



DATE: July 15, 2019

TO: Dan Zack, Assistant Director
City of Fresno, Development and Resource Management Department

FROM: Fresno County Airport Land Use Commission
Brenda Veenendaal, Administrative Services Manager
Fresno Council of Governments

SUBJECT: Proposed overrule of the Airport Land Use Commission's finding that the City of Fresno's land use plans and regulations are inconsistent with the Fresno County Airport Land Use Compatibility Plan

The Fresno County Airport Land Use Commission (ALUC) thanks you for an opportunity to comment on the City of Fresno's proposed overrule of the ALUC's finding that the City of Fresno's land use plans and regulations are inconsistent with the December 2018 Fresno County Airport Land Use Compatibility Plan ("ALUCP).

At the May 13, 2019 meeting, City of Fresno staff presented the ALUC with City of Fresno Text Amendment P19-01026 as the City's solution to achieving consistency between the ALUCP and the City's general plan and additional land use plans, rather than amending the City's land use plans and regulations to truly be consistent with the ALUCP. The ALUC tabled the item to allow its staff and legal counsel time to research the proposal.

During the June 3, 2019 ALUC meeting, the Commissioners discussed the item once again. The minutes of that meeting are attached for your review. After much discussion, the ALUC approved a finding of consistency for Text Amendment P19-01026 on its own merit as presented, but the ALUC also ruled that the proposed Text Amendment P19-01026 by itself did not fulfill ALUCP requirements for an overall land use plan finding of consistency, as required by Government Code § 65302.3, and as requested by the City of Fresno. Therefore, the City of Fresno's general and specific plans remain inconsistent with the adopted ALUCP.

As you are aware, a new Airport Land Use Compatibility Plan was adopted by the ALUC on December 6, 2018. Within 180 calendar days of the ALUC's adoption or amendment of its ALUCP, each local agency whose jurisdiction includes an Airport Influence Area must:

1. Amend its land use plans and regulations to be consistent with the ALUCP, if needed; or
2. Overrule the ALUCP by a two-thirds vote of the local agency's governing body after adopting findings that justify the overrule and providing notice, as required by law.

To establish consistency of land use plans and regulations with the ALUCP, local agencies must eliminate conflicts that may include the following:

- Land use plans or zoning designations that permit incompatible uses within noise contours or safety zones;
- Permissible residential densities and nonresidential intensities that exceed the ALUCP's density and intensity limits in any safety zone; or
- Permissible heights of structures and other objects that would either constitute a hazard as determined by the FAA, or penetrate the 14 CFR Part 77 Surfaces.

Land use designations in local agency land use plans that reflect existing land uses do not render the local agency plans inconsistent with the ALUCP, however, local agencies must limit the expansion and reconstruction of existing land uses that are not consistent with the ALUCP in accordance with the existing land use policies and standards of the ALUCP.

If the City of Fresno moves forward with an overrule of the ALUC's findings regarding text amendment P19-01026 and finds the City's land use plans and regulations consistent with the ALUCP, the ALUC strongly encourages the City of Fresno to closely follow all required steps outlined in the ALUCP regarding the overrule process. This includes making specific findings that the action proposed (overrule) is consistent with the purposes of the ALUC statute. The essential substance of the findings that must accompany a local agency's overrule of the ALUC decision, as required by Public Utilities Code § 21670, are attached.

For your convenience, the following documents are attached for your review:

- June 3, 2019 ALUC Meeting Minutes
- Excerpts from the adopted ALUCP regarding local agency findings of consistency, overrule process, and additional ALUCP compliance

The final ALUCP document is also available online at the following link:

<https://www.fresnocog.org/project/airport-land-use-commission-fresno-county/>

Cc: Paul Caprioglio, *Fresno City Council President*
Wilma Quan, *Fresno City Manager*
Jennifer Clark, *Director, Department of Development and Resource Management*