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Development and Resource Management Department  
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TO: AIRPORT LAND USE COMMISSIONERS  
BRENDA VEENENDAAL, ADMINISTRATIVE SERVICES MANAGER  
FRESNO COUNCIL OF GOVERNMENTS

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THROUGH: DAN ZACK, Assistant Director   
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SUBJECT: City of Fresno Land Use Plans and Regulations Consistency Finding pursuant to the December 2018 Fresno County Airport Land Use Compatibility Plan

## Introduction

The newly adopted Fresno County Airport Land Use Plan (ALUCP) requires local agencies to demonstrate consistency between that plan and their local land use plans and regulations, or to overrule the ALUCP. The City of Fresno is electing to demonstrate consistency by way of its land use regulations. Specifically, the City proposes to amend its zoning code to more clearly establish that the ALUCP is the primary plan of record, and to add a new finding of consistency with the ALUCP for all discretionary entitlements (development permits, and conditional use permits, for example).

## Background

The city's zoning code (called the "Development Code") underwent a major revision in 2016. In that revision, a new section called "Priority of Plans" was established. That section identifies which land use plans and codes take precedence in the event of a conflict between two or more of them. Airport plans are given precedence in this section, but the wording is more complex than necessary. City staff has been properly applying the airport plans, however the complexity of the current text could cause confusion in the future.

## Proposed Zoning Code Revision

In the proposed text amendment, the ALUCP is now specifically referenced, and the wording is clarified so that it is **the primary plan** in the event of a conflict, superseding all of the City's other plans: the General Plan, adopted Design Guidelines, the Development Code, Specific

Plans, Concept Plans, Community Plans, Neighborhood Plans, and Redevelopment Agency Guidelines. This amendment leaves no room for interpretation as to which plan takes precedence. Note that the city's zoning code, which this proposal amends, takes precedence over the city's general plan and other local land use plans, so any potential land use consistency issues would be resolved with the proposed amendment.

As an additional measure, the amendment would add a required finding of consistency with the ALUCP for all discretionary land use approvals (not just plan amendments and rezones), thereby legally incorporating all of the applicable requirements of the ALUCP into the planning approval process. Discretionary land use approvals proposed to incorporate this finding include the following:

- Development Permits (previously known as site plan reviews)
- Conditional Use Permits
- Variances
- Text Amendments
- Planned Developments
- Development Agreements
- Annexations

### **Implementation Tools**

The City applies its land use regulations using maps and computer software to assist in the planning process. The City has already created a special mapping tool for the new ALUCP noise and safety zones identified for its three airports. This tool is used early in the planning process to alert planners and applicants to any airport-related requirements. The planning process also includes early analysis of land use requirements through its pre-application process. Prior to formal submittal, all proposed projects must be reviewed by the Development Review Committee, where they are analyzed by planners and engineers. If a project lies within an Airport Influence Area, the planner applies the appropriate regulations from the ALUCP and provides those to the applicant. If the project is formally submitted and approved, the ALUCP requirements become conditions of approval.

In addition, planning staff were trained on the new ALUCP on January 16, 2019 and will continue to be trained as new information about ALUCP implementation evolves.

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,  
AMENDING SECTIONS 15-104-B-4; 15-5206; 15-5306; 15-  
5506-D; 15-5811-A; 15-5905-A; 15-6006-A; AND 15-6104-B  
OF THE FRESNO MUNICIPAL CODE.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 15-104-B-4 of the Fresno Municipal Code is amended as follows:

4. *Priority of Plans.*

~~[a. In the event of a conflict between this Code and any operative plan, or between two operative plans, the conflict shall be resolved in the following order:~~

- ~~i. Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5~~
- ~~ii. Adopted Design Guidelines~~
- ~~iii. Development Code~~
- ~~iv. General Plan~~
- ~~v. Specific Plan~~
- ~~vi. Concept Plan~~
- ~~vii. Community Plan~~
- ~~viii. Neighborhood Plan~~
- ~~ix. Redevelopment Agency Guidelines]~~

