plan amendment and rezone inconsistent with the Fresno Chandler Executive Airport Land Use Compatibility Plan due to proposed densities. City staff was present during the discussion and debate on the matter and was made aware of the specific concerns that prompted the commission to make its findings. Some months after the

meeting was held ALUC members learned that the finding had been overruled by the City of Fresno. This course of action is allowable if the local agency follows a prescribed course of action clearly outlined in the [California Airport Land Use Planning Handbook](#), section 5.5. The overruling process involves four mandatory steps:

1. At least 45 days prior to any decision to overrule the commission, the local agency must provide the local ALUC and the Division a copy of the proposed decision and findings;
2. The holding of a public hearing (except when an ALUC disapproves a local agency action prior to having adopted an ALUCP);
3. The making of specific findings that the action proposed is consistent with the State Aeronautics Act;
4. Approval of the proposed action by a two-thirds vote of the agency's governing body.

It does not appear that the City of Fresno followed any of the above-noted mandatory steps, aside from the Fresno City Council reportedly overruling the ALUC's decision with a two-thirds vote. The City's failure to follow state law is concerning. A local agency should not simply overrule an ALUC determination without first documenting the basis for the overruling action, relating that basis directly to the purposes for which the ALUC statutes were adopted. The purpose of findings is to assure compliance with state law. More information on the essential substance for findings is included in Section 5.5 of the California Airport Land Use Handbook linked above.

Additionally, according to AB 332 which imposes notification and recordkeeping requirements on local agencies, you were and are required to include any comments from the local ALUC and Division of Aeronautics in the final record of decision. Neither the ALUC nor Caltrans Aeronautics were notified and given an opportunity to comment during the City of Fresno's overrule process.

It should be further noted that the City codified a position that the ALUCP is the governing document in airport influence areas when the City removed airport overlays from the City zone maps during the general plan update. Therefore, appropriate action by the City would be to amend the application to reflect General Plan compliance with the prescribed densities within the approach to Chandler Airport as outlined in the ALUCP.

Sincerely,

Ron Duarte
Chair, Fresno County Airport Land Use Commission

cc: Mike Rowe, Fresno County ALUC Legal Counsel
Douglas Sloan, City Attorney, City of Fresno
Robert Fiore, Caltrans, Division of Aeronautics