~~[a. In the event of a conflict between this Code and the General Plan or any applicable operative plan or Redevelopment Agency guidelines, this Code shall control.~~

~~i. Exception: If the project is located within an area with adopted design guidelines, such design guidelines shall control.~~

~~b. In the event of a conflict between the General Plan and any applicable operative plan, the General Plan shall control. However, for areas within the Downtown Neighborhoods Community Plan (DNCP), the Fulton Corridor Specific Plan (FCSP), or operative airport plan, the DNCP, FCSP, and airport plan shall govern.~~

~~c. In the event of a conflict between a Specific Plan and a Concept Plan, Community Plan, or Neighborhood Plan, the Specific Plan shall control.~~

~~d. In the event of a conflict between a Concept Plan and a Community Plan or Neighborhood Plan, the Concept Plan shall control.]~~

- e[b]. To maintain and improve the consistency between plans, the adoption or amendment of a plan shall be accompanied by corresponding amendments to the General Plan and other plans which affect the same geographic area.

SECTION 2. Section 15-5206 of the Fresno Municipal Code is amended as follows:

**15-5206 Required Findings**

The Director or Planning Commission may only approve a Development Permit application if it finds that the application is consistent with the purposes of this article and with the following:

- A. The applicable standards and requirements of this Code.
- B. The General Plan and any operative plan or policies the City has adopted.
- C. Any applicable design guidelines adopted by the City Council.
- D. Any approved Tentative Map, Conditional Use Permit, Variance, or other planning or zoning approval that the project required.
- E. Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5.

SECTION 3. Section 15-5306 of the Fresno Municipal Code is amended as follows:

**15-5306 Required Findings**

A Conditional Use Permit shall only be granted if the decision-maker determines that the project as submitted or as modified conforms to all of the following criteria. If the decision-maker determines that it is not possible to make all of the required findings, the application shall be denied.

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Code and all other chapters of the Municipal Code;
- B. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted;
- C. The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements;
- D. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and
- E. The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required.
- F. Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5.

SECTION 4. Section 15-5506-D of the Fresno Municipal Code is amended as follows:

- D. The granting of the Variance will be consistent with the general purposes and objectives of this Code, any applicable operative plan, [[the Fresno County Airport Land Use Compatibility Plan \(as may be amended\) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5,](#)] and of the General Plan.

SECTION 5. Section 15-5811-A of the Fresno Municipal Code is amended as follows:

- A. Development Code Text Amendment findings:
1. The Code text amendment is consistent with the General Plan[[, the Fresno County Airport Land Use Compatibility Plan \(as may be amended\) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5,](#)] and any applicable operative plans; and
  2. The amendment is consistent with the purpose of the Development Code to promote the growth of the city in an orderly and sustainable manner and to promote and protect the public health, safety, peace, comfort, and general welfare.

SECTION 6. Section 15-5905-A of the Fresno Municipal Code is amended as follows:

- A. The proposed development is consistent with the General Plan, [[the Fresno County Airport Land Use Compatibility Plan \(as may be amended\) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5,](#)] any applicable operative plan, and adopted policies, including the density and intensity limitations that apply;

SECTION 7. Section 15-6006-A of the Fresno Municipal Code is amended as follows:

- A. **Required Findings.** The City Council shall not approve a proposed Development Agreement unless it finds the following:
1. That its provisions are consistent with the General Plan[[, the Fresno County Airport Land Use Compatibility Plan \(as may be amended\) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5,](#)] and any applicable operative plan. This requirement may be satisfied by a finding that the provisions of a proposed Development Agreement are consistent with proposed General Plan or applicable operative plan provisions to be adopted concurrently with the approval of the proposed Development Agreement; and
  2. The proposed Development Agreement will provide substantial public benefit.

SECTION 8. Section 15-6104-B of the Fresno Municipal Code is amended as follows:

**B. Plan Consistency.** The proposed annexation and parcel configuration is consistent with the General Plan, [the Fresno County Airport Land Use Compatibility Plan \(as may be amended\) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5.](#) Concept Plan, and any applicable operative plan; and